

CENTIFICATE OF OWNERS

KNOW ALL MEN BY THESE PRESENTS: THAT THE HILLNEW DEVELOPMENT CORPORATION, DOES HEREBY CERTIFY THAT IT IS THE OWNER OF THE REAL PROPERTY DESCRIBED AS FOLLOWS:

MATLOCK PLACE SUBDIVISION

LOTE 19, 22 AND 23 OF ROBERTS AND HALL SUBDIVISION, AS SAME IS RECORDED IN BOOK 4 OF PLATES AT PLACE 19, MICLIONIO THAT PROPRING SHOWN AS LOT 2 OF THE DOCKHOST TRACE AS SAME INTERCORDED IN BOOK 4 OF PLATES AT PLACE AS THE PLACE AS SAME IN THE PLACE AS THE PLACE AS SAME IN THE PLACE AS THE ASSAME IN THE PLACE AS THE

IT IS THE MITENTION OF THE UNDERSIGNED TO HEREBY INCLUDE THE ABOVE DESCRIBED PROPERTY IN THIS PLAT AND TO DEDICATE TO THE PUBLIC THE PUBLIC STREETS AS SHOWN ON THIS PLAT TO DEDICATED TO THE PUBLIC HOWEVER, THE RIGHT TO USE SAD EASEMENTS IS HEREBY PERPETUALLY RESERVED ARE NOT DEDICATED TO THE PUBLIC UTILITY RESERVED TO THE PUBLIC UTILITY AND HOPENAMENT STRUCTURES ARE FOR PUBLIC UTILITIES AND SUCH OTHER USES AS EXCHANGED WITHIN THIS PLAT AND NO PERMANENT STRUCTURES ARE SERVICE THOM AND ENGINEER DAYS OF SHAD EASEMENTS. ALL LOTS WITHIN THIS PLAT WILL BE LIGHED TO RECEIVE WATER TO BE RECITED WITHIN THE UNITED OFFICERY BOATED IN THE SUBJECT SUBDIVISION, AND UNITED WATER IDAHO, INC., HAS AGREED IN WRITING TO SERVE ALL OF THE LOTS WITHIN THIS SUBDIVISION.

HILLYIEW DEVELOPMENT CORPORATION



ACKNOWLEDGEMENT

STATE OF IDAHO

COUNTY OF ADA) S.S. ON THIS IN DAY OF SUPPLEMBER, 3000, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SMD STATE. PERSONALLY APPEARED JAME'S METALE, KNOWN TO ME TO BE THE PRESIDENT OF THE HILLYEW DEVELOPMENT CORPORATION, THE PERSON THAT EXCLUED THE INSTRUMENT OR THE PERSON WHO EXECUTED THE INSTRUMENT OR THE PERSON WHO EXECUTED THE INSTRUMENT OR THE PERSON WHO EXECUTED THE MISTRUMENT OR THE PERSON WHO EXECUTED THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.



COUNTY RECORDER'S CERTIFICATE

STATE OF IDAHO) S.S.

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF HILLYLAND DEVELOPMENT AND AT 153 MINUTES PAST LID. O'CLOCK A.M., ON THIS \$100 DAY OF ALORS TO BE ... 100 DESTRUMENT NO. 100 DE COUNTY OF ADA



Ex-OPHOS RECOMMENTAR Fee: 311.

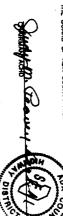
CENTIFICATE OF SURVEYOR

LAMES R. WASHBURN, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR LICENSED BY THE STATE OF IDAHO, AND THAT THIS PLAT AS DESCRIBED IN THE "CERTIFICATE OF OWNERS" WAS DRAWN FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION AND ACCURATELY REPRESENTS THE POINTS PLATTED THEREON, AND IS IN CONFORMITY WITH THE STATE OF IDAHO CODE RELATING TO PLATS AND SURVEY LIMING.



APPROVAL OF ADA COUNTY HIGHWAY DISTRICT

THE FORECOING PLAT WAS ACCEPTED AND APPROVED BY THE BOARD OF ADA COUNTY HICHWAY DISTRICT, ON THE 27 DAY OF SEPTEMBER . 3000



APPROVAL OF CENTRAL DISTRICT HEALTH DEPARTMENT

SMITTARY RESTRICTIONS OF THIS PLAT ARE HEREBY REMOVED ACCORDING TO THE LETTER TO BE GEAD ON FILE WITH THE COUNTY RECORDER OR HIS AGENT LISTING THE CONDITIONS OF APPROVAL



APPROVAL OF CITY ENGINEER

I, THE UNDERSIGNED, CITY ENGINEER IN AND FOR THE CITY OF BOISE, ADA COUNTY, IDAHO, HEREBY APPROVE THIS PLAT



APPROVAL OF CITY COUNCIL

I, THE UNDERSIGNED, CITY CLERK IN AND FOR THE CITY OF BOISE, ADA COUNTY, DAHO, DO HEREBY CERTIFY THAT AT A RECILLAR MEETING OF THE CITY COUNCIL HELD ON THE DAY OF ANGLES . THIS PLAT WAS DULY ACCEPTED AND APPROVED.



CENTIFICATE OF COUNTY SURVEYOR

I, THE UNDERSIGNED, COUNTY SURVEYOR, IN THIS PLAT AND THAT IT COMPUES WITH THE

CODE RELATING TO PLATS AND SURVEYS.

CERTIFICATE OF THE COUNTY TREASURER

I, THE UNDERSIONED, COUNTY TREASURER OF I.C. 50-1308 DO HEREBY CERTALY THE PROPERTY INCLUDED IN THIS SYNTHIRTY (30) DAYS ONLY. FOR THE COUNTY OF ADA, STATE OF IDAHO, PER THE REQUIREMENTS AND ALL CURRENT AND/OR DELINQUENT COUNTY PROPERTY TAXES FOR BEEN PAID IN FULL. THIS CERTIFICATION IS VALID FOR THE NEXT

HAMPARISIRENA By Dian Graham

THE FOREGOING PLAT WAS ACCEPTED AND APPROVED BY THE BOARD OF ON THE TOP DAY OF THE BOARD OF ON THE TOP ON THE TOP OF THE BOARD OF THE B

NERS OF ADA COUNTY

SHEET 2 OF 2

ADA COUNTY RECORDER J. DAVID NAVARRO BOISE, IDAHO

2000 NO 29 AM 10: 49

RECORDED-REQUEST OF

Matlock Alse fab

FEE/8.00DEPUTY Junger

100096169

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MATLOCK PLACE SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Matlock Place Subdivision is made effective the <u>29</u> day of <u>November</u>, 2000, by Hillview Development Corporation, (hereinafter "Grantor" or "Declarant").

ARTICLE 1: RECITALS

- 1.1 Property Covered. The property subject to this Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as "Declaration" or "CC&R's") for Matlock Place Subdivision is that property in Ada County, State of Idaho, which is described on Exhibit A attached hereto, together with any property included as Common Area and identified in this Declaration or owned by the Association. Provided, however, that Lot 1, Block 2 shall not be subject to this Declaration. The "Common Area" Lots and other "Common Areas" for this Subdivision are set out in Section 4.35 below.
- 1.2 <u>Purpose of Declaration</u>. Matlock Place Subdivision is a residential development, which Grantor intends to develop in accordance with governmental approvals. The purpose of this Declaration is to set forth the basic restrictions, covenants, limitations, easements, conditions and equitable servitudes that will apply to the development and use of the Property. This Declaration is designed to preserve the Property's value, desirability and attractiveness, and to guarantee adequate maintenance of the Common Area, and any Improvements located thereon.

ARTICLE 2: DECLARATION

- **2.1** <u>Grantor Declaration</u>. Grantor declares that all the Property described on Exhibit A (except for Lot 1, Block 2), together with any additional Common Areas set out herein or owned by the Association, shall be held, sold, transferred, encumbered, leased, used, occupied and improved subject to these CC&R's. Each Owner accepting a deed to any of the property agrees that these CC&R's are for the protection, maintenance, improvement and enhancement of the Property and agrees to be bound by these CC&R's and the covenants and restrictions contained herein. Lot 1, Block 2 is excluded entirely from the force and effect of these CC&R's.
- **2.2** Runs With The Land. These CC&R's shall run with the land described on Exhibit A (except for Lot 1, Block 2) and shall be binding upon all persons with any right, title or interest in the land. They are for the benefit of all the property and bind all successors.
- 2.3 <u>Enforcement</u>. These CC&R's may be enforced by Grantor, any Class A Lot Owner or by the Association.
- 2.4 <u>Grantor's Rights; Model Homes and Sales Office</u>. Notwithstanding the foregoing or any provision contained herein, no provision of this Declaration shall be construed as to prevent or limit Grantor's right to complete development of the Property and to construct improvements thereon. Grantor, Grantor's agents or Grantor's real estate professionals may maintain model homes, construction, sales or leasing offices or similar facilities on any portion of the Property, including the Common Area or any public right-of-way. Grantor may also post signs incidental to construction, sales or leasing.

ARTICLE 3: DEFINITIONS

- 3.1 "Articles" shall mean the Articles of Incorporation of the Association or other organizational or charter documents of the Association.
- 3.2 "Matlock Place Subdivision" shall mean the Property described in Exhibit A, together with any additional Common Areas described herein or owned by the Association.
- 3.3 "Assessments" shall mean those payments required of Class A Owners and Association Members (excluding Declarant) and include but are not limited to all Assessments (whether regular, start-up, special or limited), late

charges, attorneys' fees, interest, and other charges set out in these CC&R's.

- **3.4** "Association" shall mean Matlock Place Neighborhood Association, Inc., a nonprofit corporation organized under the laws of the State of Idaho, its successors and assigns.
- 3.5 "Board" shall mean the Board of Directors or other governing board or individual, if applicable, of the Association and includes its authorized agents and representatives.
- 3.6 "Building Lot" shall mean one or more Lots as specified or shown on any Plat upon which Improvements may be constructed. The term "Building Lot" shall not include any Common Area, any area dedicated to the public, or any Lots deeded to an irrigation entity for an irrigation pump facility.
- 3.7 "By-laws" shall mean the By-laws of the Association (a copy of which is attached hereto as Exhibit B).
- 3.8 "Common Area" shall mean all Lots or other Common Areas of Matlock Place Subdivision that are designated herein or on the Plat as private streets or drives, common open space, common areas, common drainage easement areas, and common landscaped areas. All Common Areas are set out in section 4.35 below and shall be managed and maintained by the Matlock Place Neighborhood Association. Any Common Area Lots which have a separate lot and block legal description shall be deeded by Grantor to the Association.
- **3.9** "<u>Declaration</u>" shall mean this Declaration as it may be amended from time to time.
- **3.10** "Grantor" shall mean Hillview Development Corporation and any successor in interest, or any person or entity to whom the rights under this Declaration are expressly transferred by grantor or its successor. Grantor may also be referred to as the "Declarant".
- **3.11** "Improvement" shall mean any improvement or object, whether permanent or temporary, which is erected, constructed or placed upon, under or in any portion of the Property, including but not limited to buildings, fences, driveways, landscaping, signs, lights, mail boxes, recreational facilities, and fixtures of any kind.
- 3.12 "Limited Assessment" shall mean a charge against a particular Owner and such Owner's Building Lot, directly attributable to the Owner, equal to the cost (plus a management fee equal to 10% of the cost) incurred by the Grantor or the Association for corrective action performed pursuant to the provisions of this Declaration. (See Corrective Action, Section 9.1.1 below.)
- 3.13 "Member" shall mean each person or entity holding a membership in the Association. Members must be either a Class A Lot Owner or Grantor.

- **3.14** "Owner" shall mean the person or other legal entity, including Grantor, holding fee simple interest of record to a Building Lot which is a part of the Property, but excludes those having an interest merely as security for the performance of an obligation. A "Class A" Owner shall be any Owner of a Building Lot other than Grantor. Lots deeded to irrigation districts for pump stations are not Building Lots.
- **3.15** "Person" shall mean any individual, partnership, corporation or other legal entity.
- **3.16** "Plat" shall mean any subdivision plat covering any portion of the Property as recorded at the office of the County Recorder.
- **3.17** "Property" shall mean all of the Property described herein including each Lot or portion thereof, including all water rights associated with or appurtenant to such property.
- **3.18** "Regular Assessment" shall mean the regular assessments assessed against all Class A Owners to defray the cost of maintaining, improving, repairing, managing and operating the Common Areas and all Improvements located thereon, and the other costs and expenses of the Association.
- 3.19 "Start-up Assessment" shall mean that initial fee payable to start-up the Association and related activities. This one time start-up fee is assessed against the buyer of each Lot upon the first purchase of each Lot.
- **3.20** "Special Assessment" shall mean the portion of the costs of the capital improvements or replacements, equipment purchases and replacements or shortages in Regular Assessments.
- 3.21 "<u>Transfer Special Assessment</u>" shall mean that transfer fee assessed against each Lot transferred, to be paid to the Association on each transfer of legal title and recording of a deed to a Lot in this subdivision.

ARTICLE 4: GENERAL AND SPECIFIC RESTRICTIONS

- 4.1 <u>Prior Plan Approval</u>. No improvement or obstruction shall be placed or permitted to remain upon any part of the property unless a written request for approval, containing the plans, specifications, and exterior color scheme, has been approved by the Board or a person designated by the Board to approve same. (See Article 6 below.) The approval of the Board will not be unreasonably withheld if the plans and specifications comply with these CC&R's, government ordinances, and are in general in harmony with the existing structures located in this Subdivision.
 - 4.2 Government Rules. In the event any of these CC&R's are less

restrictive than any governmental rules, regulations or ordinances, then the more restrictive governmental rule, regulation or ordinance shall apply.

