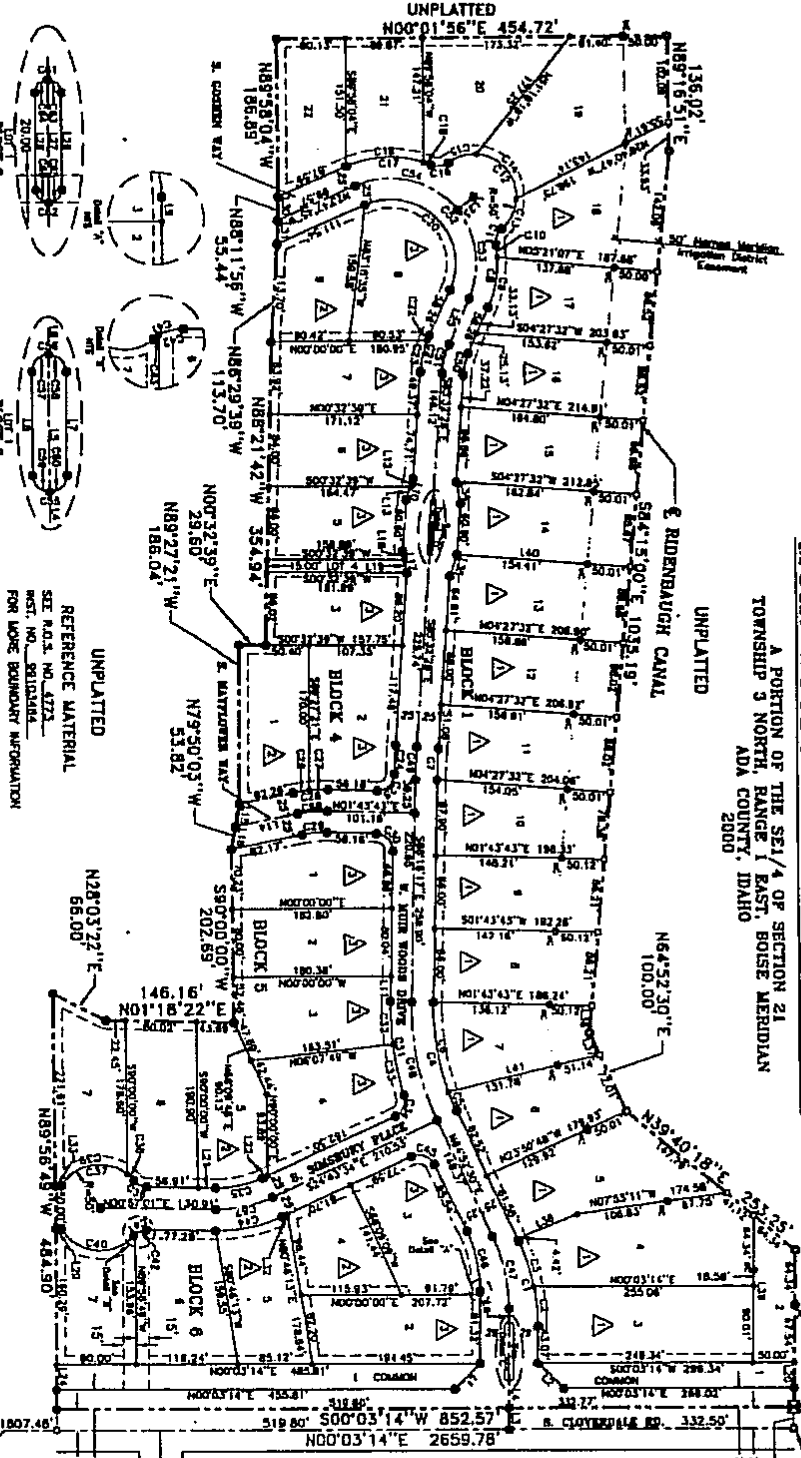


# PLAT SHOWING MUIR WOODS SUBDIVISION NO. 1

A PORTION OF THE SE 1/4 OF SECTION 21  
TOWNSHIP 3 NORTH, RANGE 1 EAST, BOISE MERIDIAN  
ADA COUNTY, IDAHO  
2000



UNPLATTED  
REFERENCE MATERIAL  
SEE P.L.S. NO. 4723  
REV. NO. 000004  
FOR MORE BOUNDARY INFORMATION



S 1/4 CORNER  
SECTION 21  
CP & F. NO. 57000007  
SE CORNER  
SECTION 21  
CP & F. NO. 002852

- NOTES**
1. UNPLATTED BOUNDARY LINES SHALL BE ACCOMPANIED WITH THE ZONING ORDINANCE AT THE TIME OF RECORDATION OF THE PLAT. ALL LOT, BLOCK, AND TRACT SIZES SHALL BEZONED, UNLESS OTHERWISE INDICATED IN THE ZONING ORDINANCE. ALL LOT, BLOCK, AND TRACT SIZES SHALL BEZONED, UNLESS OTHERWISE INDICATED IN THE ZONING ORDINANCE.
  2. ALL LOT AND BLOCK ARE HEREBY DESIGNATED AS BEING A PERMANENT PUBLIC UTILITY, REPAIR AND REPAIR CITY STREET LIGHT EXHAUST OVER THE TOP (TOP) OF EACH LOT TO BE LOCATED IN THE CENTER OF THE LOT. THE REPAIR-AND REPAIR CITY STREET LIGHT EXHAUST SHALL BE LOCATED IN THE CENTER OF THE LOT. THE REPAIR-AND REPAIR CITY STREET LIGHT EXHAUST SHALL BE LOCATED IN THE CENTER OF THE LOT. THE REPAIR-AND REPAIR CITY STREET LIGHT EXHAUST SHALL BE LOCATED IN THE CENTER OF THE LOT.
  3. A TRACT (TOP) FOR PUBLIC UTILITIES AND REPAIR EXHAUST OF LOT 1-36 OF THE QUAD CORNER, SHALL BE LOCATED IN THE CENTER OF THE QUAD CORNER. THE REPAIR-AND REPAIR CITY STREET LIGHT EXHAUST SHALL BE LOCATED IN THE CENTER OF THE QUAD CORNER. THE REPAIR-AND REPAIR CITY STREET LIGHT EXHAUST SHALL BE LOCATED IN THE CENTER OF THE QUAD CORNER.
  4. A TRACT (TOP) FOR PUBLIC UTILITIES AND REPAIR EXHAUST OF LOT 1-36 OF THE QUAD CORNER, SHALL BE LOCATED IN THE CENTER OF THE QUAD CORNER. THE REPAIR-AND REPAIR CITY STREET LIGHT EXHAUST SHALL BE LOCATED IN THE CENTER OF THE QUAD CORNER. THE REPAIR-AND REPAIR CITY STREET LIGHT EXHAUST SHALL BE LOCATED IN THE CENTER OF THE QUAD CORNER.
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  7. LOTS SHALL NOT BE RECORDED IN SIZE WITHOUT THE APPROVAL OF THE HEALTH DEPARTMENT, AND NO APPROVAL, DOMESTIC WATER SUPPLY SHALL BE INSTALLED FROM THE STREET APPROVED IN SUBDIVISION.
  8. A TRACT (TOP) FOR PUBLIC UTILITIES AND REPAIR EXHAUST OF LOT 1-36 OF THE QUAD CORNER, SHALL BE LOCATED IN THE CENTER OF THE QUAD CORNER. THE REPAIR-AND REPAIR CITY STREET LIGHT EXHAUST SHALL BE LOCATED IN THE CENTER OF THE QUAD CORNER. THE REPAIR-AND REPAIR CITY STREET LIGHT EXHAUST SHALL BE LOCATED IN THE CENTER OF THE QUAD CORNER.
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LOT NO.	AREA (SQ. FT.)	PERCENT	CHORD (CHORD LINE)	CHORD (CHORD LINE)
1	108.33	3.20	129.00	129.00
2	108.33	3.20	129.00	129.00
3	108.33	3.20	129.00	129.00
4	108.33	3.20	129.00	129.00
5	108.33	3.20	129.00	129.00
6	108.33	3.20	129.00	129.00
7	108.33	3.20	129.00	129.00
8	108.33	3.20	129.00	129.00
9	108.33	3.20	129.00	129.00
10	108.33	3.20	129.00	129.00
11	108.33	3.20	129.00	129.00
12	108.33	3.20	129.00	129.00
13	108.33	3.20	129.00	129.00
14	108.33	3.20	129.00	129.00
15	108.33	3.20	129.00	129.00
16	108.33	3.20	129.00	129.00
17	108.33	3.20	129.00	129.00
18	108.33	3.20	129.00	129.00
19	108.33	3.20	129.00	129.00
20	108.33	3.20	129.00	129.00
21	108.33	3.20	129.00	129.00
22	108.33	3.20	129.00	129.00
23	108.33	3.20	129.00	129.00
24	108.33	3.20	129.00	129.00
25	108.33	3.20	129.00	129.00
26	108.33	3.20	129.00	129.00
27	108.33	3.20	129.00	129.00
28	108.33	3.20	129.00	129.00
29	108.33	3.20	129.00	129.00
30	108.33	3.20	129.00	129.00
31	108.33	3.20	129.00	129.00
32	108.33	3.20	129.00	129.00
33	108.33	3.20	129.00	129.00
34	108.33	3.20	129.00	129.00
35	108.33	3.20	129.00	129.00
36	108.33	3.20	129.00	129.00

LOT NO.	AREA (SQ. FT.)	PERCENT	CHORD (CHORD LINE)	CHORD (CHORD LINE)
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6	108.33	3.20	129.00	129.00
7	108.33	3.20	129.00	129.00
8	108.33	3.20	129.00	129.00
9	108.33	3.20	129.00	129.00
10	108.33	3.20	129.00	129.00
11	108.33	3.20	129.00	129.00
12	108.33	3.20	129.00	129.00
13	108.33	3.20	129.00	129.00
14	108.33	3.20	129.00	129.00
15	108.33	3.20	129.00	129.00
16	108.33	3.20	129.00	129.00
17	108.33	3.20	129.00	129.00
18	108.33	3.20	129.00	129.00
19	108.33	3.20	129.00	129.00
20	108.33	3.20	129.00	129.00
21	108.33	3.20	129.00	129.00
22	108.33	3.20	129.00	129.00
23	108.33	3.20	129.00	129.00
24	108.33	3.20	129.00	129.00
25	108.33	3.20	129.00	129.00
26	108.33	3.20	129.00	129.00
27	108.33	3.20	129.00	129.00
28	108.33	3.20	129.00	129.00
29	108.33	3.20	129.00	129.00
30	108.33	3.20	129.00	129.00
31	108.33	3.20	129.00	129.00
32	108.33	3.20	129.00	129.00
33	108.33	3.20	129.00	129.00
34	108.33	3.20	129.00	129.00
35	108.33	3.20	129.00	129.00
36	108.33	3.20	129.00	129.00

DRAWING NO. 98552-53  
SHEET 1 OF 2

**PINNACLE**  
Engineers, Inc.  
878 N. Lamar, Suite 100, Boise, Idaho 83702  
(208) 867-7760

BR 80  
Pg. 8553

# PLAT OF MUIR WOODS SUBDIVISION NO. 1

BK. 80 Pg. 8554

### CERTIFICATE OF OWNERS

KNOW ALL MEN BY THESE PRESENTS, THAT W & S INVESTMENTS INC., AN Idaho CORPORATION, IS THE OWNER OF THE REAL PROPERTY HEREAFTER DESCRIBED:

A parcel of land situated in a portion of the SE 1/4 of Section 21, T.3N., R.1E., Ada County, Idaho and described as follows:

Commencing at a brass cap monument marking the SE corner of said Section 21 from which a brass cap monument marking the SW corner of said SE 1/4 shows N89°43'30"W a distance of 2854.01 feet, thence along the East line of the said SE 1/4 N80°03'14"E a distance of 2853.78 feet to a 5/8 inch iron marking the NE corner of the said SE 1/4, thence bearing said East line and along the North line of the said SE 1/4 N68°19'42"W a distance of 25.00 feet to a 5/8 inch iron on the western right-of-way of South Crowder's Road and the POINT OF BEGINNING;

Thence along the said western right-of-way of South Crowder's Road and parallel with the East line of said SE 1/4 S00°03'14"W a distance of 832.57 feet to a 5/8 inch rebar;  
 Thence bearing said eastern right-of-way N89°55'49"W a distance of 484.90 feet to a 5/8 inch rebar;  
 Thence N21°03'22"E a distance of 66.00 feet to a 5/8 inch rebar;  
 Thence N01°18'22"E a distance of 148.16 feet to a 5/8 inch rebar;  
 Thence S90°00'00"W a distance of 202.89 feet to a 5/8 inch rebar;  
 Thence N79°50'03"W a distance of 53.82 feet to a 5/8 inch rebar;  
 Thence N89°27'21"W a distance of 186.04 feet to a 5/8 inch rebar;  
 Thence N00°32'38"E a distance of 29.50 feet to a 5/8 inch rebar;  
 Thence N88°21'42"W a distance of 254.54 feet to a 5/8 inch rebar;  
 Thence N88°29'38"W a distance of 113.70 feet to a 5/8 inch rebar;  
 Thence N88°11'58"W a distance of 55.44 feet to a 5/8 inch rebar;  
 Thence N89°30'04"W a distance of 188.89 feet to a 5/8 inch rebar;  
 Thence along the centerline of the Bladenburgh Canal: a distance of 454.72 feet to a 5/8 inch rebar in the centerline of the Bladenburgh Canal;  
 Thence N89°16'51"E a distance of 138.02 feet to a 5/8 inch rebar;  
 Thence S84°15'00"E a distance of 100.00 feet to a 5/8 inch rebar;  
 Thence N84°42'30"E a distance of 100.00 feet to a 5/8 inch rebar;  
 Thence N39°40'18"E a distance of 233.25 feet to a 5/8 inch rebar;  
 Thence bearing said centerline and along the said North line of said SE 1/4 S69°19'42"E a distance of 184.98 feet to the POINT OF BEGINNING.

Said parcel contains 18.24 acres and is subject to all existing easements and rights-of-way of record or implied. That it is the intention of the undersigned to and they hereby include said land in this plat. The easements indicated on said plat are not dedicated to the public but the right to use said easements is perpetually reserved for public utilities and for such other uses as designated hereon and no structure other than for such utility purposes are to be erected within the limits of said easements. The undersigned, by these presents, dedicates to the public use forever of public streets or shown on this plat. All of the lots in this subdivision will receive water service from the United Water Works, Inc. which has agreed in writing to serve all lots.

In witness whereof, I have set my hand this 22 day of October in the year of 1989

Walter R. Winkler  
WALTER R. WINKLER, PRESIDENT

### CERTIFICATE OF ACKNOWLEDGMENT

STATE OF IDAHO) S.S.

On this 22 day of October in the year 1989 before me, the undersigned, a Notary Public, and for the State of Idaho, personally appeared Walter R. Winkler, known or identified to me to be the holder of the above described instrument, who, the undersigned, after reading the foregoing instrument, and acknowledged to me that he executed said instrument and on behalf of said corporation and said corporation executed the same.



Walter R. Winkler  
Notary Public for Idaho  
Residing at Ada County  
My Commission Expires on 03/03/95

### CERTIFICATE OF SURVEYOR

I, Craig R. MacCollough, do hereby certify that I am a Registered Professional Land Surveyor, licensed by the State of Idaho, and that this plat of Muir Woods Subdivision No. 1 as described in the CERTIFICATE OF OWNERS was drawn from an actual survey made on the ground under the provisions of the Code relating to Plats and Surveys, represents the points thereon and is in conformity with the provisions of the Code relating to Plats and Surveys.

Craig R. MacCollough  
11/11/89  
PLATS 8001

### APPROVAL OF CENTRAL DISTRICT HEALTH DEPARTMENT

Sanitary restrictions of this plat have been removed according to the letter of approval on file with the County Recorder or his agent, in accordance with the conditions of approval, signed by the Central District Health Department.

Health Officer  
Date 2/24/2000



**APPROVAL OF ADA COUNTY HIGHWAY DISTRICT**  
The foregoing plat was accepted and approved by the board of Ada County Highway District Commissioners on the 22 day of October, 1989, at the City of Ada, Idaho.  
Chairman, David M. Peterson



**APPROVAL OF CITY OF BOISE ENGINEER**  
The foregoing plat was accepted and approved by the City Engineer of Boise, Ada County, Idaho this 22 day of Oct, Year of 1989

David M. Peterson  
City Engineer

**APPROVAL OF CITY OF BOISE CITY COUNCIL**  
The foregoing plat was accepted and approved by the City Council of Boise, Ada County, Idaho, by the City of Boise, Ada County, Idaho, this 22 day of October, Year of 1989

David M. Peterson  
City Clerk

**CERTIFICATE OF ADA COUNTY SURVEYOR**  
I, the undersigned, County Surveyor for Ada County, Idaho, do hereby certify that I have checked this plat and that it complies with the State laws, relating to Plats and Surveys.

Walter R. Winkler  
Acting Ada County Surveyor



**APPROVAL OF COUNTY COMMISSIONERS**  
This foregoing plat was accepted and approved by the Board of Commissioners of Ada County, Idaho this 22 day of October in the year of 1989

Walter R. Winkler  
County Commissioner

**CERTIFICATE OF THE COUNTY TREASURER**  
This is to certify that the undersigned, per the requirements of Idaho Code 50-1306, do hereby certify that any and all current and/or delinquent county property taxes for the property included in this plat have been paid in full. This certification is valid for a period of thirty (30) days only.

David Peterson  
Ada County Treasurer



**CERTIFICATE OF ADA COUNTY RECORDER**  
INSTRUMENT No. 10000010  
STATE OF IDAHO) S.S.

David Peterson  
County of ADA)

I hereby certify that this plat of Muir Woods Subdivision No. 1 was filed at the request of Walter R. Winkler of Ada County on the 22 day of October, 1989, at 10:00 minutes past 9 o'clock A.M. this 22 day of October, 1989, in my office and was duly recorded in Book 80 of Plats at Pages 853 and 854

David Peterson  
County Recorder

DRAWING NO. 98552\_53  
SHEET 2 OF 2

**PINNACLE**  
Engineers, Inc.  
310 N. Lamar, Suite B, Meridian, Idaho 83443  
(208) 687-7700

*Walt Warner*

FEE 5.00 DEPUTY: *J. FAVIS*

2000 MR 24 AM 9: 21

100022122

**ROBERT L. ALDRIDGE, CHARTERED**  
Attorney at Law  
1209 North Eighth Street  
Boise, Idaho 83702-4297  
Telephone: (208) 336-9880  
Fax: (208) 336-9882  
Attorney for W&S Investments, Inc.

**DECLARATIONS ESTABLISHING COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR MUIR WOODS SUBDIVISION**

**ARTICLE I - RECITALS**

WHEREAS, the undersigned (hereafter "Grantor") is the owner of certain land in Ada County, Idaho more particularly described as Muir Woods Subdivision (hereafter "Property");

WHEREAS, the Property shall be developed as defined in the ordinances of Ada County, Idaho, for residential uses.

WHEREAS, the Grantor desires to subject the Property to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitude herein set forth to insure the proper design, development, improvement and use of the Property by the Grantor and all other persons or entities who may subsequently acquire an interest in the Property.

**ARTICLE II - DECLARATIONS**

The Grantor hereby declares that the Property described on Exhibit A, and each lot, tract or parcel thereof (hereafter called "Lot" unless specified to the contrary), in and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following covenants, conditions, restrictions, easements, reservations, limitations and equitable servitude (hereafter collectively called "covenants and restrictions"), all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of Muir Woods Subdivision and each Lot therein, and to enhance the value, desirability and attractiveness thereof. The covenants and conditions set forth herein shall run with the land and each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in Muir Woods Subdivision or any Lot therein; and shall inure to the benefit of and be binding upon the Grantor and each Owner; and each successor in interest of each, and may be enforced by the Grantor and by any Owner, as hereafter provided.

Notwithstanding the foregoing, no provision of this Declaration shall be construed or enforced to prevent or limit the Grantor's right to complete development of Muir Woods Subdivision in accordance with the plan therefor as the same exists or may be modified from time to time by the Grantor, nor obligate the Grantor to complete the development of Muir Woods Subdivision except as expressly provided herein, nor prevent normal construction activities during the construction of improvements upon any Lot in Muir Woods Subdivision. No development or construction activities

1 shall be deemed to constitute a nuisance or violation of this Declaration by reason of noise, dust,  
2 presence of vehicles or construction machinery, erection of temporary structures, posting of signs  
3 or similar activities, provided the same are actively, efficiently and expeditiously pursued to  
4 completion. In the event any dispute concerning the foregoing shall arise, a temporary waiver of  
5 the applicable provision(s) of this Declaration may be granted by the Architectural Control  
6 Committee (ACC), provided that such waiver shall be for reasonable period of time. Any such  
7 waiver need not be recorded and shall not constitute an amendment of this Declaration.  
8

9 The recording of the Plat by the Developer/Owner shall be deemed and construed as a request for  
10 annexation of its property to the corporate limits of Boise City. Such request and consent shall be  
11 binding on all subsequent Owners/Developers of Developer's property.  
12

13 Developer/Owner of this subdivision, or lot or lots within the subdivision, shall and hereby does vest  
14 in Boise City the right and power to bring all actions against the Owner of the premises, or any part  
15 thereof, for the collecting of any charges then required and to enforce the conditions herein stated.  
16 This covenant shall run with the land.  
17

18 Until such time as annexation occurs, provision for the use, control, and maintenance of street  
19 lights shall be made through covenants, Home Owners Association Bylaws, and other similar deed  
20 restrictions.  
21

### 22 **ARTICLE III - DEFINITIONS**

23

24 As used in this Declaration, unless the context otherwise specifies or requires, the following words  
25 and phrases shall be defined as follows:  
26

27 **ACC:** The Architectural Control Committee for Muir Woods Subdivision.  
28

29 **Building:** A structure constructed on a Lot, on a temporary or permanent basis, and unless  
30 specified to the contrary, shall include all other appurtenances and improvements thereto or used  
31 in connection therewith.  
32

33 **Declaration:** This instrument as it may be amended from time to time.  
34

35 **Development:** The Project to be undertaken by the Grantor resulting in the improvement of Muir  
36 Woods Subdivision, including landscaping, amenities, construction of roadways, utility services and  
37 other improvements, as elected by the Grantor.  
38

39 **Home Owners Association:** an organization formed to operate the irrigation system landscaped  
40 areas and any common areas which lie within the boundaries of Muir Woods Subdivision and any  
41 other duties as provided for in the Articles of Incorporation.  
42

43 **Subdivision:** The whole of the land described on Exhibit A. A reference in this Declaration to Muir  
44 Woods Subdivision Shall include all Lots shown on the Plat for Muir Woods Subdivision.  
45

46 **Grantor:** The undersigned Owners of the land described on Exhibit A.  
47

48 **Improvements:** all structures and appurtenances thereto of all kinds and types, including, but not

1 limited to: buildings, roads, driveways, sidewalks, walkways, walls, fences, screens landscaping,  
2 poles, signs, and lighting. Improvements shall not include those items which are located totally on  
3 the interior of a building and cannot be readily observed when outside thereof.  
4

5 Lot: A portion of Muir Woods Subdivision which is a legally described tract or parcel of land within  
6 Muir Woods Subdivision or which is designated as a lot on any recorded subdivision plat relating  
7 to Muir Woods Subdivision.  
8

9 Mortgage: Any mortgage or deed of trust or other hypothecation of land, located in Muir Woods  
10 Subdivision, to secure performance of an obligation. Unless otherwise specifically provided, the  
11 reference to a "Mortgage" in this Declaration shall be limited to "first Mortgage", including a "First  
12 Deed of Trust".  
13

14 Occupant: Any person, association, corporation, or other entity who or which is an Owner, or has  
15 leased, rented, been licensed or is otherwise legally entitled to occupy and use any building or  
16 improvement on a Lot, whether or not such right is exercised, including their heirs, personal  
17 representatives, successors and assigns.  
18

19 Owner: A person or persons or other legal entity or entities, including Grantor, holding fee simple  
20 title to a lot in Muir Woods Subdivision including contract sellers, but excluding those having such  
21 interest merely as security for the performance of an obligation, but including an Mortgagee (of and  
22 priority) or other security holder, provided said Mortgagee or other security holder is in actual  
23 possession of a Lot as a result of foreclosure or otherwise, and any person taking title through such  
24 mortgagee or other security holder by purchase at foreclosure sale or otherwise.  
25

26 Plat: A final subdivision plat covering any real property in Muir Woods Subdivision, as recorded in  
27 the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly  
28 recorded amendments thereto.  
29

30 Residential Lot: A Lot for the use of which shall be for a single-family residential purpose and uses  
31 incidental thereto as limited by this Declaration or a townhouse lot as described in the plat of Muir  
32 Woods Subdivision.  
33

#### 34 ARTICLE IV - PURPOSE 35

36 Muir Woods Subdivision is hereby made subject to the covenants and restrictions contained in this  
37 Declaration, all of which shall be deemed to be imposed upon and run with the land and each and  
38 every Lot and parcel thereof, and shall apply to each and every Owner and Occupant thereof and  
39 their respective successors in interest, to insure proper design, development, improvement, use  
40 and maintenance of Muir Woods Subdivision for the purpose of:  
41

42 (a) Insuring Owners and Occupants of building of quality of design, development,  
43 improvement, use and maintenance as shall protect and enhance the investment and use  
44 of all Lots and improvements.  
45

46 (b) Prevention of the erection in Muir Woods Subdivision of improvements of improper  
47 design or construction with improper or unsuitable materials or with improper quality and  
48 method of construction.

1 (c) Encouraging and assuring the erection of high quality and attractive improvements  
2 appropriately located within Muir Woods Subdivision.

3  
4 (d) Securing and maintaining proper set-backs from streets and adequate free spaces  
5 between improvements.

6  
7 (e) Designating and maintaining open space areas to maintain and enhance the  
8 environment.

9  
10 **ARTICLE V - PERMITTED USES**

11  
12 Section 5.01 Use: The Lots within Muir Woods Subdivision shall be used for residential purposes  
13 only.

14  
15 Section 5.02 Approval of Use and Plans: No improvements shall be built, constructed, erected,  
16 placed or materially altered within Muir Woods Subdivision after the date of this Declaration, unless  
17 and until the plans, specification, and site plan therefor have been reviewed in advance and  
18 approved by the ACC in accordance with the provisions of Article VI, below.

19  
20 Section 5.03 Prohibited Buildings: No trailer or other vehicle, tent, shack, garage, accessory  
21 building or out building on a Lot shall be used as a temporary or permanent residence.

22  
23 Section 5.04 Setbacks-Residential Lots: Any building constructed on a residential Lot shall comply  
24 with the following minimum setbacks:

25

26 Front Lot Line	Twenty-five Feet (25')
27 Rear Lot Line	Fifteen Feet (15')
28 Side Lot Line	Five feet (5')

29

30 PROVIDED, HOWEVER, that the following special terms and conditions regarding front line  
31 setbacks shall apply:

32  
33 a. For Block 1, Lots 3-19, inclusive, the front lot line set backs shall be twenty-five (25) feet  
34 for curved or radius driveways, or thirty (30) feet for straight approach driveways;

35  
36 b. For all lots, the maximum width of concrete driveways at the end contiguous to the edge  
37 of the sidewalk bordering the front lot line shall not exceed thirty (30) feet.

38  
39 Any variance to setbacks must have ACC written approval.

40  
41 As used herein and elsewhere in this Declaration, "front yard" shall mean that area on a residential  
42 Lot from the right-of-way line, as shown on the Plat, to a line created by the front of the residential  
43 dwelling on the Lot extended to each side lot line.

44  
45 Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the  
46 governmental entity having jurisdiction over Muir Woods Subdivision require setbacks different than  
47 those provided herein, the more restrictive shall control.

1 Section 5.05 Easements: There is hereby reserved for the use and benefit of the Grantor and  
2 granted for the use and benefit of each Lot, and benefit of each Owner and Occupant and their  
3 successors and assigns, for the purposed incident to such use, development, and maintenance of  
4 Muir Woods Subdivision, an easement(s) for the installation and maintenance of public utility  
5 facilities of all kinds, including radio, television and transmission cables, the easements designated  
6 on the recorded Plat.

7  
8 Section 5.06 Commercial Use: No Lot shall be used at any time for commercial or business  
9 purposes as shall be conducted and maintained solely within a residential dwelling unit located on  
10 a Lot,. Provided that no signs relating to said business activity shall be displayed where visible from  
11 any public or private road within Muir Woods Subdivision and provided further, that the principal  
12 use of each Lot shall be as provided for in Section 5.01 above. Notwithstanding the foregoing, the  
13 Grantor, or persons authorized by the Grantor, may use a residential Lot(s) for development and  
14 sales activities relating to Muir Woods Subdivision, model homes or real estate marketing and  
15 sales.

16  
17 Section 5.07 Lighting: Exterior lighting and interior lights reflecting outside shall be placed in such  
18 a manner which will minimize glare and excessive light spillage onto neighboring Lots.

19  
20 Section 5.08 Animals/Pets. No animals, birds, insects, pigeons, poultry or livestock shall be kept  
21 on the Property. No swine or goats will be permitted. Up to two (2) domesticated animals such  
22 as dogs or cats, or other household pets which do not unreasonably bother or constitute a nuisance  
23 to others shall be allowed. Without limiting the generality of the foregoing, consistent and /or  
24 chronic barking by dogs shall be considered a nuisance. In the event an Owner constructs or  
25 maintains a kennel or other restraining area upon a Lot, such shall: (1) be located on a Lot in  
26 manner to avoid an endangerment of or nuisance to adjacent Lot owners and , (2) at all times be  
27 kept in a clean and odor-free condition.

28  
29 Section 5.09 Drilling and Exploration: No oil exploration or development of any kind or nature of  
30 mining exploration, or any structures in connection therewith shall be permitted to be erected,  
31 maintained or used on any Lot and no minerals shall be permitted to be mined or extracted on any  
32 Lot.

33  
34 Section 5.10 Signs: No commercial billboard or advertising shall be displayed to the public view on  
35 or from any Lot. Owners may advertise a dwelling unit and Lot for sale by displaying a single, neat  
36 and reasonably sized sign on a Lot. Other temporary signs advertising the name of the builder or  
37 the name of the institution providing financing may be displayed on a Lot during the construction  
38 of improvements. All lighted, moving or flashing signs for any purpose are prohibited.

39  
40 Section 5.11 Subdividing: Except as specifically provided in this Declaration to the contrary, no Lot  
41 may be further subdivided, nor may any easement or other interest therein less than the whole be  
42 conveyed by the Owner thereof; provided, however, that nothing herein shall be deemed to prevent  
43 an Owner from transferring or selling a Lot to more than one person to be held by them as tenants  
44 in common, joint tenants, tenants by the entirety or as community property or require the approval  
45 of the ACC.

46  
47 Section 5.12 Fences: No fence of any kind shall be constructed on any Lot unless the plans and  
48 specification therefor, including the location, material and color thereof, have been approved in

1 writing by the ACC prior to construction or installation. No fence or hedge located on a Lot shall  
2 have a height greater than six (6) feet above the surface of the ground upon which it is located.  
3 The construction or maintenance of spite fences or spite trees or shrubs shall be prohibited on all  
4 Lots. All fences shall be constructed in a substantial manner and shall be maintained at all times  
5 in good repair. All new fences constructed as boundary fences shall be wood as determined by  
6 the ACC, it being the intent of the ACC to require uniformity in new boundary fencing to the extent  
7 reasonably possible. No fences shall be allowed in the front yard of a Residential Lot. It is the  
8 intent of the Grantor that the ACC shall have the authority to regulate all new fences within Muir  
9 Woods Subdivision to the end that the locations, type and size of each fence and the material used  
10 therein shall, to the extent possible, present a reasonably coordinated appearance. All rear fences  
11 on lots bordering the common park area will be provided by the Developer. No additional fencing  
12 will be allowed in this area. Screening devices may be installed so long as they are of a screen  
13 material so that sight lines are not impaired. Privacy screening fences may be installed; however,  
14 such fences must have ACC approval.  
15

16 **Section 5.13 Irrigation Water:** The Grantor shall provide facilities to deliver irrigation water to the  
17 lot line of each Lot via a pump from the pump station. Maintenance and operation of the pump and  
18 pumping system shall be the responsibility and cost of the Owners Association, along with  
19 maintenance and care of the common and landscaped areas. Water use shall be on a rotation  
20 basis worked out among the users. Distribution system within each lot shall be the responsibility  
21 of each homeowner. Irrigation water to the landscaped lots shall be included in the water rotation  
22 agreed to by the owners. PROVIDED, HOWEVER, that no guarantee is made as to when such  
23 irrigation water will be available and the amounts so available. Such availability and volume are  
24 dependent on when, and in what quantities, irrigation water becomes available through the  
25 servicing canal. The costs and expenses incurred for the operation and maintenance of the  
26 irrigation system serving the Lots shall be paid as provided in Article VII, below.  
27

28 **Section 5.14 Sewer Disposal:** Public sewers service Muir Woods Subdivision and each Lot shall  
29 be connected to this public system.  
30

31 a. Monthly sewer charge must be paid after connecting to the Boise City public Sewer  
32 system.  
33

34 b.. Owner shall submit to inspection by either the Public Works Department or the Building  
35 Department whenever a subdivided lot is to be connected to the City sewage system and  
36 a building is constructed or installed on or over the owner's property.  
37

38 **Section 5.15 Maintenance:** The following provisions shall govern the maintenance of Lots and all  
39 improvements thereon:  
40

41 (a) each Owner of a Lot shall maintain all improvements located thereon in good and  
42 sufficient repair and shall keep the improvements thereon painted or stained, lawns cut,  
43 shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut and otherwise  
44 maintain the same in a neat and aesthetically pleasing condition. Pending the construction  
45 of improvements, each Owner shall keep the Lot in a neat condition and shall not permit  
46 an unreasonable accumulation of rubbish and debris and shall keep all weeds and other  
47 growths cut.  
48



1 (b) In the event all or any portion of the improvements on a Lot are damaged or destroyed  
2 by fire or other casualty, including any damage occurring as a result of the exercise of the  
3 power of eminent domain, or any transfer in lieu thereof, to an architectural whole in  
4 accordance with the requirements of this Declaration.

5  
6 (c) A building which is vacant for any reason shall be kept locked and the windows glazed  
7 in order to prevent entrance by vandals.

8  
9 (d) All structures, facilities, equipment, objects and conditions determined by the ACC, in  
10 its sole discretion, reasonably exercised to be offensive or which creates a visual blight  
11 within Muir Woods Subdivision, shall be removed or enclosed within a structure approved  
12 by the ACC or appropriately screened from public view.

13  
14 Section 5.16 Nuisances: No rubbish or debris of any kind shall be placed or permitted to  
15 accumulate upon any Lot within Muir Woods Subdivision and no odor shall be permitted to arise  
16 therefrom so as to render any Lot unsanitary, unsightly, offensive or detrimental to any other Lot  
17 therein or in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted  
18 to exist or operate upon or from any Lot so as to be offensive or detrimental to any other lot within  
19 Muir Woods Subdivision, or in the vicinity thereof, or to its occupants. Without limiting the  
20 generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other  
21 than security devices used exclusively for security purposes) shall be located, used or placed on  
22 any Lot within Muir Woods Subdivision except for speakers in an outside living area i.e. Patio or  
23 Gazebo.

24  
25 Section 5.17 Boats, Campers and Other Vehicles: Any trailer, mobile home, truck larger than a  
26 standard pickup, motor home, boat, tractor, vehicle (other than automobiles), campers and garden  
27 or maintenance equipment, when not in actual use, shall be kept at all times in an enclosed  
28 structure or screened from public view and at no time shall any said vehicles or equipment be  
29 parked or stored on a public or private right-of-way within Muir Woods Subdivision.

30  
31 Section 5.18 Exterior Energy Devices/Antennae: No energy production device including, but not  
32 limited to, generators of any kind and solar energy devices, or exterior antenna or dish for the  
33 reception of radio, television or other signal, shall be constructed or maintained on any Lot without  
34 prior written approval of the ACC, except for heat pumps and similar appliances shown on the plans  
35 approved by the ACC.

36  
37 Section 5.19 Minimum Area: No building intended for use as a single-family residence shall be  
38 erected, altered, placed or permitted to remain on any residential Lot, which building contains less  
39 than One Thousand Eight Hundred (1,800) square feet of living area. In the event the building  
40 intended for use as a single-family residence contains more than one story, the minimum square  
41 footage of the living areas shall be not less than Two Thousand Two Hundred (2,200) square feet  
42 and the minimum square footage of living areas of the first floor shall be not less than One  
43 Thousand Four Hundred (1,400) square feet. The square footage of living area shall be based on  
44 the interior living space at or above the grade of the Lot, exclusive of basements, porches, patios,  
45 and garage.

46  
47 Section 5.20 Construction Standards: The following standards and requirements shall be applicable  
48 to the construction and/or installation of any improvements on a residential Lot within Muir Woods

1 Subdivision:  
2

3 (a) Excavation: Any excavation shall be performed in a workmanlike manner and the Lot  
4 kept free from debris. Each Owner shall be responsible for the repairing of any damage  
5 which may occur during the construction period to any road, mailbox, utility facility or other  
6 on-site or off-site improvement caused by the Owner or contractors employed by the  
7 Owner. Unless an Owner otherwise notifies the ACC in writing prior to the Owner's  
8 commencing of construction on a Lot, all on-site improvements shall be conclusively  
9 deemed to be in good working order and condition and any damages occurring thereto  
10 during the construction, shall be the responsibility of the Owner. All such repairs required  
11 hereunder shall be made immediately following the occurrence of the damage.  
12

13 (b) Utilities: The connection to all utility facilities shall be underground and shall be  
14 inspected and approved by the appropriate governmental entity having jurisdiction thereof  
15 and the company providing the utility service, if required. Utility meters shall be placed in  
16 an unobtrusive location and concealed behind fences or landscaping where possible.  
17

18 (c) Landscaping: as a general guideline for the landscaping of each Lot and as shall be  
19 shown on the landscape plan to be submitted to the ACC under Section 6.07(c), below, the  
20 front yard area of each Lot shall be landscaped with trees, shrubs, and ground cover, or  
21 utilized as entryways. Front yard landscaping must be installed within thirty days (30) from  
22 the time the dwelling is occupied unless weather permitting. Front yard landscaping must  
23 be maintained and watered. Subject to weather limitations, all front yard landscaping shall  
24 be completed within thirty (30) days after initial occupancy of the building and shall be the  
25 responsibility of the Builder to install yard landscaping.  
26

27 (d) Driveways: All driveways must be concrete in construction. Construction of the portions  
28 of driveways which are behind the front line of the residential improvements on the property  
29 and which are screened from public view may be gravel or asphalt.  
30

31 (e) Maintenance During Construction: The following requirements shall apply during the  
32 construction of improvements on a Lot:  
33

- 34 1. All debris shall be removed from the Lot prior to each weekend;
- 35 2. No materials shall be placed or kept on any adjoining Lot.
- 36 3. Vehicles belonging to workmen or used in the construction of improvements shall  
37 not be parked in front of occupied residential dwellings or interfere with traffic on  
38 public streets:
- 39 4. Utilities, including water, shall not be taken from any other Lot without the  
40 approval of the Owner thereof;  
41  
42  
43  
44

45 (f) Time of Work: Any work or other activity in connection with the construction or  
46 installation of the improvements on a Lot shall be conducted on such days and at such  
47 times during the days as shall not constitute or result in an unreasonable nuisance or  
48 annoyance of neighboring Lots.

