

**THIRD AMENDED AND RESTATED CONDOMINIUM
DECLARATION
FOR
WATERGARDEN CONDOMINIUMS**

EFFECTIVE THE 1 DAY OF June, 2022

NOTICE

THE FOLLOWING IS A VERY IMPORTANT DOCUMENT WHICH EACH AND EVERY POTENTIAL BUYER AND OWNER OF A CONDOMINIUM WITHIN THE WATERGARDEN CONDOMINIUMS SHOULD READ AND UNDERSTAND. THIS DOCUMENT DETAILS THE OBLIGATIONS, RESPONSIBILITIES AND PROHIBITIONS IMPOSED UPON ALL OWNERS AND UNITS LOCATED WITHIN THE WATERGARDEN CONDOMINIUMS.

THE WATERGARDEN CONDOMINIUMS ARE A UNIQUE LIVING AND COMMERCIAL ENVIRONMENT. EACH POTENTIAL OWNER IS ADVISED TO MAKE FULL AND COMPLETE INQUIRY ABOUT THE WATERGARDEN CONDOMINIUMS BEFORE ACQUIRING A UNIT. EACH OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE UNITS WILL BE SUBJECT TO ASSESSMENTS LEVIED BY THE WATERGARDEN CONDOMINIUMS OWNERS' ASSOCIATION AND THE WATERFRONT DISTRICT HOMEOWNERS ASSOCIATION.

THE GRANTOR, AS DEFINED IN THIS CONDOMINIUM DECLARATION, EXPRESSLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, STATEMENTS OR INFORMATION NOT SET FORTH HEREIN OR IN ANY WRITTEN DOCUMENT EXECUTED BY THE GRANTOR.

POTENTIAL OWNERS ARE ADVISED TO REVIEW THIS CONDOMINIUM DECLARATION AND THE MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR WATERFRONT DISTRICT, ADA COUNTY INSTRUMENT NO. 106193996, AS AMENDED, PRIOR TO ACQUIRING A UNIT.

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THIRD AMENDED AND RESTATED CONDOMINIUM DECLARATION

FOR

WATERGARDEN CONDOMINIUMS

THIS THIRD AMENDED AND RESTATED CONDOMINIUM DECLARATION FOR WATERGARDEN CONDOMINIUMS (“Declaration”) is made this 1 day of June, 2022, by ENERGREEN DEVELOPMENT COMPANY, LLC, an Idaho limited liability company (referred to hereinafter as “Grantor” or “Declarant”). All capitalized terms not otherwise defined herein are defined in Article III.

This Declaration supersedes and replaces the Second Amended and Restated Condominium Declaration for Watergarden Condominiums, Ada County Recorder’s Office Instrument Number 2022-036035.

Article I. GENERAL PROVISIONS

Section 1.01 Property Covered.

Grantor is the owner of certain property (hereinafter “**Property**”), known and legally described as Lot 29, Block 2, Waterfront District Subdivision, Garden City, Ada County, Idaho, as the same is more fully described in the plat of Waterfront District Subdivision, recorded in the Ada County Recorder of Deeds in Plat Book 96, page 12061 et seq., and incorporated herein by reference.

The Property is legally described on Exhibit A, attached hereto and incorporated herein by this reference, and is depicted on the final plat for Watergarden Condominiums, to be recorded in the real property records of Ada County, Idaho, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference (the “**Plat**”).

Waterfront District Subdivision is subject to a Master Declaration of Covenants, Conditions and Restrictions for Waterfront District, dated December 4, 2006, recorded December 14, 2006, in the Ada County Recorder of Deeds, Instrument Number 106193996, as amended, incorporated herein by reference (hereinafter “**Waterfront CC&Rs**”).

The Property is subject to both this Declaration and the Waterfront CC&Rs. The Waterfront CCR’s may and do contain additional or more restrictive covenants as to some matters or actions within the Waterfront District Subdivision, including the Property, than this Declaration. Likewise, this Declaration may and does contain additional or more restrictive covenants as to some matters or actions that only apply to the Property. Therefore, to the greatest extent possible, the terms of both the Declaration and the Waterfront CC&Rs shall be applied to Units and the Property. In the event the terms of both this Declaration and the Waterfront CC&Rs conflict, the Waterfront CC&Rs shall prevail.

Every Owner of a Unit, as defined herein, shall be a member of the Association, as defined herein, and the Waterfront District Homeowners Association, Inc. (the “**Master Association**”) and shall

be entitled to all the rights of membership in both the Association and the Master Association.

The Association for the Watergarden Condominiums shall be a Local Association under the Waterfront CC&Rs.

Section 1.02 Residential Property.

Grantor intends to develop the Property, together with all appurtenances thereto, with three residential condominium buildings (the “**Buildings**”) which shall include, but not be limited to, Residential Units in accordance with the Plat, this Declaration and the existing development approvals obtained from the City of Garden City and Ada County. The Property, together with the Buildings and related site improvements shall be referred to herein as the “**Project.**”

Grantor intends to develop the Project as 3 buildings with 15 Units.

Section 1.03 Purpose.

The purpose of this Declaration is to provide for condominium ownership of the Project pursuant to the Condominium Act, designate Common Area and Limited Common Area, create The Watergarden Condominium Owners Association, Inc. as the management body to administer the Project, and set forth the restrictions, covenants, limitations, easements, conditions and equitable servitudes that shall apply to the Project and this condominium ownership regime (collectively “**Restrictions**”) that are unique to the Property and the condominium ownership regime.

Article II. DECLARATION

Grantor hereby declares that the Project and every parcel, Unit or portion thereof shall be held, sold, conveyed, encumbered, hypothecated, used, occupied and improved subject to the provisions of this Declaration and the Waterfront CC&Rs, each and all of which are hereby declared to be in furtherance of a general plan for the creation, maintenance and sale of an ownership in fee simple of separate interests in Units and for co-ownership with others, as tenants-in-common, of Common Area and Limited Common Area, all pursuant to the Condominium Act. All provisions hereof shall be deemed covenants running with the land or as equitable servitudes, and shall constitute benefit and burdens to the Owners and all Persons hereafter acquiring or owning any interest in the Project, however such interests may be obtained. Each Owner of a Condominium in the Project, including Grantor, is subject to all of the rights and duties contained within the Condominium Documents.

Article III. ADDITIONAL DEFINITIONS

1. Articles. “Articles” means the Articles of Incorporation of The Watergarden Condominium Owners’ Association, Inc., a copy of which is attached hereto as Exhibit C, as the same may be amended from time to time.

2. Assessment. "Assessment" means a share of the funds required for the payment of common expenses, including those expenses attributable to less than all Owners in the case of Regular Assessments, Special Assessments, and Limited Assessments, which, from time to time, are assessed against the Owners, as more particularly described in Section 9.03, Section 9.04, and Section 9.05 hereof.
3. Association. "Association" means The Watergarden Condominium Owners Association, Inc., an Idaho nonprofit corporation, its successors and assigns.
4. Association Rules. "Association Rules" means the rules and regulations that may be adopted, amended, or repealed from time to time by the Board.
5. Board. "Board" means the duly elected board of directors of the Association.
6. Buildings. "Building" or "Buildings" mean the structure or structures constructed or located on the Real Property pursuant to this Declaration.
7. Bylaws. "Bylaws" means the bylaws of the Association as they exist from time to time.
8. Common Area. "Common Area" means all portions of the Project other than the Units, including all Limited Common Area.
9. Condominium. "Condominium" means a separate ownership interest in a Unit together with an undivided interest in common in the Common Area (expressed as percentages of the entire ownership interest in the Common Area), as set forth on the attached Exhibit D, incorporated herein and made a part hereof by this reference.
10. Condominium Act. "Condominium Act" means the "Condominium Property Act" of the State of Idaho, Idaho Code Section 55-1501 et seq., as the same may exist from time to time.
11. Condominium Documents. "Condominium Documents" means this Declaration, the Articles, the Bylaws, the Plat, any services agreements entered into by the Association and any and all other related documents and instruments as the same may be amended from time to time.
12. Declarant. "Declarant" means Energreen Development Company, LLC, an Idaho limited liability company, and its successors and assigns.
13. Grantor. "Grantor" means Energreen Development Company, LLC, an Idaho limited liability company, and its successors and assigns
14. Lessee. "Lessee" shall mean any Person leasing all or any part of a Unit from any Owner.

15. Limited Assessment. “Limited Assessment” means an assessment levied against an Owner or group of owners by the Association for costs and expenses incurred or estimated to be incurred by the Association, as more particularly described in Section 9.05 herein.
16. Limited Common Area. “Limited Common Area” means those portions of the Common Area designated for the exclusive use of an Owner or Owners to the exclusion, limitation or restriction of other Owners. Limited Common Area may be established from time to time by Grantor or the Association on any portion of the Property by describing such area on a recorded plat, by granting or reserving it in a deed or other document or instrument, or by designating it as such in this Declaration. The term Common Area as used in this Declaration shall include Limited Common Area.
17. Management Agreement. “Management Agreement” means any agreement or amendments thereto entered into by the Association and the Management Company, which provides for the management, maintenance and operation of the Project, including, without limitation the Common Area, by the Management Company.
18. Management Company. “Management Company” means the Person hired by the Association to manage the Project, as defined in the Management Agreement.
19. Master Association. “Master Association” means the Waterfront District Owners Association, Inc., which is the homeowners’ association for the Waterfront District Subdivision. Unit owners are members of both the Association and the Master Association.
20. Member. “Member” means each Person holding a membership in the Association.
21. Mortgage. “Mortgage” means any mortgage, deed of trust or other security instrument by which a Condominium or any part thereof is encumbered.
22. Mortgagee. “Mortgagee” means any Person or any successor to the interest of such Person named as the Mortgagee, trust beneficiary, or creditor pursuant to any Mortgage under which the interest of an Owner’s interest in its Condominium, or successor to the interest of such Owner, is encumbered.
23. Owner. “Owner” means any Person, including Declarant, at any time owning a Condominium. The term “Owner” shall not refer to any Mortgagee, as herein defined, unless such Mortgagee has acquired title pursuant to foreclosure or any other proceeding in lieu of foreclosure.
24. Plat. “Plat” shall have the meaning set forth in Section 1.01.

25. Person. **"Person"** means an individual, corporation, trust, estate, partnership, limited liability company, association, joint venture, government, government subdivision or agency, and any other legal entity.
26. Project. "Project" shall have the meaning set forth in Section 1.02.
27. Property. "Property" shall have the meaning set forth in Section 1.01.
28. Regular Assessment. "Regular Assessment" means an assessment by the Association to provide for the payment of all estimated expenses growing out of or connected with the Project as a whole, as more particularly described in Section 9.03 herein.
29. Special Assessment. **"Special Assessment"** means an Assessment by the Association to provide for the payment of any expense growing out of or connected with the Project as a whole, and not paid by the Regular Assessment as more particularly described in Section 9.04 herein.
30. Unit. "Unit" means a physical portion of the Project designated for separate ownership, the boundaries of which are shown on the Plat, comprising a Unit and bounded by the interior surfaces of the perimeter walls, floors, ceilings, trim, windows, and doors thereof, and the Unit includes both the portions of the Building so described and the airspace so encompassed.
- A Unit shall include any wall paneling, wood, tile, paint, paper, carpeting, or any other wall, ceiling, or floor covering, interior surfaces of a perimeter window, interior windows and window frames and glass, interior doors and frames and the interior surfaces of perimeter doors. The interior surfaces of a perimeter window or door means at the points at which such surfaces are located when such windows or doors are closed; the physical windows and doors themselves are part of the Limited Common Area as herein defined. A Unit shall further include fixtures and hardware and all improvements contained within the unfinished perimeter walls, ceilings, and floors, including, but not limited to, appliances, carpets or other floor treatments, and cabinetry. A Unit shall include any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air-conditioning, hot and cold water, electrical, or other utility facilities located within and serving only the Unit; provided, however, that a Unit shall not include any of the structural components of the Buildings or utility or service lines located within a Unit that serve more than one Unit.
31. Waterfront CCR's. **"Waterfront CCR's"** means the Master Declaration of Covenants, Conditions and Restrictions for Waterfront District, dated December 4, 2006, recorded December 14, 2006, in the Ada County Recorder of Deeds, Instrument Number 1061939996, as amended.

Article IV. NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

Section 4.01 Estates of an Owner of a Condominium.

The Project is hereby divided into Condominiums, each consisting of a separate interest in a Unit and an undivided tenant-in-common interest in common in the Common Area. The percentage of ownership interest in the Common Area which is to be allocated to each Condominium as a whole for purposes of Assessments, tax assessment under Idaho Code § 55-1514 of the Condominium Act and liability as provided by § 55-1515 of the Condominium Act, is set forth on the attached Exhibit D.

Section 4.02 Title.

Title to a Condominium may be held or owned by any Person and in any manner in which title to any other real property may be held or owned in the State of Idaho.

Section 4.03 Prohibition on Further Division of Units.

Units may not be further divided.

Section 4.04 Inseparability of Condominiums.

No part of a Condominium Unit, or of the legal rights comprising ownership of a such Condominium may be separated from any other part thereof during the period of Condominium ownership prescribed herein, so that each Unit and the undivided interest in the Common Area appurtenant to such Unit shall always be conveyed, devised, encumbered, transferred and otherwise affected only as a complete Condominium and shall not be transferred in any way resulting in the division of the Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of the Condominium or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Condominium together with all appurtenant rights, created by law or this Declaration.

Section 4.05 Partition of Common Area Not Permitted.

The Common Area shall be owned in common by all of the Owners of Units, and no Owner may bring any action for partition thereof.

Section 4.06 Taxes and Assessments.

Each Owner shall execute such instruments and take such actions as may reasonably be specified by the Association to obtain separate real property tax assessments of the interest of each Owner in each Condominium. If any taxes of special districts or other assessments may, in the opinion of the Association, nevertheless, be a lien on the Property or any part thereof, the Association shall pay the same and assess the same to the responsible Owner or Owners. Each Owner shall pay the taxes and assessments assessed against such Owner's Condominium, or interest therein, and such Owner's interest in the Common Area, or any part of any or all of the foregoing. The

Association reserves the right to protest any tax valuations or assessment by any taxing government agency and to pay for any costs associated with such protests. Each Owner agrees to reimburse the Association for any costs associated with such protests as related to that Owner's Unit.

Section 4.07 Owner's Rights with Respect to Interiors.

Each Owner shall have the exclusive right and responsibility to maintain, finish, refinish and decorate the interior surfaces of the walls, ceilings, floors, windows and doors forming and within the interior boundaries of the Unit, subject to the reasonable rules and regulations adopted by the Association as amended from time to time.

