

to Westwood Terrace
Split off

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AGREEMENT

I. PARTIES

A. WESTWOOD VILLAGE HOMEOWNERS ASSOCIATION, an Idaho non-profit corporation comprising, as members, the owners of condominium units in Westwood Village, a condominium project located west of Sandpoint, Idaho. This party shall be hereinafter referred to as the "ASSOCIATION."

B. WESTWOOD INCORPORATED is an Idaho corporation and it is the owner of an adjacent subdivision property, which was formerly included within Westwood Village, known as "Westwood Terrace." This party shall hereinafter be referred to as the "CORPORATION."

C. WESTWOOD TERRACE OWNERS ASSOCIATION is a proposed Idaho corporation which shall be formed by Westwood Incorporated as a managing and governing body of the owners of lots within the subdivision of Westwood Terrace. The purpose of said corporation will be for the management and governing of the subdivision, the ownership and maintenance of the roadways, common areas, and amenities, and the enforcement, by said corporation, of the covenants, conditions and restrictions of the Westwood Terrace subdivision. This party shall be hereinafter referred to as "SUBDIVISION ASSOCIATION."

FILED FOR RECORD 7-12-84 9:10 A.M. CLERK OF DISTRICT COURT, 3RD DISTRICT, STATE OF IDAHO

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113 Place

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II. RECITALS

A. ASSOCIATION and CORPORATION, along with other amending parties, have entered into an "Amendment and restatement of Westwood Village Condominium Declaration," more or less concurrently with the execution of this Agreement (hereinafter "DECLARATION"). Said DECLARATION, provided, among other things, that certain land, previously intended to be included within Westwood Village Condominiums, was removed from Westwood Village and removed from the condominium form of ownership. This land consists of twenty-eight single family lots, roadways, common areas, and roadways that are legally described on Exhibit "A" attached hereto.

B. Said DECLARATION specifically authorized the Westwood Village Homeowners Association to enter into this Agreement, pursuant to paragraph 3 thereof.

C. The land removed from the DECLARATION shall be a conventional subdivision known as "Westwood Terrace," although CORPORATION specifically reserves the right to change the name of said subdivision, in its discretion.

D. The purposes of this Agreement are as follows:

1. To insure that the Westwood Terrace subdivision is developed and maintained in a manner that is compatible with the adjacent properties, including Westwood Village, and that such development shall maintain or enhance the value of the neighboring areas.

2. To define the reciprocal rights of parties hereto to the use of the other parties' properties.

3. To insure lake access by the owners of lots within the subdivision, and to insure the development and maintenance of amenities upon the Westwood Terrace subdivision.

4. To insure that Westwood Village is properly and fully compensated for the fair value of the use by Westwood Terrace of water and sewer facilities owned by Westwood Village and, further, that Westwood Village is properly compensated for use of the lakefront area by Westwood Terrace.

E. It is intended that this document will be effective, and shall be recorded in the records of Bonner County, only upon the substantially contemporaneous execution by and recording of the following documents and declarations:

1. The DECLARATION referred to in paragraph A above.

2. Covenants, Conditions and Restrictions, including restrictions, guidelines, and limitations of design and architecture, of the Westwood Terrace subdivision, which have received the consent and approval of the board of directors of the ASSOCIATION.

3. Conveyance of the Deed to the lakefront property.

F. A condition subsequent of this Agreement is the creation of the subdivision association referred to in paragraph I.C. above, within sixty (60) days of the date of recordation of this Agreement, together with said subdivision association's subscription to the terms of this Agreement.

III. TERMS

For valuable consideration, including the mutual consideration contained herein, the parties agree as follows:

A. The CORPORATION shall construct, upon lots and/or common areas within Westwood Terrace, the following amenities, to-wit, a tennis court and a swimming pool of a size compatible with the number of homes (28) to be constructed within the subdivision. These amenities shall be for the exclusive use of members of the SUBDIVISION ASSOCIATION, and no use of these amenities shall be made by members of the ASSOCIATION. Likewise, there shall be no use of the Westwood Village amenities by the subdivision owners. Construction and completion of these amenities shall be bonded by the CORPORATION, and said amenities shall be maintained by the SUBDIVISION ASSOCIATION.

