

After Recording Return to:

Deschutes River Ranch Community Association, Inc.

20210 Swalley Road

Bend, Oregon 97701

Attn: Gary B. Blake and Craig S. Morton

**DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR DESCHUTES RIVER RANCH**

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**DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR DESCHUTES RIVER RANCH**

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR DESCHUTES RIVER RANCH (this "Declaration"), to be effective upon its recording in Deschutes County, Oregon, is made and executed on the date hereinafter set forth by Deschutes River Ranch Group LLC, hereinafter referred to as the "Declarant".

**WITNESSETH**

Declarant is the owner of that certain real property in Deschutes County, Oregon, described on **Exhibit A** attached hereto and incorporated herein by reference, which property was a part of that certain real property previously platted pursuant to that certain plat recorded in the real property records of Deschutes County, Oregon on November 3, 1965 at Cabinet A No. 132 as the Plat of Tumalo Trails (the "Original Plat"). Declarant has replatted the land described in **Exhibit A** (together with three other parcels of land described herein as the "Private Parcels") pursuant to that certain Plat of Deschutes River Ranch, recorded in the real property records of Deschutes County on March 3, 2003, at Volume 2003, Instrument No. 14297 (the "Plat").

Declarant desires to create an exclusive planned community known as DESCHUTES RIVER RANCH on the land described on **Exhibit A** and on such other land as may be added thereto pursuant to the terms and provisions of this Declaration.

NOW THEREFORE, the Declarant declares that the real property described on attached **Exhibit A** and any property subsequently annexed into this Declaration (collectively, the "Property"), shall be held, sold, hypothecated, and conveyed subject to the covenants, conditions, and restrictions declared below, which shall be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Lot and other portions of the Property in order to maintain within the Property a community of high standards. Such covenants shall be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof.

By recordation of this Declaration in the real property records of Deschutes County, Oregon, Declarant is hereby creating a Class I planned community, pursuant to and subject to ORS 94.550 to 94.783, and applicable successor provisions.

Funds for the maintenance and operation of common maintenance areas will be provided through assessments against those who purchase property within Deschutes River Ranch, although to assist with the development, Declarant may from time to time itself provide some improvements. For the protection of all owners of property in Deschutes River Ranch, there will be a system designed to assure that each person who purchases property in Deschutes River Ranch will pay an equitable share of the costs for maintenance and development of the common maintenance areas.

## ARTICLE I - DEFINITIONS

### Section 1.1    "Association"

"Association" shall mean the Deschutes River Ranch Community Association, Inc., an Oregon nonprofit corporation established for the purposes set forth herein and pursuant to ORS Chapter 65.

### Section 1.2    "Board"

"Board" shall mean the Board of Directors of the Deschutes River Ranch Community Association, Inc.

### Section 1.3    "Builder"

"Builder" shall mean Declarant and any residential building company acquiring Lots from the Declarant for the purposes of construction and sale of homes.

### Section 1.4    "Bylaws"

"Bylaws" shall mean the Bylaws of the Association, as amended from time to time. The Bylaws shall be recorded in the real property records of Deschutes County, Oregon.

### Section 1.5    "Common Areas"

"Common Areas" as used herein, shall mean only that portion of the Property that is established for the common use and benefit of property owners within Deschutes River Ranch and identified as "Common Areas" on a plat of any portion of the Property, in an amendment to this Declaration or in a supplemental declaration, and which shall be conveyed to the Association for the use and benefit of the Owners. There shall be no Common Areas at this time. Until the Conversion Date, the Declarant shall have the right to designate Common Areas in the future by recordation of a duly approved amendment to this Declaration or by recordation of a supplemental declaration, subject to the terms of Section 4.7.

### Section 1.6    "Common Maintenance Areas"

"Common Maintenance Areas" shall mean and include the following:

1.     The Common Areas;
2.     The entry monument and access road off of Swalley Road (including the stone wall, fencing, landscape area and mailbox shelter), all as shown on attached **Exhibit B** and which are available to the Association and Owners pursuant to the easements granted in Section 6.9 below;
3.     All private roadways, including roads constructed pursuant to Section 2.15 serving the Property or any portion, including all related landscaping and planting strips, but

subject to the right of proportional reimbursement by particular benefited Owners as provided herein;

4. All public or county roads serving the Property or any portion, including all related landscaping and planting strips, to the extent the same are not maintained by Deschutes County and subject to the right of proportional reimbursement by particular benefited Owners as provided herein;

5. Rock Canyon Road, as shown on attached **Exhibit B**, with bordering fence along upper pasture to the south and landscape buffer area between shoulder of road and stone walls to the north;

6. Arrowhead Road, as shown on attached **Exhibit B**, with bordering stone walls to the south and walls and fencing to the north including landscape buffer on both sides of road;

7. Private roads and the related fencing, walls and landscape areas which serve access to future Estate Lots 1-2, as shown on attached **Exhibit B**, but which also serve as construction access to the Subdivision Lots;

8. Private roads and the related fencing, walls and landscape areas which connect the entry road to Rock Canyon Road and Arrowhead Road, as shown on attached **Exhibit B** and which are available to the Association and Owners pursuant to the easements granted in Section 6.9;

9. The Community Septic System;

10. Improvements on any of the easements described in Section 6.1, which, until the Conversion Date, may, in Declarant's discretion, be maintained by the Association directly or by Declarant, subject to the Association's obligation to reimburse Declarant pursuant to Section 6.1.E; and

11. Any areas within public rights-of-way, public easements, tracts or any other property (including improvements) that the Board deems necessary or appropriate to maintain for the common benefit of the Owners.

Not later than the Conversion Date, Declarant or the applicable Related Party shall either convey in fee, or grant an easement, to the Common Maintenance Areas to the Association to the extent the same are located on Declarant's or Related Parties' property, subject to the Association's agreement to undertake and/or continue maintenance thereof. Until the Conversion Date and subject to the terms of Section 4.7, the Declarant shall have the right to designate additional Common Maintenance Areas in the future or to remove Common Maintenance Areas by recordation of a duly approved amendment to this Declaration or by unilateral recordation of a supplemental declaration. Declarant's right to designate additional Common Maintenance Areas in a supplemental declaration shall include the right to so designate any portion of the easement areas identified in Section 6.1 and/or any of the improvements located from time to time on any portion of such easement areas. Prior to the Conversion Date, Declarant shall have the right to re-align access roads or otherwise re-route access within the Property and may designate additional Common Maintenance Areas or removed Common Maintenance Areas. Some of the Common Maintenance Areas described above may not be constructed until after the conveyance of the first



Lot, but shall be completed not later than the Conversion Date. To the extent Declarant conveys to the Association any Improvements that are Common Maintenance Areas, Declarant shall (i) convey the same free and clear of any monetary liens/encumbrances; (ii) convey the same free of charge; and (iii) grant the Association such easements over Declarant's property as may be reasonably necessary to permit the Association to access and maintain such Improvements. Any such conveyance of Common Maintenance Areas to the Association may be made by bill of sale, grant of deed, easement, ground lease or license.

In the event that the Declarant conveys the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area and the Recreation Easement Area to the Association, Declarant shall (i) first provide the Association with not less than three months' advance written notice of such intent; (ii) convey the same free and clear of any monetary liens/encumbrances; and (iii) convey the same free of charge. In addition, in order to facilitate the Association's undertaking of ownership and maintenance of such easement areas, Declarant covenants that it shall cooperate and assist the Association, as the Association may reasonably request, for a period of not less than four months, commencing upon the date of such conveyance. Declarant shall charge no fee for such cooperation and assistance; provided, however, Declarant shall not be required to incur any out-of-pocket expenses in connection therewith. Such cooperation and assistance may include such consultation, advice and/or referrals as may be reasonably requested by the Association. The foregoing notice and consultation periods shall not be required for the conveyance of any Improvements separate from the real property on which such Improvements are situated.

#### Section 1.7 "Community Septic System"

"Community Septic System" shall mean all improvements constructed by Declarant or the Association to serve Lots in Deschutes River Ranch, for the collection and transport of wastewater from the property line of individual Lots to the community treatment center and drainfield. The Association shall have sole responsibility for the maintenance, repair and replacement of the Community Septic System. Not later than the Conversion Date, Declarant shall convey the Community Septic System, including any improvements and related equipment to the Association by bill of sale at no cost to the Association, free and clear of any monetary liens/encumbrances. Together with such conveyance, Declarant or the applicable Related Parties, as the case may be, shall grant an access and maintenance easement to the Association to permit the Association to maintain, repair and replace the Community Septic System as reasonably necessary. Notwithstanding any other provisions contained herein, all costs related to the Community Septic System, including operations, maintenance, repair and replacement, shall be allocated to and paid by only the Owners of Serviced Lots.

#### Section 1.8 "Conversion Date"

"Conversion Date" shall be the date upon which Class "B" membership shall cease and be converted to Class "A" membership. Such date shall be the date which is the earliest of (i) the date at which ninety-five percent (95%) of the total Lots in all phases, including any property annexed into Deschutes River Ranch from time to time, have been conveyed to Class "A" members; or (ii) at such earlier time as Declarant may elect in writing to terminate Class "B" membership.

Section 1.9    “County”

“County” shall mean Deschutes County, Oregon.

Section 1.10    “Declarant”

“Declarant” shall mean Deschutes River Ranch Group LLC and/or its successors and assigns, who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign.

Section 1.11    “Declaration”

“Declaration” shall mean this Declaration of Protective Covenants, Conditions, and Restrictions for Deschutes River Ranch and any amendments and supplements thereto made in accordance with its terms.

Section 1.12    “Deschutes River Ranch” or “DRR”

“Deschutes River Ranch” or “DRR” shall mean the community of Deschutes River Ranch created on the Property.

Section 1.13    “Directors”

“Directors” shall mean the Board of Directors of the Association.

Section 1.14    “Estate Lots”

“Estate Lots” shall mean all Lots within Deschutes River Ranch other than the Subdivision Lots.

Section 1.15    “Improvement”

“Improvement” shall mean every structure or improvement of any kind, including, but not limited to, a Unit, landscaping, fences, wall, driveways, fixtures, shelters, or other product of construction efforts (including painting, alterations, and reconstruction) on or with respect to Deschutes River Ranch.

Section 1.16    “Lot”

“Lot” shall include each of Lots 2, 3, 4, 5, 6, 7, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 as shown on the Plat (the “Subdivision Lots”), and any other lots annexed to this Declaration and identified as residential lots, with the exception of the Common Areas and areas deeded to a governmental authority or utility, together with all Improvements thereon. As used herein, “Lot” shall also include any residential homesites created or conveyed by Declarant and annexed to this Declaration, regardless of whether the conveyance is of a fee interest, a leasehold interest, an easement or a license.

Section 1.17 "Owner"

"Owner" shall mean (i) the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation; and (ii) the lessee of an Estate Lot under a ground lease for so long as the lease is in full force and effect.

Section 1.18 "Private Parcel(s)"

"Private Parcel(s)" shall mean the three private parcels identified on the Plat as Lots 1, 8 and 11, each of which shall cease to be a "Private Parcel" if and when annexed into Deschutes River Ranch.

Section 1.19 "Property"

"Property" shall mean the real property described on the attached **Exhibit A**, and such additions thereto as may be brought within the jurisdiction of the Association and be made subject to this Declaration by a Declaration of Annexation.

Section 1.20 "Related Parties"

"Related Parties" shall mean the following individuals, who are investors in Declarant and each of whom by himself or with one or more of the others, owns some portion of the property over which easements are to be granted for the benefit of the Association and/or portions of the Property: Craig S. Morton, Rebecca A. Morton, Dean O. Morton, Bruce Hinchliffe, Sandra Swanlund, Gary B. Blake, Lynette H. Blake and Robert Boyd. The Related Parties are executing this Declaration to show their consent and agreement to grant the various easements and other rights specifically identified herein. The Related Parties intend in the future to convey the portions of property that they currently own that are identified herein to the Declarant. Accordingly, the Related Parties agree that Declarant may reserve those rights and obligations that are identified herein with respect to property owned by the Related Parties.

Section 1.21 "Sub-Association"

"Sub-Association" shall reference any sub-association created from time to time by Declarant to govern the administration of any subset of Lots that are subject to this Declaration. Each Sub-Association shall be subject to a separate declaration of covenants, conditions and restrictions and such other documents as may be established by Declarant in its sole discretion; provided, however, the terms of such document shall remain subordinate to and subject to the terms of this Declaration and the Articles of Incorporation and Bylaws of the Association.

Section 1.22 "Subdivision Lot"

"Subdivision Lot" shall mean each lot within the Plat and each lot within the Original Plat that is annexed into this Declaration.

Section 1.23    "Turnover Meeting"

"Turnover Meeting" shall be the meeting of the Owners called by the Declarant to turn over control of the Association to the Class A members.

Section 1.24    "Unit"

"Unit" shall mean any residential dwelling situated upon any Lot.

**ARTICLE II – DESCHUTES RIVER RANCH COMMUNITY ASSOCIATION, INC.**

Section 2.1    Membership

The Declarant and every Owner of a Lot by virtue of ownership of such Lot shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. Until the Conversion Date, there shall be two (2) classes of membership, Class A and Class B as described in Section 2.2.

Section 2.2    Voting Rights

The Association shall have two (2) classes of voting membership:

A.    Class A

Class A members shall be all Owners with the exception of Declarant (except that beginning on the date on which Class B membership is converted to Class A membership, and thereafter, Class A members shall be all Owners, including Declarant) and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members, but the vote for such Lot shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Lot.

B.    Class B

The Class B members shall be the Declarant, who shall be entitled to five (5) votes for each Lot it owns until the Conversion Date at which time the Class B membership shall be converted to a Class A membership.

Notwithstanding the foregoing, in the event of a vote to approve an action or an amendment to this Declaration, which action or amendment would affect the Serviced Lots specifically (as opposed to all Lots generally) or exclusively, such action or amendment shall not be approved unless first approved by Owners representing at least fifty-one percent (51%) of the total number of Serviced Lots, in addition to all other voting requirements set forth herein or by applicable law.

Section 2.3    Suspension

All voting rights of an Owner shall be suspended during any period in which such Owner is delinquent in the payment of any assessment duly established pursuant to this Article II

or is otherwise in default under this Declaration, the Bylaws or the Rules and Regulations of the Association.

#### Section 2.4 Turnover Meeting

The Declarant shall call a Turnover Meeting within one hundred twenty (120) days following the Conversion Date for the purposes of turning over control of the Association to the Class A members. The Declarant shall give notice of the Turnover Meeting to each Owner as provided in the Bylaws. The Turnover Meeting shall be conducted in accordance with the Bylaws of the Association. At the Turnover Meeting, the Declarant shall turn over to the Association the responsibility for the planned community of Deschutes River Ranch and of the Association and the Association shall accept such administrative responsibility. At the Turnover Meeting, the Owners shall elect a Board in accordance with the Bylaws. At the Turnover Meeting, the Declarant shall deliver to the Association those items and documents required by ORS 94.616 or applicable successor provisions. In order to facilitate an orderly transition, during the three-month period following the Turnover Meeting, the Declarant or an informed representative shall be available to meet with the Board on at least three mutually acceptable dates to review the documents delivered pursuant to this Section 2.4. Not later than ninety (90) days after the Turnover Meeting, the Association shall provide Declarant with an estoppel certificate (i) certifying that Declarant has satisfied all of its obligations owed to the Association, including, without limitation, any obligations arising out of or related to this Declaration, or (ii) identifying with specificity the extent to which any such obligations remain unsatisfied.

#### Section 2.5 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 planned community of Deschutes River Ranch to administrative responsibility by the Association. Not later than the sixtieth (60th) day after Declarant has conveyed to Owners other than Declarant Lots representing fifty (50) percent or more of the Lots in the Property (which shall exclude any property annexed to the Property for purposes of the foregoing calculation), Declarant shall call a meeting of Owners for the purpose of selecting the Transitional Advisory Committee. The Transitional Advisory Committee shall consist of three (3) or more members. The Owners, other than Declarant, shall select two (2) or more members. Declarant may select no more than one (1) member. The Transitional Advisory Committee shall have reasonable access to all information and documents that Declarant is required to turn over to the Association under ORS 94.616(3).

#### Section 2.6 Funding

Subject to the terms of this Article II, the Declarant hereby covenants for each Lot owned within the Property, and each Owner of any Lot by acceptance of a deed, lease, easement or license therefor, whether or not it shall be so expressed in such deed, lease, easement or license is deemed to covenant and agrees to pay to the Association: (i) annual or periodic assessments or charges; and (ii) special assessments for capital improvements to the Common Areas and Common Maintenance Areas, such assessments to be established and collected as hereinafter provided. The

annual or periodic assessments shall include any reserve assessments necessary to establish and maintain any reserve funds created under Section 2.10. Such assessments will remain effective for the full term (and extended term, if applicable) of the within covenants. The annual and special and other assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot(s) at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the successors in title of such Owner unless expressly assumed by them, in writing.

#### Section 2.7    Annual Assessment or Charge for Lots

Subject to the terms of this Article, each Lot is hereby subject to an initial assessment in an amount not to exceed an amount determined by the Board (until such assessment charge shall be modified as provided in the Bylaws of the Association), for the purpose of creating a fund to be designated and known as the "maintenance fund" for matters described under Section 2.9, the "reserve fund" for matters described under Section 2.10, as well as any other funds contemplated under this Declaration, or any other fund called for by this Declaration or a Declaration of Annexation. Charges and assessments for funding such funds will be paid by the Owner or Owners of each such Lot in advance in monthly, quarterly or annual installments, commencing as to all Lots upon the recordation of this Declaration. The rate at which each Lot will be assessed, and whether such assessment shall be payable monthly, quarterly or annually, will be determined by the Board at least thirty (30) days in advance of each assessment period. Said rate may be adjusted within the limit permitted herein and by the Bylaws from time to time by the Board as the needs of the Association may, in the judgment of the Board, require. Notwithstanding anything else contained herein, except in the case of an emergency, the Board may not impose a per-Lot annual assessment (excluding additional assessments pursuant to Section 2.13 and/or Section 2.15) for any year that is more than 15% greater than the per-Lot annual assessments for the immediately preceding year without the approval of Owners owning more than two-thirds of the then-existing Lots within Deschutes River Ranch. As used in the foregoing sentence, "emergency" shall mean a situation or occurrence that is likely to result in a material negative impact on services to Owners and/or pose a health or safety risk. The annual assessment (excluding additional assessments pursuant to Section 2.13 and/or Section 2.15) for each Lot shall be uniform except as specifically provided herein (such as for roads serving Estate Lots or for the Community Septic System serving only the Serviced Lots) or as provided in any Declaration of Annexation for Deschutes River Ranch. The Association shall, upon written demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessment for a particular Lot has been paid for a particular assessment period. No Lot Owner shall have any right to any common profits of the Association. Notwithstanding any other terms contained herein, the Declarant shall have the right to abate or pro-rate annual assessments for Lots sold prior to the date on which all intended subdivision improvements and/or improvements to Common Maintenance Areas are completed, all in Declarant's reasonable discretion.

