

30-15112

210 - 0271

FIFTH AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
(EAGLE CREST ESTATE HOMESITES)

This Fifth Amendment to Declaration of Covenants, Conditions and Restrictions for Eagle Crest Estate Homesites (the "Amendment") is made this 25 day of May, 1990, by the EAGLE CREST ESTATE HOMESITE OWNERS ASSOCIATION, an Oregon non-profit corporation (the "Association"), and is as follows:

R E C I T A L S:

A. On or about June 24, 1985, Eagle Crest Partners Ltd., an Oregon limited partnership, ("Declarant") recorded that certain Declaration of Covenants, Conditions and Restrictions for Eagle Crest Estate Homesites in Book 98, Page 718 in the Official Records of the County Recorder of Deschutes County, Oregon. On or about July 25, 1985, Declarant caused that certain Supplemental Declaration of Covenants, Conditions and Restrictions (Eagle Crest Estate Homesites) to be recorded in the Official Records of the Office of the County Recorder of Deschutes County, Oregon at Book 100, Page 1011. Subsequent amendments made by the Association were recorded in the Official Records of the Office of the County Recorder of Deschutes County, Oregon as follows:

Second Amendment	March 31, 1987	Book 143, Page 1702
Third Amendment	July 15, 1988	Book 155, Page 2678
Fourth Amendment	May 22, 1989	Book 184, Page 1874

The original Declaration, Supplemental Declaration and the Second, Third and Fourth Amendments to the Declaration of Covenants, Conditions and Restrictions for Eagle Crest Estate Homesites are hereinafter collectively referred to as the "Declaration".

B. The Declaration encumbers that certain Eagle Crest Estate Homesite Project, with annexations thereto, (the "Project") located in Deschutes County, Oregon, and more particularly described in Addendum A-1 attached hereto and made a part hereof.

C. The Association desires to delete the existing Exhibit B to the Declaration and replace it with a new Exhibit B in the form of Addendum A-2 attached hereto.

D. Paragraph 12.1 of the Declaration provides that the Declaration may be amended by a vote of a "Super-Majority of Owners", as evidenced by a written instrument recorded in the Office of the County Recorder of Deschutes County, and executed by the Secretary of the Estate Homesite Owners Association. A "Super-Majority of Owners" is defined in Article I of the Declaration, from and after the Conversion Date which has passed, as the "(i) vote or written assent of Owners entitled to vote or so assent and who collectively are entitled to exercise more than 75% of votes which may be exercised all by such Owners, and (ii) the vote or written assent of Non-Declarant Owners entitled to vote or so assent, and who collectively are entitled to exercise more than 75% of votes which may be exercised by such Non-Declarant Owners". "Non-Declarant Owners" is defined in the Declaration as "all Owners other than Declarant". The Declarant is "Eagle Crest Partners Ltd., an Oregon limited partnership". "Owners" includes all Non-Declarant Owners and the Declarant.

E. By action taken without a meeting by written ballot in accordance with Article V, Section 10 of the Bylaws, a Super Majority of Owners has voted or given their written assent to the amendment set forth herein.

F. By this Amendment and pursuant to the power reserved to the Association to amend the Declaration as provided in Paragraph 12.1 thereof, the Association desires to amend the Declaration as hereinafter set forth.

#### AMENDMENT

NOW, THEREFORE, the Declaration is hereby amended in the following respects:

1. Exhibit B attached hereto is hereby deleted in its entirety and a new Exhibit B in the form of Addendum A-2 attached hereto and made a part hereof is hereby substituted therefor.

2. Except as hereinabove set forth, the Declaration shall continue in full force and effect without any change whatsoever.

IN WITNESS WHEREOF, this Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle Crest Estate Homesites has been adopted as provided above, effective as of the date first-above written.

#### CERTIFICATE OF SECRETARY

I, the undersigned, the duly elected and acting Secretary of the Eagle Crest Estate Homesite Owners Association, an Oregon non-profit corporation, do hereby certify:

That the within and foregoing Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle Crest Estate Homesites was duly adopted on the 15<sup>th</sup> day of May, 1990, by action without a meeting by written ballot in accordance with Article V, Section 10 of the Bylaws, and that the same does now constitute the Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle Crest Estate Homesites. This Certificate is given as provided in Paragraph 12.1 (d) of the Declaration.

