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RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES



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I hereby certify that the attached instrument was received
and duly recorded in Deschutes County records:

DATE AND TIME: Mar. 16, 2000; 3:56 p.m.

RECEIPT NO: 18422

DOCUMENT TYPE: Planned Community
 Subdivision Declaration

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A handwritten signature in cursive script, reading "Mary Sue Penhollow".

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

131 155100-33

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE PARKS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE PARKS (this "Declaration") is made and entered into effective this 16th day of March, 2000, by Costa Pacific Homes, LLC, an Oregon limited liability company ("Declarant").

This Declaration is made pursuant to and is subject to the terms and conditions of the Master Declaration (defined below). The Master Declaration provides for the formation of Neighborhoods within Broken Top, and this Declaration is made in connection with the formation of the Neighborhood known as The Parks.

1. DEFINITIONS

The following terms shall have the following meanings when used in this Declaration:

1.1 Articles. "Articles" shall mean the Articles of Incorporation of the Association, as amended from time to time.

1.2 Assessment. "Assessment" shall mean any assessment levied against one or more Owners by the Association for payment of expenses relating to the Property and shall include Regular, Special, and Limited Assessments as those terms are defined herein.

1.3 Association. "Association" shall mean the non-profit corporation formed or to be formed to serve as the association of Owners as provided in this Declaration and such corporation's successors and assigns. The Association is a "Neighborhood Association" as that term is used in the Master Declaration.

1.4 Board. "Board" shall mean the duly-elected Board of Directors of the Association.

1.5 Broken Top. "Broken Top" shall have the meaning given in the Master Declaration.

1.6 Building Lot. "Building Lot" shall mean a platted or partitioned lot within the Property, with the exception of any Common Areas or any tract or lot marked on the Plat of any portion of the Property as common or open space or an alley.

1.7 Bylaws. "Bylaws" shall mean the Bylaws of the Association, as amended from time to time.

1.8 Common Areas. "Common Areas" shall mean Tracts A, B, C, and D as shown on the Plat and all alleys as shown on the Plat (including pavement, curbing, and drainage systems thereon or thereunder). Only Tract D, on which the Recreational Center is anticipated to be constructed, shall be an "Exclusive Common Area" as that term is used in the Master

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Declaration, in that it is reserved for the exclusive use of the Owners and not for other owners or persons in Broken Top.

1.9 Common Property. "Common Property" shall have the meaning given that term in Section 5.3.

1.10 Declarant. "Declarant" shall mean Costa Pacific Homes, LLC, an Oregon limited liability company, and its successors and assigns if such successor or assign should acquire: (i) Declarant's interest in the Property or (ii) all of Declarant's rights under the Declaration pursuant to a recorded instrument executed by Declarant. Declarant shall be a "Builder" as that term is defined in the Master Declaration.

1.11 Design Guidelines. "Design Guidelines" shall have the meaning given such term in the Master Declaration.

1.12 Design Review Committee or DRC. "Design Review Committee" or "DRC" shall have the meaning given such term in the Master Declaration.

1.13 Improvement. "Improvement" shall mean every structure or improvement of any kind, including, but not limited to, a Unit (as defined in the Master Declaration), structure, fence, wall, driveway, shelter, patio, deck, or other product of construction efforts on or with respect to a Building Lot.

1.14 Limited Assessment. "Limited Assessment" shall mean an assessment levied against an Owner by the Association for costs and expenses incurred by the Association for corrective action performed pursuant to this Declaration which is required as a result of the willful or negligent actions or omissions of such Owner or such Owner's tenants, guests, contractors, or invitees.

1.15 Master Association. "Master Association" shall mean the Broken Top Community Association, Inc., an Oregon non-profit corporation.

1.16 Master Declaration. "Master Declaration" shall mean the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Broken Top Community, dated September 21, 1994, and all amendments thereto.

1.17 Neighborhood. "Neighborhood" shall have the meaning given such term in the Master Declaration.

1.18 Owner. "Owner" shall mean any person or entity, including the Declarant, at any time owning a Building Lot, including any vendee under a recorded land sale contract to whom possession has passed, but does not include a tenant or holder of a leasehold interest or a person holding only a security interest in a Building Lot, including any vendor under a recorded land sale contract who has surrendered possession.

1.19 Plat. "Plat" shall mean the plat of The Parks recorded in the real property records of Deschutes County, Oregon on August 6, 1999, ~~2000~~, under Document No. 1999-45, and any

additional plats of The Parks recorded in the real property records of Deschutes County, Oregon concurrently with declarations of annexation that annex the platted property to the Property.

1.20 Property. "Property" shall mean the real property located in Deschutes County, Oregon legally described on Exhibit A.

1.21 Recreational Center. "Recreational Center" shall mean Tract D as shown on the Plat and those facilities and amenities located within Tract D of the Property, including, without limitation, a swimming pool, rest rooms, and storage areas.

1.22 Regular Assessment. "Regular Assessment" shall mean an assessment by the Association against all Owners to provide for the payment of all estimated normal expenses of the Association for the performance of the Association's duties as provided in this Declaration.

