

**VOL: 2000    PAGE: 29485**  
**RECORDED DOCUMENT**

**STATE OF OREGON**  
**COUNTY OF DESCHUTES**



\*2000-29485 \* Vol-Page

Printed: 07/25/2000 15 13:15

**DO NOT REMOVE THIS CERTIFICATE**

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

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

DATE AND TIME:        Jul. 25, 2000; 3:12 p.m.

RECEIPT NO:            23790

DOCUMENT TYPE:        Planned Community  
                                 Subdivision Declaration

FEE PAID:                \$66.00

NUMBER OF PAGES:    8

A handwritten signature in black ink, appearing to read "Mary Sue Penhollow".

**MARY SUE PENHOLLOW**  
**DESCHUTES COUNTY CLERK**

2000-29485-1

**DECLARATION FOR  
COLLEGE PARK PHASES 1 & 2**

THIS DECLARATION is made this 3<sup>rd</sup> day of May 2000, by Brooks Resources Corporation ("Declarant").

**OBJECTIVES**

Declarant owns property located in Deschutes County, Oregon. Declarant proposes to develop portions of this property as mixed-use development to be known as College Park.

Declarant has filed the plat of College Park Phases 1 & 2 in the plat records of Deschutes County, Oregon. Declarant desires to subject the property described in such plat to the terms of this Declaration for the benefit of such property and its present and subsequent owners.

NOW, THEREFORE, Declarant hereby declares that the property covered in the plat of College Park Phases 1 & 2 more particularly described on Exhibit A attached hereto, shall be held, sold, and conveyed subject to the terms of this Declaration, which shall run with such property and shall be binding upon all parties having or acquiring any right, title, or interest in such property or any part thereof and shall inure to the benefit of each owner thereof.

**ARTICLE 1**

**DEFINITIONS**

As used in this Declaration, the terms set forth below shall have the following meanings:

1.1 **"Architectural Review Committee"** means the Architectural Review Committee appointed pursuant to Article 4 hereof.

1.2 **"Building"** means a structure located on a Lot within the Project.

1.3 **"Declarant"** means Brooks Resources Corporation, an Oregon corporation, any person who succeeds to any special Declarant right and to whom all the Declarant's ownership interest in the Project is transferred, or any person, other than Owners, to whom Declarant has transferred, for purposes of resale, all Declarant's ownership interest in the Project.

1.4 **"Improvement"** means every temporary or permanent structure or improvement of any kind, including but not limited to a building, fence, wall, driveway, parking area, storage shelter, signs, trash screens, or other product of construction efforts on or in respect to any property within the Project, including landscaping, and every alteration, painting, or reconstruction thereof.

1.5 **"Lot"** means a platted or legally partitioned lot within the Project.

Send to:  
Brooks Resources Corporation  
296 SW Columbia ST, Suite A 1  
Bend, OR 97702

1.6 "Owner" means the person or persons, including Declarant, owning any Lot, including any vendee under a recorded land sales 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 Lot, including any vendor under a recorded land sales contract who has given up possession. The rights, obligations, and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

1.7 "Project" means the property described on Exhibit A attached hereto.

## ARTICLE 2

### PROPERTY SUBJECT TO THIS DECLARATION

Declarant hereby declares that all the real property described on Exhibit A attached hereto, is owned and shall be owned, conveyed, hypothecated, encumbered, used, occupied, and improved subject to this Declaration.

## ARTICLE 3

### RESTRICTIONS ON USE OF LOTS

3.1 Approved Uses. Lots within the Project may be improved, operated, and used only for uses permitted under the ordinances and regulations of the City of Bend and permitted by this Declaration.

3.2 Maintenance. Each Lot and all Buildings thereon shall be maintained in a clean and attractive condition, in good repair, and in such a fashion as not to create a fire hazard. All garbage, trash, cuttings, refuse, garbage and refuse containers, and other service facilities located on each Lot shall be screened from view in a manner approved by the Architectural Review Committee. Grass on vacant Lots shall be mowed on a regular basis and weeds and other noxious vegetation shall be eradicated.

3.3 Offensive Activity. No offensive activity shall be carried on nor shall anything be done on any Lot that may be or become a nuisance to the other Owners.

3.4 Compliance with Laws and Regulations. In addition to compliance with this Declaration, each Owner shall comply with all applicable state and local laws and regulations, including but not limited to those of the State of Oregon Department of Environmental Quality, the health and zoning ordinances of Deschutes County, and the applicable building codes. This Declaration is designed to compliment such laws and regulations, and where any conflict occurs, the more rigid requirement shall prevail.

3.5 Prohibited Uses. No portion of the Project shall be used for any of the following:

- (a) Outdoor parking or storage of any house trailer, travel trailer, boat trailer, camper, incapacitated motor vehicle, snow mobile, motor home, off road vehicle, boat or other watercraft;
- (b) Farming;
- (c) Siting of any mobile home, manufactured home, or any similar structure;
- (d) Development of a mobile home park;
- (e) Erection of radio, television, telephone, or wireless transmission facilities;
- (f) Timeshare estates as the term is defined in Chapter 94 of Oregon Revised Statutes.