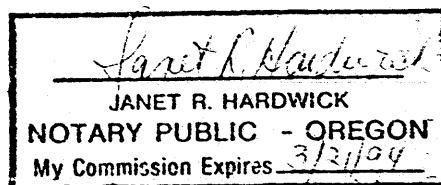
IN WITNESS WHEREOF, I have hereunto subscribed my name this 25<sup>th</sup> day of May, 1990.

EAGLE CREST ESTATE HOMESITE OWNERS  
ASSOCIATION, an Oregon non-profit corporation

BY: Lauri J. Miller Acting Secretary  
Secretary

STATE OF OREGON, County of Deschutes: ss.

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of May, 1990, by LAURI J. MILLER, Secretary of EAGLE CREST ESTATE HOMESITE ASSOCIATION, an Oregon non-profit corporation, on its behalf.



NOTARY PUBLIC FOR OREGON  
My commission expires: \_\_\_\_\_

ADDENDUM A-1LEGAL DESCRIPTION OF  
EAGLE CREST ESTATE HOMESITE PROJECT

All of the following described lots as shown on the Eagle Crest Plat filed June 24, 1985 in the official records of the County Recorder, Deschutes County, Oregon:

## Estate Homesites:

- Lots 3-12, Block 6
- Lots 2-12, Block 9
- Lots 14-24, Block 9
- Lots 3-10, Block 7
- Lots 13-22, Block 7

## Recreational Lots:

- Lot 11, Block 7
- Lot 1, Block 8

## Recreational Pathways:

- Lot 12, Block 7
- Lot 13, Block 9

## Road Lots:

- Lot 10, Block 11
- Lot 11, Block 11

## Open Space:

- Lot 13, Block 6
- Lot 2, Block 7

AND

All that certain real property located in a portion of Lot 1, Block 10 and Lot 4, Block 2, Eagle Crest Plat recorded June 24, 1985 in the Official Records of the County Recorder, Deschutes County, Oregon, described as follows:

Lots 23-27, Block 7; Lots 25-34, Block 9; the road described as Osprey Drive; and the 20' bike path and utility easement all as shown on Eagle Crest III Plat recorded August 31, 1989 in the Official Records of the County Recorder of Deschutes County, Oregon.

AND

All that certain real property located in a portion of Lot 4, Block 2, Eagle Crest Plat recorded June 24, 1985 in the Official Records of the County Recorder, Deschutes County, Oregon, described as follows:

Lots 35 - 65; the roads described as Condor Drive and Condor Court; and the 20' bike path and utility easement all as shown on Eagle Crest IV Plat recorded November 1, 1989 in the Official Records of the County Recorder of Deschutes County, Oregon.

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AND

All that certain real property located in a portion of Lots 3 and 4, Block 2, Eagle Crest Plat recorded June 24, 1985 in the Official Records of the County Recorder, Deschutes County, Oregon, described as follows:

Lots 14 - 27 and the road described as Condor Drive all as shown on Eagle Crest VI Plat recorded November 29, 1989 in the Official Records of the County Recorder of Deschutes County, Oregon.

ADDENDUM A-2 - NEW EXHIBIT BLEGAL DESCRIPTION"Annexable Property"

All of the following described lots as shown on the Eagle Crest Plat filed June 24, 1985 in the office of the County Recorder in Deschutes County, Oregon:

Lots 3, 4 & 5, Block 2  
 Lots 8, 9 & 12, Block 11  
 Lot 1, Block 10

PARCELS BORDERING SOUTHERN PROPERTY LINE OF EAGLE CREST:

The East 440 feet of the North 990 feet of the Southeast Quarter of the Southeast Quarter (SE 1/4, SE 1/4) of Section Twenty-three (23), Township Fifteen (15) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon.

AND

The Southeast Quarter of the Southeast Quarter (SE 1/4, SE 1/4) of Section Twenty-three (23), Township Fifteen (15) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon.

