



**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**OF**

**SKYLIGHT SUBDIVISION MARKETING AS SOUTH HILL**

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THIS DECLARATION is made on the date hereinafter set forth by Joseph O. Swenson, an individual hereinafter referred to as "Declarant".

**WITNESSETH**

WHEREAS, Declarant is the owner of certain real property in Ada County, State of Idaho, hereinafter referred to as "the Properties," more particularly described as follows:

SKYLIGHT SUBDIVISION, according to the official plat thereof, recorded in Book 99 of Plats at Pages 12721 through 12723, as Instrument No. 107139656 recorded on the 10<sup>th</sup> day of October, 2007, records of Ada County, Idaho; and

WHEREAS, Declarant desires to subject the above described Properties to certain protective covenants, conditions, restrictions, reservations, easements, liens, and charges for the benefit of the Properties and their present and subsequent Owners as hereinafter specified, and will convey the Properties subject thereto;

NOW, THEREFORE, Declarant hereby declares that all of the Properties above described shall be held, sold and conveyed upon and subject to the easements, conditions, covenants, restrictions and reservations hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of, and which shall run with the Properties and be binding on all parties now or hereafter having any right, title or interest therein or to any part hereof, and shall inure to the benefit of each owner thereof.

**ARTICLE I: DEFINITIONS**

The following terms shall have the following meanings:

Section 1. "ASSOCIATION" shall mean and refer to Skylight Subdivision Homeowners Association, Inc. a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

Section 2. "PROPERTIES" shall mean and refer to that certain real property hereinabove described.

Section 3. "COMMON AREA" shall mean all real property and improvements thereon (including private streets, drives, parking areas and recreational facilities) owned by the Association

for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

Lot 1, Block 1; Lots 1 and 14, Block 2; Lot 1, Block3; Lot 10, Block4; Lot 1, Block 5 and Lot 1, Block 6 Skylight Subdivision, and Lot 25 Block 4, according to the official plat thereof.

Section 4. "LOT" or "LOTS" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 5. "OWNER" shall mean and refer to the record owner, whether one or more persons or entitles, of the fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "DECLARANT" shall mean and refer to Joseph O. Swenson, his successors, and subject to the provisions of Article XV, Section 4, below, his assigns.

Section 7. "DECLARATION" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the office of the County Recorder of Ada County, State of Idaho.

Section 8. "DWELLING UNIT" shall mean that portion or part of any structure intended to be occupied by one family as a dwelling unit, together with the vehicular parking garage next thereto, and all projections therefrom.

Section 9. "MORTGAGE" shall mean any mortgage, deed of trust or other security instrument by which a Dwelling Unit or any part thereof is encumbered.

Section 10. "MORTGAGEE" shall mean any person or any successor to the interest of such person named as the mortgagee, trust beneficiary or creditor under any Mortgage.

Section 11. "FIRST MORTGAGEE" shall mean any Mortgagee possessing a lien on any Dwelling Unit first and prior to any other Mortgage.

Section 12. "INSTITUTIONAL HOLDER" shall mean a Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

Section 13. "PLAT" shall mean a final subdivision plat covering any real property in Skylight Subdivision as recorded in the office of the county recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereto.

## ARTICLE II: PROPERTY RIGHTS

Section 1. Enjoyment of Common Area: Each Owner shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject, however, to the following provisions:

- A. The right of the Association to levy reasonable assessments for the maintenance of any landscaping improvement or other facilities situated upon the Common Area.
- B. The right of the Association to suspend the voting rights and right to use of any recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- C. The right of the Association to limit the number of members permitted to use the Common Area at any one time as may reasonably be required in order to conform to any applicable life safety ordinances or codes or to protect the common area from damage or destruction.
- D. The right of the Association to charge reasonable admission fees for the use of any recreational facility situated upon the Common Area or otherwise controlled by the Association, including, particularly, the right to charge a special use fee for members who desire exclusive short-term use of such facility and who are willing to pay a special fee or assessment for such use.
- E. The rights of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities; and, in aid thereof, to place a mortgage or trust deed thereon, which shall be a first and prior lien there against; provided that the Common Area may not be mortgaged or conveyed without the consent of at least 66-2/3% of the Owners (excluding Declarant), and that any conveyance or mortgage of Common Area shall be subject to and subordinate to rights of ingress and egress of an Owner to his/her Lot.
- F. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members; provided, however, that any such dedication or transfer shall be first approved in writing by the City of Boise; and further provided that except as to the Association's right to grant easements for utilities and similar or related purposes, no part of the Common Area and facilities may be alienated, released, transferred, hypothecated or otherwise encumbered without the written approval of all First Mortgagees and two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly held for this purpose.
- G. The right of the Directors of the Association to promulgate reasonable rules and regulations governing such right of use, from time to time, in the interest of securing

maximum safe usage of the Common Area by the members of the Association without unduly infringing upon the privacy or enjoyment of the Owner or occupant of any part of said property, including without being limited thereto, rules restricting persons under or over designated ages from using certain portions of the Common Area during certain times and reasonable regulations and restrictions regarding vehicle parking.

Section 2. Delegation of Use: Any member may delegate, in accordance with the rules and regulations adopted from time to time by the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers, provided they reside on the property at the time of use.

Section 3. Rights Reserved by Declarant.

