

REMARKS
for JCAV LLC Claims in the North Idaho Adjudication
(95-2151, 95-2155, 95-7949, and 95-9549)

The land occupied by Radiant Lake Subdivision, located in Section 6 T51N, R4W, Kootenai County, was originally developed as part of the irrigation project under water right license numbers 95-2151, 95-2155, 95-7949, and 95-2182 (now 95-9549). In about 2005, JCAV LLC acquired the property and a portion of the subject water rights for the construction of the Radiant Lake Subdivision (all deeds are included in Attachment A).

Quitclaim Deed record number 2023442000 and Warranty Deed record number 1737468 demonstrate that Neighborhood Inc. initially acquired the southern portion of the property from George Thayer. George Thayer is the owner of record of the subject water rights as currently listed in the Idaho Department of Water Resources electronic database.

Water Rights Deed record number 1928970 in conjunction with Warranty Deed record number 1969880 describes the acquisition of 70.323 acres of land by JCAV LLC. Neighborhood Inc. deeds 30.323 acres of water right 95-7949 to the City of Rathdrum leaving JCAV LLC 40 acres of water rights from 95-7949.

Warranty deed record number 1969879 records the acquisition by JCAV LLC from George Thayer 45.8 acres of land and water right under 95-2151 and 95-2155.

Corporate Warranty Deed record number 1969881 records the acquisition by JCAV LLC of approximately 7.9 acres on the east end of the subdivision from Neighborhood Inc.

In accordance with Article 3.1(h) of the Covenants, Conditions, and Restrictions (CC&Rs) for Radiant Lake Subdivision (Attachment B), all of the water rights are to remain with JCAV LLC, except that portion necessary to accommodate the reasonable needs of the project. Construction, beginning in 2005, installed the infrastructure to the subdivision and the 17.8 acre quiet water lake. Water rights 95-2151 & 95-2155 are used for common area irrigation and the maintenance of the lake. The in-home water use and lot irrigation is supplied by City of Rathdrum municipal water.

An Application for Transfer (#72369) was submitted to the Coeur d'Alene regional office of the IDWR on October 17, 2005 seeking to convert the portions of water right nos. 95-2155 and 95-2151 owned by JCAV LLC from irrigation to the uses necessary to provide part of the water needed for initial fill and to maintain water levels in the lake and to supply irrigation to common areas surrounding the lake. Also, that Application for Transfer sought to redefine the Place of Use and Point of Diversion for the applicant's 40-acre portion of 95-7949 for irrigation within the Radiant Lake subdivision. The Notice of Change in Ownership of the water rights was to be accomplished via the transfer process.

IDWR has not initiated processing of the Application for Transfer and it is pending at IDWR. Because the changes described in the Application for Transfer have been made

and fully implemented prior to January 1, 2006, the changes can be recognized as an “accomplished transfer” in accordance with Section 42-1425, Idaho Code.

The Radiant Lake Subdivision covers approximately 124 acres and has a 17.8 acre quiet water lake as the central amenity. The water depth is no greater than approximately 6 feet in depth for a total volume of 105 acre feet (ac-ft). Radiant Lake is lined with HDPE to reduce/eliminate seepage. An existing well (NWNE Section 6) is used for the initial filling of the Lake, and continues to be used for ongoing maintenance of the water level and to supply irrigation water. Irrigation water for the common areas surrounding the Lake is re-diverted from the Lake.

Transfer 2044, approved prior to JCAV LLC purchasing the land and water rights, provided the flexibility to use three points of diversion to supply the water to rights 95-2151, 95-2155, and 95-2183. However, JCAV LLC owns just one of the three PODs and therefore claims only the single point of diversion (POD).

A portion of water right nos. 95-2151, 95-2155, and 95-7949 has been accepted into the water supply bank as of November 10, 2005 as a means to protect against forfeiture while the development fully implements its water rights and the new uses. Water right nos. 95-2151 and 95-2155 has been subsequently rented by JCAV LLC for Diversion to Storage and Recreation Storage uses (filling of Lake).

95-2151 & 95-2155

Article 3.1(h) of the Radiant Lake Subdivision CC&Rs (see Attachment B) directs the homeowner’s association to maintain the common area irrigation and to own the appropriate portion of the water rights to accomplish that task. The Radiant Lake Owners Association Inc. was formed in accordance with the CC&Rs (see Attachment C).

The Storage, Diversion to Storage, and Irrigation from Storage uses claimed in 95-2151 and 95-2155 are needed to maintain water quality and levels in the lake. The volume required to replace evaporative losses from the lake during extreme drought seasons is estimated to be 42 acre-feet per year. The level of the lake is drawn down slightly prior to each winter to provide storage for the winter precipitation. As practical, stored water is used for irrigation to reduce Lake level in the fall for winter operation. If the winter precipitation fails to refill the lake for the summer, additional volume is diverted from the aquifer. An additional 18 ac-ft is the maximum amount estimated for this circumstance. Therefore, a total of 60 ac-ft is estimated to provide sufficient volume for dry years and extreme evaporation.

The evapotranspiration data provided in *Allen, Richard G. and Clarence W. Robison, (revised 2007). Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho Moscow, Idaho*, indicates that high maintenance grass pasture that was historically grown on the property has a growing season precipitation deficit (consumptive irrigation requirement) of 25.6 inches per year. Therefore, 28.1 acres (60

ac-ft $/(25.6/12) = 28.1$ ac) of irrigation water rights are allocated to the operation and maintenance of the lake.

Of the 45.8 acres owned by the claimant, 28.1 acres are allocated to the operation and maintenance of the lake, leaving 17.7 acres of remaining acres retained for irrigation.

95-7949

The Radiant Lake Subdivision uses water from the City of Rathdrum municipal system in the homes and to irrigate the individual lots in the subdivision. The Permissible Place of Use (PPU) specified in the claim for 95-7949 avoids overlapping the place of use of 95-2151 and 95-2155. The PPU covers approximately 62.2 acres of land that includes the homeowner's lots. The hardscape areas associated with 210 house footprints, driveways, patios, etc. cover at least 22.2 acres, leaving 40 acres of lawn and landscape irrigation. The claimed area for 95-7949 is for 40 acres of irrigation within the 62.2 acre permissible place of use.

It is not the intent of the claimant to overlap 95-7949 with the other water rights. Relevant department policy indicates that water rights for irrigating a permissible place of use are not stacked when the water rights in total provide for irrigating up to the maximum acreage authorized within the permissible place of use. Article 3.1(h) of the Radiant Lake Subdivision CC&Rs specifies that JCAV LLC retain ownership of this portion of the water rights.

95-9549

JCAV LLC owns a 7.9 acres portion of parent water right 95-2182 (now 95-9549). A PPU identical as that claimed under 95-7949 is specified. This PPU is identified to ensure a separation (no overlap) from 95-2151 and 95-2155. Because the area of the PPU (62.2 ac) is larger than the number of irrigated acres authorized under 95-7949 (40 ac) plus 95-9549 (7.0 ac), relevant department policy indicates that these rights are not stacked.

Article 3.1(h) of the Radiant Lake Subdivision CC&Rs specifies that JCAV LLC retain ownership of this portion of the water rights.

ATTACHMENT A
Ownership Documents

Remarks for NIA Claim: 95-2151, 2155, 7949, 9549

SCANNED
AUG 24 2009

1737468



A Pioneer Company
PIONEER TITLE COMPANY
OF KOOTENAI COUNTY

100 Wallace Avenue/ Coeur d'Alene, Idaho 83814 / (208) 664-8244

STATE OF IDAHO }
COUNTY OF KOOTENAI } ss
AT THE REQUEST OF
PIONEER TITLE CO.

JUN 12 11 15 AM '02

DANIEL J. ENGLISH

DEPUTY

Order No. 102262DM

WARRANTY DEED

For Value Received

George E. Thayer and Audrey L. Thayer, husband and wife

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto
Neighborhood, Inc., an Idaho Corporation

hereinafter referred to as Grantee, whose current address is

1910 E. Schneidmiller Ave., Post Falls, ID 83854

the following described premises, to-wit:

Government Lot 6 and the Northeast Quarter of the Southwest Quarter, Section 6, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho.

EXCEPT the West 330 feet of Government Lot 6.

Together with an Easement over, under and across for Ingress, Egress and Utilities, being 30 feet in width on each side of a centerline more particularly described as follows:

Beginning at the centerline of Nagel Lane where it intersects with the centerline of Ohio Street; said point being the true point of beginning; Thence continuing directly South along a Southerly extension of the centerline of Ohio Street across Lot 4, Block 1, Thayer Subdivision, as per Plat recorded in Volume "G" of Plats, Page 204, records of Kootenai County, State of Idaho; to a point where said Southerly extension meets the North Line of Government Lot 6 of Section 6, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho. Said point being the end of said centerline.

SUBJECT TO: That certain Real Estate Mortgage dated August 6, 1993 and recorded August 20, 1993 as Instrument no. 1317315, records of Kootenai County, Idaho, which Real Estate Mortgage the Grantees named herein hereby assume and agree to pay according to its terms and conditions.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: June 6, 2002

George E. Thayer
George E. Thayer

Audrey L. Thayer
Audrey L. Thayer

SCANNED

AUG 24 2009

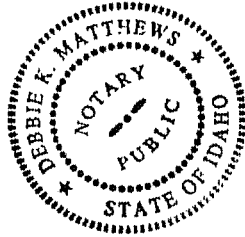
STATE OF IDAHO

ss.

COUNTY OF KOOTENAI

1737468

On this 1st day of June, in the year of 2002, before me Debbie K. Matthews, notary public personally appeared George E. Thayer and Audrey L. Thayer, known or identified to me to be the person/persons whose name ~~is~~/are subscribed to the within instrument, and acknowledged to me that ~~he/she~~/they executed the same.



Debbie K. Matthews

Debbie K. Matthews
Notary Public of Idaho
Residing at Coeur d'Alene, Idaho
Commission expires: March 30, 2005

SCANNED

AUG 24 2009



PioneerTitleCo.

GOING BEYOND

100 Wallace Avenue/ Coeur d Alene, Idaho 83814

Order No.

DANIEL J. ENGLISH 1P I 2023442000
 KOOTENAI CO. RECORDER Page 1 of 1
 AAA Date 04/05/2006 Time 10:04:16
 REC-REQ OF PIONEER TITLE COMPANY
 RECORDING FEE: 3.00
 2023442000 DD 5

QUITCLAIM DEED

For Value Received

George E. Thayer and Audrey L. Thayer, husband and wife

do hereby convey, release, remise and forever quit claim unto

Neighborhood, Inc., an Idaho Corporation

whose address is , 3201 N. Huetter Road, Coeur d' Alene, ID 83814

the following described premises, to-wit:

The North half of the Southeast Quarter of Section 6, Township 51 North, Range 4 West Boise Meridian,
 Kootenai County, Idaho

This deed is being recorded to clear title.

together with their appurtenances, together with any after acquired title.

Dated: March 21, 2006

George E. Thayer

Audrey L. Thayer

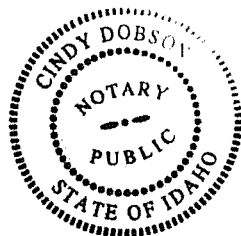
STATE OF IDAHO)

ss.

COUNTY OF KOOTENAI)

On this 5th day of April, in the year of 2006, before me, the undersigned, a Notary Public,
 personally appeared George E. Thayer and Audrey L. Thayer known or identified to me to be the
 person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that
 he/she/they executed the same.

