

**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
AIRPORT BUSINESS CENTER**

**Table of Contents**

| <b>ARTICLE</b> |                                                                 | <b>PAGE</b> |
|----------------|-----------------------------------------------------------------|-------------|
| <b>I</b>       | <b>General Declaration</b>                                      |             |
|                | 1.1 Declaration of Covenants, Conditions and Restrictions       | 1           |
|                | 1.2 Additional Land                                             | 1           |
| <b>II</b>      | <b>Definitions</b>                                              |             |
|                | 2.1 Airport                                                     | 2           |
|                | 2.2 Airport Business Center ("ABC")                             | 2           |
|                | 2.3 Campus within the Park ("Campus")                           | 2           |
|                | 2.4 Common Area(s)                                              | 2           |
|                | 2.5 Declarant                                                   | 2           |
|                | 2.6 Declaration                                                 | 2           |
|                | 2.7 Improvement(s)                                              | 2           |
|                | 2.8 Lot                                                         | 2           |
|                | 2.9 Owner                                                       | 2           |
|                | 2.10 Owners' Committee                                          | 2           |
|                | 2.11 Site                                                       | 2           |
|                | 2.12 Streets                                                    | 2           |
| <b>III</b>     | <b>Regulation of Operations and Uses</b>                        |             |
|                | 3.1 Permitted Uses                                              | 3           |
|                | 3.2 Prohibited Activities                                       | 3           |
|                | 3.3 Condition of Property, Compliance with Laws and Regulations | 3           |
|                | 3.4 Maintenance and Repairs                                     | 4           |
|                | 3.5 Storage and Refuse Collection Areas                         | 4           |
|                | 3.6 Utilities and Public Improvements                           | 4           |
|                | 3.7 Utility Service and Antennas                                | 5           |
|                | 3.8 Excavation                                                  | 5           |
|                | 3.9 Partition, Subdivision and Lot-line Adjustments             | 5           |
| <b>IV</b>      | <b>Design Controls</b>                                          |             |
|                | 4.1 Approval of Plans Required                                  | 5           |
|                | 4.2 Basis for Approval                                          | 6           |
|                | 4.3 Review Fee                                                  | 6           |
|                | 4.4 Review Procedure                                            | 7           |
|                | 4.5 Approval                                                    | 7           |
|                | 4.6 Design Review by Governmental Authorities                   | 7           |
|                | 4.7 Design Guidelines                                           | 7           |
|                | 4.8 Special Architectural and Site Design Considerations        | 7           |
|                | 4.9 Purpose and Effect of Approval                              | 8           |
|                | 4.10 Declarant Not Liable                                       | 8           |
| <b>V</b>       | <b>Development Standards</b>                                    |             |
|                | 5.1 Site Coverage                                               | 8           |
|                | 5.2 Minimum Setback                                             | 8           |
|                | 5.3 Exceptions to Setback Requirements                          | 9           |
|                | 5.4 Landscape and Pathway Easement and Public Utility Easement  | 9           |
|                | 5.5 Landscaping                                                 | 9           |
|                | 5.6 Sidewalks                                                   | 10          |

| <b>ARTICLE</b> |                                                                 | <b>PAGE</b> |
|----------------|-----------------------------------------------------------------|-------------|
|                | <b>Development Standards (cont'd)</b>                           |             |
|                | 5.7 Parking, Loading and Service Areas                          | 10          |
|                | 5.8 Building Height                                             | 11          |
|                | 5.9 Exterior Building Materials and Colors                      | 11          |
|                | 5.10 Mechanical and Electrical Equipment                        | 11          |
|                | 5.11 Fences and Walls                                           | 11          |
|                | 5.12 Lighting                                                   | 12          |
|                | 5.13 Signs                                                      | 12          |
| <b>VI</b>      | <b>Construction of Improvements</b>                             |             |
|                | 6.1 Prosecution of Work                                         | 12          |
|                | 6.2 Completion of Work                                          | 12          |
|                | 6.3 Inspections                                                 | 12          |
|                | 6.4 Maintenance during Construction                             | 13          |
|                | 6.5 Temporary Structures                                        | 13          |
| <b>VII</b>     | <b>Maintenance of Common Areas and Facilities</b>               |             |
|                | 7.1 Maintenance Responsibility                                  | 13          |
|                | 7.2 Maintenance Operator                                        | 13          |
| <b>VIII</b>    | <b>Assessments</b>                                              |             |
|                | 8.1 Purpose of Assessments                                      | 14          |
|                | 8.2 Amount of Assessments                                       | 14          |
|                | 8.3 Allocation of Assessments                                   | 15          |
|                | 8.4 Payment of Assessments                                      | 15          |
|                | 8.5 Creation of Lien and Personal Obligation of Assessments     | 15          |
|                | 8.6 Nonpayment of Assessments                                   | 15          |
| <b>IX</b>      | <b>Owners' Committee</b>                                        |             |
|                | 9.1 Declarant's Right to Exercise Control                       | 17          |
|                | 9.2 Formation of Owners' Committee                              | 17          |
|                | 9.3 Selection of Members                                        | 17          |
|                | 9.4 Declarant's Responsibilities                                | 18          |
|                | 9.5 Legal Form, Owners' Committee                               | 18          |
| <b>X</b>       | <b>Duration and Modification</b>                                |             |
|                | 10.1 Duration                                                   | 18          |
|                | 10.2 Amendment and Repeal                                       | 18          |
|                | 10.3 Replat                                                     | 19          |
| <b>XI</b>      | <b>Enforcement</b>                                              |             |
|                | 11.1 Right of Entry                                             | 19          |
|                | 11.2 Default and Remedies                                       | 19          |
|                | 11.3 Waiver                                                     | 20          |
|                | 11.4 Costs of Enforcement                                       | 20          |
|                | 11.5 Non-Exclusive Rights of Enforcement                        | 20          |
| <b>XII</b>     | <b>Miscellaneous</b>                                            |             |
|                | 12.1 Constructive Notice and Acceptance                         | 20          |
|                | 12.2 Delegation and Assignment of Declarant's Rights and Duties | 21          |
|                | 12.3 No Liability                                               | 21          |
|                | 12.4 Notices                                                    | 21          |
|                | 12.5 Declarant's Approval or Consent                            | 21          |
|                | 12.6 Captions                                                   | 21          |
|                | 12.7 Effect of Invalidity                                       | 21          |

**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
AIRPORT BUSINESS CENTER**

466 - 1909

This Declaration is made this 11th day of September, 1997 by Airport Business Center Associates, L.L.C., an Oregon limited liability company, as owner of that certain real property in the City of Redmond, Deschutes County, Oregon, described in Exhibit "A" attached hereto and by this reference incorporated herein.