## Section 2.8    Declarant Responsibility

So long as there is Class B membership, Declarant hereby covenants and agrees that in the event that the annual maintenance fund revenues are insufficient to pay the operating expenses of the Association, it shall provide the funds necessary to make up the deficit, within thirty (30) days of receipt of request for payment thereof from the Association, provided that if the deficit is the result of the failure or refusal of an Owner or Owners to pay their annual maintenance assessments, the Association shall diligently pursue all available remedies against such defaulting Owners, including the immediate institution of litigation to recover the unpaid assessments, and shall reimburse the Declarant the amounts, if any, so collected.

## Section 2.9    Purposes of Maintenance Fund

The Association shall establish a maintenance fund composed of annual maintenance assessments and shall use the proceeds of such fund in providing for normal, recurring maintenance charges for the Common Maintenance Areas for the use and benefit of all members of the Association. Such uses and benefits to be provided by the Association may include, by way of clarification and not limitation, any and all of the following: (i) normal, recurring maintenance of the Common Maintenance Areas (including, but not limited to, mowing, edging, watering, clipping, sweeping, pruning, raking, and otherwise caring for landscaping) and the Improvements to such Common Maintenance Areas, such as irrigation sprinkler systems, provided that the Association shall have no obligation (except as expressly provided hereinafter) to make capital improvements to the Common Maintenance Areas; (ii) perpetual maintenance, repair, and enhancement for any fences, columns, walls, grounds, landscaping, lights, irrigation systems, Community Septic System (subject to the terms of Section 7.6 below) and entry monuments that serve or benefit Deschutes River Ranch; (iii) perpetual maintenance of storm water quality/quantity pond facilities within or which serve the Property; (iv) payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions and conditions affecting the property to which the maintenance fund applies; (v) payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; (vi) payment of expenses for utilities serving Common Areas and/or Common Maintenance Areas; (vii) payments due under Article VI; (viii) taxes or assessments on Common Areas and improvements or property owned by the Association; and (ix) all other activities necessary or desirable in the opinion of the Board to keep the Property neat and in good order, or which is considered of general benefit to the Owners or occupants of the Property, it being understood that the judgment of the Board in the expenditure of said funds and the determination of what constitutes normal, recurring maintenance shall be final and conclusive so long as such judgment is exercised in good faith. Notwithstanding the foregoing, the Association shall keep separate records of the costs involved in operating, maintaining and repairing the Community Septic System and shall include those costs only in the assessments charged to Owners of Serviced Lots. In addition, to the extent the Association determines that any road(s) benefits one or more Estate Lots particularly or exclusively, the Association shall allocate the costs of operating, maintaining and repairing such road(s) accordingly.

## Section 2.10 Reserve Funds

### A. Reserve Fund for Replacing Common Maintenance Areas.

Declarant shall in addition establish a reserve fund in the name of the Association for replacement, in whole or in part, of the Common Maintenance Area and any Improvements located in, on, or under the Common Maintenance Area for which the Association is responsible pursuant to this Declaration, that will normally require replacement in more than three (3) and fewer than thirty (30) years, including exterior painting, if the Common Maintenance Area includes exterior painted surfaces. The reserve account need not include those items that could reasonably be funded from the maintenance fund. Assessments for the reserve fund under this Section shall begin accruing from the date the first Lot assessed is conveyed. Declarant may elect to defer payment of accrued assessments for reserves for a Lot until the date the Lot is conveyed; provided, however, the Declarant may not defer such payment beyond the date of the Turnover Meeting. The book and records of the Association shall reflect the amount owing from the Declarant for all reserve assessments. For purposes of funding the reserve fund, the Association shall impose an assessment to be called the "Reserve Fund Assessment" against each Lot, which assessment shall be spread equally over the Lots. The reserve fund shall be kept separate from other funds and may be used only for the purposes for which reserves have been established as specified in this Section. However, after the Turnover Meeting (as required by ORS 94.616 or applicable successor provisions), the Board may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses. Funds borrowed under this Section must be repaid later from assessments if the Board has adopted a resolution, which may be an annual continuing resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan providing for repayment of the borrowed funds within a reasonable period. The Association shall administer the reserve fund and shall make periodic payments into the account. Following the second year after the Turnover Meeting (pursuant to ORS 94.616 or applicable successor provisions), the board shall set future assessments for the reserve fund annually. Such assessments shall be ratified by the affirmative vote of Owners of at least seventy-five percent (75%) of the Lots represented at the annual or duly noticed special meeting at which a quorum is present. In the event that such assessment is not approved, the assessment from the prior year shall be collected unless and until a new assessment for reserves is approved as provided herein. Any funds established for any of the purposes mentioned in this Section shall be deemed to be a reserve fund notwithstanding that it may not be so designated by the Board. The amount of the reserve fund shall constitute an asset of the Association and shall not be refunded or distributed to any Owner. The reserve portion of the initial assessment determined by the Declarant shall be based upon the initial reserve study described in Section 2.10.B.a, or other sources of reliable information. Notwithstanding the foregoing, the Association shall keep separate records of the necessary reserves for the Community Septic System. The Association shall allocate the costs of building such reserves only to the Owners of Serviced Lots. In addition, to the extent the Association determines, in its reasonable discretion, that any road benefits one or more Estate Lots particularly or exclusively, the Association shall keep separate records of the necessary reserves for that road and allocate the costs of building such reserves accordingly, to carry out the intention of Section 2.15.



B. Reserve Study.

a) Prior to conveying the first Lot, the Declarant shall conduct an initial reserve study, which shall comply with the requirements for reserve studies set forth in Section 2.10.B.b. below.

b) The Board shall annually conduct a reserve study, or review and update an existing study, to determine the reserve fund account requirements and may adjust the amount of payments as indicated by the study or update and provide for other reserve items that the Board, in its discretion, may deem appropriate. The reserve study shall include (a) identification of all items for which reserves are required to be established; (b) the 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 thirty (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.

Section 2.11 Non-payment of Assessments: Remedies of the Association

Any assessment not paid within ten (10) days after the due date shall bear interest from the due date at the rate set by the Board from time to time but in no event greater than the highest rate allowed by Oregon law at the time of the non-payment. The Association shall have the authority to impose late charges to compensate for the administrative and processing costs of late payments on such terms as it may establish by duly adopted resolutions and the Association may bring an action at law against the Owner personally obligated to pay the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Maintenance Area or abandonment of Owner's Lot and/or Unit.

Section 2.12 Subordinated Lien to Secure Payment

To secure the payment of the maintenance charge and all other assessments (including for reserves) established hereby and to be levied on individual Lots as provided in this Article II and all other obligations of a Lot Owner under this Declaration, there is hereby reserved a lien in favor of the Association for the benefit of all other Owners, on each Lot, said lien to be enforceable through appropriate proceedings at law or in equity by the Association; provided, however, that each such lien shall be specifically made secondary, subordinate and inferior to all liens (including the lien of any ground leases created by Declarant on Estate Lots), present and future, given, granted, and created by or at the instance and request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such Lot; and further provided that as a condition precedent to any proceeding to enforce such lien upon any Lot upon which there is an outstanding valid and subsisting first mortgage lien, the Association shall give the holder of such first mortgage lien sixty (60) days written notice of such proposed action, such notice, which shall be sent to the nearest office of such first mortgage lien holder by prepaid U.S. registered mail, to contain the statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lien holder, the Association shall acknowledge in writing its

obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the holder thereof. The provisions regarding the attachment, notice, recordation, and duration of liens established on real property under ORS 94.709 shall apply to the Association's lien. Sale or transfer of a Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessment as to payments that became due before such sale or transfer. No sale, foreclosure or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall have the right to file notices of liens in favor of such Association in the real property records of Deschutes County, Oregon.

#### Section 2.13 Additional Assessments

In addition to the periodic assessments described in this Article II, the Association shall have the authority to assess an Owner's Lot(s) for costs and expenses incurred by the Association for corrective action, including without limitation court proceedings, that is required as a result of the willful or negligent actions or omissions of such Owner or such Owner's family members, tenants, guests, contractors or invitees. Each such additional assessment, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land, a continuing lien upon the Lot, and the personal obligation of the Owner in the manner described in Section 2.6 for annual and special assessments.

#### Section 2.14 Reallocation Upon Annexation of Property

When additional property is annexed to the Property, the Association shall, within sixty (60) days after the annexation, recompute the budget based upon the additional Lots and Common Areas and Common Maintenance Areas and recompute all applicable assessments for each Lot. New Lots shall be subject to assessment from the time of annexation of such Lots to the Property. The Association shall send notice of any applicable assessment to the Owners of new Lots not later than sixty (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 thirty (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 planned community of Deschutes River Ranch during the Association's fiscal year, the Association shall send notice of and shall collect adjustments to assessments for 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 sixty (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.

#### Section 2.15 Roadway Usage

Prior to or upon the annexation of any Estate Lot(s) into this Declaration, the Declarant shall construct such road(s) as are reasonably necessary to grant access to the Owner of such Lot(s). Such road(s) shall be built to such standard as Declarant shall determine in its sole

discretion; provided, such road(s) provides reasonable access to the applicable Estate Lot(s). Upon annexation of any Estate Lot(s), Declarant or the applicable Related Party, as the case may be, shall grant an easement to the Association to use, maintain and replace such road(s) and the Association shall commence and perform such maintenance as is reasonably necessary to assure continuous access to the Estate Lot(s) served by such road(s). Notwithstanding the foregoing, the Association's obligation to clear snow from or repair weather damage to such road(s) shall be limited to such action as is reasonable under the circumstances. By acceptance of a deed to such an Estate Lot, the purchaser thereof agrees to reimburse the Association for the Owner's share of the Association's costs (including reserves) related to the maintenance, repair and replacement of the road(s) serving his or her Estate Lot as part of his or her Lot's assessments. When a road serves more than one Estate Lot, each Owner shall pay its proportionate share. If the Association reasonably determines that any such road(s) also provides access to other Owners or to all the Owners in general, it shall allocate the costs of maintenance, repair and replacement (including reserves) of such road(s) in its reasonable discretion to those Owners it determines are benefited, based upon its determination of each Owner's proportionate use. It is the intention of the foregoing that (i) all Owners pay a share of the costs related to any road(s) that are available for general access to Common Maintenance Areas or other common amenities; and (ii) Owner(s) of Estate Lot(s) that are specifically served by one or more roads shall pay their fair share of the costs related to such roads based upon the fact that such roads specifically or exclusively benefit their Lot(s). All amounts owed to the Association pursuant to this Section 2.15 shall be deemed additional assessments on the applicable Estate Lot(s). Each such additional assessment, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land, a continuing lien upon the Estate Lot, and the personal obligation of the Owner in the manner described in Section 2.6 for annual and special assessments. This Section 2.15 shall not be applicable to the main roads into Deschutes River Ranch, which roads shall be deemed to benefit all Owners equally.

#### Section 2.16 Professional Management

The Association may be professionally managed. In the event that the Board or the Owners elect to use a professional manager, the same shall be selected and hired by the Association Board. No member of the Board shall have any financial (whether direct or indirect) or familial relationship with such manager. As used herein, familial relationship shall mean and include the following (whether natural or adopted): spouses, parents (including in-laws), siblings (including in-laws), children, grandparents, grandchildren, aunts, uncles, nieces, nephews, and first cousins. If a professional manager is engaged, the Board shall annually review the scope of and compensation provided by, the management contract. In the event that a professional manager is engaged to manage the Association, the decision to terminate professional management (but not the decision to terminate and/or replace a particular manager) shall require the approval of Owners owning more than ninety percent (90%) of the then-existing Lots within Deschutes River Ranch.

### **ARTICLE III - GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS**

#### **Section 3.1 Interim Board**

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.

#### **Section 3.2 Purpose of Maintenance Fund**

The Board, for the benefit of the Owners, shall provide and shall pay for out of the maintenance fund provided for in Article II above the following:

- A. Taxes and assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas or property owned by the Association rather than against the individual Lots and/or Owners, if any.
- B. Maintenance, repairs, and enhancement of the Common Maintenance Areas and any Improvements therein.
- C. The services of a professional person or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager; provided that a management agreement entered into prior to the Turnover Meeting shall not have a term in excess of three (3) years and shall be terminable without penalty if the Board gives not less than thirty (30) days written notice of termination to the other party not later than sixty (60) days after the Turnover Meeting.
- D. Legal and accounting services.
- E. A policy or policies of insurance insuring the Association and/or its Board and officers against any liability to the public or to the Owners (and/or invitees or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board, including a policy or policies of insurance as provided herein in Article IV.
- F. Workers compensation insurance to the extent necessary to comply with any applicable laws.
- G. Amounts due under Article VI.
- H. Such fidelity bonds as may be required by the Bylaws or as the Board may determine to be advisable.
- I. Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes, assessments, fees or costs, which the Board is

required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the enforcement of this Declaration.

### Section 3.3 Powers and Duties of Board

The Board, for the benefit of the Owners, shall have the following general powers and duties, in addition to the specific powers and duties provided for herein and in the Bylaws of the Association and the powers and duties of a non-profit corporation pursuant to the Oregon Nonprofit Corporation Act and a homeowners association pursuant to ORS 94.630:

- A. To execute all declarations of ownership for tax assessment purposes with regard to the Common Areas, if any, on behalf of all Owners.
- B. To borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners if the Board sees fit.
- C. To enter into contracts, maintain one (1) or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.
- D. To protect or defend the Common Maintenance Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements.
- E. To make reasonable rules and regulations for Deschutes River Ranch, including the operation of the Common Areas, and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the Owners, or with respect to a rule applicable to less than all of the Common Areas, by the Owners in the portions affected.
- F. Within ninety (90) days after the end of the fiscal year, to distribute to each Owner and, upon written request, any mortgagee of a Lot, a copy of the annual financial statement consisting of a balance sheet and income and expenses statement for the preceding fiscal year.
- G. To make all books and records of the Association available for inspection by Owners at reasonable times and intervals.
- H. To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency.
- I. To enforce the provisions of any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.
- J. To collect all assessments and enforce all penalties for non-payment including the filing of liens and institution of legal proceedings.

#### Section 3.4 Board Powers Exclusive

The Board shall have the exclusive right to contract for all goods, services and insurance, payment of which is to be made from the maintenance fund and the exclusive right and obligation to perform the functions of the Board except as otherwise provided herein.

#### Section 3.5 Maintenance Contracts

The Board, on behalf of the Association, may enter into contracts by which the Association agrees to perform services that the Association is not otherwise required to perform. Such contracts may be with any Owner or other person or entity and shall be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association. Without limiting the generality of the foregoing and by way of example, the Association may contract to resurface an Owner's driveway at the same time as the Association is completing road projects on Common Maintenance Areas.

### **ARTICLE IV - COMMON MAINTENANCE AREAS**

#### Section 4.1 Improvements

The Declarant has or will construct the following Improvements, which Improvements shall be constructed on Common Maintenance Areas and do not constitute Common Areas (unless and until such Improvements are specifically identified as such in a Declaration of Annexation): the monument entry, the private drive fencing, the landscape buffer area, and the Community Septic System, all as shown on attached **Exhibit B**, together with stone walls and fencing along portions of the roads within the subdivision. The foregoing shall not be construed so as to require that such Improvements be built to any specified design or other standards, except applicable Deschutes County or State of Oregon codes and requirements. Notwithstanding the foregoing, except as provided in Section 4.7, the Declarant does not choose to limit its right to add Improvements not described in this Declaration to the planned community of Deschutes River Ranch. Some of the improvements identified in this Section 4.1 may belong to third parties, such as a utility company or district, and may benefit property or individuals outside Deschutes River Ranch.

#### Section 4.2 Association to Hold

Declarant shall convey the Common Areas to the Association, free and clear of financial liens/encumbrances not later than the Conversion Date. The Association shall own all Common Areas in fee simple and promptly assume all maintenance obligations with respect to any Common Maintenance Areas, including any Common Areas which may be hereafter established. Nothing contained herein shall create an obligation on the part of Declarant to establish any Common Area. Following the conveyance of the Common Areas to the Association, the dedication, mortgage, or conveyance of any Common Areas shall require the affirmative vote of at least seventy five percent (75%) of the outstanding votes, as well as the approval of FHA and VA (as those terms are defined herein) so long as there is Class B membership in the Association. If

neither FHA nor VA notifies Declarant or the Association of objections within fifteen (15) days of the date of request for approval, such approval shall be deemed to have been granted.

#### Section 4.3    Liability Insurance; Casualty Insurance

From on and after the date on which title to or responsibility for any Common Areas or Common Maintenance Areas vests in the Association, the Association shall purchase and carry (i) insurance for all insurable improvements in the Common Maintenance Areas against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, which insurance shall cover the full replacements costs of any repair or reconstruction in the event of damage or destruction from any such hazard if the insurance is available at reasonable cost; and (ii) a general comprehensive public liability insurance policy for the benefit of the Association, covering occurrences on the Common Areas and in the Common Maintenance Areas and all damage or injury caused by the negligence of the Association, which policy limits shall be as determined by the Board of the Association, but shall include public liability insurance of at least One Million Dollars (\$1,000,000.00) per person, per occurrence. The Association shall use its best efforts to see that such policy shall contain, if available, cross-liability endorsements or other appropriate provisions for the benefit of the Board, the Owners and other insureds, as their interests may be determined by the Board, ensuring all against liability to each other insured as well as third parties. Any proceeds of insurance policies owned by the Association shall be received, held in a segregated account and distributed to all interested parties, as their interests may be determined. The insurance coverage obtained and maintained by the Association may not be brought into contribution with insurance bought by Owners or their mortgagees.

#### Section 4.4    Condemnation

If there is a condemnation or a sale in lieu thereof of all or any portion of the Common Areas, the Association shall represent the Owners in negotiations with the condemning authority. The funds payable with respect thereto shall be payable to the Association and shall be used by the Association to purchase additional Common Areas to replace that which has been condemned or to take whatever steps it deems reasonably necessary to repair or correct any damage suffered as a result of the condemnation. If the Board of Directors of the Association determines that the funds cannot be used in such a manner due to the lack of available land for additional Common Areas or for whatever reason, any remaining funds may be distributed to each Owner based on an equal amount per Lot.

#### Section 4.5    Maintenance of Common Maintenance Areas

The Association will permanently maintain, repair and replace as necessary:

- A.     All Common Maintenance Areas;
- B.     The improvements installed pursuant to Section 4.1, to the extent the same benefit the Association and/or the Owners; and
- C.     Association irrigation lines within the public rights-of-way and street or sidewalk.