Cindy Dobson
 Notary Public of Idaho
 Residing at Hayden
 Commission expires: 8/30/2011



SCANNED

AUG 24 2009

1960492

1969880



PIONEER TITLE COMPANY
OF KOOTENAI COUNTY

100 Wallace Avenue/ Coeur d'Alene, Idaho 83814 / (208) 664-8233

Order No. 115985

STATE OF IDAHO
COUNTY OF KOOTENAI
AT THE REQUEST OF
PIONEER TITLE CO.

2005 JUN 28 P 2:52

DANIEL J. ENGLISH

DEPUTY

FEES 6.00

WARRANTY DEED

For Value Received

Neighborhood, Inc., an Idaho corporation

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

ICAV, LLC, a Washington Limited Liability Company

hereinafter referred to as Grantee, whose current address is

PO Box 463 Fox Island Wa. 98333

the following described premises, to-wit:

~~Government Lot 6 and the Northeast Quarter of the Southwest Quarter, Section 6, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho.~~

~~EXCEPT THE EAST 310 FEET OF GOVERNMENT LOT 6~~

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Together with an Easement for Ingress, Egress and Utilities, being 30' in width beginning at the centerline of Nagel Lane where it intersects with the centerline of Ohio Street, continuing south to a point where it meets the North Line of Government Lot 6.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: June 21, 2005

Neighborhood, Inc.

By Clifford M. Hart, President
Clifford M. Hart, President

STATE OF IDAHO
COUNTY OF KOOTENAI
AT THE REQUEST OF
PIONEER TITLE CO.

2005 AUG -4 A 9:39

DANIEL J. ENGLISH

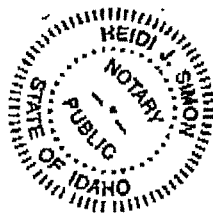
DEPUTY

FEES 6.00

STATE OF IDAHO

COUNTY OF KOOTENAI

On this 24th day of June, in the year of 2005, before me, the undersigned, a Notary Public, personally appeared Clifford M. Hart known or identified to me to be the President of the corporation that executed the instrument or the person/persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



Heidi J. Simon
Notary Public of Idaho
Residing at Bozeman, MT
Commission expires: June 23, 2009

6-24-2010

SCANNED

AUG 24 2005

1969880

95-7949

File No.: 115885

EXHIBIT A

A parcel of land situate in the Southwest Quarter of Section 6, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

COMMENCING at the center of said Section 6, the TRUE POINT OF BEGINNING; thence

Along the North-South centerline of said Section 6, South $00^{\circ}50'45''$ West, 1323.92 feet; thence

North $88^{\circ}41'05''$ West, 2342.05 feet; thence

North $01^{\circ}53'27''$ East, 1320.77 feet; thence

South $88^{\circ}45'47''$ East, 2317.94 feet to the TRUE POINT OF BEGINNING.

SCANNED

AUG 24 2009

1960491

1969881



PIONEER TITLE COMPANY
OF KOOTENAI COUNTY

100 Wallace Avenue/ Coeur d'Alene, Idaho 83814 / (208) 664-8254

STATE OF IDAHO
COUNTY OF KOOTENAI
AT THE REQUEST OF
PIONEER TITLE CO.
2005 JUN 28 P 2:31
DANIEL J. ENGLISH
DEPUTY
FEES *60*

CORPORATE WARRANTY DEED

Order No.: 115886

FOR VALUE RECEIVED,

Neighborhood, Inc., an Idaho corporation

a corporation duly organized and existing under the laws of the State of Idaho, grantor, does hereby Grant, Bargain, Sell and Convey unto

ICAV, LLC, a Washington Limited Liability Company

whose address is: P O Box 463, Fox Island, WA. 96333,

grantee, the following described real estate, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

SUBJECT TO current years taxes, irrigation district assessment, public utility easements, subdivision, restrictions, U.S. patent reservations, easements of record and easements visible upon the said premises.

TO HAVE AND TO HOLD The said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that it is the owner in a fee simple of said premises; that they are free from all encumbrances and that it will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, The Grantor, pursuant to a resolution of its Board of Directors has caused its corporate name to be hereunto subscribed by its officers this 20th day of June, 2005.

Neighborhood, Inc.

By: *Clifford Mott*
Clifford Mott, President

STATE OF IDAHO
COUNTY OF KOOTENAI
AT THE REQUEST OF
PIONEER TITLE CO.
2005 AUG -4 A 9:40
DANIEL J. ENGLISH
DEPUTY
FEES *60*

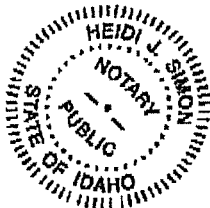
STATE OF IDAHO)

ss.

COUNTY OF KOOTENAI)

On this 20th day of June, in the year of 2005, before me, the undersigned, a Notary Public, personally appeared Clifford Mott known or identified to me to be the President of the corporation that executed the instrument or the person/persons who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

Heidi J. Simon
Notary Public of Idaho
Residing at Rathdrum *Hayden*
Commission expires: June 13, 2009 *6-24-10*



SCANNED

AUG 24 2009

1969881

File No.: 115886

EXHIBIT A

A parcel of land situate in Southeast Quarter of Section 6, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

COMMENCING at the center of said Section 6, the TRUE POINT OF BEGINNING; thence

Along the East-West centerline of said Section 6, South 88°45'59" East, 282.16 feet; thence

386.19 feet along a non-tangent curve, concave Easterly, having a radius of 740.00 feet, a central angle of 29°54'04" and a long chord bearing South 04°19'37" West, 381.82 feet; thence

607.77 feet along a non-tangent curve, concave Westerly, having a radius of 760.00 feet, a central angle of 45°49'09" and a long chord bearing South 12°17'09" West, 591.70 feet; thence

383.53 feet along a non-tangent curve, concave Easterly, having a radius of 640.00 feet, a central angle of 34°20'07" and a long chord bearing South 18°01'40" West, 377.81 feet; thence

South 00°50'59" West, 0.24 feet; thence

North 88°41'05" West, 30.00 feet to a point on the North-South centerline of said Section 6; thence

Along said North-South centerline, North 00°50'45" East, 1323.92 feet to the TRUE POINT OF BEGINNING.

SCANNED

AUG 24 2009

1960493

1969879



A Pioneer Company
PIONEER TITLE COMPANY
OF KOOTENAI COUNTY

100 Wallace Avenue/ Coeur d Alene, Idaho 83814 / (208) 664-8254

Order No. 116065-CD

STATE OF IDAHO
COUNTY OF KOOTENAI
AT THE REQUEST OF
PIONEER TITLE CO.

2005 JUN 28 P 2:54

DANIEL J. ENGLISH

DEPUTY

FEES

600

WARRANTY DEED

For Value Received

George E Thayer and Audrey L Thayer, also shown of record as Audrey Thayer, husband and wife hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

JCAV, LLC, a Washington Limited Liability Company

hereinafter referred to as Grantee, whose current address is

P.O. Box 463 Fork Island, WA 98333

the following described premises, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: June 21, 2005

George E Thayer
George E Thayer

Audrey L Thayer
Audrey L Thayer

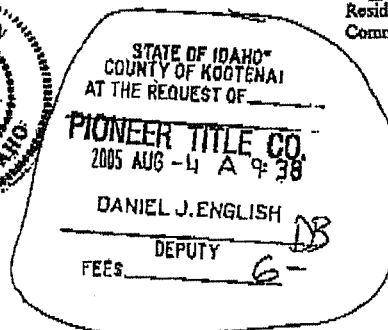
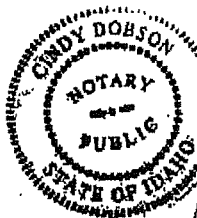
STATE OF IDAHO

COUNTY OF KOOTENAI

On this 27th day of June, in the year of 2005, before me, the undersigned, a Notary Public, personally appeared George E Thayer and Audrey L Thayer, known or identified to me to be the person/persons whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

Cindy Dobson

Cindy Dobson
Notary Public of Idaho
Residing at Hayden
Commission expires: August 23, 2005



SCANNED

AUG 24 2009

1969879

File No.: 116065

EXHIBIT A

PARCEL I:

A parcel of land situate in the North Half of Section 6, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

COMMENCING at the center of said Section 6, the TRUE POINT OF BEGINNING; thence

Along the East-West centerline of said Section 6, North $88^{\circ}45'47''$ West, 2317.94 feet; thence

North $01^{\circ}53'27''$ East, 622.76 feet; thence

South $89^{\circ}07'18''$ East, 270.51 feet; thence

47.23 feet along a non-tangent curve, concave to the Southwest, having a radius of 30.00 feet, a central angle of $90^{\circ}11'56''$ and a long chord bearing South $44^{\circ}01'16''$ East, 42.50 feet; thence

South $89^{\circ}07'18''$ East, 60.00 feet; thence

47.02 feet along a non-tangent curve, concave to the Southeast, having a radius of 30.00 feet, a central angle of $89^{\circ}47'38''$ and a long chord bearing North $45^{\circ}58'44''$ East, 42.33 feet; thence

North $01^{\circ}04'47''$ East, 80.00 feet; thence

South $88^{\circ}45'47''$ East, 1915.91 feet; thence

South $88^{\circ}45'59''$ East, 239.81 feet; thence

47.32 feet along a non-tangent curve, concave to the Northwest, having a radius of 30.00 feet, a central angle of $90^{\circ}22'26''$ and a long chord bearing North $46^{\circ}02'48''$ East, 42.56 feet; thence

South $88^{\circ}23'33''$ East, 60.01 feet; thence

45.93 feet along a non-tangent curve, concave to the Northeast, having a radius of 30.00 feet, a central angle of $89^{\circ}37'34''$ and a long chord bearing South $43^{\circ}57'12''$ East, 42.29 feet; thence

South $00^{\circ}34'45''$ West, 80.01 feet; thence

47.32 feet along a non-tangent curve, concave to the Southeast, having a radius of 30.00 feet, a central angle of $90^{\circ}22'26''$ and a long chord bearing South $46^{\circ}02'48''$ West, 42.56 feet; thence

South $00^{\circ}51'35''$ West, 311.46 feet; thence

282.86 feet along a non-tangent curve, concave to the Northwest, having a radius of 860.00 feet, a central angle of $18^{\circ}50'42''$ and a long chord bearing South $10^{\circ}16'50''$ West, 281.59 feet; thence

5.30 feet along a non-tangent curve, concave to the Southeast, having a radius of 740.00 feet, a central angle of $00^{\circ}25'32''$ and a long chord bearing South $19^{\circ}29'25''$ West, 5.50 feet; thence

North $88^{\circ}45'59''$ West, 232.16 feet to the TRUE POINT OF BEGINNING.

PARCEL II:

A parcel of land situate in the North Half of Section 6, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

COMMENCING at the center of said Section 6; thence

Along the East-West centerline of said Section 6, North $88^{\circ}45'47''$ West, 2317.94 feet to the TRUE POINT OF BEGINNING; thence

Continuing along said East-West centerline, North $88^{\circ}45'47''$ West, 258.97 feet; thence

North $00^{\circ}35'37''$ East, 590.90 feet; thence

47.27 feet along a non-tangent curve, concave Southeast, having a radius of 30.00 feet, a central angle of $90^{\circ}17'06''$ and a long chord bearing North $45^{\circ}44'09''$ East, 42.33 feet; thence

South $89^{\circ}07'18''$ East, 242.91 feet; thence

South $01^{\circ}53'27''$ West, 622.76 feet to the TRUE POINT OF BEGINNING.

