

AFTER RECORDING, RETURN TO:

Ms. Karen Smith  
Resort Resources, Inc.  
P. O. Box 1466  
Bend, OR 97709

98-23450

**AMENDED AND RESTATED  
DECLARATION ANNEXING PHASE 1 OF  
THE FALLS  
TO  
THE RIDGE AT EAGLE CREST**

THIS AMENDED AND RESTATED DECLARATION is made this 3<sup>RD</sup> day of June, 1998, by EAGLE CREST, INC., an Oregon corporation, successor to Eagle Ridge Partners, Ltd., ("**Declarant**") and C CORP, INC., an Oregon corporation, ("**C Corp**") and amends, replaces and supersedes the Declaration Annexing Phase 1 of The Falls to The Ridge at Eagle Crest, which was originally recorded on March 6, 1998 in the records of Deschutes County, Oregon, as Document No. 98-08697.

**RECITALS**

A. Declarant is the Declarant under that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for The Ridge at Eagle Crest, dated June 5, 1996 and recorded June 5, 1996 in the records of Deschutes County, Oregon, as Document No. 96-20423 (the "**Master Declaration**").

B. Declarant wishes to annex the real property described on attached Exhibit A (the "**Additional Property**") to the Master Declaration and to designate the Additional Property as Phase 1 of a Project to be known as "**The Falls**."

C. The Master Declaration provides that additional properties may be annexed to The Ridge at Eagle Crest pursuant to the provisions of Section 2.2 of the Master Declaration. Declarant wishes to annex the Additional Property to The Ridge at Eagle Crest upon the terms and conditions set forth in this Declaration.

D. C Corp, as owner of certain property within the Additional Property, consents and agrees to all terms and conditions of this Declaration.

**NOW, THEREFORE**, Declarant does hereby declare and provide as follows:

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

- 1.1. **Additional Property**. Additional Property means all the real property described in the attached Exhibit A.
- 1.2. **Fair Housing Act**. The Fair Housing Act refers to Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and the Housing for Older Persons Act of 1995.

- 1.3. **55 or Over Housing**. The term "55 or Over Housing" shall mean and refer to housing intended and operated for occupancy by at least one person 55 years of age or older per Living Unit meeting the requirements of the Fair Housing Act (Section 807(b) (2) (C)) and the related regulations of the Department of Housing and Urban Development.
- 1.4. **The Falls**. The Falls means the Additional Property, together with any property annexed thereto by supplemental declarations.
- 1.5. **Master Declaration**. Master Declaration means the Declaration of Protective Covenants, Conditions, Restrictions and Easements for The Ridge at Eagle Crest, dated June 5, 1996, and recorded June 5, 1996, in the records of Deschutes County, Oregon, as Document No. 96-20423.
- 1.6. **Permitted Resident**. Permitted Resident shall mean any Owner or tenant, together with all family members of such Owner or tenant, and other persons permanently residing with such Owner or tenant but only if all such persons have complied with the provisions of and restrictions in Section 6.12 of this Declaration and the Project Policies and Procedures.
- 1.7. **Incorporation by Reference**. Except as otherwise specifically provided in this Declaration, each of the terms defined in Article 1 of the Master Declaration shall have the meanings set forth in such Article.
2. **ANNEXATION**. The Additional Property is hereby annexed to The Ridge at Eagle Crest and made subject to the Master Declaration on the terms and conditions set forth in this Declaration.
3. **PROJECT**. The Falls is hereby declared to be a Project for purposes of the Master Declaration and the Additional Property shall be a Project Parcel for purposes of the Master Declaration.
4. **LAND CLASSIFICATIONS**. The Additional Property shall be included in one or another of the following classifications:
  - 4.1. **Residential Lots**. All platted lots within the Additional Property, but excluding any tract labeled as "Master Common Area" or "Common Lot" on such plat, shall be Residential Lots as defined in Section 1.34 of the Master Declaration.
  - 4.2. **Common Areas**. Victoria Falls Drive and Cannon Falls Court shall be Common Areas as defined in Section 1.8 of the Master Declaration.
  - 4.3. **Project Common Areas**. Common Lot "A" and Common Lot "B" shall be Project Common Areas as defined in Section 1.28 of the Master Declaration.
  - 4.4. **Other Classifications**. There are no Common Easement Areas, Limited Common Areas or Public Areas in the Additional Property.
5. **MASTER DECLARATION**. The Additional Property shall be subject to all of the terms and provisions of the Master Declaration, except that Section 7.16 (Minimum Dwelling Size) shall not be applicable to the Additional Property.