- 4.3. <u>Use and Size of Dwellings; Basements</u>. All Building Lots shall be used exclusively for one or two-story single-family homes or one story single family townhouse duplexes as set out herein:
- 4.3.1 <u>Single Family Homes</u>. All single family homes not on duplex lots (set out below) shall be at least 1,300 square feet in size. Eaves, steps, open porches, garages and patios shall not be included in the computation of square footage. These single family dwellings may be one or two story. If two story, then the main floor must contain a minimum of 850 square feet.
- **4.3.2** Townhouse Duplexes. The following Building Lots in this subdivision are designated as Townhouse Duplex Lots. The following Lots which are listed together shall have one Townhouse Duplex built on the two of them with the common party wall on the lot line between the two listed Lots:

Lots 2 and 3	Block 2
Lots 4 and 5	Block 2
Lots 7 and 8	Block 2
Lots 9 and 10	Block 2
Lots 11 and 12	Block 2
Lots 13 and 14	Block 2
Lots 15 and 16	Block 2
Lots 17 and 18	Block 2
Lots 19 and 20	Block 2
Lots 5 and 6	Block 1
Lots 7 and 8	Block 1
Lots 9 and 10	Block 1

Each of the Townhouse units in a duplex shall be a single family "home" and shall limited to one story in height. Each unit shall contain at least 900 square feet. (Eaves, steps, open porches, garages and patios shall not be included in the computation of square footage.)

4.3.3 Townhouse Zero Lot Line Party Walls. Each Owner on each side of a duplex shall be subject to the following:

- wall which is built as a part of the construction of any of the Townhouse Duplexes, and which is placed on the dividing line between the lots, shall constitute a party wall, and to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or wilful acts or omissions shall apply thereto. Except for repairs after a casualty, no Owner shall be allowed to penetrate any party wall.
- B) Sharing of Repair and Maintenance. The cost of reasonable structural repair and maintenance of a party wall shall be shared equally by the owners who make use of the wall. Each owner shall be solely responsible for maintenance and repairs to the interior surface of the wall in each Owner's own duplex, provided, however, that in the event an Owner's interior surface is damaged by the other Owner to the party wall or the other Owner's occupants, then the other Owner shall be liable for the repairs.
- c) Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or wilful acts or omissions.
- **D)** Weatherproofing. Notwithstanding any other provisions of this Section, an Owner who by his negligent or wilful act causes the party wall to be exposed to the elements shall bear the whole cost of repair to such party wall and the furnishing of the necessary protection against such elements.
- E) <u>Utilities</u>. Any utilities or utility services located within the party walls shall be maintained by each Owner using the utility.
- F) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.
 - 4.3.4 Basements. No basements shall be allowed on any Lot in

this subdivision.

- 4.4 Accessory Structures. There shall be no metal or wood storage attachments to any dwelling except as approved by the Board. Storage sheds attached to the residential structure, and patio covers, shall be constructed of, and roofed with, the same materials, and with similar colors and design, as the residential structure on the applicable Building Lot. Only one outbuilding per Lot shall be allowed, and it shall be a) constructed of quality material; b) completed, finished and painted in the same general color as the main house; and, c) approved by the board.
- 4.5 <u>Setbacks</u>. All setbacks shall comply with the pertinent local government Ordinances; Provided, however, that the set backs on the lots subject to the special easements set out in Section 4.35.4 below, shall be 20 feet back from the 30 foot special easement area (or a total of 50 feet back from the eastern property line).
- 4.6 <u>Garages</u>. All residential homes and each Townhouse unit shall have an attached enclosed garage which holds no less than two cars and shall be constructed of the same materials and colors as the main building or as approved by the Board. Garages shall not to be used as living quarters nor to be used primarily as storage. Garages are primarily for the parking of vehicles. In no case shall a garage be used for storage leaving no room therein for the parking of vehicles.
- 4.7 Exterior; Appearance. Each dwelling and Townhouse unit in this subdivision shall have either; A) Full wainscoting of brick, stone or stucco across the entire front of the structure, or; B) Brick, stone or stucco full column heights on both sides of the garage. Encouraged are covered front porches, bay windows, broken roof lines, gables and hip roofs. No vinyl or metal siding shall be allowed. Each Townhouse unit in one duplex must be identical in exterior appearance to the sister unit in the same duplex. (le...the entire duplex must have the same colors and exterior appearance for each unit. The different duplexes, however, may differ from each other in color and appearance.)
- 4.8 <u>Solar Access Ordinances</u>. All structures and landscaping shall comply with any and all Boise City ordinances governing solar access.
 - 4.9 Driveways. All Building Lots shall have a concrete driveway and a

minimum of two concrete car parking spaces within the boundaries of each Lot. No driveway or parking area shall be asphalt, dirt, rock or gravel.

- **4.10** Roofs. Roofs must be of at least 5 in 12 pitch. No gravel roofs are allowed. Roofing materials shall be 20 year composition shingles and shall be of "weathered wood" or similar color.
- **4.11** Colors. Exterior colors of earth tones or light blues or greys shall be encouraged for the body of the dwelling. Bright, bold, yellow, or very dark body colors shall be discouraged. Approval of exterior colors must be obtained from the Board, and any future changes to colors or exterior must be approved by the Board.

4.12 (Intentionally Omitted)

4.13 <u>Landscaping</u>. Berms and sculptured planting areas are strongly encouraged. Landscaping of the front yard shall be completed within thirty (30) days after occupancy of the home (weather permitting) and such landscaping shall be the responsibility of each respective Owner of the Lot. The "front yard" shall be defined as that portion of the Building Lot from one side Lot line to the opposite side Lot line lying in front of the front exposure of the structure. For Building Lots on corners, the "front yard" shall also include that portion of the Building Lot from the front of the structure to the rear of the structure to the side street (i.e., the side yard next to the side street). Landscaping, at a minimum, shall include sod in the front yard and at least two (2) trees of 2" caliper in the front yard. Grass in the back yard shall be planted, hydro-seeded or sodded within one year of occupancy.

4.14 Fences.

4.14.1 <u>Subdivision Perimeter Fences</u>. Grantor may construct a perimeter fence around portions of the exterior of this subdivision property (except for entrance or exit roadways or waterway crossings). After Grantor has transferred title to any Lot which contains a portion of this perimeter fence it shall be the responsibility thereafter of the Owner of that Lot to maintain, repair and/or replace as needed that portion of the perimeter fence on that Owner's Lot. The maintenance, repairs and/or replacement shall be performed so as to keep the perimeter fencing uniform, attractive and harmonious. Provided, however, the Association shall maintain the common area wrought

iron fence along the northern boundary of this subdivision and may, in it's sole discretion, maintain some or all of the other perimeter fencing as a Common Area expense. (Fences along Micro-Path Lots shall be maintained by the Association.)

- 4.14.2 Other Owner Fences. Other Owner fences are not required. If a fence is desired, plans for it shall be approved by the Board prior to construction. Fences shall be of good quality and workmanship and shall be properly finished and maintained and comply with all governmental Ordinances. No fence shall be constructed on any Lot closer to the front Lot line than the front edge of the dwelling. For corner Lots, the fence shall be at least ten (10) feet from the side lot line adjacent to the street, or as allowed by City Ordinances then in effect, whichever is greater. Chain link fences are not allowed except along ditches or water retention areas.
- 4.15 <u>Construction.</u> No pre-existing, mobile home or prefabricated home shall be moved onto any Lot. All homes in this Subdivision must be constructed on the Lot. Once construction has begun, completion of each building or other improvement shall be diligently pursued and completed within 12 months.
- 4.16 Antennae. No TV or radio antennae extending above the roof line of the house shall be permitted except with the specific approval of the Board. Any other antennae or satellite dishes, while permitted, shall be located, and screened from view of the other Lot Owners, in a place and manner approved by the Board.
- **4.17 No Further Subdivision**. No Building Lot may be split or subdivided without the prior written approval of the Board.
- 4.18 <u>Nuisances</u>. No rubbish, grass clippings or other debris of any kind shall be placed on, dumped on, or allowed to accumulate anywhere on the Property, including Common Areas or vacant Building Lots. No unsanitary, unsightly, or offensive conditions shall be permitted to exist on any part of the Property. Noise or other nuisances in violation of local ordinances are prohibited. No Owner shall permit any noise, party or other activity in the Common Area which unreasonably interfere with the peace and quiet of the other Owners or occupants.

- 4.19 Exterior Maintenance; Owner's Obligations. All Improvements, especially the exterior appearance of the home, lawn, trees, fencing and landscaping shall be kept in good condition and repair. In the event an Owner permits an Improvement to fall into disrepair, or to create a dangerous, unsafe, hazardous, unsightly or unattractive condition, then the Board or Grantor, after thirty (30) days prior written notice to the offending Owner, shall have the right to enter upon that Owner's property to correct such condition. Owner shall be obligated to reimburse the Board or Grantor for all of the costs of the corrective action as set out in Article 8 and 9 below.
- 4.20 <u>Unsightly Articles</u>. No unsightly articles shall be permitted to remain on any property so as to be visible from any other Owner's property. Trash is to be kept in containers and areas approved by the Board. Clothing or fabrics are not to be hung or aired in such a way as to be visible to other property. No equipment, containers, lumber, firewood, grass, shrub or tree clippings, metals, bulk material, disabled vehicles, or scrap shall be kept, stored or allowed to accumulate on any property except within an enclosed structure or screened from view. Vacant residential structures shall not be used for storage.
- 4.21 <u>No Temporary Structures</u>. No house trailer, mobile home, tent, shack or other temporary building, improvement or structure shall be placed upon any portion of the Property or on any streets. Temporary construction structures are permitted only during the time of construction.
- 4.22 No Unscreened Boats, Campers and Other Vehicles. No boats, trailers, campers, all-terrain vehicles, motorcycles, recreational vehicles, motor homes, bicycles, dilapidated or unrepaired and unsightly vehicles or similar equipment shall be placed or stored upon any portion of the Property (including, without limitation, streets, parking areas, front yards, side and rear yards and any driveways) unless enclosed by a concealing structure approved by the Board. Notwithstanding anything contained herein, a boat, camper, trailer or motor home may be parked in a driveway on a private Lot or in the <u>public</u> street in front of the Owners Lot (if permitted by local ordinances) for a temporary time not to exceed three days. Under no circumstances shall any vehicles be allowed to park for any length of time in any common driveway areas, common access points or in the special easement areas, set out in section 4.35 below.
 - 4.22.1 Removal of Vehicles; Warning; Costs. The Board or its

representatives may remove any vehicles in violation of this section at any time after giving the Owner fifteen (15) days written notice of its intent to do so; provided, however, that any vehicles parked in any common driveway area or common access point may be removed by the Board on no notice. For any such vehicles removed, the Owner shall reimburse the Board, as a limited assessment, the costs thereof plus a management fee equal to ten percent (10%) of the costs. (See Article 9 below)

- 4.23 <u>Animals/Pets</u>. No farm animals, animals creating a nuisance, or animals in violation of governmental ordinances shall be kept on any Property. Chronic dog barking shall be considered a nuisance. No more than two domestic cats and no more than two domestic dogs shall be allowed to inhabit any one Lot. All dogs outside the home or outside the Lot fence must be leashed. Pets shall not be allowed in the Common Areas unless leashed. Any kennel or dog run must be screened, placed inside the Lot fences, and approved by the Board.
- **4.24** <u>Signs</u>. No sign shall be displayed to public view without the approval of the Board except: (1) signs used by Grantor in connection with the development and sale of the Property; (2) signs identifying the development; (3) informational signs by the Board displayed on Common Areas; (4) one sign of less than 12 square feet displayed by an Owner (other than Grantor) on that Owner's property advertising the home for sale or lease; and (5) signs required by the governing authorities. No signs other than Grantor's shall be placed in the Common Area without the written approval of the Board.
- 4.25 <u>Additional Easements</u>. In addition to the easements shown on the recorded plat, an easement is further reserved and each Lot shall be subject to an easement five (5) feet on each side of all other Lot lines for installation and maintenance of utilities, irrigation and drainage.
- 4.26 <u>Exemption of Grantor</u>. Nothing contained in these CC&R's shall limit the right of Grantor; to subdivide or re-subdivide any portion of the Property owned by Grantor; to grant easements, licenses, or to reserve rights-of-way with respect to Common Areas; to complete excavation, grading and construction of any portion of the Common Areas, or Property owned by Grantor; to alter construction plans and designs; to construct additional Improvements; to erect, construct and maintain structures and displays as necessary for the conduct of Grantor's business. Prior to transferring title to a Building Lot Grantor shall have the right to grant, establish and/or reserve on

that Building Lot additional licenses, reservations and rights-of-way to Grantor, to utility companies, or to others. Grantor may use any structures owned by Grantor on the Property as model home complexes or real estate sales or leasing offices. The rights of Grantor may be assigned by Grantor to any successor in interest by a written assignment recorded in the Office of the County Recorder.

4.27 Water.

- **4.27.1** <u>Water For Matlock Place Subdivision</u>. Each party accepting and recording a deed to any property in this Subdivision or occupying any property in this Subdivision acknowledges and understands and agrees to the following:
- A) that such property is in the jurisdiction of the Boise Valley Irrigation Ditch Company, Inc. and certain shares of stock in this Irrigation Ditch Company represent the water rights for this subdivision, and these shares of stock shall be owned by the Association;
- B) that all property and all Lots in Matlock Place Subdivision are subject to that "AGREEMENT REGARDING IRRIGATION WATER IN MATLOCK PLACE SUBDIVISION" which is attached hereto as Exhibit C and incorporated herein as if set forth in full;
- C) that each Owner of any Lot, through the Association, is subject to all assessments levied by the Irrigation Ditch Company;
- D) each Owner or occupant of any Lot in Matlock Place Subdivision specifically releases and waives any and all claims of any kind against Declarant, its agents, employees, officers and directors relating to irrigation water in Matlock Place Subdivision;
- E) that Boise Valley Irrigation Ditch Company, Inc. shall have no responsibility to deliver any water to this Subdivision through its ditch system.
- 4.27.2 <u>Drainage District Agreements</u>. The property and Lots in Matlock Place Subdivision shall be subject to any existing or future recorded agreements or license agreements with Ada County Drainage District No. 2 regarding this Subdivision, including but not limited to, the following existing agreement(s) or licenses and any addendums thereto:
- A) That License Agreement recorded the 6th day of September, 2000, in Ada County as Instrument No. 100071557, together with that Addendum thereto recorded November 2, 2000 as Instrument No. 100088414, which are incorporated herein as if set forth in full.