SCANNED

AUG 24 2009

1928970

STATE OF IDAHO
COUNTY OF KOOTENAI
AT THE REQUEST OF
City of Rathdrum

WATER RIGHTS DEED

2005 FEB -9 P 8:17

KNOW ALL MEN BY THESE PRESENTS, that NEIGHBORHOOD, INC. an Idaho corporation, whose address is 3201 N. Huetter, Coeur d'Alene, ID 83814, for good and valuable consideration, hereby grants and conveys unto City of Rathdrum, Kootenai County, State of Idaho, a municipal corporation, the GRANTEE, whose address is 8047 W. Main Street, Rathdrum, ID: 83858-9287, the water rights associated with the real property described as:

Government Lot 6, Section 6, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho.

EXCEPT, the West 330 feet of Government Lot 6.

The water right being conveyed is:

That portion of Water Right No. 95-7949, and consists of 30.323 acres of the 40 acres located in the NWSW portion of Section 6, said water right consisting of .6 CFS and 91 AFA.

SAID WATER RIGHTS ARE BEING CONVEYED SEPARATE FROM THE REAL PROPERTY.

IN WITNESS WHEREOF, the GRANTOR has caused this instrument to be executed this 7th day of February, 2005.

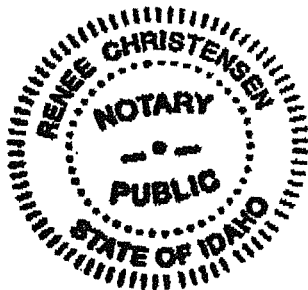
NEIGHBORHOOD, INC.

By Clifford E. Hart
Its President

STATE OF IDAHO)
County of Kootenai)

On this 8 day of Feb, 2005, before me, a Notary for the state of Idaho, personally appeared Clifford E. Hart known, or identified to me to be the President of the corporation that executed this instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Renee Christensen
Notary Public for the state of Idaho
Residing at: Post Falls
Commission Expires: 10/03/06

ATTACHMENT B

**Radiant Lake Subdivision's
Covenants, Conditions, and Restrictions (CC&Rs)**

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

LUKINS & ANNIS, P.S.
The Coeur d'Alene North
250 Northwest Boulevard, Suite 102
Coeur d'Alene, Idaho 83814

Attention: Edward F. Wroe

DANIEL J. ENGLISH 34P I 2029827000
KOOTENAI CO. RECORDER Page 1 of 34
BBB Date 05/08/2006 Time 11:26:49
REC-REQ OF JCAB LLC
RECORDING FEE: 102.00
2029827000 SC 9

DECLARATION OF

COVENANTS, CONDITIONS, AND

RESTRICTIONS

RADIANT LAKE ESTATES

KOOTENAI COUNTY, IDAHO

SCANNED

AUG 24 2009

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**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
RADIANT LAKE ESTATES
KOOTENAI COUNTY, IDAHO**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS ("Declaration"), is made on the date hereinafter set forth, by **JCAV LLC, a Washington limited liability company** ("Declarant"), with reference to the following facts:

A. Declarant is the owner of that certain real property located in the City of Rathdrum, Kootenai County, Idaho, which property is more particularly described as follows (the "Property" or "Phase One"):

All property included within the Plat of RADIANT LAKE ESTATES, recorded May 01, 2006, in Book J of Plats, at Pages 313, et seq., as Instrument No. 202868000 Official Records of Kootenai County, Idaho;

EXCEPTING THEREFROM, Lot 53, Block 3, as described on said Plat, which parcel is designated for possible future development for multi-family purposes, and which parcel shall be referred to herein as the "Multi-Family Parcel." Such Multi-Family Parcel shall not be encumbered by this Declaration unless and until annexed to the Project in accordance with Article 15 of this Declaration.

B. Declarant has subdivided and developed the Property into 210 residential Lots, a recreational lake, irrigation system, various water features, private streets, entry areas and gates, sewer lift station and pressure line, and appurtenant park areas and other amenities. Declarant desires to establish the Property as Phase One of a recreational and residential development, centered around a lake and water feature theme, the entire Project to be known as Radiant Lake Estates.

C. Declarant also owns or may in the future obtain the right to acquire additional land adjacent to the Property described above, which additional property is described as follows (the "Potential Annexation Property"):

Lot 53, Block 3, RADIANT LAKE ESTATES, within the Plat referenced in Recital A above, and described therein as the "Multi-Family Parcel;"
AND

All or any portion of Lots 1 through 5, Block 1, MEYER TRACTS, in Section 6, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho.

While the Declarant currently intends to develop the Property described in Recital A, above, and all or portions of the Potential Annexation Property as an integrated project, this Declaration shall only encumber the Property described in Recital A (Phase One), unless and until additional property is annexed to and made a part of the Project by the recordation of one or more Declarations of Annexation, according to the annexation procedures set forth herein.

D. The development (the First Phase and any property later annexed thereto) shall be hereinafter referred to as the "Project." The Owner of each Lot shall receive title to such Lot and rights of membership in the Radiant Lake Owners Association, Inc., a nonprofit corporation formed to operate and maintain the lake, park areas, and other amenities, and otherwise to manage the Project.

E. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of operation for the benefit of all of the said Lots and the Owners thereof.

Declarant hereby declares that the Property and the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and the Project, and every part thereof, in accordance with the plan for the establishment of the Project as a residential neighborhood development. All of the declarations, limitations, covenants, conditions, restrictions, and easements shall constitute covenants and encumbrances which shall run with the land and shall be perpetually binding upon Declarant and its successors-in-interest and assigns, and all parties having or acquiring any right, title, or interest in or to any part of the Property or the Project.

ARTICLE 1.

Definitions

Unless otherwise expressly provided, the following words and phrases, when used in this Declaration and in the Project Documents, shall have the following meanings:

1.1 **Articles**: the Articles of Incorporation of the Association as restated or amended from time to time.

1.2 **Assessment**: that portion of the cost of maintaining, improving, repairing, operating, insuring, and managing the Common Area (or otherwise needed for the administration or management of the Project), which is to be paid by the Lot Owners as determined by the Association under this Declaration. Assessments may be designated as Regular Assessments, Extraordinary Assessments, or Special Assessments, as those terms are more specifically defined in Article 6 of this Declaration.

1.3 **Association**: Radiant Lake Owners Association, Inc., an Idaho non-profit corporation, formed by Declarant in conjunction with the creation of the Project, the Members of which shall be the Owners of Lots in the Project as provided herein. The existence of the Association under this Declaration shall be without prejudice to the establishment of one or more subassociations charged with administering special requirements of particular Phases (e.g., to

manage the Limited Common Area at Treasure Island Court, or to manage a project within the Multi-Family Parcel, if eventually annexed to the Project).

1.4 **Board or Board of Directors**: the governing body of the Association.

1.5 **Bylaws**: the Bylaws of the Association as restated or amended from time to time.

1.6 **Common Area**: all property and property rights owned in fee title, held by easement rights, or otherwise controlled by the Association, which are held, operated, managed, administered, repaired, improved, and/or maintained by the Association for the benefit of the Lots and their Owners. The Common Area is more specifically described in Article 3 of this Declaration.

1.7 **Common Expenses**: the actual and estimated expenses of maintenance, improvement, repair, operation, insurance, and management of the Common Area and of administering the Association and the Project, and any reasonable reserve for such purposes as determined by the Board, and all sums designated as Common Expenses by or pursuant to the Project Documents.

1.8 **Declarant**: JCAV LLC, a Washington limited liability company, and its successors-in-interest and assigns with respect to the entire Project, but excluding independent third parties purchasing completed Lots.

1.9 **Declaration**: this Declaration of Covenants, Conditions, and Restrictions, as it may be amended from time to time.

1.10 **Director**: a member of the Board of Directors of the Association.

1.11 **Limited Common Area**: those portions of the Common Area that are set aside for the exclusive use of specified Owners. Initially, only Treasure Island Court shall be deemed Limited Common Area, for the exclusive use of the Owners of Lots fronting on such access roadway and being located inside the monument area and security gate limiting access to Treasure Island Court. Both the Treasure Island Court access roadway and the monument area and security gate at the entrance to Treasure Island Court shall be deemed part of such Limited Common Area.

1.12 **Lot**: any separately numbered parcel of land shown on the Plat as a buildable parcel (other than the Multi-Family Parcel, unless and until annexed to the Project), intended for sale to and use and enjoyment by an Owner (excluding areas designated on the Plat, on Exhibit "A" hereto, or described in Section 3.1(j) of this Declaration as Common Area, even though some of those Common Area parcels may be designated on the Plat as "Lots"). Additionally, if the Project is expanded to include one or more condominium projects, the term "Lot" shall also be defined to include any separately owned condominium unit established pursuant to the Idaho Condominium Act, even though the condominium building may be constructed on a single legal parcel of land.

1.13 **Member**: a person entitled to membership in the Association as provided herein.

1.14 **Mortgage**: includes a recorded mortgage, deed of trust, real estate contract, or other instrument creating a security interest in any Lot.

1.15 **Mortgagee**: includes a mortgagee, beneficiary, or holder of a deed of trust, real estate contract vendor, or other holder of a mortgage (including Declarant or Declarant's assignee with respect to any purchase-money security interest retained by Declarant on sale of any Lot).

1.16 **Mortgagor**: includes a mortgagor, the trustor of a deed of trust, real estate contract vendee or other individual granting a security interest in any Lot.

1.17 **Multi-Family Parcel**: Lot 53, Block 3 on the Plat of RADIANT LAKE ESTATES, as described in Recitals A and C, above, which is not to be encumbered by this Declaration unless and until annexed to the Project pursuant to Article 15, below.

1.18 **Owner or Owners**: the record holder or holders of title to a Lot in the Project. This shall include any person having a fee simple title to any Lot, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Lot is sold under a recorded contract of sale to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner."

1.19 **Person**: any individual or any corporation, joint venture, limited partnership, partnership, firm, association, trust, or other similar entity or organization.

1.20 **Phase**: any separate parcel of land that is subjected to the terms of this Declaration. The Property described in Recital A above constitutes Phase One of the Project. Subsequent Phases shall be brought within the coverage of this Declaration by the recordation of one or more Declarations of Annexation pursuant to Article 15 of this Declaration.

1.21 **Plat**: the recorded final subdivision plat (or plats) of the Project, as amended or expanded from time to time. The Plat shall identify each Lot in the Project and shows its relative location and dimensions.

1.22 **Project**: the entirety of the project described by this Declaration, as expanded by the annexation of additional Phases (generally synonymous with "Property"). As indicated in the Recitals above, the term "Project" shall only include property specifically encumbered by this Declaration, either upon recordation of this Declaration as to Phase One, or by the recordation of a Declaration of Annexation describing one or more other parcels according to Article 15 of this Declaration.

1.23 **Project Documents**: this Declaration, the Plat, and the Articles, Bylaws and Rules and Regulations of the Association, as each shall be restated or amended from time to time.

1.24 **Property**: the land described in Recital A in this Declaration, together with all buildings, improvements or structures thereon, and every easement or right appurtenant thereto, and all personal property intended for use in connection therewith or for the use, benefit, or enjoyment of the Owners. As in the case of the term "Project," the term "Property" shall only

include property specifically encumbered by this Declaration, either upon recordation of this Declaration as to Phase One, or by the recordation of a Declaration of Annexation describing one or more other parcels according to Article 15 of this Declaration.

1.25 Radiant Lake. the man-made lake located on the Property and identified as such on the Plat (and all easement rights and equipment reasonably necessary to the use, operation, management, repair, maintenance, and replacement thereof). Radiant Lake shall be deemed part of the Common Area, and shall be operated and administered by the Association in accordance with Article 3.

ARTICLE 2.

Association, Administration, Membership, and Voting Rights

2.1 Organization of Association. The Association is or shall be incorporated under the name of Radiant Lake Owners Association, Inc., as a nonprofit corporation under the Idaho Nonprofit Corporation Act.