The Common Maintenance Areas include some improvements located on, or to be constructed on, one or more of the easement areas identified in Section 6.1. Section 6.1 provides for a fee to be paid by the Association to reimburse the Declarant for the Association's share of insurance, taxes and maintenance on the easement areas, including all improvements located thereon. It is the intent of this Declaration that the Association pay for all expenses related to property and improvements owned by the Association, or that benefit Deschutes River Ranch, the Association and/or the Owners. To the extent the Association directly incurs and/or pays such expenses, Declarant shall not also seek reimbursement from the Association. To the extent the Declarant undertakes such expenses, the Association shall reimburse the Declarant.

#### Section 4.6 Prohibited Activities

Neither the Association nor any Owner shall conduct any of the following activities within any Common Maintenance Area (including Common Areas): i) the removal of any tree greater than six (6) inches dbh (diameter at breast height, measured 4.5 feet above ground) without the written opinion of a certified Arborist that the tree is diseased and will not survive, or the tree poses a substantial threat of property damage or personal injury; ii) the removal of any other vegetation without the written consent of the Board; iii) the modification, grading, excavation, filling or other activities which would alter the topography or vegetative cover of any Common Area without the written consent of the Board; v) the disposal or placement of any debris, refuse, soil, rock, landscape debris or other deleterious materials; vi) parking, storage, repair, or disposal of any motor vehicle; and vii) motor vehicle access (except on roads or roadways or as may be necessary for repairs or maintenance approved by the Board or in conjunction with maintenance of utilities).

#### Section 4.7 Limitations on Annexation of Additional Common Maintenance Areas

Notwithstanding the right of Declarant to annex additional property into the community of Deschutes River Ranch, only the following may be annexed or designated by Declarant as Common Areas or Common Maintenance Areas (or have the cost of maintenance reimbursed pursuant to Section 6.1.E) after the sale of the first Lot to a third party without first obtaining the approval of Owners (other than Declarant) owning at least two-thirds of the then-existing Lots for such annexation or designation (or reimbursement):

- A. Any open space, subject to the density limitation provided in Section 10.1;
- B. Any Roads serving Estate Lots and/or the community of Deschutes River Ranch generally;
- C. Any portion of any of the Riparian Easement Area, Upland Wildlife Easement Area, Agricultural Easement Area and/or Recreation Easement Area (including any additions to such easement areas as may be made from time to time in accordance with this Declaration), together with all existing improvements thereon;
- D. North river park and pavilion;
- E. The Grange Community Barn;



- F. Casting pond and shelter (at the corner of the north pasture);
- G. South entry cluster boxes (for mail receipt and drop off) with related shelter and lighting;
- H. South park lawn and pavilion;
- I. West entry monument, stonework, lighting and landscaping;
- J. West entry cluster boxes (for mail receipt and drop off) with related shelter and lighting; and
- K. West entry fencing.

## **ARTICLE V - DESIGN REVIEW**

### **Section 5.1    Design Review Committee**

A committee to be known as the Design Review Committee (the "DRC") shall be established consisting of the number of members as determined by the Board, except that the DRC shall consist of not less than three (3) members.

A. The members of the DRC shall be appointed, terminated and/or replaced by the Declarant so long as there is Class B membership. Thereafter the Board shall appoint the members of the DRC. Members of the DRC may be terminated and/or replaced by the Board with or without cause. Individuals may serve as members of the Board and members of the DRC simultaneously.

B. The purpose of the DRC is to enforce the design standards of the community and to approve or disapprove plans for Improvements proposed for the Lots.

C. The DRC shall act by simple majority vote, and shall have the authority to delegate its duties or to retain the services of a professional engineer, architect, designer, inspector or other person to assist in the performance of its duties; provided, however, if the costs of a professional engaged by the DRC is to be borne by a particular Owner whose plans are being reviewed, the Owner shall first be apprised in writing of the estimated costs thereof.

D. Decisions of the DRC may be appealed to the Board, which shall have discretion as to whether to hear such appeals. The determination of the Board shall be final.

E. No approval of the DRC required hereunder shall be valid unless and until the same is granted in writing.

### **Section 5.2    Design Manual**

The Board has adopted and may, from time to time, amend, modify, or revise the Design Manual. Adoption of the Design Manual may occur without the consent of anyone prior to conveyance of the first Lot to an Owner other than the Declarant. Amendments, modifications, or

revisions to the Design Manual may be made by the Declarant, without the consent of anyone prior to conveyance of the first Lot to an Owner other than the Declarant. Thereafter the DRC shall have the right to amend, modify, or revise the Design Manual, subject to the approval of the Board. No such amendments, modifications, or revisions shall affect any prior DRC approval.

### Section 5.3    Scope of Review

No building, fence, wall, patio, deck, outbuilding, landscaping, pool, athletic facility or other structure or Improvement shall be erected, altered, added onto or repaired upon any portion of the Property without the prior written consent of the DRC, provided however, that all Improvements erected, altered, added onto or repaired by Declarant shall be exempt from the provisions of this Article V.

### Section 5.4    Submission of Plans

Before the initiation of construction upon any Lot (including material changes to landscaping), the Owner thereof shall first submit to the DRC a complete set of plans and specifications for the proposed Improvements, including site plans, grading plans, landscape plans, floor plans depicting room sizes and layouts, exterior elevations, specifications of materials and exterior colors, and any other information deemed necessary by the DRC for the performance of its function pursuant to the procedure outlined in the Design Manual (if any). In addition, the Owner shall submit the identity of the individual or company intended to perform the work and projected commencement and completion dates and funds in the amount of the applicable review fee. The review fee schedule shall be established by the DRC from time to time and shall set forth the review fee for various review/approval requests. The DRC shall have the right from time to time to amend such schedule, adjusting the fee amounts. The Association's Board shall have the authority to disapprove any fees that it deems unreasonable. The DRC may, in its discretion, require a two-step review process, whereby conceptual drawings are submitted and reviewed first. After approval of the conceptual plans, the Owner would submit the more technical plans required by this Section 5.4. The process for DRC review shall be set forth in the Design Manual promulgated by the DRC from time to time.

### Section 5.5    Plan Review

Upon receipt by the DRC of all of the information required by this Article V, it shall have twenty-one (21) days in which to review said plans. The proposed Improvements will be approved if, in the sole opinion of the DRC: (i) the Improvements will be of an architectural style and material compatible with the other structures in the Property; (ii) the Improvements will not violate any restrictive covenant or encroach upon any easement or cross building setback lines; (iii) the Improvements will not result in the reduction in property value, use or enjoyment of any of the Property; (iv) the individual or company intended to perform the work has provided proof that it is licensed under the laws of the State of Oregon and has procured insurance reasonably acceptable to the DRC; and (v) the Improvements will be substantially completed, including all cleanup, within three (3) months of the date of commencement (twelve (12) months for the construction of a complete house). If the DRC fails to issue its written approval, or rejection, within twenty-one (21) days of its receipt of the last of the materials or documents required to

complete the Owner's submission, the DRC's approval shall be deemed to have been granted without further action.

#### Section 5.6    Non-Conforming Structures

If there shall be a material deviation from the approved plans in the completed Improvements, such Improvements shall be in violation of this Article V to the same extent as if erected without prior approval of the DRC unless the Owner subsequently obtains DRC approval for such deviation, which approval may be granted or denied in the DRC's sole discretion. The DRC, the Association or any Owner may maintain an action at law or in equity for the removal or correction of the non-conforming structure and, if successful, shall recover from the Owner in violation all costs, expenses and fees incurred in the prosecution thereof.

#### Section 5.7    Immunity of DRC Members

No individual member of the DRC shall have any personal liability to any Owner or any other person for the acts or omissions of the DRC if such acts or omissions were committed in good faith and without malice. The Association shall defend any action brought against the DRC or any member thereof arising from acts or omissions of the DRC committed in good faith and without malice.

#### Section 5.8    Limited Review

Any review and approval made by the DRC is limited to compliance with the intent of the design standards of DRR as may from time to time be established by the Board and/or the Design Manual. The review and approval made by the DRC is not to be construed as superseding, replacing, or modifying any review, approval, or permit required by any local, state or federal jurisdictional agencies. It is the applicant's responsibility to obtain and comply with any permits that may be required by any local, state, or federal jurisdictional agency. Nor shall any such review or approval by the DRC be deemed an assurance or statement of compliance with any applicable laws, ordinances or regulations.

#### Section 5.9    Address for Notice

Requests for DRC approval or correspondence with the DRC shall be addressed to Deschutes River Ranch Design Review Committee, c/o Gary Blake or Craig Morton, 20210 Swalley Road, Bend, Oregon 97701, or such other address as may be designated from time to time by the DRC in a writing addressed to all Owners. Properly addressed and stamped correspondence or requests for approval shall be deemed to have been received three (3) business days after being deposited in the U.S. Mail; provided, however, receipt shall not constitute assurance that the correspondence or request for approval is complete or satisfactory to the DRC. The time limits imposed upon the DRC under this Article V shall not apply unless and until applicant has satisfactorily submitted all materials required by the DRC.

### Section 5.10 Completion of Improvements

Once construction has commenced, each Owner shall have twelve (12) months during which to substantially complete construction, including all cleanup, of the initial Unit and three (3) months thereafter to complete the installation of landscaping on the Lot. DRC approval shall be deemed invalid if construction does not commence on the approved Improvement within three (3) months of approval or such longer period of time as may be specified by the DRC. The DRC shall have the right to grant extensions for any deadline in this Section 5.10 with respect to any Lot when it deems the same reasonable under the circumstances.

### Section 5.11 Unimproved Lot Maintenance

Each Owner shall maintain any vacant Lot he or she owns in a manner consistent with those standards set forth by the DRC for vacant Lots. An Owner who chooses to hold a Lot for future construction may do so provided the Lot is maintained in an attractive and neat condition. Said Lot(s) shall be irrigated and planted with grasses approved in the Design Manual. Unimproved Lots shall be mowed to assure that grasses do not exceed eight inches in height and are not otherwise a fire hazard. If a Lot is not maintained as required by this Section 5.11, the Association shall have the right to perform the necessary maintenance and assess the Lot Owner for such costs.

## **ARTICLE VI - EASEMENTS**

### Section 6.1 Easements in Favor of Association.

Declarant and the applicable Related Parties agree to grant the easements described in this Section 6.1. All references to Declarant in this Section 6.1 shall be deemed to include the then-current owner of the applicable portion of the Easement Area at any time the same is not Declarant. To the extent there is any conflict between the terms of the easement document(s) to be granted hereunder and the terms of this Section 6.1, the terms of the easement document(s) shall govern.

#### **A. Riparian Easement**

a) Grant. Concurrent with the recordation of this Declaration, those Related Parties who own the same are granting to the Association, for the benefit of the Owners, an easement (the "Riparian Easement") over that certain real property identified in attached **Exhibit C** (the "Riparian Easement Area"), along the Deschutes River for pedestrian and equestrian access and uses; provided, however, all hiking and horseback riding shall be limited to designated trails only unless the rules and regulations promulgated by the Declarant specify otherwise. Such Riparian Easement shall include the right of all Owners to access the River and hike, ride horses, fish or swim within the Riparian Easement Area, subject to the terms of such Riparian Easement. The Riparian Easement shall provide that there shall be no construction within the Riparian Easement Area except for (i) hiking and horseback riding trails and related improvements constructed by Declarant; (ii) improvements for the use of pedestrian and/or equestrian users,

including, without limitation, decks, pavilions, paddocks, benches and/or shelters, constructed by Declarant; and (iii) construction, installation, repair and replacement of irrigation facilities by Declarant, including up to five points of diversion at the river for delivery and maintenance of irrigation water for use on adjacent land, including without limitation the Agricultural Easement Area.

b) Special Provisions for Equestrian Portion. A portion of the Riparian Easement Area crosses the parcel of land described on attached **Exhibit G** as the "Equestrian Area". That portion of the Riparian Easement Area is hereinafter referred to as the "Equestrian Portion" and is identified on attached **Exhibit C**. Notwithstanding any other provision of this Declaration to the contrary, the easement document shall provide that the terms relating to the Riparian Easement will be modified with respect to the Equestrian Portion to provide that the following terms apply to the ownership and use of such Equestrian Portion:

i) Declarant may from time to time grant such easements and licenses to use the Equestrian Portion as it may choose in its sole discretion and the restrictions on the granting of such easements and licenses contained in this Declaration shall not apply;

ii) Declarant may use such Equestrian Portion for any such purposes as it chooses in its sole discretion to the extent permitted by applicable law;

iii) Unless and until any portion of the property described on attached **Exhibit G** is annexed into Deschutes River Ranch as a Lot, Declarant shall not charge, and the Association shall have no obligation to pay, any of Declarant's costs related to the taxes, insurance, operation and maintenance for the Equestrian Portion except to the extent such costs result from the negligent or willful actions or omissions of the Association and/or its members and/or their respective employees, agents, tenants, guests, contractors, or invitees;

iv) Declarant may construct such improvements on the Equestrian Portion as it chooses in its sole discretion to the extent permitted by applicable law; and

v) To the extent that any other terms of this Declaration are inconsistent with the terms of this Section 6.1.A.b), the terms of this Section 6.1.A.b) shall govern with respect to the Equestrian Portion.

#### B. Upland Wildlife Easement

Concurrent with the recordation of this Declaration, those Related Parties who own the same are granting to the Association, for the benefit of the Owners, an easement (the "Upland Wildlife Easement") over that certain real property identified in attached **Exhibit D** (the "Upland Wildlife Easement Area") for pedestrian and equestrian access and uses; provided, however, all hiking and horseback riding shall be limited to designated trails only unless the rules and regulations promulgated by the Declarant specify otherwise. Such Upland Wildlife Easement shall include the right of all Owners to access the Upland Wildlife Easement Area to hike and ride horses, subject to the terms of such Upland Wildlife Easement. Such Upland Wildlife Easement

shall provide that no improvements shall be constructed in the Upland Wildlife Easement Area that block the existing views of the Deschutes River from the dwellings constructed on the Lots; provided, however, Declarant shall have the right to amend the Upland Wildlife Easement (and the Association shall consent to the same in writing upon request by the Declarant and without the need of a vote of Owners, provided the amendment occurs prior to the Turnover Meeting) by removing up to 20 parcels (the size of each shall be subject to the terms contained in Section 6.1.G below) from the Upland Wildlife Easement Area, which parcels may then be sold, leased or otherwise set aside for the exclusive use of a third party by Declarant and annexed into this Declaration as additional Lots. Upon removal from the Upland Wildlife Easement Area, such parcel(s) shall no longer be subject to the terms of the Upland Wildlife Easement, including, without limitation, the restriction on view-blocking improvements and the use limitation described in this paragraph. The Upland Wildlife Easement shall limit uses in the Upland Wildlife Easement Area (excluding any future Lots created out of any portion thereof) to one or more of the following: (i) grazing or agricultural purposes; (ii) wildlife habitat restoration; (iii) construction and/or use of amenities, such as hiking and/or horseback riding trails; (iv) allowing the land to return to its natural state; and (v) construction, maintenance, repair and replacement of utilities and/or roads.

#### C. Agricultural Easement

Concurrent with the recordation of this Declaration, those Related Parties who own the same are granting to the Association, for the benefit of the Owners, an easement (the "Agricultural Easement") over that certain real property identified in attached **Exhibit E** (the "Agricultural Easement Area"), which property includes approximately 180 acres, for pedestrian and equestrian access and uses; provided, however, all hiking and horseback riding shall be limited to designated trails only unless the rules and regulations promulgated by the Declarant specify otherwise. Such Agricultural Easement shall include the right of all Owners to access the Agricultural Easement Area to hike and ride horses. Such Agricultural Easement shall provide that no improvements shall be constructed in the Agricultural Easement Area that block the existing views of the Deschutes River from the dwellings constructed on the Lots; provided, however, Declarant shall have the right to amend the Agricultural Easement (and the Association shall consent to the same in writing upon request by the Declarant and without the need of a vote of Owners, provided the amendment occurs prior to the Turnover Meeting) by removing up to 12 parcels (the size of each shall be subject to the terms contained in Section 6.1.G below) from the Agricultural Easement Area, which parcels may then be sold, leased or otherwise set aside for the exclusive use of a third party by Declarant and annexed into this Declaration as additional Lots. Upon removal from the Agricultural Easement Area, such parcel(s) shall no longer be subject to the terms of the Agricultural Easement, including, without limitation, the restriction on view-blocking improvements and the use limitation described in this paragraph. The Agricultural Easement shall limit uses in the Agricultural Easement Area (excluding any future Lots created out of any portion thereof) to one or more of the following: (i) grazing or agricultural purposes; (ii) wildlife habitat restoration; (iii) construction and/or use of amenities, such as hiking and/or horseback riding trails; (iv) allowing the land to return to its natural state; and (v) construction, maintenance, repair and replacement of utilities and/or roads.

The Agricultural Easement will designate a portion of the Agricultural Easement Area, as shown on attached **Exhibit E** as the "M.C. Awbrey Agricultural Preserve" (the "Preserve"). Declarant covenants that the Agricultural Easement will limit the use of such Preserve to agricultural (such as grazing or crops), wildlife habitat (such as management and/or restoration, possibly in conjunction with a non-profit or governmental organization) and passive recreational uses (such as walking, hiking and dedicated trails). No development or residential homes will be permitted in the Preserve. Portions of the Preserve may be used for the construction, placement, maintenance, repair and replacement of utility improvements constructed by Declarant (or by third parties pursuant to easements granted by Declarant) such as a well house, water lines, drainfields and Community Septic System facilities. In addition, Declarant may permit construction and/or maintenance of pedestrian trails.

**D. Recreation Easement**

Concurrent with the recordation of this Declaration, those Related Parties who own the same are granting to the Association, for the benefit of the Owners, an easement (the "Recreation Easement") over that certain real property identified in attached **Exhibit F** including the use of any improvements located thereon from time to time for recreation purposes (the "Recreation Easement Area"). The Recreation Easement will provide that although a tennis court and recreation facility currently exist in the Recreation Easement Area, Declarant will remove such court and facility in the future and shall have no obligation to reconstruct, replace or relocate the same.

**E. Use of, Conveyance of, and Additions to Riparian, Upland Wildlife, Agricultural and Recreation Easements**

By using any portion of the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area or the Recreation Easement Area, each Owner (i) acknowledges that hiking, horseback riding, fishing, swimming and other recreational activities involve inherent and other risks of injury and/or property damage; (ii) agrees to expressly assume all risks, including of injury and/or property damage, that may result from such activities; (iii) agrees to comply with all applicable laws; (iv) agrees to obtain the agreement of his or her family, guests and invitees to these terms and conditions and to all applicable rules and regulations prior to such persons engaging in such activities; and (v) agrees that neither the Declarant nor the Association shall be liable for any injury, property loss or damage, or liability suffered by such Owner and his or her family, guests and invitees, regardless of the cause.

