



**DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
AFTON'S FIRST SUBDIVISION**

THIS DECLARATION is made effective on this 18th day of FEBRUARY, 2004, by BULL DEVELOPMENT, INC., an Idaho corporation, hereinafter referred to as "Declarant".

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

Legal description designated as Exhibit A attached hereto and made a part hereof.

NOW, THEREFORE, Grantor hereby declares that the Property, and each Lot, parcel or portion thereof is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms, covenants, conditions, reservations, easements and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property, and to enhance the value, desirability and attractiveness of the Property. The terms, covenants, conditions, reservation, easements and restrictions set forth herein shall run with the land constituting the Property and with each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any Lot, parcel or portion of the Property and interest therein, and shall inure to the benefit of and be binding upon Grantor, his successors in interest, and may be enforced by Grantor, by any Owner or his successors in interest, or by the Association.

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

ARTICLE 1
DEFINITIONS

- 1.1. "Articles" shall mean the Articles of Incorporation of the Association.
- 1.2. "Assessments" shall mean those payments required of Owners and Association Members including Regular, Special and Limited Assessments of the Association as further defined in the Declaration.
- 1.3. "Association" shall mean and refer to Afton's First Homeowners' Association, Inc., an Idaho non-profit corporation, its successors and assigns.

1.4. "Association Rules" shall mean those rules and regulations promulgated by the Association governing conduct upon the use of the property under the jurisdiction or control of the Association, the imposition of fines and forfeitures for violation of Association Rules and Regulations, and procedural matters for use in the conduct of business of the Association.

1.5. "Beneficiary" shall mean a mortgagee under a mortgage or beneficiary under a deed of trust, as the case may be, and/or the assignees of such mortgagee, beneficiary or holder, which mortgage or deed of trust encumbers parcels of real property on the Property.

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

1.7. "Building Lot" shall mean and refer to any plot of land showing upon any recorded plat of the Property.

1.8. "Bylaws" shall mean the bylaws of the Association.

1.9. "Committee" shall mean the Architectural Committee described in Article VI hereof.

1.10. "Declaration" or "Supplemental Declaration" shall refer to this Declaration as hereafter amended and supplemented from time to time.

1.11. "Declarant" shall mean and refer to Michael S. Homan and his successors and assigns.

1.12. "Grantor" shall mean and refer to the Declarant.

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

1.14. "Lot" shall mean and refer to a Building Lot.

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

1.16. "Mortgage" shall mean and refer to any mortgage or deed of trust and "Mortgagee" shall refer to the mortgagee, or beneficiary under a deed of trust, and "Mortgagor" shall refer to the mortgagor, or grantor of a deed of trust.

1.17. "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 Properties, including contract seller, but excluding those having such interest merely as security for the performance of an obligation.

1.18. "Plat" shall mean the recorded Plat of AFTON'S FIRST SUBDIVISION and the recorded plat of any other Properties annexed hereto.

1.19. "Properties" or "Property" shall mean and refer to the real property hereinbefore described and such additions thereto as may hereafter be annexed and brought within the coverage of this Declaration as more particularly provided for herein.

1.20. "Set Back" means the minimum distance established by law between the dwelling unit or other structures referred to and a given street, road or Lot line.

1.21. "Unit" shall mean a residence which shall be situated upon a Lot.

ARTICLE 2
GENERAL COVENANTS CONDITIONS AND RESTRICTIONS

2.1. Land Use and Building Type. All Lots shall be used for residential purposes only. No residence shall be used for the conduct of any trade or business or professional activity. Notwithstanding the foregoing, the Board may, in its discretion and upon request by an Owner, allow an Owner to conduct a "garage sale" upon such Owner's Lot.

No improvement shall be erected, altered, placed or permitted to remain on any Lot other than one designed to accommodate no more than one (1) single-family residential dwelling.

2.1.1. Size Limitations. Split-level and two- (2) story Units shall not have less than 700 square feet of total interior floor area, exclusive of porches and garages. All other Units shall not have less than 1,350 square feet of interior floor area on the ground floor of the main structure, exclusive of porches and garages.

2.1.2. Garages. Each Unit constructed within the Property shall include at least a two (2) car, enclosed garage which is an integral part of the Unit structure.

2.1.3. Roofing Material. The roof of each Unit shall be constructed of Spanish "S" barrel tile, or such other material as may be approved by the Architectural Committee in writing.

2.2. Architectural Control. No improvements which will be visible above ground or which will ultimately affect the visibility of any above improvement shall be built, erected, placed or materially altered, including without limitation, change of exterior colors or materials, on the Property, unless and until the building plans, specifications, and plot plan have been reviewed in advance by the Architectural Committee and the same have been approved by the Committee. The review and approval or disapproval may be based upon the following factors: design and style elements, mass and form, topography, setbacks, exterior, color and materials, physical or artistic conformity to the terrain and the other improvements on the property which the Architectural Committee, in their reasonable discretion, deems relevant. Said requirements as to the approval of the architectural design shall apply only to the exterior appearance of the improvements. This Declaration is not intended to serve as authority for the architectural Committee to control the interior layout or design of buildings except to the extent incidentally necessitated by use and size requirements.

2.3. Exterior Maintenance: Owner's Obligations. No improvements, including mail boxes and landscaping shall be permitted to fall into disrepair, and each improvement shall at all times be kept in good condition and repair by Owner.

In the event the improvements on any Lot shall suffer damage or destruction from any cause, the owner thereof shall undertake the repair, restoration or reconstruction thereof within ninety (90) days of such damage or destruction.

2.4. Improvements Location. No improvements shall be constructed in violation of setback requirements established by law, or by this Declaration as set forth on the recorded Plat of the Subdivision.

2.5. Nuisances. No noxious or offensive activity (including without limitation, those creating an offensive odor, shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

2.6. Temporary Structures. No improvement of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be placed or used on any Lot at any time as a residence either temporarily or permanently.

2.7. Signs. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder or the Declarant to advertise the property during the construction and sales period.

2.8. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon the Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon the Property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the Property.

2.9. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and provided that the keeper of such pets complies with all city, and county laws, rules and regulations. No dog runs or kennels shall be permitted to be kept or placed within five (5) feet of the property line on any Lot, or within five (5) feet of a setback line where applicable. Dog runs or kennels shall only be permitted to be placed and maintained to the rear of dwellings, and in no event shall such structure be visible from a street. All such kennels or facilities shall comply with all applicable laws and rules.

2.10. Garbage and Refuse Disposal. No rubbish, trash, garbage refuse or debris shall be placed or allowed to remain on the Property except trash kept and maintained within the interior of a Unit in sanitary containers. All such material shall only be kept in sanitary containers. All Equipment for the storage or disposal of such material shall be kept in a clean, neat and sanitary condition and moved only for prompt off-site disposal.

2.11. Water Supply. No individual water supply system shall be permitted on a Lot. Water service charges must be paid after connecting with the City of Boise water system according to their policies.

2.12. Storm Drainage Facilities. Storm drainage will be routed to and retained in seepage beds located in the Common Area. Best management practices will be used in the treatment of storm drainage by the Homeowners' Association or the applicable governmental authority.

2.13. Plat Notes. Those certain Plat Notes set out in the Plat of Afton's First Subdivision filed for record in the Ada County Recorder's Office, State of Idaho, are referenced to and made a part of these Covenants, the same as if set out in full herein.

2.14. Sewer Service Covenants. The following covenants shall run with each Lot and any Common Area affected thereby and shall be binding upon each Owner of a Lot and all occupants of any improvements constructed on a Lot:

2.14.1. No Lot may be used or occupied for any allowed use unless the same is connected to the public sewage collection system constructed and installed within the Property.

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

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

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

2.14.5. Access shall be provided, satisfactory to the governmental entity having jurisdiction thereof, for sewer cleaning equipment to all sanitary sewer manholes located outside of the public right-of-way, if any.

2.14.6. The Declarant and each Owner of a Lot hereby authorizes the governmental entity having jurisdiction thereof, or its designee, to bring any action it deems necessary or required for the collection of any fees or charges due said entity for sewer service connections or monthly sewer charges and/or to otherwise enforce any of the obligations respecting the connection to the public sewerage collection system or use thereof as provided in this Section.

