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**DECLARATION OF PROTECTIVE  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
WARREN K. INDUSTRIAL PARK  
KOOTENAI COUNTY, IDAHO**

**THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS** ("Declaration"), is made on the date hereinafter set forth, by **KENNETH P. ELA and WENDE S. ELA, husband and wife** (collectively the "Declarant"), with reference to the following facts:

A. Declarant is the purchaser/developer of that certain real property located along Highway 95, in the City of Hayden, Kootenai County, Idaho, which property is more particularly described as follows (the "Property" or "Phase One"):

All Lots within the WARREN K. INDUSTRIAL PARK, according to the plat thereof recorded in Book I of Plats, Pages 315 and 315A, Records of Kootenai County, Idaho.

B. Declarant is developing the Property into a commercial/industrial project known as the "Warren K. Industrial Park" which shall include commercial and industrial improvements and appurtenant common areas.

C. Declarant is also the purchaser/developer of additional land adjacent to or otherwise in the vicinity of the Property described above, which additional property is described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Potential Annexation Property"). While the Declarant currently intends to develop the Property described above, and the Potential Annexation Property (Exhibit "A") as a fully integrated development project, this Declaration shall only encumber the Property described above (Phase One), unless and until additional property is annexed to and made a part of the Project by the recordation of one or more Declarations of Annexation, according to the annexation procedures set forth herein.

D. The development (the First Phase and any property later annexed thereto) shall be hereinafter referred to as the "Project."

E. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of operation for the benefit of all of the said Parcels and the Owners thereof.

Declarant hereby declares that the Property and the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and the Project, and every part thereof, in accordance with the plan for the establishment of the Project as a commercial/industrial development. All of the declarations, limitations, covenants, conditions, restrictions, and easements shall constitute covenants and encumbrances which shall run with the land and shall be perpetually binding upon Declarant and

1713231

its successors-in-interest and assigns, and all parties having or acquiring any right, title, or interest in or to any part of the Property or the Project.

## **ARTICLE 1.** **DEFINITIONS**

1.1 "Declarant" shall mean Kenneth P. Ela and Wende S. Ela, husband and wife, and their successors-in-interest and assigns with respect to the entire Project, but excluding independent third parties purchasing completed Parcels.

1.2 "Declaration" shall mean and refer to this Declaration of Protective Covenants, Conditions and Restrictions, as it may be amended from time to time.

1.3 "Owner" or "Owners" shall mean the record holder or holders of title to a Parcel within the Property. This shall include any person having a fee simple title to any Parcel, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Parcel is sold under a recorded contract of sale to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner."

1.4 "Parcel" shall mean any of the separate legal parcels shown as such on the Plat, or as reconfigured by replatting, boundary adjustment, or otherwise.

1.5 "Person" shall mean any natural person, corporation, partnership, association, trustee, or other legal entity.

1.6 "Phase" shall mean any parcel of land that is subjected to the terms of this Declaration. The Property described in Recital A above constitutes Phase One of the Project. Subsequent Phases may be brought within the coverage of this Declaration by the recordation of one or more Declarations of Annexation pursuant to this Declaration. However, except for Phase One, no property shall be encumbered by this Declaration unless and until it is formally annexed to the Project by recordation of such a Declaration of Annexation.

1.7 "Plat" shall mean the recorded plat of Warren K. Industrial Park, showing the individual Parcels, the public right-of-way, and other features of the Project, as it may be amended from time to time.

1.8 "Property" shall mean the entire real property (all Parcels) covered by this Declaration.

## **ARTICLE 2.** **STORMWATER EASEMENTS; PUBLIC SERVICE UTILITIES**

2.1 Establishment of Stormwater Easements. Declarant hereby reserves, for the benefit of all Parcels, perpetual, non-exclusive easements over each Parcel for the natural drainage of stormwater, following the initial grading of Parcels by the Declarant, as well as grading performed by each Owner in connection with the development and improvement of his or her Parcel, where the plans therefor shall have been approved by the Declarant or the Architectural Control Committee according to Article 3, below. The intent of this easement is to

1713231

allow substantially level lawns between improvements on neighboring Parcels, with slight surface water drainage being permitted from one Parcel to another.

