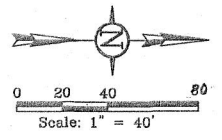


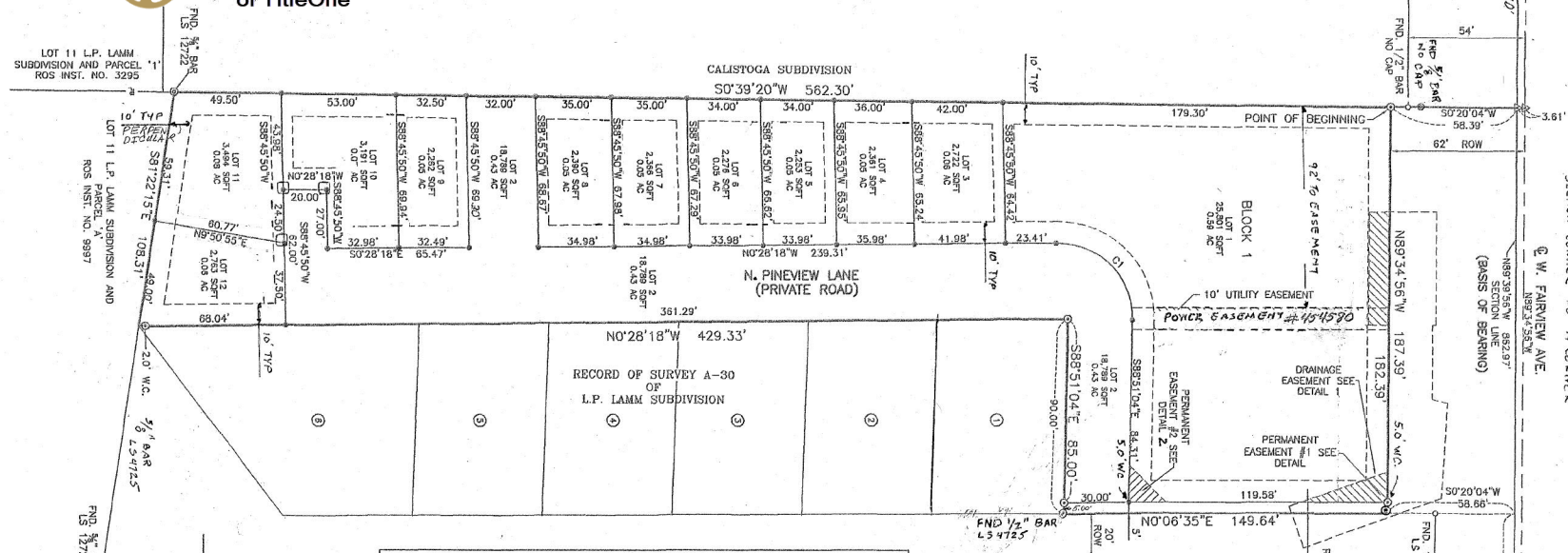
FINAL PLAT OF ENCORE SUBDIVISION

A Re-Subdivision of A Portion of Lot 10 of L.P. LAMM Subdivision
 Situated in the NE1/4NE1/4 of Section 10 T3N R1E, B.M.
 City of Boise, Ada County, Idaho
 2019

N. SHAMROCK ST.



This document provided courtesy of TitleOne



- REFERENCES**
- RECORD OF SURVEY A-30
 - RECORD OF SURVEY 197
 - RECORD OF SURVEY 811
 - RECORD OF SURVEY 951
 - RECORD OF SURVEY 3295
 - RECORD OF SURVEY 5483
 - RECORD OF SURVEY 5052
 - RECORD OF SURVEY 8927
 - RECORD OF SURVEY 9658
 - RECORD OF SURVEY 9997
 - RECORD OF SURVEY 11047
 - L.P. LAMM SUBDIVISION
 - CALISTOGA SUBDIVISION
 - ITD PROJECT FAP3281(5)
 - POWER LINE EASEMENT BOOK. 36, PAGE. 335
 - POWER LINE EASEMENT INST. NO. 454580
 - INGRESS & EGRESS EASEMENT INST. NO. 707773
 - FAIRVIEW RIGHT OF WAY INST. 2018108770 & INST. 394012
 - PERMANENT EASEMENT 2018-035266
 - DRAINAGE EASEMENT 2015-103256
 - SUEZ EASEMENT 2018-100610

CURVE TABLE

CURVE NO.	DELTA	RADIUS	LENGTH	CHD. LENGTH	CHD. BEARING
C1	91°37'14"	35.00'	55.97	50.19	N45°20'19"E

LINE TABLE

LINE NO.	DISTANCE	BEARING
L1	40.26'	S0°06'35"W
L2	42.81'	N19°20'00"W
L3	67.72'	N89°34'56"W
L4	9.50'	S1°40'18"W
L5	51.91'	N89°34'56"W
L6	9.53'	N1°40'18"E
L7	52.00'	N89°34'56"W
L8	14.16'	N89°34'56"W
L9	10.00'	N0°06'35"E
L10	14.18'	S44°44'11"E
L11	10.00'	N89°34'56"W
L12	17.00'	S0°06'35"W
L13	17.00'	N88°51'04"W
L14	23.82'	S45°37'45"W

HEALTH CERTIFICATE

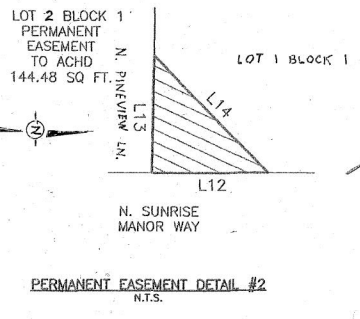
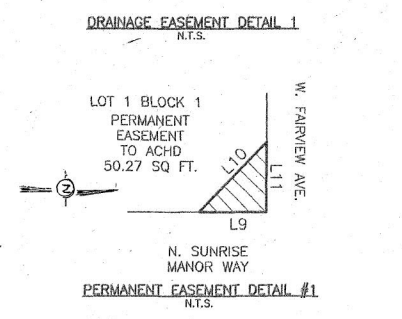
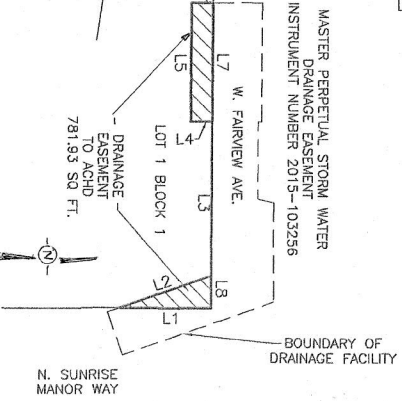
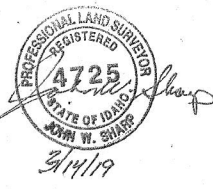
SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE, TITLE 50, CHAPTER 13 HAVE BEEN SATISFIED ACCORDING TO THE LETTER TO BE READ ON FILE WITH THE COUNTY RECORDER OR HIS AGENT LISTING THE CONDITION OF APPROVAL. SANITARY RESTRICTIONS MAY BE REIMPOSED, IN ACCORDANCE WITH SECTION 50-1326, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL.

Joan Paul RCHS
 HEALTH OFFICER
 3-22-19
 DATE



A PORTION OF LOT 1 OF BLOCK 1 OF ENCORE SUBDIVISION IS SUBJECT TO AND CONTAINS THE ACHD STORM WATER DRAINAGE SYSTEM. THIS LOT IS ENCUMBERED BY THAT CERTAIN MASTER PERPETUAL STORM WATER DRAINAGE EASEMENT RECORDED ON INSTRUMENT NUMBER 2015-103256 OFFICIAL RECORDS OF ADA COUNTY AND INCORPORATED HEREIN BY THIS REFERENCE AS IF SET FORTH IN THE FULL "MASTER EASEMENT". THE MASTER EASEMENT AND THE STORM WATER DRAINAGE SYSTEM ARE DEDICATED TO ACHD PURSUANT TO SECTION 40-2302 IDAHO CODE. THE MASTER EASEMENT IS FOR THE OPERATION AND MAINTENANCE OF THE STORM WATER DRAINAGE SYSTEM.

PLAT IS SUBJECT TO THE REQUIREMENTS AS SPECIFIED IN THE ACHD LICENSE AGREEMENT RECORDED SEPT. 11, 2018 AS INSTRUMENT NUMBER 2018-086114.