2.14.7. Declarant shall remain responsible for repairs of any failures of the sewerage collection system that occur within one (1) year of the acceptance of the subdivision sewers by the City of Boise.

2.15. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

2.16. Declarant's Right. Declarant reserves the right to construct residences and other improvements upon any Lot and to offer the same with completed structures thereon for sale to individual owners.

2.17. Boats, Camper and Other Vehicles. No boats, trailers, tractors, recreation vehicles, (i.e., any trailers, campers, motor homes, automobile campers or similar vehicles or equipment) dilapidated unrepaired or unsightly vehicles, or similar equipment, motorcycles, snowmobiles, trucks (working or non-working) greater than three-quarters (3/4) of a ton in size shall regularly or as a matter of practice be parked or stored on any portion of the Property (including streets and driveways) unless enclosed by a structure or screened from view in a manner approved, in writing, by the Architectural Committee.

Notwithstanding the foregoing, any boat camper trailer or recreational vehicle which is in good repair and working order which does not exceed the following dimensions may be stored on the side yard of a Lot between front and rear yard set-backs if screened by a six foot (6') fence: eight (8) feet wide, thirty-three (33) feet long and twelve (12) feet high. Provided, however, such storage may not be located adjacent to the street on a corner Lot.

2.18. Bathrooms. All bathrooms, sink and toilet facilities shall be inside residence buildings and shall be connected by underground pipes directly with the sewer system.

2.19. Antennae. No television antennae, satellite receivers, or radio aerials shall be installed on the Property, other than within the interior of a Unit.

2.20. Hazardous Activities. No activity shall be conducted on or in any Unit or Lot that is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon said Property, no open fires shall be lighted or permitted on any property except in a self-contained barbecue unit while attended and in use for cooking purposes, or within a safe and well-designed interior fireplace or except such controlled and attended fires required for clearing or maintenance of land.

2.21. Unsightly Articles. No unsightly articles shall be permitted to remain on any Lot to be visible from any other portion of the Property. Without limiting the foregoing, no clothing or household fabrics shall be hung, dried or aired in such a way as to be visible from any other portion of the Property. No lumber, grass, shrub or tree clipping or plant waste, compost piles, petals, building or other materials or scrap or other similar material or articles shall be kept, stored or allowed to accumulate on any portion of the Property except within an enclosed structure or appropriately screened from view as approved, in writing, by the Architectural Committee. "Screened" is defined as being concealed or made non-visible from eye level, at grade at all points within the Property.

2.22. Lights, Sound – General. No light shall be emitted from any Lot which light is unreasonably bright or causes unreasonable glare. No sound shall be emitted from any Lot which is unreasonably loud or annoying, and no odors shall be emitted on any property which are noxious or offensive to others.

2.23. Construction. During the course of actual construction of any permanent improvements, the restrictions contained in the Declaration and any supplemental declaration shall be deemed waived to the extent necessary to permit such construction, provided that during the course of such construction nothing shall be done which will result in a violation of these restrictions upon completion of construction and all construction shall be diligently prosecuted to completion, continuously and without delays.

2.24. Reconstruction. In any case where it is necessary to reconstruct a Unit or any improvement, said reconstruction shall be prosecuted diligently, continuously and without delays from time of commencing thereof until such structure is fully completed and painted, unless prevented by causes beyond control and only for such time that such causes continue.

2.25. Fences. All proposed fences shall be presented to the Architectural Control Committee in accordance with Paragraph 2.2. On all corner Lots, the fence must be set back 5' from the edge of the sidewalk bordering the side street. All fences shall be no more than 6' in height, and shall be constructed of wrought iron, solid stucco or stone. The top of all fences shall be horizontally level; provided, however, if a fence is constructed over sloping ground, the fence may be constructed in level, stepped, horizontal segments.

2.26. Plat Conditions. All covenants, conditions and restrictions and other matters set forth on all Plats are hereby incorporated by reference and notice is hereby given of the same.

2.27. Front and Side Yards. The front yard to each Lot and the side yard of any Lot which is adjacent to a street must be planted with sod or "Xeriscape" landscaping within thirty (30) days of substantial completion, or occupancy, whichever shall occur first, or as soon thereafter as the weather permits. All remaining portions of the yard area of each Lot must be seeded, planted with sod or "Xeriscape" landscaped within six (6) months of occupancy of the Unit.

2.28. Dumping. No excavation material, grass or yard clippings, rubbish, trash, garbage, refuse or debris shall be placed or allowed to remain on any vacant or unimproved Lot, without the prior written approval of the Declarant or the Architectural Committee. The Owner of any Lot who dumps such material shall be liable for the cleanup and/or removal costs.

ARTICLE 3 **PROPERTY RIGHTS**

3.1. Owner's Rights. Every Owner shall be subject to the following provision:

3.1.1. The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published Association rules and regulation.

3.2. Damages. Each Owner shall be liable for any damage to property owned or maintained by the Association which may be sustained by reason of the negligence or willful misconduct of said Owner or his family, guests, tenants or contract purchasers, both minor and adult. In the case of joint ownership of a Lot, the liability of such Owners shall be joint-and several. The cost of correction such damage shall be charged as a limited assessment against the Owner and his Lot and may be collected as provided herein for the collection of other assessments.

ARTICLE 4 **AFTON'S FIRST HOMEOWNERS' ASSOCIATION**

4.1. Organization of Association. The Afton's First Homeowners' Association ("Association") is an Idaho Corporation formed under the provisions of the Idaho Nonprofit Corporations Act and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. The Association shall not be dissolved without the written approval of Ada County Highway District, or its successor ("ACHD").

4.2. Membership. Each Owner of a Lot subject to this Declaration (including the Declarant) by virtue of being such an Owner and for so long as such ownership is maintained, shall be a Member of the Association, and no Owner shall have more than one membership in the Association, except as hereinafter set forth with respect to voting. Memberships in the Association shall not be assignable, except to the successor-in-interest of the Owner, and all memberships in the Association shall be appurtenant to the Lot owned by such Owner. The memberships in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

4.3. Voting. The Association will have two (2) classes of voting memberships.

4.3.1. Class A. Class A members shall be the Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

4.3.2. Class B. The Class B member shall be the Declarant. Upon the recording hereof Declarant shall be entitled to three (3) votes for each Lot of which Declarant is the Owner. The class B membership shall cease and be converted to Class A membership on January 1, 2013, or when the Declarant no longer owns any Lots within the property subject to the Declaration, whichever event shall first occur.

4.4. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board Directors and such officers as the Directors may elect or appoint, in accordance with the Articles, Bylaws and this Declaration as the same may be amended and supplemented from time to time.

4.5. Powers and Duties of the Association.

4.5.1. Powers. The Association shall have all the powers of a nonprofit corporation organized under the general non-profit corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this Declaration, the Articles and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to the proper management and operation of the irrigation/drainage system and the performance of the other responsibilities herein assigned.

4.5.1.1. Assessments. The power to levy assessments (Annual, Special and Limited) on the Owners of Lots and to force payment of such assessments, all in accordance with the provisions of this Declaration.

4.5.1.2. Right of Enforcement. The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto; to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration, the Articles or the Bylaws, including the Association rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise all provisions hereof.

4.5.1.3. Delegation of Powers. The authority to delegate its power and duties to committees, officers, employees, or to any person, firm or corporation to act as manager. Neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty or power so delegated.

4.5.1.4. Association Rules. The power to adopt, amend and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable and which are consistent with this Declaration (the Association rules). The Association rules shall govern the use of the pressurized irrigation system and drainage facilities by the Owner, families of any Owner, or by invitee, licensee, lessee or contract purchaser of an Owner, provided, however, that the Association rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association rules as they may from time to time be adopted, amended or propelled, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery and posting, said

Association rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between any such Association rules and any other provisions of this Declaration, or the Articles or Bylaws, the provisions of the Association rules shall be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

4.5.1.5. Emergency Powers. The Association, including the City of Boise regarding the irrigation system, or any person authorized by the Association may enter upon any Lot in the event of any emergency or when necessary in connection with any maintenance or construction on the irrigation/drainage system. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association.