2.2 Public Service Utilities. Declarant shall have no responsibility for the installation or maintenance of any service utilities within the Property, with all presently contemplated utility services being provided by public entities or utility companies.

## **ARTICLE 3. ARCHITECTURAL CONTROL**

3.1 Prohibition of Alteration and Improvement. Subject to an exemption for the Declarant hereunder, no building, sign, fence, wall, landscaping, or other improvement or structure of any kind, which would be visible from the public right of way or any other area outside of any Parcel itself, shall be constructed, installed, painted, or maintained within the Project, nor shall any alteration or improvement of any kind be made thereto unless and until the same has been approved in writing by the Declarant or an Architectural Control Committee (the "Committee") appointed as provided in this Article.

3.2 Architectural Control Committee. Until the Declarant, in its discretion and in writing, turns over the function of architectural control to the Owners, all functions of the Committee described in this Article shall be undertaken by the Declarant (or agents of the Declarant appointed for such purpose). Once turned over to the Owners, such functions shall be undertaken by a Committee of three Owners (or agents of corporate Owners), with the first Committee to be appointed by the Declarant. Each Committee member shall serve until he or she shall resign (in which case a replacement shall be appointed by the remaining members), or until he or she shall be replaced by the vote of two-thirds of the Owners; provided that the right of the Owners to replace members of the Committee shall not apply to the Declarant or any agent of the Declarant appointed under this Paragraph.

The members of the Committee shall receive no compensation for services rendered, other than reimbursement by Owners applying for architectural approval, for actual expenses incurred by them in the performance of their duties hereunder. Neither the Committee nor any member of the Committee shall be liable in damages or otherwise for decisions made in good faith pursuant to the authority granted in this Article.

3.3 Plans and Approval. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of any such improvements or alterations, shall be submitted to the Declarant or Committee for approval as to quality of workmanship and design, and placement on the subject Parcel. Any application submitted pursuant to this Article shall be deemed approved, unless written disapproval or a request for additional information or materials by the Declarant or the Committee shall have been transmitted to the applicant within thirty (30) days after the date of receipt by the Declarant or the Committee of all required materials.

3.4 Architectural and Design Guidelines. It is the intent of this Declaration to avoid a mixture of architecture which would create disharmony of design and appearance as determined by the Declarant or the Committee. In furtherance of this objective, the Declarant or the Committee shall have the authority to adopt Architectural and Design Guidelines, and to augment, amend, or otherwise modify such Guidelines from time to time; provided that they shall at all times be consistent with this Declaration and any requirements imposed by any

1713231

governmental agency having jurisdiction. The Architectural and Design Guidelines shall be maintained by the Committee and made available to Owners upon request. The Architectural Guidelines shall be advisory only, with the Declarant and Committee having full discretion to exempt certain improvements from the Guidelines, and to impose additional requirements not set forth in the Guidelines, as determined by the Declarant or the Committee as being in the best interests on the Project.

Without limiting the authority of the Declarant or the Committee, the primary structure placed on any Parcel shall be of conventional construction on a permanent foundation. No mobile or modular building (whether on a foundation or otherwise), pole barn, trailer, basement, tent, shack, garage, barn, outbuilding, camper, or any structure of a temporary character shall be erected, placed, or used on any Parcel, except where approved by the Declarant or Committee and placed so as not to be visible from any public right of way. However, such structures may be used as temporary construction headquarters during any period of construction of permanent improvements, so long as the construction of the permanent improvements complies with the requirements of this Declaration.

#### **ARTICLE 4.** **USE RESTRICTIONS**

4.1 Use of Individual Parcels. All Parcels shall be used only for commercial and/or industrial purposes, as contemplated by the current zoning for the Project, or for such other purposes as may be allowed by a conditional use permit contemplated under the current zoning for the Property. In any case, use of any Parcel shall comply with all zoning and other requirements of any governmental or quasi-governmental agency having jurisdiction over the Property.

4.2 Parcel Maintenance. Each Parcel, and all improvements and landscaping thereon shall be maintained in a clean, neat, and orderly condition and in good repair at all times. All rubbish, trash, and garbage shall be regularly removed from the Project and shall not be allowed to accumulate thereon. Trash, garbage, and other waste shall not be kept except in sanitary containers which shall be kept screened and concealed from the view of other Parcels and the public right of way. Materials maintained or stored outside for use in a business authorized on any Parcel, shall be located in such a manner as to be concealed from view from all public rights of way.