Article V. EASEMENTS

Section 5.01 Easements for Encroachments.

If any part of the Common Area encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Area, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered encumbrances on the Common Area or the Units. Encroachments referred to herein include, but are not limited to encroachments caused by settling, rising or shifting of the earth under the Building, or by changes in position caused by repair or reconstruction of the Building or any part thereof. Notwithstanding the foregoing, no Owner shall be entitled to deliberately and intentionally encroach on the Common Area without the prior written approval of the Board.

Section 5.02 Easements of Access for Repair, Maintenance and Emergencies.

Portions of the Common Area and/or easement areas granted pursuant to this Declaration or any other Condominium Document, are or may be located within the Units or may be conveniently accessible only through the Units. The Owners, with the approval of the Board, shall have the irrevocable right of access to each Unit and to all Common Area from time to time during such reasonable hours as may be necessary and established by the Board for the construction, installation, inspection, operation, maintenance, repair or replacement of any of the Common Area located therein or accessible therefrom, or the construction, installation, inspection, operation, maintenance, repair or replacement of any improvements and facilities located within the Common Area, or for making repairs, maintenance and emergencies therein necessary to prevent damage to the Common Area or to another Unit or Units or to correct a violation of any covenant, condition or restriction of the Declaration when, after reasonable efforts by the Association, the Owner fails to do so. The Association shall also have such right of access independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the construction, installation, inspection, operation, maintenance, repair, emergency repair or replacement of any of the Common Area or as a result of emergency repairs within another Unit at the insistence of the Association or of Owners shall be an expense of all of

the Owners; provided, however, that if such damage is the result of the negligence of an Owner or such Owner's Lessees, employees, occupants, guests, invitees, tenants or licensees, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the Unit shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Association as an Assessment pursuant to Article IX herein.

Section 5.03 Easements for Utilities and Storm Drains.

In order to adequately serve each Unit and the Common Area, utility facilities may be constructed and may encroach on Common Area, Limited Common Area, or the Units. An easement for such encroachment and for the maintenance of the same shall and does exist. All storm drains carrying storm run-off water from the Project or adjoining lands and located on or near the Project are hereby granted an express easement for the location and operation of same. Any storm drains located within the Project shall be maintained as a common expense by the Association pursuant to the terms of this Declaration. The easements hereby created shall run with the land.

Section 5.04 Owner's Right to Ingress, Egress and Support.

Unless otherwise provided herein, each Owner shall have the right to ingress and egress over, upon and across the Common Area necessary for access to that Owner's Condominium, and shall have the right to the horizontal and lateral support of such Owner's Condominium, and such rights shall be appurtenant to and pass with the title to each Condominium. In exercising the rights granted in this Section, each Owner agrees to use commercially reasonable efforts to avoid interference with the access to other Condominiums.

Section 5.05 Association's Right to Use of Common Area.

The Association shall have the right to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to grant utility easements, alter the Common Areas, and construct and maintain maintenance and storage facilities in the Common Area for use by the Association.

Section 5.06 Declarant's Right Incident to Construction.

Declarant and Persons it shall select, shall have the express and unconditional right to ingress and egress over, upon and across the Project, including Common Area and all Units, the right to store materials thereon and to make other use thereof as may be reasonably necessary or incident to completion of development and construction of the Building and Units shown on the Plat and the completion of all Units for use and occupancy.

Section 5.07 Certain Easements Benefit City and ACHD.

The easements herein granted to an Owner for ingress and egress to and from such Owner's Condominium over, upon and across the Common Area are hereby recognized to be a condition

of platting the Property imposed by the City of Garden City and the Ada County Highway District. Such easements shall not be dissolved or altered in any material way that would prevent their beneficial use for their intended purposes without the express written consent of the City of Garden City and the Ada County Highway District, as applicable.

Section 5.08 Emergency Easement.

A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and property within the Project in the proper performance of their duties. The easement granted herein is recognized to be a condition of platting the Property imposed by the City of Garden City. Such easement shall not be dissolved or altered in any material way that would prevent its beneficial use for its intended purpose without the written consent of the City of Garden City.

The Owners expressly acknowledge that the Association and the Garden City Fire Department shall each have one master key capable of accessing all doors connected to the common security system of the Building. The Owners expressly agree to notify the Association prior to re-keying any lock in the Building controlled by a common security or access system and agree to use a locksmith approved by the Board.

Section 5.09 Recorded Easements.

The Property, and all portions thereof, shall be subject to all easements shown on any recorded Plat affecting the Property, or any portion thereof, and to any other easements of record or of use, now existing or hereafter created, including without limitation any storm drainage easements, street light easements, sanitary sewer easements, or any other public or municipal utility easement shown on the Plat.

Section 5.10 Easements Deemed Created.

All conveyances of Condominiums hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to Article V, even though no specific reference to such easements or to this Article Sections appear in any such conveyance.

Article VI. DESCRIPTION OF CONDOMINIUM

Every contract for the sale of a Condominium and every other instrument affecting title to such Condominium shall describe that Condominium by the Unit shown on the Plat with appropriate reference to the Plat and to this Declaration, as each appears on the records of Ada County, Idaho, in the following manner:

“Condominium Unit ___ as shown on the final plat of Watergarden Condominiums recorded in the records of Ada County, Idaho, as Instrument No. _____, as the same may be amended or supplemented from time to time.”

Such description shall be construed to describe the Condominium interest, together with the appurtenant undivided interest in the Common Area, and to incorporate all rights incident to ownership of a Condominium interest and all the limitations on such Ownership as described in the Condominium Documents or any amendments or supplements thereto, whether or not so specified in the instrument.

Article VII. USE OF CONDOMINIUMS

Section 7.01 Use Restrictions.

Units shall be used exclusively for single-family residential purposes or for any other purposes allowed under applicable zoning laws, including conditional uses permits and variances.

Section 7.02 Obstructions of Common Area.

There shall be no obstruction of the Common Area, nor shall anything be stored on any part of the Common Area without the prior written consent of the Association. Nothing shall be altered on, planted in, constructed on, or removed from the Common Area except upon the prior written consent of the Board.

Section 7.03 Maintenance of Interiors and Limited Common Area.

Each Owner shall keep such Owner's Unit, including, without limitation, interior walls, windows, glass, ceilings, floors and permanent fixtures and appurtenances thereto, in a clean, sanitary, and attractive condition, and good state of repair and shall keep the heating and air conditioning equipment, water heater and related devices exclusively serving the Owner's Unit in a good state of maintenance and free from any odor and/or mold. Each Owner shall keep the Limited Common Area designated for the exclusive use of such Owner in connection with the Unit in a clean, sanitary and attractive condition, including removal of snow and ice on Limited Common Area. Each Owner shall notify the Association of any unsafe condition existing in, on or around the Limited Common Area. In addition, nothing unsightly, in the reasonable discretion of the Board, shall be kept on any exterior Limited Common Area (including without limitation all decks or patios).

Section 7.04 Prohibition of Damage and Certain Activities.

1. No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or such Owner's Lessees, employees, occupants, guests, invitees, tenants or licensees, and to the extent permitted by law each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by such Owner or such Owner's Lessees, employees, occupants, guests, invitees, tenants or licensees, provided, however, that any Lessee, employee, occupant, guest, invitee, tenant or licensee of an Owner shall not under any circumstances be deemed to be an invitee of any other Owner.

2. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Area or any part thereof and nothing shall be done therein which may be or may become an annoyance or nuisance, in the reasonable discretion of the Board, to any other Owner or to any Person at any time lawfully residing or working in a Unit. Without limiting the generality of any of the foregoing, no whistles, bells or other sound devices (other than security devices which have been approved by the Board), flashing lights or search lights, shall be located, used or placed on the Common Area or in a Unit, if such placement of such item in a Unit will unreasonably bother or constitute a nuisance to others.
3. No unsightly articles, in the reasonable discretion of the Board, shall be permitted to remain on any portion of the Property so as to be visible from any other portion of the Project, including, but not limited to, flags and political signs. Without limiting the generality of the foregoing, refuse, garbage, trash, equipment, gas canisters, propane gas tanks, barbecue equipment, heat pumps, compressors, containers, lumber, firewood, grass, shrub or tree clippings, plant waste, metals, bulk material, and scrap shall be kept at all times in such containers (or otherwise screened) and in areas approved by the Board. No clothing or fabric shall be hung, dried or aired in a manner inconsistent with the Association Rules.
4. Owners shall not use or suffer or permit any Person or Persons to use the Units or any part thereof for any use or purpose in violation of the laws of the United States of America, the State of Idaho, Ada County, Idaho or Garden City, Idaho, or the ordinances, regulations and requirements of such governmental (public or quasi-public entities) or other lawful authorities.
5. Owners shall not use or suffer or permit any Person or Persons to use any Unit or Common Area, or any portion thereof, for any use or purpose in violation of any of the terms and conditions of this Declaration and any rules promulgated hereunder.
6. Except as allowed by Association Rules or by express approval of the Board, Owners shall not display or sell merchandise or allow carts, portable signs, devices or any other objects to be stored or to remain outside the defined exterior walls and permanent doorways of the Units. Owners further agree not to install any exterior lighting, shades or awnings, amplifiers or similar devices or use in or about the Building any advertising medium or promotional materials or facilities which may be distributed, heard or seen outside the Unit, such as flyers, flashing lights, searchlights, loudspeakers, phonographs or radio broadcasts or make any changes to the facade of the Building or operate **any customer service windows without Board's** prior written consent. Notwithstanding the foregoing, lights and sound devices typically installed in public parking garages may be installed in the Parking Units without Board approval, provided the same do not unreasonably interfere with the use or occupancy of the other Units. Owners shall not conduct or permit to be conducted any sale by auction in, upon or from the Units, whether said auction be

voluntary, involuntary, pursuant to any assignment for the payment of creditors or pursuant to any bankruptcy or other solvency proceeding.

7. Owners shall not do or permit anything to be done in or about any Unit or in the Common area, nor bring or keep anything therein, which will in any way result in the cancellation of or increase in the rate of the insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association or which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. Any Owner taking any such action, which has been approved by the Board and results in an increased rate of insurance on the Project or any part thereof, shall be solely responsible for the payment of the resulting difference in such increased premium.
8. Owners shall not do or permit anything to be done in or about the Unit or Common Area which will in any way obstruct or interfere with the rights of other Owners or occupants in the Building, create undue noise and disruption, or injure or annoy them or use or allow the Unit to be used for an unlawful or objectionable purpose, nor shall Owner cause, maintain or permit any nuisance in, or about the Building.
9. Owners shall not use or suffer or permit any Person or Persons to use the Units or any part thereof for any adult bookstore, adult movie theater, boarding house, or any other activity expressly prohibited by the Board. This Section may not be amended pursuant to Section 16 or other amendment provisions in this Declaration.

Section 7.05 No Hazardous Activities.

No activities shall be conducted on the Project, which are or might be unsafe or hazardous to any Person or property including, without limitation, any open fires (except in a contained barbecue unit or a city approved gas fireplace or firepit located in the Units) and/or the discharge of firearms.

Section 7.06 Over the Air Reception Devices.

Owners shall not install their own antennae or satellite dishes on any Building or on the exterior of any Unit or in any Common Area. Notwithstanding the foregoing, no portion of this restriction shall apply to the extent that it conflicts with any federal or state law governing such devices.

Section 7.07 Energy Devices, Outside.

No energy production devices, including, without limitation, generators of any kind and solar energy devices, shall be constructed or maintained on or in any portion of the Common Area without the written approval of the Board. In the event that the addition or use of such a device is approved by the Board, it must be installed and/or screened in the manner approved by the Board.

Section 7.08 Rules and Regulations.

No Owner, Lessee, employee, occupant, guest, invitee, tenant or licensee shall violate the Association Rules as defined and described herein.

Section 7.09 Limited Common Areas.

No Owner shall, or shall permit anyone else, to paint, stain, repair, replace, add to or otherwise alter any Limited Common Area without the written consent of the Board. Additionally, nothing shall be stored in or placed on any Limited Common Area except upon the written consent of the Board. All maintenance and repair in the Limited Common Areas shall be conducted through the Association. The Owner shall be responsible for all costs associated with such maintenance and repair, including a reasonable supervisory fee.

Section 7.10 Window Treatments.

All window treatments that are visible from the exterior of the Unit shall not cause the exterior of the Building to be unsightly and shall be approved, in writing by the Board. All window treatments shall be in compliance with and shall be subject to Association Rules.

Section 7.11 Construction and Structural Alterations.

No Owner shall take any construction actions or make any alterations to any Unit that would cause structural weakness and damage. Prior to the commencement of any construction, all improvements and alterations to a Unit must be approved, in writing, by the Board. Without limiting the generality of the foregoing, no Owner shall make any architectural or structural changes, plumbing, electrical or similar work, alterations and improvements within the Common Area without the prior written consent of the Board. All such approved work shall comply with all applicable law and all Association Rules, and shall be performed by such Persons who have been pre-approved, in writing, by the Board.

All approvals of the Board set forth in this Section 7.11 shall not be unreasonably withheld or delayed.

Section 7.12 Sewer System Restrictions.

No Owner or other Person shall deposit any glass, metal, seafood shells, diapers, clothing, rags, plastic, sanitary napkins, tampons, flammable material, oil, gas, grease, chemicals or other objects or materials other than natural human waste and generally accepted household cleaners into the sewer system either directly or through any Owner's waste disposal unit(s). The cost of any and all damage sustained by the sewer system caused by an Owner's deposit in the sewer system of any of the items listed above shall be the sole responsibility of said Owner.

Section 7.13 Right to Enjoy and Use Units.

Each Owner shall be entitled to use and enjoy the Owner's Unit for its intended purpose and nothing herein is intended to impose or grant the authority to impose any restrictions, limitations or prohibitions which would deprive an Owner of the reasonable use and enjoyment of the Owner's Unit. Notwithstanding the foregoing, no Owner shall be entitled to use the Owner's Unit for any uses not allowed under the Garden City Municipal Code or otherwise limited by this Declaration or any other Condominium Documents.

Article VIII. WATERGARDEN CONDOMINIUM OWNERS' ASSOCIATION

Section 8.01 Creation and Designation of Association.

Declarant shall organize the Association, which shall be registered and organized as a nonprofit corporation under the laws of the State of Idaho, and Declarant shall designate the Association as the management body of the Project in accordance with the Condominium Act. The Association shall be charged with the duties and vested with the powers prescribed by law and set forth in its Articles, Bylaws and this Declaration (as it relates to the Association's management of the Project) as amended and/or supplemented from time to time. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho.

Section 8.02 Membership.