2.2 Duties and Powers. The duties and powers of the Association are those set forth in this Declaration, and in the Articles and Bylaws, together with its general and implied powers as a nonprofit corporation, generally to do any and all things that a non-profit corporation organized under the laws of the State of Idaho may lawfully do and which are necessary or proper in operating for the peace, health, comfort, safety, and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in this Declaration, the Articles and Bylaws.

2.3 Membership. The Owner of a Lot shall automatically, upon becoming the Owner of that Lot, be a Member of the Association, and shall remain a Member thereof until such time as his or her ownership ceases for any reason, at which time his or her membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

2.4 Transferred Membership. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his or her name to the purchaser of the Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

2.5 Classes of Membership. The Association shall consist of two (2) classes of voting membership established according to the Articles, generally providing that, for a limited time, the Declarant shall have triple the voting power otherwise allocated to Lots owned by the Declarant.

2.6 Voting Requirements. Voting power attributable to each Lot shall be equal, regardless of the size or configuration of the Lot, with each Lot having one (1) vote on all matters with respect to which a vote is to be taken (subject to the weighted voting in favor of the Declarant as provided in the Articles). The voting power necessary to support specific actions of

the Association shall be as set forth in the Articles and Bylaws. Additionally, for so long as the Declarant shall hold 15% of the total voting power in the Association, no action requiring the consent of the membership shall be taken without the consent of the Declarant; provided that this special voting privilege of the Declarant shall terminate ten (10) years from the date of recordation of this Declaration.

2.7 Membership Meetings. Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

2.8 Board of Directors. The affairs of the Association shall be managed by a Board of Directors, which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association. The Board of Directors shall be elected by the Members according to the Bylaws; provided that, for so long as the Declarant retains ownership of a substantial ownership interest in the Project (as provided in the Bylaws), the Declarant shall reserve the right to control the Board by appointing a majority of the Directors.

2.9 Subassociations. Nothing in this Declaration shall preclude the Declarant or the Owners of any Phase or area of the Project from establishing one or more separate Subassociations for purposes of administering special requirements of a particular Phase or area. For example, a subassociation could be established to administer a condominium regime within the Project (as in the case of annexation of the Multi-Family Parcel and the development of a condominium project thereon), or to maintain a private road as part of a Limited Common Area (e.g., Treasure Island Court). However, the establishment of such a subassociation shall have no effect on the rights and obligations of Owners and Lots under this Declaration or the remaining Project Documents, without the written approval of the Declarant (so long as the Declarant has any interest in the Project or in any Potential Annexation Property) and the Board of the Association.

ARTICLE 3. **Rights In Common Area**

3.1 Common Area. The Common Area shall include all property and rights held by the Association (through fee title, easement, or otherwise, and whether within the Project boundaries or off-site) and necessary or convenient to the administration, operation, management, and maintenance of the Project for the benefit of all Owners of Lots within the Project. Without limiting the generality of the foregoing, the Common Area shall include those areas and facilities described as follows, which are depicted graphically on Exhibit "A" attached hereto:

- (a) The area on the Plat depicted as Radiant Lake, fee title to which shall be conveyed to and held by the Association, together with all easement rights necessary to obtain access thereto and all equipment reasonably necessary to its maintenance as an esthetic feature of the Project;

(b) A strip of land twenty-five (25) feet in width lying around the perimeter of Radiant Lake, easement rights to which are hereby reserved to the Declarant and the Association for purposes of maintaining and repairing all elements of Radiant Lake and equipment relating thereto, such as the accent illumination lights along the shoreline of Radiant Lake. Such easement rights shall not preclude the Owner of any Lot having frontage on Radiant Lake from using the easement area on such Owner's Lot for recreational or other private purposes, so long as such use by the Owner does not unreasonably interfere with the performance of the maintenance and repair obligations of the Declarant and the Association set forth in the preceding sentence. Further, nothing in this subsection shall imply the right of any person (other than the Owner of a Lot having frontage on Radiant Lake) to use the easement area within any such Lot for any purpose other than maintenance and repair on behalf of the Declarant and/or the Association as provided in this subsection;

(c) The private streets throughout the Project, providing access between each Lot and the public right-of-way, and all entry areas, entry monuments, gates, and related features. Fee title to the private streets shall be conveyed to and held by the Association, and easement rights to the entry areas are hereby reserved to the Declarant and the Association for purposes of providing access to and operating, maintaining, repairing, and replacing the entry monuments and any utility or other equipment necessary to their operation. The Private Streets shall also include Treasure Island Court and the entry gate, monument, and rock bridge at the entrance to Treasure Island Court, all of which shall be owned by the Association as Common Area, but which shall be deemed "Limited Common Area," in that, although it is to be owned and maintained by the Association, it shall be for the exclusive use and benefit of the Owners of Lots located within such gate, and maintained at the sole expense of such Owners;

(d) Strips of land: (a) fifteen (15) feet in width (wider along the easterly edge of Lots 10, 11, 12, and 13, Block 2, as reflected on the Plat) lying around the perimeter of the Project and along the edge of each of the private streets within the Project; (b) twenty (20) feet in width lying along the southerly boundary of the Project; and (c) ten (10) feet in width lying along the westerly boundary of Block 3, easement rights to all of which are hereby reserved to the Declarant and granted to the Association for purposes of providing access to and operating, maintaining, repairing, and replacing the private streets and any utility lines or landscaping features within such strips, and also for the maintenance, repair, and replacement of the rock wall surrounding a large portion of the Project. The strip along the southerly boundary of the Project shall also be available to provide utility services to property to the south of the Project. ;

(e) The strip of land along the public roadways along the edge of the Project, in which drainage swales, landscaping, and the perimeter bike/pedestrian path are located (portions of which are within the Project boundaries, and portions of which are in the public right of way).

(f) A strip of land twenty (20) feet in width, along the southerly boundary of Lot 92, Block 4, an easement to which is hereby reserved to the Declarant and granted to

the Association for purposes of installing, operating, maintaining, repairing, and replacing a water and power lines connecting Radiant Lake with the Multi-Family Parcel;

(g) A strip of land twenty (20) feet in width, the centerline of which is the boundary between Lots 13 and 14, Block 1, an easement to which is hereby reserved to the Declarant and granted to the Association for purposes of installing, operating, maintaining, repairing, and replacing: (a) a water line connecting Radiant Lake with landscaping features within the public right of way to be watered and maintained by the Association; and (b) a sewer line connecting the off-site gravity sewer collector line with the collector line servicing the Project, so that the off-site sewage can be transported to the lift station at the southwest corner of the Project;

(h) The irrigation system (and any related water features within the Project), necessary to circulate and replace the water in Radiant Lake and to provide irrigation to other portions of the Common Area, including pipes, pumps, filters, and other equipment necessary to circulate, clean, aerate, replace, and replenish the water in Radiant Lake, and to provide water to such Common Area requiring water. Easement rights are hereby reserved to the Declarant and granted to the Association for access to and for the installation, maintenance, operation, repair, and replacement of all elements of the irrigation system. The well and portions of the irrigation water delivery system are located outside the boundaries of the Project, with rights therein being established by separate recorded easements granted and/or assigned to the Declarant. The water rights in the well shall remain in the name of the Declarant, with sufficient rights being allocated to the Association (through a partial assignment of rights or appropriate license agreement) to accommodate the reasonable needs of irrigation water for Radiant Lake and the various water features within the Project;

(i) The southwesterly portion of Lot 42, Block 3, as shown on Exhibit "A", and all elements of the sewage system not maintained by the City of Rathdrum, easements to which are hereby reserved to the Declarant and granted to the Association for purposes of providing access to and operating, maintaining, repairing, and replacing such lift station and all such elements of the sewer system. The current intent is that the lift station and the force main will be abandoned at such time as the City of Rathdrum constructs a replacement collection facility, at which time the easement for the lift station shall automatically terminate; and

(j) The areas on the Plat depicted as parks and/or Common Area, fee title to which shall be conveyed to and held by the Association, together with all easement rights necessary to obtain access thereto and all equipment reasonably necessary to their maintenance for the benefit of the Project. Such fee ownership areas are designated on the Plat as Lot 1, Block 1; Lot 30, Block 1; Lot 1, Block 3; Lot 41, Block 3; Lot 54, Block 3; Lot 11, Block 4; Lot 42, Block 4; Lot 53, Block 4; Lot 65, Block 4; and Lot 98, Block 4. The conveyance of Lot 54, Block 3 to the Association shall be subject to the obligation of the Association, whether or not expressly set forth in the conveyance deed, to grant a right of way, sixty (60) feet in width, to the City of Rathdrum, as and requested by the City.

Each Lot Owner shall have a nonexclusive right to use those portions of the Common Area intended for such common use (but excluding, for example, areas and equipment relating to the providing of utility and other services; the strips around Radiant Lake, the Project perimeter, and each of the private streets; and the Limited Common Area of Treasure Island Court, which shall be subject to exclusive use according to this Article) in accordance with the purposes for which it is intended, without hindering the exercise of or encroaching upon the lawful rights of any other Lot Owners, subject to Rules and Regulations enacted by authority of the Board as provided herein.

3.2 No Separate Conveyance of Rights. The rights of each Owner in the Common Area shall be appurtenant to such Owner's Lot, and may not be assigned or conveyed except with the Lot. The Common Area shall be dedicated to the exclusive use and enjoyment of the Owners of Lots within the Project (and their guests and invitees); shall have no independent value; and shall not be converted to any use other than as Common Area, or sold, transferred, or encumbered without the prior written consent of the City of Rathdrum. To the extent possible, the Declarant and the Association shall take all reasonable measures to assure that the Common Area is not separately assessed for real estate tax purposes, but that the value of the use and enjoyment of the Common Area shall be reflected in the assessment of the individual Lots.

3.3 Regulation of Common Area Use. The rights and easements of use and enjoyment of the Common Area created by this Declaration shall be subject to such Rules and Regulations as may be adopted by the Board of Directors from time to time.

3.4 Damage by Member. Each Owner shall be liable to the Association for any damage to the Common Area not fully reimbursed to the Association by insurance, if the damage is sustained because of the negligence, willful misconduct or unauthorized or improper use of such Common Area by the Owner of any family member, guest, tenant, employee, or invitee of the Member. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association. The cost of correcting the damage, to the extent not reimbursed to the Association by insurance, shall be a Special Assessment against the Lot and may be enforced as provided hereby for the enforcement of other Assessments.

ARTICLE 4. **Architectural Control**

4.1 Prohibition of Alteration and Improvement. Subject to the exemption of Declarant hereunder, no building, sign, fence, wall, landscaping, or other improvement or structure of any kind, which would be visible from the public right of way the Common Area, Radiant Lake, or any other area outside of any Lot itself, shall be constructed, installed, painted, or maintained upon the Property, nor shall any alteration or improvement of any kind be made thereto unless and until the same has been approved in writing by the Architectural Control Committee (the "Committee") appointed as provided in this Article.

4.2 Plans and Approval. Plans and specifications showing the nature, kind, shape, color, size, materials and location of any such improvements or alterations, shall be submitted to the Committee for approval as to quality of workmanship and design. Any application submitted

to the Committee pursuant to this Article shall not be deemed approved, unless and until such approval shall be provided to the Owner in writing.

The Board or Committee shall have the authority to enact procedural rules for the submittal, review, and approval of plans, including the right to charge submittal fees to cover costs incurred by the Board or Committee in connection with the approval process. As part of this authority, the Board or Committee shall have the right to engage the services and assistance of third party professionals (e.g., architects and/or engineers), where deemed appropriate to the review process, the cost of which shall be borne by the submitting Owner (whether or not such costs shall have been included in any standard submittal fee).

