





**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:  
VISCAYA HOMEOWNER'S ASSOCIATION, INC.  
c/o Development Service Inc.  
9601 W. State Street #203  
Boise, Idaho 83714**

**AMENDMENT #1 TO DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
VIZCAYA SUBDIVISION**

THIS AMENDMENT IS EXECUTED PURSUANT TO ARTICLE 14, Section 14.2 of  
the Declaration of Covenants, Conditions and Restrictions for VIZCAYA SUBDIVISION  
recorded on March 10, 2008 as Instrument No. 108027764 in the Records of the Ada County  
Recorder, Ada County, Idaho, hereinafter referred to as "VIZCAYA CC&R's".

Article 14, Section 14.2 of the VIZCAYA CC&R's provides for Amendment By Owners  
as follows:

"The easements, covenants, conditions, and restrictions of this Master Declaration shall run with  
and bind the Property for a term of twenty (20) years from the date this Declaration is recorded,  
after which time they shall be automatically extended for successive periods of ten (10) years.  
This Master Declaration, other than the provisions of Articles IV and XI and Sections 7.2 and 9.1  
hereof, may be amended during the first twenty (20) year period by a document signed and  
acknowledged by Owners representing not less than seventy percent (70%) of the votes of  
membership in the Association. Any amendment to Articles IV and XI and Sections 7.2 and 9.1  
shall, until the last Lot in the Project is sold by Declarant, require in addition to a document  
signed and acknowledged by the requisite membership, written consent of Declarant its  
successors or assigns. No amendment to the Declaration shall be effective until recorded."

This Amendment modifies the VIZCAYA CC&R's in the following particulars:

**8.2 Special Assessment:**

Article 8.2 (B) entitled "Transfer and Refinance Special Assessment" is amended in it's  
entirety as follows:

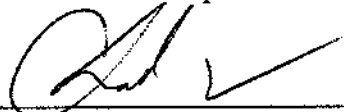
B) Transfer and Refinance Special Assessment: "Upon each transfer and/or refinance of any Lot or residence in the subdivision, each Buyer and/or Owner shall pay the Association a special transfer assessment of two hundred fifty dollars (\$250.00), which shall be used for general Association purposes."

Article 8.2 (C) entitled "Initial Set Up Fee" is hereby added as follows:

C) Initial Set Up Fee: "Upon the initial conveyance of each lot, the purchaser thereof shall pay an initial set up fee of \$550.00 or as amended by the supplemental declaration of covenants, conditions, restrictions and easements."

Except as amended herein, the Declaration remains in full force and effect with no other change or modification.

Pursuant to Article 14, Section 14.2 of the VIZCAYA CC&R's, the undersigned owners hereby certify and attest that they are Owners representing not less than seventy percent (70%) of the votes of membership in the Association.

 Signature

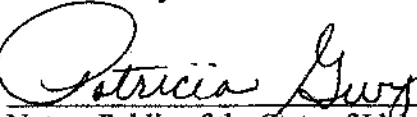
C&C Development, Inc. Print Name

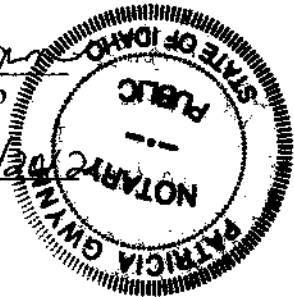
Lots 2-16, 18-33, Block 1, Vizcaya Sub Lots Owned

STATE OF IDAHO )  
 ) ss.  
COUNTY OF ADA )

On August 12, 2008, before me, the undersigned notary public, personally appeared Chad Longson, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

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

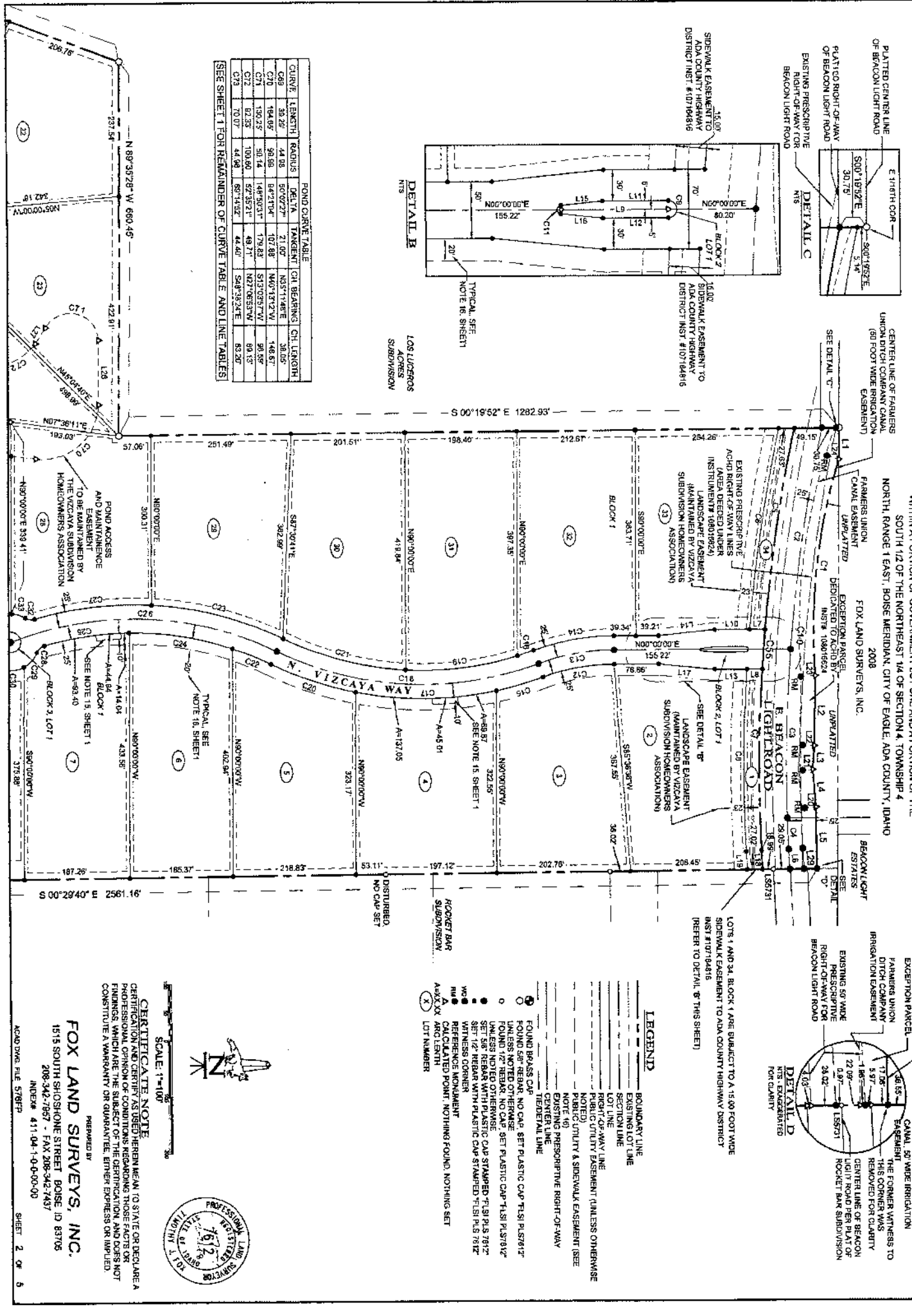
  
Notary Public of the State of Idaho  
Residing at: Nampa, Id  
My commission expires: 03/06/2012



# VIZCAYA SUBDIVISION

PLAT SHOWING  
 WITHIN A PORTION OF GOVERNMENT LOT ONE AND A PORTION OF THE  
 SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 4  
 NORTH, RANGE 1 EAST, BOISE MERIDIAN, CITY OF EAGLE, ADA COUNTY, IDAHO  
 2008

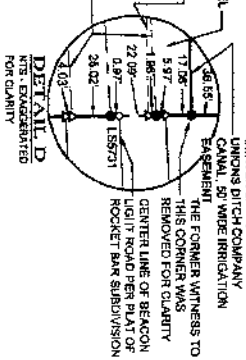
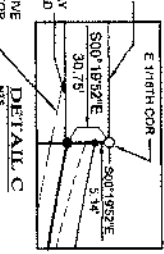
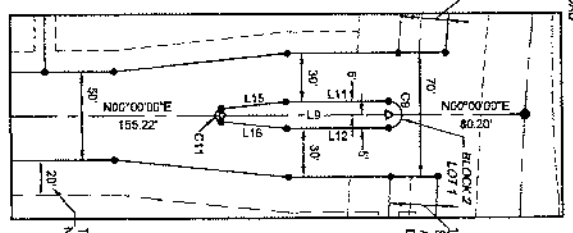
FOX LAND SURVEYS, INC.



**POUND CURVE TABLE**

CURVE	LENGTH	RADIUS	DELTA	TANGENT CH BEARING	CH LENGTH	CH BEARING
C08	38.29	44.88	50°02'27"	21.00°	N05°11'48"E	38.00'
C09	184.85	98.88	84°21'04"	107.88°	N40°14'21"W	148.87'
C10	130.25	50.14	144°06'31"	179.83°	S13°03'57"W	98.88'
C12	82.35	100.80	57°35'21"	49.71°	N27°08'53"W	89.13'
C13	70.07	44.94	89°14'52"	44.40°	S48°19'24"E	83.20'

SEE SHEET 1 FOR REMAINDER OF CURVE TABLE AND LINE TABLES



LOS LUCEROS ACRES SUBDIVISION

SEE DETAIL C

SEE DETAIL B

SEE DETAIL A

SEE DETAIL D

SEE DETAIL E

SEE DETAIL F

SEE DETAIL G

SEE DETAIL H

SEE DETAIL I

SEE DETAIL J

SEE DETAIL K

SEE DETAIL L

SEE DETAIL M

SEE DETAIL N

SEE DETAIL O

SEE DETAIL P

SEE DETAIL Q

SEE DETAIL R

SEE DETAIL S

SEE DETAIL T

SEE DETAIL U

SEE DETAIL V

SEE DETAIL W

SEE DETAIL X

- LEGEND**
- BOUNDARY LINE
  - EXISTING LOT LINE
  - SECTION LINE
  - LOT LINE
  - RIGHT-OF-WAY LINE
  - PUBLIC UTILITY EASEMENT (UNLESS OTHERWISE NOTED)
  - PUBLIC UTILITY & SIDEWALK EASEMENT (SEE NOTE (6))
  - EXISTING PREScriptive RIGHT-OF-WAY CENTERLINE
  - FOUND REBAR CAP
  - FOUND 5/8" REBAR, NO CAP, SET PLASTIC CAP "FLSI PL5712"
  - UNLESS NOTED OTHERWISE
  - FOUND 1/2" REBAR, NO CAP, SET PLASTIC CAP "FLSI PL5712"
  - UNLESS NOTED OTHERWISE
  - SET 5/8" REBAR WITH PLASTIC CAP STAMPED "FLSI PLS 7812"
  - SET 1/2" REBAR WITH PLASTIC CAP STAMPED "FLSI PLS 7812"
  - WITNESSES CORNER
  - REFERENCE MONUMENT
  - ALL AXES AND CORNER POINTS NOTHING FOUND, NOTHING SET
  - LOT NUMBER

**CERTIFICATE NOTE**  
 CERTIFICATION AND CERTIFY AS USED HEREIN MEAN TO STATE OR DECLARE A PROFESSIONAL OPINION OR CONDITIONS REGARDING THOSE FACTS OR FININGS WHICH ARE THE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED.

