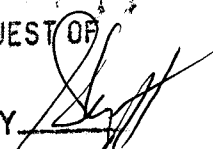


Terra Nativa LLP.
ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

RECORDED - REQUEST OF
FEE 117.00 DEPUTY 

**DECLARATION OF COVENANTS,
1999 OC -6 PM 2:44**

CONDITIONS AND RESTRICTIONS FOR

99099201

NATIVA TERRA SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR NATIVA TERRA SUBDIVISION (this "Declaration") is made effective as of the 6th day of October 1999, by Terra Nativa, LLP ("Grantor" and "Class B Member").

ARTICLE I: RECITALS

1.1 Property Covered. The property subject to this Declaration is that certain real property in Ada County, State of Idaho, more particularly described as Nativa Terra Subdivision, according to the official plat thereof, recorded in Book 79 of Plats at pages 8359 through 8362, as Instrument No. 99096922, recorded on the 30th day of September 1999, records of Ada County, Idaho (the "Property").

1.2 Purpose of Declaration. The purpose of this Declaration is to set forth the basic restrictions, covenants, limitations, easements, conditions, plans and equitable servitudes (collectively, the "Restrictions") that will apply to the entire development and use of all portions of the Property. The Restrictions are designed to preserve the Property's value, desirability and attractiveness, and to guarantee adequate maintenance of the Common Area, and the Improvements located thereon.

ARTICLE II: DECLARATION

2.1 Declaration. Grantor hereby declares that the Property, and each lot, parcel or portion thereof, is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms, covenants, conditions, easements 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 the Property, and to enhance the value, desirability and attractiveness of the Property. The terms, covenants, conditions, easements and restrictions set forth herein: shall run with the land constituting the Property and with each estate therein, and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any lot, parcel or portion thereof; shall inure to the benefit of every lot, parcel or portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon Grantor, Grantor's successors in interest and each grantee or Owner of such grantee's or

Owner's respective successors in interest, and may be enforced by Grantor, by any Owner or such Owner's successors in interest, or by the Association.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Grantor's right to complete development of the Property and to construct improvements thereon, nor Grantor's right to maintain model homes, construction, sales or leasing offices or similar facilities on any portion of the property, including Common Area or any public right-of-way, nor Grantor's right to post signs incidental to construction, sales or leasing.

2.2 Reservation of Rights. Grantor reserves its right to make such uses of any lands owned in the vicinity of the Property for any and all uses as may be permitted under the applicable law, including, but not limited to, commercial, agricultural and recreational uses. By acceptance of a deed to any building lot, each Owner hereby covenants and agrees that it shall have no right to object to or interfere with any such uses of Grantor's other lands.

There is hereby reserved to the Grantor, together with the right of the Grantor to grant and transfer the same, the following: (1) all oil, oil rights, minerals, minerals rights, natural gas rights and other hydrocarbons by whatever name known, and the rights in connection therewith; (2) geothermal water and steam and all products derived from any of the foregoing that may be within or under the land comprising the Property; (3) the perpetual right of drilling, mining, exploring and operating therefore and scoring in and removing the same from said Property or any other land, including the right to whipstock or directionally drill and mine from other land other than land within the Property, oil and gas wells, tunnels and shafts into, through or across the subsurface of land within the Property and to bottom such whipstock or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines without, however, the right to drill, mine, store, explore and operate through the surface or the upper 50 feet of the subsurface of the Property.

ARTICLE III: DEFINITIONS

3.1 "Articles" shall mean the Articles of Incorporation of the Association or other organizational or charter documents of the Association.

3.2 "Assessments" shall mean those payments required of Owners and Association Members.

3.3 "Association" shall mean Terra Nativa Subdivision Homeowners' Association, Inc., a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

3.4 "Board" shall mean the Board of Directors or other governing board or individual, if applicable, of the Association.

3.5 "Building Lot" shall mean one or more lots as specified or shown on any Plat upon which Improvements may be constructed. The term "Building Lot" shall include single-family residential lots, but shall not include the Common Area.

3.6 "Bylaws" shall mean the Bylaws of the Association.

3.7 "Common Area" shall mean Lot 1, Block 1, Lot 9, Block 2, Lot 8, Block 3, Lot 1, Block 4, Lot 1, Block 5 and Lots 2 and 10, Block 6, Nativa Terra Subdivision. Common Area for additional Phases will be defined in any Supplemental Declaration subsequently recorded.

3.8 "Declaration" shall mean this Declaration as it may be amended from time to time.

3.9 "Grantor" shall mean Terra Nativa, LLP, and any successor in interest, or any person or entity to whom the rights under this Declaration are expressly transferred by Terra Nativa, LLP.

3.10 "Improvement" shall mean any structure, facility or system, or other improvement or object, whether permanent or temporary, which is erected, constructed or placed upon, under or in any portion of the Property, including but not limited to buildings, fences, streets, drives, driveways, sidewalks, curbs, landscaping, signs, lights, street lights, mail boxes, electrical lines, pipes, pumps, ditches, ponds, and fixtures of any kind whatsoever.

3.11 "Limited Assessment" shall mean a charge against a particular Owner and such Owner's Building Lot, directly attributable to the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, including interest thereon as provided in this Declaration.

3.12 "Member" shall mean each person or entity holding a membership in the Association.

3.13 "Nativa Terra Subdivision" shall mean the Property.

3.14 "Owner" shall mean the person or other legal entity, including Grantor, holding fee simple interest of record to a Building Lot which is a part of the Property, and sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation.

3.15 "Person" shall mean any individual, partnership, corporation or other legal entity.

3.16 "Phase" shall mean a defined portion of the Property within which the contemplated development involves a common use or compatible uses, and which may have been designated as a Phase by recorded Supplemental Declaration. Each Phase shall contain one or more Building Lots, and may be managed to the extent permitted herein by an Association.

3.17 "Plat" shall mean any subdivision plat covering any portion of the Property as recorded at the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereof.

3.18 "Property" shall mean those portions of the Property described herein including each lot, parcel and portion thereof and interest therein, including all water rights associated with or appurtenant to such property.

3.19 "Regular Assessment" shall mean the portion of the cost of maintaining, improving, repairing, managing and operating the Common Area and all Improvements located thereon, and the other costs of the Association which is to be levied against the Property and paid by each Owner to the Association, pursuant to the terms of this Declaration.

3.20 "Special Assessment" shall mean the portion of the costs of the capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments which are authorized and to be paid by each Owner to the Association, pursuant to the provisions of this Declaration.

3.21 "Supplemental Declaration" shall mean any supplemental declaration including additional covenants, conditions and restrictions that might be adopted with respect to any additional property which might be annexed into the Property.

ARTICLE IV: GENERAL AND SPECIFIC RESTRICTIONS

4.1 Structures - Generally. All structures are to be designed, constructed and used in such a manner as to promote compatibility between the types of use contemplated by this Declaration.

4.1.1 Use, Size and Height of Dwellings, Structures and Other Site Elements. All Building Lots shall be used exclusively for single-family residential purposes. No Building Lot shall be improved except with a single-family dwelling unit or structure of frame, stone or brick construction and with no galvanized aluminum or other highly reflective building materials. No

mobile homes shall be permitted. Subject to the right the Architectural Committee to reduce the maximum height set forth herein in order to preserve and maximize views, no building, structure or other site element shall exceed thirty-five (35) feet in height and notwithstanding the foregoing, Lot 9, Block 3 and Lots 2, 3 and 4, Block 4, shall be subject to the restrictions contained in that certain "Restrictive Covenant Governing Height Limitation" recorded as Instrument No. 9141382, records of Ada County, Idaho. Grantor specifically intends to vest the Architectural Committee with authority to impose stricter height limitations than are set forth herein in order to preserve and protect views and view corridors in such situations and under such circumstances as the Architectural Committee may determine in its sole discretion, which said height limitations may be imposed upon any building, structure, landscaping improvement, including vegetation, or any other site element. No single-family structure shall have a first floor area of less than two thousand (2000) square feet (unless otherwise approved by the Architectural Committee) exclusive of garages, patios, breezeways, storage rooms, porches, and similar structures.

4.1.2 Accessory Structures. Detached structures including, without limitation, guesthouses, shall be allowed if in conformity with the provisions of this Declaration and as approved by the Architectural Committee, as provided more fully in Article VI below. There shall be no metal storage nor wood storage attachments to any dwelling unit except as approved by the Architectural Committee. Garages, storage sheds attached to the dwelling structure, and patio covers, shall be constructed of, and roofed with, the same materials, and with similar colors and designs, as the dwelling structure on the applicable Building Lot. Each dwelling structure shall have an attached or detached garage to house a minimum of two (2) cars, and shall also have permanently maintained off-street parking for two (2) vehicles. The primary driveway on each Building Lot shall be paved or concreted.

4.1.3 Exterior of Dwelling Structure. Each single-family structure shall have an exterior wall surface of masonry, brick, glass, and/or stucco which shall be of a consistent nature so as to compliment other such structures on the Building Lot. Minor highlight elements may be wood siding. The visual harmony and aesthetic appeal of the structures on the Building Lots being of mutual concern to all Owners and having a direct bearing on the value of Building Lots and Improvements thereon, the Architectural Committee shall have the right to control the texture, design and color scheme and materials of the outside walls, fences, roofs and patio roofs of all structures erected upon Building Lots, and to require landscaping pursuant to such Architectural Guidelines may be adopted by the Architectural Committee pursuant to Section 6.3 below.

4.1.4 Location on Building Lot. All structures shall be placed on a Lot in the locations as approved by the Architectural Committee. Minimum building setbacks shall be as required by the Boise City Zoning Ordinance for the applicable zoning district.

4.1.5 Utilities. All utility facilities and/or systems used in connection with a Building Lot shall be placed underground.

4.1.6 Fences. No fences shall be permitted in the front yard of any Building Lot, except as may be approved in writing by the Architectural Committee. Fences in other locations, including fences around swimming pools, dog runs or other uses, may be permitted under such circumstances, if any, as may be approved in writing by and in the sole discretion of the Architectural Committee.

4.1.7 Completion of Construction. Once any Owner of a Building Lot shall have commenced the construction of a dwelling unit or structure in compliance with the restrictions herein, such construction shall be completed within two (2) years thereafter. The term "commenced the construction" as used in this subparagraph shall mean the start of actual physical construction activities upon such dwelling unit or structure upon such Building Lot.

4.2 Landscaping. The initial Owner of any Building Lot shall install an automatic sprinkler system, grass and/or sod, and landscape the Building Lot in conformance with the landscape plan submitted by the Owner and approved by the Architectural Committee. All landscaping shall be completed within nine (9) months of occupancy or substantial completion of a Building Lot whichever is earlier. Prior to construction of Improvements, the Owner shall provide adequate irrigation, through the automatic sprinkler system, and maintenance of existing trees and landscaping, shall control weeds, and maintain the Owner's property in a clean and safe condition free of debris or any hazardous condition. Each Owner is responsible for irrigating and mowing all grass along road right-of-ways that border such Owner's Building Lot. All trees located on common Building Lot lines shall be the joint responsibility of the adjoining Building Lot owners.

4.3 Exterior Maintenance; Owner's Obligations. No Improvement shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair as provided in this Declaration. No Owner shall permit any Improvements, including trees and landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous unsafe, overgrown, weed infested, unsightly or unattractive condition, or damages property or facilities on or adjoining their Building Lot. In the event that any Owner shall permit any Improvement, including trees and landscaping, which is the

responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, overgrown, weed-infested, unsightly or unattractive condition, or damages property or facilities adjoining their Building Lot which would otherwise be the Associations' responsibility to maintain, the Board upon fifteen (15) days prior written notice to the Owner of such property, shall have the right to correct such condition, and to enter upon such Owner's Building Lot for the purpose of doing so, and such Owner shall promptly reimburse the Association, for the cost thereof. Such cost shall be a Limited Assessment and shall create a lien enforceable in the same manner as other Assessments set forth in Article VIII of this Declaration. The Owner of the offending property shall be personally liable, and such Owner's property may be subject to a mechanic's lien for all costs and expenses incurred by the Association in taking such corrective acts, plus all costs incurred in collecting the amounts due.

4.4 Excavation. No excavation for stone, sand, gravel, earth or minerals shall be made upon a Building Lot unless such excavation is necessary in connection with the construction of an approved structure thereon.

4.5 Antennae. No exterior radio antenna, television antenna, satellite dish antennae or other antennae of any type shall be erected or maintained on the Property unless it is located or screened in a manner acceptable to the Architectural Committee.

4.6 No Temporary Structures. No house trailer, mobile home, tent (other than for short term individual or visitor use), shack or other temporary building, improvement or structure shall be placed upon any portion of the Property, except temporarily as may be required by construction activity undertaken on the Property.

4.7 No Abandoned Vehicles. No abandoned or inoperable, dilapidated or unrepaired and unsightly vehicles or similar equipment such as garden maintenance equipment or any other unsightly equipment and machinery shall be placed upon any portion of the Property unless the same are enclosed by a structure reasonably concealing them from view. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three (3) weeks or longer, provided, however, this shall not include vehicles parked by Owners while on vacation. No oversized vehicles shall be stored in the area between the front plane of a dwelling unit on a Building Lot and any street, or in any dwelling unit setback area but shall be placed on the side or rear of the dwelling unit and reasonably screened from view. "Oversized" vehicles shall be defined as vehicles which are too high to clear the entrance to a residential garage.

4.8 No Parking or Storage of Vehicles and Equipment. No boats, trailers, motorcycles, trucks, truck campers, motorhomes, recreational vehicles, and like equipment, or farm or garden equipment, or junk cars or other unsightly vehicles

shall be parked or stored on any Lot nor on public or private ways adjacent thereto, except in a fully enclosed structure or as may otherwise be approved in writing under such circumstances, if any, by the Architectural Committee.

4.9 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to the Property or to its occupants, or to any other property in the vicinity thereof or to its occupants. All refuse, garbage and trash shall be kept at all times in covered, reasonably noiseless containers. Vacant Building Lots are to be kept in a clean natural state. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or to other property in the vicinity or to its occupants. No building materials of any kind shall be placed or stored on a Building Lot until the Owner of such Building Lot or such Owner's builder is ready and able to commence construction.