4.27.3 <u>Pressurized Irrigation System</u>. Irrigation water, when seasonally available, will be supplied via a pressurized urban irrigation system (PUIS). This system shall be owned, maintained and operated by the Association with all operation and maintenance costs to be paid by all Lot Owners. Each Lot Owner shall pay an equal share of the costs of maintenance and operation of the PUIS attributable to Matlock Place Subdivision.

Each individual Lot will have a control valve on the pressurized irrigation system to allow irrigation water onto that individual Lot. Each Lot Owner shall be responsible for that Owner's own irrigation system on the Lot downstream from this control valve (e.g. filters, screens, sprinkler lines and sprinkler heads). Each Owner shall install a sufficient sand screen or similar filter set up to keep sand and other irrigation ditch debris out of the Owner's irrigation system. Each Owner shall clean and maintain their own screens and filter systems.

The Association shall not be responsible for the maintenance of any part of the PUIS, pipes, filters, or sprinkler systems downstream from the control valve on the Lot. Any Owner damaging the main PUIS system shall be responsible for all of the costs of that damage.

4.27.4 PUIS Ownership; Easements; Warranty. Grantor will construct the pumping station and pressurized urban irrigation system (PUIS) for the Subdivision. Following completion of each portion of the irrigation system, Grantor shall transfer title and ownership of that completed portion of the system to the Association which shall perform all routine maintenance of the PUIS. A perpetual easement as necessary for access to repair and maintain the common PUIS and common irrigation lines is reserved on each Lot in the Subdivision.

Grantor warrants to all Lot Owners and the Association that each portion of the system as it is completed will be free of defects, including workmanship, for one full year following the date that construction of each portion of the system is completed. In the event a defect is discovered within one year of completion of that portion of the PUIS, Grantor will, at Grantor's expense, repair or remedy that defect. One year after completion of the construction of any portion of the system there shall be no further warranties by Grantor as to that portion of the system. Any further necessary repairs thereafter shall be the responsibility solely of the Association and Grantor shall have no further liability relating thereto. After Grantor has transferred ownership of any portion of the common pressurized irrigation system to the Association, the routine maintenance and repair of the system shall be the responsibility of the Association as a Common Area expense.

- 4.27.5 <u>Water Costs</u>: All irrigation water costs shall be assessed by the Association to each Lot equally regardless of the amount of water used on that Lot. Each Lot Owner shall use all reasonable efforts to conserve and not waste irrigation water.
- 4.27.6 <u>Water Unreliable</u>: The area of the country where this subdivision is located is desert. While Declarant will construct a pressurized irrigation system, irrigation water for that pressurized system is not always reliable and is not unlimited. Irrigation water may not be available due to drought, harsh weather conditions, low ground water levels, government actions, system breakdowns, transmission failures, overuse by Lot Owners, lack of ground water recharge, or any other causes.
- 4.27.7 Rotation: No Lot in Matlock Place Subdivision shall have any right to, or assurance of, a continuous or unlimited supply of irrigation water from the PUIS. Nor is any Lot guaranteed enough water from the PUIS to irrigate all of the landscaping on the Lot. Each Lot shall be subject to, and each Lot Owner by accepting a deed to a Lot in this subdivisions agrees to be bound by and to comply with, any rules or regulations for the use and rotation of irrigation water between the Lots as set out by the Association. The Board may establish a water rotation schedule for all Lots and common areas in this Subdivision and general rules for the times and use of irrigation water. All Lot Owners and occupants shall follow said water rotation schedules and any rules promulgated relative to the use of irrigation water. Failure to adhere to the rotation schedule or rules may, following notice from the Board, result in suspension of the right to use irrigation water.
- 4.27.8 No Liability: Neither Boise Valley Irrigation Ditch Company, Inc., the Association, nor the Declarant (nor any of their members, agents, employees, officers, directors or shareholders) shall have any liability OF ANY KIND to any Lot Owner, Tenant, the Association, member of the Association or any others for any losses or damages relating in any respect to the irrigation system, or irrigation water, or the lack thereof, including but not limited to damages to, or loss of lawns, landscaping, trees, shrubs, gardens or the like caused by the lack of, or shortage of, or unavailability of, irrigation water. Each Owner accepts the risk of loss or damage due to the unavailability, shortage or lack of irrigation water. Each Lot Owner, by accepting a deed to the property, and each Tenant or occupant, by occupying the premises, specifically

waives any and all claims of any kind against the Association, Boise Valley Irrigation Ditch Company, Inc. and Declarant, their agents, employees, officers directors, members, and shareholders for any loss or damage relating in any respect to the water, lack of water or the supply of water. Each Lot Owner and occupant agrees, during times of shortage or lack of water, to use their own domestic water supply for irrigation of their Lot.

- 4.28 Lot Grading and Drainage Requirements. Each Lot Owner shall grade and maintain their individual Lot to prevent the runoff of irrigation water or storm water onto adjacent Owner's Lots. All Lots are to be graded at the time of building so that the front, side and rear yards drain sufficiently away from the foundation and away from neighboring Lots with a proper slope so that drainage is directed towards the front, sides and rear of the Lot in accordance with all local building code requirements.
- 4.29 <u>Sewer Monthly Charges</u>. Each Owner shall connect to the Boise City public sewer system when a dwelling is constructed. A monthly sewer charge must be paid by each Owner after connecting to that Boise City public sewer system, according to the ordinances and laws of Boise City.
- 4.30 <u>Sewer Inspection</u>. Each Owner shall submit to inspection by either the Department of Public Works or the Department of Building whenever a Lot is to be connected to the Boise City public sewage system and a building sewer is constructed or installed on or within the Owner's property.
- **4.31** Sewer Collections; City Power. Boise City is hereby vested with the right and power to bring any and all actions against an Owner of a Lot or any part thereof for collection of any sewer charges or to enforce any of the sewer conditions contained herein. Each Lot in this subdivision shall be subject to these powers and these powers shall run with the land.
- **4.32** Annexation to City of Boise. The recording of the plat to this subdivision shall be deemed and construed as a request for, and the consent to, the annexation of the property in this subdivision to the corporate limits of Boise City. This request for, and consent to, annexation shall be continuing and each Owner of any Lot in this subdivision shall be bound by this request and consent to annexation.
 - 4.33 Street Lights. Any street lights installed by Declarant shall be

maintained and operated by the Association as a common area expense until such time as the City of Boise or other governmental agency takes over the maintenance and operation thereof. Maintenance and operation shall include all repairs and costs of power.

4.34 <u>Laws</u>; <u>Ordinances</u>. These CC&R's are subject to all rules, regulations, laws and ordinances of all applicable governmental bodies. In the event a governmental rule, regulation, law or ordinance would render a part of these CC&R's unlawful, then in such event that portion shall be deemed to be amended to comply with the applicable rule, regulation, law or ordinance.

4.35 Common Areas.

- 4.35.1 Micro-Path Lots and Easement Areas. The following Common Area Lots: Lot 4, Block 1; Lot 6, Block 1; and Lot 6, Block 3 in Matlock Place Subdivision shall contain a Micro-Path and landscaping area. These Micro-Path Lots shall be landscaped as approved by the City of Boise and shall contain a paved Micro-Path the entire length of the easement area as approved by the City of Boise. These Lots shall be owned and maintained by the Association and such maintenance shall comply with all Boise City requirements and regulations for Micro-Path easement areas. These Micro-Path easements and the maintenance responsibilities relating thereto shall not be dissolved without the express written permission of the City of Boise. Any fences adjacent to the Micro-Path area shall conform to all Boise City Ordinances and all fences adjacent to Micro-Path Lots shall be maintained by the Association as a Common Area expense. Lot 4, Block 1 is also subject to a blanket easement to the City of Boise for the maintenance, operation and repair of a sanitary sewer line.
- 4.35.2 <u>Association Park</u>. Common Area Lot 35, Block 2 is a Common Area Park to be owned and maintained by the Association and is for the use and benefit of the Members of the Association.
- 4.35.3 <u>Common Landscape and Traffic Island Lots</u>. The following Common Area Lots are either landscape lots or traffic island landscaped lots that are to be owned and maintained by the Association: Lot 11, Block 1; Lot 21, Block 2; Lot 1, Block 5; and Lot 1, Block 6.
 - 4.35.4 Special Common Driveway, Access, Sidewalk,

Landscaping and Utility Easement Area. Lots 1-10, Block 1 and Lots 2-20, Block 2 are all subject to a special permanent and perpetual easement which is reserved over, across and under the eastern 30 feet of all of these lots. This special easement shall run with the land and this special easement area is shown on the plat of this subdivision. The purpose of this easement area is as follows:

- A) The installation and maintenance of any utilities.
- B) The installation and maintenance of a sidewalk. For the maintenance of this sidewalk, Ada County Highway District is hereby granted a perpetual easement over and across the easement areas described herein for that maintenance.
- C) The installation and maintenance of a common driveway and access area for the ingress and egress of vehicle, bicycle, and pedestrian traffic.
- D) The installation and maintenance of traffic dividing landscaping in this special easement area (which may also be constructed and maintained in the Ada County Highway District right-of-way along Duncan Lane).

This special easement area shall be for the use and benefit of the Association; all Owners of Lots in this subdivision and their tenants, families, guests and invitees; and any utilities with utility lines in the easement area.

While the Association will not own the fee title to this 30 foot wide special easement area, it shall be the responsibility of the Association to operate, manage and maintain all portions of this special easement area (except for any sidewalk area that is actually maintained by Ada County Highway District), together with the Common Access Points to this special easement area which are identified on the plat. The Association shall also have the responsibility to operate, manage and maintain the traffic dividing landscaping along Duncan Lane, part of which is in the special easement area.

NO PARKING SHALL BE ALLOWED AT ANY TIME IN THIS SPECIAL EASEMENT AREA. Nor shall any buildings, structures or other impediments be constructed or permitted on any portion of this special easement area or the Common Access Areas shown on the plat. No party shall be allowed to obstruct, block or otherwise hinder the use of this special easement area by any other parties or Owners of the Lots which are subject to this special easement area. The Board shall have the authority to immediately remove any obstructions in this special easement area without notice and the offending party shall reimburse the Association for all costs relating thereto plus a management fee equal to 10% of those costs.

Direct access to Duncan Lane is prohibited from the Lots on the eastern side of this subdivision, and from the common driveway in the special easement

area except via the four "Common Access Points" to Duncan Lane which are set out on the plat. (These four "Common Access Points" connect Duncan Lane to the special driveway and easement area set out in this section.)

4.35.5 <u>Special Common Area and Special Drainage Easement</u>

<u>Area Adjacent to Matlock Place Subdivision</u>. Lot 21, Block 1 is a Common Area

Lot to be owned and maintained by the Association. This Common Area Lot is

for the maintenance and operation of drainage as set out in Paragraph 4.36

below.

Adjacent to the northern boundary of Matlock Place Subdivision is a special Common Area owned and maintained by the Association and which is legally described in that Agreement titled "QUIT CLAIM DEED AND CONVEYANCE OF ADDITIONAL "COMMON AREA" FOR MATLOCK PLACE SUBDIVISION and AGREEMENT REGARDING THAT COMMON AREA". This Agreement is attached hereto as Exhibit D and is incorporated herein as if set forth in full.

- 4.35.6 <u>No Liability</u>. Each Lot Owner by accepting a deed to a Lot in this Subdivision and each occupant by occupying a Lot, and each user of any Common Areas specifically agrees that the Declarant, its agents, officers, directors, employees and shareholders shall have no liability of any kind whatsoever relating in any way to the use of any of the Common Areas, including, but not limited to, any accidents or bodily injuries which result from or are related to that use. All claims or future claims relating thereto are specifically waived and released. Nor shall the Association, its officers, directors, agents, or employees have any such liability. All Lot Owners, occupants and users specifically assume the risk and waive any and all claims relating to the use of the Common Areas.
- 4.36 <u>Water Drainage and Retention Pond; Easement Areas;</u>
 <u>Maintenance; ACHD Easement; Special Covenants</u>. Common Area Lot 21, Block
 1 and the special Common Area (and special drainage area) described in
 Paragraph 4.35.5 above have special circumstances which require special
 covenants and restrictions for drainage, retention ponds and ACHD easements.
 These are as follows:
- 4.36.1 <u>ACHD Storm Water and Drainage Easement</u>. ACHD already has a blanket easement over the special drainage easement area described in Exhibit D attached hereto.

ACHD is hereby also granted a perpetual blanket storm water and drainage easement over Common Area Lot 21, Block 1 for access and drainage to that special drainage easement area. Together these easements are for access, to retain water, and to construct, install, maintain and replace the storm water and drainage system and all facilities relating thereto. The storm drain system also includes the street gutters, drop inlets, storm drain pipes and all related facilities.

- 4.36.2 <u>Special Drainage Easement Area Restrictions</u>. The Association shall maintain a paved pathway and adjacent lawn and/or landscaping on Lot 21, Block 1 and shall keep that lawn mowed and the area free of trash and debris. Any landscaping on Lot 21, Block 1, shall not interfere with ACHD's access or easements nor shall it interfere with the buried storm drainage piping system. No permanent buildings, fences, trees, or any structures shall be placed in the special drainage easement area.
- Heavy maintenance consists of periodically inspecting the retention and drainage facility to ensure it is functioning properly; cleaning out the facility piping and mucking out the facility when the sediment level exceeds the designed storage level. All other maintenance shall be referred to herein as "light" maintenance. ACHD has opted to perform this "heavy" maintenance and shall be allowed to perform this maintenance work. In the event the ACHD shall decide not to do such "heavy" maintenance, then the Association shall do so.
- 4.36.4 "Light" Maintenance. The Association shall provide all "light" maintenance of the drainage/retention and easement areas as set out in the Operation and Maintenance Manual for Matlock Place Subdivision. This Manual is on file with ACHD and the relevant portions of that Manual are attached hereto as Exhibit E.
- 4.36.5 <u>Association Failure to Maintain; ACHD Remedies</u>. In the event that ACHD determines, in its sole discretion, that the Association is not adequately performing its maintenance responsibilities set out in the Manual above, then ACHD shall, before undertaking maintenance of said area, provide written notice of its intention to begin maintenance after a thirty (30) day period. Within that 30 days Association may undertake to initiate and conclude all maintenance defects as identified by ACHD. In the event that the Association

shall fail to commence and conclude maintenance to the extent said items of specific maintenance are identified by ACHD within the prescribed thirty (30) days, then in that event, ACHD may begin to undertake such maintenance. ACHD is hereby granted an irrevocable license and easement to enter upon any portion of the common area to perform such inspection and maintenance of the Common Areas identified herein.

