

SEDONA CREEK SUBDIVISION

A PARCEL OF LAND SITUATE IN A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 4 NORTH, RANGE 1 WEST, B.M., ADA COUNTY, IDAHO

2003

QUARTER CORNER
C&P NO. 590623
FND ALUMINUM CAP

REAL POINT OF BEGINNING
UNPLATTED

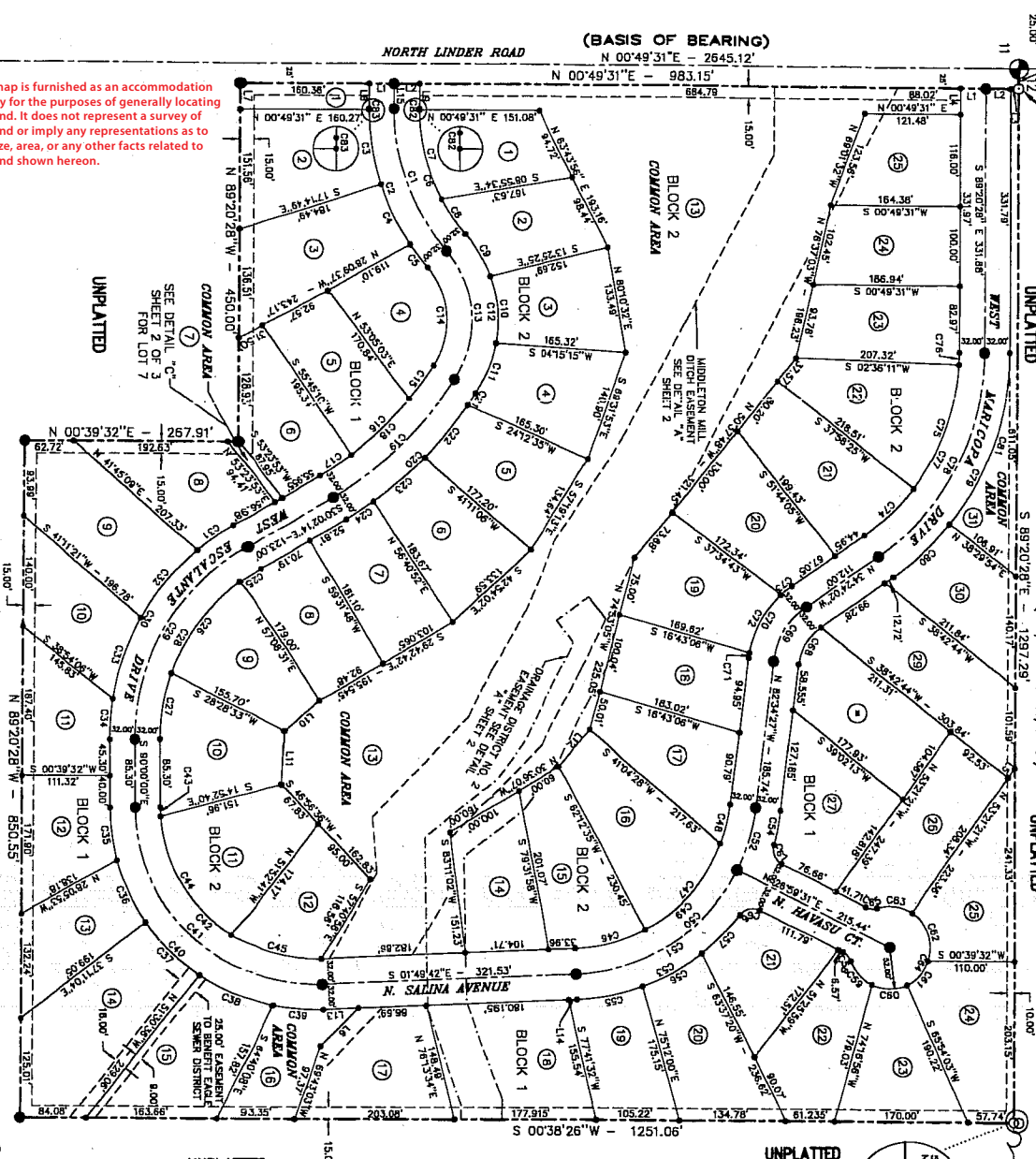
UNPLATTED

CENTER QUARTER CORNER
C&P NO. 970500
FND 5/8" IRON PIN

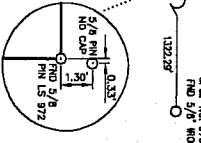
LEGEND

- ✕ Calculated Point - Monument Not Set
- 5/8" Iron Pin w/Private Cop Found and Ascribed
- 1/2" x 3/4" Iron Pin w/Private Cop Set, L.S. 4118
- 5/8" x 3/4" Iron Pin w/Private Cop Set, L.S. 4118
- Found Monument As Noted

Centerline of Public Right-of-Way
Substation Boundary Line
Right-of-Way Line
Lot Line
Lot Delineate and Lot Irrigation Easement Line
Lot Numbers
Block Numbers



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DOCUMENTS OF RECORD

ALL ARE DOCUMENTS OF RECORD FOR THE ADA COUNTY RECORDER, UNLESS OTHERWISE NOTED.
 RIGHT-OF-WAY EASEMENT - INSTRUMENT NO. 818221
 VARIANT DEED - INSTRUMENT NO. 810030
 QUILTAGE DEED - INSTRUMENT NO. 80073838
 RECORD OF SURVEY NO. 5498, INSTRUMENT NO. 10107888

NOTES

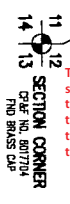
1. A 12 FOOT WIDE UNLESS OTHERWISE DIMENSIONED, PUBLIC UTILITY LOT DRAINAGE, LOT IRRIGATION AND SEDONA CREEK OWNERS ASSOCIATION STREET LIGHT EASEMENT IS HEREBY RESERVED ADJACENT TO ALL PUBLIC RIGHT-OF-WAYS. HOWEVER, THIS SHALL NOT PRECLUDE CONSTRUCTION OF FIBER OPTIC CABLE OR OTHER UTILITIES FOR ACCESS TO EACH INDIVIDUAL LOT.
2. A 8 FOOT WIDE PUBLIC UTILITY LOT DRAINAGE AND LOT IRRIGATION EASEMENT IS HEREBY RESERVED ADJACENT TO, AND ON BOTH SIDES OF ALL INTERIOR LOT LINES. HOWEVER, THIS SHALL NOT PRECLUDE THE CONSTRUCTION OF PROPER HAND SURFACED DRIVEWAYS FOR ACCESS TO EACH INDIVIDUAL LOT.
3. THE STORM WATER DRAINAGE SWALES WITHIN THE PUBLIC RIGHT-OF-WAY SHOWN ON THIS PLAT ARE TO OWNED BY THE ADA COUNTY HIGHWAY DISTRICT (A.C.H.D.) BUT SHALL BE PROVISIONS OF THE COVENANTS, CONDITIONS AND RESTRICTIONS FOR THIS SUBDIVISION. NO MODIFICATIONS TO THE SWALES SHALL BE PERMITTED WITHOUT PRIOR APPROVAL BY A.C.H.D.
4. THE OWNER/DEVELOPER SHALL COMPLY WITH THE REQUIREMENTS OF IDAHO CODE 31-3805 RELATING TO IRRIGATION WATER AND RIGHTS.
5. SHADING STRIPES AND DIMENSIONAL STANDARDS IN THIS SUBDIVISION SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OF ADA COUNTY AND THIS APPROVAL.
6. ANY RE-DEVELOPMENT OF THIS PLAT SHALL COMPLY WITH THE APPLICABLE ZONING REGULATIONS IN EFFECT AT THE TIME OF THE RE-DEVELOPMENT, OR AS ALLOWED BY CONDITIONAL USE.
7. DIRECT LOT ACCESS TO NORTH LINDER ROAD IS PROHIBITED, EXCEPT AS SHOWN. DIRECT LOT ACCESS FROM LOTS 21 AND 27, BLOCK 1, TO NORTH HAVASU COURT IS FROHIBITED.
8. COMMON LOTS FOR THE BENEFIT OF THE SEDONA CREEK OWNERS ASSOCIATION AND SAID LOTS ARE TO BE OWNED AND MAINTAINED BY THE SAME ASSOCIATION.
9. THIS DEVELOPMENT RECOGNIZES IDAHO CODE 22-4203, RIGHT TO FARM ACT, WHICH STATES: NO AGRICULTURAL OPERATION OR APPURTENANCE TO IT SHALL BE OR BECOME A NUISANCE PRIVATE OR PUBLIC, BY ANY CHANGED CONDITIONS IN OR ABOUT THE SURROUNDING NONAGRICULTURAL ACTIVITIES AFTER THE SOLE HAS BEEN IN OPERATION FOR FIVE YEARS FROM THE DATE OF THE COMMENCEMENT OF THE OPERATION. THIS SECTION SHALL NOT APPLY WHENEVER A NUISANCE RESULTS FROM THE IMPROPER OR NEGLIGENT OPERATION OF ANY AGRICULTURAL OPERATION OR APPURTENANCE TO IT.
10. A BLANKET PEDESTRIAN ACCESS EASEMENT IS HEREBY RESERVED ON LOTS 7, 18 AND 31, BLOCK 1.

OWNER / DEVELOPER

JE Partners II
5699 N. Riffle Way
Garden City, Idaho 83703

SHEET 1 OF 3

B & A Engineers, Inc. 5505 W. Franklin Rd. Boise, Idaho 83705 (208)343-3381



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SEDONA CREEK SUBDIVISION

2003

CURVE TABLE

NUMBER/DELTA	RADIUS	ARC	TAN	CHORD BEARING	CHORD DIST
C1	41211.77	272.00	198.32	N 70°09'53" E	192.00
C2	18793.39	304.00	219.42	N 70°09'53" E	214.88
C3	41211.77	272.00	198.32	N 70°09'53" E	192.00
C4	18793.39	304.00	219.42	N 70°09'53" E	214.88
C5	41211.77	272.00	198.32	N 70°09'53" E	192.00
C6	18793.39	304.00	219.42	N 70°09'53" E	214.88
C7	41211.77	272.00	198.32	N 70°09'53" E	192.00
C8	18793.39	304.00	219.42	N 70°09'53" E	214.88
C9	41211.77	272.00	198.32	N 70°09'53" E	192.00
C10	18793.39	304.00	219.42	N 70°09'53" E	214.88
C11	41211.77	272.00	198.32	N 70°09'53" E	192.00
C12	18793.39	304.00	219.42	N 70°09'53" E	214.88
C13	41211.77	272.00	198.32	N 70°09'53" E	192.00
C14	18793.39	304.00	219.42	N 70°09'53" E	214.88
C15	41211.77	272.00	198.32	N 70°09'53" E	192.00
C16	18793.39	304.00	219.42	N 70°09'53" E	214.88
C17	41211.77	272.00	198.32	N 70°09'53" E	192.00
C18	18793.39	304.00	219.42	N 70°09'53" E	214.88
C19	41211.77	272.00	198.32	N 70°09'53" E	192.00
C20	18793.39	304.00	219.42	N 70°09'53" E	214.88
C21	41211.77	272.00	198.32	N 70°09'53" E	192.00
C22	18793.39	304.00	219.42	N 70°09'53" E	214.88
C23	41211.77	272.00	198.32	N 70°09'53" E	192.00
C24	18793.39	304.00	219.42	N 70°09'53" E	214.88
C25	41211.77	272.00	198.32	N 70°09'53" E	192.00
C26	18793.39	304.00	219.42	N 70°09'53" E	214.88
C27	41211.77	272.00	198.32	N 70°09'53" E	192.00
C28	18793.39	304.00	219.42	N 70°09'53" E	214.88
C29	41211.77	272.00	198.32	N 70°09'53" E	192.00
C30	18793.39	304.00	219.42	N 70°09'53" E	214.88
C31	41211.77	272.00	198.32	N 70°09'53" E	192.00
C32	18793.39	304.00	219.42	N 70°09'53" E	214.88
C33	41211.77	272.00	198.32	N 70°09'53" E	192.00
C34	18793.39	304.00	219.42	N 70°09'53" E	214.88
C35	41211.77	272.00	198.32	N 70°09'53" E	192.00
C36	18793.39	304.00	219.42	N 70°09'53" E	214.88
C37	41211.77	272.00	198.32	N 70°09'53" E	192.00
C38	18793.39	304.00	219.42	N 70°09'53" E	214.88
C39	41211.77	272.00	198.32	N 70°09'53" E	192.00
C40	18793.39	304.00	219.42	N 70°09'53" E	214.88
C41	41211.77	272.00	198.32	N 70°09'53" E	192.00
C42	18793.39	304.00	219.42	N 70°09'53" E	214.88
C43	41211.77	272.00	198.32	N 70°09'53" E	192.00
C44	18793.39	304.00	219.42	N 70°09'53" E	214.88
C45	41211.77	272.00	198.32	N 70°09'53" E	192.00
C46	18793.39	304.00	219.42	N 70°09'53" E	214.88
C47	41211.77	272.00	198.32	N 70°09'53" E	192.00
C48	18793.39	304.00	219.42	N 70°09'53" E	214.88
C49	41211.77	272.00	198.32	N 70°09'53" E	192.00
C50	18793.39	304.00	219.42	N 70°09'53" E	214.88
C51	41211.77	272.00	198.32	N 70°09'53" E	192.00
C52	18793.39	304.00	219.42	N 70°09'53" E	214.88
C53	41211.77	272.00	198.32	N 70°09'53" E	192.00
C54	18793.39	304.00	219.42	N 70°09'53" E	214.88
C55	41211.77	272.00	198.32	N 70°09'53" E	192.00
C56	18793.39	304.00	219.42	N 70°09'53" E	214.88
C57	41211.77	272.00	198.32	N 70°09'53" E	192.00
C58	18793.39	304.00	219.42	N 70°09'53" E	214.88
C59	41211.77	272.00	198.32	N 70°09'53" E	192.00
C60	18793.39	304.00	219.42	N 70°09'53" E	214.88
C61	41211.77	272.00	198.32	N 70°09'53" E	192.00
C62	18793.39	304.00	219.42	N 70°09'53" E	214.88
C63	41211.77	272.00	198.32	N 70°09'53" E	192.00

