

Declaration of Covenants, Conditions and Restrictions

For

Basalt Business Park

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2004-15790



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After recording, return to:
Hap Taylor & Sons
Bruce Churchill
P.O. Box 83
Bend, OR 97709

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BASALT BUSINESS PARK**

These **Covenants, Conditions and Restrictions** are made this 24th day of March, 2004 by **HAP TAYLOR & SONS**, an Oregon corporation, ("**Declarant**") and **BPCM**, an Oregon General Partnership, as owners of the real property in Deschutes County, State of Oregon described in "**Exhibit A**" attached hereto and incorporated by reference herein.

RECITALS

A. The property described in Exhibit A is hereby subject to these Covenants, Conditions and Restrictions and will be known as "**Basalt Business Park**".

B. Basalt Business Park is being developed as a planned business complex. Except where this Declaration for Basalt Business Park conflicts with applicable government municipal regulations, this Declaration shall be binding upon all owners, lessees, licensees, occupants and users of the property subject to this Declaration and their successors in interest as set forth herein. In the event any of the development standards or use restrictions of this Declaration should conflict with a more restrictive standard or requirement set by an applicable zoning ordinance for the City of Bend, the more restrictive standard or requirement of the applicable City of Bend ordinance shall apply.

C. BPCM, as owner of certain property within Exhibit A, consents and agrees to all terms and conditions of this Declaration.

SECTION 1. DEFINITIONS

1.1 "**Basalt Business Park**" means all of the real property now or hereafter made subject to this Declaration.

1.2 "**Basalt Business Park Owners' Committee**" ("**BBPOC**") means that committee of Owners formed pursuant to Section 8 herein.

1.3 "**Declarant**" means Hap Taylor & Sons, an Oregon corporation or its successors and assigns if a recorded instrument executed by Declarant assigns to the transferee all of Declarant's rights under this Declaration.

1.4 "**Declaration**" means this Declaration of Covenants, Conditions and Restrictions for Basalt Business Park.

1.5 "**Improvements**" includes, but is not limited to, any buildings, outbuildings, private roads, driveways, parking areas, fences and barriers, retaining walls and stairs, decks,

electrical and other utility distribution facilities, hedges, windbreaks, planting, planted trees and shrubs, signs, loading areas and all other structures or exterior landscaping, vegetation, or ground cover of every type and every kind above the land surface.

1.6 **"Lot"** means each lot as shown on the Basalt Business Park plat recorded in Deschutes County and which are made subject to this Declaration.

1.7 **"Owner"** means and refers to either all holders of fee title to any Lot, or any other person or persons entitled to possession of the Lot pursuant to a contract or lease requiring that such person or persons pay real property taxes on the Lot.

1.8 **"Streets"** means any street, highway or other thoroughfare within or adjacent to the Basalt Business Park and shown on any recorded subdivision or partition map, or survey map of record, whether designated thereon as street, boulevard, place, drive, road, terrace, way, lane, circle or otherwise.

SECTION 2. PROPERTY SUBJECT TO THE COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE BASALT BUSINESS PARK

2.1 **General Declaration Creating Basalt Business Park.** Declarant hereby declares that all of the real property located in Deschutes County, Oregon described in Exhibit A is and shall be hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part subject to this Declaration. All of said restrictions are declared and agreed to be in furtherance of the general plans of the subdivision, and are established with the purpose of protecting the desirability and attractiveness of said real property and every part thereof. All of the Covenants, Conditions and Restrictions of Basalt Business Park run with all of said real property for all purposes and shall be binding upon and inure to the benefit of Declarant and all owners, and their successors in interest as set forth in the Declaration.

2.2 Addition of Other Real Property by Declarant.

(a) Declarant may, at any time during the term of this Declaration, add all or a portion of any contiguous land now or hereafter owned by Declarant to the Property which is covered by this Declaration, and upon recording of a notice of addition of real property, as set forth below, the provisions of this Declaration specified in said notice shall apply to such added land in the same manner as if it were originally covered by this Declaration. Thereafter, to the extent this Declaration is made applicable thereto, the rights, powers and responsibilities of Declarant and owners of parcels within such added land shall be the same as in the case of the land described in Exhibit A.