B. ROADS. CORPORATION shall pave all roads within Westwood Terrace subdivision upon the sale of 12 lots on or before the 31st day of July, 1985, whichever occurs first. Upon completion of the paving, members of the ASSOCIATION shall have an easement to use the roads within the subdivision, and members of the subdivision shall have the right to use the roadways within Westwood Village.

Use of the roadways by one party of another parties' land is specifically subject to the rules and regulations of the respective association maintaining said roadways.

C. LAKEFRONT EASEMENT. ASSOCIATION does hereby grant to CORPORATION an easement for the use and enjoyment of that certain lakefront property, currently common area of Westwood Village, described and outlined on the map attached hereto as Exhibit "B" and legally described on Exhibit "C", attached hereto, together with an easement for walking access to said lakefront area. This easement is specifically and solely for the use and benefit of Westwood Terrace lot owners who are members of the SUBDIVISION ASSOCIATION, and is limited by and expressly subject to the following conditions:

1. The use and enjoyment of the lakefront property by subdivision owners is subject to the rules and regulations concerning said property governing Westwood Village owners, as enacted by the ASSOCIATION.
2. This easement shall not be construed to grant to the subdivision owners or the SUBDIVISION ASSOCIATION or the CORPORATION a right to use the amenities, being the pool, clubhouse, golf greens, and other amenities located on the lakefront property, except to the extent that individual subdivision owners may have leased a boat slip in the Westwood Village marina. Use of the amenities is specifically governed by paragraph III.A., set out hereinabove.
3. It is anticipated that CORPORATION shall transfer this easement to the SUBDIVISION ASSOCIATION upon incorporation, and said transfer is specifically authorized by the ASSOCIATION.

Other than this transfer, this easement is not transferable, and the use and enjoyment thereof can never be expanded beyond the use by the owners of lots within Westwood Terrace.

4. CORPORATION and SUBDIVISION ASSOCIATION shall, commencing with the date of the execution of this Agreement, pay to ASSOCIATION, as compensation and consideration for this easement and the use thereof of residents of Westwood Terrace, the following sums and assessments:

a. CORPORATION shall pay the total sum of Forty Four Thousand Eight Hundred (\$44,800.00) Dollars to ASSOCIATION in the following manner:

(i) by paying the sum of Two Thousand Eight Hundred (\$2,800.00) Dollars upon execution of this Agreement, receipt of which by ASSOCIATION is hereby acknowledged.

(ii) by paying the sum of One Thousand Five Hundred (\$1,500.00) Dollars upon sale of each WESTWOOD TERRACE lot, for each lot sold until July 1, 1985.

(iii) In any event, the entire balance shall be due and payable on July 1, 1985.

b. Annual Assessment. On July 1, 1985, and on the same date each year thereafter, CORPORATION and/or SUBDIVISION ASSOCIATION shall pay, as an annual assessment, the sum of Two Thousand Five Hundred (\$2,500.00) Dollars, for the use of the lakefront easement. This assessment may be increased, annually, commencing July 1, 1986, by an amount equal, in percentage terms, to the annual increase, if any, in the consumer price index, (for all items) as determined by the U. S. Department of Labor.

c. Default. In the event CORPORATION and/or SUBDIVISION ASSOCIATION are in default of any of the payment terms set out hereinabove, ASSOCIATION shall send notice of said default by certified or registered mail to the defaulting parties. If CORPORATION or SUBDIVISION ASSOCIATION fails to cure the default within ninety (90) days of the date of mailing of this notice, all rights of CORPORATION and SUBDIVISION ASSOCIATION in the lakefront easement shall be terminated and ASSOCIATION may retain any

sums paid hereunder as liquidated damages. ASSOCIATION may also pursue any other legal remedies available to it in lieu of termination of the easement.

