

SUPPLEMENTAL DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR  
COLUMBIA VILLAGE NO. 2 SUBDIVISION

December 5, 1990

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ARTICLE I.

RECITALS

WHEREAS, there has been recorded by the undersigned Grantor a Master Declaration of Covenants, Conditions, Restrictions and Easements for Columbia Village Subdivision dated April 1, 1990, recorded May 17, 1990, as Instrument No. 9026057, and re-recorded July 26, 1990, as Instrument No. 9039552, records of Ada County, Idaho, which Master Declaration has been amended by that certain First Amendment to Master Declaration dated July 10, 1990, recorded July 26, 1990, as Instrument No. 9039553, records of Ada County, Idaho, and further amended by that certain Second Amendment to Master Declaration dated September 19, 1990, recorded September 20, 1990, as Instrument No. 9051139, records of Ada County, Idaho (as amended hereafter "Master Declaration");

WHEREAS, the Master Declaration allowed for the recording of a Supplemental Declaration(s) relating to and covering certain specific tracts within Columbia Village Subdivision;

WHEREAS, the Master Declaration allowed for annexation of additional property to Columbia Village Subdivision, which additional property, when annexed will be brought within the provisions of the Master Declaration; and

WHEREAS, the purpose of this Supplemental Declaration is to provide for the annexation of the additional property hereafter described as a part of Columbia Village Subdivision, to be known as Columbia Village No. 2 Subdivision, and to set forth additional or amended covenants, conditions, restrictions and easements applicable only to said annexed property, it being the purpose and intent of the Grantor that the provisions of the Master Declaration shall be incorporated herein as if set

forth in full and, further, that the provisions of the Master Declaration as amended or modified herein shall apply only to the property within Columbia Village No. 2 Subdivision.

ARTICLE II.

PROPERTY COVERED

The property which is covered by this Supplemental Declaration for Columbia Village No. 2 Subdivision is described as follows:

Lots 89 through 142 inclusive, Block 1 of Columbia Village No. 2 Subdivision, and Lots 1 through 12 inclusive, Block 3 of Columbia Village No. 2 Subdivision, According to the Plat thereof filed in Book 58 of Plats at pages 5498 and 5499, Records of Ada County, State of Idaho.

hereafter called "Columbia Village No. 2 Subdivision."

ARTICLE III.

DECLARATION OF ANNEXATION

The Grantor hereby declares that Columbia Village No. 2 Subdivision is hereby annexed to and made a part of Columbia Village Subdivision and is hereby subject to all of the covenants, conditions, restrictions and easements and remaining provisions of the Master Declaration as modified as hereafter provided.

ARTICLE IV.

MODIFICATION OF MASTER DECLARATION

4.01 Use. Notwithstanding the provisions of Section 5.01 of the Master Declaration, or any other provision therein to the contrary, the Grantor, its successors and assigns, shall have the right to use a Lot, tract or parcel within Columbia Village No. 2 Subdivision for a sales office which shall be used for development, sales and marketing activities relating to Columbia Village Subdivision, and such uses as are customarily incidental thereto.

4.02 Private Road. Notwithstanding the provisions of 5.01 of the Master Declaration, Lot 140 of Columbia Village No. 2 Subdivision shall serve as a private drive for the benefit of Lot 139 and 141 only and shall neither serve as a subdivision common area nor have buildings constructed upon it.

(a) Ownership of Private Road. At the time Lot 139 is originally sold by Grantor to any third party, the Grantor shall also convey to the purchaser of Lot 139 an undivided one-half interest in Lot 140 of Columbia Village No. 2 Subdivision for use by Lot 139 as a private road. At the time Lot 141 is originally sold by Grantor to any third party, the Grantor shall also convey to the purchaser of Lot 141, an undivided one-half interest in Lot 140 of Columbia Village No. 2 Subdivision for use by Lot 140 as a private road. Lot 140 shall be a private road and shall be appurtenant to Lots 139 and 141. Lot 140 shall be held by the Owner of Lot 139 and by the Owner of Lot 140 as tenants in common, as to an undivided one-half interest each, with no right of partition. Each respective owner may not transfer any property right in Lot 140 without transferring the identical interest in the dominant Lot (Lot 139 or 141). When the ownership of a dominant Lot is subsequently transferred, ownership of the individual one-half interest in Lot 140 shall be transferred with it.

(b) Duty of Maintenance. The owners of Lot 139 and 141 shall be responsible for maintaining the Private Road Lot (Lot 140). Such maintenance shall include, but not be limited to, the following: the repairing, patching, sealing, replacing and caring for said road improvements, including the sweeping and cleaning thereof, when required. As used herein, "Private Road" shall include all portions of the road, below and on the roadway surface, if any, located within the Private Road Lot and any appurtenant improvements located thereon or therein, such as street signs or landscaping.

(c) Cost of Maintenance, Repairs and Replacement. The cost of the maintenance, repairs and replacement and the insuring of the Private Road Lot (Lot 140), and the continuing operational expenses, if any, including taxes, shall be equally paid by each lot owner. Such costs and expenses (hereafter "costs and expenses") shall, to the extent permitted by law, be apportioned one-half to Lot 139 and one-half to Lot 141.

The decision as to what costs and expenses are required with respect to the Private Road Lot (Lot 140) and the timing of the payment thereof shall rest solely with the owners of Lots 139 and 141. After the conveyance of both lots, by Grantor to purchasers, the original Grantor, the Homeowner's Association, and/or the developers shall have no liability for any expense, dispute, or cause of action arising between said Lot owners concerning the maintenance, care or replacement of Private Road Lot (Lot 140).