(b) The notice of addition of real property referred to above shall contain at least the following provisions:

- (1) A reference to this Declaration stating the date of recording and the recording information where the Declaration is recorded.
- (2) A statement that the provisions of this Declaration or some specified part thereof shall apply to such added real property.
- (3) A legal description of such added real property.
- (4) Such other or different covenants, conditions and restrictions as Declarant shall, in its discretion, specify to regulate and control the use, occupancy and improvement of such added real property.

SECTION 3. EASEMENTS GRANTED. In addition to any easements shown on the recorded plat, Declarant hereby reserves for itself the following easements for the benefit of the Declarant and the Owners of all Lots within Basalt Business Park:

3.1 **Lots 1 and 13.** That portion of Lots 1 and Lot 13 within Basalt Business Park on which a monument sign will be placed on the corner of each such lot at the intersection of 18th Street and Brinson Boulevard.

3.2 **Lots 7 and 8.** That portion of Lot 7 and Lot 8 within Basalt Business Park on which a monument sign will be placed on the northern corner of each such lot adjacent to 18th Street.

3.3 **Right of Entry.** The Owner of any Lot burdened by these easements shall permit the Declarant or BBPOC (as defined herein) and their duly authorized agents or employees to enter upon the Lot to perform maintenance of such monument signs.

SECTION 4. ARCHITECTURAL CONTROLS

4.1 **Approval Required.** No improvements, as defined in Section 1.5 above, shall be erected, placed, altered, maintained or permitted to remain on any land subject to this Declaration until final plans and specifications have been submitted to and approved in writing by Declarant. It is the intent and purpose of this Declaration to assure quality of workmanship and materials and to assure harmony of external design with the then existing Improvements as to location with respect to topography and finished grade elevations.

4.2 **Procedure.** Any Owner proposing to construct any Improvements within the Basalt Business Park (including any exterior alteration, addition, destruction or modification to any such Improvements) shall follow the procedures and shall be subject to the approvals required by paragraphs 4.3 through 4.7 below. Failure to follow such procedures or obtain such approvals as required by paragraphs 4.3 through 4.7 below shall be deemed a breach of this Declaration. The Declarant strongly encourages Owners to submit Preliminary Architectural Review Documents for consideration. This will provide Owners with an opportunity to garner input on their designs prior to expending greater effort and expense. The Preliminary Architectural Review Documents must contain, at a minimum, a site plan sketch (at 1"=20'

scale) and two exterior elevation sketches (at 1/8"=1'-0"). The exterior materials must be indicated on the elevations.

4.3 Required Final Architectural Review Documents. (Note: All the documents must be submitted together. Separate submittals are not allowed). Any Owner proposing to utilize, improve or develop real property within the Basalt Business Park shall submit the following items for review:

(a) A site plan showing the location, size, configuration and layout of any building, structure or facility (or, where applicable, any alteration, addition, modification or destruction thereto) including appurtenant facilities for parking, tanks, storage, loading, deliveries, fences, vehicular and pedestrian traffic and circulation, and utilities plan. The scale of plans shall be 1 inch = 20 feet or larger.

(b) Architectural plans and drawings showing the nature, style and dimensions of any building, structure, facility, fence, wall, barrier or deck (or, where applicable, any alteration, addition, modification or destruction thereof) including the exterior material types, colors, appearance, and the type of screening for roof-mounted fixtures and the type of screening for exterior equipment and for tanks and other exterior storage areas.

(c) A landscape plan showing the nature, type, size, location and layout of all landscaping, vegetation ground cover, landscape and site lighting, walks, major existing vegetation and irrigation systems proposed to be planted or installed (or, where applicable, removed or destroyed), together with the location of any proposed signing. The scale of plans shall be 1 inch = 20 feet or larger.