AND

The South 330 feet of the Southeast Quarter of the Southeast Quarter (SE 1/4, SE 1/4) of Section Twenty-three (23), Township Fifteen (15) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon.

AND

Beginning at the Southwest corner of Section Twenty-three (23), Township Fifteen (15) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon; thence South 89° 45' 18" East 3357.512 feet to the TRUE POINT OF BEGINNING; thence North 00° 32' 58" West, 663.379 feet; thence South 89° 45' 25" East 335.035 feet; thence South 00° 36' 41" West 663.400 feet; thence North 89° 45' 18" West 335.751 feet to the TRUE POINT OF BEGINNING.

AND

A portion of the Northwest one-quarter of the Southeast one-quarter of Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon, described as follows: Commencing at the E 1/4 corner of said Section 23, the initial point; thence North 89° 45' 44" West along the North line of the said SE 1/4 - 1331.54 feet to the center East 1/16th corner; thence South 00° 40' 24" East along the East line of said NW 1/4 SE 1/4 - 663.42 feet to the point of beginning; thence South 00° 40' 24" East along the East line of the said NW 1/4 SE 1/4 - 663.42 feet to the center 1/16th corner of said NW 1/4 SE 1/4; thence North 89° 45' 31" West along the south line of the said NW 1/4 SE 1/4 - 334.32 feet; thence North 00° 36' 41" West - 663.40 feet; thence South 89° 45' 37.5" East - 333.60 feet to the point of beginning.

AND

A tract of land in Section 23, Township 15 South, Range 12 East, of the Willamette Meridian, Deschutes County, Oregon described as follows: Commencing at the East 1/4 corner of said Section 23, thence North  $89^{\circ}45'44''$  West along the North line of said Southeast 1/4 - 1331.54 feet to the Center East 1/16 corner; thence South  $00^{\circ}40'24''$  East along the East line of the said Northwest 1/4 Southeast 1/4 - 663.42 feet; thence North  $89^{\circ}45'37.5''$  West 333.60 feet to the true point of beginning; thence South  $00^{\circ}36'41''$  East 663.40 feet to the South line of the said Northwest 1/4 Southeast 1/4; thence North  $89^{\circ}45'31''$  West along the South line of the said Northwest 1/4 Southeast 1/4 334.33 feet; thence North  $00^{\circ}32'58''$  West 663.38 feet; thence South  $89^{\circ}45'37.5''$  East 333.60 feet to the point of beginning.

AND

The Northeast Quarter of the Northwest Quarter of the Southeast Quarter (NE1/4, NW1/4, SE1/4) of Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

The Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW1/4, NW1/4, SE1/4) of Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

The South Half of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (S1/2, NE1/4, NE1/4, SW1/4) of Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

The North Half of the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (N1/2, NE1/4, NE1/4, SW1/4) of Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

The East Half of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter (E1/2, SE1/4, SE1/4, NW1/4), Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

The West Half of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter (W1/2, SE1/4, SE1/4, NW1/4) in Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

The Northeast Quarter of the Southeast Quarter of the Northwest Quarter (NE1/4, SE1/4, NW1/4) of Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

The East half of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (E1/2, NW1/4, SE1/4, NW1/4) of Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

The West half of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (W1/2, NW1/4, SE1/4, NW1/4) of Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

That part of the Southwest Quarter of the Northwest Quarter of Section 23, Township 15 South, Range 12 East of the Willamette Meridian lying Easterly of the Tumalo-Cline Falls Highway, Deschutes County, Oregon.

RIVERFRONT PARCELS:

Lot 16, Block 2, Eagle Crest Plat recorded June 24, 1985.