The property is being developed as a planned business and industrial park known as Airport Business Center. It is the desire and intention of Declarant to subject the real property in said business park to certain covenants, conditions and restrictions for the benefit of the property, Airport Business Center Associates, L.L.C., and the purchasers of lots in Airport Business Center. Said covenants, conditions and restrictions are intended to be common to all lots in Airport Business Center and are being established to:

- insure orderly development, efficiency and continuity in accordance with a master plan for subdivision, improvement, maintenance and operation of the real property;
- enhance and protect the value, desirability and attractiveness of the real property;
- promote quality, compatibility and creativity in architectural and site design;
- preserve natural features of the environment;
- set forth minimum standards for development, use, and maintenance; and
- provide a formal mechanism for exercise of controls and enforcement.

In the event any development standard or use restriction of this Declaration should conflict with an applicable ordinance of the City of Redmond, the more restrictive standard or requirement shall apply.

**I      GENERAL DECLARATION**

**1.1      Declaration of Covenants, Conditions and Restrictions**

Declarant hereby declares that Airport Business Center is now held and shall hereafter be conveyed, built-upon, encumbered, leased, occupied, operated, and used solely in compliance with the conditions, covenants and restrictions (hereafter referred to as "CC&R's") set forth in this Declaration. These CC&R's are declared and agreed to be in furtherance of a master development plan for the subdivision and shall apply to and bind all owners, lessees, licensees, occupants, and users of the property, their successors in interest as set forth herein, and shall constitute covenants running with the land.

**1.2      Additional Land**

Declarant may add contiguous land now or hereafter owned by Declarant by recording in the county records a document describing the additional land and stating it is subject to these CC&R's. Upon recording, the additional land shall be a part of Airport Business Center.

## II DEFINITIONS

The following definitions shall apply to the use of the associated words, acronyms and phrases in this Declaration:

- 2.1 Airport: Redmond Municipal Airport, also known as Roberts Field.
- 2.2 Airport Business Center ("ABC"): All of the real property now or hereafter made subject to this declaration.
- 2.3 Campus within the Park ("Campus"): That portion of the real property designated Lots 5 through 12 as shown on Plat Number SUB-97-05 recorded October 21, 1997 as now existing or hereafter replatted, together with any additional lots added to the Campus by Declarant.
- 2.4 Common Area(s): That portion of the real property now existing or hereafter designated as common area for the use and enjoyment of all owners of lots within ABC in common; provided that such common area shall be limited to open space, common signage or park-like amenities including those referenced in Section 5.4 of this Declaration.
- 2.5 Declarant: Airport Business Center Associates, L.L.C., an Oregon limited liability company, and to the extent provided in Section 12.2 of this Declaration, its successors and assigns.
- 2.6 Declaration: This declaration of Covenants, Conditions and Restrictions for Airport Business Center, as may from time to time be amended or supplemented.
- 2.7 Improvement(s): All buildings, outbuildings, roads, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, water lines, sewers, electrical and gas distribution facilities, telephone and communications lines and facilities, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, loading areas and all other structures, construction, installations, and landscaping of every type and kind, whether above or below the land surface.
- 2.8 Lot: A lot or parcel within ABC legally created by partition or subdivision and suitable as a building site.
- 2.9 Owner: The holder of a fee simple interest in a Site, or the holder of a vendee's interest in a Site under a recorded installment contract of sale. The holder of any leasehold interest in a Site, a building, or a portion of a building is not an Owner. If there are two or more co-owners of a Site, they shall collectively constitute only one Owner for purposes of these CC&R's, and shall have only one vote on any matter on which Owners may vote as provided in Section 9.3(b).
- 2.10 Owners' Committee: Committee of owners formed pursuant to Article IX.
- 2.11 Site: A contiguous area of land comprised of one or more lots held by the same Owner for a single improvement or integrated separate improvements.
- 2.12 Streets: Any street, highway or other thoroughfare within or adjacent to ABC and shown on any recorded subdivision or partition map, or survey map of record, whether designated thereon as street, boulevard, place, drive, road, terrace, way, land, circle or otherwise.

### III REGULATION OF OPERATIONS AND USES

#### 3.1 Permitted Uses

Any business or industrial operation and use consistent with the zoning ordinances of the City of Redmond will be permitted provided Declarant consents thereto. Approved uses shall be performed or carried out entirely within a building that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to other Sites. Certain activities which cannot be carried on within a building may be permitted provided Declarant specifically consents thereto, and further provided such activity is screened or otherwise mitigated so as not to be discernible from or produce a nuisance to neighboring Sites and streets. Changes in use shall be approved, disapproved or conditionally approved after receipt of all information that would be reasonably required for a prudent business decision.

#### 3.2 Prohibited Activities

- (a) No use will be conducted on a Site, nor shall any materials or products be manufactured, processed or stored thereon which shall, in the opinion and sole discretion of Declarant, cause an undue fire or health hazard, be offensive or detrimental to any adjacent property or to its occupants, or which shall constitute a nuisance such as, but not limited to, the emission of noxious odors, toxic or non-toxic matter, dust, gases, smoke, or cause excessive noise, vibration, electro-mechanical disturbance, radiation, intense glare or heat, air or water pollution, or other conditions which may adversely affect the welfare of persons within the area, the intended use of their property, or which may be harmful to the property, including vegetation, or violate the intent of these CC&R's. Customary and ordinary construction activity performed in accordance with all applicable laws and without undue interference with neighboring properties shall not be considered a nuisance.
- (b) No use shall be permitted which would interfere with landing or taking off of aircraft, constitute an Airport hazard, or otherwise violate applicable federal, state or local regulations governing properties or uses in the vicinity of the Airport. Such hazards include but are not limited to uses that create electrical interference with navigational signals or radio communication between the Airport and aircraft, make it difficult for pilots to distinguish between Airport lights and others, result in glare in the eyes of pilots using the Airport, impair visibility in the vicinity of the Airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the Airport.

#### 3.3 Condition of Property, Compliance with Laws and Regulations

The Owner of each Site shall at all times keep it and the buildings, improvements and appurtenances thereon in a safe, clean, neat and sanitary condition and comply at its own expense, in all respects, with all applicable governmental statutes, ordinances, regulations, requirements, and directives including but not limited to applicable health, fire, safety, zoning, building and environmental laws.