1.23 Special Assessment. "Special Assessment" shall mean an assessment against all Owners in the event that the Regular Assessment for any particular year is or will become inadequate to meet the expenses of the Association.

1.24 Voting Member. "Voting Member" shall have the meaning given in the Master Declaration.

2. DECLARATION

2.1 Property Covered. The property which is covered by and is hereby made subject to this Declaration is the Property.

2.2 Purpose. The purpose of this Declaration is to provide for the maintenance and repair of the Common Property (including the Recreational Center), and to set forth other terms and conditions governing the use and enjoyment of the Property.

2.3 Declaration. Declarant hereby declares that the Property and all lots, parcels, tracts, and portions thereof are hereby made subject to all of the conditions, covenants, restrictions, and provisions contained in this Declaration. In addition, all Building Lots are hereby declared to be expressly subject to the Master Declaration.

2.4 Limitations on Improvements. Declarant does not elect to limit Declarant's rights to add improvements not described in this Declaration.

3. ANNEXATION

3.1 Annexation of Additional Property. Declarant may from time to time and in its sole discretion annex to the Property any adjacent real property now owned or hereafter acquired by it, and may also from time to time and in its sole discretion permit other holders of adjacent real property to annex the adjacent real property owned by them to the Property. The annexation of such adjacent real property shall be accomplished as follows:

3.1.1 Declaration of Annexation. The owner or owners of such real property shall record a declaration which shall be executed by or bear the approval of Declarant and shall,

among other things, describe the real property to be annexed, establish any additional limitations, uses, restrictions, covenants and conditions which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration.

3.1.2 Provisions of Declaration of Annexation. Notwithstanding any provision apparently to the contrary, a declaration with respect to any annexed property may:

(a) establish such new land classifications and such limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property.

(b) with respect to existing land classifications, establish additional or different limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of such annexed property.

3.1.3 Effect of Annexation. The property included in any such annexation shall thereby become a part of the Property and subject to this Declaration, and Declarant and the Association shall have and shall accept and exercise administration pursuant to this Declaration with respect to such property.

3.1.4 Limitation on Annexation. There is no limitation on the number of Building Lots which Declarant may create or annex to the Property, except as may be established by applicable ordinances, agreements, or land use approvals. Similarly, there is no limitation on the right of Declarant to annex common property.

3.1.5 Voting Rights. Upon annexation, additional Building Lots so annexed shall be entitled to voting rights as set forth in Section 4.3.

3.1.6 Adjustment of Association Expenses. The formula to be used for reallocating Assessments if additional Building Lots are annexed, and the manner of reapportioning Assessments if additional Building Lots are annexed during a fiscal year, are set forth in Section 5.7.

3.2 Withdrawal of Property. Declarant may withdraw property from the Property only by a duly-adopted amendment to this Declaration, except that Declarant may withdraw all or a portion of any property annexed pursuant to a declaration described in Section 3.1 at any time prior to the sale of the first Building Lot in the property annexed by the declaration of annexation. Such withdrawal shall be effected by a declaration executed by Declarant and recorded in the deed records of the county in which the property being withdrawn is located. If a portion of the Property is so withdrawn, all voting rights otherwise allocated to Lots being withdrawn shall be eliminated, and the common expenses shall be reallocated as provided in Section 5.7.

4. THE ASSOCIATION

4.1 Organization. Declarant shall, before the first Building Lot is conveyed to an Owner other than Declarant, organize the Association as a nonprofit corporation under the Oregon Nonprofit Corporation Act under the name "The Parks Homeowners' Association, Inc."

or such similar name as Declarant shall designate. The Articles shall provide for the Association's perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. All of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association. Such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles and Bylaws as if they had been drafted to constitute the governing documents of the unincorporated association.

4.2 Membership. Every Owner of one or more Building Lots shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one or more Building Lots, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

4.3 Voting Rights. Voting rights within the Association shall be allocated as follows:

4.3.1 Building Lots. Except as provided in Section 4.3.2, Building Lots shall be allocated one vote per Building Lot.

4.3.2 Classes of Voting Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of Declarant (except that beginning on the date on which the Class B membership is converted to Class A membership, and thereafter, Class A members shall be all Owners, including Declarant). Class A members shall be entitled to voting rights for each Building Lot owned computed in accordance with Section 4.3.1. When more than one person holds an interest in any Building Lot, all such persons shall be members. The vote for such Building Lot shall be exercised as such persons among themselves determine, but in no event shall more votes be cast with respect to any Building Lot than as set forth in Section 4.3.1.

Class B. The Class B member shall be Declarant and shall be entitled to five (5) times the voting rights computed under Section 4.3.1 for each Building Lot owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) The turnover meeting described in Section 4.6; or
- (b) At such earlier time as Declarant may elect in writing to terminate the Class B membership.

4.4 Powers and Obligations. The Association shall have, exercise and perform all of the following powers, duties and obligations:

4.4.1 Declaration and Bylaws. The powers, duties and obligations granted to the Association by this Declaration and the Bylaws and the powers, duties, and obligations conferred by the Master Declaration with respect to a Neighborhood Association (as that term is defined in the Master Declaration).