4.3 Nuisances. No noxious, illegal, or offensive activities shall be carried on within any Parcel, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the other Owners of such Parcels.

4.4 Signs. Signs advertising Parcels for sale or rent may be displayed on the Property without prior approval of the Board provided that such signs shall be of reasonable and customary size. Signs advertising businesses on individual Parcels may be displayed, but shall first be approved by the Declarant or the Architectural Control Committee and shall be in compliance with the Architectural and Design Guidelines.

4.5 Leasing of Parcels. Any Owner may lease his or her Parcel to any tenant or lessee under such terms and conditions as they may agree, except that no lease or rental agreement shall

1713231

relate to less than the whole of any Parcel. Any lease or rental agreement shall be in writing and shall by its terms provide that it is subject in all respects to the Project Documents. Any failure by a lessee to comply with the terms of the Project Documents shall be a default under the lease, whether or not it is expressed therein, and the Owner shall be liable for any costs incurred which results from the lessee's actions.

4.6 Completion of Improvements. The work of construction, altering, or repairing any structure on any Parcel shall be diligently prosecuted from its commencement until completion and, in any event, the exterior appearance thereof shall be completed within two (2) years after the commencement of construction. All such construction shall conform to requirements established by any governmental or quasi-governmental agency having jurisdiction over such Parcels.

4.7 No Further Subdivision; Declarant's right to Reconfigure Parcels. Subject to the right of the Declarant, reserved hereby, to change the configuration of any Parcel or Parcels owned by the Declarant, and/or the number of the Parcels in the Project, Parcels may not be further subdivided so as to create any new Parcel. However, adjacent Parcel Owners may agree to minor boundary line adjustments in their discretion; provided that no additional Parcels may be created (except by the Declarant, as provided above).

## **ARTICLE 5. ANNEXATION OF ADDITIONAL PROPERTY**

Additional property may be annexed to the Project and become subject to this Declaration by either of the following methods:

5.1 Annexation Pursuant to Plan. All or any portion of the land described on Exhibit "A" attached hereto (the "Potential Annexation Property") may be annexed to and become a part of the Project described herein, subject to this Declaration, and subject to the jurisdiction of the Association, if any, without the assent of the Association or its Members, on condition that:

- (a) Any annexation pursuant to this subparagraph shall be made prior to fifteen (15) years from the date of recordation of this Declaration;
- (b) All infrastructure improvements (streets and utilities) within a particular Phase shall be substantially installed prior to annexation of such Phase;
- (c) Improvements in future Phases shall be consistent with the initial improvements in quality of construction; and
- (d) A Declaration of Annexation shall be recorded by Declarant (or its successor), covering the property to be annexed. Said Declaration shall incorporate this Declaration by reference and may contain such complementary additions and modifications of the covenants and restrictions contained herein as may be necessary to reflect the different character, if any, of the added property, and as are not inconsistent with the scheme of this Declaration.

1713231

5.2 Annexation Pursuant to Approval. Upon the vote or written assent of Declarant (while Declarant owns any Parcel in the Project or retains the right to annex additional Phases under Paragraph 4.1, above), and the Owners of two-thirds 2/3 of all Parcels in the Project (one vote per Parcel), including the Declarant, the owner of any property adjacent (including being across any public or railroad right of way) to the Property described herein, who desires to add it to the scheme of this Declaration, may record a Declaration of Annexation covering the property to be annexed. Said Declaration shall incorporate this Declaration by reference and may contain such complementary additions and modifications of the covenants and restrictions contained herein as may be necessary to reflect the different character, if any, of the added property, and as are not inconsistent with the general scheme of this Declaration.

Upon annexation of additional property under either method described above, the annexed property shall become subject to this Declaration without the necessity of amending individual sections hereof. The Owners of the Parcels in the original Project will continue to have the same easements, rights, and interests therein and will acquire similar easements, rights, and interests in the annexed property. Owners of Parcels in the annexed portion of the Project will likewise acquire similar easements, rights, and interest in all portions of the Project.