4.5.1.6. Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements or right-of-way as may be necessary or appropriate for the orderly maintenance and preservation of the following:

4.5.1.6.1. Underground lines, cables, wires, conduits and other devices for the transmission of electricity for lighting, heating, power, telephone and other purposes;

4.5.1.6.2. Public sewers, storm drains, water drains and pipes, water systems, irrigation systems, sprinkling systems, water, heating, and gas lines or pipes;

4.5.1.6.3. **Regarding the storm drainage area, the Association and the property owners shall give ACHD (1) the right to inspect such facilities and, if necessary, promptly perform any required maintenance and (2) the right to assess the costs of any required maintenance to the property within the development, including the use of liens and/or assessment of maintenance costs against the real property taxes owed by the Lots within the development. Also the Association and Owners shall abide by the Operation and Maintenance Manual for the storm drainage facilities, which shall not be amended without the concurrence of ACHD; and**

4.5.1.6.4. Any similar public or quasi-public improvements or facilities.

4.5.2. Duties of the Association. In addition to power delegated to it by the Articles, without limiting the generality thereof, the Association or its agents, if any, shall have the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

4.5.2.1. Operation and Maintenance. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the irrigation/drainage system, including the repair and replacement of property damaged or destroyed by casualty loss and other property acquired by the Association, subject to paragraph 2.11.1.

4.5.2.2. Expenses. Pay all costs and expenses relating to the irrigation/drainage system, including the operating costs and maintenance of the irrigation water lines located in the Afton's First Subdivision. In addition, the Association shall pay all taxes, federal, state or local including income or corporate taxes, levied against the Association, if any, including but not limited to any charges that might be assessed by the applicable irrigation district.

4.5.2.3. Insurance. Obtain, if the Board so elects, from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the following policies of insurance.

4.5.2.3.1. Full coverage directors and officers liability insurance with a minimum of Two Hundred Fifty Thousand Dollars (\$250,000.00), if the Board so elects.

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

4.5.2.3.3. The Association shall be deemed trustee of the interests of all Members of the Association in any insurance proceeds paid to it under such policies, and shall have full power to receive their interest in such proceeds and to deal therewith.

4.5.2.3.4. Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the annual assessments levied by the Association.

4.5.2.3.5. Notwithstanding any other provision herein, the Association shall continuously maintain in effect such other additional casualty, flood and liability insurance as the Board deems necessary or appropriate.

4.5.2.4. Rule Making. Make, establish, promulgate, amend and repeal the Association rules.

4.5.2.5. Architectural Committee. Appoint and remove members of the Committee, all subject to the provisions of the Declaration.

4.5.2.6. Drainage System. Operate, maintain, repair and replace, all drainage systems located within the Property and shown on the Plat which are not maintained by public authorities.

4.5.2.7. Irrigation Maintenance. Maintain, repair and replace all irrigation lines or channels located on or serving the Property, and to pay all maintenance and construction fees of any Irrigation District with respect to the Property, which amounts shall be assessed against each Lot as provided herein, subject to the terms of paragraph 2.11.1.

4.5.2.8. Subdivision Approval Responsibilities. Perform all continuing duties and responsibilities imposed upon the Grantor pursuant to any governmental approvals relating to the Property including, without limitation, those set forth in the Preliminary Plat approval for the Subdivision.

ARTICLE 5 **COVENANT FOR MAINTENANCE AND ASSESSMENTS**

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

5.1.1. Annual regular assessments or charges;

5.1.2. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and

5.1.3. Limited assessments as hereinafter provided.

The Regular, Special and Limited assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, cost and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

5.2. Purpose of Assessments.

5.2.1. Regular Assessments. The regular assessments levied by the Association shall be used exclusively to pay property taxes and other assessments, to pay the annual assessments of any irrigation district and to pay such other reasonable costs and expenses which are incurred by the Association in carrying out the duties and business of the Association as set out heretofore.

5.2.2. Special Assessments for Capital Improvements. In addition to the annual regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, costs and expenses of the Association which exceed the regular assessments or the costs and expenses of any construction, reconstruction, repair or replacement of the irrigation/drainage system or any part thereof, provided that any such assessment shall be approved by a two-thirds (2/3) vote of each class members who are voting in person or by proxy at a meeting duly called for this purpose.

5.2.3. Limited Assessments. The Limited assessments may be levied against any Owner in an amount equal to the costs and expenses incurred by the Association, including legal fees for corrective action necessitated by such owner, including, without limitation, costs and expenses incurred for the repair and replacement of the irrigation/drainage system, if any, or other property owned or maintained by the Association, damaged by negligent or willful acts of any Owner or occupant of a Lot who is occupying the Lot with the consent of such Owner.

5.3. Maximum Annual Regular Assessment. The initial maximum annual regular assessment to be assessed by Association, shall be \$120.00 per Lot for the year 2004 with a setup fee of \$100.00.

5.3.1. The maximum annual assessment may be increased by the board each year by not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership of the Association as provided below.

5.3.2. The maximum annual assessment may be increased above ten percent (10%) by a two-thirds (2/3) vote each class of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

5.3.3. The Board of Directors of the Association may fix the amount of the annual assessment at an amount not in excess of the maximum as established from time to time.

5.3.4. The total annual regular assessment levied against the Lots owned by the Declarant shall be the lesser of (a) the amount of the regular assessment per Lot multiplied by the number of Lots owned by Declarant or (b) the difference between the total annual assessment levied against Lots owned by the other parties, other than the Declarant, and the reasonable expenditure of the Association for the purposes described in Section 5.2.1. for the fiscal year.

5.4. Notice and Quorum for any Action Authorized Under Sections 5.2.2 and 5.3 Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.3 and 5.4 shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.5. Uniform Rate of Assessment. Both annual and special assessment must be fixed at a uniform rate for all Lots and may be collected on an annual or other basis as determined by the Association from time to time.

5.6. Date of Commencement of Annual Assessments-Due Dates. The annual regular assessments or any special assessments then in effect as provided for herein shall commence as to a Lot or Lots on the first day of the first year following the conveyance of the Lot or Lots from Declarant to an Owner or Owners. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

5.7. Effect of Nonpayment of Assessments - Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date on a rate of twenty-one percent (21%) per annum or at the highest rate allowed by law if such rate is less than 21%. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property.

5.8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer but shall not extinguish personal liability. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE 6 ARCHITECTURAL COMMITTEE

6.1. Members of the Committee. The Architectural Committee for the Property, sometime referred to as the "Committee", shall consist of three (3) members. The following persons are hereby designated by Declarant as the initial members of the Committee for the Property:

<u>Name</u>	<u>Address</u>
Michael S. Homan	2229 W. State Street, Suite B, Boise, Idaho 83702
Lanae Hetland	9655 W. Pebblebrook Lane, Boise, Idaho 83702
Bryant Forrester	1919 W. State Street, Boise, Idaho 83702

Each of said persons shall hold office until such time as he/she has resigned or has been removed or his/her successor has been appointed, as provided herein. Members of the Committee may be removed at any time without cause.

6.2. Right of Appointment and Removal. At any time Grantor is the Owner of at least one of the Lots, Grantor shall have the right to appoint and remove all members of the Committee. Thereafter, the Board of Directors of the Association shall have the power to appoint and remove all members of the Committee. Members of the committee may be removed at any time, without cause.

6.3. Review of Proposed Construction. The Committee shall consider and act upon any and all proposals of plans and specifications submitted for its approval pursuant to this Declaration, and perform such other duties as from time to time shall be assigned to it by the Board of the Association, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. The Board shall have the power to determine, by rule or other written designation consistent with this Declaration, which types of improvements shall be submitted to the Committee review and approval. The Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property as a whole and that the appearance of any structure affected thereby will be in harmony with the surrounding structures.

6.3.1. Conditions on Approval. The Committee may condition its approval of proposals or plans and specifications upon such changes therein as its deems appropriate.