1 (g) Roofs: The roof of each building on a Lot shall be covered with a minimum of twenty-five  
2 (25) year composition shingles, shakes, or tile and shall be approved by the ACC under  
3 Article VI, below.  
4

5 (H) Qualified Contractor: The construction of each Building on a Lot shall be performed by  
6 a qualified general contractor and reasonably experienced in the construction of residential  
7 dwelling units and related improvements. No Owner of a Lot shall construct a Building on  
8 a Lot, unless such Owner is a qualified general contractor approved by the ACC and  
9 possessing the experience provided above.  
10

11 5.21 Outbuildings: One outbuilding per lot shall be permitted. The design, location, color, and  
12 decor of such building must be of a construction similar to the primary building, and must be  
13 approved, in writing, by the ACC, before construction begins. Allow for fifteen (15) days for ACC  
14 review of plans and response.  
15

16 5.22 Start of Construction, etc.: Once a lot has been purchased, if a building permit has not been  
17 obtained by the Owner thereof, or so obtained, construction has not been commenced on said lot  
18 by the Owner thereof, within one year after the date of such purchase, or if construction is not  
19 diligently pursued by the Owner thereof after obtaining such permit and commencing construction,  
20 then and in that event the Grantor may re-purchase said lot from the Owner thereof for Eighty-Five  
21 Percent (85%) of the purchase price of such lot (determined by the actual purchase price to Owner  
22 at the time the lot was purchased by Owner or by the current purchase price, at the time of re-  
23 purchase, of similar lots in Muir Woods, whichever is lower). Grantor shall give Owner written  
24 notice of Grantor's intent to exercise such option to re-purchase, which notice shall set a date on  
25 which closing of such re-purchase shall occur, which date shall be not more than sixty (60) days  
26 from the date of the notice. Repurchase shall be paid in full at closing. Owner agrees to execute  
27 any documents necessary to carry out said re-purchase, including any documents necessary to  
28 pay off any encumbrances on the premises.  
29

## 30 ARTICLE VI - ARCHITECTURAL CONTROL COMMITTEE

31

32 Section 6.01 Members of the Committee: The Architectural Control Committee (ACC) shall be  
33 comprised of at least three (3) persons, all of whom shall be appointed as herein provided. A  
34 member of the ACC shall hold office until he has resigned or has been removed, but in any event,  
35 until said Member's successor has been appointed. Members of the ACC may be removed at any  
36 time, with or without cause.  
37

38 Section 6.02 Appointment-Removal: The members of the ACC shall be: Walter R. Wanner; Lisa  
39 A. Wanner; and, Germain Tarrant. So long as the development company owns any property within  
40 the Muir Woods Subdivision, the above named persons shall be empowered to appoint all  
41 members of the ACC. When the development company owns none of the Property in Muir Woods  
42 Subdivision, the Owners by majority vote shall elect the members of the ACC. Upon that event,  
43 the ACC members may also serve as officers of the homeowners association. The ACC shall have  
44 the right, by a resolution in writing unanimously adopted, to designate one (1) of its members to  
45 take any action or perform any duties for and on behalf of the ACC. In the absence of such  
46 designation, the vote of any two (2) members of the ACC shall constitute an act of the ACC.  
47

48 Section 6.03 Non-Liability: Neither the ACC, nor any member thereof, or the Grantor, shall be liable

1 to any Owner or any other person for any loss, damage or injury arising out of or connected with  
2 the performance by the ACC of its duties and responsibilities by reason of a mistake in judgement,  
3 negligence or nonfeasance in connection with the approval or disapproval or failure to approve an  
4 application. Every person who submits an application to the ACC for approval of plans and  
5 specifications agrees, by submission of such application, and every Owner or Occupant of an Lot  
6 agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the  
7 ACC, or any member thereof, or the Grantor to recover such damages.

8  
9 **Section 6.04 Approval Required:** No construction, alteration, modification, removal or destruction  
10 of any improvements of any nature whatsoever which materially alters the exterior appearance of  
11 the improvements on a Lot, shall be initiated or be permitted to continue or exist within Muir Woods  
12 Subdivision without prior express written approval of the ACC.

13  
14 **Section 6.05 Basis or Approval:** approval by the ACC shall be based, among other things, on the  
15 adequacy of the Lot dimensions; conformity and use of external design with neighboring  
16 improvements; the effect of location and use of improvements on neighboring lots; the relationship  
17 of the improvements to topography, grade, finished ground elevation and landscaping of the Lot  
18 to that of neighboring lots; the proper facing of the main elevation with respect to nearby streets;  
19 and the relation of floor elevations to flood elevations as defined by government entities.

20  
21 **Section 6.06 Variances:** The ACC may authorize variances from compliance with the requirements  
22 of any conditions and restrictions contained in this Declaration, or any prior approval when, in the  
23 sole discretion of the ACC, circumstances such as topography, natural obstruction, aesthetics or  
24 environmental consideration or hardship may so require. Such a variance must be evidenced in  
25 writing, signed by at least two (2) members of the ACC. If a variance is granted as provided herein,  
26 no violation of this Declaration or prior approval shall be deemed to have occurred with respect to  
27 the matter for which the variance was granted.

28  
29 **Section 6.07 Application:** To request ACC approval for the construction, alteration, modification,  
30 removal or demolition of any improvements within Muir Woods Subdivision, the Owner shall submit  
31 a written application in a form required by the ACC, which must be signed by the Owner and  
32 contain all information requested and be accompanied by other material hereafter provided. The  
33 ACC shall have the right to require an Owner to pay a fee, not to exceed Two Hundred Fifty Dollars  
34 and No Cents (\$250.00) to reimburse the ACC for any actual out-of-pocket expenses incurred by  
35 the ACC with respect to the review of an application, plans and specifications and/or its decision  
36 thereon. Normal applications for plan approval are on a no charge basis. All applications must  
37 contain, or have submitted therewith, the following material (collectively called "plans and  
38 specifications") prepared in accordance with acceptable architectural standards:

39  
40 (a) **Site Plan:** A site plan showing the location of the buildings(s) and all other structures and  
41 improvements, including fences and walls on the Lot, Lot drainage and all set backs and  
42 other pertinent information relating to the improvements.

43  
44 (b) **Building Plan:** A building plan which shall consist of preliminary or final blueprints,  
45 elevation drawings of the north, south, east and west sides, and detailed exterior  
46 specifications which shall be indicated, by sample, if required by the ACC, all exterior  
47 colors, materials and finishes, including roofing to be used.

1 (c) Landscape Plan: A landscape plan for portions of the Lot to be landscaped which shall  
2 show location, type and size of trees, plants, ground cover, shrubs, berming and mounding,  
3 grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking  
4 areas and walkways.

5  
6 (d) Contractor: Such information concerning the qualifications of the general contractor  
7 selected by the Owner to construct the building and related improvements on the Lot as  
8 shall be reasonably requested by the ACC to permit it to determine whether contractor is  
9 qualified and possesses the experience required by Section 5.26(l) above.

10  
11 Section 6.08 Decision: Unless extended by mutual consent of the Owner and the ACC, the ACC  
12 shall render its decision with respect to an application within ten (10) days after receipt of a properly  
13 submitted application. The decision of the ACC can be in the form of an approval, a conditional  
14 approval or denial. A conditional approval shall set forth with particularity the conditions upon  
15 which the application is approved and denial shall state with particularity the reasons for such  
16 denial.

17  
18 Section 6.09 Other Responsibilities: Until the organization of a homeowner's association for Muir  
19 Woods Subdivision, the ACC shall have such other rights and responsibilities necessary, required  
20 or convenient to carry out and enforce the provisions of their Declaration, including the right to bring  
21 suit in its name or the name of one or all of its members. The ACC shall have the right to  
22 purchase, with funds provided from assessments levied under Article VII, below, and keep in force  
23 a public liability insurance policy in an amount deemed reasonable by the ACC, insuring the  
24 Owners and the ACC from liability for bodily injury and/or property damage occurring on common  
25 area, provided that the failure of the ACC to purchase and/or keep in force such insurance shall  
26 not be grounds for the imposition of liability upon the members of the ACC.

## 27 28 ARTICLE VII - ASSESSMENTS

29  
30 Section 7.01 Lots Subject to Assessment: The lots which are subject to assessment under the  
31 Article are all lots in Muir Woods Subdivision.

32  
33 Section 7.02 Covenant to Pay Assessments: Each Owner, by acceptance of a deed to a lot,  
34 covenants and agrees to pay, when due, the assessments provided for in this Article.

35  
36 Section 7.03 Assessment Lien: All assessments levied and assessed hereunder, together with  
37 interest, costs and reasonable attorney's fees, which may be incurred in collecting the same, shall  
38 be a charge on the land and shall be a continuing lien upon each lot within Muir Woods Subdivision  
39 and shall also be the personal obligation of the Owner or such lot at the date the assessment  
40 becomes due and payable. The personal obligation for delinquent assessments shall not pass to  
41 an Owner's successors in title unless expressly assumed by them. The assessment lien created  
42 hereunder may be enforced in the same manner as provided in the statutes of the State of Idaho  
43 for the enforcement of liens and mortgages. The lien herein created shall at all time be junior and  
44 subordinate to the lien of the first Mortgage or Deed of Trust encumbering the lot.

45  
46 Section 7.04 Annual Assessments: Commencing in the calendar year in which the closing of the  
47 first sale of a residential Lot to an Owner occurs, each Lot (as specified in Section 7.01, above),  
48 within Muir Woods Subdivision shall be assessed an amount determined as the initial fee and the

1 amount determined as the annual fee, per year annually, provided however, that any Lot owned  
2 by the Grantor shall be assessed an assessment equal to fifty percent (50%) of the amount  
3 assessed against Lots owned by other Owners. If the Grantor pays all or any portion of the  
4 expenses for which the assessments are to be levied as provided in Section 7.07, below, in excess  
5 of the amount assessed to Lots owned by the Grantor, such excess amount so paid shall constitute  
6 a prepayment of assessments to become due and payable on the Lots owned by the Grantor within  
7 Muir Woods Subdivision. Any such assessment credit shall not inure to an Owner purchasing a Lot  
8 from the Grantor unless such person is the successor to substantially all of the interest of the  
9 Grantor in Muir Woods Subdivision. Each assessment shall be payable by an Owner to the ACC,  
10 or to such other party as the ACC shall direct, in advance or in arrears, and in such installments  
11 as the ACC shall determine.

12  
13 Sections 7.06 Interest and Costs: Any assessment against a Lot, if not paid when due, shall bear  
14 interest at an annual rate as shall be set by the ACC from time-to-time, or if none is so set, at an  
15 annual rate of fifteen percent (15%). Such interest shall commence on the date the assessment  
16 becomes due and payable. In addition to the interest charge, if an assessment is collected by the  
17 ACC with the assistance of an attorney, whether or not suit or action is filed, the Owner shall pay  
18 to the ACC, reasonable attorney's fees incurred by the ACC and such may be awarded in a  
19 judgement against the Owner.

20  
21 Section 7.07 Purpose of Assessments - Duty of ACC: The ACC shall use all funds from the  
22 assessments paid by the Owners for the purpose of:

23  
24 (a) Maintaining, repairing, replacing, and otherwise in all respects caring for the landscaping  
25 and related improvements, including, but not limited to: the sprinkler system(s), located on  
26 the landscaping easement as shown on the subdivision plat for the Muir Woods  
27 Subdivision.

28  
29 (b) Maintaining, repairing, replacing, operating and otherwise in all respects caring for the  
30 irrigation water delivery system, any fencing, and the waste water courses within Muir  
31 Woods Subdivision including, but not limited to: the pump and lines except where the  
32 obligation to maintain the line is imposed upon an Owner(s) by this Declaration.

33  
34 (c) Maintaining, repairing, replacing, insuring and otherwise in all respects operating and  
35 caring for the common and landscaped areas, if any, including the payments of taxes and  
36 other costs with respect thereto.

37  
38 The homeowners association shall have the obligation to maintain, repair, replace and otherwise  
39 in all respects care for said landscaping and irrigation systems.

40  
41 Section 7.08 Adjustment of Assessments: The ACC shall have the right to increase or decrease  
42 the amount of the annual assessment levied against the Lots within Muir Woods Subdivision, based  
43 on the actual and anticipated expenses of the homeowners association performing its obligations  
44 described in Section 7.07, above, including reasonable reserves for repairs and replacements.

45  
46 Section 7.09 Limited Assessments: The homeowners association shall have the right and the  
47 authority to incur costs and expenses for the maintenance and repair of any Lot, including the  
48 improvements on a Lot. If such maintenance, repair, cleaning, and/or upkeep is necessary, in the

1 sole discretion of the homeowners association, to bring such Owner and/or Lot into compliance with  
2 the requirements of this Declaration, and if the Owner of said Lot has homeowners association  
3 backed or refused to perform the same within a reasonable time after written notice of the necessity  
4 thereof has been delivered by the homeowners association to said owner, the homeowners  
5 association shall have the right to perform or cause performance of the same and to levy a limited  
6 assessment against the lot owned by such owner, for the amount of the costs and expenses  
7 incurred by the homeowners association in connection therewith, including attorneys fees. The  
8 right of the homeowners association to incur costs and expenses with respect to a lot, and to  
9 secure repayment thereof by the levying of a limited assessment, shall also relate to the correction  
10 of violation of this Declaration which an Owner fails or refuses to correct within a reasonable time  
11 after written notice delivered to such Owner by the homeowners association.

12  
13 Section 7.10 Non-Exclusive Remedy: The right of the homeowners association to levy a limited  
14 assessment as described in Section 7.09, above, shall not be deemed the exclusive remedy of the  
15 homeowners association, and it may, in its sole discretion, without waiver of any other legal or  
16 equitable remedy, pursue enforcement of the lien of the limited assessment, collect the amount due  
17 directly from the Owner responsible therefore, and/or pursue any other remedy available at law or  
18 equity. Nothing in this Declaration shall prohibit or limit the homeowners association or an Owner  
19 from pursuing any legal or equitable remedy for a violation of this Declaration.

## 20 21 ARTICLE VIII - MISCELLANEOUS

22  
23 Section 8.01 Term: This Declaration and all covenants, conditions, restrictions, and easements  
24 contained herein shall run until December 31, 2020, unless amended hereafter provided. After  
25 December 31, 2020, said covenants, conditions, restrictions and easements shall automatically  
26 extend for successive periods of ten (10) years each, unless extinguished by a written instrument  
27 executed by the Owners of at least fifty one percent (51%) of the lots in Muir Woods Subdivision  
28 and then only if such written instrument is recorded with the Ada County Recorder.

29  
30 Section 8.02 Amendment: This Declaration may be amended as follows:

31  
32 (A) By Grantor: Until title to a Lot within Muir Woods Subdivision is conveyed by the Grantor  
33 to an Owner, this Declaration may be amended or terminated by the Grantor by recordation  
34 of a written instrument signed by the Grantor and acknowledged setting forth such  
35 amendment or termination as to such un conveyed Lot.

36  
37 (B) By Owners: Except where a greater percentage is required herein, the provisions of this  
38 Declaration, other than this Section, may be amended by an instrument in writing, signed  
39 and acknowledged by the Owners, including the Grantor, owning at least fifty one percent  
40 (51%) of the Lots within Muir Woods Subdivision, and such amendment shall be effective  
41 upon its recordation with the Ada County Recorder. Any amendment to this Section 8.02  
42 shall require the vote or written consent of all Owners.

43  
44 Section 8.03 Non-Waiver: The failure of the Grantor or any Owner in any one or more instances  
45 to insist upon the strict performance of any of the covenants, conditions, restrictions, easements,  
46 or other provisions of this Declaration or to exercise any right or option contained herein, or to  
47 serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for  
48 the future of such covenant, condition, restriction, easement or other provision, but the same shall

1 remain in full force and effect.  
2

3 Section 8.04 Enforcement - Costs: This Declaration may be enforced by the ACC or by any Owner  
4 (including the Grantor) of a Lot. If suit or other action is filed to interpret or enforce this Declaration,  
5 or any provision thereof, the prevailing party shall be awarded reasonable attorney's fees, in  
6 addition to the costs and disbursements allowed by law, including the same with respect to an  
7 appeal.  
8

9 Section 8.05 Acceptance: Each Owner of a Lot, each purchase of a Lot under a contract of  
10 agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract  
11 of sale or agreement or option, accepts the same subject to all the covenants, conditions,  
12 restrictions, easements and other provisions set forth in this Declarations and agrees to be bound  
13 by the same.  
14

15 Section 8.06 Severability: Each of the provisions hereof shall be deemed independent and  
16 severable and the invalidity or unenforceability of any provision or portion thereof, shall not affect  
17 the validity or enforceability of any other provision.  
18

19 Section 8.07 Interpretation: The provision of this Declaration shall be liberally construed to affect  
20 the purposes hereof and shall be construed and governed in accordance with the laws of the State  
21 of Idaho. The singular shall include the plural and the plural the singular, and the masculine,  
22 feminine or neuter shall include the masculine, feminine or neuter. All captions and titles are  
23 intended solely for convenience of reference and shall not affect that which is set forth in any of the  
24 provision hereof.  
25

## 26 **ARTICLE IX - SOLAR ACCESS**

### 27 28 9.1 Solar Access Definitions.

29  
30 a. Exempt Tree: Any pre-existing vegetation as defined in hereafter, or any  
31 vegetation included on the list of solar friendly vegetation kept by the City of Boise  
32 City's Public Works and Community Planning and Development Departments.  
33

34 b. Front Lot Line: The line represented by the connection of the most distant  
35 corners of a Lot, including flag Lots, where said corners are in common with the  
36 boundary of a public or private road. For corner Lots, the front Lot line is  
37 designated on the plat.  
38

39 c. North Slope: The gradient, in percent slope, from the average finished grade of  
40 the front Lot line of the shade restricted Lot to the average finished grade of the  
41 solar Lot line of a solar Lot. The slope must be downward or decreasing in  
42 elevation from south to north.  
43

44 d. Restricted Vegetation: A tree or other vegetation which is either evergreen, or  
45 if deciduous, tends to retain its leaves late in the fall and/or drop them late in the  
46 spring, or has a dense branching pattern which generally tends to block a high level  
47 of the sun's rays during the heating season. The Boise City Public Works and the  
48 Community Planning and Development Departments have a list of "solar friendly"  
49 trees.



1 e. Shade: That portion of the shadow cast by the shade point of a structure or  
2 vegetation which exceeds a 11.5 foot fence at the solar Lot line at solar noon,  
3 January 21.  
4

5 f. Shade Point: That part of a structure, tree, or other object, on a shade restricted  
6 Lot, which casts the longest shadow (the most northerly shadow) when the sun is  
7 due south on January 21st at an altitude of twenty six degrees (26°) above the  
8 horizon, except a shadow caused by a narrow object such as a chimney, antenna,  
9 utility pole, wire, or the like.  
10

11 g. Shade Point Height: The vertical distance or height measured from the average  
12 elevation at the solar Lot line to the shade point. If the shade point is located at the  
13 north end of a ridge line of a structure oriented within forty five degrees (45°) of a  
14 geodetic east-west line with a pitch which is flatter than six (6) feet (vertical) in  
15 twelve (12) feet (horizontal), the shade point will be the cave of the roof. If such a  
16 roof has a pitch which is six (6) feet in twelve (12) feet or steeper, the shade point  
17 will be the peak of the roof.  
18

19 h. Shade Restricted Lot: Any Lot within the subdivision that is southerly of and  
20 adjacent to a solar Lot. These Lots have some restriction on vegetation types and  
21 structure height.  
22

23 i. Solar Friendly Vegetation: A tree or other vegetation which is included on the  
24 solar friendly vegetation list kept by the City of Boise City's Public Works and  
25 Community Planning and Development Departments.  
26

27 j. Solar Lot: A lot which has the following characteristics:  
28

29 1. The front Lot line is oriented within thirty degrees (30°) of a  
30 geodetic east-west bearing;  
31

32 2. The Lot to the immediate south has a north slope of ten percent  
33 (10%) or less;  
34

35 3. The Lot is intended for the construction of an above ground  
36 inhabited structure.  
37

38 k. Solar Lot Line: The most southerly boundary of a solar Lot; the line created by  
39 connecting the most southerly corners of the solar Lot.  
40

41 l. Solar Setbacks: The minimum distance, measured perpendicularly in a southerly  
42 direction, from the center of the solar Lot line to the shade point of a structure or to  
43 restricted vegetation based upon its height at maturity on the shade restricted Lot.  
44

## 45 9.2 Solar Access Covenants, Conditions, and Restrictions 46

47 a. Shade Restriction: Each Lot which is classified as a Shade Restricted Lot shall  
48 have the following restriction: any structure or restricted vegetation (solar unfriendly)  
49 cannot cast a shadow higher than an imaginary fence 11.5 feet above the solar Lot

1 line on solar noon of January 21st when the sun is at an angle of twenty six degrees  
2 (26°) above the horizon. This sun angle at noon on January 21 causes structures,  
3 vegetation, and other objects to cast a shadow twice as long as their height. The  
4 height of the shade point of a structure on the shade restricted lot is limited to  
5 nineteen (19) feet at the fifteen (15) foot rear yard zoning setback in order that the  
6 11.5 foot high "solar fence" at the north property line of the shade restricted Lot is  
7 not exceeded. These standards assure that a structure built to the fifteen (15) foot  
8 rear yard zoning setback, on the solar Lot located to the north, will not be shaded  
9 more than four (4) feet above grade on its south wall on January 21 at solar noon.

10  
11 b. Pre-existing Vegetation: Restricted vegetation (solar unfriendly) which existed  
12 when the subdivision was platted is exempt from the provisions of these covenants,  
13 conditions, and restrictions. Any Lot which would be shaded beyond the allowed  
14 shade limits by such vegetation shall not be classified as a Solar Lot.

15  
16 c. Slope Exemption: Any Lot with an average finished grade slope along the north-  
17 south Lot dimension greater than ten percent (10%) shall be exempt from the terms  
18 and conditions of these covenants, conditions, and restrictions.

19  
20 d. Solar Setbacks: Each separate structure and item of restricted vegetation shall  
21 have a solar setback dependent on, and calculated by, its shade point height. All  
22 shade restricted Lots shall have the following solar setback: Solar Setback (in feet)  
23 = [Shade Point Height (in feet) - 11.5 feet] times two (2).

24  
25 e. Solar Friendly Vegetation: Certain vegetation is considered "solar friendly" and  
26 is not restricted in regards to location on individual Lots. Such vegetation is  
27 deciduous, dropping its leaves during early fall and regaining them during late  
28 spring. Such vegetation also has a sparse branching which allows a high level of  
29 sunlight to penetrate through. This growth cycle produces shading during summer  
30 but allows sun to penetrate during winter. A list of solar friendly trees is maintained  
31 by the City of Boise City Public Works and the Community Planning and  
32 Development Departments.

### 33 34 9.3 Solar Access Rights, Duties, and Responsibilities

35  
36 a. Solar Access Rights: The owner(s) of solar Lots shall have a right to  
37 unobstructed solar access in accordance with these covenants, conditions, and  
38 restrictions.

39  
40 b. Solar Access Duties: The owners of any Lot shall not build, install, or otherwise  
41 allow, a structure or non-solar friendly tree on that Lot to cast more shade at their  
42 solar Lot line than permitted under these solar access covenants, restrictions, and  
43 conditions.

### 44 45 9.4 Miscellaneous

46  
47 a. Enforcement and Non-Waiver: Any Lot owner, or the Association, whether or  
48 not directly affected, shall have the right to enforce, by any proceeding at law or in  
49 equity, any violation or threatened violation of a provision of this document. The

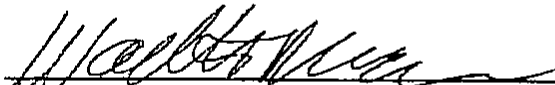
1 failure of any person to enforce any covenant or restriction herein contained shall  
2 not be deemed a waiver of the rights granted herein. Waiver of one breach does  
3 not constitute waiver of any other breach. There can be no waiver of the right to  
4 solar access created by this document.  
5

6 b. Severability: Invalidation of any one of these covenants or restrictions by  
7 judgment or court order shall in no way affect any other provisions, which shall  
8 remain in full force and effect.  
9

10 c. Duration and Applicability to Successors: The covenants, conditions, and  
11 restrictions set forth in this section of this document shall be in effect perpetually,  
12 shall run with the land and shall inure to the benefit of and be binding upon the  
13 declarant hereof and all Lot owners and their successors in interest.  
14

15 d. Amendment: The provisions of this section of this document may be amended  
16 by the action of the owners of a majority of the Lots affected by such amendment,  
17 provided that the amendment does not reduce the amount of solar access  
18 protection provided to the Lots and the amendment is approved by the City of Boise  
19 City.  
20

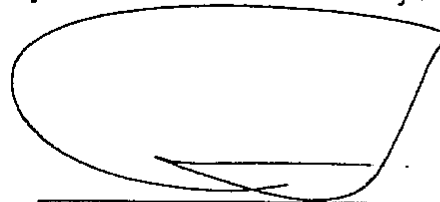
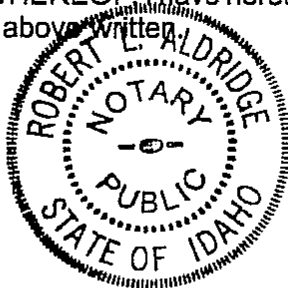
21 W&S INVESTMENTS, INC., GRANTOR  
22  
23

24  
25   
26 \_\_\_\_\_  
27 Walter R. Wanner, President  
28

29 STATE OF IDAHO )  
30 ) ss.  
31 COUNTY OF ADA )  
32

33 On this November 29, 1999, before me, Robert L. Aldridge, a Notary Public in and for the State of  
34 Idaho, personally appeared Walter R. Wanner, known to me or identified to me or proved to me  
35 on the basis of satisfactory evidence to be the President of W&S Investments, Inc., and to be the  
36 person whose name is attached to the foregoing instrument and acknowledged to me that said  
37 corporation executed the same.  
38

39  
40 IN WITNESS WHEREOF, I have hereunto placed my official hand and seal the day and year in this  
41 Certificate first above written.  
42



\_\_\_\_\_  
Notary Public for Idaho  
Residing at Meridian  
My Commission expires on 7-1-2000

ROBERT L. ALDRIDGE, CHARTERED  
Attorney at Law  
1209 North Eighth Street  
Boise, Idaho 83702-4297  
Telephone: (208) 336-9880  
Fax: (208) 336-9882  
Attorney for W&S Investments, Inc.

ADA COUNTY RECORDER  
J. DAVID NAVARRO  
BOISE, IDAHO

2000 DEC 19 AM 10:09

RECORDED - REQUEST OF

*W & S Investments*  
FEE 5400 DEPUTY *J. Navarro*  
100083622

**DECLARATIONS ESTABLISHING COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR MUIR WOODS SUBDIVISION  
AMENDED**

**ARTICLE I - RECITALS**

1  
2  
3 WHEREAS, the undersigned (hereafter "Grantor") is the owner of certain land in Ada County, Idaho  
4 more particularly described as Muir Woods Subdivision (hereafter "Property");  
5

6 WHEREAS, the Property shall be developed as defined in the ordinances of Ada County, Idaho,  
7 for residential uses.  
8

9 WHEREAS, the Grantor desires to subject the Property to the covenants, conditions, restrictions,  
10 easements, reservations, limitations and equitable servitude herein set forth to insure the proper  
11 design, development, improvement and use of the Property by the Grantor and all other persons  
12 or entities who may subsequently acquire an interest in the Property.  
13

**ARTICLE II - DECLARATIONS**

14  
15  
16 The Grantor hereby declares that the Property described on Exhibit A, and each lot, tract or parcel  
17 thereof (hereafter called "Lot" unless specified to the contrary), in and shall be held, sold,  
18 conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the  
19 following covenants, conditions, restrictions, easements, reservations, limitations and equitable  
20 servitude (hereafter collectively called "covenants and restrictions"), all of which are declared and  
21 agreed to be in furtherance of a general plan for the protection, maintenance, subdivision,  
22 improvement and sale of Muir Woods Subdivision and each Lot therein, and to enhance the value,  
23 desirability and attractiveness thereof. The covenants and conditions set forth herein shall run with  
24 the land and each estate therein and shall be binding upon all persons having or acquiring any  
25 right, title or interest in Muir Woods Subdivision or any Lot therein; and shall inure to the benefit of  
26 and be binding upon the Grantor and each Owner; and each successor in interest of each, and  
27 may be enforced by the Grantor and by any Owner, as hereafter provided.  
28

29 Notwithstanding the foregoing, no provision of this Declaration shall be construed or enforced to  
30 prevent or limit the Grantor's right to complete development of Muir Woods Subdivision in  
31 accordance with the plan therefor as the same exists or may be modified from time to time by the  
32 Grantor, nor obligate the Grantor to complete the development of Muir Woods Subdivision except

1 as expressly provided herein, nor prevent normal construction activities during the construction of  
2 improvements upon any Lot in Muir Woods Subdivision. No development or construction activities  
3 shall be deemed to constitute a nuisance or violation of this Declaration by reason of noise, dust,  
4 presence of vehicles or construction machinery, erection of temporary structures, posting of signs  
5 or similar activities, provided the same are actively, efficiently and expeditiously pursued to  
6 completion. In the event any dispute concerning the foregoing shall arise, a temporary waiver of  
7 the applicable provision(s) of this Declaration may be granted by the Architectural Control  
8 Committee (ACC), provided that such waiver shall be for reasonable period of time. Any such  
9 waiver need not be recorded and shall not constitute an amendment of this Declaration.

10 The recording of the Plat by the Developer/Owner shall be deemed and construed as a request for  
11 annexation of its property to the corporate limits of Boise City. Such request and consent shall be  
12 binding on all subsequent Owners/Developers of Developer's property.  
13

14 Developer/Owner of this subdivision, or lot or lots within the subdivision, shall and hereby does vest  
15 in Boise City the right and power to bring all actions against the Owner of the premises, or any part  
16 thereof, for the collecting of any charges then required and to enforce the conditions herein stated.  
17 This covenant shall run with the land.  
18

19 Until such time as annexation occurs, provision for the use, control, and maintenance of street  
20 lights shall be made through covenants, Home Owners Association Bylaws, and other similar deed  
21 restrictions.  
22

### 23 ARTICLE III - DEFINITIONS

24  
25 As used in this Declaration, unless the context otherwise specifies or requires, the following words  
26 and phrases shall be defined as follows:  
27

28  
29 ACC: The Architectural Control Committee for Muir Woods Subdivision.  
30

31 Building: A structure constructed on a Lot, on a temporary or permanent basis, and unless  
32 specified to the contrary, shall include all other appurtenances and improvements thereto or used  
33 in connection therewith.  
34

35 Declaration: This instrument as it may be amended from time to time.  
36

37 Development: The Project to be undertaken by the Grantor resulting in the improvement of Muir  
38 Woods Subdivision, including landscaping, amenities, construction of roadways, utility services and  
39 other improvements, as elected by the Grantor.  
40

41 Home Owners Association: an organization formed to operate the irrigation system landscaped  
42 areas and any common areas which lie within the boundaries of Muir Woods Subdivision and any  
43 other duties as provided for in the Articles of Incorporation.  
44

45 Subdivision: The whole of the land described on Exhibit A, which describes the Lots covered by  
46 these Declarations. A reference in this Declaration to Muir Woods Subdivision shall include all Lots  
47 shown on the Plat for Muir Woods Subdivision.

1 Grantor: The undersigned Owners of the land described on Exhibit A.  
2

3 Improvements: all structures and appurtenances thereto of all kinds and types, including, but not  
4 limited to: buildings, roads, driveways, sidewalks, walkways, walls, fences, screens landscaping,  
5 poles, signs, and lighting. Improvements shall not include those items which are located totally on  
6 the interior of a building and cannot be readily observed when outside thereof.  
7

8 Lot: A portion of Muir Woods Subdivision which is a legally described tract or parcel of land within  
9 Muir Woods Subdivision or which is designated as a lot on any recorded subdivision plat relating  
10 to Muir Woods Subdivision.  
11

12 Mortgage: Any mortgage or deed of trust or other hypothecation of land, located in Muir Woods  
13 Subdivision, to secure performance of an obligation. Unless otherwise specifically provided, the  
14 reference to a "Mortgage" in this Declaration shall be limited to "first Mortgage", including a "First  
15 Deed of Trust".  
16

17 Occupant: Any person, association, corporation, or other entity who or which is an Owner, or has  
18 leased, rented, been licensed or is otherwise legally entitled to occupy and use any building or  
19 improvement on a Lot, whether or not such right is exercised, including their heirs, personal  
20 representatives, successors and assigns.  
21

22 Owner: A person or persons or other legal entity or entities, including Grantor, holding fee simple  
23 title to a lot in Muir Woods Subdivision including contract sellers, but excluding those having such  
24 interest merely as security for the performance of an obligation, but including an Mortgagee (of and  
25 priority) or other security holder, provided said Mortgagee or other security holder is in actual  
26 possession of a Lot as a result of foreclosure or otherwise, and any person taking title through such  
27 mortgagee or other security holder by purchase at foreclosure sale or otherwise.  
28

29 Plat: A final subdivision plat covering any real property in Muir Woods Subdivision, as recorded in  
30 the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly  
31 recorded amendments thereto.  
32

33 Residential Lot: A Lot for the use of which shall be for a single-family residential purpose and uses  
34 incidental thereto as limited by this Declaration or a townhouse lot as described in the plat of Muir  
35 Woods Subdivision.  
36

#### 37 ARTICLE IV - PURPOSE

38

39 Muir Woods Subdivision is hereby made subject to the covenants and restrictions contained in this  
40 Declaration, all of which shall be deemed to be imposed upon and run with the land and each and  
41 every Lot and parcel thereof, and shall apply to each and every Owner and Occupant thereof and  
42 their respective successors in interest, to insure proper design, development, improvement, use  
43 and maintenance of Muir Woods Subdivision for the purpose of:  
44

- 45 (a) Insuring Owners and Occupants of building of quality of design, development,  
46 improvement, use and maintenance as shall protect and enhance the investment and use  
47 of all Lots and improvements.

1 (b) Prevention of the erection in Muir Woods Subdivision of improvements of improper  
2 design or construction with improper or unsuitable materials or with improper quality and  
3 method of construction.

4  
5 (c) Encouraging and assuring the erection of high quality and attractive improvements  
6 appropriately located within Muir Woods Subdivision.

7  
8 (d) Securing and maintaining proper set-backs from streets and adequate free spaces  
9 between improvements.

10  
11 (e) Designating and maintaining open space areas to maintain and enhance the  
12 environment.

13  
14 **ARTICLE V - PERMITTED USES**

15  
16 Section 5.01 Use: The Lots within Muir Woods Subdivision shall be used for residential purposes  
17 only.

18  
19 Section 5.02 Approval of Use and Plans: No improvements shall be built, constructed, erected,  
20 placed or materially altered within Muir Woods Subdivision after the date of this Declaration, unless  
21 and until the plans, specification, and site plan therefor have been reviewed in advance and  
22 approved by the ACC in accordance with the provisions of Article VI, below.

23  
24 Section 5.03 Prohibited Buildings: No trailer or other vehicle, tent, shack, garage, accessory  
25 building or out building on a Lot shall be used as a temporary or permanent residence.

26  
27 Section 5.04 Setbacks-Residential Lots: Any building constructed on a residential Lot shall comply  
28 with the following minimum setbacks:

29

30 Front Lot Line	Twenty-five Feet (25')
31 Rear Lot Line	Fifteen Feet (15')
32 Side Lot Line	Five feet (5')

33

34 PROVIDED, HOWEVER, that the following special terms and conditions regarding front line  
35 setbacks shall apply:

- 36
- 37 a. For Block 1, Lots 3-19, inclusive, the front lot line set backs shall be twenty-five (25) feet  
38 for curved or radius driveways, or thirty (30) feet for straight approach driveways;
  - 39 b. For all lots, the maximum width of concrete driveways at the end contiguous to the edge  
40 of the sidewalk bordering the front lot line shall not exceed thirty (30) feet.
- 41  
42

43 Any variance to setbacks must have ACC written approval.

44  
45 As used herein and elsewhere in this Declaration, "front yard" shall mean that area on a residential  
46 Lot from the right-of-way line, as shown on the Plat, to a line created by the front of the residential  
47 dwelling on the Lot extended to each side lot line.

