

DECLARATION OF PROTECTIVE COVENANTS  
FOR COUNTRY MALL

This declaration made this 27th day of June ,  
1974 by SUNRIVER PROPERTIES, INC., an Oregon corporation  
(hereafter referred to as Grantor), relates to certain  
property owned by Grantor in Deschutes County, Oregon, which  
is described in the Exhibit "A" attached hereto and hereafter  
referred to as "the Country Mall."

Grantor intends to develop the Country Mall as an  
attractive, planned office, retail, residential and recrea-  
tional complex which will provide goods, services, housing  
and employment opportunities for the area. As the Country  
Mall is located near a carefully planned recreational and  
residential community this declaration is intended to insure  
that the Country Mall will complement and enhance the appeal  
of the surrounding countryside. Grantor also intends by  
this declaration to assure that common facilities, areas and  
easements necessary for the success of the Country Mall are  
established and maintained.

ARTICLE I

GENERAL DECLARATION CREATING COUNTRY MALL

Grantor hereby declares that the Country Mall is now  
held and shall hereafter be conveyed, leased, occupied,

operated and used solely in compliance with the conditions, covenants, restrictions and agreements (hereafter referred to as the Protective Covenants) set forth in this declaration. The Protective Covenants shall inure to the benefit of and pass with each and every Parcel into which the Country Mall may be divided, shall apply to and bind the heirs, successors and assigns of every owner or occupier of a Parcel in the Country Mall (Parcel Occupant), and shall constitute covenants running with the land with respect to each Parcel.

## ARTICLE II

### OPERATIONS AND USES

#### 2.01 Approval of Uses.

Parcels within the Country Mall may be improved, operated and used only for uses approved by Grantor. The basis for such approval shall be the selection of high quality retail and office, high density residential or recreational uses, the conduct of which will: be in harmony with the surrounding area; coordinate with other such activities in the immediate area; generate needed services and attractive, desirable shops; be productive of desirable sources of employment for residents of nearby communities; and to the greatest extent possible be for the common benefit of all business, residential and recreational users of the area. Within these limitations, approval of uses shall be within the sole discretion of Grantor.

### 2.02 Time for Approval.

Each Parcel Occupant shall, prior to commencement of any construction or other operations on a Parcel, obtain the written approval of Grantor to the proposed use. Any change or significant modification of an approved use shall also be effected only after such written approval is obtained.

### 2.03 Compliance with Laws and Regulations.

In addition to compliance with these Protective Covenants, each Parcel Occupant 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 applicable building codes. These Protective Covenants are designed to complement such laws and regulations, and where any conflict occurs, the more rigid requirement shall prevail.

## ARTICLE III

### DESIGN APPROVAL

#### 3.01 Approval Required.

No building, structure, sign or landscaping of any kind shall be erected, altered, placed, assembled or permitted upon any Parcel until the plans therefor have received Grantor's written approval. Approval shall be based upon final plans and specifications showing the plot layout, all exterior elevations, material and landscaping. Duplicate

copies of such final plans and specifications shall be submitted to Grantor, together with the design review fee described in paragraph 3.04. Signs will be permitted on Parcels only for the purpose of identifying the name and business of the Parcel occupant.

3.02 Time for Indicating Approval.

Grantor shall have 30 days in which to indicate approval or disapproval of plans properly submitted pursuant to paragraph 3.01. If Grantor gives no written notice to the applicant indicating approval or disapproval within such 30-day period, then the plans shall be considered approved. Grantor shall state the reasons for any disapproval. If plans are revised and resubmitted following any disapproval, Grantor shall respond within 20 days, and lack of such response shall be considered to be approval. Grantor may at any time obtain a reasonable extension of the time in which to exercise its approval right by giving notice to the applicant stating that such an extension is required and the length of the required extension.

3.03 Basis for Approval.

In exercising its right of approval Grantor shall consider the adequacy of the Parcel dimensions for the proposed improvement, the conformity and harmony of the proposed exterior design to neighboring structures, the nature of improvements and uses upon neighboring Parcels,

the relationship of the proposed improvement to the topography of the Parcel and neighboring Parcels, and the conformity of the plans and specifications to the purpose and general concept of the Country Mall. Grantor shall not arbitrarily or unreasonably withhold its approval of plans and specifications. Grantor shall endeavor in good faith to grant any variances on a consistent and fair basis.