LINE TABLE

NUMBER DIRECTION	DISTANCE
L1	N 00°49'31" E 132.00'
L2	N 00°49'31" E 132.00'
L3	N 89°29'29" E 10.85'
L4	N 89°29'29" E 10.85'
L5	S 45°10'20" E 67.30'
L6	S 45°10'20" E 67.30'
L7	S 89°29'29" E 10.85'
L8	S 89°29'29" E 10.85'
L9	S 89°29'29" E 10.85'
L10	S 89°29'29" E 10.85'
L11	S 89°29'29" E 10.85'
L12	S 89°29'29" E 10.85'
L13	S 89°29'29" E 10.85'
L14	S 89°29'29" E 10.85'
L15	S 89°29'29" E 10.85'

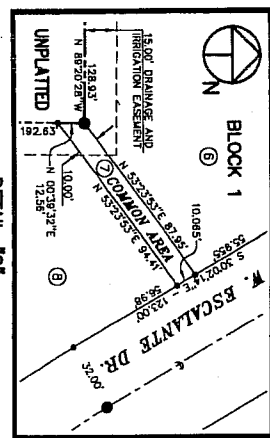
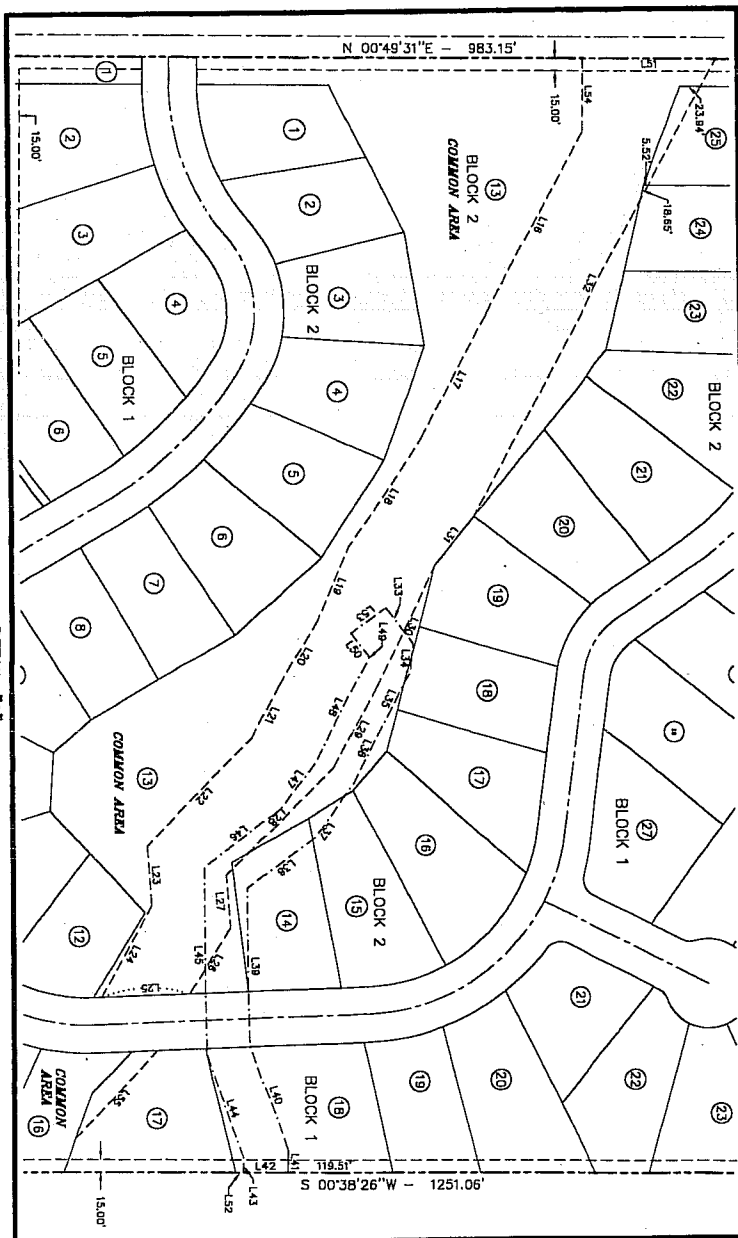
DRAINAGE DISTRICT NO. 2 EASEMENT LINE TABLE

NUMBER DIRECTION	DISTANCE
L16	N 53°20'39" E 132.00'
L17	S 61°03'02" E 162.68'
L18	S 61°03'02" E 162.68'
L19	S 61°03'02" E 162.68'
L20	S 61°03'02" E 162.68'
L21	S 61°03'02" E 162.68'
L22	S 61°03'02" E 162.68'
L23	S 61°03'02" E 162.68'
L24	S 61°03'02" E 162.68'
L25	S 61°03'02" E 162.68'
L26	S 61°03'02" E 162.68'
L27	S 61°03'02" E 162.68'
L28	S 61°03'02" E 162.68'
L29	S 61°03'02" E 162.68'
L30	S 61°03'02" E 162.68'
L31	S 61°03'02" E 162.68'
L32	S 61°03'02" E 162.68'
L33	S 61°03'02" E 162.68'

MIDDLETON HILL DITCH EASEMENT LINE TABLE

NUMBER DIRECTION	DISTANCE
L34	N 61°03'02" E 162.68'
L35	S 61°03'02" E 162.68'
L36	S 61°03'02" E 162.68'
L37	S 61°03'02" E 162.68'
L38	S 61°03'02" E 162.68'
L39	S 61°03'02" E 162.68'
L40	S 61°03'02" E 162.68'
L41	S 61°03'02" E 162.68'
L42	S 61°03'02" E 162.68'
L43	S 61°03'02" E 162.68'
L44	S 61°03'02" E 162.68'
L45	S 61°03'02" E 162.68'
L46	S 61°03'02" E 162.68'
L47	S 61°03'02" E 162.68'
L48	S 61°03'02" E 162.68'
L49	S 61°03'02" E 162.68'
L50	S 61°03'02" E 162.68'
L51	S 61°03'02" E 162.68'
L52	S 61°03'02" E 162.68'
L53	S 61°03'02" E 162.68'

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DETAIL 'A' SCALE 1" = 100'

DETAIL 'C' SCALE 1" = 40'



Bk 86 Pg 9716

SEDONA CREEK SUBDIVISION

2003

CERTIFICATE OF OWNER

KNOW ALL MEN BY THESE PRESENTS: That Great Sky Development, Inc., does hereby certify that it is the owner of a certain tract of land as shown on this plat to be known as SEDONA CREEK SUBDIVISION, and intends to include the following described land in this plot:

A parcel of land situate in the northwest quarter of the southeast quarter of Section 12, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho, being more particularly described as follows:

Beginning at the west quarter corner of said Section 12, which has 100°49'31"E 264.512 feet from the SW section corner of said Section 12, thence S89°20'28"E, 25.00 feet to the Red Point of Beginning;

Thence S89°20'28"E 1,397.25 feet along the northerly boundary of the northwest quarter of the southwest quarter of said Section 12 to the northwest corner of the northwest quarter of the southwest quarter of said Section 12;

Thence S09°03'28"W, 1,281.06 feet along the westerly boundary of the northwest quarter of the southwest quarter of said Section 12;

Thence N89°20'28"W, 500.55 feet along the parcel to the northerly boundary of the northwest quarter of the southwest quarter of said Section 12;

Thence N03°30'32"E, 267.81 feet;

Thence N89°20'28"W, 450.00 feet along a line parallel to the northerly boundary of the northwest quarter of the southwest quarter of said Section 12;

Thence N09°49'31"E, 683.15 feet along a line parallel to and 25.00 feet from the westerly boundary of the northwest quarter of the southwest quarter of said Section 12 to the Red Point of Beginning.

Comprising 34,547 acres, more or less.

The public trusts shown on this plat are hereby dedicated to the public; the utility, drainage and irrigation easements shown on this plat are not dedicated to the public, but the right to use said easements is hereby reserved for the use of the public. The subdivision and all rights to receive water service from United Water, Idaho, and United Water Idaho has opened in writing to each of the lots within this subdivision.

IN WITNESS WHEREOF, we have hereunto set our hands this 28th day of February 2003.

John G. Evans
John G. Evans, Vice President

ACKNOWLEDGEMENT

State of Idaho)
County of Ada) ss:

On this 28th day of February, 2003, before me, the undersigned, a notary public in and for the said State, personally appeared John G. Evans, known to me and known to be the president of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

Sandy D. Smallwood
Notary Public for Idaho
Residing in Boise
My Commission Expires 7/22/10



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CERTIFICATE OF SURVEYOR

I, Joseph D. Ganning, do hereby certify that I am a Land Surveyor, licensed by the State of Idaho, and that this plat of SEDONA CREEK SUBDIVISION, as described in the Certificate of Owner and as shown on the attached plat, was drawn from an actual survey made on the ground under my supervision, and accurately represents the public plat thereon, and is in conformity with the State of Idaho Code relating to Plats and Surveys.

Joseph D. Ganning
Joseph D. Ganning
1000 N. 10th St.
Boise, ID 83702
IDAHO STATE SURVEYOR

APPROVAL OF CENTRAL DISTRICT HEALTH DEPARTMENT

Sanitary regulations of this plat are hereby removed and approved to the letter of approval on file with the Ada County Recorder, or the agent.

Melba Lynn McHugh
3-5-03 Melba Lynn McHugh
Date

CERTIFICATE OF COUNTY TREASURER

I, the undersigned, County Treasurer in and for the County of Ada, State of Idaho, per requirements of Idaho Code 50-1308, do hereby certify that any and all current and delinquent property taxes and other taxes and charges and any other indebtedness and obligations have been paid in full. This certificate is valid for the next thirty (30) days only.

Donna F. Fisher
Donna F. Fisher
Ada County Treasurer by *[Signature]* 1/12-03

CERTIFICATE OF COUNTY RECORDER

State of Idaho) ss. Instrument No. 1731EEC17
County of Ada) (103100077)
I hereby certify that this instrument was filed at the request of Great Sky Development, Inc. at 2 minutes past 11 o'clock P.M. this 18th day of MARCH 2003, in my office, and was duly recorded in Book 616 of Plats of Pages 9716 and 9717.

J. David Navarro
J. David Navarro
Ex-Officio Recorder

APPROVAL OF ADA COUNTY HIGHWAY DISTRICT

This foregoing plat was accepted and approved by the Board of Ada County Highway District Commissioners on the 19th day of MARCH 2003.

Blaney F. Fisher
Blaney F. Fisher
Ada County Highway District Commission Chairman

CERTIFICATE OF COUNTY SURVEYOR

I, the undersigned, County Surveyor in and for Ada County, Idaho, do hereby certify that I have checked this plat and that it is in compliance with the State of Idaho code relating to plats and surveys.

John E. Smith
John E. Smith
Ada County Surveyor TELS 3030

APPROVAL OF COUNTY COMMISSIONERS

Accepted and approved this 19th day of MARCH, 2003, Board of County Commissioners of Ada County, Idaho.