## **ARTICLE 6.** **GENERAL PROVISIONS**

6.1 Enforcement. The Declarant (while the Owner of any Parcel), any other Owner, and any governmental or quasi-governmental agency or municipality having jurisdiction over the Property, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, and reservations now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorney fees as are ordered by the Court. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

6.2 Invalidity of Any Provision. Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Property is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

6.3 Duration and Amendment of Declaration. This Declaration shall endure perpetually, but may be amended or revoked at any time by the recordation of an instrument signed and acknowledged by the Declarant (while Declarant owns any Parcel in the Project) and by the Owners of two-thirds 2/3 of all Parcels in the Project, including the Declarant.

6.4 Mortgage Protection Clause. No breach of any of the covenants, conditions and restrictions contained in this Declaration, nor the enforcement of any provisions herein, shall render invalid the lien of any mortgage or other encumbrance on any Parcel made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

6.5 No Warranty of Enforceability. While Declarant has no reason to believe that any of the covenants contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Parcel in

1713231

reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof, and by acquiring the Parcel, agrees to hold Declarant harmless therefrom.

The undersigned, being the Declarant herein, has executed this Declaration on Jan 8<sup>th</sup>, 2002.

Kenneth P. Ela  
KENNETH P. ELA

Wende S. Ela  
WENDE S. ELA

STATE OF IDAHO            )  
  : ss.  
County of Kootenai        )

On this 8<sup>th</sup> day of January, 2002, before me, Trista G. Willcutt, a Notary Public in and for the state of Idaho, personally appeared KENNETH P. ELA and WENDE S. ELA, husband and wife, known or identified to me to be the persons who executed the above instrument, and acknowledged to me that they executed the same.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Trista G. Willcutt  
Notary Public for Idaho  
Residing at JD  
Commission Expires 11-02-01



1713231

CONSENT TO RECORDATION OF DECLARATION

U.S. BANK NATIONAL ASSOCIATION, being the beneficiary under a Deed of Trust encumbering the Property described in the foregoing Declaration of Covenants, Conditions, and Restrictions, which Deed of Trust was recorded July 19, 2001, as Instrument No. 1687491, records of Kootenai County, Idaho, hereby consents to the execution and recording of such Declaration and to all the terms and provisions thereof, and further agrees that such Deed of Trust, and the interest of the undersigned therein, shall be subject and subordinate to the terms and provisions of the Declaration.

DATED: 12/31, 2001

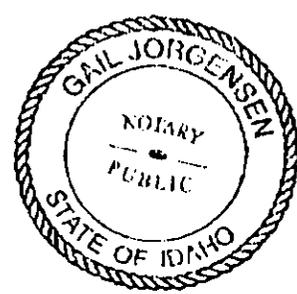
U.S. BANK NATIONAL ASSOCIATION

By: [Signature]  
Vice President

STATE OF Idaho )  
County of Kootenai ) ss.

On this 31 day of December, 2001, before me, Gail Jorgensen, a Notary Public in and for the state of Idaho, personally appeared Richard D. Murray, known or identified to me to be the person whose name is subscribed to the within instrument as the Vice Pres. of U.S. BANK NATIONAL ASSOCIATION, the corporation that executed the foregoing instrument, and acknowledged to me that he/she executed the same in his/her capacity on behalf of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.



(Seal or Stamp)

Gail Jorgensen  
Notary Public (Signature)

Gail Jorgensen  
(Print Name)

Residing at: Rathdrum, ID

My appointment expires: 2-6-04

1713231

EXHIBIT "A"

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

WARREN K. INDUSTRIAL PARK

Legal Description of Potential Annexation Property (Future Phases)

That part of the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho, lying West of State Highway No. 95 described as follows:

EXCEPT the South 960 feet of the West 770 feet of the Southwest quarter of the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho.

ALSO EXCEPT all that certain real property situated in the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho, being more particularly described as follows:

BEGINNING at a point on the Northerly right of way line of Wyoming Avenue, a county road 80 feet in width, from which point the Southerly quarter corner of said Section 11 bears North 89° 58' 28" West 774.80 feet and South 0° 24' 38" West 30.00 feet; thence,

From said Point of Beginning, North 14° 30' 44" East, 139.61 feet; thence,

South 80° 26' 57" East 89.52 feet; thence,

South 8° 29' 02" West 120.00 feet to a point on said right of way line; thence, North 89° 58' 28" West along said line, 115.42 feet to the Point of Beginning.