1 Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the  
2 governmental entity having jurisdiction over Muir Woods Subdivision require setbacks different than  
3 those provided herein, the more restrictive shall control.  
4

5 Section 5.05 Easements: There is hereby reserved for the use and benefit of the Grantor and  
6 granted for the use and benefit of each Lot, and benefit of each Owner and Occupant and their  
7 successors and assigns, for the purposed incident to such use, development, and maintenance of  
8 Muir Woods Subdivision, an easement(s) for the installation and maintenance of public utility  
9 facilities of all kinds, including radio, television and transmission cables, the easements designated  
10 on the recorded Plat.  
11

12 Section 5.06 Commercial Use: Except for the Lots within any area designated in the  
13 Comprehensive Plan for Boise City as commercial usage, no Lot shall be used at any time for  
14 commercial or business purposes except for uses which shall be conducted and maintained solely  
15 within a residential dwelling unit located on a Lot, and which qualify for a home occupation permit,  
16 however denominated. Provided, however, that no signs relating to said business activity shall be  
17 displayed where visible from any public or private road within Muir Woods Subdivision and,  
18 provided further, that the principal use of each Lot shall be as provided for in Section 5.01 above.  
19 Notwithstanding the foregoing, the Grantor, or persons authorized by the Grantor, may use one or  
20 more residential Lot(s) for development and sales activities relating to Muir Woods Subdivision,  
21 model homes or real estate marketing and sales. These Declarations may be amended in the  
22 future to address the commercial usage of such Lots as are within the aforesaid Comprehensive  
23 Plan designated area for such usage.  
24

25 Section 5.07 Street and Other Lighting: Exterior lighting and interior lights reflecting outside shall  
26 be placed in such a manner which will minimize glare and excessive light spillage onto neighboring  
27 Lots. Until annexation occurs, all exterior public street lights shall be maintained and operated by  
28 the Association.  
29

30 Section 5.08 Animals/Pets. No animals, birds, insects, pigeons, poultry or livestock shall be kept  
31 on the Property. No swine or goats will be permitted. Up to two (2) domesticated animals such  
32 as dogs or cats, or other household pets which do not unreasonably bother or constitute a nuisance  
33 to others shall be allowed. Without limiting the generality of the foregoing, consistent and /or  
34 chronic barking by dogs shall be considered a nuisance. In the event an Owner constructs or  
35 maintains a kennel or other restraining area upon a Lot, such shall: (1) be located on a Lot in  
36 manner to avoid an endangerment of or nuisance to adjacent Lot owners and , (2) at all times be  
37 kept in a clean and odor-free condition.  
38

39 Section 5.09 Drilling and Exploration: No oil exploration or development of any kind or nature of  
40 mining exploration, or any structures in connection therewith shall be permitted to be erected,  
41 maintained or used on any Lot and no minerals shall be permitted to be mined or extracted on any  
42 Lot.  
43

44 Section 5.10 Signs: No commercial billboard or advertising shall be displayed to the public view on  
45 or from any Lot. Owners may advertise a dwelling unit and Lot for sale by displaying a single, neat  
46 and reasonably sized sign on a Lot. Other temporary signs advertising the name of the builder or  
47 the name of the institution providing financing may be displayed on a Lot during the construction  
48 of improvements. All lighted, moving or flashing signs for any purpose are prohibited.



1 Section 5.11 Subdividing: Except as specifically provided in this Declaration to the contrary, no Lot  
2 may be further subdivided, nor may any easement or other interest therein less than the whole be  
3 conveyed by the Owner thereof; provided, however, that nothing herein shall be deemed to prevent  
4 an Owner from transferring or selling a Lot to more than one person to be held by them as tenants  
5 in common, joint tenants, tenants by the entirety or as community property or require the approval  
6 of the ACC.  
7

8 Section 5.12 Fences: No fence of any kind shall be constructed on any Lot unless the plans and  
9 specification therefor, including the location, material and color thereof, have been approved in  
10 writing by the ACC prior to construction or installation. No fence or hedge located on a Lot shall  
11 have a height greater than six (6) feet above the surface of the ground upon which it is located.  
12 The construction or maintenance of spite fences or spite trees or shrubs shall be prohibited on all  
13 Lots. All fences shall be constructed in a substantial manner and shall be maintained at all times  
14 in good repair. All new fences constructed as boundary fences shall be wood as determined by  
15 the ACC, it being the intent of the ACC to require uniformity in new boundary fencing to the extent  
16 reasonably possible. No fences shall be allowed in the front yard of a Residential Lot. It is the  
17 intent of the Grantor that the ACC shall have the authority to regulate all new fences within Muir  
18 Woods Subdivision to the end that the locations, type and size of each fence and the material used  
19 therein shall, to the extent possible, present a reasonably coordinated appearance. All rear fences  
20 on lots bordering the common park area will be provided by the Developer. No additional fencing  
21 will be allowed in this area. Screening devices may be installed so long as they are of a screen  
22 material so that sight lines are not impaired. Privacy screening fences may be installed; however,  
23 such fences must have ACC approval. All fencing adjacent to pathways and though residential  
24 Lots shall be fenced in accordance with Boise City micro-path fencing standards.  
25

26 Section 5.13 Irrigation Water: The Grantor shall provide facilities to deliver irrigation water to the  
27 lot line of each Lot via a pump from the pump station. Said facilities are owned and operated by  
28 Nampa Meridian Irrigation. To the extent that such is required by the rules of said Nampa Meridian  
29 Irrigation, maintenance and operation of the pump and pumping system shall be the responsibility  
30 and cost of the Owners Association, along with maintenance and care of the common and  
31 landscaped areas. Water use shall be on a rotation basis worked out among the users.  
32 Distribution system within each Lot shall be the responsibility of each homeowner; PROVIDED,  
33 HOWEVER, that an Owner of a Lot shall not be individually responsible for the maintenance or  
34 operation of any main or service line through said Lot. Irrigation water to the landscaped lots shall  
35 be included in the water rotation agreed to by the owners. PROVIDED, HOWEVER, that no  
36 guarantee is made as to when such irrigation water will be available and the amounts so available.  
37 Such availability and volume are dependent on when, and in what quantities, irrigation water  
38 becomes available through the servicing canal. The costs and expenses incurred for the operation  
39 and maintenance of the irrigation system serving the Lots shall be paid as provided in Article VII,  
40 below. Irrigation water is non-potable.  
41

42 Section 5.14 Sewer Disposal: Public sewers service Muir Woods Subdivision and each Lot shall  
43 be connected to this public system.  
44

45 a. Monthly sewer charge must be paid after connecting to the Boise City public Sewer  
46 system.  
47

48 b.. Owner shall submit to inspection by either the Public Works Department or the Building

1 Department whenever a subdivided lot is to be connected to the City sewage system and  
2 a building is constructed or installed on or over the owner's property.

3  
4 **Section 5.15 Maintenance:** The following provisions shall govern the maintenance of Lots and all  
5 improvements thereon:  
6

7 (a) each Owner of a Lot shall maintain all improvements located thereon in good and  
8 sufficient repair and shall keep the improvements thereon painted or stained, lawns cut,  
9 shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut and otherwise  
10 maintain the same in a neat and aesthetically pleasing condition. Pending the construction  
11 of improvements, each Owner shall keep the Lot in a neat condition and shall not permit  
12 an unreasonable accumulation of rubbish and debris and shall keep all weeds and other  
13 growths cut.

14  
15 (b) In the event all or any portion of the improvements on a Lot are damaged or destroyed  
16 by fire or other casualty, including any damage occurring as a result of the exercise of the  
17 power of eminent domain, or any transfer in lieu thereof, to an architectural whole in  
18 accordance with the requirements of this Declaration.

19  
20 (c) A building which is vacant for any reason shall be kept locked and the windows glazed  
21 in order to prevent entrance by vandals.

22  
23 (d) All structures, facilities, equipment, objects and conditions determined by the ACC, in  
24 its sole discretion, reasonably exercised to be offensive or which creates a visual blight  
25 within Muir Woods Subdivision, shall be removed or enclosed within a structure approved  
26 by the ACC or appropriately screened from public view.  
27

28 **Section 5.16 Nuisances:** No rubbish or debris of any kind shall be placed or permitted to  
29 accumulate upon any Lot within Muir Woods Subdivision and no odor shall be permitted to arise  
30 therefrom so as to render any Lot unsanitary, unsightly, offensive or detrimental to any other Lot  
31 therein or in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted  
32 to exist or operate upon or from any Lot so as to be offensive or detrimental to any other lot within  
33 Muir Woods Subdivision, or in the vicinity thereof, or to its occupants. Without limiting the  
34 generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other  
35 than security devices used exclusively for security purposes) shall be located, used or placed on  
36 any Lot within Muir Woods Subdivision except for speakers in an outside living area i.e. Patio or  
37 Gazebo.  
38

39 **Section 5.17 Boats, Campers and Other Vehicles:** Any trailer, mobile home, truck larger than a  
40 standard pickup, motor home, boat, tractor, vehicle (other than automobiles), campers and garden  
41 or maintenance equipment, when not in actual use, shall be kept at all times in an enclosed  
42 structure or screened from public view and at no time shall any said vehicles or equipment be  
43 parked or stored on a public or private right-of-way within Muir Woods Subdivision.  
44

45 **Section 5.18 Exterior Energy Devices/Antennae:** No energy production device including, but not  
46 limited to, generators of any kind and solar energy devices, or exterior antenna or dish for the  
47 reception of radio, television or other signal, shall be constructed or maintained on any Lot without  
48 prior written approval of the ACC, except for heat pumps and similar appliances shown on the plans

1 approved by the ACC.  
2

3 **Section 5.19 Minimum Area:** No building intended for use as a single-family residence shall be  
4 erected, altered, placed or permitted to remain on any residential Lot, which building contains less  
5 than One Thousand Eight Hundred (1,800) square feet of living area. In the event the building  
6 intended for use as a single-family residence contains more than one story, the minimum square  
7 footage of the living areas shall be not less than Two Thousand Two Hundred (2,200) square feet  
8 and the minimum square footage of living areas of the first floor shall be not less than One  
9 Thousand Four Hundred (1,400) square feet. The square footage of living area shall be based on  
10 the interior living space at or above the grade of the Lot, exclusive of basements, porches, patios,  
11 and garage.  
12

13 **Section 5.20 Construction Standards:** The following standards and requirements shall be applicable  
14 to the construction and/or installation of any improvements on a residential Lot within Muir Woods  
15 Subdivision:  
16

17 (a) **Excavation:** Any excavation shall be performed in a workmanlike manner and the Lot  
18 kept free from debris. Each Owner shall be responsible for the repairing of any damage  
19 which may occur during the construction period to any road, mailbox, utility facility or other  
20 on-site or off-site improvement caused by the Owner or contractors employed by the  
21 Owner. Unless an Owner otherwise notifies the ACC in writing prior to the Owner's  
22 commencing of construction on a Lot, all on-site improvements shall be conclusively  
23 deemed to be in good working order and condition and any damages occurring thereto  
24 during the construction, shall be the responsibility of the Owner. All such repairs required  
25 hereunder shall be made immediately following the occurrence of the damage.  
26

27 (b) **Utilities:** The connection to all utility facilities shall be underground and shall be  
28 inspected and approved by the appropriate governmental entity having jurisdiction thereof  
29 and the company providing the utility service, if required. Utility meters shall be placed in  
30 an unobtrusive location and concealed behind fences or landscaping where possible.  
31

32 (c) **Landscaping:** as a general guideline for the landscaping of each Lot and as shall be  
33 shown on the landscape plan to be submitted to the ACC under Section 6.07(c), below, the  
34 front yard area of each Lot shall be landscaped with trees, shrubs, and ground cover, or  
35 utilized as entryways. Front yard landscaping must be installed within thirty days (30) from  
36 the time the dwelling is occupied unless weather permitting. Front yard landscaping must  
37 be maintained and watered. Subject to weather limitations, all front yard landscaping shall  
38 be completed within thirty (30) days after initial occupancy of the building and shall be the  
39 responsibility of the Builder to install yard landscaping.  
40

41 (d) **Driveways:** All driveways must be concrete in construction. Construction of the portions  
42 of driveways which are behind the front line of the residential improvements on the property  
43 and which are screened from public view may be gravel or asphalt.  
44

45 (e) **Maintenance During Construction:** The following requirements shall apply during the  
46 construction of improvements on a Lot:  
47

- 48 1. All debris shall be removed from the Lot prior to each weekend;

1 2. No materials shall be placed or kept on any adjoining Lot.

2  
3 3. Vehicles belonging to workmen or used in the construction of improvements  
4 shall not be parked in front of occupied residential dwellings or interfere with traffic  
5 on public streets:

6  
7 4. Utilities, including water, shall not be taken from any other Lot without the  
8 approval of the Owner thereof;

9  
10 (f) Time of Work: Any work or other activity in connection with the construction or  
11 installation of the improvements on a Lot shall be conducted on such days and at such  
12 times during the days as shall not constitute or result in an unreasonable nuisance or  
13 annoyance of neighboring Lots.

14  
15 (g) Roofs: The roof of each building on a Lot shall be covered with a minimum of twenty-five  
16 (25) year composition shingles, shakes, or tile and shall be approved by the ACC under  
17 Article VI, below.

18  
19 (H) Qualified Contractor: The construction of each Building on a Lot shall be performed by  
20 a qualified general contractor and reasonably experienced in the construction of residential  
21 dwelling units and related improvements. No Owner of a Lot shall construct a Building on  
22 a Lot, unless such Owner is a qualified general contractor approved by the ACC and  
23 possessing the experience provided above.

24  
25 5.21 Outbuildings: One outbuilding per lot shall be permitted. The design, location, color, and  
26 decor of such building must be of a construction similar to the primary building, and must be  
27 approved, in writing, by the ACC, before construction begins. Allow for fifteen (15) days for ACC  
28 review of plans and response.

29  
30 5.22 Start of Construction, etc.: Once a lot has been purchased, if a building permit has not been  
31 obtained by the Owner thereof, or so obtained, construction has not been commenced on said lot  
32 by the Owner thereof, within one year after the date of such purchase, or if construction is not  
33 diligently pursued by the Owner thereof after obtaining such permit and commencing construction,  
34 then and in that event the Grantor may re-purchase said lot from the Owner thereof for Eighty-Five  
35 Percent (85%) of the purchase price of such lot (determined by the actual purchase price to Owner  
36 at the time the lot was purchased by Owner or by the current purchase price, at the time of re-  
37 purchase, of similar lots in Muir Woods, whichever is lower). Grantor shall give Owner written  
38 notice of Grantor's intent to exercise such option to re-purchase, which notice shall set a date on  
39 which closing of such re-purchase shall occur, which date shall be not more than sixty (60) days  
40 from the date of the notice. Repurchase shall be paid in full at closing. Owner agrees to execute  
41 any documents necessary to carry out said re-purchase, including any documents necessary to  
42 pay off any encumbrances on the premises.

43  
44 5.23 Storm Drainage Waters and Areas: All storm drainage facilities within common lots and  
45 easements of Muir Woods Subdivision shall be operated and maintained in accordance with the  
46 operation manual dated September 13, 2000. The detention pond and surrounding areas are for  
47 the storage of storm drainage waters, and any person or entity using said area, including Owners  
48 and their guest, invitees, and so forth, do so at their own risk.

1                                   **ARTICLE VI - ARCHITECTURAL CONTROL COMMITTEE**

2  
3     Section 6.01 Members of the Committee: The Architectural Control Committee (ACC) shall be  
4     comprised of at least three (3) persons, all of whom shall be appointed as herein provided. A  
5     member of the ACC shall hold office until he has resigned or has been removed, but in any event,  
6     until said Member's successor has been appointed. Members of the ACC may be removed at any  
7     time, with or without cause.

8  
9     Section 6.02 Appointment-Removal: The members of the ACC shall be: Walter R. Wanner; Lisa  
10    A. Wanner; and, Germain Tarrant. So long as the development company owns any property within  
11    the Muir Woods Subdivision, the above named persons shall be empowered to appoint all  
12    members of the ACC. When the development company owns none of the Property in Muir Woods  
13    Subdivision, the Owners by majority vote shall elect the members of the ACC. Upon that event,  
14    the ACC members may also serve as officers of the homeowners association. The ACC shall have  
15    the right, by a resolution in writing unanimously adopted, to designate one (1) of its members to  
16    take any action or perform any duties for and on behalf of the ACC. In the absence of such  
17    designation, the vote of any two (2) members of the ACC shall constitute an act of the ACC.

18  
19    Section 6.03 Non-Liability: Neither the ACC, nor any member thereof, or the Grantor, shall be liable  
20    to any Owner or any other person for any loss, damage or injury arising out of or connected with  
21    the performance by the ACC of its duties and responsibilities by reason of a mistake in judgement,  
22    negligence or nonfeasance in connection with the approval or disapproval or failure to approve an  
23    application. Every person who submits an application to the ACC for approval of plans and  
24    specifications agrees, by submission of such application, and every Owner or Occupant of an Lot  
25    agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the  
26    ACC, or any member thereof, or the Grantor to recover such damages.

27  
28    Section 6.04 Approval Required: No construction, alteration, modification, removal or destruction  
29    of any improvements of any nature whatsoever which materially alters the exterior appearance of  
30    the improvements on a Lot, shall be initiated or be permitted to continue or exist within Muir Woods  
31    Subdivision without prior express written approval of the ACC.

32  
33    Section 6.05 Basis or Approval: approval by the ACC shall be based, among other things, on the  
34    adequacy of the Lot dimensions; conformity and use of external design with neighboring  
35    improvements; the effect of location and use of improvements on neighboring lots; the relationship  
36    of the improvements to topography, grade, finished ground elevation and landscaping of the Lot  
37    to that of neighboring lots; the proper facing of the main elevation with respect to nearby streets;  
38    and the relation of floor elevations to flood elevations as defined by government entities.

39  
40    Section 6.06 Variances: The ACC may authorize variances from compliance with the requirements  
41    of any conditions and restrictions contained in this Declaration, or any prior approval when, in the  
42    sole discretion of the ACC, circumstances such as topography, natural obstruction, aesthetics or  
43    environmental consideration or hardship may so require. Such a variance must be evidenced in  
44    writing, signed by at least two (2) members of the ACC. If a variance is granted as provided herein,  
45    no violation of this Declaration or prior approval shall be deemed to have occurred with respect to  
46    the matter for which the variance was granted.

1 Section 6.07 Application: To request ACC approval for the construction, alteration, modification,  
2 removal or demolition of any improvements within Muir Woods Subdivision, the Owner shall submit  
3 a written application in a form required by the ACC, which must be signed by the Owner and  
4 contain all information requested and be accompanied by other material hereafter provided. The  
5 ACC shall have the right to require an Owner to pay a fee, not to exceed Two Hundred Fifty Dollars  
6 and No Cents (\$250.00) to reimburse the ACC for any actual out-of-pocket expenses incurred by  
7 the ACC with respect to the review of an application, plans and specifications and/or its decision  
8 thereon. Normal applications for plan approval are on a no charge basis. All applications must  
9 contain, or have submitted therewith, the following material (collectively called "plans and  
10 specifications") prepared in accordance with acceptable architectural standards:

11  
12 (a) Site Plan: A site plan showing the location of the buildings(s) and all other structures  
13 and improvements, including fences and walls on the Lot, Lot drainage and all set backs  
14 and other pertinent information relating to the improvements.

15  
16 (b) Building Plan: A building plan which shall consist of preliminary or final blueprints,  
17 elevation drawings of the north, south, east and west sides, and detailed exterior  
18 specifications which shall be indicated, by sample, if required by the ACC, all exterior  
19 colors, materials and finishes, including roofing to be used.

20  
21 (c) Landscape Plan: A landscape plan for portions of the Lot to be landscaped which shall  
22 show location, type and size of trees, plants, ground cover, shrubs, berming and mounding,  
23 grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking  
24 areas and walkways.

25  
26 (d) Contractor: Such information concerning the qualifications of the general contractor  
27 selected by the Owner to construct the building and related improvements on the Lot as  
28 shall be reasonably requested by the ACC to permit it to determine whether contractor is  
29 qualified and possesses the experience required by Section 5.26(l) above.

30  
31 Section 6.08 Decision: Unless extended by mutual consent of the Owner and the ACC, the ACC  
32 shall render its decision with respect to an application within ten (10) days after receipt of a properly  
33 submitted application. The decision of the ACC can be in the form of an approval, a conditional  
34 approval or denial. A conditional approval shall set forth with particularity the conditions upon which  
35 the application is approved and denial shall state with particularity the reasons for such denial.

36  
37 Section 6.09 Other Responsibilities: Until the organization of a homeowner's association for Muir  
38 Woods Subdivision, the ACC shall have such other rights and responsibilities necessary, required  
39 or convenient to carry out and enforce the provisions of their Declaration, including the right to bring  
40 suit in its name or the name of one or all of its members. The ACC shall have the right to  
41 purchase, with funds provided from assessments levied under Article VII, below, and keep in force  
42 a public liability insurance policy in an amount deemed reasonable by the ACC, insuring the  
43 Owners and the ACC from liability for bodily injury and/or property damage occurring on common  
44 area, provided that the failure of the ACC to purchase and/or keep in force such insurance shall  
45 not be grounds for the imposition of liability upon the members of the ACC.

46  
47 **ARTICLE VII - ASSESSMENTS**

1 Section 7.01 Lots Subject to Assessment: The lots which are subject to assessment under the  
2 Article are all lots in Muir Woods Subdivision.

3  
4 Section 7.02 Covenant to Pay Assessments: Each Owner, by acceptance of a deed to a lot,  
5 covenants and agrees to pay, when due, the assessments provided for in this Article.

6  
7 Section 7.03 Assessment Lien: All assessments levied and assessed hereunder, together with  
8 interest, costs and reasonable attorney's fees, which may be incurred in collecting the same, shall  
9 be a charge on the land and shall be a continuing lien upon each lot within Muir Woods Subdivision  
10 and shall also be the personal obligation of the Owner or such lot at the date the assessment  
11 becomes due and payable. The personal obligation for delinquent assessments shall not pass to  
12 an Owner's successors in title unless expressly assumed by them. The assessment lien created  
13 hereunder may be enforced in the same manner as provided in the statutes of the State of Idaho  
14 for the enforcement of liens and mortgages. The lien herein created shall at all time be junior and  
15 subordinate to the lien of the first Mortgage or Deed of Trust encumbering the lot.

16  
17 Section 7.04 Annual Assessments: Commencing in the calendar year in which the closing of the  
18 first sale of a residential Lot to an Owner occurs, each Lot (as specified in Section 7.01, above),  
19 within Muir Woods Subdivision shall be assessed an amount determined as the initial fee and the  
20 amount determined as the annual fee, per year annually, provided however, that any Lot owned  
21 by the Grantor shall be assessed an assessment equal to fifty percent (50%) of the amount  
22 assessed against Lots owned by other Owners. If the Grantor pays all or any portion of the  
23 expenses for which the assessments are to be levied as provided in Section 7.07, below, in excess  
24 of the amount assessed to Lots owned by the Grantor, such excess amount so paid shall constitute  
25 a prepayment of assessments to become due and payable on the Lots owned by the Grantor within  
26 Muir Woods Subdivision. Any such assessment credit shall not inure to an Owner purchasing a Lot  
27 from the Grantor unless such person is the successor to substantially all of the interest of the  
28 Grantor in Muir Woods Subdivision. Each assessment shall be payable by an Owner to the ACC,  
29 or to such other party as the ACC shall direct, in advance or in arrears, and in such installments  
30 as the ACC shall determine.

31  
32 Sections 7.06 Interest and Costs: Any assessment against a Lot, if not paid when due, shall bear  
33 interest at an annual rate as shall be set by the ACC from time-to-time, or if none is so set, at an  
34 annual rate of fifteen percent (15%). Such interest shall commence on the date the assessment  
35 becomes due and payable. In addition to the interest charge, if an assessment is collected by the  
36 ACC with the assistance of an attorney, whether or not suit or action is filed, the Owner shall pay  
37 to the ACC, reasonable attorney's fees incurred by the ACC and such may be awarded in a  
38 judgement against the Owner.

39  
40 Section 7.07 Purpose of Assessments - Duty of ACC: The ACC shall use all funds from the  
41 assessments paid by the Owners for the purpose of:

42  
43 (a) Maintaining, repairing, replacing, and otherwise in all respects caring for the landscaping  
44 and related improvements, including, but not limited to: the sprinkler system(s), located on  
45 the landscaping easement as shown on the subdivision plat for the Muir Woods  
46 Subdivision.

47  
48 (b) Maintaining, repairing, replacing, operating and otherwise in all respects caring for the

1 irrigation water delivery system, any fencing, and the waste water courses within Muir  
2 Woods Subdivision including, but not limited to: the pump and lines except where the  
3 obligation to maintain the line is imposed upon an Owner(s) by this Declaration.  
4

5 (c) Maintaining, repairing, replacing, insuring and otherwise in all respects operating and  
6 caring for the common and landscaped areas, if any, including the payments of taxes and  
7 other costs with respect thereto.  
8

9 The homeowners association shall have the obligation to maintain, repair, replace and otherwise  
10 in all respects care for said landscaping and irrigation systems.  
11

12 Section 7.08 Adjustment of Assessments: The ACC shall have the right to increase or decrease  
13 the amount of the annual assessment levied against the Lots within Muir Woods Subdivision, based  
14 on the actual and anticipated expenses of the homeowners association performing its obligations  
15 described in Section 7.07, above, including reasonable reserves for repairs and replacements.  
16

17 Section 7.09 Limited Assessments: The homeowners association shall have the right and the  
18 authority to incur costs and expenses for the maintenance and repair of any Lot, including the  
19 improvements on a Lot. If such maintenance, repair, cleaning, and/or upkeep is necessary, in the  
20 sole discretion of the homeowners association, to bring such Owner and/or Lot into compliance with  
21 the requirements of this Declaration, and if the Owner of said Lot has homeowners association  
22 backed or refused to perform the same within a reasonable time after written notice of the  
23 necessity thereof has been delivered by the homeowners association to said owner, the  
24 homeowners association shall have the right to perform or cause performance of the same and to  
25 levy a limited assessment against the lot owned by such owner, for the amount of the costs and  
26 expenses incurred by the homeowners association in connection therewith, including attorneys  
27 fees. The right of the homeowners association to incur costs and expenses with respect to a lot,  
28 and to secure repayment thereof by the levying of a limited assessment, shall also relate to the  
29 correction of violation of this Declaration which an Owner fails or refuses to correct within a  
30 reasonable time after written notice delivered to such Owner by the homeowners association.  
31

32 Section 7.10 Non-Exclusive Remedy: The right of the homeowners association to levy a limited  
33 assessment as described in Section 7.09, above, shall not be deemed the exclusive remedy of the  
34 homeowners association, and it may, in its sole discretion, without waiver of any other legal or  
35 equitable remedy, pursue enforcement of the lien of the limited assessment, collect the amount due  
36 directly from the Owner responsible therefore, and/or pursue any other remedy available at law or  
37 equity. Nothing in this Declaration shall prohibit or limit the homeowners association or an Owner  
38 from pursuing any legal or equitable remedy for a violation of this Declaration.  
39

#### 40 **ARTICLE VIII - MISCELLANEOUS**

41  
42 Section 8.01 Term: This Declaration and all covenants, conditions, restrictions, and easements  
43 contained herein shall run until December 31, 2020, unless amended hereafter provided. After  
44 December 31, 2020, said covenants, conditions, restrictions and easements shall automatically  
45 extend for successive periods of ten (10) years each, unless extinguished by a written instrument  
46 executed by the Owners of at least fifty one percent (51%) of the lots in Muir Woods Subdivision  
47 and then only if such written instrument is recorded with the Ada County Recorder.



1  
2 Section 8.02 Amendment: This Declaration may be amended as follows:  
3

4 (A) By Grantor: Until title to a Lot within Muir Woods Subdivision is conveyed by the Grantor  
5 to an Owner, this Declaration may be amended or terminated by the Grantor by recordation  
6 of a written instrument signed by the Grantor and acknowledged setting forth such  
7 amendment or termination as to such un conveyed Lot.  
8

9 (B) By Owners: Except where a greater percentage is required herein, the provisions of this  
10 Declaration, other than this Section, may be amended by an instrument in writing, signed  
11 and acknowledged by the Owners, including the Grantor, owning at least fifty one percent  
12 (51%) of the Lots within Muir Woods Subdivision, and such amendment shall be effective  
13 upon its recordation with the Ada County Recorder. Any amendment to this Section 8.02  
14 shall require the vote or written consent of all Owners.  
15

16 Section 8.03 Non-Waiver: The failure of the Grantor or any Owner in any one or more instances  
17 to insist upon the strict performance of any of the covenants, conditions, restrictions, easements,  
18 or other provisions of this Declaration or to exercise any right or option contained herein, or to serve  
19 any notice or to institute any action, shall not be construed as a waiver or relinquishment for the  
20 future of such covenant, condition, restriction, easement or other provision, but the same shall  
21 remain in full force and effect.  
22

23 Section 8.04 Enforcement - Costs: This Declaration may be enforced by the ACC or by any Owner  
24 (including the Grantor) of a Lot. If suit or other action is filed to interpret or enforce this Declaration,  
25 or any provision thereof, the prevailing party shall be awarded reasonable attorney's fees, in  
26 addition to the costs and disbursements allowed by law, including the same with respect to an  
27 appeal.  
28

29 Section 8.05 Acceptance: Each Owner of a Lot, each purchase of a Lot under a contract of  
30 agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract  
31 of sale or agreement or option, accepts the same subject to all the covenants, conditions,  
32 restrictions, easements and other provisions set forth in this Declarations and agrees to be bound  
33 by the same.  
34

35 Section 8.06 Severability: Each of the provisions hereof shall be deemed independent and  
36 severable and the invalidity or unenforceability of any provision or portion thereof, shall not affect  
37 the validity or enforceability of any other provision.  
38

39 Section 8.07 Interpretation: The provision of this Declaration shall be liberally construed to affect  
40 the purposes hereof and shall be construed and governed in accordance with the laws of the State  
41 of Idaho. The singular shall include the plural and the plural the singular, and the masculine,  
42 feminine or neuter shall include the masculine, feminine or neuter. All captions and titles are  
43 intended solely for convenience of reference and shall not affect that which is set forth in any of the  
44 provision hereof.  
45  
46  
47  
48

1  
2  
3 **ARTICLE IX - SOLAR ACCESS**  
4

5 9.1 **Solar Access Definitions.**  
6

7 a. **Exempt Tree:** Any pre-existing vegetation as defined in hereafter, or any  
8 vegetation included on the list of solar friendly vegetation kept by the City of Boise  
9 City's Public Works and Community Planning and Development Departments.

10 b. **Front Lot Line:** The line represented by the connection of the most distant  
11 corners of a Lot, including flag Lots, where said corners are in common with the  
12 boundary of a public or private road. For corner Lots, the front Lot line is  
13 designated on the plat.

14 c. **North Slope:** The gradient, in percent slope, from the average finished grade of  
15 the front Lot line of the shade restricted Lot to the average finished grade of the  
16 solar Lot line of a solar Lot. The slope must be downward or decreasing in  
17 elevation from south to north.

18 d. **Restricted Vegetation:** A tree or other vegetation which is either evergreen, or  
19 if deciduous, tends to retain its leaves late in the fall and/or drop them late in the  
20 spring, or has a dense branching pattern which generally tends to block a high level  
21 of the sun's rays during the heating season. The Boise City Public Works and the  
22 Community Planning and Development Departments have a list of "solar friendly"  
23 trees.  
24

25 e. **Shade:** That portion of the shadow cast by the shade point of a structure or  
26 vegetation which exceeds a 11.5 foot fence at the solar Lot line at solar noon,  
27 January 21.  
28

29 f. **Shade Point:** That part of a structure, tree, or other object, on a shade restricted  
30 Lot, which casts the longest shadow (the most northerly shadow) when the sun is  
31 due south on January 21st at an altitude of twenty six degrees (26°) above the  
32 horizon, except a shadow caused by a narrow object such as a chimney, antenna,  
33 utility pole, wire, or the like.  
34

35 g. **Shade Point Height:** The vertical distance or height measured from the average  
36 elevation at the solar Lot line to the shade point. If the shade point is located at the  
37 north end of a ridge line of a structure oriented within forty five degrees (45°) of a  
38 geodetic east-west line with a pitch which is flatter than six (6) feet (vertical) in  
39 twelve (12) feet (horizontal), the shade point will be the cave of the roof. If such a  
40 roof has a pitch which is six (6) feet in twelve (12) feet or steeper, the shade point  
41 will be the peak of the roof.  
42

43 h. **Shade Restricted Lot:** Any Lot within the subdivision that is southerly of and  
44 adjacent to a solar Lot. These Lots have some restriction on vegetation types and  
45 structure height.  
46

47 i. **Solar Friendly Vegetation:** A tree or other vegetation which is included on the  
48

1 solar friendly vegetation list kept by the City of Boise City's Public Works and  
2 Community Planning and Development Departments.

3  
4 j. Solar Lot: A lot which has the following characteristics:

- 5  
6 1. The front Lot line is oriented within thirty degrees (30°) of a  
7 geodetic east-west bearing;
- 8  
9 2. The Lot to the immediate south has a north slope of ten percent  
10 (10%) or less;
- 11  
12 3. The Lot is intended for the construction of an above ground  
13 inhabited structure.

14  
15 k. Solar Lot Line: The most southerly boundary of a solar Lot; the line created by  
16 connecting the most southerly corners of the solar Lot.

17  
18 l. Solar Setbacks: The minimum distance, measured perpendicularly in a southerly  
19 direction, from the center of the solar Lot line to the shade point of a structure or to  
20 restricted vegetation based upon its height at maturity on the shade restricted Lot.

21  
22 **9.2 Solar Access Covenants, Conditions, and Restrictions**

23  
24 a. Shade Restriction: Each Lot which is classified as a Shade Restricted Lot shall  
25 have the following restriction: any structure or restricted vegetation (solar unfriendly)  
26 cannot cast a shadow higher than an imaginary fence 11.5 feet above the solar Lot  
27 line on solar noon of January 21st when the sun is at an angle of twenty six degrees  
28 (26°) above the horizon. This sun angle at noon on January 21 causes structures,  
29 vegetation, and other objects to cast a shadow twice as long as their height. The  
30 height of the shade point of a structure on the shade restricted lot is limited to  
31 nineteen (19) feet at the fifteen (15) foot rear yard zoning setback in order that the  
32 11.5 foot high "solar fence" at the north property line of the shade restricted Lot is  
33 not exceeded. These standards assure that a structure built to the fifteen (15) foot  
34 rear yard zoning setback, on the solar Lot located to the north, will not be shaded  
35 more than four (4) feet above grade on its south wall on January 21 at solar noon.

36  
37 b. Pre-existing Vegetation: Restricted vegetation (solar unfriendly) which existed  
38 when the subdivision was platted is exempt from the provisions of these covenants,  
39 conditions, and restrictions. Any Lot which would be shaded beyond the allowed  
40 shade limits by such vegetation shall not be classified as a Solar Lot.

41  
42 c. Slope Exemption: Any Lot with an average finished grade slope along the north-  
43 south or east-west Lot dimension (depending on which is the relevant frontage  
44 direction of the Lot) greater than ten percent (10%) shall be exempt from the terms  
45 and conditions of these covenants, conditions, and restrictions.

46  
47 d. Solar Setbacks: Each separate structure and item of restricted vegetation shall  
48 have a solar setback dependent on, and calculated by, its shade point height. All

1 shade restricted Lots shall have the following solar setback: Solar Setback (in feet)  
2 = [Shade Point Height (in feet) - 11.5 feet] times two (2).  
3

4 e. Solar Friendly Vegetation: Certain vegetation is considered "solar friendly" and  
5 is not restricted in regards to location on individual Lots. Such vegetation is  
6 deciduous, dropping its leaves during early fall and regaining them during late  
7 spring. Such vegetation also has a sparse branching which allows a high level of  
8 sunlight to penetrate through. This growth cycle produces shading during summer  
9 but allows sun to penetrate during winter. A list of solar friendly trees is maintained  
10 by the City of Boise City Public Works and the Community Planning and  
11 Development Departments.  
12

### 13 9.3 Solar Access Rights, Duties, and Responsibilities

14  
15 a. Solar Access Rights: The owner(s) of solar Lots shall have a right to  
16 unobstructed solar access in accordance with these covenants, conditions, and  
17 restrictions.  
18

19 b. Solar Access Duties: The owners of any Lot shall not build, install, or otherwise  
20 allow, a structure or non-solar friendly tree on that Lot to cast more shade at their  
21 solar Lot line than permitted under these solar access covenants, restrictions, and  
22 conditions.  
23

### 24 9.4 Miscellaneous

25  
26 a. Enforcement and Non-Waiver: Any Lot owner, or the Association, whether or  
27 not directly affected, shall have the right to enforce, by any proceeding at law or in  
28 equity, any violation or threatened violation of a provision of this document. The  
29 failure of any person to enforce any covenant or restriction herein contained shall  
30 not be deemed a waiver of the rights granted herein. Waiver of one breach does  
31 not constitute waiver of any other breach. There can be no waiver of the right to  
32 solar access created by this document.  
33

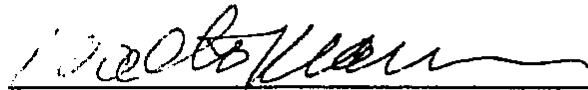
34 b. Severability: Invalidation of any one of these covenants or restrictions by  
35 judgment or court order shall in no way affect any other provisions, which shall  
36 remain in full force and effect.  
37

38 c. Duration and Applicability to Successors: The covenants, conditions, and  
39 restrictions set forth in this section of this document shall be in effect perpetually,  
40 shall run with the land and shall inure to the benefit of and be binding upon the  
41 declarant hereof and all Lot owners and their successors in interest.  
42

43 d. Amendment: The provisions of this section of this document may be amended  
44 by the action of the owners of a majority of the Lots affected by such amendment,  
45 provided that the amendment does not reduce the amount of solar access  
46 protection provided to the Lots and the amendment is approved by the City of Boise  
47 City.  
48

1 THIS AMENDED DECLARATION IS SIGNED AND ACKNOWLEDGED BY THE OWNERS,  
2 INCLUDING THE GRANTOR, OWNING AT LEAST FIFTY ONE PERCENT (51%) OF THE LOTS  
3 WITHIN MUIR WOODS SUBDIVISION.  
4  
5  
6

7 W&S INVESTMENTS, INC., GRANTOR/OWNER  
8

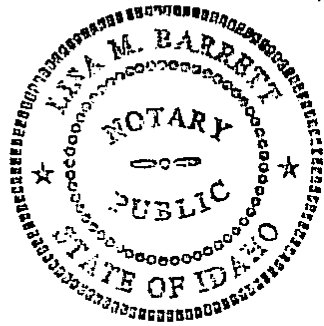
9  
10  
11   
12 \_\_\_\_\_  
13 Walter R. Wanner, President  
14

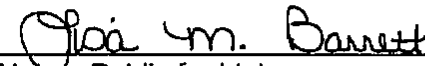
15 STATE OF IDAHO )  
16 ) ss.  
17 COUNTY OF ADA )  
18

19 Lisa m. Barrett

20 On this September 14, 2000, before me, ~~Robert L. Aldridge~~, a Notary Public in and for the State  
21 of Idaho, personally appeared Walter R. Wanner, known to me or identified to me or proved to me  
22 on the basis of satisfactory evidence to be the President of W&S Investments, Inc., and to be the  
23 person whose name is attached to the foregoing instrument and acknowledged to me that said  
24 corporation executed the same.  
25

26 IN WITNESS WHEREOF, I have hereunto placed my official hand and seal the day and year in this  
27 Certificate first above written.  
28  
29  
30  
31



37   
38 \_\_\_\_\_  
39 Notary Public for Idaho  
40 Residing at Meridian Nampa, Idaho  
41 My Commission expires on 7-1-2006  
42 8-16-2002



**DECLARATIONS ESTABLISHING  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
MUIR WOODS SUBDIVISION  
PHASES 1, 2, 3 & 4  
AMENDED APRIL 30, 2007**

**ARTICLE I- RECITALS**

WHEREAS, the undersigned officers of the Board of Directors (hereafter "Board") of Muir Woods Homeowners Association (hereafter MWHO) representing owners of certain land in Ada County, Idaho more particularly described as Muir Woods Subdivision, Phases 1, 2, 3, & 4 (hereafter "Muir Woods Subdivision");

WHEREAS, the Property shall be developed for Residential uses as defined in the ordinances of Ada County, Idaho,

WHEREAS, MWHO desires to subject Muir Woods Subdivision to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitude herein set forth to ensure the proper design, development, improvement and use of the Muir Woods Subdivision by MWHO and all other persons or entities who may subsequently acquire an interest in the Muir Woods Subdivision.