D. ASSOCIATION currently maintains a marina area with boat slips on the lakefront property. Said marina is maintained for the use and benefit of members of the ASSOCIATION, but vacancies in the marina do occur. If all of the slips are not rented to ASSOCIATION members by June 1 of each calendar year, SUBDIVISION ASSOCIATION members shall have a right of first refusal, expiring June 20 of each year, to rent any vacant slips, prior to said slips being rented to the general public.

E. The ASSOCIATION understands and acknowledges that CORPORATION shall amend and change the Westwood Terrace plat to provide for the modifications shown in the plat attached hereto as Exhibit "A". Provided that CORPORATION is in compliance with all other terms and conditions of this Agreement, ASSOCIATION has no objection to the amendments and changes of the plat as contained therein.

F. Westwood Terrace lot owners, through the SUBDIVISION ASSOCIATION, shall have the joint use of the Westwood Village sewer and water system as originally planned for the development of Phase II. The SUBDIVISION ASSOCIATION and CORPORATION shall pay, as their share of the cost of said sewer and water system, the following sums and assessment.

1. Commencing with the execution of this Agreement, CORPORATION and SUBDIVISION ASSOCIATION shall pay to ASSOCIATION a monthly assessment equivalent to twenty-five (25%) percent of the actual cost of the maintenance of the sewer system owned by ASSOCIATION. The amount of these monthly assessments shall be established on an annual basis.

2. CORPORATION and SUBDIVISION ASSOCIATION shall additionally be liable for special assessments for major repair and/or capital improvements of the sewer system or water pipes owned by ASSOCIATION in an amount equivalent to twenty-five (25%) percent of the actual cost, provided, however, that ASSOCIATION shall give SUBDIVISION ASSOCIATION and CORPORATION thirty (30) days notice of any planned special assessments for capital improvement of the system.

3. It is anticipated that Westwood Terrace lot owners will be full time residents, and it is acknowledged that there is a possibility that Westwood Terrace may have a greater impact upon the system than is represented by the payment of a twenty-five (25%) percent share of the cost of the system. In the event a licensed engineer approved by all parties to this Agreement makes a determination that, in fact, Westwood Terrace does have a greater impact upon the system than is represented by its actual prorata share, then ASSOCIATION may assess CORPORATION and SUBDIVISION ASSOCIATION a higher percentage share of the cost of the system based upon the findings of said engineer.

4. CORPORATION and/or SUBDIVISION ASSOCIATION shall additionally pay to ASSOCIATION a three (3%) percent surcharge upon all sewer and water charges levied upon lot owners in Westwood Terrace by the City of Sandpoint.

5. CORPORATION and SUBDIVISION ASSOCIATION shall and do hereby hold ASSOCIATION harmless from any liability associated with ASSOCIATION'S control and operation of the sewer system and lift station.

6. CORPORATION or SUBDIVISION ASSOCIATION shall seal all manholes in Westwood terrace prior to July 1, 1985.

7. CORPORATION and/or SUBIDVISION ASSOCIATION shall be responsible for maintenance and repair of all sewer lines within the boundaries of Westwood Terrace.

IN WITNESS WHEREOF, the parties hereto set their hands this 3rd day of December, 1983.

WESTWOOD VILLAGE OWNERS ASSOCIATION

By: *James R. Willis*
President

Attest:

By: *George Rubin*
Secretary

WESTWOOD, INC.

By: *[Signature]*

Attest:

By: _____

WESTWOOD TERRACE OWNERS ASSOCIATION

By: *[Signature]*
President

Attest

By: _____
Secretary

STATE OF IDAHO

County of Bonner

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ss.

On this 3 day of December, 1983, before me the undersigned, a Notary Public in and for the State of Idaho, personally appeared JAMES R. WILLIS, known to me to be the President of WESTWOOD VILLAGE OWNERS ASSOCIATION, an Idaho corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument on behalf of said corporation.

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

Ann M. Murphy
Notary Public in and for Idaho
Residing at: Sandpoint

STATE OF IDAHO

County of Bonner

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ss.