4.10 No Commercial Activities; No Hazardous Activities. Commercial or professional home occupations may be conducted on the Property provided such home occupation is non-obtrusive to other Owners, does not constitute a nuisance, and is in compliance with all applicable laws, ordinances, and regulations. No activities shall be conducted on the Property, and no Improvements constructed on any property, which are or might be unsafe or hazardous to any person or property.

4.11 Exterior Energy Devices; Utilities. No energy production devices including, but not limited to, generators of any kind and solar energy devices, shall be constructed or maintained on any Building Lot without the prior written approval of the Architectural Committee, except for heat pumps or similar appliances shown on the plans approved by the Architectural Committee. All utility lines and facilities shall be placed underground.

4.12 Wildlife. In order to preserve and enhance the occupancy of wildlife within the subdivision and the enjoyment thereof by the owners, the following restrictions shall apply:

(a) Hunting shall be prohibited within the subdivision;

(b) Artificial feeding of big game and non-game animals shall be prohibited, provided, however, that wild songbirds may be fed with Idaho Department of Fish and Game approved birdfeed and further provided that any feeding trays are routinely cleaned to prevent the spread of disease;

(c) Only such action as shall be approved by the Idaho Department of Fish and Game may be taken to protect landscaped areas from wildlife foraging, such as wrapping wire around trees, using Fish and Game approved animal repellents, or planting vegetation less desirable to wildlife;

(d) Planting of invasive plant species in natural open space areas is prohibited; and

(e) The display and or discharge of fireworks is prohibited.

4.13 Animals/Pets. No animals shall be kept on the Property unless the presence of such creatures does not constitute a nuisance. Chronic dog barking shall be considered a nuisance. This paragraph does not apply to the keeping of up to two (2) domesticated dogs, up to two (2) domesticated cats, and other household pets which do not unreasonably bother or constitute a nuisance to others, provided such animals are not kept, bred or maintained for any commercial purpose. Dogs and other similar pets shall be on a leash when not confined to an Owner's Building Lot. Any such animal shall be properly restrained and controlled at all times. It shall be the obligation of each Owner to control such animals in accordance with all applicable laws and regulations. An Owner shall be personally responsible for damage caused on any portion of the Property by such Owner's animals and/or pets.

4.14 Drainage. Each Owner shall improve such Owner's Building Lot with a storm water detention facility approved by the Architectural Committee to detain and direct storm water into the Private Drainage System, as defined in Section 5.5.2.2, below. Each owner of a Lot serviced by such Private Drainage System shall be responsible for capturing all storm water from all roofs, decks and patios on their Lot by means of appropriate architectural features and transporting such storm water to the Private Drainage System without loss or pollution. Foundation drains may also be routed to the Private Drainage System. There shall be no interference with the established Private Drainage System over any portion of the Property, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Architectural Committee.

4.15 Grading. Each Lot owner on which grading or other work has been performed pursuant to a grading plan approved under the provisions of the Boise City Hillside and Foothill Areas Development Ordinance, or a building permit granted by the Boise City Building Department, shall maintain in perpetuity and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures, means or devices not the responsibility of the Ada County Highway District, or other public agency, as provided for herein, and plantings and ground cover installed or completed. Grading will be restricted to that which is necessary to construct a driveway of 15%, or less, and comply with the hillside setback

requirements of the Uniform Building Code (Section 1805.6.2, 1997 UBC). Outside of this, fills will be restricted to a maximum of two feet, cuts to a maximum of three feet, and retaining walls to a maximum of four feet in height above grade, or as may otherwise be approved by the City of Boise.

4.16 Signs. No sign of any kind shall be displayed to the public view without the approval of the Architectural Committee except: (1) such signs as may be used by Grantor in connection with the development of the Property and sale of Building Lots; (2) such signs identifying Nativa Terra Subdivision, or informational signs, of customary and reasonable dimensions as prescribed by the Architectural Committee displayed on or from the Common Area; (3) one (1) sign of customary and reasonable dimensions as prescribed by the Architectural Committee displayed by an Owner other than Grantor on or from a Building Lot advertising the residence for sale or lease; and (4) any sign required by any governmental agency. No sign shall be placed in the Common Area without the written approval of the Architectural Committee.

4.17 Insurance Rates. Nothing shall be done or kept on any Building Lot which will increase the rate of insurance on any other portion of the Property without the approval of the Owner of such other portion, nor shall anything be done or kept on the Property or a Building Lot which would result in the cancellation of insurance on any property owned or managed by the Association or which would be in violation of any law.

4.18 No Further Subdivision. No Building Lot may be further subdivided.

4.19 Exemption of Grantor. Nothing contained herein shall limit the right of Grantor to subdivide or resubdivide any portion of the Property, to grant licenses, to reserve rights-of-way and easements with respect to Common Area to utility companies, public agencies or others, or to complete excavation, grading and construction of Improvements to and on any portion of the Property owned by Grantor, or to alter the foregoing and its construction plans and designs, or to construct such additional Improvements as Grantor deems advisable in the course of development of the Property so long as any Building Lot in the Property remains unsold. Such right shall include, but shall not be limited to, erecting, constructing and maintaining on the Property such structures and displays as may be reasonably necessary for the conduct of Grantor's business of completing the work and disposing of the same by sale, lease or otherwise. Grantor need not seek or obtain Architectural Committee approval of any Improvements constructed or placed within the Property by Grantor, but this particular exception shall not apply to building(s) or structures(s) constructed by Grantor on a Building Lot owned by Grantor. Grantor shall have the right at any time prior to acquisition of title to a Building Lot by a purchaser from Grantor to grant, establish and/or reserve on that Building Lot additional licenses, reservations and rights-of-way to Grantor, to utility

companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property. The rights of Grantor hereunder may be assigned by Grantor to any successor in interest in connection with Grantor's interest in any portion of the Property, by an express written assignment recorded in the Office of the Ada County Recorder.

4.20 Adoption of Rules. The Association, through its Board of Directors, may adopt reasonable rules not inconsistent with this Declaration relating to the use of the Common Area and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the Property and other Owners.

4.21 Mailboxes. All mailboxes will be provided by Grantor and shall be of consistent design, material and coloration and shall be located on or adjoining building lot lines in places designated by Grantor or the Architectural Committee.

4.22 Rock Outcroppings. The alteration, defacing or physical encroachment on any significant surface rock outcropping which changes the appearance and natural condition thereof shall be prohibited unless otherwise approved in writing by the Board of Directors of the Association.

ARTICLE V: TERRA NATIVA HOMEOWNERS' ASSOCIATION, INC.

5.1 Organization of Terra Nativa Subdivision Homeowners' Association, Inc. Terra Nativa Homeowners' Association, Inc. (the "Association") shall be initially organized by Grantor as an Idaho non-profit corporation under the provisions of the Idaho Code relating to general non-profit corporations and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor the Bylaws shall be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.2 Membership. Each Owner, by virtue of being an Owner and for so long as such ownership is maintained, shall be a Member of the Association. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner's title in such Owner's Building Lot and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

5.3 Voting. Voting in the Association shall be carried out by Members who shall cast the votes attributable to the Building Lots which they own, or attributable to the Building Lots owned by Grantor. The number of votes any Member may cast on any issue is determined by the number of Building Lots which the Member, including Grantor, owns. When more than one person holds an

interest in any Building Lot, all such persons shall be Members but shall share the votes attributable to the Building Lot. For voting purposes, the Association shall have two (2) classes of Members as described below:

5.3.1 Class A Members. Owners other than Grantor shall be known as "Class A Members." Each Class A Member shall be entitled to cast one (1) vote for each Building Lot owned by such Class A Member on the day of the vote.

5.3.2 Class B Members. Grantor shall be known as the "Class B Member," and shall be entitled to cast five (5) votes for each Building Lot owned by such Class B Member on the day of the vote. The Class B Member shall convert to a Class A Member on the happening of either of the following events, whichever occurs earlier:

(a) when all of the Building Lots have been sold to Owners other than Grantor; or

(b) twenty (20) years after the date this Declaration is recorded in the official records of Ada County, Idaho.

Fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter being put to a vote. When an Owner casts a vote, it will thereafter be presumed conclusively for all purposes that such Owner was acting with authority and consent of all joint Owners of the Building Lot(s) from which the vote derived. The right to vote may not be severed or separated from the ownership of the Building Lot to which it is appurtenant, except that any Owner may give a revocable proxy, or may assign such Owner's right to vote to a lessee, mortgagee, beneficiary or contract purchaser of the Building Lot concerned, for the term of the lease, mortgage, deed of trust or contract. Any sale, transfer or conveyance of such Building Lot to a new Owner shall operate automatically to transfer the appurtenant voting right to the Owner, subject to any assignment of the right to vote to a lessee, mortgagee, or beneficiary as provided herein.

5.4 Board of Directors and Officers. The affairs of the Association shall be conducted and managed by a Board of Directors ("Board") and such officers as the Board may elect or appoint, in accordance with the Articles and Bylaws, as the same may be amended from time to time. The Board of the Association shall be elected in accordance with the provisions set forth in the Association Bylaws.

5.5 Power and Duties of the Association.

5.5.1 Powers. The Association shall have all the powers of a corporation organized under the general corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under Idaho law and under this Declaration, and the Articles and Bylaws, and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper management and operation of the Common Area and the Association's other assets, including water rights when and if received from Grantor, and the performance of the other responsibilities herein assigned, including without limitation:

5.5.1.1 Assessments. The power to levy Assessments on any Owner or any portion of the Property and to force payment of such Assessments, all in accordance with the provisions of this Declaration.

5.5.1.2 Right of Enforcement. The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner who consents thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Articles or the Bylaws.

5.5.1.3 Emergency Powers. The power to enter upon any property (but not inside any building constructed thereon) in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made only by authorized representatives of the Association and with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Association.

5.5.1.4 Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Common Area, and for the preservation of the health, safety, convenience and the welfare of the Owners, for the purpose of permitting, constructing, erecting, operating or maintaining:

5.5.1.4.1 Underground lines, cables, wires, conduits or other devices for the transmission of electricity or electronic signals-for lighting, heating, power, telephone, television or other purposes, and the above ground lighting stanchions, meters, and other facilities associated with the provisions of lighting and services; and

5.5.1.4.2 Public sewers, storm drains, water drains and pipes, water supply systems, sprinkling systems, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities; and

5.5.1.4.3 Mailboxes and sidewalk abutments around such mailboxes or any service facility, berm, fencing and landscaping abutting common areas, public and private streets or land conveyed for any public or quasi-public purpose.

5.5.1.4.4 Garden plots for the use of the Owners subject to such terms, conditions, rules and regulations as the Board may determine are reasonable and necessary in connection therewith.

5.5.1.4.5 Fire prevention, suppression or fuel modification activities, including but not limited to livestock grazing subject to such terms, conditions, rules and regulations as the Board may determine are reasonable and necessary in connection therewith.

The right to grant such licenses, easements and rights-of-way are hereby expressly reserved to the Association and may be granted at any time prior to twenty-one (21) years after the death of the issue of the individuals executing this Declaration on behalf of Grantor who are in being as of the date hereof.

5.5.1.5 Lease of Common Area. The power to grant and convey to any third party a lease or leases of Lot 10, Block 6 for the development and operation of a vineyard and/or an orchard, on such terms and conditions, and subject to such rules and regulations as the Board may determine are reasonable and necessary in connection therewith.

5.5.2 Duties. In addition to duties necessary and proper to carry out the power delegated to the Association by this Declaration and the Articles and Bylaws, without limiting the generality thereof, the Association or its

agent, if any, shall have the authority and the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

5.5.2.1 Operation and Maintenance of Common Area.

Except with respect to those portions thereof which have been leased or licensed to third parties, operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area and any and all improvements thereon, including but not limited to fencing installed by Grantor or the Association. Maintenance, as used in this Article and elsewhere in this Declaration, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate. All maintenance shall be performed in a manner consistent with all applicable covenants.

5.5.2.2 Operation and Maintenance of Private Drainage System.

Operate, maintain, repair and otherwise manage the roof drains and private drains as shown on the Grading Plans for Nativa Terra Subdivision, sheets 1 through 7, and the Sewer, Street, and Storm Plans for Nativa Terra Subdivision, sheets 1 through 23 (hereinafter referred to as the "Private Drainage System"), which system is generally located along the back and sides of Lots or within the private storm drain easements depicted on the plat. The Private Drainage System consists of small diversion embankments, interceptor ditches, pre-cast concrete catch basins, roof drain pipes and other similar facilities all of which are intended to capture storm water runoff and transport it to the public storm drain system to be owned and maintained by the Ada County Highway District as more specifically described below. In furtherance of the Association's duties as set forth in this paragraph, the Association shall inspect or cause to be inspected the private drainage system on an annual basis and shall immediately clean, repair and maintain the system as may be required. The Association's annual inspection and maintenance requirements shall include, at a minimum, the following:

(a) Keeping inlet grates on pre-cast catch basins free from vegetation, debris and sediment;

(b) Keeping diversion embankments free from erosion and overgrown vegetation;

(c) Keeping interceptor ditches free from erosion, overgrown vegetation and debris or sediment;

(d) Keeping sediment and debris from accumulating in the bottoms of manholes and pre-cast catch basins;

(e) Keeping connections to private drains watertight so as to prevent entry of foreign material;

(f) Keeping accumulations of sediment and debris from reducing pipe capacities;

(g) Preventing erosion of the natural channels with rip rap at outfalls; and

(h) Keeping all drainpipes buried so as not to be exposed to sun, weather or fire hazards.

5.5.2.3 Operation and Maintenance of Storm Water Retention Ponds. Provide all "light" maintenance of the storm water retention ponds located on Lot 1, Block 1 and Lot 9, Block 2, Nativa Terra Subdivision, as specified in the maintenance manual, having due regard for the wildlife and habitat functions to be served by the retention ponds, which said maintenance shall include, but not be limited to the following:

(a) Periodic inspection of the storm water retention ponds on at least a monthly basis;

(b) Proper maintenance, including but not limited to mowing, trimming, fertilizing and irrigating, all landscaping, whether manicured or naturalized, located on the said Lot 1, Block 1 and Lot 9, Block 2;

(c) Collection and disposal of any and all trash and debris found in and around the storm water retention ponds;

(d) Inspection and repair by a licensed earthwork contractor of any water spots, water entering the pond from adjacent lots, rodent holes and bank erosion found on the banks of the ponds.

The Association shall not be dissolved or relieved of its responsibility to maintain the storm water retention ponds without the prior written approval of the Ada County Highway District.