**ARTICLE II - DECLARATIONS**

MWHO hereby declares that the Muir Woods Subdivision described on Exhibit A, B, C and D each lot, tract or parcel thereof (hereafter called "Lot" unless specified to the contrary), is and has been held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following covenants, conditions, restrictions, easements, reservations, limitations and equitable servitude (hereafter collectively called "covenants and restrictions"), all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision improvement and sale of Muir Woods Subdivision Property and each Lot therein, and to enhance the value, desirability and attractiveness thereof. The covenants and conditions set forth herein shall run with the land and each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in Muir Woods Subdivision or any lot therein; and shall inure to the benefit of and be binding upon MWHO and each Owner; and each successor in interest of each, and may be enforced by MWHO and by any Owner, as hereafter provided.

The recording of the Plat by the Developer/Owner shall be deemed and construed as a request for annexation of Muir Woods Subdivision to the corporate limits of Boise City. Such request and consent shall be binding on all subsequent Owners/Developers of Developer's property.

The Owner/s of a lot or lots within Muir Woods Subdivision, shall and hereby does vest in Boise City the right and power to bring all actions against the Owner/s of the premises, or any part thereof, for the collecting of any charges then required and to enforce the conditions herein

stated. This covenant shall run with the land.

### ARTICLE III DEFINITIONS

As used in this Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

ACC: The Architectural Control Committee for Muir Woods Subdivision.

Board: The Board consists of 3-9 Directors, members of the MWHOA, who are duly elected by majority vote of the MWHOA.

Building: A structure constructed on a Lot, on a temporary or permanent basis, and unless specified to the contrary, shall include all other appurtenances and improvements thereto or used in connection therewith.

Declaration: This instrument as it may be amended from time to time.

Muir Woods Homeowners Association: An organization formed to operate the irrigation system, landscaped areas and any common areas which lie within the boundaries of Muir Woods Subdivision and any other duties as provided for in the Articles of Incorporation.

Management Firm: A professional firm which has been retained by the Board to conduct the day to day business of the Association and acting at the direction of the Board.

Improvements: All structures and appurtenances thereto of all kinds and types, including, but not limited to: buildings, roads, driveways, sidewalks, walkways, walls, fences, screens landscaping, poles, signs, and lighting. Improvements shall not include those items which are located totally on the interior of a building and cannot be readily observed when outside thereof.

Lot: A portion of Muir Woods Subdivision which is a legally described tract or parcel of land within Muir Woods Subdivision or which is designated as a lot on any recorded subdivision plat relating to Muir Woods Subdivision.

Mortgage: Any mortgage or deed of trust or other hypothecation of land, located in Muir Woods Subdivision, to secure performance of an obligation. Unless otherwise specifically provided, the reference to a "Mortgage" in this Declaration shall be limited to "first Mortgage", including a "First Deed of Trust".

Occupant: Any person, association, corporation, or other entity who or which is an Owner, or has leased, rented, been licensed or is otherwise legally entitled to occupy and use any building or improvement on a Lot, whether or not such right is exercised, including their heirs, personal representatives, successors and assigns.

Owner: A person or persons or other legal entity or entities, holding fee simple title to a lot in Muir Woods Subdivision including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, but including an Mortgagee (of and priority) or other security holder, provided said Mortgagee or other security holder is in actual possession of a Lot as a result of foreclosure or otherwise, and any person taking title through

such mortgagee or other security holder by purchase at foreclosure sale or otherwise.

Plat: A final subdivision plat covering any real property in Muir Woods Subdivision, as recorded in the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereto.

Residential Lot: A Lot for the use of which shall be for a single-family residential purpose and uses incidental thereto as limited by this Declaration as described in the plat of Muir Woods Subdivision.

Subdivision: The whole of the land described on Exhibit A, which describes the Lots covered by these Declarations. A reference in this Declaration to Muir Woods Subdivision shall include all Lots shown on the Plat for Muir Woods Subdivision.

#### **ARTICLE IV PURPOSE**

Muir Woods Subdivision is hereby made subject to the covenants and restrictions contained in this Declaration, all of which shall be deemed to be imposed upon and run with the land and each and every Lot and parcel thereof, and shall apply to each and every Owner and Occupant thereof and their respective successors in interest, to ensure proper design, development, improvement, use and maintenance of Muir Woods Subdivision for the purpose of:

- (a) Assuring Owners and Occupants of building of quality of design, development, improvement, use and maintenance as shall protect and enhance the investment and use of all Lots and improvements.
- (b) Prevention of the erection in Muir Woods Subdivision of improvements of improper design or construction with improper or unsuitable materials or with improper quality and method of construction.
- (c) Encouraging and assuring the erection of high quality and attractive improvements appropriately located within Muir Woods Subdivision.
- (d) Securing and maintaining proper set-backs from streets and adequate free spaces between improvements.
- (e) Designating and maintaining open space areas to maintain and enhance the environment.

#### **ARTICLE V PERMITTED USES**

Section 5.01 Use: The Lots within Muir Woods Subdivision shall be used for residential purposes only.

Section 5.02 Approval of Use and Plans: No improvements shall be built, constructed, erected,



placed or materially altered within Muir Woods Subdivision after the date of this Declaration, unless and until the plans, specification, and site plan therefore have been reviewed in advance and approved by the ACC in accordance with the provisions of Article VI, below.

Section 5.03 Prohibited Buildings: No trailer or other vehicle, tent, shack, garage, accessory building or out building on a Lot shall be used as a temporary or permanent residence.

Section 5.04 Setbacks-Residential Lots: Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the governmental entity having jurisdiction over Muir Woods Subdivision require setbacks different than those provided herein, the more restrictive shall control.

Any building constructed on a residential Lot shall comply with the minimum setbacks as defined in the ACC Guidelines which shall be published and made available by the Management Firm.

PROVIDED, HOWEVER, that the following special terms and conditions regarding front line setbacks shall apply:

(a) For Block 1, Lots 3-19, inclusive, the front lot line set backs shall be twenty-five (25) feet for curved or radius driveways, or thirty (30) feet for straight approach driveways;

(b) For all lots, the maximum width of concrete driveways at the end contiguous to the edge of the sidewalk bordering the front lot line shall not exceed thirty (30) feet.

Any variance to setbacks must have ACC written approval.

As used herein and elsewhere in this Declaration, "front yard" shall mean that area on a residential Lot from the right-of-way line, as shown on the Plat, to a line created by the front of the residential dwelling on the Lot extended to each side lot line.

Section 5.05 Easements: There is hereby reserved for the use and benefit of MWHOA and granted for the use and benefit of each Lot, and benefit of each Owner and Occupant and their successors and assigns, for the purposes incident to such use, development, and maintenance of Muir Woods Subdivision an easement(s) for the installation and maintenance of public utility facilities of all kinds, including radio, television and transmission cables, the easements designated on the recorded Plat.

Section 5.06 Commercial Use: No Lot shall be used at any time for commercial or business purposes except for uses which shall be conducted and maintained solely within a residential dwelling unit located on a Lot. No signs relating to said business activity shall be displayed where visible from any public or private road within Muir Woods Subdivision and, provided further, that the principal use of each Lot shall be as provided for in Section 5.01 above.

Section 5.07 Street and Other Lighting: Exterior lighting and interior lights reflecting outside shall be placed in such a manner which will minimize glare and excessive light spillage onto neighboring Lots. Until annexation occurs, all exterior public street lights shall be maintained and operated by the Association.

Section 5.08 Animals/Pets. No animals, birds, insects, pigeons, poultry or livestock shall be

kept on the Property. No swine or goats will be permitted. Up to two (2) domesticated animals such as dogs or cats, or other household pets which do not unreasonably bother or constitute a nuisance to others shall be allowed. Without limiting the generality of the foregoing, consistent and/or chronic barking by dogs shall be considered a nuisance. In the event an Owner constructs or maintains a kennel or other restraining area upon a Lot, such shall: (1) be located on a Lot in a manner to avoid an endangerment of or nuisance to adjacent Lot owners and , (2) at all times be kept in a clean and odor-free condition.

Section 5.09 Drilling and Exploration: No oil exploration or development of any kind or nature of mining exploration, or any structures in connection therewith shall be permitted to be erected, maintained or used on any Lot and no minerals shall be permitted to be mined or extracted on any lot.

Section 5.10 Signs: No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a dwelling unit and Lot for sale by displaying a single, neat and reasonably sized sign on a Lot. Other temporary signs advertising the name of the builder or the name of the institution providing financing may be displayed on a Lot during the construction of improvements. All lighted, moving or flashing signs for any purpose are prohibited.

Section 5.11 Subdividing: Except as specifically provided in this Declaration to the contrary, no Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof; provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling a Lot to more than one person to be held by them as tenants in common; joint tenants, tenants by the entirety or as community property or require the approval of the ACC.

Section 5.12 Fences: No fence of any kind shall be constructed on any Lot unless the plans and specifications thereof, including the location, material and color thereof, have been approved in writing by the ACC prior to construction or installation. No fence or hedge located on a Lot shall have a height greater than six (6) feet above the surface of the ground upon which it is located. The construction or maintenance of spite fences or spite trees or shrubs shall be prohibited on all Lots. All fences shall be constructed in a substantial manner and shall be maintained at all times in good repair. All new fences constructed as boundary fences shall be wood as determined by the ACC, it being the intent of the ACC to require uniformity in new boundary fencing to the extent reasonably possible. No fences shall be allowed in the front yard of a Residential Lot. It is the intent of the Grantor that the ACC shall have the authority to regulate all new fences within Muir Woods Subdivision, Phases 2, 3, & 4 to the end that the locations, type and size of each fence and the material used therein shall, to the extent possible, present a reasonably coordinated appearance. All rear fences on lots bordering the common park area will be provided by the Developer. No additional fencing will be allowed in this area. Screening devices may be installed so long as they are of a screen material so that sight lines are not impaired. Privacy screening fences may be installed; however, such fences must have ACC approval. All fencing adjacent to pathways and through residential Lots shall be fenced in accordance with Boise City micro-path fencing standards.

Section 5.13 Irrigation Water: MWHOA shall provide facilities to deliver irrigation water to the lot line of each Lot via a pump from the pump station. Said facilities are owned and operated by Nampa Meridian Irrigation. To the extent that such is required by the rules of said Nampa Meridian Irrigation, maintenance and operation of the pump and pumping system shall

be the responsibility and cost of MWHOA, along with maintenance and care of the common and landscaped areas. Water use shall be on a rotation basis worked out among the users. Distribution system within each Lot shall be the responsibility of each homeowner; provided however, that an Owner of a Lot shall not be individually responsible for the maintenance or operation of any main or service line through said Lot. Irrigation water to the landscaped lots shall be included in the water rotation agreed to by the owners, provided however, that no guarantee is made as to when such irrigation water will be available and the amounts so available. Such availability and volume are dependent on when, and in what quantities, irrigation water becomes available through the servicing canal. The costs and expenses incurred for the operation and maintenance of the irrigation system serving the Lots shall be paid as provided in Article VII, below. Irrigation water is non-potable.

Section 5.14 Sewer Disposal: Public sewers service within Muir Woods Subdivision and each Lot shall be connected to this public system.

- (a) Monthly sewer charge must be paid after connecting to the Boise City public sewer system.
- (b) Owner shall submit to inspection by either the Public Works Department or the Building Department whenever a subdivided lot is to be connected to the City sewage system and a building is constructed or installed on or over the owner's property.

Section 5.15 Maintenance: The following provisions shall govern the maintenance of Lots and all improvements thereon:

- (a) Each Owner of a Lot shall maintain all improvements located thereon in good and sufficient repair and shall keep the improvements thereon painted or stained, lawns cut, shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut and otherwise maintain the same in a neat and aesthetically pleasing condition. Pending the construction of improvements, each Owner shall keep the Lot in a neat condition and shall not permit an unreasonable accumulation of rubbish and debris and shall keep all weeds and other growths cut.
- (b) In the event all or any portion of the improvements on a Lot are damaged or destroyed by fire or other casualty, including any damage occurring as a result of the exercise of the power of eminent domain, or any transfer in lieu thereof, to an architectural whole in accordance with the requirements of this Declaration.
- (c) A building which is vacant for any reason shall be kept locked and the windows glazed in order to prevent entrance by vandals.
- (d) All structures, facilities, equipment, objects and conditions determined by the ACC, in its sole discretion, reasonably exercised to be offensive or which creates a visual blight within Muir Woods Subdivision, shall be removed or enclosed within a structure approved by the ACC or appropriately screened from public view.

Section 5.16 Nuisances: No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot within Muir Woods Subdivision and no odor shall be permitted to arise there from so as to render any Lot unsanitary, unsightly, offensive or detrimental to any other Lot therein or in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon or from any Lot so as to be offensive or detrimental to

any other lot within Muir Woods Subdivision, or in the vicinity thereof, or to its occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any Lot within Muir Woods Subdivision except for speakers in an outside living area (i.e. patio or gazebo).

Section 5.17 Boats, Campers and Other Vehicles: Any trailer, mobile home, truck larger than a standard pickup, motor home, boat, tractor, vehicle (other than automobiles), campers and garden or maintenance equipment, when not in actual use, shall be kept at all times in an enclosed structure or screened from public view and at no time shall any said vehicles or equipment be parked or stored on a public or private right-of-way within Muir Woods Subdivision, Phases 2, 3, & 4.

Section 5.19 Minimum Area: No building intended for use as a single-family residence shall be erected, altered, placed or permitted to remain on any residential lot, which building contains less than One Thousand Eight Hundred (1,800) square-feet of living area. In the event the building intended for use as a single-family residence contains more than one story, the minimum square footage of the living areas shall be not less than Two Thousand Two Hundred (2,200) square feet and the minimum square footage of living areas of the first floor shall be not less than One Thousand Four Hundred (1,400) square feet. The square footage of living area shall be based on the interior living space at or above the grade of the Lot, exclusive of basements, porches, patios, and garage.

Section 5.20 Construction Standards: The following standards and requirements shall be applicable to the construction and/or installation of any improvements on a residential Lot within Muir Woods Subdivision:

(a) Excavation: Any excavation shall be performed in a workmanlike manner and the lot kept free from debris. Each Owner shall be responsible for the repairing of any damage which may occur during the construction period to any road, mailbox, utility facility or other on-site or off-site improvement caused by the Owner or contractors employed by the Owner. Unless an Owner otherwise notifies the ACC in writing prior to the Owner's commencing of construction on a Lot, all on-site improvements shall be conclusively deemed to be in good working order and condition and any damages occurring thereto during the construction, shall be the responsibility of the Owner. All such repairs required hereunder shall be made immediately following the occurrence of the damage.

(b) Utilities: The connection to all utility facilities shall be underground and shall be inspected and approved by the appropriate governmental entity having jurisdiction thereof and the company providing the utility service, if required. Utility meters shall be placed in an unobtrusive location and concealed behind fences or landscaping where possible.

(c) Landscaping: as a general guideline for the landscaping of each Lot and as shall be shown on the landscape plan to be submitted to the ACC under Section 6.07(c), below, the front yard area of each Lot shall be landscaped with trees, shrubs, and ground cover, or utilized as entryways. Front yard landscaping must be maintained and watered.

(d) Driveways: All driveways must be concrete in construction. Construction of the portions of driveways which are behind the front line of the residential improvements on the property and which are screened from public view may be gravel or asphalt.

(e) **Maintenance During Construction:** The following requirements shall apply during the construction or improvements on a Lot:

1. All debris shall be removed from the Lot prior to each weekend.
2. No materials shall be placed or kept on any adjoining Lot.
3. Vehicles belonging to workmen or used in the construction of improvements shall not interfere with traffic on public streets:
4. Utilities, including water, shall not be taken from any other Lot without the approval of the Owner thereof;

(f) **Time of Work:** Any work or other activity in connection with the construction or installation of the improvements on a Lot shall be conducted on such days and at such times during the days as shall not constitute or result in an unreasonable nuisance or annoyance of neighboring Lots.

(g) **Roofs:** The roof of each building on a Lot shall be covered with a minimum of twenty-five (25) year composition shingles, shakes, or tile and shall be approved by the ACC under Article VI, below.

(h) **Qualified Contractor:** The construction of each Building on a Lot shall be performed by a qualified general contractor and reasonably experienced in the construction of residential dwelling units and related improvements. No Owner of a Lot shall construct a Building on a Lot, unless such Owner is a qualified general contractor approved by the ACC and possessing the experience provided above.

5.21 **Detached Garage/Outbuildings:** No more than one detached structure per lot shall be permitted (includes, but not limited to, a garage, outbuilding, or storage shed). The design, location, color, and decor of such building must be of a construction similar to the primary building, and must be approved, in writing, by the ACC, before construction begins. The ACC Subcommittee shall review plans submitted and respond within thirty (30) days.

5.22 **Storm Drainage Waters and Areas:** All storm drainage facilities within common lots and easements of Muir Woods Subdivision shall be operated and maintained in accordance with the operation manual dated September 13, 2000. The detention pond and surrounding areas are for the storage of storm drainage waters, and any person or entity using said area, including Owners and their guest, invitees, and so forth, do so at their own risk.

## **ARTICLE VI ARCHITECTURAL CONTROL COMMITTEE**

Section 6.01 **Members of the Committee:** The Architectural Control Committee (ACC) shall be comprised of not less than three (3) and not more than nine (9) members, all of whom will be elected equally as members of the Board. The Board of Directors and the Architectural Control Committee shall be one and the same and each shall retain the powers of both in one body.

Section 6.02 **Appointment-Removal:** The Board/ACC is authorized to appoint an ACC Subcommittee consisting of no less than two (2) of its members to take any action or perform any duties for and on behalf of the ACC. In the absence of such designation, the vote of a

majority of the ACC/Board quorum shall constitute an act of the ACC. Any decision by the ACC Subcommittee may be appealed to the Board/ACC; such appeal is to be submitted in writing to the President of the Board within fifteen (15) days of receiving the ACC Subcommittee's written decision.

Section 6.03 Non-Liability: Neither the ACC, nor any member thereof, shall be liable to any Owner or any other person for any loss, damage or injury arising out of or connected with the performance by the ACC of its duties and responsibilities by reason of a mistake in judgment, negligence or nonfeasance in connection with the approval or disapproval or failure to approve an application. Every person who submits an application to the ACC for approval of plans and specifications agrees, by submission of such application, and every Owner or Occupant of an Lot agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the ACC, or any member thereof, or MWHOA to recover such damages.

Section 6.04 Approval Required: No construction, alteration, modification, removal or destruction of any improvements of any nature whatsoever which materially alters the exterior appearance of the improvements on a Lot, shall be initiated or be permitted to continue or exist within Muir Woods Subdivision without prior express written approval of the ACC.

Section 6.05 Basis or Approval: approval by the ACC shall be based, among other things, on the adequacy of the Lot dimensions; conformity and use of external design with neighboring improvements; the effect of location and use of improvements on neighboring lots; the relationship of the improvements to topography, grade, finished ground elevation and landscaping of the Lot to that of neighboring lots; the proper facing of the main elevation with respect to nearby streets; and the relation of floor elevations to flood elevations as defined by government entities.

Section 6.06 Variances: ACC may authorize variances from compliance with the requirements of any conditions and restrictions contained in this Declaration, or any prior approval when, in the sole discretion of the ACC, circumstances such as topography, natural obstruction, aesthetics or environmental consideration or hardship may so require. Such a variance must be evidenced in writing, signed by at least two (2) members of the ACC Subcommittee or by the President of the Board, subject to majority vote of a quorum of the Board/ACC. If a variance is granted as provided herein, no violation of this Declaration or prior approval shall be deemed to have occurred with respect to the matter for which the variance was granted.

Section 6.07 Application: To request ACC approval for the construction, alteration, modification, removal or demolition of any improvements within Muir Woods Subdivision, the Owner shall submit a written application in a form required by the ACC, which must be signed by the Owner and contain all information requested and be accompanied by other material hereafter provided. This completed application is to be submitted to the Management Firm or to the President of the Board. The ACC shall have the right to require an Owner to pay a fee, not to exceed Two Hundred Fifty Dollars and No Cents (\$250.00) to reimburse the MWHOA for any actual out-of-pocket expenses incurred by the ACC with respect to the review of an application, plans and specifications and/or its decision thereon. Normal applications for plan approval are on a no charge basis. All applications must contain, or have submitted therewith, the following material (collectively called "plans and specifications") prepared in accordance with acceptable architectural standards:

(a) Site Plan: A site plan showing the location of the buildings(s) and all other structures and improvements, including fences and walls on the Lot, Lot drainage and all set backs and other pertinent information relating to the improvements.

(b) Building Plan: A building plan which shall consist of preliminary or final blueprints, elevation drawings of the north, south, east and west sides, and detailed exterior specifications which shall be indicated, by sample, if required by the ACC, all exterior colors, materials and finishes, including roofing to be used.

(c) Landscape Plan: A landscape plan for portions of the Lot to be landscaped which shall show location, type and size of trees, plants, ground cover, shrubs, berming, and mounding, grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking areas and walkways.

(d) Contractor: Such information concerning the qualifications of the general contractor selected by the Owner to construct the building and related improvements on the Lot as shall be reasonably requested by the ACC to permit it to determine whether contractor is qualified and possesses the experience required by Section 5.20(h) above.

Section 6.08 Decision: Unless extended by mutual consent of the Owner and the ACC, the ACC shall render its decision with respect to an application within thirty (30) days after receipt of a properly submitted application. The decision of the ACC can be in the form of an approval, a conditional approval or denial. A conditional approval shall set forth with particularity the conditions upon which the application is approved and denial shall state with particularity the reasons for such denial.

## **ARTICLE VII MUIR WOODS HOMEOWNERS ASSOCIATION**

Section 7.01 Members of the Association: Membership in this Association shall be each owner of a lot within the Muir Woods Subdivision as specified in the MWHO A By-Laws .

Section 7.02 Board of Directors: The governance of this Association shall be vested as specified in the MWHO A By-Laws.

Section 7.03 Duties of the Board: The Board shall supervise, control and manage the accounts, property and directions of the MWHO A including the responsibilities necessary to carry out and enforce the provisions of their Declaration, including the right to bring suit in its name or the name of one or all of its members. The MWHO A shall have the right to purchase, with funds provided from assessments levied under Article VII, below, and keep in force a public liability insurance policy in an amount deemed reasonable by the MWHO A, insuring the Owners and the MWHO A from liability for bodily injury and/or property damage occurring on common area, provided that the failure of the MWHO A to purchase and/or keep in force such insurance shall not be grounds for the imposition of liability upon the members of the MWHO A.

## **ARTICLE VIII ASSESSMENTS**

Section 8.01 Lots Subject to Assessment: The lots which are subject to assessment under the

Article are all lots in Muir Woods Subdivision, excluding common area lots.

Section 8.02 Covenant to Pay Assessments: Each Owner, by acceptance of a deed to a lot, covenants and agrees to pay, when due, the assessments provided for in this Article.

Section 8.03 Assessment Lien: All assessments levied and assessed hereunder, together with interest, costs and reasonable attorney's fees, which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon each lot within Muir Woods Subdivision and shall also be the personal obligation of the Owner or such lot at the date the assessment becomes due and payable. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them. The assessment lien created hereunder may be enforced in the same manner as provided in the statutes of the State of Idaho for the enforcement of liens and mortgages. The lien herein created shall at all time be junior and subordinate to the lien of the first Mortgage or Deed of Trust encumbering the lot.

Section 8.04 Annual Assessments: Each lot within Muir Woods Subdivision exclusive of common property shall be assessed an amount determined by the Board as the annual fee. Each assessment shall be payable by an Owner to the MWHOA, in such installments as the Board shall determine.

The Board shall have the right to increase or decrease the amount of the annual assessment levied against the Lots within Muir Woods Subdivision, based on the actual and anticipated expenses of the homeowners association performing its obligations described in Section 8.07, including reasonable reserves for repairs and replacements.

Sections 8.06 Interest and Costs: Any assessment against a Lot, if not paid when due, shall bear interest at an annual rate as shall be set by the Board from time-to-time, or if none is so set, at an annual rate of fifteen percent (15%). Such interest shall commence on the date the assessment becomes due and payable. In addition to the interest charge, if an assessment is collected by the Board with the assistance of an attorney, whether or not suit or action is filed, the Owner shall pay to the MWHOA, reasonable attorney's fees incurred by the MWHOA and such may be awarded in a judgment against the Owner. The homeowner, in addition to any interest owed, shall be responsible for all costs incurred in the collection of delinquent fees or assessment.

Section 8.07 Purpose of Assessments - Duty of Board: The MWHOA shall use all funds from the assessments paid by the Owners for the purpose of:

- (a) Maintaining, repairing, replacing, and otherwise in all respects caring for the landscaping and related improvements, including, but not limited to: the sprinkler system(s), located on the landscaping easement as shown on the subdivision plat for the Muir Woods Subdivision.
- (b) Maintaining, repairing, replacing, operating and otherwise in all respects caring for the irrigation water delivery system, any fencing, and the waste water courses within Muir Woods Subdivision including, but not limited to: the pump and lines except where the obligation to maintain the line is imposed upon an Owner(s) by this Declaration.
- (c) Maintaining, repairing, replacing, insuring and otherwise in all respects operating and caring for the common and landscaped areas, if any, including the payments of taxes and other costs with respect thereto.



The MWHOA shall have the obligation to maintain, repair, replace and otherwise in all respects care for said landscaping and irrigation systems.

**Section 8.09 Limited Assessments/Penalties:** The MWHOA shall have the right and the authority to incur costs and expenses for the maintenance and repair of any Lot, including the improvements on a Lot. If such maintenance, repair, cleaning, and/or upkeep is necessary, in the sole discretion of the homeowners association, to bring such Owner and/or Lot into compliance with the requirements of this Declaration, and if the Owner of said Lot has failed to perform the same within a reasonable time after written notice of the necessity thereof has been delivered by the homeowners association to said owner, the MWHOA shall have the right to perform or cause performance of the same and to levy an assessment against the lot owner, for the amount of the costs and expenses incurred by the homeowners association in connection therewith, including attorneys fees. The right of the MWHOA to incur costs and expenses with respect to a lot, and to secure repayment thereof by the levying of a limited assessment and/or penalty, shall also relate to the correction of violation of this Declaration which an Owner fails or refuses to correct within a reasonable time after written notice delivered to such Owner by the MWHOA.

**Section 8.10 Non-Exclusive Remedy:** The right of MWHOA to levy a limited assessment as described in Section 8.09, above, shall not be deemed the exclusive remedy of the MWHOA, and it may, in its sole discretion, without waiver of any other legal or equitable remedy, pursue enforcement of the lien of the limited assessment and/or penalty, collect the amount due directly from the Owner responsible therefore, and/or pursue any other remedy available at law or equity. Nothing in this Declaration shall prohibit or limit the MWHOA or an Owner from pursuing any legal or equitable remedy for violation of this Declaration.

## **ARTICLE IX – SOLAR ACCESS**

### **9.1 Solar Access Definitions:**

- a. **Exempt Tree:** Any pre-existing vegetation as defined in hereafter, or any vegetation included on the list of solar friendly vegetation kept by the City of Boise City's Public Works and Community Planning and Development Departments.
- b. **Front Lot Line:** The line represented by the connection of the most distant corners of a Lot, including flag Lots, where said corners are in common with the boundary of a public or private road. For corner Lots, the front Lot line is designated on the plat.
- c. **North Slope:** The gradient, in percent slope, from the average finished grade of the front Lot line of the shade restricted Lot to the average finished grade of the solar Lot line of a solar Lot. The slope must be downward or decreasing in elevation from south to north.
- d. **Restricted Vegetation:** A tree of other vegetation which is either evergreen, or if deciduous, tends to retain its leaves late in the fall and or drop them late in the spring, or has a dense branching pattern which generally tends to block a high level of the sun's rays during the heating season. The Boise City Public Works and the Community Planning and Development Departments have a list of "solar friendly" trees.
- e. **Shade:** That portion of the shadow cast by the shade point of a structure or vegetation which

exceeds 11.5 foot fence at the solar Lot line at solar noon, January 21.

- f. Shade Point: That part of a structure, tree or other object, on a shade restricted Lot, which casts the longest shadow (the most northerly shadow) when the sun is due south on January 21<sup>st</sup> at an altitude of twenty six degrees (26o) above the horizon, except a shadow caused by a narrow object such as a chimney, antenna, utility pole, wire, or the like.
- g. Shade Point Height: The vertical distance or height measured from the average elevation at the solar Lot line to the shade point. If the shade point is located at the north end of a ridge line of a structure oriented within forty five degrees (45o) of a geodetic east-west line with a pitch which is flatter than six (6) feet (vertical) in twelve (12) feet (horizontal), the shade point will be the cave of the roof. If such a roof has a pitch which is six (5) feet in twelve (12) feet or steeper, the shade point will be the peak of the roof.
- h. Shade Restricted Lot: Any Lot within the subdivision that is southerly of and adjacent to a solar Lot. These Lots have some restriction on vegetation types and structure height.
- i. Solar Friendly Vegetation: A tree or other vegetation which is included on the solar friendly vegetation list kept by the City of Boise City's Public Works and Community Planning and Development Departments.
- j. Solar Lot: A lot which has the following characteristics:
  - 1. The front Lot line is oriented within thirty degrees (30o) of a geodetic east-west bearing;
  - 2. The Lot to the immediate south has a north slope of ten percent (10%) or less;
  - 3. The Lot is intended for the construction of an above ground inhabited structure.
- k. Solar Lot Line: The most southerly boundary of a solar Lot: the line created by connecting the most southerly corners of the solar Lot.
- l. Solar Setbacks: The minimum distance, measured perpendicularly in a southerly direction, from the center of the solar Lot line to the shade point of a structure or to restricted vegetation based upon its height at maturity on the shade restricted Lot.

## 9.2 Solar Access Covenants, Conditions, and Restrictions

- a. Shade Restriction: Each Lot which is classified as a Shade Restricted Lot shall have the following restriction: Any structure or restricted vegetation (solar unfriendly) cannot cast a shadow higher than an imaginary fence 11.5 feet above the solar Lot line on solar noon of January 21<sup>st</sup> when the sun is at an angle of twenty six degrees (26o) above the horizon. This sun angle at noon on January 21 causes structures, vegetation, and other objects to cast a shadow twice as long as their height. The height of the shade point of a structure on the shade restricted lot is limited to nineteen (19) feet at the fifteen (15) foot rear yard zoning setback in order that the 11.5 foot high "solar fence" at the north property line of the shade restricted Lot is not exceeded. These standards assure that a structure built to the fifteen (15) foot rear yard zoning setback, on the solar Lot located to the north, will not be shaded more than four (4) feet above grade on its south wall on January 21 at solar noon.

- b. Pre-existing Vegetation: Restricted vegetation (solar unfriendly) which existed when the subdivision was platted is exempt from the provisions of these covenants, conditions, and restrictions. Any Lot which would be shaded beyond the allowed shade limits by such vegetation shall not be classified as a Solar Lot.
- c. Slope Exemption: Any Lot with an average finished grade slope along the north-south or east-west Lot dimension (depending on which is the relevant frontage direction of the Lot) greater than ten percent (10%) shall be exempt from the terms and conditions of these covenants, conditions, and restrictions.
- d. Solar Setbacks: Each separate structure and item of restricted vegetation shall have a solar setback dependent on, and calculated by, its shade point height. All shade restricted Lots shall have the following solar setback: Solar Setback (in feet) = (Shade Point Height (in feet – 11.5 feet) times two (2)).
- e. Solar Friendly Vegetation: Certain vegetation is considered “solar friendly” and is not restricted in regards to location on individual Lots. Such vegetation is deciduous, dropping its leaves during early fall and regaining them during late spring. Such vegetation also has a sparse branching which allows a high level of sunlight to penetrate through. This growth cycle produces shading during summer by the City of Boise City Public Works and the Community Planning and Development Departments.

9.3 Solar Access Rights, Duties, and Responsibilities:

- a. Solar Access Rights: The owner(s) of solar Lots shall have a right to unobstructed solar access in accordance with these covenants, conditions, and restrictions.
- b. Solar Access Duties: The owners of any Lot shall not build, install, or otherwise allow, a structure of non-solar friendly tree on that Lot to cast more shade at their solar Lot line than permitted under these solar access covenants, restrictions, and conditions.

**ARTICLE X - MISCELLANEOUS**

Section 10.01 Term: This Declaration and all covenants, conditions, restrictions, and easements contained herein shall run until December 31, 2020, unless amended hereafter provided. After December 31, 2020, said covenants, conditions, restrictions and easements shall automatically extend for successive periods of ten (10) years each, unless extinguished by a written instrument executed by the Owners of at least fifty one percent (51 %) of the lots in Muir Woods Subdivision and then only if such written instrument is recorded with the Ada County Recorder.

Section 10.02 Amendment: This Declaration may be amended as follows:

By Owners: Except where a greater percentage is required herein, the provisions of this Declaration, other than this Section, may be amended by an instrument in writing, signed and acknowledged by the Owners, owning at least fifty-one percent (51 %) of the Lots within Muir Woods Subdivision Property, and such amendment shall be effective upon its recordation with the Ada County Recorder. Any amendment to this Section 9.02 shall require the vote or written consent of all Owners.

Section 10.03 Non-Waiver: The failure of the Grantor or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements, or other provisions of this Declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement or other provision, but the same shall remain in full force and effect.

Section 10.04 Enforcement - Costs: This Declaration may be enforced by the MWHOA or by any Owner of a Lot. If suit or other action is filed to interpret or enforce this Declaration, or any provision thereof, the prevailing party shall be awarded reasonable attorney's fees, in addition to the costs and disbursements allowed by law, including the same with respect to an appeal.

Section 10.05 Acceptance: Each Owner of a Lot, each purchase of a Lot under a contract of agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sales, or option, accepts the same subject to all the covenants, conditions, restrictions, easements and other provisions set forth in this Declarations and agrees to be bound by the same.

Section 10.06 Severability: Each of the provisions hereof shall be deemed independent and severable and the invalidity or unenforceability of any provision or portion thereof, shall not affect the validity or enforceability of any other provision.

Section 10.07 Interpretation: The provisions of this Declaration shall be liberally construed to affect the purposes hereof and shall be construed and governed in accordance with the laws of the State of Idaho. The singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall include the masculine, feminine or neuter. All captions and titles are intended solely for convenience of reference and shall not affect that which is set forth in any of the provision hereof.

This amended Declaration is signed and acknowledged by the officers of the Muir Woods Board of Directors, duly elected by the owners of at least fifty-one percent of the Lots within Muir Woods Subdivision Phases, 1, 2, 3 and 4.

MUIR WOODS HOMEOWNERS ASSOCIATION  
BOARD OF DIRECTORS

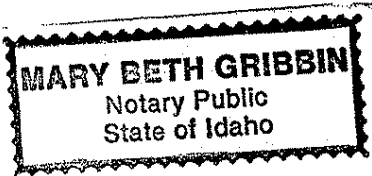
*Morris Bastian*

Morris Bastian, President

STATE OF IDAHO    )  
                                  ) ss.  
COUNTY OF ADA    )

On this day, AUG. 3RD, 2007, before me, MARY BETH GRIBBIN, a Notary Public in and for the State of Idaho, personally appeared the above directors, known to me or identified to me or proved to me on the basis of satisfactory evidence to be an officer of the Board of Directors of Muir Woods Homeowners Association, Inc., and to be the person whose name is attached to the foregoing instrument and acknowledged to me that said corporation executed the same.

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



*Mary Beth Gribbin*

Notary Public for Idaho  
Residing at Boise, Idaho  
My Commission expires on 12/31/08

**This amended Declaration is signed and acknowledged by the officers of the Muir Woods Board of Directors, duly elected by the owners of at least fifty-one percent of the Lots within Muir Woods Subdivision Phases, 1, 2, 3 and 4.**

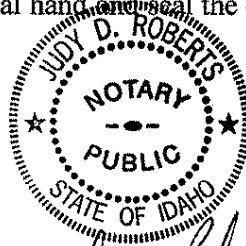
**MUIR WOODS HOMEOWNERS ASSOCIATION  
BOARD OF DIRECTORS**

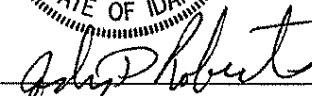
  
\_\_\_\_\_  
Lee Coulson, Vice-President

STATE OF IDAHO     )  
                                  ) ss.  
COUNTY OF ADA    )

On this day, 7/20/07 2007, before me, Judy Roberts, a Notary Public in and for the State of Idaho, personally appeared the above directors, known to me or identified to me or proved to me on the basis of satisfactory evidence to be an officer of the Board of Directors of Muir Woods Homeowners Association, Inc., and to be the person whose name is attached to the foregoing instrument and acknowledged to me that said corporation executed the same.