On this 3 day of December, 1983, before me the undersigned, a Notary Public in and for the State of Idaho, personally appeared MARC BRINKMEYER, known to me to be the President of WESTWOOD, INC., an Idaho corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument on behalf of said corporation.

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

Ann M. Murphy
Notary Public in and for Idaho
Residing at: Sandpoint

STATE OF IDAHO
County of Bonner

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) ss.

On this 3 day of December, 1983, before me the undersigned, a Notary Public in and for the State of Idaho, personally appeared MARC BRINKMEYER, known to me to be the President of WESTWOOD TERRACE OWNERS ASSOCIATION, an Idaho corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument on behalf of said corporation.

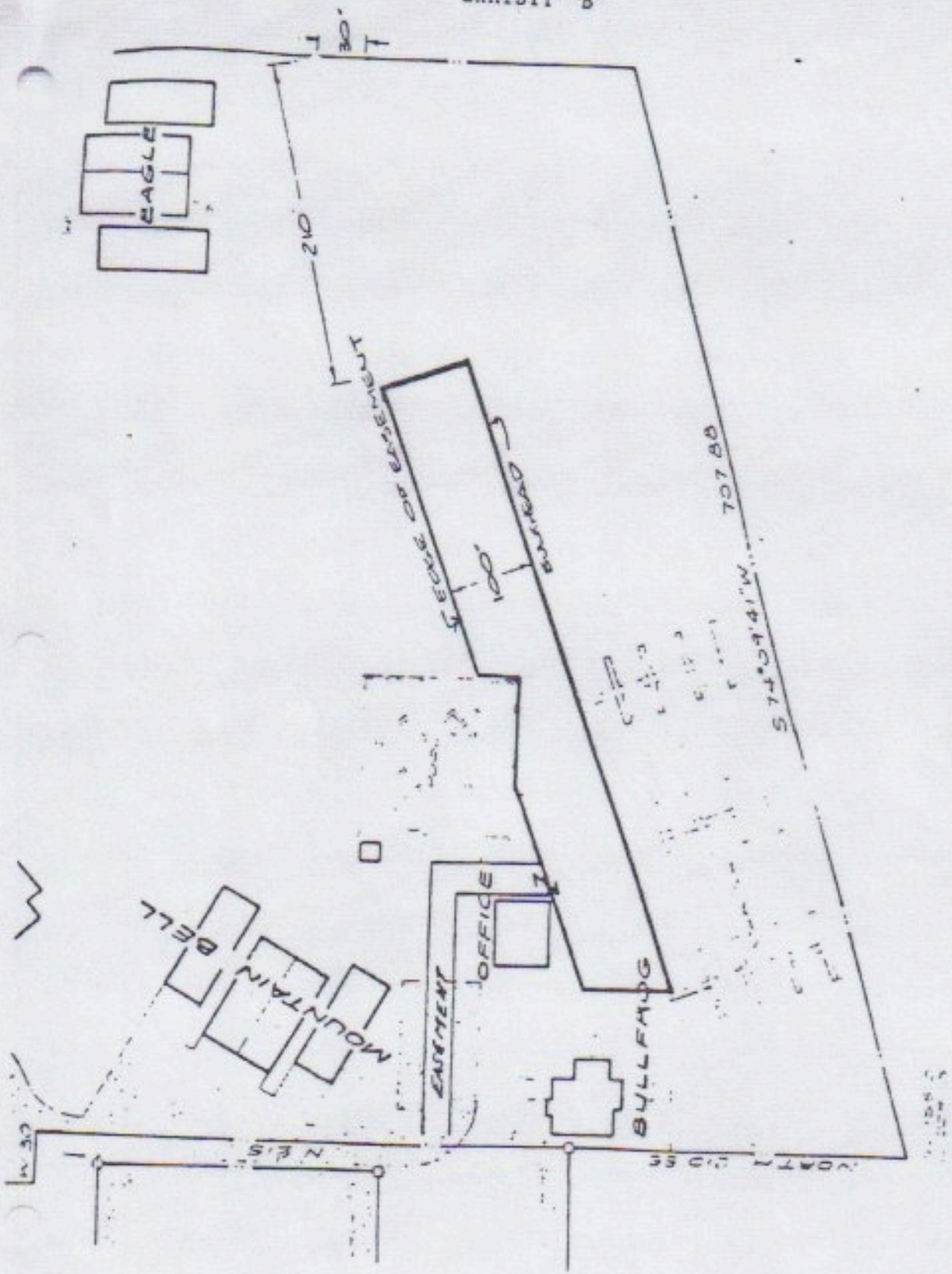
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate last above written.