Notwithstanding anything to the contrary contained in this Declaration, Declarant expressly reserves unto:

- A. Himself, his employees, successors, heirs, assigns, agents, representatives, contractors and their subcontractors and employees, easements and rights-of-way on, over and across all or any part of the streets for vehicular and pedestrian ingress and egress to and from any part of the Properties, or any adjacent real property owned by Declarant, or its successors or assigns;
- B. Himself, his employees, successors, heirs, assigns, agents, representatives, contractors and their subcontractors and employees (including any district, company, unit of local government, association or other entity providing water, sewer, gas, oil, electricity, telephone, cable television, or other similar services), easements, access and rights-of-way on, over, under and across all or part of the Common Area and utility easements on, over and under all Lots and Common Area as provided on any recorded Plat of the Property for installation, use, maintenance and repair of all lines, wires, pipes, pumps, water wells, facilities, and other things necessary for all such services, provided that any installation, maintenance or repair of such lines, wires or pipes shall be performed with reasonable care and that the surface of said easement area shall be restored to the level and condition that existed prior to the doing of work; and
- C. Himself, his employees, successors, heirs, assigns, agents, representatives, contractors and their subcontractors and employees, the right to use the Common Area where applicable, to facilitate and complete the development of the Properties, and any annexed property, including without limitation the use of the Common Area where applicable, for:
  - 1. Construction, excavation, grading, landscaping, parking and/or storage;
  - 2. Maintenance and operation of a sales office and model units for sales purposes;

3. The showing to potential purchasers of any unsold Lot, unit or improvements within the Properties;
4. Display of signs to aid in the sale of any unsold Lots and units, or all or part of the Properties;
5. Construction, operation and maintenance of all or any portion of any Common Area by Declarant, his successors or assigns;
6. Use of the irrigation system for irrigation water for Common Area and expansion and connection of the irrigation system to any annexed property, and the use and enjoyment of water therefrom.

### ARTICLE III: HOMEOWNERS ASSOCIATION

Section 1. Membership: Every Owner of a Lot which is subject to assessment shall be a member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the payment of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Such ownership shall be the sole qualification for membership and shall automatically commence upon a person becoming such Owner and shall automatically terminate and lapse when such ownership in said property shall terminate or be transferred. Absolute liability is not imposed on Owners/members for damage to Common Area or Lots in the subdivision.

Section 2. Voting Rights: The Association shall have two classes of voting membership:

Class A: Class A members shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional votes shall not be allowed. The vote applicable to any said Lot being sold under contract of purchase shall be exercised by the contract seller, unless the contract expressly provides otherwise.

Class B: Class B member(s) shall be Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall be converted to Class A membership on the happening of either of the following events, whichever occurs first:

- A. When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- B. On December 31, 2028.

Section 3. Assessments:

- A. Creation of Lien and Personal Obligation of Assessments: Each Owner of any Lot, by acceptance of a deed therefor (whether or not it shall be so expressed in such deed), is deemed to covenant and agree to pay to the Association:

1. Regular annual or other regular periodic assessments or charges;
2. Special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided; and
3. Limited Assessments for specified expenses incurred by the Association, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The regular, special and limited assessments, together with interest, costs of collection and reasonable attorney's fees shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorney's fees shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The obligation shall remain a lien on the Lot until paid or foreclosed, but shall not be a personal obligation of successors in title, unless expressly assumed.

- B. Purpose of Assessments: The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties, for the reasonable expenses incurred in the operation of the affairs of the Association, for the expenses incurred by the Association in connection with any of its obligations contained in this Declaration or in the Bylaws of the Association, and for any other purpose reasonably authorized by the Board of Directors of the Association.

- C. Maximum Annual Assessment: Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$250.00.

1. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment as set forth above.
2. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the amount set forth in the preceding paragraph by a vote of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

3. The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum; and said assessments shall be payable to the Association in regular monthly or quarterly installments as may be determined by the Board of Directors.
- D. Initiation and Transfer Assessments: Upon the initial conveyance of each lot, the purchaser thereof shall pay an initiation assessment in the amount of \$250.00. Upon each subsequent conveyance of each Lot, the purchaser thereof shall pay to the Association a transfer assessment in the amount of \$100.00.
- E. Special Assessments for Capital Improvements: In addition to the regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement for or upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose. Any such special assessment shall be payable over such a period as the Association shall determine.
- F. Notice and Quorum for Any Action Authorized Under Sections 3C and 3E: Written notice of any meeting called for the purpose of taking any action authorized under Section 3C or 3E, above, shall be sent to all members not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast forty percent (40%) of all the votes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
- G. Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for non-exempt Lots.
- H. Date of Commencement of Annual Assessments; Due Dates: The annual assessments provided for herein shall commence as to a Lot sold on the first day of the month following the initial conveyance of the said Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of

