

**SIXTH AMENDMENT TO MASTER DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR ASHBURY SUBDIVISION
(Ashbury Garden Villas Annexation)**

December 7, 2016

RECITALS

WHEREAS, Smith Brighton Inc., an Idaho corporation, as Declarant, recorded that certain Master Declaration of Covenants, Conditions, Restrictions and Easements for Ashbury Subdivision dated December 17, 2013, recorded as Instrument No. 113134367 on December 17, 2013, in the records of Ada County, Idaho; as amended from time to time (collectively "Master Declaration");

WHEREAS, the Master Declaration was amended by that certain Third Amendment to Master Declaration of Covenants, Conditions, Restrictions and Easements for Ashbury Subdivision dated April 15, 2015, and recorded on April 21, 2015 as Instrument No. 2015032808, in the records of Ada County, Idaho ("Third Amendment"); and

WHEREAS, the Third Amendment supplemented the Master Declaration with additional or different covenants and restrictions expressly for certain Lots within the Association by providing landscaping and maintenance services for an annual maintenance fee as described therein ("Ashbury Garden Villas"); and

WHEREAS, the Master Declaration was amended by that certain Fourth Amendment to Master Declaration of Covenants, Conditions, Restrictions and Easements for Ashbury Subdivision dated March 31, 2016, and recorded on March 31, 2016 as Instrument No. 2016-026926, in the records of Ada County, Idaho ("Fourth Amendment"); and

WHEREAS, the Fourth Amendment annexed the lots within Ashbury Subdivision No. 3 to the Subdivision and subjected those Lots to the terms, covenants, conditions, restrictions and easements contained in the Master Declaration; and

WHEREAS, the purpose of this Sixth Amendment is to subject the Lots within Ashbury Subdivision No. 3 with the additional covenants and restrictions of the Ashbury Garden Villas.

NOW THEREFORE, Declarant hereby covenants, agrees and declares that the Lots within the Association, and each portion thereof, shall be conveyed subject to all of the covenants, conditions, easements and restrictions contained in this Sixth Amendment, (as well as those contained in the Master Declaration). These covenants, conditions, easements and restrictions shall run with and be appurtenant to the land, and with each estate therein, and shall be binding upon all parties having or acquiring any right, title or interest in any portion of the Lots, and successors and assigns of the same. In the event of a conflict between the Master Declaration

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WHEREAS, the Fourth Amendment annexed the lots within Ashbury Subdivision No. 3 to the Subdivision and subjected those Lots to the terms, covenants, conditions, restrictions and easements contained in the Master Declaration; and

WHEREAS, the purpose of this Sixth Amendment is to subject the Lots within Ashbury Subdivision No. 3 with the additional covenants and restrictions of the Ashbury Garden Villas.

NOW THEREFORE, Declarant hereby covenants, agrees and declares that the Lots within the Association, and each portion thereof, shall be conveyed subject to all of the covenants, conditions, easements and restrictions contained in this Sixth Amendment, (as well as those contained in the Master Declaration). These covenants, conditions, easements and restrictions shall run with and be appurtenant to the land, and with each estate therein, and shall be binding upon all parties having or acquiring any right, title or interest in any portion of the Lots, and successors and assigns of the same. In the event of a conflict between the Master Declaration

and this Sixth Amendment, the terms of this Sixth Amendment shall control with respect to the Lots and the subject matter contained herein, notwithstanding anything to the contrary contained in the Master Declaration.

This Supplement restricts, encumbers and benefits the Lots only and is not intended to restrict, encumber or benefit any other property which is subject to the Master Declaration.

1. Property Covered. The property which is covered by this Sixth Amendment shall be burdened by the additional covenants, conditions and restrictions known as the Ashbury Garden Villas and is described as follows:

Lots 2 through and including 24, Block 2, and Lots 13 through and including 24, Block 3, ASHBURY SUBDIVISION NO. 3, according to the official plat thereof filed in Book 109 of Plats at Pages 15554 through and including 15557, inclusive, as Instrument No. 2016-026923 on March 31, 2016, records of Ada County, Idaho.