5.5.2.3.1 Association's Failure to Maintain; Ada County Highway District Remedies. In the event that the Ada

County Highway District (ACHD) determines, in its sole discretion, that the Association is not adequately maintaining the retention ponds, then ACHD shall be permitted to do so, provided, however, that before undertaking maintenance of the said storm water retention ponds, ACHD shall provide thirty (30) days advance written notice of its intention to do so and by which said notice shall specifically identify the maintenance which is then required. In the event the Association shall fail to complete the items of maintenance as specified in the said notice within the thirty (30) day period provided, then in that event ACHD may begin to undertake such maintenance. ACHD is hereby granted an irrevocable license and easement to enter upon any portion of the Common Area to perform such maintenance and inspection of the storm water retention ponds. Should ACHD engage in maintenance of the storm water retention ponds after having provided the required notice to the Association and having provided the Association an opportunity to undertake said maintenance, ACHD shall first bill the Association for the cost of the said maintenance and, if such bill shall not be paid within sixty (60) days, then ACHD shall be entitled and empowered to file a taxable lien against all lots within the subdivision with the power of sale as to each and every lot in order to secure any and all assessments levied against all lots in the subdivision pursuant to this Declaration as if the said maintenance had been performed by the Association, together with interest at the rate which accrues on judgments thereon and all costs of collection which may be paid or incurred by ACHD. The Association, and all Lot Owners by accepting title to a lot, agree that all Lot Owners within the subdivision are benefited property owners of such maintenance.

5.5.2.3.2 Heavy Maintenance of Storm Water Retention Ponds. The Ada County Highway District shall perform the "heavy" maintenance of the storm water retention pond, which said "heavy" maintenance consists of periodically inspecting the retention pond facility to insure it is functioning properly, cleaning out the facility piping, and mucking out the facility when the sediment level exceeds the designed storage level. The Ada County Highway District is hereby granted an irrevocable license and easement to enter upon any portion of the Common Area to perform its inspection and maintenance obligations as described herein. Notwithstanding anything contained hereinabove to the contrary, the Ada County Highway District shall own and be responsible for the operation,

maintenance and repair of all storm drains located within the public right-of-way and within any Ada County Highway District storm drain easements as depicted on the Plat.

5.5.2.4 Streetlights. Operate, maintain, and otherwise manage or provide for the operation, maintenance and management of any Association owned streetlights to be installed by Grantor in accordance with plans and specifications approved by the Boise City Department of Public Works. As contemplated herein, the Association shall be deemed the owner of and shall have the obligation to operate, maintain, repair and otherwise manage, those streetlights properly designated by Grantor and Boise City as "historical streetlights" as opposed to the standard residential (shoebox style) streetlights, the ownership and maintenance of which shall be the responsibility of Boise City. The ownership and maintenance responsibilities of the Association as set forth herein shall not be dissolved without the express consent of Boise City.

5.5.2.5 Taxes and Assessments. Pay all real and personal property taxes and Assessments separately levied against the Common Area or against the Association and/or any other property owned by the Association. Such taxes and Assessments may be contested or compromised by the Association, provided, however, that such taxes and Assessments are paid or a bond insuring payment is posted prior to the sale or disposition of any property to satisfy the payment of such taxes and Assessments. In addition, the Association shall pay all other federal, state or local taxes, including income or corporate taxes levied against the Association, in the event that the Association is denied the status of a tax exempt corporation.

5.5.2.6 Water and Other Utilities. Acquire, provide and/or pay for necessary services for maintenance of the Common Area, and to manage for the benefit of the Association all water rights and rights to receive water held by the Association, whether such rights are evidenced by license, permit, claim, stock ownership or otherwise.

5.5.2.7 Insurance. Obtain insurance from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect any insurance policy the Board deems necessary or advisable, including, without limitation the following policies of insurance:

5.5.2.7.1 Fire insurance including those risks embraced by coverage of the type known as the broad form

"All Risk" or special extended coverage endorsement on a blanket agreed amount basis for the full insurable replacement value of all Improvements, equipment and fixtures located within the Common Area.

5.5.2.7.2 Comprehensive public liability insurance insuring the Board, the Association, Grantor and the individual grantees and agents and employees of each of the foregoing against any liability incident to the ownership and/or use of the Common Area. Limits of liability of such coverage shall be as follows: Not less than One Million Dollars (\$1,000,000) per person and One Million Dollars (\$1,000,000) per occurrence with respect to personal injury or death, and One Million Dollars (\$1,000,000) per occurrence with respect to property damage.

5.5.2.7.3 Such other insurance, including motor vehicle insurance and Workers' Compensation insurance, to the extent necessary to comply with all applicable laws, and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or other property.

The Association shall be deemed trustee of the interests of all Owners in connection with any insurance proceeds paid to the Association under such policies, and shall have full power to receive such Owner's interests in such proceeds and to deal therewith. Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Association. Each Owner may obtain insurance at such Owner's own expense providing coverage upon such Owner's Building Lot, such Owner's personal property, for such Owner's personal liability, and covering such other risks as such Owner may deem appropriate, but each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies which the Association obtains pursuant to this article. All such insurance shall waive the insurance company's right of subrogation against the Association, the other Owners, and the servants, agents and guests of any of them, if such insurance can be obtained in the normal practice without additional premium charge for the waiver of rights of subrogation. Proceeds of such insurance

claims shall be paid to the owner of the Building Lot and/or the mortgagee in connection with such Building Lot.

5.5.2.8 Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of the Declaration, or of the Articles or Bylaws, including, without limitation, the recordation of any claim of lien with the Ada County Recorder, as more fully provided herein.

5.6 Personal Liability. No Member of the Board, or member of any committee of the Association, including the Architectural Committee, or any officer of the Association, or Grantor, or the manager, if any, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omissions, error or negligence of the Association, the Board, the manager, if any, or any other representative or employee of the Association, Grantor, or any committee, or any officer of the Association, or Grantor, provided that such person, upon the basis of such information as may be possessed by such person, has acted in good faith without willful or intentional misconduct.

5.7 Budgets and Financial Statements. Financial statements for the Association shall be prepared regularly and copies shall be distributed to each Member of the Association as follows:

5.7.1 Budget/Projected Operating Statement. A projected operating statement or budget, for each fiscal year shall be distributed not less than sixty (60) days before the beginning of each fiscal year. The operating statement projected for the ensuing fiscal year shall include a schedule of Assessments received and receivable, identified by the Building Lot number and the name of the person or entity assigned.

5.7.2 Balance Sheet. Within thirty (30) days after the close of each fiscal year, the Association shall cause to be prepared a balance sheet as of the last day of the Association's fiscal year, and will deliver such Balance Sheet to each Owner within ninety (90) days after the end of each fiscal year.

5.7.3 Operating Statement. Within thirty (30) days after the close of each fiscal year, the Association shall cause to be prepared an annual operating statement reflecting the income and expenditures of the Association. Copies of the operating statement shall be distributed to each Member within ninety (90) days after the end of each fiscal year.

5.7.4 Audit. The Association will provide an audited statement for the preceding fiscal year if the holder, insurer or guarantor of any first mortgage that is secured by a Building Lot submits a written request for it; such holder, insurer or guarantor shall pay the reasonable cost of such audit. A copy of each audit shall be delivered to each Member within thirty (30) days after the completion of such audit.

5.8 Meetings of Association. Each year the Association shall hold at least one meeting of the Members, according to the schedule for such meetings established by the Bylaws. Only Members shall be entitled to attend Association meetings, and all other persons may be excluded. Notice of all Association meetings, regular or special, shall be given by regular mail to all Members, and any person in possession of a Building Lot, not less than ten (10) days nor more than thirty (30) days before the meeting and shall set forth the place, date and hour of the meeting and the nature of the business to be conducted. All meetings shall be held within the Property or as close thereto as practical at a reasonable place selected by the Board. The presence at any meeting in person of the Class B Member where there is such a Member, and of the Class A Members representing Owners holding at least thirty percent (30%) of the total votes of all Class A Members, shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Members present may adjourn the meeting to a time not less than ten (10) days nor more than thirty (30) days from the time the original meeting was scheduled. At any such meeting properly called, the presence of any Member shall constitute a quorum.

ARTICLE VI: ARCHITECTURAL CONTROL

6.1 Architectural Committee. In order to protect the quality and value of all homes built on the Property, and for the continued protection of the Owners thereof, an Architectural Committee is hereby established consisting of three (3) or more members to be appointed by the Grantor for so long as Grantor has any interest in the Property. At such time as Grantor has no interest in the Property, the Board of Directors of the Association shall appoint members to the Architectural Committee at each annual meeting of the Board. A two-thirds (2/3) vote of the Architectural Committee is required for approval.

6.2 Approval by Committee. No building, fence, wall, patio cover, window awning or other Improvement shall be commenced, erected, or maintained upon any Building Lot, Common Area or other portion of the Property, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials, location of the same, color and such other detail as the Architectural Committee may require shall have been submitted to and approved in writing by the Architectural Committee. In the event the Architectural Committee fails to approve or disapprove such plans,

specifications and location within forty-five (45) days after said plans and specifications have been submitted to it in such form as may be required by the Architectural Committee, in writing, approval will not be required, and this Article will be deemed to have been fully complied with.

6.3 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 Committee, all exterior colors, material and finishes, including roof, to be used. Garage, accessory and outbuildings to be located on a Building Lot shall be architecturally and visually compatible and harmonious with the principal building on the Building Lot as to style and exterior colors.
- C. Landscape Plan. A landscape plan for that portion of the Building 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.
- D. Geotechnical Report. A geotechnical report analyzing the soils and subsurface conditions of the Building Lot and containing such engineering and design information as may be required to insure that all improvements to be constructed on the Lot, including but not limited to foundations, driveways, retaining walls and other appropriate structures have been designed to fit the site specific conditions of each individual Building Lot and to insure that the engineering design complies with the goal of minimizing grading and filling on each Building Lot. The geotechnical report shall be prepared and submitted by professionals having such qualifications as may be required by rules and regulations adopted by the Architectural Committee, and shall include such site investigation, laboratory testing and analysis as may be required by the Architectural Committee.

- E. Hydrological Report. A hydrological report analyzing the hydrological and drainage conditions on the Building Lot and containing such engineering and design data as may be necessary to insure that there shall be no interference with the established private drainage system and that Building Lot drainage is properly designed and connected to the private drainage system. The hydrological report shall be prepared and submitted by professionals having such qualifications as may be required by rules and regulations adopted by the Architectural Committee.

The submission of the above reports and plans is intended to serve two (2) functions: (1) The creation of a means to assist in the satisfaction of required governmental submittals; and (2) The protection of the quality and value of all homes built on the property. Grantor does not provide a warranty or guarantee that any Building Lot is or will be suitable for the Owners' intended or proposed design and development, the determination of which shall be the sole responsibility of Owner and its consultants. By submitting an application for approval to the Architectural Committee, together the required plans and reports, each Owner shall be deemed to have agreed to indemnify and hold harmless Grantor and the Architectural Committee from any claim arising out of the accuracy, sufficiency, validity and quality of any analysis or specifications contained within the required reports and plans. The Owner's geotechnical engineer shall be required to inspect on site soil and geotechnical conditions prior to the commencement of construction of any foundation, driveway or any other structural improvements.

The Architectural Committee shall retain such professional consultants, including but not necessarily limited to architects, engineers, geotechnical engineers and hydrological engineers to review, comment upon and approve the above-described plans and reports and each Owner shall pay to the Architectural Committee such fees as the Architectural Committee may adopt therefore. The Architectural Committee may waive some or all of the said review fees in those instances where the Owner has retained the same consultant(s) as the Architectural Committee then uses to review the required plans and reports. In no event, however, shall the Architectural Committee be liable for the accuracy, sufficiency, validity or quality of the analysis and specifications contained within the said plans and reports, and shall be indemnified and held harmless from any claim arising therefrom.

The Grantor has retained certain engineers, geotechnical engineers, hydrological engineers and other professional consultants as it has deemed necessary to design the subdivision project as described herein. The engineering and other design data, drawings, reports, and any other project related data are not intended by the Grantor or its consultants to be used for any purposes not authorized by them. The unauthorized use or reference to such engineering and design data, drawings, reports and other project related data shall be the responsibility of the Owner and

its consultants. The Grantor and its consultants shall be indemnified and held harmless from any claims arising out of the misuse or misinterpretation of the said project-related data.

6.4 Rules and Regulations. The Architectural Committee is hereby empowered to adopt rules to govern its procedures, including such rules as the Architectural Committee may deem appropriate with regard to the right of concerned parties to be heard on any matter before the Architectural Committee. The Architectural Committee is further hereby empowered to adopt such regulations and guidelines as it shall deem appropriate, consistent with the provisions of this Declaration, with regard to matters subject to the Architectural Committee's approval, including matters of design, materials and aesthetic interest. Such rules, after adoption, shall be of the same force and effect as if set forth in full herein.

6.5 Variances. The Architectural Committee may authorize variances from compliance with the requirements of any conditions and restrictions contained in this Declaration or any rules and regulations adopted hereunder when, in the sole discretion of the Architectural Committee, circumstances such as topography, natural obstructions, aesthetics or environmental considerations or hardship may so require. Such variances must be evidenced in a writing signed by a majority of the members of the Architectural Committee. If a variance is granted as provided herein, no violation of this Declaration or any rules and regulation adopted hereunder shall be deemed to have occurred with respect to the matter for which the variance is granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or any rules or regulations adopted hereunder for any purpose except as to the particular subject matter of the variance thereof and the specific lot covered thereby. The Architectural Committee shall have the right to consider and grant a variance as herein provided either with or without notice to other Owners.

6.6 Fees. The Architectural Committee may establish, by its adopted rules, a 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. Such fee shall not exceed such reasonable amount as may be required to reimburse the Architectural Committee for the costs of professional review of submittals and the services of a consultant to administer the matter to its completion, including inspections which may be required.

6.7 Non-Liability of Architectural Committee Members. Neither the Architectural Committee nor any member thereof, shall be liable to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Architectural Committee. The Architectural

Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of building, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design from the standpoint of structural safety or sufficiency or conformance with building or other codes.

ARTICLE VII: COMMON AREA

7.1 Designation of Common Area. Grantor shall designate and reserve the Common Area in this Declaration, Supplemental Declarations, and/or recorded Plats, deeds or other instruments and/or as otherwise provided herein.