Should ACHD engage in maintenance of the defined common area or facility after having provided notice to the Association and having provided the Association an opportunity to undertake said maintenance, the Association shall pay all of the costs of the maintenance. ACHD shall first bill the Association and if such bill shall not be paid within sixty (60) days, then ACHD shall be entitled and empowered to file a taxable lien against all lots within this subdivision with power of sale as to each and every lot in order to secure payment of any and all assessments levied against all lots pursuant to the CC&R's as if said maintenance had been performed by the Association, together with interest at the rate which accrues on judgments thereon and all costs of collection which may be paid or incurred by ACHD.

The Association shall not be dissolved or relieved of its responsibility to maintain the defined common area and facilities contained therein without the prior written approval from ACHD.

The Association and all lot owners by accepting title to a lot agree that all lot owners within these subdivisions are benefitted property owners of such maintenance.

4.37 <u>Lateral Ditch 36</u>. In various portions of this subdivision there is an 18 inch underground pipe that carries the water in Lateral Ditch 36. It shall be the responsibility of the Association to maintain this ditch pipeline inside of Matlock Place Subdivision even if on a private Lot. The only duty on any Owner whose Lot contains this pipe shall be to report any observed problems to the Association or to Boise Valley Irrigation Ditch Company. No Lot or owner in Matlock Place Subdivision shall be allowed to remove any water from this ditch.

ARTICLE 5: MATLOCK PLACE NEIGHBORHOOD ASSOCIATION, INC.

5.1 <u>Organization of Matlock Place Neighborhood Association, Inc.</u> Matlock Place Neighborhood Association, Inc. (the "Association") shall be initially organized by Grantor as an Idaho non-profit corporation under the

provisions of the Idaho Code relating to general non-profit corporations and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws (attached hereto as Exhibit B) and this Declaration. Neither the Articles nor the Bylaws shall be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

- **5.2** <u>Membership</u>. Each Owner of a Lot subject to assessment, (including contract sellers), by virtue of being an Owner, and for so long as such Ownership is maintained, shall be a Member of the Association. The memberships in the Association shall not be transferred, pledged, assigned or alienated except upon the transfer of Owner's title the transferee of such title. Any prohibited membership transfer shall be void and will not be reflected on the books of the Association.
- 5.3 <u>Voting</u>. Voting in the Association shall be carried out by Members (including Grantor) who shall cast the votes attributable to the Building Lots which they own. The number of votes any Member may cast on any issue is determined by the number of Building Lots owned. When more than one person holds an interest in any Building Lot, all such persons shall be Members but shall share the vote attributable to the Building Lot. One Lot, one vote. For voting purposes, the Association shall have two (2) classes of Members:
- **5.3.1** <u>Class A Members</u>. Owners other than Grantor shall be Class A Members. Each Class A Member shall be entitled to cast one (1) vote for each Building Lot owned by such Class A Member(s) on the day of the vote. One Lot, one vote.
- **5.3.2** Class B Member. The Grantor shall be the Class B Member, and shall be entitled to five (5) votes for each Building Lot owned by Grantor. The Class B Member shall cease to be a voting Member in the Association at the time the Grantor deeds the last Building Lot in the subdivision.
- 5.3.3 No Fractional Votes or Severance from Land. Fractional votes are not allowed. If joint Owners cannot agree how their vote will be cast, they lose their right to vote on the matter being put to a vote. A vote cast will be conclusive for all purposes that the Owner had authority and consent of all joint Owners. Votes may not be severed from the Building Lot. However, an Owner may give a revocable proxy, or assign the Owner's right to vote to a lessee, mortgagee, beneficiary or contract purchaser of the Building Lot

concerned, for the term of the lease, mortgage, deed of trust or contract. Any sale, transfer or conveyance of a Building Lot to a new Owner automatically transfers the voting right to the new Owner.

- **5.4** Board of Directors and Officers. The affairs of the Association shall be managed by a Board of Directors ("Board") and such officers or agents as the Board may elect or appoint as provided in the Bylaws. The Board shall be elected in accordance with the Bylaws.
- 5.5 Power and Duties of the Association. The Association shall have all the powers of a corporation organized under the laws of the State of Idaho subject only to the limitations set forth in the Articles, Bylaws, and this Declaration. The Association shall have the power to appoint representatives and the power to perform all acts which may be necessary or incidental to discharge it's duties and responsibilities and to manage and operate the Association's Common Areas and assets. The Association's powers include, but are not limited to, the following:
- 5.5.1 <u>Assessments</u>. The power to levy Assessments on any Class A Owner as set out herein and to force payment as provided in this Declaration.
- **5.5.2** Enforcement. The power and authority in its own name, or on behalf of any Owner who consents, to file and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration, the Articles or the Bylaws; and to file and maintain any action to enforce the terms thereof.
- 5.5.3 <u>Emergency Powers</u>. The power to enter upon any property (but not inside any building) in any emergency where there is potential danger to life or property or when necessary to protect or maintain Improvements for which the Association is responsible. The Association may also enter upon any property to prevent the waste of irrigation water. Such entry shall be made with as little inconvenience to the Owner as practicable. Any damage caused by the Association shall be repaired by the Association.
- 5.5.4 <u>Licenses, Easements and Rights-of-Way; Cooperative</u>

 Agreements. The Association shall have the power to enter into any cooperative or license agreements regarding water or irrigation systems. The

Association shall have the power to grant and convey to any third party licenses, easements and rights-of-way in, on or under the Common Area or in any easement areas of any Lots as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Property and Common Area, and for the preservation of the health, safety, convenience and welfare of the Owners. The right to grant such licenses, easements and rights-of-way are hereby expressly reserved to the Association and may be granted at any time prior to twenty-one (21) years from the date of recording of these CC&R's.

- **5.6.** Duties of the Association. In addition to duties necessary and proper to carry out the powers delegated to the Association by this Declaration, the Articles and Bylaws, the Association shall have the authority to perform, without limitation, each of the following duties:
- 5.6.1 Operation and Maintenance. Operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area, and, at the discretion of the Board, provide for: a) the cleaning and sweeping of the streets in the subdivision to keep construction mud and debris to a minimum; b) mowing the vacant Lots and maintaining right of way areas in or adjacent to the subdivision to keep the subdivision as a whole as aesthetically pleasing as possible.
- **5.6.2** Taxes and Assessments. Pay all real and personal property taxes and assessments including but not limited to water costs separately levied against the Common Area or against the Association and/or any other property in this Subdivision owned or managed by the Association. Taxes, assessments and water costs may be contested or compromised by the Association and the costs are a common area expense. The Association shall pay any applicable federal, state or local taxes levied against the Association.
- **5.6.3** Water and Other Utilities. Acquire, provide and pay for water, utilities, maintenance, operations costs, and other necessary services for the Common Areas or any pressurized urban irrigation system.
- **5.6.4** <u>Insurance</u>. Acquire insurance coverage as the Board deems necessary or advisable, from insurance companies authorized to do business in the State of Idaho, and maintain any insurance policies including, but not limited to the following: (1) Comprehensive public liability insurance insuring the Board, the Association, the Grantor and/or the individual grantees and agents and

employees of each against any liability incident to the Ownership and/or use of the Common Area; (2) Directors' and officers' liability insurance; (3) Motor vehicle insurance and Workmen's Compensation insurance; (4) Performance, fidelity and other bonds the Board deems necessary to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of Association funds or other property. The Association shall be deemed trustee of the interests of all Owners in connection with any insurance proceeds paid to the Association under such policies, and shall have full power to receive the Owner's interests in such proceeds. All proceeds shall be used for Association purposes. Insurance premiums for the above insurance coverage shall be a common expense to be included in the Regular Assessments levied by the Association.

- **5.6.5** Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of this Declaration, the Articles or the Bylaws.
- 5.7 <u>No Liability</u>. No Board member, committee member, Association officer, Grantor or its officers, directors or shareholders (collectively herein "Grantor") shall be personally liable to any Owner, or any other party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of that person provided that the person has acted in good faith and without gross, willful or intentional misconduct.
- 5.8. Budgets; Operating Statement; Balance Sheet; Inspection. Within sixty (60) days after the close of each calender year, the Association shall cause to be prepared and shall make available for inspection by any Owner; (1) a balance sheet as of the last day of the Association's calender year; (2) an annual operating statement reflecting the income and expenditures of the Association for its last calender year; and (3) a proposed budget and schedule of Assessments for the current year. Notice of scheduled Assessments due shall be given at least once a year.
- 5.9 <u>Meetings of Association; Notice of Meeting and Assessments</u>. Each year the Association shall hold at least one annual meeting of the Members on April 30, or some other date set by the board between April 15 and May 31.

If any meeting date falls on a weekend or holiday then the meeting shall be on the next following business day. Notice of such meeting shall be given at least 10 and no more than 30 days prior to the meeting and such notice may include notice of the Assessments scheduled due for the coming year. Only Members or their proxies shall be entitled to attend Association meetings. All other persons may be excluded. Notice for all Association meetings, regular or special, shall be given by regular mail to all Members, at the address for the Lot in the subdivision or the address supplied in writing to the Association. This notice shall set forth the place, date and hour of the meeting and the nature of the business to be conducted. All meetings shall be held within the Property, or as close thereto as practical, at a reasonable place selected by the Board. The presence at any meeting of the Class B Member (or representative) where there is such a Member, and of Class A Members representing Owners holding at least ten percent (10%) of the total votes of all Class A Members, shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Members present may adjourn the meeting to another time not more than thirty (30) days from the time the original meeting was scheduled. If the rescheduled meeting is more than 30 days then additional notice of the next meeting shall be given. At any subsequent meeting properly called, the presence of any Member shall constitute a quorum.

ARTICLE 6: ARCHITECTURAL CONTROL

No building, structure, fence, wall, hedge, landscaping, painting, obstruction, berm, driveway, or Improvement shall be placed on, under, over or across any part of Matlock Place Subdivision unless a written request (given to one of the Board of Directors of the Association or a person designated by the Board) for approval thereof containing the plans and specifications therefor, including exterior color scheme, has been approved, in writing, by a member of the Board or any person designated by the Board. The initial Board is as follows:

- 1. Jim Merkle, 2150 N. Canter Place, Eagle, Idaho 83616
- 2. Don Hutt, 1393 S. Loder, Meridian, Idaho 83642
- 3. Chuck Roscoe, 6933 West Emerald, Boise, Idaho 83704

In the event the Board fails to approve or disapprove such request within thirty (30) days after such request has been submitted in writing, approval shall not be required and this Article will be deemed to have been complied with.

ARTICLE 7: RIGHTS TO COMMON AREAS

- 7.1 Use of Common Area. Every Owner shall have the equal right to enjoy the use of those Common Areas or common facilities which are designed and built for such use. The Association may make reasonable rules governing use of the Common Areas and facilities, and the use of such common Areas as canals may be prohibited. All Common Area Lots shall be owned by the Association. The Association shall have the power to suspend the use of all common areas to Members who are in arrears for non-payment of Assessments. However the Association may not suspend street or sidewalk access to a members Lot or home. The Association may dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes agreed to by the Members. No dedication, mortgage or transfer of said Common Area shall be effective unless an instrument agreeing to such dedication or transfer is signed by the Grantor (if Grantor still owns any of the Building Lots), and two-thirds (2/3) of the Class A Members. Transfer must also be approved by any local government having jurisdiction over the transfer. Said transfer shall become effective when the instrument is recorded. In the event that an Owner's access to his Lot is over any Common Area, then any transfer of that Common Area shall be subject to an easement for the access of the Owner.
- 7.2 <u>Damages</u>. Any Owner shall be liable for damage to any Common Area which may be sustained by reason of the negligence or willful misconduct of the Owner, the Owner's tenant, or the Owner's family, guests, agents, contractors or invitees. In the case of joint Ownership the liability of such Owners shall be joint and several. The cost of correcting the damage shall be treated as a Limited Assessment against the Owner and Building Lot and may be collected as provided herein. No Owner shall be liable for any amounts greater than is legally allowable under Idaho law.

ARTICLE 8: ASSESSMENTS

8.1 <u>Covenant to Pay Assessments</u>. By acceptance of a deed to any property in Matlock Place Subdivision, each Class A Owner hereby covenants and agrees to pay, when due, all Assessments or charges made by the Association pursuant to this Declaration. In the event this subdivision is developed in phases, the Lots in uncompleted phases shall not be assessed until they become Class A Owner's Lots. Declarant shall not pay any Assessments

for Lots owned by Declarant. No Mortgagee shall be required to collect any assessments.

- 8.1.1 <u>Assessment Constitutes Lien</u>. Such Assessments and charges set out herein, together with interest, costs and reasonable attorneys' fees which may be incurred in collecting the same, shall be a continuing lien upon the property against which each such Assessment or charge is made.
- 8.1.2 <u>Assessment Personal Obligation</u>. Each Assessment obligation set out herein which accrues during the time of Ownership shall also be the personal obligation of the Owner beginning the time the Assessment falls due. This personal obligation for Assessments shall remain Owner's personal obligation regardless of whether he remains an Owner. Notwithstanding anything contained herein, the failure to pay assessments does not constitute a default on an Owner's federally insured mortgage.
- **8.2** Regular Assessments. All Class A Owners are obligated to pay Regular Assessments to the Association on a schedule of payments established by the Board.
- 8.2.1 <u>Initial Regular Assessment</u>: The initial Regular Assessment for the year is to be one hundred and ninety five (\$195) per calendar year per Lot. This initial assessment is due upon sale of a Lot from Grantor and shall be prorated on a calendar year basis based on the date of closing and shall be paid to the Association by the Buyer upon closing of the first transfer of the Lot from the Declarant to the Buyer.
- 8.2.2 Regular Assessments. The proceeds from Regular (and other) Assessments are to be used to pay for all costs and expenses incurred by the Association, including but not limited to; (1) legal, accounting, management, and professional fees; (2) the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Areas, special easement areas, and common facilities; (3) an amount allocated to an adequate reserve fund, established by the Board, for repairs, replacement, maintenance and improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained; (4) the cleaning and sweeping of the streets in the subdivision to keep construction mud and debris to a minimum; and (5) mowing the vacant lots and maintaining right of way areas in or adjacent to the subdivision to keep

the subdivision as a whole aesthetically pleasing.