Paul Johnson
Paul Johnson
Chairman

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 07/01/03 09:05 AM
DEPUTY Kris Vaughn
RECORDED - REQUEST OF
Robert Ennis
AMOUNT 105.00

35



103109002

MASTER DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
SEDONA CREEK SUBDIVISION

JULY 1, 2003

**MASTER DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
SEDONA CREEK SUBDIVISION**

Table of Contents

<u>Article</u>	<u>Subject</u>	<u>Page</u>
I.	RECITALS	1
II.	DECLARATION	1
III.	DEFINITIONS	2
IV.	PURPOSE	4
V.	PERMITTED USES AND PERFORMANCE STANDARDS	5
	5.01 Use	5
	5.02 Buildings	5
	5.03 Approval of Use and Plans	5
	5.04 Prohibited Buildings/Uses	5
	5.05 Set-Backs	6
	5.06 Antennae	6
	5.07 Easements	6
	5.08 Lighting	7
	5.09 Animals	7
	5.10 Septic Tanks/Cesspools	7
	5.11 Grading and Drainage	7
	5.12 Oil and Mineral Rights	8
	5.13 Maintenance	8
	5.14 Mining and Drilling	9
	5.15 Boats, Campers and Other Vehicles	9
	5.16 Garage Doors	9
	5.17 Exterior Materials and Colors	10
	5.18 Vehicles	10
	5.19 Exterior Energy Devices	10
	5.20 Mailboxes	10
	5.21 Signs	10
	5.22 Subdividing	10
	5.23 Fences	10
	5.24 Landscaping	11
	5.25 Minimum Improvements	11
	5.26 Irrigation Water	11
	5.27 Adoption of Architectural Guidelines	12
	5.28 Exemption of Grantor	12

VI.	SEDONA CREEK OWNERS ASSOCIATION, INC.	13
	6.01 Organization of Association	13
	6.02 Members	13
	6.03 Voting	13
	6.04 Board of Directors and Officers	13
	6.05 Powers of Association	13
	(a) Assessments	13
	(b) Right of Enforcement	14
	(c) Assessment of Penalty(s)	14
	(d) Delegation of Powers	14
	(e) Liability of Board Members and Officers	14
	(f) Association Rules	14
	(g) Emergency Power	15
	(h) Licenses, Easements and Rights-of-Way	15
	(i) Fiscal Year	15
	6.06 Duties of Association	15
	(a) Operation and Maintenance of Common Areas	15
	(b) Taxes and Assessments	15
	(c) Utilities	16
	(d) Maintenance of Drainage Swales	16
	(e) Insurance	16
	(f) Identification Signs	17
	(g) Irrigation System	17
	(h) Rule Making	17
	(i) Architectural Control Committee	17
	(j) Enforcement of Restrictions and Rules	17
	6.07 Budgets and Financial Statements	17
	6.08 Effective Date	18
VII.	MAINTENANCE OBLIGATIONS OF ASSOCIATION	18
	7.01 Ownership of Common Area Lots/Irrigation System	18
	7.02 Duty to Maintain Irrigation System Facilities	18
	7.03 Liability for Damage	18
	7.04 Cost of Maintenance, Repairs and Replacement	18
	7.05 Easement for Maintenance	18
	7.06 Reserves	19
	7.07 ACHD Not Liable	19
VIII.	ASSESSMENTS	19
	8.01 Covenant to Pay Assessments	19
	8.02 Regular Assessments	19
	8.03 Special Assessments	20
	8.04 Limited Assessments	20
	(a) Maintenance and Repair	20
	(b) Correction of Violations	20
	(c) Limited Purpose	20
	8.05 Commencement of Regular Assessments	21
	8.06 Uniform Rate of Assessment	21

	8.07 Interest and Penalties	21
IX.	ENFORCEMENT OF ASSESSMENTS	21
	9.01 Right to Enforce	21
	9.02 Creation of Assessment Liens	21
	9.03 Enforcement	22
	9.04 Notice Required	22
	9.05 Non-Exclusive Remedy	22
X.	ARCHITECTURAL CONTROL COMMITTEE	22
	10.01 Members of Committee	22
	10.02 Appointment	22
	10.03 Compensation	23
	10.04 Non-Liability	23
	10.05 Approval Required	23
	10.06 Basis of Approval	23
	10.07 Variances	23
	10.08 Application	24
	(a) Site Plan	24
	(b) Building Plan	24
	(c) Landscape Plan	24
	10.09 Decision	24
	10.10 Inspection and Complaints	25
	10.11 Hearing	25
	10.12 Appeal	26
	10.13 Enforcement	27
	10.14 Additional Damages	27
	10.15 Non-Exclusive Remedy	27
XI.	ANNEXATION	28
	11.01 Annexation	28
	11.02 De-Annexation	28
XII.	MISCELLANEOUS	28
	12.01 Term	28
	12.02 Amendment	28
	(a) By Grantor	29
	(b) By Owners	29
	12.03 Sewer Covenants	29
	12.04 Books and Records	30
	12.05 Non-Waiver	30
	12.06 Acceptance	30
	12.07 Indemnification of Board Members and ACC	30
	12.08 Notices	30
	12.09 Interpretation	31
	12.10 Severability	31

**MASTER DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
SEDONA CREEK SUBDIVISION**

July 1, 2003

ARTICLE I.

RECITALS

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

Lots 1 through and including 31 of Block 1, and Lots 1 through and including 25, Block 2, SEDONA CREEK SUBDIVISION, according to the official plat thereof filed Book 86 of Plats at Pages 9715, 9716 and 9717, records of Ada County, Idaho.

WHEREAS, the Grantor desires to subject the Property to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitudes herein set forth to (i) insure the enhancement and preservation of property values, (ii) provide for the proper design, development, improvement and use of the Property by the Grantor and all other persons or entities who may subsequently acquire an interest in the Property and (iii) create a residential development of the highest quality; and

WHEREAS, in order to achieve the objectives and desires of the Grantor, the Grantor will control the management and government of the Property and the Association of Owners to be created until such time as the Owners take over the management functions through the Association upon substantial completion of the development process.

ARTICLE II.

DECLARATION

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

benefit of and be binding upon the Grantor and each Owner, and each successor in interest of each, and may be enforced by the Grantor, any Owner, or by the Owner's Association, as hereafter provided.

Notwithstanding the foregoing, no provision of this Master Declaration shall be construed or enforced to prevent or limit the Grantor's right to complete development of the Property in accordance with the plan therefor as the same exists or may be modified from time-to-time by the Grantor nor prevent normal construction activities during the construction of Improvements (hereafter defined) upon any Lot. No development or construction activities shall be deemed to constitute a nuisance or violation of this Master Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs or similar activities, provided that the same are actively, efficiently and expeditiously pursued to completion. In the event any dispute concerning the foregoing shall arise, a temporary waiver of the applicable provision(s) of this Master Declaration may be granted by the Architectural Control Committee provided that such waiver shall be for a reasonable period of time. Any such waiver need not be recorded and shall not constitute an amendment of this Master Declaration.

ARTICLE III.

DEFINITIONS

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

ACC: The Architectural Control Committee for the Subdivision.

Annexation: The process by which additional tracts or parcels of land not initially a part of the Property are made subject to this Master Declaration.

Architectural Guidelines: Such design and construction guidelines promulgated by the Grantor and/or the ACC as authorized herein.

Assessment: A payment required of Association members, including Regular, Special or Limited Assessments as provided in this Master Declaration.

Association: Sedona Creek Owners Association, Inc., an Idaho non-profit corporation.

Board: The duly elected and qualified Board of Directors of the Association.

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

By-Laws: The By-Laws of the Association, including any amendments thereto duly adopted.

Common Area Lots or Common Areas: Lots 1, 7, 16 and 31 of Block 1, and Lot 13 of Block 2 of the Subdivision and any other Property within the Subdivision in which the Association owns an interest or controls, including any easement herein

granted to the Grantor and/or the Association, or reserved on the official plat of the Subdivision, and which is held or controlled for the betterment of the Lots within the Subdivision.

Development: The project to be undertaken by the Grantor to legally subdivide and improve the Property, including landscaping, amenities, utility services and other Improvements (hereafter defined) thereon.

Grantor: The undersigned owner of the land comprising a majority of the Lots within the Subdivision.

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

Initial Construction: The first construction of permanent Improvements on a Lot following the sale of that Lot by the Grantor to an Owner, and intended for residential occupancy.

Limited Assessment: An Assessment levied by the Association upon one or more Lots, but not upon all Lots within the Subdivision, for the purpose of securing payment by the Owner(s) thereof of amounts expended by the Association to correct a condition prohibited or to cure an Owner's breach hereunder.

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

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

Member: Any person(s) who is an Owner of a Lot within the Subdivision.

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

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

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

foreclosure or otherwise, and any person taking title through such Mortgagee or other security holder by purchase at foreclosure sale or otherwise.

Plat: The final subdivision plat of the Property, as recorded in the office of the County Recorder, Ada County, Idaho, as the same may be amended by duly recorded amendments thereto.

Property: Lots 1 through and including 31 of Block 1, and Lots 1 through and including 25, Block 2, SEDONA CREEK SUBDIVISION, according to the official plat thereof filed in Book 86 of Plats at Pages 9715, 9716 and 9717, records of Ada County, Idaho.

Regular Assessment: An assessment levied by the Association to provide funds to pay the ordinary estimated expenses of the Association.

Special Assessment: An assessment levied by the Association other than a Regular or Limited Assessment.

Subdivision: Lots 1 through and including 31 of Block 1, and Lots 1 through and including 25, Block 2, SEDONA CREEK SUBDIVISION, according to the official plat thereof filed in Book 86 of Plats at Pages 9715, 9716 and 9717, records of Ada County, Idaho.

Sedona Creek Owners Association, Inc.: The Idaho non-profit corporation organized by the Grantor and comprised of Members and existing for the purpose of providing self-government for the Property.

ARTICLE IV.

PURPOSE

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

- (a) Insuring Owners and Occupants of Buildings of quality of design, development, improvement, use and maintenance as shall protect and enhance the investment and use of all Lots and Improvements.
- (b) The prevention of the erection on a Lot of Improvements of improper design or construction with improper or unsuitable materials or with improper quality and method of construction.
- (c) Encouraging and insuring the erection of high quality and attractive Improvements appropriately located within the Subdivision to assure visual quality and harmonious appearance and function.

- (d) Securing and maintaining proper set-backs from the public road(s) in the Subdivision and adequate free spaces between Improvements.
- (e) The integration of development of the different Lots by setting common general standards consistent with the Architectural Guidelines existing from time-to-time.
- (f) Insuring attractive landscaping and the conservation of existing natural features with minimum adverse impact on the ecosystem.

ARTICLE V.

PERMITTED USES AND PERFORMANCE STANDARDS

SECTION 5.01. Use. Except for the Lots which comprise the Common Areas, Lots shall be used only for single-family residential purposes and such uses as are customarily incidental thereto and Common Areas. As used herein and elsewhere in this Master Declaration, "residential" shall mean the use of the Improvements on a Lot for living accommodations by not more than two (2) unrelated persons, excluding guests of the principal Occupant(s), which guests may reside therein on a temporary basis. Notwithstanding the provisions of §67-6530 et. seq., Idaho Code, as used in this Master Declaration, "residential" is not intended, nor shall the same be construed, to include the use of Lot for the operation of a shelter home for persons unrelated to each other or unrelated to the Owner or Occupant, which operation is expressly prohibited on any Lot within the Subdivision.

SECTION 5.02. Buildings. Except for Lots 1, 7, 16 and 31 of Block 1, and Lot 13 of Block 2 of the Subdivision (Common Area Lots), no Lot shall be improved except with one (1) single-family residential dwelling and such accessory buildings and structures as are approved by the ACC. Each residential dwelling unit shall have an attached or detached fully enclosed garage having a minimum interior area of 768 square feet and adequate for a minimum of three (3) standard size automobiles. No carports shall be allowed. The minimum square footage of living area within a residential dwelling located on a Lot shall be 2,000 square feet. In the event the Building intended for use as a residential dwelling contains more than one (1) story, the minimum square footage of living area shall be 2,400 square feet and the minimum square footage of the first floor shall be 1,800 square feet. The square footage of living area shall be based on the interior living space at or above the grade of the Lot, exclusive of basement, porches, patios and garage. No split level homes shall be permitted.

SECTION 5.03. Approval of Use and Plans. No Improvements shall be built, constructed, erected, placed or materially altered within the Subdivision unless and until the plans, specifications and site plan therefor have been reviewed in advance and approved by the ACC in accordance with the provisions of Article X, below.