Ann M. Murphy
Notary Public in and for Idaho
Residing at: Sandpoint

Westwood Terrace according to the Plat thereof, as recorded May 10, 1984 in Book 4 of Plats, Page 15, records of Bonner County, Idaho, lying in the Southwest Quarter of the Northeast Quarter of Section 28, Township 57 North, Range 2 West, Boise Meridian, Bonner County, Idaho, more particularly described as follows:

Beginning at the North One-Quarter corner of said Section 28; thence South $00^{\circ}32'59''$ West, 1708.73 feet along the center of section line to the initial point; thence North $57^{\circ}03'38''$ East, 291.59 feet; thence North $86^{\circ}48'06''$ East, 90.79 feet; thence North $15^{\circ}11'54''$ West, 26.14 feet; thence North $83^{\circ}00'06''$ East, 112.31 feet; thence North $46^{\circ}46'30''$ East, 107.65 feet; thence South $88^{\circ}56'54''$ East, 9.01 feet to a point on a curve concave to the Northeast, having a radius of 215.00 feet; to which point a radial line bears South $84^{\circ}36'19''$ West; thence Southeasterly 294.28 feet along said curve through a central angle of $78^{\circ}25'23''$ to the beginning of a reverse curve concave to the Southwest, having a radius of 145.00 feet; thence Southeasterly 190.24 feet along said curve through a central angle of $75^{\circ}10'26''$; thence North $88^{\circ}56'54''$ West, 333.39 feet; thence South $01^{\circ}03'06''$ West, 415.38 feet; thence North $88^{\circ}56'54''$ West, 91.61 feet; thence South $01^{\circ}03'05''$ West, 100.00 feet; thence North $89^{\circ}53'55''$ West, 44.23 feet; thence South $00^{\circ}31'40''$ West, 174.16 feet; thence South $89^{\circ}53'55''$ East, 140.42 feet to a point of a curve concave to the Northwest having a radius of 235.00 feet, to which point a radial line bears South $52^{\circ}11'37''$ East; thence Southwesterly 187.72 feet along said curve through a central angle of $45^{\circ}46'08''$; thence on a non tangent line West, 32.98 feet to a point of cusp with a curve concave to the Northwest and having a radius of 20.00 feet; thence Northeasterly 31.23 feet along said curve through a central angle of $89^{\circ}27'28''$; thence North $00^{\circ}32'32''$ East, 81.95 feet; thence North $89^{\circ}27'28''$ West, 194.00 feet; thence South $53^{\circ}04'00''$ West, 37.80 feet; thence North $89^{\circ}27'28''$ West, 117.48 feet to a point on the center of section line; thence North $00^{\circ}32'59''$ East, 729.14 feet along said center of section line to the initial point of beginning.

EXHIBIT "B"



EASEMENT FOR WESTWOOD TERRACE PROPERTY OWNER'S
FOR ILLUSTRATIVE PURPOSES ONLY
EXHIBIT "B"

EXHIBIT "C"

EASEMENT
for Westwood Terrace Property Owners

A 100 foot wide Easement North of and parallel to the existing Bulkhead extending from the East boundary of the Bullfrog site to a point that lies 210 feet West of and 30 feet North of the Bulkhead on the East line of Westwood Village.

Exhibit "C"