The easements shall provide and each Owner acknowledges that no guest or invitee of any Owner shall access any of the easement areas unless he or she is accompanied by the sponsoring Owner and/or is in possession of a Deschutes River Ranch Guest Pass issued by Declarant.

The easements shall provide and each Owner acknowledges that no all-terrain vehicles (ATVs) or other motorized vehicles shall be permitted in any of the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area and/or the Recreation

Easement Area except as may be approved by Declarant for ranch/agricultural-related purposes, maintenance work and/or security purposes.

Use of the Riparian Easement, the Upland Wildlife Easement, the Agricultural Easement and the Recreation Easement shall be subject to all applicable laws, such rules and regulations as Declarant shall establish from time to time and the terms of the applicable Easement(s). Declarant shall have the right, but not the obligation, to convey all or any portion of the Riparian Easement Area and/or the Upland Wildlife Easement Area and/or the Agricultural Easement Area and/or the Recreation Easement Area to the Association at any time, subject to the applicable terms of Section 1.6. Upon such conveyance, such land shall immediately become and constitute Common Area hereunder. So long as Declarant continues to own such Riparian Easement Area, such Upland Wildlife Easement Area, such Agricultural Easement Area and such Recreation Easement Area, Declarant shall be responsible for the insurance and maintenance of same; provided, however, Declarant shall have the right to condition Owners' use of amenities constructed on such areas upon compliance with such rules and regulations as Declarant may establish from time to time. In addition, Declarant shall have the right to convey all or any portion of the Riparian Easement Area and/or the Upland Wildlife Easement Area and/or the Agricultural Easement Area and/or the Recreation Easement Area (including any improvements thereon) to any third party without the consent of the Association or any Owner, provided such conveyance remains subject to the applicable easement(s). Declarant shall have the right to convey portions of its rights hereunder together with the transfer of all or any portion of the Riparian Easement Area and/or the Upland Wildlife Easement Area and/or the Agricultural Easement Area and/or the Recreation Easement Area to a third party. Upon a conveyance of all or any portion of the Riparian Easement Area and/or the Upland Wildlife Easement Area and/or the Agricultural Easement Area and/or the Recreation Easement Area to the Association, the easement with respect to such portion of property shall cease, the Association shall assume responsibility for the maintenance of same (including all improvements thereon) and Declarant's obligations with respect thereto shall cease. The easement document shall provide that Declarant shall have the right to convey such road and utility easements over any portion of the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area and the Recreation Easement Area as it elects in its sole and absolute discretion; provided, however, Declarant shall not have the right to grant easements to third parties to use such easement areas for river access or recreation.

So long as Declarant or a third party owns such, the Association shall pay a reasonable annual fee for the insurance, taxes on and maintenance of the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area and the Recreation Easement Area, including all improvements or amenities thereon (except to the extent the Association has maintained any such improvements as Common Maintenance Areas). The amount of such annual fee shall be determined by Declarant but shall not exceed the Association's and Owners' reasonable share of Declarant's costs incurred in paying taxes, obtaining and maintaining insurance and maintaining such property (including improvements). Such fee shall be a common expense, and the Association shall fund the same through assessments on the Lots.

Declarant shall have the right to use the Riparian, Upland Wildlife, Agricultural and Recreation Easement Areas for any and all purposes to the extent the same are not inconsistent with the terms of the applicable easements. The following uses shall be deemed consistent with



the terms of the Riparian, Upland Wildlife, Agricultural and Recreation Easements: all existing improvements, including the use thereof; installation, construction, maintenance, repair and replacement of utility facilities (including aboveground improvements such as a pumphouse) and roads by Declarant, its successors or third parties to whom Declarant has granted an easement or license; construction, installation, repair and replacement of irrigation facilities by Declarant and/or its successors and assigns; and construction and use of improvements that complement and/or enhance the use of such easement areas hereunder.

The easement document shall reserve to Declarant the right to amend the easements by adding additional property to any or all of the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area and the Recreation Easement Area. The Association shall consent to the same in writing upon request by the Declarant and without the need of a vote of Owners, provided the addition of property to one or more easements occurs prior to the Turnover Meeting. Upon the addition of any property to the Riparian Easement Area or the Upland Wildlife Easement Area or the Agricultural Easement Area or the Recreation Easement Area, such property shall commence being subject to the terms and conditions of the easement document as if such additional property had always been a part of the applicable easement area.

F. Licenses to Third Parties to Use Riparian, Upland Wildlife, Agricultural and Recreation Easement Areas

So long as Declarant or a third party owns such property, Declarant or its successor(s) shall have the right (and the Riparian, Upland Wildlife, Agricultural and Recreation Easements will provide for such right) to grant licenses to adjacent or nearby landowners to use the Riparian, Upland Wildlife, Agricultural and Recreation Easement Areas; provided, however, (i) Declarant or its successors shall grant such licenses to owners of not more than five (5) separate lots at any one time, each of which license shall benefit not more than one family; and (ii) such licensees shall be subject to the same rules and regulations relating to use of the easement areas as Lot Owners. Each such license shall terminate upon licensee's sale of his or her property (although Declarant shall have the right to issue a new license to the purchaser), and upon termination, may be issued to a new licensee, subject to the terms hereof. Although Declarant may grant the foregoing licenses, the easement document shall provide that Declarant shall have no right to grant easements to third parties to use the Riparian, Upland Wildlife, Agricultural and Recreation Easement Areas for recreation, fishing, hiking, swimming or horse-back riding purposes.

G. Estate Lots Created in Easement Areas

Declarant's rights to remove acreage from the Upland Wildlife Easement Area (pursuant to Section 6.1.B) and the Agricultural Easement Area (pursuant to Section 6.1.C) to create Estate Lots to be annexed into Deschutes River Ranch shall be subject to the terms of this Section 6.1.G. Sections 6.1.B and 6.1.C give Declarant the right to carve out up to 20 Estate Lots from existing acreage in the Upland Wildlife Easement Area and up to 12 Estate Lots from existing acreage in the Agricultural Easement Area for a total of 32 Estate Lots. Declarant covenants and agrees that: (i) at least 22 of such Lots shall be a maximum of 3 acres each in size; (ii) at least 6 more such Lots shall be no larger than 5 acres each in size; (iii) no more than 4 of

such Lots shall be larger than 5 acres; and (iv) in no event shall any such Lot exceed 6.6 acres in size.

#### Section 6.2    Utility Easements

As long as the Declarant owns a Lot, the Declarant hereby reserves the right to grant perpetual, nonexclusive easements for the benefit of Declarant or its designees, upon, across, over, through and under any portion of the Common Area for ingress, egress, installation, replacement, repair, maintenance, use and operation of all utility and service lines and service systems, public and private, including, without limitation, cable television. Declarant, for itself and its designees, reserves the right to retain title to any and all pipes, lines, cables or other improvements installed on or in such easements. The Association shall also have the right to grant the easements described herein, subject to the approval of the Declarant so long as Declarant owns a Lot.

#### Section 6.3    Declarant's Easement to Correct Drainage

Declarant hereby reserves for the benefit of Declarant and any Builder a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance and shall be entitled to remove trees or vegetation, without liability for replacement or damages, as may be necessary to provide adequate drainage facilities; provided, however, Declarant or any Builder shall limit the use of such easement to existing public or private rights of way and/or along property lines to the extent reasonably practicable and shall not in any event encroach within any building envelopes. Notwithstanding the foregoing, nothing herein shall be interpreted to impose any duty upon Declarant or any Builder to correct or maintain any drainage facilities within the Property.

#### Section 6.4    Easement for Unintentional Encroachment

The Declarant hereby reserves an exclusive easement for the unintentional encroachment by any structure upon the Common Area caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment as an easement appurtenant to the encroaching property to the extent of such encroachment.

#### Section 6.5    Entry Easement

If the Owner of any Lot fails to maintain the Lot as required herein, or if there is an emergency, the Association shall have the right to enter upon the Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Property. Except in the case of emergency, such entry shall first require at least twenty-four hours' written notice to the Owner, which notice may be made by a posting on the front door of the Unit located on such Lot. Entry upon the Lot as provided herein shall not be deemed a trespass, conversion, or otherwise create any right of action in the Owner of such Lot. The Association

shall not be liable for any damage so created unless such damage is caused by the Association's willful misconduct or gross negligence.

#### Section 6.6    Reserved Easements

Easements for installation and maintenance of utilities, detention ponds, and/or a conservation area are reserved as may be shown on the Original Plat, the Plat or any replat of the Property. Within these easement areas, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may hinder or change the direction of flow of drainage channels or slopes in the easements. The easement area of each Lot and all improvements contained therein shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.

In addition, Declarant declares a non-exclusive, perpetual access easement for pedestrian and vehicular access to and from the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area and the Recreation Easement Area for the benefit of the owners of such Riparian Easement Area, Upland Wildlife Easement Area, Agricultural Easement Area and Recreation Easement Area over and across such roads as may exist from time to time in Deschutes River Ranch. Such easement shall permit the owner of the benefited property (together with their families, successors, assigns, invitees and guests) to access the benefited property and to permit the owners of utilities located on the benefited property to access the same. Use of such roads shall be subject to compliance with the rules and regulations of Deschutes River Ranch, to the extent required by Section 11.4.

#### Section 6.7    Temporary Completion Easement

All Lots shall be subject to an easement of ingress and egress for the benefit of the Declarant, its employees, subcontractors, successors and assigns, over and upon the front, side and rear yards of the property as may be expedient or necessary for the construction, servicing and completion of dwellings and landscaping upon Lots adjacent to the property, provided that such easement shall terminate twenty-four (24) months after the date such Lot is conveyed to the Owner by the Declarant.

#### Section 6.8    Maintenance Easements

An easement is hereby granted and reserved in favor of the Association and its successors, assigns, contractors, property managers, agents and employees over, across, upon, the Common Areas and any Common Maintenance Areas or other areas of Deschutes River Ranch necessary or appropriate for purposes of accomplishing the maintenance, repair, replacement or other obligations of the Association hereunder.

#### Section 6.9    Maintenance and Access Easements

Craig S. Morton and Rebecca A. Morton hereby grant to the Association a non-exclusive perpetual one hundred forty (140) foot easement on and over the entry area (including the stone wall, fencing and landscape area) as shown on attached **Exhibit B** for purposes of

maintaining the same. Craig S. Morton and Rebecca A. Morton hereby grant to the Association and to the owner(s) of each Lot a non-exclusive perpetual one hundred forty (140) foot easement on and over the entry road off of Swalley Road, as shown on attached **Exhibit B**, for pedestrian and vehicular access. Craig S. Morton and Rebecca A. Morton hereby grant to the Association a non-exclusive perpetual forty (40) foot easement on and over those private roads that connect the entry road to Rock Canyon and Arrowhead Drive, as shown on attached **Exhibit B**, for purposes of maintaining the same. Craig S. Morton and Rebecca A. Morton hereby grant to the Association and to the owner(s) of each Lot a non-exclusive perpetual forty (40) foot easement on and over those private roads that connect the entry road to Rock Canyon and Arrowhead Drive, as shown on attached **Exhibit B**, for pedestrian and vehicular access. The easements granted in this Section 6.9 shall run with the land and be binding upon the successors and assigns of Craig S. Morton and Rebecca A. Morton. The access easements granted to owners of Lots in this Section 6.9 shall run with the land and inure to the benefit of subsequent owners of each Lot.

## **ARTICLE VII - USE, OCCUPANCY, CASUALTY, AND INSURANCE**

### **Section 7.1    Residential Use**

All Lots and Units shall be used only for single-family residential purposes in accordance with, and subject to, the other provisions of this Declaration.

### **Section 7.2    Commercial, Institutional, or Other Non-Residential Uses**

No commercial, institutional, or other non-residential use (including residential day care facilities) shall be conducted on any Lot without the written approval of the Board. Any such use must comply with applicable law, including, without limitation, zoning requirements. The decision of the Board shall be final and conclusive. The Board may review, and repeal, any such approval from time to time at the discretion of the Board if, in the opinion of the Board, the use has changed or increased to a level not consistent with the original approval. In no event shall the decision of the Board as to permissibility of a requested non-residential use be construed as a representation of the legal permissibility of such use.

### **Section 7.3    Declarant or Builder Use**

Except for the public liability and property damage insurance required under the first sentence of Section 7.4, the provisions of this Article shall not apply to the use of any Lot or Unit by the Declarant or any Builder as i) a model home, sales office, or construction office; or ii) the use of any Lot as a site for a sales office trailer or construction office trailer.

### **Section 7.4    Owner Insurance**

Each Owner (excluding Declarant) of a Lot shall obtain, and maintain in effect, from a reputable insurance company authorized to do business in the State of Oregon, public liability and property damage insurance with respect to such Lot with limits of not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) per person per occurrence and Seven Hundred Fifty Thousand Dollars (\$750,000) for property damage. Additionally, each Owner shall obtain and maintain in effect, from such companies, fire and extended coverage casualty insurance with

respect to the Owner's Unit in an amount equal to one hundred (100) percent of the replacement cost thereof. Each Owner shall also be responsible for obtaining fire and extended coverage casualty insurance with respect to that Owner's personal property. No Owner shall be obligated to obtain any of the insurance coverages described in Section 4.3, nor shall any insurance coverage obtained by an Owner (or such Owner's mortgagee) be brought into contribution with insurance obtained by the Association. The Association shall have the right, but not the obligation, to request evidence that any Owner has procured the required insurance. Upon written request from the Association, an Owner shall present a certificate of insurance evidencing the required coverages. The Association shall have the right, but not the obligation, to increase the coverage limits established by this Section 7.4 from time to time to reflect increases in the cost of living. Such increases shall require neither an amendment to this Section 7.4, nor a vote of the Owners, and shall be effected, if at all, by providing written notice to each Owner not less than thirty (30) days prior to the effective date of such increases.

#### Section 7.5    Casualty

In the event of damage to or destruction of a Unit, the Owner of the Unit shall (i) repair, reconstruct, and rebuild the damaged or destroyed portions of the Unit to substantially the same condition that existed prior to the damage or destruction; or (ii) demolish the Unit and all related Improvements and maintain the Lot as an unimproved Lot in accordance with the terms of Section 5.11. All repair, reconstruction, or rebuilding shall begin within six (6) months following the damage or destruction, and shall be diligently pursued to completion within twelve (12) months following the damage or destruction, unless work is delayed by causes beyond the reasonable control of the Owner. Any demolition of the Unit and work necessary to bring the Lot in conformance with the requirements of Section 5.11 shall be completed within six (6) months following the damage or destruction. If an Owner fails to repair such damage timely (or to complete the demolition and Lot restoration timely), the Association shall have all rights of enforcement and remedies set forth under this Declaration.

#### Section 7.6    Community Septic System/Owners' Obligations

The Community Septic System shall serve only the following Lots (collectively, the "Serviced Lots"): the Subdivision Lots (including the Private Parcels if and when the same are annexed into Deschutes River Ranch), proposed Estate Lots 1-4 (as shown on attached **Exhibit B**) and one additional proposed Estate Lot, which will be identified in a Declaration of Annexation as a "Serviced Lot." Accordingly, the portion of any assessments that fund the operation, maintenance, repair and replacement of any part of the Community Septic System shall be allocated and charged only to the Serviced Lots. No Owner of a Serviced Lot shall have the right to opt out of the Community Septic System. Each Owner of a Serviced Lot shall construct such septic-related improvements on his or her Lot as are required by the Design Manual and shall be responsible for the maintenance of all septic-related improvements on his or her Lot up to the point of connection with the Community Septic System. Each Owner of a Serviced Lot shall be responsible for costs incurred by the Community Septic System as a result of such Owner's negligence or willful misconduct. Upon annexation of a Serviced Lot into Deschutes River Ranch, the portion of assessments attributable to the Community Septic System shall be recalculated, along with all other assessments, in accordance with Section 2.14.

## ARTICLE VIII - PROPERTY RIGHTS

### Section 8.1    Owner's Use and Occupancy

The Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot. Declarant, the DRC 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 Lot for the purpose of determining whether or not the use of and/or Improvements on such Lot are then in compliance with this Declaration. Except in the case of emergency, such entry shall first require at least twenty-four hours' written notice to the Owner, which notice may be made by a posting on the front door of the Unit located on such Lot. Entry upon the Lot as provided herein shall not be deemed a trespass, conversion, or otherwise create any right of action in the Owner of such Lot. The Association shall not be liable for any damage so created unless such damage is caused by the Association's willful misconduct or gross negligence.

### Section 8.2    Owners' Easements of Enjoyment

Every Owner shall have a right and easement in and to the Common Areas (and to the extent granted by the owner of the same, a right to use the portions of the Common Maintenance Areas that are not Common Areas) and a right and easement of ingress and egress to, from and through said Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A.     The right of the Association to establish and publish rules and regulations governing Deschutes River Ranch, including use of the Common Areas, affecting the welfare of Association members.

B.     The right of the Association to suspend the right of use of the Common Areas and the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid or during which such Owner is otherwise in material breach hereunder; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; provided, however, except in the case of emergency, an Owner shall first receive ten (10) days' written notice, including a right to cure during such ten-day period, prior to the effective date of such suspension.

C.     The right of the Association, subject to the provisions hereof, to dedicate or transfer all or any part of the Common Areas, if any, to any public agency, authority or utility for public right-of-way purposes. Any other transfer or mortgage of Common Areas requires the consent of at least seventy-five percent (75%) of the votes outstanding, and the consent of the Declarant so long as Declarant owns a Lot.

D.     All easements herein described are easements appurtenant to and running with the land; they shall at all times inure to the benefit of and be binding upon the undersigned, all of their grantees, and their respective heirs, successors, personal representatives and assigns, perpetually and in full force.

### Section 8.3    Effect of Declaration

Reference in any deed, mortgage, trust deed or any other recorded documents to the easements, restrictions and covenants herein described or to this Declaration shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees, or trustees of said parcels as fully and completely as if those easements, restrictions and covenants were fully related and set forth in their entirety in said documents.

### Section 8.4    Rezoning Prohibited

No Lot shall be rezoned to any classification allowing commercial, institutional or other non-residential use without the prior written consent of the Board and of the Declarant so long as Declarant owns a Lot, which may be withheld in the Board's or Declarant's sole discretion, as applicable. Declarant or the Board may enforce this covenant by obtaining an injunction against any non-approved rezoning at the expense of the enjoined party.