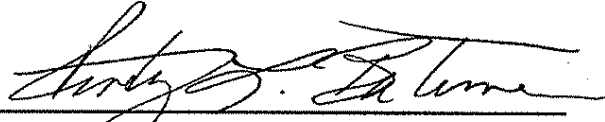
IN WITNESS WHEREOF, I have hereunto placed my official hand and seal the day and year in this Certificate first above written.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at Boise, Idaho  
My Commission expires on 8/19/09

This amended Declaration is signed and acknowledged by the officers of the Muir Woods Board of Directors, duly elected by the owners of at least fifty-one percent of the Lots within Muir Woods Subdivision Phases, 1, 2, 3 and 4.

MUIR WOODS HOMEOWNERS ASSOCIATION  
BOARD OF DIRECTORS

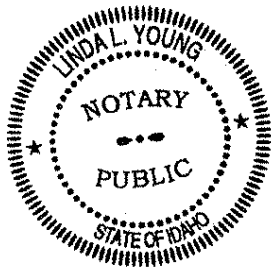


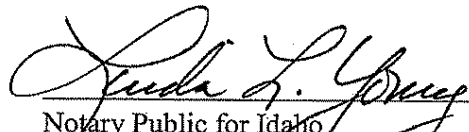
Cindy L. Bateman, Secretary-Treasurer

STATE OF IDAHO )  
                          ) ss.  
COUNTY OF ~~ADA~~ <sup>Canyon</sup> )

On this day, 6th day of July, 2007, before me, Linda L. Young, a Notary Public in and for the State of Idaho, personally appeared the above directors, known to me or identified to me or proved to me on the basis of satisfactory evidence to be an officer of the Board of Directors of Muir Woods Homeowners Association, Inc., and to be the person whose name is attached to the foregoing instrument and acknowledged to me that said corporation executed the same.

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

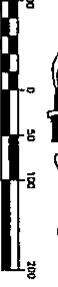
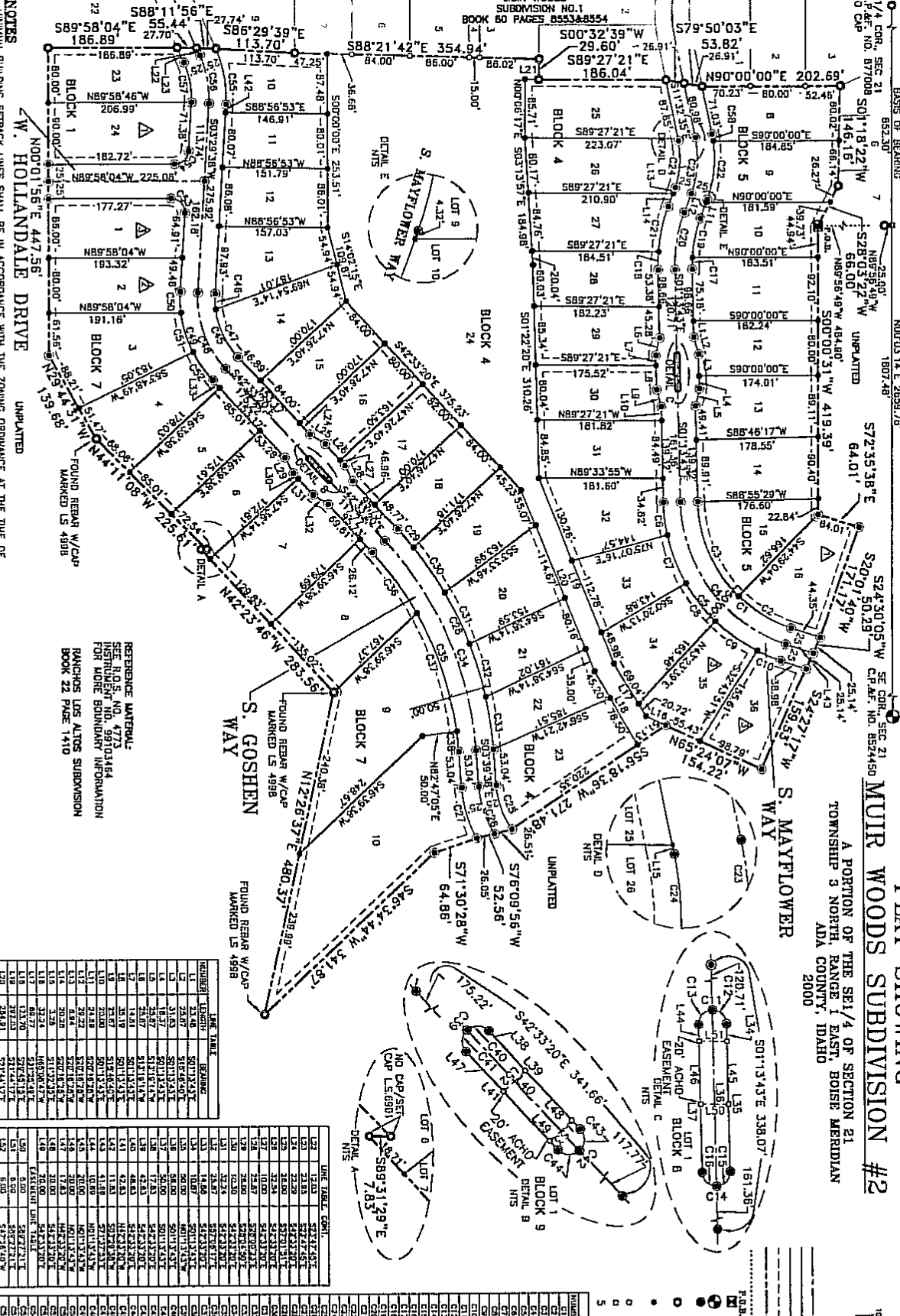


  
Notary Public for Idaho  
Residing at <sup>Blaine</sup> Boise, Idaho  
My Commission expires on 2/16/13

# PLAT SHOWING

## MUIR WOODS SUBDIVISION #2

A PORTION OF THE SE1/4 OF SECTION 21  
TOWNSHIP 3 NORTH, RANGE 1 EAST, BOISE MERIDIAN  
ADA COUNTY, IDAHO  
2000



**LEGEND**

- ROADWAY CENTERLINE
- LOT LINE
- EXISTING LOT LINE
- PROPOSED LOT LINE
- BOUNDARY LINE
- THE LINE
- POINT OF BEGINNING FOUND 5/8" REBAR W/CAP MARKED LS 6901
- FOUND BRASS CAP
- SET 5/8" x 30" REBAR
- W/CAP MARKED LS 6901
- FOUND 5/8" REBAR W/CAP LS 6901 UNLESS OTHERWISE NOTED
- SET 1/2" x 24" REBAR W/CAP MARKED LS 6901
- R.N.D. 1/2" x 24" REBAR LS 6901
- CALCULATED POINT
- LOT NUMBER

**CHIEF TITLE**

NUMBER	CHIEF TITLE	DATE
01	316.35	2000.08.10
02	316.35	2000.08.10
03	316.35	2000.08.10
04	316.35	2000.08.10
05	316.35	2000.08.10
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99	316.35	2000.08.10
100	316.35	2000.08.10

**REFERENCE MATERIAL:**  
 REGISTRATION NO. 49921484  
 REGISTRATION NO. 49921484  
 FOR MORE BOUNDARY INFORMATION  
 RANCHES LOS ALTOS SUBDIVISION  
 BOOK 22 PAGE 1410

**NOTES:**  
 1. UNPLANTED  
 2. UNPLANTED  
 3. UNPLANTED  
 4. UNPLANTED  
 5. UNPLANTED  
 6. UNPLANTED  
 7. UNPLANTED  
 8. UNPLANTED  
 9. UNPLANTED  
 10. UNPLANTED  
 11. THE FENCING FOR ALL LOTS ADJACENT TO PEDESTRIAN INGRESS-EGRESS EASEMENTS (SEE NOTE #10) SHALL MEET BOISE CITY  
 12. ACID STORM DRAINAGE AND PEDESTRIAN INGRESS/EGRESS EASEMENTS (SEE NOTE #10 & #13). SHALL REMAIN FREE OF ALL  
 ENCROACHMENTS AND OBSTRUCTIONS (INCLUDING FENCES AND TREES) WHICH MAY ADVERSELY AFFECT DRAINAGE OR OPERATION AND  
 MAINTENANCE OF THE FACILITY. SAID EASEMENTS ARE TEN (10) FEET WIDE AND CENTERED ON LOT LINES COMMON TO:  
 (1) LOTS 16&17, BLOCK 4, (2) LOTS 2&3, BLOCK 4, AND (3) LOTS 35&36, BLOCK 4 AS SHOWN.  
 (4) LOTS 16&17, BLOCK 4 IS RESERVED AS AN ACID STORM DRAINAGE AND PEDESTRIAN INGRESS/EGRESS EASEMENT. FOR THE USE OF THE MUIR  
 WOODS HOMEOWNER'S ASSOCIATION, AND IS TO BE OWNED & MAINTAINED BY THE HOMEOWNER'S ASSOCIATION, OWNERSHIP AND RESTRICTIONS FOR  
 MUIR WOODS SUBDIVISION.  
 13. A 20' WIDE ACID STORM DRAINAGE EASEMENT IS LOCATED ALONG THE NORTH BOUNDARY OF LOT 10 BLOCK 4, ALONG THE  
 SOUTHWESTERLY BOUNDARY OF LOT 23 BLOCK 4, ON LOT 1 BLOCK 8, AND ON LOT 1, BLOCK 9. SAID EASEMENTS ARE DRAINAGE OR  
 MAINTENANCE OF THE FACILITY. SAID EASEMENTS ARE TEN (10) FEET WIDE AND CENTERED ON LOT LINES COMMON TO:  
 (1) LOTS 16&17, BLOCK 4, (2) LOTS 2&3, BLOCK 4, AND (3) LOTS 35&36, BLOCK 4 AS SHOWN.  
 14. A 20' WIDE ACID STORM DRAINAGE EASEMENT IS LOCATED ALONG THE NORTH BOUNDARY OF LOT 10 BLOCK 4, ALONG THE  
 SOUTHWESTERLY BOUNDARY OF LOT 23 BLOCK 4, ON LOT 1 BLOCK 8, AND ON LOT 1, BLOCK 9. SAID EASEMENTS ARE DRAINAGE OR  
 MAINTENANCE OF THE FACILITY. SAID EASEMENTS ARE TEN (10) FEET WIDE AND CENTERED ON LOT LINES COMMON TO:  
 (1) LOTS 16&17, BLOCK 4, (2) LOTS 2&3, BLOCK 4, AND (3) LOTS 35&36, BLOCK 4 AS SHOWN.  
 15. LOT 24 BLOCK 4, LOT 1 BLOCK 8, AND LOT 1 BLOCK 9 ARE COMMON LOTS WHICH SHALL BE OWNED AND MAINTAINED BY THE MUIR  
 WOODS HOMEOWNER'S ASSOCIATION AND MAY NOT BE DISSOLVED WITHOUT THE EXPRESS CONSENT OF BOISE CITY.  
 16. LOT 24 BLOCK 4, LOT 1 BLOCK 8 AND LOT 1 BLOCK 9 ARE RESERVED AS BOISE CITY SANITARY SEWER EASEMENTS.  
 17. ALL OF LOT 1, BLOCK 8 AND LOT 1, BLOCK 9 ARE RESERVED AS BOISE CITY SANITARY SEWER EASEMENTS.  
 18. LOT 24 BLOCK 4, LOT 1 BLOCK 8 AND LOT 1 BLOCK 9 ARE RESERVED AS BOISE CITY SANITARY SEWER EASEMENTS.

**PINNACLE**  
 Engineers, Inc.  
 870 N. Linda Sully B. American, Idaho 83642  
 (208) 887-7760

DRAWING NO. C006075\_FP.DWG  
 SHEET 1 OF 2



ADA COUNTY RECORDER *W and S* RECORDED-REQUEST OF  
J. DAVID NAVARRO *Investment* FEE *57.00* DEPUTY *Maple*  
BOISE, IDAHO

ROBERT L. ALDRIDGE, CHARTERED  
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**DECLARATIONS ESTABLISHING COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR MUIR WOODS SUBDIVISION,  
PHASES 2 & 3  
AMENDED**

ARTICLE I- RECITALS

WHEREAS, the undersigned (hereafter "Grantor") is the owner of certain land in Ada County, Idaho more particularly described as Muir Woods Subdivision, Phases 2 & 3 (hereafter "Property");

WHEREAS, the Property shall be developed as defined in the ordinances of Ada County, Idaho, for residential uses.

WHEREAS, the Grantor desires to subject the Property to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitude herein set forth to insure the proper design, development, improvement and use of the Property by the Grantor and all other persons or entities who may subsequently accuire an interest in the Property.

ARTICLE II - DECLARATIONS

The Grantor hereby declares that the Property described on Exhibit A, and each lot, tract or parcel thereof (hereafter called "Lot" unless specified to the contrary), in and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following covenants, conditions, restr ctions, easements, reservations, limitations and equitable servitude (hereafter collectively called "covenants and restrictions"), all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of Muir Woods Subdivision, Phases 2 & 3 and each Lot therein, and to enhance the value, desirability and attractiveness thereof. The covenants and conditions set forth herein shall run with the land and each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in Muir Woods Subdivision, Phases 2 & 3 or any Lot therein; and shall inure to the benefit of and be binding upon the Grantor and each Owner; and each successor in interest of each, and may be enforced by the Grantor and by any Owner, as hereafter provided.

Notwithstanding the foregoing, no provision of this Declaration shall be construed or enforced to prevent or limit the Grantor's right to complete development of Muir Woods Subdivision, Phases

1 2 & 3 in accordance with the plan therefor as the same exists or may be modified from time to time  
2 by the Grantor, nor obligate the Grantor to complete the development of Muir Woods Subdivision,  
3 Phases 2 & 3 except as expressly provided herein, nor prevent normal construction activities during  
4 the construction of improvements upon any Lot in Muir Woods Subdivision, Phases 2 & 3. No  
5 development or construction activities shall be deemed to constitute a nuisance or violation of this  
6 Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of  
7 temporary structures, posting of signs or similar activities, provided the same are actively, efficiently  
8 and expeditiously pursued to completion. In the event any dispute concerning the foregoing shall  
9 arise, a temporary waiver of the applicable provision(s) of this Declaration may be granted by the  
10 Architectural Control Committee (ACC), provided that such waiver shall be for reasonable period  
11 of time. Any such waiver need not be recorded and shall not constitute an amendment of this  
12 Declaration.

13  
14 The recording of the Plat by the Developer/Owner shall be deemed and construed as a request for  
15 annexation of its property to the corporate limits of Boise City. Such request and consent shall be  
16 binding on all subsequent Owners/Developers of Developer's property.

17  
18 Developer/Owner of this subdivision, or lot or lots within the subdivision, shall and hereby does vest  
19 in Boise City the right and power to bring all actions against the Owner of the premises, or any part  
20 thereof, for the collecting of any charges then required and to enforce the conditions herein stated.  
21 This covenant shall run with the land.

22  
23 Until such time as annexation occurs, provision for the use, control, and maintenance of street  
24 lights shall be made through covenants, Home Owners Association Bylaws, and other similar deed  
25 restrictions.

26  
27 **ARTICLE III - DEFINITIONS**

28  
29 As used in this Declaration, unless the context otherwise specifies or requires, the following words  
30 and phrases shall be defined as follows:

31  
32 ACC: The Architectural Control Committee for Muir Woods Subdivision, Phases 2 & 3.

33  
34 Building: A structure constructed on a Lot, on a temporary or permanent basis, and unless  
35 specified to the contrary, shall include all other appurtenances and improvements thereto or used  
36 in connection therewith.

37  
38 Declaration: This instrument as it may be amended from time to time.

39  
40 Development: The Project to be undertaken by the Grantor resulting in the improvement of Muir  
41 Woods Subdivision, Phases 2 & 3, including landscaping, amenities, construction of roadways,  
42 utility services and other improvements, as elected by the Grantor.

43  
44 Home Owners Association: an organization formed to operate the irrigation system landscaped  
45 areas and any common areas which lie within the boundaries of Muir Woods Subdivision, Phases  
46 2 & 3 and any other duties as provided for in the Articles of Incorporation.

1 Subdivision: The whole of the land described on Exhibit A, which describes the Lots covered by  
2 these Declarations. A reference in this Declaration to Muir Woods Subdivision, Phases 2 & 3 shall  
3 include all Lots shown on the Plat for Muir Woods Subdivision, Phases 2 & 3.  
4

5 Grantor: The undersigned Owners of the land described on Exhibit A.  
6

7 Improvements: all structures and apourtenances thereto of all kinds and types, including, but not  
8 limited to: buildings, roads, driveways, sidewalks, walkways, walls, fences, screens landscaping,  
9 poles, signs, and lighting. Improvements shall not include those items which are located totally on  
10 the interior of a building and cannot be readily observed when outside thereof.  
11

12 Lot: A portion of Muir Woods Subdivision, Phases 2 & 3 which is a legally described tract or parcel  
13 of land within Muir Woods Subdivision, Phases 2 & 3 or which is designated as a lot on any  
14 recorded subdivision plat relating to Muir Woods Subdivision, Phases 2 & 3.  
15

16 Mortgage: Any mortgage or deed of trust or other hypothecation of land, located in Muir Woods  
17 Subdivision, Phases 2 & 3, to secure performance of an obligation. Unless otherwise specifically  
18 provided, the reference to a "Mortgage" in this Declaration shall be limited to "first Mortgage",  
19 including a "First Deed of Trust".  
20

21 Occupant: Any person, association, corporation, or other entity who or which is an Owner, or has  
22 leased, rented, been licensed or is otherwise legally entitled to occupy and use any building or  
23 improvement on a Lot, whether or not such right is exercised, including their heirs, personal  
24 representatives, successors and assigns.  
25

26 Owner: A person or persons or other legal entity or entities, including Grantor, holding fee simple  
27 title to a lot in Muir Woods Subdivision, Phases 2 & 3 including contract sellers, but excluding those  
28 having such interest merely as security for the performance of an obligation, but including an  
29 Mortgagee (of and priority) or other security holder, provided said Mortgagee or other security  
30 holder is in actual possession of a Lot as a result of foreclosure or otherwise, and any person  
31 taking title through such mortgagee or other security holder by purchase at foreclosure sale or  
32 otherwise.  
33

34 Plat: A final subdivision plat covering any real property in Muir Woods Subdivision, Phases 2 & 3,  
35 as recorded in the office of the County Recorder, Ada County, Idaho, as the same may be  
36 amended by duly recorded amendments thereto.  
37

38 Residential Lot: A Lot for the use of which shall be for a single-family residential purpose and uses  
39 incidental thereto as limited by this Declaration or a townhouse lot as described in the plat of Muir  
40 Woods Subdivision, Phases 2 & 3.  
41

42 **ARTICLE IV - PURPOSE**  
43

44 Muir Woods Subdivision, Phases 2 & 3 is hereby made subject to the covenants and restrictions  
45 contained in this Declaration, all of which shall be deemed to be imposed upon and run with the  
46 land and each and every Lot and parcel thereof, and shall apply to each and every Owner and  
47 Occupant thereof and their respective successors in interest, to insure proper design, development,

1 improvement, use and maintenance of Muir Woods Subdivision, Phases 2 & 3 for the purpose of:

2  
3 (a) Insuring Owners and Occupants of building of quality of design, development,  
4 improvement, use and maintenance as shall protect and enhance the investment and use  
5 of all Lots and improvements.  
6

7 (b) Prevention of the erection in Muir Woods Subdivision, Phases 2 & 3 of improvements  
8 of improper design or construction with improper or unsuitable materials or with improper  
9 quality and method of construction.  
10

11 (c) Encouraging and assuring the erection of high quality and attractive improvements  
12 appropriately located within Muir Woods Subdivision, Phases 2 & 3.  
13

14 (d) Securing and maintaining proper set-backs from streets and adequate free spaces  
15 between improvements.  
16

17 (e) Designating and maintaining open space areas to maintain and enhance the  
18 environment.  
19

20 **ARTICLE V - PERMITTED USES**

21  
22 Section 5.01 Use: The Lots within Muir Woods Subdivision, Phases 2 & 3 shall be used for  
23 residential purposes only.  
24

25 Section 5.02 Approval of Use and Plans: No improvements shall be built, constructed, erected,  
26 placed or materially altered within Muir Woods Subdivision, Phases 2 & 3 after the date of this  
27 Declaration, unless and until the plans, specification, and site plan therefor have been reviewed in  
28 advance and approved by the ACC in accordance with the provisions of Article VI, below.  
29

30 Section 5.03 Prohibited Buildings: No trailer or other vehicle, tent, shack, garage, accessory  
31 building or out building on a Lot shall be used as a temporary or permanent residence.  
32

33 Section 5.04 Setbacks-Residential Lots: Any building constructed on a residential Lot shall comply  
34 with the following minimum setbacks:  
35

36	Front Lot Line	Twenty-five Feet (25')
37	Rear Lot Line	Fifteen Feet (15')
38	Side Lot Line	Five feet (5')

39  
40 PROVIDED, HOWEVER, that the following special terms and conditions regarding front line  
41 setbacks shall apply:  
42

43 a. For Block 1, Lots 3-19, inclusive, the front lot line set backs shall be twenty-five (25) feet  
44 for curved or radius driveways, or thirty (30) feet for straight approach driveways;  
45

46 b. For all lots, the maximum width of concrete driveways at the end contiguous to the edge  
47 of the sidewalk bordering the front lot line shall not exceed thirty (30) feet.

1 Any variance to setbacks must have ACC written approval.

2  
3 As used herein and elsewhere in this Declaration, "front yard" shall mean that area on a residential  
4 Lot from the right-of-way line, as shown on the Plat, to a line created by the front of the residential  
5 dwelling on the Lot extended to each side lot line.

6  
7 Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the  
8 governmental entity having jurisdiction over Muir Woods Subdivision, Phases 2 & 3 require  
9 setbacks different than those provided herein, the more restrictive shall control.

10  
11 **Section 5.05 Easements:** There is hereby reserved for the use and benefit of the Grantor and  
12 granted for the use and benefit of each Lot, and benefit of each Owner and Occupant and their  
13 successors and assigns, for the purposed incident to such use, development, and maintenance of  
14 Muir Woods Subdivision, Phases 2 & 3, an easement(s) for the installation and maintenance of  
15 public utility facilities of all kinds, including radio, television and transmission cables, the easements  
16 designated on the recorded Plat.

17  
18 **Section 5.06 Commercial Use:** Except for the Lots within any area designated in the  
19 Comprehensive Plan for Boise City as commercial usage, no Lot shall be used at any time for  
20 commercial or business purposes except for uses which shall be conducted and maintained solely  
21 within a residential dwelling unit located on a Lot, and which qualify for a home occupation permit,  
22 however denominated. Provided, however, that no signs relating to said business activity shall be  
23 displayed where visible from any public or private road within Muir Woods Subdivision, Phases 2  
24 & 3 and, provided further, that the principal use of each Lot shall be as provided for in Section 5.01  
25 above. Notwithstanding the foregoing, the Grantor, or persons authorized by the Grantor, may use  
26 one or more residential Lot(s) for development and sales activities relating to Muir Woods  
27 Subdivision, Phases 2 & 3, model homes or real estate marketing and sales. These Declarations  
28 may be amended in the future to address the commercial usage of such Lots as are within the  
29 aforesaid Comprehensive Plan designated area for such usage.

30  
31 **Section 5.07 Street and Other Lighting:** Exterior lighting and interior lights reflecting outside shall  
32 be placed in such a manner which will minimize glare and excessive light spillage onto neighboring  
33 Lots. Until annexation occurs, all exterior public street lights shall be maintained and operated by  
34 the Association.

35  
36 **Section 5.08 Animals/Pets.** No animals, birds, insects, pigeons, poultry or livestock shall be kept  
37 on the Property. No swine or goats will be permitted. Up to two (2) domesticated animals such  
38 as dogs or cats, or other household pets which do not unreasonably bother or constitute a nuisance  
39 to others shall be allowed. Without limiting the generality of the foregoing, consistent and /or  
40 chronic barking by dogs shall be considered a nuisance. In the event an Owner constructs or  
41 maintains a kennel or other restraining area upon a Lot, such shall: (1) be located on a Lot in  
42 manner to avoid an endangerment of or nuisance to adjacent Lot owners and , (2) at all times be  
43 kept in a clean and odor-free condition.

44  
45 **Section 5.09 Drilling and Exploration:** No oil exploration or development of any kind or nature of  
46 mining exploration, or any structures in connection therewith shall be permitted to be erected,  
47 maintained or used on any Lot and no minerals shall be permitted to be mined or extracted on any  
48 Lot.

1 Section 5.10 Signs: No commercial billboard or advertising shall be displayed to the public view on  
2 or from any Lot. Owners may advertise a dwelling unit and Lot for sale by displaying a single, neat  
3 and reasonably sized sign on a Lot. Other temporary signs advertising the name of the builder or  
4 the name of the institution providing financing may be displayed on a Lot during the construction  
5 of improvements. All lighted, moving or flashing signs for any purpose are prohibited.  
6

7 Section 5.11 Subdividing: Except as specifically provided in this Declaration to the contrary, no Lot  
8 may be further subdivided, nor may any easement or other interest therein less than the whole be  
9 conveyed by the Owner thereof; provided, however, that nothing herein shall be deemed to prevent  
10 an Owner from transferring or selling a Lot to more than one person to be held by them as tenants  
11 in common, joint tenants, tenants by the entirety or as community property or require the approval  
12 of the ACC.  
13

14 Section 5.12 Fences: No fence of any kind shall be constructed on any Lot unless the plans and  
15 specification therefor, including the location, material and color thereof, have been approved in  
16 writing by the ACC prior to construction or installation. No fence or hedge located on a Lot shall  
17 have a height greater than six (6) feet above the surface of the ground upon which it is located.  
18 The construction or maintenance of spite fences or spite trees or shrubs shall be prohibited on all  
19 Lots. All fences shall be constructed in a substantial manner and shall be maintained at all times  
20 in good repair. All new fences constructed as boundary fences shall be wood as determined by  
21 the ACC, it being the intent of the ACC to require uniformity in new boundary fencing to the extent  
22 reasonably possible. No fences shall be allowed in the front yard of a Residential Lot. It is the  
23 intent of the Grantor that the ACC shall have the authority to regulate all new fences within Muir  
24 Woods Subdivision, Phases 2 & 3 to the end that the locations, type and size of each fence and  
25 the material used therein shall, to the extent possible, present a reasonably coordinated  
26 appearance. All rear fences on lots bordering the common park area will be provided by the  
27 Developer. No additional fencing will be allowed in this area. Screening devices may be installed  
28 so long as they are of a screen material so that sight lines are not impaired. Privacy screening  
29 fences may be installed; however, such fences must have ACC approval. All fencing adjacent to  
30 pathways and though residential Lots shall be fenced in accordance with Boise City micro-path  
31 fencing standards.  
32

33 Section 5.13 Irrigation Water: The Grantor shall provide facilities to deliver irrigation water to the  
34 lot line of each Lot via a pump from the pump station. Said facilities are owned and operated by  
35 Nampa Meridian Irrigation. To the extent that such is required by the rules of said Nampa Meridian  
36 Irrigation, maintenance and operation of the pump and pumping system shall be the responsibility  
37 and cost of the Owners Association, along with maintenance and care of the common and  
38 landscaped areas. Water use shall be on a rotation basis worked out among the users.  
39 Distribution system within each Lot shall be the responsibility of each homeowner; PROVIDED,  
40 HOWEVER, that an Owner of a Lot shall not be individually responsible for the maintenance or  
41 operation of any main or service line through said Lot. Irrigation water to the landscaped lots shall  
42 be included in the water rotation agreed to by the owners. PROVIDED, HOWEVER, that no  
43 guarantee is made as to when such irrigation water will be available and the amounts so available.  
44 Such availability and volume are dependent on when, and in what quantities, irrigation water  
45 becomes available through the servicing canal. The costs and expenses incurred for the operation  
46 and maintenance of the irrigation system serving the Lots shall be paid as provided in Article VII,  
47 below. Irrigation water is non-potable.  
48

1 Section 5.14 Sewer Disposal: Public sewers service Muir Woods Subdivision, Phases 2 & 3 and  
2 each Lot shall be connected to this public system.

3  
4 a. Monthly sewer charge must be paid after connecting to the Boise City public Sewer  
5 system.

6  
7 b.. Owner shall submit to inspection by either the Public Works Department or the Building  
8 Department whenever a subdivided lot is to be connected to the City sewage system and  
9 a building is constructed or installed on or over the owner's property.

10  
11 Section 5.15 Maintenance: The following provisions shall govern the maintenance of Lots and all  
12 improvements thereon:

13  
14 (a) each Owner of a Lot shall maintain all improvements located thereon in good and  
15 sufficient repair and shall keep the improvements thereon painted or stained, lawns cut,  
16 shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut and otherwise  
17 maintain the same in a neat and aesthetically pleasing condition. Pending the construction  
18 of improvements, each Owner shall keep the Lot in a neat condition and shall not permit  
19 an unreasonable accumulation of rubbish and debris and shall keep all weeds and other  
20 growths cut.

21  
22 (b) In the event all or any portion of the improvements on a Lot are damaged or destroyed  
23 by fire or other casualty, including any damage occurring as a result of the exercise of the  
24 power of eminent domain, or any transfer in lieu thereof, to an architectural whole in  
25 accordance with the requirements of this Declaration.

26  
27 (c) A building which is vacant for any reason shall be kept locked and the windows glazed  
28 in order to prevent entrance by vandals.

29  
30 (d) All structures, facilities, equipment, objects and conditions determined by the ACC, in  
31 its sole discretion, reasonably exercised to be offensive or which creates a visual blight  
32 within Muir Woods Subdivision, Phases 2 & 3, shall be removed or enclosed within a  
33 structure approved by the ACC or appropriately screened from public view.

34  
35 Section 5.16 Nuisances: No rubbish or debris of any kind shall be placed or permitted to  
36 accumulate upon any Lot within Muir Woods Subdivision, Phases 2 & 3 and no odor shall be  
37 permitted to arise therefrom so as to render any Lot unsanitary, unsightly, offensive or detrimental  
38 to any other Lot therein or in the vicinity thereof or to its occupants. No noise or other nuisance  
39 shall be permitted to exist or operate upon or from any Lot so as to be offensive or detrimental to  
40 any other lot within Muir Woods Subdivision, Phases 2 & 3, or in the vicinity thereof, or to its  
41 occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles,  
42 bells or other sound devices (other than security devices used exclusively for security purposes)  
43 shall be located, used or placed on any Lot within Muir Woods Subdivision, Phases 2 & 3 except  
44 for speakers in an outside living area i.e. Patio or Gazebo.

45  
46 Section 5.17 Boats, Campers and Other Vehicles: Any trailer, mobile home, truck larger than a  
47 standard pickup, motor home, boat, tractor, vehicle (other than automobiles), campers and garden  
48 or maintenance equipment, when not in actual use, shall be kept at all times in an enclosed

1 structure or screened from public view and at no time shall any said vehicles or equipment be  
2 parked or stored on a public or private right-of-way within Muir Woods Subdivision, Phases 2 & 3.  
3

4 Section 5.18 Exterior Energy Devices/Antennae: No energy production device including, but not  
5 limited to, generators of any kind and solar energy devices, or exterior antenna or dish for the  
6 reception of radio, television or other signal, shall be constructed or maintained on any Lot without  
7 prior written approval of the ACC, except for heat pumps and similar appliances shown on the plans  
8 approved by the ACC.  
9

10 Section 5.19 Minimum Area: No building intended for use as a single-family residence shall be  
11 erected, altered, placed or permitted to remain on any residential Lot, which building contains less  
12 than One Thousand Eight Hundred (1,800) square feet of living area. In the event the building  
13 intended for use as a single-family residence contains more than one story, the minimum square  
14 footage of the living areas shall be not less than Two Thousand Two Hundred (2,200) square feet  
15 and the minimum square footage of living areas of the first floor shall be not less than One  
16 Thousand Four Hundred (1,400) square feet. The square footage of living area shall be based on  
17 the interior living space at or above the grade of the Lot, exclusive of basements, porches, patios,  
18 and garage.  
19

20 Section 5.20 Construction Standards: The following standards and requirements shall be applicable  
21 to the construction and/or installation of any improvements on a residential Lot within Muir Woods  
22 Subdivision, Phases 2 & 3:  
23

24 (a) Excavation: Any excavation shall be performed in a workmanlike manner and the Lot  
25 kept free from debris. Each Owner shall be responsible for the repairing of any damage  
26 which may occur during the construction period to any road, mailbox, utility facility or other  
27 on-site or off-site improvement caused by the Owner or contractors employed by the  
28 Owner. Unless an Owner otherwise notifies the ACC in writing prior to the Owner's  
29 commencing of construction on a Lot, all on-site improvements shall be conclusively  
30 deemed to be in good working order and condition and any damages occurring thereto  
31 during the construction, shall be the responsibility of the Owner. All such repairs required  
32 hereunder shall be made immediately following the occurrence of the damage.  
33

34 (b) Utilities: The connection to all utility facilities shall be underground and shall be  
35 inspected and approved by the appropriate governmental entity having jurisdiction thereof  
36 and the company providing the utility service, if required. Utility meters shall be placed in  
37 an unobtrusive location and concealed behind fences or landscaping where possible.  
38

39 (c) Landscaping: as a general guideline for the landscaping of each Lot and as shall be  
40 shown on the landscape plan to be submitted to the ACC under Section 6.07(c), below, the  
41 front yard area of each Lot shall be landscaped with trees, shrubs, and ground cover, or  
42 utilized as entryways. Front yard landscaping must be installed within thirty days (30) from  
43 the time the dwelling is occupied unless weather permitting. Front yard landscaping must  
44 be maintained and watered. Subject to weather limitations, all front yard landscaping shall  
45 be completed within thirty (30) days after initial occupancy of the building and shall be the  
46 responsibility of the Builder to install yard landscaping.  
47

48 (d) Driveways: All driveways must be concrete in construction. Construction of the portions



1 of driveways which are behind the front line of the residential improvements on the property  
2 and which are screened from public view may be gravel or asphalt.

3  
4 (e) Maintenance During Construction: The following requirements shall apply during the  
5 construction of improvements on a Lot:

- 6  
7 1. All debris shall be removed from the Lot prior to each weekend;
- 8  
9 2. No materials shall be placed or kept on any adjoining Lot.
- 10  
11 3. Vehicles belonging to workmen or used in the construction of improvements  
12 shall not be parked in front of occupied residential dwellings or interfere with traffic  
13 on public streets:
- 14  
15 4. Utilities, including water, shall not be taken from any other Lot without the  
16 approval of the Owner thereof;

17  
18 (f) Time of Work: Any work or other activity in connection with the construction or  
19 installation of the improvements on a Lot shall be conducted on such days and at such  
20 times during the days as shall not constitute or result in an unreasonable nuisance or  
21 annoyance of neighboring Lots.

22  
23 (g) Roofs: The roof of each building on a Lot shall be covered with a minimum of twenty-five  
24 (25) year composition shingles, shakes, or tile and shall be approved by the ACC under  
25 Article VI, below.

26  
27 (H) Qualified Contractor: The construction of each Building on a Lot shall be performed by  
28 a qualified general contractor and reasonably experienced in the construction of residential  
29 dwelling units and related improvements. No Owner of a Lot shall construct a Building on  
30 a Lot, unless such Owner is a qualified general contractor approved by the ACC and  
31 possessing the experience provided above.

32  
33 5.21 Outbuildings: One outbuilding per lot shall be permitted. The design, location, color, and  
34 decor of such building must be of a construction similar to the primary building, and must be  
35 approved, in writing, by the ACC, before construction begins. Allow for fifteen (15) days for ACC  
36 review of plans and response.

37  
38 5.22 Start of Construction, etc.: Once a lot has been purchased, if a building permit has not been  
39 obtained by the Owner thereof, or so obtained, construction has not been commenced on said lot  
40 by the Owner thereof, within one year after the date of such purchase, or if construction is not  
41 diligently pursued by the Owner thereof after obtaining such permit and commencing construction,  
42 then and in that event the Grantor may re-purchase said lot from the Owner thereof for Eighty-Five  
43 Percent (85%) of the purchase price of such lot (determined by the actual purchase price to Owner  
44 at the time the lot was purchased by Owner or by the current purchase price, at the time of re-  
45 purchase, of similar lots in Muir Woods, whichever is lower). Grantor shall give Owner written  
46 notice of Grantor's intent to exercise such option to re-purchase, which notice shall set a date on  
47 which closing of such re-purchase shall occur, which date shall be not more than sixty (60) days  
48 from the date of the notice. Repurchase shall be paid in full at closing. Owner agrees to execute

1 any documents necessary to carry out said re-purchase, including any documents necessary to  
2 pay off any encumbrances on the premises.  
3

4 5.23 Storm Drainage Waters and Areas: All storm drainage facilities within common lots and  
5 easements of Muir Woods Subdivision, Phases 2 & 3 shall be operated and maintained in  
6 accordance with the operation manual dated September 13, 2000. The detention pond and  
7 surrounding areas are for the storage of storm drainage waters, and any person or entity using said  
8 area, including Owners and their guest, invitees, and so forth, do so at their own risk.  
9

## 10 ARTICLE VI - ARCHITECTURAL CONTROL COMMITTEE

11  
12 Section 6.01 Members of the Committee: The Architectural Control Committee (ACC) shall be  
13 comprised of at least three (3) persons, all of whom shall be appointed as herein provided. A  
14 member of the ACC shall hold office until he has resigned or has been removed, but in any event,  
15 until said Member's successor has been appointed. Members of the ACC may be removed at any  
16 time, with or without cause.  
17

18 Section 6.02 Appointment-Removal: The members of the ACC shall be: Walter R. Wanner; Lisa  
19 A. Wanner; and, Germain Tarrant. So long as the development company owns any property within  
20 the Muir Woods Subdivision, Phases 2 & 3, the above named persons shall be empowered to  
21 appoint all members of the ACC. When the development company owns none of the Property in  
22 Muir Woods Subdivision, Phases 2 & 3, the Owners by majority vote shall elect the members of  
23 the ACC. Upon that event, the ACC members may also serve as officers of the homeowners  
24 association. The ACC shall have the right, by a resolution in writing unanimously adopted, to  
25 designate one (1) of its members to take any action or perform any duties for and on behalf of the  
26 ACC. In the absence of such designation, the vote of any two (2) members of the ACC shall  
27 constitute an act of the ACC.  
28

29 Section 6.03 Non-Liability: Neither the ACC, nor any member thereof, or the Grantor, shall be liable  
30 to any Owner or any other person for any loss, damage or injury arising out of or connected with  
31 the performance by the ACC of its duties and responsibilities by reason of a mistake in judgement,  
32 negligence or nonfeasance in connection with the approval or disapproval or failure to approve an  
33 application. Every person who submits an application to the ACC for approval of plans and  
34 specifications agrees, by submission of such application, and every Owner or Occupant of an Lot  
35 agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the  
36 ACC, or any member thereof, or the Grantor to recover such damages.  
37

38 Section 6.04 Approval Required: No construction, alteration, modification, removal or destruction  
39 of any improvements of any nature whatsoever which materially alters the exterior appearance of  
40 the improvements on a Lot, shall be initiated or be permitted to continue or exist within Muir Woods  
41 Subdivision, Phases 2 & 3 without prior express written approval of the ACC.  
42

43 Section 6.05 Basis or Approval: approval by the ACC shall be based, among other things, on the  
44 adequacy of the Lot dimensions; conformity and use of external design with neighboring  
45 improvements; the effect of location and use of improvements on neighboring lots; the relationship  
46 of the improvements to topography, grade, finished ground elevation and landscaping of the Lot  
47 to that of neighboring lots; the proper facing of the main elevation with respect to nearby streets;

1 and the relation of floor elevations to flood elevations as defined by government entities.

