

**WHEN RECORDED RETURN TO**

Collins Law PLLC  
6126 W. State Street  
Boise, ID 83703

**AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS & RESTRICTIONS  
FOR TUSCANY AND APPROVAL OF SALE**

This Amendment to the Declaration of Covenants, Conditions & Restrictions for Tuscany (the "Master Declaration") and Approval of Sale is made effective as of the date recorded, by the Tuscany Homeowners' Association, Inc. (the "Association") and its Members. The purpose of this amendment is to effectuate and formalize the sale and encumbrance of a portion of the Common Area of the Tuscany Subdivision.

**ARTICLE I - RECITALS**

**1.1 Supplement and Amendment to Declaration.** This Amendment and Approval of Sale is a supplement and amendment to that certain Declaration of Covenants, Conditions and Restrictions for Tuscany dated September 26, 2003 and recorded as instrument 103163972 in the records of Ada County Idaho (the "Master Declaration"). The Declaration has been amended previously. All other terms of the Master Declaration and any prior amendments not expressly amended hereby remain in full force and effect.

**1.2 Authority.** Article XIV, Section 14.2.2 of the Declaration, as amended, permits the amendment of the Declaration by an instrument signed by the President and Secretary of the Association, attesting that the Amendment has been approved by the Owners of a simple majority of the Lots within the Subdivision.

**1.3. Power to Transfer Common Areas.** Pursuant to Article VII, Section 7.1 of the Declaration, the Association has the authority to dedicate, sell, or transfer all or part of the Tuscany Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by its Members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of the Members agreeing to such dedication, sale or transfer, provided that the public agency accepts such dedication or transfer. This approval requirement meets and exceeds the requirement to generally amend the Declaration, as discussed above. This Amendment and Approval of Sale has been approved in accordance with these requirements, as attested to by the signatures below and as evidenced by Exhibit A attached hereto, which includes the signatures of the requisite number of Members of the Association.

**1.4 Definitions.** Except as otherwise defined or modified herein, all terms appearing herein initially capitalized shall have the same meanings as are ascribed to such terms in the Master Declaration.

## **TERMS**

**2.1 Ada County Highway District Purchase.** The Ada County Highway District (“ACHD”) desires to purchase or obtain easements over portions of Lot 19, Block 22 of the Messina Meadows Subdivision No. 2 (Parcel No. R5680310380), Lot 01, Block 22 of the Messina Meadows Subdivision No. 1 (Parcel No. R5680303520), Lot 01, Block 01 of the Messina Meadows Subdivision No. 1 (Parcel No. R5680300010), Lot 02, Block 05 of the Messina Village Subdivision No. 11 (Parcel No. R5680350230), Lot 01, Block 05 of the Messina Village Subdivision No. 1 (Parcel No. R5680350220), Lot 01, Block 01 of Messina Village Subdivision No. 1 (Parcel No. R5680350010), and Lot 01, Block 23 of Messina Meadows Subdivision No. 1 (Parcel No. R5680303550).

The legal descriptions of the land to be sold and/or encumbered are attached hereto as Exhibit B. The requisite number of owners have approved the sale and encumbrance, as evidenced by the attached Exhibit A, and ACHD is considered a “public agency, authority or utility” within the meaning of Section 7.1 of the Declaration. This document approves the sale and encumbrance of said land, and empowers the Board of Directors to effectuate the sale and encumbrance and execute any and all documents necessary to do so.

**2.2** To the extent necessary, the Declaration is hereby amended to reflect that the above-described portions of Common Area will be sold to or encumbered by ACHD, and that the maintenance, operation, and ownership obligations of the Association, as it relates to those portions as outlined in the Declaration, shall cease upon execution of the sale. Any reference to the Common Area in the Declaration is hereby amended to exclude these portions of property.

No other amendments or approvals are intended or implied by this Amendment and Approval of Sale and the original Declaration of Covenants, Conditions & Restrictions for Tuscany, as well as any subsequent Amendments thereto not inconsistent with this amendment, shall remain in full force and effect.

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