3.04 Design Review Fee.

The fee to be paid Grantor at the time of submission of plans and specifications for approval shall be \$100 where the plans and specifications are prepared by an architect. In all other cases the fee shall be \$250. Such fee shall be nonrefundable.

3.05 No Liability.

Grantor shall have no liability to anyone submitting plans and specifications for approval or to any Parcel Occupant, because of approval or disapproval of any plans and specifications.

ARTICLE IV

BUILDING CONSTRUCTION AND LANDSCAPING

4.01 Prosecution of Work.

Promptly following Grantor's approval of plans and specifications, the Parcel Occupant receiving such approval shall promptly satisfy any conditions of the approval and diligently proceed with the prosecution of all approved

landscaping, construction or alterations. If for any reason work has not commenced within one year from the date of Grantor's approval, the approval shall cease to be effective.

#### 4.02 Completion of Work.

All construction, reconstruction, refinishing or alterations of any improvement shall be completed within one year from the commencement of the work, except to the extent that delay is caused by labor disputes, fire or other casualty, natural disasters or other causes beyond the control of the Parcel Occupant.

#### 4.03 Construction Specifications.

All buildings, including accessory buildings and enclosures located on a given Parcel, shall be consistent in design and quality of material. Shielding, screening and fencing shall be of materials and colors in harmony with the roof and side walls. All utility lines shall be installed underground.

#### 4.04 Landscaping.

Every Parcel upon which an improvement is erected shall be landscaped, according to plans approved by Grantor pursuant to Article III. Such landscaping shall be accomplished within one month following occupancy or completion of the improvement, whichever occurs first, unless Grantor gives written approval to some other date.

#### 4.05 Maintenance of Building Exteriors and Landscaping.

Building exteriors and landscaping shall at all times be maintained in an attractive, neat and orderly manner. Landscaping shall be regularly attended to so as to maintain a well-kept appearance. No trash, debris or rubble of any kind shall be allowed to accumulate on any Parcel.

### ARTICLE V

#### PARKING, ACCESS AND COMMON AREAS

##### 5.01 Parking Areas.

Grantor shall have the right to designate on each Parcel parking areas for use by customers and employees of Parcel Occupants. Size and location of such areas shall be within Grantor's discretion, subject to the limitation that no Parcel shall be required to provide parking space disproportionate to the amount of traffic anticipated for the use to be made of that Parcel. Parking areas shall be for the common benefit of customers, invitees and employees of all businesses located upon the Country Mall, and all shall have equal right to use such parking areas, subject to regulations adopted by Grantor under paragraph 5.04, except that parking areas established for high density residential uses on any Parcel may designate up to two spaces per residential unit as for the exclusive use of residents of that Parcel.

##### 5.02 Access.

Grantor shall establish access routes for traffic through the parking areas and to and from the Country Mall from adjacent public roads and streets. Such routes may be

changed from time to time by Grantor and shall be laid out to provide as direct and convenient access to all Parcel Occupants as is reasonably possible.

#### 5.03 Common Facilities.

In addition to parking areas and access routes any facilities on the Country Mall intended for the use or comfort of customers or invitees, including but not limited to pedestrian malls, benches, open restrooms and the like, shall be common facilities available for use on a free and equal basis by all Parcel Occupants, their customers, employees and invitees. On residentially used Parcels, Grantor may approve facilities for the exclusive use of residents and their guests which shall not be common facilities.

#### 5.04 Regulations.

Grantor may adopt and cause to be posted on the Country Mall regulations regarding the manner of use of parking areas, access routes and common facilities. Such regulations shall be for the purpose of promoting safe, orderly and economic use of such amenities and shall be reasonably related to these purposes.

#### 5.05 Maintenance of Parking Areas and Common Facilities.

Each Parcel Occupant shall at all times maintain the parking area and any common facilities on the Parcel in neat, well-kept fashion at all times and shall perform all maintenance required so as to keep pavement, striping, lighting, curbs and similar improvements in first-class condition at all times. Buildings and other structures and improvements on each Parcel shall also be maintained in first-class condition at all times.