7.2 Damages. Each Owner shall be fully liable for any damage to the Common Area which may be sustained by reason of the negligence or willful misconduct of the Owner, such Owner's resident tenant or contract purchaser, or such Owner's family and guests, both minor and adult. In the case of joint ownership of a Building Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Limited Assessment against the Building Lot and may be collected as provided herein for the collection of other Assessments. No Owner shall be liable for any amounts greater than is legally allowable under Idaho law.

7.3 Association's Responsibility to Maintain Common Area. Except with respect to such portions thereof which have been leased and/or licensed to others, the Association shall maintain and keep in good repair the Common Area, which shall include, but need not be limited to:

(a) all landscaping and other flora, parks, fences, signs, structures, and improvements, including any private streets, bike and pedestrian pathways/trails, and drainage or storm water retention facilities situated upon the Common Area;

(b) such portions of any additional property included within any Common Area as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and

(c) any property and facilities owned by Grantor and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Grantor to the Association and to remain a part of the Common Area and be maintained by the Association until such time as Grantor revokes such privilege of use and enjoyment by written notice to the Association.

There are hereby reserved to the Association easements over the Property as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and equipment within the Common Area in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs.

The Association may maintain other property which it does not own, including, without limitation, publicly owned property, conservation easements held by nonprofit entities, and other property dedicated to public use, if the Board determines that such maintenance is necessary or desirable.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Area shall be a common expense to be allocated among all Building Lots in the manner of and as a part of the Regular and/or Special Assessment(s), without prejudice to the right of the Association to seek reimbursement from the Owner(s) of, or other persons responsible for, certain portions of the Common Area pursuant to this Declaration, other recorded covenants or agreements with the owner(s) thereof.

7.4 Standard of Performance. Maintenance, as used in this Article and this Declaration, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate. All maintenance shall be performed in a manner consistent with all applicable covenants.

Notwithstanding anything to the contrary contained herein, the Association, and/or an Owner shall not be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

ARTICLE VIII: ASSESSMENTS

8.1 Covenants to Pay Assessments. By acceptance of a deed to any Building Lot, each Owner hereby covenants and agrees to pay when due all Assessments or charges made by the Association, including all Regular, Special and Limited Assessments and charges made against such Owner pursuant to the provisions of this Declaration or other applicable instrument.

8.1.1 Assessment Constitutes Lien. Such Assessments and charges together with interest, costs and reasonable attorney fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Building Lot against which each such Assessment or charge is made.

8.1.2 Assessment is Personal Obligation. Each such Assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the Owner beginning with the time when the Assessment falls due. The personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by them but shall remain such Owner's personal obligation regardless of whether he remains an Owner.

8.2 Regular Assessments. All Owners, including Grantor, are obligated to pay Regular Assessments to the treasurer of the Association on a schedule of payments established by the Board.

8.2.1 Purpose of Regular Assessments. The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including legal and attorney fees and other professional fees, for the conduct of its affairs, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Area, including all Improvements located on such areas owned and/or managed and maintained by the Association, and an amount allocated to an adequate reserve fund to be used for repairs, replacement, maintenance and improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis (collectively "Expenses").

8.2.2 Computation of Regular Assessments. The Association shall compute the amount of its Expenses on an annual basis. The Board shall compute the amount of Regular Assessments owed beginning the first day of the third month following the month in which the closing of the first sale of a Building Lot occurred in Terra Nativa Subdivision for the purposes of the Association's Regular Assessment ("Initiation Date"). Thereafter the computation of Regular Assessments shall take place not less than thirty (30) nor more than sixty (60) days before the beginning of each fiscal year of the Association. The computation of the Regular Assessment for the period from the Initiation Date until the beginning of the next fiscal year shall be adjusted by an amount which fairly reflects the fact that such period was less than one year.

8.2.3 Amounts Paid by Owners. The Board can require, in its discretion or as provided in the Articles or Bylaws, payment of Regular Assessments in monthly, quarterly, semi-annual or annual installments. The Regular Assessment to be paid by any particular Owner, including Grantor, for any given fiscal year shall be computed by multiplying the Association's total advance estimate of Expenses by the fraction produced by dividing the

Building Lots attributable to the Owner by the total number of Building Lots in the Property.

8.3 Special Assessments.

8.3.1 Purpose and Procedure. In the event that the Board shall determine that its Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of the Association for any reason, including but not limited to costs of construction, reconstruction, unexpected repairs or replacement of capital improvements upon the Common Area, attorney fees and/or litigation costs, other professional fees, or for any other reason, the Board thereof shall determine the approximate amount necessary to defray such Expenses and levy a Special Assessment against the portions of the Property within its jurisdiction which shall be computed in the same manner as Regular Assessments. No Special Assessment shall be levied which exceeds twenty percent (20%) of the budgeted gross Expenses of the Association for that fiscal year, without the vote or written assent of the Owners representing a majority of the votes of the Members of the Association. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid.

8.3.2 Consistent Basis of Assessment. Every Special Assessment levied by and for the Association shall be levied and paid upon the same basis as that prescribed for the levying and payment of Regular Assessments for such Association.

8.4 Limited Assessments. Notwithstanding the above provisions with respect to Regular and Special Assessments, a Board may levy a Limited Assessment against a Member as a remedy to reimburse the Association for costs incurred in bringing the Member and/or such Member's Building Lot into compliance with the provisions of the governing instruments for Terra Nativa Subdivision.

8.5 Uniform Rate of Assessment. Unless otherwise specifically provided herein, Regular and Special Assessments shall be fixed at a uniform rate per Building Lot for all Members of the Association.

8.6 Assessment Period. Unless otherwise provided in the Articles or Bylaws, the Assessment period shall commence on January 1 of each year and terminate December 31 of each year. The first Assessment shall be pro-rated according to the number of months remaining in the fiscal year and shall be payable in equal monthly or quarterly installments, as determined by the Board, as per paragraph 8.2.3 above.

8.7 Notice and Assessment Due Date. Ten (10) days prior written notice of Regular and Special Assessments shall be sent to the Owner of every Building Lot subject thereto, and to any person in possession of such Building Lot. The due dates for installment payments of Regular Assessments and Special Assessments shall be established by the Board. Each installment of the Regular Assessment or Special Assessment shall become delinquent if not paid within ten (10) days after the due date thereof. There shall accrue with each delinquent installment payment a late charge equal to five percent (5%) of the delinquent installment. In addition, each installment payment which is delinquent for more than twenty (20) days shall accrue interest at ten percent (10%) per annum calculated the date of delinquency to and including the date full payment is received by the Association. The Association may bring an action against the delinquent Owner and may foreclose the lien against such Owner's Building Lot as more fully provided herein. Each Owner is personally liable for Assessments, together with all interest, costs and attorney fees, and no Owner shall be exempt from such liability by a waiver of the use and enjoyment of the Common Area, or by lease or abandonment of such Owner's Building Lot.

8.8 Estoppel Certificate. The Association, upon at least twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request, a statement in writing stating whether or not, to the knowledge of the Association, a particular Owner is in default under the provisions of this Declaration, and further stating the dates to which any Assessments have been paid by the Owner. Any such certificate delivered pursuant to this paragraph 8.8 may be relied upon by any prospective purchaser or mortgagee of the Owner's Building Lot. Reliance on such Certificate may not extend to any default as to which the signor shall have had no actual knowledge.

8.9 Special Notice and Quorum Requirements. Notwithstanding anything to the contrary contained in either the Bylaws or the Articles, written notice of any meeting called for the purpose of levying a Special Assessment, or for the purpose of obtaining a membership vote in connection with an increase in the Regular Assessment, shall be sent to all Members of the Association and to any person in possession of a Building Lot, not less than fifteen (15) days nor more than thirty (30) days before such meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total votes of the Association shall constitute a quorum. If such quorum is not present, subsequent meetings may be called subject to the same notice requirement, and the required quorum at the subsequent meetings shall be fifty percent (50%) of the quorum required at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

ARTICLE IX: ENFORCEMENT OF ASSESSMENTS; LIENS

9.1 Right to Enforce. The Association has the right to collect and enforce its Assessments pursuant to the provisions hereof. Each Owner of a Building Lot, upon becoming an Owner of such Building Lot, shall be deemed to covenant and agree to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney fees in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the board may exercise the power of foreclosure and sale pursuant to paragraph 9.3 to enforce the liens created hereby. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

9.2 Assessment Liens.

9.2.1 Creation. There is hereby created a claim of lien with power of sale on each and every Building Lot to secure payment of any and all Assessments levied against such Building Lot pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorney fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Building Lots upon recordation of a claim of lien with the Ada County Recorder. Such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Building Lot and assessments on any Building Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.

9.2.2 Claim of Lien. Upon default of any Owner in the payment of any Regular Special or Limited Assessment issued hereunder, the Association may cause to be recorded in the office of the Ada County Recorder a claim of lien. The claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice), a sufficient description of the Building Lot(s) against which the same have been assessed, and the name of the record Owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien, but any number of defaults may be included within a single notice and claim of lien. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction of relief of

such delinquent sums and charges. The Association may demand and receive the cost of preparing and recording such release before recording the same.

9.3 Method of Foreclosure. Such lien may be foreclosed by appropriate action in court or by sale by the Association, its attorney or other person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale permitted by law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure.

9.4 Required Notice. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of the notice of delinquency and claim of lien, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Building Lot(s) described in such notice of delinquency and claim of lien, and to the person in possession of such Building Lot(s), and a copy thereof is recorded by the Association in the office of the Ada County Recorder.

9.5 Subordination to Certain Trust Deeds. The lien for the Assessments provided for herein in connection with a given Building Lot shall not be subordinate to the lien of any deed of trust or mortgage except the lien of a first deed of trust or first mortgage given and made in good faith and for value that is of record as an encumbrance against such Building Lot prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in paragraph 9.6 with respect to a first mortgagee who acquires title to a Building Lot, the sale or transfer of any Building Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

9.6 Rights of Mortgagees. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat the rights of the beneficiary under any deed of trust upon a Building Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such deed of trust such Building Lot shall remain subject to this Declaration as amended.

ARTICLE X: EASEMENTS

10.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Building Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Building Lots due to the unwillful placement or settling or shifting of the Improvements. Easements of encroachment shall be valid only so long as they exist, and the rights and obligations of Owners shall not be altered in any way because of encroachments, settling or shifting of the Improvements; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner.

10.2 Easements of Access. Grantor expressly reserves for the benefit of all the Property reciprocal easements of access, ingress and egress for all Owners to and from their respective Building Lots for installation and repair of utility services, for drainage of water over, across and upon adjacent Building Lots, and Common Area, resulting from the normal use of adjoining Building Lots or Common Area, and for necessary maintenance and repair of any Improvement including fencing, retaining walls, lighting facilities, mailboxes and sidewalk abutments, trees and landscaping. Such easements may be used by Grantor, and by all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Building Lot or Common Area.

10.3 Drainage, Irrigation, and Utility Easements. Notwithstanding anything expressly or impliedly contained herein to the contrary, this Declaration shall be subject to all easements heretofore or hereafter granted by Grantor for the installation and maintenance of utilities, irrigation and drainage facilities that are required for the development of the Property. In addition, Grantor hereby reserves for the benefit of the Association the right to grant additional easements and rights-of-way over the Property, as appropriate, to utility companies and public agencies as necessary or expedient for the proper development of the Property until close of escrow for the sale of the last Building Lot in the Property to a purchaser.

10.3.1 Improvement of Drainage, Irrigation and Utility Easement Areas. The Owners of Building Lots are hereby restricted and enjoined from constructing any Improvements upon any drainage, irrigation or utility easement areas as shown on the Plat or otherwise designated in any recorded document that would interfere with or prevent the easement from being used for such purpose; provided, however, that the Owner of such Building Lots, Grantor, Association or designated entity with regard to the landscaping easement described in this Article X, shall be entitled to install and maintain landscaping on such easement areas, and also shall be entitled to build and maintain fencing on such easement areas subject to approval by the Architectural Committee, so long as the same would not interfere with or prevent the easement areas from being used for their intended purposes;

provided, that any damage sustained to Improvements on the easement areas as a result of legitimate use of the easement area shall be the sole and exclusive obligation of the Owner of the Building Lot whose Improvements were so damaged.

10.4 Rights and Duties Concerning Utility Easements. The rights and duties of the Owners of the Building Lots within the Property with respect to utilities shall be governed by the following:

10.4.1 Wherever utility house connections are installed within the Property, which connections or any portions thereof lie in or upon Building Lots owned by an Owner other than the Owner of the Building Lot served by the connections, the Owner of the Building Lot served by the connections shall have the right, and is hereby granted an easement to the full extent necessary therefor, to enter upon any Building Lot or to have their agent enter upon any Building Lot within the Property in or upon which said connections or any portion thereof lie, to repair, replace and generally maintain the connections as and when it may be necessary.

10.4.2 Whenever utility house connections are installed within the Property, which connections serve more than one Building Lot, the Owner of each Building Lot served by the connections shall be entitled to full use and enjoyment of such portions of said connections as service such Owner's Building Lot.

10.4.3 Any Building Lot containing a portion of, or sharing a common boundary with any ditch, lateral, or canal, except natural waterways, shall be tiled or fenced by the Owner of such Building Lot in accordance with the Ada County Code.

10.5 Additional Covenants and Easements. Grantor may unilaterally subject any portion of the Property to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating the Owners to pay the costs incurred by the Association through Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration recorded either concurrent with or after the annexation of such property.

10.6 Easements to Serve Additional Property. Grantor hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Property and any other lands owned by Grantor, including but not limited to those lands described in Exhibit A attached hereto. This easement includes, but is not limited to, a right of

ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on the Property and other lands. Grantor and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development on use of such Property and the other lands. Grantor further agrees that if the easement is exercised for permanent access to such other lands and the other lands or any portion thereof is not made subject to this Declaration, Grantor, its successor or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving the other lands.

10.7 Disputes as to Sharing of Costs. In the event of a dispute between Owners with respect to the repair or rebuilding of utility connections, or with respect to the sharing of the cost therefor, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board which shall decide the dispute and, if appropriate, make an appropriate Assessment against any or all of the Owners involved on behalf of the prevailing Owner(s) which Assessment shall be collected and enforced in the manner provided by this Declaration for Limited Assessments.