the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

I. Limited Assessments. The Association may levy Limited Assessments in the following circumstances:

1. Maintenance & Repair: The Association shall have the power to incur expenses for maintenance and repair of any Lot or any improvement on a Lot, if such maintenance and repair is necessary, in the opinion of the Board, to protect the Common Area or any other portion of the Properties and if the Owner of said Lot has failed or refused to perform said maintenance or repair after written notice of the necessity thereof has been delivered by the Board to said Owner in accordance with the procedures set forth in subparagraph 3 below. The Board shall levy a Limited Assessment against the Owner to reimburse the Association for the cost of such maintenance and repair, together with any other cost or expense, including management fees and attorney fees, arising out of or incident to such maintenance and repair or the collection of the assessment therefor.
2. Correction of Violation: The Association shall have the power to incur expenses for the correction of a violation of this Declaration or any Architectural Control Committee rules and regulations on a Lot if the Owner of said Lot has failed or refused to correct such a violation after written notice of the necessity thereof has been delivered by the Board to said Owner in accordance with the procedures set forth in subparagraph 3, below. The Board shall levy a Limited Assessment against the Owner to reimburse the Association for the cost of such corrective action, together with any other cost or expense, including management fees and attorney fees, arising out of or incident to such corrective action or the collection of the Assessment therefor.
3. Notice: The Owner of the Lot which is in need of maintenance and repair or corrective action as set forth above, shall be given seven (7) days written notice of the maintenance and repair or corrective action required. The notice shall be delivered personally to such Owner or sent *via* first class mail or certified mail to the last known address of such Owner shown on the records of the Association.
4. Collection Costs: Each Owner against whom a Limited Assessment is levied agrees to and shall pay all the costs of said corrective action, plus interest on all expended funds from the date of expenditure at the rate of 2% per month plus a management fee equal to ten percent (10%) of all the costs expended for the corrective action and all attorney fees incurred, which such amounts shall be added to and become a part of the Limited Assessment against that Lot and Owner and shall create a lien enforceable in the same manner as other Assessments set forth in this Declaration. If



such an assessment is not paid within ten (10) days of notice of the Limited Assessment, the Owner shall also be subject to late fees and collection procedures set out herein.

- J. Effect of Nonpayment of Assessments; Remedies of Association: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.
- K. Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.
- L. Exempt Property: The following property, subject to this Declaration, shall be exempt from the assessments created herein:
1. All property expressly dedicated to and accepted by a Local public authority;
  2. The Common Area;
  3. All other Properties owned by Declarant or the Association;
  4. All Lots owned by Declarant, until title is transferred to another, or until occupancy, whichever occurs first.

#### ARTICLE IV. IRRIGATION WATER SUPPLY SYSTEM

All Lots and Common Area shall have access to a pressurized irrigation water system to be constructed by Declarant and owned and operated by the Boise-Kuna Irrigation District pursuant to and in accordance with the Agreement for Pressurized Urban Irrigation Systems (PUIS) with Restrictive Covenants Running with the Land recorded on June 29, 2007 as Instrument No. 107093032, records of Ada County, Idaho.

#### ARTICLE V: STORM WATER DRAINAGE AND RETENTION SYSTEM

Section 1. Ada County Highway District Storm Water and Drainage Easement: The Ada County Highway District has been granted a perpetual blanket storm water drainage easement over Lot 10 and portions of Lots 22, 23 and 24, Block 4 Skylight Subdivision on which has been constructed storm water drainage facilities to be owned and operated by the Ada County Highway

District in accordance with the provisions of the Master Perpetual Storm Water Drainage Easement recorded on May 20, 2004 as Instrument No. 104068411 records of Ada County, Idaho.

Section 2. Operation and Maintenance: Operation and Maintenance of the storm water drainage facilities shall be governed by the Operation and Maintenance Manual of the Storm Water Drainage System in Skylight Subdivision, which manual may only be modified with the written approval of the Ada County Highway District.

Section 3. Inspection and Maintenance: The Ada County Highway District shall have the right at all times to inspect the storm water drainage facilities and perform any required maintenance and repairs.

Section 4. Assessment and Lien Rights: The Ada County Highway District shall be entitled to levy assessments to the Association for the reasonable costs of all required maintenance and repairs to the storm water drainage facilities and shall be entitled to a continuing lien against all Lots for such unpaid assessments for maintenance and repair to the storm water drainage facilities.

Section 5. Approval of Amendments: Any amendment of this Declaration, the Covenants, Conditions and Restrictions contained herein, or the manual referred to in Section 2, above, having any direct impact or affect on the Ada County Highway District's storm water drainage facilities shall be subject to prior review and approval by the Ada County Highway District.

#### ARTICLE VI. EASEMENTS

Section 1. Future Easements: The Association shall have the future right to provide for such easements across, upon and under the surface of its Common Area as platted herein as may be reasonably necessary to serve the interests and convenience of the Owners for public or private ways, public utilities (including cable television), drainage, access, subterranean irrigation lines, eave and balcony overhangs.

Section 2. Encroachments: In the event that, by reason of the construction, settlement or shifting of the building, any part of any Dwelling Unit or drainage water from any Lot or Dwelling Unit encroaches or shall hereafter encroach upon any part of the Common Area or any adjacent Lot, easements for the maintenance of such encroachment and for such use of the areas encroached upon are hereby established and shall exist for the benefit of said Dwelling Unit, so long as all or any part of the buildings shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Area or adjacent Dwelling Units be created in favor of any Owner of such encroachment or use if it is detrimental to or interferes with the reasonable use and enjoyment of the property by other Owners and if it occurred due to the willful conduct of any Owner.