SECTION 5.04. Prohibited Buildings/Uses. No trailer or other vehicle, tent, shack, garage, accessory building or out building shall be used as a temporary or permanent residence, provided that an accessory building on a Lot in Block 1 may contain a guest room if approved by the ACC the rental of which to a person unrelated to the principal Occupant(s) of the residential dwelling on the Lot shall be prohibited. No noxious or offensive activities shall be conducted on any Lot nor shall anything be done thereon which may be or become an unreasonable annoyance or nuisance to the Occupant(s) of the other Lots within the Subdivision

by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise.

SECTION 5.05. Set-Backs. No Building or other structure (exclusive of fences and similar structures approved by the ACC) shall be located on a Lot nearer to a Lot line than is permitted by the ordinances of Ada County, Idaho, or other governmental entity having jurisdiction of the Property; provided, however, the ACC shall have the right to stagger the front setbacks of the Lots in order to create a more pleasing appearance and to minimize the negative visual appearance of a uniform building line.

SECTION 5.06. Antennae. No exterior radio antennae, television antennae or other antennae, including a satellite dish, shall be erected or maintained on a Lot without the prior approval in writing by the ACC.

SECTION 5.07. Easements. There is hereby reserved for the use and benefit of the Grantor and granted for the use and benefit of each Lot, and for the use and benefit of each Owner and Occupant, and for the use and benefit of the Association, and their successors and assigns, for the purposes incident to such use, development and maintenance of the Property, the following easements:

- (a) For the installation and maintenance of public utility facilities of all kinds, including radio and television and transmission cables, the easements so designated on the recorded subdivision plat for the Subdivision.
- (b) For the purpose of permitting the Grantor or the Association, their contractors and agents, to maintain, repair and/or reconstruct the drainage swales located within the public rights-of-way within the Subdivision, and any other facilities located within the Subdivision for the collection and discharge of surface water drainage.
- (c) For the purpose of permitting the Grantor or the Association, their contractors and agents, to maintain, repair and/or reconstruct the pressurized irrigation system within the Subdivision, and any other facilities or equipment located within or outside of the Subdivision for the delivery of irrigation water to Lots within the Subdivision.
- (d) Reciprocal appurtenant easements of encroachment, not to exceed one foot (1'), as between each Lot within the Subdivision, or between adjacent Lots, due to the unintentional placement or settling or shifting of the Improvements constructed thereon, which easements of encroachment shall be valid so long as they exist and the rights and obligations of Owners shall not be altered in any way by said encroachments, settling or shifting; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner.
- (e) Any additional easements, if any, as shown and designated on the recorded subdivision plat for the Subdivision.

The easement areas (excluding any equipment or appurtenances owned by the Grantor, the Association or a utility company located thereon) herein reserved shall be maintained by the Owner of the Lot upon which they are situated.

No Improvements shall be placed or permitted to remain on such easement areas located on a Lot which shall interfere with the intended use or purpose of such easement(s), and no other activity shall be undertaken on any Lot which may interfere with the use and access intended to be provided by such easement or the installation or maintenance of the utilities or other facilities, if any, located thereon or therein.

SECTION 5.08. Lighting. Exterior lighting and interior lights reflecting outside shall not be placed in any manner which shall cause glare or excessive light spillage on a neighboring Lot(s) and shall be in accordance with the Architectural Guidelines.

SECTION 5.09. Animals. No animals, livestock, birds, insects or poultry of any kind shall be raised, bred, or kept on any Lot, except that up to two (2) domesticated dogs, two (2) cats or other small household pets which do not unreasonably bother or constitute a nuisance to others may be kept, provided that they 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 Lot.

SECTION 5.10. Septic Tanks/Cesspools. No septic tanks and/or cesspools shall be allowed within the Subdivision.

SECTION 5.11. Grading and Drainage. A site plan indicating the proposed grading and drainage of a Lot must be approved by the ACC before any construction is initiated. Lot grading shall be kept to a minimum and Buildings are to be located for preservation of the existing grade(s) and any grade(s), berms or swales should be an integral part of the grading design. Water may drain or flow into the drainage swale located on each Lot within the public rights-of-way within the Subdivision but shall not be allowed to drain or flow upon, across or under adjoining Lots, unless an express written easement for such purpose exists. There shall be no interference with the established drainage pattern over any portion of the Subdivision, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the ACC. For the purposes hereof, "established" drainage is defined as the system of drainage, whether natural or otherwise, which exists at the time the overall grading of any portion of the Subdivision is completed by the Grantor, or that drainage which is shown on any plans approved by the ACC, which may include drainage from a Common Area Lot over any Lot within the Subdivision. The Owner of any Lot within the Subdivision in which grading or other work has been performed pursuant to a grading plan approved by ACC, shall maintain and repair all graded surfaces, drainage structures, means or devices which are not the responsibility of the Association or any governmental entity, it being expressly understood and agreed by each Owner of a Lot, by acceptance of a deed to such Lot, that the Association, not Ada County Highway District (hereafter "ACHD"), shall be responsible for the maintenance, repair or replacement of the drainage swales located within the public rights-of-way within the Subdivision.

Each Owner who purchases a Lot directly from the Grantor (hereafter "Initial Owner"), by the acceptance of the deed to the Lot from the Grantor, acknowledges that the Grantor has obtained a Geotechnical Engineering Report from Material Testing and Inspection, Inc. dated July 18, 2002 (hereafter "Soils Analysis Report") and made such Soils Analysis Report available to the Initial Owner prior to the closing of the purchase of the Lot by the Initial Owner from the Grantor. In summary, the Soils Analysis Report indicates that the soils within the Subdivision contain

concentrations of clay which may result in poor vertical drainage characteristics and the failure to compensate for this condition may result in surface water migrating to the crawl space under a residential dwelling. Each Initial Owner acknowledges that certain steps should be taken in the construction of a residential dwelling on the Lot to mitigate the effects of the inferior draining soils within the Subdivision, and that the Initial Grantor should give notice to its successor-in-interest in the ownership of the Lot of the Site Analysis Report and the specific steps taken by the Initial Owner in the construction of the residential dwelling to mitigate the inferior draining soils on the Lot.

After the Initial Construction on a Lot, an Owner shall not change or alter any grading on a Lot or construct or alter any berms or swales on a Lot, including the drainage swale located in the public right-of-way adjacent to such Lot, which will affect or change the drainage on a Lot or any other Lot within the Subdivision, without the prior written approval of the ACC.

SECTION 5.12. Oil and Mineral Rights. Subject to any prior grant or reservation thereof, there is hereby reserved to the Grantor, together with the right of the Grantor to grant and transfer the same, the following: (i) all oil, oil rights, minerals, mineral rights, natural gas rights and other hydrocarbons by whatever name known, and the rights in connection therewith; (ii) geothermal steam and all products derived from any of the foregoing that may be within or under the land comprising the Subdivision; (iii) the perpetual right of drilling, mining, exploring and operating therefore and scoring in and removing the same from said land or any other land, including the right to whipstock or directionally drill and mine from land other than land within the Subdivision, oil and gas wells, tunnels and shafts into, through or across the subsurface of land within the Subdivision 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 fifty feet (50') of the subsurface of the land within the Subdivision.

SECTION 5.13. Maintenance. The following provisions shall govern the maintenance of Lots and all improvements thereon:

- (a) Each Owner of a Lot shall maintain all improvements located thereon in good and sufficient repair and shall keep the improvements thereon painted or stained, lawns cut, shrubbery trimmed, windows glazed, rubbish and debris removed, weeds cut and otherwise maintain the same in a neat and aesthetically pleasing condition.
- (b) All damage to any improvements shall be repaired as promptly as is reasonably possible.
- (c) A Building which is vacant for any reason shall be kept locked and the windows glazed in order to prevent entrance by vandals. Vacant Buildings and unimproved Lots shall not be exempt from the provisions of this Master Declaration.
- (d) All structures, facilities, equipment, objects and conditions determined by the ACC, in its sole discretion, to be offensive, shall be enclosed within an approved structure or appropriately screened from public view. All trash, debris, garbage and refuse shall be kept at all times in a covered container

and all such containers shall be kept on a Lot within an enclosed structure or screened from public view.

- (e) No articles, goods, machinery, materials or similar items shall be stored, kept or maintained on a Lot in the required set-back area adjacent to a public right-of-way within the Subdivision or otherwise kept in the open or exposed to public view.
- (f) Any event or condition on a Lot which, in the sole discretion of the ACC, creates an unsightly or blighting influence, shall be corrected, removed or obstructed from public view, as the case may be, by the Owner of the Lot, notwithstanding the fact that such event or condition may not be specifically described and/or prohibited in this Master Declaration.
- (g) In the event that any Owner shall permit any Improvement, including any landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, upon fifteen (15) days prior written notice to the Owner of such Lot, shall have the right to correct such condition, and to enter upon said Lot and into any building or structure thereon, if necessary, for the purpose of correcting or repairing the same, and such Owner shall promptly reimburse the Association for the cost thereof plus a penalty in an amount determined by the Board, not to exceed \$500.00. The Owner of the offending Lot shall be personally liable, and such Owner's Lot may be subject to a mechanic's lien for all costs and expenses incurred by the Association in taking such corrective action, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Board, be levied as a Limited Assessment against said Lot and shall be enforceable in the same manner as set forth in Article VIII of this Master Declaration.

SECTION 5.14. Mining and Drilling. No Lot shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, steam, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth; provided that the Grantor or the Association may, by permit, grant, license or easement, allow the drilling for and the extraction of water for use on the Lot.

SECTION 5.15. Boats, Campers and Other Vehicles. Trailers, mobile homes, trucks larger than standard pickups, boats, tractors, campers, garden or maintenance equipment and vehicles other than automobiles, when not in actual use, shall be kept at all times behind the front yard setback, which setback, for the purposes of the Section, shall be defined as the area of a Lot between the public rights-of-way within the Subdivision and the front wall of the dwelling located thereon. At no time shall any of said vehicles or equipment be parked or stored on the public rights-of-way within the Subdivision.

SECTION 5.16. Garage Doors. Garage doors shall be closed except when open for a temporary purpose.

SECTION 5.17. Exterior Materials and Colors. After completion of the Initial Construction and in the event of the reconstruction, remodeling, repainting or refinishing of a Building within the Subdivision, in whole or in part, exterior materials and colors shall be selected and used which are approved by the ACC and which are compatible with other Buildings on the Lot and on neighboring Lots to the end that all such Buildings will present a unified and coordinated appearance.

SECTION 5.18. Vehicles. The use of all vehicles, including but not limited to automobiles, trucks, bicycles and motorcycles, shall be subject to ACC rules, which may prohibit or limit the use thereof within the Subdivision, provide parking regulations and other rules regulating the same.

SECTION 5.19. Exterior Energy Devices. No energy production device including, but not limited to, generators of any kind and solar energy devices, shall be constructed or maintained on any Lot without the prior written approval of the ACC, except for heat pumps or similar appliances shown on the plans approved by the ACC.

SECTION 5.20. Mailboxes. No replacement, modification or alteration of the free-standing mailbox to be provided by the Grantor to serve each Lot shall be permitted without the prior written approval of the plans therefor by the ACC.

SECTION 5.21. Signs. No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a dwelling unit and Lot for rent or for sale by displaying a single, neat, reasonably sized vacancy sign or "For Sale" sign thereon. Signs advertising the name of the builder and the name of the institution providing financing therefor may be displayed on a Lot during construction of the Improvements. Lighted, moving or flashing signs for any purposes are prohibited. Permanent directional signs for traffic or pedestrians or which give special instructions provided the same are approved by the ACC prior to installation. The display of any temporary directional sign within the Subdivision relating to the sale of a dwelling unit and Lot for sale shall be prohibited excepting on the day(s) of an advertised "open house" which shall not exceed forty-eight (48) consecutive hours.

SECTION 5.22. Subdividing. No Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written consent of the ACC; provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling any Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety, or as community property, or require the approval of the ACC therefor. In addition, the conveyance of an insignificant portion(s) of a Lot to the Owner of the Lot which abuts said conveyed portion for the purpose of correcting a common boundary or other similar purpose, shall not be deemed to be a subdividing of a Lot within the prohibition contained herein.

SECTION 5.23. Fences. No fence or wall of any kind shall be constructed on a Lot unless the plans and specifications therefor, including the location, design, material and color thereof, have been approved in writing by the ACC prior to the construction or installation. The ACC shall have the right to adopt uniform design standards for all fences constructed/installed within the Subdivision.

All fences and walls shall be subject to the following restrictions:

- (a) No fence or wall shall be permitted to be constructed or installed on any portion of a berm constructed by the Grantor in the Subdivision.
- (b) All fences and walls on a Lot shall not exceed six (6) feet in height (unless a lower height is required by the ACC).
- (c) No fence or wall on a Lot shall be constructed or installed in the required set-back area adjacent to a public right-of-way within the Subdivision.
- (d) All fences and walls shall be constructed and installed and maintained in good appearance and condition at the expense of the Owner of the Lot on which they are located and all damaged fencing and walls shall be repaired or replaced to original design, materials and color within a reasonable time after said damage occurs.
- (e) No fence or wall shall interfere with the use and enjoyment of any easement reserved in this Master Declaration or shown on the recorded subdivision plat of the Subdivision.