3.4 Maintenance and Repairs

466 - 1912

Each Site and all improvements thereon shall at all times be maintained by the Owner in first-class condition, repair and appearance, normal wear and tear excepted. Loading and service areas shall be kept clean. Landscaping shall be maintained in a slightly, well-kept and weed-free condition. An Owner shall at regular and frequent intervals remove at its own expense any rubbish of any character whatsoever which may accumulate upon such Site. All repairs, alterations, replacements, or additions to improvements shall be (i) made pursuant to applicable building codes and permit requirements, (ii) made in a good and workmanlike manner and (iii) of a quality at least equal to the original work. The necessity and adequacy of such repairs shall be measured by the same standard as set forth herein for the original construction and maintenance, and in compliance with any design guidelines which may be set by Declarant.

3.5 Storage and Refuse Collection Areas

- (a) No materials, supplies or equipment shall be stored on a Site except inside a closed building, or behind a visual barrier screening such areas so that they are not visible from neighboring streets or property. Any outdoor storage areas shall be located upon the rear portions of a Site unless otherwise approved by Declarant in its sole discretion.
- (b) No storage tanks shall be permitted on a site without the approval of Declarant in its sole discretion and receipt of all necessary approvals and permits from any governmental agency having jurisdiction.
- (c) No trailer shall be used for storage purposes on a Site except for storage of building materials during construction. Trucks or trailers parked pending loading or unloading, or for use in the normal course of business, shall not be considered storage.
- (d) All outdoor refuse collection areas shall be enclosed by a constructed wall of durable material compatible with that of the building. Enclosures shall be sufficient in size to contain all refuse generated on a Site and shall be kept closed. It shall be the responsibility of an Owner to promptly return trash receptacles to the enclosure and remove any debris which may have scattered as a result of collection activity. Refuse collection areas shall be located so as to provide convenient access and be properly screened so as to be as inconspicuous as reasonably possible.

3.6 Utilities and Public Improvements

Declarant reserves the sole right to grant consents for the construction and operation of utility mains and backbone systems including, but not limited to, gas, electricity, telecommunications, above- or below-ground facilities, conduits and pipes in and upon any and all streets now existing or hereafter established upon which any portion of ABC may now or hereafter front or abut. Declarant reserves the exclusive right to grant consents and to petition the proper authorities for any and all street improvements including, but not limited to, grading, sidewalks, paving, sewer and water installation, whether it be on the surface or subsurface, and no Owner shall enter into any contract or agreement with any governmental body or utility agency with reference to the installation of public improvements without Declarant's consent.

### 3.7 Utility Service and Antennas

No sewer, water, drainage, lines, wires or other devices for the communication or transmission of electric current, including telephone, television, microwave or radio signals shall be constructed, placed or maintained anywhere in or upon a Site unless the same shall be contained in conduits or cables constructed, placed and maintained underground or concealed in or under buildings or other approved structures, provided that electrical transformers may be permitted if properly screened and approved by Declarant. No antenna, transmitter or satellite "dish" shall be placed on any improvement within a Site unless (i) such antenna, transmitter or satellite "dish" shall be so located or appropriately screened that its presence is as inconspicuous as possible, and (ii) the consent of Declarant shall first be obtained. Temporary electric and telephone service incidental to the construction of approved improvements is permitted although not in compliance with these requirements.

### 3.8 Excavation

No excavation of a Site shall be made except in connection with construction of an approved improvement, and upon completion, exposed openings shall be backfilled and disturbed ground shall be graded, leveled, and restored to its original condition in accordance with approved plans.

### 3.9 Partition, Subdivision and Lot-line Adjustments

No Lot shall be partitioned or subdivided, nor shall any lot line be adjusted, without the prior approval of Declarant.

## IV **DESIGN CONTROLS**

### 4.1 Approval of Plans Required

No improvements shall be erected, placed, altered, maintained or permitted to remain on any Site until the plans referenced below have been submitted by an Owner and approved by Declarant in writing. Approval shall be based upon final plans and specifications prepared by licensed architects, engineers or other qualified professionals. Plan submissions will also be required for significant revisions, alterations, additions, or changes of use for approved or existing improvements. Plans must be drawn to an easily-readable scale such as 1"=20' unless otherwise noted, and shall be submitted to Declarant prior to submittal to any governmental authority. Submittal shall consist of four (4) copies of the following:

- (a) Site plan showing the location, size, configuration and layout of any building, structure, facility (or, where applicable, any alteration, addition, modification or destruction thereto) and appurtenant facilities for parking, tanks, storage, loading, deliveries, vehicular and pedestrian traffic and circulation, including the location of all utility lines.

- (b) Architectural plans, elevations and sections in no less detail than required by the appropriate governmental authority for issuance of a building permit showing the nature, style and dimensions of any building, structure, facility, fence, wall, barrier or deck (or, where applicable, any alteration, addition, modification or destruction thereof), including the exterior material types, colors, appearance, and the type of screening for roof-mounted fixtures and for exterior equipment, tanks and other exterior storage areas. Material changes in approved plans must be similarly submitted to and approved by Declarant. Minimum scale 1/8"=1'.
- (c) Topographical (grading) plan showing the elevation, slope and grade of any site work (including the nature, location and utilization of any removal or filling of soil) proposed to be done in conjunction with any proposed improvement, development, modification or destruction of any building, structure, or facility or of any planting, installation or removal of any landscaping, vegetation, ground cover, or natural features such as rock outcroppings.
- (d) Landscape plan showing the nature, type, size, location and layout of all landscaping, vegetation or ground cover, landscape or site lighting, walks, major existing vegetation and irrigation systems proposed to be planted or installed (or, where applicable, removed or destroyed), together with the location and design details of any proposed signing.
- (e) Description of proposed construction staging and access areas, and any temporary structures.

#### 4.2 Basis for Approval

In exercising its right of approval, Declarant shall consider, among other things, the following:

- (a) adequacy of site dimensions for the proposed improvement
- (b) nature and location of improvements and uses upon neighboring Sites
- (c) exterior appearance of architectural style, proportions, height, bulk, color schemes, textures and materials
- (d) relationship to topography of Site and neighboring Sites
- (e) compatibility and harmony of external design with neighboring structures
- (f) proper facing of main elevation with respect to nearby streets
- (g) design and effect of parking area or roadways on traffic within ABC
- (h) adequacy of storm water retention and drainage
- (i) adequacy of screening of equipment installations and service areas
- (j) compliance with the standards of Article V below
- (k) conformity and appropriateness to ABC's development concept and design guidelines.

#### 4.3 Review Fee

Declarant may establish a fee for reviewing an Owner's plans and specifications submitted pursuant to Section 4.1. Said review fee shall reasonably approximate the cost incurred in connection with such review.