4.4.2 Statutory Powers. The powers and obligations of a nonprofit corporation pursuant to the Oregon Nonprofit Corporation Act, as may be amended from time to time.

4.4.3 General. Any additional or different powers, duties and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Property. The powers and obligations of the Association may from time to time be amended, repealed, enlarged or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles or Bylaws made in accordance with such instruments and with the Oregon Nonprofit Corporation Act.

4.5 Liability. Neither the Association nor any officer or member of the Board shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action or failure to act by the Association, any of its officers or any member of the Board, provided only that the officer or Board member has acted in good faith in accordance with the actual knowledge possessed by him or her.

4.6 Interim Board; Turnover Meeting. Declarant shall have the right to appoint an interim board of three (3) directors, who shall serve as the Board until replaced by Declarant or until their successors have been elected by the Owners at the turnover meeting described in this Section. Declarant shall call a meeting by giving notice to each Owner as provided in the Bylaws for the purpose of turning over administrative responsibility for the Property to the Association not later than one hundred twenty (120) days after Building Lots representing 75% of the voting power of the Association in all of The Parks, taking into account Building Lots annexed to the Property, have been sold and conveyed to Owners other than Declarant. If Declarant does not call the meeting required by this Section within the required period, the Transitional Advisory Committee described in Section 4.7 or any Owner may call such a meeting and give notice as required by this Section. At the turnover meeting, the interim directors shall resign and their successors shall be elected by the Owners (including Declarant) as provided in this Declaration and the Bylaws. At the turnover meeting, Declarant shall also deliver to the Association those items specified in ORS 94.616(3). After the turnover meeting, Declarant or its representative shall be available to meet with the Board as provided under ORS 94.616(4).

4.7 Transitional Advisory Committee. Declarant or the Owners shall form a transitional advisory committee (the "Transitional Advisory Committee") to provide for the transition from administrative responsibility by Declarant for the Property to administrative responsibility by the Association. Not later than the sixtieth (60th) day after Declarant has conveyed to Owners other than Declarant Building Lots representing 50% of the voting power of the Association in all of The Parks, taking into account Building Lots annexed to the Property, Declarant shall call a meeting of Owners for the purpose of selecting the Transitional Advisory Committee. The Transitional Advisory Committee shall consist of three or more members. The Owners, other than Declarant, shall select two (2) or more members. Declarant may select no

more than one member. The Transitional Advisory Committee shall have reasonable access to all information and documents which Declarant is required to turn over to the Association under ORS 94.616(3).

4.7.1 Declarant Failure to Call Meeting. Any Owner may call a meeting of Owners to select the Transitional Advisory Committee if Declarant fails to do so as provided above.

4.7.2 Owners' Failure to Select Members. Notwithstanding the foregoing, if the Owners do not select members for the Transitional Advisory Committee as described above, Declarant shall have no further obligation to form the Transitional Advisory Committee.

4.7.3 Turnover Meeting. The requirement for formation of a Transitional Advisory Committee shall not apply once the turnover meeting specified in Section 4.6 has been held.

4.8 Neighborhood Committees. Nothing in this Declaration shall be construed as prohibiting the formation of neighborhood committees (as that term is used in the Master Declaration) within the Property.

4.9 Association Rules and Regulations. The Association from time to time may adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the Common Areas, including, without limitation, the Recreational Center, as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be delivered by the Board promptly to each Owner and shall be binding upon all Owners and occupants of all Building Lots upon the date of delivery. The method of adoption of such rules shall be as provided in the Bylaws.

4.10 Special Duties of the Association. Without limiting the generality of the general powers and duties of the Association set forth in Section 4, the Association shall have the power and obligation to conduct and perform the following duties, the costs of which shall be borne as provided in Article 5:

4.10.1 The Association shall be responsible for maintenance and repair of all Common Property, to the extent such maintenance and repair is not undertaken by the Master Association. Maintenance of Common Property shall include, among other things, maintaining, repairing, and replacing grass, sod, trees, shrubs, and bushes in a neat, clean, and attractive condition; the maintenance and repair of all underground sprinkler systems to the extent damaged by an act or omission of the Association or its agents or employees; and the maintenance and repair of Improvements included within the Common Property, which shall include, without limitation, the upkeep and replacement of the Recreational Center, fountains, sport courts and related appurtenances (such as basketball standards, rims, and nets), the gazebo, and the alleys shown on the Plat. The decision as to the nature and extent of maintenance and the timing of such maintenance shall be solely within the discretion of the Board.

4.10.2 Insurance. The Association shall obtain, and maintain in effect, from reputable insurance companies authorized to do business in the State of Oregon, public liability insurance with respect to the Common Property in such amounts and in such forms as the Board deems advisable to provide adequate protection for bodily injury, including deaths of persons, and property damage, whether caused by the negligence of the Association or otherwise; provided, however, that such policy(ies) shall not be for an amount of less than \$1,000,000.00 per person, per occurrence, and that such policy(ies) shall provide that the coverage thereunder cannot be canceled or substantially modified without at least 10 days' written notice to the Association.

4.10.3 Insurance for Recreational Center. Without limitation of the meaning of the foregoing Section, the Board shall obtain reasonable and customary insurance policies in connection with the Improvements constituting the Recreational Center and any particular liabilities associated with the Recreational Center.

