

**DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
ESTRELLA SUBDIVISION**

THIS DECLARATION is made on the 6th day of April 2004, by Gary C. Asin, Lori J. Asin and John W. Moody, Betty L. Moody hereinafter referred to as "Declarant".

WHEREAS, Declarant is the Owner of certain real property in the City of Star, County of Ada, State of Idaho, hereinafter referred to as the "Property", more particularly described as follows:

ESTRELLA SUBDIVISION, according to the official plat thereof filed in Book 87 of Plats at Page 9972 & 9973 Instrument No. 103200208, Records of Ada County, Idaho.

NOW, THEREFORE, Declarant hereby declares that the Property, and each lot, parcel or portion thereof, is and/or shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following terms, covenants, conditions, reservations, easements and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and attractiveness of the Property. The terms, covenants, conditions, reservations, easements and restrictions set forth herein shall run with the land constituting the Property and with each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any lot, parcel or portion thereof; shall inure to the benefit of every lot, parcel or portion of the Property and any interest therein, and shall inure to the benefit of and shall be binding upon Declarant, its successors in interest and each grantee or owner and his respective successors in interest, and may be enforced by Declarant or by any owner or his successors in interest.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Declarant's right to complete development of the Property including creation of condominiums project on lots 1 and 3, and to construct improvements thereon, nor Declarant's right to maintain construction, sales or leasing offices or similar facilities on any portion of the Property, nor Declarant's right to and as a part of such conveyance post signs incidental to construction, sales or leasing.

ARTICLE I

Definitions

1.1 "**Beneficiary**" shall mean a mortgagee under a mortgage or beneficiary under a deed of trust, as the case may be, and/or the assignees of such mortgagee, beneficiary or holder, which mortgage or deed of trust encumbers parcels of real property in the Subdivision.

1.2 "**Building Lots**" shall mean and refer to any plot of land showing upon any recorded plat of the Property.

1.3 "**Declaration**" or "Supplemental Declaration" shall refer to this Declaration as hereafter amended and supplemented from time to time.

1.4 "**Declarant**" shall mean and refer to **Gary C. Asin, Lori J. Asin and John W. Moody, Betty L. Moody** their successors and assigns, if such successors or assigns should acquire more than one (1) undeveloped lot from the Declarant for the purpose of development and as a part of such conveyance, the Declarant assigns and transfers to such transferee the Declarant's rights with respect to such lots.

1.5 "**Easements**" shall mean those easements as shown on the plat.

1.6 "**Improvement**" shall mean any structure, facility or system, or other improvement or object, whether permanent or temporary, which is erected, constructed or placed upon, under or in any portion of the Property, including, but not limited to buildings, fences, streets, drives, driveways, sidewalks, curbs, landscaping, signs, lights, mailboxes, electrical lines, pipes, pumps, ditches, waterways, and fixtures of any kind whatsoever.

1.7 "**Lot**" shall mean and refer to a Building lot.

1.8 "**Mortgage**" shall mean and refer to any mortgage or deed of trust and "Mortgagee" shall refer to the mortgagee, or beneficiary under a deed of trust, and "Mortgagor" shall refer to the mortgagor, or grantor of a deed of trust.

1.9 "**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.10 "**Plat**" shall mean the recorded plat of **Estrella Subdivision**, and the recorded plat of any other Properties annexed hereto.

1.1 1 "Properties" or "Property" shall mean and refer to the real property hereinbefore described, and such additions thereto as may hereafter be annexed and brought within the coverage of this Declaration as more particularly provided for herein.

ARTICLE II

General Covenants, Conditions and Property Use Restrictions

2.1 Specific Requirements. The development of this property shall be in compliance with the Star City Zoning Ordinance or as specifically approved by file # PP-02-04 and file # CU-02-04.

2.2 Estrella Master Declaration. This property is subject to the Master Declaration of Covenants, Conditions and Restrictions For Estrella Subdivision. Said Covenants, Conditions & Restrictions shall govern, without limitation, the following matters:

2.2.1 General and specific restrictions related to development, building, and architectural control.

2.2.2 Drainage systems and easements.

2.2.3 Water supply, sewer and utility systems

2.2.4 Maintenance of buildings, improvements, easements, roadways, parking areas and other facilities.

2.2.5 Common area designation, use and maintenance.

2.2.6 Membership and related matters regarding Estrella Land Association.

2.2.7 Licenses, easements, and rights-of-way.

2.2.8 Assessments for regular maintenance and operations and special assessments, including enforcement and collection of the same.