AND

A portion of the Northwest Quarter of the Northwest Quarter (NW1/4, NW1/4) of Section Twenty-four (24), Township Fifteen (15) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, lying westerly of the centerline of the Deschutes River, and more particularly described as follows:

Commencing at a 1-1/2" pin at the Northwest section corner of said Section 24, the Initial Point; thence South 00°37'10" East along the section line common to said Sections 24 and 23, 685.48 feet to 1/2 inch pipe and the POINT OF BEGINNING; thence North 88°15'13" East, 967.23 feet to the centerline of the Deschutes River witness by a 1/2 inch pipe 217.58 feet from the Easterly extremity; thence 720.40 feet along the arc of a 857.30 foot radius curve right forming a delta angle of 48°08'47" and a long chord bearing South 16°22'29" East, 699.39 feet; thence North 89°58'46" West along the Southerly line of said Northwest Quarter of the Northwest Quarter (NW1/4, NW1/4), 1157.02 feet to a 1/2 inch pipe; thence North 00°37'10" West along the section line common to said Sections 24 and 23, 641.16 feet to POINT OF BEGINNING.

AND

Section Twenty-four (24): That portion of the Southwest Quarter of the Northwest Quarter (SW1/4, NW1/4) lying West of the centerline of the Deschutes River and that portion of the Northwest Quarter of the Southwest Quarter (NW1/4, SW1/4) lying West of the centerline of the Deschutes River, Township Fifteen (15) South,

Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon; AND

That portion of the Northwest Quarter of the Northwest Quarter (NW1/4, NW1/4) of Section Twenty-four (24), lying Westerly of the centerline of the Deschutes River, in Township Fifteen (15) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon; EXCEPTING THEREFROM a portion of the Northwest Quarter of the Northwest Quarter (NW1/4, NW1/4) of Section 24, Township 15 South, Range 12 East of the Willamette Meridian, lying Westerly of the centerline of the Deschutes River in Deschutes County, Oregon, and more particularly described as follows: Commencing at a 1-1/2" pin at the Northwest section corner of said Section 24, the Initial Point; thence South 00°37'10" East along the section line common to said Sections 24 and 23, 685.48 feet to 1/2 inch pipe and the POINT OF BEGINNING: thence North 88°15'13" East, 967.23 feet to the centerline of the Deschutes River witness by a 1/2 inch pipe 217.58 feet from the Easterly extremity; thence 720.40 feet along the arc of a 357.30 foot radius curve right forming a delta angle of 48°08'47" and a long chord bearing South 16°22'29" East, 699.39 feet; thence North 89°58'46" West along the Southerly line of said Northwest Quarter of the Northwest Quarter (NW1/4, NW1/4), 1157.02 feet to a 1/2 inch pipe; thence North 00°37'10" West along the section line common to said Sections 24 and 23, 641.16 feet to POINT OF BEGINNING.

AND

That portion of the South Half of the Northeast Quarter of the Southeast Quarter (S1/2, NE1/4, SE1/4) of Section Fourteen (14), Township Fifteen (15) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon, lying Southerly of the centerline of the Deschutes River.

PARCELS BORDERING CLINE FALLS ROAD:

Lot 3; also known as the East Half of the Southwest Quarter (E1/2, SW1/4) lying easterly of the center line of Tumalo Cline Falls Market Road, in Section 14, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

Lot 1; also known as the Northwest Quarter of the Northwest Quarter (NW1/4, NW1/4) lying easterly of the center line of Tumalo Cline Falls Market Road, in Section 23, Township 15 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

AND

Such other real property situated in Deschutes County, State of Oregon, as may hereafter be acquired by Declarant and be adjacent to the subject property or the Annexable Property;

EXCEPTING THEREFROM all those parcels previously annexed to the Eagle Crest Estate Homesite Association.



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EXHIBIT B  
(Delete)

LEGAL DESCRIPTION

ANNEXABLE PROPERTY

All of the following described lots as shown on the Eagle Crest Plat filed June 24, 1985 in the office of the county recorder in Deschutes County, Oregon:

Lots 3, 4 & 5, Block 2  
Lots 8, 9 & 12, Block 11  
Lot 1, Block 10

STATE OF OREGON )  
COUNTY OF DESCHUTES ) ss.

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

90 MAY 30 PH 3:28

MARY SUE PENHOLLOW  
COUNTY CLERK

BY.  DEPUTY

NO. 90-15112 FEE 45-

DESCHUTES COUNTY OFFICIAL RECORDS