4.11 Voting Members. Voting Members shall be elected from members of the Association in accordance with the Master Declaration, and they shall have all the powers and rights accorded Voting Members as set forth in the Master Declaration.

5. ASSESSMENTS

5.1 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Building Lot owned by it within the Property, does hereby covenant, and each Owner of any Building Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant, to pay to the Association all assessments or other charges as may be fixed, established and collected from time to time in the manner provided in this Declaration or the Bylaws. Such assessments and charges, together with any interest, expenses or attorneys' fees imposed pursuant to Section 9.4, shall be a charge on the land and shall be a continuing lien upon the Building Lot against which each such assessment or charge is made. Such assessments, charges and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 9 below. No Owner may avoid such personal obligation by abandonment of Owner's Building Lot.

5.2 Regular Assessments.

5.2.1 Commencement. Regular Assessments against a Building Lot shall commence on a date selected by the Board of Directors, provided that the Board shall provide the Owner of the Building Lot first becoming subject to Regular Assessments thirty-day advance notice of the date on which Regular Assessments commence for that Building Lot.

5.2.2 Amount of Annual Regular Assessment. The total annual Regular Assessment against all Building Lots shall be based upon an annual budget prepared by the Board with respect to projected expenses of the Association, including, without limitation, the following:

(a) maintenance, repair, and operation of the Common Areas (to the extent provided in Section 4.10), including, without limitation, the Common Property;

(b) premiums for all insurance policies which the Association is required or permitted to maintain pursuant to this Declaration;

(c) professional management fees and expenses, employee salaries, and legal and accounting costs;

(d) any deficits remaining from the previous fiscal year of the Association;

(e) reasonable contingency reserves of the Association established at the discretion of the Board (in addition to those funds contained in the Common Property Reserve Account); and

(f) such other and further costs, expenses, obligations, and liabilities as the Board, in its discretion, may incur for the management, operation, and maintenance of the Property and the Association in accordance with this Declaration.

5.2.3 Allocation of Assessments. All Regular Assessments shall be allocated equally among all Building Lots then subject to assessment such that the Regular Assessment for one Building Lot then subject to assessment shall equal the dollar amount calculated by dividing the total sum of the Regular Assessments allocated to Building Lots then subject to assessment.

5.2.4 Notice of Regular Assessments and Time for Payment Thereof. Regular Assessments shall be made on a monthly basis or at such other increments determined by the Board. Subject to amendment by the Board, the Association shall give written notice to each Owner as to the amount of the Regular Assessment with respect to each Building Lot on or before December 15 for each year for the calendar year commencing January 1 of the next year. The Regular Assessment shall be due and payable as the Board shall determine.

5.3 Reserve Account for Replacing Common Property. Declarant shall establish a reserve account in the name of the Association which shall be called the "Common Property Reserve Account," and which will be kept separate and apart from all other funds of the Association. Except as provided in Section 5.3.2 below, the Common Property Reserve Account shall be used exclusively for replacement of items pertaining to the Common Property which will normally require replacement, in whole or in part, in more than three (3) and less than thirty (30) years and not for regular or periodic maintenance expenses. "Common Property" shall mean Common Areas and any real or personal property or interest in the Common Areas, and shall include the Improvements constituting the Recreational Center, sport courts, fountains, sidewalks, trails, alleys, and gazebos.

5.3.1 Assessments. Not less often than annually, the Board of Directors shall inventory all items of Common Property which will normally require replacement, in whole or in part, in more than three and less than thirty years, and shall estimate the remaining life of each item of Common Property and the current replacement cost of each such item. The Association

may identify items for which a reserve account assessment is required as those items which are insurable by a common carrier of all-purpose risk insurance. This annual inventory shall be known as the "reserve study," which will include (a) identification of all items for which reserves are required to be established; (b) estimated remaining useful life of each item as of the date of the reserve study; (c) the estimated cost of maintenance, repair, or replacement of each item at the end of its useful life; and (d) a 30-year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on the reserve fund to meet the maintenance, repair, and replacement schedule. For the purpose of funding the Common Property Reserve Account, the Association shall impose an assessment to be called the "Common Property Reserve Account Assessment" against each Building Lot on the same formula as set forth in Section 5.2.3. The Association in determining the amount of the Common Property Reserve Account Assessment shall take into account the estimated remaining life of the items of Common Property and the current replacement cost of those items, as well as changes in the "wear and tear" to which such items are subject as a result of the construction of additional Units (as that term is defined in the Master Declaration) and the addition of Building Lots. The Common Property Reserve Account Assessment shall not include expenses for replacement of any item of Common Property until construction or installation of such item is complete. Declarant shall not be required to pay any assessment under this Section 5.3 assessed to a Lot owned by Declarant until such date as the Building Lot is conveyed by Declarant to an unaffiliated party in an arms-length transaction.

5.3.2 Loan From Common Property Reserve Account. After the turnover meeting described in Section 4.6, the Board may borrow funds from the Common Property Reserve Account to meet high seasonal demands on the Association's regular operating fund or to meet other temporary expenses. Funds borrowed to meet high seasonal demands or temporary expenses under this subsection must be repaid from assessments within six (6) months after the date such funds are borrowed.