- 8.2.3 <u>Computation of Regular Assessments</u>. The Association shall compute the amount of its Expenses on an annual calendar basis and shall Assess each Class A Owner's Lot equally for all Assessments (except the Limited Assessments which are on a Lot by Lot basis). Regular Assessments for the calendar year shall be pro-rated as of the date of closing.
- 8.2.4 <u>Amounts Paid by Owners</u>. The Board can require, in its discretion payment of Regular Assessments in monthly, quarterly, semi-annual or annual installments. The Regular Assessment to be paid by any particular Owner for any given calender year shall be computed by dividing the Association's total advance estimate of expenses by the total number of Class A Building Lots in the Property (i.e, each Class A Owner of a Building Lot shall pay an equal share of Regular Assessments).

8.3 **Special Assessments**.

- **8.3.1** Transfer Special Assessment. Upon each transfer of any Lot in the subdivision and the recording of the deed each Buyer at closing shall pay to the Association a special transfer assessment of Fifty (\$50.00) Dollars which shall be used for general Association purposes.
- 8.3.2 <u>Start-up Development Assessment</u>. Upon the first sale of each lot in this subdivision from the Declarant, the Buyer shall pay to the Association at closing an initial Association Start-up fee equal to one hundred and ninety five (\$195) Dollars to be used for general Association purposes. This fee shall be a one time initial Start-up fee, and shall not be prorated for any time left in the calendar year. This Start-up fee assessment shall be paid in full regardless of the time of year of the closing but shall only be paid once per lot.
- 8.3.3 <u>Special Short Fall Assessments</u>. In the event that the Board shall determine that its respective Regular Assessment for a given calendar year is or will be short to meet the Expenses of the Association for any reason, including but not limited to costs of construction, reconstruction, unexpected repairs or replacement of capital improvements upon the Common Area, attorney's fees and/or litigation costs, other professional fees, the Board shall determine the approximate amount necessary to defray such expenses and levy an Excess or Special Assessment equally to all Class A Owners. No such

Assessment shall be levied which exceeds thirty-five percent (35%) of the budgeted expenses of the Association for that calendar year, without the vote or written assent of 2/3 of the Class A Owners. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid.

- 8.4 <u>Limited Assessments</u>. Notwithstanding the above provisions with respect to Regular and Special Assessments, the Board may levy a Limited Assessment against a Building Lot and the Owner thereof personally as a remedy to reimburse the Association for costs (together with the 10% management fee, interest and attorneys fees as provided in Article 9 below) incurred in bringing the Owner and/or such Owner's Building Lot into compliance with the provisions of these CC&R's.
- Assessment, the Start-up Assessment and initial prorated Regular Assessment, written notice of all other assessments shall be given to the Owner at the property address in the property covered by this Declaration or to such other address as the Owner supplies in writing to the Board. Such notice shall set out the amounts due and the date(s) due. Each installment of Assessments shall become delinquent if not paid within ten (10) days after the levy and notice thereof. The Association may bring an action against the delinquent Owner and may foreclose the lien against such Owner's Building Lot as more fully provided herein.
- **8.6** Late Fees; Interest on Past Due Assessments: Assessments of any kind which are not paid within thirty (30) days of the due date shall be assessed an additional late charge of \$25.00. In addition, interest shall be paid on the unpaid assessment at the highest rate allowed by law.
- 8.7 Estoppel Certificate. The Association, upon at least twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request, a statement in writing stating whether or not, to the knowledge of the Association, a particular Building Lot Owner is in default of this Declaration, and further stating the dates to which any Assessments have been paid by the Owner. Any such certificate delivered pursuant to this paragraph may be relied upon by any prospective purchaser or Mortgagee of the Owner's Building Lot. Reliance on such Certificate may not extend to any default as to which the signor shall have had no actual knowledge.

ARTICLE 9: ENFORCEMENT OF COVENANTS AND ASSESSMENTS; LIENS

- 9.1 Right to Enforce; Attorneys Fees. The Association has the right to enforce these covenants and to collect and enforce its Assessments. Each Owner of a Building Lot, by accepting a deed to a Building Lot, covenants and agrees to comply with the terms, covenants, conditions and restrictions contained herein and to pay each Assessment provided for in this Declaration and agrees to the enforcement of all covenants and Assessments in the manner herein specified and/or by law. In the event an attorney or attorneys are employed for the enforcement of any covenants or the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney's fees in addition to any other relief or remedy against such Owner. The Board or its authorized representative may enforce these covenants or the obligations of the Owner hereunder by: (1) direct corrective action against the Owner or the offending violation; (2) litigation at law or in equity; (3) foreclosure of the liens created herein; (4) expenditure of funds to remedy any violations; and/or (5) any other lawful action.
- 9.1.1 Corrective Action. In the event an Owner fails to comply with any provisions of these Declarations, the Board shall have authority to take appropriate corrective action against said Owner. Each Owner who is the subject of such corrective action agrees to and shall pay all the costs of said corrective action, plus interest on all expended funds from the date of expenditure at the rate of 1-1/2% per month, plus a management fee equal to ten percent (10%) of all the costs expended for the corrective action, and all attorneys fees incurred. Such shall be a Limited Assessment against that Lot and that Lot Owner and shall create a lien enforceable in the same manner as other assessments set forth in these CC&R's. If such an assessment is not paid within ten (10) days of notice of the limited assessment, the Owner shall also be subject to late fees set out herein.
- 9.1.2 <u>Notice of Corrective Action</u>: Prior to taking corrective action the Board, or its authorized representative, shall give notice to the Owner of the violation of these Declarations, the remedy necessary and the date by which the remedy must be completed. In the event the Owner has not remedied the violation by the time set out in the notice the Owner consents to corrective action by the Board or its representatives and shall pay all the costs

of such corrective action as set out in this Declaration.

- 9.2 Assessment Liens. There is hereby created a lien with power of sale on each and every Building Lot to secure payment of any and all Assessments levied against such Building Lot together with other charges as provided in this Declaration. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Building Lots upon recording of a claim of lien with the County Recorder. Such lien shall be prior and superior to all other liens or claims created subsequent to the recording of the claim of lien except for tax liens for real property taxes on any Building Lot and Assessments on any Building Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.
- 9.2.1 <u>Claim of Lien</u>. Upon default of any Owner in the payment of any Assessment, the Association may cause to be recorded in the office of the County Recorder a claim of lien. The claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording), a sufficient legal description of the Building Lot(s) against which the same have been assessed, and the name of the record Owner (or reputed Owner) thereof. Each default shall constitute a separate basis for a claim of lien, but any number of defaults may be included within a single claim of lien. Upon payment to the Association of all Assessments and all other charges of any kind set out in this Declaration or other satisfaction thereof, the Association shall cause to be recorded a notice releasing the lien. The Association may demand and receive the cost of preparing and recording such release before recording the same.
- 9.3 Method of Foreclosure. The lien may be foreclosed like a mortgage; ; foreclosed by power of sale; foreclosed pursuant to Idaho Code 45-507; or foreclosed by any other appropriate action in court. The Owner shall pay all of the Association's attorneys fees and costs of the action if the Association prevails. Any sale shall be conducted in accordance with Idaho law applicable to the exercise of powers of sale. The Board is authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure to the extent allowed by law.
- 9.4 <u>Action at Law</u>. The Association may, in it's discretion, elect not to foreclose the lien and simply file an action at law against the Owner for the

monies due. The Owner shall pay all of the Association's attorneys fees and costs of the action if the Association prevails.

- 9.5 Required Notice. Any claim of lien shall be recorded with the County Recorder. In the event that the Association elects to file a lien and foreclose pursuant to Idaho Code 45-507 then the Association shall serve the copy of the recorded lien on the Owner within 24 hours of the recording of the lien as required by 45-507. No foreclosure action may be brought to foreclose the lien, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Building Lot(s) described in the claim of lien, and to the person in possession of such Building Lot(s). No prior notice to the Owner is required for the Association to file an action at law for the monies due; provided, however, that no action at law can be filed until an Assessment is more than 60 days in default.
- Assessments provided for herein shall be subordinate to the lien of any first deed of trust or first mortgage given and made in good faith and for value that is of record as an encumbrance against such Building Lot prior to the recording of a claim of lien for the Assessments. The transfer of any Lot pursuant to a foreclosure of a first deed of trust or mortgage shall extinguish the <u>lien</u> of the Assessments which came due before the foreclosure. Otherwise, the sale or transfer of any Building Lot shall not affect any liens or lien rights that Association has in this Declaration. Nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for Assessments.
- 9.7 Rights of Mortgagees. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat the rights of the Beneficiary under any deed of trust upon a Building Lot made in good faith and for value, and recorded prior to the recording of such amendment, provided that after the foreclosure of any such deed of trust such Building Lot shall remain subject to this Declaration as amended. Any Mortgagee requesting in writing shall be given notice of any default in the payment of Assessments for the Lot the subject of the mortgage.

ARTICLE 10: EASEMENTS

- 10.1 <u>Easements of Access</u>. Grantor expressly reserves for the benefit of all the Property and Owners reciprocal easements of access, ingress and egress to and from their respective Building Lots. These reserved easements are for; (1) installation and repair of utility services in the easement areas identified on the plat; (2) drainage of water (by buried pipe and not by flooding) across and under adjacent Building Lots and Common Areas in the drainage easement areas shown on the plat; (3) reasonable and necessary access by adjacent Owners for the maintenance and repair of fencing, retaining walls, lighting facilities, mailboxes, sidewalk abutments, trees, landscaping and the like. Such easements may also be used as necessary by Grantor and the Association.
- 10.2 <u>Utility Easements</u>. This Declaration is subject to all easements granted by Grantor before or after this Declaration for the installation and maintenance of utilities, drainage facilities, sewer, water, irrigation systems and the like that are required for the development of the Property. Grantor reserves, for the benefit of the Association, the right to grant additional easements and rights-of-way over the Property to utility companies and public agencies as necessary or expedient for the proper development of the Property.
- 10.2.1 <u>Improvement of Drainage and Utility Easement Areas</u>. No permanent structures or Improvements shall be constructed on any drainage or utility easement areas which would interfere with or prevent the easement from being used for it's intended purpose. Landscaping and fences in these easement areas are permitted in this Declaration if they do not interfere with the use of the easement.

ARTICLE 11: MISCELLANEOUS

11.1 <u>Term</u>. The easements granted in this Declaration shall be perpetual. These CC&R's shall run with the land, and remain in effect, until December 31, 2025, unless amended as provided. After December 31, 2025, these CC&R's shall be automatically extended for successive periods of ten (10) years each, unless amended or terminated by a recorded instrument executed by Members holding at least three-fourths (3/4) of the voting power of the Association. The Association shall not be dissolved without the prior written approval of the City having jurisdiction of this Subdivision.

- 11.2 <u>Amendment By Grantor</u>. Until the recording of the first deed to a Building Lot, the provisions of this Declaration may be amended, modified, clarified, supplemented, added to or terminated by Grantor alone by recording a written instrument setting forth such amendment or termination.
- 11.3 Amendment By Owners. Any amendment to this Declaration, shall be by an instrument in writing signed and acknowledged by the President and Secretary of the Association certifying and attesting that such amendment has been approved by the vote, or written consent, representing two thirds (2/3) or more of the votes in the Association. Any amendment shall be effective upon recording with the County Recorder of such amendment.
- 11.4 <u>Effect of Amendment</u>. Any amendment of this Declaration approved in the manner specified above shall be binding on all Owners and all Property, notwithstanding that some Owners may not have voted for or consented to such amendment. Amendments may add to and increase the covenants, conditions, restrictions and easements applicable to the Property but no amendment shall prohibit or unreasonably interfere with the allowed uses of any Owner's property which existed prior to the said amendment.
- 11.5 Annexation of Additional Area. Declarant shall have the right to annex and include additional and similar areas owned by Declarant into these Declarations and to make these additional areas or subsequent phases of this subdivision subject to the jurisdiction of these CC&R's and the Association. Declarant may annex these additional areas by recording a "Declaration of Annexation" with the County Recorder describing the additional property to be annexed and referring to these Declarations and specifically stating in the notice any other or modified or additional restrictions that apply to the additional lands. Upon recording of the Notice of Annexation, these CC&R's shall apply to the additional lands (as added to or modified by the Declaration of Annexation) as if the additional land were originally covered by this Declaration. Thereafter, the rights, privileges, duties and liabilities of all parties with respect to the additional lands and the lands described in this Declaration will be governed by these Declarations and the Declaration of Annexation as if all had been done together originally. The Association shall manage all the lands together.
- 11.6 <u>Mortgage Protection</u>. No amendment of this Declaration shall operate to defeat or render invalid the rights of the beneficiary under any first deed of trust made in good faith and for value, and recorded prior to the

recording of such amendment, provided that after foreclosure of any first deed of trust such Building Lot shall remain subject to this Declaration, as amended.

- 11.7 <u>Notices</u>. Any notices required by these CC&R's shall be in writing and may be delivered either personally, by mail, or by overnight courier. Delivery shall be complete when served personally, posted prepaid at the Post Office or delivered prepaid to the overnight courier. Notices shall be sent to Owners at the address of the property or if the Owner has given a different address to the Association in writing then notices shall be given to that address. Such address may be changed from time to time by notice in writing to the Association.
- 11.8 <u>Enforcement and Non-Waiver</u>. These CC&R's may be enforced by Declarant, the Board, the Association or any Owner. Failure to enforce any of the terms of this Declaration at any time shall not be a waiver of the right to do so thereafter. Nothing contained herein shall be construed as an obligation of the Declarant, Board, or Matlock Place Neighborhood Association to enforce any of these CC&R's. Neither Declarant, Board nor Matlock Place Neighborhood Association shall have any liability of any kind to any person or Lot Owner for failing to enforce any of these CC&R's.
- 11.9 <u>Successors and Assigns</u>. All references herein to Declarant, Owners, the Association or person shall be construed to include all heirs, successors, assigns, partners and authorized agents of such Grantor, Owners, Association or person.