PREPARED BY  
**FOX LAND SURVEYS, INC.**  
 1515 SOUTH SHILOH STREET BOISE, ID 83705  
 208-342-7857 - FAX 208-342-7487  
 INDE# 411-04-1-0-0-00-00



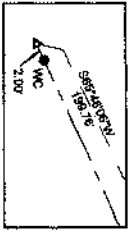
RL100 PG-13031

LEGEND

- BOUNDARY LINE
- EXISTING LOT LINE
- SECTION LINE
- LOT LINE
- RIGHT-OF-WAY LINE
- PUBLIC UTILITY EASEMENT (UNLESS OTHERWISE NOTED)
- PUBLIC UTILITY & SIDEWALK EASEMENT (SEE NOTE 16)
- EXISTING PRESCRIPTIVE RIGHT-OF-WAY
- CENTER LINE
- THEORETICAL LINE
- FOUND BRASS CAP
- FOUND BRASS NAIL NO CAP
- SET PLASTIC CAP PLS PL57612
- FOUND 1/2" REBAR NO CAP
- SET PLASTIC CAP PLS PL57612
- UNLESS NOTED OTHERWISE
- SET BRASS WITH PLASTIC CAP STAMPED PLS PL57612
- SET 1/2" REBAR WITH PLASTIC CAP STAMPED PLS PL57612
- WITNESS CORNER
- REFERENCE MONUMENT
- CALCULATED POINT, NOTHING FOUND, NOTHING SET
- APPROX ANG LENTH
- LOT NUMBER

**CERTIFICATE NOTE**  
 CERTIFICATION AND CERTIFICATION NUMBER MEANT TO STATE OR IMPLY A PROFESSIONAL OPINION OF CONDITIONS REGARDING THOSE FACTS OR FININGS, WHICH ARE THE SUBJECT OF THE CERTIFICATION, AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED.

**SEE SHEET 1 FOR LINE AND CURVE TABLES**

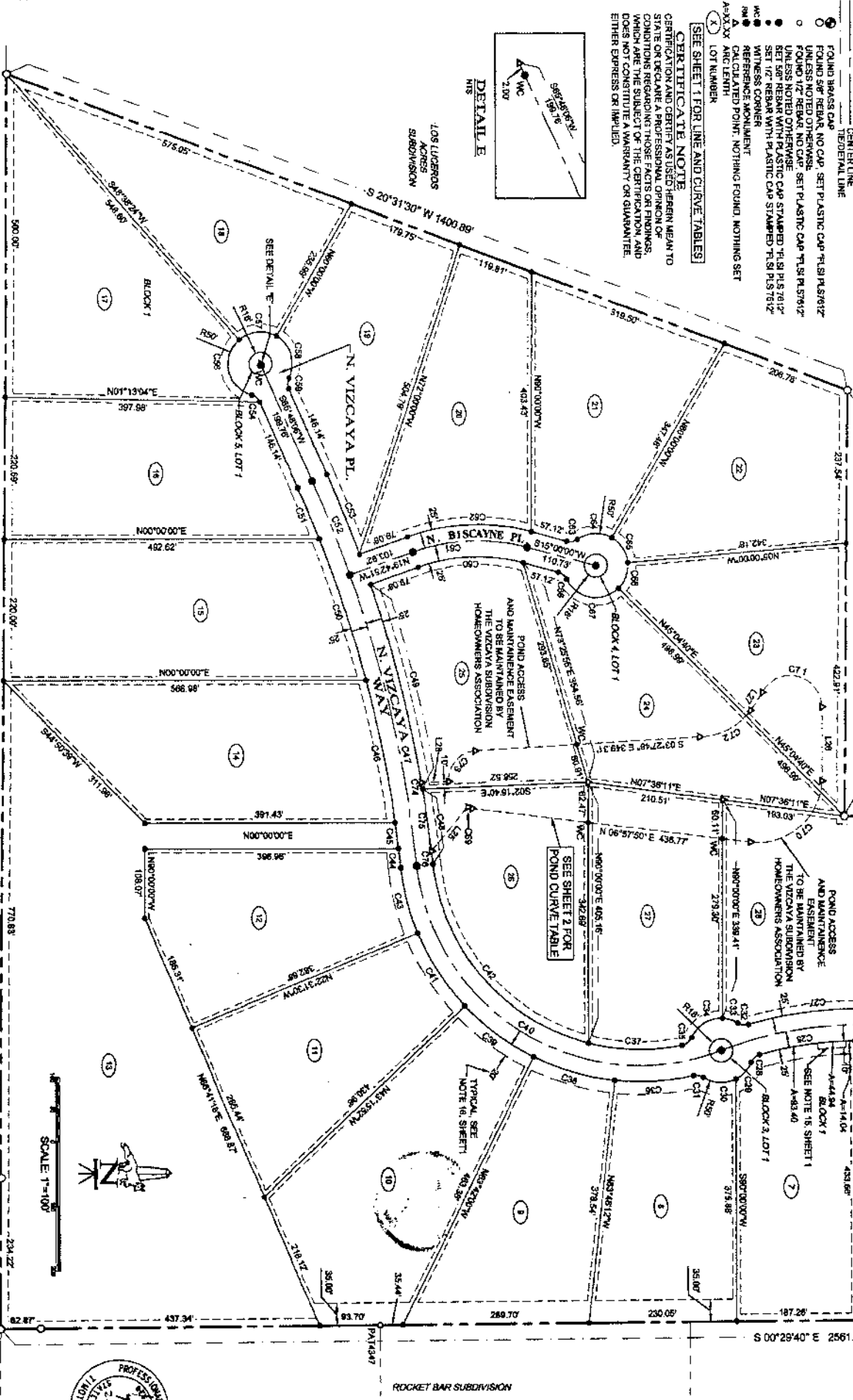


PLAT SHOWING

VIZCAYA SUBDIVISION

WITHIN A PORTION OF GOVERNMENT LOT ONE AND A PORTION OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 4 NORTH, RANGE 1 EAST, BOISE MERIDIAN, CITY OF EAGLE, ADA COUNTY, IDAHO

FOX LAND SURVEYS, INC.  
 2008  
 180.00' ±  
 100.31' ±



UPPER DRY CHECK ESTIMATES

S 89°38'13" E 1946.74'

ERICKSON CO SUBDIVISION NO. 10

FOX LAND SURVEYS, INC.  
 1516 SOUTH SHOSHONE STREET BOISE ID 83705  
 208-342-7867 - FAX 208-342-7437  
 INDEX# 411-04-1-0-0-00  
 ACAD DWG FILE 578FP

PREPARED BY

SHEET 3 OF 5

6K 100 P-13021

**CERTIFICATE OF OWNER**

KNOW ALL MEN BY THESE PRESENTS, THAT C AND C DEVELOPMENT, INC. IS THE OWNER OF THE PROPERTY DESCRIBED AS FOLLOWS

A portion of Government Lot One and a portion of the South 1/2 of the Northwest 1/4 of Section 4, Township 4 North, Range 1 East, Boise Meridian, City of Eagle, Ada County, Idaho, more particularly described as follows:

Beginning at a lower Brass Cap Monument marking the Northeast corner of Section 4, Township 4 North, Range 1 East, Boise Meridian, from which a found Brass Cap Monument marking the East 1/4 corner of said Section bears South 07°29'30" East, a distance of 2,607.78 feet;

WITHIN A PORTION OF GOVERNMENT LOT ONE AND A PORTION OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 4 NORTH, RANGE 1 EAST, BOISE MERIDIAN, CITY OF EAGLE, ADA COUNTY, IDAHO

**VIZCAYA SUBDIVISION**

PLAT SHOWING

2008

FOX LAND SURVEYS, INC.

PLAT SHOWING

VIZCAYA SUBDIVISION

PLAT SHOWING

2008

FOX LAND SURVEYS, INC.

AK 100 16-13033

thence along the easterly boundary of Los Luceros Acres Subdivision the following courses and distances:

North 20°31'30" East, a distance of 1,400.89 feet to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612";

South 69°35'26" East, a distance of 602.48 feet to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612";

North 00°19'52" West, a distance of 1,282.93 feet (formerly North, a distance of 80 rods, more or less) to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612"; making the Northern corner common to property possessed in Bargain and Rickett by Subdivision;

thence along said boundary South 89°39'22" East, a distance of 55.41 feet to its intersection with the Center line of the Farmers Union Canal South at the beginning of a non-tangent curve to the left, from which a set 5/8 inch rebar with plastic cap stamped "FLSI PLS 7612" bears South 17°19'01" West, a distance of 22.50 feet;

thence along the common boundary of said property and Subdivision, South 00°29'40" East, a distance of 36.55 feet to a set 5/8 inch rebar with plastic cap stamped "FLSI PLS 7612" on the Center line of the Farmers Union Canal, the TRUE POINT OF BEGINNING;

thence continuing along said boundary South 00°29'40" East, a distance of 2,681.18 feet to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612", making the Southern corner common to property described in Bargain and Rickett by Subdivision, and lying on the East-West Center line of Section 4;

thence along said Center line (also being the Northern boundary of Bonwood Subdivision NO. 40 and Upper Coy Creek, Estabed), North 89°38'13" West, a distance of 1,945.74 feet to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612" marking the Southwest corner of Los Luceros Acres Subdivision;

thence along the easterly boundary of Los Luceros Acres Subdivision the following courses and distances:

North 20°31'30" East, a distance of 1,400.89 feet to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612";