5.3.3 Increase, Reduction, or Elimination of Common Property Reserve Account Assessments. At any time after the second year after the turnover meeting described in Section 4.6, future assessments for the Common Property Reserve Account may be increased, reduced or eliminated by the vote of Owners of Building Lots representing 75% of the voting power of the Association.

5.4 Special Assessments. In addition to the Regular and Common Property Reserve Account Assessments authorized hereby, the Board shall have the authority to levy Special Assessments to satisfy any actual or projected deficiency between the expenses of the Association and the amounts realized through Regular and Common Property Reserve Account Assessments. Special Assessments shall be allocated equally among the Owners of Building Lots. Special Assessments are payable as the Board may from time to time determine, within thirty (30) days after mailing notice thereof to affected Owners.

5.5 Limited Assessments. The Association may levy against any Owner a Limited Assessment equal to the costs and expenses incurred by the Association, including legal fees, for corrective action performed pursuant to this Declaration which is required as a result of the willful or negligent actions or omissions of such Owner or such Owner's tenants, guests, contractors, or invitees.

5.6 Statement of Account. Upon payment of a reasonable fee, which shall be established by the Board but shall not exceed \$50.00, and upon written request of any Owner or any mortgagee, prospective mortgagee, or prospective purchaser of a Building Lot, the Association shall issue a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Building Lot, and the amount of the current monthly Assessments and the dates that such Assessments become or became due, which statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid Assessments which become due prior to the date of making such request shall be subordinate to the lien of a mortgagee which acquired its interest subsequent to requesting such statement. If a prospective purchaser makes such request, the lien for such unpaid Assessments shall be released automatically if: (i) the statement is not furnished within the 20-day period provided herein, (ii) an additional written request is made by such purchaser and is not complied with within 10 days, and (iii) the purchaser subsequently acquires the Building Lot.

5.7 Reallocation Upon Annexation or Withdrawal of Property. When additional property is annexed to or withdrawn from the Property, the Association shall, within 60 days after the annexation, recompute the budget in accordance with Sections 5.2.2 and 5.3.1 based upon the additional or withdrawn Building Lots and Common Areas and Common Property and recompute all applicable assessments for each Building Lot. Newly annexed Building Lots shall be subject to assessment from the time of annexation of such Building Lots to the Property. The Association shall send notice of any applicable assessment to the Owners of newly annexed Building Lots not later than 60 days after the annexation or with the next occurring annual assessment, whichever is sooner. Assessments shall be due and payable on or before a date set forth in the notice which shall be not less than 30 days after the date the notice is mailed or at such other time or times as the Association may specify in the notice in accordance with this Declaration or the Bylaws. If additional property is annexed to the Property during the Association's fiscal year, the Association shall send notice of and shall collect adjustments to assessments for Building Lots which were within the Property prior to the annexation. Notice of the adjustment in the assessments shall be sent to such Owners not later than 60 days after the annexation or with the next occurring annual assessment, whichever is sooner. To the extent that any adjustment results in a credit with respect to assessments payable by an Owner, such credit shall be applied toward the next occurring payment or payments of the applicable assessment.

5.8 Master Declaration Assessments. The master association under the Master Declaration may assess against any Owner such assessments as are permitted under the Master Declaration and related bylaws, and such assessments may include expenses incurred by such master association for maintenance and repair of the Common Areas, to the extent not performed by the Association.

6. DESIGN REVIEW COMMITTEE

No structure shall be placed, erected or installed on any Building Lot by an Owner and no improvements (including staking, clearing, excavation, grading, and other site work, exterior alteration of existing improvements, planting or removal of landscaping materials and installation or removal of an irrigation system) shall take place except in compliance with

Article XI of the Master Declaration, the authorized requirements of the Design Review Committee, and the Design Guidelines.

7. PROPERTY RIGHTS AND EASEMENTS

7.1 Owners' Use and Occupancy. Except as otherwise expressly provided in title exceptions of record, this Declaration, the Master Declaration or in the Plat, the Owner of a Building Lot shall be entitled to the exclusive use and benefit of such Building Lot. Declarant, the Design Review Committee and any representative of the Association authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Building Lot for the purpose of determining whether or not the use of and/or Improvements on such Building Lot are then in compliance with this Declaration. No such entry shall be deemed to constitute a trespass, conversion, or otherwise create any right of action in the Owner of such Building Lot. Declarant or the Association may grant or assign easements over or with respect to any Building Lot to municipalities or other utilities performing utility services and to communication companies.

7.2 Owners' Easements of Enjoyment. Subject to the provisions of this Declaration, every Owner and Owner's invitees shall have a right and easement of enjoyment in and to the Common Area, which easement shall be appurtenant to and shall pass with the title to every Building Lot. Use of the Common Area shall not result in unreasonable disturbance of occupants of the Units (as defined in the Master Declaration) on the Building Lots and shall be subject to such rules and regulations as may be adopted by the Board from time to time.