2.3 Exterior Maintenance; Owner's Obligations. No improvements, including mail boxes and landscaping, shall be permitted to fall into disrepair, and each improvement shall at all times be kept in good condition and repair.

2.4 Improvements Location. No improvement shall be constructed in violation of setback requirements established by law, or by this Declaration as set forth on the recorded plat of the Subdivision.

2.5 Nuisances. No noxious or offensive activity, including without limitation, those creating an offensive odor, shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

2.6 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon the Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon the Property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the Property.

2.7 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, cared for or kept on any lot.

2.8 Garbage and Refuse Disposal. No rubbish, trash, garbage, refuse or debris shall be placed or allowed to remain on the Property except trash kept and maintained within the interior or a unit in sanitary containers. All such material shall only be kept in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean, neat and sanitary condition.

2.9 Water Supply. No individual water supply system shall be permitted on any lot. All lots shall be subject to the water requirements of the Star Water District.

2.10 Sewage Disposal. All lots shall be subject to an individual pressure sewer system which will be maintained by the owners of the Property, and each lot, parcel or portion thereof subject to the covenants, conditions, reservations, sewer easements on or off property and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the Property. The terms, covenants, conditions, reservations, easements (on and off site), and restrictions for maintenance of the private sewer system set forth herein shall run with the land constituting the Property and with each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any lot, parcel or portion thereof; shall inure to the benefit of every lot, parcel or portion of the Property and any interest therein, and shall be binding upon Declarant, its successors in interest, and may be enforced by Declarant or by any owner or his successors in interest.

Repairs, maintenance, reconstructions, inspection, replacement of any portion of the sewer main line shall be prosecuted diligently, continuously and without

delays from time of commencement thereof until such repairs or replacement is fully completed unless prevented by causes beyond control and only for such time that such cause continues.

See ARTICLE IV for Assessments and costs pertaining to the Sewage Disposal System.

2.11 Antenna. No television antenna, satellite receivers larger than thirty inches (30") in diameter, or radio aerials shall be installed on the property, other than within the interior of a unit.

2.12 Unsightly Articles. No unsightly articles shall be permitted to remain on any lot as to be visible from any other portion of the property. Without limiting the foregoing, no lumber, grass, shrub or tree clippings or plant waste, compost piles, metals, building or other materials or scrap or other similar material or articles shall be kept, stored or allowed to accumulate on any portion of the property except within an enclosed structure or appropriately screened from view. "Screened" is defined as being concealed or made non-visible from eye level, at grade, at all points within the property.

2.13 Lights, Sound - General. No light shall be emitted from any lot which light is unreasonably bright or causes unreasonable glare. No sound shall be emitted from any lot which is unreasonably loud or annoying, and no odors shall be emitted on any Property which are noxious or offensive to others.

2.14 Construction. During the course of actual construction of any permanent improvements, the restrictions contained in this Declaration and any supplemental declaration shall be deemed waived to the extent necessary to permit such construction, provided that during the course of such construction nothing shall be done which will result in a violation of these restrictions upon completion of construction and all construction shall be diligently prosecuted to completion, continuously and without delays.

2.15 Reconstruction. In any case where it is necessary to reconstruct a unit said reconstruction shall be prosecuted diligently, continuously and without delays from time of commencement thereof until such structure is fully completed and painted, unless prevented by causes beyond control and only for such time that such cause continues.

2.16 Maintenance and Repair. In the event the improvements on any lot shall suffer damage or destruction from any cause, the owner thereof shall undertake the repair, restoration or reconstruction thereof within ninety (90) days of such damage or destruction.

2.17 Plat Conditions. All covenants, conditions and restrictions and other matters set forth on all plats are hereby incorporated by reference and notice is hereby given of the same.

ARTICLE III

Easements

3.1 Dedicated Easements. Easements for common/cross access, ingress-egress, irrigation and storm drainage, and for installation and maintenance of utilities are reserved as shown on the recorded plat. Said easements shall run with the land. The common/cross access, ingress-egress easements cannot be dissolved without the express consent of the City of Star.

3.2 Maintenance Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

ARTICLE IV

Maintenance Assessments

Section 4.1 Covenant For Maintenance Assessments.

4.1.1 Creation of Lien and Personal Obligation of Assessments.

Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay (1) regular annual or other regular periodic assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The regular and special assessments, together with interest, costs of collection and reasonable attorney's fees, shall be a charge upon the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorney's 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 shall not be a personal obligation of successors in title, unless expressly assumed.

4.1.2 Purpose of Assessments. The assessments shall be used exclusively for the operation, improvement, repair and maintenance of the common area, parking areas, driveways, sidewalks, and private pressure sewer system.