South 69°35'26" East, a distance of 602.48 feet to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612";

North 00°19'52" West, a distance of 1,282.93 feet (formerly North, a distance of 80 rods, more or less) to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612"; making the Northern corner common to property possessed in Bargain and Rickett by Subdivision, lying on the Northern boundary of Section 4;

thence along said boundary South 89°39'22" East, a distance of 55.41 feet to its intersection with the Center line of the Farmers Union Canal South at the beginning of a non-tangent curve to the left, from which a set 5/8 inch rebar with plastic cap stamped "FLSI PLS 7612" bears South 17°19'01" West, a distance of 22.50 feet;

thence along the common boundary of said property and Subdivision, South 00°29'40" East, a distance of 36.55 feet to a set 5/8 inch rebar with plastic cap stamped "FLSI PLS 7612" on the Center line of the Farmers Union Canal, the TRUE POINT OF BEGINNING;

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thence along said boundary South 89°39'22" East, a distance of 55.41 feet to its intersection with the Center line of the Farmers Union Canal South at the beginning of a non-tangent curve to the left, from which a set 5/8 inch rebar with plastic cap stamped "FLSI PLS 7612" bears South 17°19'01" West, a distance of 22.50 feet;

thence along the common boundary of said property and Subdivision, South 00°29'40" East, a distance of 36.55 feet to a set 5/8 inch rebar with plastic cap stamped "FLSI PLS 7612" on the Center line of the Farmers Union Canal, the TRUE POINT OF BEGINNING;

thence continuing along said boundary South 00°29'40" East, a distance of 2,681.18 feet to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612", making the Southern corner common to property described in Bargain and Rickett by Subdivision, and lying on the East-West Center line of Section 4;

thence along said Center line (also being the Northern boundary of Bonwood Subdivision NO. 40 and Upper Coy Creek, Estabed), North 89°38'13" West, a distance of 1,945.74 feet to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612" marking the Southwest corner of Los Luceros Acres Subdivision;

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thence along said Center line (also being the Northern boundary of Bonwood Subdivision NO. 40 and Upper Coy Creek, Estabed), North 89°38'13" West, a distance of 1,945.74 feet to a found 5/8 inch rebar with no cap, set plastic cap stamped "FLSI PLS 7612" marking the Southwest corner of Los Luceros Acres Subdivision;

IT IS THE INTENTION OF THE UNDERSIGNED TO HEREBY INCLUDE THE ABOVE DESCRIBED PROPERTY IN THIS PLAT AND TO DEDICATE TO THE PUBLIC FOREVER ALL PUBLIC STREETS SHOWN ON THIS PLAT. THE EASEMENTS SHOWN ON THIS PLAT ARE NOT DEDICATED TO THE PUBLIC, BUT THE RIGHT TO USE SAID EASEMENTS IS PERPETUALLY RESERVED FOR PUBLIC UTILITIES AND FOR SUCH OTHER USES AS DESIGNATED HEREON, AND PAYMENT STRUCTURES OTHER THAN FOR SUCH UTILITIES PURPOSES ARE TO BE ERRECTED WITHIN THE LIMITS OF THE EASEMENTS SHOWN HEREON EXCEPT AS NOTED ALL OF THE LOTS IN THIS PLAT WILL BE ELIGIBLE TO RECEIVE WATER SERVICE FROM THE CITY OF EAGLE AND THE CITY OF EAGLE HAS AGREED IN WRITING TO SERVE ALL OF THE LOTS IN THIS SUBDIVISION.

C AND C DEVELOPMENT, INC.  
By: *[Signature]*  
CHAD LONGSON  
PRESIDENT

**ACKNOWLEDGMENT**

State of Idaho )  
County of Adair ) ss.  
On this 24th day of July, 2008, before me, a notary public, in and for the State of Idaho, personally appeared CHAD LONGSON, known or identified to me to be the President of C and C Development, Inc. (an Idaho Corporation) and the person who executed the instrument on behalf of said Corporation, and acknowledged to me that such Corporation executed the same.

*[Signature]*  
NOTARY PUBLIC FOR IDAHO  
RESIDING AT 1700 S. 10th Street, Boise, Idaho  
MY COMMISSION EXPIRES 12/31/2011

CHAD LONGSON  
PRESIDENT

**CERTIFICATE OF SURVEYOR**

THIS IS TO CERTIFY THAT I, THOMAS J. FOX, A PROFESSIONAL LAND SURVEYOR, SUPERVISED THE SURVEY OF LAND AS DESCRIBED HEREIN AS VIZCAYA SUBDIVISION, AND THAT ON SAID LAND DESCRIBED HEREIN AS VIZCAYA SUBDIVISION, AND THAT I WAS COMPLETED IN ACCORDANCE WITH THE CURRENT LAWS OF THE STATE OF IDAHO RELATING TO PLATS AND SURVEYS AND WITH THE CURRENT EAGLE CITY SUBDIVISION ORDINANCE.

**CERTIFICATE NOTE**

CERTIFICATION AND CERTIFY AS USED HEREIN MEAN TO STATE OR DECLARE A PROFESSIONAL OPINION OF CONDITIONS REGARDING THOSE FACTS OR FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION AND NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED.

PREPARED BY  
**FOX LAND SURVEYS, INC.**  
1815 SOUTH SHOSHONE STREET BOISE, ID 83705  
208-342-7857 - FAX 208-342-7487  
INDEX# 411-04-1-0-0-00

4420 DWS FILE 5781P SHEET 4 OF 5



**PLAT SHOWING  
VIZCAYA SUBDIVISION**

WITHIN A PORTION OF GOVERNMENT LOT ONE AND A PORTION OF THE  
SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 4  
NORTH, RANGE 1 EAST, BOISE MERIDIAN, CITY OF EAGLE, ADA COUNTY, IDAHO  
2008  
FOX LAND SURVEYS, INC.

PR 100 PG 13034

**CERTIFICATE OF CITY ENGINEER**

I, THE UNDERSIGNED, CITY ENGINEER IN AND FOR CITY OF EAGLE, ADA COUNTY, IDAHO, DO HEREBY CERTIFY THAT I HAVE CHECKED THIS FINAL PLAT AND THAT THE EAGLE CITY REQUIREMENTS REGARDING FINAL PLATS HAVE BEEN MET.

EAGLE CITY ENGINEER  
*[Signature]*

DATE: 1-15-2008

**APPROVAL OF CITY COUNCIL**

I, THE UNDERSIGNED, CITY CLERK IN AND FOR THE CITY OF EAGLE, ADA COUNTY, IDAHO, DO HEREBY CERTIFY THAT AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 29 DAY OF May 2007, THIS FINAL PLAT WAS APPROVED AND ACCEPTED.

CITY CLERK  
*[Signature]*



**ADA COUNTY HIGHWAY DISTRICT COMMISSIONER'S ACCEPTANCE**

THE FOREGOING PLAT WAS ACCEPTED AND APPROVED BY THE BOARD OF ADA COUNTY HIGHWAY DISTRICT COMMISSIONERS ON THE 12th DAY OF December 2007.

ADA COUNTY HIGHWAY DISTRICT  
COMMISSIONER  
*[Signature]*



**IRRIGATION CERTIFICATE**

WE, C AND P DEVELOPMENT, INC., OWNERS OF SAID PROPERTY, DO HEREBY STATE THAT THE WATER RIGHTS APPURTENANT TO AND ASSESSMENT OBLIGATION FOR THE LANDS IN THIS PLAT HAVE NOT BEEN TRANSFERRED FROM SAID LANDS. LOTS WITHIN THIS SUBDIVISION ARE ENTITLED TO IRRIGATION WATER RIGHTS. IRRIGATION ASSESSMENTS FROM THE FARMERS UNION DITCH COMPANY SHALL BE BORNE BY THE VIZCAYA SUBDIVISION HOME OWNERS ASSOCIATION AND THE HOMEOWNERS ASSOCIATION WILL ASSESS FEES TO THE INDIVIDUAL LOTS.

C AND P DEVELOPMENT, INC.  
CINDY JOHNSON  
PRESIDENT  
DATE: \_\_\_\_\_

**HEALTH CERTIFICATE**

SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE, TITLE 50, CHAPTER 13 HAVE BEEN SATISFIED ACCORDING TO THE LETTER TO BE READ ON FILE WITH THE COUNTY RECORDER OR HIS AGENT LISTING THE CONDITIONS OF APPROVAL. SANITARY RESTRICTIONS MAY BE RE-IMPOSED, ACCORDING TO SECTION 50-1526, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL.

DISTRICT HEALTH DEPARTMENT, EHS  
DATE: 10/24/07



**CERTIFICATE OF COUNTY SURVEYOR**

I, THE UNDERSIGNED, PROFESSIONAL LAND SURVEYOR FOR ADA COUNTY, IDAHO, DO HEREBY CERTIFY THAT I HAVE CHECKED THIS PLAT AND THAT IT COMPLIES WITH THE STATE OF IDAHO CODE RELATING TO PLATS AND SURVEYS.

BY: *[Signature]* 055357

DATE: 3-6-2008



**CERTIFICATE OF COUNTY TREASURER**

I, THE UNDERSIGNED, COUNTY TREASURER IN AND FOR ADA COUNTY, IDAHO, PER THE REQUIREMENTS OF I.C. 50-1208, DO HEREBY CERTIFY THAT ANY AND ALL CURRENT AND/OR DELINQUENT COUNTY PROPERTY TAXES FOR THE PROPERTY INCLUDED IN THIS SUBDIVISION HAVE BEEN PAID IN FULL. THIS CERTIFICATION IS VALID FOR THE NEXT THIRTY (30) DAYS ONLY.

COUNTY TREASURER  
*[Signature]*

DEPUTY  
*[Signature]*

DATE: 3-7-08



**COUNTY RECORDER'S CERTIFICATE**

STATE OF IDAHO }  
COUNTY OF ADA }  
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF *[Signature]* AT 26 MINUTES PAST 10 O'CLOCK A.M. ON THIS 10 DAY OF March, 2008 IN BOOK 100 OF PLATS AT PAGES 1000 THRU 1001.

DEPUTY  
*[Signature]*

FEE: 4 26.00

OFFICE RECORDER  
*[Signature]*

**CERTIFICATE NOTE**

CERTIFICATION AND CERTIFY AS USED HEREIN MEAN TO STATE OR DECLARE A PROFESSIONAL OPINION OF CONDITIONS REGARDING THOSE FACTS OR FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION, AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED.