7.3 Title to Common Area. Fee title to the Common Area shall be conveyed to the Association by Declarant free and clear of monetary liens and encumbrances at any time, in the discretion of Declarant, prior to the date on which Class B membership in the Association ceases and is converted to Class A membership as described in Section 4.3.

7.4 Extent of Owners' Rights. The rights and easements of enjoyment in the Common Area created hereby shall be subject to the following and all other provisions of this Declaration:

7.4.1 Association's and Owners' Easements. Declarant grants to the Association for the benefit of the Association and all Owners of Lots within the Property the following easements over, under and upon the Common Area:

(a) An easement for installation and maintenance of power, gas, electric, water and other utility and communication lines and services installed by Declarant or with the approval of the Board and any such easement shown on any plat of the Property.

(b) An easement for construction, maintenance, repair and use of the Common Area and any common facilities thereon, including, without limitation, the Common Property.

7.4.2 Declarant's Easements. So long as Declarant owns any Building Lot, and in addition to any other easements to which Declarant may be entitled, Declarant reserves an

easement over, under and across the Common Area in order to carry out development, construction, sales and rental activities necessary or convenient for the development of the Property or the sale or rental of Building Lots and for such other purposes as may be necessary or convenient for discharging Declarant's obligations or for exercising any of Declarant's rights hereunder.

7.4.3 Utility and Other Municipal Easements. Declarant or the Association may (and, to the extent required by law, shall) grant or assign easements to municipalities or other utilities performing utility services and to communication companies, and the Association may grant free access thereon to police, fire and other public officials and to employees of utility companies and communications companies serving the Property.

7.4.4 Use of the Common Property. Except as otherwise provided in this Declaration, the Common Property shall be reserved for the use and enjoyment of all Owners and no private use may be made of the Common Property. Persons who own or have rights in or to Units (as that term is defined in the Master Declaration) in Broken Top may have the right to go upon and use the Common Property; provided, however, that the Recreational Center shall be an Exclusive Common Area (as that term is defined in the Master Declaration) and only Owners or their guests, invitees, or tenants shall have rights to use the Recreational Center, subject to rules and regulations adopted by the Association. The Board shall have authority to abate any trespass or encroachment upon the Common Property at any time, by any reasonable means and with or without having to bring legal proceedings.

7.4.5 Alienation of the Common Area. The Association may not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the Building Lots unless the holders of at least 80 percent of the Owners of Building Lots not owned by Declarant at the time of vote and the Class B member, if any, have given their prior written approval. This provision shall not apply to a grant of the easements described in Section 7.4.2 or 7.4.3. A sale, transfer or encumbrance of the Common Area or any portion of the Common Area in accordance with this Section 7.4.5 may provide that the Common Area so conveyed shall be released from any restriction imposed on such Common Area by this Declaration. No such sale, transfer or encumbrance may, however, deprive any Building Lot of such Building Lot's right of access or support without the written consent of the Owner of such Building Lot.

7.4.6 Limitations on Use. Use of the Common Area by the Owners shall be subject to the provisions of this Declaration, and to the following:

- (a) The right of the Association to suspend the use rights of an Owner to the extent provided in Article 9 below; and
- (b) The right of the Association to adopt, amend and repeal rules and regulations in accordance with this Declaration and the Bylaws. In particular, the Association may adopt rules regarding the use and management of the Recreational Center.

7.5 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, Owner's right of enjoyment of the Common Area to the members of Owner's family and to Owner's tenants, in each case, who reside on the Building Lot.

7.6 Encroachments. If an encroachment results from construction, reconstruction, repair, shifting, settlement or movement of any portion of the Property, an easement for the encroachment shall exist to the extent that any Building Lot or Common Area or Improvement thereon encroaches on any other Building Lot or Common Area. An easement shall continue for the purpose of maintaining the encroachment so long as the encroachment exists. Nothing in this Section 7.6 shall relieve an Owner of liability in case of an Owner's willful misconduct or shall relieve Declarant or any other person of liability for failure to adhere to any plat of any portion of the Property.

8. ADDITIONAL RESTRICTIONS AND DUTIES

8.1 Structures Permitted. Except to the extent expressly provided or contemplated in this Declaration, no Improvements shall be erected or permitted to remain on any Building Lot except Improvements designed for residential living and Improvements normally accessory thereto.

8.2 Residential Use. Building Lots shall only be used for residential purposes. Except with the consent of the Board, and as allowed by the Master Declaration and applicable ordinances, agreements, or land use approvals, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Building Lot, nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Building Lot. Nothing in this paragraph shall be deemed to prohibit: (i) activities relating to the rental or sale of residences or Building Lots, (ii) the right of Declarant or any contractor or homebuilder to construct residences and related Improvements on any Building Lot, to store construction materials and equipment on such Building Lots in the normal course of construction, and to use any residence or like Improvement as a sales or rental office or model home for purposes of sales or rental in the Property, and (iii) the right of an Owner to maintain Owner's professional personal library, keep Owner's personal business or professional records or accounts, handle Owner's personal business or professional telephone calls or confer with business or professional associates, clients or customers, in Owner's residence.