(d) A site grading plan showing the elevation, slope and grade of any site work (including the nature, location and utilization of any removal or filling of soil) proposed to be done in conjunction with any proposed improvements, development, modification or destruction of any building, structure or facility or of any planting, installation or removal of any landscaping, vegetation or ground cover. The scale of plans shall be 1 inch = 20 feet or larger. The required contour interval is 1'.

(e) An exterior finish sample board. Maximum size 2'x3' with samples of all exterior materials (paint color sample chips, masonry, glass, metal panels, etc.).

(f) The Declarant may require the submission of such additional information as may be reasonably necessary to consider any application.

4.4 Architectural Review Fees. The Declarant will establish and charge reasonable fees for review of applications hereunder and will require such fees to be paid in full prior to review of any application. Compliance fees and deposits will also be required. Preliminary Architectural Reviews are initially established at \$250 for each submittal. The Declarant will provide a response to the submittal within two weeks of receipt. The Final Architectural Review Fee is initially established at \$1,500 with Declarant retaining the right to modify the fee as appropriate. The refundable Compliance Fee is initially established at \$5,000, with Declarant

retaining the right to modify the fee as appropriate. The Compliance Fee will be refunded in full at such time as the Declarant is satisfied, in Declarant's sole discretion, that the improvements have been completed in accordance with the plans and drawings that were approved by the Declarant. Declarant may employ architects, engineers, or other persons as deemed necessary to perform the reviews of plans, drawings, and completed improvements.

4.5 Review. All plans and drawings identified in paragraph 4.3 above shall be submitted to Declarant for review prior to the performance of any proposed work. No plans shall be reviewed until all items specified in this section and the review fee, if any, are submitted. Within 30 days following receipt of such plans and drawings Declarant shall review the plans and shall inform the owner in writing whether the plans conform to the development concept for Basalt Business Park as determined by Declarant in its sole discretion. In the event the owner is not notified as to the conformity of the plans within the 30 day review period, the plans are conclusively presumed to be approved as submitted. In the event any aspect of any of the plans does not conform to the Basalt Business Park development concept, the Owner shall re-submit those non-conforming portions of the plans for review in accordance with the procedures outlined in paragraph 4.3 above, and this paragraph. No work may be performed relating to any Improvement unless and until all aspects of all plans required under paragraph 4.3 above have been approved by Declarant. Any site plans, construction plans or similar plans and drawings submitted to City of Bend in connection with the construction of any Improvement in the Basalt Business Park must bear the prior written approval of the Declarant.

4.6 Architectural Guidelines. The development concept for the Basalt Business Park shall be determined by Declarant in accordance with applicable statutes, ordinances, regulations, zoning and other governmental land use controls. Architectural guidelines setting forth various aspects of the development concept, in addition to this Declaration, may be published from time to time by Declarant, but Declarant shall not be required to do so. Declarant shall have the right to alter, rescind or amend any published guidelines without prior notice to any party; provided however, that once approval has been given pursuant to paragraph 4.5 above, work may proceed in accordance with the approved plans and drawings notwithstanding any changes in the development concept. All such guidelines shall be in general conformity with this Declaration.

4.7 Inspection. All work related to any building, structure or facility or any landscaping, vegetation, ground cover or other improvements within the Basalt Business Park shall be performed in strict conformity with the plans and drawings approved under paragraph 4.5 above. Declarant shall have the right to inspect any such work to determine its conformity with the approved plans and drawings, and reserves the right to order a stop to all work, if, in good faith, it believes that any such work is non-conforming. In the event that it is determined in good faith by Declarant that certain work is non-conforming, a stop work notice may be issued, without necessity of court order, which shall require the owner to correct all non-conforming work specified in the notice before the remainder of the proposed work may be completed. Continued work without correction of any such non-conforming items shall be deemed a breach of this Declaration. The Declarant or officer, director, employee, agent or servant of the Declarant shall not be responsible for any damages, loss, delay, cost or legal expense occasioned

through a stop work notice given in good faith, even if it is ultimately determined that such work was in conformity with the approved plans and drawings.