6.3.2. Committee Rules and Fees. The Committee also may establish, from time to time, rules and/or guidelines setting forth procedures for the required content of the applications and plans submitted for approval. Such rules may require a fee to accompany each application for approval, or additional factors, which it will take into consideration in reviewing submissions. Until changed by the Committee, the application fee shall be \$2,000, of which up to \$1,900 may be refundable, in the discretion of the committee, upon inspection and approval of the construction pursuant to Section 6.7 below. The refund shall be paid within 30 days after the Committee's inspection and approval of the construction. Such fees shall be used to defray the costs and expenses of the Committee or for such other purposes as established by the Board.

Such rules and guidelines may establish without limitation, procedures, specific rules and regulations regarding design and style elements, landscaping and fences and other structures such as animal enclosures as well as special architectural guidelines applicable to building Lots located adjacent to public and/or private open space.

6.3.3. Detailed Plans. The committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, landscape plans, drainage plans, elevation drawings and descriptions or samples of exterior material colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval.

6.3.4. Committee Decisions. Decisions of the Committee and the reasons therefor shall be transmitted by the Committee to the Applicant at the address set forth in the application for approval within seven (7) days after filing all materials required by the Committee.

Any materials submitted pursuant to this Article shall be deemed approved unless written disapproval by the Committee shall have been mailed to the applicant within seven (7) days after the date of the filing of said materials with the Committee. The said (7) day period shall only commence to run when an

authorized representative of the Committee has executed an application form acknowledging acceptance of such application and acknowledging that such application is complete.

6.4. Meetings of the Committee. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution unanimously adopted in writing, designate a Committee Representative (who may, but need not be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to section 6.9. In the absence of such designation, the vote of any two (2) members of the Committee, or the written consent of any two (2) members of the Committee taken without a meeting, shall constitute an act of the Committee.

6.5. No Waiver of Future Approvals. The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

6.6. Compensation of Member. The member of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder and except as otherwise agreed by the Board.

6.7. Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

6.7.1. Upon the completion of any work for which approved plans are required under this Article, the Owner shall give written notice of completion to the Committee.

6.7.2. Within sixty (60) days thereafter, the Committee or its duly authorized representative may inspect such improvement. If the Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within such sixty (60) day period, specifying the particular noncompliance, and shall require the Owner to remedy the same.

6.7.3. If for any reason the Committee fails to notify the Owner of any noncompliance within the sixty (60) days after receipt of the written notice of compliance from the Owner, the improvement shall be deemed to be in accordance with the approved plans.

6.8. Non-Liability of Committee Members. Neither the Committee nor any member thereof nor its duly authorized Committee representative, shall be liable to the Association, or to any Owner or Grantee for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, provided such person has, upon the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct. The committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the bases of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Property generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of building, landscaping, color schemes, exterior finishers and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design from the standpoint of structural safety or conformance with building or other codes.

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

ARTICLE 7 **EASEMENTS**

7.1. Maintenance and Use Easement Between Walls and Property Lines. Whenever the wall of a structure, or a fence constructed on a Lot under plans and specifications approved by the Committee is located within three (3) feet of the property line of such Lot, the Owner of such Lot is hereby granted an easement over and on the adjoining Lot (not to exceed three (3) feet from the property line) for purposes of maintaining and repairing such wall or fences and eaves or other overhangs, and the Owner of such adjoining Lot is hereby granted an easement for landscaping purposes (not including permanent structures) over and on the area, if any, lying between the property line and such structure or fence so long as such use does not cause damage to structure or fence.

7.2. Other Maintenance Easements. Easements for installation and maintenance of utilities and irrigation/drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for these improvements for which a public authority or utility company is responsible.

ARTICLE 8 **GENERAL PROVISIONS**

8.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

8.3. Interpretation. The terms, covenants and conditions hereof are to be read and interpreted consistently and in a manner to protect and promote Property values.

8.4. Terms and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, 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 Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

8.5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration or the HUD representative thereof: annexation of additional properties and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereto set his hand this 18th day of FEBRUARY, 2004.

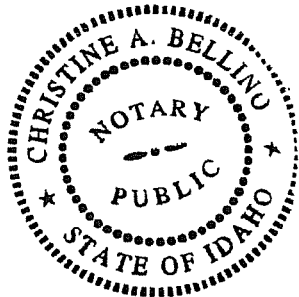
BULL DEVELOPMENT, INC.,
an Idaho corporation

By: Michael S. Homan
Michael S. Homan, President

STATE OF IDAHO)
) ss.
County of Ada)

On this 18th day of February, 2004, before me, the undersigned notary public in and for said State, personally appeared, MICHAEL S. HOMAN, known or identified to me to be the PRESIDENT of BULL DEVELOPMENT, INC., an Idaho corporation, the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he executed the same in said corporation's name.

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



Christine A. Bellino
NOTARY PUBLIC for Idaho
Residing at Boise, Idaho
Commission Expires: 02-01-06

EXHIBIT A

LEGAL DESCRIPTION

Lots 8, 9, 10, 13 and 14, Block 1 and Lots 9, 10, 11, 12, 13, 14, 15 and 16, Block 2 of Afton's First Subdivision, according to the official plat thereof recorded in Book 10 at Page 480, official records of Ada County, Idaho.

Parcel 1

A parcel of land lying in the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6160, Instrument Number 103082701, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center ¼ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.00°09'19"W. 551.10 feet along the east line of the NW ¼ of Section 34 to an iron pin marking the northeast corner of Lot 14, Block 1, Afton's First Subdivision, records of the Ada County Recorder, Boise, Idaho; thence, N.89°59'55"W. 168.28 feet along the north line of said Block 1 to an iron pin marking the *point of beginning*;

Thence along the following courses and distances to iron pins:

Continuing, N.89°59'55"W. 249.13 feet along said north line to the east right-of-way of N. 15th. Street;

thence, N.19°17'50"E. 147.99 feet to a point of curve;

thence continuing along said right-of-way along a curve to the right 183.68 feet, said curve having a delta of 22°32'09", a radius of 467.00 feet, tangents of 93.04 feet and a long chord of 182.50 feet which bears N.30°33'55"E. to a point of ending of curve on the south right-of-way of W. Parkhill Drive;

thence along said right-of-way the following courses and distances:

S.51°39'03"E. 39.78 feet to a point of curve;

Thence along a curve to the left 86.36 feet, said curve having a delta of 21°59'27", a radius of 225.00 feet, tangents of 43.72 feet and a long chord of 85.83 feet which bears S.62°38'46"E. to a point of ending of curve;

Thence leaving said right-of-way, S.00°00'05"W. 232.71 feet to the *point of beginning*.

Said parcel containing 1.21 acres, more or less, and is depicted as "Parcel A" on Record of Survey No. 6160, recorded as Instrument Number 103082701 in the real property records of the Ada County Recorder, Idaho.

Parcel 2

A parcel of land lying in the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6160, Instrument Number 103082701, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center $\frac{1}{4}$ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.00°09'19"W. 551.10 feet along the east line of the NW $\frac{1}{4}$ of Section 34 to an iron pin marking the northeast corner of Lot 14, Block 1, Afton's First Subdivision, records of the Ada County Recorder, Boise, Idaho, said point being the *point of beginning*;

Thence along the following courses and distances to iron pins:

N.89°59'55"W. 168.28 feet along the north line of said Block 1;

thence, N.00°00'05"E. 232.71 feet to a point of beginning of curve on the south right-of-way of W. Parkhill Drive;

thence along said right-of-way along a curve to the right 64.96 feet, said curve having a delta of 16°32'33", a radius of 225.00 feet, tangents of 32.71 feet and a long chord of 64.74 feet which bears S.81°54'46"E. to a point of tangents;

thence continuing along said right-of-way, N.89°48'57"E. 103.57 feet to said east line of the NW $\frac{1}{4}$ of Section 34 and the northwest corner of Parcel "A", Record of Survey No. 4917, Instrument No. 100018882, records of the Ada County Recorder, Boise, Idaho;

Thence leaving said right-of-way, S.00°09'19"E. 223.94 feet to the *point of beginning*.

Said parcel containing 0.87 acres, more or less, and is depicted as "Parcel B" on Record of Survey No. 6160, recorded as Instrument Number 103082701 in the real property records of the Ada County Recorder, Idaho.