(d) Negligent or Willful Acts. Any maintenance, repair or replacement of all or any portion of the Private Road Lot (Lot 140) that arises as a result of the negligent or willful act of either the owner of Lot 139 or Lot 141, shall be paid by that Lot owner. In the event that any maintenance, repair or replacement of all or any portion of a Private Road Lot is performed by either the owner of Lot 139 or of Lot 141, which is required by reason of the willful or negligent act of the other lot owner, the cost of such maintenance, repair or replacement, shall be reimbursed by the owner committing the willful or negligent act.

(e) Covenant Not To Restrict Certain Rights Of Ingress and Egress. The Private Road Lot (Lot 140) is for the use and benefit of those individuals or entities that shall from time to time own Lot 139 and/or own Lot 141, and for the use and benefit of their respective successors and assigns for purposes incidental to the use and enjoyment of the respective two Lots, to use said Private Road Lot for the purpose of ingress and egress from each such dominant Lot. It is expressly understood and agreed that the right of use of the Private Road Lot (Lot 140) herein created shall be absolute and non-exclusive and that in all respects said Private Road Lot shall be used, and available for use, by all such owners, as well as their tenants, guests, invitees and licensees. Each respective owner of Lot 139 and Lot 141 shall in no way restrict the use of the Private Road Lot (Lot 140) by such parties.

(f) Restrictions on Use. The Private Road Lot (Lot 140) shall have no barriers or obstructions constructed or permitted upon it. No parking of any vehicle shall be permitted thereon.

(g) Enforcement. Enforcement of the rights and duties created hereunder concerning the Private Road Lot (Lot 140) shall be a private matter for the owners of Lots 139 and 141, their successors and assigns. Said rights are hereby declared to be for the benefit of the owners of Lot 139 and 141 and are intended to be enforceable between the parties in a private lawsuit. The prevailing party in such a lawsuit shall receive an award of reasonable attorneys fees in addition to any other relief allowed in law or equity.

(h) Agency Review, and ACHD Not Liable. It is acknowledged and agreed that neither Ada County Highway District nor any other governmental entity having jurisdiction and control over the public rights-of-way shall have any obligation or responsibility to maintain, repair or replace all or any portion of the Private Road Lot. Any

Ada County Highway District or any other governmental entity for the Private Road Lot shall be of no force or effect unless Ada County Highway District or such other governmental entity shall expressly consent thereto. These provisions for the private drive will not be changed unless they are approved by Boise City Legal Department.

#### ARTICLE V.

##### MISCELLANEOUS

5.01 Amendment. This Supplemental Declaration may be amended as follows:

(a) By Grantor. Until title to a Lot within Columbia Village No. 2 Subdivision is conveyed by the Grantor to an Owner, this Supplemental Declaration may be amended or terminated by the Grantor by recordation of a written instrument signed by the Grantor and acknowledged, setting forth such amendment or termination.

(b) By Owners. Unless a greater percentage is required by an express provision in the Master Declaration, the provisions of this Supplemental Declaration may be amended by an instrument in writing signed and acknowledged by the President and Secretary of Columbia Village Owners Association, Inc. certifying that such amendment has been approved by a vote or written consent of the Owners, including the Grantor, owning at least two-thirds percent (2/3%) of the Lots within Columbia Village No. 2 Subdivision, and such amendment shall be effective upon its recordation with the Ada County Recorder.

(c) By Amendment of Master Declaration. An amendment of the Master Declaration duly adopted as permitted therein shall, without further action, amend this Supplemental Declaration, unless such amendment to the Master Declaration is contrary to the express terms and provisions of this Supplemental Declaration, or render the same invalid or unenforceable, in which event said amendment shall not be deemed to amend this Supplemental Declaration unless said amendment is expressly approved and adopted in the manner provided in this Section as an amendment to this Supplemental Declaration.

5.02 Intent of Incorporation of Master Declaration. It is the intent of the Grantor that incorporating the Master Declaration as a part of this Supplemental Declaration, by the applicable definitions, terms and provisions thereof shall be part of this Supplemental Declaration.

5.03 Interpretation. 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 include the masculine, feminine or neuter.

All captions and titles used in the Supplemental Declaration are intended solely for the convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

5.04 Severability. Each of the provisions contained in this Supplemental Declaration, including the Master Declaration incorporated herein by reference, shall be deemed independent and severable and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

IN WITNESS WHEREOF the Grantor has hereunto executed this Supplemental Declaration as of the day and year first above written.

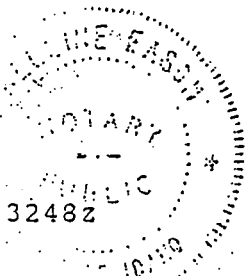
THE J. R. SIMPLOT SELF  
DECLARATION OF REVOCABLE TRUST

By [Signature]  
Its Trustee

STATE OF IDAHO )  
                  ) ss.  
County of Ada )

On this 5th day of December, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared J. R. Simplot, known or identified to me to be the Trustee of the J. R. Simplot Self Declaration of Revocable Trust, the person whose name is subscribed within and acknowledged to me that he executed this instrument on behalf of said revocable trust.

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



[Signature]  
Notary Public for Idaho  
Residing at: Boise, Idaho  
My Commission Expires: 10-13-92

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ADA COUNTY, IDAHO

*William D. Kelly*  
*Verne*

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JOHN CASTIDA, RECORDER

*John Castida*

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