ARTICLE XI: ANNEXATION

11.1 Time for Annexation; Land Subject to Annexation: Grantor hereby reserves the right to annex any abutting, adjoining or contiguous real property into the project created by this Declaration by recording a Notice of Annexation or Supplemental Declaration particularly describing the real property to be annexed and added to the project, pursuant to the provisions of this Article XI.

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 Building Lots 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 Building Lots 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.

11.2 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 Grantor 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 XII: MISCELLANEOUS

12.1 Term. The easements created hereunder shall be perpetual, subject only to extinguishment by the holders of such easements as provided by law. The covenants, conditions, restrictions and equitable servitudes of this Declaration shall run until December 31, 2029, unless amended as herein provided. After December 31, 2029, such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by Members holding at least three-fourths (3/4) of the voting power of the Association and such written instrument is recorded with the Ada County Recorder. Further provided that the Association shall not be dissolved without the prior written approval of Boise City, such consent not to be unreasonably withheld provided that a responsible successor organization shall agree to perform those maintenance responsibilities arising from applicable governmental requirements.

12.2 Amendment.

12.2.1 By Grantor. Except as provided in paragraph 12.2.3 below, until the recordation of the first deed to a Building Lot in the Property, the provisions of this Declaration may be amended, modified, clarified, supplemented, added to (collectively, "amendment") or terminated by Grantor by recordation of a written instrument setting forth such amendment or termination.

12.2.2 By Owners. Except where a greater percentage is required by express provision in this Declaration, any amendment to the provisions of this Declaration, other than this Article XII, shall be by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment has been approved by the vote or written consent of Owners representing more than fifty percent (50%) of the votes in the Association, and such amendment shall be effective upon its recordation with the Ada County Recorder. Any amendment to this Article XII shall require the vote or written consent of Members holding ninety percent (90%) of the voting power of the Association.

12.2.3 Effect of Amendment. Any amendment of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners and their respective properties notwithstanding that such owners may not have voted for or consented to such amendment. Such amendments may add to and increase the covenants, conditions, restrictions and easements applicable to the property but shall not prohibit or unreasonably interfere with the allowed uses of such Owner's property which existed prior to the said amendment.

12.3 Mortgage Protection. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate or defeat or render invalid the rights of the beneficiary under any first deed of trust upon a Building Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after foreclosure of any such first deed of trust such Building Lot shall remain subject to this Declaration, as amended.

12.4 Notices. Any notices permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association, as provided in this paragraph 12.4.

12.5 Enforcement and Non-Waiver.

12.5.1 Right of Enforcement. Except as otherwise provided herein, any Owner of any Building Lot, or the Association, shall have the right to enforce any or all of the provisions hereof against any property within the Property and Owners thereof.

12.5.2 Violations and Nuisances. The failure of any Owner of a Building Lot to comply with any provision hereof, or with any provision of the Articles or Bylaws of the Association, is hereby declared a nuisance and will give rise to a cause of action in Grantor, the Association or any Owner for recovery of damages or for negative or affirmative injunctive relief or both. However, any other provision to the contrary notwithstanding, only Grantor, the Association, the Board, or a duly authorized agent of any of them, may enforce by self-help any of the provisions hereof only if such self-help is preceded by reasonable notice to the Owner.

12.5.3 Violation of Law. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership occupation or use of any portion of the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in this Declaration and any or all enforcement procedures in law and equity.

12.5.4 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

12.5.5 Non-Waiver. The failure to enforce any of the provisions herein at any item shall not constitute a waiver of the right to enforce any such provision.

12.6 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property. This Declaration shall be construed and governed under the laws of the State of Idaho.

12.6.1 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property as set forth in the recitals of this Declaration.

12.6.2 Restrictions Severable. Notwithstanding the provisions of the foregoing paragraph 12.6.1, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

12.6.3 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural shall include the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

12.6.4 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

12.7 Successors and Assigns. All references herein to Grantor, Owners, the Association or person shall be construed to include all successors, assigns, partners and authorized agents of such Grantor, Owners, Association or person.

12.8 Mortgagees' Right to Satisfy Obligations of the Association. In the event that the Association fails to pay any debt or sum lawfully owed by it, for which a lien has been placed against the Common Area, or in the event that the Association fails to pay premiums due on insurance policies required by this Declaration, the lapse of which would jeopardize a mortgagee's security in any Building Lot, such mortgagee may pay said premium after first having served five (5) days, written demand for such payment on the Association. In the event that the Association has allowed said insurance policies to lapse, any such mortgagee whose security in any Building Lot is jeopardized thereby may secure new comparable insurance coverage. In the event that such mortgagee makes payments allowed hereunder, it shall be entitled to prompt reimbursement from the Association.

IN WITNESS WHEREOF, Grantor has set their hands this 6 day of October 1999.

GRANTOR:
TERRA NATIVA, L.L.P.

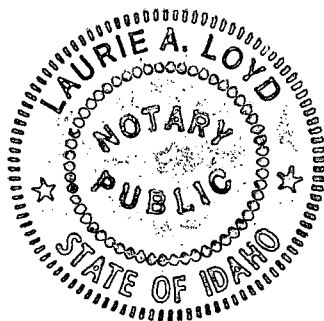
By Timothy R. Day
Timothy R. Day, Partner

By Richard A. Pavelek
Richard A. Pavelek, Partner

STATE OF IDAHO)
 : ss.
County of Ada)

On the 6th day of October 1999, before me, the undersigned notary public in and for said State, personally appeared TIMOTHY R. DAY and RICHARD A. PAVELEK, known or identified to me to be the persons whose name are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Laurie A. Loyd
Notary Public for Idaho
Residing at Kuna
Commission expires: 9/19/04

(4)

RECORDED - REQUEST OF

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

FEE 21- DEPUTY *J. Oliver*

A028286 TR/KF

2002 MY 20 PM 4: 22
DECLARATION OF RESTRICTIONS

102057518

Title One

THIS DECLARATION OF RESTRICTIONS ("Declaration") is made ~~on~~ ^{TITLE ONE} the 20th day of May, 2002, by and between MARY LOUISE LEONARD, an unmarried person ("Leonard"), and CHARLOTTE L. DAY, an unmarried person and CHARLOTTE L. DAY as personal representative of the Estate of Robert Day (collectively "Day").

RECITALS:

A. Leonard owns a fee simple interest in that certain real property located in the County of Ada, State of Idaho shown as parcel "A" on Exhibit "A" attached hereto and incorporated herein, more particularly described on Schedule I attached hereto and incorporated herein and a leasehold interest in that certain real property located in the County of Ada, State of Idaho shown as parcel "B" on Exhibit "A" and more particularly described on Schedule II attached hereto and incorporated herein together with all improvements located thereon and all easements, rights and appurtenances thereto ("Leonard Parcel").

B. Day owns that certain real property located in the County of Ada, State of Idaho shown as parcel "O" on Exhibit "A" attached hereto and incorporated herein, more particularly described on Schedule I attached hereto and incorporated herein ("Day Parcel").

C. Leonard and Day desire to subject the Leonard Parcel and the Day Parcel to the restrictions contained herein to limit any resubdivision of the Leonard Parcel to a maximum of three (3) building lots and to preserve the Day Parcel in its natural state.

AGREEMENT:

NOW THEREFORE, in and for the consideration of the mutual covenants contained herein, Leonard and Day hereby agree as follows:

1. **Leonard Parcel.** Leonard shall have the right to subdivide the Leonard Parcel; provided, however, that the Leonard Parcel shall not be subdivided into more than three (3) residential building lots. Any building or structure constructed on the Leonard Parcel shall substantially conform to the architectural design guidelines contained within the Covenants, Conditions and Restrictions for Terra Nativa, recorded October 6, 1999, as Instrument No. 99099201.

2. **Day Parcel.** No buildings or other vertical structures or any public road shall be constructed on the Day Parcel, and the Day Parcel shall be maintained to as close to its natural state as reasonably practicable. Notwithstanding the foregoing, Day may convey the easterly hilltop portion of the Day Parcel, not to exceed twenty-five (25) feet measured from the east boundary thereof (“Easterly Segment”), to the owner of the parcel adjacent and east of the Day Parcel (“Adjacent Parcel”), if such conveyance is necessary to create a single building lot on the Adjacent Parcel in accordance with all appropriate governmental ordinances, rules and regulations. Upon conveyance of the Easterly Segment of the Day Parcel to the owner of the Adjacent Parcel, the restrictions contained herein shall automatically terminate and be of no further force or effect as to the Easterly Segment of the Day Parcel then owned by the owner of the Adjacent Parcel, and the restrictions contained herein shall continue in full force and effect as to the remainder of the Day Parcel.

3. **General Provisions**

3.1 **Covenants Run With the Land.** Each restriction on each Parcel shall be a burden on that Parcel, shall be appurtenant to and for the benefit of the other Parcel and each part thereof and shall run with the land

3.2 **Successors and Assigns.**

(a) Persons Bound. This Declaration and the restrictions created hereby shall inure to the benefit of and be binding upon the Parcel owners, their heirs, successors, assigns and personal representatives, and upon any person acquiring a Parcel, or any portion thereof, or any interest therein (except the owner of the Adjacent Property in the event such owner acquires the Easterly Segment of the Day Parcel), whether by operation of law or otherwise. Notwithstanding the foregoing, if any Parcel owner sells or transfers all or any portion of its interest in any Parcel, such owner shall, upon the sale and conveyance of title, be released and discharged from all of its obligations as owner in connection with the property sold by it arising under this Declaration after the sale and conveyance of title but shall remain liable for all obligations arising under this Declaration prior to the sale and conveyance of title. The new owner of any such Parcel or any portion thereof (including, without limitation, any owner or lienholder who acquires its interest by foreclosure, trustee’s sale or otherwise) shall be liable for all obligations arising under this

Declaration with respect to such Parcel or portion thereof after the date of sale and conveyance of title.

3.3 Injunctive Relief. In the event of any violation or threatened violation by any person of any of the restrictions contained herein, any or all of the owners of any other property covered by this Declaration shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Declaration or provided by law.

3.4 Modification and Termination. This Declaration may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of the owners of the Parcels containing ninety percent (90%) of the total square footage of the land area of the property covered by this Declaration, and then only by written instrument duly executed and acknowledged by all of the required Parcel owners and recorded in the office of the recorder of Ada County, Idaho. No modification or termination of this Declaration shall affect the rights of any lienholder unless the lienholder consents in writing to the modification or termination

3.5 Breach Shall Not Permit Termination. It is expressly agreed that no breach of this Declaration shall entitle any Parcel owner to terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which such owner may have hereunder by reason of any breach of this Declaration. Any breach of this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Declaration shall be binding upon and be effective against any Parcel owner whose title is acquired by foreclosure, trustee's sale or otherwise.

3.6 Default. A person shall be deemed to be in default of this Declaration only upon the expiration of thirty (30) days from receipt of written notice from any Parcel owner specifying the particulars in which such person has failed to perform the obligations of this Declaration unless such person, prior to the expiration of said thirty (30) days, has rectified the particulars specified in said notice of default. However, such person shall not be deemed to be in default if such failure cannot be rectified within said thirty (30) day period and such person is using good faith and its best efforts to rectify the particulars specified in the notice of default.

3.7 Notices.

(a) Delivery. All notices given pursuant to this Declaration shall be in writing and shall be given by personal service, by United States mail or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, return receipt requested, addressed to the appropriate party at the address as set forth on the Ada County tax rolls.

3.8 Waiver. The failure of a person to insist upon strict performance of any of the restrictions contained herein shall not be deemed a waiver of any rights or remedies that said person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the Restrictions contained herein by the same or any other person.

3.9 Attorney's Fees. In the event either party initiates or defends any legal action or proceeding in any way connected with this Declaration, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorney's fees (including, without limitation, its reasonable costs and attorney's fees on any appeal). All such costs and attorney's fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

3.10 Not a Partnership. The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

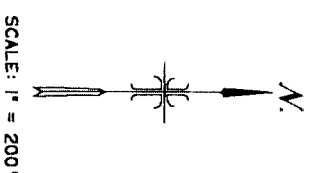
3.11 No Third Party Beneficiary Rights. This Declaration is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party hereto.

EXHIBIT A FOR RALPH PETERS HILL

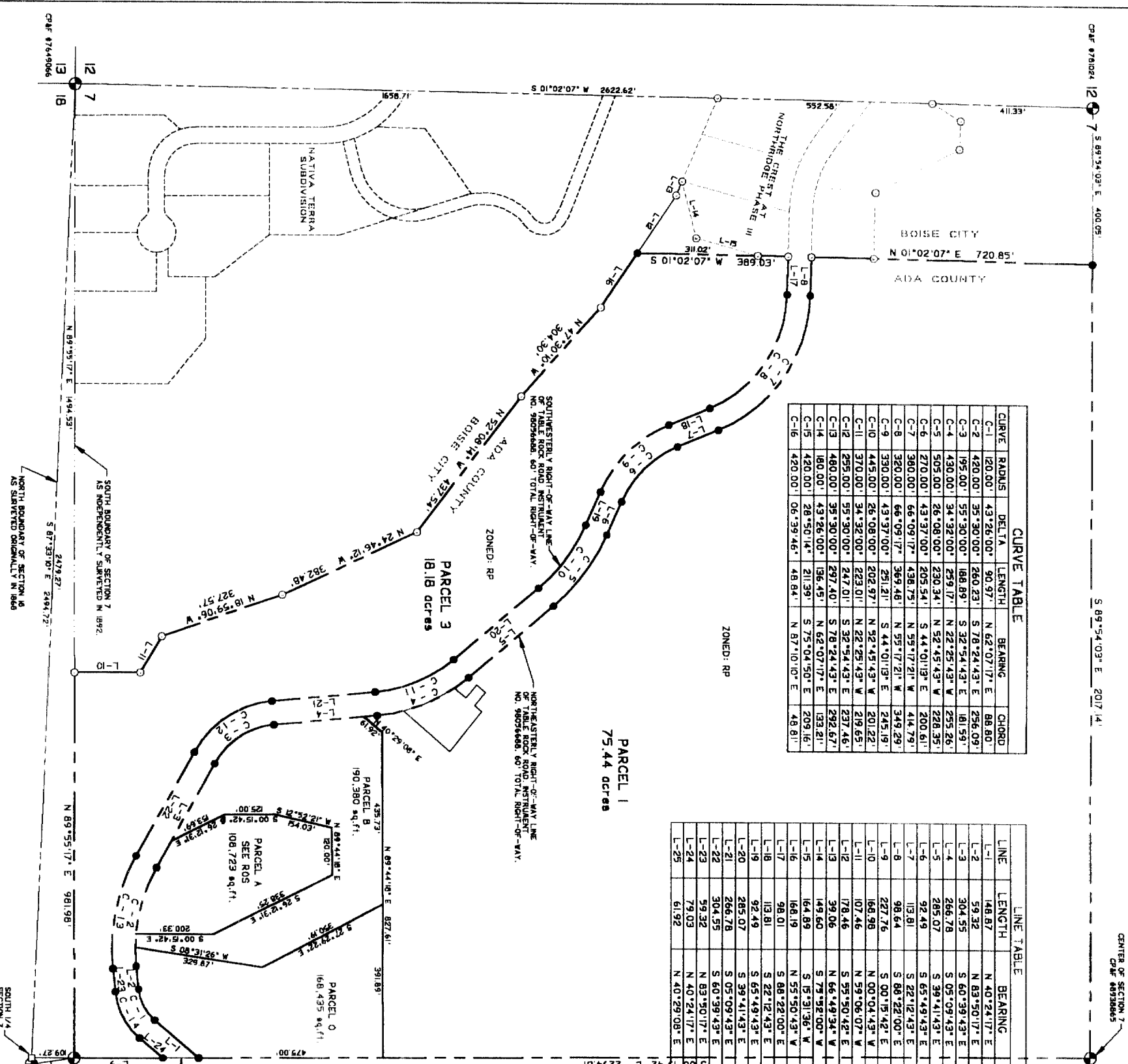
A PORTION OF THE SW 1/4, SECTION 7,
T.3N., R.3E., B.M.,
ADA COUNTY, IDAHO