4.3 Architectural Control Committee. Until the Declarant, in its discretion and in writing, turns over the function of architectural control to the Board, all functions of the Committee described in this Article shall be undertaken by the Declarant (or agents of the Declarant appointed for such purpose). Once turned over to the Board, such functions shall be undertaken by the Board, unless and until the Board determines to appoint an independent Committee. If a Committee is thereafter appointed, all members thereof shall be appointed by the Board from the membership of the Association. There shall be not less than three (3) nor more than five (5) members of the Committee, as determined by the Board.

The members of the Committee shall receive no compensation for services rendered, other than reimbursement for authorized expenses incurred by them in the performance of their duties hereunder. Neither the Committee nor any member of the Committee shall be liable in damages or otherwise for decisions made in good faith pursuant to the authority granted in this Article.

4.4 Architectural Guidelines. It is the intent of this Declaration to avoid a mixture of architecture which would create disharmony of design and appearance as determined by the Committee. In furtherance of this objective, the Board or Committee shall have the authority to adopt Architectural Guidelines to address construction scheduling and design and building of improvements, and to augment, amend, or otherwise modify such Guidelines from time to time; provided that they shall at all times be consistent with the remaining Project Documents and building restrictions imposed by law. It shall be the responsibility of each Owner to request a copy of the current Guidelines before acquiring his/her Lot and also before submitting plans for construction, in that the Guidelines may be modified by the Board or Committee from time to time, in order to maintain an orderly development of the Project and to respond to issues that may arise during administration of the architectural approval process. The Guidelines shall, at a minimum, include the following provisions:

- (a) The work of construction, altering, or repairing any structure shall be diligently performed from its commencement until completion and, in any event, the exterior appearance thereof (exclusive of landscaping) shall be completed within one (1) year after the commencement of construction. Landscaping shall be completed within six (6) months following the earlier of completion or occupancy of the primary residence. All construction shall conform to requirements established by any municipality or governmental agency having jurisdiction over the Property;

(b) Only one (1) single-family residence shall be allowed on each Lot. However, accessory structures and outbuildings (e.g., barns, storage sheds, shops, and garages) shall be allowed; provided, however, that: (i) such accessory structures and outbuildings shall only be allowed on Lots that have been designated by the Declarant as suitable for such structures (and shall be prohibited on all other Lots); and (ii) such accessory structures and outbuildings shall, like all improvements, be subject to the approval of the Board or Committee, and shall be architecturally consistent with the primary residence on the Lot (e.g., matching siding and roofing colors), as determined by the Board or Committee. Further, outbuildings shall not exceed 2000 square feet, shall have a maximum height of 14 feet at the eaves, shall have eaves that overhang on all sides and are enclosed, and shall have a roof pitch of at least 6/12;

(c) Homes shall contain a minimum of 1800 square feet for a single-story structure, 2000 square feet for a two-story structure, and 2200 square feet for other multi-level structures (e.g., a "tri-level"). Compliance with such minimums shall be determined by reference only to usable living space, exclusive of basements, garages, shops, patios, decks, and other areas not intended as part of the living quarters;

(d) Each home shall include an enclosed garage (attached or separate) at least twenty-four (24) feet wide and containing at least 576 square feet;

(e) Each homes shall have a mailbox constructed to a standard and of materials designated in the Architectural Guidelines, which shall stipulate, without limitation, a gas light feature and a stone monument;

(f) Fences, like all other structures and improvements, must be approved by the Board or Committee. All fences within the interior of any Lot shall be of a type resembling wrought-iron materials, and all fences along the perimeter of the Project shall be consistent in color, material, and design with fences designated by the Board or Committee, so as to assure a consistent appearance to the Project;

(g) The general landscaping plans for any Lot shall be approved by the Board or Committee according to this paragraph. Landscaping plans shall include: (i) the planting of approved trees along the street fronting on each Lot, with the trees being located and separated according to the requirements of the Board or Committee, and with all trees having at least a 1½ inch caliper diameter when planted; and (ii) the installation of accent gas lighting within the easement area along the perimeter of Radiant Lake, according to specifications designated in the Architectural Guidelines. Landscaping requirements shall also include planting, irrigation, and maintenance of drainage swales along the public right of way;

(h) No structures shall encroach upon Radiant Lake, except for floating docks approved by the Board or Committee according to this Article. Further, except for permitted dock structures, no structures shall be allowed on private Lots within twenty-five (25) feet of the Lot boundary fronting on Radiant Lake. The Board or Committee shall designate specific types and dimensions of docks to be permitted (by brand or

equivalency), encouraging movable modular docks propelled by electric motors, and designed so as to allow coupling with other modular docks;

In appropriate cases, the Board or Committee shall have the authority to grant reasonable variances to these or other Guidelines; provided that such variances may be granted only with the unanimous approval of the Board or Committee.

ARTICLE 5.

Repair and Maintenance

5.1 Repair and Maintenance Rights and Duties of Association. Subject to provisions in this Declaration pertaining to eminent domain and destruction of improvements, the Association shall maintain, repair and replace the Common Area and all elements thereof, or shall contract for such maintenance, repair and replacement thereof, with all Common Area to be kept in good condition, reasonable wear and tear excepted; provided however, that, although the Declarant is responsible for installation of the bicycle path along the road frontage along the perimeter of the Project (which is deemed part of the Common Area), the Association shall not be responsible for the maintenance, repair, or replacement of such bicycle path, unless legally required to do so by the City of Rathdrum or other municipality or agency having jurisdiction. Notwithstanding the foregoing, if the Owners of Lots along Treasure Island Court shall establish a subassociation for the maintenance of the Limited Common Area servicing those Lots, such subassociation shall assume responsibility for such maintenance. Notwithstanding the foregoing, while the Association shall have the obligation to maintain lines and equipment located within the various easements constituting the Common Area, and shall also be responsible to assure that all landscaping within the easement areas is properly maintained, the Board shall have the right to delegate primary responsibility for routine maintenance of landscaping (e.g., mowing of grass) to the Owners of Lots through which such easements traverse. Further, notwithstanding the general obligation of the Association with respect to easement maintenance, the Association shall not be required to maintain the twenty (20) foot utility easement reserved along the southerly boundary of the Project, unless and until required to service future development to the south.

Additionally, in the event an Owner fails to maintain his or her Lot as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify the Owner of the work required and request it be done within thirty (30) days from the giving of such notice (provided that only reasonable notice shall be required in the case of any emergency). In the event the Owner fails to carry out such maintenance within such period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner, and, if necessary, lien his or her Lot for the amount thereof.

For the purpose of performing the maintenance, repair, or replacement of the Common Area as authorized by this Article, or for purposes of making emergency repairs necessary to prevent damage to the Common Area or to any Lots, or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Board (and its agents and employees) shall have the irrevocable right, after reasonable notice to the Owner, and at reasonable hours, to enter upon any Lot.

5.2 Repair and Maintenance Rights and Duties of Owners. Except for those portions of the Project which the Association is required or elects to maintain and repair, each Lot Owner shall, at his or her sole cost and expense, maintain and repair his or her Lot and all improvements thereon, keeping the same in good condition. This requirement shall apply to all Lots, whether or not developed with a residence, with vacant Lots being landscaped and maintained in good, clean condition, free of weeds and rubbish, to a standard designated by the Declarant or the Board or Committee.

ARTICLE 6.

Association Maintenance Funds and Assessments

6.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Project, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following Assessments, which shall be established and collected as provided herein:

- (a) Regular Assessments;
- (b) Extraordinary Assessments; and
- (c) Special Assessments.

All Assessments, together with interest, costs, penalties and actual attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each Assessment is made, the lien to become effective upon recordation of a Notice of Assessment Lien by the Board as required by law (and limited in duration as provided by law). Each such Assessment, together with interest, costs, penalties and actual attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. No Owner of a Lot may exempt himself or herself from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or any other part of the Project, or by the abandonment of his or her Lot.

6.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of all the Owners of Lots in the entire Project and/or for the operation, maintenance, improvement, repair, and replacement of the Common Area for the common good of the Project. The Regular Assessments shall include an adequate reserve fund for maintenance, repair and replacement of those elements of the Common Area which must be replaced on a periodic basis. The reserve fund (including funds placed in the working capital fund described in Paragraph 6.8) shall be maintained as a segregated fund, separate from the other funds of the Association.

6.3 Regular Assessments. Until a new assessment shall be established according to this Declaration, immediately following the closing of the sale of the first Lot in the Project, the annual maximum Regular Assessment per Lot shall be such amount as is set forth in the Project budget prepared by Declarant, payable in installments as determined by the Board. Each Lot's share for the first year shall be prorated based on the number of months remaining in that fiscal year. Thereafter, the Board shall determine and fix the amount of the maximum annual Regular

Assessment against each Lot, on a yearly basis, at least sixty (60) days in advance of the effective date of the new assessment; provided, however, that the maximum annual Regular Assessment may not be increased by more than twenty percent (20%) above the maximum annual Regular Assessment for the immediately preceding year, without the vote or written assent of a majority of the total voting power of the Association (both classes of voting membership combined), plus the consent of the Declarant, where the Declarant holds at least 15% of the total voting power of the Association.

6.4 Extraordinary Assessments. In addition to the Regular Assessments authorized above, the Board may levy, in any fiscal year, an Extraordinary Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement element of the Common Area, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated Regular Assessment; provided, however, that the aggregate Extraordinary Assessments for any fiscal year shall not exceed ten percent (10%) of the budgeted gross expenses of the Association (excluding reserves) for that fiscal year, without the vote or written assent of a majority of the total voting power of the Association (both classes of voting membership combined), plus the consent of the Declarant, where the Declarant holds at least 15% of the total voting power of the Association.

6.5 Special Assessments. In addition to the Regular and Extraordinary Assessments authorized above, the Board may levy Special Assessments (without limitation as to amount or frequency) against an individual Lot and its Owner to reimburse the Association for costs incurred in bringing that Owner and his or her Lot into compliance with the provisions of the Project Documents, including interest, penalties, actual attorneys' fees and costs.

6.6 Allocation of Assessments; Special Allocation for Treasure Island Court. Each residential Lot, including Lots owned by Declarant, shall bear an equal share of each aggregate Regular and Extraordinary Assessment (subject to the right of the Declarant to defer the commencement of Assessments against Lots owned by the Declarant as provided in Paragraph 6.7 below). However, all costs and expenses associated with the operation, use, maintenance, repair, and replacement of Limited Common Area at Treasure Island Court, shall be separately accounted for and assessed only against Lots located within the entrance to Treasure Island Court. Such assessments shall be in addition to the full share of the remaining Assessments charged against all other Lots in the Project.

6.7 Date of Commencement of Assessment; Due Dates. The Regular Assessments provided for herein shall commence as to all Lots in the Project on the first day of the month following closing of the sale of the first Lot in the Project. Due dates of Assessments shall be the first day of every calendar month, or otherwise as ordered by the Board. No notice of such Assessment shall be required other than an annual notice setting forth the amount and frequency of the Assessment for the following year.

Notwithstanding the foregoing, the Declarant shall have the right to defer the commencement of Assessments with respect to any Lot owned by Declarant, until the earlier of: (i) the occupancy of the improvements on such Lot; or (ii) one (1) year from the date of completion of the improvements on the Lot. This exemption for the Declarant shall only apply

to such portion of the Assessments which pertains to operation, maintenance, repair, and insurance of the Common Area, and shall be available only for so long as the Declarant subsidizes all actual maintenance and repair of the Common Area to the extent such maintenance and repair is not covered by Assessments against Lots not owned by the Declarant.