Each Owner (including the Declarant) of a Condominium, for so long as such ownership is maintained, shall be a Member of the Association and shall have voting rights as hereafter set forth in this Article VIII. A membership in the Association shall be appurtenant to and inseparable from the Condominium owned by such Member. A membership in the Association shall not be assigned, transferred, pledged or alienated in any way except upon the transfer of title to said Condominium and then only to the transferee of title to said Condominium. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association. Provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium or to any Person that has assumed by contract, or otherwise, liability for paying assessments of any Owner.

Section 8.03 Voting Rights in the Association; Transition Date.

Except as otherwise provided in this Declaration or the Association's Articles and Bylaws, a matter submitted to a vote of the Members shall be deemed approved if the number of votes in favor of such matter exceed those against such matter. As provided in the Association's Articles, the Association shall have two (2) classes of voting membership:

Class A Membership. Class A Members shall be all Owners, with the exception of the Declarant until Declarant's Class B membership has been converted to a Class A Membership

pursuant to this Declaration. Each Class A Member shall be entitled to one (1) vote for each Unit in which it holds the interest required for membership in the Association. When more than one (1) person holds such interest in any Condominium, all such persons shall be Members, but all such persons shall be entitled to a single vote with respect to such Unit and in no event shall the vote cast with respect to any Unit be split.

Class B Membership. Class B Member(s) shall be Declarant, its successors and assigns. Each Class B Member shall be entitled to the number of votes that is equal to three (3) votes for each Unit in which it holds the interest required for membership in the Association. The Declarant's Class B Membership shall convert to a Class A Membership upon the earlier of (1) the date designated by Declarant in a written notice to the Unit Owners, which date may, at Declarant's election, be any date following the sale of any Units: or (2) one calendar year after Declarant has transferred title to purchasers of Units representing more than three-fourths (3/4) of the total number of Units in the Project.

Section 8.04 Matters Deemed Approved.

Except as otherwise provided herein, and as more fully set forth in the Bylaws, all matters submitted to a vote of the Members of the Association shall be determined, made, approved or authorized upon the affirmative vote of the Members representing a majority of the total voting power present at an annual or special meeting of the Association at which a quorum is present.

Section 8.05 Vote of Multiple Owners; Proxies.

If the Owner of a Condominium shall be more than one (1) Person, all such Persons shall be deemed Members, but the voting rights in the Association attributable to that Condominium may not be split and shall be exercised by one representative selected by such Persons as they, among themselves, may determine. In the event such Persons are unable to agree among themselves on any matter put to a vote as to how the vote shall be cast, such Persons shall not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Condominium. The right to vote may not be severed or separated from the ownership of the Condominium to which it is appurtenant, except that an Owner may give a revocable proxy, or may assign such Owner's right to vote to a Lessee, mortgagee, beneficiary or contract purchaser of the applicable Condominium, for the term of the lease, mortgage, deed of trust or contract. Any sale, transfer or conveyance of such Condominium to a new Owner shall operate automatically to transfer the appurtenant voting right to the new Owner, subject to any assignment of the right to vote to a Lessee, mortgagee, beneficiary or contract purchaser as provided herein.

Section 8.06 Board of Directors.

The affairs of the Association shall be conducted by a Board of Directors consisting of no less than three (3) and no more than five (5) Members and such officers as the Board may elect or appoint, in accordance with the Articles and Bylaws, as the same may be amended from time-to-time.

Section 8.07 Transfer.

Except as otherwise expressly stated herein, any of the rights, interests and obligations of the Association set forth herein or reserved herein may be transferred or assigned to any other Person; provided, however, that no such transfer or assignment shall relieve the Association of any of the obligations set forth herein and no such transfer or assignment shall revoke or change any of the rights or obligations of any Owners as set forth herein.

Section 8.08 Powers of the Association.

The Association shall have all the powers of a non-profit corporation organized under the general non-profit corporation laws of the State of Idaho subject only to such limitations upon the exercise of such powers as are expressly set forth in the Condominium Documents as the same may be amended from time to time, and is hereby designated the "Management Body" as provided in the Condominium Act. The Association, functioning through the Board, shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under the Condominium Documents and the Condominium Act or which may be in the Board's discretion necessary or proper for, or incidental to the proper management, operation, construction, inspection, installation, maintenance, repair, replacement and administration of the Project, including, without limitation:

1. Assessments. The power to levy Assessments on the Owners of Condominiums and to force payment of such Assessments.
2. Right of Enforcement. The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Condominium Documents, including the Association Rules as defined herein and adopted pursuant to this Declaration, and to enforce by mandatory injunction, assessment of fines or penalties, or otherwise, all provisions hereof.

THE ASSOCIATION HAS THE POWER TO ADOPT A POLICY OR POLICIES CONCERNING THE IMPOSITION OF FINES OR PENALTIES TO BE CHARGED TO MEMBERS FOR VIOLATIONS OF THE DECLARATION OR OTHER RULES AND REGULATIONS ADOPTED BY THE ASSOCIATION.

3. Delegation of Powers. The authority to delegate its power and duties to committees, officers, employees, or to any Person to act as the Management Body, and specifically the authority to delegate its powers and duties to a Management Company pursuant to a Management Agreement; provided, however, that any delegation of the Association's powers and duties may be revoked upon thirty (30) days written notice to such management firm. Neither the Association nor the members of the Board shall be liable for any omission or improper exercise by any Person to whom any such duty or power has been delegated, unless a Member of the

Association or a member of the Board is a principal in the liable Management Company. Any Person delegated any powers authorizing it to act as the Management Company shall be required to carry all appropriate insurance, including, **but not limited to worker's compensation, liability insurance and bonds, and such** Management Company shall ensure that any other Person working in the Building or on the Project on the Management Company's behalf shall carry the same.

4. Association Rules. The power to adopt, amend and repeal by majority vote of the Board such rules and regulations as the Board deems reasonable or proper from time to time (the "Association Rules") including fees and/or fines for violation of the Condominium Documents and the Association Rules. The Association shall have the express authority to make and enforce any rules, regulations, restrictions, protocols and procedures necessary or appropriate governing the Project regarding, including without limitation, construction, inspection, installation, operation, maintenance, repair and replacement activities and hours, social events, animals and pets, moving hours, smoking and any other events or items related to the Project or the use and enjoyment thereof, including the regulation of any window treatments, vegetation and other decorative items placed in any Common Area. The Association shall **govern the use of the Units and Common Area by the Owner and such Owner's** Lessees, employees, occupants, guests, invitees, tenants, licensees and contract purchasers, it being understood that the Association Rules shall apply equally to all Owners and shall not be inconsistent with the Condominium Documents. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, said Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of any conflict between any such Association Rules and any other provision of the Condominium Documents, the provisions of the Association Rules shall be deemed to be superseded by the provisions of the Condominium Documents to the extent of any such inconsistency. The Association Rules may supplement and add to the Condominium Documents.
5. Emergency Powers. The power to enter upon any Unit as necessary in connection with any maintenance or construction for which it is responsible, or when necessitated by violation of the Declaration or Association Rules, or in the event of any emergency involving illness or potential danger to life or property and the power to take corrective action. Such entry shall be made with as little inconvenience to the Owners as practicable and any damage caused thereby shall be repaired by the Association, except as otherwise provided herein. Owners acknowledge that the Garden City Fire Department and the Association shall have a master key to all locks in the Building or on the Project. Owners further agree to notify the Board and employ a locksmith approved by the Board before any locks may be changed to preserve the system.

6. Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Project and for the preservation of health, safety, convenience and welfare of all the Owners for the purpose of constructing, erecting, operating or maintaining, including, but not limited to, those:
 - (i) Lines, cable, wires, conduits or other devices for the transmission of electricity heating, power, telephone, television and data, other utility services and, meters and other facilities associated with the foregoing;
 - (ii) Sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and
 - (iii) Cross parking easements, sidewalk abutments, drive lanes, parking areas, curb cuts, landscaping abutting common areas, public and private streets or land conveyed for any public or quasi-public purpose.
7. Miscellaneous Services. The power to obtain and pay for the services of any Person to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any Person with whom or which it contracts. The Association may arrange with others to furnish electrical, water, sewer, trash collection services, and other common services to each Condominium (subject to reimbursement by the respective Owner for such services as an Assessment), and may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration.
8. Property for Common Use. The power to acquire and hold for the use and benefit of all of the Owners, or for the benefit of only those Owners within a particular Condominium, tangible and intangible personal property and real property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interest in the Common Area. Such interest shall not be transferable except with the transfer of a Condominium. Each Owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Condominium, including that pursuant to foreclosure or power of sale, shall entitle the purchaser or transferee to the interest in such personal property associated with the Condominium transferred.
9. Inspection. The power and authority to enter a Unit for the purpose of conducting regular maintenance inspections.

10. Implied Rights. Notwithstanding the foregoing, the Association may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such rights shall include without limitation the right to acquire water meters for each Unit.
11. Use of Association Powers. Notwithstanding the foregoing, the Association shall not take any action that would impair an Owner's right to enjoy and use his/her Unit as set forth herein.

Section 8.09 Duties of the Association.

In addition to the power delegated to it by the Condominium Documents, the Association or its agents shall have the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

1. Budgets and Financial Statements. Financial statements for the Association shall be regularly prepared and copies made available to each Member as follows:
 - (i) A pro forma operating statement (budget) for the Project for each fiscal year shall be made available to the Members not less than ninety (90) days after the beginning of each fiscal year.
 - (ii) Within ninety (90) days after the close of each fiscal year, the Association, or its agent, shall cause to be prepared and made available to each Owner, a balance sheet as of the last day of the Association's fiscal year and an annual operating statement reflecting the income and expenditures of the Association for the Project for that fiscal year.
2. Operation and Maintenance of Common Area. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Area and all improvements thereon, including parking areas, drive lanes, common seepage beds and the exterior of the Buildings, including the repair and replacement of property damaged or destroyed by casualty loss and all other property acquired by the Association, and shall maintain the same in a good, clean, attractive and sanitary condition, order and repair.
3. Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Area, the Association, or property owned by the Association and all such taxes shall be paid or a bond insuring payment posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes levied against the Association in the event that the Association is denied the status of a tax-exempt corporation.

4. Water and Other Utilities. Acquire, provide and/or pay for water, geothermal water systems, storm drainage system maintenance, sewer, geothermal electric systems, garbage, disposal, refuse and rubbish collection and other necessary services for the Common Area and Units.
5. Insurance. Obtain, from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the policies of insurance described in Article XIII hereof.
6. Maintenance of Exteriors and Improvements. Maintain and repair the exterior surfaces of the Building and improvements in the Project. The exterior maintenance shall include: painting, staining, repairing, restaining, replacing and caring for all exterior surfaces including roofs and exterior portions of doors as necessary to maintain them in good condition.
7. Inspection and Maintenance Guidelines. The Board shall adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Common Area, including, without limitation, the sewer system and drainage facilities. The Board periodically, and at least once every two (2) years, shall review and update the inspection and maintenance guidelines. The Board shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines and shall keep records of such implementation and compliance.
8. Drainage Facilities. Operate and maintain the storm drainage area, as depicted on the Plat. Notwithstanding anything to the contrary, no buildings or other similar improvements shall be constructed within the storm drainage area that would materially interfere with the Property's drainage system.
9. Maintenance of Records and Right of Inspection. Keep and maintain at its principal place of business, current copies of the Condominium Documents, any rules and regulations applicable to the Property and its books, records and financial statements. The membership register, books of account and minutes of meetings of the Board and committees of the Association shall be made available for inspection and copying by any Owner for a fee or by such Owner's duly appointed representatives, at any reasonable time and for a purpose reasonably related to such Owner's interest as an Owner at the office of the Association or at such other place as the Board shall prescribe. No Owner or any other Person shall copy the membership register for the purposes of solicitation of or direct mailing to any Owner, except for a purpose reasonably related to an Owner's Condominium interest as an Owner.
10. Operation and Maintenance of Sidewalks and Landscaping. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the sidewalks and landscaping located in the public right of way, as shown on the Plat.

Section 8.10 Amplification.

The provisions of this Section are amplified by the Association Rules and Bylaws; provided, however, that no present or future provision of such Association Rules Bylaws shall substantially alter or amend any of the rights or obligations of the Owners set forth herein.

Section 8.11 Leasing of Units

Declarant deems it to be in the best interests of the community as a whole to preserve the Project as a community in which the Units are occupied predominantly by the Owners. Accordingly, the purpose of this Section is to foster Owner-occupancy and thereby improve stability among residents, inhibit transiency and protect property values, by limiting the ratio of leased units in the Project.

The following provisions to promote Owner-occupancy of Units shall apply to the Project in addition to any restrictions or covenants concerning owner occupancy in the Waterfront CCR's, as amended and supplemented. In the event of any conflict between the owner occupancy requirements in this Declaration and the Waterfront CCR's, the terms and conditions of the Waterfront CCR's shall prevail:

1. Owner-Occupancy.

(a) The number of leased Units in the Project at any time shall not exceed five (5) Units, unless a waiver is granted under subsection (b) of this Section. To comply with FHA or FNMA regulations, in no event may the percentage of leased Units exceed 49% at any time or the then applicable percentage limit for non-owner-occupied units in a condominium deemed warrantable under applicable FNMA or FHA regulations, whichever is less.

(1) The term "**Lease**" means any agreement for the exclusive possession of the Unit that creates a relationship of landlord-tenant or lessor-lessee in which the record Owner does not occupy the Unit.

(2) For the purposes of this Section, a Unit shall be deemed Owner-occupied if the Unit is occupied: (i) by parents or children (and their families, if any) of the record Owner, or (ii) if the record Owner is a trust and the Unit is occupied by a beneficiary of the trust, as long as the beneficiary is also the grantor of the trust, or the Unit is occupied by the spouse or direct family member of the grantor of the trust. A "direct family member" means children or parents of the beneficiary.

(b) Upon written request by an Owner, the Board may waive any provision of this Section for a reasonable period of time in the event of personal hardship or unanticipated

circumstances such as military service, sabbatical, job transfer, medical conditions, or economic or market conditions. Any such waiver shall be in writing and signed by the Owner and the Board.

(c) The leasing limitations of this Section shall be deemed a reasonable restraint on alienation and not a change in the use of Units, which shall continue to be used for single-family residential purposes.

2. Regulation of Leases.

Any Lease shall be evidenced by a written lease agreement and, whether or not expressly set forth in the Lease, shall be deemed to include the regulations contained in this Section.

(a) The Owner shall furnish to the Board, at least ten (10) days before the commencement date, a copy of the executed Lease and a lease addendum if required by the Association ("**Addendum**"), the names and contact information of the tenant and all occupants, and the Owner's certification that the tenant is not on the State's sex offender registry. The Lease shall comply with the Condominium Act and the Declaration, By-Laws, and Association rules and regulations (referred to as the "**Governing Documents**").