SEE NOTES ON SHEET 3

N. FIVEMILE ROAD

LEGEND

- FOUND 1/2" BAR
- FOUND 3/8" BAR
- SET 1/2"x24" BAR PLS 4725
- ⊙ SET 3/8"x30" BAR PLS 4725
- ▲ CALCULATED POINT
- PROPERTY LINE
- SUBDIVISION BOUNDARY LINE
- LOT LINE
- ROAD CENTERLINE
- EASEMENT LINE
- SECTION CORNER
- 3/10
- 3/10 1/4 SECTION CORNER
- ▨ SEE EASEMENT DETAIL AREA
- ⊞ SET BERNTSEN 1-1/8" BRASS CAP WITH MAGNET

Prepared by:
Sharp & Smith, Inc.
 Engineers & Surveyors
 327 N. 27th St. Boise, ID 83702
 Date: JANUARY 22, 2019 Job No. 2018-505

FINAL PLAT OF ENCORE SUBDIVISION

 This document provided courtesy of Title One ENGINEERS
ADA COUNTY HIGHWAY DISTRICT COMMISSIONERS

THE FOREGOING PLAT WAS ACCEPTED AND APPROVED BY THE BOARD OF ADA COUNTY HIGHWAY DISTRICT COMMISSIONERS ON THE 21st DAY OF September 2019.



John W. Sharp
PRESIDENT ADA COUNTY HIGHWAY DISTRICT

CERTIFICATE OF SURVEYOR

I, JOHN W. SHARP, A DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LICENSED LAND SURVEYOR BY THE STATE OF IDAHO, AND THAT THIS PLAT AS DESCRIBED IN THE CERTIFICATE OF OWNERS HAS BEEN PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION AND THAT THIS MAP IS AN ACCURATE REPRESENTATION OF THE POINTS PLATTED HEREON AND THAT IT COMPLIES WITH THE IDAHO STATE CODE RELATING TO PLATS AND SURVEYS AND THAT IT IS IN CONFORMITY WITH THE CORNER PERPETUATION AND FILING ACT, IDAHO CODE 55-1801 THROUGH 55-1812.

John W. Sharp
PROFESSIONAL LAND SURVEYOR
REGISTERED
PLS 5359
STATE OF IDAHO
JOHN W. SHARP
3/25/19

CERTIFICATE OF COUNTY RECORDER

INSTRUMENT NO. 2019-038462

STATE OF IDAHO)⁵⁵
COUNTY OF ADA)

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT THE REQUEST OF BRANDON & LAURA ROBERTS, AT 19 MINUTES PAST 3 O'CLOCK P.M., THIS DAY OF March 2019 IN MY OFFICE AND WAS DULY RECORDED IN BOOK 116 OF PLATS AT PAGES 1162 THROUGH 1162 ^{9th}

Phil McBrare
DEPUTY RECORDER

Phil McBrare
EX-OFFICIO RECORDER

\$16.00

APPROVAL OF BOISE CITY ENGINEER

I, THE UNDERSIGNED, CITY ENGINEER IN AND FOR THE CITY OF BOISE, ADA COUNTY, IDAHO, DO HEREBY ACCEPT AND APPROVE THIS PLAT AND CERTIFY THAT IT IS ACCORDANCE WITH BOISE SUBDIVISION ORDINANCE 100-1857 RELATING TO SUBDIVISION PLATS.

James J. Peay
CITY ENGINEER
PE # 11185

04/15/2019
DATE

CERTIFICATE OF COUNTY SURVEYOR

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



Jerry E. Hartman
ADA COUNTY SURVEYOR
PLS 5359
5-6-2019

CERTIFICATE OF THE COUNTY TREASURER

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

Elizabeth Mann by Deputy Treasurer 5-07-2019 DATE
ADA COUNTY TREASURER Asst. 2



APPROVAL OF CITY COUNCIL

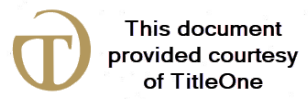
I, THE UNDERSIGNED, CITY OF BOISE, ADA COUNTY, DO HEREBY CERTIFY THAT AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 22 DAY OF May 2019, THIS PLAT WAS DULY ACCEPTED AND APPROVED.



Michelle Brown
CITY CLERK, BOISE, IDAHO: Chief Deputy

Prepared by:
Sharp & Smith, Inc.
Engineers & Surveyors
327 N. 27th St. Boise, ID 83702
Date: MARCH 25, 2019 Job No. 2018-505

FINAL PLAT OF ENCORE SUBDIVISION



CERTIFICATE OF OWNERS

A RE-SUBDIVISION OF PART OF LOT 10, L.P. LAMI SUBDIVISION, LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER SECTION 10 TOWNSHIP 3 NORTH, RANGE 1 EAST BOISE MERIDIAN, CITY OF BOISE, ADA COUNTY IDAHO AND FILED FOR RECORD IN PLAT BOOK 11 PAGE 605 IN ADA COUNTY IDAHO RECORDERS OFFICE AND MORE PARTICULARLY DESCRIBED TO WIT:

COMMENCING AT THE FOUND BRASS CAP MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 10 TOWNSHIP 3 NORTH, RANGE 1 EAST BOISE MERIDIAN, THENCE ALONG THE NORTH LINE OF SECTION 10, N89°39'56"W (BASIS OF BEARING) A DISTANCE OF 862.97 FEET; THENCE S0°20'04"W A DISTANCE OF 58.39 FEET TO THE SOUTHERLY RIGHT OF WAY LINE FOR FAIRVIEW AVENUE, SAID POINT BEARS S0°20'04"W A DISTANCE OF 62.00 FEET FROM THE 1954 CENTERLINE OF FAIRVIEW AVENUE AS PER F.A.P. 3281(5) AND THE REAL POINT OF BEGINNING;

THENCE S00°39'20" W ALONG THE EASTERLY LINE OF CALISTOGA SUBDIVISION A DISTANCE OF 562.30 FEET TO A FOUND 5/8" BAR MARKING THE NORTHWEST CORNER OF PARCEL A AS SHOWN ON RECORD OF SURVEY #9997;

THENCE ALONG THE NORTHERLY BOUNDARY OF SAID RECORD OF SURVEY, S81°22'15"E A DISTANCE OF 108.31 FEET TO THE SOUTHWEST CORNER OF LOT 6 RECORD OF SURVEY A-30, ADA COUNTY RECORDS;

THENCE ALONG THE WEST LINE OF SAID RECORD OF SURVEY, N0°28'18"W A DISTANCE OF 429.33 FEET (RECORD 427.30 FEET AS PER RECORD OF SURVEY A-30) TO THE NORTHWEST CORNER OF RECORD OF SURVEY A-30;

THENCE ALONG THE NORTH LINE OF LOT 1 RECORD OF SURVEY A-30, S88°51'04"E A DISTANCE OF 90.00 FEET TO THE RIGHT OF WAY LINE FOR SUNRISE MANOR WAY;

THENCE ALONG SAID RIGHT OF WAY LINE, N0°06'35"E A DISTANCE OF 149.64 FEET TO THE RIGHT OF WAY LINE OF FAIRVIEW AVENUE, WHICH IS 62' DISTANCE FROM THE CENTERLINE OF FAIRVIEW AVENUE;

THENCE ALONG THE SOUTH LINE OF FAIRVIEW AVENUE, N89°34'56"W A DISTANCE OF 187.39 FEET AND BACK TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS SOME 1.639 ACRES MORE OR LESS.

THE PRIVATE ROAD AND EASEMENTS AS SHOWN ON THIS PLAT ARE NOT DEDICATED TO THE PUBLIC. HOWEVER, THE RIGHT TO USE SAID EASEMENTS IS HEREBY PERPETUALLY RESERVED FOR PUBLIC UTILITIES AND SUCH OTHER USES AS DESIGNATED WITHIN THIS PLAT AND NO PERMANENT STRUCTURES ARE TO BE ERRECTED WITHIN THE LINES OF SAID EASEMENTS. ALL LOTS IN THIS PLAT WILL BE ELIGIBLE TO RECEIVE WATER SERVICE FROM SUEZ WATER IDAHO, INC. MAIN LINE LOCATED ADJACENT TO THE SUBJECT SUBDIVISION AND SUEZ WATER IDAHO INC HAS AGREED IN WRITING TO SERVE THE LOTS IN THIS SUBDIVISION.