SECTION 5.24. Landscaping. The following provisions shall govern the landscaping of Lots within the Subdivision:

- (a) The Owner shall prepare a landscape plan and shall submit the same to the ACC as provided in Article X, below. The ACC shall approve said landscape plan prior to the installation and/or construction of landscaping on a Lot. Landscaping of a Lot shall be in accordance with the approved plan.
- (b) All landscaping must be installed within sixty (60) days after the date of occupancy of the Building on said Lot, with an extension allowed for weather related delays.

SECTION 5.25. Minimum Improvements. No Building and related Improvements intended for use as a single-family residence shall be erected, altered, placed or committed to remain on any Lot within the Subdivision which contains less than the minimum square feet of living area on the ground (first) floor as provided in Section 5.02, above, and each such single-family residence shall have, as a minimum, a fully enclosed garage for the inside storage of the number of vehicles as provided Section 5.02, above.

SECTION 5.26. Irrigation Water. The Grantor has or will construct within the Subdivision a pressurized irrigation system (hereafter "Irrigation System") to provide water to each Lot for the irrigation of the landscaping on each Lot, which Irrigation System will be stubbed onto each Lot. After the construction/installation of the extension of the Irrigation System on a Lot, neither the Grantor nor the Association shall have any obligation to maintain, repair or replace any portion thereof which is extended on a Lot, such obligation to maintain, repair or replace the same being that of the Owner of the Lot on which it is extended. The Association shall have the obligation to maintain, repair or replace the portions of the Irrigation System, including the pump house to be constructed/installed by the Grantor on a Common Area Lot(s) and the pumping and delivery system which will be located within the public right(s)-of-way and the Common Area Lots within the Subdivision. The Association shall have the power to promulgate rules and regulations regarding the use and operation of the Irrigation System, including, but not limited to, the days

and times of delivery of water to each Lot or the temporary interruption or rationing of irrigation water to be delivered to the Lots, which rules and regulations shall be binding upon each Owner. Each Owner, by the acceptance of a deed to a Lot within the Subdivision, acknowledges that neither the Grantor nor the Association shall be responsible for any interruption or rationing of the delivery of irrigation water to such Owner's Lot if such interruption or rationing results from a cause or condition outside the control of the Grantor and/or the Association, including, but not limited to, an insufficient amount of irrigation water being delivered to the Subdivision or the temporary failure of the equipment or facilities of the Irrigation System.

It is understood that the Grantor or the Association shall have the right to enter into a contract with the owner(s) of real property adjacent to or in the vicinity of the Subdivision (hereafter "Adjacent Property") for the use of the Irrigation System to provide irrigation water to such Adjacent Property, such contract to be upon terms and conditions as shall be approved by the Association and, so long as the Grantor owns a Lot within the Subdivision, the Grantor. Any payment by the owner(s) of the Adjacent Property to the Grantor or the Association for a portion of the initial construction/installation costs of the Irrigation System paid by the Grantor shall be the property of the Grantor but any payment to the Grantor or the Association for continuing operating expenses of the Irrigation System shall be the property of the Association and shall be used, to the extent available, to reduce the continuing operating expenses of the Irrigation System which are to be included in the Regular Assessments levied by the Association pursuant to Section 8.02, below.

SECTION 5.27. Adoption of Architectural Guidelines. The Grantor, or in the event of the Grantor's failure to do so, the ACC, shall have the power to promulgate Architectural Guidelines relating to the planning, construction, alteration, modification, removal or destruction of Improvements within the Property deemed necessary or desirable by the Grantor, or the ACC, as the case may be, to carry out the purposes of this Master Declaration. All Architectural Guidelines shall be consistent with the provisions of this Master Declaration. Notwithstanding the foregoing, so long as the Grantor owns a Lot within the Subdivision, any amendments to the Architectural Guidelines recommended by the ACC shall be first approved by the Grantor.

SECTION 5.28. Exemption of Grantor. Nothing herein contained shall limit the right of the Grantor to subdivide or re-subdivide any Lot or portion of the Subdivision or to grant licenses, reservations, rights-of-way or easements with respect to the public rights-of-way or the Common Area Lots within the Subdivision, to utility companies, public agencies or others; or to complete excavation, grading and Development to or on any Lot or other portion of the Subdivision owned or controlled by the Grantor, or to alter the foregoing and its Development plans and designs, or construct additional Improvements as the Grantor deems advisable in the course of Development of the Subdivision. This Master Declaration shall not limit the right of the Grantor at any time prior to acquisition of title to a Lot by an Owner to establish on that Lot additional licenses, restrictions, reservations, rights-of-way and easements to itself, to utility companies and to others, as may from time-to-time be reasonably necessary. The Grantor need not seek or obtain ACC approval of any Improvements constructed or placed within the Property by the Grantor in connection with the Development of the Subdivision, but this exemption shall not apply to a Building(s) constructed by the Grantor on a Lot owned by the Grantor.

ARTICLE VI.

SEDONA CREEK OWNERS ASSOCIATION, INC.

SECTION 6.01. Organization of Association. Sedona Creek Owners Association, Inc. shall be organized by the Grantor as an Idaho non-profit corporation and shall be charged with the duties and vested with the powers prescribed by law and set forth in its Articles of Incorporation, its By-Laws and this Master Declaration. Neither said Articles nor said By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Master Declaration.

SECTION 6.02. Members. Each Owner (including the Grantor) of a Lot by virtue of being such an Owner and for so long as such ownership is maintained shall be a Member of the Association and no Owner shall have more than one (1) membership in the Association, but shall have such voting rights as hereafter set forth. A membership in the Association shall not be assignable, except to the successor-in-interest of the Owner and a membership in the Association shall be appurtenant to and inseparable from the Lot owned by such Owner. A membership in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association.

SECTION 6.03. Voting. The Association shall have two (2) classes of voting membership:

CLASS A. Class A Members shall be all Owners of Lots within the Subdivision, with the exception of the Grantor, and shall be entitled to one (1) vote for each Lot owned.

CLASS B. Class B Members shall be the Grantor. The Grantor shall be entitled to five (5) votes for each Lot owned by the Grantor. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership exceeds the total votes outstanding in the Class B membership.

SECTION 6.04. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles and By-Laws, as the same may be amended from time-to-time.

SECTION 6.05. Powers of Association. The Association shall have all powers of a non-profit corporation organized under the laws of the State of Idaho subject only to such limitations as are expressly set forth in the Articles, the By-Laws or this Master Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under the Articles, By-Laws or this Master Declaration, and to do and perform any and all acts which may be necessary or proper for, or incident to, the proper management and operation of the Common Areas and the performance of other responsibilities including, but not limited to, the following:

- (a) **Assessments.** The power to levy Regular, Special and Limited Assessments on the Owners and/or Lots and to enforce payment thereof in accordance with the provisions of this Master Declaration.

- (b) **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(s) who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Articles, By-Laws, Master Declaration or Architectural Guidelines, and to enforce by mandatory injunction or otherwise, all provisions thereof.
- (c) **Assessment of Penalty(s).** The Association, acting through the Board, shall have the right to impose a monetary penalty, not to exceed the sum of \$25.00 per day, against an Owner who has caused or permitted a violation of any of the restrictions, conditions or covenants contained in this Master Declaration, provided that the Owner is given fifteen (15) days advance written notice of the proposed monetary penalty and a timely opportunity to be heard on the matter. The opportunity to be heard may, at the election of such Owner, be oral or in writing. The notice shall be given personally to such Owner or sent by first class or certified mail to the last known address of such Owner as shown in the records of the Association and shall state the place, date and time of the hearing. The hearing shall be conducted by the Board of the Association or by a committee composed of not less than three (3) persons appointed by the Board. Such hearing shall be conducted in good faith and in a fair and reasonable manner. A monetary penalty so imposed on an Owner shall be enforceable as a Limited Assessment if such is not paid within the time deemed reasonable by the Board. The delay or failure by the Association to impose a monetary penalty on an Owner pursuant hereto shall not be deemed to be a waiver of the right of the Association to enforce the restrictions, conditions and covenants of this Master Declaration against said Owner with respect to such a violation(s) or to impose a monetary penalty with respect to such or any other violation(s).
- (d) **Delegation of Powers.** The authority to delegate its power and duties to committees, officers, employees, or to any person, firm or corporation to act as manager.
- (e) **Liability of Board Members and Officers.** Neither any member of the Board nor any officers of the Association shall be personally liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, the Board, its officer, a manager or any other representative or employee of the Association, or the ACC, provided that said Board Member, officer, manager or other person has, upon the basis of such information as was available, acted in good faith without willful or intentional misconduct.
- (f) **Association Rules.** The power to adopt, amend, and repeal such rules and regulations as the Association deems reasonable. Such rules shall govern the use by Owners and Occupants or any other person of Common Areas and other property owned or controlled by the Association; provided, however, Association rules shall not discriminate among Owners and shall not be inconsistent with the Articles, By-Laws or this Master Declaration. A copy of Association rules as they may from time-to-time be adopted, amended or

repealed, shall be mailed or otherwise delivered to each Owner and Occupant. Upon such mailings said Association rules shall have the same force and effect as if they were set forth in and were part of this Master Declaration. In the event of any conflict between an Association rule or any provision of the Articles, By-Laws or this Master Declaration, the conflicting provisions of the Association rules shall be deemed superseded to the extent of any such inconsistency.

- (g) **Emergency Power.** The Association, or any person authorized by the Association, may enter onto any Lot or into any Building or other structure on a Lot 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 it is responsible. Such entry shall be made with as little inconvenience to the Occupants as practicable and any damage caused thereby shall be repaired by the Association unless said entry was necessitated by a condition caused by the Owner or Occupant.
- (h) **Licenses, Easements and Rights-of-Way.** The power to grant and convey to any third party such licenses, easements, rights-of-way or fee title in, on, through, under or of the Common Area Lots as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment thereof and for the preservation of health, safety, convenience and welfare of the Owners, for the purpose of constructing, erecting, operating or maintaining:
 - (i) Underground lines, cables, wires, conduits and other devices for the transmission of any utility or other service.
 - (ii) Public sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes.
 - (iii) Any similar public or quasi-public improvements or facilities.
- (i) **Fiscal Year.** The Board shall have the right to elect a fiscal year for the Association instead of a calendar year for budget, Assessment and accounting purposes.

SECTION 6.06. Duties of Association. In addition to the powers delegated to it by the Articles, By-Laws and this Master Declaration, without limiting the generality thereof, the Association or its authorized agents, if any, shall have the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

- (a) **Operation and Maintenance of Common Areas.** Perform, or provide for the performance of, the operation, maintenance and management of the Common Areas including the repair and replacement of property or Improvements thereon damaged or destroyed by casualty loss and all other property owned or controlled by the Association.
- (b) **Taxes and Assessments.** Pay all real and personal property taxes and assessments separately levied against the Common Areas owned by the Association or against the Association and/or any property owned by the

Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes, levied against the Association in the event that the Association is denied the status of a tax exempt corporation.

- (c) **Utilities.** Acquire, provide and/or pay for water, sewer, refuse collection, electrical, telephone, gas and other necessary services for the Common Areas owned by the Association.
- (d) **Maintenance of Drainage Swales.** Perform, or provide for the performance of, the maintenance of the drainage swales which are within the public rights-of-way within the Subdivision, including the repair and replacement of such drainage swales, if damaged or destroyed by casualty loss, in accordance with the Manual for Maintenance and Operation of Drainage Swales, bearing a "stamp" date of March 10, 2003, prepared by B & A Engineers, Inc.
- (e) **Insurance.** Obtain, from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the following policies of insurance:
 - (i) Fire insurance, including those risks embraced by coverage of the type now known as the broad form "All Risk" or special extended coverage endorsement on a blanket agreement amount basis for the full insurable replacement value of all Improvements, equipment, fixtures and other property located within the Common Areas owned by the Association, including such equipment, fixtures and other property not located in the Common Areas, if the same are used or necessary for the use of the Common Areas or easement areas under the control of the Association.
 - (ii) Comprehensive public liability insurance insuring the Association, the Board, officers, the Grantor and the individual Owners and agents and employees of each of the foregoing against any liability incident to the ownership and/or use of the Common Areas owned by the Association or easement areas under the control of the Association. The limits of liability of such coverage shall be as determined by the Board of Directors.
 - (iii) Full coverage directors and officers liability insurance in an amount determined by the Board.
 - (iv) Such other insurance, including workmen's 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's functions or to insure the Association against any loss from malfeasance or

dishonesty of any person charged with the management or possession of any Association funds or other property.