4.8 **Waiver.** Any condition or provision of paragraphs 4.2 through 4.7 above may be waived by Declarant in its exclusive discretion. Any waiver shall be in general conformity with the development concept and development standards for the Basalt Business Park. Any such waiver shall not be deemed a general waiver of any aspect of the development concept or the required procedures and approvals specified under paragraphs 4.2 through 4.6. The granting of a waiver as to one Owner shall not automatically entitle any other Owner to the waiver of the same or similar conditions or provisions. No waiver shall be valid unless it is in writing, signed by an authorized representative of Declarant and delivered by certified mail to the party claiming the benefit of such waiver.

SECTION 5. REGULATION OF IMPROVEMENTS

5.1 **Minimum Setback Lines.** Setback requirements shall be in accordance with applicable zoning ordinances.

5.2 **Completion of Construction.** After commencement of construction of any structure, the Owner shall diligently prosecute the work thereon, to the end that the structure shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof.

5.3 **Excavation.** No excavation shall be made except in connection with construction of an improvement, and upon completion thereof exposed openings shall be backfilled and disturbed ground shall be graded and leveled in accordance with approved plans.

5.4 **Exterior Construction.** It is the Declarant's intent that the buildings and facilities within this development are designed in a fashion that exudes order, quality and character in keeping with a well-planned and maintained Business Park. Therefore, buildings must be designed with careful thought given to massing, materials and articulation. Austere buildings devoid of character will not be approved. For examples of acceptable building character please refer to the photos in "**Exhibit B**".

(a) All exterior walls shall be finished with architectural masonry units, natural stone, concrete, or metal panel subject to the approval of the Declarant in accordance with Section 4 herein. Buildings utilizing metal wall panels shall incorporate a masonry wainscot around the entire perimeter. The wainscot shall be a minimum of 4' high where the walls are less than 12' high (measured to the eave on the shed side), and a minimum of 7'-4" where the wall height exceeds 12'. The metal panels must be high quality, flush, architectural grade with concealed fasteners.

(b) Eaves, with the exception of flat roof units, shall consist of overhangs that are of appropriate scale relative to height of unit. The minimum overhang shall be two (2) feet. Eave brackets and similar articulations are encouraged.

(c) Roofs materials shall be subject to approval of the Declarant. Metal roofs are required to have a standing seam application, and a 2 1/2:12 minimum slope. Composition shingle roofs shall have a minimum slope of 3:12. Steeper roof slopes are encouraged. Low slope roofs shall incorporate a parapet around the entire perimeter that completely screens the roof surface from view. (d) Exterior colors shall be compatible with the colors of the natural surroundings and adjacent buildings and are subject to the approval of the Declarant. Single color buildings are discouraged. Walls should be articulated with an accent/trim color and roofs shall be of different complimentary color.

(e) HVAC and similar equipment (transformers, electric/gas meters, etc.) must be screened from view whether located on the ground or a roof. Roof mounted equipment must be screened through the use of parapets (on low slope roofs) or approved screening walls, cupolas, etc. (on pitched roofs). Ground mounted equipment may be screened with approved walls or landscaping. Flues, vents, hoods, etc, that are exposed to view shall be painted to match the adjacent roof color. Efforts should be made to locate such items in a manner that screens them from view from adjacent buildings and public ways.

5.5 Landscaping.

(a) Every Lot on which a building shall have been placed shall be landscaped according to plans approved as specified herein and maintained thereafter in a sightly and well-kept condition.

(b) The Owner shall landscape and maintain unpaved areas between the property lines and the setback lines. The setback from street property lines shall be used exclusively for landscaping except for walks and driveways bisecting the required landscape area. The Owner shall also be responsible for the maintenance of any landscaping within the street right-of-way adjacent to their property, which are not otherwise improved.