## ARTICLE VI

## ENVIRONMENTAL STANDARDS

In order to preserve the clean and scenic environment of the surrounding area, all activities conducted within the Country Mall shall comply with the following standards:

6.01 Noise.

(a) Except as provided in subparagraph (c) of this paragraph, all noise generated within the Country Mall shall be muffled so that when measured at the boundaries of any Parcel, shall not be objectionable.

(b) No vibration shall be produced on any Parcel which is discernible without instruments at the property line of the Parcel.

(c) The limitations stated in subparagraphs (a) and (b) of this paragraph shall not apply to noises or vibrations created by trains and highway vehicles or to noise-making devices used and maintained solely as warning devices on an infrequent basis.

6.02 Smoke and Particulate Matter.

Emission of smoke and particulate matter shall avoid the creation of nuisance conditions.

6.03 Air Pollution Measurement.

Measurements of air pollution shall be by the procedures and with equipment approved by the Oregon Department of Environmental Quality, or equivalent and acceptable

methods and equipment approved by Grantor's Engineering Department. Persons responsible for suspected sources of air pollution shall on Grantor's request provide accurate quantitative and qualitative information regarding the discharges and operating conditions.

6.04 Odors.

The emission of odoriferous gases generally considered to be unpleasant or other matter in quantities such as to be readily detectable by the human nose within the Country Mall, or elsewhere, under any atmospheric conditions is prohibited.

6.05 Heat and Glare.

Except for exterior lighting, operations producing heat or glare shall be conducted entirely within enclosed buildings, with entrances shielded from view as provided in paragraph 5.04.

6.06 Waste; Pest Control.

All materials including waste and garbage shall be stored and the grounds of each Parcel maintained in a manner which will not attract or aid in the propagation of insects, rodents or other animal pests or create a health hazard. No chemical wastes shall be discharged into Grantor's sewer system unless first analyzed by a licensed chemical engineer and approved by Grantor. Any occupant discharging harmful wastes into such sewer system shall pay Grantor a fine of \$250 for each day in which the discharge occurs.

ARTICLE VII  
ENFORCEMENT

7.01 Inspection.

Grantor or any of its agents or designees may from time to time at any reasonable hour enter upon and inspect any property subject to these Protective Covenants to ascertain compliance.

7.02 Abatement of Violations.

Failure to comply with any term or provision of these Protective Covenants shall give to Grantor the right, following five days' written notice addressed to the Parcel Occupant upon whose Parcel violation occurs, to abate, remove or cure such violation at the expense of the noncomplying Parcel Occupant.

7.03 Violation a Nuisance.

Any activity or use conducted on the Country Mall in violation of these Protective Covenants is hereby declared to be a public nuisance as to residents of the surrounding area and a private nuisance as to other Parcel Occupants of the Country Mall. All legal and equitable relief available for the abatement of such nuisances shall be available to restrain and enjoin such nuisances and to recover resulting damages.

7.04 Cumulative Remedies; Nonwaiver.

The remedies listed above for violation of the Protective Covenants shall not be mutually exclusive nor

exclude any other remedy available under applicable law. Failure by Grantor or by any other person entitled to enforce these Protective Covenants as to any given breach shall not be considered a waiver of the right to enforce these Protective Covenants as to any future breaches.

7.05 Attorneys' Fees.

In any legal or equitable proceedings to enforce or restrain violation of these Protective Covenants or to collect the costs of abatement as provided in section 7.02, the losing party or parties shall pay the attorneys' fees of the prevailing party or parties in such amount as may be fixed by the court at trial or on any appeal.

ARTICLE VIII

8.01 Duration.

Unless sooner terminated or modified according to the procedure provided in paragraph 8.02 below, these Protective Covenants shall remain in effect for a period expiring on the 50th anniversary date of the execution of this declaration.

8.02 Amendment and Repeal.

This declaration may be terminated or extended or any of the Protective Covenants herein may be modified or amended as to all or any portion of the Country Mall with the written consent of Grantor and parties owning, or holding under lease from Grantor, 65 percent of the land area within the Country Mall. Such termination, extension or modification shall become effective upon the recording of the proper

instrument in the Records of Deschutes County, Oregon, where this declaration is filed.