- (v) The Association shall be deemed a trustee of the interests of all Owners in any insurance proceeds paid to it under such policies, and shall have full power to receive their interests in such proceeds and to deal therewith.
- (vi) Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Association.
- (f) **Identification Signs.** Maintain, repair and replace all permanent entry and special identification signs for the Subdivision, whether the same be located within or without the boundaries of the Subdivision.
- (g) **Irrigation System.** Maintain, repair or replace all or any portion of the Irrigation System constructed/installed by the Grantor or the Association within the Subdivision.
- (h) **Rule Making.** Make, establish, promulgate, amend and repeal Association rules.
- (i) **Architectural Control Committee.** Subject to the provisions of Section 10.02, below, appoint and remove members of the Architectural Control Committee, all subject to the provisions of this Master Declaration.
- (j) **Enforcement of Restrictions and Rules.** Perform such other acts, whether or not expressly authorized by this Master Declaration, as may be reasonably necessary to enforce any of the provisions of this Master Declaration and the Association rules.

SECTION 6.07. Budgets and Financial Statements. Financial statements for the Association shall be regularly prepared and copies distributed to each Member as follows:

- (a) A pro forma operating statement (budget) for each fiscal year shall be distributed not less than thirty (30) days after the beginning of each fiscal year.
- (b) Within ninety (90) days after the close of each fiscal year, the Association, or its agent, shall cause to be prepared and delivered to each Owner, a balance sheet as of the last day of the Association's fiscal year and an annual operating statement reflecting the income and expenditures of the Association for that fiscal year.

The failure of the Association to distribute the budget or the annual balance sheet and/or the annual operating statement within the times above provided shall not relieve or release any Owner from the obligation to pay, when due, all regular, special and limited assessments due and payable to the Association.

SECTION 6.08. Effective Date. The provisions of this Article VI shall become operative upon the creation by the Grantor of the Association and the conveyance to said Association of fee simple title to the Common Area Lots within the Subdivision. Until the creation and organization of the Association, the Grantor shall have the right to exercise all of the powers of the Association set forth in this Master Declaration.

ARTICLE VII.

MAINTENANCE OBLIGATIONS OF ASSOCIATION

SECTION 7.01. Ownership of Common Area Lots and Irrigation System. At a date not later than the date that a Lot within the Subdivision is improved with a residential dwelling unit and occupied, the Grantor shall convey the Common Area Lots within the Subdivision to the Association and transfer to the Association title to any improvement, equipment, property or system thereon or related thereto, including the Irrigation System within the Subdivision subject to the right of the Grantor to recover a portion of the initial costs of the construction/installation of the Irrigation System if Adjacent Property is served thereby, as provided in Section 5.26, above.

SECTION 7.02. Duty to Maintain Irrigation System Facilities. The Association shall be responsible for all repairs, replacements and maintenance of the Irrigation System facilities which serve all or any of the Lots within the Subdivision, which repairs, replacements and maintenance shall be promptly performed when necessary to the end that the Irrigation System will at all reasonable times be in an operable condition.

SECTION 7.03. Liability for Damage. In the event that any maintenance, repair or replacement of all or any portion of the any improvements located on a Common Area Lot, the drainage swale(s) located thereon within the public right(s)-of-way within the Subdivision, or the Irrigation System, is performed by the Association as a result of the willful or negligent act of an Owner, an Owner's family, guests or invitees, the cost of such maintenance, repair or replacement shall be reimbursed by said Owner to the Association and/or the Association may assess the cost of the same against said Owner and the Owner's Lot as a Limited Assessment, as provided in this Master Declaration.

SECTION 7.04. Cost of Maintenance, Repairs and Replacement. The cost of the maintenance, repairs and replacements of the drainage swale located within the public right(s)-of-way within the Subdivision and the Irrigation System within the Subdivision and the continuing operational expenses in connection therewith, including taxes, shall be paid by the Association from the funds of the Association obtained by Regular or Special Assessments against the Lots within the Subdivision which are served thereby. Such costs and expenses (hereafter "cost and expenses") shall be apportioned among the Lots within the Subdivision served thereby on an equal basis. In the event the Association does not have adequate funds to pay the cost and expenses deemed by the Association to be required, the deficiency shall be assessed to each Lot, on an equal basis, as a Special Assessment.

The decision as to what costs and expenses are required with respect to the drainage facilities and the Irrigation System and the timing of the payment thereof shall rest solely with the Board.

SECTION 7.05. Easement for Maintenance. There is hereby reserved to the Association, its contractors and agents, an easement to enter upon the Lots within the Subdivision for the

purpose of accomplishing all maintenance, repair and replacement rights and duties set forth in this Article.

SECTION 7.06. Reserve for Maintenance, Repair and Replacement. The Association shall have the right to establish a reserve account for the payment of the costs and expenses as set forth herein with regard to the maintenance, repair and replacement of the drainage swale located within the public right(s)-of-way within the Subdivision and the Irrigation System and for the purpose of funding the same, the Board shall have the right to assess each Lot an amount to be included in a Regular or Special Assessment. The amount of said Regular or Special Assessment so determined for the purpose of funding the maintenance, repair and replacement reserve account shall be determined by the Board. The Board shall have the right to place all funds collected for the maintenance, repair and replacement reserve account in an interest-bearing account in an appropriate financial institution.

SECTION 7.07. ACHD Not Liable. It is acknowledged and agreed that neither ACHD nor any other governmental entity having jurisdiction and control over the public right(s)-of-way within the Subdivision shall have any obligation or responsibility to maintain, repair or replace all or any portion of the drainage swale located within the public right(s)-of-way within the Subdivision and the Irrigation System for the Subdivision. Any purported amendment to this Section to impose liability upon ACHD or any other governmental entity for the drainage facilities and/or the Irrigation System within the Subdivision shall be of no force or effect unless ACHD or such other governmental entity shall expressly consent thereto in writing.

ARTICLE VIII.

ASSESSMENTS

SECTION 8.01. Covenant to Pay Assessments. Each Owner hereby, and by acceptance of a deed to a Lot, covenants and agrees to pay when due all Regular, Special and Limited Assessments or charges made by the Association.

All such Assessments, together with interest, costs and reasonable attorneys' fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made, and shall be also the personal obligation of the Owner of such Lot at the time when the Assessment become due and payable. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them. No Owner may waive or otherwise avoid liability for any Assessment by non-use of the Common Areas or by abandonment of such Owner's Lot.

SECTION 8.02. Regular Assessments. Regular Assessments shall be made by the Association at times and intervals deemed appropriate by the Board. The Regular Assessments shall be based upon advance estimates of cash requirements as determined by the Board for the maintenance and operation of the Common Area Lots and all easement areas, if any, controlled by the Association, the Irrigation System, and for the performance by the Association of its other duties and responsibilities. Such estimates may include, but shall not be limited to, expenses of management, taxes and special assessments of local governmental units, premiums for all insurance which the Association is required or permitted to maintain hereunder, landscaping and care of the Common Area Lots, lighting, water charges, trash collection, sewerage charges, repair and maintenance, legal and accounting fees, and any deficit remaining from previous periods and the creation of a reserve, surplus and/or sinking fund(s).

SECTION 8.03. Special Assessments. In addition to Regular Assessments, the Association may levy at any time a Special Assessment payable over such period as the Board may deem appropriate for the following purposes:

- (a) To defray, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of Improvements or landscaping on a Common Area Lot or facility located thereon or an easement area controlled by the Association, the furnishing of a special service or services (other than those appropriate for a Limited Assessment), or for any other expenses incurred or to be incurred as provided in this Master Declaration.
- (b) To cure a deficit in the common and ordinary expenses of the Association for which Regular Assessments for a given calendar or fiscal year are or will be inadequate to pay, as determined by the Board.

At the closing of the initial sale of each Lot by the Grantor to a purchaser, a special assessment of \$300.00 shall be collected from the purchaser of the Lot as payment for the organizational, set-up and administrative costs of the Association.

SECTION 8.04. Limited Assessments. In addition to Regular and Special Assessments, Owners shall pay Limited Assessments as follows:

- (a) **Maintenance and Repair.** The Association shall have the power to incur expenses for maintenance and repair of any Lot or any improvements on a Lot, if such maintenance and repair is necessary, in the opinion of the Board, to protect the Common Areas or any other portion of the Subdivision, and if the Owner of said Lot has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity thereof has been delivered by the Board to said Owner. The Board shall levy a Limited Assessment against the Owner of the Lot owned by said Owner to pay for the cost of such maintenance and repair, and any other cost or expense, including attorneys' fees, arising out of or incident to such maintenance and repair and the Assessment therefor.
- (b) **Correction of Violations.** In addition to maintenance and repair, the Board, upon certification from the ACC of the failure or refusal of an Owner to correct a violation of this Master Declaration or the Architectural Guidelines, shall have the power to correct any such violation on a Lot or any improvement on a Lot, and incur costs necessary in connection therewith. The cost of such corrective action, together with interest, related expenses and attorneys' fees shall be assessed and collected as set forth in Article X of this Master Declaration.
- (c) **Limited Purpose.** The Association shall have the power to levy a Limited Assessment against Owners and Lots for any limited special purpose which the Board believes necessary with respect to certain Lots but not an appropriate expense for payment by the Association. Such Limited Assessment shall not be made until the Owners of said Lots subject thereto have been given an opportunity, after notice, to participate in a hearing with respect to said Limited Assessment.

SECTION 8.05. Commencement of Regular Assessments. Regular Assessments of the Association against each Lot shall commence the first (1st) day of the calendar month next following the date of the closing of the first (1st) sale of a Lot to an Owner. Provided, however, that any Lot owned by the Grantor which is undeveloped with a residential dwelling shall be assessed a Regular Assessment not exceeding ten percent (10%) of the amount assessed against Lots owned by other Owners. If the Grantor pays all or any portion of the expenses of the Association in excess of the amount assessed to Lots owned by the Grantor, such excess amounts so paid shall constitute a prepayment of Assessments (Regular and Special) to become due and payable on the Lots owned by the Grantor within the Subdivision; provided that unless such excess amounts so paid by the Grantor are paid pursuant to a written agreement with the Association to the contrary, the Grantor shall not be entitled to reimbursement in cash of any such Assessment credit nor shall such credit inure to an Owner purchasing a Lot from the Grantor, unless such person is the successor to substantially all of the interest of the Grantor in the Subdivision. Nothing herein contained shall obligate the Grantor to pay any Assessment with respect to a Lot so long as the Grantor owns fifty percent (50%) or more of the Lots within the Subdivision.

SECTION 8.06. Uniform Rate of Assessment. Except as expressly provided to the contrary in this Master Declaration, Regular and Special Assessments of the Association shall be fixed at a uniform rate for all Lots.

SECTION 8.07. Interest and Penalties. Any Regular, Special or Limited Assessment levied by the Association on Lots, if not paid when due, shall bear interest at an annual rate as shall be set by the Board from time-to-time, or if none is so set, at an annual rate of twelve percent (12%). Such interest shall commence on the date the Assessment becomes due and payable. In addition to the interest charge the Board may, in accordance with rules and regulations promulgated by it, impose additional fines or charges for the failure of an Owner to timely pay any Assessment when due. The right of the Board to charge interest or impose additional fines or charges shall be in addition to, and not in lieu of, any other right of enforcement or sanction available to the Board in the event of non-payment of an Assessment.

ARTICLE IX.

ENFORCEMENT OF ASSESSMENTS

SECTION 9.01. Right to Enforce. The right to collect and enforce payment of the Assessments made by the Association is vested in the Association. Each Owner of a Lot hereby agrees to the enforcement of the payment of all Assessments in the manner herein provided. In the event an attorney is employed for the collection of an Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of any of the terms and conditions of this Master Declaration, the Owner against whom such enforcement is sought shall pay reasonable attorneys' fees in connection therewith.

SECTION 9.02. Creation of Assessment Liens. There is hereby created a continuing claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against any and all Lots in the Subdivision pursuant to this Master Declaration, together with interest thereon and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. Said lien shall be prior and superior to all other liens or claims created subsequent to the recordation of this Master Declaration except only for: (i) valid tax and special assessment liens on Lots in favor of any

governmental unit assessing authority; (ii) a lien for all sums unpaid and secured by a first Mortgage or first Deed of Trust, duly recorded in Ada County, Idaho, including all unpaid obligatory advances to be made pursuant thereto; and (iii) labor or materialman's liens, if the same are prior by reason of applicable law. All other lien holders acquiring liens on any Lot after recordation of this Master Declaration shall be deemed to consent that such liens shall be inferior liens to the lien for Assessments levied by the Association, whether or not such consent be specifically set forth in the instruments creating such other liens.