#### 4.4 Review Procedure

If Declarant fails either to approve or disapprove properly-submitted plans and specifications within thirty (30) days after receipt of all submittals required by Section 4.1, it shall be conclusively presumed that Declarant has approved said plans and specifications; provided, however, that if, within the thirty (30)-day period, Declarant gives written notice of the fact that more time is required for the review of such plans and specifications, there shall be no presumption that the same are approved until the expiration of such reasonable period of time as is set forth in the notice. Declarant shall not arbitrarily or unreasonably withhold its approval of plans and specifications.

#### 4.5 Approval

Declarant may approve plans and specifications as submitted, or as altered or amended, or it may grant its approval to the same, subject to specific conditions. Upon approval or conditional approval, a copy of such plans and specifications, together with any conditions, shall be deposited for permanent records with Declarant, and a copy of such plans and specifications, bearing such approval together with any conditions, shall be returned to the applicant submitting the same.

#### 4.6 Design Review by Governmental Authorities

Any plans or specifications submitted to governmental authorities for purposes of obtaining appropriate use approvals, design review approvals, or building permits which result in a material change from any plans or specifications for which Declarant has previously granted its approval pursuant to Section 4.5 shall be provided to and approved by Declarant prior to commencement of construction.

#### 4.7 Design Guidelines

The development concept for ABC shall be determined by Declarant in its sole discretion. Design guidelines setting forth various aspects of the development concept, in addition to this Declaration, may be published from time to time by Declarant, but Declarant shall not be required to do so. Declarant shall have the right to alter, rescind or amend any published guidelines without prior notice to any party; provided however, that once approval has been given pursuant to Section 4.5 above, work may proceed in accordance with the approved plans and drawings notwithstanding any changes in the development concept. All such guidelines shall be in general conformity with this Declaration.

#### 4.8 Special Architectural and Site Design Considerations

Building programs shall incorporate the following:

- (a) Architectural style, materials and finishes which are contemporary in design and concept, and reflect the quality image of ABC;
- (b) Methods that reduce the large-scale visual impact of buildings and provide relief from large wall expanses;
- (c) Preservation of existing terrain and mature trees, and optimization of view corridors, wherever possible;

- (d) Main building entries which are highlighted and readily visible;
- (e) The use of window patterns, roof forms, indirect accent lighting and other features which enhance individual buildings while retaining a consistency of basic architectural elements among other buildings in the park;
- (f) Harmonious appearance and functionality of buildings located within the Campus, or any campus-like complex on a Site.

#### 4.9 Purpose and Effect of Approval

Declarant's review and approval or denial of plans and specifications are for Declarant's sole benefit and do not constitute a representation or warranty that such plans and specifications are or are not suitable for the purposes for which they are intended, or that they comply with any building or engineering standard, code or ordinance. Each Owner, upon submitting plans and specifications for approval, agrees to indemnify and hold Declarant, its agents, contractors, successors and assigns from and against any and all claims, damages, expenses, liabilities or losses arising out of or in any way connected with plans and specifications submitted for review in accordance with Section 4.1.

#### 4.10 Declarant Not Liable

Declarant shall not be liable for any damage, loss, or prejudice suffered or claimed by any person on account of:

- (a) The approval or disapproval of any plans, drawings, and specifications, whether or not in any way defective;
- (b) The construction of any improvement, or performance of any work, whether or not pursuant to approved plans and specifications; or
- (c) The development of any Site within ABC.

### V **DEVELOPMENT STANDARDS**

#### 5.1 Site Coverage

The ratio of building coverage to Site area is subject to the approval of Declarant, but in no instance may the ratio exceed fifty percent (50%).

#### 5.2 Minimum Setback

Except as otherwise provided in Section 5.3, no improvements of any kind shall be placed on a Site closer to a property line than herein provided:

- (a) Fifty (50) feet from any property line abutting the Airport Way right-of-way;
- (b) Twenty-five (25) feet from any property line abutting the Salmon Drive right-of-way;
- (c) Fifteen (15) feet from any property line abutting the First Street, Fourth Street, Sixth Street or Umatilla rights-of-way, which is twenty-five (25) feet from the curb;
- (d) Ten (10) feet from any property line that does not abut a public street.

### 5.3 Exceptions to Setback Requirements

The following improvements, or parts of improvements, are specifically excluded from the setback requirements set forth in Section 5.2:

- (a) Unsupported roof overhang, subject to approval by Declarant;
- (b) Steps and walkways;
- (c) Paving and associated curbing, except that no vehicle parking shall be permitted in front or side yard setbacks unless approved by Declarant;
- (d) Landscaping and irrigation systems;
- (e) Architectural fences, walls, and sign elements except that Declarant's specific approval is required when placed within a front yard setback;
- (f) Underground utility facilities and their above-ground appurtenances.

### 5.4 Landscape and Pathway Easement and Public Utility Easement

Declarant reserves a perpetual non-exclusive easement fifteen (15) feet in width over each lot abutting First Street, Fourth Street, Sixth Street and Umatilla parallel to and contiguous with the right-of-way of each such street. The easement area, together with the ten (10) foot public right-of-way between the property line and the curb, shall be used for (i) the installation and maintenance of underground utilities and their above-ground appurtenances, and (ii) construction, maintenance, repair and use of a unified perimeter streetscape and public pedestrian/bicycle pathway. Said easement area together with the ten (10) foot public right-of-way between the property line and the curb shall be considered common area, except that it shall be maintained in accordance with Declarant's standards by Owner at Owner's expense unless and until Declarant contracts for common maintenance as a common expense. The streetscape shall be designed by Declarant and may include landscape materials, sign elements and appurtenant lighting, irrigation, and a meandering public pedestrian/bicycle pathway as a continuous linear system. The pathway, irrigation system and landscaping shall be installed in accordance with Declarant's design concept either by Declarant or Owner, at Declarant's option, and the cost therefor shall be paid by the Owner of the Lot on which the improvements are made. Declarant reserves the right to form a local improvement district ("L.I.D.") for the construction of all or any portion of the streetscape, and each Owner hereby consents to the formation of such an L.I.D.; provided that any Owner who has constructed the streetscape on a Lot at its cost shall be excluded from the L.I.D. with respect to such Lot. It shall be the responsibility of Owner to maintain the flow of the irrigation system during construction of vehicular access drives, the location of which shall be subject to approval of Declarant, and to restore grading, the meandering pathway, landscaping, and irrigation system to its original condition. Notwithstanding the foregoing, Declarant may permit parking on the five (5) foot strip of the easement area most distant from the right-of-way in the case of Lots less than 30,000 square feet in area.