(c) Landscaping as approved by Declarant shall be installed within one hundred and eighty (180) days of occupancy or completion of the building, whichever occurs first. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval of the Declarant.

(d) All areas within improved Lots proposed for future expansion shall be maintained in a weed-free condition.

5.6 Signs.

(a) No sign shall be permitted, other than the following:

(1) Those identifying the name, business and products of the person or firm occupying the premises; and

(2) Those offering the premises for sale or lease when specifically approved by Declarant in writing.

(b) Signs shall conform to setback lines unless specific approval to the contrary is granted by Declarant in writing.

(c) Signs and identifications on building sites shall be prepared by a professional sign company, be a minimum size of 2' x 2' and a maximum of 4' x 4' in size, and use a maximum four color design as specifically approved by Declarant in writing.

(d) No sign shall be placed in any window.

5.7 Parking Areas.

(a) General. Adequate off-street parking shall be provided to accommodate all parking needs for employee, visitor and company vehicles on the site. The intent of this provision is to eliminate the need for any on-street parking. If parking requirements increase as a result of a change in use or number of employees, additional off-street parking shall be provided to satisfy the intent of this section. All parking shall be in conformance with applicable City of Bend ordinances.

(b) Parking shall not be permitted:

(1) Between public and/or private street pavement and property line;

(2) Closer than ten feet (10') to a street property line.

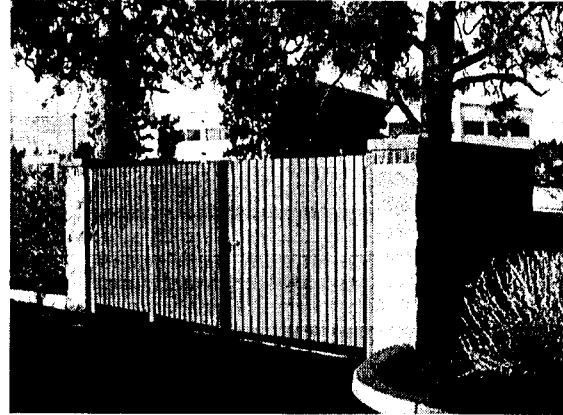
(c) The parking requirements may be modified by Declarant as to any particular site, provided such modification is in writing.

5.8 Storage and Loading Areas.

(a) No materials, supplies or equipment shall be stored in any area on a site except inside a closed building, or behind a visual barrier, as approved by Declarant, screening such areas so that they effectively reduce visibility from the neighboring property or streets. Screening may be accomplished by dense planting.

(b) Loading docks shall be restricted to the rear and sides of a building unless otherwise approved by Declarant in writing. Loading docks shall be screened to minimize the visual effect from the street. Side loading docks shall be on the rear half of the building unless specifically approved by Declarant in writing.

(c) Refuse collection areas shall be architectural masonry units with limited visibility from streets and neighboring properties and shall be approved by Declarant as provided in Section 4 herein. The gates shall be substantial and shall screen the interior. No refuse collection areas shall be permitted between a street and the front of any building. Utility meters and installation of meters are restricted to the rear and sides of any building unless screened as approved by Declarant as provided in Section 4 herein.



5.9 **Fences.** Fences shall be constructed of colored, textured concrete masonry units. Proposed fence designs will be reviewed and approved on a case-by-case basis by the Declarant. To achieve continuity from lot to lot and throughout the Business Park the Declarant reserves the right to implement a specific fence standard.

5.10 **Maintenance of Improvements and Grounds.** Each Lot within Basalt Business Park shall be maintained in a clean and attractive condition, in good repair and in such a fashion as not to create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, fences, walks and other exterior improvements and glass surfaces. All repainting or restaining and exterior remodeling shall be subject to prior review and approval by Declarant, which approval shall not be unreasonably withheld. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on the Owner's Lot neatly trimmed and properly cultivated, and keep all areas of the Lot free of trash, weeds, excess building materials, and other unsightly material. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the responsibility of each Owner and shall be restored within a reasonable period of time.