ALSO EXCEPT beginning at a point on the Northerly right of way line of Wyoming Avenue, a County road 80 feet in width, from which point the Southerly one quarter corner of said Section 11, bears North 89° 58' 28" West 770.00 feet and South 0° 24' 38" West 30.00 feet; thence,

From said Point of Beginning North 0° 24' 38" East, parallel with the Westerly line of said Southeast quarter, a distance of 102.63 feet; thence,

Leaving said line South 80° 10' 58" East 29.75 feet; thence,

South 14° 30' 44" West 100.77 feet to a point on said Northerly right of way line of Wyoming Avenue; thence,

North 89° 58' 28" West, along said line, 4.80 feet to the Point of Beginning.

ALSO EXCEPTING a parcel of land in the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho.

BEGINNING at a found iron pin that is North 89° 37' 52" East, 800.95 feet from the South quarter corner of Section 11 and on the North right of way of Wyoming Street (Deed North 88° 05' 48" East, 890.92 feet); thence,

South 89° 55' 00" East (Deed South 89° 58' 28" East), a distance of 40.68 feet; thence,

# Pioneer Title Company

1713231

North 4° 57'30" East, 483.00 feet; thence,

North 83° 46'36" West, 199.71 feet; thence,

South 0° 28'06" West, 400.00 feet to an iron pin found; thence,

South 80° 07'30" East, 29.75 feet (Deed South 80° 10'58" East, 29.75 feet) to an iron pin found; thence,

North 14° 34'12" East, 38.84 feet (Deed North 14° 30'44" East, 38.84 feet) to an iron pin found; thence,

South 80° 23'29" East, 99.52 feet (Deed South 80° 26'57" East, 99.52 feet) to an iron pin found; thence,

South 8° 32'06" West, 120.00 feet (Deed South 8° 29'02" West, 120.00 feet) to an iron pin found and the Point of Beginning.

ALSO EXCEPT a parcel of land in the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho.

This description is referenced to the Idaho State Plane Coordinate System, West Zone, bearings are Geodetic converted from grid with a Delta Alpha of 0° 47'00".

BEGINNING at a point that is North 89° 37'52" East, 900.95 feet from the South quarter corner of Section 11 and on the North right of way of Wyoming Street; thence,

North 8° 29'02" East, 120.00 feet; thence,

North 13° 55'03" East, 185.21 feet to the TRUE POINT OF BEGINNING; thence,

North 4° 57'30" East, 300.00 feet; thence,

South 89° 55'00" East, 726.00 feet to a point on the Westerly right of way of Highway 95; thence,

South 4° 57'30" West, 300.00 feet along said right of way; thence,

North 89° 55'00" West, 726 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPT a parcel of land in the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho.

This description is referenced to the Idaho State Plane Coordinate System, West Zone, bearings called are Geodetic converted from grid azimuth with a delta angle of 0° 47'00".

BEGINNING at a point that is North 89° 37'52" East, 900.95 feet from the South quarter corner of Section 11, and on the North right of way of Wyoming Street; thence,

South 89° 55'00" East, 758.38 feet to a point on the West boundary of Highway 95; thence,

North 4° 57'30" East, 600.00 feet to the TRUE POINT OF BEGINNING; thence,

Continuing North 4° 57'30" East 300.00 feet; thence,

North 89° 55'00" West, 726.00 feet; thence,

South 4° 57'30" West, 300.00 feet; thence,

South 89° 55'00" East 726.00 feet to the TRUE POINT OF BEGINNING.