6. **ADDITIONAL RESTRICTIONS.** The Additional Property shall be subject to the following additional restrictions:

**6.1. Minimum Dwelling Size.** No dwelling intended or used as the primary dwelling on a Residential Lot may be constructed or maintained unless the interior floor area of such dwelling (excluding garage) contains at least 1,400 square feet. The maximum permissible interior floor area shall be limited only by constraints of the building site area and other reasonable limitations as may be established by the Architectural Review Committee.

**6.2. Rental Restriction.** No Lot or Living Unit located thereon may be rented for a term of less than one (1) year by an Owner or otherwise utilized for hotel or transient purposes. Despite the foregoing, the Declarant may rent a Living Unit for a period of less than one (1) year to a bona fide prospective purchaser if such purchaser is a Permitted Resident. No Owner may lease less than his entire Living Unit. Moreover, no lease or occupancy of a Living Unit shall be permitted unless a true copy of the lease is furnished in advance to the Association, together with the current address and telephone numbers of both the Owner and the proposed lessee. Subject to the foregoing limitations, any Owner shall have the right to lease his Living Unit to a Permitted Resident provided that said lease is in writing and made subject to all provisions of this Declaration, the Master Declaration and the Policies and Procedures, and provided further that any failure of the lessee to fully comply with the terms and conditions of such documents shall constitute a default under the lease. No leasing shall, however, relieve an Owner from his obligations hereunder and he shall remain primarily responsible therefor. In the event a tenant of an Owner fails to comply with the provisions of this Declaration, the Master Declaration, or the Policies and Procedures, then, in addition to all other remedies which it may have, the Association may notify the Owner of such violation(s) and demand that same be remedied through the Owner's efforts within thirty (30) days after such notice. If such violation(s) is not remedied within said thirty (30) day period, then the Owner shall immediately thereafter, at his sole cost and expense, institute and diligently prosecute an eviction action against his tenant on account of such violation(s). Such action shall not be compromised or settled without the prior written consent of the Association. In the event the Owner fails to fulfill the foregoing obligation, then the Board of Directors shall have the right, but not the duty, to institute and prosecute such action as attorney-in-fact for Owner and at the Owner's sole cost and expense, including all legal fees incurred. Said costs and expenses shall be considered Individual Assessments as defined in the Master Declaration and shall be due and payable as described in the Master Declaration. By acceptance of a deed to any Lot or Living Unit, each and every Owner does thereby automatically and irrevocably name, constitute, appoint and confirm the Board as his attorney-in-fact for the purposes described in this Section 6.2.

**6.3. Noise; Exterior Lighting and Noise-making Devices.** Occupants of Living Units shall exercise extreme care not to make noises which may disturb occupants of other Living Units. Except with the consent of the Association and the Architectural Review Committee, no exterior lighting or noise-making devices shall be installed or maintained on any Lot within The Falls. Owners shall not tamper with exterior lighting except to replace expended bulbs with similar new bulbs.

- 6.4. **Windows, Decks, Porches, Outside Walls and Yards.** In order to preserve the attractive appearance of The Falls, the Association may regulate the nature of items which may be placed in or on windows, decks, entry porches, outside walls and yards so as to be visible from outside of the Lot. Garments, rugs, laundry and other similar items may not be hung from windows, facades, porches or decks.
- 6.5. **Alterations.** Owners are expressly prohibited from painting or changing the exterior of the building or other structure without written permission of the Architectural Review Committee and the Association. No structure may be installed outside of the Living Unit except structures, including without limitation fences, installed with written approval of the Association and Architectural Control Committee.
- 6.6. **Insurance.** Nothing shall be done or kept on the Project Common Area which will increase the cost of insurance on the Project Common Areas. No Owner shall permit anything to be done or kept in his Living Unit or in the Project Common Areas which would result in cancellation of insurance on any Lot or any part of the Project Common Areas. Each Owner of a Living Unit shall maintain fire and extended coverage insurance.
- 6.7. **Landscape.** All exterior landscape installations and plantings must be approved by the Association and the Architectural Review Committee.
- 6.8. **Project Policies and Procedures.** In addition, the Association from time to time may adopt, modify or revoke such policies and procedures governing the conduct of persons in the operation and use of Lots, Living Units and Project Common Areas within The Falls as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of The Falls. A copy of the Policies and Procedures, upon adoption, and a copy of each amendment, modification or revocation thereof, shall be furnished by the Association Board of Directors to each Owner within The Falls and shall be binding upon all Owners and occupants of all Lots within The Falls upon the date of delivery. The method of adoption of such Policies and Procedures shall be as provided in the Bylaws of the Association.
- 6.9. **Exterior Maintenance.** The Association shall be responsible for maintaining the Project Common Areas of The Falls and all landscaping and landscape irrigation systems (including water and power for such systems) within Project Common Areas. Each Owner of a Living Unit shall be solely responsible for the exterior maintenance of the Lot and Living Unit owned by him, and for the expenses and costs therefor, including, but not limited to painting, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, exterior landscaping, and other exterior improvements.
- 6.10. **Project Assessments.** The costs of maintenance of Project Common Areas as set forth in Section 6.9, together with the costs of enforcing the restrictions contained in this Declaration, including reasonable administrative costs relating thereto, shall be assessed to each Lot within The Falls on an equal basis as Project Assessments and enforced as Individual Assessments under the Master Declaration.
- 6.11. **Project Association.** Declarant, the Association or the Owners within The Falls (by majority vote) may elect to establish a Project Association for The Falls. In such event and at the sole cost and expense of the party electing to establish the Project