(b) The Lease, Owner and tenant are subject to the provisions of the Act and Governing Documents.

(c) Short term rental of Units is strictly prohibited. The Lease shall have an initial term of at least twelve (12) months. Any renewal or extension of the Lease, or assignment of the Lease shall be in writing and a copy submitted to the Board prior to its commencement date.

(d) No Unit may be leased for transient or hotel purposes including home exchange or swap. Not less than the entire Unit may be leased.

(e) The Owner certifies that he/she provided a copy of the Governing Documents to tenant, and tenant certifies that he/she received said Documents, prior to signing the Lease.

(f) The Owner assigns to tenant all rights and privileges related to occupancy of the Unit, including use of parking space(s) and storage locker(s) assigned to the Unit and recreation facilities (if any). The Owner retains the right to vote, the duty to pay assessments, fines and other charges by the Association, and the obligation to maintain the Unit and carry a personal insurance policy on the Unit.

Section 8.12 No Time-Share.

No Unit may be conveyed under a time-sharing plan.

Section 8.13 Subletting

Subletting of Units is prohibited.

Section 8.14 Single Entity Ownership Restrictions.

A single entity (the same individual, investor group, partnership, or corporation) shall not be permitted to own more than two (2) Units in the Project.

Article IX. ASSESSMENTS

Section 9.01 Covenant to Pay Assessments.

By acceptance of a deed to any Condominium, each Owner covenants and agrees to pay when due (without deduction, setoff, abatement of counterclaim of any kind whatsoever) all Assessments or charges made against such Owner or such Owner's Condominium pursuant to the Condominium Documents. Assessments against a Condominium shall be a continuing lien on such Condominium until paid, whether or not ownership of such Condominium is transferred. Assessments against a Condominium are also the personal obligation of the Owner of the Condominium when the Assessment becomes due and payable. Such personal obligation shall remain with such Owner regardless of whether such Owner remains the owner of the Condominium. Delinquent Assessments related to a Condominium shall not pass to such Owner's successors in title unless expressly assumed by them. Such Assessments and charges, together with interest, costs and reasonable attorneys' fees, which may be incurred in collecting the same, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each such Assessment or charge is made. The due date, manner and method of payment shall be as set forth in this Declaration or as established by the Board from time to time.

Section 9.02 Rate of Assessment.

Except as otherwise provided herein, all Owners shall be responsible for Regular Assessments and Special Assessments levied by the Association in proportion to their percentage ownership interest in the Common Area, as set forth on Exhibit D. All Owners shall be responsible for Limited Assessments levied by the Association, as set forth in Section 9.05.

Section 9.03 Regular Assessments.

1. Purpose of Regular Assessments. The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including attorneys' fees and other professional fees, for the conduct of its affairs as provided in Article VIII, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Area and furnishing utility services, including water, sewer, gas, geothermal systems, trash and electricity and other common services to the Common Area, and each Condominium (if not separately metered), insurance, any deficit remaining from previous periods, a maintenance contingency reserve, and an amount allocated to an adequate reserve fund to be used 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 on a regular basis (collectively the

“Expenses”). Grantor and/or the Association reserves the right to separately meter utility services provided to each Condominium, and in such event the Owner of the Condominium shall be fully responsible for the costs of providing utilities for the Owner’s individual use.

2. Computation of Allocation for Regular Assessments. Unless otherwise determined by the Board, the Association shall compute and forecast the amount of its Expenses and Regular Assessments on an annual basis. The computation of Regular Assessments shall take place not less than thirty (30) nor more than sixty (60) days before the beginning of each fiscal year of the Association, unless a change in members or the Management Body makes it impracticable to compute the Regular Assessments in that timeframe. In such event, the Owners shall be immediately notified upon completion of such computation. Notwithstanding the foregoing, the computation of Regular Assessments shall be completed in good faith and shall be valid upon completion. The computation of the Regular Assessments for the period from the recordation of this Declaration until the beginning of the next fiscal year shall be reduced by an amount which fairly reflects the fact that such period was less than one year. The Board shall have the exclusive right to approve any Assessment under this Article IX.

Except as provided herein, Expenses and Regular Assessments shall be levied by the Association against Condominiums in proportion to their percentage ownerships in the Common Area as set forth on Exhibit D. Certain Expenses which exist only for the benefit of or only to serve a single Owner or group of Owners (but not all Owners) shall only be levied against such Owners in proportion to their percentage ownership as set forth on Exhibit D.

By way of example and not by way of limitation, these Expenses that may be levied against an Owner or group of Owners, include heating, ventilation, and air conditioning equipment and utility charges associated therewith, water, sewer, gas, geothermal, trash and electricity charges, restroom facilities, garage door and related security, over the air reception devices and equipment, special or additional cleaning and extraordinary street and sidewalk maintenance.

Section 9.04 Special Assessments.

In the event that the Board shall determine that the Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of the Association for any reason, including, without limitation, costs of construction, reconstruction, unexpected repairs or replacement of improvements upon the Common Area, attorneys fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine the approximate amount necessary to defray such Expenses and levy a Special Assessment. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid. If such Special Assessment shall affect more than one Condominium, but not all Units, the Owners of the effected Units shall pay those costs associated solely with their Units, while all Owners shall share such costs associated with the Common Area in proportion to their ownership interests set forth on Exhibit B.

Section 9.05 Limited Assessments.

1. Generally. Notwithstanding the above provisions with respect to Regular Assessments and Special Assessments, the Association may levy a Limited Assessment against an Owner (a) for any fines, fees or charges levied against the Owner under the Condominium Documents; (b) to reimburse the Association for any costs incurred to bring the Owner's Condominium or any improvements therein into compliance with the Condominium Documents; (c) to reimburse the Association for any damages caused by an Owner or such Owner's employees, occupants, guests, invitees, tenants or licensees to any Common Area or improvements or other property owned or maintained by the Association; and (d) for the cost of providing any goods or services under the Condominium Documents that benefit such Owner or Owner's Condominium, but less than all Owners or all Owners' Condominiums. If such Limited Assessment shall affect more than one Condominium, but not the entire Building, the Owners of the effected Condominiums shall pay those costs associated solely with their Condominiums in proportion to their percentage ownership, while all Owners shall share such costs associated with the Common Area in proportion to their percentage ownership interest set forth on Exhibit D, as applicable.

Section 9.06 Notice and Assessment Due Date.

Unless the Board establishes a different schedule for the payment of Regular Assessments, monthly installments of the Regular Assessment shall become delinquent if not paid by the 1st day of each month. If not paid within five (5) days after the due date, a one-time late charge equal to ten percent (10%) of the Regular Assessment shall be charged to the Owner. Each Assessment, other than a Regular Assessment, shall become delinquent if not paid within ten (10) days after the date of notice thereof to the Owner. If not paid within five (5) days after the due date, a one-time late charge equal to ten percent (10%) of the delinquent Assessment shall be charged to the Owner. In addition, each Assessment which is delinquent for more than twenty (20) days shall accrue interest at the lesser of (i) twelve percent (12%) per annum or (ii) the maximum rate allowed by law calculated from the date of delinquency to and including the date full payment is received by the Association. The Association may bring an action against any delinquent Owner and may, to the extent permitted by law, foreclose the lien against such Owner's Condominium as more fully provided herein. The Association, to the extent permitted by law, expressly reserves its right to file liens against such Owner pursuant to city, county and state law for any payment not made by the fifteenth (15th) day of the month for Regular Assessments or fifteen (15) days after notice of any other Assessment.

Section 9.07 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 Owner is in default under the provisions of this Declaration, and further stating the dates to which any Regular and Special Assessments have been paid by the Owner. Any such certificate delivered pursuant to this Section may be relied

upon by any prospective purchaser or mortgagee of the Owner's Condominium. Reliance on such Estoppel Certificate may not extend to any default as to which the signor shall have had no actual knowledge. Owners agree to pay for all reasonable costs associated with obtaining this Estoppel Certificate with respect to such Owner's Unit.

Article X. ENFORCEMENT OF ASSESSMENTS; LIENS

Section 10.01 Right to Enforce.

The Association has the right to collect and enforce its Assessments, including any late charges and/or interest accrued thereon pursuant to the provisions hereof. Each Owner shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration, including any late charges and/or interest accrued thereon, and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for 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 attorneys' fees and costs, including the costs and expenses for any lien releases, in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to this Section to enforce the liens created pursuant to this Section. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

Section 10.02 Assessment Liens.

1. Creation. There is, to the extent permitted by law, hereby created a claim of lien with power of sale on each and every Condominium to secure payment of any and all Assessments levied against such Condominium pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorneys' fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Condominium upon recordation of a notice of assessment with the Ada County Recorder. Such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of assessment, except for tax liens for real property taxes on any Condominium and any assessment on any Condominium in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.
2. Notice of Assessment. Upon default of any Owner in the payment of any Assessments issued hereunder, the Association may cause to be recorded in the office of the Ada County Recorder a notice of assessment. The notice shall state the amount of such Assessment and other authorized charges (including the cost of recording such notice), a sufficient description of the Condominium against which the

same have been assessed, and the name of the record Owner thereof. Each Assessment shall constitute a separate basis for a notice of assessment, but any number of Assessments may be included within a single notice. Upon payment to the Association of such Assessment and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. The Association may demand and receive the cost of preparing and recording such release before recording the same.

Section 10.03 Method of Foreclosure.

To the extent permitted by law, such lien may be foreclosed by appropriate action in court or by sale by the Association, its attorney or other Person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale in deeds of trust or any other manner permitted by law. The Board is hereby 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.

Section 10.04 Required Notice.

No action may be brought to foreclose the lien created by recordation of the notice of assessment, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such notice of assessment has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner described in such notice of assessment, and to the Person in possession of such Condominium(s) and a copy thereof is recorded by the Association in the Ada County Recorder's Office.

Section 10.05 No Subordination.

The lien for the Assessments provided for herein in connection with a given Condominium shall not be subordinate to the lien of any Mortgage. The sale or transfer of any Condominium shall affect neither the Assessment lien provided for herein, nor the creation thereof by the recordation of a notice of assessment, on account of the Assessment becoming due whether before, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

Section 10.06 Rights of Mortgagees.

Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat the rights of a Mortgagee under any Mortgage upon a Condominium made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such Mortgage such Condominium shall remain subject to this Declaration as amended.

In the event a Mortgagee obtains title to any Condominium by any method permitted under law and/or pursuant to all remedies provided in this Declaration, and/or pursuant to any provisions in the Mortgage, such Mortgagee will be liable for any such Condominium's unpaid dues or charges which accrue prior to the acquisition of title to such Condominium by such Mortgagee. Further, upon obtaining title to any such Condominium, such Mortgagee shall have the unrestricted right to exercise any vote as may be attributable to such Condominium in any meeting of the Association or otherwise.

Any encumbrancer holding a lien on a Condominium may pay, but shall not be required to pay, any amounts secured by the lien created pursuant to this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

A Mortgagee shall be responsible for all delinquencies associated with a mortgaged Condominium after being notified of such delinquencies prior to the beginning of any foreclosure proceedings on such Condominium. A Mortgagee shall be entitled to cure a default in payment of Assessments by paying all past due Assessments which accrued no more than sixty (60) days prior to the date that such Mortgagee was first notified by mail of such Owner's failure to pay Assessments past due. In the event of a foreclosure on any first Mortgage, the Mortgagee thereof shall take the Condominium interest subject to all unpaid Assessments, except to the extent such liability has been limited by exercise of the cure option set forth in herein.

Article XI. RIGHTS TO COMMON AREAS

Section 11.01 Use of Common Area.

Every Owner shall have a nonexclusive right and easement to use the Common Area (exclusive of Limited Common Area) and an exclusive or semi-exclusive right to use Limited Common Area designated for exclusive or semi-exclusive use by the Owner, which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following provisions:

1. **Assessments.** The rights of the Association to levy Assessments as provided herein and the payment by an Owner of all such Assessments;
2. **Voting.** The right of the Association to suspend the voting rights and rights to use of, or interest in Common Area by an Owner for any period during which any Assessments or charges against such Owner's Condominium remains unpaid;
3. **Dedication or Transfer.** The right of the Association to dedicate or transfer all or any part of Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No dedication or transfer shall be effective unless an instrument verifying is executed and recorded by the Association verifying that such dedication or transfer has been approved by: (i) the vote or written consent of Owners representing more a majority of the total

voting power in the Association, and (ii) fifty-one percent (51%) or more of all Mortgagees; and

4. Association Rules. The right of the Association to establish and enforce such Association Rules as the Association deems proper regarding the Project and use of Common Area and Limited Common Area.

Section 11.02 Delegation of Right to Use.

Any Owner may delegate in accordance with the respective Condominium Documents, such Owner's reasonable right of enjoyment to the Common Area to his licensees, invitees and Lessees, or contract purchasers who reside in such Condominium.

Section 11.03 Damages.

To the extent permitted by law, each Owner shall be liable for expenses for corrective action necessitated by violation of the Declaration or Association Rules or for any damage to such Common Area which may be sustained by reason of such Owner's Lessees, employees, occupants, guests, invitees, tenants or licensees. In the case of joint ownership of a Condominium, the liability of such Owners shall be joint and several. The cost of corrective action shall be assessed as an Assessment against the Condominium and may be collected as provided herein for the collection of other Assessments.

Section 11.04 Park Area.

A portion of the Common Area in the Project is subject to an easement for the benefit of the entire Waterfront District Subdivision as noted on the Plat (the "**Park**"). The Association shall pay the costs and expenses for the maintenance and upkeep of the fountain/water feature constructed in the Park. Provided further, the Association shall have the right to remove the fountain/water feature in its discretion. As members of the Master Association, the Unit Owners shall have the right to use and enjoy the Park in the same manner as all other members of the Master Association.

Article XII. MECHANIC'S LIEN RIGHTS

No labor performed or services or materials furnished with the consent of or at the request of an Owner or such Owner's agent, contractor or subcontractor shall be the basis for the filing of a lien against the Condominium of any other Owner or against any part thereof, or against any other property of any other Owner, unless such other Owner has expressly consented to or requested in writing the performance of such labor or furnishing of such materials or services. Such express written consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency corrective action undertaken by the Association. Labor performed or services or materials furnished for the Property if duly authorized by the Association shall be deemed to be performed or furnished with the express consent of each Owner. Any Owner may remove his/her Condominium from a lien against two or more

Condominiums or any part thereof by payment of sums secured by such lien which is attributable to such Owner's Condominium.

Article XIII. INSURANCE

Section 13.01 Types of Insurance.