### 5.5 Landscaping

Each Site shall be landscaped in accordance with the approved plans and specifications and in conformity with the criteria and requirements set forth below:

- (a) A minimum of fifteen percent (15%) of the area within the property lines of a Site shall be devoted to landscaping, using a combination of trees, shrubs and turf or ground cover in accordance with any landscaping guidelines which Declarant may establish.

- (b) Landscaping shall be installed and operable within sixty (60) days of issuance of a certificate of occupancy or completion of construction, whichever first occurs, or as soon thereafter as weather permits.
- (c) Each Owner shall landscape and maintain any unpaved areas in the front yard setbacks not otherwise improved or maintained by means of the Landscape/Pathway Easement set forth in Section 5.4 above, and in the side and rear yard setbacks.
- (d) An Owner shall also be responsible for landscaping and maintaining any right-of-way areas not otherwise improved between the edge of the improved street (such as Airport Way or Salmon Drive) and the property line. All such right-of-way improvements shall be in strict accordance with Declarant's design concept and subject to Declarant's written approval.
- (e) Existing mature trees are to be preserved wherever possible.
- (f) Trees or plants which might unduly attract birds and create hazards for aircraft are not permitted. Such prohibited trees and plants include, but are not limited to, those that promote nesting, or produce fruits, berries or other food for birds. Trees are to be maintained so as not to exceed a height of fifty (50) feet.

#### 5.6 Sidewalks

On-site pedestrian circulation systems shall be provided to meet the needs of on-site users in a safe manner and using all-weather-efficient materials. Where usage dictates, connections should be made between Site and perimeter pedestrian circulation systems to provide an overall integrated means of on-site movement.

#### 5.7 Parking, Loading and Service Areas

Each Site shall provide adequate employee and business parking, loading and delivery facilities to accommodate all operations or uses without requiring on-street parking or maneuvering. If parking requirements increase as a result of change in use or expansion of an existing use, additional off-street parking shall be provided to satisfy the requirements of this section. All parking areas shall conform to the following standards:

- (a) Parking areas shall be paved, curbed and striped in accordance with approved plans and specifications, and shall provide, in addition to parking spaces, adequate driveways and space for the movement of vehicles.
- (b) No parking spaces shall be located on or permitted within front or side yard setback areas unless approved by Declarant.
- (c) Parking area layouts should anticipate the practicality of snow removal.
- (d) Loading docks, delivery and service areas shall be located and screened to restrict to the greatest extent practicable their view from adjacent streets and neighboring Sites.

### 5.8 Building Height

The maximum height of all structures within ABC shall be thirty-five (35) feet provided that Declarant may approve a greater height subject to approval by the City of Redmond and the Federal Aviation Agency, if applicable.

### 5.9 Exterior Building Materials and Colors

Exterior walls must be finished with building materials of a texture, character and color compatible with the surrounding natural elements. Consideration should be given to ease of maintenance. Declarant shall have the sole right to approve or disapprove materials and colors. Selection shall conform to the following:

- (a) Materials which convey permanence and substance are preferred. Such materials include architectural masonry units, concrete block, natural stone, precast concrete, glass or their equivalent.
- (b) Primary wall surface colors shall be subdued in tone and hue. Complementary accent colors are encouraged in moderation and may be used in conjunction with accent materials or to express corporate identity.
- (c) Finish building materials shall be applied to all sides of a building which are visible to the general public, as well as from neighboring property.
- (d) Metal-clad buildings or buildings with metal exterior features may be permitted if proposed by the architect as part of a high-quality building design; plain corrugated metal-sided buildings are not permitted. Proposed metal-exterior buildings shall receive special scrutiny to ensure that high standards are met and shall require, if approved at all, the incorporation of other building materials and/or design features for contrast and aesthetic appeal.
- (e) Roof treatments may be of any traditional roof material that has a non-glare surface, as approved by Declarant, except that roof designs and materials within the Campus shall be in strict conformance to Declarant's design specifications.

### 5.10 Mechanical and Electrical Equipment

Exterior components of plumbing, processing, heating, cooling and ventilating systems shall be screened from public view to the greatest extent practicable. Screening devices shall appear as integrated parts of the architectural design, such as parapet walls in the case of roof-mounted equipment. Ground-level or other exterior equipment including electrical transformers shall be adequately screened with either plantings or durable enclosures so as to blend with the visual background. In areas where noise is generated by mechanical systems, insulation may be required to reduce the impact on neighboring properties.

### 5.11 Fences and Walls

Fences and walls shall be designed to coordinate with and be appropriate to the overall building style and site design. Fencing layouts and designs are subject to Declarant's approval and will be considered based upon specific Site and use conditions. A perimeter fence defining property lines is discouraged and in no event shall extend beyond the front face of a building.

**5.12 Lighting**

All lighting is to be shielded and confined within property lines, and shall conform to any lighting guidelines which may be set forth by Declarant.

**5.13 Signs**

All proposed exterior signs shall be submitted to Declarant in renderings sufficient to show sizes and placement of proposed signs, materials, colors, and construction details. All signs, whether permanent or temporary, business identification, directional, or street number, are subject to review and approval by Declarant and shall conform to sign criteria which may be established by Declarant, as amended from time to time. No sign shall be permitted on any Site unless approved by Declarant.

**VI CONSTRUCTION****6.1 Prosecution of Work**

Upon approval from Declarant pursuant to Section 4.5, the Owner receiving such approval shall promptly satisfy any conditions of such approval and shall diligently proceed with the prosecution of all approved excavation, construction or alterations, and landscaping in strict conformity to the approved plans and specifications. If for any reason work has not commenced within one (1) year from the date of Declarant's approval, approval shall cease to be effective.

**6.2 Completion of Work**

All construction, reconstruction, refinishing or alterations of any improvement including landscaping shall be completed within one (1) year from the commencement of the work, unless otherwise agreed by Declarant.

**6.3 Inspections**

Declarant shall have the right, upon reasonable prior notice to Owner, to inspect any work related to any building, structure or facility or any landscaping or other improvements within ABC to determine its conformity with approved plans and specifications. In the event Declarant determines in good faith that certain work is non-conforming, Declarant may issue a stop work notice, without the necessity of court order, which shall require the Owner to correct all non-conforming work specified in the notice before the remainder of the proposed work may be completed. Continued work without correction of any such non-conforming items shall be deemed a breach of these CC&R's. Any inspection or correction conducted or instituted by Declarant shall have the same purpose and effect as Declarant's review and approval of plans and specifications as set forth in Section 4.9.