FOX LAND SURVEYS, INC.  
1515 SOUTH SHOSHONE STREET BOISE ID 83705  
208-342-7957 • FAX 208-342-7437  
INDEX# 411-04-1-0-0-00-00





**Master  
Declaration of Covenants, Conditions, Restrictions and Easements For  
VIZCAYA SUBDIVISION**

THIS DECLARATION is made on the date hereinafter set forth by C and C Development, an Idaho Corporation, hereinafter referred to as "Declarant".

**WHEREAS**, Declarant is the owner of the following real property in the City of Eagle, County of Ada, State of Idaho, hereinafter sometimes referred to as the "Property":

All the land within the boundaries of Vizcaya Subdivision, according to the plat thereof recorded in Book 100 of Plats at pages 13030 thru 13034, Instrument # 108027765, records of Ada County, State of Idaho.

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

WHEREAS, As additional land owned and platted by the Declarant adjacent to or in the vicinity of the Property is platted and developed for uses similar to that of the Property, upon election by the Declarant, such shall become subject to the terms of this Declaration by annexing the same as provided herein;

WHEREAS, in order to achieve the objectives and desires of the Declarant, the Declarant will control the management and government of the Property and the non-profit 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 I. DECLARATION**

Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following Covenants, Conditions, Restrictions and Easements which are established for the purpose of protecting the value and desirability of, and which shall run with and bind, the Property, and each and every part, parcel and Lot thereof, and be binding on all parties having any right, title or interest in the Property or any part, parcel or Lot thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE II. DEFINITIONS**

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

2.1 **Annexed Property** shall mean and refer to any real Property made subject to this Declaration by Supplemental Declaration pursuant to the provisions hereof for the annexation of additional parcels of real Property.

2.2 **ARC** shall mean the Architectural Review Committee for the Subdivision



2.3 **ARC Rules/ARC Standards** shall mean such rules or standards promulgated by the ARC as authorized herein.

2.4 **Association** shall mean and refer to Vizcaya Homeowners Association, Inc. a nonprofit corporation organized under the laws of the State of Idaho, or any successor or assign of the corporation.

2.5 **Assessment** shall mean a payment required of Association members, including Regular, Special or Limited Assessments as provided in this Declaration.

2.6 **Board** shall mean the duly elected and qualified Board of Directors of the Association.

2.7 **Building** shall mean 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.

2.8 **By-Laws** shall mean the By-Laws of the Association, including any amendments thereto duly adopted.

2.9 **Common Area** shall mean all property, or interest therein, located within or outside of the boundaries of the Property in which the Association owns an interest or controls or which the Association is obligated to maintain, and which is owned, held, or maintained for the betterment of the Owners and Occupants of the Property.

2.10 **Common Facilities** shall mean and refer to these physical improvements constructed by Declarant upon Common Area, or upon the utility easement over each Lot including, without limitation, all street lights, entry way lights, signs (excluding street signs), benches, walkways, pedestrian paths, irrigation water system and water features.

2.11 **Declarant** shall mean and refer to C and C Development, Inc., its successors and assigns provided that such successor or assign has acquired more than two (2) Lots and that such lots constitute the remainder of un-conveyed Lots owned by Declarant.

2.12 **Development** shall mean the project to be undertaken by the Declarant resulting in the improvement of the Subdivision or any additional property annexed hereunder, including landscaping, amenities, construction of roadways, utility services and other improvements.

2.13 **Dwelling** shall mean a Building intended for use as a single family residence.

2.14 **Exempt Property** shall mean all properties within the Project which have been dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit corporation exempt from taxation by the laws of the United States of America, all of which properties shall be exempt from assessments created herein, except that such term shall not include any land or improvements devoted to dwelling use.

2.15 **Improvements** shall mean all structures and appurtenances thereto of all kinds and types, including but not limited to, buildings, roads, driveways, parking lots, sidewalks, walkways, walls, fences, screens, landscaping, poles, signs, lighting and pools. Improvements shall not include those items that are located totally on the interior of a

Building and cannot be readily observed when outside thereof.

2.16 **Initial Construction** shall mean the first construction of permanent Improvements on a Lot following the sale of that Lot by the Declarant to an Owner, and intended for residential occupancy.

2.17 **Irrigation Water Supply System** shall mean all improvements and components of the underground pressurized system to be owned and operated by the Association, including but not limited to all pumps, pump house, pipes and any other conveying apparatus. The Irrigation Water Supply System shall also include any interest in real or personal property, including but not limited to easement and/or license rights for the installation, operation, maintenance, repair or replacement of the Irrigation Water Supply System.

2.18 **Limited Assessment** shall mean 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.

2.19 **Lot** shall mean and refer to all Lots within and shown upon any recorded subdivision map of the Property, except the Common Area, and except for streets dedicated to the public as shown upon the recorded plat map.

2.20 **Master Declaration** shall mean this instrument as it may be amended from time to time.

2.21 **Member** shall mean and refer to any person or entity who is a member of the Association as defined by the Articles and Bylaws of the Association and this Declaration.

2.22 **Mortgage** shall mean any mortgage or deed or other hypothecation of land located in 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 in the Subdivision.

2.23 **Mortgagee** shall mean the holder of a Mortgage or the beneficiary under a Deed of Trust, including an assignee(s) thereof, which Mortgage or Deed of Trust encumbers a Lot in the Subdivision owned by an Owner. Unless otherwise specifically provided, the reference to a "Mortgagee" in this Master Declaration shall be limited to a holder of a first Mortgage, including a beneficiary under a first Deed of Trust on a Lot.

2.24 **Occupant** shall mean 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.

2.25 **Owner** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

2.26 **Plat** shall mean a final subdivision plat covering any real property in the Subdivision, as recorded in the office of the County Recorder, Ada County, Idaho, as the

same may be amended by duly recorded amendments thereto.

2.27 **Project** shall mean and refer to the Property and all contemplated improvements thereto.

2.28 **Property** shall mean and refer to the real property consisting of Vizcaya Subdivision according to the official plat thereof and every part, parcel, and Lot thereof, and shall further mean and refer to such additional real property as may hereafter be made subject to this Declaration by Supplemental Declaration, pursuant to the provisions hereof for the annexation of additional parcels of real property.

2.29 **Regular Assessment** shall mean an assessment levied by the Association to provide funds to pay the ordinary estimated expenses of the Association.

2.30 **Special Assessment** shall mean a Start-up, Transfer, Re-Finance or Short Fall Assessment levied by the Association.

2.31 **Structure** shall mean anything constructed or erected, the use of which requires location on the ground or attachment, to something having a fixed location on the ground. Among other things, a structure shall include a Building and a Dwelling.

2.32 **Supplemental Declaration** shall mean the additional or different conditions, covenants, conditions, restrictions and easements relating to a particular tract or parcel of real property within the Subdivision promulgated by the Declarant and recorded in the official records of Ada County, Idaho. Unless specifically provided to the contrary, or unless the context otherwise requires, a reference to "Master Declaration" shall include "Supplemental Declaration."

2.33 **The Subdivision** shall mean the whole of the Property and any additional land annexed thereto as provided herein, including any such additional land as may be platted and annexed hereunder under a different name (also sometimes referred to herein as "Property").

2.34 **Vizcaya Homeowners Association, Inc.** shall mean the Idaho nonprofit corporation organized by the Declarant and comprised of Members and existing for the purpose of provided self-government for the Property.

2.35 **Water Rights** shall mean all water and all rights and entitlements to receive water that have been placed to beneficial use upon, or are otherwise appurtenant to or associated with the Property, including without limitation all licenses, permits, claims, permit applications, contracts and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; and all ditch rights, easements or rights-of-way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. Water Rights shall include the above-described rights to the use of water appurtenant to the Property as of the effective date of this Declaration, and all such rights hereafter acquired by the Declarant or the Association for the benefit of the Property.

Whenever the context so requires, the use of the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders.

### **ARTICLE III. PROPERTY RIGHTS**

Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area and Common Facilities, which shall be appurtenant, to and shall pass with the title to every Lot subject to the following provisions:

3.1 **Dedication:** The Association shall have the right to dedicate or transfer all or any part of the Common Area or Common Facilities to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by two-thirds (2/3) of the votes of the members of the Association.

3.2 **Delegation:** Any Owner may license or delegate his right of enjoyment of the Common Area and Common Facilities to the members of his family, his tenants, or contract purchasers who reside on the Property, subject to the provisions of this Declaration.

3.3 **Easements:** The Association shall have the right to grant easements in the Common Area for utilities and similar purposes.

3.4 **Enforcement:** The Association, the Architectural Review Committee, the Declarant, and any Lot Owner or Owners shall have the right to enforce the provisions of this Declaration as provided for in this Declaration.

3.5 **Improvements:** The Association shall have the right, in accordance with its Articles and Bylaws, to borrow money for the purpose of maintaining and improving the Common Area and Common Facilities and in support thereof to mortgage said Property, provided that the rights of such mortgagee shall at all times be subordinate to the rights of the Owners under this Declaration.

3.6 **Rules And Regulations:** The Association shall have the right from time to time to adopt Rules and Regulations regulating the use and enjoyment of the Common Area and Common Facilities including the right to limit the number of guests and charge admission and other fees for the use of any Common Facility.

3.7 **Suspension:** The Association shall have the right to suspend the voting rights and right to use the Common Area and Common Facilities of any Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

### **ARTICLE IV. RIGHTS RESERVED BY DECLARANT**

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

4.1 Itself, its employees, successors and assigns, agents, representatives, contractors and their subcontractors and employees, easements and rights-of-way on, over and across all or any part of the streets for vehicular and pedestrian ingress and egress to and from any part of the Property, or any adjacent real Property owned by Declarant, or its successors or assigns;

4.2 Itself, its employees, successors and assigns, and its agents, representatives, contractors and their subcontractors and employees (including any district, company, unit of local government, association or other entity providing water, sewer, gas, oil, electricity, telephone, cable television, or other similar services), easements, access and rights-of-way on, over, under and across all or part of the Common Area and utility easements on, over and

under all Lots and Common Area as provided on any recorded subdivision plat of the Property for installation, use, maintenance and repair of all lines, wires, pipes, pumps, water wells, facilities, and other things necessary for all such services, provided that any installation, maintenance or repair of such lines, wires or pipes shall be performed with reasonable care and that the surface of said easement area shall be restored to the level and condition that existed prior to the doing of work; and

4.3 Itself, its employees, agents, representatives, contractors and their subcontractors and employees, and its successors and assigns, the right to use the Common Area and Common Facilities, where applicable, to facilitate and complete the development of the Property, and any Annexed Property, including without limitation the use of the Common Area and Common Facilities, where applicable, for:

- A) Construction, excavation, grading, landscaping, parking and/or storage;
- B) Maintenance and operation of a sales office and model units for sales purposes;
- C) The showing to potential purchasers of any unsold Lot, unit or improvements within the Project;
- D) Display of signs to aid in the sale of any unsold Lots and units, or all or part of the Project;
- E) Construction, operation and maintenance of all or any portion of any Common Area or Common Facilities by Declarant, its successors or assigns;
- F) Use of the irrigation system for irrigation water for Common Area and expansion and connection of the irrigation system to property annexed to the Project pursuant to the provisions hereof for the annexation of additional parcels, and the use and enjoyment of water there from.

