

**SPURWING GREENS ORCHARD/GROVE SUB-ASSOCIATION INC.**

**Resolution of The Board of Directors Regarding**

**COLLECTION OF UNPAID CHARGES**

**I. DEFINED TERMS**

- A. Assessments**, as used in this Resolution, include all amounts validly assessed against a Lot or Unit pursuant to the Governing Documents.
- B. Association** is *Spurwing Greens Orchard/Grove Sub-Association Inc.*, a nonprofit corporation organized under the laws of the State of Idaho.
- C. Attorney** refers to the lawyer or law firm representing the Association, at present Vial Fotheringham LLP.
- D. Board** refers to the Board of Directors of the Association, duly elected pursuant to the Governing Documents.
- E. Bylaws** refer to the properly adopted bylaws of the Association.
- F. Declaration** is the *Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Spurwing Greens Orchard/Grove Subdivision*, recorded in the records of Ada County, State of Idaho and all Supplements and Amendments thereto.
- G. Governing Documents** include the Declaration, Bylaws, Rules and Regulations, any Board Resolution, or otherwise adopted statements of corporate governance or intent.
- H. Owner** refers to the owner or owners, in law or equity, of any Property included in the Declaration, including particularly any owners recorded on title in the records of Ada County, State of Idaho.
- I. Property** refers to the individually-owned units or lots subject to the Declaration.

**II. LEGAL AUTHORITY**

- A. Rule Enforcement.** The Association is authorized by Article VI, Section 6.05, Paragraph (e) of the Declaration to adopt rules and regulations.
- B. Assessment Collection.** Pursuant to Article VI, Section 6.05 Paragraph (a), Article VIII, Section 8.01 and Article IX, Section 9.01 of the Declaration, the Association can assess each Property and collect those assessments.
- C. Penalties.** Pursuant to Article VIII, Section 8.08 of the Declaration; the Association can assess interest, late fees, fines and/or other penalties for late payments of assessed fees.
- D. Continuing Lien.** Pursuant to Article VIII, Section 8.01 and Article IX, Section 9.03 of the Declaration all assessments, together with interest, attorney fees and costs of collection shall be a continuing lien upon each Property so assessed. Attorney is hereby explicitly authorized to record a notice of said lien on behalf of the Association, and record this Resolution if needed.
- E. Foreclosure.** Pursuant to Article IX, Section 9.04 of the Declaration, the Board may opt to foreclose its lien on a Property.
- F. Legal Action.** Pursuant to Article VI, Section 6.05, Paragraph (b) and Article IX, Section 9.01 of the Declaration, the Board may opt to bring a legal action against the Owner for unpaid assessments.
- G. Legal Fees.** Pursuant to Article VIII, Section 8.01, Article IX, Sections 9.01 and 9.04 of the Declaration, the delinquent Owner shall be obligated to pay reasonable fees and costs, including attorney fees, incurred in collecting delinquent and unpaid assessments, regardless of whether

foreclosure or legal action is commenced.

### III. ASSESSMENTS AND PENALTIES

**A. Due Date.** Assessments shall be due and payable in advance on the first day of the first month of each calendar quarter, unless some other due date is established by the Board. Assessments shall be delinquent if not paid in full within fifteen (15) days after the due date.

**B. Interest.** Any assessment, if not paid when due, shall bear interest at an annual rate as shall be set by the Board from time to time, or if none is so set, at an annual rate of twelve percent (12%). Such interest shall commence on the date the assessment becomes due and payable.

**C. Late Fee.** In addition to the interest charge the Board may, in accordance with rules and regulations promulgated by it, impose additional fines or charges for the failure of an Owner to timely pay any Assessment when due. The right of the Board to charge interest or impose additional fines or charges shall be in addition to, and in lieu of, any other right of enforcement or sanction available to the Board in the event of non-payment of an Assessment.

### IV. COLLECTION PROCESS

**A. Uniform.** Each assessment shall be collected promptly and in a uniform manner.

**B. Notice.** If any assessment remains unpaid by an Owner for more than thirty (30) days from the due date for its payment, the Board (or its manager) shall send a notice to the Owner indicating the amount due, including notice of any late fees and interest, and demand immediate payment. *See* Exhibit "A" attached hereto for an example notice.

**C. Turnover.** If any assessment remains unpaid by the Owner for more than sixty (60) days from the due date, and shall be greater than \$300 or include balances more than one year old, the Board shall turn over collection to the Attorney.

**D. Attorney Demand.** The Attorney shall: (a) send a written demand for payment and any notice as required by the federal Fair Debt Collection Practices Act, if applicable; (b) prepare and record a lien against the Owner's unit in the name of the Association; (c) notify the Owner within five (5) days of recording that the lien has been recorded; and (d) may notify any first mortgage or trust deed holder of the Owner's default, if applicable. The lien amount shall include all collection costs to date, including attorney's fees and the cost of preparing and recording the lien, any notice of lien required by law, and any notice to a first mortgage holder, if applicable. The demand for payment shall notify the Owner of the Owner's liability for payment of charges imposed by Attorney to cover fees and costs associated with all collection efforts. The demand for payment shall include all collection costs to date. The Attorney may also charge the Owner a reasonable fee to draft and record a lien release upon satisfaction of the amount owed.

**E. Ten Day Warning.** If any assessment remains unpaid by the Owner thirty (30) days after the date of Attorney's demand, Attorney shall send Owner a ten (10) day demand letter for payment notifying the Owner that if full payment is not received within ten (10) days of the date of the letter the Association intends to file suit to either obtain a money judgment or foreclose on the lien. The demand shall include the updated amount owing, including all collection costs to date.