Section 3. Easement for Maintenance: Declarant and the Association shall have a permanent easement to go upon the privately owned property of Owners in this subdivision to perform maintenance upon the Properties and the Common Area, including, but not limited to, snow removal, landscape maintenance, utility service and drainage system maintenance and

perimeter fence maintenance, together with all rights of ingress and egress necessary for the full and complete use, occupation and enjoyment of the easements hereby reserved, and all rights and privileges incident thereto, including the right from time to time to cut, trim and remove trees, brush, overhanging branches and other obstructions which may injure or interfere with the use, occupation or enjoyment of the reserved easement and the operation, maintenance and repair of utility service connections and drainage systems.

#### ARTICLE VII: MAINTENANCE RESPONSIBILITY

Section 1. Maintenance by Association. The Association shall provide maintenance to and be responsible for the Common Area and improvements thereon. In the event the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, guests or invitees, the costs of such maintenance or repairs shall be added to and become part of the assessment to which such Owner's Lot is subject. The Association shall have an easement for ingress, egress and maintenance as may be reasonably necessary to perform the maintenance duties of the Association.

Section 2. Maintenance by Owner. Each Owner shall be responsible for maintaining and keeping in good order and repair the exterior of his Dwelling Unit and any private decks, fences (if permitted as herein provided), courtyards, landscaping and lawn contiguous to his Dwelling Unit. Prior to the construction of a Dwelling Unit thereon, each Owner shall be responsible to keep his Lot in a neat and aesthetically pleasing condition, reasonably free of weeds and accumulation of rubbish and debris. In the event of damage or destruction of a Dwelling Unit by fire or other casualty, the owner must complete repair and/or replacement of the Dwelling Unit within one hundred twenty (120) days of the damage or destruction.

Section 3. Failure of Owner to Maintain. In the event an Owner shall fail or refuse to perform its maintenance or repair obligations as set forth herein, the Association shall have the power to enter on to said Owner's Lot for the purpose of performing such maintenance or repairs as may be reasonably required and shall have the power to incur expenses therefor; provided, however, that the Board of Directors of the Association shall have delivered to such Owner written notice at least seven (7) days in advance of performing such maintenance and repairs, describing the maintenance or repairs required to be made and advising the Owner of the Association's intent to perform such maintenance and repairs if the Owner fails or refuses to do so within the time set forth in such notice. The cost incurred by the Association in performing such maintenance or repairs, together with interest thereon from the date of expenditure at the rate of two percent (2%) per month, shall be added to and become part of the assessment to which such Owner's Lot is subject.

#### ARTICLE VIII: PROPERTY USE RESTRICTIONS

The following restrictions shall be applicable to the Properties and shall be for the benefit of and limitations upon all present and future Owners of said property or of any interest therein:

- A. Lot Use: No Lot, with the exception of the Common Area, shall be used for any purpose except for single-family residential purposes. No Lot or the Common Area shall be used for the conduct of any trade, business or professional activity, except

such home occupations as have been approved by the governmental entity having jurisdiction thereof and which shall be conducted and maintained solely within a residential Dwelling Unit; provided that no signs relating to said business activities shall be displayed where visible from any private or public road within the subdivision; and further provided that such business purposes shall not generate more than an average of three customer visits in non-commercial vehicles per day calculated over a five day work week; and further provided that such business does not employ more than one person not living within the Dwelling Unit constructed on the said Lot.. All Lots and improvements constructed thereon must comply with all applicable governmental rules, ordinances, laws, statutes and regulations. The Owner of each Lot shall complete construction of a Dwelling Unit as permitted herein within one (1) year after the date of commencement thereof.

- B. Animals: No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of said Properties, except that two dogs, cats or other household pets may be kept within a Dwelling Unit or within a fenced area as may be approved by the Architectural Control Committee. Any animals outside a Dwelling Unit or fenced area must be on leashes, and the Owner or custodian of the animal shall be responsible for the immediate cleanup of the animal's droppings. The term "fenced area" as used in this paragraph shall be interpreted to include any electronic pet containment system; provided, however, that the boundary of any such system shall be approved by the Architectural Control Committee and that in no event shall the said boundary extend beyond the front plane of the Dwelling Unit constructed on said Lot.
- C. Garbage and Refuse Disposal: No part of said Properties shall be used or maintained as a dumping ground for rubbish, trash or other waste. No garbage, trash or other waste shall be kept or maintained on any part of said Properties except in a sanitary container. Any incinerators or other equipment for the storage or disposal of such material must not violate setback restrictions, must be enclosed with an aesthetic screen or fence, as may be approved by the Architectural Control Committee and shall be kept in a clean and sanitary condition. Refuse containers may be placed at the curb in front of each Lot no earlier than the night prior to the regular pickup day and must be retrieved promptly after pickup.
- D. Nuisance: No noxious or offensive or unsightly conditions shall be permitted upon any part of said Properties, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No exposed antennae or satellite dishes shall be erected on the Properties without the prior approval of the Architectural Control Committee, which approval may be withheld in its sole discretion. Any holiday decorations shall be removed promptly following the said holiday.
- E. Outbuildings: No trailer, truck camper, tent, garage, barn, shack or other outbuilding shall at any time be used as a residence temporarily or permanently on any part of said Properties.

