



AFTER RECORDING RETURN TO:

Ball Janik LLP  
15 SW Colorado, Suite K  
Bend, OR 97702  
Attn: Laura Craska Cooper

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR THE HIGHLANDS AT BROKEN TOP**

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE HIGHLANDS AT BROKEN TOP (this "Supplemental Declaration") is made this 23<sup>rd</sup> day of July 2004, by Cascade Highlands LLC, an Oregon limited liability company as successor-in-interest to Cascade Highlands Limited Partnership, an Oregon limited partnership ("Declarant").

Recitals:

A. Declarant's predecessor-in-interest recorded that certain Declaration of Protective Covenants, Conditions, and Restrictions for The Highlands at Broken Top, on September 29, 2003, in the Official Records of Deschutes County, State of Oregon, at Volume 2003, Page 67685 and re-recorded the same on October 28, 2003 at Volume 2003, Page 74724 (as amended or supplemented from time to time, the "Declaration").

B. Pursuant to Section 11.1 of the Declaration, Declarant desires to annex the property described in attached **Exhibit A** (the "Annexed Property") to the real property that is subject to the Declaration, upon the terms and conditions contained in this Supplemental Declaration. The Annexed Property has been platted to include single-family residential lots (the "Annexed Lots") and certain Common Areas and Common Maintenance Areas.

NOW, THEREFORE, Declarant hereby declares that the Annexed Property shall be held, sold and conveyed subject to the Declaration, this Supplemental Declaration, the Bylaws of The Highlands at Broken Top Community Association, Inc. (as the same may be amended from time to time, the "Bylaws") and that the easements, covenants, restrictions and charges contained in the Declaration, the Bylaws and herein shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the Annexed Property, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE 1 DEFINITIONS

Except to the extent otherwise defined herein, capitalized terms used in this Supplemental Declaration shall have the meanings given to such terms in the Declaration.

## ARTICLE 2 ANNEXATION OF PROPERTY

The Annexed Property is hereby annexed to and made a part of the Property, and is owned and shall be owned, held, conveyed, hypothecated, encumbered, used, occupied and improved in perpetuity, subject to the easements, covenants, restrictions and charges contained in the Declaration, as modified or supplemented by the terms of this Supplemental Declaration. Commencing as of the date hereof, all of the covenants, conditions and restrictions of the Declaration as modified or supplemented by the terms of this Supplemental Declaration shall apply to the Annexed Property in the same manner as if it were originally covered by the Declaration. Each of the Annexed Lots shall constitute a "Lot" under the Declaration.

## ARTICLE 3 MEMBERSHIP IN ASSOCIATION

The Owner of each Annexed Lot shall become a member of the Association and shall be entitled to voting rights as set forth in the Declaration and the Bylaws. Ownership of each Annexed Lot shall be subject to the terms of the Bylaws.

## ARTICLE 4 ASSESSMENTS

The Annexed Lots shall be subject to assessment in the manner and on the terms set forth in the Declaration. Assessments for the Annexed Lots shall commence on the day the plat for the Annexed Lots is recorded.

## ARTICLE 5 COMMON AREAS/COMMON MAINTENANCE AREAS

5.1 Common Areas. Declarant hereby declares that the Common Areas, which shall be conveyed to the Association not later than the Turnover Meeting, shall include that portion of the Annexed Property identified on the Plat of the Annexed Property as Tract "B," including all Improvements located thereon now or in the future. Without limiting the foregoing, Common Areas include all private roads on the Annexed Property.

5.2 Common Maintenance Areas. The following are hereby designated as Common Maintenance Areas: (i) drainage facilities located on Lot 31; (ii) all slopes supporting roadways throughout the Property; (iii) all trails on the Annexed Property as shown on the Plat, including those trails encumbered by an easement in favor of the Bend Metro Park & Recreation District ("BMPRD"), recorded October 20, 2003, in the official records of Deschutes County at Volume 2003, Page 72591; (iv) a split rail fence along the BMPRD trails on the Annexed Property; and (v) a trail that crosses lots within Phase 1, together with a split rail fence constructed along such trail, which trail is more particularly described in those certain easements from Cascade Highlands Limited Partnership to BMPRD recorded October 20, 2003, in the official records of Deschutes County at Volume 2003, Page 72593 and recorded July 26, 2004 at Volume 2004, Page 44005. The Association's obligations to maintain trails and related fences shall be subject to the terms of any recorded easement agreements, including the easement agreements with BMPRD.

## ARTICLE 6 FIRE SPRINKLER SYSTEMS

Due to City of Bend Fire Department regulations, fire sprinkler systems must be provided by the applicable Owner for structures built on each lot in the Annexed Property. Specifications for this requirement can be obtained from the DRC.

## ARTICLE 7 AMENDMENTS

7.1 Term and Amendments. The covenants and restrictions of this Supplemental Declaration shall run with and bind the Annexed Property for so long as the Declaration is valid. This Supplemental Declaration may be amended in the same manner as the Declaration may be amended, pursuant to the terms of the Declaration. Declarant reserves the right at any time to amend this Supplemental Declaration, or any amendment hereto, in order to correct scrivener's errors. 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.

7.2 Regulatory Amendments. Notwithstanding the provisions of Section 7.1 of this Supplemental Declaration, until the Turnover Meeting described in the Bylaws and Declaration, Declarant shall have the right to amend this Supplemental Declaration, the Declaration or the Bylaws in order to comply with the requirements of any applicable statute, ordinance, regulation or guideline of 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 the Oregon Planned Community Act.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

8.1 Non-Waiver. Failure by the Association or by any Owner of an Annexed Lot to enforce a covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.2 Construction; Severability. This Supplemental Declaration and the Declaration shall be liberally construed as one document to effect the annexation of the Annexed Property to the Property. Nevertheless, each provision of this Supplemental Declaration and the Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision.

8.3 Run with Land. This Supplemental Declaration and the covenants, restrictions and changes described herein shall run with the land and shall be binding on the parties and any person acquiring any right, title, or interest in the Annexed Property.

8.4 Termination. This Supplemental Declaration shall terminate upon the termination of the Declaration in accordance with the terms thereof.

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration as of the date first set forth above.

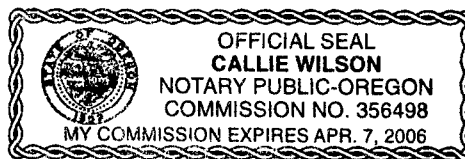
CASCADE HIGHLANDS LLC,  
an Oregon limited liability company

By: *T. B. Dame*  
Name: T. B. Dame  
Title: Owners Representative

STATE OF OREGON            )  
  )ss.  
County of Deschutes    )

The foregoing instrument was acknowledged before me on this 28<sup>th</sup> day of July 2004 by T. B. Dame, the owner's representative of Cascade Highlands LLC, an Oregon limited liability company, on behalf of the company.

*Callie Wilson*  
Notary Public for Oregon  
My Commission Expires: April 7, 2006



## **Exhibit A**

### **Annexed Property**

The property known as The Highlands at Broken Top, Phase 2, as shown in the duly recorded plat of The Highlands at Broken Top, Phase 2, recorded in Cabinet "G," Page 365 under Recorder's No. Volume 2004-434-77, on July 23, 2004 in the Official Records, Deschutes County, Oregon.