6.8 Working Capital Fund. A working capital fund shall be established to meet unforeseen expenditures or to purchase any additional equipment or services reasonably required in the discretion of the Board, with the fund to be established by deposits at the closing of the Declarant's initial sale of each Lot, in the amount of the greater of: (i) two (2) months' Regular Assessments; or (ii) Fifty Dollars (\$50.00). Amounts paid into the fund shall be considered reserve funds under Paragraph 6.2 above, and shall not be considered as advance payments of the monthly Regular Assessments. The Declarant shall have no right to use the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while the Declarant retains voting control over the Association.

6.9 Transfer of Lot by Sale or Foreclosure. The sale or transfer of any Lot shall not affect any Assessment lien, or relieve the Lot from any liability therefor, whether the lien pertains to payments becoming due prior or subsequent to such sale or transfer. Notwithstanding the foregoing, the sale or transfer of any Lot pursuant to foreclosure or by deed in lieu of foreclosure of a recorded first mortgage given in good faith and for value shall extinguish the lien of all such Assessments as to payments which became due prior to such sale or transfer. Sale or transfer pursuant to mortgage foreclosure shall not, however, affect the personal liability of the Owner for unpaid Assessments. Any Assessments for which the liens are extinguished pursuant to this Paragraph shall be deemed to be Common Expenses collectible from all of the Lots including the Lot for which the lien was extinguished. In a voluntary conveyance of a Lot, the grantee of the same shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the latter for his or her share of the Common Expenses (and for his or her obligation for individual Special Assessments) up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any such Assessment becoming due after the date of any such statement.

6.10 Enforcement of Assessment Obligation; Priorities; Discipline. If any part of any Assessment is not paid and received by the Association or its designated agent within ten (10) days after the due date, an automatic late charge equal to ten percent (10%) of the Assessment (but not less than \$10.00) shall be added to and collected with the Assessment. Additionally, if any part of any Assessment is not paid and received by the Association or its designated agent within thirty (30) days after the due date, the total unpaid Assessment (including the late charge) shall thereafter bear interest at the rate of eighteen percent (18%) per annum until paid. Each unpaid Assessment, whether Regular, Extraordinary, or Special, shall constitute a lien on each respective Lot prior and superior to all other liens recorded subsequent to the recordation of the Notice of Assessment Lien, except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (2) labor or materialmen's liens

arising under Idaho law (timely and duly filed) if the legal effective date is prior to the recording of the Notice of Assessment Lien. Such lien, when delinquent, may be enforced by sale by the Association (acting through the Board), its attorney or other person authorized by this Declaration or by law to make the sale, after failure of the Owner to pay such Assessment, in accordance with the provisions of Idaho law applicable to the exercise of powers of sale in deeds of trust (with the Declarant hereby granting the Board an irrevocable power of attorney and the authority to appoint an independent trustee for such purpose), or by judicial foreclosure as a mortgage, or in any other manner permitted by law. The Association, acting on behalf of the Lot Owners, shall have the power to bid for the Lot at the foreclosure sale, and to acquire and hold, lease, encumber and convey the same. The foreclosing party shall have the right to reduce or eliminate any redemption rights of the defaulting Owner as allowed by law. Suit to recover a money judgment for unpaid Assessments, rent, interest, costs, penalties, and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties including actual attorneys' fees and costs and may suspend the Association membership rights of a Lot Owner (including the right to use Radiant Lake, the parks, or any other elements of the Common Area not essential to the Owners access to and use and occupancy of his/her Lot) who is in default in payment of any Assessment, after notice and hearing according to the Bylaws.

6.11 Payment of Taxes Assessed Against Common Area or Personal Property of Association. In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than against the Lots, said taxes shall be included in the Assessments made under the provisions of this Article, and, if necessary, an Extraordinary Assessment may be levied against the Lots in an amount equal to said taxes (regardless of the limitation on Extraordinary Assessments set forth in Paragraph 6.4 above).

ARTICLE 7.

Easements and Utilities

7.1 Common Area Easements. Declarant expressly reserves for the benefit of the Board of Directors and all agents, officers and employees of the Association, perpetual nonexclusive easements as necessary to operate, administer, maintain, repair, and replace all elements of the Common Area (including without limitation the specific easements reserved and granted in Article 3, above), and to perform all other tasks in accordance with the provisions of this Declaration. Additionally, the Declarant hereby reserves perpetual non-exclusive easements around the perimeter of each Lot (five feet wide along the side boundaries, and fifteen feet wide along the front and back boundaries, with corner Lots being deemed to have side boundaries away from the corner, and two front boundaries along the street), for the installation, operation, maintenance, repair, and replacement of Common Area improvements and for access to all parts of the Project.

7.2 Encroachment and Utility Easements. Each Lot within the Property is hereby declared to have an easement over all adjoining Lots and the Common Area for the purpose of accommodating any encroachment due to minor engineering errors, minor errors in original construction or reconstruction, repair, shifting, settlement, or other movement of any portion of the improvements. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way

by said encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the gross negligence or willful misconduct of said Owner or Owners.

Declarant also expressly reserves for the benefit of itself and its successors-in-interest and assigns, including the Association, easements over and under the entire Property (together with the right to grant and transfer the same) for the installation, repair, and maintenance of sanitary sewer, water, electric, gas, telephone, television and other utility lines and services, as may be deemed appropriate to service the Project.

7.3 Utility Services. Each Owner shall make all arrangements for and pay directly for all utilities and services furnished to or used by such Owner, including without limitation, water, sewer, gas, electricity, garbage collection, telephone service, and television receiving.

ARTICLE 8. **Use Restrictions**

In addition to all of the covenants contained herein, the use of the Property and each Lot therein is subject to the following:

8.1 Single-Family Residential Use. No residential Lot shall be occupied and used except for single-family residential purposes by the Owner and his or her family, or by a single-family tenant; provided that the Declarant, in its discretion, shall have the right to designate certain Lots for multi-family or condominium construction. As used in the Paragraph, the term "single-family" shall refer to a traditional family unit or an equivalent unit made up of not more than four unrelated persons.

8.2 No Commercial Use. No commercial use shall be allowed on any Lot, where there is outward evidence of the commercial nature of the use (e.g., advertising signs, special lighting, extra parking, increased noise, or increased traffic through the Project).

8.3 Animals. No animals shall be raised or maintained within any Lot, except that no more than two (2) cats and two (2) dogs may be kept on any Lot (the right to keep dogs being conditioned by a requirement that they be kept leashed or within an enclosed area within the Lot at all times).

8.4 Temporary Structures. No trailer, tent, shack, camper, or other outbuilding or structure of a temporary nature shall be used as a residence, except as follows: (i) for one (1) year during construction of an approved dwelling (for which a building permit shall have been issued); and (ii) only where adequate provision has been made for the disposal of sanitary waste; and (iii) only where the temporary structure shall have been approved by the Board or the Architectural Control Committee. As used in this Paragraph the term "residence" shall mean substantially continuous occupancy for any period of two (2) weeks or longer.

8.5 Further Subdivision Prohibited. No Lot shall be further subdivided (other than in connection with the creation of a condominium regime if allowed by the Declarant). No Owner shall bring any action for partition or division of any Lot. Judicial partition by sale of a

single Lot owned by two or more persons and division of the sale proceeds is not prohibited hereby (but physical partition of a single Lot is prohibited).

8.6 Lot Maintenance. Each Lot and all improvements and landscaping thereon shall be maintained in a clean, neat and orderly condition and in good repair at all times. All rubbish, trash and garbage shall be regularly removed from the Project, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers which shall be kept screened and concealed from the view of other Lots and the public right of way.

8.7 Nuisances; Waterfowl Feeding Prohibited. No noxious, illegal, or offensive activities shall be carried on in any Lot, or in any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners of his or her respective Lot.

The feeding of ducks, geese, or other waterfowl or wildlife within the Project is strictly prohibited, with the Board having the right to assess fines or otherwise discipline Owners for violations, according to duly adopted Rules and Regulations.

8.8 Vehicle and Equipment Restrictions. No utility trailer, boat trailer, camper, or other trailer, mobile home, commercial vehicle, bus, truck (other than standard size pickup truck), inoperable automobile, boat, or similar equipment, and no vehicle which is in an extreme state of disrepair, shall be permitted to remain on any Lot, other than temporarily (as for purposes of loading and unloading of passengers or personal property), unless placed within an enclosed garage. No noisy or off-road, unlicensed motor vehicles shall be maintained or operated upon the Property, except such recreational vehicles as may have been approved by the Board.

8.9 Signs. Signs advertising Lots for sale or rent may be displayed on the Property without prior approval of the Board provided that such signs shall be of reasonable and customary size. Except as expressly permitted by this Paragraph, no signs shall be displayed to the public view on any Lots or on any portion of the Property, unless first approved by the Architectural Control Committee in its discretion.

8.10 Limited Leasing of Units. Subject to the limitation on leasing of Lots set forth in this paragraph, any Owner may lease his or her Lot to any tenant or lessee under such terms and conditions as they may agree, except that no lease or rental agreement shall relate to less than the whole of any Lot. Any lease or rental agreement shall be in writing and shall by its terms provide that it is subject in all respects to the Project Documents. Any failure by a lessee to comply with the terms of the Project Documents shall be a default under both the Project Documents and the lease, whether or not it is expressed therein, and the Owner shall be liable for any costs incurred which result from the lessee's actions.

Notwithstanding the foregoing, the Declarant hereby declares that the Lots in the Project are intended to be primarily owner occupied. Each Lot Owner desiring to lease his/her Lot shall notify the Board of such intent and shall acquire consent to the leasing of such Lot. The Board shall have the right to keep track of all such leases, and shall take reasonable steps to assure that

not more than fifty (50%) of all Lots shall be leased out at any one time, and that all leases be for a term of at least one (1) year. This limitation shall not apply to a lender that shall have acquired any Lot through foreclosure or deed in lieu of foreclosure of a bona fide mortgage given in good faith and for value. In furtherance of the Board's authority under this paragraph, the Board shall have the right to enact reasonable Rules and Regulations to determine a fair way to monitor and to permit leasing within these restrictions (e.g., waiting lists, loss of leasing privileges due to extended vacancies, etc.), and shall further have the right to enact a schedule of fines to enforce this restriction; provided that such fines shall not exceed the amount of rental income derived from an unauthorized lease.

8.11 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 8 or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in the Project in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot agrees to hold Declarant harmless therefrom.

ARTICLE 9.

Insurance

9.1 Duty to Obtain Insurance; Types. The Association shall obtain and maintain the following policies of insurance:

(a) **Hazard Insurance.** With respect to the Common Area, a policy of hazard insurance covering loss or damage to all parts of the Common Area in the amount of the full replacement value thereof, providing protection against all direct causes of loss. The policy shall name the Association (for the use and benefit of the individual Owners), as the named insured and shall contain the standard mortgage clause, naming the holders of first mortgages (and their successors and assigns) as the mortgagees.

(b) **Liability Insurance.** With respect to the Common Area, a comprehensive general liability insurance policy, with policy limits and endorsements deemed appropriate by the Board (but having a combined single limit of liability of not less than \$2,000,000.00), covering all occurrences relating to the operation of the Common Area.

(c) **Fidelity Bonds.** If required by any first mortgagee, blanket fidelity bonds for anyone who either handles or is responsible for funds which are held or administered by the Association, whether or not they receive compensation for such services.

9.2 Lenders' Requirements. Without limiting the foregoing insurance requirements, the Association and each residential Lot Owner shall maintain insurance and fidelity bonds meeting the requirements for similar projects established by the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), the Mortgage Association ("TMC"), Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA"), so long as any of them shall be a holder, insurer, or guarantor of a

mortgage on a Lot within the Project, except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA, TMC, VA and/or FHA, as applicable.