### Section 8.5    Lot Consolidation and Division

No Lot may be consolidated with another Lot and no Lot may be subdivided. Notwithstanding the foregoing, so long as there is at least one Class B Member Declarant shall have the right to consolidate and/or subdivide Lots within Deschutes River Ranch, subject to applicable Deschutes County Ordinances. Upon the completion of a subdivision of a Lot, each newly created parcel shall immediately constitute a Lot and the owner of fee title thereof shall become an Owner with all of the rights granted to Owners hereunder. Upon the completion of a subdivision of a Lot, each newly created Lot shall be entitled to the voting rights as set forth in Section 2.2, and assessments shall be reallocated and reapportioned in the manner set forth in Section 2.14 as if each of the newly created lots had been annexed into Deschutes River Ranch. Upon the completion of a consolidation of two Lots, the newly created Lot shall be treated as one Lot, entitled to the voting rights as set forth in Section 2.2. The newly created Lot shall continue to pay assessments as if it were two Lots until the end of the then-current assessment year. Thereafter, the Lot shall be subject to only one set of assessments and the Association shall calculate assessments on the basis that there is one less Lot in Deschutes River Ranch.

### Section 8.6    Drainage Alteration Prohibited

The surface water drainage contours of each Lot shall conform to the approved grading plan established by the Declarant or any Builder. No Owner shall fill or alter any drainage swale established by the Declarant or any Builder, nor shall any Owner install landscaping or other improvements that divert surface water runoff from the drainage patterns, swales and easements established by the Declarant or any Builder. Each Owner shall take steps to assure that its Lot has adequate drainage and does not cause runoff to be directed onto any adjacent property.

### Section 8.7    Private Landholdings Within Deschutes River Ranch

In addition to the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area, the Recreation Easement Area and other land belonging to Declarant and/or the Related Parties, the Private Parcels are adjacent to portions of the Property. By

purchase of a Lot within Deschutes River Ranch, each Owner hereby acknowledges that the owners of such Private Parcels have the right to use the main roads for access to their respective properties. They are not, however, subject to the rights or obligations of Owners under this Declaration, including, without limitation, the design review criteria, the obligation to pay a portion of the common expenses for Deschutes River Ranch or the right to use any part of the Common Areas or the Riparian Easement, Upland Wildlife Easement, Agricultural Easement or Recreation Easement. Prior to the Turnover Meeting, each owner of a Private Parcel shall have the right to request that his or her Private Parcel become a Lot within Deschutes River Ranch with all rights attendant thereto, by becoming subject to the terms of this Declaration and by paying to Declarant a proportionate share of Declarant's development costs. Upon receipt of such a request and determination that all conditions have been met, Declarant shall prepare and execute, and the owner of such Private Parcel(s) shall consent to, a Declaration of Annexation to be recorded in the real property records of Deschutes County.

## **ARTICLE IX- USE RESTRICTIONS/BUILDING STANDARDS**

### **Section 9.1 Exterior Lighting and Noise-making Devices.**

Except as provided in this Section 9.1 or as otherwise approved by the DRC, no exterior light or noise-making devices, other than security and fire alarms, shall be installed or maintained on any Lot. Any exterior lighting shall be directed downward. Notwithstanding the foregoing, ornamental lighting shall be permitted, provided the same uses no greater than a 10 watt white light bulb, and provided further, that in the event of disputes over the impact of such lighting on adjacent properties, the determination of the DRC shall be definitive. All outdoor lighting shall comply with applicable county ordinances.

### **Section 9.2 Nuisances**

No noxious or offensive activity shall be carried out upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without limiting the generality of the foregoing, "noxious or offensive activity" shall include the generation of noxious odors or noise. The Board shall have the sole authority to determine nuisances and its decision shall be final and conclusive.

### **Section 9.3 Development Activity**

Notwithstanding any other provision herein, Declarant and its successors and assigns shall be entitled to conduct on the Property all activities normally associated with and convenient to the development of the Property and the construction and sale of dwelling units on the Property.

### **Section 9.4 Temporary Structures**

No structure of a temporary character, including, without limiting the generality thereof, any trailer, tent, shack, garage, barn, motor home or mobile home or other outbuilding, and no prefabricated or relocated structure shall be used on any Lot at any time as a residence, either temporarily or permanently. This restriction shall not be interpreted to limit the right of



Declarant or any Builder to use trailers or outbuildings as sales offices, construction offices, material storage facilities, or sanitation facilities.

#### Section 9.5 Signs

No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Unit, fence or other improvement upon such Lot so as to be visible from public view or mounted on any vehicle or trailer parked or driven on the Property or carried by any person or by any other means displayed within the Property except as provided below:

##### A. "For Sale" Signs

An Owner may erect one (1) sign not exceeding two (2) feet by three (3) feet in dimension, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of the ground advertising the property for sale.

##### B. Declarant's Signs

Signs or billboards may be erected by the Declarant and are exempt from the provisions of this Section 9.5. So long as there is a Class B Membership, a Builder may erect signs or billboards that are exempt from the provisions of this Section 9.5, provided such Builder first obtains the written consent of Declarant, which consent must include approval of the appearance and location of such sign(s) or billboard(s).

##### C. Deschutes River Ranch Identification Signs

Signs, monumentation or billboards may be erected by the Declarant or the Association to identify Deschutes River Ranch, with approval from the local jurisdictional authority, if applicable.

##### D. Commercial Vehicle Emblems

Vehicles displaying commercial emblems may be kept or parked on a Lot only under the following circumstances: Such vehicle is kept on the Lot for non-commercial purposes and the commercial emblems are painted onto the vehicle and do not extend out or above the vehicle. The foregoing restrictions shall not apply to service vehicles parked on a Lot during the conduct of services.

##### E. Name and Address Signs

Each Owner shall have the right to post a sign on his or her Lot indicating the Owners name and/or address; provided, however, the size, appearance and location of such sign shall remain subject to the approval of the DRC.

F. Signs Specifically Approved by the DRC

Additional signs shall be permitted on the Property to the extent the size, location and appearance have first been approved in writing by the DRC.

Section 9.6 Campers, Boats, Recreational Vehicles, Certain Trucks, Commercial Vehicles, and other Non-Passenger Vehicles

No campers, boats, boat trailers, recreational vehicles, commercial vehicles, trucks weighing more than 10,000 pounds GVW, or other types of non-passenger vehicles, equipment, implements, or accessories shall be kept or stored on any Lot except (i) with the Board's approval, or (ii) as provided below:

A. Subject to parking restrictions contained herein or posted on streets from time to time, recreational vehicles may be parked in front of a Lot or in the driveway for a Lot for up to 48 hours at any one time for loading or unloading purposes, but in no event more than 120 hours during any calendar month. Except for the foregoing purposes, no recreational vehicles, disabled vehicles, campers, boats, boat trailers, recreational trailers, or other types of non-passenger vehicles, equipment, implements, or accessories shall be parked or stored on or adjacent to any Lots. Recreational vehicles, disabled vehicles, campers, boats, boat trailers, recreational trailers, or other types of non-passenger vehicles, equipment, implements, or accessories may be kept or stored on Lots, provided the same are parked in a garage or stored in an area, if any, provided by Declarant or the Association. In the event of a dispute as to whether there is adequate screening for purposes of this Section 9.6, the determination of the DRC shall be definitive.

B. No commercial vehicle bearing commercial insignia or names shall be kept or stored on any Lot except as permitted in Section 9.5.D. or unless approval of the DRC is granted. Commercial vehicles bearing commercial insignia or names which are temporarily parked on any Lot for the sole purpose of serving such Lot are exempt from this restriction. The DRC, as designated in this Declaration, shall have the absolute authority to grant approval under this Section 9.6.B. Any Owner wishing to keep a commercial vehicle on any Lot under this Section 9.6.B shall apply for approval to the Board, and shall provide such information as the Board, in its sole authority, may require. The Board may from time to time in its sole discretion review the approval granted under this Section 9.6.B to keep a commercial vehicle on any Lot to determine if the vehicle complies with the intent of the original approval. Upon an adverse determination by the Board under this Section 9.6.B, any commercial vehicle shall be removed and/or otherwise brought into compliance with the requirements of this Section 9.6. This Section 9.6.B shall not apply to commercial vehicles permitted under Section 9.6.D.

C. Except as otherwise specifically provided herein, no recreational vehicles, disabled vehicles, campers, boats, boat trailers, recreational trailers, or other types of non-passenger vehicles, equipment, implements, or accessories may be kept or stored on any street within the Property.

D. The Board, as designated in this Declaration, shall have the absolute authority to determine from time to time whether a vehicle, equipment, implements and/or

accessory is operable and adequately screened from public view. Upon an adverse determination by said Board, the vehicle and/or accessory shall be removed and/or otherwise brought into compliance with this Section 9.6.

E. No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles, or other machinery or equipment shall be permitted in the streets within the Property, or in any driveway or yard adjacent to a street, or that is not screened from view.

#### Section 9.7    Pets, Livestock and Poultry

The terms of this Section 9.7 shall apply only to the Subdivision Lots and not to any Estate Lots. The Estate Lots shall be subject to such pet and livestock restrictions as may be set forth in deed restrictions or in such Sub-Association documents as Declarant may, in its sole discretion, establish. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Subdivision Lot, except for a maximum of up to three cats, dogs and/or other generally recognized household pets, provided that they are not kept, bred, or maintained for any commercial purpose. In the event of a dispute, the Board shall make the final decision as to what constitutes "a reasonable number" under particular circumstances. All such animals shall be kept in the rear yard only and in strict accordance with all local laws and ordinances (including leash laws) and in accordance with all rules established by the Association. No animal shall be allowed to run at large, and all animals shall be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with plans approved by the Board, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property.

#### Section 9.8    Garbage and Refuse Disposal; Wood Piles

No Lot, Common Area or any other portion of the Deschutes River Ranch shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept, or disposed of, on any Lot or Common Area except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No cans, bags, containers or receptacles for the storing or disposal of trash, garbage, refuse, rubble, debris, or recyclable materials shall be stored, kept, placed or maintained on any Lot where visible from any street except solely on a day designated for removal of garbage, rubbish, or recyclable materials, and on which days only such cans, bags, containers, and receptacles may be placed in front of a residence and beside a street for removal, but shall be removed from view before the following day. All wood piles shall be screened from the view of the remainder of Deschutes River Ranch and adjacent properties. All such screening shall be of an attractive nature, consistent with the overall development scheme of Deschutes River Ranch.

#### Section 9.9    Parking in Common Areas/No Parking Signage

No vehicles, trailers, implements or apparatus may be driven or parked in the Common Areas, or on any easement unless in use for maintaining such Common Areas, provided however, that this restriction shall not apply to driveways, streets or paved areas intended for

vehicular use. In addition, parking of vehicles is prohibited on any public or private street within the Property that is signed or otherwise marked for "No Parking" by the Association or a governmental authority. The Association shall have the right to tow any vehicles in violation of this Section 9.9 at the vehicle owner's expense.

#### Section 9.10 Commercial or Institutional Use

No Lot, and no building erected or maintained on any Lot shall be used for manufacturing, industrial, business, commercial, institutional or other non-residential purposes, except as set forth in Article VII.

#### Section 9.11 Detached Buildings

No detached accessory buildings, including, but not limited to, detached garages and storage buildings, shall be erected, placed or constructed upon any Lot without the prior consent of the DRC. Every detached accessory building, inclusive of such structures as storage buildings, greenhouses, doghouses, or children's playhouses shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition.

#### Section 9.12 General Landscaping and Exterior Maintenance

A. Each Lot Owner shall keep all shrubs, trees, grass, and plantings of every kind on his or her Lot cultivated, pruned, free of trash, and other unsightly material. Each Lot Owner shall keep all Improvements upon his or her Lot in good condition and repair and adequately painted or otherwise maintained. Declarant, the Association, and the DRC shall have the right at any reasonable time to enter upon any Lot to replace, maintain, and cultivate shrubs, trees, grass, or other plantings as deemed necessary; and to paint, repair, or otherwise maintain any improvements in need thereof, and to charge the cost thereof to the Lot Owner; provided, however, except in the case of emergency, the Association shall first provide the Owner with at least ten (10) days' prior written notice, including the right to cure during such ten-day period, which notice may be given by a posting on the front door of the Unit located on such Lot. Entry upon the Lot as provided herein shall not be deemed a trespass, conversion, or otherwise create any right of action in the Owner of such Lot. The Association shall not be liable for any damage so created unless such damage is caused by the Association's willful misconduct or gross negligence.

B. The initial landscaping, as well as all subsequent material changes to such landscaping, shall be subject to final approval by the DRC; provided, however, the planting of annual flowers or plants shall not require DRC approval. In the event that an Owner complains to the DRC that the annual flowers or plants planted by another Owner are not in keeping with the general character and appearance of Deschutes River Ranch, the DRC shall review the same and its determination shall be conclusive. All landscaping shall remain fully irrigated unless otherwise approved by the DRC. All Owners shall keep their Lots, including all Improvements thereon, well-maintained and in an attractive condition, consistent with the overall development approved within Deschutes River Ranch by the DRC. All vacant Lots shall be maintained in a manner that is consistent with DRC guidelines for vacant Lots.

C. Except in the case of imminent threat of harm to persons or Improvements, the removal of trees greater than six inches dbh shall require the prior written approval of the DRC.

#### Section 9.13 Antennae, Satellite Dishes and Solar Collectors

No Owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or solar collector panels or equipment upon any Lot unless such apparatus is no larger than eighteen inches in height and/or diameter and is erected and maintained in such a way that it is screened from public view along the public street right-of-way directly in front (and side, in the case of a corner Lot) of the house erected on such Lot; and no such apparatus shall be erected without the prior written consent of the DRC. The DRC, as designated in this Declaration, shall have the absolute authority to determine whether an accessory is adequately screened from public view. The authority of the DRC in this matter shall be subject to any regulations issued by the Federal Communications Commission ("FCC") or any other applicable governmental authority.

#### Section 9.14 Clothes Hanging Devices/Fences

Clothes hanging devices exterior to a dwelling shall be temporary, unaffixed structures, shall not exceed six (6) feet in height and shall not be placed nearer to any street abutting the Lot than the side yard setback line or the back of the Unit constructed on the Lot. Clothes hanging devices shall be screened from public view by a fence approved in writing by the DRC. All fences shall be subject to the prior written approval of the DRC.

#### Section 9.15 Setback Lines

All buildings or other structures (including fences), permanent or temporary, habitable or uninhabitable, must be constructed, placed and maintained in conformity with such setback standards as may be imposed by the local governmental jurisdictional authority, as may be set forth in the deed for a particular Lot and/or as may be established by the DRC from time to time in its sole and absolute discretion.

#### Section 9.16 Security

Neither Declarant nor the Association shall be responsible for security of the neighborhood, the Common Areas or any Unit or Lot, and the Owners are exclusively responsible for security of their homes and property.

#### Section 9.17 Water and Sewage Systems

No individual water supply system or sewage disposal system shall be permitted on any Lot, including but not limited to water wells or cesspool drainfields. Independently of this Declaration, the Subdivision Lots are a part of the Deschutes River Improvements District from which they obtain water and sanitary septic service. Each Owner shall comply with the requirements of that and all other applicable districts.

### Section 9.18 Construction Activities

This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction or remodeling of or making of additions to improvements by a Lot Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with diligence and conforms to usual construction practices in the Deschutes County area. In the event that construction upon any Lot does not conform to usual practices in the area as determined by the DRC in its sole good faith judgment, the DRC shall have the authority to obtain an injunction to stop such construction. In addition, if during the course of construction upon any Lot, there is excessive accumulation of debris of any kind which is offensive, or detrimental to it or any other portion of the Property, then the DRC may contract for or cause such debris to be removed, and the Lot Owner shall be liable for all expenses incurred in connection therewith.

### Section 9.19 Unit Construction

Each Lot may be subject to such Unit size, height, location and/or setback limitations as may be imposed by the local governmental jurisdictional authority, as may be set forth in the deed for a particular Lot and/or as may be established by the DRC from time to time.

### Section 9.20 DRC Supervisory Authority Over Construction Activities

All construction activities on the Property, including, without limitation, staging, shall be governed by the DRC and such guidelines, rules and regulations as it may promulgate from time to time.

## **ARTICLE X - ANNEXATION**

### Section 10.1 Annexation by Declarant

At any time during the Initial Term of this Declaration, the Declarant may, at its sole option, annex additional property into Deschutes River Ranch to be subject to the terms hereof to the same extent as if originally included herein and subject to such other terms, covenants, conditions, easements and restrictions as may be imposed thereon by Declarant. Any such annexed property shall, upon annexation, become annexed into, and become a part of, the Property. Declarant currently anticipates that there will be a total of up to 53 Lots in the planned community of Deschutes River Ranch, including the Lots currently existing, and Lots expected to be created in property to be annexed to Deschutes River Ranch, but this number may be adjusted at the sole discretion of Declarant, subject to the terms of Section 10.1.A. Declarant shall have no obligation of any kind to annex any additional property to Deschutes River Ranch.

So long as there is Class B membership, Declarant shall submit a written request for approval of any annexation under this Section to the FHA and the VA accompanied by a copy of the Declaration of Annexation. If neither FHA nor VA notifies Declarant of objections to the

annexation within fifteen (15) days of the date of Declarant's request for approval, such approval shall be deemed to have been granted.

**A. Eligible Property**

Any or all of the real property in Deschutes County, Oregon adjacent to ("adjacent" property shall include property on the other side of a public right of way, a public or private street or a river) or contiguous with the Property or adjacent to the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area or the Recreation Easement Area shall be eligible for annexation. There is no limitation on the number of Lots or amount of land that Declarant may annex to the Property, or the right of Declarant to annex common property, except as may be established by applicable ordinances, agreements, or land use approvals or as set forth herein. Declarant covenants that in no event shall there be more than fifty-three (53) Lots in the Original Property. As used herein, "Original Property" shall mean the initial property described in **Exhibit A** on the date on which this Declaration is first recorded in the real property records of Deschutes County together with any property that is removed from the Agricultural Easement Area or the Upland Wildlife Easement Area and annexed into Deschutes River Ranch as Lots.

Except for annexations of Lots created from property removed from the Agricultural Easement Area and/or the Upland Wildlife Easement Area and the annexation of the three Private Parcels, Declarant covenants that it shall not annex any additional Lots to the Property unless such annexation(s) meet(s) the Lot Density Standard. As used herein, "Lot Density Standard" shall mean that for any Lots to be annexed, the ratio of Lots to total number of acres being annexed (regardless of whether it is being annexed as a part of one or more Lots or as Common Areas) and/or added to any of the easement areas described in Sections 6.1.A-6.1.C shall not exceed one Lot per ten (10) acres. By way of illustration, if Declarant seeks to annex three (3) Lots, the acreage of such Lots, together with the acreage of any Common Areas being annexed and/or any property being added to any of the easement areas described in Section 6.1.A-6.1.C shall be not less than 30 acres.

Declarant shall have the right to annex less than a legal lot into Deschutes River Ranch as a Lot. Without limiting the generality of the foregoing, Declarant shall have the right to create Lots (and annex the same into Deschutes River Ranch) by granting any of the following to a third party over a 1- to 6.6-acre pieces of property for residential purposes: a fee interest, a leasehold interest, an easement or a license.