8.3 Offensive or Unlawful Activities. No noxious or offensive activities shall be carried on upon any Building Lot or Common Area, nor shall anything be done or placed on any Building Lot or Common Area which interferes with or jeopardizes the enjoyment of other Building Lots or the Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Building Lot or any part thereof, and all laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. Without limiting the generality of the foregoing, no heat pump or other heating, ventilating, or air conditioning equipment, the operation of which produces noise at a level higher than 80 decibels, shall be allowed on or in any Building Lot.

8.4 Parking. Parking of boats, trailers, motorhomes, trucks (except pickups of 3/4 ton weight or less), truck campers, motorcycles, or other recreational vehicles or similar equipment

and vehicles shall not be allowed on any part of the Property or on public streets adjacent thereto, excepting only within areas designated for such purposes by the Board in accordance with the terms of this Declaration or within the confines of an enclosed garage or screened area, the plans of which comply with applicable ordinances, agreements, or land use approvals and have been reviewed and approved by the Architectural Review Committee prior to construction, and no portion of the same may project beyond the screened area.

8.5 Vehicles in Disrepair. No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any Building Lot or on the Common Area for a period in excess of 48 hours. A vehicle shall be deemed in an "extreme state of disrepair" when the Board reasonably determines that its presence offends the occupants of the neighborhood. Should any Owner fail to remove such vehicle within five days following the date on which notice is mailed to such Owner by the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner.

8.6 Signs. No signs shall be erected or maintained on any Building Lot except signs which are approved as to appearance and location by the Architectural Review Committee. The restrictions contained in this paragraph shall not apply to:

8.6.1 Political Signs. The temporary placement of "political" signs on any Building Lot by the Owner thereof; or

8.6.2 Declarant's Sales Office and Model Home Signs. The placement by Declarant or Declarant's agents of one or more signs identifying the name of Declarant and/or the location of a sales office or model home.

8.7 Rubbish and Trash. No Building Lot or part of the Common Area shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal and out of public view. If any default under this Section 8.7 exists for a period longer than ten (10) days after written notice of such default is mailed to the responsible Owner by the Association, the Association shall have, in addition to any other rights under this Declaration, or at law or in equity, the remedies specified in Article 9.

8.8 Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Building Lot at any time as a residence, either temporarily or permanently.

8.9 Service Yards. Service yards (garbage, fuel tanks, clotheslines, etc.) shall be completely screened such that the elements screened are not visible at any time from the street or any adjoining property.

8.10 Antennas and Satellite Disks. Exterior antennas, exterior satellite receivers and transmission disks shall not be permitted to be placed upon any Building Lot except as approved by the Design Review Committee.

9. ENFORCEMENT

9.1 Default in Payment of Assessments; Enforcement of Lien. If an Assessment or other charge levied under this Declaration is not paid within thirty (30) days after its due date, such Assessment or charge shall become delinquent and shall bear interest from the due date until paid at the rate set forth below and, in addition, the Association may exercise any or all of the following remedies:

9.1.1 Lien. The Association shall have a lien against each Building Lot for any Assessment levied against such Building Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Building Lot from the date on which the Assessment, fine or charge is due. The provisions regarding the attachment, notice, recordation and duration of liens established on real property under ORS 87.352 to 87.382 shall apply to the Association's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under ORS Chapter 88. The Association, through its duly authorized agents, may bid on the Building Lot at such foreclosure sale, and may acquire and hold, lease, mortgage and convey the Lot. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the date the first installment of the Assessment becomes due.

9.1.2 Suit or Action. The Association may bring an action to recover a money judgment for unpaid Assessments, fines and charges under this Declaration without foreclosing or waiving the lien described in Section 9.1.1. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

9.1.3 Voting; Use. The Association may declare that an Owner who is delinquent in satisfying an Assessment or other charge shall not be entitled to vote on any matter put before the Association, and may limit or prohibit such Owner or its guests, tenants, and invitees from using certain of the Common Property, including, without limitation, the Recreational Center.

9.1.4 Other Remedies. The Association shall have any other remedy available to it by law or in equity.

9.2 Notification of First Mortgagee. The Board shall notify any first mortgagee of any Building Lot of any default in performance of the terms of this Declaration by the Building Lot's Owner which is not cured within sixty (60) days.

9.3 Subordination of Lien to Mortgages. The lien for the assessments or charges provided for in this Declaration shall be subordinate to the lien of any mortgage or deed of trust on such Building Lot which was made in good faith and for value and which was recorded prior to the recordation of the notice of lien. Sale or transfer of any Building Lot shall not affect the assessment lien, provided that the sale or transfer of any Building Lot which is subject to a mortgage or deed of trust pursuant to a decree of foreclosure thereunder or pursuant to a proceeding, deed or assignment in lieu of foreclosure shall extinguish the lien of an assessment, notice of which was recorded after the recording of the mortgage or trust deed. Any such sale or transfer, however, shall not release the Building Lot from liability for any assessments or charges thereafter becoming due or from the lien of such subsequent assessments or charges.