#### ARTICLE 4

##### ARCHITECTURAL REVIEW

4.1 Approval Required. No Improvement, as defined in Section 1.4 above, shall be erected, placed, altered, maintained, or permitted to remain on any land subject to this Declaration until final plans and specifications have been submitted to and approved in writing by the Architectural Review Committee.

4.2 Procedure. Any Owner proposing to construct any Improvements within the Project (including any exterior alteration, addition, destruction, or modification to any such Improvements) shall follow the procedures and shall be subject to the approvals required by this Article 4. Failure to follow such procedures or obtain such approvals as required by this Article 4 shall be deemed a breach of this Declaration.

4.3 Required Documents. Any Owner proposing to utilize, improve, or develop real property within the Project shall submit a completed Architectural Review Committee Construction Submittal Form and Application with accompanying application fee and a site plan, floor plans and exterior elevations all in compliance with the Design Guidelines referred to in Section 4.5.

4.4 Review. All plans and drawings submitted in accordance with Section 4.3 above shall be submitted to the Architectural Review Committee for review prior to the performance of any proposed work. Such plans and drawings shall be accompanied by a check in the amount of the application fee payable to the order of Declarant or the Architectural Review Committee as designated by the Architectural Review Committee. The amount of the application fee shall be determined by the Architectural Review Committee from time to time. No plans shall be reviewed until the architectural review fee is paid in full and all items specified in this section are submitted. Within 30 days following written notice from Declarant that the application is complete, and the full amount of the architectural review fee has been received, Declarant shall review the plans and shall inform the Owner in writing whether the plans conform to the development concept for the Project. In the event any of the plans do not

conform to the Project development concept, the Owner shall resubmit those revised nonconforming portions of the plans for review in accordance with the procedures outlined in Section 4.3 above and this paragraph. No work may be performed relating to any Improvement unless and until all aspects of all plans required under Section 4.3 above and this paragraph have been approved in writing by the Architectural Review Committee. Any site plans, construction plans, or similar plans and drawings submitted to governmental agencies having jurisdiction in connection with the construction of any Improvement in the Project must bear the prior written approval of the Architectural Review Committee. The functions of Declarant pursuant to this Section 4.4 shall be performed by the Architectural Review Committee at such time as Declarant no longer appoints the members of the Architectural Review Committee.

4.5 Design Guidelines. The development concept for the Project shall be determined by the Architectural Review Committee. Design Guidelines setting forth various aspects of the development concept, in addition to this Declaration, shall be published from time to time by the Architectural Review Committee. The Architectural Review Committee shall have the right to alter, rescind, or amend any published Design Guidelines without prior notice to any party; provided, however, that once approval has been given pursuant to Section 4.4 above, work may proceed in accordance with the approved plans and drawings, notwithstanding any changes in the development concept. All such Design Guidelines shall be in general conformity with this Declaration.

4.6 Inspection. All work related to any Building, structure, or Improvement or any landscaping, vegetation, ground cover, or other Improvements within the Project shall be performed in strict conformity with the plans and drawings approved under Section 4.4 above. The Architectural Review Committee shall have the right to inspect any such work to determine its conformity with the approved plans and drawings and reserves the right to order a stop to all work if, in good faith, it believes that any such work is nonconforming. In the event that it is determined in good faith by the Architectural Review Committee that certain work is nonconforming, a stop work notice may be issued, without necessity of court order, that shall require the Owner to correct all nonconforming work specified in the notice before the remainder of the proposed work may be completed. Continued work without correction of any such nonconforming items shall be deemed a breach of this Declaration. Neither Declarant or the Architectural Review Committee nor any officer, director, employee, agent, member, or servant of Declarant or the Architectural Review Committee shall be responsible for any damages, loss, delay, cost, or legal expense occasioned through a stop work notice given in good faith, even if it is ultimately determined that such work was in conformity with the approved plans and drawings.

4.7 Waiver. Any condition or provision of Sections 4.2 through 4.6 above may be waived by the Architectural Review Committee in its exclusive discretion. Any waiver shall be in general conformity with the development concept and development standards for the Project. Any such waiver shall not be deemed a general waiver of any aspect of the development concept or the required procedures and approvals specified under Sections 4.2 through 4.6. The granting of a waiver as to one Owner shall not automatically entitle any other Owner to the waiver of the same or similar conditions or provisions. No waiver shall be valid unless it is in writing, signed by an authorized representative of the Architectural Review Committee and delivered by certified mail to the party claiming the benefit of such waiver.