Parcel 3

A parcel of land being portions of Lots 5 and 6, and all of Lot 7, Block 1, Afton's First Subdivision, lying in the NW $\frac{1}{4}$ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6164, Instrument Number 103083217, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center $\frac{1}{4}$ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.00°09'19"W. 551.10 feet along the east line of the NW $\frac{1}{4}$ of Section 34 to an iron pin marking the northeast corner of Lot 14, Block 1, Afton's First Subdivision, records of the Ada County Recorder, Boise, Idaho; thence, N.89°59'55"W. 350.00 feet along the north line of said Afton's First Subdivision to an iron pin marking the northeast corner of Lot 7, said Block 1, said point being the *point of beginning*;

Thence along the following courses and distances to iron pins:

S.00°09'19"E. 118.00 feet to the southeast corner of said Lot 7;

Thence, N.89°59'55"W. 109.04 feet to a point on the south line of Lot 5, said Block 1 and the east right-of-way of N. 15th. Street;

Thence along said right-of-way, N.19°17'50"E. 125.02 feet to the north line of Lot 6, said Block 1;

thence, S.89°59'55"E. 67.41 feet to the *point of beginning*.

Said parcel containing 10,410 square feet, more or less, and is depicted as "Parcel A" on Record of Survey No. 6164, recorded as Instrument Number 103083217 in the real property records of the Ada County Recorder, Idaho.

Parcel 4

A parcel of land being portions of Lots 6, 7, and 8, Block 2, Afton's First Subdivision, and a portion of the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6164, Instrument Number 103083217, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center ¼ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.00°09'19''W. 393.10 feet along the east line of the NW ¼ of Section 34 to an iron pin marking the northeast corner of Lot 16, Block 2, Afton's First Subdivision, records of the Ada County Recorder, Boise, Idaho; thence, N.89°59'55''W. 400.00 feet along the north line of said Block 2, Afton's First Subdivision to an iron pin marking the northeast corner of said Lot 8, Block 2, said point being the *point of beginning*;

Thence along the following courses and distances to iron pins:

S.00°09'19''E. 118.00 feet to the southeast corner of said Lot 8;

Thence, N.89°59'55''W. 114.79 feet to a point on the east right-of-way of N. 15th. Street;

thence, N.19°17'50''E. 125.02 feet along said right-of-way to the north line of said Lot 7;

thence, S.89°59'55''E. 73.16 feet to the *point of beginning*.

Said parcel containing 12,820 square feet, more or less, and is depicted as "Parcel B" on Record of Survey No. 6164, recorded as Instrument Number 103083217 in the real property records of the Ada County Recorder, Idaho.

Parcel 5

A parcel of land being a portion of the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6161, Instrument Number 103082702, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center ¼ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.89°39'13''W. 610.58 feet along the south line of the NW ¼ of Section 34 to an iron pin on the east right-of-way of N. 15th. Street; thence, N.19°17'50''E. 31.72 feet along said right-of-way to an iron pin marking the *point of beginning*;

Thence along the following courses and distances to iron pins:

Continuing along said right-of-way, N.19°17'50''E. 255.86 feet;

thence, S.89°59'55''E. 264.79 feet along the south line of Block 2, Afton's First Subdivision, records of the Ada County Recorder, Boise, Idaho;

thence, S.00°09'19''E. 243.59 feet;

Thence, N.89°39'19''W. 350.01 feet to the *point of beginning*.

Said parcel containing 1.71 acres, more or less, and is depicted as "Parcel C" on Record of Survey No. 6161, recorded as Instrument Number 103082702 in the real property records of the Ada County Recorder, Idaho.

Parcel 6

A parcel of land being a portion of the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6161, Instrument Number 103082702, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center ¼ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said cap marking the *point of beginning*;
Thence along the following courses and distances to iron pins:
N.89°39'13''W. 610.58 feet along the south line of said NW ¼ of Section 34 to the east right-of-way of N. 15th. Street;
thence, N.19°17'50''E. 31.72 feet along said right-of-way;
thence, S.89°39'13''E. 350.01 feet;
thence, N.00°09'19''W. 243.59 feet;
Thence, S.89°59'55''E. 250.00 feet to the west line of said NW ¼ of Section 34;
thence, S.00°09'19''E. 275.10 feet to the *point of beginning*.

Said parcel containing 1.82 acres, more or less, and is depicted as "Parcel D" on Record of Survey No. 6161, recorded as Instrument Number 103082702 in the real property records of the Ada County Recorder, Idaho.

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 07/16/04 11:53 AM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Michael Homan
AMOUNT 6.00

2



**FIRST AMENDMENT TO THE
DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
AFTON'S FIRST SUBDIVISION**

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR AFTON'S FIRST SUBDIVISION (this "Amendment") is made effective on this 15th day of July, 2004, by BULL DEVELOPMENT, INC., an Idaho corporation, hereinafter referred to as "Declarant." This Amendment to that certain Declaration of Covenants, Conditions, and Restrictions for Afton's First Subdivision recorded in the real property records of Ada County on 2/18/2004 as Instrument No. 1040180-53 ("Declaration"). This Amendment to the Declaration is made pursuant to Section 8.4 and 8.5 of the Declaration. Except as expressly modified herein, the Declaration shall remain in full force and effect. All capitalized terms contained in this Amendment, unless otherwise defined in this Amendment, shall have the meanings set for in the Declaration.

The Declaration is hereby amended as follows:

1. Exemption of Parcels 1, 2, 5 and 6 from Covenants for Maintenance and Assessments. Parcels 1, 2, 5 and 6, as : * described on Exhibit A to the Declaration, shall be exempt from any and all obligations under the following provisions of the Declaration:

- (a) Section 3.1; and
- (b) Article 5.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereto set its hand as of the day and year first above written.

BULL DEVELOPMENT, INC.,
an Idaho corporation

By: 
Michael S. Homan, President

STATE OF IDAHO)
) ss.
County of Ada)

On this 15th day of July, 2004, before me, the undersigned notary public in and for the State of Idaho, personally appeared, MICHAEL S. HOMAN, known or identified to me to be the PRESIDENT of BULL DEVELOPMENT, INC., an Idaho corporation, the person whose name is subscribed to the within and foregoing instrument, and acknowledged to me that he executed the same in said corporation's name.

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

Patricia A. LaChance

NOTARY PUBLIC for Idaho

Residing at Boise, Idaho

Commission Expires: 3/06



RECORDING REQUESTED BY:
WHEN RECORDED MAIL TO:

Afton's First Homeowners Association
9601 W. State St., Suite 203
Boise, Idaho 83714

ADA COUNTY RECORDER Christopher D. Rich
BOISE IDAHO Pgs=26 BONNIE OBERBILLIG
DEVELOPMENT SERVICES INC

2017-051107
06/07/2017 10:11 AM
AMOUNT:\$85.00



(Space above this line for Recorder's use)

**SECOND AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
AFTON'S FIRST SUBDIVISION**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF AFTON'S FIRST SUBDIVISION ("Second Amendment") is made on the date hereinafter set forth by the undersigned.

RECITALS

- A. On or about November 26, 1940, a plat of Afton's First Subdivision was recorded with the Ada County, Idaho Recorder's Office as instrument no. 201676 (the "Plat");
- B. On or about May 19, 2003, J.J. Howard Engineering/Surveying caused a record of survey no. 6160 relating to Afton's First Subdivision to be recorded with the Ada County, Idaho Recorder's Office as instrument no. 103082701 (the "First Record of Survey");
- C. On or about May 19, 2003, J.J. Howard Engineering/Surveying caused a record of survey no. 6161 relating to Afton's First Subdivision to be recorded with the Ada County, Idaho Recorder's Office as instrument no. 103082702 (the "Second Record of Survey");
- D. On or about May 20, 2003, J.J. Howard Engineering/Surveying caused a record of survey no. 6164 relating to Afton's First Subdivision to be recorded with the Ada County, Idaho Recorder's Office as instrument no. 103083217 (the "Third Record of Survey");
- E. On or about February 18, 2004, Bull Development, Inc., an Idaho corporation, caused a Declaration of Covenants, Conditions, and Restrictions for Afton's First Subdivision to be recorded with the Ada County, Idaho Recorder's Office as instrument no. 104018053 (the "Declaration");
- F. The Declaration references the real property described on Exhibit A attached hereto;
- G. On or about July 16, 2004, Bull Development, Inc., an Idaho corporation, caused a First Amendment to the Declaration of Covenants, Conditions, and Restrictions for Afton's First Subdivision to be recorded with the Ada County, Idaho Recorder's Office as instrument no. 104090086 (the "First Amendment"); and
- H. The "Owners" of the Lots, as defined in the Declaration, desire to further amend the Declaration pursuant to the terms of this Second Amendment.