8.03 Assignability of Grantor's Rights.

Grantor may at any time assign its rights under this declaration to any person, corporation or association which will agree in writing to accept the assignment and assume the duties of Grantor under this declaration. Such assignee shall have all the rights and powers and be subject to the same obligations and duties as Grantor, and the term "Grantor" includes all such assignees, their heirs, successors and assigns.

ARTICLE IX

MISCELLANEOUS

9.01 Utility Easements.

Grantor reserves the right of use and reasonable access to, under and across the exterior portions of any Parcel within 10 feet of exterior property lines for the purpose of installing and maintaining underground utility or telephone lines. Grantor shall repair any damage to any improvements or landscaping on a Parcel caused by its installation or maintenance of such lines.

9.02 Constructive Notice and Acceptance.

Every person who now owns or in the future acquires any right, title, estate or interest in or to the Country Mall shall be bound by the terms of these Protective Covenants whether or not any reference to the Protective Covenants is

contained in the instrument by which such person acquires an interest in the Country Mall.

9.03 Rights of Mortgagees.

These Protective Covenants shall be subject and subordinate to all mortgages or deeds of trust now or hereafter executed upon any portion of the Country Mall and shall in no way supersede or reduce the security or affect the validity of any such mortgage or deed of trust. However, if any portion of the Country Mall is sold as a result of the foreclosure of any mortgage or deed of trust, the purchaser at such foreclosure sale and its successors and assigns shall acquire the property so purchased subject to these Protective Covenants.

9.04 Effect of Invalidation.

If any term or provision of these Protective Covenants is held to be invalid by any court, such invalidity shall not affect in any way the validity of the remaining Protective Covenants.

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

SUNRIVER PROPERTIES, INC.

By Charles D. Ellis  
Title: PRESIDENT

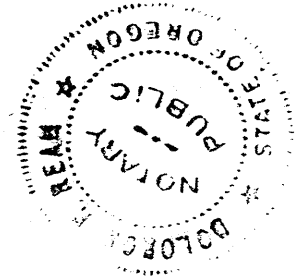
By Marvin A. French  
Title: FINANCIAL DIRECTOR

STATE OF OREGON       )  
                          ) ss.  
County of Deschutes    )

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On this 27 day of June, 1974, personally  
appeared before me Charles D. Allis and Marvin A. French  
, who, being duly sworn did say that they are the  
President and Financial Director, respectively, of  
SUNRIVER PROPERTIES, INC. and that said instrument was signed  
on behalf of said corporation by authority of its board of  
directors; and they acknowledged said instrument to be its  
voluntary act and deed.

*Robert R. Rasmussen*  
Notary Public for Oregon  
My commission expires: May 25, 1976



TO BE ATTACHED TO "DECLARATION OF PROTECTIVE COVENANTS FOR  
COUNTRY MALL", WHICH BY REFERENCE MAKES IT A PART THEREOF

SUNRIVER COUNTRY MALL PROPERTY DESCRIPTION

A tract of land containing 35.15 acres lying in Section 32, T19S, R11E and Section 5, T20S, R11E W.M., Deschutes County, Oregon, described as follows: Commencing at the northeast corner of said Section 5; thence S 89-10-19 W along the north line of said section 2652.33 feet to the north one quarter corner of said section, said point marked by a 5/8 inch iron rod; thence S 47-23-55 E 201.79 feet to the point of beginning of the plats of Fairway Island, and Overlook Park; thence S 74-17-12 E 60.00 feet to the point of beginning of the herein described tract of land, said point being on the easterly right of way of a 60 foot road known as Abbot Drive;