- F. Parking and Storage of Vehicles and Equipment: Parking or storage of boats, trailers, motorcycles, trucks, truck campers, motor homes, recreational vehicles, and like equipment, or junk cars or other unsightly vehicles, shall not be allowed on any Lot nor on the Common Area, except in fully enclosed buildings; similar recreational vehicles may be parked on a Lot for a period not to exceed 48 hours while in immediate use by and Owner, being prepared for use, or being prepared for storage after use. All other parking or storage of any other equipment shall be prohibited. Any vehicle awaiting repair or being repaired shall be removed from the subdivision within 48 hours.
- G. Leasing Restrictions: Any lease (as defined below) between an Owner and his tenant shall provide that the terms of the lease shall be subject in all respects to the provisions contained in this Declaration, the Association's Articles of Incorporation and its Bylaws, and that any failure by said tenant to comply with the terms of such documents shall be a default under such lease. For the purposes of this Declaration, a "lease" shall mean any agreement for the leasing or rental of a Dwelling Unit (including a month-to-month rental agreement); and all such Leases shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner to lease his Dwelling Unit.
- H. Sewer Restrictions: All bathroom, sink and toilet facilities shall be located inside the Dwelling Unit or other suitable appurtenant building, and shall be connected by underground pipe to wet line sewer connection lines which have been provided to each Lot. All Lots shall be subject to and restricted by the following covenants:
1. A monthly sewer charge must be paid after connecting to the Boise City public sewer system, according to the ordinances and laws of Boise City.
  2. Each Owner shall submit to inspection by either the Boise City Public Works Department or Building Department whenever a Lot is to be connected to the Boise City sewage system and a building is constructed or installed on a Lot.
  3. Declarant shall and does hereby vest in Boise City the right and power to bring all actions against all Owners for the collection of any charges herein required and to enforce the conditions herein stated.
- I. Fences: Fences, including fences around swimming pools, dog runs or other uses, may be permitted under such circumstances, if any, as may be prescribed by and in the sole discretion of the Architectural Control Committee as to design, materials, color and location.

- J. Parking Rights: Subject to the provisions of paragraph F. above, any automobile or other vehicle used by any Owner shall be parked in the driveway or garage which is a part of his Dwelling Unit.
- K. Mail Boxes: Declarant shall initially install dual mailboxes on a shared property line or permit the installation of individual mailboxes if a shared property line is unavailable in accordance with the requirements of the United States Postal Service.
- L. Grading and Drainage: There shall be no interference with the established drainage pattern over any portion of the Properties unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Architectural Control Committee and the Ada County Highway District. For purposes hereof, "Established Drainage Pattern" is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Properties is completed by Declarant, or that was shown on any plans approved by the Architectural Control Committee and/or the Ada County Highway District, which may include drainage from Common Area over any Lot in the Properties. The Owner of any Lot within the Properties in which grading or other work has been performed pursuant to a grading plan approved under the provisions of the applicable city or county code, or by the Association, shall maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures, means or devices which are not the responsibility of the Ada County Highway District, or other public agency and plantings and ground cover installed or completed thereon.

#### ARTICLE IX. BUILDING RESTRICTIONS

Section 1. Building Restrictions: No buildings shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family dwelling containing no less than 1400 square feet of living area. No dwelling unit shall exceed thirty-five feet (35') in height. Each dwelling unit must include a private garage for two (2) or more motor vehicles. No dwelling unit may be occupied by more than one (1) family. No manufactured homes shall be permitted to be placed or installed on any Lot.

Section 2. Setbacks: No improvements may be constructed or maintained on a Lot within the minimum building setback lines as set forth on the Plat and in the zoning regulations of the governmental agency having jurisdiction thereof.

Section 3. Construction Requirements: The exterior surfaces of each Dwelling Unit shall be composed of such materials and have such colors as may be approved by the Architectural Control Committee. All roofs shall be comprised of such materials and be of such pitch as may be approved by the Architectural Control Committee (a minimum 4/12 pitch is recommended). Each Dwelling Unit must have at least two exterior lights illuminating the garage door openings and one exterior light for the front entryway(s), and shall have a yard light or lights as approved by the

Architectural Control Committee. All driveways must be concrete. No manufactured or modular homes shall be permitted.

Section 4. Landscaping: Prior to installation of landscaping, a Landscaping and Drainage Plan must be approved in writing by the Architectural Control Committee and must meet, at a minimum, the following standards:

All yard areas are to be maintained in a professional manner and front fully landscaped with sod, trees and shrubs. The front yard landscaping shall include a minimum of 2- 2 1/2" caliper trees, or 2- 8' conifer trees and 6-5 gallon shrubs and 6-1 gallon shrubs. Landscaping for side front yards or side yards adjoining common areas shall include a minimum of 1-2 1/2" caliper tree, or 1- 8' conifer tree plus 4- 5 gallon shrubs and 4-1 gallon shrubs for each respective yard and sod.

All landscaping shall be completed within 30 days after initial occupancy by the Owner, weather permitting. Special consideration and extensions will be granted from December 1 to April 1 upon written approval of the Architectural Control Committee.

Section 5. Job Site Maintenance. Job sites are to be kept as clean as possible during construction. All dirt, nails, gravel and other building materials must be removed from the street and sidewalk daily. Work vehicles shall not be parked in front of occupied houses, nor shall they block streets. Power and water must not be used from existing dwellings without the prior permission of the Owner. Dumpsters are the responsibility of the Owner or his contractor and shall be kept orderly at all times and emptied on a timely basis. All contractors and subcontractors shall be prohibited from keeping dogs at the job site. Each Owner shall be responsible to repair any damage to any road, mailbox, utility facility or other on-site or off-site improvement caused by the Owner or the Owner's agents or contractors during the construction of any improvements on the Owner's Lot. In the event an Owner or his contractor shall fail or refuse to comply with the job site maintenance requirements of this section, the Declarant or the Association may take such remedial action as it deems appropriate, including but not limited to the cleanup of the property, the costs of which may be added to and become a part of the assessment to which such Owner's lot is subject.