9.3 Waiver of Claim Against Association. As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors, and the Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said persons.

9.4 Right and Duty of Owners to Insure. It is the responsibility of each Owner to provide insurance on all improvements and personal property located on his or her Lot. Nothing herein shall preclude any Owner from carrying any public liability insurance as he or she deems desirable to cover his or her individual liability for damage to persons or property occurring on his or her individual Lot or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur, and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him or her to the Association to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

9.5 Notice of Expiration Requirements. If available, all of the policies of insurance maintained by the Association shall contain a provision that said policy or policies shall not be canceled, terminated, or expired by their terms, without thirty (30) days prior written notice to the Board, Declarant, Owners and their respective first mortgagees (provided that such persons shall have filed written requests with the carrier for such notice).

9.6 Insurance Premiums. Insurance premiums for any policies carried by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association and collected from the Owners. That portion of the Regular Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the reserve fund to be used solely for the payment of premiums of required insurance as such premiums become due.

9.7 Trustee for Policies. The Association, acting through the Board, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies as provided for in Paragraph 9.1 above shall be paid to the Board as Trustee.

ARTICLE 10.

Destruction of Improvements

10.1 Damage to Common Area. In the event of any destruction of any element of the Common Area, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as

promptly as practical. The proceeds of any insurance maintained pursuant to Article 9 hereof shall be used for such purpose, unless otherwise provided herein.

It shall be presumed that the Association is authorized to levy an Extraordinary Assessment to collect any expense of restoration and repair not covered by insurance, and to proceed forthwith with the restoration and repair. However, within thirty (30) days of the date of destruction, by the vote or written consent of the Declarant (so long as the Declarant owns any Lot) and not less than sixty-seven percent (67%) of the total voting power of the Owners other than the Declarant, together with the approval of at least sixty-seven percent (67%) of the first mortgagees of record, the Owners may decide to proceed other than by restoring and repairing the Common Area.

10.2 Damage to Lots. Restoration and repair of any damage to the improvements on any individual Lot shall be made by and at the individual expense of the Owner of the Lot so damaged. Such repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Architectural Committee as provided herein.

ARTICLE 11. **Eminent Domain**

11.1 Taking of Lots. In the event of any taking of any Lot in the Project by eminent domain (including actual condemnation or sale under threat of condemnation), the Owner of such Lot shall be entitled to receive the award for such taking (subject to the rights of any mortgagee thereof), and after acceptance thereof, he or she and the mortgagee(s) of the Lot shall be divested of all interest in the Project if such Owner shall vacate the Lot as a result of such taking. The remaining portion of the Project shall be resurveyed, if necessary, and this Declaration shall be amended to reflect such taking and to readjust the interests of the remaining Owners in the Project.

In the event of a taking by eminent domain of more than one Lot at the same time, the Board shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where Lots are not valued separately by the condemning authority or by the court. In the event any Lot Owner disagrees with the proposed allocation, he or she may have the matter submitted to arbitration under the rules of the American Arbitration Association.

11.2 Taking of Common Area. In the event of any taking of all or any portion of the Common Area by eminent domain (including actual condemnation or sale under threat of condemnation), the Association shall be entitled to receive the award for such taking. The proceeds of the condemnation shall be used to restore and repair the Common Area as necessitated by the taking. However, within thirty (30) days of the date of the taking, by the vote or written consent of the Declarant (so long as the Declarant owns any Lot) and not less than sixty-seven percent (67%) of the total voting power of the Owners, together with the approval of at least sixty-seven percent (67%) of the first mortgagees of record, the Owners may decide to proceed other than by restoring and repairing the Common Area.

ARTICLE 12.
Rights of Mortgagees

In order to induce various lenders and lending agencies, including without limitation, The Mortgage Corporation ("TMC"), the Government National Mortgage Association ("GNMA"), the Federal National Mortgage Association ("FNMA"), the Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA") to participate in the financing of the sale of residential Lots within the Project, this Article 12 is included in this Declaration. To the extent these added provisions, pertaining to the rights of such lenders and lending agencies, conflict with any other provisions of this Declaration or any other of the Project Documents, these added restrictions shall control. For purposes of this Article 12, the terms "Eligible Holder" and "Eligible Insurer or Guarantor" refer to a holder, insurer, or guarantor of any first mortgage on a Lot, who has provided a written request to the Association, to be notified of any proposed action requiring the consent of a specified percentage of such holders, insurers, or guarantors.

12.1 Notwithstanding any other provision of Project Documents, no amendment or violation of the Project Documents shall operate to defeat or render invalid the rights of any mortgagee of a Lot made in good faith and for value, provided that after the foreclosure of any such mortgage, such Lot shall remain subject to the Project Documents.

12.2 Each first mortgagee of a mortgage encumbering any residential Lot, which obtains title to such Lot pursuant to judicial foreclosure or the powers provided in such mortgage, shall take title to such Lot free and clear of any claims for unpaid Assessments or charges against such Lot which accrued after the time such mortgagee recorded its mortgage, and prior to the time such mortgagee acquires title to such Lot.

12.3 First mortgagees, upon written request, shall have the right to (1) examine the books and records of the Association during normal business hours; (2) require from the Association the submission of financial reports and other financial data (audited in the discretion of the Board); (3) receive written notice of all meetings of the Owners; and (4) designate, in writing, a representative to attend all such meetings.

12.4 Each Owner hereby authorizes the first mortgagee of a first mortgage on his or her Lot to furnish information to the Board concerning the status of the first mortgage and the loan which it secures.

12.5 Lot Owners shall have the right to amend the Project Documents in accordance with Article 13 below, subject to the rights of Eligible Holders to participate in the amendment process as provided in this Paragraph. Amendments of a material nature shall be agreed to by (i) the Declarant (so long as the Declarant owns any Lot in the Project); (ii) Lot Owners representing at least sixty-seven percent (67%) of the total allocated votes in the Association, excluding votes held by the Declarant; and (iii) Eligible Holders representing at least fifty-one percent (51%) of the votes of residential Lots that are subject to mortgages held by Eligible Holders. A change to any of the provisions governing the following would be considered as material:

- Voting rights;

- Increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- Reductions in reserves for maintenance, repair and replacement of the Common Area;
- Responsibility for maintenance and repairs;
- Reallocation of rights in the Common Area;
- Redefinition of any Lot boundaries;
- Convertibility of Lots into Common Area or vice versa;
- Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- Hazard or fidelity insurance requirements;
- Imposition of any restrictions on the leasing of Lots;
- Imposition of any restrictions on a Lot Owner's right to sell or transfer his or her Lot;
- A decision by the Association to establish self-management if professional management had been required previously by the Project Documents or by an Eligible Holder;
- Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Project Documents;
- Any provisions that expressly benefit mortgage holders, insurers, or guarantors.

12.6 Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs shall be agreed to by: (i) the Declarant (so long as the Declarant owns any Lot in the Project); (ii) Lot Owners representing at least sixty-seven percent (67%) of the total allocated votes in the Association, excluding votes held by the Declarant; and (iii) Eligible Holders representing at least fifty-one percent (51%) of the votes of residential Lots that are subject to mortgages held by Eligible Holders.

When Lot Owners are considering termination of the legal status of the Project for reasons other than substantial destruction or condemnation, approval must be obtained from Eligible Holders representing at least sixty-seven percent (67%) of the votes of residential Lots that are subject to mortgages held by Eligible Holders.

12.7 Implied approval of an Eligible Holder under Paragraph 12.5 or 12.6 may be assumed when the Eligible Holder fails to submit a response to any written proposal for an amendment or for termination of the legal status of the Project, within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

12.8 Each Eligible Holder and each Eligible Insurer or Guarantor, upon written request therefor, is entitled to timely written notice of the following:

- Any condemnation or casualty loss that affects either a material portion of the Project or the Lot securing its mortgage;
- Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage;
- A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- Any proposed action that requires the consent of a specified percentage of Eligible Holders.

12.9 In addition to the foregoing, the Board shall have the power and authority, without the vote of the Association, to enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, FHA, TMC, the FNMA or the GNMA or any similar entity, so as to allow for the purchase, guaranty, or insurance, as the case may be, by such entities of first mortgages encumbering Lots. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their residential Lots, if such agencies approve the Property as a qualifying Project under their respective policies, rules and regulations, as adopted from time to time.

ARTICLE 13. **Duration and Amendment**

13.1 Duration. This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination is recorded, meeting the requirements of a material amendment to this Declaration as set forth in Paragraph 13.2.

13.2 Amendment Procedures. Notice of the subject matter of a proposed amendment to this Declaration, in reasonably detailed form, shall be included in the notice of any meeting of the Association at which the proposed amendment is to be considered. A resolution adopting a proposed amendment may be proposed by an Owner at a meeting of the Members of the Association. The resolution shall be adopted by the vote, in person or by proxy, or written consent of Members representing not less than sixty-seven percent (67%) of the total voting power of the Association (both classes of voting membership combined), plus the consent of the Declarant, where the Declarant holds at least 15% of the total voting power of the Association.

Notwithstanding the foregoing, the following special voting provisions shall apply:

(a) Amendments of a material nature shall be enacted in compliance with the provisions of Article 12 of this Declaration;

(b) The specified percentage of the voting power necessary to amend a specified provision of this Declaration shall be not less than the percentage of affirmative votes prescribed for action to be taken under that provision;

(c) Amendments of any provisions set forth herein for the benefit of the City of Rathdrum, Kootenai County, or any other municipality or governmental agency (e.g., provisions required by the recorded Development Agreement with the City of Rathdrum or imposed as a condition to the platting of the Project) shall also require the consent of such city, municipality, or agency; and

(d) The Declarant shall have the right to amend this Declaration, without the vote or consent of the membership, where required by an agreement for the benefit of one or more Project lenders, as contemplated under Paragraph 12.9, above.

A certificate, signed and sworn to by two (2) officers of the Association, that the record Owners of the required number of Lots (and the required number of first mortgagees, where applicable) have either voted for or consented in writing to any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years.

ARTICLE 14.

Declarant's Rights and Reservations

Declarant is undertaking the work of construction of the Project and the establishment of a recreational and residential development project thereon. The completion of that work and the sale, rental, and other disposal of the Lots is essential to the establishment and welfare of the Property as a recreational and residential development project. In order that said work may be completed and said Property be established as a fully occupied project as rapidly as possible, nothing in this Declaration shall be understood or construed to:

14.1 Prevent Declarant or its contractors or subcontractors from doing on the Property or within any Lot, whatever is reasonably necessary or advisable in connection with the completion of the work; or

14.2 Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of their business of completing said work and establishing said Property as a residential and recreational development project, and disposing of the Lots by sale, lease or otherwise; or

14.3 Prevent Declarant from undertaking any promotional activity on the Project as part of its marketing program, including the operation of boats on Radiant Lake (even where

such boats might not be permitted under this Declaration or the Rules and Regulations adopted by the Board); or

14.4 Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the sale, lease, or disposition thereof.

So long as Declarant, its successors-in-interest and assigns, owns one or more of the Lots established and described in this Declaration, and except as otherwise specifically provided herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration.

In the event Declarant shall convey all of its right, title and interest in and to the Property to any third person, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such third person shall be obligated to perform all such duties and obligations of the Declarant.