CURVE	RADIUS	DELTA	LENGTH	BEARING	CHORD
C-1	120.00'	43°26'00"	90.97'	N 62°07'17" E	88.80'
C-2	420.00'	35°30'00"	260.23'	S 78°24'43" E	256.09'
C-3	195.00'	55°30'00"	188.89'	S 32°54'43" E	181.59'
C-4	430.00'	34°32'00"	259.17'	N 22°25'43" W	255.26'
C-5	505.00'	26°08'00"	230.34'	N 52°45'43" W	228.35'
C-6	270.00'	43°37'00"	205.54'	S 44°01'13" E	200.61'
C-7	380.00'	66°09'17"	438.75'	N 55°17'21" W	414.79'
C-8	320.00'	66°09'17"	369.48'	N 55°17'21" W	349.29'
C-9	330.00'	43°37'00"	251.21'	S 44°01'13" E	245.19'
C-10	445.00'	26°08'00"	202.97'	N 52°45'43" W	201.22'
C-11	370.00'	34°32'00"	223.01'	N 22°25'43" W	219.65'
C-12	255.00'	55°30'00"	247.01'	S 32°54'43" E	237.46'
C-13	480.00'	35°30'00"	297.40'	S 78°24'43" E	292.67'
C-14	180.00'	43°26'00"	136.45'	N 62°07'17" E	133.21'
C-15	420.00'	28°50'14"	211.39'	S 75°04'50" E	209.16'
C-16	420.00'	06°39'46"	48.84'	N 87°10'10" E	48.81'

LINE	LENGTH	BEARING
L-1	148.87'	N 40°24'17" E
L-2	59.32'	N 89°50'17" E
L-3	304.55'	S 60°39'43" E
L-4	286.78'	S 05°09'43" E
L-5	285.07'	S 39°41'43" E
L-6	92.49'	S 65°49'43" E
L-7	113.81'	S 22°12'43" E
L-8	98.64'	S 88°22'00" E
L-9	227.76'	S 00°15'42" E
L-10	166.98'	N 00°04'43" W
L-11	107.46'	S 55°50'42" E
L-12	178.46'	S 55°50'42" E
L-13	39.06'	N 66°49'34" W
L-14	164.89'	S 15°31'36" W
L-15	164.89'	S 15°31'36" W
L-16	168.19'	N 55°50'43" W
L-17	98.01'	S 88°22'00" E
L-18	113.81'	S 22°12'43" E
L-19	92.49'	S 65°49'43" E
L-20	285.07'	S 05°09'43" E
L-21	266.78'	S 05°09'43" E
L-22	304.55'	N 89°50'17" E
L-23	59.32'	N 89°50'17" E
L-24	79.03'	N 40°24'17" E
L-25	61.92'	N 40°29'08" E



- LEGEND**
- BOUNDARY LINE
 - - - CENTER LINE
 - - - EASEMENT LINE
 - ⊕ FOUND BRASS CAP
 - ⊞ FOUND ALUMINUM CAP
 - FOUND 5/8" IRON PIN
 - SET 5/8" X 30" IRON PIN W/CAP
 - FOUND 1/2" IRON PIN
 - ◐ SET 1/2" X 24" IRON PIN W/CAP
 - CALCULATED POINT



NOTE:
SEE RECORD OF SURVEY 3834 BY
BRIGGS ENGINEERING FOR ADDITIONAL
INFORMATION ON THE SECTION LINE
BETWEEN SECTIONS 7 AND 18.

RECORDING INDEX NO. 331-07-1-0-0-00-0000

DATE: MAY, 2002

DRAWING NO.: 2228

TEALEY'S LAND SURVEYING
915 W. JEFFERSON ST. • BOISE, IDAHO 83702
208-385-0636

IDA COUNTY RECORDER
DAVID NAVARRO
BOISE, IDAHO

2002 NO -6 PM 2:50

RECORDED - REQUEST OF
Terra Natura Hoop
FEE 15.00 DEPUTY *Hooper*

102129916

**This sheet has been added to document
to accommodate recording information.**

**NOTICE OF ANNEXATION AND SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
NATIVA TERRA SUBDIVISION NO. 2**

KNOW ALL MEN BY THESE PRESENTS that Terra Nativa, LLP, an Idaho limited liability partnership, (hereinafter “Grantor”), is the owner of that certain real property located in Ada County, Idaho, described as Nativa Terra Subdivision No. 2, according to the official plat thereof recorded on November 5, 2002, as Instrument No. 102129355 in Book 85 of Plats at pages 9458 and 9459, records of Ada County, Idaho (hereinafter the “Real Property”)

W I T N E S S E T H:

WHEREAS, Grantor has heretofore filed that certain Declaration of Covenants, Conditions and Restrictions of Nativa Terra Subdivision No. 2, which Declaration was recorded on October 6, 1999, as Instrument No. 99099201, records of Ada County, Idaho (hereinafter the “Declaration”); and

WHEREAS, in Article XI, Section 11.1 of the Declaration, Grantor reserved the right to annex any abutting, adjoining or contiguous real property into the project created by the Declaration by recording a notice of annexation or supplemental declaration particularly describing the real property to be annexed and added to the project.

NOW, THEREFORE, pursuant to Article XI of the Declaration, Grantor hereby declares that the Real Property shall be held, sold, conveyed, and subject to the Declaration, which Declaration is hereby incorporated by this reference as if fully set forth herein, except that the following paragraphs of the Declaration shall be amended as follows:

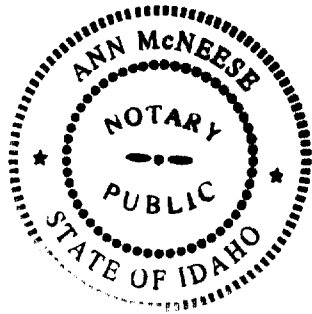
(1) Article I, Section 1.1, “PROPERTY COVERED” shall mean and refer to the “Real Property” hereinbefore described in addition to the real property described in the Declaration.

(2) Article III, Section 3.7, "COMMON AREA" shall mean and refer to Lot 17, Block 3, Nativa Terra Subdivision No. 2, according to the official plat thereof, in addition to the real property described as Common Area in the Declaration.

(3) Article IV, Section 4.1.1, "USE, SIZE AND HEIGHT OF DWELLINGS, STRUCTURES AND OTHER SITE ELEMENTS" shall be and is hereby amended so as to add Lots 4, 5, 6 and 7, Block 4, to those which are identified as being subject to the restrictions contained in that certain "Restrictive Covenant Governing Height Limitation" recorded as Instrument No. 9141382, records of Ada County, Idaho and to add the following: "Except as may otherwise be approved in writing by the Architectural Committee (i) no building, structure, landscaping improvement or other site element to be located on Lot 16, Block 3, shall exceed a maximum elevation of 2,950 feet according to the elevation datum established by Declarant's surveyors and engineers, nor shall the east elevation of any building to be constructed thereon exceed 26 feet above the elevation of the natural grade of the lot immediately adjacent thereto, and (ii) the maximum height of any building, structure, landscaping improvement or other site element to be located on Lots 18, 19, 20, 22, 23 and 24, Block 3, shall not exceed 26 feet above the elevation of the building pad thereon as shown on the Nativa Terra Subdivision No. 2 grading plans.

(4) Article V, Section 5.5.2.2 "OPERATION AND MAINTENANCE OF PRIVATE DRAINAGE SYSTEM" shall be and is hereby amended so as to require the association to operate, maintain, repair and otherwise manage the portions of the "Private Drainage System" located within the Nativa Terra Subdivision No. 2 in addition to those portions of the Private Drainage System described therein.

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



Ann McNeese
Notary Public for Idaho
Residing at Meridian, Idaho
My Commission Expires 8/31/2005



**AMENDMENT TO
RESTRICTIVE COVENANT GOVERNING HEIGHT LIMITATION**

THIS AMENDMENT is made to that certain Restrictive Covenant Governing Height Limitation, recorded July 30, 1991, as Instrument No. 9141382, Records of Ada County, Idaho, (hereinafter "Covenant"), by the owners of Parcel 2 as described in the Covenant, (hereinafter "Owners"), for the benefit of the following described parcel, consisting of a portion of Parcel 1 as described in the Covenant, to wit:

Lot 9, Block 3, Nativa Terra Subdivision, according to the official Plat thereof, filed in Book 79 of Plats at page(s)59,60,61 62, records of Ada County, Idaho, (hereinafter "Benefitted Parcel").

The height restriction set forth in the Covenant, as applied to the Benefitted Parcel, is hereby amended to permit the construction thereon of a single family residence not to exceed ~~twenty-six feet (26')~~ ^{Eighteen (18')} in height above the existing finished grade of lot 9 of block 3 of Nativa Terra Subdivision, which is shown as an elevation of 2992 feet or as curenly constructed, as shown on sheet 3 of 7 of the grading plan for Nativa Terra Subdivision done by Tealey's Land Surveying Job No. 1890, located on the common boundary line between the Nativa Terra and Crest III Subdivisions.

This modification shall run with the land, and binds the respective owners of the Benefitted Parcel and Parcel 2, together with their assigns, successors, heirs and devisees.

IN WITNESS WHEREOF, the undersigned have executed and delivered this instrument on the day set forth below.

OWNER

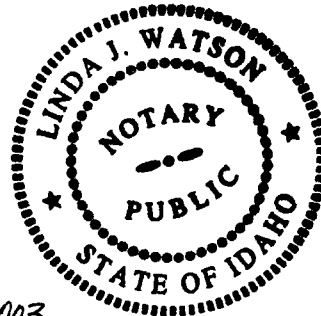
[Handwritten signature]

OWNER

C. McMonigle

Cherol McMonigle

(typed name) Pat Mc Monigle (typed name)



STATE OF IDAHO)

) ss

County of Ada)

On this 15th day of April, ²⁰⁰³~~2001~~, before me, a Notary Public in and for said State, personally appeared Patrick & Cheryl McMonigle known or identified to me to be the person who executed the foregoing instrument, and acknowledged to me that he/she 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 written above.

Notary Public for Idaho *Linda J. Watson*
Residing at Boise, Idaho
Commission Expires: *11.12.05*

25
**ACCOMMODATION
RECORDING**

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 11/25/05 12:45 PM
DEPUTY Vicki Allen
RECORDED - REQUEST OF
Title One

AMOUNT 9.00 3



**NOTICE OF ANNEXATION AND SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
NATIVA TERRA SUBDIVISION NO. 3**

KNOW ALL MEN BY THESE PRESENTS that Terra Nativa, LLP, an Idaho limited liability partnership, (hereinafter "Grantor"), is the owner of that certain real property located in Ada County, Idaho, described as Nativa Terra Subdivision No. 3, according to the official plat thereof recorded on 11/22 2005, as Instrument No. 105177583 in Book 93 of Plats at pages 11288 through 11289, records of Ada County, Idaho (hereinafter the "Real Property")

WITNESSETH:

WHEREAS, Grantor has heretofore filed that certain Declaration of Covenants, Conditions and Restrictions of Nativa Terra Subdivision, which Declaration was recorded on October 6, 1999, as Instrument No. 99099201, records of Ada County, Idaho (hereinafter the "Declaration"); and

WHEREAS, in Article XI, Section 11.1 of the Declaration, Grantor reserved the right to annex any abutting, adjoining or contiguous real property into the project created by the Declaration by recording a notice of annexation or supplemental declaration particularly describing the real property to be annexed and added to the project.

NOW, THEREFORE, pursuant to Article XI of the Declaration, Grantor hereby declares that the Real Property shall be held, sold, conveyed, and subject to the Declaration, which Declaration is hereby incorporated by this reference as if fully set forth herein, except that the following paragraphs of the Declaration shall be amended as follows:


(1) Article I, Section 1.1, "PROPERTY COVERED" shall mean and refer to the "Real Property" hereinbefore described in addition to the real property described in the Declaration.

(2) Article III, Section 3.7, "COMMON AREA" shall mean and refer to Lot 9, Block 5, Nativa Terra Subdivision No. 3, according to the official plat thereof, in addition to the real property described as Common Area in the Declaration.

(4) Article V, Section 5.5.2.2 "OPERATION AND MAINTENANCE OF PRIVATE DRAINAGE SYSTEM" shall be and is hereby amended so as to require the association to operate, maintain, repair and otherwise manage the portions of the "Private Drainage System" located within the Nativa Terra Subdivision No. 3 in addition to those portions of the Private Drainage System described therein.

This Notice of Annexation and Supplemental Declaration of Covenants, Conditions, and Restrictions for Terra Nativa Subdivision No. 3 is executed on this 22ND day of November, 2005.