The Association shall obtain and keep in full force and effect at all times such bonds and insurance as may be required by applicable law and such further insurance as the Board deems necessary or prudent, including casualty insurance for any property or improvements owned or maintained by the Association, public liability insurance related to the Association's operations and the use of the Common Area, directors and officers liability coverage, automobile insurance, worker's compensation insurance and fidelity bonds. Unless otherwise authorized by Grantor, the Association shall procure at least the following insurance policies to the extent such policies are available on commercially reasonable terms:

1. **Casualty Insurance.** The Association shall obtain insurance on the Buildings and other property owned by the Association in such amounts as shall provide for full replacement thereof, including, but not limited to, those costs associated with rebuilding, design, any required permits, legal fees and any other fees associated with the replacement of the Building, in the event of damage or destruction from the casualty against which such insurance is obtained. Such insurance shall include fire and extended coverage, vandalism and mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.
2. **Public Liability and Property Damage Insurance.** The Association shall purchase broad form commercial general liability insurance coverage insuring the Association, the Board, and the Association's agents and employees, which insurance shall be for not less than One Million Dollars (\$1,000,000) per occurrence with respect to personal injury/sickness/death and One Million Dollars (\$1,000,000) per occurrence with respect to property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Project.
3. **Workers Compensation and Employer's Liability Insurance.** The Management Company shall purchase workers compensation and employer's liability insurance and all other similar insurance in respect to employees of the Association in the amounts and in the forms now or hereafter required by law.
4. **Fidelity Insurance.** Full coverage directors' and officers' liability insurance with a limit of at least Two Hundred Fifty Thousand Dollars (\$250,000) for the directors and

officers of the Association. In addition, the Association shall cause the Management Company to purchase, in such amounts and in such form as the Association shall deem appropriate, coverage against liability on account of the Management Company's dishonesty of employees, officers and directors; destruction or disappearance of money or securities; and forgery.

5. Other. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, including errors and omissions insurance for the actions of the Board, as it shall deem appropriate with respect to the Buildings, including any personal property of the Association located thereon.

Section 13.02 Form.

1. Casualty insurance on the Project shall be carried in a form or forms naming the Association as the insured as trustee for the Owners, which policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and the appurtenant undivided interest in the Common Area) and which policy or policies shall provide a standard loss payable clause providing for payment of insurance proceeds to the Association as trustee for the Owners and for the respective first Mortgagees which from time to time shall give notice to the Association of such Mortgages, such proceeds to be used in accordance with this Declaration. Each policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty (30) days' prior written notice is first given to each Owner and to each first Mortgagee requesting such notice. The Association shall furnish to each Owner and to Declarant a true copy of such policy together with a certificate identifying the interest of the Owner. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.
2. Public liability and property damage insurance shall name Declarant, the Management Company and the Association as the insured, with the Association as trustee for the Owners, and shall protect each Owner against liability for acts of the Association in connection with the ownership, operation, maintenance or other use of the Buildings.

Section 13.03 Insurance Proceeds.

The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Section and as provided in Article XIV hereof. In the event: (i) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (ii) fifty-one percent (51%) or more of all Mortgagees elect not to rebuild the Project, the insurance proceeds shall be distributed to the Owners based on the ownership percentage of each Owner at the time of the casualty.

Section 13.04 Owner's Own Insurance.

Notwithstanding the provisions of Section 13.01 hereof, each Owner must obtain insurance at the Owner's own expense providing coverage upon the Owner's Condominium, personal property, personal liability, and covering such other risks as the Owner may deem appropriate, but each policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies which the Association obtains pursuant to this Section. All such insurance on the Owner's Condominium shall waive the insurance company's right of subrogation against the Association, the other Owners, and the servants, agents and guests of any of them, if such insurance can be obtained in the normal practice without material additional premium charge for the waiver of rights of subrogation.

Article XIV. CASUALTY, DAMAGE OR DESTRUCTION

Section 14.01 Affects Title.

Title to each Condominium is hereby made subject to the terms and conditions hereof, which bind the Declarant and all subsequent Owners, whether or not it is expressed in the deed by which any Owner acquires a Condominium.

Section 14.02 Association As Agent.

All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with the Condominium upon the Condominium's damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute such appointment.

Section 14.03 General Authority of Association.

Subject to the next paragraph, as attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in succeeding Sections means restoring the Condominiums, including the site improvements, equipment and facilities therein, to substantially the same condition in which it existed prior to damage, with each Unit and the Common Area having substantially the same vertical and horizontal boundaries as before.

The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction unless: (i) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (ii) fifty-one percent (51%) or more of all Mortgagees elect to terminate the condominium regime and not to rebuild the Project and agree not to rebuild in accordance with the provisions set forth hereinafter. Any termination of the condominium regime and Project following substantial destruction of the Project must be approved by Owners representing eighty percent (80%) or more of the total voting power in the Association; and (ii) fifty-one percent (51%) or more of all Mortgagees.

Section 14.04 Estimate of Costs.

As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain estimates that it deems reliable of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

Section 14.05 Repair or Reconstruction.

As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion the repair or construction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Association may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more than five percent (5%) from the number of cubic feet and the number of square feet for such Unit as originally constructed pursuant to such original plans and specifications without the written consent of all affected Owners, and the location of the Units shall be substantially the same as prior to damage or destruction.

Section 14.06 Funds for Reconstruction.

The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Section 9.04 hereof, may levy in advance a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such Special Assessments shall be allocated and collected as provided in that Section. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

Section 14.07 Disbursement of Funds for Repair or Reconstruction.

The insurance proceeds held by the Association and the amounts received from the assessments provided in Section 14.06 constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the cost of repair

or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners requiring repair and/or reconstruction of his/her Unit in proportion to the contributions by such Owner pursuant to the assessments by the Association under Section 14.06 of this Declaration.

Article XV. CONDEMNATION

Section 15.01 Consequences of Condemnation.

If at any time or times during the continuance of the condominium ownership regime pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Section shall apply.

Section 15.02 Proceeds.

All compensation, damages or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.

Section 15.03 Complete Taking.

In the event that all of the Units are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime pursuant hereto shall terminate provided that approval must first be obtained of fifty-one percent (51%) of Mortgagees. The Condemnation Award shall be apportioned among the Owners in the same proportions as their share of the Common Area in the Project, provided that if a standard different from the value of the Condominiums as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

On the basis of the principle set forth in the last preceding paragraph, the Association shall, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled and pay such amounts as soon as practicable.

Section 15.04 Partial Taking.

In the event that less than all of the Units are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the Owners as follows:

1. Allocation to Common Area. The total amount allocated to taking of or injury to the Common Area shall be apportioned among the Owners in the same proportions as their shares of the Common Area as provided in the Plat;

2. Allocation to Condominiums. The total amount allocated to severance damages shall be apportioned to those Condominiums which were taken or condemned as follows: (a) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within the Owner's own Unit shall be apportioned to the particular Unit involved; and (b) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable.

Section 15.05 Reorganization.

In the event a partial taking results in the taking of a complete Unit, then, upon the distribution of such Owner's apportioned proceeds, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall re-allocate the ownership, voting rights and assessment ratio determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception and shall submit such re-allocation to the remaining Owners for approval and amendment of this Declaration as provided in Section 16.1.2 hereof.

Section 15.06 Reconstruction and Repair.

Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XIV above.

Article XVI. MISCELLANEOUS

Section 16.01 Amendment.

1. By Grantor. Until the recordation of the first deed to a Condominium, the provisions of this Declaration may be amended, modified, clarified, supplemented, added to or terminated (collectively "Amendment") by the Grantor by recordation of a written instrument setting forth such Amendment. Additionally, so long as a Grantor owns a Condominium or any portion of the Property, the provisions of this Declaration may be amended modified, clarified, supplemented, added to or terminated by a recorded amendment by the Grantor to comply with all applicable law or as necessary to allow the Project to be developed and improved as contemplated in the Condominium Documents.
2. By Members. Except as provided in Section 16.01.1, after the recordation of the first deed to a Condominium, 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 of Members representing a majority of the total voting

power of the Association, except where a greater percentage is required by express provision in this Declaration, and such Amendment shall be effective upon its recordation with the Ada County Recorder. Any Amendment to this Section 16.01.2 shall require the vote or written consent of Owners holding eighty-five percent (85%) of the total votes which may be cast by all of the Members. Any such amendment must also comply with the requirements set forth in Section 16.01.4.

3. **Effect of Amendment.** Any Amendment of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners notwithstanding that such Owners may not have voted for or consented to such Amendment. Such Amendment may add to and increase the covenants, conditions, restrictions and easements applicable to the Project but shall not prohibit or unreasonably interfere with the allowed uses of such Owner's Condominium which existed prior to the said amendment.
4. **Amendments Materially Adverse to Mortgagees.** A Condominium Document amendment of a material nature must approved by at least fifty-one percent (51%) of Mortgagees. A change to any of the provisions governing the following would be considered material:
 - **Voting rights.**
 - **Assessment liens or the priority of assessment liens.**
 - **Reductions in reserves for maintenance, repair, and replacement of Common Elements.**
 - **Responsibility for maintenance and repairs.**
 - **Reallocation of interests in the Common Area or Limited Common Area, or rights to their use; except that when Limited Common Area are reallocated by Declarant pursuant to any rights reserved herein by Declarant, by agreement between Owners (only those Owners and only the Mortgagees holding mortgages against those Units need approve the action).**
 - **Redefinitions of boundaries of Units, except pursuant to any rights reserved by Declarant.**
 - **Convertibility of Units into Common Area or Common Area into Units.**
 - **Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project.**
 - **Property or fidelity insurance requirements.**
 - **Imposition of any restrictions on the leasing of Units.**
 - **Imposition of any restrictions on Owners' right to sell or transfer their Units.**
 - **Restoration or repair of the Project, in a manner other than that specified in the Condominium Documents, after hazard damage or partial condemnation.**

- Any provision that expressly benefits mortgage holders, insurers, or guarantors.

Section 16.02 Mortgage Protection.

1. Upon written request to the Association from any holder, insurer or guarantor of any first Mortgage stating both its name, address and the Unit number or address of the Unit on which it has its first Mortgage, said holder, insurer, or guarantor of a first Mortgage encumbering a Unit shall be entitled to notice of the following:
 - (i) Any condemnation or casualty loss that affects either a material portion of a Building or a Unit encumbered by such first Mortgage;
 - (ii) Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a first Mortgage;
 - (iii) A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
 - (iv) Any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

Section 16.03 Enforcement and Non-Waiver.

1. Right of Enforcement. Except as otherwise provided herein, any Owner, the Association and Grantor shall each have the right to enforce any or all of the provisions of this Declaration against any Unit or any part or portion of the Project and against the Owners thereof.
2. Non-Waiver. Failure of the Declarant or the Board to insist upon strict compliance with this Declaration, the Bylaws or the Association Rules, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment of the right to insist on compliance in the future with any term, covenant, condition or restriction. The receipt by the Board of payment of an assessment from an Owner, with knowledge of a breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed for by the Board.

Section 16.04 Registration of Mailing Address.

Each Owner shall register such Owner's mailing address with the Association and all notices or demands intended to be served upon any Owner shall be sent by United States Mail postage prepaid, addressed in the name of the Owner at such registered mailing address. If an Owner fails to provide the Association with a valid address, all notices shall be sent to that Owner's address on record with the Ada County Assessor's office. All notices or demands intended to be

served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association as designated in the Bylaws. All notices or demands to be served on Mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall not be entitled to receive any of the notices provided for in this Declaration. Any notice referred to in this Section shall be deemed given when deposited in the United States mail in the form provided for in this Section.

If a Mortgagee that has been provided notice delivered by certified or registered mail, with a return receipt requested, of any written proposal or request for approval of any action contemplated by the Condominium Documents and fails to respond within 60 days after it received proper notice, such Mortgagee shall be deemed to have consented to and approved the action.

Section 16.05 Interpretation.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Project. This Declaration shall be construed and governed under the laws of the State of Idaho and the following:

1. **Restrictions Construed Together.** All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Project as set forth in the recitals to this Declaration.
2. **Restrictions Severable.** Notwithstanding the provisions of the foregoing Section 16.05.1, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.
3. **Singular Includes Plural.** Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.
4. **Captions.** All captions, titles and the table of contents used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

Section 16.06 Owner's Obligations Continue.

All obligations of the Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that such Owner may have leased, rented or entered a contract of sale of his interest as provided herein, but the Owner of a Condominium shall have no obligation for expenses or other obligations accruing after the Owner conveys such Condominium.

Section 16.07 Exhibits.

All exhibits attached hereto are incorporated herein as if set forth in full herein. However, in the event of any conflict between such exhibits and the text of the Declaration, the Declaration shall control.

Section 16.08 Acknowledgement and Waivers.

All Owners expressly acknowledge that there are no understandings, representations, warranties or promises of any kind that have been made to induce the Owners from owning Units in the Project except as set forth in this Declaration or any other written valid and binding agreement between the Declarant and the Owners, that this Declaration or any other written valid and binding agreement between the Declarant and the Owners sets forth in full the entire agreement between the parties and governing the Project, and the Owners have not relied on any verbal agreement, statement, representation, warranty or other promises that is not expressed in writing in this Declaration or any other written valid and binding agreement between the Declarant and the Owners. Except as may be set forth in any written agreement between Owner and Declarant, each Owner has acquired and accepted its Condominium Unit "as is, where is" with all faults. No Person, agent or employee of Declarant has any authority to modify the terms of this Section, and no Person on Declarant's behalf is authorized to make any future verbal agreement upon which any Owner may rely to cancel, change or modify any portion of this Declaration. This Declaration or any other written valid and binding agreement between the Declarant and the Owners supersedes any and all prior understandings and agreements. This Declaration or any other written valid and binding agreement between the Declarant and the Owners may be amended or modified only by the terms included herein.

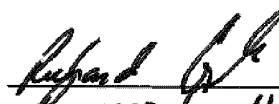
[END OF TEXT]

This Declaration is executed effective this 31 day of May 2022.

DECLARANT

**ENERGREEN DEVELOPMENT COMPANY, LLC,
an Idaho limited liability company**

By:


Richard Coville, its Manager

STATE OF Idaho)
County of Ada) ss.

On this 31 day of May, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard Coville, known or identified to me to be the manager of Energreen Development Company, LLC, an Idaho limited liability company, the person who executed the instrument as the manager of Energreen Development Company, LLC, and acknowledged to me that he executed the same in the name of Energreen Development Company.

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

Matthew Parks
Notary Public for Idaho
Residing at: Boise
My commission expires: 3/21/2025



LENDER CONSENT

(IF PROPERTY ENCUMBERED BY MORTGAGE PRIOR TO RECORDATION)

The undersigned holder of a recorded security interest in the Property hereby consents to the recordation of the Plat and this Declaration.