ARTICLE 15. **Annexation of Additional Property**

Additional property may be annexed to the Project and become subject to this Declaration by either of the following methods:

15.1 Annexation Pursuant to Plan. All or any portion of the land described in Recital C, above (the "Potential Annexation Property") may be annexed to and become a part of the Project described herein, subject to this Declaration, and subject to the jurisdiction of the Association, without the assent of the Association or its Members, on condition that:

(a) Any annexation pursuant to this subparagraph shall be made prior to fifteen (15) years from the date of recordation of this Declaration;

(b) All infrastructure improvements (streets and utilities) within a particular Phase shall be substantially installed (or bonded) prior to annexation of such Phase;

(c) Improvements in future Phases shall be consistent with the initial improvements in structure type and quality of construction (although a future Phase may be developed as a condominium or multi-family regime, in the discretion of the Declarant); and

(d) A Declaration of Annexation shall be recorded by Declarant, covering the property to be annexed. Said Declaration shall incorporate this Declaration by reference and may contain such complementary additions and modifications of the covenants and restrictions contained herein as may be necessary to reflect the different character, if any, of the added property, and as are not inconsistent with the scheme of this Declaration.

15.2 Annexation Pursuant to Approval. Upon the vote or written assent of Declarant (while Declarant has any interest in the Project or retains the right to annex additional Phases under Paragraph 15.1), and of fifty-one percent (51%) of the total voting power of the Association, other than the Declarant, the owner of any property adjacent (including being across

any public right of way) to the Property described herein, who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may record a Declaration of Annexation covering the property to be annexed. Said Declaration shall incorporate this Declaration by reference and may contain such complementary additions and modifications of the covenants and restrictions contained herein as may be necessary to reflect the different character, if any, of the added property, and as are not inconsistent with the general scheme of this Declaration.

Upon annexation of additional property under either method described above, the annexed property shall become subject to this Declaration without the necessity of amending individual sections hereof. The Owners of the Lots in the original Project will continue to have the same easements, rights and interests therein and will acquire similar easements, rights and interests in the annexed property. Owners of Lots in the annexed portion of the Project will likewise acquire similar easements, rights and interest in all portions of the Project, and will become members of the Association.

ARTICLE 16.

General Provisions

16.1 Enforcement; Special Rights to City of Rathdrum. The Association (acting through the Board), any Owner, and any governmental or quasi-governmental agency or municipality having jurisdiction over the Project shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court. Any such action by the Association shall be taken on behalf of two (2) or more Lot Owners, as their respective interests may appear, with respect to any cause of action relating to the Common Area or more than one Lot. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

Without limiting the generality of the foregoing enforcement rights, the City of Rathdrum shall have the right, power, and authority to enforce all obligations of Owners of Lots set forth in this Declaration or otherwise applicable to the Project. Such power shall include the right of the City to require the Board to levy Assessments pursuant to Article 6, above, to discharge the Board's responsibilities, and also the right to levy such Assessments in the City's own name, in order to assure that the Project is properly operated and maintained. For this purpose, the Declarant reserved and assigns to the City all such rights, to be exercised only upon a determination by the City, after public hearing held for such purpose, that the Project is not being properly operated and maintained.

16.2 Invalidity of Any Provision. Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

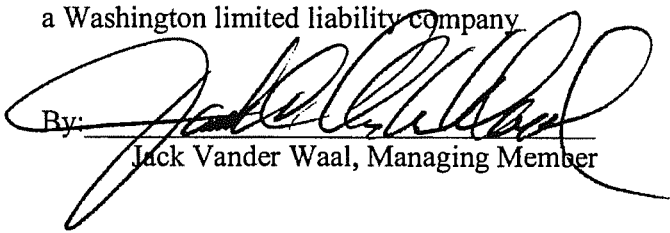
16.3 Conflict of Project Documents. If there is any conflict among or between the Project Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Project Documents in the following order: the Plat; Articles; Bylaws; and rules and

regulations of the Association. Notwithstanding the foregoing, any provision in any of the Project Documents which is for the protection of mortgagees shall have priority over any inconsistent provision in that document or in any other Project Document.

The undersigned, being the Declarant herein, has executed this Declaration on April 12, 2006.

DECLARANT:

JCAV LLC.,
a Washington limited liability company.

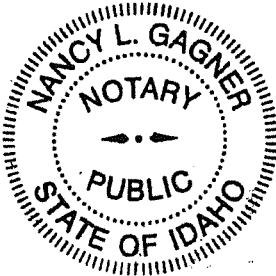
By: 

Jack Vander Waal, Managing Member

STATE OF Idaho)
County of Kootenai) :ss.

On this 12th day of April, 2006, before me, Nancy L. Gagner a Notary Public in and for the State of Idaho, personally appeared JACK VANDER WAAL, known or identified to me to be the Managing Member of JCAV LLC., the limited liability company that executed the instrument and the person who executed the instrument on behalf of said company, and acknowledged to me that such company executed the same.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Nancy L. Gagner
Notary Public for Idaho
Residing at Coeur d'Alene
Commission Expires August 22, 2011

**LENDER'S CONSENT TO RECORDATION OF
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

U.S Bank, N.A., being the holder of a Mortgage dated June 10, 2005, and recorded June 28, 2005, as Instrument No. 1960495, records of Kootenai County, Idaho, encumbering the Property described above as the Radiant Lake Estates subdivision, and as further described in the foregoing Declaration of Covenants, Conditions and Restrictions, hereby consents to the execution and recording of such Declaration and to all the terms and provisions thereof, and further agrees that such Mortgage, and the interest of the undersigned therein, shall be subject and subordinate to the terms and provisions of the Declaration and the Project Documents described therein.

DATED: May 1, 2006.

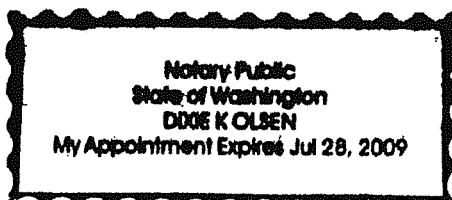
U.S. Bank, N.A.
a banking corporation

By: David M. Orr
David M. Orr, Asst. Vice President

STATE OF ~~IDAHO~~ WASHINGTON SKO
: SS.
County of ~~Kootenai~~ Spokane SKO

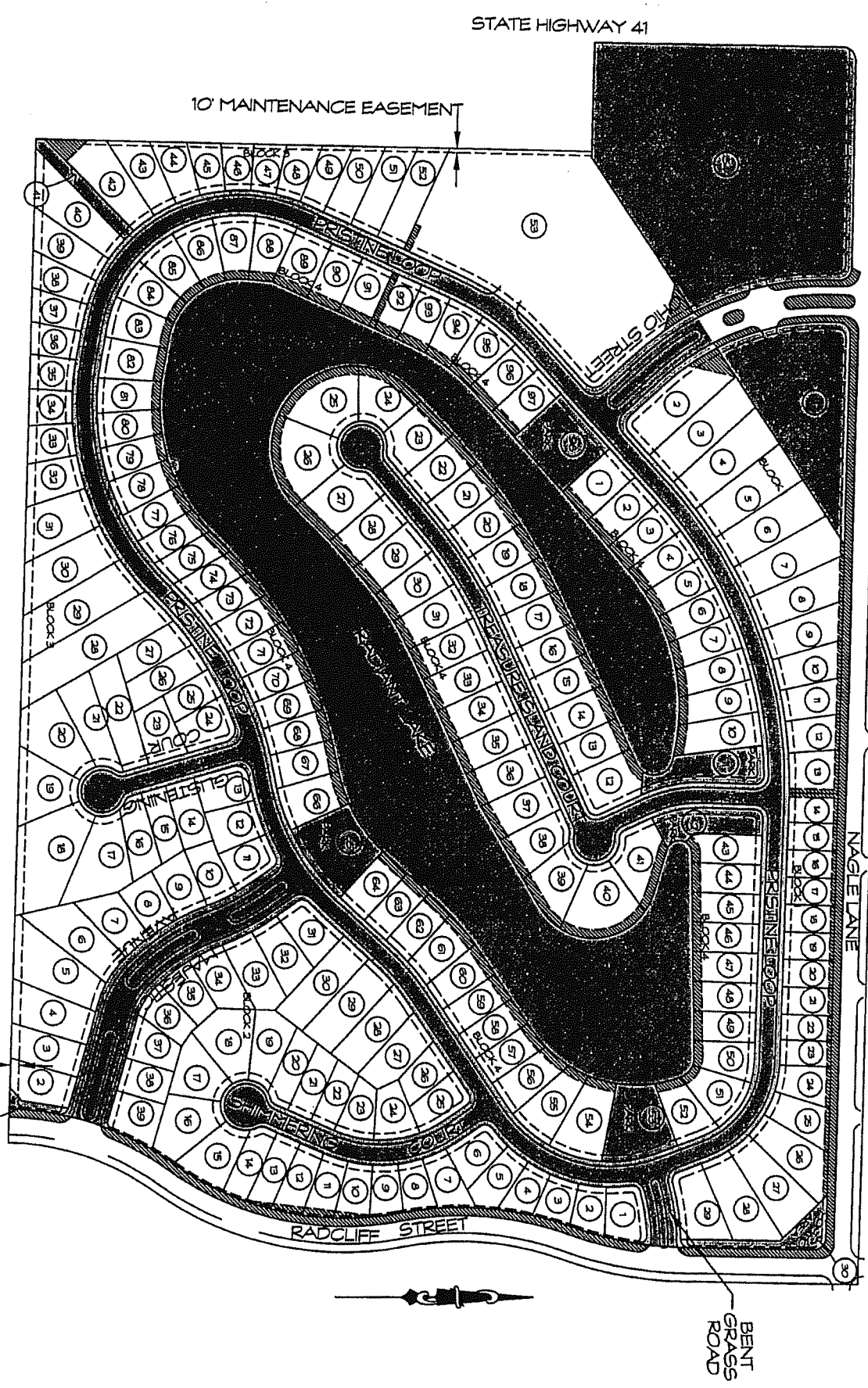
On this 1st day of May, SKO, 2006, before me, David M. Orr, a Notary Public in and for the state of ~~Idaho~~ Washington, personally appeared DAVID M. ORR, known or identified to me to be the Assistant Vice President of U.S. Bank, N.A., the corporation that executed the above instrument and the person who executed such instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal hereto affixed the day and year firs above written.



Dore K. Olsen
Notary Public for ~~Idaho~~ Washington SKO
Residing at Spokane, WA
Commission Expires July 28, 2009

EXHIBIT "A" RADIANT LAKE ESTATES COMMON AREAS



COMMON AREA TO BE MAINTAINED BY HOMEOWNERS ASSOCIATION

UTILITY HARDSCAPE & LANDSCAPE COMMON AREAS TO BE MAINTAINED BY HOMEOWNERS ASSOCIATION

20' UTILITY EASEMENT RESERVED FOR FUTURE DEVELOPMENT

ATTACHMENT C

**Idaho Secretary of State
Annual Report of Radiant Lake Owners Association Inc.**

No. C 165463	Due no later than Mar 31, 2009 Annual Report Form		2. Registered Agent and Address (NO PO BOX)
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE			NANCY GAGNER 14914 PRISTINE CIRCLE RATHDRUM ID 83858 3. <u>New</u> Registered Agent Signature:*
4. Corporations: Enter Names and Business Addresses of President, Secretary, Directors and(optional) Treasurer.			
Office Held DIRECTOR	Name NANCY L GAGNER	Street or PO Address 14890 PRISTINE CIRCLE	City State Country Postal Code RATHDRUM ID USA 83858
5. Organized Under the Laws of: ID C 165463	6. Annual Report must be signed.* Signature: Nancy L Gagner Name (type or print): Nancy L Gagner Date: 01/14/2009 Title: Director		
Processed 01/14/2009		* Electronically provided signatures are accepted as original signatures.	