DATED THIS 29 th day of NOV , 2000.

Hillview Development Corporation

Title PACTION

STATE OF IDAHO,) (ss. COUNTY OF ADA,)

On this 29 day of NOV , 2000, before me, a notary public in and for said State, personally appeared homes were with the Corporation that executed the foregoing instrument and acknowledged to me that such Corporation executed the same, and acknowledged to me that he executed the same on behalf of the Corporation.

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



Notary Public for Idabo
Residing in Idaho
My Commission Expires:

10221 West Emerald, Suite 140

Boise, Idaho 83704

(208) 376-5000 • Fax (208) 376-5556

Project No. 00-012-00

Date: July 14, 2000

MATLOCK PLACE SUBDIVISION

Lots 19, 22 and 23 of Roberts and Hill Subdivision, as same is recorded in Book 4 of Plats at Page 159, including that portion shown as Lot 2 of the Dodgins Tract as same is recorded in Book 8 of Plats at Page 372, and Lots A through J of Lot 18 of Plat showing Division of Lots 15 and 18, Roberts and Hill subdivision, as same is recorded in Book 4 of Plats at Page 166, all records of Ada County, Idaho, all being located in the NW 1/4 of the SE 1/4 of Section 14, T.4N., R.1E., B.M., Ada County, Idaho, more particularly described as follows:

Commencing at the Section corner common to Sections 23, 24, 13 and the said Section 14;

thence North 88°46'02" West, 2631.68 feet to the 1/4 corner common to said Sections 14 and 23;

thence along the North-South mid-section line North 00°32'46" East, 1309.11 feet to the C-S 1/16 corner and the southwest corner of said Lot 23 of Roberts and Hill Subdivision, said point being the **REAL POINT OF BEGINNING**;

thence continuing and along the West boundary of said Roberts and Hill Subdivision, North 00°32'46" East, 1294.11 feet to the northwest corner of Lot 18 of said subdivision, from which the center of said Section 14 bears North 00°32'46" East, 15.00 feet;

thence South 88°50'39" East, 646.29 feet to the northeast corner of said Lot 18;

thence South 00°33'36" West, 1294.72 feet to the southeast corner of said Lot 23;

thence North 88°47'24" West, 645.98 feet to the Point of Beginning. Containing 19.20 acres, more or less.

PREPARED BY: Engineering NorthWest, LLC



EXHIBIT "A"

BY-LAWS OF

MATLOCK PLACE NEIGHBORHOOD ASSOCIATION, INC.

ARTICLE 1. GENERAL PLAN OF OWNERSHIP

- 1.1 Name. The name of the corporation is Matlock Place Neighborhood Association, Inc. (hereinafter "Corporation" or "Association"). The principal office of the Association shall be located at 2150 Canter Place, Eagle, Idaho 83616.
- 1.2 By-laws Applicability. The provisions of these By-laws are applicable to the Association named above and the lands and subdivisions under the Association's jurisdiction, together with such subsequent phases, additions or annexations thereto as may hereinafter be brought within the jurisdiction of the Association. All lands in the jurisdiction of the Association may be collectively referred to as the "Subdivision".
- 1.3 Personal Application. All present and future Members, Owners and their tenants, employees, and any other person that might use the facilities owned and/or managed by the Association are subject to these By-laws.

ARTICLE 2 VOTING, MAJORITY, QUORUM, PROXIES

- 2.1 Voting. Except for the Class B Membership provided for in the Covenants Conditions and Restrictions for this Subdivision (hereinafter referred to as "CC&R's" or "Declaration"), and except as may be otherwise provided in the CC&R's, each Member shall be entitled to one vote for each Building Lot owned by such Member. One Lot one vote for Class A Members
- Majority. "Majority" of Members shall mean votes representing fifty-one percent (51%) of the voting power counting all Class A and Class B votes together.
- Quorum. The presence in person or by proxy of the Class B Member (if one), and the presence in person or by proxy of the Class A Members holding at least 10% of the votes entitled to be cast shall constitute a guorum. The Members present at a meeting at which a guorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

Page 1 of 12 ...
Exhibit B

2.4 <u>Proxies</u>. Votes may be cast in person or by proxy. Proxies must be in writing and filed at the meeting and are good for 11 months or until canceled by the member giving the proxy, whichever is sooner.

ARTICLE 3 ADMINISTRATION

- 3.1 <u>Duties.</u> The Association shall have the duties set out in the CC&R's.
- 3.2 <u>Meetings</u>. Meetings of the Association shall be held on the Property or close to the Property, and shall be conducted in accordance with <u>Robert's</u> Rules of Order.
- 3.3 <u>Annual Meetings</u>. Annual meetings of the members shall be held on April 30 of each year, unless a different date between April 15 and May 31 is selected by the Board. (If a weekend or holiday then the next business day.) At each annual meeting, Members shall elect a Board of Directors (the "Board") to act until the next annual meeting. The Members may also transact such other business as may properly come before them.
- 3.4 <u>Special Meetings</u>. It shall be the duty of the President to call a special meeting as directed by the Board, or upon a petition signed by Members who are entitled to vote one-fourth (1/4) of all the votes of the Class A Membership. The notice of all regular and special meetings shall be given as provided in Section 3.5 of these By-laws, and shall state the nature of the business to be undertaken.
- 3.5 <u>Notice of Meetings</u>. Notice shall be given to all Members at the address of the Lot in the subdivision or to such address as provided in writing to the Association.
- 3.6 Order of Business. The order of business at all meetings shall be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of committees; (f) election of Directors; (g) unfinished business; and (h) new business. Meetings shall be conducted by the officers of the Association in order of their priority.
- 3.7 <u>Adjourned Meetings</u>. If any meeting cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may adjourn the meeting to a time not less than ten (10) days nor

BY-LAWS Page 2 of 12

more than thirty (30) days from the time the original meeting was called, at which meeting the quorum requirement shall be the presence in person or by proxy of the Members holding at least ten percent (10%) of the total votes entitled to be cast at such meeting. Such adjourned meetings may be held without notice thereof as provided in this Article 3, except that notices shall be given by announcement at the meeting at which such adjournment is taken. If a meeting is adjourned for more than thirty (30) days, notice of the adjourned meeting shall be given as in the case of an original meeting.

- 3.8 <u>Minutes, Presumption of Notice</u>. Minutes or a similar record of the proceedings of meetings, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation in the minutes of any meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given.
- 3.9 <u>Consent of Absentees</u>. The transactions of any meeting of the Corporation, either annual or special, however called and noticed, shall be as valid as though transacted at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and all Members absent therefrom are deemed to have consented to the action taken. Any written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof shall be filed with the corporate records or made part of the minutes of the meeting.

ARTICLE 4. BOARD OF DIRECTORS

- 4.1 <u>Number and Qualification</u>. The affairs of the Association shall be governed and managed by the Board composed of at least three (3) persons, who need not be Members of the Association. Directors shall not receive any salary or other compensation for their services as Directors; provided, however, that nothing herein contained shall be construed to preclude any Director from serving the Association in some other capacity and receiving compensation therefor, or to receive reimbursement for out of pocket costs incurred in carrying out duties.
- 4.2 <u>Powers and Duties</u>. The Board has all powers and duties necessary for the administration of the affairs of the Association, and the powers set forth in the CC&R's.
 - 4.3 Special Powers and Duties. In addition to the powers granted in the

BY-LAWS Page 3 of 12

CC&R's, the Board is vested with the following powers and duties:

- (a) To select, appoint and remove all officers, agents, and employees of the Association and to prescribe such powers and duties for them; to fix their compensation; and, to require from them security for faithful service when deemed advisable by the Board.
- (b) To conduct, manage and control the affairs and business of the Association, and to make and enforce rules and regulations as the Board may deem advisable.
- (c) To change the principal office of the Association from one location to another within the county; to designate the place of any meetings.
- (d) To borrow money and to incur indebtedness solely for the purposes of the Association, and to execute any necessary documents relating thereto.
- (e) To fix, levy and determine the due dates of all Assessments as provided in the CC&R's. Should any Owner fail to pay such Assessments before delinquency, the Board in its discretion, is authorized to enforce the payment of such delinquent Assessments as provided in the CC&R's or by Idaho law.
- (f) To enforce the provisions of the CC&R's or other agreements of the Association in any lawful manner deemed advisable.
- (g) To contract for and pay for insurance, insuring the Owners, the Association, the Board and/or other interested parties, in accordance with the provisions of the CC&R's as deemed advisable by the Board.
- (h) To operate, maintain and otherwise manage or provide for the operation, maintenance and management of any pressurized urban irrigation system and Common Areas owned by, or to be managed by, the Association; to contract for and pay the expenses relating thereto.
 - (i) To grant easements or licenses as provided in the CC&R's.
- 4.4 <u>Management and Other Agents</u>. The Board may contract or employ for the Association a management agent ("Manager") or other Agents at a

BY-LAWS Page 4 of 12

compensation established by the Board to perform such duties and services as the Board shall authorize.

4.5 <u>Nomination, Election and Term of Office</u>. Nomination for election to the Board may be made by a nomination committee and/or made from the floor at the annual meeting. The nomination committee shall consist of a chairman, who shall be a member of the Board, and two (2) or more Members of the Association. The nominating committee may be appointed by the Board prior to each annual meeting. The nomination committee shall make as many nominations for election to the Board as it shall in its discretion determine.

At the first annual meeting, and thereafter at each annual meeting, Directors shall be elected by secret written ballot by a Majority of all votes present at such meeting. Cumulative voting is not permitted. The term of the Directors shall be for one (1) year. In the event that an annual meeting is not held, or the Directors are not elected, the Directors shall hold office until a successor has been elected (at a special meeting if necessary) or until death, resignation, removal or judicial adjudication of mental incompetence. Any person serving as a Director may be re-elected.

- 4.6 <u>Books, Financial Statements and Audit</u>. The Board shall cause to be maintained a full set of books and records showing the financial condition and the affairs of the Association in a manner consistent with generally accepted accounting principles. An annual operating statement shall be made available to each Member as set out in the CC&R's, and to first mortgagees who have in writing so requested.
- 4.7 <u>Vacancies</u>. Vacancies in the Board caused by any reason other than the removal of a Director by a vote of the Members shall be filled by vote of the Majority of the remaining Directors, even though they may constitute less than a quorum, and each person so elected shall be a Director until a successor is elected at the next annual meeting, or at a special meeting called for that purpose.
- 4.8 Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the Directors may be removed with or without cause by a Majority of all cast votes and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting. If any or all of the Directors are so removed, new Directors may be elected at the same meeting.

BY-LAWS Page 5 of 12

- 4.9 <u>Board Meetings</u>. The Board shall meet at such times and places as it shall reasonably determine provided a Majority is present. Notice of regular meetings of the Board shall be given to each Director, personally or by mail, telephone or fax at least three (3) days prior to the day named for such meetings.
- 4.10 <u>Special Meetings</u>. Special meetings of the Board may be called by the President, or, if the President is absent or refuses to act, by the Vice President, or by any two (2) Directors. Whenever any Director has been absent from any special meeting of the Board, an entry in the minutes to the effect that notice has been duly given shall be conclusive.
- 4.12 <u>Waiver of Notice</u>. Before or at any meeting of the Board, any Director may in writing waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be waiver of notice by that Director. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.
- 4.13 <u>Quorum</u>. A Majority of the Directors shall constitute a quorum and the acts of the Majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board.
- 4.14 <u>Action Without Meeting</u>. The Directors shall have the right to take any action in the absence of a meeting by obtaining written consent of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors after proper notice.
- 4.15 <u>Committees</u>. The Board may designate such committees as the Board shall desire, and establish the purposes and powers of each such committee created.

ARTICLE 5. OFFICERS

- 5.1 <u>Designation</u>. The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board. One person may hold two or more offices, except those offices of President and Secretary.
 - 5.2 Election of Officers. The officers of the Association shall be elected

BY-LAWS Page 6 of 12

by the Board for one year terms.

- 5.3 <u>Removal of Officers</u>. Upon a vote of a Majority of the Board, any officer may be removed, either with or without cause, and a successor elected at any meeting of the Board. Any officer may resign by giving written notice to the Board or to the President or Secretary of the Association.
- 5.4 <u>Compensation</u>. Officers, agents, and employees shall receive such reasonable compensation for their services as may be authorized or ratified by the Board. Appointment of any officer, agent or employee shall not of itself create contractual rights of compensation for services performed by such an officer, agent or employee. No officer, employee or Director of Grantor or any affiliate of Grantor may receive any compensation.
- 5.5. <u>Special Appointment</u>. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.
- 5.6. <u>President</u>. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of the President of a nonprofit Association. The President shall, subject to the control of the Board, have general supervision, direction and control of the business of the Association.
- 5.7. <u>Vice President</u>. The Vice President shall take the place of the President and perform such duties whenever the President shall be absent, disabled or unable to act.
- 5.8. <u>Secretary</u>. The Secretary shall record the votes and keep the minutes of all meetings of the Board and the minutes of all meetings of the Association at the principal office of the Association or such other place as the Board may order. The Secretary shall in general, perform all the duties incident to the office of Secretary. The Secretary shall give, or cause to be given, notices of meetings. The Secretary shall maintain a book of record Owners, and any person in possession of a Building Lot that is not an Owner(if known), listing the names and addresses as furnished to the Association.
 - 5.9. <u>Treasurer</u>. The Treasurer shall have responsibility for the

BY-LAWS Page 7 of 12

Association finances and shall be responsible for keeping, or causing to be kept, full and accurate accounts of the Association and the filing of all necessary tax returns. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board. The Treasurer shall disburse the funds of the Association as may be ordered by the Board, in accordance with the CC&R's, and shall render to the President and Directors upon request, an account of all transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these By-laws.