**F. Lawsuit Or Foreclosure.** If any assessment remains unpaid by the Owner ten (10) days after the Attorney's ten-day demand letter or notice of intent to file suit, the Attorney shall file suit for a money judgment, unless the Board, after recommendation by Attorney, determines that lien foreclosure is advisable under the circumstances. In such cases, the Attorney may file a lawsuit for a money judgment, for foreclosure, or for both a money judgment and foreclosure, as permitted by

applicable law.

**G. Post-Judgment Collection.** If the Association is successful in obtaining a money judgment, Attorney shall collect on the judgment in this order, unless Attorney determines other actions or another order of collection is appropriate under the circumstances: (a) file and send a ten (10) day demand to pay judgment; (b) garnish accounts, wages, and rents; (c) levy against any personal and real property; and (d) levy against the unit. Additional steps may be necessary to determine the availability and location of the judgment debtor's assets. If the Association is successful in a suit to foreclose on the lien, Attorney shall proceed as necessary to complete the foreclosure unless otherwise directed by the Board.

**H. Costs Assessed.** All legal fees and costs incurred in the collection of the account are hereby assessed against the delinquent Owner and Property, to be due and payable at the time they are charged by Attorney.

**I. Attorney Communication.** After an Owner has been turned over to the Attorney, all contacts and contracts with the delinquent Owner regarding late assessments shall be through Attorney. Neither the Board, nor any of its agents, shall discuss the collection of assessments directly with the Owner after turnover to the Attorney, unless the Attorney is present or has consented to the contact and contract.

**J. Payment Plans.** Attorney shall have the discretion to enter into an installment payment plan with a delinquent Owner in appropriate circumstances. Any payment plan providing for a duration in excess of twelve (12) months shall require approval of the Board president or the Board's manager.

**K. Post-Turnover Payments.** Attorney, in its initial demand notice, shall communicate to Owner that the account has been turned over to it for collection, and that all Association payments are to be made to Attorney until the account has been brought current. The Association hereby grants to Attorney its limited power of attorney to endorse for deposit checks made payable to the Association (or its agent management company, if any) in satisfaction of accounts sent to Attorney for collection. Attorney shall deposit all payments in its trust account. All amounts collected shall be disbursed by Attorney according to the provisions of the Association and Attorney representation agreement. The Association further directs its manager or accountant, if any, to forward any payments received from an Owner following turnover directly to the Attorney until the balance is paid in full.

**L. Additional Remedies.** Nothing in this Resolution precludes the Board from taking further action in the collection of unpaid assessments permitted by the Association's governing documents or applicable law, including, but not limited to, adopting or enforcing rules regarding the termination of utility services paid for out of assessments of the Association and access to and use of recreational and service facilities available to Owners and, after giving notice and an opportunity to be heard, terminate the rights of any Owners to receive such benefits or services until the correction of any violation covered by such rule has occurred.

**M. Notice To Owners.** A copy of this Resolution shall be mailed or hand-delivered to each Owner prior to the turnover of any Owner's account to the Attorney.

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ATTEST:

*David W. Turnbull*  
President, Board of Directors

*Rebecca A. Hanks*  
Secretary, Board of Directors

Printed Name: DAVID W. TURNBULL

Printed Name: Rebecca A. Hanks

Date: JAN. 6. 2014

County of Ada            )  
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State of Idaho            )

The above-named President personally appeared before me and, upon presenting proof of identity, acknowledged that the Association has resolved and authorized Attorney as above indicated.

Subscribed and sworn to before me on <sup>January</sup> ~~November~~ 6, 2014.

*Amanda McCurry*  
Notary Public for Idaho

My commission expires: 4/15/2017

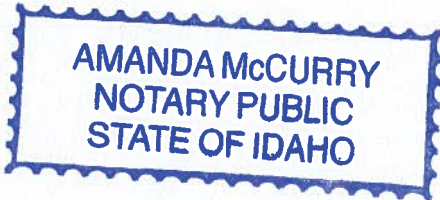


Exhibit "A"

SAMPLE

SpurWing Greens Orchard-Grove  
12601 W. Explorer Drive  
Suite 200  
Boise, ID 83713

**OPEN ITEM STATEMENT**

**Property: 1234 N. Portbush Place**

John & Jane Doe  
1234 N. Portbush Place  
Meridian, ID 83646

Date: 02-01-2014  
Account: Doe 1234

Amount enclosed: \_\_\_\_\_

**Please enclose this portion with your remittance.  
If payment has already been sent, disregard this notice. Thank you.**

Make checks payable to:  
SpurWing Greens Orchard-Grove  
12601 W. Explorer Drive  
Suite 200  
Boise, ID 83713

Statement for:  
John & Jane Doe  
1234 N. Portbush Place  
Meridian, ID 83646

Statement date  
02-01-2014

<u>Unit</u>	<u>Due Date</u>	<u>Description</u>	<u>Amount</u>
3/3/3	01-01-2014	Regular Assessment	1,020.00
3/3/3	02-01-2014	Late Charge	19.45
		Balance:	<u><u>1,039.45</u></u>

**Delinquency Notice**

Our records indicate you have an outstanding balance. Please pay your balance in full within 15 days in order to avoid collections where a lien will be placed upon your property and further fees incurred.

For questions: 208.378.4000; [hoa@brightoncorp.com](mailto:hoa@brightoncorp.com)

**Payment due upon receipt.**

**Please pay by due date to avoid late charges.**