

16772

BROOKS RESOURCES CORPORATION  
DECLARATION ESTABLISHING AN EASEMENT  
AND SUBMITTING A PRIVATE WAY TO THE  
MT. BACHELOR VILLAGE CHARTER

THIS DECLARATION is made and executed this 24th day of February, 1982, by BROOKS RESOURCES CORPORATION, an Oregon corporation (hereinafter referred to as "Developer"), to establish an easement and to subject the property described herein to the Mt. Bachelor Village Charter, and to certain covenants and restrictions.

By instrument dated April 8, 1974, and recorded May 8, 1974, in Volume 205, page 976, of the Records of Deeds of Deschutes County, Oregon, the Developer has established the Mt. Bachelor Village Charter which was superseded and amended by an instrument dated May 22, 1981, and recorded May 27, 1981, in Volume 341, page 529, of the Records of Deeds of Deschutes County, Oregon (hereinafter referred to as the "Charter").

Developer has constructed an additional access road (hereinafter referred to as the "Roadway"), for Mt. Bachelor Village and for the Office Park at Mt. Bachelor Village, a subdivision in Deschutes County, Oregon (hereinafter referred to as the "Office Park"), and Developer now wishes to subject the property described on Exhibit A attached hereto to an easement and to the Mt. Bachelor Village Charter as a private way for access.

SECTION I  
DEFINITIONS

When used herein, each of the terms defined in Section I of the Charter shall have the meanings set forth in Section I.

SECTION II  
GRANT OF EASEMENT

Developer hereby grants to the owners of all property in the Office Park, their successors and assigns, a perpetual, nonexclusive easement for the benefit of the owners, their agents, lessees, customers, licensees and invitees, for roadway purposes over and across the property described on Exhibit A attached hereto. The easement shall be appertenant to each parcel of property in the Office Park.

SECTION III  
SUBJECTION TO THE CHARTER

Pursuant to Section 2.1 of the Mt. Bachelor Village Charter, Developer hereby declares the property described herein to be subject to the Charter on the following terms:

(a) All property described herein shall be a private way as defined in the Charter, and each unit owner and each resident of Mt. Bachelor Village is granted a nonexclusive easement to use the private way as more fully set forth in the Charter.

(b) Developer reserves the right to locate, construct, maintain and repair a pedestrian and bicycle path and easement on, over and across the property described herein, including the right

to dedicate the pedestrian and bicycle path and easement to public use in a location to be determined by Developer.

(c) Developer reserves the right to grant additional easements for the benefit of property not included within Mt. Bachelor Village over and across the property described on Exhibit A attached hereto.

#### SECTION IV

##### MAINTENANCE AND USE OF THE ROADWAY

(a) The Association shall repair and maintain, or cause to be repaired and maintained, the Roadway at all times in good, clean, safe and attractive condition. The cost of such maintenance and repair shall be borne 95 percent by the Association and 5 percent by the owners of property in the Office Park. The costs of maintenance and repair shall be allocated among owners of property in the Office Park in proportion to the fraction of the total area of the Office Park exclusive of roads and common areas included within the parcel owned by each owner. The costs shall include the total of all items of cost and expense necessarily expended for the repair and maintenance, determined in accordance with generally accepted accounting principles. Each owner of property in the Office Park shall pay to the Association the owner's proportionate share of the total costs and expenses within ten days after its receipt of the Association's invoice.

(b) The Association may adopt, amend and repeal rules and regulations pertaining to the use and operation of the Roadway; provided

that all such rules and regulations shall apply uniformly and without discrimination to all persons entitled to use the Roadway. Such rules and regulations may include, without limitation, restrictions on the size, weight and speed of vehicles using the Roadway.

(c) No breach of any restriction or other provision of this Declaration shall entitle any party to cancel, rescind or otherwise terminate any rights hereunder, but this limitation shall not affect in any manner any other rights or remedies which a party may have by reason of any such breach.

#### SECTION V

#### ENFORCEMENT

(a) The remedies permitted or available pursuant to the provisions of this Declaration, at law or in equity, shall be cumulative.

(b) In the event suit or action is brought for the enforcement of or the declaration of rights pursuant to this Declaration, the prevailing party in such suit or action shall be entitled to recover its costs and expenses, including reasonable attorneys' fees in such suit or action or any appeal.