9.4 Interest, Expenses and Attorneys' Fees. Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at a rate three percentage points per annum above the "prime rate" or "reference rate" offered by Bank of America, or its successor, as of the due date therefor, or at such other rate as may be established by the Board, but not to exceed the lawful rate of interest under the laws of the State of Oregon. A late charge may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board not to exceed 30% of such assessment. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Owner-defendant shall pay to the Association all costs and expenses incurred by the Association in connection with such suit or action, including a foreclosure title report, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof.

9.5 Nonexclusiveness and Accumulation of Remedies. An election by the Association to pursue any remedy provided for violation of this Declaration shall not prevent concurrent or subsequent exercise of any other remedy permitted hereunder. The remedies provided in this Declaration are not exclusive, but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate, or remedy any violation of this Declaration by appropriate legal proceedings.

10. MISCELLANEOUS

10.1 Term. The covenants, conditions and restrictions of this Declaration shall run with the land as to all property benefited or burdened hereby, including any subdivision thereof, and remain in full force and effect until December 31, 2030, unless amended or repealed as herein provided. After December 31, 2030, such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by members holding at least 75% of the voting power of the Association which is recorded in the deed records of Deschutes County.

10.2 Amendment and Repeal.

10.2.1 This Declaration, or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed by the vote or written consent of the Class B member, if any, and of Owners holding not less than 75% of the voting power of the Association.

10.2.2 Any such amendment or repeal shall become effective only upon recordation in the deed records of Deschutes County of a certificate of the president or secretary of the Association setting forth in full the amendment, amendments or repeal so approved and certifying that said amendment, amendments or repeal have been approved in the manner required by this Declaration.

10.2.3 In no event shall an amendment under this Section create, limit or diminish Declarant rights without Declarant's written consent, or change the boundaries of any Building Lot or any uses to which any Building Lot is restricted unless the Owners of the affected Building Lots unanimously consent to the amendment.

10.3 Regulatory Amendments. Notwithstanding the provisions of Section 10.2, until the turnover meeting described in Section 4.6, Declarant shall have the right to amend this Declaration or the Bylaws in order to comply with the requirements of any applicable statute, ordinance, regulation or guideline of the Federal Housing Administration, the Veterans Administration, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon, or any corporation wholly owned, directly or indirectly, by the United States or the State of Oregon which insures, guarantees or provides financing for a planned community or lots in a planned community.

10.4 Amendments for Master Declaration. Notwithstanding the provisions of Section 10.2, Declarant, for so long as its Class B membership has not terminated, and the Association, acting through the Board, from and after the date Class B membership has terminated, shall have the right to amend this Declaration or the Bylaws to cause this Declaration to conform to any applicable requirements of the Master Declaration, which amendment shall become effective upon its recordation in the deed records of Deschutes County, Oregon.

10.5 Notices. Any notices permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 72 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

10.6 Right of Enforcement. Except as otherwise provided herein, any Owner of any Building Lot covered by this Declaration shall have the right to enforce any or all of the provisions hereof against any property covered by this Declaration and the Owners thereof.

10.7 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

10.8 Partial Condemnation. In the event of a partial condemnation of the Property which includes some Building Lots, each Owner whose Building Lots is condemned shall deal with the condemning authority with regard to compensation therefor, and the compensation for such Building Lots shall be paid to such Owner (or the mortgagee of that Owner's Building Lot). The Association shall negotiate compensation relating to any Common Property. The cost, if any, of restoring the balance of the Property so that it may be used shall be determined by the Association and the Association shall negotiate with the condemning authority with regard to compensation for this expenditure. Any moneys received by the Association for any such reconstruction shall be held in trust by the Association for the purpose of such reconstruction.

10.9 Joint Owners. In any case in which two or more persons share the ownership of any Building Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

10.10 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Building Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

10.11 Non-Waiver. The failure to enforce any of the provisions herein at any time shall not constitute a waiver of the rights to enforce any such provision or any other provision of said restrictions.

10.12 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the general plan and scheme of the Property.

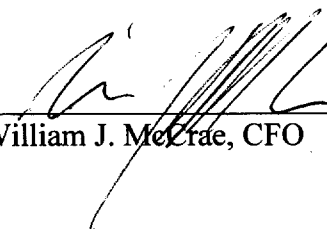
10.13 Restrictions Severable. Each of the provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

10.14 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

10.15 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

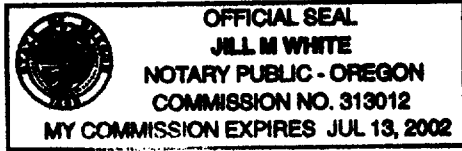
IN WITNESS WHEREOF, the undersigned, as Declarant, has hereunto set its hand and seal this 16th day of March, 2000.

COSTA PACIFIC HOMES, LLC, an Oregon
limited liability company

By: 
William J. McCrae, CFO

STATE OF OREGON)
County of Deschutes) ss.

The foregoing instrument was acknowledged before me on this 16 day of March, 2000 by William J. McCrae, who is a CFO of Costa Pacific Homes, LLC, an Oregon limited liability company, on behalf of the limited liability company.



Jill M. White
Notary Public for Oregon
My Commission Expires: 7/13/02

2000-10318-21

EXHIBIT A

Property
Legal Description

The Parks at Broken Top, Deschutes County, Oregon.