4.1.3 Regular Annual Assessments.

4.1.3.1 Amount to be Fixed by Declarant. Until such time as sixty - six percent (66%) of the Lots in the Property have been initially conveyed by Declarant, the Declarant shall fix the amount of the regular annual assessments. The Declarant shall fix the amount of the initial annual assessment beginning the first day of the month following the conveyance of the first Lot by Declarant. Thereafter, the Declarant shall -fix the amount of the regular annual assessments at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Declarant.

4.1.3.2 Amount to be Fixed by the Owners. At such time as sixty - six percent (66%) of the Lots in the Property have been initially conveyed by Declarant, the Owners shall fix the amount of the regular annual assessments at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Owners.

The assessment provided for in this Article and this Declaration shall not be levied against Declarant, but shall commence as to a Lot sold on the first day of the month following the initial conveyance of the said Lot by Declarant, and not before. Declarant shall therefor not be liable for any assessments on Declarant's Lots. The first annual assessment for each Lot shall be adjusted according to the number of months remaining in the calendar year.

4.1.4 Special Assessments for Capital Improvements. In addition to the regular assessments authorized above, the Owners may levy, in any assessment year, a special assessment 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 an improvement relating to the property common areas. Any such special assessment shall be payable over such a period as the Owners shall determine.

4.1.5 Rate of Assessment. All Assessments shall be proportional as noted below:

1. **Storm Drain Ponds:** Assessments shall be proportional, based upon the respective square footage of each Lot. Landscaping located in the storm drain pond area is included in this item.
2. **Fencing:** Each Lot shall be responsible for their own fencing.
3. **Signage:** Lot 2 shall be responsible for front street signage.
4. **Parking Lights and Yard Lights:** Lot 1 & 3 shall be responsible for their own lighting. Lot 2 shall be responsible for their own lighting.
5. **Common Area and Landscaping:** Lot 1 and Lot 3 shall be responsible for common area and landscaping located on Lot 1 and Lot 3. Note, no common area located on Lot 2 except storm pond area.

Lot 2 shall be responsible for their own landscaping specifically located between property line and building line on north, west and east portion of property. Pressure irrigation system shall be shared equally from & including pump, electrical panel, power to final drip system.

6. **Entrance Street** from Highway 44 to gate of Estrella Mini Storage shall be shared equally between all lots. Entrance street includes Idaho Transportation District approach.
7. **Parking Lot:** Parking lot and drives located on Lot 1 and Lot 3 shall be responsible for their own maintenance with the exception of entrance street as mentioned under item 6 above, which shall be shared equally.
8. **Private Sewer System:** Assessments for private sewer system shall be shared equally from exit of building on site to connection with Star Sewer District located offsite.

4.1.6 Effect of Nonpayment of Assessments; 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 twelve percent (12%) per annum. The Owners may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's

Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas or abandonment of a Lot.

4.1.7 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Mortgagees are not required to collect assessments. Failure to pay any assessment shall not constitute a default under an insured 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 payment 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.

4.1.8 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

4.1.8.1 All property expressly dedicated to and accepted by a local public authority;

4.1.8.2 All properties owned by the Declarant; and

4.1.8.3 All Lots owned by Declarant, until title is transferred to another, or until occupancy, whichever occurs first.

4.2 Estrella Land Owner's Association.

4.2.1 Organization of Association. The Estrella Land Owner's Association shall be an unincorporated association and shall be charged with the duties and invested with the powers prescribed by law and set forth in this Declaration.

4.2.2 Membership. Each Owner of a Lot subject to this Declaration, including Declarant, by virtue of being such an Owner and for so long as such ownership is maintained, shall be a member of the Association, and consents to such membership by virtue of ownership of a Lot. No Owner shall have more than one (1) membership in the Association, except as hereinafter set forth with respect to voting. Memberships in the Association shall not be assignable, except to the successor-in-interest of the Owner, and all memberships in the Association shall be appurtenant to the Lot owned by such Owner. The memberships in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to a Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

4.2.3 Voting. The Association will have two (2) classes of voting memberships.

4.2.3.1 Class A. Class A members shall be the Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members, with the vote for such Lot being exercised as they collectively determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

4.2.3.2 Class B. The Class B member shall be the Declarant. Upon the recording hereof, Declarant shall be entitled to four (4) votes for each Lot of which Declarant is the Owner. The Class B membership shall cease and be converted to Class A membership at such time as sixty-six (66%) of the Lots within the Property are deeded to Owners.