#### ARTICLE X. ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee: In order to protect the quality and value of the homes built on the Properties, and for the continued protection of the Owners thereof, an Architectural Control Committee is hereby established consisting of three or more members to be appointed by the Declarant until such time as all Lots have been transferred by Declarant to another. Thereafter the Board of Directors of the Homeowners Association shall appoint members to the Architectural Control Committee at each annual meeting of the Board.

Section 2. Approvals Required: No building, fence, wall, patio cover, window awning or other structure or landscaping improvements of any type shall be commenced, built, constructed, placed, or maintained upon any Lot, Common Area or other property, nor shall any exterior addition, change or alteration of existing improvements be made, until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location and such other detail as

the Architectural Control Committee may require, shall have been submitted to and approved in writing by the Architectural Control Committee as to harmony of external design and location in relation to surrounding structures and topography and as to conformity with requirements of this Declaration. In the event the Architectural Control Committee fails to approve, disapprove, or specify the deficiency in such plans, specifications and location within thirty (30) days after submission to the Architectural Control Committee in such form as they may require, it shall be deemed approved.

The Architectural Control Committee shall have the right to refuse to approve any design, plan or color for such improvements, construction or alterations which, in its opinion, are not suitable or desirable for any reason, aesthetic or otherwise. In so passing in such design, the Committee shall have the privilege in the exercise of its discretion to take into consideration the suitability of the proposed structure or alteration, the materials of which it is to be built, and the exterior color scheme in relation to the site upon which it is proposed to be erected. The Architectural Control Committee may also consider whether the design of the proposed structure or alteration is in harmony with the surroundings, the effect of the structure or alteration when viewed from adjacent or neighboring property, and any and all other facts which, in the Architectural Control Committee's opinion, shall affect the desirability of such proposed improvement, structure or alteration. Actual construction shall comply substantially with the plans and specifications approved.

Section 3. Submissions: Requests for approval of the Architectural Control Committee shall consist of such documents and other materials as may be reasonably requested by the Architectural Control Committee including, without limitation, the following:

- A. Site Plan. A site plan showing the location of buildings and all other structures and improvements, including fences and walls on the Lot, Lot drainage and all setbacks and other pertinent information related 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, detailed exterior specifications for each building which shall indicate, by sample, if required by the Architectural Control Committee, all exterior colors, material and finishes, including roof, to be used. Garage, accessory and outbuildings to be located on a Lot shall be architecturally and visually compatible and harmonious with the principal building on the Lot as to style and exterior colors and shall not be higher than ten feet above the roof line of the principal building on the Lot.
- C. Landscape Plan. A landscape plan for that portion of the Lot to be landscaped which shall show the location, type and size of trees, plants, ground cover, shrubs, berms and mounding, grading, drainage, sprinkler system, fences, free standing exterior lights, driveways, parking areas and walk ways.

Section 4. Rules and Regulations: The Architectural Control Committee is hereby authorized to adopt rules and regulations to govern its procedures and the requirements for making submissions and obtaining approval as the Committee deems appropriate and in keeping



with the spirit of due process of law. The Architectural Control Committee is further hereby empowered to adopt such rules and regulations as it shall deem appropriate, consistent with the provisions of this Declaration, pertaining to matters of design, materials, colors, and aesthetic interests. Any such rules and regulations may be amended from time to time, in the sole discretion of the Architectural Control Committee. The failure of the Architectural Control Committee to adopt any such rules and regulations shall not form the basis for an attack upon the exercise of Architectural Control Committee's discretion, it being the intent of this Declaration to provide the Architectural Control Committee with as broad discretion as is permissible under the law.

Section 5. Fees: The Architectural Control Committee may establish, by its adopted rules, a reasonable fee schedule for an architectural review fee to be paid by each owner submitting plans and specifications for approval. No submission for approval will be considered complete until such fee has been paid.

Section 6. Variances: The Architectural Control Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing, must be signed by at least two (2) members of the Architectural Control Committee, and shall become effective upon recordation in the office of the Ada County Recorder. If such variances are granted, no violation of the covenants, conditions or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting such Owner's use of the Lot, including but not limited to zoning ordinances or requirements imposed by any governmental or municipal authority.

Section 7. Waiver: The approval of any plans, drawings or specifications for any structure, improvement, or alteration, or for any matter requiring the approval of the Architectural Control Committee, shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications, or matters subsequently submitted for approval.

Section 8. Liability: Neither the Architectural Control Committee nor any member thereof shall be liable to the Association, any Owner, or any other party, for any damage suffered or claimed on account of any act, action or lack thereof, or conduct of the Architectural Control Committee or any members thereof, so long as the Architectural Control Committee, or the respective members thereof, acted in good faith on the basis of information they then possessed.