**6.4 Maintenance during Construction**

It shall be the responsibility of each Owner to insure construction sites are kept free of unsightly accumulations of rubbish and scrap materials, that construction materials, trailers, shacks and the like are kept in a neat and orderly manner, and that dust is controlled through regular and frequent watering. Prior to installation of approved landscaping, vegetation on any unimproved portion of a Site must be kept cut below eight inches (8") in height, excluding native shrubs and trees, unless otherwise approved by Declarant.

**6.5 Temporary Structures**

No temporary buildings or other temporary improvements, including trailers, tents or shacks shall be permitted on Site. Temporary improvements used solely in connection with the construction or sales of permanent approved improvements may be permitted provided they are located as inconspicuously as possible and are removed immediately after completion of such construction.

**VII MAINTENANCE OF COMMON AREAS AND FACILITIES****7.1 Maintenance Responsibility**

Until such time as Declarant designates a maintenance operator for all or any portion of the maintenance of common areas, the Owner of each Lot shall maintain and repair all common areas and facilities located upon such Owner's Lot. Such maintenance and repairs include, without limitation:

- (a) Performance of necessary maintenance of landscaping as required within the common areas including the trimming, watering, and fertilization of all grass, groundcover, shrubs and trees; removal of dead or waste material, and replacement of any dead or diseased grass, groundcover, shrubs, or trees; all in accordance with any guidelines established by Declarant;
- (b) Periodic cleaning (including ice and snow removal), maintenance, and repair of the pedestrian/bicycle pathway;
- (c) Maintenance of general public liability insurance against claims for bodily injury, death, or property damage occurring on, in, or about the common areas located on the Owner's lot. The amount and coverage of such insurance shall be determined by Declarant, but in no event shall said insurance afford protection of less than \$1,000,000 combined single limit for bodily injury, death or property damage. Declarant shall be named as an additional insured on such policy.

**7.2 Maintenance Operator**

Declarant shall have the right to designate and employ a maintenance operator to perform all or any portion of the maintenance and repair obligations described above.

## VIII ASSESSMENTS

### 8.1 Purpose of Assessments

Assessments may be made by Declarant to cover the cost of or to establish a reasonable reserve for providing any service or capital expense for the common benefit of the Owners of Lots within ABC. The computation of assessments shall include all actual out-of-pocket expenses to perform such services and the cost of administration thereof. Purposes for which assessments may be imposed shall include but not be limited to the following:

- (a) Costs incurred by Declarant to perform or employ a maintenance operator to perform the obligations set forth in Section 7.1 above;
- (b) Costs of performing maintenance upon any default of an Owner in its obligation under these CC&R's, and costs of enforcement hereunder;
- (c) The amount of any defaulting Owner's assessment not paid when due, and costs incurred to attempt to collect said unpaid amounts;
- (d) All utilities required to operate the common areas to the extent not separately metered;
- (e) Capital improvements to common area and replacement thereof;
- (f) An administrative fee not to exceed ten percent (10%) of all out-of-pocket costs, other than capital improvements or replacements, and not to exceed five percent (5%) of all out-of-pocket costs for capital improvements and replacements.

### 8.2 Amount of Assessments

The amount of assessments shall be determined by Declarant after giving due consideration to current and future costs of implementing these CC&R's. The Declarant shall fix the amount of assessment against each Site for each calendar quarter at least thirty (30) days in advance of such quarter and shall send written notice of the assessment to each Owner at least fifteen (15) days in advance. If Declarant does not send a notice within such time, assessments shall continue at the same level as for the previous quarter. In the event the amount to be assessed for any period exceeds or is less than anticipated actual expenses, Declarant in its discretion may adjust the amount of the assessments accordingly. Each Owner shall be entitled to a copy of the current annual budget and a statement of actual expenses for the preceding calendar year within a reasonable time after request. The amount by which any assessments received in advance from an Owner exceed such Owner's actual share for a billing period, or any amounts later recovered from a defaulting Owner, shall be credited against assessments for the ensuing billing period.

### 8.3 Allocation of Assessments

Assessments shall be allocated to each Lot in proportion to the square footage of such Lot to the square footage of all Lots in ABC excluding dedicated streets.

### 8.4 Payment of Assessments

Assessments shall be paid quarterly in advance within ten (10) days after invoice. Assessments not received within ten (10) days of invoice shall incur a late charge of five percent (5%) of the amount not paid when due.

### 8.5 Creation of Lien and Personal Obligation of Assessments

The Declarant, in its capacity as Owner of all Lots throughout ABC hereby covenants and agrees to pay, and each subsequent Owner of any Site by acceptance of title thereto, whether or not it shall be so expressed in any conveyance of said Site, is deemed to covenant and agree to pay all assessments to be fixed, established, and collected from time to time as herein provided. Such assessments, together with interest thereon, late charges, and the costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon each Site against which each such assessment is made. Each such assessment, together with such interest, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Site at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

### 8.6 Nonpayment of Assessments

#### (a) Delinquency

Any assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the then legal rate. In addition to all legal and equitable rights or remedies, the Declarant may, at its option, bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Site. All remedies shall be considered cumulative and pursuit of one remedy shall not bar pursuit of another. In the event a judgment is obtained, such judgment shall include interest on the assessment, late charges and reasonable attorneys' fees, together with the costs of action.

(b) Notice of Lien

466 • 1924

No action shall be brought to foreclose an assessment lien until at least thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Site, and a copy thereof is recorded by Declarant in the office of the Deschutes County Recorder. The notice of claim of lien must recite a good and sufficient legal description of the Lot, the record owner or reputed owner thereof, the amount claimed (which may at Declarant's option include interest on the unpaid assessment at the legal rate, late charges, plus reasonable attorney fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant. Such lien may be enforced by Declarant in the manner provided by law with respect to foreclosure of liens upon real property, as provided in ORS Chapter 88.

(c) Curing of Default

Upon the timely curing of any default for which a notice of claim of lien was filed by Declarant, Declarant shall file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee determined by Declarant to be adequate to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

(d) Subordination of Assessment Liens

If any Site subject to a monetary lien created by any provision hereof shall be subject to the lien of a mortgage or deed of trust: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage or deed of trust; and (2) the foreclosure of the lien of a mortgage or deed of trust, the sale of the property pursuant to the mortgage or deed of trust or the acceptance of a deed in lieu of foreclosure shall not operate to affect or impair the lien hereof, except that the lien hereof for said charges as shall have accrued up to the foreclosure, sale or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the mortgage or deed of trust and the foreclosure-purchaser or deed-in-lieu-grantee shall take title free of the lien hereof for all said charges that have accrued up to the time of the foreclosure, sale or deed given in lieu of foreclosure, but subject to the lien hereof for all such charges that shall accrue subsequent to the foreclosure, sale or deed given in lieu of foreclosure. Nothing in this paragraph shall impair the personal obligation of an Owner for payment of assessments.