# Pioneer Title Company

1713231

## ALSO EXCEPT

A parcel of land in the Southeast quarter of Section 11, Township 51 North, Range 4 West, B.M., in the City of Hayden, Kootenai County, Idaho, being a portion of Tax Number 7272, more particularly described as follows:

COMMENCING at the intersection of the Westerly right of way line of Highway 95 and the Northerly right of way line of Wyoming Avenue, said intersection lying North 88° 58' 59" East, 1648.87 feet from the South quarter corner of said Section 11 and being the TRUE POINT OF BEGINNING for this description; thence,

North 89° 58' 28" West, along the said Northerly right of way line of Wyoming Avenue, parallel to and 30 feet North of the South line of said Section 11, 721.47 feet; thence,

Leaving the said Northerly right of way line of Wyoming Avenue, North 4° 55' 44" East, 299.52 feet to a found iron pipe; thence,

South 89° 41' 26" East, 721.37 feet to a found iron pipe on the said Westerly right of way line of Highway 95; thence,

South 4° 57' 56" West, along the said Westerly right of way line of Highway 95, 295.95 feet to the TRUE POINT OF BEGINNING.

## AND EXCEPT

The Property described in the foregoing Declaration as Phase One of the Warren K. Industrial Park.

STATE OF IDAHO } ss  
 COUNTY OF KOOTENAI }  
 AT THE REQUEST OF  
**PIONEER TITLE CO.**  
 JAN 9 11 11 AM '02  
 DANIEL J. ENGLISH  
 DEPUTY *[Signature]*  
 FEES *31.00*

1713231

## EXHIBIT "A"

### DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

#### WARREN K. INDUSTRIAL PARK

##### Legal Description of Potential Annexation Property (Future Phases)

That part of the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho, lying West of State Highway No. 95 described as follows:

EXCEPT the South 960 feet of the West 770 feet of the Southwest quarter of the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho.

ALSO EXCEPT all that certain real property situated in the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho, being more particularly described as follows:

BEGINNING at a point on the Northerly right of way line of Wyoming Avenue, a county road 60 feet in width, from which point the Southerly quarter corner of said Section 11 bears North 89° 58' 28" West 774.60 feet and South 0° 24' 38" West 30.00 feet; thence,

From said Point of Beginning, North 14° 30' 44" East, 139.61 feet; thence,

South 80° 28' 57" East 99.52 feet; thence,

South 8° 29' 02" West 120.00 feet to a point on said right of way line; thence, North 89° 58' 28" West along said line, 115.42 feet to the Point of Beginning.

ALSO EXCEPT beginning at a point on the Northerly right of way line of Wyoming Avenue, a County road 60 feet in width, from which point the Southerly one quarter corner of said Section 11, bears North 89° 58' 28" West 770.00 feet and South 0° 24' 38" West 30.00 feet; thence,

From said Point of Beginning North 0° 24' 38" East, parallel with the Westerly line of said Southeast quarter, a distance of 102.63 feet; thence,

Leaving said line South 80° 10' 58" East 29.75 feet; thence,

South 14° 30' 44" West 100.77 feet to a point on said Northerly right of way line of Wyoming Avenue; thence,

North 89° 58' 28" West, along said line, 4.80 feet to the Point of Beginning.

ALSO EXCEPTING a parcel of land in the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho.

BEGINNING at a found iron pin that is North 89° 37' 52" East, 900.95 feet from the South quarter corner of Section 11 and on the North right of way of Wyoming Street (Deed North 88° 05' 48" East, 890.92 feet); thence,

South 89° 55' 00" East (Deed South 89° 58' 28" East), a distance of 40.68 feet; thence,

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1713231

North 4° 57'30" East, 483.00 feet; thence,

North 83° 46'36" West, 199.71 feet; thence,

South 0° 28'06" West, 400.00 feet to an iron pin found; thence,

South 80° 07'30" East, 29.75 feet (Deed South 80° 10'58" East, 29.75 feet) to an iron pin found; thence,

North 14° 34'12" East, 38.84 feet (Deed North 14° 30'44" East, 38.84 feet) to an iron pin found; thence,

South 80° 23'29" East, 99.52 feet (Deed South 80° 26'57" East, 99.52 feet) to an iron pin found; thence,

South 8° 32'06" West, 120.00 feet (Deed South 8° 29'02" West, 120.00 feet) to an iron pin found and the Point of Beginning.

ALSO EXCEPT a parcel of land in the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho.

This description is referenced to the Idaho State Plane Coordinate System, West Zone, bearings are Geodetic converted from grid with a Delta Alpha of 0° 47'00".