#### ARTICLE V. MAINTENANCE

5.1 **Common Area and Common Facilities:** Among its other responsibilities, the Association shall be responsible for maintenance of all Common Area and Common Facilities, and the Pressurized Irrigation System. The Association may employ the services of a manager and other personnel to carry out the management of such responsibilities. Such Common Area and Common Facilities shall be maintained in a neat, landscaped and becoming manner. Common Area within the Property hereinabove described shall include Lot 1, 13 and 34, of Block 1 of Vizcaya Subdivision, and to any Lot or parcel designated as COMMON AREA in a Supplemental Declaration subjecting additional real property to this DECLARATION, according to the plat of the Property on file in the office of the recorder of Ada County, Idaho, together with easements and rights-of-way as shown upon the recorded plat for pedestrian paths and the irrigation system constructed and to be constructed for the Project whether or not within said Common Area. Common Area and Common Facilities shall also include such other real and personal property as may be conveyed to the Association from time to time by Declarant, or designated by it as Common Area in any Supplemental Declaration.

5.2 **Private Property:** Owners of Lots shall be responsible for and perform all exterior maintenance upon such Lots and all improvements thereon. All front, side and rear yards shall be landscaped and maintained in a professional manner including, but not limited to, lawns cut, fertilized, weed and clover free, shrubs trimmed, rubbish and debris removed and otherwise maintained in a neat and aesthetically pleasing condition. No Building or Structure upon any Lot covered by this Master Declaration shall be permitted to fall into disrepair and each such Building and Structure shall at all times be kept in good condition and repair and adequately painted.

## ARTICLE VI. USE AND BUILDING RESTRICTIONS

The use of any Lot and the construction of any Improvements thereon, shall be subject to the following requirements and restrictions:

### 6.1 **Building Restrictions:**

A) No building, Structure, or Improvement shall be constructed, erected, altered or maintained on any Lot, nor shall any portion of the Property be used, designed or intended to be used for any purpose other than a single family dwelling, together with usual and appropriate structures, if any, approved by the Architectural Review Committee provided however that an office and model home or homes for the purpose of the development, construction and marketing of Lots and homes in the Property may be maintained by Declarant. In no event shall a manufactured home be erected, placed or permitted to remain on any Lot. All Buildings must comply with the applicable ordinances of the City of Eagle.

B) The occupancy of a single family dwelling shall be limited to persons related by blood, adoption or marriage, or to other persons living together as a single household, no more than two (2) of whom are unrelated to any other occupant.

C) No improvement shall be built, constructed, erected, placed or materially altered within the Property unless and until the plans, specifications and site plan therefore have been reviewed in advance and approved in writing by the Architectural Review Committee in accordance with the provisions of Article IX hereof, and comply with the applicable ordinances of the City of Eagle.

D) All buildings shall be of frame, stone, stucco or brick construction and if other than stone or brick, shall be finished, painted and maintained in good repair.

### 6.2 **Minimum Building Size and Height:**

A) No Dwelling shall be erected, altered, placed or permitted to remain on any Lot, which contains less than 3000 square feet of living area; and if the Dwelling contains more than one story, the minimum square footage of living area shall be 3900 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 garages.

B) No Dwelling shall exceed thirty-five (35) feet in height, above grade at its highest point or as required by City of Eagle whichever is less. No other Structure shall exceed twenty-two (22) feet in height, above grade to its highest point, unless the Architectural Review Committee approves the same in writing.

6.3 **Setback:** Subject to the requirements of the applicable ordinances of the City of Eagle and the rights of the Architectural Review Committee to approve the site plan for any Building to be constructed upon a Lot:

A) All Dwellings shall be subject to the setbacks set forth in the Architectural Review Guidelines. Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the governmental entities having jurisdiction over the Property require setbacks different than those provided herein, the more restrictive shall prevail.

B) All other structures shall be subject to such setbacks as may be required by the Architectural Review Committee. Notwithstanding the provisions herein regarding setbacks, if the applicable ordinances of the governmental entities having jurisdiction over the Property require setbacks different than those provided herein, the more restrictive shall prevail.

C) For the purpose of this section, eaves, steps, chimneys and gutters shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any eaves, steps, chimneys or gutters or any portion of the Dwelling to encroach upon any other Lot. Open porches shall not be considered as a part of the Dwelling for purposes of this section, but any open porch shall, prior to construction, require the approval of the Architectural Review Committee.

6.4 **Building Site Subdivision:** A building site shall consist of at least one (1) Lot, or a parcel composed of more than one Lot. No Lot shall be further subdivided after the initial transfer thereof by Declarant. No parcel composed of more than one (1) Lot conveyed for the purpose of constructing a single family dwelling thereon, shall be subdivided or conveyed other than as a single indivisible parcel unless title thereto reverts to Declarant.

6.5 **Fences, Hedges & Walls:** No fences, hedges or walls shall be constructed, erected, installed or maintained on any Lot unless specifically approved by the Architectural Review Committee in writing, in advance of construction, as to location, material, design and color. All fences, hedges and walls must comply with the applicable ordinances of the City of Eagle or as required by the Architectural Review Committee whichever is more restrictive. Fencing specifications and location must be submitted for ARC written approval.

6.6 **Construction:** During the course of construction no trailer houses or similar mobile units designed for overnight accommodations shall be parked on any street. No trailer, basement, tent, shack, garage, barn or other unattached structure erected on a Lot shall not at any time be used as a residence, temporarily or permanently nor shall any residence of a temporary character be permitted. No building of any kind shall be erected or maintained on a Lot prior to the construction of the dwelling thereon. A temporary sales office of a portable nature may be placed upon any Lot by Declarant or its authorized agents, to facilitate Lot sales. The construction of Improvements shall be prosecuted diligently and continuously from the time of commencement thereof until such Improvements are fully completed and painted. The construction site shall be cleaned of trash and debris nightly and maintained in a non-nuisance condition.

6.7 **Mining and Drilling:** No derrick or other structure designed for use in boring or drilling for oil, natural gas or other products shall be erected, placed, permitted or maintained upon any portion of the Property, nor shall any oil, natural gas, petroleum, asphalt or other hydrocarbon product or substance be produced or extracted by or from any

well upon, in or under said Property. No oil drilling, oil development operations, oil refining, mining, quarrying or other mineral excavation or similar activity shall be permitted on or under any part of the Property, nor shall oil wells, tanks, tunnels, mineral excavations, shafts or drifts be permitted upon or in any Lot. No excavation for stone, sand, gravel, earth or minerals shall be made upon a Lot, unless and only to the extent, such excavation is necessary in connection with the construction of an approved Structure thereon.

6.8 **Animals;** In addition to a total of two (2) dogs and two (2) cats, an Owner may keep and maintain a total of two (2) llamas or horses (or one of each) for an Owner's personal use, provided that:

A) Such animals are not bred or maintained for any commercial purpose.

B) Any such animals shall be properly restrained and controlled at any time they are within the Property. When such animals are off an Owner's property, each animal shall be accompanied by the Owner or other responsible person and must be on a leash or other appropriate tether, and the Owner or custodian of the animal shall be responsible for the immediate cleanup of the animal's droppings. It shall be the obligation of an Owner to control their animals in accordance with the Rules and Regulations from time to time adopted by the Association.

C) Each Owner shall also be responsible for any damage caused by any such animal.

D) Any kennel for animals on any Lot must be approved by the Architectural Review Committee prior to installation and shall be; 1) screened from view in a location and of construction approved by the Architectural Review Committee; 2) located and maintained in a manner to avoid any endangerment of or nuisance to adjacent Lot Owners; and 3) maintained in a clean, odor free and insect free manner.

E) Notwithstanding the foregoing, animals shall not be kept which unreasonably bother or constitute a nuisance to other Owners. Violations of this provision may be reported to the proper authorities. All issues with regard to animals must be reported to Ada County Animal Control. The Association will not be responsible for policing the activity of animals.

6.9 **Pasture and Corral Areas:** Areas used for pasturing and corralling of animals shall be maintained in a good and odor free condition and free of weeds, uncontrolled vegetation growth and refuse. Except for one thousand five hundred (1500) square foot corral, all pasture areas shall be maintained with good vegetative cover. The location of all pasture and corral areas on any Lot shall be approved in writing by the ARC.

6.10 **Landscaping:** Prior to the completion of construction of the dwelling upon any Lot, the Owner shall submit a landscaping plan to the Architectural Review Committee for written approval. The owner shall landscape such Lot in conformance with the landscape plan approved by the Architectural Review Committee. All front yard and side yard landscaping on corner lots must be completed prior to occupancy and, if a spec house, within ten (10) days of completion of the residence. Completion of the residence shall mean a state of completion sufficient to obtain an occupancy permit. All other landscaping to be completed within 30 days of occupancy. If placement and planting of landscaping is made impractical by inclement weather, the completion of landscaping may be deferred a reasonable period of time in the discretion of the Architectural Review Committee but shall



be completed no later than the next April 30<sup>th</sup>. Architectural review deposit will not be released until all landscaping is complete. Prior to construction of Improvements, the Owner shall remove weeds and maintain the Lot in a clean and safe condition free of debris or any hazardous condition. The landscaping plan must comply with the applicable ordinances of the City of Eagle.

6.11 **Care of Landscaping:** No tree, shrub or other planting of any kind shall be allowed to overhang or otherwise to encroach upon any sidewalk or other pedestrian way, from ground level to a height of ten (10) feet. The yards and ground in connection with all improved properties shall be maintained in a neat and sightly condition and in an appearance not out of keeping with that of typical improved properties in the tract.

6.12 **Unsightly Structures, Property or Practices:** No unsightliness shall be permitted on any Lot. Without limiting the generality of the foregoing, the following specific restrictions shall apply:

A) All unsightly facilities, equipment or structures shall be enclosed within approved structures or appropriately screened from view.