SECTION 9.03. Enforcement. Upon the failure of an Owner to pay an Assessment in accordance with its terms, the lien for Assessment herein created may be enforced by sale by the Association, such sale to be conducted in the manner provided by law in Idaho for the exercise of the power of sale in Deeds of Trust or in any other manner permitted by law elected by the Board. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including all reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire and thereafter hold, convey, lease, rent, encumber, use and otherwise deal with and in said Lot as the Owner thereof.

SECTION 9.04. Notice Required. Notwithstanding anything to the contrary contained in this Master Declaration, no action may be brought to foreclose the lien for any Assessment, whether by power of sale or otherwise, until the expiration of thirty (30) days after written Notice of Default has been deposited in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed to the Owner of the Lot described in such Notice at the last known address of the Owner as shown on the books and records of the Association. Said Notice shall specify the amount and due date of the unpaid Assessment(s) and the legal description of the Lot.

SECTION 9.05. Non-Exclusive Remedy. The remedies set forth in this Article or elsewhere in this Master Declaration shall not be deemed to be an exclusive remedy and the Association may pursue all other remedies available at law or in equity.

ARTICLE X.

ARCHITECTURAL CONTROL COMMITTEE

SECTION 10.01. Members of the Committee. The Architectural Control Committee shall be comprised of at least three (3) persons, all of whom shall be appointed as herein provided. A member of the ACC shall hold office until he has resigned or has been removed, but in any event, until said Member's successor has been appointed. Members of the ACC may be removed at any time, with or without cause.

SECTION 10.02. Appointment. So long as the Grantor owns any Lot within the Subdivision, the Grantor shall have the sole right to appoint and remove all members of the ACC. Thereafter, all members of the ACC shall be appointed or removed by the Board of the Association.

The ACC shall have the right by a resolution in writing unanimously adopted, to designate one (1) of its members to take any action or perform any duties for and on behalf of the ACC.

In the absence of such designation, the vote of any two (2) members of the ACC shall constitute an act of the ACC.

SECTION 10.03. Compensation. The members of the ACC shall be entitled to reasonable compensation from the Association for services rendered, together with reimbursement for expenses incurred by them in the performance of their duties hereunder, said compensation to be determined by the Board.

SECTION 10.04. Non-Liability. Neither the ACC, or any member thereof, or the Grantor or any partner, officer, employee, agent, successor or assign thereof, shall be liable to the Association, any Owner or any other person for any loss, damage or injury arising out of or connected with the performance by the ACC of its duties and responsibilities by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve an application. Every person who submits an application to the ACC for approval of plans and specifications agrees, by submission of such an application, and every Owner or Occupant of any Lot agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the Association, the ACC, or any member thereof, or the Grantor or any officer, partner, employee, agent, successor or assign thereof, seeking monetary damages or any other remedy at law or equity resulting from any loss, damage or injury, including, but not limited to, the same that may result from or relate to the type(s) or nature of the soil(s) located below the surface of any Lot.

SECTION 10.05. Approval Required. No construction, alteration, modification, removal or destruction of any Improvements of any nature whatsoever, whether real or personal in nature, shall be initiated or be permitted to continue or exist within the Property without the prior express written approval of the ACC.

SECTION 10.06. Basis of Approval. Approval by the ACC shall be based, among other things, on the Architectural Guidelines, the adequacy of the Lot dimensions; conformity and harmony of external design with neighboring Improvements, the effect of location and use of Improvements on neighboring Lots; operations and uses; relations to topography, grade, finished ground elevation and landscaping of the Lot being improved to that of neighboring Lots; proper facing of the main elevation with respect to nearby streets; the relation of floor elevations to flood elevations as defined by government entities; and the conformity of the plans and specifications to the purpose and general plan and intent of this Master Declaration.

SECTION 10.07. Variances. The ACC may authorize variances from compliance with the requirements of any conditions and restrictions contained in this Master Declaration, the Architectural Guidelines, or any prior approval when, in the sole discretion of the ACC, circumstances such as, but not limited to, topography, natural obstructions, aesthetics or environmental considerations or economic or developmental hardship may so require. Such variances must be evidenced in a writing signed by at least two (2) members of the ACC.

If a variance is granted as provided herein, no violation of this Master Declaration, Architectural Guidelines or prior approval shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Master Declaration or the Architectural Guidelines for any purpose except as to the particular subject matter of the variance thereof and the specific Lot covered thereby.

The ACC shall have the right to consider and grant a variance as herein provided either with or without notice to other Owners or a hearing of Owners thereon.

SECTION 10.08. Application. To request ACC approval for the construction, alteration, modification, removal or demolition of any improvements within the Property, the Owner shall submit a written application in a form required by the ACC which must be signed by the Owner and contain all information requested and be accompanied by all other material to be submitted as hereafter provided.

All applications must contain, or have submitted therewith, two (2) full and complete copies of the following materials (collectively called "plans and specifications") prepared in accordance with acceptable architectural standards and submitted with the application form, if any, approved by the ACC:

- (a) **Site Plan.** A site plan showing the location of the Building(s) and all other structures and Improvements including fences and walls on the Lot, Lot drainage and all set backs, curb cuts, driveways, parking areas and other pertinent information relating to the Improvements.
- (b) **Building Plan.** A building plan which shall consist of preliminary or final blueprints, elevation drawings of the north, south, east and west sides, and detailed exterior specifications which shall indicate, by sample if required by the ACC, all exterior colors, materials and finishes, including roof, to be used.
- (c) **Landscape Plan.** A landscape plan for portions of the Lot, including any Common Area Lot(s) adjacent to the Lot which the Owner is permitted to landscape, to be landscaped which shall show the location, type and size of trees, plants, ground cover, shrubs, berming and mounding, grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking areas and walkways.

The ACC may, in its discretion, require the Owner to furnish additional specifications, drawings, material samples or such other information as the ACC, in its sole discretion reasonably exercised, shall deem necessary or convenient for the purpose of assisting the ACC in reviewing and processing the application.

The ACC shall have the right to require an Owner submitting an application for approval of plans and specifications to pay a fee at the time the application is submitted, the amount of such fee to be based upon the reasonable and actual expenses of the ACC in reviewing and processing the application. The ACC shall not be obligated to commence the review and processing of an application until such fee, if required, is paid.

SECTION 10.09. Decision. In reviewing the application and the materials submitted therewith and in reaching a decision thereon, the ACC shall use its best efforts and judgment to assure that all Improvements shall produce and contribute to an orderly and aesthetically complementary design and appearance and be of the quality required to maintain the Subdivision as a first class residential development.

Unless extended by mutual consent of the Owner and the ACC, the ACC shall render its decision with respect to an application within forty-five (45) days after the receipt of a properly

submitted application. The decision of the ACC can be in the form of an approval, a conditional approval or denial. The decision of the ACC shall be in writing, signed by a member of the ACC, dated, and a copy thereof mailed to the Owner at the address shown on the application.

A conditional approval shall set forth with particularity the conditions upon which the application is approved and the Owner shall be required to affix a copy of said conditions to the working drawings or blueprints which are to be kept on the job site during the entire course of the work to which said plans relate.

A denial of an application shall state with particularity the reasons for such denial.

SECTION 10.10. Inspection and Complaints. The ACC is empowered to inspect all work in progress on any Lot at any time. Such inspection shall be for the purpose of determining whether the Owner is proceeding in accordance with the approved application or is deviating therefrom or is violating this Master Declaration or the Architectural Guidelines or the approved plans and specifications.

The ACC is empowered to receive from other Owners ("Complainant") complaints in writing involving deviations from approved applications or violations of this Master Declaration or any applicable Architectural Guidelines. In the event the ACC receives such a complaint from a Complainant, it shall first determine the validity of such complaint by inspection or otherwise.

Should the ACC determine that there has been a deviation or a violation, it shall promptly issue a notice in writing thereof to the Owner and to the Complainant, which notice shall specify the particulars of the deviation or violation and shall demand that the Owner conform to either or both of the following directives:

- (a) The Owner shall immediately cease the activity which constitutes a deviation or violation.
- (b) The Owner shall adhere to the corrective measures set forth in the written notice.

Should the ACC determine there has been no deviation or violation, it shall promptly issue a notice of such determination to the Owner and the Complainant.

SECTION 10.11. Hearing. An Owner submitting an application under Section 10.08, above, or served with a written notice of deviation or violation, or a Complainant shall have the right to request and be heard at a hearing held by the ACC for the purpose of presenting facts and information to the ACC. Such hearing must be requested by such party within ten (10) days from the date the written notice of the decision of the ACC is mailed to the Owner (and Complainant) as evidenced by the records of the ACC. The hearing shall be held within ten (10) days following receipt by the ACC of the request for a hearing, unless the ACC shall extend said period of time because of the unavailability of ACC members. A hearing may be continued by the ACC for the purpose of further investigation or to receive additional evidence. Upon completion of the hearing, the ACC shall issue a written opinion to the involved parties within ten (10) business days thereafter which opinion shall set forth the findings of the ACC with respect to the matters at issue and shall affirm, modify or rescind its previous decision as contained in the original written notice. If the ACC incurs any costs or expenses in connection with the investigation, processing or hearing on a matter involving a deviation or violation, including the

costs of retaining a consultant(s) to advise the ACC and legal fees, such costs shall be paid by the Complainant unless an Owner is found to be in violation, in which event such Owner shall pay all such costs. The payment of such costs shall be enforceable as provided in Section 10.13, below.

SECTION 10.12. Appeal. Either an Owner or a Complainant shall have the right to appeal to the Board a decision of the ACC on an application with respect to the conditions imposed thereon or a denial thereof, or a decision of the ACC adverse to the Owner or the Complainant reached following a hearing held pursuant to Section 10.11, above, provided, however, that neither an Owner nor a Complainant shall be entitled to such an appeal with respect to deviations or violations unless said Owner or Complainant has participated in the ACC hearing.

A notice of appeal shall be in writing and shall be delivered by mail to the Secretary of the Board within ten (10) days from the date of the decision by the ACC. Said notice of appeal shall be dated and shall contain the name of the Owner and the Complainant, if any, and a copy of the written decision or determination of the ACC. The failure of an Owner or Complainant to appeal a decision of the ACC in the manner and within the time herein provided shall terminate all rights of said Owner or Complainant to appeal said decision and it shall be binding and enforceable.

The Board shall fix a date for the hearing of such an appeal which date shall be no later than ten (10) days from the date of receipt of a notice of appeal unless extended by the Board because of the unavailability of Board members. The Owner and Complainant, if any, shall be advised of the time and place of the hearing by a mailed written notice. Written notice of time and place for hearing shall also be served by mail upon each member of the ACC.

The Board may require the Owner or Complainant to provide additional information to facilitate the Board's decision and the failure of such party to comply promptly with such a request shall entitle the Board to deny the appeal, in which event the decision by the ACC shall be considered final and not subject to further appeal.

At the hearing the Owner, Complainant, if any, and the ACC, together with their representatives and other witnesses, shall present their position to the Board. The order of presentation and the evidence to be admitted shall be solely within the discretion of the Board provided, however, that the Owner, the Complainant, if any, and the ACC shall have the opportunity to question and cross-examine witnesses presented by the other. The Owner, the Complainant, if any, and the ACC will have the opportunity to present final argument consistent with rules adopted by the Board for such hearing process. Any party may be represented by an attorney at any hearing by the ACC or the Board.

Upon receiving all of the evidence, oral and documentary, and following the conclusion of the hearing, the Board shall retire to deliberate and shall reconvene at a time and place determined by the Board, at which time the Board shall cast its official ballot and the decision shall be duly recorded in the minutes of the meeting. The Owner, the Complainant, if any, and the ACC members shall be given written notice of the decision which shall be deemed given when deposited in the United States mail, postage prepaid and properly addressed.

If the Board incurs any costs or expenses in connection with the investigation, processing or hearing on an appeal, including the costs of retaining a consultant(s) to advise the Board and legal fees, such costs shall be paid by the party(s) filing the appeal unless the decision by the

Board constitutes a substantial reversal of the decision of the ACC, in which event such costs shall be paid by the Association. If the party filing the appeal is obligated to pay such costs, payment of the same shall be enforceable as provided in Section 10.13, below.

A decision of the Board of an appeal shall be final and shall not be subject to reconsideration or further appeal.

SECTION 10.13. Enforcement. The ACC, upon approval by the Board, shall be authorized on behalf and in the name of the Association to commence such legal or equitable proceedings as are determined by it to be necessary or proper to correct or enjoin any activity or condition existing within the Property, the continuation of which violates the provisions of this Master Declaration, the Architectural Guidelines or the approved plans and specifications.