BEGINNING at a point that is North 89° 37'52" East, 900.95 feet from the South quarter corner of Section 11 and on the North right of way of Wyoming Street; thence,

North 8° 29'02" East, 120.00 feet; thence,

North 13° 55'03" East, 185.21 feet to the TRUE POINT OF BEGINNING; thence,

North 4° 57'30" East, 300.00 feet; thence,

South 89° 55'09" East, 726.00 feet to a point on the Westerly right of way of Highway 95; thence,

South 4° 57'30" West, 300.00 feet along said right of way; thence,

North 89° 55'00" West, 726 feet to the TRUE POINT OF BEGINNING.

ALSO EXCEPT a parcel of land in the Southeast quarter of Section 11, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, State of Idaho.

This description is referenced to the Idaho State Plane Coordinate System, West Zone, bearings called are Geodetic converted from grid azimuth with a delta angle of 0° 47'00".

BEGINNING at a point that is North 89° 37'52" East, 900.95 feet from the South quarter corner of Section 11, and on the North right of way of Wyoming Street; thence,

South 89° 55'00" East, 758.38 feet to a point on the West boundary of Highway 95; thence,

North 4° 57'30" East, 600.00 feet to the TRUE POINT OF BEGINNING; thence,

Continuing North 4° 57'30" East 300.00 feet; thence,

North 89° 55'00" West, 726.00 feet; thence,

South 4° 57'30" West, 300.00 feet; thence,

South 89° 55'00" East 726.00 feet to the TRUE POINT OF BEGINNING.

# Pioneer Title Company

1713231

ALSO EXCEPT

A parcel of land in the Southeast quarter of Section 11, Township 51 North, Range 4 West, B.M., in the City of Hayden, Kootenai County, Idaho, being a portion of Tax Number 7272, more particularly described as follows:

COMMENCING at the Intersection of the Westerly right of way line of Highway 95 and the Northerly right of way line of Wyoming Avenue, said intersection lying North 88° 58' 59" East, 1648.87 feet from the South quarter corner of said Section 11 and being the TRUE POINT OF BEGINNING for this description; thence,

North 89° 58' 28" West, along the said Northerly right of way line of Wyoming Avenue, parallel to and 30 feet North of the South line of said Section 11, 721.47 feet; thence,

Leaving the said Northerly right of way line of Wyoming Avenue, North 4° 55' 44" East, 299.52 feet to a found Iron pipe; thence,

South 89° 41' 26" East, 721.37 feet to a found Iron pipe on the said Westerly right of way line of Highway 95; thence,

South 4° 57' 58" West, along the said Westerly right of way line of Highway 95, 295.85 feet to the TRUE POINT OF BEGINNING.

AND EXCEPT

The Property described in the foregoing Declaration as Phase One of the Warren K. Industrial Park.

STATE OF IDAHO }  
 COUNTY OF KOOTENAI } ss  
 AT THE REQUEST OF  
**PIONEER TITLE CO.**  
 JAN 9 11 11 AM '02  
 DANIEL J. ENGLISH  
 DEPUTY *[Signature]*  
 FEES 31.00

1648293

Filed for record at the Request of:

Pioneer Title Company of Kootenai County  
100 Wallace Avenue  
Coeur d'Alene, Idaho 83814

*Original  
8/18/00  
DW*

STATE OF IDAHO } SS  
COUNTY OF KOOTENAI }  
AT THE REQUEST OF  
**PIONEER TITLE CO.**  
SEP 8 12 53 PM '00

Attention: \_\_\_\_\_  
8017976

DANIEL J. ENGLISH *cu*  
DEPUTY 18.0

## WARRANTY DEED (with Reservation of Access and Utility Easements)

FOR VALUE RECEIVED, ALICE M. REED, as Trustee of the FRANK E REED TRUST FOR SPOUSE ("Grantor"), does hereby grant, bargain, sell, and convey unto KENNETH P. ELA and WENDE S. ELA, husband and wife (collectively "Grantee"), whose address is P.O. Box 986, Hayden, Idaho 83835, that certain real property located in Kootenai County, Idaho, together with all improvements thereon and rights appurtenant thereto, which is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Conveyed Property");