B) Basketball backboards or posts shall not be installed without prior approval of the Architectural Review Committee as to materials and positioning. At a minimum, backboards shall be constructed of Plexiglas or acrylic materials and shall be supported by metal posts. Backboards must be perpendicular to and adjacent to the driveway or to the side of the house. Portable basketball stands must have a backboard constructed of Plexiglas or acrylic materials and must not be put on public or Association owned sidewalks and/or street and must be kept in an upright position.

C) All refuse, garbage and trash shall be kept at all times in covered reasonably noiseless containers, which shall be kept and maintained within an enclosed structure or appropriately screened from view except when necessarily placed for pick up by garbage removal service not to exceed 18 hours in any one week period (Monday through Sunday).

D) Storage piles and compost piles shall be screened from view in a location and of construction approved by the Architectural Review Committee; and located and maintained in a manner to avoid any endangerment of or nuisance to adjacent Lot Owners. No lumber, grass, shrubs or tree clippings or scrap, refuse, trash or other materials shall be kept, stored or allowed to accumulate on any Lot.

6.13 **Material Storage and Maintenance of Vacant Lots:** No building materials of any kind shall be placed or stored upon a Lot until the Owner is ready and able to commence construction and then such material shall be placed within the property lines of the Lot upon which the Structure is to be erected. All vacant lots shall be maintained by Owner in a weed free manner at all times.

6.14 **Noxious Use of Property:** All Lots shall be used for single family residential purposes and such uses as are customarily incidental thereto. No Lot shall be used at any time for commercial or business purposes except for such commercial or business purposes as shall be conducted and maintained solely within a residential Dwelling Unit provided that no signs relating to said commercial or business activities shall be displayed where visible from any public or private road within the subdivision; and further provided that such business does not employ any person not living within the Dwelling Unit constructed on the

said Lot. Notwithstanding the foregoing, the Declarant, or persons authorized by the Declarant, may use a Lot or Lots for development and sales activities relating to the subdivision, including but not limited to use of Lots for model homes or a real estate marketing and sales office. The restrictions set forth herein shall be interpreted and construed in accordance with state and federal law and shall not be enforced against any business, entity or person on the basis of race, color, religion, sex, handicap, familial status, or national origin.

6.15 **Boats, Campers and Other Vehicles:** Trailers, travel trailers, pick-up trucks larger than one (1) ton, boats, tractors, campers, utility trailers, recreation vehicles including, but not limited to, all-terrain vehicles, motorcycles, jet skies, snowmobiles, garden or maintenance equipment and vehicles other than automobiles, shall be kept at all times in an enclosed structure or screened from public view and at no time shall any of said vehicles or equipment be parked or stored on a public or private right-of-way within the Property. "Screened from public view" is defined as being inside a structure such as an outbuilding or garage. The primary purpose of the garage required on each Lot is for the parking and storage of automobiles and other vehicles (hereinafter "automobiles"). No other use of a garage that prohibits or limits the use of a garage for the parking or storage of the number of automobiles for which it is designed shall be permitted. No inoperative vehicle shall be parked or stored at any time within the Property. No automobiles shall be parked with "For Sale" sign except for those driven on a daily basis.

A) The use of all vehicles, including but not limited to automobiles, trucks, motorcycles and all-terrain vehicles shall not be used in a Common Area or easement within the project except for the expressed purpose of maintenance for said Common Area or easements.

B) Notwithstanding the foregoing, boats, trailers, campers, motor homes or similar recreational vehicles (excluding trailers for snow mobiles, motorcycles, etc.) may be parked on a Lot in the driveway for a period not to exceed 24 hours in duration, nor more than 48 hours in any seven (7) day period, while in immediate use by an Owner, being prepared for use, or being prepared for storage after use. The intent is to allow the homeowner to load and/or unload vehicles after use and not for storage of vehicle or use as living quarters.

6.16 **Exterior Antennas:** No exterior radio antennae, television antennae, satellite dish antennae or any other antennae of any type shall be erected or maintained on the Property until the specification and location is submitted and approved in writing by the Architectural Review Committee.

6.17 **Signage:** Not more than one (1) realtor sign, one (1) marketing sign and one (1) Builder sign shall be allowed on any Lot at any one time advertising the property for sale or rent or to advertise the property during the course of construction. No sign of any kind shall be displayed to the public view more than six (6) square feet in size. In addition, signs may also be allowed as follows:

A) The Association may erect and maintain uniform subdivision identification signs, street signs and other appropriate informational signs upon the Common Area and Common Facilities or upon utility easements of a size and design approved by the Architectural Review Committee. No other signs shall be placed or maintained upon any of the Common Area.

B) Declarant is entitled to place signs of such size, design and number as Declarant may deem appropriate, to identify the project and display related information pertaining thereto, and to advertise Lots for sale, on any portion of the Property.

6.18 **Rentals:** No "For Rent" signs shall not be permitted on any Lot (next or in) at any time.

6.19 **Exterior Lighting:** No exterior lighting shall be installed or maintained on any Lot or structure thereon, which interferes with the use and enjoyment of adjacent Lots without prior written approval of the Architectural Review Committee. All exterior lighting shall be in compliance with the applicable ordinances of the City of Eagle.

6.20 **Mail Boxes:** Each Lot shall have a uniform mailbox and support structure furnished by Declarant, reimbursed at closing by the homeowner per the Architectural Review Guidelines; installed by Builder and thereafter maintained in good repair and replaced as needed by Owner. The replacement mailbox and/or post must be the same type and material as the original.

6.21 **Sewage Disposal:** No septic tank or other individual sewage disposal system shall be constructed or installed on any Lot.

6.22 **Drainage:** Irrigation drain or wastewater may be transmitted only by the irrigation and drainage systems installed by Declarant and operated and maintained by the Association. Irrigation or wastewater shall not be permitted to flow in open ditches to or on any Lot.

6.23 **Window Coverings:** Windows shall be covered only by drapes, shades or shutters and shall not be painted or covered by foil, cardboard, sheets or similar materials.

6.24 **Clotheslines:** Exterior clotheslines or other outside clothes drying or airing facility shall be screened from view in a location and of construction approved by the Architectural Review Committee.

6.25 **Major Appliances:** No major appliances, including without limitation clothes washers, clothes dryers, refrigerators or freezers may be kept, stored or operated on any balcony, patio, porch or other exterior area of any structure or improvement. No window air condition units to be installed at any time.

## ARTICLE VII. HOMEOWNER'S ASSOCIATION

7.1 **Formation:** It is contemplated that simultaneously with the execution and recordation of the Declaration, the Association will be incorporated and will adopt Bylaws (the "Bylaws") for its governance. To the extent the Articles of Incorporation or Bylaws of the Association may conflict with the provisions of this Master Declaration, the provisions of this Master Declaration shall control.

7.2 **Membership:** Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the corporation. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

7.3 **Voting:** The Association shall have two (2) classes of voting membership; however, all votes shall be equal and counted as such, except where voting by separate classes may otherwise be provided in the Articles and Bylaws of the Association or this Master Declaration.

A) Class A Members shall be Owners with the exception of the Declarant (during the period when the Declarant is a Class B Member). Each Class A Member shall be entitled to one (1) vote for each Lot owned. When more than one (1) person is an Owner of a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

B) The sole Class B Member shall be the Declarant, who shall be entitled to twenty (20) votes for each Lot owned. Class B membership shall cease and be converted automatically to Class A membership (one (1) Class A membership for each Lot owned) on the earlier of:

1) When all the Lots have been sold to Owners other than Declarant;

Or

2) On January 15, 2028.

#### **ARTICLE VIII. COVENANT AND LIEN FOR ASSESSMENTS**

The Declarant, for each Lot within the Property, hereby covenants and creates a claim of lien, with power of sale, to secure payment to the Association of any and all assessments levied hereunder. Each Owner, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, for each Lot owned, to pay to the Association (a) Regular Assessments, and (b) Special Assessments, and (c) Limited Assessments, such assessments to be established and collected as hereinafter provided. Notwithstanding any other provision in this Master Declaration to the contrary, exempt Property shall not be subject to the assessment provided for herein unless a Dwelling is constructed thereon.

##### **8.1 Regular Assessment:**

A) Regular Assessments shall be assessed on a calendar year basis unless otherwise determined by the Board. The Regular Assessments shall be based upon advance estimates of annual cash requirements as determined by the Board for the maintenance and operation of the Common Areas and all easements areas, if any, controlled by the Association, 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 grounds, 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).

B) The Board will compute the amount of the initial Regular Assessment beginning the first day of the month in which the first sale of a Lot, occurs (Initiation Date). Thereafter, the computation of Regular Assessments shall take place not less than thirty (30) days nor more than sixty (60) days before the beginning of each fiscal year of the Association. The computation of the Regular Assessment for the period from the Initiation Date until the beginning of the next fiscal year shall be reduced by an amount which fairly reflects the fact that such period was less than one (1) year.

8.2 **Special Assessment:** 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) **Short Fall Assessment:** In the event that the Board shall determine that its respective Regular Assessment for a given calendar year is or will be inadequate to meet the expenses of the Association for any reason, including but not limited to, costs of any construction, reconstruction, unexpected repairs or replacement of capital improvements upon the Common Area or any 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); attorney fees and/or litigation costs or other professional fees; any other expenses incurred or to be incurred as provided for in the Master Declaration; or for any other reason, the Board shall determine the approximate amount necessary to defray such expense and levy a Special Assessment. No Special Assessment shall be levied which exceeds twenty percent (20%) of the budgeted gross expenses of the Association for that fiscal year, without the approval of a majority of the Members of the Association, who are voting in person or by proxy at a meeting duly called for this purpose. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid.

B) **Transfer and Refinance Special Assessment:** Upon each transfer and/or refinance of any Lot or residence in the subdivision, each Buyer and/or Owner shall pay the Association a special transfer assessment of one hundred fifty dollars (\$250.00), which shall be used for general Association purposes.

8.3 **Limited Assessments:** The Association may levy Limited Assessments in the following circumstances:

A) **Maintenance and Repair:** The Association shall have the power to incur expenses for maintenance and repair of any Lot or any Improvement on a Lot, if such maintenance and repair is necessary, in the opinion of the board, to protect the Common Area or any other portion of the Property and if the Owner of said Lot has failed or refused to perform said maintenance or repair after written notice of the necessity thereof has been delivered by the Board to said Owner in accordance with the procedures set forth in Paragraph C below. The Board shall levy a Limited Assessment against the Owner to reimburse the Association for the cost of such maintenance and repair, together with any other cost or expense, including management fees and attorney fees, arising out of or incident to such maintenance and repair or the collection of the Assessment therefore.