IT IS THE INTENTION OF THE UNDERSIGNED TO HEREBY INCLUDE THE ABOVE DESCRIBED PROPERTY IN THIS PLAT TO DEDICATE ADDITIONAL RIGHT OF WAY FOR A PUBLIC STREET (SUNRISE MANOR WAY) AS SHOWN ON THIS PLAT, WHICH IS A PORTION OF LOT 10, L.P. LAMI SUBDIVISION, LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER SECTION 10 TOWNSHIP 3 NORTH, RANGE 1 EAST BOISE MERIDIAN, CITY OF BOISE, ADA COUNTY IDAHO AND FILED FOR RECORD IN PLAT BOOK 11 PAGE 605 IN ADA COUNTY IDAHO RECORDERS OFFICE AND MORE PARTICULARLY DESCRIBED TO WIT:

COMMENCING AT THE FOUND BRASS CAP MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 10 TOWNSHIP 3 NORTH, RANGE 1 EAST BOISE MERIDIAN, THENCE ALONG THE NORTH LINE OF SECTION 10, N89°39'56"W (BASIS OF BEARING) A DISTANCE OF 875.58 FEET; THENCE S0°20'04"W A DISTANCE OF 58.66 FEET AND THE REAL POINT OF BEGINNING;

THENCE S0°06'35" W A DISTANCE OF 149.64 FEET;

THENCE N88°51'04"W A DISTANCE OF 5.00 FEET;

THENCE N0°06'35"E A DISTANCE OF 149.58 FEET;

THENCE S89°34'56"E A DISTANCE OF 5.00 FEET AND BACK TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS SOME 0.017 ACRES MORE OR LESS.

Brandon M. Roberts

Laura A. Roberts

ACKNOWLEDGMENT

STATE OF IDAHO
COUNTY OF Franklin ss

ON THIS 18 DAY OF March, 2019, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED BRANDON & LAURA ROBERTS HUSBAND AND WIFE, KNOWN OR IDENTIFIED TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

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

NOTARY PUBLIC IN AND FOR SAID STATE

RESIDING IN Weston, ID

MY COMMISSION EXPIRES 12-07-21

SUSAN BLAIR
COMMISSION NO. 66756
NOTARY PUBLIC
STATE OF IDAHO
MY COMMISSION EXPIRES 12/07/21

NOTES:

1. LOTS SHALL NOT BE REDUCED IN SIZE WITHOUT PRIOR APPROVAL FROM THE HEALTH AUTHORITY.
2. NO ADDITIONAL DOMESTIC WATER SUPPLIES SHALL BE INSTALLED BEYOND THE WATER SYSTEM APPROVED IN SANITARY RESTRICTION RELEASE.
3. REFERENCE IS MADE TO PUBLIC HEALTH LETTER ON FILE REGARDING ADDITIONAL RESTRICTIONS.
4. ALL LOT LINES COMMON TO A PUBLIC STREET AND PRIVATE ROAD RIGHT OF WAY HAVE A TEN (10) FOOT WIDE PERMANENT PUBLIC UTILITY AND PROPERTY DRAINAGE EASEMENT UNLESS DIMENSIONED OTHERWISE.
5. SOME LOTS HAVE A FIVE (5) FOOT WIDE PUBLIC UTILITY EASEMENT ON EACH SIDE OF INTERIOR LOT LINES AS SHOWN ON THE PLAT.
6. MINIMUM BUILDING SETBACK IN ACCORDANCE WITH PD016-00039
7. THE DEVELOPMENT OF THIS PROPERTY SHALL BE IN COMPLIANCE WITH THE BOISE CITY ZONING ORDINANCE OR AS SPECIFICALLY APPROVED BY PD016-00039
8. DIRECT LOT ACCESS TO FAIRVIEW AVE. IS PROHIBITED UNLESS SPECIFICALLY ALLOWED BY THE ADA COUNTY HIGHWAY DISTRICT AND BOISE CITY. RIGHT OF WAY PERMITS/ LICENSE AGREEMENTS SHALL BE OBTAINED THROUGH ACHD PRIOR TO CONSTRUCTION OF RIGHT OF WAY IMPROVEMENTS.
9. ALL LOT LINES ADJACENT TO THE EXTERIOR BOUNDARY HAVE A 10' WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT. SAID EASEMENT SHALL BE FOR THE USE BY PUBLIC UTILITY COMPANIES FOR INSTALLATION AND MAINTINANCE OF SERVICES FOR THE BENEFIT OF THE HOMEOWNERS.
10. THE UTILITY HOOK UPS SHALL BE IN CONFORMANCE TO THE CITY OF BOISE P/W STANDARD DETAIL.
11. LOT 2 IS SUBJECT TO A BLANKET UTILITY EASEMENT FOR THE BENEFIT OF THE HOMEOWNERS.
12. LOT 2 BLOCK 1 IS A COMMON LOT AND IS OWNED AND MAINTAINED BY THE ENCORE SUBDIVISION HOMEOWNER'S ASSOCIATION. THIS LOT CANNOT BE DEVELOPED FOR RESIDENTIAL PURPOSES IN THE FUTURE.
13. THE LAND WITHIN THIS PLAT ARE WITHIN NAMPA & MERIDIAN IRRIGATION DISTRICT AS DEFINED IN IDAHO CODE 31-3805(1)(c). PRESSURE IRRIGATION WATER WILL NOT BE PROVIDED TO THIS SUBDIVISION.
14. A PORTION OF FAIRVIEW AVENUE RIGHT OF WAY DECEDED BY INSTRUMENT 2018-108770.
15. CCRS HAVE BEEN FILED FOR THIS SUBDIVISION UNDER INSTRUMENT NO. 2019-032483.
16. N. DINEVIEW LANE (NORTH & WEST SIDES) HAS A SIDEWALK AND DRIVE STREET CURB AND GUTTER EASEMENT.



Prepared by:
Sharp & Smith, Inc.
Engineers & Surveyors
327 N. 27th St. Boise, ID 83702
Date: JANUARY 22, 2019 Job No. 2018-505



Declaration of Covenants, Conditions, and Restrictions for Encore Subdivision

A Subdivision Located in the City of Boise,
County of Ada, State of Idaho

ARTICLE I – DECLARATION

IT IS HEREBY DECLARED by the Declarant-owner of certain real property in the County of Ada, State of Idaho, hereinafter as the “Properties,” more particularly described as:

The ENCORE SUBDIVISION, according to the official plat thereof, recorded in Book 116 of Plats at Pages 1746 and 1746 as Instrument No. 2019-038462 recorded on the 9th day of MAY, records of Ada County, Idaho;

That the Properties, herein described, shall be subject to certain protective covenants, conditions, restrictions, reservations, easements, liens, and charges as described herein, for the benefit of the Properties.

IT IS FURTHER DECLARED by the Declarant-owner that that the Properties, herein described, shall be held, sold, and conveyed upon and subject to these protective covenants, conditions, restrictions, reservations, easements, liens, and charges hereinafter set forth, which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Properties, and which shall be appurtenant to and run with the Properties to all subsequent Owners and all persons or entities gaining any right, title, or interest in the Properties

ARTICLE II – DEFINITIONS

- 2.1. “Declarant” shall mean and refer to the marital community of Brandon M. Roberts and Laura A.N. Roberts, husband and wife, its successors, assigns, and subject to the provisions §15.4, below.
- 2.2. “Declaration” or “CC&Rs” shall mean and refer to the Covenants, Conditions, and Restrictions and all other provisions as set forth in this entire document, and as may be amended from time to time.
- 2.3. “Subdivision” shall mean the Encore Subdivision, as referenced above, and as may be recorded in the Recorder’s Office for the County of Ada, in the State of Idaho.
- 2.4. “Plat” shall mean the official subdivision plat or plan covering any real property in the Subdivision, as referenced above, and as may be recorded in the Recorder’s Office for the County of Ada, in the State of Idaho.



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2.5. "Properties" shall mean and refer to any and all real property in the Subdivision, as referenced above, and as may be recorded in the Recorder's Office for the County of Ada, in the State of Idaho.

2.6. "Lot" or "Lots" shall mean and refer to Lot 3 through Lot 12 of the Subdivision, as referenced above, and as may be recorded in the Recorder's Office for the County of Ada, in the State of Idaho.

2.7. "Residential Unit" or "Unit" shall mean any structure, or portion thereof, intended to be occupied by one family as a dwelling unit, together with the vehicular parking garage thereto and all projections therefrom.

2.8. "Common Area" shall mean any and all real property and improvements owned by the Association for the common use and enjoyment of the Owners, including but not limited to the following:

2.8.1. Lot 2 of the Subdivision, according to the Plat, and which contains the common road or lane.

2.9. "Association" or "HOA" shall mean and refer to Encore Homeowners Association, Inc., a non-profit corporation organized under the laws of the State of Idaho, its successors, and assigns.