Construction Loan Services II, LLC

[Handwritten Signature]

By: ELIZABETH GLEIN

Its: COO

STATE OF WASHINGTON)
) ss.
County of PIERCE)

On this 31st day of MAY, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared ELIZABETH GLEIN, known or identified to me to be the managers of Construction Loan Services II, LLC, the persons who executed the instrument as the COO of Construction Loan Services II, LLC, and acknowledged to me that such persons executed the same in the name of Construction Loan Services II, LLC.

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

[Handwritten Signature]
Notary Public for BUILDER'S CAPITAL
Residing at: PHYALLUP
My commission expires: 9-10-25

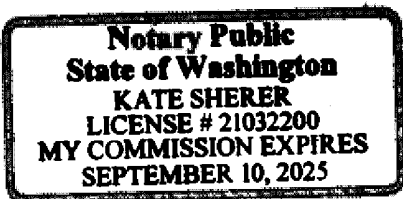


EXHIBIT A

Legal Description of the Property

LOT 29, BLOCK 2 OF WATERFRONT DISTRICT SUBDIVISION AS RECORDED IN BOOK 96 OF PLATS AT PAGES 12061 – 12068, RECORDS OF ADA COUNTY, THE PARCEL IS LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 2 EAST OF THE BOISE MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE FOUND 2 INCH ALUMINUM CAP MONUMENT AT THE QUARTER CORNER COMMON TO SECTIONS 4 AND 5, T3N, R2E, AS PERPETUATED BY DOCUMENT 2019-055737, RECORDS OF ADA COUNTY FROM WHICH THE FOUND 3 1/8 INCH BRASS CAP MONUMENT IN CONCRETE REPRESENTING THE POSITION OF THE CORNER COMMON TO SECTIONS 32 AND 33, T4N, R2E AND SECTIONS 4 AND 5, T3N, R2E AS PERPETUATED BY DOCUMENT 2020-041513, RECORDS OF ADA COUNTY BEARS N 00° 03' 07" E A DISTANCE OF 2678.42 FEET; THENCE N 68° 02' 19" W FOR A DISTANCE OF 635.75 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463 AT THE SOUTHEAST CORNER OF SAID LOT 29, BLOCK 2 AND THE REAL POINT OF BEGINNING;

THENCE N 52° 09' 04" W ALONG THE NORTHEASTERLY LINE OF N. ADAMS WAY FOR A DISTANCE OF 107.24 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463;

THENCE 9.64 FEET ALONG THE ARC OF A 125.00 FOOT RADIUS CURVE LEFT HAVING A CENTRAL ANGLE OF 4° 25' 07" AND A LONG CHORD BEARING N 54° 21' 34" W A DISTANCE OF 9.64 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463;

THENCE N 56° 34' 08" W ALONG SAID NORTHEASTERLY LINE FOR A DISTANCE OF 122.59 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463;

THENCE N 44° 34' 33" E ALONG THE SOUTHEASTERLY LINE OF E. WATER POCKET LANE FOR A DISTANCE OF 179.38 FEET TO A SET 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463;

THENCE S 56° 34' 08" E ALONG THE SOUTHWESTERLY AND WESTERLY LINE OF N. PROSPECT WAY FOR A DISTANCE OF 61.45 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463;

THENCE 81.24 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE RIGHT HAVING A CENTRAL ANGLE OF 62° 03' 46" AND A LONG CHORD BEARING S 25° 32' 10" E A DISTANCE OF 77.33 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463;

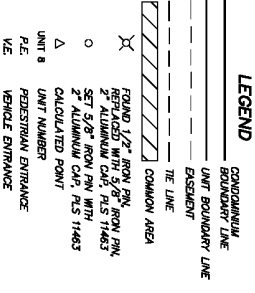
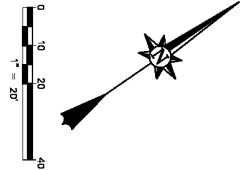
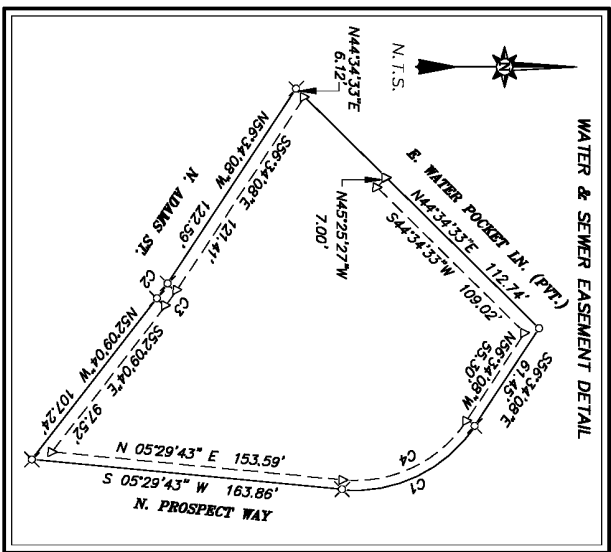
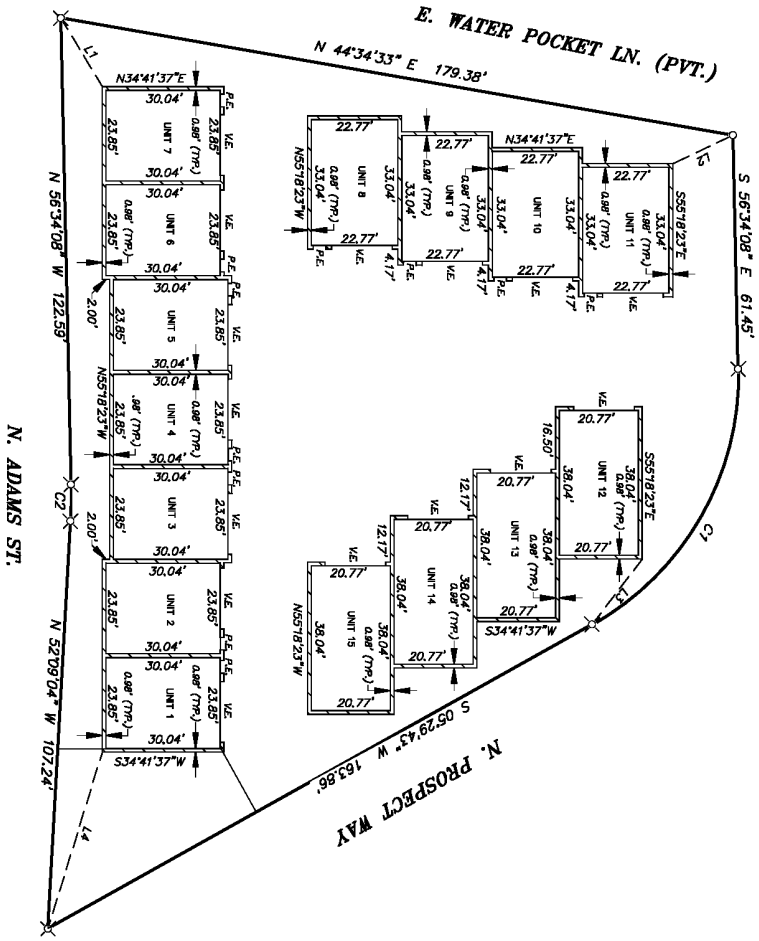
THENCE S 05° 29' 43" W FOR A DISTANCE OF 163.86 FEET TO THE REAL POINT OF BEGINNING.

PARCEL CONTAINS 0.692 ACRES, MORE OR LESS.

EXHIBIT B

Plat of the Watergarden Condominiums

WATERGARDEN CONDOMINIUMS
GARAGE LEVEL FLOOR PLAN
UNITS 1-15



LINE TABLE

LINE BEARING	DISTANCE
1	S 86°27'47" E 21.08'
2	S 09°26'58" W 21.85'
3	N 87°34'11" W 48.97'
4	N 87°34'11" W 48.97'

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DEFLECT. ANGLE
C1	75.00'	81.24'	7.33'	S 25°32'10" E	67°03'48"
C2	125.00'	81.24'	9.6410'	S 54°21'54" E	42°50'17"
C3	100.00'	75.92'	12.17'	N 25°32'10" W	67°03'48"

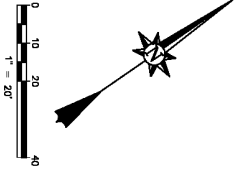
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JOB NO.	18-234
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SHEET	2 OF 12

WATERGARDEN CONDOMINIUMS
LEVEL 1 FLOOR PLAN
UNITS 1-15

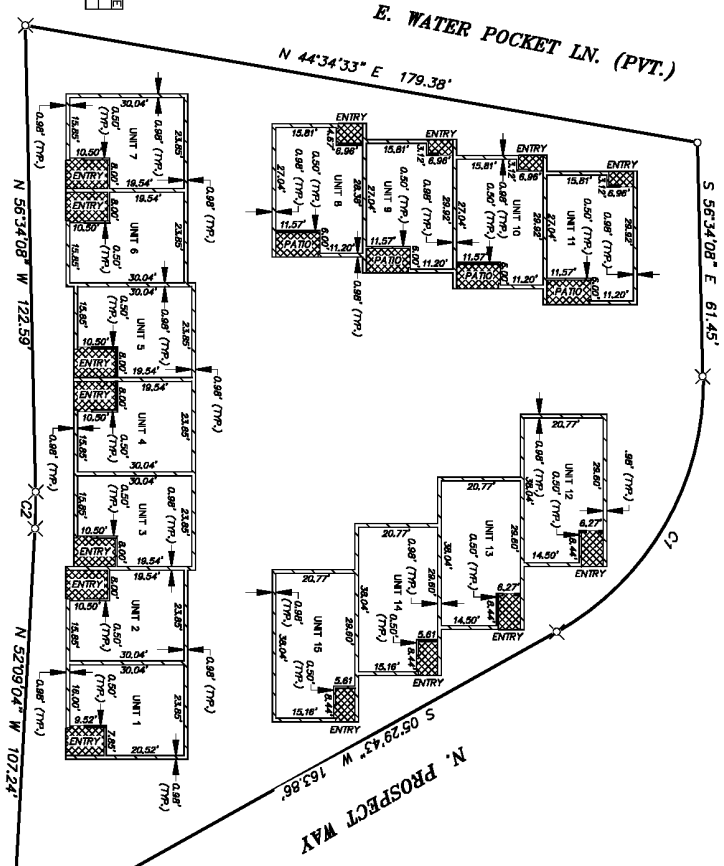


LEGEND

- CONDOMINIUM BOUNDARY LINE
- UNIT BOUNDARY LINE
- COMMON AREA
- LIMITED COMMON AREA
- ROUND 1/2" IRON PIN
- 2" ALUMINUM COIL, P.L.S. 11463
- SET 5/8" IRON PIN WITH 2" ALUMINUM COIL, P.L.S. 11463
- UNIT NUMBER

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	175.00'	81.24'	77.33'	S 25°32'10" E 62°03'48"	
C2	125.00'	9.84'	9.84'	N 52°21'34" W 42°35'07"	



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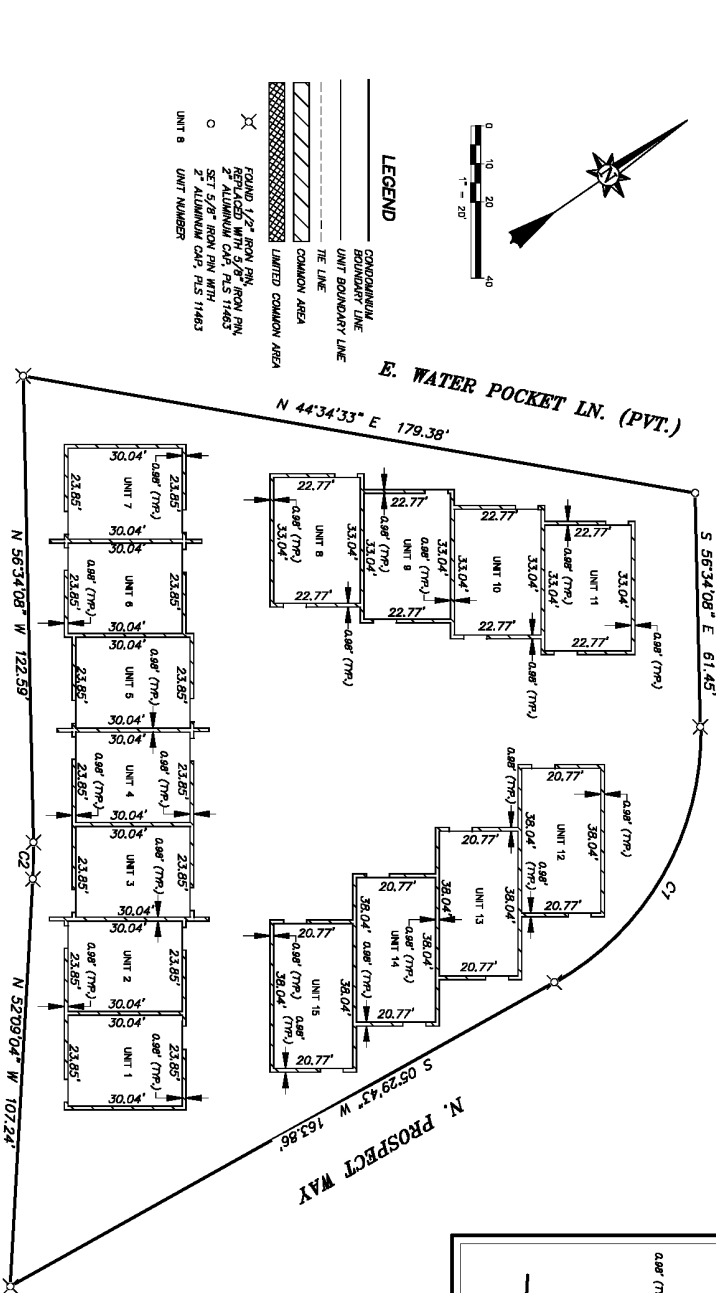
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(208) 488-4227
www.accurateleveling.com

Nathan J. Dorig,
P.L.S. 11463

PROFESSIONAL LAND SURVEYOR
11463
STATE OF IDAHO

JOB NO.	18-234
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SHEET	3 OF 12