(c) Should any owner of property in the Office Park fail to pay its share of costs and expenses of maintenance of the Roadway within 30 days of its receipt of written demand, such costs and expenses shall constitute a lien until paid, effective upon recordation of a verified notice of lien in the Official Records of Deschutes County, Oregon. Such costs and expenses shall constitute a lien against

and the notice of lien shall describe, only the portion of the Office Park owned by the defaulting owner. Any such lien shall be subject and subordinate to any bona fide first mortgage or deed of trust encumbering any portion of the defaulting owner's property at the time notice of lien is recorded or thereafter, and any purchaser at any foreclosure or trustee's sale (as well as any grantee by deed in lieu of foreclosure or trustee's sale) under any mortgage or deed of trust shall take title free and clear of any such lien, but otherwise subject to all the provisions of this Declaration. Except as provided above, any such lien shall be prior and superior to any lien recorded subsequent to the recordation of the notice of lien. Any such lien may be enforced by suit or action in any court of competent jurisdiction or by sale under power of sale, judicial foreclosure or in any other manner allowed by law.

IN WITNESS WHEREOF Developer has caused this Declaration to be executed the date first hereinabove written.

BROOKS RESOURCES CORPORATION

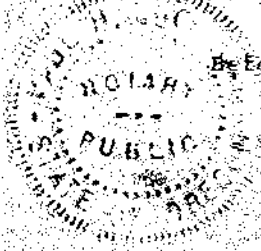
By William L. Smith  
William L. Smith, President

STATE OF OREGON            )  
                              ) 36  
COUNTY OF DESCHUTES    )

Personally appeared the above-named William L. Smith to me known, being first duly sworn, did say that he is the President of Brooks Resources Corporation and that the foregoing instrument was voluntarily signed on behalf of said corporation by authority of its board of directors.

Before me:

Paul H. Buchanan Feb 25, 1992  
Notary Public for Oregon  
My commission expires: Jan. 22, 1993



A 50.00 foot wide strip of land located in a portion of the South one-half of Section 6 and the North one-half of Section 7, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon, lying 25.00 feet on each side of the following described centerline:

Beginning at a one-half inch iron rod marking the Southwest corner of said Section 6; thence South 89° 42' 31" East a distance of 2608.90 feet to a 1 inch drill steel marking the South one-quarter corner of said Section 6; thence North 46° 04' 18" West a distance of 786.65 feet to a point on the southeasterly right-of-way line of Century Drive the "True Point of Beginning" for this description; thence South 45° 58' 42" East a distance of 139.50 feet; thence following the arc of a 200.00 foot radius curve right a distance of 43.74 feet (chord bears South 39° 42' 48" East 43.65 feet); thence South 33° 26' 54" East a distance of 87.60 feet; thence following the arc of a 404.44 foot radius curve left a distance of 99.50 feet (chord bears South 40° 29' 45" East 99.24 feet); thence South 47° 32' 36" East a distance of 55.00 feet; thence following the arc of a 191.95 foot radius curve left a distance of 134.25 feet (chord bears South 67° 34' 45" East 131.53 feet); thence South 87° 36' 53" East a distance of 284.30 feet; thence following the arc of a 220.30 foot radius curve right a distance of 135.56 feet (chord bears South 69° 59' 14" East 133.43 feet); thence South 52° 21' 35" East a distance of 66.32 feet; thence following the arc of a 108.12 foot radius curve right a distance of 93.66 feet (chord bears South 27° 32' 28" East 90.76 feet); thence following the arc of a 244.35 foot radius curve right a distance of 86.42 feet (chord bears South 07° 24' 33" West 85.97 feet); thence South 17° 32' 28" West a distance of 329.58 feet; thence following the arc of a 164.48 foot radius curve left a distance of 97.08 feet (chord bears South 00° 37' 56" West 95.68 feet) to the terminus of this centerline.

SUBJECT TO: All easements, restrictions and right-of-way of record and those common and apparent on the land.

16772

STATE OF OREGON  
County of Deschutes

I hereby certify that the within instrument of writing was received for Record the 25 day of Feb A.D. 1972 at 2:30 o'clock P. M. and recorded in Book 354 on Page 205 Records of Deschutes

ROSEMARY PATTERSON  
County Clerk

By James R. Phillips Deputy