**B. Consent or Joinder Not Required**

No consent or joinder of any Class A member or other party except the record owner of the land being annexed shall be necessary to effect any annexation made pursuant to this Section 10.1.

**C. Declaration of Annexation**

Annexation shall be evidenced by a written Declaration of Annexation (the "Declaration of Annexation") executed by the Declarant, or (in the case of an annexation by action

of members) by the Board and the owners of the property being annexed, setting forth the legal description of the property being annexed and any additional covenants, conditions and restrictions to be applied to such annexed property. Notwithstanding any provision apparently to the contrary, a Declaration of Annexation with respect to any annexed property may:

- i) establish such limitations, uses, restrictions, covenants and conditions with respect thereto as Declarant may deem to be appropriate for the development of the annexed property;
- ii) establish additional or different limitations, uses, restrictions, covenants and conditions as Declarant may deem to be appropriate for the development of such annexed property; and/or
- iii) contain provisions necessary or appropriate to comply with any condition, requirement, or imposition of any governmental or regulatory authority.

Without limitation of the meaning of the foregoing provisions of this Section 10.1, in any Declaration of Annexation Declarant may, but shall not be obligated to, establish easements particular to different Lots and/or to create any such Sub-Associations as it may elect.

#### D. Voting Rights; Allocation of Assessments

Upon annexation, additional Lots so annexed shall be entitled to the voting rights as set forth in Section 2.2, and assessments shall be reallocated and reapportioned in the manner set forth in Section 2.14.

#### Section 10.2 Annexation by Action of Members

At any time the Board may request approval of the membership for the annexation of additional property into Deschutes River Ranch to be subject to all of the terms of this Declaration to the same extent as if originally included herein. No such annexation shall be effective unless approved by at least seventy-five percent (75%) of the outstanding votes, and by FHA and VA as set forth in Section 10.1 above and by Declarant so long as Declarant owns at least one (1) Lot. Any property that is contiguous to existing property subject to this Declaration may be annexed hereto according to the foregoing requirements, provided however, that no such annexation shall be effective without the consent and joinder of the owners of the property to be annexed. Such annexation must be evidenced by a Declaration of Annexation as set forth in Subsection 10.1.C above executed by the parties herein described. In no event shall this Section 10.2 be construed as granting any veto rights to the Association, the Board or the Owners over Declarant's right to annex property unilaterally pursuant to Section 10.1.

#### Section 10.3 No Duty to Annex

Nothing herein contained shall establish any duty or obligation on the part of the Declarant or any member to annex any property into Deschutes River Ranch and no owner of property excluded from the Association shall have any right to have such property annexed thereto.



## **ARTICLE XI –DECLARANT RIGHTS & OBLIGATIONS: ADJACENT PROPERTY; WATER RIGHTS; RULES AND REGULATIONS**

### **Section 11.1 Declarant's Right to Construct Equestrian Facility**

In addition to other improvements or development that Declarant may undertake on adjacent or nearby property, Declarant reserves the right, but shall have no obligation, to develop an equestrian facility on a portion of the property described on attached **Exhibit G** and identified as the "Equestrian Area." Such facility may include any of the following: indoor and/or outdoor arena(s), stables, paddocks and boarding/training facilities. In the event that Declarant establishes such an equestrian facility, Declarant may, but shall not be required to, grant such access to Owners as it may elect in its sole discretion. If it grants such access, the Owners' use shall be subject to such rules, regulations and user fees as may be established from time to time by Declarant or Declarant's successor-in-interest. Declarant shall have the right, in its sole discretion, to permit individuals other than Owners to use such a facility and/or to sell such facility. Declarant reserves the right to use any portion of the property described in attached **Exhibit G** for any purposes permitted by law.

### **Section 11.2 Recreational Vehicle Parking**

Declarant and/or one or more of the Related Parties may construct a recreational vehicle parking area for storage purposes on a portion of the Equestrian Area. If Declarant and/or one or more of the Related Parties does build such an area, it shall permit the Owners to use the same, subject to the payment of such fees and rules and regulations as may be established by Declarant and/or the applicable Related Parties from time to time. In the event that Declarant and/or the applicable Related Parties construct such a parking area, it shall be used for parking and/or storage only, shall permit no utility hook-ups for RVs and shall not be available for use by the general public. Declarant and the applicable Related Parties reserve the right to relocate or remove such parking area in their sole discretion. In the event of such removal, Owners' rights under this Section 11.2 shall immediately terminate.

### **Section 11.3 Water Rights**

Declarant represents that the Ranch Land currently has 181.5 acres of water rights (the "Existing Water Rights") associated with it. As used herein, "Ranch Land" shall mean and include the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area, the Recreation Easement Area and the Equestrian Area. Declarant and the applicable Related Parties hereby covenant and agree that the owners of the Ranch Land shall not sell or transfer off the Ranch Land any of the Existing Water Rights. The foregoing shall not preclude transfers among different parcels that comprise the Ranch Land.

### **Section 11.4 Applicability of Rules and Regulations**

Declarant and the applicable Related Parties hereby covenant and agree that the owners of the Riparian Easement Area, the Upland Wildlife Easement Area, the Agricultural Easement Area and the Recreation Easement Area shall be held and operated in compliance with

the rules and regulations for Deschutes River Ranch, as the same may be amended by the Association Board from time to time; provided, however, (i) the Association first provides the owners of such properties with copies of such rules and regulations and all amendments; (ii) such rules and regulations are generally applicable to all of Deschutes River Ranch and not design to apply only to the owners of the easement areas; and (iii) such rules and regulations do not relate to architectural or design review.

## **ARTICLE XII- GENERAL**

### **Section 12.1 Remedies**

If any default by any Owner under the provisions of the Declaration, Bylaws or rules and regulations of the Association shall occur, the Association and any Owner shall have each and all of the rights and remedies which may be provided for in this Declaration, the Bylaws and said rules and regulations, and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. For purposes of this Declaration, any failure to comply with the Design Manual or any decisions or directives of the Design Review Committee shall constitute a default under this Declaration. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate set by the Board from time to time but in no event greater than the highest rate allowed by Oregon law at the time (and, with reference to any Lots financed by FHA insured loans, not in excess of the maximum rate of FHA loans at the time of delinquency) from the due date until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective maintenance assessment (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions and improvements thereto, and upon all of his personal property upon the Lot. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or any Owner. Without limiting the generality of this Section 12.1, any and all costs incurred by the Association and/or the DRC in remedying an Owner's violation of this Declaration shall be an assessment against such Owner's Lot, secured by a lien upon such Lot pursuant to the terms of Section 2.12.

### **Section 12.2 Fines Imposed by the Association**

In addition to any other remedies available to the Association hereunder, the Association shall have the right to impose reasonable fines upon an Owner who violates the Declaration, Bylaws and any rules or regulations of the Association, in the manner and amount the Board deems appropriate in relation to the violation.

### Section 12.3 Term and Amendments

The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded (the "Initial Term"), after which time they shall be automatically extended for successive periods of ten (10) years each, unless a signed petition containing the signatures of at least seventy-five percent (75%) of the votes outstanding is presented to the Board or other duly appointed and authorized persons, which shall authorize the Board, or other duly appointed and authorized persons, to execute and properly record a notice of termination of this Declaration in the real property records of Deschutes County, Oregon. This Declaration may be amended at any time during the first thirty (30) year period or any extension thereof, by a signed petition containing the signatures of at least seventy-five percent (75%) of the votes outstanding, and the consent of the Declarant so long as the Declarant is a Class B Member, being presented to the Board, or other duly appointed and authorized persons, which shall authorize the Board, or other duly appointed and authorized persons, to execute and properly record an instrument amending this Declaration. Subject to the provisions of Section 12.4, notwithstanding any provisions hereof to the contrary, the Declarant may, at its sole discretion and without consent being required of anyone, modify, amend or repeal this Declaration at any time before the closing of the sale on the first Lot, provided said amendment, modification, or repeal is in writing and properly recorded in the Deed Records of Deschutes County, Oregon.

Declarant further reserves the right at any time to amend this Declaration, or any amendment hereto, in order to correct scrivener's errors. Amendments shall be subject to prior approval of FHA and VA in accordance with the procedure as described in Section 10.1, for so long as there is Class B membership in the Association. In no event shall an amendment pursuant to this Section create, limit, or diminish Declarant's special rights without Declarant's written consent or change the boundaries of any Lot or any use to which any Lot is restricted unless the Owners of the affected Lots consent to the amendment.

Once Declarant has conveyed the first Lot to a third party, then, except for amendments to correct scrivener's errors or to comply with applicable law (as provided in Section 12.4), Declarant shall not amend this Declaration without the approval of Owners representing at least fifty-one percent (51%) of the Lots that are not owned by Declarant.

### Section 12.4 Regulatory Amendments

Notwithstanding the provisions of Section 12.3, until the Turnover Meeting described in the Bylaws and to the extent permitted by applicable law, 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 ("FHA"), the Veterans Administration ("VA"), 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 that insures, guarantees or provides financing for a planned community or lots in a planned community or to comply with any applicable law, including, without limitation, the Oregon Planned Community Act.

### Section 12.5 Severability

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions that shall remain in full force and effect.

### Section 12.6 Rights and Obligations

The provisions of this Declaration and the Articles of Incorporation and Bylaws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording or the acceptance of a deed, ground lease, easement or license conveying a Lot or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the Articles of Incorporation and Bylaws, whether or not mention thereof is made in said deed.

### Section 12.7 Notice to/Consent of Institutional Holders of First Mortgage Liens

Any provision of the within Declaration or of the Articles of Incorporation and Bylaws to the contrary notwithstanding, the following provisions shall control:

#### A. Notice to Institutional Holders of First Mortgage Liens

The following actions will require notice to all institutional holders of first mortgage liens: (i) abandonment or termination of the Association; or (ii) material amendment to the Declaration.

#### B. Notice to Institutional Holders of First Mortgage of Default or Liens

Upon the written request of any first mortgagee of a dwelling on a Lot, the Association shall furnish to such mortgagee a written notice of any default by the Owner of such dwelling in the performance of such Owner's obligations under the within Declaration or the Bylaws or Association rules or regulations which is not cured within thirty (30) days. Any first mortgagee of a dwelling who comes into possession of the said dwelling pursuant to the remedies provided in the mortgage, a foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged dwelling which accrued before the time such holder comes into possession of the dwelling.

#### C. Consent of Institutional Holders of First Mortgage Liens

Unless at least seventy-five percent (75%) of the first mortgagees (based upon one (1) vote per Lot for each mortgage) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

- i) by act or omission seek to abandon, partition,

encumber, or transfer the Common Areas, if any, or any portion thereof or interest therein except for the purpose of dedication for public right of way. (The granting of easements for public utilities or other public purposes consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause.);

ii) substantially change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner by the Association;

iii) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of the Units or maintenance of the Units or Lots; or

iv) fail to maintain liability and extended coverage insurance on insurable property comprising a part of the Common Areas on a current replacement cost basis in an amount not less than one hundred (100) percent of the insurable value (based on current replacement costs).

#### Section 12.8 Force Majeure

Except as otherwise provided in this Section 12.8, neither Declarant nor the Association nor any Owner shall be responsible for delays in fulfilling his/her/its obligations under this Declaration to the extent the delay is caused by things that are outside his/her/its reasonable control (an "Event of Force Majeure"), including but not limited to, delay in receipt of building and other required permits, acts of God, fire, theft, vandalism, strikes, delays in receipt of governmental approvals of building plans and abnormal adverse weather conditions not reasonably anticipatable. To the extent a delay resulting from an Event of Force Majeure could have been avoided by reasonable planning and/or diligence on the part of the party who failed to timely fulfill an obligation under this Declaration, the delay shall not be deemed to have been caused by the Event of Force Majeure. The occurrence of an Event of Force Majeure shall extend the applicable time limit or deadline by an amount of time commensurate with the amount of delay caused by the Event of Force Majeure; provided, however, such extension shall in no event exceed thirty (30) days. Notwithstanding the foregoing provisions of this Section 12.8, the occurrence of an Event of Force Majeure shall not extend the time for performance of an obligation hereunder if the failure to perform poses (or fails to cure) an imminent threat of physical harm to one or more persons.

#### Section 12.9 Personal Pronouns

All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa.

#### Section 12.10 Statutory References

All references to particular statutory provisions in this Declaration shall be deemed to refer to such statutory provisions or their successor provisions, if applicable.

Section 12.11 Headings

The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 12.12 Conflicts

If there is a conflict between the terms of this Declaration and any Bylaws, rules, regulations or Articles of Incorporation of the Association, this Declaration shall control.

Section 12.13 Partial Invalidity

The invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on its behalf, attested and its corporate seal to be hereunto affixed as of this \_\_ day of March 2003.

**DECLARANT:**

DESCHUTES RIVER RANCH GROUP LLC,  
an Oregon limited liability company

By: \_\_\_\_\_

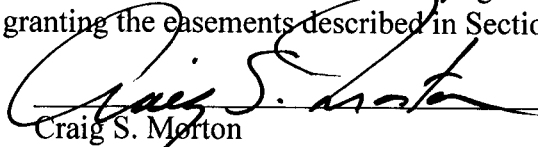
Craig S. Morton, co-Managing Member

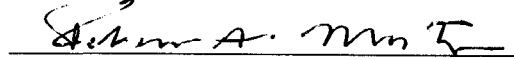
By: \_\_\_\_\_

Gary B. Blake, co-Managing Member

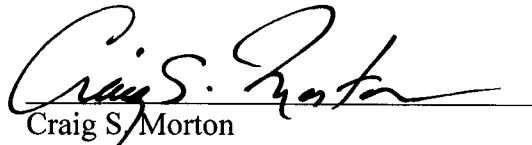
Agreement and Consent

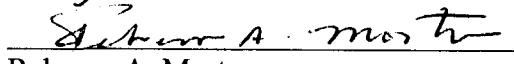
The undersigned, Craig S. Morton and Rebecca A. Morton, hereby agree and consent to this Declaration solely for purposes of granting the easements described in Section 6.9.

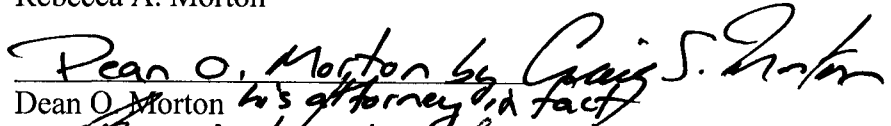
  
Craig S. Morton

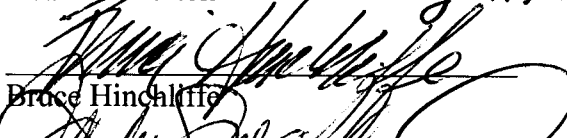
  
Rebecca A. Morton

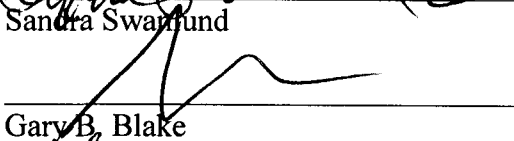
The undersigned Related Parties hereby agree and consent to this Declaration solely for purposes of agreeing to those terms specifically identified above as made by them as "Related Parties" above.

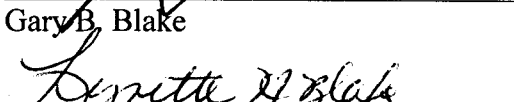
  
Craig S. Morton

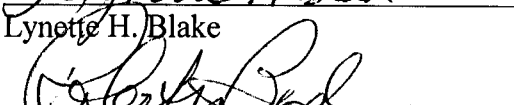
  
Rebecca A. Morton

  
Dean O. Morton *by his attorney in fact*

  
Bruce Hinchliffe

  
Sandra Swamund

  
Gary B. Blake

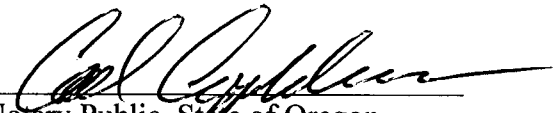
  
Lynette H. Blake

  
Robert Boyd

STATE OF OREGON        }  
                                     }  
COUNTY OF DESCHUTES }

The foregoing instrument was acknowledged before me the 11<sup>th</sup> day of March 2003,  
by Craig S. Morton, co-managing member of Deschutes River Ranch Group LLC, an Oregon  
limited liability company, on behalf of the company.




  
\_\_\_\_\_  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03

STATE OF OREGON        }  
                                     }  
COUNTY OF DESCHUTES }

The foregoing instrument was acknowledged before me the 11<sup>th</sup> day of March 2003,  
by Gary B. Blake, co-managing member of Deschutes River Ranch Group LLC, an Oregon limited  
liability company, on behalf of the company.



  
\_\_\_\_\_  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03



STATE OF OREGON }

C.P. COUNTY OF Deschutes }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Craig S. Morton, co-managing member of Deschutes River Ranch Group LLC, an Oregon limited liability company, on behalf of the company.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon

My Commission Expires: 12-25-03

STATE OF OREGON }

C.P. COUNTY OF Deschutes }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Gary B. Blake, co-managing member of Deschutes River Ranch Group LLC, an Oregon limited liability company, on behalf of the company.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon

My Commission Expires: 12-25-03

STATE OF OREGON }

COUNTY OF Deschutes }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Craig S. Morton.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon

My Commission Expires: 12-25-03

STATE OF OREGON }

COUNTY OF Deschutes }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Rebecca A. Morton.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon

My Commission Expires: 12-25-03

STATE OF OREGON }

COUNTY OF DESCHUTES }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Craig S. Morton.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03

STATE OF OREGON }

COUNTY OF DESCHUTES }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Rebecca A. Morton.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03

STATE OF OREGON }

COUNTY OF DESCHUTES }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Dean O. Morton.

\* CRAG S. MORTON AS  
ATTORNEY IN FACT  
FOR

Cal Applebee  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03

STATE OF OREGON }

COUNTY OF DESCHUTES }



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

The foregoing instrument was acknowledged before me the 5<sup>th</sup> day of March 2003, by Bruce Hinchliffe.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03

STATE OF OREGON }  
COUNTY OF Deschutes }

The foregoing instrument was acknowledged before me the 5<sup>th</sup> day of March 2003, by Sandra Swanlund.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03

STATE OF OREGON }  
COUNTY OF Deschutes }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Gary B. Blake.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03

STATE OF OREGON }  
COUNTY OF Deschutes }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Lynette H. Blake.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03

STATE OF OREGON }  
COUNTY OF Deschutes }

The foregoing instrument was acknowledged before me the 4<sup>th</sup> day of March 2003, by Robert Boyd.