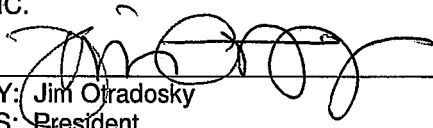
NOW, THEREFORE, the Declaration, as amended by the First Amendment, shall be, and is hereby, further amended as follows:

1. Revise Exhibit A to the Declaration.

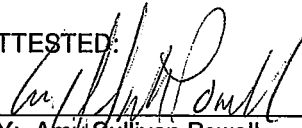
Exhibit A to the Declaration, which sets forth a legal description of the property subject to the Declaration, shall be amended and expanded to include the property described on Exhibit B attached hereto.

2. Except as amended herein, the Declaration, as amended by the First Amendment, shall remain in full force and effect with no other changes or modifications, and each Lot Owner declares, affirms, and ratifies that the Declaration, as amended, is valid, enforceable, and binding on the property described herein.

AFTON'S FIRST HOMEOWNERS ASSOCIATION,
INC.


BY: Jim Otradosky
ITS: President

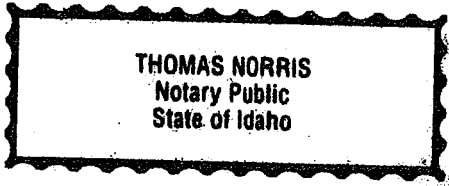
ATTESTED:


BY: Amy Sullivan Powell
ITS: Secretary

STATE OF IDAHO)
 : ss.
County of ADA)

On the 5th day of June, 2017 before me, the undersigned notary public in and for said state, personally appeared JIM OTRADOSKY, known or identified to me to be the President of Afton's First Homeowners' Association, Inc., the corporation that executed the within instrument or the person who executed the same on behalf of said corporation, and acknowledged to me that said corporation executed the same.

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



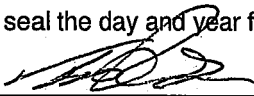

Notary Public for Idaho
Residing at Boise Idaho
Commission expires: 01/17/23

EXHIBIT B FOR THE SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AFTON'S FIRST SUBDIVISION

LEGAL DESCRIPTION

Lots 8, 9, 10, 11, 12, 13 and 14, Block 1 and Lots 9, 10, 11, 12, 13, 14, 15 and 16 Block 2 OF Afton's First Subdivision, according to the Record of Survey No. 6164 recorded May 20, 2003 as Instrument No. 103083217 amended by an affidavit recorded July 28, 2003 as Instrument No. 103124708, Official Records of Ada County, Idaho.

Parcel 1

A parcel of land lying in the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6160, Instrument Number 103082701, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center ¼ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.00°09'19"W. 551.10 feet along the east line of the NW ¼ of Section 34 to an iron pin marking the northeast corner of Lot 14, Block 1, Afton's First Subdivision; records of the Ada County Recorder, Boise, Idaho; thence, N.89°59'55"W. 168.28 feet along the north line of said Block 1 to an iron pin marking the *point of beginning*;

Thence along the following courses and distances to iron pins:

Continuing, N.89°59'55"W. 249.13 feet along said north line to the east right-of-way of N. 15th. Street;

thence, N.19°17'50"E. 147.99 feet to a point of curve;

thence continuing along said right-of-way along a curve to the right 183.68 feet, said curve having a delta of 22°32'09", a radius of 467.00 feet, tangents of 93.04 feet and a long chord of 182.50 feet which bears N.30°33'55"E. to a point of ending of curve on the south right-of-way of W. Parkhill Drive;

thence along said right-of-way the following courses and distances:

S.51°39'03"E. 39.78 feet to a point of curve;

Thence along a curve to the left 86.36 feet, said curve having a delta of 21°59'27", a radius of 225.00 feet, tangents of 43.72 feet and a long chord of 85.83 feet which bears S.62°38'46"E. to a point of ending of curve;

Thence leaving said right-of-way, S.00°00'05"W. 232.71 feet to the *point of beginning*.

Said parcel containing 1.21 acres, more or less, and is depicted as "Parcel A" on Record of Survey No. 6160, recorded as Instrument Number 103082701 in the real property records of the Ada County Recorder, Idaho.

Parcel 2

A parcel of land lying in the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6160, Instrument Number 103082701, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center $\frac{1}{4}$ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.00°09'19''W. 551.10 feet along the east line of the NW $\frac{1}{4}$ of Section 34 to an iron pin marking the northeast corner of Lot 14, Block 1, Afton's First Subdivision, records of the Ada County Recorder, Boise, Idaho, said point being the *point of beginning*;

Thence along the following courses and distances to iron pins:

N.89°59'55''W. 168.28 feet along the north line of said Block 1;

thence, N.00°00'05''E. 232.71 feet to a point of beginning of curve on the south right-of-way of W. Parkhill Drive;

thence along said right-of-way along a curve to the right 64.96 feet, said curve having a delta of 16°32'33'', a radius of 225.00 feet, tangents of 32.71 feet and a long chord of 64.74 feet which bears S.81°54'46''E. to a point of tangents;

thence continuing along said right-of-way, N.89°48'57''E. 103.57 feet to said east line of the NW $\frac{1}{4}$ of Section 34 and the northwest corner of Parcel "A", Record of Survey No. 4917, Instrument No. 100018882, records of the Ada County Recorder, Boise, Idaho;

Thence leaving said right-of-way, S.00°09'19''E. 223.94 feet to the *point of beginning*.

Said parcel containing 0.87 acres, more or less, and is depicted as "Parcel B" on Record of Survey No. 6160, recorded as Instrument Number 103082701 in the real property records of the Ada County Recorder, Idaho.

Parcel 3

A parcel of land being portions of Lots 5 and 6, and all of Lot 7, Block 1, Afton's First Subdivision, lying in the NW $\frac{1}{4}$ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6164, Instrument Number 103083217, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center $\frac{1}{4}$ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.00°09'19''W. 551.10 feet along the east line of the NW $\frac{1}{4}$ of Section 34 to an iron pin marking the northeast corner of Lot 14, Block 1, Afton's First Subdivision, records of the Ada County Recorder, Boise, Idaho; thence, N.89°59'55''W. 350.00 feet along the north line of said Afton's First Subdivision to an iron pin marking the northeast corner of Lot 7, said Block 1, said point being the *point of beginning*;

Thence along the following courses and distances to iron pins:

S.00°09'19''E. 118.00 feet to the southeast corner of said Lot 7;

Thence, N.89°59'55''W. 109.04 feet to a point on the south line of Lot 5, said Block 1 and the east right-of-way of N. 15th. Street;

Thence along said right-of-way, N.19°17'50''E. 125.02 feet to the north line of Lot 6, said Block 1;

thence, S.89°59'55''E. 67.41 feet to the *point of beginning*.

Said parcel containing 10,410 square feet, more or less, and is depicted as "Parcel A" on Record of Survey No. 6164, recorded as Instrument Number 103083217 in the real property records of the Ada County Recorder, Idaho.

Parcel 4

A parcel of land being portions of Lots 6, 7, and 8, Block 2, Afton's First Subdivision, and a portion of the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6164, Instrument Number 103083217, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center ¼ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.00°09'19"W. 393.10 feet along the east line of the NW ¼ of Section 34 to an iron pin marking the northeast corner of Lot 16, Block 2, Afton's First Subdivision, records of the Ada County Recorder, Boise, Idaho; thence, N.89°59'55"W. 400.00 feet along the north line of said Block 2, Afton's First Subdivision to an iron pin marking the northeast corner of said Lot 8, Block 2, said point being the *point of beginning*;

Thence along the following courses and distances to iron pins:

S.00°09'19"E. 118.00 feet to the southeast corner of said Lot 8;

Thence, N.89°59'55"W. 114.79 feet to a point on the east right-of-way of N. 15th. Street;

thence, N.19°17'50"E. 125.02 feet along said right-of-way to the north line of said Lot 7;

thence, S.89°59'55"E. 73.16 feet to the *point of beginning*.