2.10. "Member" shall mean and refer to those persons entitled to membership in the Association, as provided in its Bylaws. "Member" and "Owner" are generally the same and interchangeable, but the former is generally issued in context with the Association or voting within the Association.

2.11. "Owner" shall mean and refer to the owner of record, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Member" and "Owner" are generally the same and interchangeable, but the latter is generally used outside of the context of the Association or voting.

2.12. "Mortgage" shall mean any mortgage, deed of trust, or other security instrument by which a Residential Unit or any part thereof is encumbered.

2.13. "Mortgagee" shall mean any person, or any successor to the interest of such person, named as the mortgagee, trust beneficiary, or creditor under any Mortgage.

2.14. "First Mortgagee" shall mean any Mortgagee having a lien that is first and prior to any other Mortgage on any Lot or Residential Unit.

2.15. "Institutional Holder" shall mean a Mortgagee which is a bank or a savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

2.16. "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, duly appointed and elected pursuant to these CC&Rs, the Articles of Incorporation of the Association, and the Association's Bylaws.

2.17. "Director" shall mean and refer to any single director on the Board of Directors.



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- 2.18. ^{of Title One} "Occupant" shall mean any person who occupies a Residential Unit. An Occupant may be an Owner, lessee, or person living in the Residential Unit with the Owner or lessee.
- 2.19. "Guest" shall mean any person who is physically on the Properties at the actual or implied invitation of an Owner or Occupant.
- 2.20. "Architectural Control Committee" shall mean and refer to a committee, as organized in Article XI, and appointed by the Board of Directors, for the purpose of protecting the quality and present and future values of the Properties.

ARTICLE III – PROPERTY RIGHTS

- 3.1. Enjoyment of Common Area: Each Owner shall have a right and easement of enjoyment and use to any Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:
- 3.1.1. The Association shall have the right to levy assessments for the maintenance of any landscaping improvement or other facilities situated upon a Common Area.
 - 3.1.2. The Association shall have the right to suspend an Owner's voting rights and the rights to use any Common Area for any period during which any assessment against the Owner's Lot remains unpaid.
 - 3.1.3. The Association shall have the right to dedicate or transfer all or any part of a Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that except as to the Association's right to grant easements for utilities, and similar or related purposes, no part of the Common Area and facilities may be alienated, released, transferred, hypothecated or otherwise encumbered without the written approval of all First Mortgagees and two-thirds (66.67%) majority votes of the all outstanding votes of the Members, who are voting in person or by proxy at a meeting duly held for this purpose.
 - 3.1.4. The Association, through its Directors, shall have the right to promulgate reasonable rules and regulations governing such rights of use, from time to time, in the interest of securing maximum safe usage of a Common Area by the Owners, Occupants, and Guests of the Association without unduly infringing upon the privacy or enjoyment of the Owner or Occupant of any part of Properties including, but not limited to, rules restricting usage of Common Areas according to time, duration, age of the user(s).
- 3.2. Delegation of Use: An Owner may delegate, in accordance with the rules and regulations adopted from time to time by the Board of Directors, the Owner's rights of enjoyment and use of Common Areas to the Occupant of a Residential Unit, and such a delegation of rights to the Occupant shall be assumed in the absence of evidence to the contrary. Occupants may delegate those rights of enjoyment and use of Common Areas to the Guests of the Occupant, provided that the Occupant is present with the Guest at the time of use, and such delegation of rights from the Occupant the Guest shall be assumed in the absence of evidence to the contrary. Owners are responsible for conduct of their respective Occupants and Guests.
- 3.3. Rights Reserved by Declarant: Notwithstanding anything to the contrary contained in these CC&Rs, the Declarant expressly reserves the right unto itself, its employees, successors, and assigns:



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- the right to use any part of the streets or lanes for vehicular and pedestrian ingress and egress to and from any part of the Properties, Common Areas, and any adjacent real property owned by Declarant, its successors, or its assigns
- 3.3.2. The right to use the Common Areas and any utility easements on, to, over, and under all Lots and Common Areas, as provided on any recorded Plat of the Properties, for installation, use, maintenance, and repair of all lines, wires, pipes, pumps, water wells, and other things necessary for all services, provided that any use shall be performed with reasonable care and that the conditions of the areas used shall be restored to that which existed prior to the work.
- 3.3.3. The right to use the Common Areas to facilitate and complete the development of the Properties and any annexed property, including without limitation the use of the Common Areas for:
- 3.3.3.1. Construction, excavation, grading, landscaping, parking, and storage;
 - 3.3.3.2. Maintenance and operation of a sales office and model units for sales purposes;
 - 3.3.3.3. The showing to potential purchasers of any unsold Lot, Residential Unit, or improvements within the Properties;
 - 3.3.3.4. Display of signs to aid in the sale of any unsold Lots, Residential Units, or all or part of the Properties;
 - 3.3.3.5. Construction, operation, and maintenance of any Common Area by Declarant, its successors, or assigns.
- 3.4. Right to Amend CC&Rs. Declarant reserves the right to amend these CC&Rs, in accordance with the provisions of Article XV and Article XVI, below, and to set forth additional covenants, conditions, restrictions, and easements to be applicable to any Lot not yet sold.
- 3.5. Reservation of Development Rights. No provision of these CC&Rs shall be construed as to prevent or limit Declarant's right to complete development of the Properties and to construct improvements thereon, nor to limit the Declarant's right to maintain model homes, construction, sales or leasing offices, or similar facilities on any portion of the Properties, nor Declarant's right to post signs incidental to construction, sales, or leasing.

ARTICLE IV – HOMEOWNERS ASSOCIATION

- 4.1. Membership: Every Owner of a Lot shall be a Member of the Association; However, the foregoing is not intended to include persons or entities who hold an interest merely as security for the payment of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Such ownership shall be the sole qualification for membership and shall automatically commence upon a person becoming an Owner of a Lot and shall automatically terminate and transfer when such ownership is terminated or transferred.
- 4.2. Voting Rights: The Association shall have two classes of voting rights:
- 4.2.1. Class A: Class A shall be the voting class for all Members' voting rights, except for the Declarant's Class B voting rights, and the Member-Owner shall be entitled to one (1) vote for each Lot owned. When more than one person or entity holds an interest in any Lot, all such persons and entities shall be Members. The vote for such Lot shall be



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- exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional votes shall not be allowed. The vote applicable to any Lot being sold under contract of purchase shall be exercised by the seller, unless the contract expressly provides otherwise.
- 4.2.2. Class B: Class B shall be the voting class for the Declarant's voting rights, and for each Lot owned, Class B voting rights shall be entitled to five (5) votes. Class B voting rights shall convert to Class A voting rights on the happening of either of the following events, whichever occurs first:
- 4.2.2.1. The total votes outstanding in the Class A become equal or greater than the total votes outstanding in the Class B; or
- 4.2.2.2. On December 31, 2029.
- 4.3. Assessments: For each Lot owned, the respective Owner shall pay an initiation or transfer assessment, regular assessments, special assessments, and limited assessments as follows:
- 4.3.1. Initiation and Transfer Assessments: Upon the initial conveyance of each Lot from the Declarant, the purchaser shall pay an initiation assessment to the Association in the amount of \$200.00. Upon each subsequent transfer, the transferee shall pay a transfer assessment in the amount of \$200.00.
- 4.3.2. Regular Assessments: The regular assessments for each Lot shall initially be for \$85.00 per month, payable in full at the beginning of each quarter. Thereafter, the Board of Directors shall have the right, with a two-thirds (66.67%) majority vote of the Board, to change the amount of the regular assessment, provided the change is voted at least thirty (30) days prior to each upcoming quarter. Written notice of the regular assessment shall be sent to every Member of the Association. The regular assessment levied by the Association shall be used for the purpose of promoting the safety, health, welfare, and recreation of the Owners and Occupants for the operation, maintenance, repair, and improvement of the Common Areas, for the reasonable expenses incurred in the operation of the affairs of the Association, for the expenses incurred by the Association in connection with any of its obligations contained in these CC&Rs or in the Bylaws of the Association, and for any other purpose reasonably authorized by the Board of Directors.
- 4.3.3. Special Assessments: In addition to the initiation, transfer, and regular assessments, the Association, through the Board of Directors, may levy, in any assessment year, a special assessment or assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a Common Area, improvement to a Common Area, or for any unanticipated expenses or obligations, provided that any such assessment shall pass by a two-thirds (66.67%) majority vote of the Members, whether votes are cast in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting called for the purpose of taking any action authorized under this paragraph shall be sent to all Members not less than thirty (30) days and not more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast forty percent (40%) of the total number of outstanding votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be twenty percent (20%) of the total number of outstanding votes. Any such subsequent meeting shall not be held more than sixty (60) days following the preceding meeting. Any special assessment shall be payable over such a period as the Board of Directors shall determine.