OFFICIAL SEAL  
**CAL APPLEBEE**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 327588  
MY COMMISSION EXPIRES DEC. 25, 2003

Cal Applebee  
Notary Public, State of Oregon  
My Commission Expires: 12-25-03

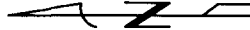
# EXHIBIT A

## DESCHUTES RIVER RANCH

NP-02-2 DATE: NOVEMBER 2002

A REPLAT OF TUMALO TRAILS (INCLUDING PORTIONS OF LAND ADJUSTED INTO LOTS 9 & 20, BLOCK 1 AND LOTS 1 & 4, BLOCK 2, TUMALO TRAILS IN LOT LINE ADJUSTMENT LL-055) LOCATED IN THE N 1/2 NE 1/4 OF SECTION 20 AND IN THE S 1/2 SE 1/4 OF SECTION 17, TOWNSHIP 16 SOUTH, RANGE 12 EAST, OF THE WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON

- FOUND 5/4" IRON ROD WITH YELLOW PLAIN CAP MARKING THE INTERIOR CORNER MONUMENT
- PROPERTY CORNERS TO BE POST-MONUMENTED WITH A 5/8" IRON ROD WITH YELLOW PLAIN CAP MARKING THE INTERIOR CORNER
- △ CENTERLINE MONUMENTS TO BE POST-MONUMENTED WITH A 5/4" IRON ROD WITH ALUMINUM CAP MARKING THE INTERIOR CORNER
- (M) PLAT OF TUMALO TRAILS BY WALLY MERTER FILED 10-1-1994, CHS&S
- (M) LOT LINE ADJUSTMENT LL-02-035 BY THE INTERIOR AND CENTERLINE MONUMENTS, INC. DATED 11-8-92 (PENDING)



SCALE 1"=100'

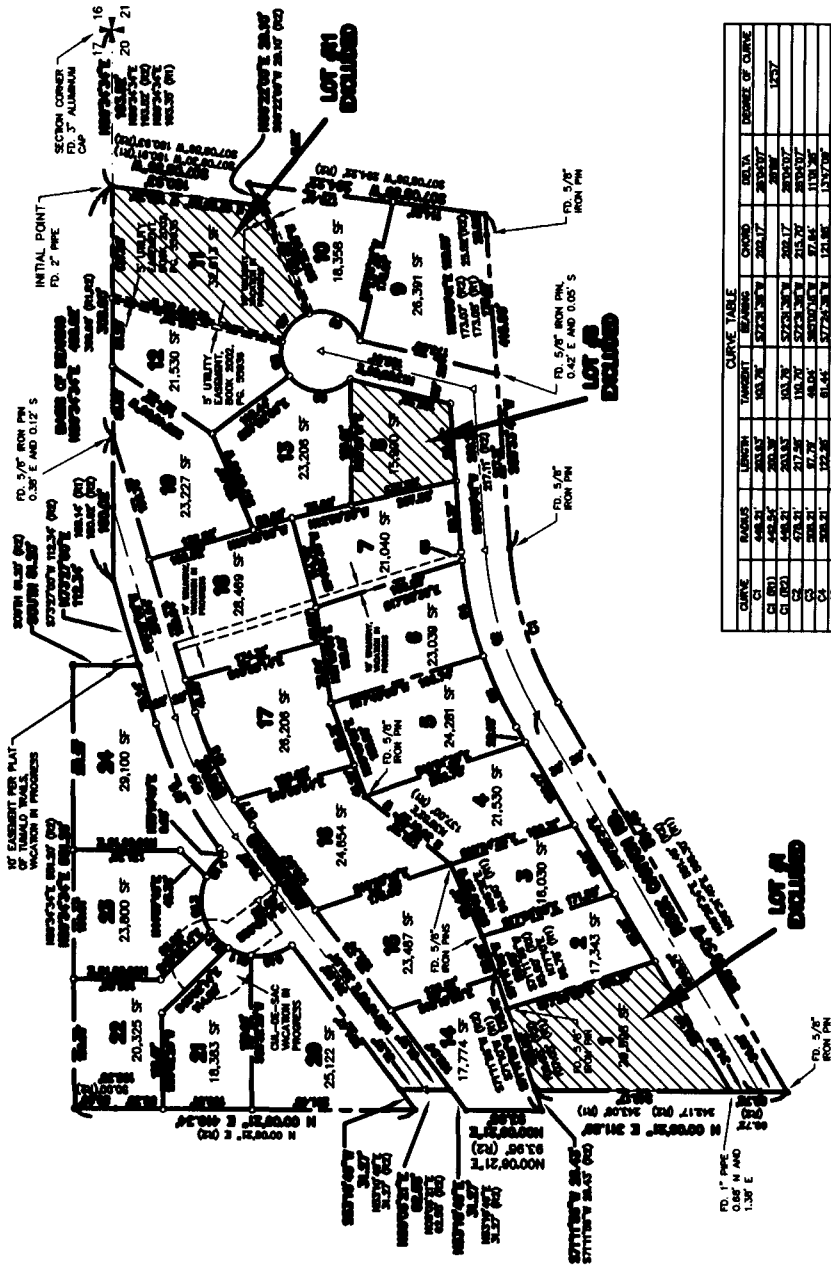
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
DOYLE R. GILLAND  
PLS 2868  
EXPIRES 6/30/03

I, DOYLE R. GILLAND, CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF "DESCHUTES RIVER RANCH".



TITLE: DESCHUTES RIVER RANCH  
JOB NO: 960 - OTAK  
SCALE: 1"=100'  
DRAWN BY: P.A.I.  
FIELD BOOK:  
DATE: 11/27/02  
DWC NAME: 960-03 SHEET: 2 OF 2



CURVE	BEARS	LENGTH	CHORD	CHORD BEARS	DEGREE OF CURVE
C1	488.21	303.57	572.28	303.57	125.7
C2	488.21	303.57	572.28	303.57	125.7
C3	488.21	303.57	572.28	303.57	125.7
C4	488.21	303.57	572.28	303.57	125.7
C5	488.21	303.57	572.28	303.57	125.7
C6	488.21	303.57	572.28	303.57	125.7
C7	488.21	303.57	572.28	303.57	125.7
C8	488.21	303.57	572.28	303.57	125.7
C9	488.21	303.57	572.28	303.57	125.7
C10	488.21	303.57	572.28	303.57	125.7
C11	488.21	303.57	572.28	303.57	125.7
C12	488.21	303.57	572.28	303.57	125.7
C13	488.21	303.57	572.28	303.57	125.7
C14	488.21	303.57	572.28	303.57	125.7
C15	488.21	303.57	572.28	303.57	125.7
C16	488.21	303.57	572.28	303.57	125.7
C17	488.21	303.57	572.28	303.57	125.7
C18	488.21	303.57	572.28	303.57	125.7

### POST MONUMENTATION

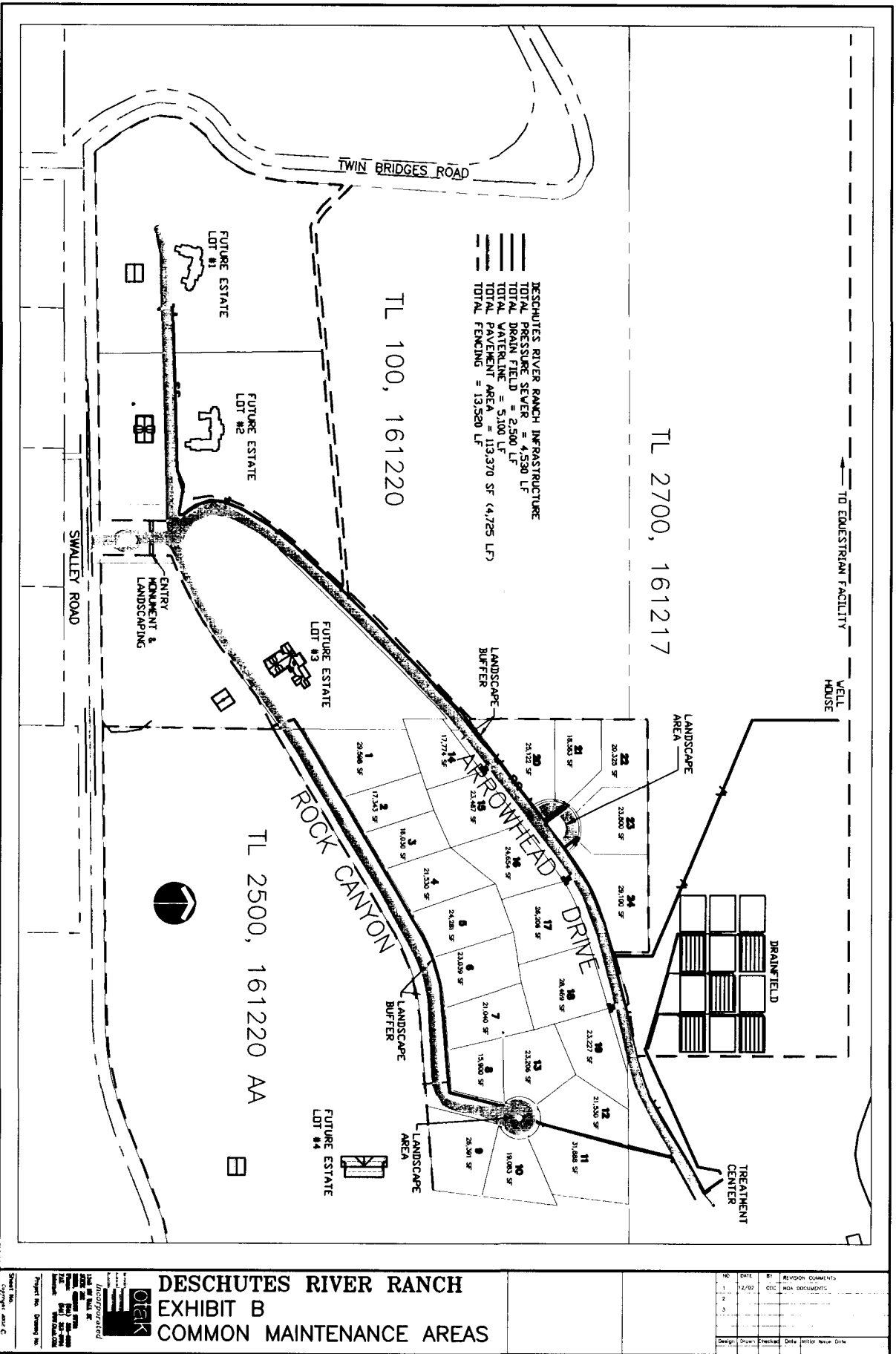
I, DOYLE R. GILLAND, CERTIFY THAT POST MONUMENTATION OF THE REMAINING INTERIOR CORNERS AND CENTERLINE MONUMENTS WILL BE COMPLETED ON OR BEFORE JULY 1, 2003.

DOYLE R. GILLAND, PLS 2868

INTERIOR AND CENTERLINE MONUMENTS SET \_\_\_\_\_ PER AFFIDAVIT OF MONUMENTATION  
RECORDED \_\_\_\_\_ IN VOLUME \_\_\_\_\_, PAGE \_\_\_\_\_, DESCHUTES COUNTY RECORDS

DESCHUTES COUNTY SURVEYOR

# COMMON MAINTENANCE AREAS/INFRASTRUCTURE EXHIBIT B



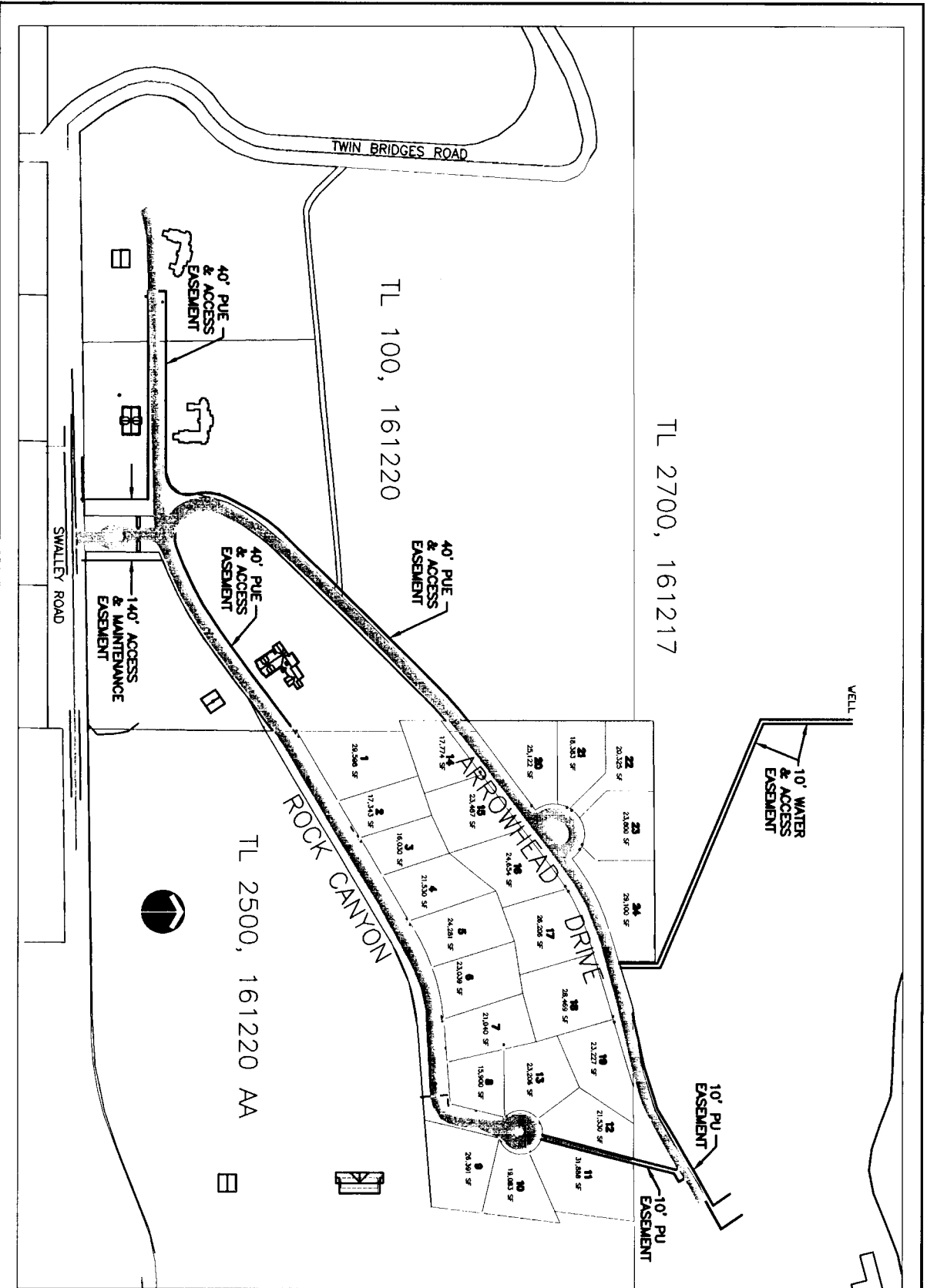
B-1

NO.	DATE	BY	REVISION COMMENTS
1	12/02	CC	CC
2			
3			

**DESCHUTES RIVER RANCH**  
**EXHIBIT B**  
**COMMON MAINTENANCE AREAS**

Sheet No. 1 of 1  
 Project No. 161220-001  
 Date: 12/02/02  
 Drawn by: [Signature]  
 Checked by: [Signature]  
 Approved by: [Signature]

COMMON MAINTENANCE AREAS/EASEMENTS  
EXHIBIT B



**DESCHUTES RIVER RANCH**  
**EXHIBIT B - EASEMENTS**

**OLEK**  
REGISTERED  
LAND SURVEYOR  
1240 N. HALL ST.  
COAST GUARD BLDG.  
SHEPHERD, OR 97767  
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Project No. Drawing No.  
Survey No. 5

NO.	DATE	BY	REVISION COMMENTS
1	12/02	COF	HOM DOCUMENTS
2			
3			

Drawn	Checked	Date	Initial	Issue Date

**Riparian Easement Area  
Exhibit C**

Those portions of Sections 16 and 17, Township 16 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, as measured from the centerline of the main channel of the Deschutes River, as follows:

- The south  $\frac{1}{2}$  of the southeast  $\frac{1}{4}$  of Section 17: from said main channel, northerly to the edge of the 'River Trail'; and southerly to the 'Pasture Road', the easterly boundary of said southerly side being the most easterly point of said 'Pasture Road'.
- The west  $\frac{1}{2}$  of the southwest  $\frac{1}{4}$  of Section 16: on both sides of the Deschutes River, running 100 feet out as measured from said centerline of the main channel.
- The northeast  $\frac{1}{4}$  of the southwest  $\frac{1}{4}$  of Section 16, and the east  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$  of Section 16: westerly and northwesterly to the edge of existing trail, up to the point where said River Trail turns westerly; at said westerly bend, then measured westerly 100 feet from the centerline of the main channel.

TOGETHER WITH that area located in the southeast  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of Section 16, shown the attached exhibit map as 'Riverside Park'.

**Portion of Riparian Easement in Equestrian Area:**

- The southeast  $\frac{1}{4}$  of the southwest  $\frac{1}{4}$  of Section 17: from said main channel centerline northwesterly to the edge of the River Trail; and from said main channel centerline, southeasterly for a distance not to exceed 25 feet from the high water line.

[illegible]

101



**Upland Wildlife Easement Area  
Exhibit D**

Those portions of Sections 16, 17, and 20, Township 16 South Range 12 East Willamette Meridian, Deschutes County, Oregon, described as follows:

That portion of the south  $\frac{1}{2}$  of the southeast  $\frac{1}{4}$  of Section 17, lying northerly of the Deschutes River and northerly of that Riparian Easement described in Exhibit C herein; and that portion of the south  $\frac{1}{2}$  of the southeast  $\frac{1}{4}$  of Section 17, lying southerly of the Deschutes River and easterly of the northerly extension of the eastern boundary of Tumalo Trails Subdivision.