9.1 Declarant's Right to Exercise Controls

- (a) Declarant, as developer and original owner of ABC, shall exclusively exercise all design, landscaping, sign and other controls as well as those other duties, obligations and rights prescribed under this Declaration until Declarant relinquishes the exercise of control and the burden of such duties to the Owners' Committee as set forth in Section 9.2 below.
- (b) When Declarant ceases to own land in ABC, as the same may be enlarged by the addition of land pursuant to Section 1.2, or at any earlier time at Declarant's option, Declarant shall relinquish its exercise of such control and burdens of such duties and shall record in appropriate offices a declaration stating that Declarant no longer desires to exercise further controls over development in ABC except to the degree it has such rights as an Owner or as a member of the Owners' Committee. Copies of such declaration shall be provided to each Owner within ABC contemporaneously with recordation of the declaration. Recordation of such a declaration shall formally terminate Declarant's rights and duties relating to design, landscaping, sign and other controls, as well as any other duties, rights and obligations of Declarant under these CC&R's, except to the degree it has such rights as an Owner or as a member of the Owner's Committee.

9.2 Formation of Owners' Committee

Upon Declarant's relinquishment of its control and duties, the Owners' Committee shall automatically come into existence, and shall succeed to all duties, powers, responsibilities, rights and privileges of Declarant under these CC&R's.

9.3 Selection of Members

- (a) Within thirty (30) days after the commencement date of the Owners' Committee, the initial members of the Owners' Committee shall be elected. Persons eligible for Committee positions shall be limited to an individual Owner or directors, officers, employees, agents, owners or partners of any corporation, partnership, joint venture or proprietorship owning any Site within ABC. Declarant shall solicit from and then circulate to all Owners, a list of nominees for the five (5) initial Committee positions within the 30-day organizational period. Declarant shall then conduct an election of the initial Committee. The five nominees obtaining the five highest vote totals shall constitute the initial Owners' Committee.
- (b) Each Owner of a Lot or Lots throughout ABC shall have the right to cast one vote for each Committee position per each Site consisting of one acre or less, and an additional vote for each acre and any fraction thereof in excess of one-half acre by which the Site exceeds one acre. If the Owner of a Site consists of more than one person or entity, they shall agree among themselves and designate in writing a single person who is entitled to cast the votes for the Site. If they do not agree and designate in writing the person entitled to cast the votes for the site, that Site shall not be entitled to vote. The initial Owners' Committee shall meet within ten (10) days after the election and may at that time adopt any governing documents, including bylaws, guidelines, procedures, rules and regulations, relating to the Owners' Committee and ABC.

9.4 Declarant's Responsibilities

466 - 1926

In the event Declarant is unsuccessful in organizing the Owners' Committee within the 30-day organizational period specified by Section 9.3 above, Declarant shall have no further responsibilities relating to the Owners' Committee, and the Owners' Committee shall be organized exclusively by the Owners within ABC. Such failure of organization of the Owners' Committee shall not affect the existence of the Owners' Committee or the effectiveness of the CC&R's.

9.5 Legal Form, Owners' Committee

The Owners' Committee shall determine the legal form of the Owners' Committee and any association of Owners.

**X DURATION AND MODIFICATION**

10.1 Duration

Unless sooner terminated or modified according to the procedures provided in Section 10.2 below, these CC&R's shall remain in effect for a period expiring on the thirtieth (30th) anniversary date of the execution of this Declaration and shall be automatically renewed for an unlimited number of successive ten-year periods unless repealed as provided in Section 10.2.

10.2 Modification and Repeal

This Declaration may be terminated or extended or any covenant, condition or restriction herein may be modified or amended as to all or any portion of ABC pursuant to the following procedures:

- (a) Except as otherwise provided in (b) below, with the written consent of Declarant and of the Owners of fifty-one percent (51%) of the land area of Sites within ABC. The consent of Declarant shall not be required after Declarant ceases to be an Owner of any Site.
- (b) Until such time as Declarant no longer owns any interest in ABC or relinquishes control pursuant to Section 9.1 herein, Declarant acting alone may modify or amend the provisions of Articles III, IV, V and VI; provided, however, that (i) any such modification or amendment must be within the spirit and overall intention of the development as set forth herein; (ii) prior to any such modification or amendment, Declarant shall obtain the approval of any governmental agency to such modification or amendment where such approval is necessary; and (iii) any modification or amendment shall not provide for any type of improvements or use not presently permitted by this Declaration.
- (c) No termination, extension or modification or other amendment shall become effective until a proper instrument has been recorded in the deed records of Deschutes County. No material amendment of this Declaration shall affect the rights of a mortgagee under a mortgage or a trustee or beneficiary under a trust deed constituting a lien on any Site unless such person consents in writing to the amendment.

Declarant reserves the right to replat all or any portion of ABC, before or after the sale of any Lots, provided that no changes are made to the plat of any Lot that is not owned by Declarant without the consent of the Owner of such Lot.

## **XI ENFORCEMENT**

### **11.1 Right of Entry**

Declarant, or its authorized representative, shall have the right to enter any Site for the purpose of determining compliance with these CC&R's.

### **11.2 Default and Remedies**

In the event of any breach, violation, or failure to perform or satisfy any covenant, condition, or restriction which has not been cured within the time set forth in a written notice to do so, Declarant at its sole option and discretion may enforce any one or more of the following remedies or any other rights or remedies to which Declarant may be entitled by law or equity, whether or not set forth herein. All remedies provided herein or by law or equity shall be cumulative and not mutually exclusive.

#### **(a) Damages**

Declarant may bring suit for damages for any compensable breach of or noncompliance with any of the covenants, conditions, or restrictions, or declaratory relief to determine the enforceability of any of these CC&R's.

#### **(b) Equity**

It is recognized that a violation by an Owner of one or more of the foregoing covenants, conditions, or restrictions may cause Declarant to suffer material injury or damage not compensable in money, and that Declarant shall be entitled to bring an action in equity or otherwise for specific performance to enforce compliance with these CC&R's or an injunction to enjoin the continuance of any such breach or violation thereof.