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- Limited Assessments: The Association shall have the right to incur expenses for the maintenance, repair, or other corrective action on any Lot or Common Areas caused by the negligence, misconduct, or violation of the CC&Rs by an Owner, Occupant, or Guest, where the respective Owner has failed or refused to perform such maintenance, repair, or to other corrective action after thirty (30) days written notice from the Board of Directors regarding the negligence, misconduct, or violation and of the demanded corrective action has been delivered to the respective Owner. The Board of Directors shall levy a limited assessment against that Owner to reimburse the Association for the cost of such maintenance, repair, or other corrective action, together with any other cost or expense, including attorneys' fees, arising from the maintenance, repair, other corrective action, or the collection for the assessment, thereof. Any such reimbursement for the limited assessment shall be due within fifteen (15) days after the delivery of written notice of the limited assessment to that respective Owner. Notices required in this paragraph shall be delivered personally to the Owner or sent by first class or certified mail to the last known address of the Owner as shown on the records of the Association.
- 4.3.5. Uniform Rate of Assessment: The initiation assessments, transfer assessments, regular assessments, and special assessments (but not limited assessments) shall be fixed at a uniform rate for non-exempt Lots, and such rates may be amended from time to time.
- 4.3.6. Creation of Lien and Personal Obligation of Assessments: The initiation, transfer, regular, special, and limited assessments, together with any related interest, costs of collection, and attorneys' fees in relation to those assessments shall be a charge on a respective Lot and shall be a continuing lien upon that Lot. Each such assessment, together with interest, costs of collection, and attorneys' fees shall also be the personal obligation of the Owner of such Lot at the time when the Assessment fell due. The obligation shall remain a lien on the Lot until paid or foreclosed, but the obligation shall not be a personal obligation of successors in title, unless expressly assumed.
- 4.3.7. Effect of Nonpayment of Assessments and Remedies of the Association: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner, personally, who is obligated to pay the same or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of the Owner's Lot.
- 4.3.8. Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to Mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.
- 4.3.9. Certificate of Payment: The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the association as to the status of assessments on a Lot is binding upon the association as of the date of its issuance.
- 4.3.10. Exempt Property: The following property, subject to these CC&R, shall be exempt from the Assessments created herein:



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- 4.3.10.1. All property expressly dedicated to and accepted by a local public authority;
- 4.3.10.2. Lot 1 of Block 1 (The Commercial Lot on Fairview)
- 4.3.10.3. All properties owned by the Association;
- 4.3.10.4. All Lots or property owned by Declarant, until title is transferred to another or until occupancy, whichever occurs first.

ARTICLE V – IRRIGATION WATER SYSTEM

- 5.1. Irrigation Water Supply and Owners Responsibility: Each lot will be responsible for irrigation thru Boise City potable water system due to the minimal amount of landscaping area on each lot and no access to a pressurized irrigation system. Each Lot shall maintain a backflow device on its irrigation system to prevent the irrigation system from backflowing into the city water system, per Boise City Code.
- 5.2. Operation of the Irrigation System of the Common Area on Lot 2: The landscaping on Lot 2, a Common Area primarily used as the road, and known as North Pineview Lane, will be irrigated with city potable water. The operation, maintenance, and costs shall be the responsibility of the Association in accordance with the laws of the State of Idaho and all rules and regulations promulgated by the Association.

ARTICLE VI – STORM WATER DRAINAGE SYSTEM & PRIVATE ROAD

- 6.1. Storm Water and Drainage Easement Area Restrictions: The storm water drainage, overflow, and retention easement area shall be improved with swales on which no permanent buildings, fences, trees, or structures shall be placed. Notwithstanding the foregoing, other landscaping improvements, such as shrubs or grass, playground equipment, and benches may be placed or installed in the swales, providing that the placement and installation of such improvements shall not interfere with the swales.
- 6.2. Operation and Maintenance of Storm Water Seepage Beds: The Association shall provide all maintenance of the swales as specified in the Subdivision's Interior Stormwater Operation and Maintenance Plan.
- 6.3. Private Lane Ownership and Maintenance: Lot 2 of the Subdivision, also referred to as North Pineview Lane, is a private lane. This Lot and lane is owned by the Association. The Association is solely responsible for insurance, taxes, and maintenance of the private lane, including but not limited to all light and heavy maintenance to meet the standards of the City of Boise.

ARTICLE VII – EASEMENTS

- 7.1. Easement for Maintenance: The Declarant and the Association shall have a permanent, limited easement to the Properties, including the Lots, to perform maintenance upon the Properties, including but not limited to, snow removal, lawn and landscaping maintenance, utility service, drainage system maintenance, subterranean irrigation water system maintenance, and perimeter fence maintenance, together with all rights of ingress and egress necessary for the full and complete use, occupation, and enjoyment of the easement. The Declarant and the Association



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provides you with the rights to cut, trim, and remove trees, brush, overhanging branches and other
obstructions which may injure or interfere with the use, occupation, or enjoyment of the
easement.

- 7.2. Future Easements: The Association shall have the right to provide future easements across, upon, and under the surface of its Common Area as platted herein as may be necessary for the interests and convenience of the Lot Owners, for public or private ways, public utilities, drainage, access, subterranean irrigation lines, eaves, and balcony overhangs.
- 7.3. Easement for Encroachment: In the event that any portion of any Unit encroaches upon the Common Area or another Lot to a distance of less than five feet as a result of the construction, reconstruction, repair, shifting, settlement, or movements of any portion of or within the Properties, the Owner of the encroaching Unit shall have a valid easement for any such encroachment and for the maintenance of the same, provided that the encroachment did not arise due to neglect, negligence, or misconduct of the encroaching Owner. Such an easement shall exist so long as such encroachment exists.
- 7.4. Easement in Emergency: The Association shall have a permanent, limited easement for entry into a Unit or improvement constructed upon a Lot for admittance of such authorized persons as are reasonably necessary in the event of an emergency.

ARTICLE VIII – PARTY WALLS

- 8.1. General Rules of Law to Apply: Each wall which is built as a part of the original construction of the Units upon the Lots and placed on the dividing line between the Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of these CC&Rs, the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions shall apply thereto.
- 8.2. Sharing of Repair and Maintenance of Party Walls: The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners of the abutting Lots that share each section of the wall.
- 8.3. Destruction by Fire or Other Casualty: If a party wall is destroyed or damaged by fire or other casualty other than the respective Owners, an Owner who has used the wall may restore it, and the Owner of the other Lot which abuts the wall shall share the cost of restoration of the wall.
- 8.4. Weatherproofing: Notwithstanding any other provision of these CC&Rs, an Owner who by a negligent or a willful act causes the party wall to be unduly exposed or susceptible to the elements shall bear the whole cost of furnishing the necessary protection against such elements and any maintenance or repair resulting from that act.
- 8.5. Right to Contribution Runs with Land: The right of any Owner to a contribution from any other Owner under this Declaration shall be appurtenant to the land and shall pass to such Owners and successors in title.
- 8.6. Arbitration: Any controversy or claim arising out of or relating to this article, shall be settled by arbitration administered by the American Arbitration Association in accordance with its arbitration rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.



ARTICLE IX – MAINTENANCE RESPONSIBILITY

- 9.1. **Maintenance Responsibility by the Association:** The Association shall provide all reasonably required maintenance and repairs to the Common Areas and improvements on the Common Areas, including walls or shares of walls, the storm water drainage facilities, the perimeter fencing constructed by the Association or the Declarant, the irrigation water system for Lot 2, the landscaping improvements on Lot 2 (except otherwise provided in section 2 below), the private lane on Lot 2, the repair and or replacement of the exterior surfaces of the buildings and improvements in the Properties. The exterior maintenance shall include: painting, staining, repairing, re-staining, replacing, caring for all exterior services including roofs and exterior portions of doors as necessary to maintain them in good condition, and providing snow removal for all sidewalks and driveways. In the event the need for maintenance or repair is caused through a negligent or willful act of an Owner or the Owner's Occupant or guest, the costs of such maintenance or repairs shall be added to and become part of the assessment to which such Owner's Lot is subject. The Association reserves an easement for ingress, egress, and maintenance as may be reasonably necessary to perform the maintenance duties of the Association.
- 9.2. **Maintenance Responsibility by Owners:** Each Owner shall maintain, repair, and keep in good order any patio covers on the Owner's Unit. Owners shall be responsible for weed control and insect control on their Lots and in their Residential Units.
- 9.3. **Failure of Owner to Maintain:** If the Owner fails to perform the Owner's maintenance responsibilities, the Association shall, upon fifteen (15) days prior written notice to the Owner, have the right to perform the maintenance responsibilities and shall have the right to enter upon the Owner's Lot for the purpose of doing so. The cost of the maintenance performed by the Association shall be added to and become a part of the Owner's regular assessment.