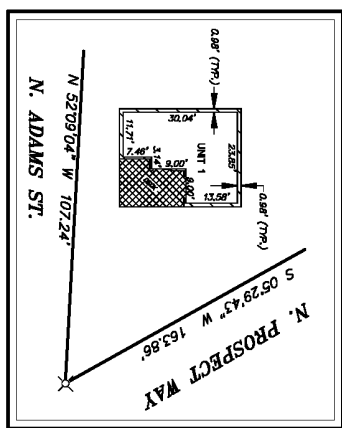
WATERGARDEN CONDOMINIUMS
LEVEL 2 FLOOR PLAN
UNITS 1-15



CURVE TABLE

CURVE	BEARING	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	S 56°34'08" E	61.45'	179.38'	177.43'	S 28°32'10" E	82°09'45"
C2	N 52°09'04" W	107.24'	163.86'	157.97'	N 58°21'54" W	47°29'07"

LEVEL 3 FLOOR PLAN
UNIT 1



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Mapping

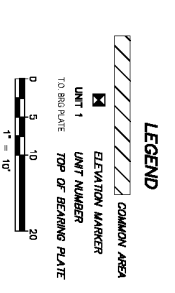
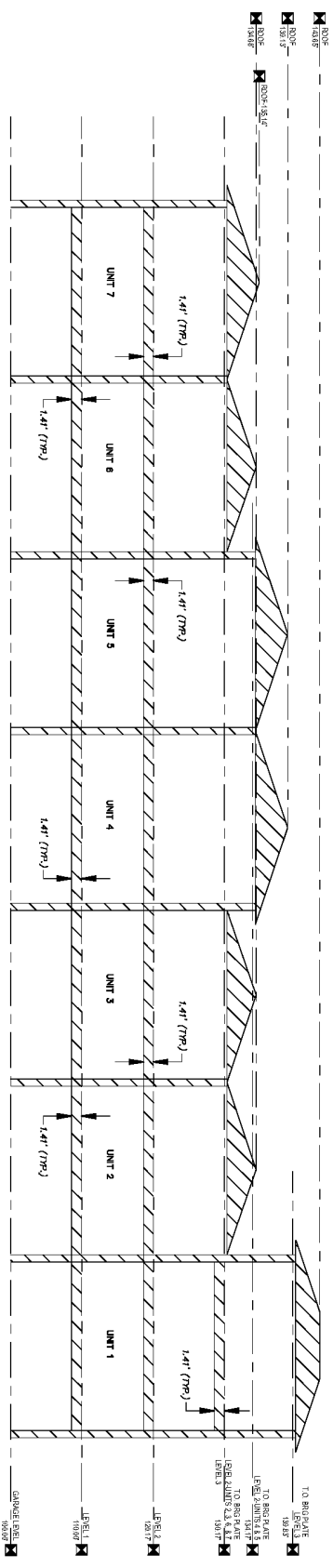
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P.L.S. 11463

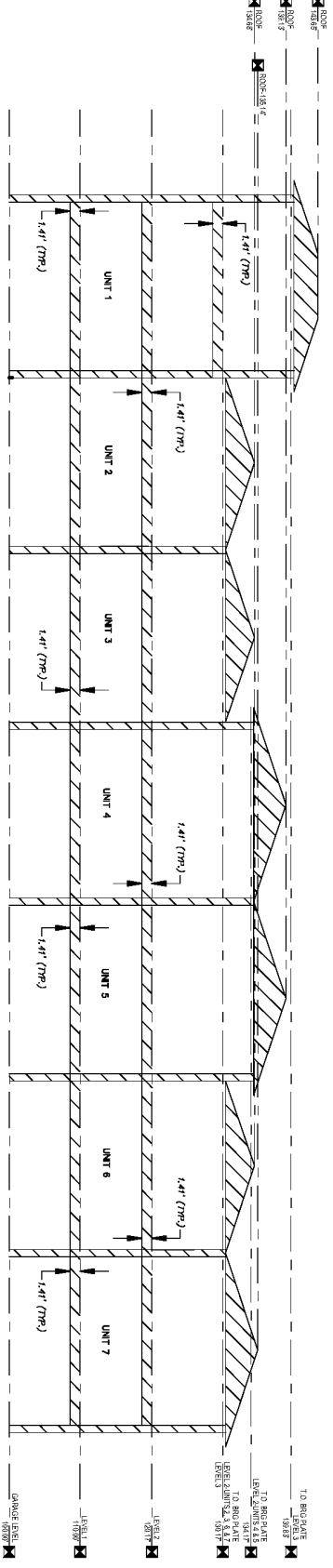
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STATE OF IDAHO
11463

JOB NO.	18-234
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SHEET:	4 OF 12

WATERGARDEN CONDOMINIUMS
N. ADAMS ST. EXTERIOR ELEVATIONS
UNITS 1-7
SOUTH



N. ADAMS ST. EXTERIOR ELEVATIONS
UNITS 1-7
NORTH



Notion J. Dang,
 P.L.S. 11463



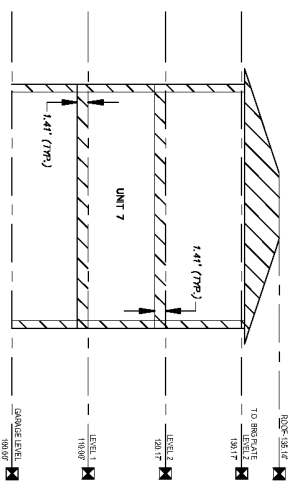
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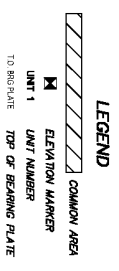
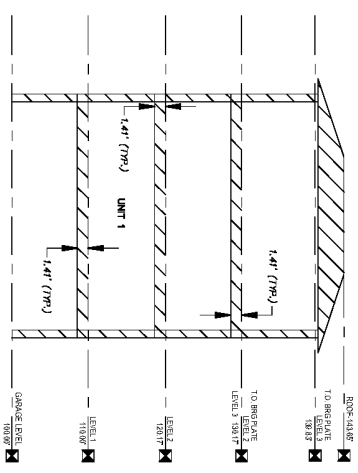
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SHEET:	5 OF 12

WATERGARDEN CONDOMINIUMS

N. ADAMS ST. EXTERIOR ELEVATIONS
UNIT 1
WEST



N. ADAMS ST. EXTERIOR ELEVATIONS
UNITS 1
EAST



Nathan J. Dong
P.L.S. 11463

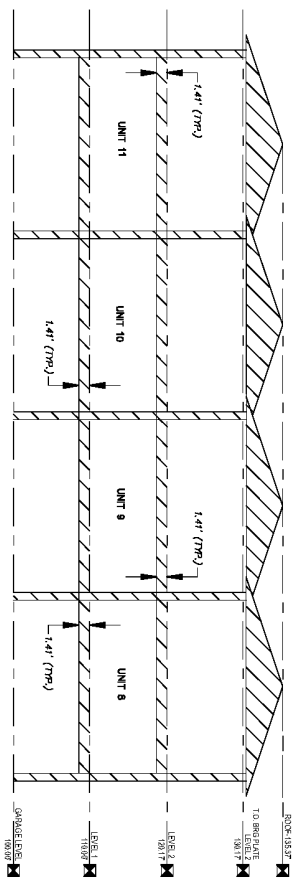
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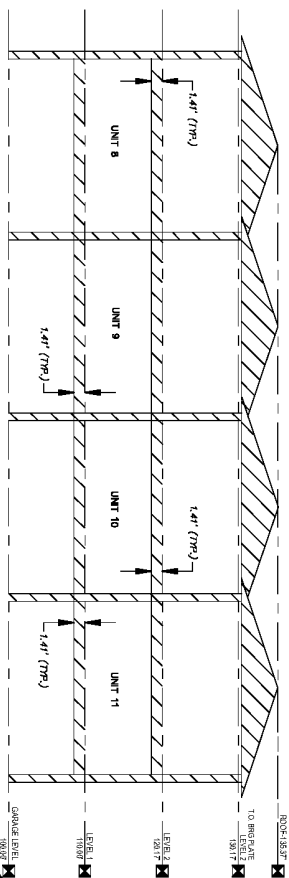
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SHEET: 6 OF 12

WATERGARDEN CONDOMINIUMS

**E. WATER POCKET LN. EXTERIOR ELEVATIONS
UNITS 8-11
WEST**



**E. WATER POCKET LN. EXTERIOR ELEVATIONS
UNITS 8-11
EAST**



LEGEND

- COMMON AREA
- ELEVATION MARKER
- UNIT NUMBER
- TO BEARING PLATE

TO BEARING PLATE TOP OF BEARING PLATE

0 5 10 20
1" = 10'



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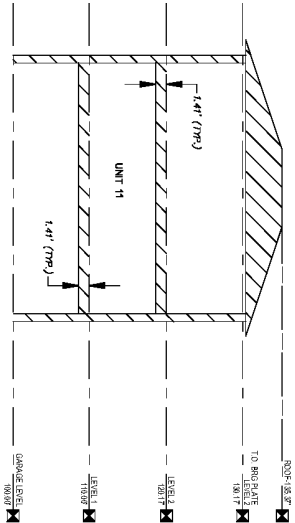


Nathan J. Darrig
P.L.S. 11463

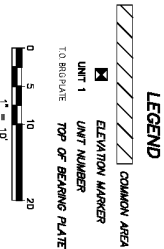
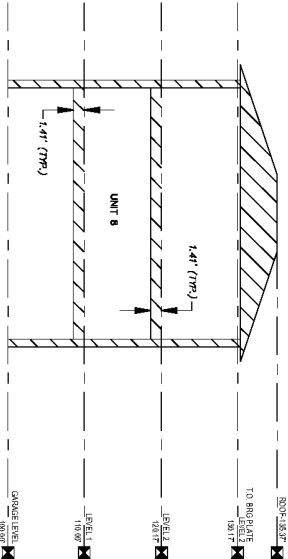
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SHEET	7 OF 12

WATERGARDEN CONDOMINIUMS

E. WATER POCKET LN. EXTERIOR ELEVATIONS
UNIT 11
NORTH



E. WATER POCKET LN. EXTERIOR ELEVATIONS
UNIT 8
SOUTH



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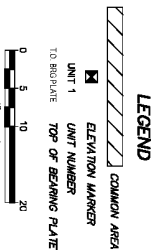
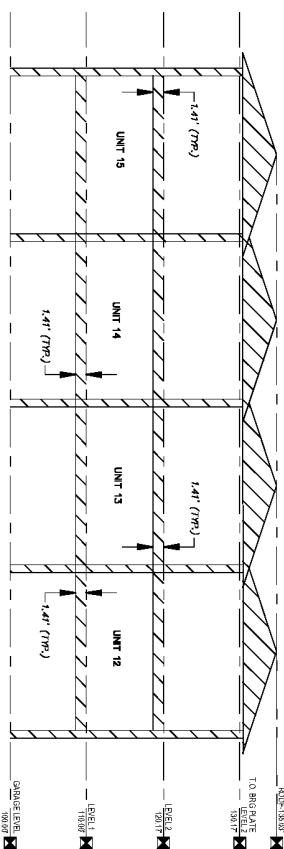


Nathan J. Dorig,
P.L.S. 11463

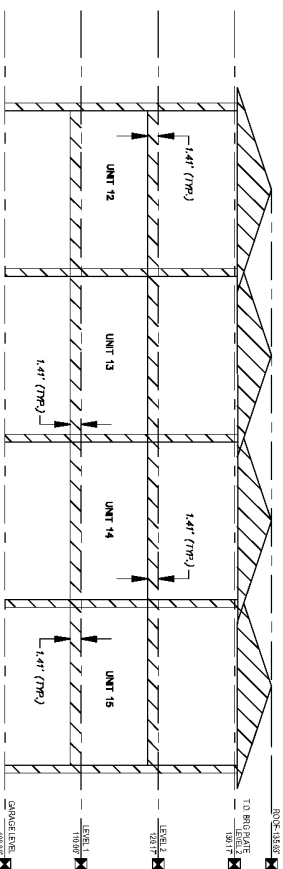
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SHEET	8 OF 12

WATERGARDEN CONDOMINIUMS

N. PROSPECT WAY EXTERIOR ELEVATIONS
 UNITS 12-15
 EAST



N. PROSPECT WAY EXTERIOR ELEVATIONS
 UNITS 12-15
 WEST



Nathan J. Dong,
 P.L.S. 11463



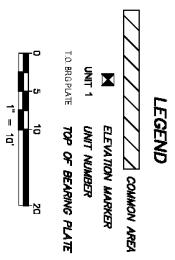
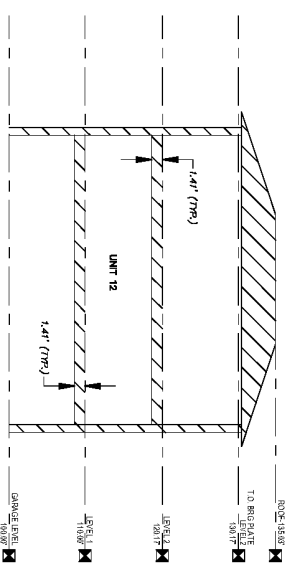
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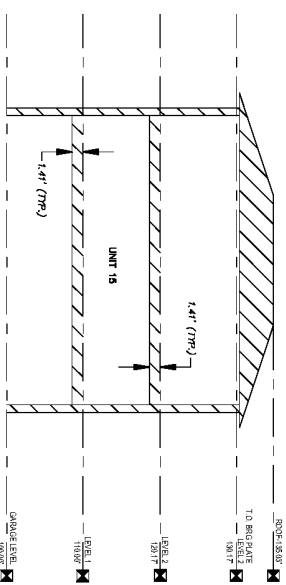
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SHEET	9 OF 12

WATERGARDEN CONDOMINIUMS

N. PROSPECT WAY EXTERIOR ELEVATIONS
UNIT 12
NORTH



N. PROSPECT WAY EXTERIOR ELEVATIONS
UNIT 15
SOUTH



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JOB NO.	18-234
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SHEET	10 OF 12

WATERGARDEN CONDOMINIUMS

CERTIFICATE OF OWNERS

KNOW ALL PERSONS BY THESE PRESENTS, THAT EVERGREEN DEVELOPMENT COMPANY, LLC, AN IDAHO LIMITED LIABILITY COMPANY, IS THE OWNER OF THE PROPERTY DESCRIBED HEREIN AND IT IS HEREBY CERTIFIED BY THE OWNER TO INCLUDE SAID PROPERTY IN THIS CONDOMINIUM PLAN. THE OWNER ALSO CERTIFIES THAT THEY CONSENT TO THE RECOGNITION OF DOCUMENTS PURSUANT TO CHAPTER 15, TITLE 55 OF THE IDAHO CODE.