2. Lot Maintenance.

A. Landscaping. Each Owner grants the Association, including its contractors and agents, a non-exclusive easement across such Owner's Lot for the purpose of performing the following maintenance, repair and replacement within each Lot within Ashbury Garden Villas:

1. Mowing, edging, trimming and fertilization of all lawns (front, back, side);
2. Prune shrubs;
3. Weed and apply pre-emergent to any planter beds;
4. Start up and close out of irrigation system;
5. Check and adjust sprinklers;
6. Apply billbug application, as needed;
7. Apply dormant oil treatment and deep root feed to trees, as needed; and
8. Spring and fall clean up, including leaf mowing.

B. Owner Responsibility. Unless specifically identified above as an Association responsibility herein, the Owner shall be responsible for the maintenance of its Lot, including but not limited to:

1. The purchase or maintenance of any new landscaping, including annuals, perennials, flowers, pots, raised beds, gardens or other Owner-installed improvements.
2. Replacement of any dead landscaping, unless the maintenance company is at fault.
3. Any maintenance or repair that is caused through the willful or negligent act of an Owner, or such Owner's family, guests or invitees, and Owner shall be responsible for the payment of any additional costs for such maintenance or repair.

C. Lot Maintenance Fee. The Owner shall be obligated to pay a fee to the Association for the maintenance, repair and replacement included in this Section 2 ("Maintenance Fee"). As of the recording of this Declaration, the annual Maintenance Fee shall be \$325.00 per Lot per year, with such amount annual reviewed and reasonably determined by the Association based on actual expenses for the obligations contained in this Section 2. The Owner's obligation to pay the Maintenance Fee benefitting his or her Lot shall

commence upon the purchase of the Lot from Declarant. The Maintenance Fee shall be considered an Assessment and subject to the enforcement provisions contained in Section 9 of the Master Declaration.

3. **Amendment.** This Declaration may be amended by Declarant (or its successors or assigns as described above) by an amendment recorded in the records of Ada County, Idaho, until the completion of construction of the last residence on all of the Lots within Ashbury Subdivision. Thereafter, this Declaration may be amended by approval of a majority of Lot Owners within Ashbury Subdivision and with written consent of the Association. All amendments shall be recorded in the records of Ada County, Idaho. Following the recording of this Sixth Amendment, any reference to Ashbury Garden Villas shall collectively refer to the lots designated within the Third Amendment and the lots identified in this Sixth Amendment.

4. **Conflicts.** Any conflict between the terms of the Master Declaration and the provisions of this Sixth Amendment shall be controlled by this Sixth Amendment.

5. **Effective Date.** This Sixth Amendment shall be effective from and after the date it is recorded in the official Records of Ada County, Idaho.

[END OF TEXT]

IN WITNESS WHEREOF, the undersigned, being the Declarant under the Master Declaration, and pursuant to Section 11.01 of the Master Declaration, has hereunto executed this Sixth Amendment as of the date and year first above written.

DECLARANT:

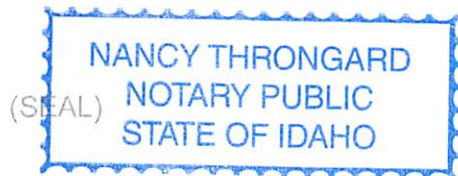
SMITH BRIGHTON INC.,
an Idaho corporation


By: 
David W. Turnbull, President

STATE OF IDAHO)
) ss:
County of Ada)

On this 9th day of December, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared David W. Turnbull, known or identified to me to be the President of SMITH BRIGHTON INC., an Idaho corporation, and the person who subscribed said Corporation's name to the foregoing instrument as the President of said Corporation, and acknowledged to me that he executed the same in said Corporation's name.

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 for Idaho
My Commission Expires: 11-15-18