ARTICLE X – PROPERTY-USE RESTRICTIONS

10. The following property-use restrictions shall be for the benefit of the Properties, Owners, and the Association.
- 10.1. **Lot Use:** No Lot, exception for Common Areas and Lot 1, shall be used for any purpose except for single-family Residential Units. No Lot or Common Area, other than Lot 1 shall be used to conduct any trade, business, or professional activity, except as may be approved in writing by, and at the sole discretion of, the Board of Directors, which discretion may not be challenged for having been exercised unreasonably. All Lots and improvements constructed on the Lots must comply with all applicable governmental rules, ordinances, laws, statutes, and regulations.
- 10.2. **Animals:** No animals of any kind shall be raised, bred, or kept on any part of the Properties, except that a total of two (2) small dogs, cats, or other common household pets may be kept within a Residential Unit or within a fenced area as may be approved by the Architectural Control Committee. Any animals outside a Residential Unit or fenced area must be on leashes, and the Owner or Occupant shall be responsible for the immediate cleanup of the animal's droppings. The term "fenced area" as used in this paragraph shall be interpreted to include any electronic pet containment system; provided, however, that the boundary of any such system shall be approved by the Architectural Control Committee and that in no event shall the said boundary extend beyond the front plane of the Lot.



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- 015. Garbage and Refuse Disposal:** No part of the Properties shall be used or maintained as a dumping ground for rubbish, trash, or other waste. No garbage, trash, or other waste shall be kept or maintained on any part of the Lots except in a sanitary container. Any equipment for the storage or disposal of such material must be kept in Residential Units, including the garage, except on regular trash pickup day.
- 10.4. **Nuisance:** Obnoxious, offensive, or unsightly conditions shall not be permitted upon any part of the Properties, nor shall anything be done on the Properties that may reasonably become an annoyance or nuisance to other Owners or Occupants. No exposed antennae or satellite dishes shall be erected on the Properties without the prior approval of the Architectural Control Committee, which approval may be withheld by its sole discretion. Garage doors shall, to the extent possible, remain closed at all times that the garage is not in active use by the Owner or Occupant.
- 10.5. **Outbuildings, Etc.:** No trailer, truck camper, tent, garage, shack, or outbuilding shall at any time be used as a residence, temporarily or permanently, on any part of the Properties.
- 10.6. **Parking and Storage of Vehicles and Equipment:** Parking of boats, trailers, motorcycles, trucks, truck campers, motor homes, recreational vehicles, cars in disrepair, and other similar equipment shall not be allowed on any Lot or Common Area, except in fully enclosed buildings; provided, however, that boats, trailers, campers, motorhomes, and similar recreational vehicles may be parked on a Lot for a period not to exceed twenty-four (24) hours while in immediate use by an Owner or Occupant, being prepared for use or being prepared for storage after use. All other parking or storage of any other equipment shall be prohibited, except as approved in writing by the Board of Directors. Any vehicle awaiting repair or being repaired shall be removed from the subdivision within forty-eight (48) hours.
- 10.7. **Leasing Restrictions:** Any lease between an Owner and an Occupant shall provide that the terms of the lease shall be subject in all respects to the provisions contained in these CC&Rs, the Association's Articles of Incorporation, and its Bylaws. Any failure by an Occupant to comply with the terms of such documents shall be a default under such lease. For the purposes of these CC&Rs, a "lease" shall mean any agreement for the leasing or rental of a Residential Unit and all such leases shall be in writing.
- 10.8. **Fences:** All fences, including fences around swimming pools, dog runs, or other uses; shall be composed of wood slats or vinyl only and must be approved, in advance, by the Architectural Control Committee as to design and location. No such fence shall extend beyond the front plane of the Residential Unit as constructed or as to be constructed on the Lot.
- 10.9. **Parking Rights:** Subject to the provisions of §10.6, above, any automobile or other vehicle used by an Owner, Occupant, or Guest shall be parked in the garage of the respective Lot, only.

ARTICLE XI – ARCHITECTURAL CONTROL

- 11.1. **Architectural Control Committee:** To protect the quality and value of the Properties and for the continued protection of the Owners, an Architectural Control Committee is hereby established consisting of three or more Members to be appointed by the Board of Directors of the Association. The Board of Directors shall appoint Members to the Architectural Control Committee at each annual meeting of the Board, and the appointments shall continue until the Board of Directors appoints a new Architectural Control Committee, generally the subsequent year.



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- 11.2. Approval Required: No exterior construction, addition, or improvement shall be made on any Lot or Common Area, until proposed plans and specifications are submitted to, and approved by, the Architectural Control Committee. Proposals for construction, addition, or improvement shall be submitted to the Architectural Control Committee in writing and should include all relevant details reasonably necessary for a substantial review by the Architectural Control Committee, which may include, without limitation, the following:
- 11.2.1. A site plan showing the location of proposed work in relation to any relevant Residential Units, Lots, Common Areas, walls, utilities, drainage systems, set-backs, or other related information;
 - 11.2.2. A building plan including relevant information of the proposed work which may include the blueprints, elevation drawings, dimensions, materials, finishes, colors, and engineering (if necessary) of the proposed work;
 - 11.2.3. 11.2.3 A landscape plan showing the proposed changes, if any, to the location, type, and size of plants, grading, drainage, walls, fences, driveways, walkways, and any other relevant landscape details.
- 11.3. Review of Proposals: Proposals for construction, addition, or improvement shall be reviewed by the Architectural Control Committee within forty-five (45) days of receipt of the written proposal from the Owner. The Architectural Control Committee shall review the proposal and then approve, deny, or request more information.
- 11.3.1. When reviewing a proposal, Architectural Control Committee may consider the harmony of the proposed work in relation to surrounding Lots, Residential Units, Common Areas, any other considerations on or around the Properties, and conformity with requirements of these CC&Rs, or other rules and regulation of the Association.
 - 11.3.2. The Architectural Control Committee shall have the right to deny any proposal for construction, addition, or improvement that is, in its opinion, not suitable or desirable to the Association for any reason, aesthetic or otherwise.
 - 11.3.3. When the Architectural Control Committee requests more information regarding a proposal, the committee shall have an additional thirty (30) days to review the additional information, from the time the Owner submits the additional information to the Architectural Control Committee, in writing.
- 11.4. Rules and Regulations: The Architectural Control Committee is hereby authorized to adopt rules and regulations to govern its procedures and the requirements for making submissions and obtaining approval as the Committee deems appropriate and in keeping with the spirit of due process. The Architectural Control Committee is further hereby empowered to adopt such rules and regulations as it deems appropriate, provided the rules and regulations are consistent with the provisions of these CC&Rs. Any such rules and regulations may be amended from time to time, in the sole discretion of the Architectural Control Committee. The failure of the Architectural Control Committee to adopt any such rules and regulations shall not form the basis for an attack upon the exercise of Architectural Control Committee's discretion, it being the intent of these CC&Rs to provide the Architectural Control Committee with as broad discretion as is permissible under the law.