LOT 2A, BLOCK 2 OF WATERGARDEN DISTRICT SUBDIVISION, AS RECORDED IN BOOK 98 OF THE STATE OF IDAHO RECORDS, IN ADAMS COUNTY, IDAHO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE QUARTER LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 2 EAST OF THE BOISE MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE QUARTER CORNER COMMON TO SECTIONS 4 AND 5, 12N, R2E, AS PERPETUATED BY DOCUMENT 2018-055737, RECORDS OF ADA COUNTY FROM WHICH THE FOUND 3/8 INCH BRASS CAP MONUMENT IN CONCRETE REPRESENTING THE POSITION OF THE CORNER COMMON TO SECTIONS 4 AND 5, 12N, R2E, AS PERPETUATED BY DOCUMENT 2018-055737, RECORDS OF ADA COUNTY BEARS A DISTANCE OF 122.59 FEET TO A FOUND 1/2 INCH ALUMINUM CAP STAMPED 11463; PERPETUATED BY DOCUMENT 2020-046153, RECORDS OF ADA COUNTY BEARS N 00° 03' 07" E A DISTANCE OF 2878.42 FEET; THENCE N 88° 02' 19" W FOR A DISTANCE OF 633.79 FEET TO A FOUND 3/8 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463; A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463; A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463; THENCE N 52° 09' 04" W ALONG THE NORTHEASTERLY LINE OF N. ADAMS WAY FOR A DISTANCE OF 107.24 FEET TO A FOUND 3/8 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463; THENCE 8.64 FEET ALONG THE ARC OF A 126.00 FOOT RADIUS CURVE LEFT HAVING A DISTANCE OF 8.64 FEET TO A FOUND 1/2 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463; THENCE N 55° 34' 08" W ALONG SAID NORTHEASTERLY LINE FOR A DISTANCE OF 122.59 FEET TO A FOUND 3/8 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463; THENCE N 44° 34' 33" E ALONG THE SOUTHEASTERLY LINE OF E. WATER POCKET LANE FOR A DISTANCE OF 178.38 FEET TO A SET 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463; THENCE S 88° 34' 08" W ALONG THE SOUTHWESTERLY AND WESTERLY LINE OF N. PROSPECT WAY FOR A DISTANCE OF 61.45 FEET TO A FOUND 3/8 INCH DIAMETER IRON PIN, REPLACED WITH A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463; THENCE 81.24 FEET ALONG THE ARC OF A 73.00 FOOT RADIUS CURVE RIGHT HAVING A CENTRAL ANGLE OF 62° 03' 48" AND A LONG CHORD BEARING S 28° 32' 10" E A DISTANCE OF 122.59 FEET TO A FOUND 1/2 INCH ALUMINUM CAP STAMPED 11463; A 5/8TH INCH DIAMETER IRON PIN WITH A 2 INCH ALUMINUM CAP STAMPED 11463; THENCE S 09° 29' 43" W FOR A DISTANCE OF 163.86 FEET TO THE REAL POINT OF BEGINNING.

THE EASEMENTS INDICATED ON THIS PLAN ARE NOT DEDICATED TO THE PUBLIC, BUT THE RIGHT TO USE SAID EASEMENTS IS PERPETUALLY RESERVED FOR PUBLIC UTILITIES AND FOR SUCH OTHER USES AS DESIGNATED HEREOF, AND TO BE EXERCISED WITHIN THE LIMITS OF SAID EASEMENTS. UTILITIES WITHIN THIS CONDOMINIUM WILL BE ELIGIBLE TO RECEIVE WATER FROM GARDEN CITY AND HAS AGREED IN WRITING TO SERVE ALL UNITS, PER IDAHO CODE 50-153A.

RICHARD COWLE
MEMBER

DATE

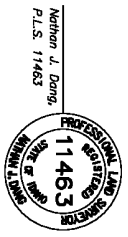
ACKNOWLEDGMENT

STATE OF IDAHO }
COUNTY OF ADA } SS
ON THIS _____ DAY OF _____ IN THE YEAR 20____ BEFORE ME A NOTARY PUBLIC IN AND FOR THE STATE OF IDAHO, PERSONALLY APPEARED RICHARD COWLE, KNOWN OR IDENTIFIED TO BE THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT, AND _____, PRESIDENT OF THE COMPANY, LLC, AN IDAHO LIMITED LIABILITY COMPANY, AND ACKNOWLEDGED TO ME THAT SAID _____, EXECUTED THE SAME IN WITNESS WHEREOF, I HEREBY SET MY HAND AND AFFIX MY OFFICIAL SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST ABOVE WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF IDAHO
MY COMMISSION EXPIRES _____
RESIDING IN _____

CERTIFICATE OF SURVEYOR

I, Nathan J. Dorg, do hereby certify that I am a duly Licensed Professional Land Surveyor of Idaho, and that this map has been prepared from an actual survey made on the ground under my direct supervision, and that this map is an accurate representation of said survey, and that it was carefully checked during the conducting of said survey, and filing Act Idaho Code 55-1601 through 55-1612.



Accurate
Surveying &
Mapping

1520 W. Washington St.
Boise, Idaho 83702
(208) 883-4198
www.accuratesurveying.com

JOB NO.	18-234
DRAWN BY	RJD
SHEET	11 OF 12

WATERGARDEN CONDOMINIUMS

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

ADA COUNTY SURVEYOR _____
 DATE _____

APPROVAL OF CITY ENGINEER
 I, THE UNDERSIGNED CITY ENGINEER IN AND FOR THE CITY OF GARDEN CITY, ADA COUNTY, IDAHO, DO HEREBY ACCEPT AND APPROVE THIS PLAT AND THAT IT COMPLEIES WITH THE STATE OF IDAHO CODE RELATING TO GARDEN CITY SUBDIVISION PLATS.

CITY ENGINEER _____ DATE _____

ADA COUNTY HIGHWAY DISTRICT COMMISSIONERS ACCEPTANCE
 THE FOREGOING PLAT WAS ACCEPTED AND APPROVED BY THE BOARD OF ADA HWY OF HIGHWAY DISTRICT 20, _____

PRESIDENT _____

CERTIFICATE OF CENTRAL DISTRICT
 SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE, TITLE 50, SECTION 13 HAVE BEEN SATISFIED ACCORDING TO THE LETTER TO BE READ ON FILE WITH THE ADA COUNTY RECORDER OR HIS ASSISTANT. THE RESTRICTIONS ARE AS FOLLOWS: IN ACCORDANCE WITH SECTION 50-1328, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL.

CENTRAL DISTRICT HEALTH _____ DATE _____

APPROVAL OF CITY COUNCIL
 I, THE UNDERSIGNED CITY CLERK IN AND FOR THE CITY OF GARDEN CITY, ADA COUNTY, IDAHO, DO HEREBY CERTIFY THAT AT A REGULAR MEETING OF THE CITY COUNCIL HELD THE _____ DAY OF _____ 20____ THIS PLAT WAS ACCEPTED AND APPROVED.

CITY CLERK _____ DATE _____

CERTIFICATE OF THE COUNTY TREASURER
 I, THE UNDERSIGNED COUNTY TREASURER IN AND FOR THE COUNTY OF ADA, STATE OF IDAHO, PER THE REQUIREMENTS OF IDAHO CODE 50-1308, DO HEREBY CERTIFY THAT ANY AND ALL CURRENT UNPAID DELINQUENT TAXES THAT HAVE BEEN PAID IN FULL FOR THIS PROPERTY INCLUDED ON THIS PLAT HAVE BEEN PAID IN FULL. THIS CERTIFICATE IS VALID FOR THE NEXT THIRTY (30) DAYS ONLY.

ADA COUNTY TREASURER _____ DATE _____

CERTIFICATE OF ADA COUNTY RECORDER
 STATE OF IDAHO }
 ADA COUNTY RECORDER }
 INSTRUMENT NUMBER _____
 FILED FOR RECORD AT THE REQUEST OF ACCURATE SURVEYING & MAPPING
 AT _____ MINUTES PAST _____ O'CLOCK _____ M, THIS
 DAY OF _____ 20____

EX-OFFICIO RECORDER: _____
 DEPUTY: _____
 FEE: _____

PROFESSIONAL LAND SURVEYOR
 11463
 Nathan J. Darrig
 P.L.S. 11463



Accurate Surveying & Mapping

1620 W. Washington St.
 Boise, Idaho 83702
 (208) 853-4186
 www.accuratesurveyors.com

JOB NO.	18-234
DRAWN BY:	PSL2
SHEET:	12 OF 12

EXHIBIT C

Articles of Incorporation

**ARTICLES OF INCORPORATION
WATERGARDEN CONDOMINIUM OWNERS' ASSOCIATION, INC.
AN IDAHO CORPORATION**

KNOW ALL PERSONS BY THESE PRESENTS:

The undersigned, for the purpose of forming a non-profit corporation under the laws of the State of Idaho in compliance with the provisions of Title 30; Chapter 30, Idaho Code, does hereby certify, declare and adopt the following Articles of Incorporation:

(A) NAME

The name of the corporation is **Watergarden Condominium Owners' Association (the "Association")**.

(B) PRINCIPAL OFFICE

The principal office of the Association is located at 1150 Quakie Lane, McCall, ID. 83638.

(C) NON-PROFIT CORPORATION

The Association shall be a non-profit, membership corporation.

(D) PURPOSE AND POWERS OF THE ASSOCIATION

The Association does not contemplate pecuniary gain or profit to the Members thereof, and the Association is formed to provide for certain regulation of the use of the condominium units (the "**Units**") located in the Watergarden Condominiums project; to manage the Watergarden Condominiums; and to promote the health, safety, and welfare of the Owners of the Watergarden Condominiums project; including without limitation, the implementation of the following:

A. Exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in the Condominium Declaration for Watergarden Condominiums (the "**Declaration**"), as amended from time to time as therein provided;

B. Fix payment by any lawful means of all charges or Assessments pursuant to the terms of the Declaration, and all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association;

C. Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association under the limitations imposed by the Declaration;

D. Borrow money, and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

E. Have and exercise any and all powers, rights, and privileges which a corporation organized under the Idaho Nonprofit Corporation Act, and as a managing body under the Idaho Condominium Property Act, may by law now or hereafter have or exercise, subject only to limitations contained in the Declaration and any amendments thereto, and the Bylaws of the Association ("**Bylaws**").

(E) MEMBERSHIP

Every Owner holding fee simple interest of record, and buyers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation, to any Unit in the Watergarden Condominiums shall be a Member of the Association. Owners shall act through their authorized agents and officers as well as those authorized to do so as a result of their possession of an interest in the Owner. The Members shall only exercise their power consistent with the Declaration.

Membership shall be appurtenant to and may not be separated from ownership of any Unit within the Watergarden Condominiums project.

(F) TERM

The period of existence and duration of the life of the Association shall be perpetual.

(G) MANAGEMENT

The affairs of the Association shall be managed by a Board of Directors (collectively the "**Board**," individually "**Directors**") to carry out all of the powers and duties of the Association as set forth herein. The Board shall initially consist of three (3) Directors. The names and address of the persons who are to act in the capacity of the initial Directors until the appointment of their successors are as follows:

- a. Tim Nau
1150 Quakie Lane
McCall, ID. 83638

- b. Rick Coville
1514 W. River St. Unit 210
Boise, ID. 83702

- c. Tonya Coville
1514 W. River St. Unit 210
Boise, ID. 83702

Upon recording of the Declaration the three Directors identified above shall be deemed appointed to the Board. The number of Directors shall be established pursuant to the Bylaws. All Directors shall be elected and appointed pursuant to the Bylaws. The Bylaws shall at all times govern the number of Directors, as well as how Directors are appointed, elected, and

replaced. All situations where there is a dispute between the Directors, or where the Directors are unable to unanimously act, shall be resolved pursuant to the Bylaws.

(H) ASSESSMENTS

Each Member shall be liable for the payment of Assessments pursuant to the Declaration and as set forth in the Bylaws.

(I) BYLAWS

The Bylaws may from time to time and at any time be amended, altered, repealed, and new or additional Bylaws may be adopted by a unanimous vote of the Board; or by a unanimous vote of the Members, provided, however, that (i) the Board of Directors may not adopt a Bylaw or amendment hereto changing the authorized number of directors, or (ii) if the Members make, amend or repeal any Bylaw, the Board of Directors may not thereafter amend the same in such manner as to defeat or impair the object of the Members in taking such action. No amendment shall be contrary to the provisions of the Declaration. For the purpose of specifying in detail the rights, responsibilities, duties and obligations of the Association's Board of Directors, the officers, employees and agents of the Association, and the Members for the payment of Assessments, the Bylaws may incorporate by reference the provisions of the Declaration.

(J) DISSOLUTION

The Association shall only be dissolved at a regular meeting, or a special meeting of the Association called for that purpose, by the unanimous vote of the Members, consistent with the Declaration. Upon dissolution of the Association, other than incident to a merger or consolidation, the real property and other assets of the Association shall be distributed as follows: (i) to the Members as tenants in common; or (ii) granted, conveyed and assigned a non-profit corporation, association, trust or other organization to be devoted to such similar purposes; or (iii) dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. Notwithstanding any other provisions of these Articles, the Association shall not carry on any other activities not permitted by any organization exempt from federal income tax under Section 528 of the Internal Revenue Code of 1966 (or the corresponding provisions of any future United States internal revenue law).

(K) AMENDMENTS

Amendment of these Articles of Incorporation may be made at any regular meeting, or any special meeting of the Association called for that purpose, consistent with the requirements of the Declaration. No amendment which is inconsistent with the provisions of the Declaration shall be valid.

(L) LIMITATION ON LIABILITY

The liability of the directors of the Association for monetary damages shall be eliminated to the fullest extent permissible under Idaho law.

(M) INDEMNIFICATION OF AGENTS

The Association is authorized to provide indemnification of its director, officer, employee or agent of the corporation, whether by bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, to the fullest extent permissible under Idaho law.

(N) REGISTERED AGENT

The location and street address of the registered office of the Corporation is 1150 Quakie Lane, McCall, Idaho 83638. and Tim Nau is hereby appointed the registered agent at such address of the Corporation.

(O) INCORPORATOR

Matthew Parks shall be the incorporator of the Corporation. 802 W. Bannock Street, Suite LP 110, Boise, Idaho, 83702.

In witness whereof, I have subscribed these Articles of Incorporation this 15th of October, 2021.



Matthew Parks, Incorporator

EXHIBIT D

Proportionate Interest in Common Area

Unit	Percentage Ownership in the Common Area
1	6.6667%
2	6.6667%
3	6.6667%
4	6.6667%
5	6.6667%
6	6.6667%
7	6.6667%
8	6.6667%
9	6.6667%
10	6.6667%
11	6.6667%
12	6.6667%
13	6.6667%
14	6.6667%
15	6.6667%
	100%