2  
3 Section 6.06 Variances: The ACC may authorize variances from compliance with the requirements  
4 of any conditions and restrictions contained in this Declaration, or any prior approval when, in the  
5 sole discretion of the ACC, circumstances such as topography, natural obstruction, aesthetics or  
6 environmental consideration or hardship may so require. Such a variance must be evidenced in  
7 writing, signed by at least two (2) members of the ACC. If a variance is granted as provided herein,  
8 no violation of this Declaration or prior approval shall be deemed to have occurred with respect to  
9 the matter for which the variance was granted.

10  
11 Section 6.07 Application: To request ACC approval for the construction, alteration, modification,  
12 removal or demolition of any improvements within Muir Woods Subdivision, Phases 2 & 3, the  
13 Owner shall submit a written application in a form required by the ACC, which must be signed by  
14 the Owner and contain all information requested and be accompanied by other material hereafter  
15 provided. The ACC shall have the right to require an Owner to pay a fee, not to exceed Two  
16 Hundred Fifty Dollars and No Cents (\$250.00) to reimburse the ACC for any actual out-of-pocket  
17 expenses incurred by the ACC with respect to the review of an application, plans and specifications  
18 and/or its decision thereon. Normal applications for plan approval are on a no charge basis. All  
19 applications must contain, or have submitted therewith, the following material (collectively called  
20 "plans and specifications") prepared in accordance with acceptable architectural standards:

21  
22 (a) Site Plan: A site plan showing the location of the buildings(s) and all other structures  
23 and improvements, including fences and walls on the Lot, Lot drainage and all set backs  
24 and other pertinent information relating to the improvements.

25  
26 (b) Building Plan: A building plan which shall consist of preliminary or final blueprints,  
27 elevation drawings of the north, south, east and west sides, and detailed exterior  
28 specifications which shall be indicated, by sample, if required by the ACC, all exterior  
29 colors, materials and finishes, including roofing to be used.

30  
31 (c) Landscape Plan: A landscape plan for portions of the Lot to be landscaped which shall  
32 show location, type and size of trees, plants, ground cover, shrubs, berming and mounding,  
33 grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking  
34 areas and walkways.

35  
36 (d) Contractor: Such information concerning the qualifications of the general contractor  
37 selected by the Owner to construct the building and related improvements on the Lot as  
38 shall be reasonably requested by the ACC to permit it to determine whether contractor is  
39 qualified and possesses the experience required by Section 5.26(l) above.

40  
41 Section 6.08 Decision: Unless extended by mutual consent of the Owner and the ACC, the ACC  
42 shall render its decision with respect to an application within ten (10) days after receipt of a properly  
43 submitted application. The decision of the ACC can be in the form of an approval, a conditional  
44 approval or denial. A conditional approval shall set forth with particularity the conditions upon which  
45 the application is approved and denial shall state with particularity the reasons for such denial.

46  
47 Section 6.09 Other Responsibilities: Until the organization of a homeowner's association for Muir  
48 Woods Subdivision, Phases 2 & 3, the ACC shall have such other rights and responsibilities

1 necessary, required or convenient to carry out and enforce the provisions of their Declaration,  
2 including the right to bring suit in its name or the name of one or all of its members. The ACC shall  
3 have the right to purchase, with funds provided from assessments levied under Article VII, below,  
4 and keep in force a public liability insurance policy in an amount deemed reasonable by the ACC,  
5 insuring the Owners and the ACC from liability for bodily injury and/or property damage occurring  
6 on common area, provided that the failure of the ACC to purchase and/or keep in force such  
7 insurance shall not be grounds for the imposition of liability upon the members of the ACC.  
8

## 9 ARTICLE VII - ASSESSMENTS

10  
11 Section 7.01 Lots Subject to Assessment: The lots which are subject to assessment under the  
12 Article are all lots in Muir Woods Subdivision, Phases 2 & 3.  
13

14 Section 7.02 Covenant to Pay Assessments: Each Owner, by acceptance of a deed to a lot,  
15 covenants and agrees to pay, when due, the assessments provided for in this Article.  
16

17 Section 7.03 Assessment Lien: All assessments levied and assessed hereunder, together with  
18 interest, costs and reasonable attorney's fees, which may be incurred in collecting the same, shall  
19 be a charge on the land and shall be a continuing lien upon each lot within Muir Woods  
20 Subdivision, Phases 2 & 3 and shall also be the personal obligation of the Owner or such lot at the  
21 date the assessment becomes due and payable. The personal obligation for delinquent  
22 assessments shall not pass to an Owner's successors in title unless expressly assumed by them.  
23 The assessment lien created hereunder may be enforced in the same manner as provided in the  
24 statutes of the State of Idaho for the enforcement of liens and mortgages. The lien herein created  
25 shall at all time be junior and subordinate to the lien of the first Mortgage or Deed of Trust  
26 encumbering the lot.  
27

28 Section 7.04 Annual Assessments: Commencing in the calendar year in which the closing of the  
29 first sale of a residential Lot to an Owner occurs, each Lot (as specified in Section 7.01, above),  
30 within Muir Woods Subdivision, Phases 2 & 3 shall be assessed an amount determined as the  
31 initial fee and the amount determined as the annual fee, per year annually, provided however, that  
32 any Lot owned by the Grantor shall be assessed an assessment equal to fifty percent (50%) of the  
33 amount assessed against Lots owned by other Owners. If the Grantor pays all or any portion of  
34 the expenses for which the assessments are to be levied as provided in Section 7.07, below, in  
35 excess of the amount assessed to Lots owned by the Grantor, such excess amount so paid shall  
36 constitute a prepayment of assessments to become due and payable on the Lots owned by the  
37 Grantor within Muir Woods Subdivision, Phases 2 & 3. Any such assessment credit shall not inure  
38 to an Owner purchasing a Lot from the Grantor unless such person is the successor to substantially  
39 all of the interest of the Grantor in Muir Woods Subdivision, Phases 2 & 3. Each assessment shall  
40 be payable by an Owner to the ACC, or to such other party as the ACC shall direct, in advance or  
41 in arrears, and in such installments as the ACC shall determine.  
42

43 Sections 7.06 Interest and Costs: Any assessment against a Lot, if not paid when due, shall bear  
44 interest at an annual rate as shall be set by the ACC from time-to-time, or if none is so set, at an  
45 annual rate of fifteen percent (15%). Such interest shall commence on the date the assessment  
46 becomes due and payable. In addition to the interest charge, if an assessment is collected by the  
47 ACC with the assistance of an attorney, whether or not suit or action is filed, the Owner shall pay

1 to the ACC, reasonable attorney's fees incurred by the ACC and such may be awarded in a  
2 judgement against the Owner.

3  
4 Section 7.07 Purpose of Assessments - Duty of ACC: The ACC shall use all funds from the  
5 assessments paid by the Owners for the purpose of:

6  
7 (a) Maintaining, repairing, replacing, and otherwise in all respects caring for the landscaping  
8 and related improvements, including, but not limited to: the sprinkler system(s), located on  
9 the landscaping easement as shown on the subdivision plat for the Muir Woods  
10 Subdivision, Phases 2 & 3.

11  
12 (b) Maintaining, repairing, replacing, operating and otherwise in all respects caring for the  
13 irrigation water delivery system, any fencing, and the waste water courses within Muir  
14 Woods Subdivision, Phases 2 & 3 including, but not limited to: the pump and lines except  
15 where the obligation to maintain the line is imposed upon an Owner(s) by this Declaration.

16  
17 (c) Maintaining, repairing, replacing, insuring and otherwise in all respects operating and  
18 caring for the common and landscaped areas, if any, including the payments of taxes and  
19 other costs with respect thereto.

20  
21 The homeowners association shall have the obligation to maintain, repair, replace and otherwise  
22 in all respects care for said landscaping and irrigation systems.

23  
24 Section 7.08 Adjustment of Assessments: The ACC shall have the right to increase or decrease  
25 the amount of the annual assessment levied against the Lots within Muir Woods Subdivision,  
26 Phases 2 & 3, based on the actual and anticipated expenses of the homeowners association  
27 performing its obligations described in Section 7.07, above, including reasonable reserves for repairs  
28 and replacements.

29  
30 Section 7.09 Limited Assessments: The homeowners association shall have the right and the  
31 authority to incur costs and expenses for the maintenance and repair of any Lot, including the  
32 improvements on a Lot. If such maintenance, repair, cleaning, and/or upkeep is necessary, in the  
33 sole discretion of the homeowners association, to bring such Owner and/or Lot into compliance with  
34 the requirements of this Declaration, and if the Owner of said Lot has homeowners association  
35 backed or refused to perform the same within a reasonable time after written notice of the  
36 necessity thereof has been delivered by the homeowners association to said owner, the  
37 homeowners association shall have the right to perform or cause performance of the same and to  
38 levy a limited assessment against the lot owned by such owner, for the amount of the costs and  
39 expenses incurred by the homeowners association in connection therewith, including attorneys  
40 fees. The right of the homeowners association to incur costs and expenses with respect to a lot,  
41 and to secure repayment thereof by the levying of a limited assessment, shall also relate to the  
42 correction of violation of this Declaration which an Owner fails or refuses to correct within a  
43 reasonable time after written notice delivered to such Owner by the homeowners association.

44  
45 Section 7.10 Non-Exclusive Remedy: The right of the homeowners association to levy a limited  
46 assessment as described in Section 7.09, above, shall not be deemed the exclusive remedy of the  
47 homeowners association, and it may, in its sole discretion, without waiver of any other legal or  
48 equitable remedy, pursue enforcement of the lien of the limited assessment, collect the amount due

1 directly from the Owner responsible therefore, and/or pursue any other remedy available at law or  
2 equity. Nothing in this Declaration shall prohibit or limit the homeowners association or an Owner  
3 from pursuing any legal or equitable remedy for a violation of this Declaration.  
4

5 **ARTICLE VIII - MISCELLANEOUS**  
6

7 Section 8.01 Term: This Declaration and all covenants, conditions, restrictions, and easements  
8 contained herein shall run until December 31, 2020, unless amended hereafter provided. After  
9 December 31, 2020, said covenants, conditions, restrictions and easements shall automatically  
10 extend for successive periods of ten (10) years each, unless extinguished by a written instrument  
11 executed by the Owners of at least fifty one percent (51%) of the lots in Muir Woods Subdivision,  
12 Phases 2 & 3 and then only if such written instrument is recorded with the Ada County Recorder.  
13

14 Section 8.02 Amendment: This Declaration may be amended as follows:  
15

16 (A) By Grantor: Until title to a Lot within Muir Woods Subdivision, Phases 2 & 3 is conveyed  
17 by the Grantor to an Owner, this Declaration may be amended or terminated by the Grantor  
18 by recordation of a written instrument signed by the Grantor and acknowledged setting forth  
19 such amendment or termination as to such unconveyed Lot.  
20

21 (B) By Owners: Except where a greater percentage is required herein, the provisions of this  
22 Declaration, other than this Section, may be amended by an instrument in writing, signed  
23 and acknowledged by the Owners, including the Grantor, owning at least fifty one percent  
24 (51%) of the Lots within Muir Woods Subdivision, Phases 2 & 3, and such amendment  
25 shall be effective upon its recordation with the Ada County Recorder. Any amendment to  
26 this Section 8.02 shall require the vote or written consent of all Owners.  
27

28 Section 8.03 Non-Waiver: The failure of the Grantor or any Owner in any one or more instances  
29 to insist upon the strict performance of any of the covenants, conditions, restrictions, easements,  
30 or other provisions of this Declaration or to exercise any right or option contained herein, or to serve  
31 any notice or to institute any action, shall not be construed as a waiver or relinquishment for the  
32 future of such covenant, condition, restriction, easement or other provision, but the same shall  
33 remain in full force and effect.  
34

35 Section 8.04 Enforcement - Costs: This Declaration may be enforced by the ACC or by any Owner  
36 (including the Grantor) of a Lot. If suit or other action is filed to interpret or enforce this Declaration,  
37 or any provision thereof, the prevailing party shall be awarded reasonable attorney's fees, in  
38 addition to the costs and disbursements allowed by law, including the same with respect to an  
39 appeal.  
40

41 Section 8.05 Acceptance: Each Owner of a Lot, each purchase of a Lot under a contract of  
42 agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract  
43 of sale or agreement or option, accepts the same subject to all the covenants, conditions,  
44 restrictions, easements and other provisions set forth in this Declaration and agrees to be bound  
45 by the same.  
46

47 Section 8.06 Severability: Each of the provisions hereof shall be deemed independent and  
48 severable and the invalidity or unenforceability of any provision or portion thereof, shall not affect

1 the validity or enforceability of any other provision.  
2

3 Section 8.07 Interpretation: The provision of this Declaration shall be liberally construed to affect  
4 the purposes hereof and shall be construed and governed in accordance with the laws of the State  
5 of Idaho. The singular shall include the plural and the plural the singular, and the masculine,  
6 feminine or neuter shall include the masculine, feminine or neuter. All captions and titles are  
7 intended solely for convenience of reference and shall not affect that which is set forth in any of the  
8 provision hereof.  
9

## 10 ARTICLE IX - SOLAR ACCESS

### 11 9.1 Solar Access Definitions.

12 a. Exempt Tree: Any pre-existing vegetation as defined in hereafter, or any  
13 vegetation included on the list of solar friendly vegetation kept by the City of Boise  
14 City's Public Works and Community Planning and Development Departments.  
15

16 b. Front Lot Line: The line represented by the connection of the most distant  
17 corners of a Lot, including flag Lots, where said corners are in common with the  
18 boundary of a public or private road. For corner Lots, the front Lot line is  
19 designated on the plat.  
20

21 c. North Slope: The gradient, in percent slope, from the average finished grade of  
22 the front Lot line of the shade restricted Lot to the average finished grade of the  
23 solar Lot line of a solar Lot. The slope must be downward or decreasing in  
24 elevation from south to north.  
25

26 d. Restricted Vegetation: A tree or other vegetation which is either evergreen, or  
27 if deciduous, tends to retain its leaves late in the fall and/or drop them late in the  
28 spring, or has a dense branching pattern which generally tends to block a high level  
29 of the sun's rays during the heating season. The Boise City Public Works and the  
30 Community Planning and Development Departments have a list of "solar friendly"  
31 trees.  
32

33 e. Shade: That portion of the shadow cast by the shade point of a structure or  
34 vegetation which exceeds a 11.5 foot fence at the solar Lot line at solar noon,  
35 January 21.  
36

37 f. Shade Point: That part of a structure, tree, or other object, on a shade restricted  
38 Lot, which casts the longest shadow (the most northerly shadow) when the sun is  
39 due south on January 21st at an altitude of twenty six degrees (26°) above the  
40 horizon, except a shadow caused by a narrow object such as a chimney, antenna,  
41 utility pole, wire, or the like.  
42

43 g. Shade Point Height: The vertical distance or height measured from the average  
44  
45  
46  
47  
48

1 elevation at the solar Lot line to the shade point. If the shade point is located at the  
2 north end of a ridge line of a structure oriented within forty five degrees (45°) of a  
3 geodetic east-west line with a pitch which is flatter than six (6) feet (vertical) in  
4 twelve (12) feet (horizontal), the shade point will be the cave of the roof. If such a  
5 roof has a pitch which is six (6) feet in twelve (12) feet or steeper, the shade point  
6 will be the peak of the roof.  
7

8 h. Shade Restricted Lot: Any Lot within the subdivision that is southerly of and  
9 adjacent to a solar Lot. These Lots have some restriction on vegetation types and  
10 structure height.  
11

12 i. Solar Friendly Vegetation: A tree or other vegetation which is included on the  
13 solar friendly vegetation list kept by the City of Boise City's Public Works and  
14 Community Planning and Development Departments.  
15

16 j. Solar Lot: A lot which has the following characteristics:  
17

18 1. The front Lot line is oriented within thirty degrees (30°) of a  
19 geodetic east-west bearing;  
20

21 2. The Lot to the immediate south has a north slope of ten percent  
22 (10%) or less;  
23

24 3. The Lot is intended for the construction of an above ground  
25 inhabited structure.  
26

27 k. Solar Lot Line: The most southerly boundary of a solar Lot; the line created by  
28 connecting the most southerly corners of the solar Lot.  
29

30 l. Solar Setbacks: The minimum distance, measured perpendicularly in a southerly  
31 direction, from the center of the solar Lot line to the shade point of a structure or to  
32 restricted vegetation based upon its height at maturity on the shade restricted Lot.  
33

## 34 9.2 Solar Access Covenants, Conditions, and Restrictions 35

36 a. Shade Restriction: Each Lot which is classified as a Shade Restricted Lot shall  
37 have the following restriction: any structure or restricted vegetation (solar unfriendly)  
38 cannot cast a shadow higher than an imaginary fence 11.5 feet above the solar Lot  
39 line on solar noon of January 21st when the sun is at an angle of twenty six degrees  
40 (26°) above the horizon. This sun angle at noon on January 21 causes structures,  
41 vegetation, and other objects to cast a shadow twice as long as their height. The  
42 height of the shade point of a structure on the shade restricted lot is limited to  
43 nineteen (19) feet at the fifteen (15) foot rear yard zoning setback in order that the  
44 11.5 foot high "solar fence" at the north property line of the shade restricted Lot is  
45 not exceeded. These standards assure that a structure built to the fifteen (15) foot  
46 rear yard zoning setback, on the solar Lot located to the north, will not be shaded  
47 more than four (4) feet above grade on its south wall on January 21 at solar noon.  
48



1 b. Pre-existing Vegetation: Restricted vegetation (solar unfriendly) which existed  
2 when the subdivision was platted is exempt from the provisions of these covenants,  
3 conditions, and restrictions. Any Lot which would be shaded beyond the allowed  
4 shade limits by such vegetation shall not be classified as a Solar Lot.

5  
6 c. Slope Exemption: Any Lot with an average finished grade slope along the north-  
7 south or east-west Lot dimension (depending on which is the relevant frontage  
8 direction of the Lot) greater than ten percent (10%) shall be exempt from the terms  
9 and conditions of these covenants, conditions, and restrictions.

10  
11 d. Solar Setbacks: Each separate structure and item of restricted vegetation shall  
12 have a solar setback dependent on, and calculated by, its shade point height. All  
13 shade restricted Lots shall have the following solar setback: Solar Setback (in feet)  
14 = [Shade Point Height (in feet) - 11.5 feet] times two (2).

15  
16 e. Solar Friendly Vegetation: Certain vegetation is considered "solar friendly" and  
17 is not restricted in regards to location on individual Lots. Such vegetation is  
18 deciduous, dropping its leaves during early fall and regaining them during late  
19 spring. Such vegetation also has a sparse branching which allows a high level of  
20 sunlight to penetrate through. This growth cycle produces shading during summer  
21 but allows sun to penetrate during winter. A list of solar friendly trees is maintained  
22 by the City of Boise City Public Works and the Community Planning and  
23 Development Departments.

### 24 25 9.3 Solar Access Rights, Duties, and Responsibilities

26  
27 a. Solar Access Rights: The owner(s) of solar Lots shall have a right to  
28 unobstructed solar access in accordance with these covenants, conditions, and  
29 restrictions.

30  
31 b. Solar Access Duties: The owners of any Lot shall not build, install, or otherwise  
32 allow, a structure or non-solar friendly tree on that Lot to cast more shade at their  
33 solar Lot line than permitted under these solar access covenants, restrictions, and  
34 conditions.

### 35 36 9.4 Miscellaneous

37  
38 a. Enforcement and Non-Waiver: Any Lot owner, or the Association, whether or  
39 not directly affected, shall have the right to enforce, by any proceeding at law or in  
40 equity, any violation or threatened violation of a provision of this document. The  
41 failure of any person to enforce any covenant or restriction herein contained shall  
42 not be deemed a waiver of the rights granted herein. Waiver of one breach does  
43 not constitute waiver of any other breach. There can be no waiver of the right to  
44 solar access created by this document.

45  
46 b. Severability: Invalidation of any one of these covenants or restrictions by  
47 judgment or court order shall in no way affect any other provisions, which shall  
48 remain in full force and effect.

1 c. Duration and Applicability to Successors: The covenants, conditions, and  
2 restrictions set forth in this section of this document shall be in effect perpetually,  
3 shall run with the land and shall inure to the benefit of and be binding upon the  
4 declarant hereof and all Lot owners and their successors in interest.  
5

6 d. Amendment: The provisions of this section of this document may be amended  
7 by the action of the owners of a majority of the Lots affected by such amendment,  
8 provided that the amendment does not reduce the amount of solar access  
9 protection provided to the Lots and the amendment is approved by the City of Boise  
10 City.  
11

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36

THIS AMENDED DECLARATION IS SIGNED AND ACKNOWLEDGED BY THE OWNERS, INCLUDING THE GRANTOR, OWNING AT LEAST FIFTY ONE PERCENT (51%) OF THE LOTS WITHIN Muir Woods Subdivision, Phases 2 & 3.

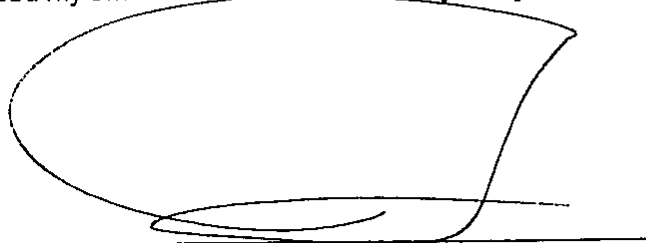
W&S INVESTMENTS, INC., GRANTOR/OWNER

  
Walter R. Wanner, Director

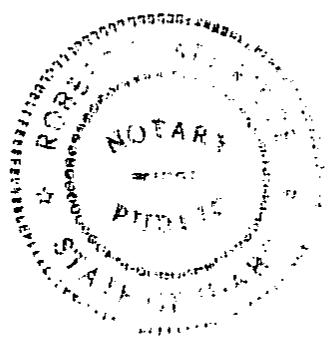
STATE OF IDAHO            )  
  ) ss.  
COUNTY OF ADA         )

On this September 14, 2000, before me, Robert L. Aldridge, a Notary Public in and for the State of Idaho, personally appeared Walter R. Wanner, known to me or identified to me or proved to me on the basis of satisfactory evidence to be the Director of W&S Investments, Inc., and to be the person whose name is attached to the foregoing instrument and acknowledged to me that said corporation executed the same.

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



Notary Public for Idaho  
Residing at Meridian  
My Commission expires on 7-1-2006



\*LIGHT SEAL



103067344

**ROBERT L. ALDRIDGE, CHARTERED**  
Attorney at Law  
1209 North Eighth Street  
Boise, Idaho 83702-4297  
Telephone: (208) 336-9880  
Fax: (208) 336-9882  
Attorney for W&S Investments, Inc.

**DECLARATIONS ESTABLISHING COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR MUIR WOODS SUBDIVISION,  
PHASES 2, 3 & 4  
AMENDED**

**ARTICLE I- RECITALS**

1  
2  
3 WHEREAS, the undersigned (hereafter "Grantor") is the owner of certain land in Ada County, Idaho  
4 more particularly described as Muir Woods Subdivision, Phases 2, 3, & 4 (hereafter "Property");  
5

6 WHEREAS, the Property shall be developed as defined in the ordinances of Ada County, Idaho,  
7 for residential uses.  
8

9 WHEREAS, the Grantor desires to subject the Property to the covenants, conditions, restrictions,  
10 easements, reservations, limitations and equitable servitude herein set forth to insure the proper  
11 design, development, improvement and use of the Property by the Grantor and all other persons  
12 or entities who may subsequently acquire an interest in the Property.  
13

**ARTICLE II - DECLARATIONS**

14  
15  
16 The Grantor hereby declares that the Property described on Exhibit A, and each lot, tract or parcel  
17 thereof (hereafter called "Lot" unless specified to the contrary), in and shall be held, sold,  
18 conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the  
19 following covenants, conditions, restrictions, easements, reservations, limitations and equitable  
20 servitude (hereafter collectively called "covenants and restrictions"), all of which are declared and  
21 agreed to be in furtherance of a general plan for the protection, maintenance, subdivision,  
22 improvement and sale of Muir Woods Subdivision, Phases 2, 3, & 4 and each Lot therein, and to  
23 enhance the value, desirability and attractiveness thereof. The covenants and conditions set forth  
24 herein shall run with the land and each estate therein and shall be binding upon all persons having  
25 or acquiring any right, title or interest in Muir Woods Subdivision, Phases 2, 3, & 4 or any Lot  
26 therein; and shall inure to the benefit of and be binding upon the Grantor and each Owner; and  
27 each successor in interest of each, and may be enforced by the Grantor and by any Owner, as  
28 hereafter provided.  
29

30 Notwithstanding the foregoing, no provision of this Declaration shall be construed or enforced to  
31 prevent or limit the Grantor's right to complete development of Muir Woods Subdivision, Phases

1 2, 3, & 4 in accordance with the plan therefor as the same exists or may be modified from time to  
2 time by the Grantor, nor obligate the Grantor to complete the development of Muir Woods  
3 Subdivision, Phases 2, 3, & 4 except as expressly provided herein, nor prevent normal construction  
4 activities during the construction of improvements upon any Lot in Muir Woods Subdivision, Phases  
5 2, 3, & 4. No development or construction activities shall be deemed to constitute a nuisance or  
6 violation of this Declaration by reason of noise, dust, presence of vehicles or construction  
7 machinery, erection of temporary structures, posting of signs or similar activities, provided the  
8 same are actively, efficiently and expeditiously pursued to completion. In the event any dispute  
9 concerning the foregoing shall arise, a temporary waiver of the applicable provision(s) of this  
10 Declaration may be granted by the Architectural Control Committee (ACC), provided that such  
11 waiver shall be for reasonable period of time. Any such waiver need not be recorded and shall not  
12 constitute an amendment of this Declaration.

13  
14 The recording of the Plat by the Developer/Owner shall be deemed and construed as a request for  
15 annexation of its property to the corporate limits of Boise City. Such request and consent shall be  
16 binding on all subsequent Owners/Developers of Developer's property.

17  
18 Developer/Owner of this subdivision, or lot or lots within the subdivision, shall and hereby does vest  
19 in Boise City the right and power to bring all actions against the Owner of the premises, or any part  
20 thereof, for the collecting of any charges then required and to enforce the conditions herein stated.  
21 This covenant shall run with the land.

22  
23 Until such time as annexation occurs, provision for the use, control, and maintenance of street  
24 lights shall be made through covenants, Home Owners Association Bylaws, and other similar deed  
25 restrictions.

### 26 27 ARTICLE III - DEFINITIONS

28  
29 As used in this Declaration, unless the context otherwise specifies or requires, the following words  
30 and phrases shall be defined as follows:

31  
32 ACC: The Architectural Control Committee for Muir Woods Subdivision, Phases 2, 3, & 4.

33  
34 Building: A structure constructed on a Lot, on a temporary or permanent basis, and unless  
35 specified to the contrary, shall include all other appurtenances and improvements thereto or used  
36 in connection therewith.

37  
38 Declaration: This instrument as it may be amended from time to time.

39  
40 Development: The Project to be undertaken by the Grantor resulting in the improvement of Muir  
41 Woods Subdivision, Phases 2, 3, & 4, including landscaping, amenities, construction of roadways,  
42 utility services and other improvements, as elected by the Grantor.

43  
44 Home Owners Association: an organization formed to operate the irrigation system landscaped  
45 areas and any common areas which lie within the boundaries of Muir Woods Subdivision, Phases  
46 2, 3, & 4 and any other duties as provided for in the Articles of Incorporation.

1 Subdivision: The whole of the land described on Exhibit A, which describes the Lots covered by  
2 these Declarations. A reference in this Declaration to Muir Woods Subdivision, Phases 2, 3, & 4  
3 shall include all Lots shown on the Plat for Muir Woods Subdivision, Phases 2, 3, & 4.  
4

5 Grantor: The undersigned Owners of the land described on Exhibit A.  
6

7 Improvements: all structures and appurtenances thereto of all kinds and types, including, but not  
8 limited to: buildings, roads, driveways, sidewalks, walkways, walls, fences, screens landscaping,  
9 poles, signs, and lighting. Improvements shall not include those items which are located totally on  
10 the interior of a building and cannot be readily observed when outside thereof.  
11

12 Lot: A portion of Muir Woods Subdivision, Phases 2, 3, & 4 which is a legally described tract or  
13 parcel of land within Muir Woods Subdivision, Phases 2, 3, & 4 or which is designated as a lot on  
14 any recorded subdivision plat relating to Muir Woods Subdivision, Phases 2, 3, & 4.  
15

16 Mortgage: Any mortgage or deed of trust or other hypothecation of land, located in Muir Woods  
17 Subdivision, Phases 2, 3, & 4, to secure performance of an obligation. Unless otherwise  
18 specifically provided, the reference to a "Mortgage" in this Declaration shall be limited to "first  
19 Mortgage", including a "First Deed of Trust".  
20

21 Occupant: Any person, association, corporation, or other entity who or which is an Owner, or has  
22 leased, rented, been licensed or is otherwise legally entitled to occupy and use any building or  
23 improvement on a Lot, whether or not such right is exercised, including their heirs, personal  
24 representatives, successors and assigns.  
25

26 Owner: A person or persons or other legal entity or entities, including Grantor, holding fee simple  
27 title to a lot in Muir Woods Subdivision, Phases 2, 3, & 4 including contract sellers, but excluding  
28 those having such interest merely as security for the performance of an obligation, but including  
29 an Mortgagee (of and priority) or other security holder, provided said Mortgagee or other security  
30 holder is in actual possession of a Lot as a result of foreclosure or otherwise, and any person  
31 taking title through such mortgagee or other security holder by purchase at foreclosure sale or  
32 otherwise.  
33

34 Plat: A final subdivision plat covering any real property in Muir Woods Subdivision, Phases 2, 3,  
35 & 4, as recorded in the office of the County Recorder, Ada County, Idaho, as the same may be  
36 amended by duly recorded amendments thereto.  
37

38 Residential Lot: A Lot for the use of which shall be for a single-family residential purpose and uses  
39 incidental thereto as limited by this Declaration or a townhouse lot as described in the plat of Muir  
40 Woods Subdivision, Phases 2, 3, & 4.  
41

#### 42 ARTICLE IV - PURPOSE 43

44 Muir Woods Subdivision, Phases 2, 3, & 4 is hereby made subject to the covenants and restrictions  
45 contained in this Declaration, all of which shall be deemed to be imposed upon and run with the  
46 land and each and every Lot and parcel thereof, and shall apply to each and every Owner and  
47 Occupant thereof and their respective successors in interest, to insure proper design, development,

1 improvement, use and maintenance of Muir Woods Subdivision, Phases 2, 3, & 4 for the purpose  
2 of:  
3

4 (a) Insuring Owners and Occupants of building of quality of design, development,  
5 improvement, use and maintenance as shall protect and enhance the investment and use  
6 of all Lots and improvements.  
7

8 (b) Prevention of the erection in Muir Woods Subdivision, Phases 2, 3, & 4 of improvements  
9 of improper design or construction with improper or unsuitable materials or with improper  
10 quality and method of construction.  
11

12 (c) Encouraging and assuring the erection of high quality and attractive improvements  
13 appropriately located within Muir Woods Subdivision, Phases 2, 3, & 4.  
14

15 (d) Securing and maintaining proper set-backs from streets and adequate free spaces  
16 between improvements.  
17

18 (e) Designating and maintaining open space areas to maintain and enhance the  
19 environment.  
20

## 21 ARTICLE V - PERMITTED USES

22  
23 Section 5.01 Use: The Lots within Muir Woods Subdivision, Phases 2, 3, & 4 shall be used for  
24 residential purposes only.  
25

26 Section 5.02 Approval of Use and Plans: No improvements shall be built, constructed, erected,  
27 placed or materially altered within Muir Woods Subdivision, Phases 2, 3, & 4 after the date of this  
28 Declaration, unless and until the plans, specification, and site plan therefor have been reviewed in  
29 advance and approved by the ACC in accordance with the provisions of Article VI, below.  
30

31 Section 5.03 Prohibited Buildings: No trailer or other vehicle, tent, shack, garage, accessory  
32 building or out building on a Lot shall be used as a temporary or permanent residence.  
33

34 Section 5.04 Setbacks-Residential Lots: Any building constructed on a residential Lot shall comply  
35 with the following minimum setbacks:  
36

37 Front Lot Line	Twenty-five Feet (25')
38 Rear Lot Line	Fifteen Feet (15')
39 Side Lot Line	Five feet (5')

40  
41 PROVIDED, HOWEVER, that the following special terms and conditions regarding front line  
42 setbacks shall apply:  
43

44 a. For Block 1, Lots 3-19, inclusive, the front lot line set backs shall be twenty-five (25) feet  
45 for curved or radius driveways, or thirty (30) feet for straight approach driveways;  
46

47 b. For all lots, the maximum width of concrete driveways at the end contiguous to the edge

1 of the sidewalk bordering the front lot line shall not exceed thirty (30) feet.

2  
3 Any variance to setbacks must have ACC written approval.

4  
5 As used herein and elsewhere in this Declaration, "front yard" shall mean that area on a residential  
6 Lot from the right-of-way line, as shown on the Plat, to a line created by the front of the residential  
7 dwelling on the Lot extended to each side lot line.

8  
9 Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the  
10 governmental entity having jurisdiction over Muir Woods Subdivision, Phases 2, 3, & 4 require  
11 setbacks different than those provided herein, the more restrictive shall control.

12  
13 Section 5.05 Easements: There is hereby reserved for the use and benefit of the Grantor and  
14 granted for the use and benefit of each Lot, and benefit of each Owner and Occupant and their  
15 successors and assigns, for the purposed incident to such use, development, and maintenance of  
16 Muir Woods Subdivision, Phases 2, 3, & 4, an easement(s) for the installation and maintenance  
17 of public utility facilities of all kinds, including radio, television and transmission cables, the  
18 easements designated on the recorded Plat.

19  
20 Section 5.06 Commercial Use: Except for the Lots within any area designated in the  
21 Comprehensive Plan for Boise City as commercial usage, no Lot shall be used at any time for  
22 commercial or business purposes except for uses which shall be conducted and maintained solely  
23 within a residential dwelling unit located on a Lot, and which qualify for a home occupation permit,  
24 however denominated. Provided, however, that no signs relating to said business activity shall be  
25 displayed where visible from any public or private road within Muir Woods Subdivision, Phases 2,  
26 3, & 4 and, provided further, that the principal use of each Lot shall be as provided for in Section  
27 5.01 above. Notwithstanding the foregoing, the Grantor, or persons authorized by the Grantor, may  
28 use one or more residential Lot(s) for development and sales activities relating to Muir Woods  
29 Subdivision, Phases 2, 3, & 4, model homes or real estate marketing and sales. These  
30 Declarations may be amended in the future to address the commercial usage of such Lots as are  
31 within the aforesaid Comprehensive Plan designated area for such usage.

32  
33 Section 5.07 Street and Other Lighting: Exterior lighting and interior lights reflecting outside shall  
34 be placed in such a manner which will minimize glare and excessive light spillage onto neighboring  
35 Lots. Until annexation occurs, all exterior public street lights shall be maintained and operated by  
36 the Association.

37  
38 Section 5.08 Animals/Pets. No animals, birds, insects, pigeons, poultry or livestock shall be kept  
39 on the Property. No swine or goats will be permitted. Up to two (2) domesticated animals such  
40 as dogs or cats, or other household pets which do not unreasonably bother or constitute a nuisance  
41 to others shall be allowed. Without limiting the generality of the foregoing, consistent and /or  
42 chronic barking by dogs shall be considered a nuisance. In the event an Owner constructs or  
43 maintains a kennel or other restraining area upon a Lot, such shall: (1) be located on a Lot in  
44 manner to avoid an endangerment of or nuisance to adjacent Lot owners and , (2) at all times be  
45 kept in a clean and odor-free condition.

46  
47 Section 5.09 Drilling and Exploration: No oil exploration or development of any kind or nature of  
48 mining exploration, or any structures in connection therewith shall be permitted to be erected,



1 maintained or used on any Lot and no minerals shall be permitted to be mined or extracted on any  
2 Lot.

3  
4 Section 5.10 Signs: No commercial billboard or advertising shall be displayed to the public view on  
5 or from any Lot. Owners may advertise a dwelling unit and Lot for sale by displaying a single, neat  
6 and reasonably sized sign on a Lot. Other temporary signs advertising the name of the builder or  
7 the name of the institution providing financing may be displayed on a Lot during the construction  
8 of improvements. All lighted, moving or flashing signs for any purpose are prohibited.

9  
10 Section 5.11 Subdividing: Except as specifically provided in this Declaration to the contrary, no Lot  
11 may be further subdivided, nor may any easement or other interest therein less than the whole be  
12 conveyed by the Owner thereof; provided, however, that nothing herein shall be deemed to prevent  
13 an Owner from transferring or selling a Lot to more than one person to be held by them as tenants  
14 in common, joint tenants, tenants by the entirety or as community property or require the approval  
15 of the ACC.