- Fee Schedule: The Architectural Control Committee may establish, by its adopted rules, a fee schedule for the review of proposals by the Committee. Proposals may not be considered complete or received by the Committee until fees are paid. The Committee may also require the Owner to pay additional fees or reimbursement to the Association for additional costs of review, including but not limited to, outside professional services.
- 11.6. Waiver: The approval of any proposal for construction, addition, or improvement shall not be deemed a waiver of any right to withhold approval of any similar proposal, plan, drawing, specifications, or matters subsequently submitted for approval.
- 11.7. Variations: The Architectural Control Committee may authorize variances from compliance with any of the architectural provisions of these CC&Rs, including restrictions on height, size, floor area, or placement of structures or other similar restrictions, when circumstances may require. However, no variances will be granted for construction of structures or improvements in Common Areas. Such variances must be in writing, must be signed by at least two (2) members of the Architectural Control Committee, and shall become effective upon recordation in the office of the County Recorder of Ada County. If such variances are granted, no violation of the CC&Rs or any supplemental declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of these CC&Rs or any supplemental declaration for any purpose except as to the particular Lot covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws, regulations, zoning ordinances, or requirements imposed by any governmental or municipal authority.
- 11.8. Liability: Neither the Architectural Control Committee nor any committee member shall be liable to the Association, any Owner, or any other party, for any damage suffered or claimed on account of any act, action or lack thereof, or conduct of the Architectural Control Committee or any committee members, so long as the Architectural Control Committee, or the respective committee members, acted in good faith on the basis of information they possessed.
- 11.9. Certification by Secretary: The records of the secretary of the Association shall be conclusive evidence as to all matters shown by such records and the issuance of a certificate of completion and compliance by the secretary of the Association showing that the plans and specifications for the construction, addition, or improvement provided for have been approved and that the work has been done in accordance with these CC&Rs, or a certificate as to any matters relating to and within the jurisdiction of the Association by the secretary of the Association, shall be conclusive evidence that shall fully justify and protect any title company certifying, guaranteeing, or insuring title to said property, any portion thereof, or any lien thereon and any interest in that particular property as to any matters referred to in the certificate, and shall fully protect any purchaser or encumbrancer from any action or suit under these CC&Rs. After the expiration of one (1) year following the issuance of a building permit by municipal or other governmental authority, any structure, work, improvement, or alteration shall, as to any purchaser or encumbrancer in good faith and for value and as to any title company which shall have insured the title thereof be deemed to be in compliance with all the provisions hereof unless a notice of noncompliance executed by the Association shall have appeared on record in the office of the County Recorder of the County of Ada in State of Idaho, or unless legal proceedings shall have been instituted to enforce completion or compliance.
- 11.10. Construction and Sales Period Exception: During the course of construction of any permitted structures or improvements and during the initial sales period, the restrictions (including sign



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restrictions) contained in these CC&Rs or in any supplemental declaration shall be deemed waived to the extent necessary to permit such construction and the sale of all Lots and Residential Units; provided that, during the course of such construction and sales, nothing shall be done which will result in a violation of these restrictions upon completion of construction and sale. Further, Declarant shall have the right to select and use any individual Residential Units owned by the Declarant as models for sales purposes.

ARTICLE XII – INSURANCE AND BOND

12.1. **Required Insurance:** The Association shall obtain and keep in full force and effect at all times insurance coverage provided by companies duly authorized to provide the insurance in the State of Idaho, as follows:

12.1.1. A master “all-inclusive” insurance policy covering any and all Residential Units against fire and any other peril or hazard that is commonly covered by insurance or commonly required by a mortgagee, in the amounts commonly required by mortgagee for projects similar in construction, location, and use on a 100% replacement cost basis. The cost of insurance premiums shall be paid by the Association out of funds collected as assessments.

12.1.2. A comprehensive policy of public liability insurance covering all Common Areas, roads or lanes, walkways, and commercial spaces on the Properties. This insurance policy shall contain a severability of interest endorsement which shall preclude the insurer from denying the claim of a Residential Unit Owner because of negligent acts by the Association or other Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for projects similar in construction, location and use.

12.1.3. Workmen's compensation, employer's liability insurance, and all other similar insurance with respect to employees of the Association in the amounts and in the forms required by law, if the Association has any employees.

12.2. **Optional Insurance:** The Association may, at its discretion, obtain and keep in full force and effect the following insurance coverage:

12.2.1. Liability insurance affording coverage for the acts, errors, and omissions of the Association, its Directors, and officers, including members of the Architectural Control Committee and other committees as may be appointed by the Board of Directors in such amount as may be deemed necessary;

12.2.2. The Association may obtain bonds and/or insurance against other risks, as it deems appropriate, with respect to the protection of the Properties, the Association, or the Owners.

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

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



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Notwithstanding anything herein contained to the contrary, insurance coverage shall be in such amounts and meet other requirements of the Federal Home Loan Mortgage Corporation.

- 12.3.3. The provisions of this article shall not be construed to limit the right or ability of the Association to obtain and maintain any additional insurance coverage required in this Declaration in addition to any insurance coverage required hereunder in such amounts and in such forms as the Association may deem appropriate.

ARTICLE XIII – CONDEMNATION

- 13.1. Action Facing Condemnation: If an action for condemnation of all or a portion of a Common Area is proposed or threatened by any governmental agency having the right of eminent domain, then, upon at least two-thirds (66.67%) majority of all outstanding votes, the Common Area, or such portion thereof, may be sold in lieu of condemnation.
- 13.2. Proceeds: All proceeds from sale or condemnation shall be payable to the Association.
- 13.3. Distribution: The proceeds from the condemnation or sale shall be apportioned among the Owners equally on a per-Lot basis. The Association shall, as soon as practical, determine the share amount of the proceeds to which each Owner is entitled. The Association shall distribute each respective share amount to the respective Mortgagees and other lien holders, in the order of lien priority, and then the balance of each respective Owner's share shall be paid to the Owner, if any balance exists.

ARTICLE XIV – MORTGAGE PROTECTION

- 14.1. Affirmative Actions for Mortgage Protection: Notwithstanding anything to the contrary contained in these CC&Rs or in the Association's Articles of Incorporation or Bylaws, the Association shall:
 - 14.1.1. Maintain an adequate reserve fund for the performance of its obligations, including the maintenance, repairs, and replacement of Common Areas and improvements on Common Areas, and the reserve shall be funded by regular assessments;
 - 14.1.2. Grant to the holders of First Mortgages the right to examine the books and records of the Association and to receive, upon request, annual reports or other appropriate financial data;
 - 14.1.3. In any management agreement for the Properties or Common Area, or any other contract providing for services of the developer, sponsor, or builder, include a clauses that the agreement is terminable by the Association for cause immediately upon written notice, terminable by either party without cause and without a termination fee on ninety (90) days or less written notice, and is of a term not exceed one (1) year;
 - 14.1.4. In any lien which the Association may have on any Lot or Residential Unit for the payment of assessments attributable to the respective Lot and Unit, be subordinate to the lien or equivalent security interest of any Mortgage on the Lot and Unit recorded prior to the date the notice of such assessment lien is duly recorded.



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Mortgages
This document provides actions for Mortgage Protection: Unless all relevant institutional holders of First Mortgages have given their prior written approval, Association shall not:

- 14.2.1. By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer any Common Area owned, directly or indirectly, by the Association for the benefit of the Owners. (The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area property shall not be considered a transfer within the meaning of this clause);
- 14.2.2. Materially change the method of determining the assessments, obligations, or other charges which may be levied against an Owner;
- 14.2.3. By act or omission, change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design, exterior appearance, or ongoing maintenance obligations of Residential Units, Common Areas, party walls, common fences, roads or lanes, or landscaping;
- 14.2.4. Use hazard insurance proceeds for losses to any Common Area for any purpose other than the repair, replacement, or reconstruction of such Common Area property; or
- 14.2.5. Materially amend these CC&Rs, the Association's Articles of Incorporation, or its Bylaws.

ARTICLE XV – LOT 1 EXEMPTIONS

15. Lot 1 of the Subdivision is intended to be used as a commercial lot and the provisions of this article reinforce and clarify the rights, easements, and exemptions of Lot 1 under these CC&Rs. If there is any conflict between the provisions of this article and the provisions of any other article of these CC&Rs or with the Associations' Articles of Incorporation or Bylaws, then the provisions of this article will prevail and rule. This article of the CC&Rs shall not be amended without the 100% vote by the Owners of the Lots and with the approval and consent of the owner(s) of Lot 1.
 - 15.1. Ingress and Egress Easement: The owner(s) of Lot 1, along with the owners' successors and assigns, shall have a permanent easement and right to use Lot 2 (the common road or lane) for vehicular and pedestrian ingress and egress to Lot 1. Nothing shall be construed to limit the rights of ingress and egress necessary for the full and complete use, occupation, and enjoyment of the easement. The easement and all rights shall run with the land.
 - 15.2. Utility Easement: The owner(s) of Lot 1, along with the owners' successors and assigns, shall have a permanent easement and right to use the Common Areas and any utility easements on, to, over, and under all Lots and Common Areas, as provided on any recorded Plat of the Properties, for installation, use, maintenance, and repair of all lines, wires, pipes, pumps, water wells, and other things necessary for all services, provided that any use shall be performed with reasonable care and that the conditions of the areas used shall be restored to that which existed prior to the work
 - 15.3. Exemption from Assessments: Lot 1, along with its owners(s) and owner's successors, shall be exempt from all assessments levied by the Association.