B) **Correction of Violation:** In addition to maintenance and repair, the Board, upon certification from the ARC of the failure or refusal of an Owner to

correct a violation of this Master Declaration or the ARC Rules/ARC Standards, 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, management fees and attorneys' fees shall be assessed and collected as set forth in Article 9.3 D of this Master Declaration.

C) **Notice:** The Owner of the Lot which is in need of maintenance and repair or corrective action as set forth above, shall be given seven (7) days written notice of the maintenance and repair or corrective action required. The notice shall be delivered personally to such Owner or sent *via* first class mail or certified mail to the last known address of such Owner shown on the records of the Association.

D) **Collection Costs:** Each Owner against whom a Limited Assessment is levied agrees to and shall pay all the costs of said corrective action, plus interest on all expended funds, from the date of expenditure at the rate of two percent (2%) per month plus a management fee equal to ten percent (10%) of all the costs expended for the corrective action and all attorney fees incurred, which such amounts shall be added to and become a part of the Limited Assessment against that Lot, and Owner and shall create a lien enforceable in the same manner as other Assessments set forth in this Declaration. If such an Assessment is not paid within the (10) days of notice of the Limited Assessment, the Owner shall also be subject to late fees and collection procedures set out herein.

8.4 **Personal Obligation:** Each such assessment, together with interest thereon at the legal rate, reasonable collection costs incurred by the Association for collection proceedings by a management company for the Association and reasonable attorney fees shall also be the personal obligation of the Owner of such property at the time when the assessment falls due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them, and in any event shall not relieve the Owner of his personal responsibility therefore, but unpaid Assessments shall constitute a continuing lien against the Lot until paid.

8.5 **Collection of Assessments:** Any Assessment not paid within thirty (30) days after the due date shall be assessed an additional late charge of \$25.00 per each week (or portion thereof). The payment is late, plus interest from the due date at the rate of two percent (2%) per month or twenty-four percent (24%) per annum, or at such other rate as may be established annually by the Board. Each Assessment, when levied, shall automatically constitute a lien on and against the Lot to which the Assessment pertains, without any requirement of filing any documentation of such lien. The Association may nonetheless file an affidavit of Lien evidencing such lien at any time after the due date of the Assessment.

A) The Association may, from time to time, retain the services of a professional organization, bank, credit bureau, attorney, accountant, or such other disinterested party or entity for the purpose of giving notice and collecting the Regular, Limited or Special Assessments.

B) The Association may:

1) Bring an action at law against the Owner personally for the Assessment, late fee and interest due, and the costs of action;  
or

- 2) Foreclose the lien against the Lot in the same manner as provided by law as to statutory material men's liens; or
- 3) Use the enforcement procedures of the Bylaws, if any.

C) In the event of enforced collection of an Assessment, the costs of collection including management and processing fees as well as reasonable attorney fees shall be added to the amount of the Assessment for collection.

D) No Owner may waive or otherwise escape liability for the Assessments provided for herein by failure to use the Common Area or the Common Facilities or by the abandonment of his Lot.

8.6 **Subordination of Liens to Mortgages:** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. The sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to foreclosure of a mortgage, or deed of trust, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such foreclosure shall not affect the personal liability of the Owner for such Assessments. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due or from the lien thereof.

8.7 **Rights of Mortgagees:** Mortgagees shall not be required to collect Assessments on behalf of the Association. The Owner's failure to pay Assessments due to the Association shall not constitute a default under any mortgage affecting the Owner's Lot.

8.8 **Certificate:** Upon written request by an Owner, and for a reasonable charge, the Association shall provide a certificate signed by an officer or representative of the Association setting forth whether the Assessments on a specified Lot have been paid.

#### ARTICLE IX. ARCHITECTURAL REVIEW

9.1 **Creation of Architectural Review Committee:** In order to protect the quality and value of the homes built on the Property and for the continued protection of the Owners thereof, an Architectural Review Committee is hereby established consisting of three (3) or more members to be appointed by Declarant. As long as the Declarant owns any Lot or parcel within or adjacent to the Property the Declarant shall have the sole right to appoint and remove all members of the Architectural Review Committee. Thereafter, the members of the Architectural Review Committee shall be appointed or removed by the Board.

9.2 **Approvals Required:** No building, fence, wall, pool, patio cover, window awning or other structure or landscaping improvements of any type shall be commenced, erected or maintained upon any Lot or Common Area, nor shall any exterior addition to or change or alteration of existing improvements be made, until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location of the same and such other detail as the Architectural Review Committee may require (including but not limited to any electrical, heating or cooling systems) shall have been submitted to and approved in writing by the Architectural Review Committee as to harmony of external design and location in relation to surrounding structures and topography and as to conformity with the requirements of this Master Declaration. In the event the Architectural Review Committee fails to approve, disapprove or specify the deficiency in such plans, specifications

and location within thirty (30) days after submission to the Architectural Review Committee in such form as it may require, approval will not be required, and this Article will be deemed to have been fully complied with.

9.3 **Rules and Regulations:** The Architectural Review Committee is hereby authorized to adopt rules to govern its procedures including such rules as the Committee deems appropriate and in keeping with the spirit of due process of law with regard to the right of concerned parties to be heard on any matter before the Committee. The Committee is further hereby empowered to adopt such regulations as it shall deem appropriate consistent with the provisions of this Master Declaration with regard to matters requiring the Architectural Review Committee's approval including matters of design, materials, and aesthetic interest.

9.4 **Fees:** The Architectural Review Committee may establish by its adopted rules, a fee schedule for an architectural review fee to be paid by each Owner submitting plans and specifications to the Committee for approval. No submission for approval will be considered complete until such fee has been paid. Such fee shall not exceed such reasonable amount as may be required to reimburse the Architectural Review Committee for the costs of professional review of submittals and the services of a consultant to administer the matter to its completion including inspections which may be required.

9.5 **Waiver:** The approval of any plans, drawings or specifications for any plans, improvements or construction, or for any matter requiring the approval of the Architectural Review Committee, shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications or matter subsequently submitted for approval.

9.6 **Variances:** Architectural Review Committee shall have the ability to grant variances in regard to specific cases.

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

9.8 **Review of Exterior Appearance, Walls, Etc.:** The visual harmony and aesthetic appeal of the Project being of mutual concern to all Owners and having a direct bearing on the value of Lots and Improvements thereon, the Architectural Review Committee shall, without limiting the generality of the foregoing sections, have the right to review the texture, design and color scheme of the outside walls, fences, screening devices, roofs, patio roofs, and covers of all Structures erected upon any Lot and to require basic landscaping and maintenance thereof. The Owner shall not repaint the outside walls or fences without the prior approval of the Architectural Review Committee as to color. All open porches and patio roofs shall require the prior approval of the Architectural Review Committee.

## ARTICLE X. ENFORCEMENT

10.1 **Authority to Enforce:** The provisions of this Master Declaration may be enforced by any of the following persons or entities under the procedure outlined herein:



- A) The Board as to all matters;
- B) The Declarant so long as it has any retained ownership of any of the Property; and
- C) The Owner or Owners of any Lot adversely affected, but only after written demand is made on the Association and its failure to act, except that no such Owner shall have the right to enforce independently of the Association any assessment or lien herein.

10.2 **Methods of Enforcement:** Subject to the provisions of Paragraph 11.3 hereof, the following methods of enforcement may be utilized:

A) Legal or equitable action for damages, injunction, abatement, specific performance, foreclosure, rescission, cancellation of any contracts of an executory nature, or such other remedies at law and equity which may be available in a court of law.

B) Eviction for trespass by police action;

C) The Association through its agents shall have the authority to take appropriate corrective action against the Owner of any Lot pursuant to Section 9.3. above.

D) Monetary penalties and temporary suspension from Association membership rights and privileges including, without limitation, curtailment of water from the irrigation system provided that except for late charges, interest, and other penalties for failure to pay as due Assessments levied by the Association as provided in this Master Declaration, no such discipline or sanction shall be effective against a Member unless:

1) The Member is given seven (7) days written notice of the proposed discipline or sanction and a timely opportunity to be heard on the matter. The opportunity to be heard may, at the election of such Member, be oral or in writing. The notice shall be given personally to such Member or sent by first-class or certified mail to the last address of such Member as shown on the records of the Association and shall state the place, date and time of a hearing to be held on the matter, which shall not be less than five (5) days before the effective date of the proposed discipline or sanction.

2) The hearing shall be conducted by the Board or a committee composed of not less than three (3) persons, appointed by the Board, which shall conduct the hearing in good faith and in a fair and reasonable manner and shall not reach a decision regarding appropriate discipline or sanction until the conclusion of the hearing.

3) Any Member challenging the discipline or sanction imposed by the Board, including any claim alleging defective notice, must commence court action within thirty (30) days after the date of the contested discipline or sanction imposed by the Board.

4) A monetary penalty imposed by the Association as a

compliance measure for failure of a Member to comply with the provisions of this Declaration or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to the Common Area, or Common Facilities, for which the Member was allegedly responsible, or in bringing the Member and his Lot into compliance with this Declaration, may be treated as a Limited Assessment which may become a lien against the Member's Lot, enforceable by a sale of the interest. This provision does not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent Assessments and for charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorney's fees) in its efforts to collect delinquent Assessments.

10.3 **Limitations on Enforcement:** The Association may not cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of his individually owned interest, other than the right to receive water from the irrigation system, on account of the failure of the Owner to comply with provisions of this Master Declaration except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure for failure of the Owner to pay Regular, Special or Limited Assessments duly levied by the Association.

10.4 **Fees and Costs:** The Association, or any person entitled to enforce any of the terms hereof, by any of the means contained herein, who obtains a judgment or decree from any court or arbitrator enforcing any of the provisions hereof, shall be entitled to reasonable attorney's fees and all costs incurred or anticipated to be incurred in remedying or abating the offensive condition as a part of his or its judgment or decree against the party in violation hereof.

10.5 **Failure to Enforce:** Neither the Association nor the Architectural Review Committee shall be liable to any person for failure to enforce any of the terms hereof, for personal injury, loss of life, damage to property, economic detriment or for any other loss caused either by their enforcement or non-enforcement. The failure to enforce any of such matters, including any covenants contained in this Declaration, shall not be deemed a waiver of the right to subsequently do so.