Section 9. Certification by Secretary: The records of the Secretary of the Association shall be conclusive evidence as to all matters shown by such records and the issuance of a certificate of completion and compliance by the Secretary or Assistant Secretary of the Association showing that the plans and specifications for the improvement or other matters therein provided for have been approved and that said improvements have been made in accordance therewith, or a certificate as to any matters relating to and within the jurisdiction of the Association by the

Secretary thereof, shall be conclusive evidence that shall fully justify and protect any title company certifying, guaranteeing or insuring title to said property, or any portion thereof or any lien thereon and/or any interest therein as to any matters referred to in said certificate, and shall fully protect any purchaser or encumbrancer from any action or suit under this Declaration. After the expiration of one (1) year following the issuance of a building permit therefor by municipal or other governmental authority, any structure, work, improvement or alteration shall, as to any purchaser or encumbrancer in good faith and for value and as to any title company which shall have insured the title thereof, be deemed to be in compliance with all the provisions hereof unless a notice of noncompliance executed by the Association shall have appeared of record in the office of the County Recorder of Ada County, State of Idaho, or unless legal proceedings shall have been instituted to enforce completion or compliance.

Section 10. Construction and Sales Period Exception: During the course of construction of any permitted structures or improvements and during the initial sales period, the restrictions (including sign restrictions) contained in this Declaration or in any Supplemental Declaration shall be deemed waived to the extent necessary to permit such construction and the sale of all Dwelling Units; provided that, during the course of such construction and sales, nothing shall be done which will result in a violation of these restrictions upon completion of construction and sale. Further, Declarant shall have the right to select and use any individual Dwelling Units owned by it as models for sales purposes.

#### ARTICLE XI: INSURANCE AND BOND

Section 1. Required Insurance: The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder in such amounts and in such forms as the Association may deem appropriate from time to time.

- A. A multi-peril-type policy covering any Common Area improvements, providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost).
- B. A comprehensive policy of public liability insurance covering all of the Common Area, commercial spaces and public ways in the properties. Such insurance policy shall contain a severability of interest endorsement which shall preclude the insurer from denying the claim of a Dwelling Unit Owner because of negligent acts of the Association or other Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use. If the properties contain more than one hundred (100) Units, coverage shall be for at least \$1,000,000 per occurrence, for personal injury and/or property damage.

- C. Workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

Section 2. Optional Insurance: The Association may obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Idaho.

- A. Liability insurance affording coverage for the acts, errors and omissions of its directors and officers, including members of the Architectural Control Committee and other committees as may be appointed from time to time by the Board of Directors of such association in such amount as may be reasonable in the premises.
- B. The Association may obtain bonds and insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the protection of the properties, including any personal property of the Association located thereon, its directors, officers, agents, employees and association funds.

Section 3. Additional Provisions: The following additional provisions shall apply with respect to insurance:

- A. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgages.
- B. Each policy of insurance obtained by the Association shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, its officers, the Owners and their respective servants, agents and guests; that it cannot be canceled, suspended or invalidated due to the conduct of any agent, officer or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.
- C. All policies shall be written by a company licensed to write insurance in the state of Idaho and all hazard insurance policies shall be written by a hazard insurance carrier holding financial rating by Best's Insurance Reports of Class VI or better.
- D. Notwithstanding anything herein contained to the contrary, insurance coverage must be in such amounts and meet other requirements of the Federal Home Loan Mortgage Corporation.

## ARTICLE XII: CONDEMNATION

Section 1. Consequences of Condemnation: If at any time or times, all or any part of the Common Area shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall apply.

Section 2. Proceeds: All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "condemnation award," shall be payable to the Association owning the condemned Common Area.

Section 3. Apportionment: The condemnation award shall be apportioned among the Owners having an interest in the condemned Common Area equally on a per-Lot basis. The Association shall, as soon as practicable, determine the share of the condemnation award to which each Owner is entitled. Such shares shall be paid into separate accounts, one account for each Lot. Each such account shall remain in the name of the appropriate Association and shall be further identified by Lot number and the name of the Owner thereof. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of such accounts, without contribution from one account to the other, first to Mortgagees and other lienors in the order of priority of their Mortgages and other liens and the balance remaining to each respective Owner.

### ARTICLE XIII: MORTGAGEE PROTECTION

Notwithstanding anything to the contrary contained in this Declaration or in the Articles or Bylaws of the Association:

- A. The Association shall maintain an adequate reserve fund for the performance of its obligations, including the maintenance, repairs and replacement of those common elements and improvements thereon, and such reserve shall be funded by at least quarterly assessments.
- B. The holders of First Mortgages shall have the right to examine the books and records of any Association and to require annual reports or other appropriate financial data.
- C. Any management agreement for the Properties or Common Area, or any other contract providing for services of the developer, sponsor or builder, shall be terminable (i) by the contracting Association for cause upon thirty (30) days' written notice thereof, and (ii) by either party without cause and without payment of a termination fee on ninety (90) days' or less written notice thereof, and the term of any such agreement shall not exceed one (1) year.
- D. Any lien which the Association may have on any Dwelling Unit for the payment of assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any Mortgage on the Unit recorded prior to the date notice of such assessment lien is duly recorded.
- E. Unless all institutional holders of First Mortgages have given their prior written approval, no Association shall:
  - 1. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area property owned, directly or indirectly, by such Association for the benefit of the Owners. (The granting of easements for

public utilities or for other public purposes consistent with the intended use of such Common Area property shall not be deemed a transfer within the meaning of this clause.)

2. Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner.
  3. By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Dwelling Units, the maintenance of the Common Area property, party walls, or common fences and driveways, or the upkeep of lawns and plantings in the subdivision.
  4. Fail to maintain fire and extended coverage on insurable Common Area property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).
  5. Use hazard insurance proceeds for losses to any Common Area property for other than the repair, replacement or reconstruction of such Common Area property.
  6. Amend materially this Declaration, the Association's Articles of Incorporation, or its Bylaws.
- F. This Declaration may not be amended without the express written consent of the City of Boise.

#### ARTICLE XIV: ANNEXATION

Section 1. Time for Annexation; Land Subject to Annexation: Declarant hereby reserves the right to annex any other real property into the project by recording a Notice of Annexation or Supplemental Declaration particularly describing the real property to be annexed and added to the project created by this Declaration, pursuant to the provisions of this Article.

Upon the recording of a Notice of Annexation containing the provisions set forth in this Section (which Notice may be contained within a Supplemental Declaration affecting such property), except as may be provided for therein, the covenants, conditions and restrictions contained in this Declaration shall apply to the added land in the same manner as if it were originally covered by this Declaration and originally constituted a portion of the project; and thereafter, the rights, privileges, duties and liabilities of the parties to this Declaration with respect to the added land shall be the same as with respect to the original land, and the rights, privileges, duties and liabilities of the Owners, lessees and occupants of Lots and Units within the added land shall be the same as in the case of the original land. Notwithstanding the foregoing, any Supplemental Declaration may provide a special procedure for amendment of any specified provision thereof, e.g., by a specified vote of only the owners of Dwelling Units within the area

subject thereto. Any provision of a Supplemental Declaration for which no special amendment procedure is provided shall be subject to amendment in the manner provided in this Declaration. The annexation of additional property by Declarant shall be deemed and construed as a request for and consent to annexation of such additional property into the corporate limits of Boise City. Such request and consent shall be binding on all subsequent Owners.

Section 2. Procedure for Annexation: Any of the above-described real property may be annexed into the project by the recordation of a Notice of Annexation executed by Declarant and containing the following information:

- A. A reference to this Declaration, which reference shall state the date of recordation hereof and the Recorder's instrument number or the book and page of the official records of Ada County where this Declaration is recorded;
- B. An exact legal description of the added land;
- C. A statement that the provisions of this Declaration shall apply to the added land, except as set forth therein; and
- D. A statement of the use restrictions applicable to the annexed property, which restrictions may be the same or different from those set forth in this Declaration.

ARTICLE XV: GENERAL PROVISIONS

Section 1. Enforcement: The Homeowners Association or any Owner or the owner of any recorded mortgage upon any part of said property, shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event the Association or an Owner is required to initiate any action to enforce the provisions of this Declaration, it shall be entitled to recover from the Owner against whom enforcement is sought, all attorney fees and costs incurred as a consequence thereof, whether or not any lawsuit is actually filed, and any such attorney fees and costs so incurred by the Association shall be added to and become a part of the assessment to which such Owner's Lot is subject.

Section 2. Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment: The covenants and restrictions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Association or the legal Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. Except as otherwise provided herein, any of the covenants and restrictions of this Declaration,

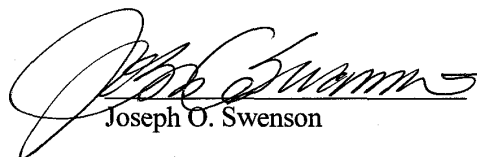
except the easements herein granted, may be amended at any time by an instrument signed by members entitled to cast not less than sixty-six and two-thirds percent (66-2/3%) of the votes of membership; provided that this Declaration may not be amended without the express written consent of the City of Boise. Any amendment must be recorded.

Section 4. Assignment by Declarant: Any or all rights, powers and reservations of Declarant herein contained may be assigned to the Association or to any other corporation or association which is now organized or which may hereafter be organized and which will assume the duties of Declarant hereunder pertaining to the particular rights, powers and reservations assigned, and upon any such corporation or association evidencing its intent in writing to accept such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. All rights of Declarant hereunder reserved or created shall be held and exercised by Declarant alone, so long as it owns any interest in any portion of said property.

Section 5. Annexation to Boise City: The recording of the Plat by Declarant shall be deemed and construed as a request for and consent to annexation of the Properties into the corporate limits of Boise City. Such request and consent shall be binding on all subsequent Owners.

IN WITNESS WHEREOF, Declarant has caused his name to be hereunto subscribed this 12<sup>th</sup> day of MARCH, 2008.

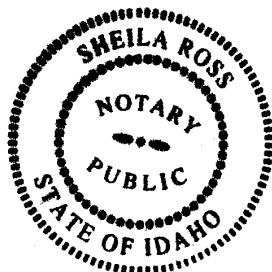
DECLARANT:

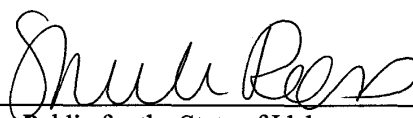
  
Joseph O. Swenson

STATE OF IDAHO    )  
                              : ss.  
County of Ada        )

On this 12<sup>th</sup> day of March, 2008, before me, the undersigned Notary Public in and for said State, personally appeared Joseph O. Swenson, known or identified to me to be the person that executed the within instrument and acknowledged to me that he executed the same.

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



  
Notary Public for the State of Idaho  
Residing at Ada County  
My Commission Expires: 12-14-2013