thence N 15-42-16 E along said right of way 150.00 feet;  
thence around a 455 foot radius curve right 114.63 feet (long chord bears N 22-54-52 E 114.33 feet);  
thence N 30-07-56 E 61.82 feet;  
thence around a 101.49 foot radius curve right 99.81 feet (long chord bears N 53-18-38 E 99.16 feet) to a point on a 150 foot radius circle known as Abbot Circle #2, the center of which is marked by a 5/8 inch iron rod and bears N 3-30-00 W 150 feet;  
thence along said circle around a 150 foot radius curve left 155.70 feet (long chord bears N 56-45-01 E 148.80 feet) to the southerly right of way of a 60 foot road known as Theater Drive;  
thence along said right of way around a 51.74 foot radius curve right 67.41 feet (long chord bears N 64-19-36 E 60.74 feet);  
thence S 78-20-50 E 48.24 feet;  
thence around a 138.84 foot radius curve right 218.85 feet (long chord bears S 33-11-20 E 196.89 feet);  
thence S 11-58-11 W 265.48 feet;  
thence around a 150 foot radius curve left 171.44 feet (long chord bears S 20-46-22 E 162.26 feet);  
thence S 53-30-54 E 36.78 feet to a point on the westerly right of way of a 60 foot road known as Beaver Drive as platted in Forest Park II;  
thence S 30-30-13 W along said right of way 79.93 feet;  
thence around a 430.06 foot radius curve left 166.10 feet (long chord bears S 19-27-16 W 165.07 feet);  
thence S 8-22-30 W 647.93 feet;

## SUNRIVER COUNTRY MALL PROPERTY DESCRIPTION - PAGE 2

thence around a 565.30 foot radius curve right  
 182.63 feet (long chord bears S 17-34-19 W 181.81  
 feet);  
 thence S 26-53-06 W 226.63 feet;  
 thence around a 429.91 foot radius curve left;  
 250.85 feet (long chord bears S 10-06-11 W 217.28  
 feet);  
 thence S 6-32-34 E 217.50 feet;  
 thence around a 118.77 foot radius curve right  
 118.58 feet (long chord bears S 01-01-37 W 118.2'  
 feet) to the northeast corner of that tract of land  
 described in Book 170 Page 610 Deschutes County Deed  
 Records;  
 thence N 71-24-05 W along said boundary 228.08 feet;  
 thence S 18-35-55 W 120.15 feet to a point on the  
 northerly right of way of a 60 foot road known as  
 Ponderosa Road as shown on the plat of Forest Park II,  
 said point also being the southwest corner of the  
 tract of land described in Book 170 Page 610 Deschutes  
 County Deed Records;  
 thence westerly along said right of way around a  
 76.92 foot radius curve left 100.51 feet (long chord  
 bears N 86-30-45 W 93.51 feet) to a point on the  
 northerly line of a 40 foot easement described in  
 Book 197 page 424 Deschutes County Deed Records;  
 thence N 40-11-10 W along said easement 61.31 feet;  
 thence S 65-12-44 W 81.88 feet;  
 thence S 84-58-42 E 56.05 feet;  
 thence N 48-39-07 W 105.87 feet;  
 thence N 85-33-56 W 85.15 feet;  
 thence N 56-57-59 W 78.25 feet;  
 thence N 24-24-53 E 113.89 feet;  
 thence N 16-20-10 E 248.12 feet;  
 thence N 73-39-50 W 11.00 feet to the northeast  
 corner of that tract of land described in Book 197  
 Page 424 Deschutes County Deed Records;  
 thence N 73-39-50 W along the north line of said  
 tract 105.72 feet to the northwest corner of said  
 tract;  
 thence N 73-39-50 W 84.11 feet to the easterly  
 right of way of a 60 foot road known as Abbott Drive;  
 thence N 26-06-18 E along the easterly right of way  
 of said road 92.22 feet;  
 thence around a 265 foot radius curve left 65.10  
 feet (long chord bears N 19-04-03 E 64.94 feet);

## SUNRIVER COUNTRY MALL PROPERTY DESCRIPTION - PAGE 3

thence N 12-01-48 E 364.05 feet;  
 thence around a 155 foot radius curve right 124.36  
 feet (long chord bears N 35-00-56 E 121.05 feet);  
 thence N 58-00-03 E 304.48 feet;  
 thence around a 245 foot radius curve left 208.80  
 feet (long chord bears N 33-35-10 E 202.51 feet);  
 thence N 9-10-17 E 263.72 feet;  
 thence N 7-26-53 E 269.60 feet to the point of  
 beginning.

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## STATE OF OREGON

County of Deschutes

I hereby certify that the within in-  
 strument of writing was received for Recor-  
 the 28 day of June AD. 1974  
 at 1:30 o'clock P. M., and recorded  
 in Book 207 on Page 862 Record  
 of Deschutes

ROSEMARY PATTERSON

County Clerk

By J. McIlhenny Deputy