ARTICLE 6. OBLIGATIONS OF OWNERS

- Assessments set out in the CC&R's. Except as otherwise provided in the CC&R's (e.g. Limited Assessments against certain lots for violation of the CC&R's), the payment of Assessments shall be by Class A Owners. No assessments shall be charged to the Class B Owner or Declarant, unless Declarant becomes a Class A Owner by owning and building a building on a Lot. All delinquent Assessments shall be enforced, collected or foreclosed in the manner provided in the CC&R's or by law.
- 6.2 <u>Maintenance and Repair</u>. Every Owner must perform promptly, at the Owner's sole cost and expense, all maintenance and repair work on such Owner's Building Lot and improvements as required under the provisions of the CC&R's. Each Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any portion of the Property damaged through the fault of the Owner.

ARTICLE 7. AMENDMENTS TO BY-LAWS

These By-laws may be amended at an annual meeting or at a special meeting for such purpose by a vote of 2/3 of the total cast votes where a quorum was present.

ARTICLE 8. MEANING OF TERMS

All terms in these By-laws have the same meanings as in the CC&R's.

BY-LAWS Page 8 of 12

ARTICLE 9. CONFLICTING PROVISIONS

In case any of these By-laws conflict with any provisions of the laws of the State of Idaho, such conflicting By-laws shall be null and void upon final court determination to such effect, but all other By-laws shall remain in full force and effect. In case of any conflict between the Articles of Incorporation and these By-laws the Articles shall control; and in the case of any conflict between the CC&R's and these By-laws, the CC&R's shall control.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

10.1 <u>Certain Definitions</u>. For the purposes of this Article, "agent" means any person who is or was a director, officer, employee or other agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation. "Proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and costs and any expenses of establishing a right to indemnification under Section 10.3 or paragraph (c) of Section 10.4.

10.2 Indemnification. This Association shall indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of this Association to procure a judgment in its favor) by reasons of the fact that such person is or was an agent of this Association, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Association and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such persons was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the persons reasonably believed to be in or not opposed to the best interests of the Association or with respect to any criminal proceeding that the person had reasonable cause to believe that the person's conduct was unlawful. However, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Association in the performance of such persons' duty to the Association, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in

BY-LAWS Page 9 of 12

view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall deem proper.

- 10.3 Expenses in Successful Defense. To the extent that an agent of the Association has been successful on the merits in defense of any proceeding referred to in Section 10.2 or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.
- 10.4 <u>Determination of Standard of Conduct</u>. Except as provided in Section 10.3, any indemnification under this Article shall be made by the Association only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 10.2, as determined by:
- (a) A Majority vote of a quorum consisting of directors who are not parties to such proceeding; or,
- (b) Approval or ratification by the affirmative vote of a Majority of all Members votes cast at a duly held meeting at which a quorum is present or by the written consent of a Majority of all votes(A and B votes together); or,
- (c) The court in which such proceeding is or was pending, upon application made by the Association or the agent or the attorney or other persons rendering services in connection with the defense, determines that the agent is entitled to indemnification; or
- (d) Independent legal counsel, engaged at the direction of a quorum of disinterested directors, gives a written opinion that indemnification is justified.
- 10.5 <u>Advancing Expenses</u>. Expenses incurred in defending any proceeding may be advanced by the Association prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount, if it shall be determined ultimately that the agent is not entitled to be indemnified as authorized in this Article.
- 10.6 Extent and Limitations of Indemnifications. No indemnification or advance shall be made under this Article, except as provided in Section 10.3

BY-LAWS Page 10 of 12

or paragraph (c) of Section 10.4, in any circumstance where it appears:

- (a) That it would be inconsistent with a provision of the Articles of Incorporation, these By-laws, a resolution of the Board or Members or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

This Article shall create a right of indemnification for each agent referred to in this Article, whether or not the proceeding to which the indemnification relates arose in whole or in part prior to adoption of this Article; and in the event of the death of such agent, whether before or after initiation of such proceeding, such right shall extend to such agent's legal representatives. In addition, to the maximum extent permitted by applicable law, the right of indemnification hereby given shall not be exclusive of or otherwise affect any other rights such agent may have to indemnification, whether by law or under any contract, insurance policy or otherwise.

10.7 <u>Liability Insurance</u>. The Association may purchase and maintain insurance on behalf of any agent of the Association against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the Association would have the power to indemnify the agent against such liability under the provisions of this Article.

ARTICLE 11. MISCELLANEOUS

- 11.1 <u>Checks, Drafts and Documents</u>. All checks, drafts or other orders for payment or other evidences of indebtedness issued in the name of or payable to the Association shall be signed or endorsed by such persons, and in such manner as approved by the Board.
- 11.2 Execution of Documents. The Board may authorize any officer(s) or agent(s), to enter into any contract or execute any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent or employee shall have the power or authority to bind the Association by any contract or engagement or to pledge the Association's credit or to render the

BY-LAWS Page 11 of 12

Association liable for any purpose or in any amount.

- 11.3 <u>Inspection of By-laws, Books and Records</u>. The Association shall keep a copy of the Articles, the CC&R's and By-laws, as amended, and the books, records and papers of the Association in the Association's office. These shall be subject to inspection by any member during reasonable business hours. Copies will be provided at a reasonable cost and with advance notice.
- 11.4 <u>Fiscal Year</u>. The fiscal year of the Association shall be a calender year.
- 11.5 <u>Membership Book</u>. The Association shall keep and maintain in the Association's office for the transaction of business a book containing the name and address of each Member. Termination or transfer of ownership of any Building Lot by an Owner shall be recorded in the books together with the date on which such ownership was transferred upon payment of any Transfer Assessment.

Page 12 of 12

APA COUNTY RECORDER J. DAVID MAYARRO POSE POAMO

2000 NO 29 AN 10: 41

RECORDED-REQUEST OF

Matlock Slace Sup

FEE 1500 DEPUTY Josepher

100096167

EXHIBIT "C"

AGREEMENT REGARDING IRRIGATION WATER IN MATLOCK PLACE SUBDIVISION

WITNESSETH

For good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is understood and agreed as follows:

1. PARTIES:

- **A.** Stanley and Donna Matlock, husband and wife, (hereinafter "Matlock") the owners of certain shares of the water stock in Boise Valley Ditch Company.
- **B.** <u>Hillview Development Corporation</u>, an Idaho Corporation, (hereinafter "Hillview") the owner and developer of that real property in Ada County known as Matlock Place Subdivision which is legally described in Exhibit A attached hereto.
- C. Matlock Place Neighborhood Association, Inc., an Idaho Non-Profit Corporation, (hereinafter "Association") which is the homeowners association for Matlock Place Subdivision. This Association is responsible for maintaining and operating the Pressurized Urban Irrigation System (PUIS) for Matlock Place Subdivision and where practical to provide water through that system to all of the building lots and Common Area Lots in the subdivision. The Association is also responsible for maintaining, watering and operating the Common Areas of the subdivision.
- 2. TRANSFER OF TEN (10) SHARES OF WATER STOCK FROM MATLOCK TO THE ASSOCIATION; ASSESSMENTS TO ASSOCIATION: As soon as practical after the execution of this Agreement, Matlock agrees to transfer to the Association ten (10) shares of the water stock in Boise Valley. It is agreed that these ten shares of stock shall not be transferred by the

Page 1 of 5

Association to any third party, or the water rights transferred to any other lands, without the express written approval of Boise Valley. The Association shall hold these shares as agent for, and for the benefit of, all of the Owners of building lots, and Common Areas, in Matlock Place Subdivision. All assessments for the water represented by the ten shares of stock shall be paid for by the Association.

Matlock Place Subdivision shares of Boise Valley Irrigation Ditch Company, Inc. water stock shall remain assigned to Irrigation Lateral 34 of the Boise Valley Irrigation Ditch Company, Inc. and the time schedule of the rotation of water in Lateral 34 of these shares shall be included in the time schedule of the Matlock farm property to provide recharge of ground water for Matlock Place at no charge to the Matlock family, successors, heirs or assigns.

- 2.1 <u>PUIS SYSTEM</u>: Hillview is installing a PUIS for any irrigation water that may be available to the subdivision. After completion of this PUIS, Hillview shall transfer it to the Association. The Association shall manage, maintain and operate the PUIS as set out in the Covenants, Conditions and Restrictions ("CC&R'S") for the subdivision.
- 2.2 <u>BOISE VALLEY PROVIDES NO DELIVERY SYSTEM</u>: It is understood and agreed that even though the Association shall own 10 shares of stock in Boise Valley for water. Boise Valley has no method of delivering that water for sprinkler irrigation to the subdivision through its current ditch system. Boise Valley shall have no obligation to provide the delivery system or ditch system for the water represented by the stock certificates.

The Association agrees that it will make reasonable efforts to utilize other Boise Valley waste water, seepage and ground water recharge by pumping the ground water underneath the subdivision for use in the PUIS to the extent allowed by all relevant governmental agencies. The Association may make other arrangements for the provision of water for the PUIS as the Association deems appropriate. Hillview is under no obligation to provide any water of any to kind to the subdivision.

2.3 NO LIABILITY OF BOISE VALLEY, MATLOCK OR HILLVIEW: Notwithstanding that Hillview is building a PUIS for irrigation water, and that Matlock is transferring Boise Valley water stock to the Association, neither Matlock, Boise Valley nor Hillview guarantees the supply or the delivery of any water of any kind to the PUIS. Boise Valley, Matlock, and Hillview shall have no liability of any kind to any party or to any Lot Owners in Matlock Place Subdivision for the lack of water, the absence of water or the shortage of

water, and any and all claims of any kind relating thereto are hereby waived.

- 3. LATERAL 36 PIPELINE THROUGH MATLOCK PLACE SUBDIVISION: Piped underground through Matlock Place Subdivision is Boise Valley's Lateral 36 which carries Boise Valley Water to other lands. It is agreed that no party in Matlock Subdivision has any right to any of the water in Lateral 36 and that no party in Matlock Subdivision shall have any right to interfere with or tap into that Lateral 36.
- 4. <u>SUCCESSORS</u>; <u>ASSIGNS</u>; <u>COVENANT RUNNING WITH THE LAND</u>: Upon execution, this agreement shall be recorded in Ada County, Idaho, and shall be a covenant running with the lands described herein. This Agreement is for the benefit of, and shall be binding on, the successors, assigns, personal representatives, and heirs of the parties hereto and shall be a covenant running with each Lot in Matlock Place Subdivision.

Dated this $\underline{30}$ day of $\underline{700}$, 2000.

Donna Mattock
Donna Matlock
ociation, Inc.
, President
, President

water, and any and all claims of any kind relating thereto are hereby waived.

3. LATERAL 36 PIPELINE THROUGH MATLOCK PLACE SUBDIVISION: Piped underground through Matlock Place Subdivision is Boise Valley's Lateral 36 which carries Boise Valley Water to other lands. It is agreed that no party in Matlock Subdivision has any right to any of the water in Lateral 36 and that no party in Matlock Subdivision shall have any right to interfere with or tap into

4. <u>SUCCESSORS; ASSIGNS; COVENANT RUNNING WITH THE LAND</u>: Upon execution, this agreement shall be recorded in Ada County, Idaho, and shall be a covenant running with the lands described herein. This Agreement is for the benefit of, and shall be binding on, the successors, assigns, personal representatives, and heirs of the parties hereto and shall be a covenant running with each Lot in Matlock Place Subdivision.

Dated this 🗷 🗸 day of ,	Mar), , 2000.
Stanly Mallock	Donna Matteck
Stanley Matlock	Donna Matlock

Matlock Place Neighborhood Association, Inc.

an Idaho Non-Profit Corporation

that Lateral 36.

President, President

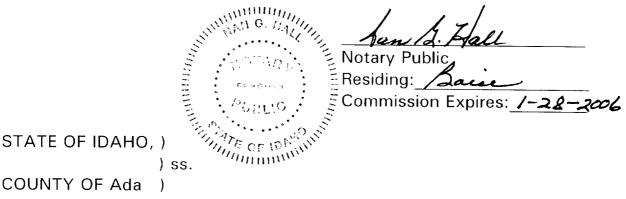
Hillview Development Corporation

by , President

STATE OF IDAHO) COUNTY OF ADA)ss

On this 20th day of November, 2000, before me, the undersigned a Notary Public in and for said State, personally appeared Stanley and Donna Matlock, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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



On this 12 day of 100 FN 2000, before me, a notary public in and for said State, personally appeared Jim Merkle, known or identified to me to be the President of Matlock Place Neighborhood Association, Inc., an Idaho Non-Profit Corporation, the corporation that executed the foregoing instrument, and 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 hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.,

siding in Boise, Idaho

My Commission Expires: /-/3-05

STATE OF IDAHO,)
) ss.
COUNTY OF Ada)

On this Aday of Well-Mos (2000, before me, a notary public in and for said State, personally appeared Jim Merkle, known or identified to me to be the President of Hillview Development Corporation, an Idaho Corporation, the corporation that executed the foregoing instrument, and 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 hereunto set my hand and affixed my official seal, the day and year in this certificate (irst above written.

Notary Public for Idaho Residing in Boise, Idaho

Commission Expires: /-/3-05

10221 West Emerald, Suite 140

Boise, Idaho 83704

(208) 376-5000 • Fax (208) 376-5556

Project No. 00-012-00

Date: July 14, 2000

MATLOCK PLACE SUBDIVISION

Lots 19, 22 and 23 of Roberts and Hill Subdivision, as same is recorded in Book 4 of Plats at Page 159, including that portion shown as Lot 2 of the Dodgins Tract as same is recorded in Book 8 of Plats at Page 372, and Lots A through J of Lot 18 of Plat showing Division of Lots 15 and 18, Roberts and Hill subdivision, as same is recorded in Book 4 of Plats at Page 166, all records of Ada County, Idaho, all being located in the NW 1/4 of the SE 1/4 of Section 14, T.4N., R.1E., B.M., Ada County, Idaho, more particularly described as follows:

Commencing at the Section corner common to Sections 23, 24, 13 and the said Section 14;

thence North 88°46'02" West, 2631.68 feet to the 1/4 corner common to said Sections 14 and 23;

thence along the North-South mid-section line North 00°32'46" East, 1309.11 feet to the C-S 1/16 corner and the southwest corner of said Lot 23 of Roberts and Hill Subdivision, said point being the **REAL POINT OF BEGINNING**;

thence continuing and along the West boundary of said Roberts and Hill Subdivision, North 00°32'46" East, 1294.11 feet to the northwest corner of Lot 18 of said subdivision, from which the center of said Section 14 bears North 00°32'46" East, 15.00 feet;

thence South 88°50'39" East, 646.29 feet to the northeast corner of said Lot 18;

thence South 00°33'36" West, 1294.72 feet to the southeast corner of said Lot 23;

thence North 88°47'24" West, 645.98 feet to the Point of Beginning. Containing 19.20 acres, more or less.