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Exemption from Insurance: Lot 1, along with its owners(s) and owner's successors, shall be exempt from any of the insurance requirements and benefits as provided in Article XII, unless agreed upon by the Association and the owner(s) of Lot 1.

ARTICLE XVI – GENERAL PROVISIONS

- 16.1. Enforcement: The Association, any Owner, or any owner of a recorded mortgage upon any Lot or any part of Properties shall have the right to enforce, by any proceedings at law or in equity, all covenants, conditions, restrictions, reservations, liens, and charges now or hereafter imposed by the provisions of these CC&Rs. Failure by the Association, or by any Owner to enforce any covenant, condition, or restriction shall in no event be considered a waiver of the right to do so, thereafter. In the event the Association is required to initiate any action to enforce the provisions of these CC&Rs, the Association shall be entitled to recover from the Owner against whom enforcement is sought, all attorneys' fees and costs incurred as a consequence thereof, whether or not any lawsuit is actually filed, and any such attorneys' fees and costs so incurred by the Association shall be added to and become a part of the assessment to which such Owner's Lot is subject.
- 16.2. Severability: Invalidation of anyone of these covenants, conditions, or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.
- 16.3. Approval of Amendments by the City of Boise: Unless the express written consent of the City of Boise has been obtained, these CC&Rs may not be amended, deleted, added, or terminated, with respect to the following:
- 16.3.1. Any provision of these CC&Rs which has been required by the City of Boise in its approval of the Subdivision, or which affects, recognizes, conveys, and/or confers upon the City of Boise any easement, right or power, or requirement;
- 16.3.2. Any material provisions on easements, access, and/or the operation, maintenance, repair, or replacement of a Common Area, infrastructure, or public works systems; and
- 16.3.3. Any dissolution or termination of the Association.
- 16.4. Amendment Process: The covenants, conditions, and restrictions of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by the Association or the legal Owner of any Lot subject to these CC&Rs, their respective legal representatives, heirs, successors, and assigns, for a term of twenty-five (25) years from the date these CC&Rs are recorded, after which time the covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years. Except as otherwise provided herein, any of the covenants, conditions, and restrictions contained herein, except the easements herein granted, may be amended at any time by an instrument signed by members entitled to cast not less than two-thirds (66.67%) of the outstanding membership votes. Any amendment must be recorded.
- 16.5. Assignment by Declarant: Any or all rights, powers, and reservations of Declarant contained in this Declaration may be assigned to the Association or to any other corporation or association which will assume the duties of Declarant pertaining to the particular rights, powers, and reservations assigned, and upon any such corporation or association shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by



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Declarant herein. All rights of Declarant hereunder reserved or created shall be held and exercised by Declarant alone, so long as it owns any interest in any portion of the Properties.

16.6. Dispute Resolution: All Disputes (as defined herein below) between the Declarant and the Association or any Owner shall be finally determined by arbitration pursuant to the applicable rules of the American Arbitration Association. Arbitration may be commenced by either party by filing a demand for arbitration with the American Arbitration Association. Judgment upon the award rendered by the arbitrator in any arbitration in which the Declarant and the Association are among the parties, shall be final and binding and may be entered in any court having jurisdiction thereof. As used herein, the term "Disputes" shall include without limitation any controversy between the Declarant and the Association (whether or not the controversy includes third parties) arising in any way out of these CC&Rs or their interpretation; the Declarant's work in developing and constructing the Subdivision and any improvements therein, including without limitation, construction defects, and the formation, operation, or control of the Association. Disputes include any cause of action whether arising in tort, contract, statute, or otherwise. The exclusive venue for all proceedings conducted under this section shall be in the County of Ada, in the State of Idaho.

EXECUTION

IN WITNESS WHEREOF, Declarant has caused its name to be hereunto subscribed this

7 day of May 2019

DECLARANT:

BRANDON M. ROBERTS

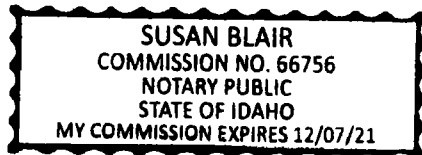
LAURA A.N. ROBERTS

STATE OF IDAHO)
) ss.
COUNTY OF FRANKLIN)

Signed before me on this 7 day of May 2019 by BRANDON M. ROBERTS and LAURA A.N. ROBERTS.

NOTARY PUBLIC

My commission expires: 12-07-21





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ADA COUNTY RECORDER Phil McGrane
BOISE IDAHO Pgs=2 NIKOLA OLSON
TRICON PROPERTIES

2020-114593
09/03/2020 08:54 AM
AMOUNT:\$13.00



00841015202001145930020020

**Amendments
to the
Declaration of Covenants, Conditions, and Restrictions
for
Encore Subdivision**

**A Subdivision Located in the City of Boise,
County of Ada, State of Idaho**

PURSUANT TO §16.4 and any other applicable sections of the Declaration of Covenants, Conditions, and Restrictions for Encore Subdivision, Brandon Roberts, who is the Declarant and is entitled to cast more than two-thirds (66.67%) of the outstanding membership votes, does hereby amend §4.3.2 and §10.2, delete §12.1.1, and add §12.1.1 in the Declaration of Covenants, Conditions, and Restrictions as follows:

- 4.3.2. **Regular Assessments:** The regular assessments for each Lot shall initially be for \$60.00 per month, payable in full at the beginning of each quarter. Thereafter, the Board of Directors shall have the right, with a two-thirds (66.67%) majority vote of the Board, to change the amount of the regular assessment, provided the change is voted at least thirty (30) days prior to each upcoming quarter. Written notice of the regular assessment shall be sent to every Member of the Association. The regular assessment levied by the Association shall be used for the purpose of promoting the safety, health, welfare, and recreation of the Owners and Occupants for the operation, maintenance, repair, and improvement of the Common Areas, for the reasonable expenses incurred in the operation of the affairs of the Association, for the expenses incurred by the Association in connection with any of its obligations contained in these CC&Rs or in the Bylaws of the Association, and for any other purpose reasonably authorized by the Board of Directors.

- 10.2. **Animals:** No animals of any kind shall be raised, bred, or kept on any part of the Properties, except that a total of two (2) dogs, cats, or other common household pets may be kept within a Residential Unit or within a fenced area as may be approved by the Architectural Control Committee. Any animals outside a Residential Unit or fenced area must be on leashes, and the Owner or Occupant shall be responsible for the immediate cleanup of the animal's droppings. The term "fenced area" as used in this paragraph shall be interpreted to include any electronic pet containment system; provided, however, that the boundary of any such system shall be approved by the Architectural Control Committee and that in no event shall the said boundary extend beyond the front plane of the Lot.

- 12.1.1. [Deleted]

- 12.4. **Insurance by Owner of Residential Unit:** Each Owner of a Residential Unit shall obtain and keep in full force and effect at all times insurance coverage provided by a company duly authorized to provide the insurance in the State of Idaho covering any and all Residential Units owned by each respective Owner against fire and any other peril or hazard that is commonly



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covered by insurance or commonly required by a mortgagee, in the amounts commonly required by mortgagee for projects similar in construction, location, and use on a 100% replacement cost basis. The cost of insurance premiums shall be paid by the Owner of each Residential Unit, respectively.

Summary of Purpose of Amendments

This summary is provided for convenience and shall have no effect upon the amended language of the Declaration of Covenants, Conditions, and Restrictions.

The purpose of the amendment to §4.3.2 is to change the initial amount of regular assessments from \$85.00 per month to \$60.00 per month.

The purpose of the amendment to §10.2 is to remove the modifier of “small” before the word “dogs” in order avoid potential disputes regarding the definition of a “small dog.”

The purpose of deleting §12.1.1 and adding §12.1.1 is to remove the duty of and cost to the Association to keep an insurance policy in effect covering the Residential Units against fire and any other peril or hazard and to place that duty and cost on the Owner of each Residential Unit, respectively.

IN WITNESS WHEREOF, the Declarant has caused his name to be hereunto subscribed this

12 day of August 2020.

BRANDON M. ROBERTS
The Declarant

STATE OF IDAHO)
) ss.
COUNTY OF Franklin)

Signed before me on this 12 day of August 2020 by BRANDON M. ROBERTS.



NOTARY PUBLIC
My commission expires: 12.07.21