TO HAVE AND TO HOLD the said property, with its appurtenances, unto the Grantee and their successors and assigns forever. Grantor does hereby covenant to and with the said Grantee that Grantor is the owner in fee simple of said property, and that such property is free from all encumbrances other than: (a) taxes which are a lien not yet payable; (b) liens and encumbrances of record or in view (including without limitation all matters identified in the preliminary title commitment issued by Pioneer Title Company of Kootenai County, as of June 20, 2000, as Commitment No. 80179; and (c) the access and utility easements reserved below, and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Grantor hereby reserves, for the benefit of the Grantor and its successors and assigns with respect to adjacent property described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Retained Property"), the following non-exclusive perpetual easements across the Conveyed Property:

- (a) An easement for the use, enjoyment, repair, maintenance, replacement, and improvement of a roadway for access, ingress, and egress between the Retained Property and the public right of way located south of the Conveyed Property, known as Wyoming Avenue, which shall be available to pedestrian, equestrian, and vehicular traffic consistent with the highest and best use of the Retained Property (as a single or multiple parcels). The access easement area shall be 80 feet in width, running along the westerly boundary of the Retained Property, in a southerly direction, parallel to State Highway No. 95, through the entire north-south length of the Conveyed Property toward Wyoming Avenue. The parties understand that the Grantee intends to subdivide the Conveyed Property and to construct thereon a series of access roadways, one of which shall provide the access reserved in this paragraph. Once such roadway becomes available to the Retained Property, the centerline of this easement shall correspond to the centerline of said subdivision roadway; and

*AA*



EXHIBIT "B"  
LEGAL DESCRIPTION OF RETAINED PROPERTY

A TRACT OF LAND IN THE SE 1/4 SECTION 11, T51N, R4W B.M.,  
CITY OF HAYDEN, KOOTENAI COUNTY, IDAHO FURTHER DESCRIBED  
AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID SE 1/4 SECTION  
11, WHICH BEARS N89°50'40"W A DISTANCE OF 820.25 FEET FROM  
THE EAST QUARTER CORNER OF SECTION 11; THENCE CONTINUING  
N89°50'40"W A DISTANCE OF 413.47 FEET; THENCE S00°25'14"W A  
DISTANCE OF 348.78 FEET; THENCE S89°50'40"E A DISTANCE OF  
385.85 FEET TO THE INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY  
OF U.S. HIGHWAY NO. 95; THENCE N04°56'43"E ALONG THE RIGHT-  
OF-WAY A DISTANCE OF 350.00 FEET TO THE POINT OF BEGINNING.  
CONTAINS 3.200 ACRES MORE OR LESS.

EXHIBIT "A"  
LEGAL DESCRIPTION OF CONVEYED PROPERTY

A TRACT OF LAND IN THE SE 1/4 SECTION 11, T51N, R4W B.M.,  
CITY OF HAYDEN, KOOTENAI COUNTY, IDAHO FURTHER DESCRIBED  
AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID SE 1/4 SECTION  
11, WHICH BEARS N89°50'40"W A DISTANCE OF 1233.72 FEET FROM  
THE EAST QUARTER CORNER OF SECTION 11; THENCE CONTINUING  
N89°50'40"W A DISTANCE OF 1444.36 FEET TO THE CENTER OF SECTION 11;  
THENCE S00°22'25"W ALONG THE WEST LINE OF THE SE 1/4 A DISTANCE  
OF 1649.75 FEET TO A POINT THAT BEARS N00°22'25"E A DISTANCE OF  
990.02 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 11;  
THENCE S89°59'00"E A DISTANCE OF 770.01 FEET; THENCE S00°22'25"W  
A DISTANCE OF 457.39 FEET; THENCE S83°52'17"E A DISTANCE OF 192.88  
FEET; THENCE N04°56'43"E A DISTANCE OF 413.36 FEET; THENCE S89°55'47"E  
A DISTANCE OF 726.00 FEET TO THE INTERSECTION WITH THE  
WESTERLY RIGHT-OF-WAY OF U.S. HIGHWAY NO. 95; THENCE N04°56'43"E  
ALONG THE RIGHT-OF-WAY A DISTANCE OF 1368.33 FEET;  
THENCE N89°50'40"W A DISTANCE OF 385.85 FEET; THENCE N00°25'14"E  
A DISTANCE OF 348.78 FEET TO THE POINT OF BEGINNING.  
CONTAINS 67.957 ACRES MORE OR LESS.