Terra Nativa, LLP

By 
Timothy R. Day, Partner

By 
Richard Pavelek, Partner

**NOTICE OF ANNEXATION AND SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
NATIVA TERRA SUBDIVISION NO. 5**

KNOW ALL MEN BY THESE PRESENTS that Terra Nativa, LLP, an Idaho limited liability partnership, (hereinafter “Grantor”), is the owner of that certain real property located in Ada County, Idaho, described as Nativa Terra Subdivision No. 5, according to the official plat thereof recorded on MAY 24 2010, as Instrument No. 110041782 in Book 103 of Plats at pages 13742 through 13743, records of Ada County, Idaho (hereinafter the “Real Property”)

WITNESSETH:

WHEREAS, Grantor has heretofore filed that certain Declaration of Covenants, Conditions and Restrictions of Nativa Terra Subdivision, which Declaration was recorded on October 6, 1999, as Instrument No. 99099201, records of Ada County, Idaho (hereinafter the “Declaration”); and

WHEREAS, in Article XI, Section 11.1 of the Declaration, Grantor reserved the right to annex any abutting, adjoining or contiguous real property into the project created by the Declaration by recording a notice of annexation or supplemental declaration particularly describing the real property to be annexed and added to the project.

NOW, THEREFORE, pursuant to Article XI of the Declaration, Grantor hereby declares that the Real Property shall be held, sold, conveyed, and subject to the Declaration, which Declaration is hereby incorporated by this reference as if fully set forth herein, except that the following paragraphs of the Declaration shall be amended as follows:

(1) Article I, Section 1.1, “PROPERTY COVERED” shall mean and refer to the “Real Property” hereinbefore described in addition to the real property described in the Declaration.

(2) Article III, Section 3.7, "COMMON AREA" shall mean and refer to Lot 14 in Block 1, Nativa Terra Subdivision No. 5, according to the official plat thereof, in addition to the real property described as Common Area in the Declaration.

(3) Article V, Section 5.5.2.2 "OPERATION AND MAINTENANCE OF PRIVATE DRAINAGE SYSTEM" shall be and is hereby amended so as to require the association to operate, maintain, repair and otherwise manage the portions of the "Private Drainage System" located within the Nativa Terra Subdivision No. 5 in addition to those portions of the Private Drainage System described in the Declaration.

(4) A new Section 8.10 "ADDITIONAL REGULAR ASSESSMENTS" shall be and is hereby added as follows:

"8.10 ADDITIONAL REGULAR ASSESSMENTS. In addition to the Regular, Special and Limited Assessments provided for in this Article VIII, the Owners of Building Lots in Nativa Terra Subdivision No. 5, according to the official plat thereof are obligated to pay to the treasurer of the Association an Additional Regular Assessment as hereinafter specified.

"8.10.1 PURPOSE OF ADDITIONAL REGULAR ASSESSMENTS. The proceeds from the Additional Regular Assessments are to be used to pay for all costs and expenses incurred by the Association for the maintenance, repair, management and operation of the Common Areas located in Nativa Terra Subdivision Nos. 4 and 5, said Common Areas being Lot 1 in Blocks 7, 8, 9 and 10, Nativa Terra Subdivision No. 4 and Lot 14 in Block 1, Nativa Terra Subdivision No. 5, and such additional Common Areas as may be added pursuant to the provisions of a notice of annexation and/or supplemental declaration,

together with an amount allocated to an adequate reserve fund to be used for the repair, replacement, maintenance and improvement of said Common Areas. Subject to Grantor's right to amend or modify this Section by proper instrument, including but not limited to a supplemental declaration and/or notice of annexation, it is Grantor's intent that the Owners of Building Lots in Nativa Terra Subdivision Nos. 4 and 5 be exclusively obligated to pay the costs and expenses of the maintenance, repair, management, and operation of the Common Areas located in Nativa Terra Subdivision Nos. 4 and 5 and that no other members of the Association shall be so obligated, it being recognized that the Owners of Building Lots in Nativa Terra Subdivision Nos. 4 and 5 are specially benefited by such Common Areas.

“8.10.2 COMPUTATION OF ADDITIONAL REGULAR ASSESSMENTS. The Association shall compute the amount of costs and expenses described in Section 8.10.1, above, and shall determine the amount to be paid by any particular Owner, in the same manner as it computes its Expenses and determines the amount to be paid by each Owner for Regular Assessments.

“8.10.3 UNIFORM RATE OF ASSESSMENT. The Additional Regular Assessments shall be fixed at a uniform amount for each Building Lot subject thereto.

“8.10.4 ASSESSMENT PERIOD; NOTICE AND ASSESSMENT DUE DATE. The provisions of Sections 8.6 and 8.7 of this Article VIII shall be applicable to the Additional Regular Assessments provided for herein.”

(5) A new Section 12.2.4 "APPROVAL OF AMENDMENTS BY BOISE CITY" shall be and is hereby added as follows:

"12.2.4 APPROVAL OF AMENDMENTS BY BOISE CITY. Unless the express written consent of the City of Boise has been obtained: (i) no provision of this Declaration which has been required by the City of Boise, or which confers upon the City of Boise any right or power, or recognizes any right or power of the City of Boise, may be amended or deleted, (ii) no provision may be added to this Declaration which in any way affects any right, power or requirement of the City of Boise, and (iii) this Declaration may not be terminated in its entirety."

This Notice of Annexation and Supplemental Declaration of Covenants, Conditions, and Restrictions for Terra Nativa Subdivision No. 5 is executed on this 21st day of MAY, 2010.

Terra Nativa, LLP

By 
Timothy R. Day, Partner

By 
Richard A. Pavelek, Partner

**NOTICE OF ANNEXATION AND SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
NATIVA TERRA SUBDIVISION NO. 4**

KNOW ALL MEN BY THESE PRESENTS that Terra Nativa, LLP, an Idaho limited liability partnership, (hereinafter "Grantor"), is the owner of that certain real property located in Ada County, Idaho, described as Nativa Terra Subdivision No. 4, according to the official plat thereof recorded on 8/26 2008, as Instrument No. 108096956 in Book 101 of Plats at pages 13334 through 13338, records of Ada County, Idaho (hereinafter the "Real Property")

WITNESSETH:

WHEREAS, Grantor has heretofore filed that certain Declaration of Covenants, Conditions and Restrictions of Nativa Terra Subdivision, which Declaration was recorded on October 6, 1999, as Instrument No. 99099201, records of Ada County, Idaho (hereinafter the "Declaration"); and

WHEREAS, in Article XI, Section 11.1 of the Declaration, Grantor reserved the right to annex any abutting, adjoining or contiguous real property into the project created by the Declaration by recording a notice of annexation or supplemental declaration particularly describing the real property to be annexed and added to the project.

NOW, THEREFORE, pursuant to Article XI of the Declaration, Grantor hereby declares that the Real Property, except Lot 18, Block 6 thereof, shall be held, sold, conveyed, and subject to the Declaration, which Declaration is hereby incorporated by this reference as if fully set forth herein, except that the following paragraphs of the Declaration shall be amended as follows:

(1) Article I, Section 1.1, "PROPERTY COVERED" shall mean and refer to the "Real Property" hereinbefore described, except Lot 18, Block 6 thereof, in addition to the real property described in the Declaration.

(2) Article III, Section 3.7, "COMMON AREA" shall mean and refer to Lots 1 in Blocks 7, 8, 9 and 10, Nativa Terra Subdivision No. 4, according to the official plat thereof, in addition to the real property described as Common Area in the Declaration.

(3) Article V, Section 5.5.2.2 "OPERATION AND MAINTENANCE OF PRIVATE DRAINAGE SYSTEM" shall be and is hereby amended so as to require the association to operate, maintain, repair and otherwise manage the portions of the "Private Drainage System" located within the Nativa Terra Subdivision No. 4 in addition to those portions of the Private Drainage System described in the Declaration.

(4) A new Section 8.10 "ADDITIONAL REGULAR ASSESSMENTS" shall be and is hereby added as follows:

"8.10 ADDITIONAL REGULAR ASSESSMENTS. In addition to the Regular, Special and Limited Assessments provided for in this Article VIII, the Owners of Building Lots in Nativa Terra Subdivision No. 4, according to the official plat thereof, except Lot 18, Block 6, thereof, are obligated to pay to the treasurer of the Association an Additional Regular Assessment as hereinafter specified.

"8.10.1 PURPOSE OF ADDITIONAL REGULAR ASSESSMENTS. The proceeds from the Additional Regular Assessments are to be used to pay for all costs and expenses incurred by the Association for the maintenance, repair, management and operation of the Common Areas located in Nativa Terra Subdivision No. 4, said Common Areas being Lot 1 in Blocks 7, 8, 9 and 10, together with an amount allocated to an adequate reserve fund to be used for the repair, replacement, maintenance and improvement of said Common Areas. It is

Grantor's intent that the Owners of Building Lots in Nativa Terra Subdivision No. 4 be exclusively obligated to pay the costs and expenses of the maintenance, repair, management, and operation of the Common Areas located in Nativa Terra Subdivision No. 4 and that no other members of the Association shall be so obligated, it being recognized that the Owners of Building Lots in Nativa Terra Subdivision No. 4 are specially benefited by such Common Areas.

“8.10.2 COMPUTATION OF ADDITIONAL REGULAR ASSESSMENTS. The Association shall compute the amount of costs and expenses described in Section 8.10.1, above, and shall determine the amount to be paid by any particular Owner, in the same manner as it computes its Expenses and determines the amount to be paid by each Owner for Regular Assessments.

“8.10.3 UNIFORM RATE OF ASSESSMENT. The Additional Regular Assessments shall be fixed at a uniform amount for each Building Lot subject thereto.

“8.10.4 ASSESSMENT PERIOD; NOTICE AND ASSESSMENT DUE DATE. The provisions of Sections 8.6 and 8.7 of this Article VIII shall be applicable to the Additional Regular Assessments provided for herein.”

(5) A new Section 12.2.4 “APPROVAL OF AMENDMENTS BY BOISE CITY” shall be and is hereby added as follows:

“12.2.4 APPROVAL OF AMENDMENTS BY BOISE CITY. Unless the express written consent of the City of Boise has been obtained: (i) no provision of this Declaration which has been required by the City of Boise, or which confers upon the City of Boise any right or power, or recognizes any right or power of



111055793

**NOTICE OF ANNEXATION AND SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
NATIVA TERRA SUBDIVISION NO. 5**

KNOW ALL MEN BY THESE PRESENTS that Terra Nativa, LLP, an Idaho limited liability partnership, (hereinafter "Grantor"), is the owner of that certain real property located in Ada County, Idaho, described as Nativa Terra Subdivision No. 5, according to the official plat thereof recorded on 5/24 2010, as Instrument No. 110047782 in Book 103 of Plats at pages 13742 through 13743, records of Ada County, Idaho (hereinafter the "Real Property")

WITNESSETH:

WHEREAS, Grantor has heretofore filed that certain Declaration of Covenants, Conditions and Restrictions of Nativa Terra Subdivision, which Declaration was recorded on October 6, 1999, as Instrument No. 99099201, records of Ada County, Idaho (hereinafter the "Declaration"); and

WHEREAS, in Article XI, Section 11.1 of the Declaration, Grantor reserved the right to annex any abutting, adjoining or contiguous real property into the project created by the Declaration by recording a notice of annexation or supplemental declaration particularly describing the real property to be annexed and added to the project.

NOW, THEREFORE, pursuant to Article XI of the Declaration, Grantor hereby declares that the Real Property shall be held, sold, conveyed, and subject to the Declaration, which Declaration is hereby incorporated by this reference as if fully set forth herein, except that the following paragraphs of the Declaration shall be amended as follows:

(1) Article I, Section 1.1, "PROPERTY COVERED" shall mean and refer to the "Real Property" hereinbefore described in addition to the real property described in the Declaration.

(2) Article III, Section 3.7, "COMMON AREA" shall mean and refer to Lot 14 in Block 1, Nativa Terra Subdivision No. 5, according to the official plat thereof, in addition to the real property described as Common Area in the Declaration.

(3) Article V, Section 5.5.2.2 "OPERATION AND MAINTENANCE OF PRIVATE DRAINAGE SYSTEM" shall be and is hereby amended so as to require the association to operate, maintain, repair and otherwise manage the portions of the "Private Drainage System" located within the Nativa Terra Subdivision No. 5 in addition to those portions of the Private Drainage System described in the Declaration.

(4) A new Section 8.10 "ADDITIONAL REGULAR ASSESSMENTS" shall be and is hereby added as follows:

"8.10 ADDITIONAL REGULAR ASSESSMENTS. In addition to the Regular, Special and Limited Assessments provided for in this Article VIII, the Owners of Building Lots in Nativa Terra Subdivision No. 5, according to the official plat thereof are obligated to pay to the treasurer of the Association an Additional Regular Assessment as hereinafter specified.

"8.10.1 PURPOSE OF ADDITIONAL REGULAR ASSESSMENTS. The proceeds from the Additional Regular Assessments are to be used to pay for all costs and expenses incurred by the Association for the maintenance, repair, management and operation of the Common Areas located in Nativa Terra Subdivision Nos. 4 and 5, said Common Areas being Lot 1 in Blocks 7, 8, 9 and 10, Nativa Terra Subdivision No. 4 and Lot 14 in Block 1, Nativa Terra Subdivision No. 5, and such additional Common Areas as may be added pursuant to the provisions of a notice of annexation and/or supplemental declaration,

together with an amount allocated to an adequate reserve fund to be used for the repair, replacement, maintenance and improvement of said Common Areas. Subject to Grantor's right to amend or modify this Section by proper instrument, including but not limited to a supplemental declaration and/or notice of annexation, it is Grantor's intent that the Owners of Building Lots in Nativa Terra Subdivision Nos. 4 and 5 be exclusively obligated to pay the costs and expenses of the maintenance, repair, management, and operation of the Common Areas located in Nativa Terra Subdivision Nos. 4 and 5 and that no other members of the Association shall be so obligated, it being recognized that the Owners of Building Lots in Nativa Terra Subdivision Nos. 4 and 5 are specially benefited by such Common Areas.

“8.10.2 COMPUTATION OF ADDITIONAL REGULAR ASSESSMENTS. The Association shall compute the amount of costs and expenses described in Section 8.10.1, above, and shall determine the amount to be paid by any particular Owner, in the same manner as it computes its Expenses and determines the amount to be paid by each Owner for Regular Assessments.