The ACC shall not commence such legal or equitable proceedings until a written notice of the deviation or violation has been appropriately prepared and given to the Owner but thereafter the ACC shall have the sole discretion to commence such proceedings.

The authority of the ACC as herein provided shall include the power to retain legal counsel and expert witnesses, pay filing fees, deposition costs, witness fees and all other ordinary and necessary expenses incurred in commencing and carrying out said legal or equitable proceedings, all of which costs shall be paid by the Association.

In the event the ACC and/or Association shall prevail in any such legal or equitable proceedings, all costs and expenses incurred in connection therewith including, but not limited to, attorneys' fees shall be reimbursed to the Association by the Owner against whom said proceedings are filed and upon the failure of said Owner to reimburse the Association within five (5) days after written demand therefor is mailed to the Owner, the Association shall have the right to levy a Limited Assessment against the Owner and the Lot owned by the Owner which Assessment shall be equal to said costs and expenses incurred plus any additional costs and expenses incurred in levying the Assessment. Said Limited Assessment shall be due and payable at such time or in such installments as may be determined by the Board, in its sole discretion. The failure of the Owner to pay said assessments, or any installment thereof when due, shall be enforceable in the manner provided in Article VIII, above.

SECTION 10.14. Additional Damages. In addition to the costs and expenses to be reimbursed by the Owner or the Complainant, all other costs, expenses and damages determined by the Board to be proximately caused by the deviation or violation or the costs and expenses incurred by the Association to correct the same shall be assessed as a Limited Assessment against the Owner and the Lot owned by said Owner, or the Complainant and the Lot owned by the Complainant, as the case may be, which Limited Assessment shall be due and payable at such time or in such installments as determined by the Board, in its sole discretion. The right of the Board to enforce said Limited Assessment shall be the same as provided in Article VIII, above.

SECTION 10.15. Non-Exclusive Remedy. The right of the Association to levy a Limited Assessment as described in Sections 10.13 and 10.14, above, shall not be deemed to be an exclusive remedy of the Association and it may, in its sole discretion, without waiver of any other legal or equitable remedy, pursue enforcement of the lien of said Limited Assessment(s), proceed to collect any amount due directly from the Owner and/or pursue any other remedies available at law or in equity.

SECTION 10.16. Private Rights. The Association shall not have the right to mediate or litigate private disputes between Owners where there is a legal or equitable remedy available to resolve said dispute when, in the sole discretion of the Board, the interests of the Association or a substantial number of the Owners would not be benefitted thereby.

SECTION 10.17. Inspection Fee(s). The ACC shall have the right to charge an Owner an inspection fee (hereafter "Inspection Fee") not exceeding \$100.00 for each inspection of the Improvements constructed on a Lot if the initial inspection, which shall be performed by the ACC without cost to the Owner, reveals that the Improvements do not comply with the approved application or is deviating therefrom or is violating this Master Declaration or the ACC Design Standards or the approved plans and specifications, and an additional inspection(s) is required to assure such compliance. Any the collection of Inspection Fee(s) so charged by the ACC to an Owner shall be enforceable as provided in Section 10.13, above.

ARTICLE XI.

ANNEXATION

SECTION 11.01. Annexation. Additional property may be annexed to the Subdivision and brought within the provisions of this Master Declaration by the Grantor, at any time, without the approval of any Owner or the Association. As such annexed property is developed, the Grantor shall record an amendment to this Master Declaration with respect thereto which shall annex such property to the Subdivision and which may supplement this Master Declaration with additional or different covenants and restrictions applicable to the annexed property, as the Grantor may deem appropriate, and may delete or modify as to such annexed property such covenants or restrictions as are contained herein which the Grantor deems not appropriate for the annexed property, so long as the quality of development is not materially adversely affected. Upon such annexation, the Owners of the Lots within the annexed property shall become members of the Association with all rights, privileges and obligations as all other members.

SECTION 11.02. De-Annexation. The Grantor shall have the right to delete all or a portion of the Property from the coverage of this Master Declaration and the jurisdiction of the Association, so long as the Grantor is the Owner of all of the property to be de-annexed and, provided further, that an appropriate amendment to this Master Declaration is recorded in the office of the Ada County Recorder.

ARTICLE XII.

MISCELLANEOUS

SECTION 12.01. Term. This Master Declaration and all covenants, conditions, restrictions and easements contained herein shall run until December 31, 2030, unless amended as hereafter provided. After December 31, 2030, said covenants, conditions, restrictions and easements shall be automatically extended for successive period of ten (10) years each, unless extinguished by a written instrument executed by the Owners of at least three-fourth (3/4) of the Lots covered by this Master Declaration and such written instrument is recorded with the Ada County Recorder.

SECTION 12.02. Amendment. This Master Declaration may be amended as follows:

- (a) **By Grantor.** Until title to a Lot within the Subdivision is conveyed by the Grantor to an Owner, this Master Declaration may be amended or terminated by the Grantor by recordation of a written instrument signed by the Grantor and acknowledged setting forth such amendment or termination.

- (b) **By Owners.** Except where a greater percentage is required by an express provision in this Master Declaration, the provisions of this Master Declaration, other than this Section, may be amended by an instrument in writing, signed and acknowledged by the President and Secretary of the Association, certifying that such amendment has been approved by a vote or written consent of Owners, including the Grantor, owning at least fifty-one percent (51%) of the Lots covered by this Master Declaration, and such amendment shall be effective upon its recordation with the Ada County Recorder. Any amendment to this Section 12.02 shall require the vote or written consent of eighty percent (80%) of all Owners. NOTWITHSTANDING the foregoing, so long as the Grantor owns a Lot within the Subdivision, no amendment to this Master Declaration shall be deemed approved unless the same is approved in writing by the Grantor and any attempt to so amend this Master Declaration without the prior written consent of the Grantor shall be void and of no force or effect.

SECTION 12.03. Sewer Covenants. The following covenants shall run with each Lot and any portion of a Common Area Lot(s) affected thereby and shall be binding upon each Owner of a Lot and all occupants of any Improvements constructed on a Lot:

- (a) No Lot may be used or occupied for any allowed use unless the same is connected to the public sewerage collection system constructed and installed within the Property.

- (b) All sewer hook-up fees charged by the municipality having jurisdiction and control over the Lot shall be paid by the Owner at the time of construction of the Improvements thereon and the connection thereof to the public sewerage collection system, said sewer hook-up fees to be paid at such time and in such amount as shall be required by the ordinances and regulations of the municipal entity having jurisdiction thereof.

- (c) A monthly sewerage charge shall be paid to the municipal entity having jurisdiction thereof, or its designee, after connection to the public sewerage collection system in accordance with the ordinances and regulations of said municipal entity.

- (d) All sewer service lines connected to the sewerage collection system constructed and installed by the Grantor in the Property shall be constructed in accordance with all applicable codes and regulations and shall be inspected as required by the governmental entity having jurisdiction thereof to assure a minimum of infiltration from said service line into the sewerage collection system.

- (e) The Grantor shall provide access, satisfactory to the governmental entity having jurisdiction thereof, for sewer cleaning equipment to all sanitary sewer manholes located outside of public right-of-way.
- (f) The Grantor and each Owner of a Lot hereby authorizes the governmental entity having jurisdiction thereof, or its designee, to bring any action if deems necessary or required for the collection of any fees or charges due said entity for sewer service connected or monthly sewer charges and/or to otherwise enforce any of the obligations respecting the connection to the public sewerage collection system or use thereof as provided in this Section.

SECTION 12.04. Books and Records. All books, records and minutes of the Board and all other books and records maintained by the Association shall be made available for inspection and copying by any Owner or by his duly authorized representative, at any reasonable time and for a purpose reasonably related to his interest as a member in the Association, or at such other place and time as the Board shall prescribe.

SECTION 12.05. Non-Waiver. The failure of the Grantor, the Board or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements or other provisions of this Master Declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement or other provision, but the same shall remain in full force and effect.

SECTION 12.06. Acceptance. Each Owner of a Lot, each purchaser of a Lot under a contract or agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement or option, accepts the same subject to all of the covenants, conditions, restrictions, easements and other provisions set forth in this Master Declaration and agrees to be bound by the same.

SECTION 12.07. Indemnification of Board Members, Officers and ACC. Each member of the Board, each officer of the Association and each member of the ACC shall be indemnified by the Owners against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which said member may be a party or in which said member may become involved, by reason of being or having been a member of the Board, an officer of the Association or a member of the ACC, or any settlement thereof, whether or not said person is a member of the Board, an officer or a member of the ACC at the time such expenses or liabilities are incurred, except in such cases wherein said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board, the officer(s) or the ACC approves such settlement and reimbursement as being in the best interest of the Association or Owners. This Section shall extend to and apply also for the indemnification of the Grantor during the initial period of operation of the Association or prior thereto during the period the Grantor is exercising the powers of the Association.

SECTION 12.08. Notices. Any notice permitted or required to be delivered as provided in this Master Declaration shall be in writing and shall 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, registered or certified mail, return receipt requested, postage prepaid, properly addressed.

SECTION 12.09. Interpretation. the provisions of this Master Declaration shall be liberally construed to effectuate the purposes set forth in Article IV, above, and shall be construed and governed by the laws of the State of Idaho.

Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall include the masculine, feminine or neuter.

All captions and titles 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.

SECTION 12.10. Severability. Notwithstanding the provisions of the preceding Section, each of the provisions hereof shall be deemed independent and severable and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

IN WITNESS WHEREOF the Grantor has executed this Master Declaration as of the day and year first above written.

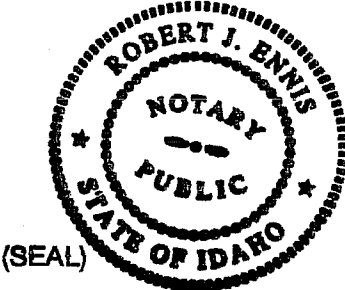
GREAT SKY DEVELOPMENT, INC., an Idaho Corporation

By *John G. Evans*
JOHN G. EVANS, Vice-President

STATE OF IDAHO)
) ss:
County of Ada)

On this 30th day of June, 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared **JOHN G. EVANS**, known or identified to me to be the Vice-President of **GREAT SKY DEVELOPMENT, INC.**, an Idaho Corporation, the Corporation that executed the foregoing instrument or the person who executed the foregoing instrument on behalf of said Corporation, and acknowledged to me that such Corporation executed the same.

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



(SEAL)

[Signature]
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: July 5, 2006

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 03/21/06 11:53 AM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Sedona Creek HOA

AMOUNT 9.00 3



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

FIRST AMENDMENT TO
MASTER DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
SEDONA CREEK SUBDIVISION

THIS AMENDMENT is executed pursuant to Article XII, Section 12.02 of the Master Declaration of Covenants, Conditions, Restrictions and Easements for Sedona Creek Subdivision (hereinafter CC&R's) originally dated July 1, 2003. The following modifications shall be made to the CC&R's.


1. Section 5.15 shall be modified to read as follows:

SECTION 5.15. Boats, Campers and Other Vehicles. Trailers, mobile homes, trucks larger than standard pickups, boats, tractors, campers, garden or maintenance equipment and vehicles other than automobiles, when not in actual use, shall be kept at all times behind the front yard setback and not exposed to public view. Setback shall be defined as the area of lot between the public right-of-way within the Subdivision and the front wall of the dwelling located thereon. At no time shall any of said vehicles or equipment be parked or stored on the public rights-of-way within the subdivision.

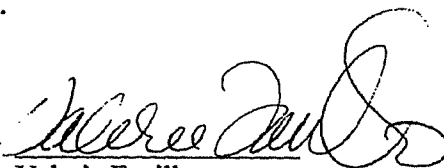
2. Except as amended herein, each and every provision of the CC&R's shall remain unchanged.

WE HEREBY CERTIFY That in compliance with Section 12.02 of the CC&R's, at least 51% of owners of Lots have consented to the above amendments.

Dated this 20 day of March, 2006.



Andrew Schenk
President



Valerie Favillo
VP/Secretary

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On March 20, 2006, before me the undersigned notary public, personally appeared Andrew Schenk, personally known to me to be the person whose name is subscribed to the written instrument and acknowledged to me that the executed the same in his authorized capacity as the President of Sedona Creek Owners Association.



[Signature]
Notary Public of the State of Idaho
Residing at: 108 E. Plaza St. Suite 10 B2614
My commission expires: 8-20-2010

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On March 21, 2006, before me the undersigned notary public, personally appeared Valerie Favillo, personally known to me to be the person whose name is subscribed to the written instrument and acknowledged to me that the executed the same in his authorized capacity as the Secretary of Sedona Creek Owners Association.



[Signature]
Notary Public of the State of Idaho
Residing at: Castle Falls
My commission expires: 5-10-08