Said parcel containing 12,820 square feet, more or less, and is depicted as "Parcel B" on Record of Survey No. 6164, recorded as Instrument Number 103083217 in the real property records of the Ada County Recorder, Idaho.

Parcel 5

A parcel of land being a portion of the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6161, Instrument Number 103082702, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center ¼ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho; thence, N.89°39'13"W. 610.58 feet along the south line of the NW ¼ of Section 34 to an iron pin on the east right-of-way of N. 15th. Street; thence, N.19°17'50"E. 31.72 feet along said right-of-way to an iron pin marking the *point of beginning*;

Thence along the following courses and distances to iron pins:

Continuing along said right-of-way, N.19°17'50"E. 255.86 feet;

thence, S.89°59'55"E. 264.79 feet along the south line of Block 2, Afton's First Subdivision, records of the Ada County Recorder, Boise, Idaho;

thence, S.00°09'19"E. 243.59 feet;

Thence, N.89°39'19"W. 350.01 feet to the *point of beginning*.

Said parcel containing 1.71 acres, more or less, and is depicted as "Parcel C" on Record of Survey No. 6161, recorded as Instrument Number 103082702 in the real property records of the Ada County Recorder, Idaho.

Parcel 6

A parcel of land being a portion of the NW ¼ of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said parcel being more particularly described under Record of Survey No. 6161, Instrument Number 103082702, records of the Ada County Recorder, Boise, Idaho, said parcel being more particularly described as follows:

Commencing at the Brass Cap marking the Center ¼ corner of Section 34, T.4N., R.2E., B.M., Ada County, Idaho, said cap marking the *point of beginning*;
Thence along the following courses and distances to iron pins:
N.89°39'13''W. 610.58 feet along the south line of said NW ¼ of Section 34 to the east right-of-way of N. 15th. Street;
thence, N.19°17'50''E. 31.72 feet along said right-of-way;
thence, S.89°39'13''E. 350.01 feet;
thence, N.00°09'19''W. 243.59 feet;
Thence, S.89°59'55''E. 250.00 feet to the west line of said NW ¼ of Section 34;
thence, S.00°09'19''E. 275.10 feet to the *point of beginning*.

Said parcel containing 1.82 acres, more or less, and is depicted as "Parcel D" on Record of Survey No. 6161, recorded as Instrument Number 103082702 in the real property records of the Ada County Recorder, Idaho.

201676

AFTON'S FIRST SUBDIVISION IN SE 1/4 NW 1/4 OF SECTION 34

T 4 N R 2 E

Scale - 1 inch = 100 ft.
E.P. - 2147-10-18

Examined before me
P. Dec 16, 1940

Attest: J. Peterson
Josephine Smith
952

Surveyor's certificate

I, Ellsworth Buchanan a licensed Engineer
of the State of Idaho do hereby certify that
this Plat of Afton's First Subdivision was
Prepared from notes of actual survey made
on the ground and is correct.



C.E. 199

Know, all men by these presents that
I, E. M. Afton, do hereby certify and declare
that I am the owner of the tract of land
described as follows to wit:-

Commencing at the center of Section
34, T. 4 N. R. 2 E. B.M. a stone, marked 1/4
on south face. Thence N00° 30' W on the
half section line 275.1 ft. to an iron pipe,
the real place of beginning. Thence N66° 30' W
276 ft. to an iron angle bar. Thence S89° 30' W
659.6 ft. to an iron bolt. Thence S31° 30' W
326.5 ft. to an iron pin. Thence N89° 30' E
834.2 ft. to the real place of beginning, and
I hereby plat said described land in Afton's
First Subdivision as shown by this plat, and I
do hereby dedicate to the use of the public for
every all the roads shown on said plat.

In witness whereof I have caused these
presents to be signed this 16th day of December
1940.

E. H. Afton

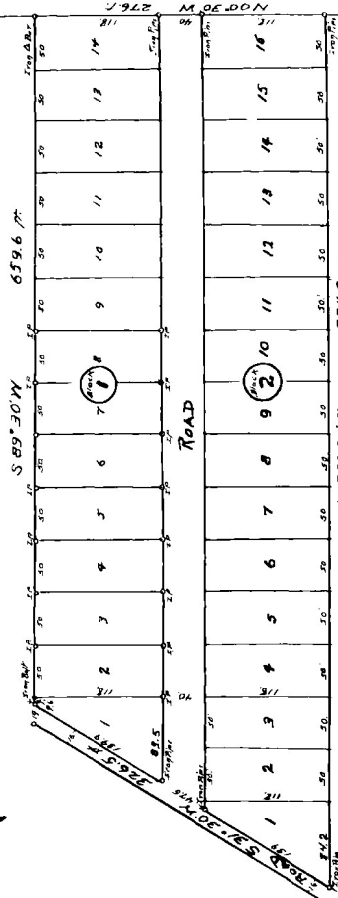
State of Idaho }
County of Ada } SS

On this 16th day of December 1940
before me a Notary Public in and for the
State of Idaho personally appeared E. H. Afton
known to be the person whose name is subscrib-
ed to the above instrument, and acknowledged
to me that he executed the same.

In witness whereof I have hereunto
set my hand and affixed my official seal the
day and year in this certificate first above
written.

W. H. Danvers

Notary Public of State of Idaho
Residing in Boise.

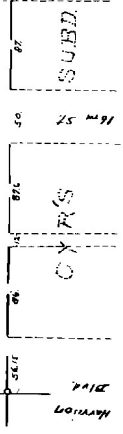


Block No. 1. Contain lots 1 to 14 inclusive.
Block No. 2. Contain lots 15 to 20 inclusive.

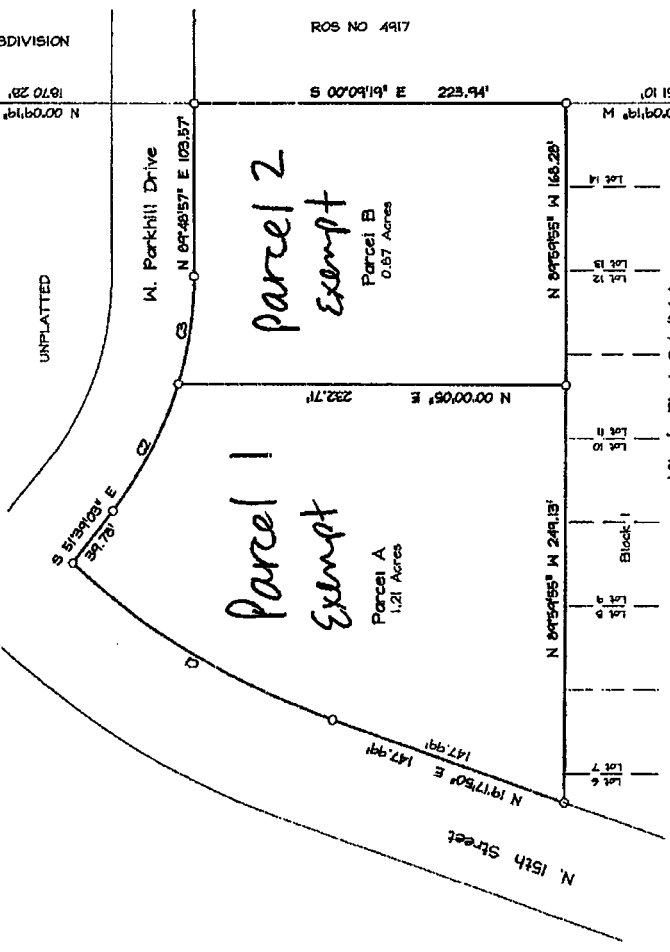
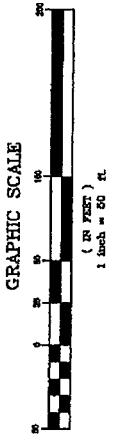
Center of Section 34
T 4 N R 2 E