5.11 **Antennas and Cell Towers.** Over-the-air reception and transmission devices are not permitted within Basalt Business Park. Standard TV antennas and satellite dishes are permitted so long as they comply with applicable restrictions adopted by Declarant, pertaining to the size, means, method and location of their installation.

SECTION 6. REGULATION OF OPERATIONS

6.1 Permitted Operations and Uses.

(a) Unless otherwise specifically prohibited by Declarant herein, any operation and use permitted in the applicable City of Bend land use approval for the Basalt Business Park will be permitted if it is performed or carried out entirely within a building that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electric-mechanical disturbance, radiation, air or water pollution, dust, emission of

odorous, toxic or non-toxic matter. All lighting is to be shielded and confined within property lines.

(b) An exception to applicable portions of paragraph 6.1(a) shall be made during periods when a breakdown in equipment occurs in such a manner as to make it evident that the effect was not reasonably preventable.

6.2 **Right of Entry.** During reasonable hours, and subject to reasonable security requirements, Declarant, or its authorized representative, shall have the right to enter upon and inspect any building, site or parcel and the improvements thereon, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with and neither Declarant nor its authorized representatives shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

SECTION 7. COVENANT FOR ASSESSMENT

7.1 **Purpose of Assessment.** The Assessments levied by the Declarant, or the BBPOC as the case may be, shall be used exclusively to enforce the terms of this Declaration for the benefit of the Owners and occupants of Lots and to ensure proper operation and maintenance of Lots and Improvements within the boundaries of Basalt Business Park.

7.2 **Creation of the Lien and Personal Obligation of Assessments.** The Declarant herein covenants for the Basalt Business Park, each Owner of any Lot by acceptance of a deed or contract of purchase therefore, whether or not it shall be so expressed in any such deed or other conveyance or agreement for conveyance, is deemed to covenant and agrees to pay to Declarant or BBPOC as the case may be, regular annual, special, or other regular periodic assessments or charges, such assessments to be fixed, established and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time such assessment was levied. The obligation shall remain a lien on the property until paid or foreclosed, but shall not be a personal obligation of successors in title unless expressly assumed by them.

7.3 **Nature of Assessments.** The assessments levied by the Declarant shall be used for the operation and maintenance within the boundaries of Basalt Business Park. After consideration of current operating costs and future needs, the Declarant may fix a regular flat assessment upon a monthly, quarterly, or annual basis. The regular periodic flat charges must be fixed at a uniform rate for all Lots not exempt and may be collected on a monthly, quarterly, or annual basis in the discretion of the Declarant, such assessment to be based on the total acreage in any Lot as compared to total acreage within all Lots.

7.4 **Owner's Responsibility.** Except as otherwise provided in this Declaration or by written agreement with the Declarant or BBPOC, all maintenance of the Lots and all structures, landscaping, parking areas, and other Improvements thereon, shall be the sole responsibility of

the Owner thereof, who shall maintain such Lot in accordance with standards acceptable to Declarant. The Declarant may assume the maintenance responsibilities of such Owner if, in the opinion of Declarant, the level and quality of maintenance being provided by such Owner does not satisfy such standard. Before assuming the maintenance responsibilities, the Declarant shall notify the Owner in writing of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action within 30 days after mailing of such written notice, then Declarant may proceed. The expenses of such maintenance by the Declarant, including reasonable administrative costs as determined by Declarant, shall be reimbursed to Declarant by the Owner, together with interest as provided in Section 7.6 below. Such charges shall be assessments and a lien on the Lot as provided in Section 7.2 herein. A breakdown of any expenses and costs incurred by the Declarant will be provided to the Owner.