16  
17 Section 5.12 Fences: No fence of any kind shall be constructed on any Lot unless the plans and  
18 specification therefor, including the location, material and color thereof, have been approved in  
19 writing by the ACC prior to construction or installation. No fence or hedge located on a Lot shall  
20 have a height greater than six (6) feet above the surface of the ground upon which it is located.  
21 The construction or maintenance of spite fences or spite trees or shrubs shall be prohibited on all  
22 Lots. All fences shall be constructed in a substantial manner and shall be maintained at all times  
23 in good repair. All new fences constructed as boundary fences shall be wood as determined by  
24 the ACC, it being the intent of the ACC to require uniformity in new boundary fencing to the extent  
25 reasonably possible. No fences shall be allowed in the front yard of a Residential Lot. It is the  
26 intent of the Grantor that the ACC shall have the authority to regulate all new fences within Muir  
27 Woods Subdivision, Phases 2, 3, & 4 to the end that the locations, type and size of each fence and  
28 the material used therein shall, to the extent possible, present a reasonably coordinated  
29 appearance. All rear fences on lots bordering the common park area will be provided by the  
30 Developer. No additional fencing will be allowed in this area. Screening devices may be installed  
31 so long as they are of a screen material so that sight lines are not impaired. Privacy screening  
32 fences may be installed; however, such fences must have ACC approval. All fencing adjacent to  
33 pathways and though residential Lots shall be fenced in accordance with Boise City micro-path  
34 fencing standards.

35  
36 Section 5.13 Irrigation Water: The Grantor shall provide facilities to deliver irrigation water to the  
37 lot line of each Lot via a pump from the pump station. Said facilities are owned and operated by  
38 Nampa Meridian Irrigation. To the extent that such is required by the rules of said Nampa Meridian  
39 Irrigation, maintenance and operation of the pump and pumping system shall be the responsibility  
40 and cost of the Owners Association, along with maintenance and care of the common and  
41 landscaped areas. Water use shall be on a rotation basis worked out among the users.  
42 Distribution system within each Lot shall be the responsibility of each homeowner; PROVIDED,  
43 HOWEVER, that an Owner of a Lot shall not be individually responsible for the maintenance or  
44 operation of any main or service line through said Lot. Irrigation water to the landscaped lots shall  
45 be included in the water rotation agreed to by the owners. PROVIDED, HOWEVER, that no  
46 guarantee is made as to when such irrigation water will be available and the amounts so available.  
47 Such availability and volume are dependent on when, and in what quantities, irrigation water  
48 becomes available through the servicing canal. The costs and expenses incurred for the operation

1 and maintenance of the irrigation system serving the Lots shall be paid as provided in Article VII,  
2 below. Irrigation water is non-potable.

3  
4 Section 5.14 Sewer Disposal: Public sewers service Muir Woods Subdivision, Phases 2, 3, & 4 and  
5 each Lot shall be connected to this public system.

6  
7 a. Monthly sewer charge must be paid after connecting to the Boise City public Sewer  
8 system.

9  
10 b.. Owner shall submit to inspection by either the Public Works Department or the Building  
11 Department whenever a subdivided lot is to be connected to the City sewage system and  
12 a building is constructed or installed on or over the owner's property.

13  
14 Section 5.15 Maintenance: The following provisions shall govern the maintenance of Lots and all  
15 improvements thereon:

16  
17 (a) each Owner of a Lot shall maintain all improvements located thereon in good and  
18 sufficient repair and shall keep the improvements thereon painted or stained, lawns cut,  
19 shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut and otherwise  
20 maintain the same in a neat and aesthetically pleasing condition. Pending the construction  
21 of improvements, each Owner shall keep the Lot in a neat condition and shall not permit  
22 an unreasonable accumulation of rubbish and debris and shall keep all weeds and other  
23 growths cut.

24  
25 (b) In the event all or any portion of the improvements on a Lot are damaged or destroyed  
26 by fire or other casualty, including any damage occurring as a result of the exercise of the  
27 power of eminent domain, or any transfer in lieu thereof, to an architectural whole in  
28 accordance with the requirements of this Declaration.

29  
30 (c) A building which is vacant for any reason shall be kept locked and the windows glazed  
31 in order to prevent entrance by vandals.

32  
33 (d) All structures, facilities, equipment, objects and conditions determined by the ACC, in  
34 its sole discretion, reasonably exercised to be offensive or which creates a visual blight  
35 within Muir Woods Subdivision, Phases 2, 3, & 4, shall be removed or enclosed within a  
36 structure approved by the ACC or appropriately screened from public view.

37  
38 Section 5.16 Nuisances: No rubbish or debris of any kind shall be placed or permitted to  
39 accumulate upon any Lot within Muir Woods Subdivision, Phases 2, 3, & 4 and no odor shall be  
40 permitted to arise therefrom so as to render any Lot unsanitary, unsightly, offensive or detrimental  
41 to any other Lot therein or in the vicinity thereof or to its occupants. No noise or other nuisance  
42 shall be permitted to exist or operate upon or from any Lot so as to be offensive or detrimental to  
43 any other lot within Muir Woods Subdivision, Phases 2, 3, & 4, or in the vicinity thereof, or to its  
44 occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles,  
45 bells or other sound devices (other than security devices used exclusively for security purposes)  
46 shall be located, used or placed on any Lot within Muir Woods Subdivision, Phases 2, 3, & 4 except  
47 for speakers in an outside living area i.e. Patio or Gazebo.

1 Section 5.17 Boats, Campers and Other Vehicles: Any trailer, mobile home, truck larger than a  
2 standard pickup, motor home, boat, tractor, vehicle (other than automobiles), campers and garden  
3 or maintenance equipment, when not in actual use, shall be kept at all times in an enclosed  
4 structure or screened from public view and at no time shall any said vehicles or equipment be  
5 parked or stored on a public or private right-of-way within Muir Woods Subdivision, Phases 2, 3,  
6 & 4.  
7

8 Section 5.18 Exterior Energy Devices/Antennae: No energy production device including, but not  
9 limited to, generators of any kind and solar energy devices, or exterior antenna or dish for the  
10 reception of radio, television or other signal, shall be constructed or maintained on any Lot without  
11 prior written approval of the ACC, except for heat pumps and similar appliances shown on the plans  
12 approved by the ACC.  
13

14 Section 5.19 Minimum Area: No building intended for use as a single-family residence shall be  
15 erected, altered, placed or permitted to remain on any residential Lot, which building contains less  
16 than One Thousand Eight Hundred (1,800) square feet of living area. In the event the building  
17 intended for use as a single-family residence contains more than one story, the minimum square  
18 footage of the living areas shall be not less than Two Thousand Two Hundred (2,200) square feet  
19 and the minimum square footage of living areas of the first floor shall be not less than One  
20 Thousand Four Hundred (1,400) square feet. The square footage of living area shall be based on  
21 the interior living space at or above the grade of the Lot, exclusive of basements, porches, patios,  
22 and garage.  
23

24 Section 5.20 Construction Standards: The following standards and requirements shall be applicable  
25 to the construction and/or installation of any improvements on a residential Lot within Muir Woods  
26 Subdivision, Phases 2, 3, & 4:  
27

28 (a) Excavation: Any excavation shall be performed in a workmanlike manner and the Lot  
29 kept free from debris. Each Owner shall be responsible for the repairing of any damage  
30 which may occur during the construction period to any road, mailbox, utility facility or other  
31 on-site or off-site improvement caused by the Owner or contractors employed by the  
32 Owner. Unless an Owner otherwise notifies the ACC in writing prior to the Owner's  
33 commencing of construction on a Lot, all on-site improvements shall be conclusively  
34 deemed to be in good working order and condition and any damages occurring thereto  
35 during the construction, shall be the responsibility of the Owner. All such repairs required  
36 hereunder shall be made immediately following the occurrence of the damage.  
37

38 (b) Utilities: The connection to all utility facilities shall be underground and shall be  
39 inspected and approved by the appropriate governmental entity having jurisdiction thereof  
40 and the company providing the utility service, if required. Utility meters shall be placed in  
41 an unobtrusive location and concealed behind fences or landscaping where possible.  
42

43 (c) Landscaping: as a general guideline for the landscaping of each Lot and as shall be  
44 shown on the landscape plan to be submitted to the ACC under Section 6.07(c), below, the  
45 front yard area of each Lot shall be landscaped with trees, shrubs, and ground cover, or  
46 utilized as entryways. Front yard landscaping must be installed within thirty days (30) from  
47 the time the dwelling is occupied unless weather permitting. Front yard landscaping must  
48 be maintained and watered. Subject to weather limitations, all front yard landscaping shall

1 be completed within thirty (30) days after initial occupancy of the building and shall be the  
2 responsibility of the Builder to install yard landscaping.

3  
4 (d) Driveways: All driveways must be concrete in construction. Construction of the portions  
5 of driveways which are behind the front line of the residential improvements on the property  
6 and which are screened from public view may be gravel or asphalt.

7  
8 (e) Maintenance During Construction: The following requirements shall apply during the  
9 construction of improvements on a Lot:

- 10 1. All debris shall be removed from the Lot prior to each weekend;
- 11 2. No materials shall be placed or kept on any adjoining Lot.
- 12 3. Vehicles belonging to workmen or used in the construction of improvements  
13 shall not be parked in front of occupied residential dwellings or interfere with traffic  
14 on public streets;
- 15 4. Utilities, including water, shall not be taken from any other Lot without the  
16 approval of the Owner thereof;
- 17
- 18
- 19
- 20
- 21

22 (f) Time of Work: Any work or other activity in connection with the construction or  
23 installation of the improvements on a Lot shall be conducted on such days and at such  
24 times during the days as shall not constitute or result in an unreasonable nuisance or  
25 annoyance of neighboring Lots.

26 (g) Roofs: The roof of each building on a Lot shall be covered with a minimum of twenty-five  
27 (25) year composition shingles, shakes, or tile and shall be approved by the ACC under  
28 Article VI, below.

29 (H) Qualified Contractor: The construction of each Building on a Lot shall be performed by  
30 a qualified general contractor and reasonably experienced in the construction of residential  
31 dwelling units and related improvements. No Owner of a Lot shall construct a Building on  
32 a Lot, unless such Owner is a qualified general contractor approved by the ACC and  
33 possessing the experience provided above.

34  
35  
36  
37 5.21 Outbuildings: One outbuilding per lot shall be permitted. The design, location, color, and  
38 decor of such building must be of a construction similar to the primary building, and must be  
39 approved, in writing, by the ACC, before construction begins. Allow for fifteen (15) days for ACC  
40 review of plans and response.

41  
42 5.22 Start of Construction, etc.: Once a lot has been purchased, if a building permit has not been  
43 obtained by the Owner thereof, or so obtained, construction has not been commenced on said lot  
44 by the Owner thereof, within one year after the date of such purchase, or if construction is not  
45 diligently pursued by the Owner thereof after obtaining such permit and commencing construction,  
46 then and in that event the Grantor may re-purchase said lot from the Owner thereof for Eighty-Five  
47 Percent (85%) of the purchase price of such lot (determined by the actual purchase price to Owner  
48 at the time the lot was purchased by Owner or by the current purchase price, at the time of re-

1 purchase, of similar lots in Muir Woods, whichever is lower). Grantor shall give Owner written  
2 notice of Grantor's intent to exercise such option to re-purchase, which notice shall set a date on  
3 which closing of such re-purchase shall occur, which date shall be not more than sixty (60) days  
4 from the date of the notice. Repurchase shall be paid in full at closing. Owner agrees to execute  
5 any documents necessary to carry out said re-purchase, including any documents necessary to  
6 pay off any encumbrances on the premises.  
7

8 **5.23 Storm Drainage Waters and Areas:** All storm drainage facilities within common lots and  
9 easements of Muir Woods Subdivision, Phases 2, 3, & 4 shall be operated and maintained in  
10 accordance with the operation manual dated September 13, 2000. The detention pond and  
11 surrounding areas are for the storage of storm drainage waters, and any person or entity using said  
12 area, including Owners and their guest, invitees, and so forth, do so at their own risk.  
13

#### 14 **ARTICLE VI - ARCHITECTURAL CONTROL COMMITTEE**

15  
16 **Section 6.01 Members of the Committee:** The Architectural Control Committee (ACC) shall be  
17 comprised of at least three (3) persons, all of whom shall be appointed as herein provided. A  
18 member of the ACC shall hold office until he has resigned or has been removed, but in any event,  
19 until said Member's successor has been appointed. Members of the ACC may be removed at any  
20 time, with or without cause.  
21

22 **Section 6.02 Appointment-Removal:** The members of the ACC shall be: Walter R. Wanner; Lisa  
23 A. Wanner; and, Germain Tarrant. So long as the development company owns any property within  
24 the Muir Woods Subdivision, Phases 2, 3, & 4, the above named persons shall be empowered to  
25 appoint all members of the ACC. When the development company owns none of the Property in  
26 Muir Woods Subdivision, Phases 2, 3, & 4, the Owners by majority vote shall elect the members  
27 of the ACC. Upon that event, the ACC members may also serve as officers of the homeowners  
28 association. The ACC shall have the right, by a resolution in writing unanimously adopted, to  
29 designate one (1) of its members to take any action or perform any duties for and on behalf of the  
30 ACC. In the absence of such designation, the vote of any two (2) members of the ACC shall  
31 constitute an act of the ACC.  
32

33 **Section 6.03 Non-Liability:** Neither the ACC, nor any member thereof, or the Grantor, shall be liable  
34 to any Owner or any other person for any loss, damage or injury arising out of or connected with  
35 the performance by the ACC of its duties and responsibilities by reason of a mistake in judgement,  
36 negligence or nonfeasance in connection with the approval or disapproval or failure to approve an  
37 application. Every person who submits an application to the ACC for approval of plans and  
38 specifications agrees, by submission of such application, and every Owner or Occupant of an Lot  
39 agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the  
40 ACC, or any member thereof, or the Grantor to recover such damages.  
41

42 **Section 6.04 Approval Required:** No construction, alteration, modification, removal or destruction  
43 of any improvements of any nature whatsoever which materially alters the exterior appearance of  
44 the improvements on a Lot, shall be initiated or be permitted to continue or exist within Muir Woods  
45 Subdivision, Phases 2, 3, & 4 without prior express written approval of the ACC.  
46

47 **Section 6.05 Basis or Approval:** approval by the ACC shall be based, among other things, on the

1 adequacy of the Lot dimensions; conformity and use of external design with neighboring  
2 improvements; the effect of location and use of improvements on neighboring lots; the relationship  
3 of the improvements to topography, grade, finished ground elevation and landscaping of the Lot  
4 to that of neighboring lots; the proper facing of the main elevation with respect to nearby streets;  
5 and the relation of floor elevations to flood elevations as defined by government entities.  
6

7 **Section 6.06 Variances:** The ACC may authorize variances from compliance with the requirements  
8 of any conditions and restrictions contained in this Declaration, or any prior approval when, in the  
9 sole discretion of the ACC, circumstances such as topography, natural obstruction, aesthetics or  
10 environmental consideration or hardship may so require. Such a variance must be evidenced in  
11 writing, signed by at least two (2) members of the ACC. If a variance is granted as provided herein,  
12 no violation of this Declaration or prior approval shall be deemed to have occurred with respect to  
13 the matter for which the variance was granted.  
14

15 **Section 6.07 Application:** To request ACC approval for the construction, alteration, modification,  
16 removal or demolition of any improvements within Muir Woods Subdivision, Phases 2, 3, & 4, the  
17 Owner shall submit a written application in a form required by the ACC, which must be signed by  
18 the Owner and contain all information requested and be accompanied by other material hereafter  
19 provided. The ACC shall have the right to require an Owner to pay a fee, not to exceed Two  
20 Hundred Fifty Dollars and No Cents (\$250.00) to reimburse the ACC for any actual out-of-pocket  
21 expenses incurred by the ACC with respect to the review of an application, plans and specifications  
22 and/or its decision thereon. Normal applications for plan approval are on a no charge basis. All  
23 applications must contain, or have submitted therewith, the following material (collectively called  
24 "plans and specifications") prepared in accordance with acceptable architectural standards:  
25

26 (a) **Site Plan:** A site plan showing the location of the buildings(s) and all other structures  
27 and improvements, including fences and walls on the Lot, Lot drainage and all set backs  
28 and other pertinent information relating to the improvements.  
29

30 (b) **Building Plan:** A building plan which shall consist of preliminary or final blueprints,  
31 elevation drawings of the north, south, east and west sides, and detailed exterior  
32 specifications which shall be indicated, by sample, if required by the ACC, all exterior  
33 colors, materials and finishes, including roofing to be used.  
34

35 (c) **Landscape Plan:** A landscape plan for portions of the Lot to be landscaped which shall  
36 show location, type and size of trees, plants, ground cover, shrubs, berming and mounding,  
37 grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking  
38 areas and walkways.  
39

40 (d) **Contractor:** Such information concerning the qualifications of the general contractor  
41 selected by the Owner to construct the building and related improvements on the Lot as  
42 shall be reasonably requested by the ACC to permit it to determine whether contractor is  
43 qualified and possesses the experience required by Section 5.26(I) above.  
44

45 **Section 6.08 Decision:** Unless extended by mutual consent of the Owner and the ACC, the ACC  
46 shall render its decision with respect to an application within ten (10) days after receipt of a properly  
47 submitted application. The decision of the ACC can be in the form of an approval, a conditional  
48 approval or denial. A conditional approval shall set forth with particularity the conditions upon which

1 the application is approved and denial shall state with particularity the reasons for such denial.

2  
3 Section 6.09 Other Responsibilities: Until the organization of a homeowner's association for Muir  
4 Woods Subdivision, Phases 2, 3, & 4, the ACC shall have such other rights and responsibilities  
5 necessary, required or convenient to carry out and enforce the provisions of their Declaration,  
6 including the right to bring suit in its name or the name of one or all of its members. The ACC shall  
7 have the right to purchase, with funds provided from assessments levied under Article VII, below,  
8 and keep in force a public liability insurance policy in an amount deemed reasonable by the ACC,  
9 insuring the Owners and the ACC from liability for bodily injury and/or property damage occurring  
10 on common area, provided that the failure of the ACC to purchase and/or keep in force such  
11 insurance shall not be grounds for the imposition of liability upon the members of the ACC.  
12

### 13 ARTICLE VII - ASSESSMENTS

14  
15 Section 7.01 Lots Subject to Assessment: The lots which are subject to assessment under the  
16 Article are all lots in Muir Woods Subdivision, Phases 2, 3, & 4.

17  
18 Section 7.02 Covenant to Pay Assessments: Each Owner, by acceptance of a deed to a lot,  
19 covenants and agrees to pay, when due, the assessments provided for in this Article.  
20

21 Section 7.03 Assessment Lien: All assessments levied and assessed hereunder, together with  
22 interest, costs and reasonable attorney's fees, which may be incurred in collecting the same, shall  
23 be a charge on the land and shall be a continuing lien upon each lot within Muir Woods  
24 Subdivision, Phases 2, 3, & 4 and shall also be the personal obligation of the Owner or such lot at  
25 the date the assessment becomes due and payable. The personal obligation for delinquent  
26 assessments shall not pass to an Owner's successors in title unless expressly assumed by them.  
27 The assessment lien created hereunder may be enforced in the same manner as provided in the  
28 statutes of the State of Idaho for the enforcement of liens and mortgages. The lien herein created  
29 shall at all time be junior and subordinate to the lien of the first Mortgage or Deed of Trust  
30 encumbering the lot.  
31

32 Section 7.04 Annual Assessments: Commencing in the calendar year in which the closing of the  
33 first sale of a residential Lot to an Owner occurs, each Lot (as specified in Section 7.01, above),  
34 within Muir Woods Subdivision, Phases 2, 3, & 4 shall be assessed an amount determined as the  
35 initial fee and the amount determined as the annual fee, per year annually, provided however, that  
36 any Lot owned by the Grantor shall be assessed an assessment equal to fifty percent (50%) of the  
37 amount assessed against Lots owned by other Owners. If the Grantor pays all or any portion of  
38 the expenses for which the assessments are to be levied as provided in Section 7.07, below, in  
39 excess of the amount assessed to Lots owned by the Grantor, such excess amount so paid shall  
40 constitute a prepayment of assessments to become due and payable on the Lots owned by the  
41 Grantor within Muir Woods Subdivision, Phases 2, 3, & 4. Any such assessment credit shall not  
42 inure to an Owner purchasing a Lot from the Grantor unless such person is the successor to  
43 substantially all of the interest of the Grantor in Muir Woods Subdivision, Phases 2, 3, & 4. Each  
44 assessment shall be payable by an Owner to the ACC, or to such other party as the ACC shall  
45 direct, in advance or in arrears, and in such installments as the ACC shall determine.  
46

47 Sections 7.06 Interest and Costs: Any assessment against a Lot, if not paid when due, shall bear

1 interest at an annual rate as shall be set by the ACC from time-to-time, or if none is so set, at an  
2 annual rate of fifteen percent (15%). Such interest shall commence on the date the assessment  
3 becomes due and payable. In addition to the interest charge, if an assessment is collected by the  
4 ACC with the assistance of an attorney, whether or not suit or action is filed, the Owner shall pay  
5 to the ACC, reasonable attorney's fees incurred by the ACC and such may be awarded in a  
6 judgement against the Owner.

7  
8 **Section 7.07 Purpose of Assessments - Duty of ACC:** The ACC shall use all funds from the  
9 assessments paid by the Owners for the purpose of:

10  
11 (a) Maintaining, repairing, replacing, and otherwise in all respects caring for the landscaping  
12 and related improvements, including, but not limited to: the sprinkler system(s), located on  
13 the landscaping easement as shown on the subdivision plat for the Muir Woods  
14 Subdivision, Phases 2, 3, & 4.

15  
16 (b) Maintaining, repairing, replacing, operating and otherwise in all respects caring for the  
17 irrigation water delivery system, any fencing, and the waste water courses within Muir  
18 Woods Subdivision, Phases 2, 3, & 4 including, but not limited to: the pump and lines  
19 except where the obligation to maintain the line is imposed upon an Owner(s) by this  
20 Declaration.

21  
22 (c) Maintaining, repairing, replacing, insuring and otherwise in all respects operating and  
23 caring for the common and landscaped areas, if any, including the payments of taxes and  
24 other costs with respect thereto.

25  
26 The homeowners association shall have the obligation to maintain, repair, replace and otherwise  
27 in all respects care for said landscaping and irrigation systems.

28  
29 **Section 7.08 Adjustment of Assessments:** The ACC shall have the right to increase or decrease  
30 the amount of the annual assessment levied against the Lots within Muir Woods Subdivision,  
31 Phases 2, 3, & 4, based on the actual and anticipated expenses of the homeowners association  
32 performing its obligations described in Section 7.07, above, including reasonable reserves for repairs  
33 and replacements.

34  
35 **Section 7.09 Limited Assessments:** The homeowners association shall have the right and the  
36 authority to incur costs and expenses for the maintenance and repair of any Lot, including the  
37 improvements on a Lot. If such maintenance, repair, cleaning, and/or upkeep is necessary, in the  
38 sole discretion of the homeowners association, to bring such Owner and/or Lot into compliance with  
39 the requirements of this Declaration, and if the Owner of said Lot has homeowners association  
40 backed or refused to perform the same within a reasonable time after written notice of the  
41 necessity thereof has been delivered by the homeowners association to said owner, the  
42 homeowners association shall have the right to perform or cause performance of the same and to  
43 levy a limited assessment against the lot owned by such owner, for the amount of the costs and  
44 expenses incurred by the homeowners association in connection therewith, including attorneys  
45 fees. The right of the homeowners association to incur costs and expenses with respect to a lot,  
46 and to secure repayment thereof by the levying of a limited assessment, shall also relate to the  
47 correction of violation of this Declaration which an Owner fails or refuses to correct within a  
48 reasonable time after written notice delivered to such Owner by the homeowners association.



1  
2 Section 7.10 Non-Exclusive Remedy: The right of the homeowners association to levy a limited  
3 assessment as described in Section 7.09, above, shall not be deemed the exclusive remedy of the  
4 homeowners association, and it may, in its sole discretion, without waiver of any other legal or  
5 equitable remedy, pursue enforcement of the lien of the limited assessment, collect the amount due  
6 directly from the Owner responsible therefore, and/or pursue any other remedy available at law or  
7 equity. Nothing in this Declaration shall prohibit or limit the homeowners association or an Owner  
8 from pursuing any legal or equitable remedy for a volition of this Declaration.  
9

10 **ARTICLE VIII - MISCELLANEOUS**

11  
12 Section 8.01 Term: This Declaration and all covenants, conditions, restrictions, and easements  
13 contained herein shall run until December 31, 2020, unless amended hereafter provided. After  
14 December 31, 2020, said covenants, conditions, restrictions and easements shall automatically  
15 extend for successive periods of ten (10) years each, unless extinguished by a written instrument  
16 executed by the Owners of at least fifty one percent (51%) of the lots in Muir Woods Subdivision,  
17 Phases 2, 3, & 4 and then only if such written instrument is recorded with the Ada County  
18 Recorder.  
19

20 Section 8.02 Amendment: This Declaration may be amended as follows:  
21

22 (A) By Grantor: Until title to a Lot within Muir Woods Subdivision, Phases 2, 3, & 4 is  
23 conveyed by the Grantor to an Owner, this Declaration may be amended or terminated by  
24 the Grantor by recordation of a written instrument signed by the Grantor and acknowledged  
25 setting forth such amendment or termination as to such un conveyed Lot.  
26

27 (B) By Owners: Except where a greater percentage is required herein, the provisions of this  
28 Declaration, other than this Section, may be amended by an instrument in writing, signed  
29 and acknowledged by the Owners, including the Grantor, owning at least fifty one percent  
30 (51%) of the Lots within Muir Woods Subdivision, Phases 2, 3, & 4, and such amendment  
31 shall be effective upon its recordation with the Ada County Recorder. Any amendment to  
32 this Section 8.02 shall require the vote or written consent of all Owners.  
33

34 Section 8.03 Non-Waiver: The failure of the Grantor or any Owner in any one or more instances  
35 to insist upon the strict performance of any of the covenants, conditions, restrictions, easements,  
36 or other provisions of this Declaration or to exercise any right or option contained herein, or to serve  
37 any notice or to institute any action, shall not be construed as a waiver or relinquishment for the  
38 future of such covenant, condition, restriction, easement or other provision, but the same shall  
39 remain in full force and effect.  
40

41 Section 8.04 Enforcement - Costs: This Declaration may be enforced by the ACC or by any Owner  
42 (including the Grantor) of a Lot. If suit or other action is filed to interpret or enforce this Declaration,  
43 or any provision thereof, the prevailing party shall be awarded reasonable attorney's fees, in  
44 addition to the costs and disbursements allowed by law, including the same with respect to an  
45 appeal.  
46

47 Section 8.05 Acceptance: Each Owner of a Lot, each purchase of a Lot under a contract of  
48 agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract

1 of sale or agreement or option, accepts the same subject to all the covenants, conditions,  
2 restrictions, easements and other provisions set forth in this Declarations and agrees to be bound  
3 by the same.  
4

5 Section 8.06 Severability: Each of the provisions hereof shall be deemed independent and  
6 severable and the invalidity or unenforceability of any provision or portion thereof, shall not affect  
7 the validity or enforceability of any other provision.  
8

9 Section 8.07 Interpretation: The provision of this Declaration shall be liberally construed to affect  
10 the purposes hereof and shall be construed and governed in accordance with the laws of the State  
11 of Idaho. The singular shall include the plural and the plural the singular, and the masculine,  
12 feminine or neuter shall include the masculine, feminine or neuter. All captions and titles are  
13 intended solely for convenience of reference and shall not affect that which is set forth in any of the  
14 provision hereof.  
15  
16  
17  
18

## 19 ARTICLE IX - SOLAR ACCESS

### 20 9.1 Solar Access Definitions.

21  
22  
23 a. Exempt Tree: Any pre-existing vegetation as defined in hereafter, or any  
24 vegetation included on the list of solar friendly vegetation kept by the City of Boise  
25 City's Public Works and Community Planning and Development Departments.  
26

27 b. Front Lot Line: The line represented by the connection of the most distant  
28 corners of a Lot, including flag Lots, where said corners are in common with the  
29 boundary of a public or private road. For corner Lots, the front Lot line is  
30 designated on the plat.  
31

32 c. North Slope: The gradient, in percent slope, from the average finished grade of  
33 the front Lot line of the shade restricted Lot to the average finished grade of the  
34 solar Lot line of a solar Lot. The slope must be downward or decreasing in  
35 elevation from south to north.  
36

37 d. Restricted Vegetation: A tree or other vegetation which is either evergreen, or  
38 if deciduous, tends to retain its leaves late in the fall and/or drop them late in the  
39 spring, or has a dense branching pattern which generally tends to block a high level  
40 of the sun's rays during the heating season. The Boise City Public Works and the  
41 Community Planning and Development Departments have a list of "solar friendly"  
42 trees.  
43

44 e. Shade: That portion of the shadow cast by the shade point of a structure or  
45 vegetation which exceeds a 11.5 foot fence at the solar Lot line at solar noon,  
46 January 21.  
47

48 f. Shade Point: That part of a structure, tree, or other object, on a shade restricted

1 Lot, which casts the longest shadow (the most northerly shadow) when the sun is  
2 due south on January 21st at an altitude of twenty six degrees (26°) above the  
3 horizon, except a shadow caused by a narrow object such as a chimney, antenna,  
4 utility pole, wire, or the like.

5  
6 g. Shade Point Height: The vertical distance or height measured from the average  
7 elevation at the solar Lot line to the shade point. If the shade point is located at the  
8 north end of a ridge line of a structure oriented within forty five degrees (45°) of a  
9 geodetic east-west line with a pitch which is flatter than six (6) feet (vertical) in  
10 twelve (12) feet (horizontal), the shade point will be the cave of the roof. If such a  
11 roof has a pitch which is six (6) feet in twelve (12) feet or steeper, the shade point  
12 will be the peak of the roof.

13  
14 h. Shade Restricted Lot: Any Lot within the subdivision that is southerly of and  
15 adjacent to a solar Lot. These Lots have some restriction on vegetation types and  
16 structure height.

17  
18 i. Solar Friendly Vegetation: A tree or other vegetation which is included on the  
19 solar friendly vegetation list kept by the City of Boise City's Public Works and  
20 Community Planning and Development Departments.

21  
22 j. Solar Lot: A lot which has the following characteristics:

23  
24 1. The front Lot line is oriented within thirty degrees (30°) of a  
25 geodetic east-west bearing;

26  
27 2. The Lot to the immediate south has a north slope of ten percent  
28 (10%) or less;

29  
30 3. The Lot is intended for the construction of an above ground  
31 inhabited structure.

32  
33 k. Solar Lot Line: The most southerly boundary of a solar Lot; the line created by  
34 connecting the most southerly corners of the solar Lot.

35  
36 l. Solar Setbacks: The minimum distance, measured perpendicularly in a southerly  
37 direction, from the center of the solar Lot line to the shade point of a structure or to  
38 restricted vegetation based upon its height at maturity on the shade restricted Lot.

39  
40 9.2 Solar Access Covenants, Conditions, and Restrictions

41  
42 a. Shade Restriction: Each Lot which is classified as a Shade Restricted Lot shall  
43 have the following restriction: any structure or restricted vegetation (solar unfriendly)  
44 cannot cast a shadow higher than an imaginary fence 11.5 feet above the solar Lot  
45 line on solar noon of January 21st when the sun is at an angle of twenty six degrees  
46 (26°) above the horizon. This sun angle at noon on January 21 causes structures,  
47 vegetation, and other objects to cast a shadow twice as long as their height. The  
48 height of the shade point of a structure on the shade restricted lot is limited to

1           nineteen (19) feet at the fifteen (15) foot rear yard zoning setback in order that the  
2           11.5 foot high "solar fence" at the north property line of the shade restricted Lot is  
3           not exceeded. These standards assure that a structure built to the fifteen (15) foot  
4           rear yard zoning setback, on the solar Lot located to the north, will not be shaded  
5           more than four (4) feet above grade on its south wall on January 21 at solar noon.  
6

7           b. Pre-existing Vegetation: Restricted vegetation (solar unfriendly) which existed  
8           when the subdivision was platted is exempt from the provisions of these covenants,  
9           conditions, and restrictions. Any Lot which would be shaded beyond the allowed  
10          shade limits by such vegetation shall not be classified as a Solar Lot.  
11

12          c. Slope Exemption: Any Lot with an average finished grade slope along the north-  
13          south or east-west Lot dimension (depending on which is the relevant frontage  
14          direction of the Lot) greater than ten percent (10%) shall be exempt from the terms  
15          and conditions of these covenants, conditions, and restrictions.  
16

17          d. Solar Setbacks: Each separate structure and item of restricted vegetation shall  
18          have a solar setback dependent on, and calculated by, its shade point height. All  
19          shade restricted Lots shall have the following solar setback: Solar Setback (in feet)  
20          = [Shade Point Height (in feet) - 11.5 feet] times two (2).  
21

22          e. Solar Friendly Vegetation: Certain vegetation is considered "solar friendly" and  
23          is not restricted in regards to location on individual Lots. Such vegetation is  
24          deciduous, dropping its leaves during early fall and regaining them during late  
25          spring. Such vegetation also has a sparse branching which allows a high level of  
26          sunlight to penetrate through. This growth cycle produces shading during summer  
27          but allows sun to penetrate during winter. A list of solar friendly trees is maintained  
28          by the City of Boise City Public Works and the Community Planning and  
29          Development Departments.  
30

### 31   9.3 Solar Access Rights, Duties, and Responsibilities

32  
33          a. Solar Access Rights: The owner(s) of solar Lots shall have a right to  
34          unobstructed solar access in accordance with these covenants, conditions, and  
35          restrictions.  
36

37          b. Solar Access Duties: The owners of any Lot shall not build, install, or otherwise  
38          allow, a structure or non-solar friendly tree on that Lot to cast more shade at their  
39          solar Lot line than permitted under these solar access covenants, restrictions, and  
40          conditions.  
41

### 42   9.4 Miscellaneous

43  
44          a. Enforcement and Non-Waiver: Any Lot owner, or the Association, whether or  
45          not directly affected, shall have the right to enforce, by any proceeding at law or in  
46          equity, any violation or threatened violation of a provision of this document. The  
47          failure of any person to enforce any covenant or restriction herein contained shall  
48          not be deemed a waiver of the rights granted herein. Waiver of one breach does

1 not constitute waiver of any other breach. There can be no waiver of the right to  
2 solar access created by this document.

3  
4 b. Severability: Invalidation of any one of these covenants or restrictions by  
5 judgment or court order shall in no way affect any other provisions, which shall  
6 remain in full force and effect.

7  
8 c. Duration and Applicability to Successors: The covenants, conditions, and  
9 restrictions set forth in this section of this document shall be in effect perpetually,  
10 shall run with the land and shall inure to the benefit of and be binding upon the  
11 declarant hereof and all Lot owners and their successors in interest.

12  
13 d. Amendment: The provisions of this section of this document may be amended  
14 by the action of the owners of a majority of the Lots affected by such amendment,  
15 provided that the amendment does not reduce the amount of solar access  
16 protection provided to the Lots and the amendment is approved by the City of Boise  
17 City.  
18

1 THIS AMENDED DECLARATION IS SIGNED AND ACKNOWLEDGED BY THE OWNERS,  
2 INCLUDING THE GRANTOR, OWNING AT LEAST FIFTY ONE PERCENT (51%) OF THE LOTS  
3 WITHIN Muir Woods Subdivision, Phases 2, 3, & 4.  
4  
5  
6

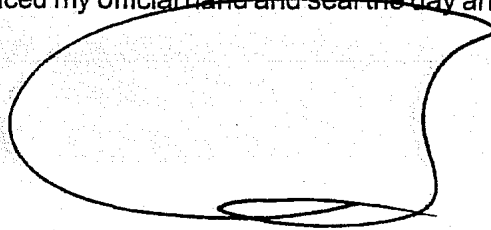
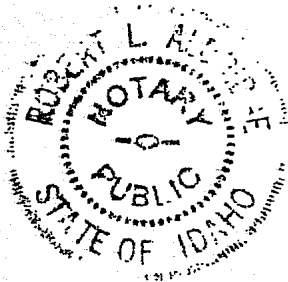
7 W&S INVESTMENTS, INC., GRANTOR/OWNER  
8  
9

10   
11 \_\_\_\_\_  
12 Walter R. Wanner, Director  
13

14 STATE OF IDAHO )  
15 ) ss.  
16 )  
17 COUNTY OF ADA )  
18

19 On this 2-18-03, before me, Robert L. Aldridge, a Notary Public in and  
20 for the State of Idaho, personally appeared Walter R. Wanner, known to me or identified to me or  
21 proved to me on the basis of satisfactory evidence to be the Director of W&S Investments, Inc., and  
22 to be the person whose name is attached to the foregoing instrument and acknowledged to me that  
23 said corporation executed the same.  
24

25  
26 IN WITNESS WHEREOF, I have hereunto placed my official hand and seal the day and year in this  
27 Certificate first above written.  
28



\_\_\_\_\_  
Notary Public for Idaho  
Residing at Meridian  
My Commission expires on 7-1-2006



**DECLARATIONS ESTABLISHING  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
MUIR WOODS SUBDIVISION  
PHASES 1, 2, 3 & 4  
AMENDED APRIL 30, 2007**

**ARTICLE I- RECITALS**

WHEREAS, the undersigned officers of the Board of Directors (hereafter "Board") of Muir Woods Homeowners Association (hereafter MWHO) representing owners of certain land in Ada County, Idaho more particularly described as Muir Woods Subdivision, Phases 1, 2, 3, & 4 (hereafter "Muir Woods Subdivision");

WHEREAS, the Property shall be developed for Residential uses as defined in the ordinances of Ada County, Idaho,

WHEREAS, MWHO desires to subject Muir Woods Subdivision to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitude herein set forth to ensure the proper design, development, improvement and use of the Muir Woods Subdivision by MWHO and all other persons or entities who may subsequently acquire an interest in the Muir Woods Subdivision.