#### **(c) Abatement and Lien Rights**

Any such breach or violation of these CC&R's or any provision hereof is hereby declared to be a nuisance, and Declarant shall be entitled to enter the Site or portion of ABC as to which the breach or violation exists and summarily abate and remove, without further legal process, to the maximum extent permitted by law, any structure, thing, or condition that may exist in violation of any of these restrictions; or take those actions which are required of any person or entity which is subject to this Declaration; or to prosecute any remedy allowed by law or equity for the abatement of such nuisance against any person or entity acting or failing

to act in violation of these CC&R's -- all at the sole cost and expense of Owner. Any costs or expenses paid or incurred by Declarant in abating such nuisance or prosecuting any such remedy (including all reasonable attorneys' fees and costs of collection), together with interest thereon, shall be a charge against the Site or portion of ABC as to which the breach or violation exists, and shall also be the personal obligation of that person who was Owner when such charges became due or who committed such breach or violation. In addition to any other rights or remedies hereunder, Declarant may deliver to Owner and record with the Deschutes County Recorder a notice of claim of lien, and if any amounts so charged have not been paid within thirty (30) days thereafter, Declarant or its authorized representatives may foreclose such lien in any manner permitted by law as provided in ORS Chapter 88. If the violations recited in such lien claim are timely cured and any recited amounts timely paid as provided above, Declarant shall forthwith record an appropriate release of such lien at Owner's sole expense.

### 11.3 Waiver

No waiver by Declarant of a breach of any of these restrictions, and no delay or failure to enforce any of these restrictions, shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other of these CC&R's. No waiver by Declarant of any breach or default hereunder shall be implied from any omission by Declarant to take any action on account of such breach or default if such breach or default persists or is repeated, and no express waiver shall affect a breach or default other than as specified in said waiver. The consent or approval by Declarant to or of any act by an Owner requiring Declarant's consent or approval shall not be deemed to waive or render unnecessary Declarant's consent or approval to or of any similar acts by Owner.

### 11.4 Costs of Enforcement

In the event any legal or equitable action shall be instituted to enforce any provision of these restrictions, the party prevailing in such action shall be entitled to recover all of its costs, including court costs and reasonable attorneys' fees.

### 11.5 Non-Exclusive Rights of Enforcement

The rights of enforcement granted to Declarant are non-exclusive and shall be exercisable by Declarant for so long as Declarant owns any interest in ABC. Concurrently, each Owner is hereby granted the rights of enforcement and the remedies provided to Declarant by Section 11.2 (a) and (b).

## XII MISCELLANEOUS

### 12.1 Constructive Notice and Acceptance

Every person or entity who now or hereafter owns, occupies, or acquires any right, title, or interest in or to any portion of ABC is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in ABC.

12.2 Delegation and Assignment of Declarant's Rights and Duties

466 • 1929

Declarant may from time to time delegate any or all of its rights, powers, discretion and duties as Declarant hereunder to such agent or agents as it may designate. Declarant may permanently assign any and all of its rights, powers, discretion and duties as Declarant hereunder to any person, corporation or association which will assume the duties of Declarant pertaining to the particular rights, powers, and reservations assigned, and upon such person, corporation or association evidencing its consent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Such assignment shall become effective upon recordation with the Deschutes County Recorder. If at any time Declarant ceases to exist and has not made such assignment, a successor Declarant may be appointed only with the written consent of Owners of fifty-one percent (51%) of the land area of sites within ABC.

12.3 No Liability

Neither Declarant nor its successors or assigns shall be liable to any Owner or occupant of ABC by reason of any mistake in judgment, negligence, nonfeasance, action, or inaction or for the enforcement or failure to enforce any provision of this Declaration. Every Owner or occupant of any of ABC by acquiring its interest therein agrees that it will not bring any action or suit against Declarant to recover any such damages or to seek equitable relief because of same.

12.4 Notices

All notices to be given pursuant to this Declaration shall be in writing. If given to the Declarant, notice is effective only upon receipt. If given to an Owner, notice is effective: (i) two (2) days after mailing by United States certified or registered mail, postage prepaid, addressed to the Owner of a Site at the address shown on the then current property tax roll for Deschutes County; or (ii) upon receipt in the case of messenger, overnight courier, or facsimile. Notices to Declarant shall be delivered to: Lary J. Mielke, 600 S. Lake Ave., Suite 411, Pasadena, CA 91106 (Fax 626/792-8031); with a copy to: Jean Wood, P.O. Box 1407, Redmond, OR 97756 (Fax 541/385-3113).

12.5 Declarant's Approval or Consent

Any provision of these CC&R's whereby Declarant's approval or consent is required, said approval or consent must be in writing to be valid and shall be the responsibility of Owner to obtain. Notwithstanding the foregoing, Declarant may delegate certain review and approval rights to an agent.

12.6 Captions

The captions of articles and sections herein are used for convenience only and not intended to be part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular article or section to which they refer.

12.7 Effect of Invalidation

If any term or provision of these CC&R's is held to be invalid by any court, such invalidity shall not affect in any way the validity of the remaining CC&R's.

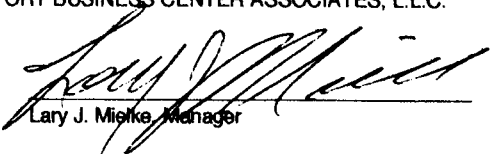
466 - 1930

IN WITNESS WHEREOF, the undersigned Declarant has caused the execution of this Declaration on the date first above written.

**DECLARANT:**

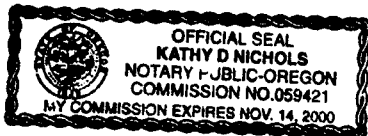
AIRPORT BUSINESS CENTER ASSOCIATES, L.L.C.

By:

  
Larry J. Mielke, Manager

STATE OF OREGON                    )  
COUNTY OF DESCHUTES        ) ss.

The foregoing instrument was acknowledged before me this 11 day of September 1997, by  
Larry J. Mielke, Manager of Airport Business Center Associates, L.L.C.



  
Kathy D. Nichols  
Notary Public for Oregon  
My Commission expires: 11/14/00

EXHIBIT "A"

Legal Description

466 - 1931

**AIRPORT BUSINESS CENTER PHASE 1**

A replat of a portion of Lot 4 INNOVATION PARK located in the Southeast 1/4 of Section 21, and the Southwest 1/4 of Section 22, Township 15 South, Range 13 East, Willamette Meridian, City of Redmond, Deschutes County, Oregon.

STATE OF OREGON )  
COUNTY OF DESCHUTES ) ss.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND  
RECORDER OF CONVEYANCES, IN AND FOR SAID  
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN  
INSTRUMENT WAS RECORDED THIS DAY:

97 OCT 21 PM 12:35

MARY SUE PENHOLLOW  
COUNTY CLERK

BY  DEPUTY  
NO. 97-35871 FEE 1.50  
DESCHUTES COUNTY OFFICIAL RECORDS