Association, Declarant or the Association shall adopt Articles of Incorporation and initial Bylaws for the Project Association and supervise the organization of and election of directors for the Project Association. Upon establishment of the Project Association, the Project Association shall be responsible for enforcement of the restrictions contained in this Declaration in the manner provided in the Master Declaration, adoption of Project Policies and Procedures, maintenance of the Project Common Areas within The Falls as provided in this Declaration, and assessment and collection of Project Assessments in the same manner as provided in the Master Declaration for assessment and collection of assessments thereunder. The Project Association shall have the same classes of membership and the same voting rights as provided in the Master Declaration for the Master Association.

- 6.12. **Age Restriction.** The Falls is intended to be 55 or Over Housing so as to qualify as "housing for older persons" within the meaning of the Fair Housing Act. The construction, interpretation and enforcement of this Section 6.12, as well as the remainder of the Declaration, shall be done in a manner consistent with such requirements. No person under the age of 19 may reside in a Living Unit other than on a temporary, visiting basis, the maximum period of which may be established in the Policies and Procedures. Further, at least one occupant residing in a Living Unit must be 55 years of age or older, except during temporary periods approved by the Board of Directors of the Association based upon hardship in accordance with any guidelines established in the Policies and Procedures. In no event may more than twenty percent (20%) of the Living Units be subject to such a waiver at any one time.
- 6.13. **Enforcement Requirement.** It shall be the duty of the Declarant, in connection with the initial sale of Lots and Living Units, and of the Association as to all subsequent sales of Lots and Living Units, to enforce the Declaration and Section 6.12 so that at all times the Project will qualify for the 55 or Over Housing for older persons exemption under the Fair Housing Act. No occupancy of any Living Unit shall be permitted, begin, or continue if such occupancy would be in violation of the provisions of this Declaration or result in the loss of the Project's 55 or Over Housing for older persons exemption under the Fair Housing Act. The Association or Declarant may require Owners to provide certain information to verify compliance with Section 6.12 of this Declaration in accordance with any guidelines established in the Policies and Procedures.
7. **AMENDMENT.** Sections 5 and 6 of this Declaration may be amended by the vote or written consent of Owners owning not less than seventy-five percent (75%) of the Lots within The Falls, together with the written consent of the Class B member of the Association, or if a Project Association has been established, the written consent of the Class B member of the Project Association for The Falls, if such Class B membership has not been terminated. Any such Amendment shall become effective only upon recordation in the Deed Records of Deschutes County, Oregon, of a certificate of the President or Secretary of the Association, or of the Project Association if a Project Association has been established, setting forth in full the amendments so approved and certifying that the Amendment has been approved in the manner required by this Declaration. In no event shall such an Amendment create, limit or diminish Special Declarant rights without Declarant's written consent.

8. **BINDING EFFECT.** The Additional Property, including all Lots, Common Areas, and Project Common Areas therein, shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved only in accordance with the provisions of the Master Declaration, as modified by this instrument, which easements, covenants, restrictions, and charges shall run with the Additional Property and shall be binding upon all parties having or acquiring any right, title or interest in the Additional Property, or any part thereof, and shall inure to the benefit of each Owner thereof. Declarant may assign its status as Declarant under this Declaration to a Successor Declarant for The Falls.

**IN WITNESS WHEREOF,** Declarant and C Corp have executed this Declaration as of the day and year first set forth above.

**EAGLE CREST, INC.,** an Oregon corporation

By Lauri Miller  
Its Asst. Secretary

**C CORP, INC.,** an Oregon corporation

By Paul A. Whitaker  
Its Treasurer

STATE OF OREGON        )  
  )ss.  
County of Deschutes    )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of June, 1998, by Lauri Miller, the Asst. Secretary of EAGLE CREST, INC., an Oregon corporation.



Karen L. Smith  
Notary Public for Oregon  
My commission expires: 10/16/2000

STATE OF OREGON        )  
  )ss.  
County of Deschutes    )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of June, 1998, by Paul A. Whitaker, the Treasurer of C CORP, INC., an Oregon corporation.



Karen L. Smith  
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