And

That portion of the west  $\frac{1}{2}$  of the southwest  $\frac{1}{4}$  of Section 16 lying southeasterly of the Deschutes River and southeasterly of the Riparian Easement described in Exhibit C herein; and that portion of the west  $\frac{1}{2}$  of the southwest  $\frac{1}{4}$ , northeast  $\frac{1}{4}$  of the southwest  $\frac{1}{4}$ , and east  $\frac{1}{2}$  of the northwest  $\frac{1}{4}$ , all of Section 16, lying northwesterly of the Deschutes River and northwesterly of the Riparian Easement described in Exhibit C herein;

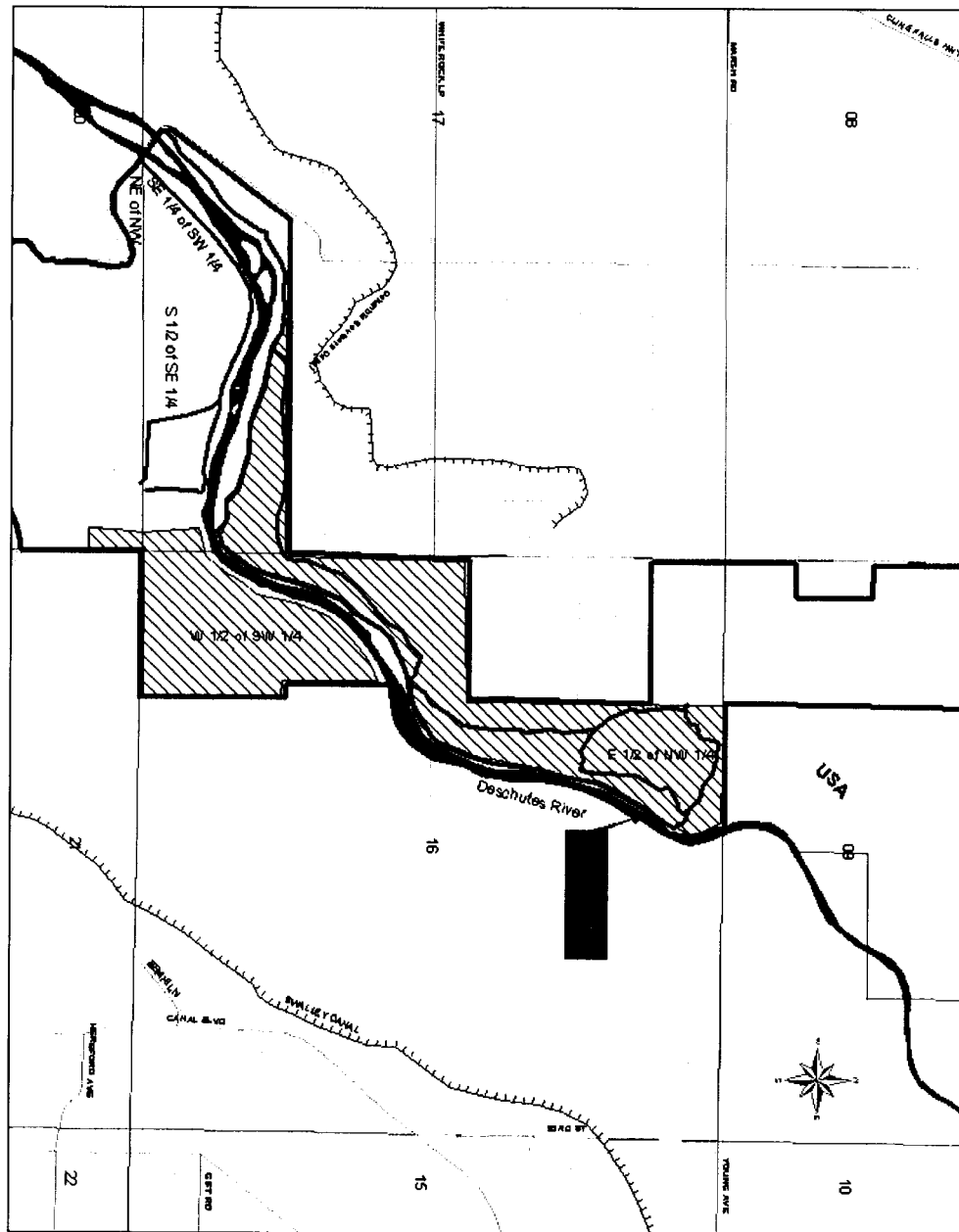
And

The south 330 feet of the southwest  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of Section 16;

And

That portion of the northeast  $\frac{1}{4}$  of the northeast  $\frac{1}{4}$  of Section 20 lying easterly of Deschutes River Ranch Subdivision, and northerly of the eastern extension of the southerly line of said Deschutes River Ranch Subdivision.

# **Upland Wildlife Easement Area Exhibit D**



Upland Wildlife Easement Areas



Existing Trails

**Deschutes River  
Ranch  
Upland Wildlife Easement  
Exhibit D**

Not to Scale



**Agricultural Easement Area**  
**Exhibit E**

Those portions of Sections 9, 16, 17 and 20, Township 16 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, described as follows:

That portion of the south  $\frac{1}{2}$  of the southeast  $\frac{1}{4}$  of Section 17, lying southerly of the Deschutes River and southerly of that Riparian Easement described in Exhibit C herein, and westerly of the most easterly north/south portion of 'Existing Trail' as shown on said exhibit.

And

That portion of the northwest  $\frac{1}{4}$  of the northeast  $\frac{1}{4}$  of Section 20, lying northerly of a meandering westerly extension of the north line of Rock Canyon Road as shown on the plat of Deschutes River Ranch.

And

That portion of the northeast  $\frac{1}{4}$  of the northeast  $\frac{1}{4}$  of Section 20 lying southerly of the plat of Deschutes River Ranch, and easterly of the southerly extension of that lot line common to lots 7 and 8 therein.

And

The Northerly 660 feet of the northwest  $\frac{1}{4}$  of the northwest  $\frac{1}{4}$  of Section 16, excepting that portion lying within the right-of-way of White Rock Loop Road.

And

The west  $\frac{1}{2}$  of the southwest  $\frac{1}{4}$  of Section 9; excepting that portion lying within the right-of-way of White Rock Loop Road and Harper Road; ALSO excepting the following described tract of land: commencing at the southwest corner of said Section 9; thence north 2 degrees 05' 14" west along the west line of said Section 9 a distance of 1316.97 feet to the northwest corner of the southwest  $\frac{1}{4}$  of said Section 9 and the point of beginning for this description; thence north 87 degrees 54' 46" east a distance of 330.00 feet; thence south 2 degrees 05' 14" east a distance of 660.00 feet; thence south 87 degrees 54' 46" west a distance of 330.00 feet to the west line of said Section 9; thence north 2 degrees 05' 14" west along said west line a distance of 660.00 feet to the point of beginning.

**M.C. Awbrey Agricultural Preserve Easement Area**  
**Exhibit E**

Those portions of Sections 17 and 20, Township 16 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, described as follows:

That portion of the south  $\frac{1}{2}$  of the southeast  $\frac{1}{4}$  of Section 17, lying southerly of the Deschutes River and southerly of that Riparian Easement described in Exhibit C herein, and westerly of the most easterly north/south portion of 'Existing Trail' as shown on said exhibit.

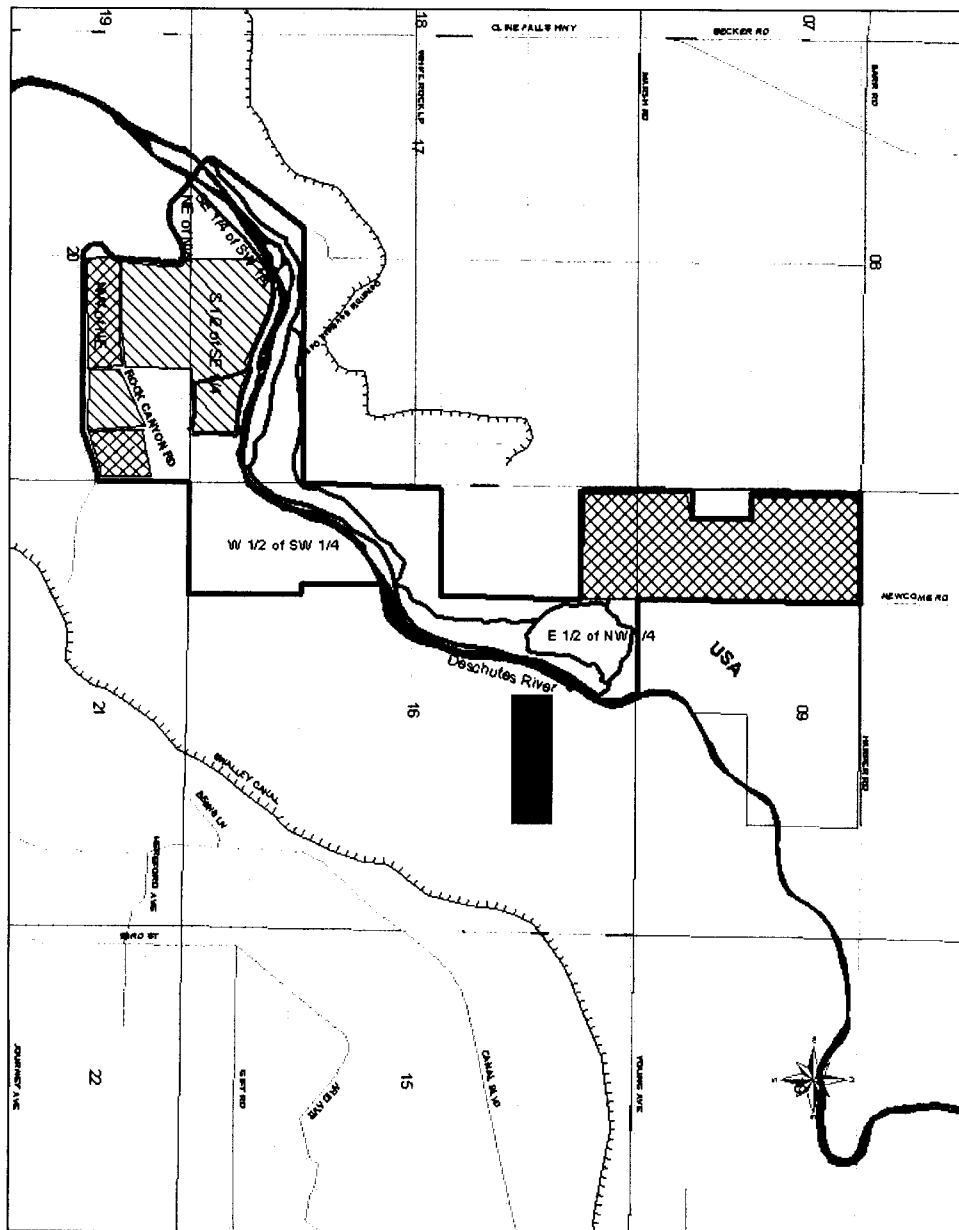
And




That portion of the northwest  $\frac{1}{4}$  of the northeast  $\frac{1}{4}$  of Section 20 lying northerly of the meandering westerly extension of Rock Canyon Road as shown on the plat of Deschutes River Ranch.

And

That portion of the northeast  $\frac{1}{4}$  of the northeast  $\frac{1}{4}$  of Section 20 lying southerly of the plat Deschutes River Ranch and the westerly of the southerly extension of that lot line common to lots 7 and 8 therein.

# **Agricultural Easement and M.C. Awbrey Agricultural Preserve Easement Areas Exhibit E**



 And   
 Agriculture Easement Areas  
 Existing Trails  
 M.C. Awbrey Agricultural Preserve

Not to Scale

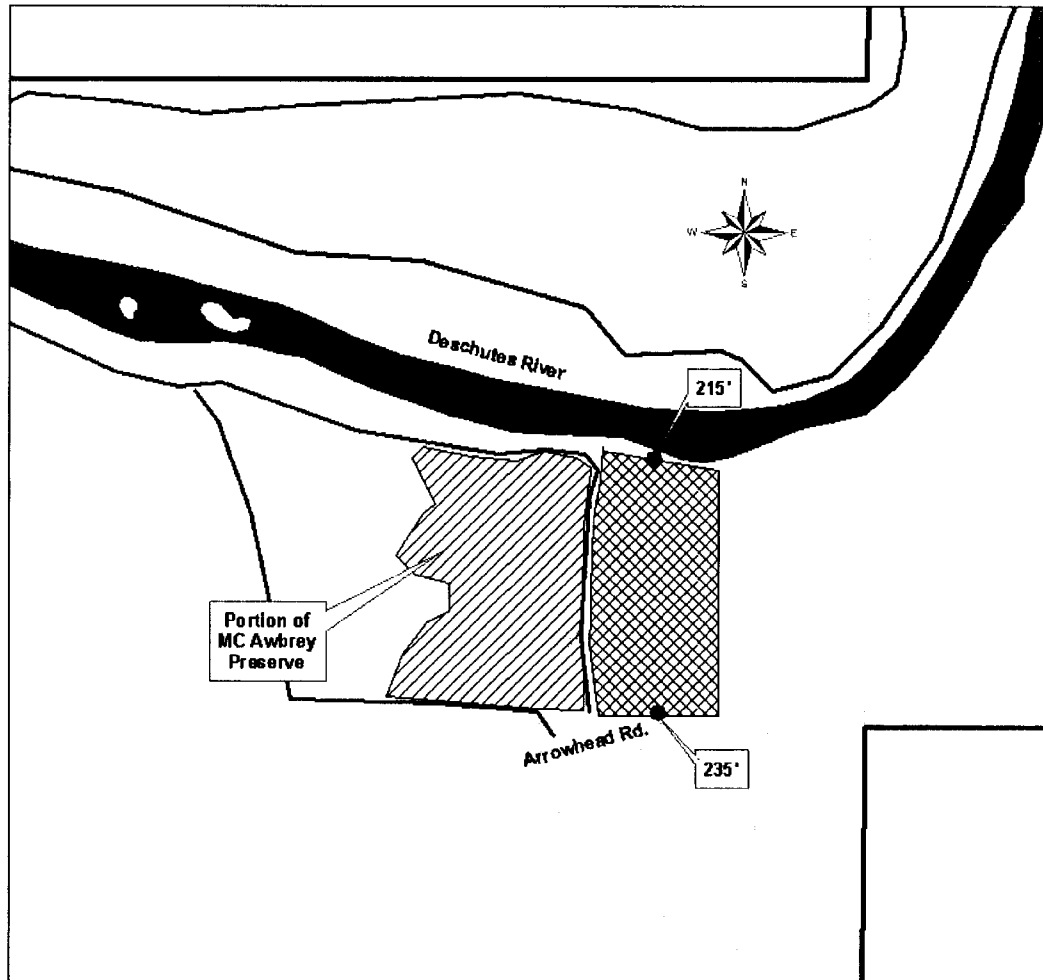




**Recreation Easement  
Exhibit F**

That portion of the Southeast quarter of the Southeast quarter of Section 17, Township 16 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, described as follows:

That portion lying easterly of a portion situated between the Deschutes River on the North, and the Deschutes River Ranch subdivision on the South, extending for a northerly boundary, easterly along said Deschutes River a distance of 215 feet, and extending for a southerly boundary, easterly along Arrowhead Rd and it's easterly extension, as shown on said subdivision, a distance of 235 feet.

# Recreation Easement Exhibit F



-  Recreational Area
-  MC Awbrey Preserve Area Portion



Western Title & Escrow provides this map and any accompanying data as a courtesy, based on the best available data. No warranty is made as to the accuracy or completeness of the information. Use of this map is at the user's discretion.

Not to Scale

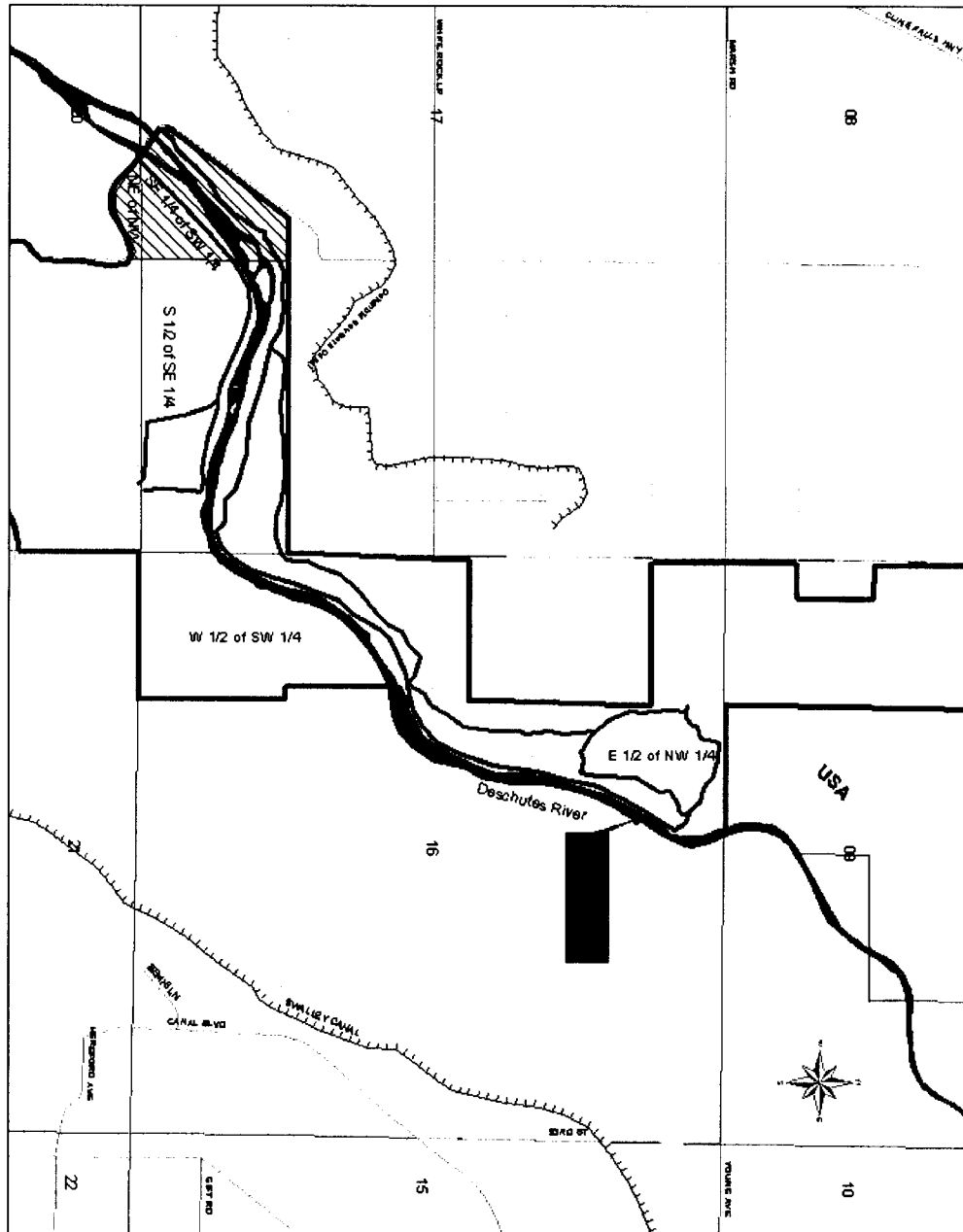
B.2/D/Projects/DRR\_Recreational.mxd

**Equestrian Area  
Exhibit G**

That portion of the southeast quarter of the southwest quarter of Section 17, Township 16 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, lying easterly of Twin Bridges Road, and that portion of the northeast quarter of the northwest quarter of Section 20, Township 16 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, lying northerly of Twin Bridges Road.



# Equestrian Area Exhibit G



Equestrian Area

Not To Scale