4.8 Architectural Review Committee. As long as Declarant owns any Lot, the members of the Architectural Review Committee shall be appointed by Declarant. Thereafter, the Owners by majority vote voting on the basis of one vote per lot shall have responsibility for appointment and removal of members of the Architectural Review Committee. The Architectural Review Committee shall consist of three persons.

4.9 Majority Action. Except as otherwise provided herein, a majority of the members of the Architectural Review Committee shall have the power to act on behalf of the Architectural Review Committee, without the necessity of a meeting and without the necessity of consulting or notifying the remaining members of the Architectural Review Committee. The Architectural Review Committee may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

4.10 Liability. The scope of the Architectural Review Committee's review is not intended to include any review or analysis of structural, geophysical, engineering, building, or zoning code compliance or other similar considerations. Neither the Architectural Review Committee nor any member thereof shall be liable to any Owner, tenant, occupant, invitee, builder, or developer for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act of the Architectural Review Committee or a member thereof, provided only that the Architectural Review Committee has, or the member has, in accordance with the actual knowledge possessed by the Architectural Review Committee or by such member, acted in good faith.

4.11 Effective Period of Consent. The Architectural Review Committee's consent to any proposed Improvement shall automatically be revoked one year after issuance unless construction of the Improvement has been commenced or the Owner has applied for and received an extension of time from the party granting consent.

## ARTICLE 5

### DURATION AND AMENDMENT OF THIS DECLARATION

5.1 Duration. This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included in the Project and the Owners thereof for an initial period of thirty (30) years commencing with the date on which this document is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property in the Project and the Owners thereof for successive additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent, or other action whatsoever; provided, however, that this Declaration may be terminated at the end of the initial or any additional period by resolution approved not less than six (6) months prior to the intended termination date by the vote or written consent of Owners owning not less than 75 percent of the area of the land in the Project (excluding dedicated streets).

5.2 Amendment. This Declaration or any provisions thereof may be terminated, extended, modified, or amended as to the whole of the property or any part thereof

with a written consent of the Owners of at least 75 percent of the area of the land in the Project (excluding dedicated streets); provided, however, that as long as Declarant owns any of the property, no such termination, extension, modification, or amendment shall be effective without the written approval of Declarant.

5.3 Recording. Any amendment, deletion, or repeal of this Declaration shall not become effective until recorded in the official records of Deschutes County, Oregon.

## ARTICLE 6

### ENFORCEMENT

6.1 Remedies. This Declaration shall be specifically enforceable by Declarant or by any Owner of any Lot. Any breach of this Declaration shall subject the breaching party to any and all legal remedies, including damages or the destruction, removal, or enjoining of any offending improvement or condition.

6.2 Attorney Fees. In the event that legal suit or legal action is instituted for the enforcement of this Declaration or for any remedy for the breach of this Declaration, the prevailing party shall recover that party's reasonable attorney fees incurred in such suit or action (or any appeal therefrom) as adjudged by the trial or appellate court.

BROOKS RESOURCES CORPORATION

By

Kirk E. Schueler  
Kirk E. Schueler, President

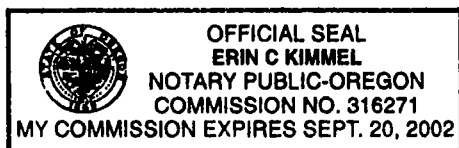
STATE OF OREGON )

)

SS

COUNTY OF DESCHUTES )

This instrument was acknowledged before me on May 3, 2000, by Kirk E. Schueler as President of Brooks Resources Corporation.



Erin C. Kimmel

Notary Public for Oregon

My commission expires: 9/20/02

2000-29485-7

- 5 DEVELOPMENTS EXISTING - ASSOCIATED WITH THE RIGHT TO DEDICATE THE EASEMENT TO THE PUBLIC FOR FUTURE STREET INTERSECTION RECONSTRUCTION.
- 6 CITY WATER OR SEWER CONNECTIONS IS GRANTED TO THE CITY OF BEND AND
- 7 CITY WATER OR SEWER CONNECTIONS AND EXCLUSIVE RIGHT TO CONSTRUCT, INSTALL, MAINTAIN AND OPERATE A WATER OR SEWER LINE, AND ALL RELATED FACILITIES ON THE SURFACE AND
- 8 WITHIN THE SUBSURFACE OF THE EASEMENT, NOT BE SUBJECT TO ANY OTHER USES UNLESS SO APPROVED BY THE CITY OF BEND WITHOUT FIRST OBTAINING APPROVAL FROM THE CITY OF BEND.
- 9 NO VEHICLE ACCESS ALLOWED TO SHEVINK PARK ROAD FROM LOTS 2 THROUGH 8.
- 10 NO EXCAVATION OR THE REMOVAL OF VEGETATION ON LOT SLOPES OF 12 PERCENT OR GREATER SHALL BE ALLOWED ON THIS EASEMENT OR ADJACENT PROPERTY.

**SHEET 1 OF 2**