“8.10.3 UNIFORM RATE OF ASSESSMENT. The Additional Regular Assessments shall be fixed at a uniform amount for each Building Lot subject thereto.

“8.10.4 ASSESSMENT PERIOD; NOTICE AND ASSESSMENT DUE DATE. The provisions of Sections 8.6 and 8.7 of this Article VIII shall be applicable to the Additional Regular Assessments provided for herein.”

(5) A new Section 12.2.4 "APPROVAL OF AMENDMENTS BY BOISE CITY" shall be and is hereby added as follows:

"12.2.4 APPROVAL OF AMENDMENTS BY BOISE CITY. Unless the express written consent of the City of Boise has been obtained: (i) no provision of this Declaration which has been required by the City of Boise, or which confers upon the City of Boise any right or power, or recognizes any right or power of the City of Boise, may be amended or deleted, (ii) no provision may be added to this Declaration which in any way affects any right, power or requirement of the City of Boise, and (iii) this Declaration may not be terminated in its entirety."

This Notice of Annexation and Supplemental Declaration of Covenants, Conditions, and Restrictions for Terra Nativa Subdivision No. 5 is executed on this 12th day of July, 2010.

Terra Nativa, LLP

By 
Timothy R. Day, Partner

By 
Richard A. Pavelek, Partner

CITY OF BOISE

ADA COUNTY RECORDER Christopher D. Rich
BOISE IDAHO 09/27/13 02:36 PM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Boise City

AMOUNT .00 3



113109852

Resolution NO. RES-343-13

BY THE COUNCIL

CLEGG , EBERLE, JORDAN, MCLEAN,
QUINTANA, AND THOMSON

A RESOLUTION (SOS13-00006 / PARTIAL VACATION OF PLAT NOTE / ERIC ROSSMAN) PARTIALLY VACATING PLAT NOTE 12, NATIVA TERRA SUBDIVISION NO. 4, TO THE EXTENT THAT IT REFERENCES A REQUIREMENT FOR FULLY FIRE-SPRINKLERED STRUCTURES TO BE CONSTRUCTED ON LOT 22, BLOCK 6, AS RECORDED WITH THE ADA COUNTY RECORDER IN BOOK 101 OF PLATS AT PAGE 13334, AND LOCATED ON THE WEST SIDE OF NORTH ALTO VIA COURT APPROXIMATELY 1200 FEET SOUTH OF THE INTERSECTION OF NORTH TABLE ROCK ROAD AND NORTH ALTO VIA COURT, BOISE, ADA COUNTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 10, 2013, the Council of the City of Boise City held a hearing on the partial vacation of Plat Note 12 to the extent that it references a requirement for fully fire-sprinklered structures to be constructed on Lot 22, Block 6, Nativa Terra Subdivision No. 4, as recorded with the Ada County Recorder in Book 101 of Plats at Page 13334, and located on the west side of North Alto Via Court approximately 1200 feet south of the intersection of North Table Rock Road and North Alto Via Court, Boise, Ada County; and

WHEREAS, after the hearing on September 10, 2013, the Council by formal motion did approve the partial vacation of Plat Note 12 to the extent that it references a requirement for fully fire-sprinklered structures to be constructed on Lot 22, Block 6, Nativa Terra Subdivision No. 4, as recorded with the Ada County Recorder in Book 101 of Plats at Page 13334, and located on the west side of North Alto Via Court approximately 1200 feet south of the intersection of North Table Rock Road and North Alto Via Court, Boise, Ada County.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF BOISE CITY, IDAHO:

Section 1. That Plat Note 12 to the extent that it references a requirement for fully fire-sprinklered structures to be constructed on Lot 22, Block 6, Nativa Terra Subdivision No. 4, as recorded with the Ada County Recorder in Book 101 of Plats at Page 13334, is hereby vacated.

Section 2. That this Resolution shall be in full force and effect immediately upon its adoption and approval.

CITY OF BOISE

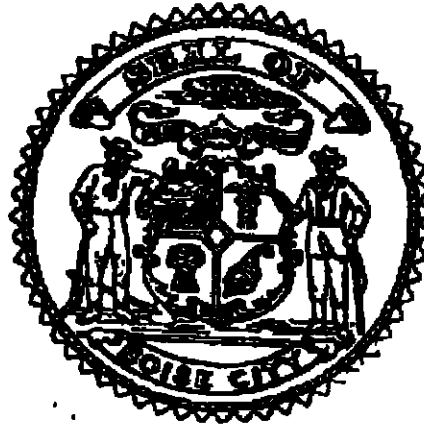
ADOPTED by the Council of Boise City, Idaho, on September 24, 2013.

APPROVED by the Mayor of the Boise City, Idaho, on September 24, 2013.

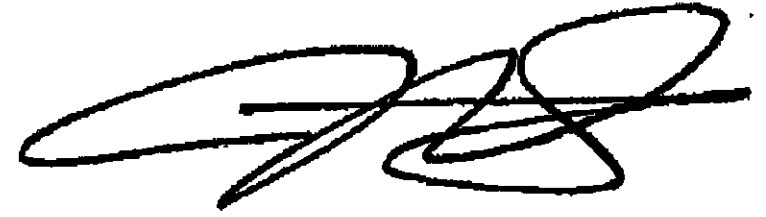
APPROVED:



David H. Bieter, Mayor



ATTEST:



Jade Riley, Ex-Officio City Clerk



City of Boise
Resolution
Vacation of Plat Note

**Planning and Development
Services**
150 N Capitol Blvd
Boise, ID 83702
1-800-377-3529

TO: Mayor and Council
FROM: Dave Abo, Planning and Development Services
NUMBER: RES-343-13
DATE: September 11, 2013
SUBJECT: SOS13-00006 / Partial Vacation of Plat Note

BACKGROUND:

SOS13-00006 / Partial Vacation of Plat Note / Eric Rossman is requesting a partial vacation of Plat Note #12 on the Nativa Terra Subdivision No. 4 plat with reference to a requirement for fully sprinklered per NFPA 13D for structures to be constructed on Lot 22, Block 6 of the Nativa Terra Subdivision No. 4 plat.

At a public hearing on September 10, 2013, the Boise City council approved the partial vacation of Plat Note #12 on the Nativa Terra Subdivision No. 4 plat to not require the structure on Lot 22, Block 6 of the Nativa Terra Subdivision No. 4 plat to be fully sprinklered per NFPA 13D.

FINANCIAL IMPACT:

None

ATTACHMENTS:

- Council Approval on September 10, 2013 - SOS13-00006 (PDF)

**NOTICE OF ANNEXATION AND SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
NATIVA TERRA SUBDIVISION NO. 9**

KNOW ALL MEN BY THESE PRESENTS that Terra Nativa, LLP, an Idaho limited liability partnership, (hereinafter "Grantor"), is the owner of that certain real property located in Ada County, Idaho, described as Nativa Terra Subdivision No. 9, according to the official plat thereof recorded on MARCH 20 2014, as Instrument No. 114020594 in Book 106 of Plats at pages 14685 through 14686, records of Ada County, Idaho (hereinafter collectively the "Real Property")

WITNESSETH:

WHEREAS, Grantor has heretofore filed that certain Declaration of Covenants, Conditions and Restrictions of Nativa Terra Subdivision, which Declaration was recorded on October 6, 1999, as Instrument No. 99099201, records of Ada County, Idaho (hereinafter the "Declaration"); and

WHEREAS, in Article XI, Section 11.1 of the Declaration, Grantor reserved the right to annex any abutting, adjoining or contiguous real property into the project created by the Declaration by recording a notice of annexation or supplemental declaration particularly describing the real property to be annexed and added to the project.

NOW, THEREFORE, pursuant to Article XI of the Declaration, Grantor hereby declares that the Real Property shall be held, sold, conveyed, and subject to the Declaration, which Declaration is hereby incorporated by this reference as if fully set forth herein, except that the following paragraphs of the Declaration shall be amended as follows:

(1) Article I, Section 1.1, "PROPERTY COVERED" shall mean and refer to the "Real Property" hereinbefore described in addition to the real property described in the Declaration.

(2) Article V, Section 5.5.2.2 "OPERATION AND MAINTENANCE OF PRIVATE DRAINAGE SYSTEM" shall be and is hereby amended so as to require the association to operate, maintain, repair and otherwise manage the portions of the "Private Drainage System" located within Nativa Terra Subdivision No. 9 in addition to those portions of the Private Drainage System described in the Declaration.

(4) A new Section 8.10 "ADDITIONAL REGULAR ASSESSMENTS" shall be and is hereby added as follows:

"8.10 ADDITIONAL REGULAR ASSESSMENTS. In addition to the Regular, Special and Limited Assessments provided for in this Article VIII, the Owners of Building Lots in Nativa Terra Subdivision No. 9, according to the official plats thereof, are obligated to pay to the treasurer of the Association an Additional Regular Assessment as hereinafter specified.

"8.10.1 PURPOSE OF ADDITIONAL REGULAR ASSESSMENTS. The proceeds from the Additional Regular Assessments are to be used to pay for all costs and expenses incurred by the Association for the maintenance, repair, management and operation of the Common Areas located in Nativa Terra Subdivision Nos. 4 and 5, said Common Areas being Lot 1 in Blocks 7, 8, 9 and 10, Nativa Terra Subdivision No. 4 and Lot 14 in Block 1, Nativa Terra Subdivision No. 5, and such additional Common Areas as may be added pursuant to the provisions of a notice of annexation and/or supplemental declaration,

together with an amount allocated to an adequate reserve fund to be used for the repair, replacement, maintenance and improvement of said Common Areas. Subject to Grantor's right to amend or modify this Section by proper instrument, including but not limited to a supplemental declaration and/or notice of annexation, it is Grantor's intent that the Owners of Building Lots in Nativa Terra Subdivision Nos. 4, 5, 6, 7, 8 and 9 be exclusively obligated to pay the costs and expenses of the maintenance, repair, management, and operation of the Common Areas located in Nativa Terra Subdivision Nos. 4 and 5 and that no other members of the Association shall be so obligated, it being recognized that the Owners of Building Lots in Nativa Terra Subdivision Nos. 4, 5, 6, 7, 8 and 9 are specially benefited by such Common Areas.

"8.10.2 COMPUTATION OF ADDITIONAL REGULAR ASSESSMENTS. The Association shall compute the amount of costs and expenses described in Section 8.10.1, above, and shall determine the amount to be paid by any particular Owner, in the same manner as it computes its Expenses and determines the amount to be paid by each Owner for Regular Assessments.

"8.10.3 UNIFORM RATE OF ASSESSMENT. The Additional Regular Assessments shall be fixed at a uniform amount for each Building Lot subject thereto.

"8.10.4 ASSESSMENT PERIOD; NOTICE AND ASSESSMENT DUE DATE. The provisions of Sections 8.6 and 8.7 of this Article VIII shall be applicable to the Additional Regular Assessments provided for herein."

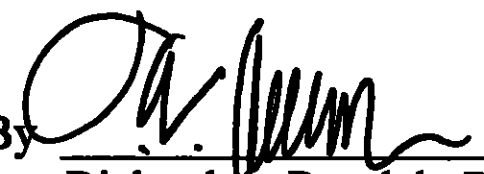
(5) A new Section 12.2.4 “APPROVAL OF AMENDMENTS BY BOISE CITY” shall be and is hereby added as follows:

“12.2.4 APPROVAL OF AMENDMENTS BY BOISE CITY. Unless the express written consent of the City of Boise has been obtained: (i) no provision of this Declaration which has been required by the City of Boise, or which confers upon the City of Boise any right or power, or recognizes any right or power of the City of Boise, may be amended or deleted, (ii) no provision may be added to this Declaration which in any way affects any right, power or requirement of the City of Boise, and (iii) this Declaration may not be terminated in its entirety.”

This Notice of Annexation and Supplemental Declaration of Covenants, Conditions, and Restrictions for Terra Nativa Subdivision No. 9 is executed on this 18th day of March, 2014.

Terra Nativa, LLP

By 
Timothy R. Day, Partner

By 
Richard A. Pavelek, Partner

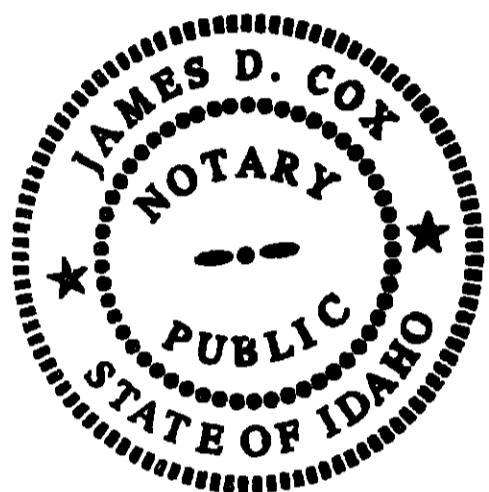
STATE OF IDAHO)

ss.

County of Ada)

On this 18th day of March, 2014, before me, a Notary Public in and for said State, personally appeared **Timothy R. Day**, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he executed the same, as Partner of the said limited liability partnership.

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



James D. Cox
Notary Public for Idaho
Residing at Boise, IDA.
My Commission Expires 8-29-19

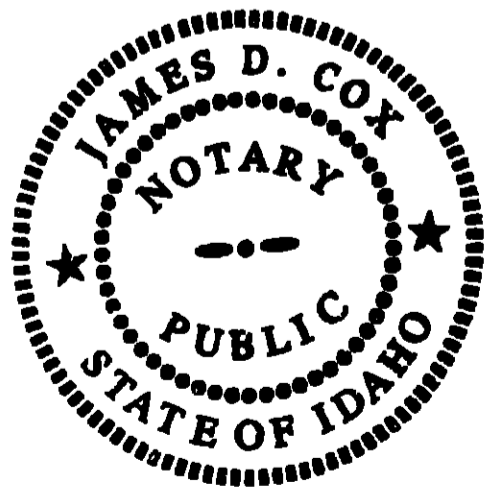
STATE OF IDAHO)

ss.

County of Ada)

On this 18th day of March, 2014, before me, a Notary Public in and for said State, personally appeared **Richard A. Pavelek**, known or identified to me to be the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he executed the same, as Partner of the said limited liability partnership.

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



James D. Cox
Notary Public for Idaho
Residing at Boise, IDA.
My Commission Expires 8-29-19