4.2.4 Management. The affairs of the Association shall be conducted by the Owners, who shall from time to time designate one owner as Manager. A majority vote shall be required for all Association business except as otherwise provided in this Declaration.

4.2.5 Powers and Duties of the Association.

4.2.5.1 Powers. The Association shall have all the powers set forth in this Declaration. It 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 Declaration, and to do and perform any and all acts which may be necessary or proper for, or incidental to the proper management and performance of the other responsibilities herein assigned, including without limitation:

4.2.5.1.1 Assessments. The power to levy assessments (annual, special and limited) on the Owners of Lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.

4.2.5.1.2 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 this Declaration or the Articles or the By-Laws, including the Association rules adopted pursuant to this

Declaration, and to enforce by mandatory injunction or otherwise, all provisions hereof.

4.2.5.1.3 Delegation of Powers. The authority to delegate its power and duties to committees, officers, employees, or to any person, firm or corporation to act as manager. Neither the Association nor the Owners shall be liable for any omission or improper exercise by the manager of any such duty or power so delegated.

4.2.5.1.4 Association Rules. The power to adopt, amend and repeal by majority vote of the Owners such rules and regulations as the Association deems reasonable and which are consistent with this Declaration (the Association rules). 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 and posting, said Association rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

4.2.5.1.5 Emergency Powers. The Association or any person authorized by the Association may enter upon any Lot in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which it is responsible. 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.

4.2.5.2 Duties of the Association. In addition to power delegated to it by the Articles, without limiting the generality thereof, the Association or its agent, if any, shall have the obligation to conduct all business affairs of common interest to all Owners, and to perform each of the following duties:

4.2.5.2.1 Operation and Maintenance of Common Property. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of all common areas.

4.2.5.2.2 Taxes and Assessments. The Association shall pay all taxes, federal, state or local, including income or corporate taxes levied against the Association.

4.2.5.2.3 Insurance. Obtain, if the Owners so elect, from reputable insurance companies authorized to do business in the State of Idaho, and maintain in effect casualty, liability and/or other insurance as the Owners deem appropriate.

4.2.5.2.4 **Rule Making.** Make, establish, promulgate, amend and repeal the Association rules

4.2.6 **Restrictions on Dissolution.** The Association shall not be dissolved without the express written consent of the City of Star.

ARTICLE V

General Provisions

5.1 **Enforcement.** The Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all conditions, covenants, restrictions, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party shall be entitled to reasonable attorney's fees in the event of any legal action to enforce these Covenants.

5.2 **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

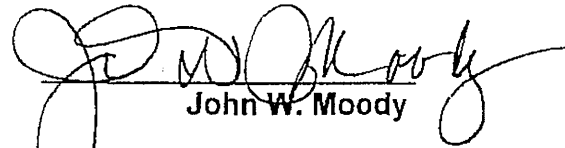
5.3 **Interpretation.** The terms, covenants and conditions hereof are to be read and interpreted consisting and in a manner to protect and promote property values.

5.4 **Term and Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended, restated, replaced, terminated or superseded by an instrument signed by sixty-six percent (66%) of the owners of lots covered by this Declaration, provided, however, that if Declarant is still the owner of any lots this Declaration may not be amended without the written consent and vote of Declarant.

IN WITNESS WHEREOF, The undersigned, being the Declarant herein,
has hereunto set its hand and seal this 7th day of AUG, 2003.


Gary C. Asin


Lori J. Asin

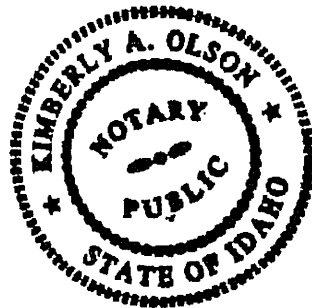

John W. Moody

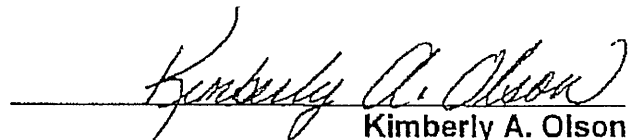

Betty L. Moody

STATE OF IDAHO)
 :SS
County of Ada)

On this **7th day of August 2003**, before me, the undersigned, a Notary Public in and for said State, personally appeared **Gary C. Asin** and **John W. Moody** known or identified to me to be the person who executed the within and foregoing instrument, and acknowledged to me that he 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.




Kimberly A. Olson
Notary Public For Idaho
Residing at Boise, Idaho
My Commission Expires: June 5th 2007

(SEAL)