**ARTICLE II - DECLARATIONS**

MWHO hereby declares that the Muir Woods Subdivision described on Exhibit A, B, C and D each lot, tract or parcel thereof (hereafter called "Lot" unless specified to the contrary), is and has been held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following covenants, conditions, restrictions, easements, reservations, limitations and equitable servitude (hereafter collectively called "covenants and restrictions"), all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision improvement and sale of Muir Woods Subdivision Property and each Lot therein, and to enhance the value, desirability and attractiveness thereof. The covenants and conditions set forth herein shall run with the land and each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in Muir Woods Subdivision or any lot therein; and shall inure to the benefit of and be binding upon MWHO and each Owner; and each successor in interest of each, and may be enforced by MWHO and by any Owner, as hereafter provided.

The recording of the Plat by the Developer/Owner shall be deemed and construed as a request for annexation of Muir Woods Subdivision to the corporate limits of Boise City. Such request and consent shall be binding on all subsequent Owners/Developers of Developer's property.

The Owner/s of a lot or lots within Muir Woods Subdivision, shall and hereby does vest in Boise City the right and power to bring all actions against the Owner/s of the premises, or any part thereof, for the collecting of any charges then required and to enforce the conditions herein

stated. This covenant shall run with the land.

### ARTICLE III DEFINITIONS

As used in this Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

ACC: The Architectural Control Committee for Muir Woods Subdivision.

Board: The Board consists of 3-9 Directors, members of the MWHOA, who are duly elected by majority vote of the MWHOA.

Building: A structure constructed on a Lot, on a temporary or permanent basis, and unless specified to the contrary, shall include all other appurtenances and improvements thereto or used in connection therewith.

Declaration: This instrument as it may be amended from time to time.

Muir Woods Homeowners Association: An organization formed to operate the irrigation system, landscaped areas and any common areas which lie within the boundaries of Muir Woods Subdivision and any other duties as provided for in the Articles of Incorporation.

Management Firm: A professional firm which has been retained by the Board to conduct the day to day business of the Association and acting at the direction of the Board.

Improvements: All structures and appurtenances thereto of all kinds and types, including, but not limited to: buildings, roads, driveways, sidewalks, walkways, walls, fences, screens landscaping, poles, signs, and lighting. Improvements shall not include those items which are located totally on the interior of a building and cannot be readily observed when outside thereof.

Lot: A portion of Muir Woods Subdivision which is a legally described tract or parcel of land within Muir Woods Subdivision or which is designated as a lot on any recorded subdivision plat relating to Muir Woods Subdivision.

Mortgage: Any mortgage or deed of trust or other hypothecation of land, located in Muir Woods Subdivision, to secure performance of an obligation. Unless otherwise specifically provided, the reference to a "Mortgage" in this Declaration shall be limited to "first Mortgage", including a "First Deed of Trust".

Occupant: Any person, association, corporation, or other entity who or which is an Owner, or has leased, rented, been licensed or is otherwise legally entitled to occupy and use any building or improvement on a Lot, whether or not such right is exercised, including their heirs, personal representatives, successors and assigns.

Owner: A person or persons or other legal entity or entities, holding fee simple title to a lot in Muir Woods Subdivision including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, but including an Mortgagee (of and priority) or other security holder, provided said Mortgagee or other security holder is in actual possession of a Lot as a result of foreclosure or otherwise, and any person taking title through



such mortgagee or other security holder by purchase at foreclosure sale or otherwise.

Plat: A final subdivision plat covering any real property in Muir Woods Subdivision, as recorded in the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereto.

Residential Lot: A Lot for the use of which shall be for a single-family residential purpose and uses incidental thereto as limited by this Declaration as described in the plat of Muir Woods Subdivision.

Subdivision: The whole of the land described on Exhibit A, which describes the Lots covered by these Declarations. A reference in this Declaration to Muir Woods Subdivision shall include all Lots shown on the Plat for Muir Woods Subdivision.

#### **ARTICLE IV PURPOSE**

Muir Woods Subdivision is hereby made subject to the covenants and restrictions contained in this Declaration, all of which shall be deemed to be imposed upon and run with the land and each and every Lot and parcel thereof, and shall apply to each and every Owner and Occupant thereof and their respective successors in interest, to ensure proper design, development, improvement, use and maintenance of Muir Woods Subdivision for the purpose of:

- (a) Assuring Owners and Occupants of building of quality of design, development, improvement, use and maintenance as shall protect and enhance the investment and use of all Lots and improvements.
- (b) Prevention of the erection in Muir Woods Subdivision of improvements of improper design or construction with improper or unsuitable materials or with improper quality and method of construction.
- (c) Encouraging and assuring the erection of high quality and attractive improvements appropriately located within Muir Woods Subdivision.
- (d) Securing and maintaining proper set-backs from streets and adequate free spaces between improvements.
- (e) Designating and maintaining open space areas to maintain and enhance the environment.

#### **ARTICLE V PERMITTED USES**

Section 5.01 Use: The Lots within Muir Woods Subdivision shall be used for residential purposes only.

Section 5.02 Approval of Use and Plans: No improvements shall be built, constructed, erected,

placed or materially altered within Muir Woods Subdivision after the date of this Declaration, unless and until the plans, specification, and site plan therefore have been reviewed in advance and approved by the ACC in accordance with the provisions of Article VI, below.

Section 5.03 Prohibited Buildings: No trailer or other vehicle, tent, shack, garage, accessory building or out building on a Lot shall be used as a temporary or permanent residence.

Section 5.04 Setbacks-Residential Lots: Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the governmental entity having jurisdiction over Muir Woods Subdivision require setbacks different than those provided herein, the more restrictive shall control.

Any building constructed on a residential Lot shall comply with the minimum setbacks as defined in the ACC Guidelines which shall be published and made available by the Management Firm.

PROVIDED, HOWEVER, that the following special terms and conditions regarding front line setbacks shall apply:

(a) For Block 1, Lots 3-19, inclusive, the front lot line set backs shall be twenty-five (25) feet for curved or radius driveways, or thirty (30) feet for straight approach driveways;

(b) For all lots, the maximum width of concrete driveways at the end contiguous to the edge of the sidewalk bordering the front lot line shall not exceed thirty (30) feet.

Any variance to setbacks must have ACC written approval.

As used herein and elsewhere in this Declaration, "front yard" shall mean that area on a residential Lot from the right-of-way line, as shown on the Plat, to a line created by the front of the residential dwelling on the Lot extended to each side lot line.

Section 5.05 Easements: There is hereby reserved for the use and benefit of MWHOA and granted for the use and benefit of each Lot, and benefit of each Owner and Occupant and their successors and assigns, for the purposes incident to such use, development, and maintenance of Muir Woods Subdivision an easement(s) for the installation and maintenance of public utility facilities of all kinds, including radio, television and transmission cables, the easements designated on the recorded Plat.

Section 5.06 Commercial Use: No Lot shall be used at any time for commercial or business purposes except for uses which shall be conducted and maintained solely within a residential dwelling unit located on a Lot. No signs relating to said business activity shall be displayed where visible from any public or private road within Muir Woods Subdivision and, provided further, that the principal use of each Lot shall be as provided for in Section 5.01 above.

Section 5.07 Street and Other Lighting: Exterior lighting and interior lights reflecting outside shall be placed in such a manner which will minimize glare and excessive light spillage onto neighboring Lots. Until annexation occurs, all exterior public street lights shall be maintained and operated by the Association.

Section 5.08 Animals/Pets. No animals, birds, insects, pigeons, poultry or livestock shall be

kept on the Property. No swine or goats will be permitted. Up to two (2) domesticated animals such as dogs or cats, or other household pets which do not unreasonably bother or constitute a nuisance to others shall be allowed. Without limiting the generality of the foregoing, consistent and/or chronic barking by dogs shall be considered a nuisance. In the event an Owner constructs or maintains a kennel or other restraining area upon a Lot, such shall: (1) be located on a Lot in a manner to avoid an endangerment of or nuisance to adjacent Lot owners and , (2) at all times be kept in a clean and odor-free condition.

Section 5.09 Drilling and Exploration: No oil exploration or development of any kind or nature of mining exploration, or any structures in connection therewith shall be permitted to be erected, maintained or used on any Lot and no minerals shall be permitted to be mined or extracted on any lot.

Section 5.10 Signs: No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a dwelling unit and Lot for sale by displaying a single, neat and reasonably sized sign on a Lot. Other temporary signs advertising the name of the builder or the name of the institution providing financing may be displayed on a Lot during the construction of improvements. All lighted, moving or flashing signs for any purpose are prohibited.

Section 5.11 Subdividing: Except as specifically provided in this Declaration to the contrary, no Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof; provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling a Lot to more than one person to be held by them as tenants in common; joint tenants, tenants by the entirety or as community property or require the approval of the ACC.

Section 5.12 Fences: No fence of any kind shall be constructed on any Lot unless the plans and specifications thereof, including the location, material and color thereof, have been approved in writing by the ACC prior to construction or installation. No fence or hedge located on a Lot shall have a height greater than six (6) feet above the surface of the ground upon which it is located. The construction or maintenance of spite fences or spite trees or shrubs shall be prohibited on all Lots. All fences shall be constructed in a substantial manner and shall be maintained at all times in good repair. All new fences constructed as boundary fences shall be wood as determined by the ACC, it being the intent of the ACC to require uniformity in new boundary fencing to the extent reasonably possible. No fences shall be allowed in the front yard of a Residential Lot. It is the intent of the Grantor that the ACC shall have the authority to regulate all new fences within Muir Woods Subdivision, Phases 2, 3, & 4 to the end that the locations, type and size of each fence and the material used therein shall, to the extent possible, present a reasonably coordinated appearance. All rear fences on lots bordering the common park area will be provided by the Developer. No additional fencing will be allowed in this area. Screening devices may be installed so long as they are of a screen material so that sight lines are not impaired. Privacy screening fences may be installed; however, such fences must have ACC approval. All fencing adjacent to pathways and through residential Lots shall be fenced in accordance with Boise City micro-path fencing standards.

Section 5.13 Irrigation Water: MWHOA shall provide facilities to deliver irrigation water to the lot line of each Lot via a pump from the pump station. Said facilities are owned and operated by Nampa Meridian Irrigation. To the extent that such is required by the rules of said Nampa Meridian Irrigation, maintenance and operation of the pump and pumping system shall

be the responsibility and cost of MWHOA, along with maintenance and care of the common and landscaped areas. Water use shall be on a rotation basis worked out among the users. Distribution system within each Lot shall be the responsibility of each homeowner; provided however, that an Owner of a Lot shall not be individually responsible for the maintenance or operation of any main or service line through said Lot. Irrigation water to the landscaped lots shall be included in the water rotation agreed to by the owners, provided however, that no guarantee is made as to when such irrigation water will be available and the amounts so available. Such availability and volume are dependent on when, and in what quantities, irrigation water becomes available through the servicing canal. The costs and expenses incurred for the operation and maintenance of the irrigation system serving the Lots shall be paid as provided in Article VII, below. Irrigation water is non-potable.

Section 5.14 Sewer Disposal: Public sewers service within Muir Woods Subdivision and each Lot shall be connected to this public system.

- (a) Monthly sewer charge must be paid after connecting to the Boise City public sewer system.
- (b) Owner shall submit to inspection by either the Public Works Department or the Building Department whenever a subdivided lot is to be connected to the City sewage system and a building is constructed or installed on or over the owner's property.

Section 5.15 Maintenance: The following provisions shall govern the maintenance of Lots and all improvements thereon:

- (a) Each Owner of a Lot shall maintain all improvements located thereon in good and sufficient repair and shall keep the improvements thereon painted or stained, lawns cut, shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut and otherwise maintain the same in a neat and aesthetically pleasing condition. Pending the construction of improvements, each Owner shall keep the Lot in a neat condition and shall not permit an unreasonable accumulation of rubbish and debris and shall keep all weeds and other growths cut.
- (b) In the event all or any portion of the improvements on a Lot are damaged or destroyed by fire or other casualty, including any damage occurring as a result of the exercise of the power of eminent domain, or any transfer in lieu thereof, to an architectural whole in accordance with the requirements of this Declaration.
- (c) A building which is vacant for any reason shall be kept locked and the windows glazed in order to prevent entrance by vandals.
- (d) All structures, facilities, equipment, objects and conditions determined by the ACC, in its sole discretion, reasonably exercised to be offensive or which creates a visual blight within Muir Woods Subdivision, shall be removed or enclosed within a structure approved by the ACC or appropriately screened from public view.

Section 5.16 Nuisances: No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot within Muir Woods Subdivision and no odor shall be permitted to arise there from so as to render any Lot unsanitary, unsightly, offensive or detrimental to any other Lot therein or in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon or from any Lot so as to be offensive or detrimental to

any other lot within Muir Woods Subdivision, or in the vicinity thereof, or to its occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any Lot within Muir Woods Subdivision except for speakers in an outside living area (i.e. patio or gazebo).

Section 5.17 Boats, Campers and Other Vehicles: Any trailer, mobile home, truck larger than a standard pickup, motor home, boat, tractor, vehicle (other than automobiles), campers and garden or maintenance equipment, when not in actual use, shall be kept at all times in an enclosed structure or screened from public view and at no time shall any said vehicles or equipment be parked or stored on a public or private right-of-way within Muir Woods Subdivision, Phases 2, 3, & 4.

Section 5.19 Minimum Area: No building intended for use as a single-family residence shall be erected, altered, placed or permitted to remain on any residential lot, which building contains less than One Thousand Eight Hundred (1,800) square-feet of living area. In the event the building intended for use as a single-family residence contains more than one story, the minimum square footage of the living areas shall be not less than Two Thousand Two Hundred (2,200) square feet and the minimum square footage of living areas of the first floor shall be not less than One Thousand Four Hundred (1,400) square feet. The square footage of living area shall be based on the interior living space at or above the grade of the Lot, exclusive of basements, porches, patios, and garage.

Section 5.20 Construction Standards: The following standards and requirements shall be applicable to the construction and/or installation of any improvements on a residential Lot within Muir Woods Subdivision:

(a) Excavation: Any excavation shall be performed in a workmanlike manner and the lot kept free from debris. Each Owner shall be responsible for the repairing of any damage which may occur during the construction period to any road, mailbox, utility facility or other on-site or off-site improvement caused by the Owner or contractors employed by the Owner. Unless an Owner otherwise notifies the ACC in writing prior to the Owner's commencing of construction on a Lot, all on-site improvements shall be conclusively deemed to be in good working order and condition and any damages occurring thereto during the construction, shall be the responsibility of the Owner. All such repairs required hereunder shall be made immediately following the occurrence of the damage.

(b) Utilities: The connection to all utility facilities shall be underground and shall be inspected and approved by the appropriate governmental entity having jurisdiction thereof and the company providing the utility service, if required. Utility meters shall be placed in an unobtrusive location and concealed behind fences or landscaping where possible.

(c) Landscaping: as a general guideline for the landscaping of each Lot and as shall be shown on the landscape plan to be submitted to the ACC under Section 6.07(c), below, the front yard area of each Lot shall be landscaped with trees, shrubs, and ground cover, or utilized as entryways. Front yard landscaping must be maintained and watered.

(d) Driveways: All driveways must be concrete in construction. Construction of the portions of driveways which are behind the front line of the residential improvements on the property and which are screened from public view may be gravel or asphalt.

(e) **Maintenance During Construction:** The following requirements shall apply during the construction or improvements on a Lot:

1. All debris shall be removed from the Lot prior to each weekend.
2. No materials shall be placed or kept on any adjoining Lot.
3. Vehicles belonging to workmen or used in the construction of improvements shall not interfere with traffic on public streets:
4. Utilities, including water, shall not be taken from any other Lot without the approval of the Owner thereof;

(f) **Time of Work:** Any work or other activity in connection with the construction or installation of the improvements on a Lot shall be conducted on such days and at such times during the days as shall not constitute or result in an unreasonable nuisance or annoyance of neighboring Lots.

(g) **Roofs:** The roof of each building on a Lot shall be covered with a minimum of twenty-five (25) year composition shingles, shakes, or tile and shall be approved by the ACC under Article VI, below.

(h) **Qualified Contractor:** The construction of each Building on a Lot shall be performed by a qualified general contractor and reasonably experienced in the construction of residential dwelling units and related improvements. No Owner of a Lot shall construct a Building on a Lot, unless such Owner is a qualified general contractor approved by the ACC and possessing the experience provided above.

5.21 **Detached Garage/Outbuildings:** No more than one detached structure per lot shall be permitted (includes, but not limited to, a garage, outbuilding, or storage shed). The design, location, color, and decor of such building must be of a construction similar to the primary building, and must be approved, in writing, by the ACC, before construction begins. The ACC Subcommittee shall review plans submitted and respond within thirty (30) days.

5.22 **Storm Drainage Waters and Areas:** All storm drainage facilities within common lots and easements of Muir Woods Subdivision shall be operated and maintained in accordance with the operation manual dated September 13, 2000. The detention pond and surrounding areas are for the storage of storm drainage waters, and any person or entity using said area, including Owners and their guest, invitees, and so forth, do so at their own risk.

## **ARTICLE VI ARCHITECTURAL CONTROL COMMITTEE**

Section 6.01 **Members of the Committee:** The Architectural Control Committee (ACC) shall be comprised of not less than three (3) and not more than nine (9) members, all of whom will be elected equally as members of the Board. The Board of Directors and the Architectural Control Committee shall be one and the same and each shall retain the powers of both in one body.

Section 6.02 **Appointment-Removal:** The Board/ACC is authorized to appoint an ACC Subcommittee consisting of no less than two (2) of its members to take any action or perform any duties for and on behalf of the ACC. In the absence of such designation, the vote of a

majority of the ACC/Board quorum shall constitute an act of the ACC. Any decision by the ACC Subcommittee may be appealed to the Board/ACC; such appeal is to be submitted in writing to the President of the Board within fifteen (15) days of receiving the ACC Subcommittee's written decision.

Section 6.03 Non-Liability: Neither the ACC, nor any member thereof, shall be liable to any Owner or any other person for any loss, damage or injury arising out of or connected with the performance by the ACC of its duties and responsibilities by reason of a mistake in judgment, negligence or nonfeasance in connection with the approval or disapproval or failure to approve an application. Every person who submits an application to the ACC for approval of plans and specifications agrees, by submission of such application, and every Owner or Occupant of an Lot agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the ACC, or any member thereof, or MWHOA to recover such damages.

Section 6.04 Approval Required: No construction, alteration, modification, removal or destruction of any improvements of any nature whatsoever which materially alters the exterior appearance of the improvements on a Lot, shall be initiated or be permitted to continue or exist within Muir Woods Subdivision without prior express written approval of the ACC.

Section 6.05 Basis or Approval: approval by the ACC shall be based, among other things, on the adequacy of the Lot dimensions; conformity and use of external design with neighboring improvements; the effect of location and use of improvements on neighboring lots; the relationship of the improvements to topography, grade, finished ground elevation and landscaping of the Lot to that of neighboring lots; the proper facing of the main elevation with respect to nearby streets; and the relation of floor elevations to flood elevations as defined by government entities.

Section 6.06 Variances: ACC may authorize variances from compliance with the requirements of any conditions and restrictions contained in this Declaration, or any prior approval when, in the sole discretion of the ACC, circumstances such as topography, natural obstruction, aesthetics or environmental consideration or hardship may so require. Such a variance must be evidenced in writing, signed by at least two (2) members of the ACC Subcommittee or by the President of the Board, subject to majority vote of a quorum of the Board/ACC. If a variance is granted as provided herein, no violation of this Declaration or prior approval shall be deemed to have occurred with respect to the matter for which the variance was granted.

Section 6.07 Application: To request ACC approval for the construction, alteration, modification, removal or demolition of any improvements within Muir Woods Subdivision, the Owner shall submit a written application in a form required by the ACC, which must be signed by the Owner and contain all information requested and be accompanied by other material hereafter provided. This completed application is to be submitted to the Management Firm or to the President of the Board. The ACC shall have the right to require an Owner to pay a fee, not to exceed Two Hundred Fifty Dollars and No Cents (\$250.00) to reimburse the MWHOA for any actual out-of-pocket expenses incurred by the ACC with respect to the review of an application, plans and specifications and/or its decision thereon. Normal applications for plan approval are on a no charge basis. All applications must contain, or have submitted therewith, the following material (collectively called "plans and specifications") prepared in accordance with acceptable architectural standards:

(a) Site Plan: A site plan showing the location of the buildings(s) and all other structures and improvements, including fences and walls on the Lot, Lot drainage and all set backs and other pertinent information relating to the improvements.

(b) Building Plan: A building plan which shall consist of preliminary or final blueprints, elevation drawings of the north, south, east and west sides, and detailed exterior specifications which shall be indicated, by sample, if required by the ACC, all exterior colors, materials and finishes, including roofing to be used.

(c) Landscape Plan: A landscape plan for portions of the Lot to be landscaped which shall show location, type and size of trees, plants, ground cover, shrubs, berming, and mounding, grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking areas and walkways.

(d) Contractor: Such information concerning the qualifications of the general contractor selected by the Owner to construct the building and related improvements on the Lot as shall be reasonably requested by the ACC to permit it to determine whether contractor is qualified and possesses the experience required by Section 5.20(h) above.

Section 6.08 Decision: Unless extended by mutual consent of the Owner and the ACC, the ACC shall render its decision with respect to an application within thirty (30) days after receipt of a properly submitted application. The decision of the ACC can be in the form of an approval, a conditional approval or denial. A conditional approval shall set forth with particularity the conditions upon which the application is approved and denial shall state with particularity the reasons for such denial.

## **ARTICLE VII MUIR WOODS HOMEOWNERS ASSOCIATION**

Section 7.01 Members of the Association: Membership in this Association shall be each owner of a lot within the Muir Woods Subdivision as specified in the MWHO A By-Laws .

Section 7.02 Board of Directors: The governance of this Association shall be vested as specified in the MWHO A By-Laws.

Section 7.03 Duties of the Board: The Board shall supervise, control and manage the accounts, property and directions of the MWHO A including the responsibilities necessary to carry out and enforce the provisions of their Declaration, including the right to bring suit in its name or the name of one or all of its members. The MWHO A shall have the right to purchase, with funds provided from assessments levied under Article VII, below, and keep in force a public liability insurance policy in an amount deemed reasonable by the MWHO A, insuring the Owners and the MWHO A from liability for bodily injury and/or property damage occurring on common area, provided that the failure of the MWHO A to purchase and/or keep in force such insurance shall not be grounds for the imposition of liability upon the members of the MWHO A.

## **ARTICLE VIII ASSESSMENTS**

Section 8.01 Lots Subject to Assessment: The lots which are subject to assessment under the



Article are all lots in Muir Woods Subdivision, excluding common area lots.

Section 8.02 Covenant to Pay Assessments: Each Owner, by acceptance of a deed to a lot, covenants and agrees to pay, when due, the assessments provided for in this Article.

Section 8.03 Assessment Lien: All assessments levied and assessed hereunder, together with interest, costs and reasonable attorney's fees, which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon each lot within Muir Woods Subdivision and shall also be the personal obligation of the Owner or such lot at the date the assessment becomes due and payable. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them. The assessment lien created hereunder may be enforced in the same manner as provided in the statutes of the State of Idaho for the enforcement of liens and mortgages. The lien herein created shall at all time be junior and subordinate to the lien of the first Mortgage or Deed of Trust encumbering the lot.

Section 8.04 Annual Assessments: Each lot within Muir Woods Subdivision exclusive of common property shall be assessed an amount determined by the Board as the annual fee. Each assessment shall be payable by an Owner to the MWHOA, in such installments as the Board shall determine.

The Board shall have the right to increase or decrease the amount of the annual assessment levied against the Lots within Muir Woods Subdivision, based on the actual and anticipated expenses of the homeowners association performing its obligations described in Section 8.07, including reasonable reserves for repairs and replacements.

Sections 8.06 Interest and Costs: Any assessment against a Lot, if not paid when due, shall bear interest at an annual rate as shall be set by the Board from time-to-time, or if none is so set, at an annual rate of fifteen percent (15%). Such interest shall commence on the date the assessment becomes due and payable. In addition to the interest charge, if an assessment is collected by the Board with the assistance of an attorney, whether or not suit or action is filed, the Owner shall pay to the MWHOA, reasonable attorney's fees incurred by the MWHOA and such may be awarded in a judgment against the Owner. The homeowner, in addition to any interest owed, shall be responsible for all costs incurred in the collection of delinquent fees or assessment.

Section 8.07 Purpose of Assessments - Duty of Board: The MWHOA shall use all funds from the assessments paid by the Owners for the purpose of:

- (a) Maintaining, repairing, replacing, and otherwise in all respects caring for the landscaping and related improvements, including, but not limited to: the sprinkler system(s), located on the landscaping easement as shown on the subdivision plat for the Muir Woods Subdivision.
- (b) Maintaining, repairing, replacing, operating and otherwise in all respects caring for the irrigation water delivery system, any fencing, and the waste water courses within Muir Woods Subdivision including, but not limited to: the pump and lines except where the obligation to maintain the line is imposed upon an Owner(s) by this Declaration.
- (c) Maintaining, repairing, replacing, insuring and otherwise in all respects operating and caring for the common and landscaped areas, if any, including the payments of taxes and other costs with respect thereto.

The MWHOA shall have the obligation to maintain, repair, replace and otherwise in all respects care for said landscaping and irrigation systems.

**Section 8.09 Limited Assessments/Penalties:** The MWHOA shall have the right and the authority to incur costs and expenses for the maintenance and repair of any Lot, including the improvements on a Lot. If such maintenance, repair, cleaning, and/or upkeep is necessary, in the sole discretion of the homeowners association, to bring such Owner and/or Lot into compliance with the requirements of this Declaration, and if the Owner of said Lot has failed to perform the same within a reasonable time after written notice of the necessity thereof has been delivered by the homeowners association to said owner, the MWHOA shall have the right to perform or cause performance of the same and to levy an assessment against the lot owner, for the amount of the costs and expenses incurred by the homeowners association in connection therewith, including attorneys fees. The right of the MWHOA to incur costs and expenses with respect to a lot, and to secure repayment thereof by the levying of a limited assessment and/or penalty, shall also relate to the correction of violation of this Declaration which an Owner fails or refuses to correct within a reasonable time after written notice delivered to such Owner by the MWHOA.

**Section 8.10 Non-Exclusive Remedy:** The right of MWHOA to levy a limited assessment as described in Section 8.09, above, shall not be deemed the exclusive remedy of the MWHOA, and it may, in its sole discretion, without waiver of any other legal or equitable remedy, pursue enforcement of the lien of the limited assessment and/or penalty, collect the amount due directly from the Owner responsible therefore, and/or pursue any other remedy available at law or equity. Nothing in this Declaration shall prohibit or limit the MWHOA or an Owner from pursuing any legal or equitable remedy for violation of this Declaration.

## **ARTICLE IX – SOLAR ACCESS**

### **9.1 Solar Access Definitions:**

- a. **Exempt Tree:** Any pre-existing vegetation as defined in hereafter, or any vegetation included on the list of solar friendly vegetation kept by the City of Boise City's Public Works and Community Planning and Development Departments.
- b. **Front Lot Line:** The line represented by the connection of the most distant corners of a Lot, including flag Lots, where said corners are in common with the boundary of a public or private road. For corner Lots, the front Lot line is designated on the plat.
- c. **North Slope:** The gradient, in percent slope, from the average finished grade of the front Lot line of the shade restricted Lot to the average finished grade of the solar Lot line of a solar Lot. The slope must be downward or decreasing in elevation from south to north.
- d. **Restricted Vegetation:** A tree of other vegetation which is either evergreen, or if deciduous, tends to retain its leaves late in the fall and or drop them late in the spring, or has a dense branching pattern which generally tends to block a high level of the sun's rays during the heating season. The Boise City Public Works and the Community Planning and Development Departments have a list of "solar friendly" trees.
- e. **Shade:** That portion of the shadow cast by the shade point of a structure or vegetation which

exceeds 11.5 foot fence at the solar Lot line at solar noon, January 21.

- f. Shade Point: That part of a structure, tree or other object, on a shade restricted Lot, which casts the longest shadow (the most northerly shadow) when the sun is due south on January 21<sup>st</sup> at an altitude of twenty six degrees (26o) above the horizon, except a shadow caused by a narrow object such as a chimney, antenna, utility pole, wire, or the like.
- g. Shade Point Height: The vertical distance or height measured from the average elevation at the solar Lot line to the shade point. If the shade point is located at the north end of a ridge line of a structure oriented within forty five degrees (45o) of a geodetic east-west line with a pitch which is flatter than six (6) feet (vertical) in twelve (12) feet (horizontal), the shade point will be the cave of the roof. If such a roof has a pitch which is six (5) feet in twelve (12) feet or steeper, the shade point will be the peak of the roof.
- h. Shade Restricted Lot: Any Lot within the subdivision that is southerly of and adjacent to a solar Lot. These Lots have some restriction on vegetation types and structure height.
- i. Solar Friendly Vegetation: A tree or other vegetation which is included on the solar friendly vegetation list kept by the City of Boise City's Public Works and Community Planning and Development Departments.
- j. Solar Lot: A lot which has the following characteristics:
  - 1. The front Lot line is oriented within thirty degrees (30o) of a geodetic east-west bearing;
  - 2. The Lot to the immediate south has a north slope of ten percent (10%) or less;
  - 3. The Lot is intended for the construction of an above ground inhabited structure.
- k. Solar Lot Line: The most southerly boundary of a solar Lot: the line created by connecting the most southerly corners of the solar Lot.
- l. Solar Setbacks: The minimum distance, measured perpendicularly in a southerly direction, from the center of the solar Lot line to the shade point of a structure or to restricted vegetation based upon its height at maturity on the shade restricted Lot.

## 9.2 Solar Access Covenants, Conditions, and Restrictions

- a. Shade Restriction: Each Lot which is classified as a Shade Restricted Lot shall have the following restriction: Any structure or restricted vegetation (solar unfriendly) cannot cast a shadow higher than an imaginary fence 11.5 feet above the solar Lot line on solar noon of January 21<sup>st</sup> when the sun is at an angle of twenty six degrees (26o) above the horizon. This sun angle at noon on January 21 causes structures, vegetation, and other objects to cast a shadow twice as long as their height. The height of the shade point of a structure on the shade restricted lot is limited to nineteen (19) feet at the fifteen (15) foot rear yard zoning setback in order that the 11.5 foot high "solar fence" at the north property line of the shade restricted Lot is not exceeded. These standards assure that a structure built to the fifteen (15) foot rear yard zoning setback, on the solar Lot located to the north, will not be shaded more than four (4) feet above grade on its south wall on January 21 at solar noon.

- b. Pre-existing Vegetation: Restricted vegetation (solar unfriendly) which existed when the subdivision was platted is exempt from the provisions of these covenants, conditions, and restrictions. Any Lot which would be shaded beyond the allowed shade limits by such vegetation shall not be classified as a Solar Lot.
- c. Slope Exemption: Any Lot with an average finished grade slope along the north-south or east-west Lot dimension (depending on which is the relevant frontage direction of the Lot) greater than ten percent (10%) shall be exempt from the terms and conditions of these covenants, conditions, and restrictions.
- d. Solar Setbacks: Each separate structure and item of restricted vegetation shall have a solar setback dependent on, and calculated by, its shade point height. All shade restricted Lots shall have the following solar setback: Solar Setback (in feet) = (Shade Point Height (in feet – 11.5 feet) times two (2)).
- e. Solar Friendly Vegetation: Certain vegetation is considered “solar friendly” and is not restricted in regards to location on individual Lots. Such vegetation is deciduous, dropping its leaves during early fall and regaining them during late spring. Such vegetation also has a sparse branching which allows a high level of sunlight to penetrate through. This growth cycle produces shading during summer by the City of Boise City Public Works and the Community Planning and Development Departments.

9.3 Solar Access Rights, Duties, and Responsibilities:

- a. Solar Access Rights: The owner(s) of solar Lots shall have a right to unobstructed solar access in accordance with these covenants, conditions, and restrictions.
- b. Solar Access Duties: The owners of any Lot shall not build, install, or otherwise allow, a structure of non-solar friendly tree on that Lot to cast more shade at their solar Lot line than permitted under these solar access covenants, restrictions, and conditions.

**ARTICLE X - MISCELLANEOUS**

Section 10.01 Term: This Declaration and all covenants, conditions, restrictions, and easements contained herein shall run until December 31, 2020, unless amended hereafter provided. After December 31, 2020, said covenants, conditions, restrictions and easements shall automatically extend for successive periods of ten (10) years each, unless extinguished by a written instrument executed by the Owners of at least fifty one percent (51 %) of the lots in Muir Woods Subdivision and then only if such written instrument is recorded with the Ada County Recorder.

Section 10.02 Amendment: This Declaration may be amended as follows:

By Owners: Except where a greater percentage is required herein, the provisions of this Declaration, other than this Section, may be amended by an instrument in writing, signed and acknowledged by the Owners, owning at least fifty-one percent (51 %) of the Lots within Muir Woods Subdivision Property, and such amendment shall be effective upon its recordation with the Ada County Recorder. Any amendment to this Section 9.02 shall require the vote or written consent of all Owners.

Section 10.03 Non-Waiver: The failure of the Grantor or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements, or other provisions of this Declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement or other provision, but the same shall remain in full force and effect.

Section 10.04 Enforcement - Costs: This Declaration may be enforced by the MWHOA or by any Owner of a Lot. If suit or other action is filed to interpret or enforce this Declaration, or any provision thereof, the prevailing party shall be awarded reasonable attorney's fees, in addition to the costs and disbursements allowed by law, including the same with respect to an appeal.

Section 10.05 Acceptance: Each Owner of a Lot, each purchase of a Lot under a contract of agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sales, or option, accepts the same subject to all the covenants, conditions, restrictions, easements and other provisions set forth in this Declarations and agrees to be bound by the same.

Section 10.06 Severability: Each of the provisions hereof shall be deemed independent and severable and the invalidity or unenforceability of any provision or portion thereof, shall not affect the validity or enforceability of any other provision.

Section 10.07 Interpretation: The provisions of this Declaration shall be liberally construed to affect the purposes hereof and shall be construed and governed in accordance with the laws of the State of Idaho. The singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall include the masculine, feminine or neuter. All captions and titles are intended solely for convenience of reference and shall not affect that which is set forth in any of the provision hereof.

This amended Declaration is signed and acknowledged by the officers of the Muir Woods Board of Directors, duly elected by the owners of at least fifty-one percent of the Lots within Muir Woods Subdivision Phases, 1, 2, 3 and 4.

MUIR WOODS HOMEOWNERS ASSOCIATION  
BOARD OF DIRECTORS

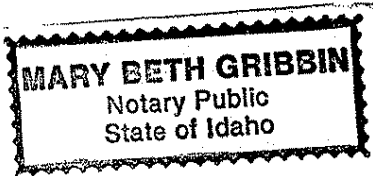
*Morris Bastian*

Morris Bastian, President

STATE OF IDAHO )  
 ) ss.  
COUNTY OF ADA )

On this day, AUG. 3RD, 2007, before me, MARY BETH GRIBBIN, a Notary Public in and for the State of Idaho, personally appeared the above directors, known to me or identified to me or proved to me on the basis of satisfactory evidence to be an officer of the Board of Directors of Muir Woods Homeowners Association, Inc., and to be the person whose name is attached to the foregoing instrument and acknowledged to me that said corporation executed the same.

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




*Mary Beth Gribbin*

Notary Public for Idaho  
Residing at Boise, Idaho  
My Commission expires on 12/31/08

**This amended Declaration is signed and acknowledged by the officers of the Muir Woods Board of Directors, duly elected by the owners of at least fifty-one percent of the Lots within Muir Woods Subdivision Phases, 1, 2, 3 and 4.**

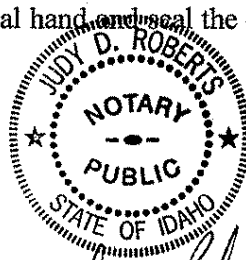
**MUIR WOODS HOMEOWNERS ASSOCIATION  
BOARD OF DIRECTORS**

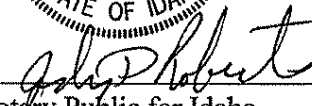
  
\_\_\_\_\_  
Lee Coulson, Vice-President

STATE OF IDAHO     )  
                                  ) ss.  
COUNTY OF ADA    )

On this day, 7/20/07 2007, before me, Judy Roberts, a Notary Public in and for the State of Idaho, personally appeared the above directors, known to me or identified to me or proved to me on the basis of satisfactory evidence to be an officer of the Board of Directors of Muir Woods Homeowners Association, Inc., and to be the person whose name is attached to the foregoing instrument and acknowledged to me that said corporation executed the same.

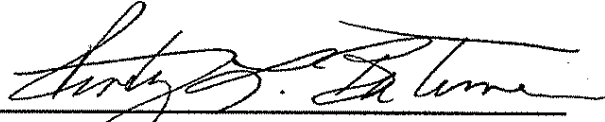
IN WITNESS WHEREOF, I have hereunto placed my official hand and seal the day and year in this Certificate first above written.



  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at Boise, Idaho  
My Commission expires on 8/19/09

This amended Declaration is signed and acknowledged by the officers of the Muir Woods Board of Directors, duly elected by the owners of at least fifty-one percent of the Lots within Muir Woods Subdivision Phases, 1, 2, 3 and 4.

MUIR WOODS HOMEOWNERS ASSOCIATION  
BOARD OF DIRECTORS

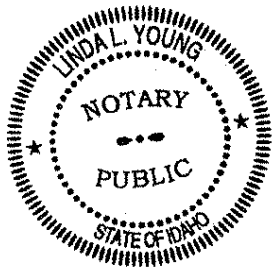


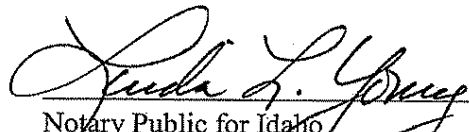
Cindy L. Bateman, Secretary-Treasurer

STATE OF IDAHO )  
                          ) ss.  
COUNTY OF ~~ADA~~ <sup>Canyon</sup> )

On this day, 6th day of July, 2007, before me, Linda L. Young, a Notary Public in and for the State of Idaho, personally appeared the above directors, known to me or identified to me or proved to me on the basis of satisfactory evidence to be an officer of the Board of Directors of Muir Woods Homeowners Association, Inc., and to be the person whose name is attached to the foregoing instrument and acknowledged to me that said corporation executed the same.

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



  
Notary Public for Idaho  
Residing at <sup>Blaine</sup> Boise, Idaho  
My Commission expires on 2/16/13