## ARTICLE XI. ANNEXATION

11.1 **Procedure:** Any additional land may be annexed by Declarant without the consent of Members within twenty (20) years of the date of this instrument. Amendment of the Master Declaration to include such Annexed Property, and to subject such Annexed Property to the rights, privileges, restrictions, covenants and easements herein provided shall be made by the execution and recordation by Declarant of a Supplemental Declaration, which shall describe the Annexed Property and any supplemental covenants, conditions and restrictions applicable thereto, and shall describe the Common Area and Common Facilities thereof. Upon the recordation of the Supplemental Declaration, the Annexed Property described therein, shall be subject to the terms and provisions of this Master Declaration as though included originally in this Master Declaration, and the definitions of Property, Common Area and Common Facilities shall automatically be amended to conform to such supplement or supplements, as shall all the other definitions herein, including the definitions of Lot and Owner. All Owners of Lots located within the Annexed Project shall be subject to all easements, restrictions and reservations set fourth in this Master Declaration and shall have the privileges of use of Common Area and Common Facilities, except as otherwise provided herein, and subject to the restrictions and reservations set forth in the Master Declaration as

amended and supplemented from time to time.

11.2 **Designation of Common Areas:** Any Common Area and Common Facilities designated by Declarant as such on the Plat of the Annexed Property or in the Supplemental Declaration or conveyed to the Association by Declarant shall be subject to the same easements and other rights for the use and enjoyment of the Owners as for the other Owners of Lots subject to this Master Declaration.

## ARTICLE XII. IRRIGATION WATER SYSTEM/PUMPHOUSE

12.1 **Irrigation Water Supply System:** All Lots and Common Area to which delivery of irrigation water is feasible in the Declarant's discretion, shall have access to a pressurized irrigation water system ("Irrigation Water Supply System") to be constructed by Declarant and owned and operated by the Association for the benefit of the Association, Declarant and lot Owners, in accordance with the following provisions:

A) Use of the water delivered through the Irrigation Water Supply System shall be subject to such rules and regulations of the Association as may from time to time be adopted by the Association. The Association shall regulate the use of water to conserve its availability for Lots and for the Common Area and may, in conjunction with the appropriate irrigation authority, establish a water rotation for the Common Area and each Lot. The irrigation water supplied through the Irrigation Water Supply System is subject to variability and availability from year to year, and generally only from approximately mid-April through mid-October of each year.

B) The Association may contract with a qualified operation and maintenance company or persons to manage the Irrigation water Supply System for the Association.

C) The Association shall be responsible for the maintenance and repair of the Irrigation Water Supply System up to the stub provided for each Lot. Each Owner shall be responsible for the costs incurred in installing, operating, maintaining, repairing or replacing any component of the sprinkler irrigation system located on a Lot from and beyond the said stub.

D) Water from the Irrigation Water Supply System is non-potable and may contain weed seed, herbicides, pesticides or other contaminants over which the Declarant, the Association and the applicable irrigation entity have no control. Each Owner shall be responsible to insure the irrigation water used on his Lot is not consumed by any person or used for culinary purposes.

E) Any Owner desiring to connect an alternate source of irrigation water to the irrigation system on his Lot shall be responsible for the cost thereof (both for the connection and the water) and, if allowed by the water provided or any other governmental agency, have a backflow prevention device installed to prevent the alternate source from being contaminated with non-potable irrigation water, in accordance with applicable law and this Master Declaration.

12.2 **Easement:** Declarant reserves to itself, its agents, contractors, subcontractors and employees, successors and assigns, all water and water rights over, upon or under or appurtenant to the Property or any portion thereof, and a nonexclusive easement as depicted on the final plat, inside the boundary of each Lot and the Common Area adjacent

to the right-of-way for construction of a pressurized pipe irrigation system to be conveyed to and operated by the Association. Adequate surface water for irrigation sufficient to each phase of development of the Property will be conveyed to the Association as each Plat is recorded.

### ARTICLE XIII. INSURANCE AND BONDS

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

A) A multi-peril-type policy covering any Common Area and Common Facilities providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost).

B) A comprehensive policy of public liability insurance covering all of the Common Areas and Common Facilities. If available, such insurance policy shall contain a severability of interest endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use. If the Property contains more than one hundred (100) Dwellings, coverage shall be for at least \$1,000,000 per occurrence, for personal injury and/or property damage.

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

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

A) Liability insurance affording coverage for the acts, errors and omissions of its directors and officers, including members of the Architectural Review Committee and other committees, as may be appointed from time to time by the Board in such amount as may be reasonable on the premises.

B) The Association may obtain bonds and insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the protection of the properties, including any personal property of the Association located thereon, its directors, officers, agents, employees and association funds.

13.3 **Additional Provisions:** The following additional provisions shall apply with respect to insurance:

A) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgages.

B) Each policy of insurance obtained by the Association shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, its officers, the Owners and their respective servants, agents and guests: that it cannot be canceled, suspended or invalidated due to the conduct of any agent, officer or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

C) All policies shall be written by a company licensed to write insurance in the State of Idaho and all hazard insurance policies shall be written by a hazard insurance carrier holding financial rating by Best's Insurance Reports of Class VI or better.

D) Notwithstanding anything herein contained to the contrary, insurance coverage must be in such amounts and meet other requirements of any state or federal regulatory agency having jurisdiction thereof.

#### ARTICLE XIV. GENERAL PROVISIONS

14.1 **Severability:** Invalidation of any of these provisions of these covenants or restrictions by judgment or court order shall not affect any other provision hereof, which shall remain in full force and effect.

14.2 **Amendment:** The easements, covenants, conditions, and restrictions of this Master Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Master Declaration, other than the provisions of Articles IV and XI and Sections 7.2 and 9.1 hereof, may be amended during the first twenty (20) year period by a document signed and acknowledged by Owners representing not less than seventy percent (70%) of the votes of membership in the Association. Any amendment to Articles IV and XI and Sections 7.2 and 9.1 shall, until the last Lot in the Project is sold by Declarant, require in addition to a document signed and acknowledged by the requisite membership, written consent of Declarant its successors or assigns. No amendment to the Declaration shall be effective until recorded.

14.3 **Conveyance of Common Area:** The Common Area and Common Facilities in each phase of development of the Project shall be conveyed to the Association by Declarant, free and clear of all encumbrances, prior to the first mortgage in that phase being insured by HUD.

IN WITNESS WHEREOF, THE undersigned DECLARANT executes this DECLARATION this 5 day of March, 2008.

C and C Development Inc.  
An Idaho Corporation

By *[Signature]*  
McCord Christensen

Attest:

\_\_\_\_\_  
Member

STATE OF IDAHO)

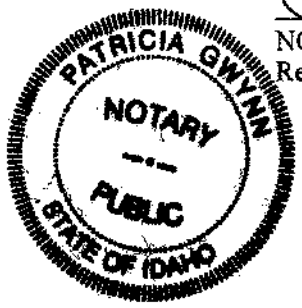
County of Ada ) :ss.

On this 7<sup>th</sup> day of March, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared McCord Christensen, known or identified to me to be the owner of C and C Development, Inc. who executed the 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 seal the day and year in this certificate first above written.

*Patricia Gwyn*  
NOTARY PUBLIC FOR IDAHO

Residing at Tampa, Id  
My Commission Expires: 03/06/2012





**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:  
VISCAYA HOMEOWNER'S ASSOCIATION, INC.  
c/o Development Service Inc.  
9601 W. State Street #203  
Boise, Idaho 83714**

**AMENDMENT #1 TO DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
VIZCAYA SUBDIVISION**

THIS AMENDMENT IS EXECUTED PURSUANT TO ARTICLE 14, Section 14.2 of  
the Declaration of Covenants, Conditions and Restrictions for VIZCAYA SUBDIVISION  
recorded on March 10, 2008 as Instrument No. 108027764 in the Records of the Ada County  
Recorder, Ada County, Idaho, hereinafter referred to as "VIZCAYA CC&R's".

Article 14, Section 14.2 of the VIZCAYA CC&R's provides for Amendment By Owners  
as follows:

"The easements, covenants, conditions, and restrictions of this Master Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Master Declaration, other than the provisions of Articles IV and XI and Sections 7.2 and 9.1 hereof, may be amended during the first twenty (20) year period by a document signed and acknowledged by Owners representing not less than seventy percent (70%) of the votes of membership in the Association. Any amendment to Articles IV and XI and Sections 7.2 and 9.1 shall, until the last Lot in the Project is sold by Declarant, require in addition to a document signed and acknowledged by the requisite membership, written consent of Declarant its successors or assigns. No amendment to the Declaration shall be effective until recorded."

This Amendment modifies the VIZCAYA CC&R's in the following particulars:

**8.2 Special Assessment:**

Article 8.2 (B) entitled "Transfer and Refinance Special Assessment" is amended in it's  
entirety as follows:

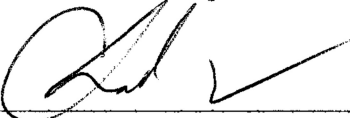
B) **Transfer and Refinance Special Assessment:** "Upon each transfer and/or refinance of any Lot or residence in the subdivision, each Buyer and/or Owner shall pay the Association a special transfer assessment of two hundred fifty dollars (\$250.00), which shall be used for general Association purposes."

Article 8.2 (C) entitled "Initial Set Up Fee" is hereby added as follows:

C) **Initial Set Up Fee:** "Upon the initial conveyance of each lot, the purchaser thereof shall pay an initial set up fee of \$550.00 or as amended by the supplemental declaration of covenants, conditions, restrictions and easements."

Except as amended herein, the Declaration remains in full force and effect with no other change or modification.

Pursuant to Article 14, Section 14.2 of the VIZCAYA CC&R's, the undersigned owners hereby certify and attest that they are Owners representing not less than seventy percent (70%) of the votes of membership in the Association.

 Signature

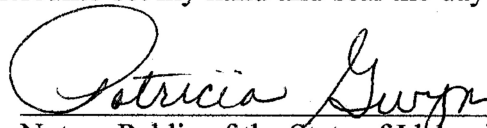
C&C Development, Inc. Print Name

Lots 2-16, 18-33, Block 1, Vizcaya Sub Lots Owned

STATE OF IDAHO )  
  ) ss.  
COUNTY OF ADA )

On August 12, 2008, before me, the undersigned notary public, personally appeared Chad Longeon, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

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

  
Notary Public of the State of Idaho  
Residing at: Nampa, Id  
My commission expires: 03/06/2012