PREPARED BY:
Engineering NorthWest, LLC



ABA COUNTY RECORDER
J. DAVID NAVARRO

2000 NO 29 AM 10: 41

RECORDED-REQUEST OF

Matlack Slace Sub

FEE 1200 DEFUTY Kasper

100096168

EXHIBIT "D'

QUIT CLAIM DEED AND CONVEYANCE OF ADDITIONAL "COMMON AREA" FOR MATLOCK PLACE SUBDIVISION

AGREEMENT REGARDING THAT COMMON AREA

WITNESSETH

For good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is understood and agreed as follows:

- 1. THE "COMMON AREA" PROPERTY: The Common Area property referred to in this conveyance and agreement is that 30 foot wide strip of real property in Ada County which is legally described in Exhibit A attached hereto. This property was formerly a vacated public right-of-way lying adjacent to the northern boundary of Matlock Place Subdivision in Ada County and shall be additional Common Area for that subdivision.
- 2. QUIT CLAIM DEED AND CONVEYANCE: Stanley and Donna Matlock, Husband and Wife, hereby convey, release, remise and forever quitclaim unto Grantee that 30 foot strip of real property, together with appurtenances thereto, located in Ada County, State of Idaho, which is legally described on Exhibit A attached hereto. This property is subject to public and private utility easements, drainage easements, irrigation easements and all other easements of record or appearing on the property.
- 3. GRANTEE: Matlock Place Neighborhood Association, Inc., an Idaho Non-Profit Corporation (hereinafter "Association"), whose address is c/o Jim Merkle 2150 N. Canter Pl., Eagle, Idaho 83616. The Association is the homeowners association for Matlock Place Subdivision and is responsible for maintaining and operating the Common Areas of the subdivision, including the Common Area deeded herein and described in Exhibit A.
 - 4. AGREEMENTS REGARDING THIS COMMON AREA PARCEL: Grantor

Page 1 of 3

tyliait "n'

and Grantee mutually agree as follows:

- 4.1 <u>Drain Ditch</u>. The Common Area property conveyed herein has a maintenance and operation easement for a drain ditch which is owned and operated by Ada County Drainage District No. 2. Grantee acknowledges and recognizes that the operation and maintenance easement for this drainage ditch is fifty (50) foot on each side from the center line of the drain ditch. Grantee agrees not to build any structures in this Common Area that would interfere with this drain ditch or any of the other easements on the property.
- 4.2 <u>Landscaping</u>; <u>Use by Matlock Place Subdivision</u>. Grantee agrees to maintain this Common Area, where practical, as a grassy landscaped area. Grantee agrees to keep this area mowed, watered and fertilized. Matlock Place Subdivision shall have the unfettered right to use this Common Area for any or all necessary subdivision purposes including retention ponds and drainage areas.
- 4.3 <u>Use by Other Subdivision Lot Owners.</u> It is understood and agreed that the owners of lots in future subdivisions to east and north of Matlock Place Subdivision may have reasonable access to this Common Area and the use of this Common Area for normal enjoyment of open space.
- 5. <u>SUCCESSORS; ASSIGNS; COVENANT RUNNING WITH THE LAND</u>: Upon execution, this agreement shall be recorded in Ada County, Idaho, and shall be a covenant running with the lands described herein. The agreements contained herein are for the benefit of and shall be binding on the successors, assigns, personal representatives, and heirs of the Grantor and Grantee herein.

Dated this 20 day of 100, 2000.

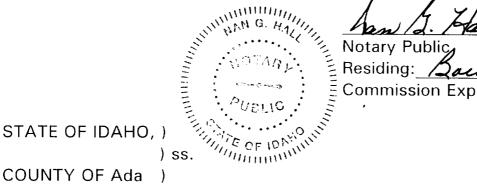
Matlock Place Neighborhood Association, Inc. an Idaho Non-Profit Corporation

Page 2 of 3

STATE OF IDAHO COUNTY OF ADA)ss

On this 20th day of November, 2000, before me, the undersigned a Notary Public in and for said State, personally appeared Stanley and Donna Matlock, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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



tarv Public for Idaho ding in Boise, Idaho

Commission Expires: 1-4-2005

Commission Expires: 1-28-2006

COUNTY OF Ada

and for said State, personally appeared Jim Merkle, known or identified to me to be the President of Matlock Place Neighborhood Association, Inc., an Idaho Non-Profit Corporation, the corporation that executed the foregoing instrument, and 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 hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Exhibit A.

VACATION OF PUBLIC RIGHT-OF-WAY ROBERTS AND HILL SUBDIVISION

Unimproved public right-of-way lying between Lots 15 and 18 of Roberts and Hill Subdivision in the NW1/4 of the SE1/4 of Section 14, T.4N., R.1E., B.M., Ada County, Idaho, as same is recorded in Book 4 of Plats at Page 159, records of Ada County, Idaho, more particularly described as follows: **BEGINNING** at the northeast corner of said Lot 18;

thence along the North boundary of said Lot 18 North 88°50'39" West, 646.29 feet (record 647.02 feet) to the northwest corner of said Lot 18;

thence along the West boundary of said Roberts and Hill Subdivision North 00°32'46" East, 30.00 feet;

thence along the extended southerly boundary and the southerly boundary of said Lot 15 South 88°50'39" East, 648.30 feet to the southeast corner of said Lot 15;

thence South 00°33'36" West, 30.00 feet to the Point of Beginning. Containing 19,389 square feet, more or less.

O & M MANUAL STORMWATER RETENTION POND

MATLOCK PLACE SUBDIVISION

This manual outlines the duties to be performed by the Matlock Place Neighborhood Association, Inc. (hereinafter the "Association") for the light maintenance of the storm water retention pond. This retention pond is located in Common area owned by the Association immediately north of Matlock Place Subdivision and is within the Ada County Drainage District No. 2 easement area.

- 1. <u>PURPOSE OF STORMWATER FACILITY</u>. The purpose of the stormwater facilities is to convey stormwater from the streets through a system of buried pipelines to the stormwater retention pond ("pond"). This pond is intended to control the release of the stormwater at a pre-developed rate. Any water in excess of this rate will be temporarily stored within the pond. After the storm subsides, the pond will empty at this pre-developed rate of flow.
- ACHD. Additions to the facility (if any), such as park benches or additional landscaping, shall be considered temporary and may be removed by ACHD when heavy maintenance of the facility is needed. In the event that any of these additional items are moved, ACHD shall have no liability relating to the removal and shall have no responsibility to repair or replace any items moved. The sole responsibility for the repair and/or replacement thereof shall be with the Association.
- 2. <u>POND LOCATION; ENGINEERING PLANS</u>. The stormwater retention pond is located in a Common Area immediately north of and adjacent to Matlock Place Subdivision. The maintenance area for the pond shall include the entire area in which the pond is located.
- 3. <u>LIGHT MAINTENANCE</u>. The Association shall have the duty to perform the light maintenance of the retention pond as follows:
- 3.1 <u>MONTHLY INSPECTION OF POND</u>. Monthly visual inspections of the pond shall be performed by the Association to check for the following: bank stability, water spots, water entering the pond from adjacent lots, rodent

holes and bank erosion. In the event that any of these items are found the Association shall have a licensed contractor make the necessary repairs.

- FACILITY. Monthly visual inspections of the underground storm water drain facility shall be performed by the Association to check for: clogging or standing water in or on the piping, the manholes or other structures. In the event that any of these items are found the Association shall contact ACHD so that ACHD can perform their "heavy" maintenance responsibilities.
- 3.3 <u>MOWING AND MAINTENANCE OF LANDSCAPING</u>. The Association shall perform the normal surface routine maintenance such as mowing lawns, fertilization, weed control, and irrigation of any landscaping. Any lawn placed in the pond shall be maintained in a healthy condition.
- 3.4 <u>TRASH CLEANUP</u>. Any trash found during the periodic inspections shall be collected and removed from the pond and disposed of properly offsite.
- 4. <u>INITIAL "ESTIMATES" OF ANNUAL OPERATING COSTS OF STORM</u>
 <u>WATER FACILITIES</u>. The annual operating costs for these storm water facilities are initially "estimated" to be \$900 per year, broken down as follows:

500
150
50
100
<u>100</u>
900

Mathematical Recorded - Request of ADA COUNTY RECORDER

ADA COUNTY RECORDER

FEE 12 - Colorbit

FEE 12 - Col

2001 SP 2 | PM 12: 57

101097218

AGREEMENT
FOR ANNEXATION OF PROPERTY
INTO CC&R'S FOR MATLOCK PLACE SUBDIVISION
(Subdivision recorded in Book 81 of Plats, Page 8781 Ada County Records)

WITNESSETH

For good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is understood and agreed as follows:

1. Parties:

- A. <u>Matlock Place Neighborhood Association, Inc.</u>, (hereinafter "Association") is an Idaho non-profit corporation and is the homeowners association for Matlock Place Subdivision. This Association is responsible for maintaining and operating the Common Areas in the subdivision and the Pressurized Urban Irrigation System (PUIS) in the subdivision.
- B. <u>Hillview Development Corporation</u>, an Idaho Corporation, (hereinafter "Hillview") the developer of that real property in Ada County known as Matlock Place Subdivision and the "Declarant" in those Covenants, Conditions and Restrictions (hereinafter "CC&R's") covering Matlock Place Subdivision which were recorded in Ada County on the 29th day of November, 2000 as Instrument No. 100096169.
- 2. <u>Future Annexed Property</u>: Pursuant to Paragraph 11.5 of the CC&R's for Matlock Place Subdivision, the Declarant reserved the right to annex additional property into the CC&R's. In the event that Declarant purchases any parcels of property in the immediate vicinity of Matlock Place Subdivision, it is agreed that Hillview Development, as Declarant, may, at Hillview's option, annex that property, or properties, into the CC&R's for Matlock Place

Subdivision. This annexation shall occur by the Declarant (Hillview) filing and recording a "Declaration of Annexation" with the Ada County Recorder containing the legal description of the annexed property and the other information set out in Paragraph 11.5 of the CC&R's. Upon the recording of that Declaration of Annexation, it is agreed that the Association shall maintain all of the Common Areas and the PUIS in both subdivisions as if both subdivisions were all one subdivision that had been done at the same time.

- 2.1 Annexed Property Subject to CC&R's. The annexed property shall be subject to the CC&R's for Matlock Subdivision and to the additional covenants, conditions and restrictions contained in the Declaration of Annexation which are specific to that annexed property only. In the event of a conflict between a specific provision in the Declaration of Annexation and the CC&R's, the provision in the Declaration of Annexation shall control.
- 2.2 <u>Common Areas in Annexed Property</u>: All of the Common Areas in the annexed property shall by available for the use of, and shall be for the benefit of, all Owners in Matlock Place Subdivision equally and together with all Owners in the annexed property.
- 2.3 <u>Water; Water Rights</u>. All water rights that are appurtenant to the annexed property shall be transferred to the Association upon the recording of the Declaration of Annexation and those water rights together with the existing water rights for Matlock Place Subdivision shall be used together for the benefit of all properties in both subdivisions. All Owners in both subdivisions shall have the equal right to water and the equal obligation to pay for the water and the pressurized irrigation system as set out in the CC&R's, and an equal obligation to follow all rules of use set out by the Association.
- 2.4 Construction, Transfer and Warranty of PUIS. At Hillview's expense, Hillview shall construct the PUIS facilities in the annexed property and hook up those facilities to the existing PUIS facilities and pumping system in Matlock Place Subdivision. It is agreed that Hillview shall transfer title to all parts of the PUIS facilities to the Association as soon after completion as is practical. The Association shall have such easements of access to any parts of the PUIS as necessary for maintenance and repair of the PUIS.

Hillview agrees to warrant the PUIS facilities against defects in workmanship or materials for one (1) year after the completion of those PUIS

facilities in the annexed property. During that one year following completion of the PUIS, the cost of remedying any defects shall be borne by Hillview. The regular maintenance of the PUIS shall be performed by the Association.

- 2.5 <u>Assessments</u>. All of the Assessments (excluding Limited Assessments as set out in the CC&R's) charged to individual Owners in those subdivisions subject to the CC&R's shall be equal. All Assessments shall be paid to, and managed by, the Matlock Place Neighborhood Association.
- 3. <u>Effective Date of this Agreement</u>. This Agreement shall be effective from the date of execution hereof by both parties.
- 4. <u>Successors; Assigns; Covenant Running with the Land</u>: Upon execution, this Agreement shall be recorded in Ada County, Idaho, and shall be a covenant running with the lands described herein. This Agreement is for the benefit of, and shall be binding on, the successors, assigns, personal representatives, and heirs of the parties hereto.

Matlock Place Neighborhood Association, Inc.

an Idaho Non-Profit Corporation

, President

Hillview Development Corporation

Presiden^a

STATE OF IDAHO,) ss. COUNTY OF ADA On this 10 day of Sept., 2001, before me, a notary public in and for said State, personally appeared James C. Merkle, known or identified to me to be the President of Matlock Place Neighborhood Association, Inc., an Idaho Non-Profit Corporation, the corporation that executed the foregoing instrument, and the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same. IN WITNESS WHITE hereunto set my hand and affixed my official seal, the day cartificate first above written. Notary Public for Idaho Résiding in Boise, Idaho My Commission Expires: 1-13-2009 STATE OF IDAHO.) ss. COUNTY OF Ada On this $\sqrt{2}$ day of $\sqrt{2}$, 2001, before me, a notary public

On this jo day of _______, 2001, before me, a notary public in and for said State, personally appeared James C. Merkle, known or identified to me to be the President of Hillview Development Corporation, an Idaho Corporation, the corporation that executed the foregoing instrument, and 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 hereunto set my hand and affixed my official seal, the day and yearn, his certificate first above written.

Notary Public for Idaho Residing in Boise, Idaho

My Commission Expires: 1-13 - 2005