Boundary

City



RECORD OF SURVEY NO. 10218270



LEGEND

- PROPERTY LINE
- ORIGINAL LOT LINE
- SET 1/2" X 24" IRON PIN W/CAP
- FND. 5/8" IRON PIN

CERTIFICATE OF COUNTY RECORDER

INSTRUMENT NO. 10218270
STATE OF IDAHO
COUNTY OF ADA
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF J.J. HOWARD AT 2:43 MINUTES PAST 2 O'CLOCK P.M., THIS 10th DAY OF 2005.
EX-OFFICIO RECORDER
DEPUTY RECORDER
FEE: \$5.00

HARRISON HILLS SUBDIVISION

CERTIFICATE OF SURVEYOR

THIS IS TO CERTIFY THAT I, JAMES J. HOWARD, BEING A LICENSED LAND SURVEYOR IN THE STATE OF IDAHO, HAVE MADE A CAREFUL AND ACCURATE REPRESENTATION OF SURVEYS MADE BY ME AND IN CONFORMITY WITH THE CORNER PERPETUATION AND FILING ACT - IDAHO CODE 55-1601 THROUGH 55-1612.



CURVE TABLE

Curve	Length	Radius	Tangent	Chord	Delta
C1	183.68	467.00	83.04	182.50	22°32'04"
C2	56.36	225.00	45.72	85.83	21°59'27"
C3	64.96	225.00	32.71	64.74	16°32'33"

ONE-TIME DIVISION SURVEY FOR BULL DEVELOPMENT

LYING IN THE NORTHWEST 1/4, SECTION 34, T.4N., R.2E., B1LY, CO. OF BOISE, ADA COUNTY, IDAHO



J.J. HOWARD
ENGINEERING / SURVEYING

DATE:	4/30/05	SHEET:	1
DESIGN BY:	J.J. HOWARD	BRASS NO.:	421-34-400-000
DRWR BY:	JAP	BRASS NO.:	421-34-400-000
SCALE:	1" = 50'	BRASS NO.:	421-34-400-000
DDI (DWG. Server/Julie/Bull/Development/OTDra.dwg)			

INDEX NO. 421-34-400-000

RECORD OF SURVEY NO. 10101

CERTIFICATE OF SURVEYOR

THIS IS TO CERTIFY THAT I, JAMES J. HOWARD, BEING A REGISTERED LAND SURVEYOR IN THE STATE OF IDAHO, HEREBY CERTIFY THAT THIS IS A REASONABLY ACCURATE REPRESENTATION OF THE CORNER AS MADE BY ME AND IS IN CONFORMANCE WITH THE PROVISIONS OF THE SURVEYING ACT - IDAHO CODE 55-1601 THROUGH 55-1612.



LEGEND

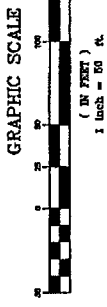
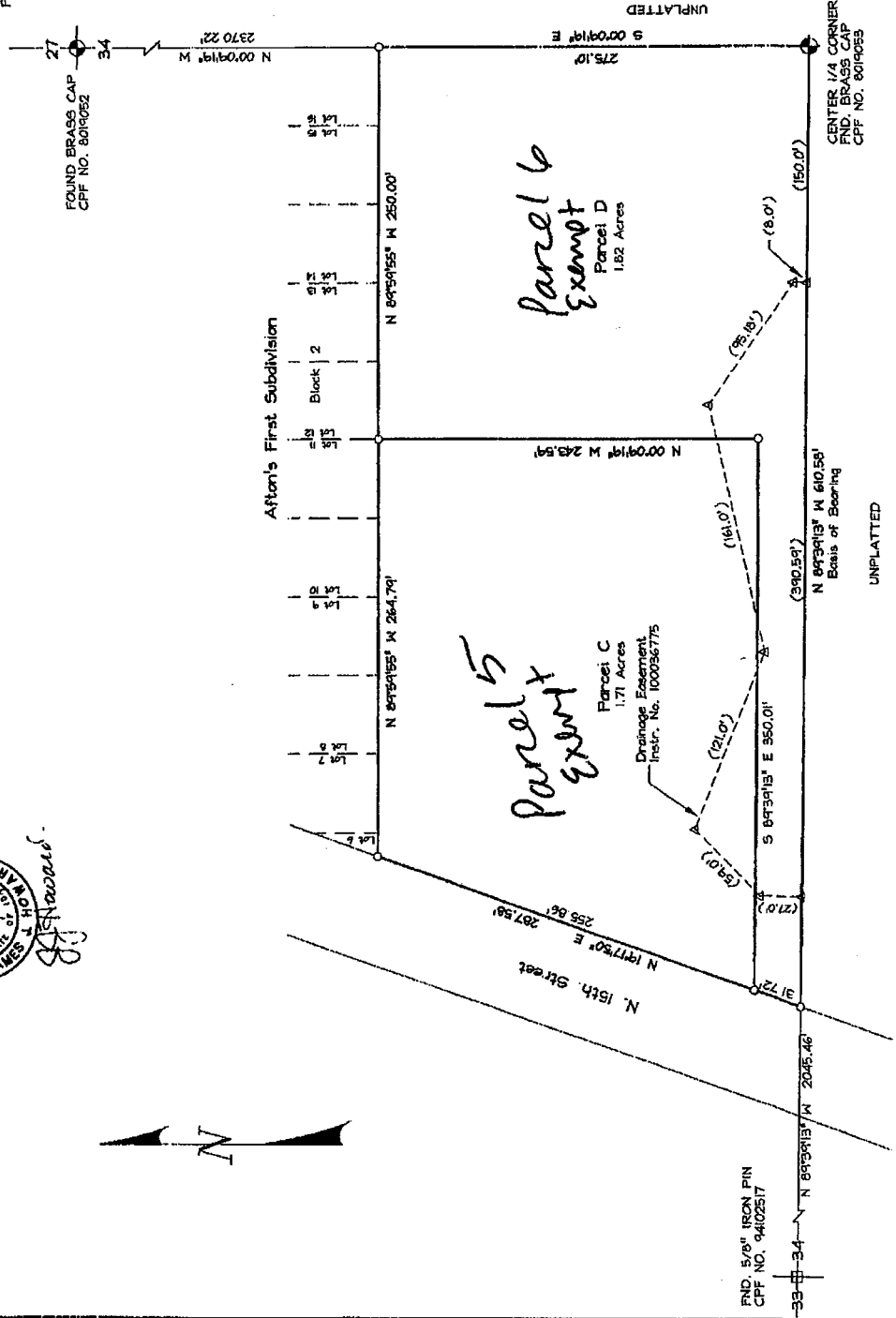
- — — — — PROPERTY LINE
- — — — — ORIGINAL LOT LINE
- SET 1/2" X 24" IRON PIN IN/CAP
- △ CALCULATION POINT - NOT SET
- (8.0') DISTANCE OF RECORD

CERTIFICATE OF COUNTY RECORDER

INSTRUMENT NO. 102032702
STATE OF IDAHO
COUNTY OF ADA

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF J.J. HOWARD AT 2:10 MINUTES PAST 4 O'CLOCK P.M., THIS 10th DAY OF JULY, 2003.

J.J. Howard
EX-OFFICIO RECORDER
DEPUTY RECORDER
FEE: \$5.00



ONE-TIME DIVISION SURVEY FOR
BULL DEVELOPMENT

LYING IN THE NORTHWEST 1/4, SECTION 34,
T.4N., R.2E., S.1E., CITY OF BOISE,
IDAHO COUNTY, IDAHO

J.J. HOWARD
ENGINEERING / SURVEYING
1025-J. JULI BLVD / BOISE, IDAHO 83702 1-208-344-0574

DATE	DESIGN BY	SHEET	OF
4/30/03		1	1
SCALE	DRAWN BY	DRAWING NO.	
1" = 50'	JAP	421-34-400-000	

OLD DWS: Server/Julie/BuildDevelopment/OTDres.dwg

INDEX NO. 421-34-400-000