7.5 Assessment Dates. All Lots shall be subject to the annual, quarterly, or monthly assessments provided for herein effective the first day of the month following the month an Owner takes possession of any Lot. The Declarant shall fix the amount of the regular assessment at least thirty (30) days in advance of each assessment period. Written notice of the assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Declarant.

7.6 Remedies for Nonpayment of Assessments. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the lesser rate of 10% per annum or the highest rate allowed by law per annum. The Declarant shall file in the office of the County Clerk of Deschutes County, State of Oregon, within thirty days after delinquency, a statement of the amount of any such charges or assessments, together with interest, which have become delinquent with respect to any Lot on said property, and upon payment in full thereof, shall execute and file a proper release of the lien securing the same. The aggregate amount of such assessments, together with interest, costs and expenses, and a reasonable attorney's fee for the filing and enforcement thereof, shall constitute a lien on the Lot, with respect to which it is fixed from the date the notice of delinquency thereof is filed in the office of the County Clerk, until the same has been paid or released as herein provided. Such lien may be enforced by the Declarant in the manner provided by law with respect to liens upon real property, as provided in ORS Chapter 88. The Owner of said property at the time said assessment is levied shall be personally liable for the expenses, costs and disbursements, including reasonable attorney's fees of the Declarant of the processing and, if necessary, enforcing such liens, all of which expense, costs and disbursements and attorney's fees shall be secured by said lien, including fees on appeal, and such Owner at the time such assessment is levied shall also be liable for any deficiency remaining unpaid after any foreclosure sale. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of his Lot.

7.7 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be inferior, junior and subordinate to the lien of any first mortgage and/or trust deed now or hereafter placed upon said property or any part thereof. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage or trust deed, pursuant to a decree of foreclosure thereof, shall extinguish the lien of such assessment as to amounts thereof which became due prior to such sale or transfer; and such lien shall attach to the net proceeds of sale, if any, remaining after such mortgages and other

prior liens and charges have been satisfied. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

SECTION 8. BASALT BUSINESS PARK OWNERS COMMITTEE

8.1 **Declarant's Control.** Declarant shall exclusively exercise all architectural, landscaping, signing and lighting controls as well as those other duties prescribed under this Declaration, including but not limited to assessments, so long as Declarant holds an interest in Basalt Business Park or until Declarant elects to terminate its interest in Basalt Business Park as set forth in paragraph 8.2 below (whichever occurs first). The Declarant's exercise of control and approval shall be exercised reasonably. For purposes of this Declaration, Declarant shall be deemed to hold an interest in Basalt Business Park if any of the following conditions is met:

- (a) Declarant holds title to any Lot in Basalt Business Park, or
- (b) Declarant elects to exercise architectural, landscaping, signing and lighting controls over any Lot within the Basalt Business Park or elects to exercise any other duties under this Declaration, even though Declarant does not hold title to any Lot with the Basalt Business Park

8.2 **Termination of Declarant's Interest.** Paragraph 8.1 notwithstanding, Declarant's interest in the Basalt Business Park shall terminate at such time that a certificate of occupancy has been issued by City of Bend for the use and occupancy of a permanent building, structure or facility on each Lot within Basalt Business Park. In addition, Declarant reserves the right to terminate its interest in the Basalt Business Park at any time. At such time that Declarant's interest in Basalt Business Park terminated (whether voluntarily or involuntarily), Declarant shall cause to be recorded in the Official Records of Deschutes County, Oregon a declaration stating that Declarant no longer holds any interest and/or desires not to exercise any further controls over development in the Basalt Business Park. Copies of such declaration shall be provided to each Owner of a Lot within the Basalt Business Park contemporaneously with recordation of the declaration. Recordation of such a declaration shall formally terminate Declarant's interest in the Basalt Business Park and all rights of architectural, landscaping, signing and lighting controls, as well as any other duties of Declarant under this Declaration (except for those duties prescribed by paragraph 8.3 below).

8.3 **Formation of BBPOC.** Upon formal termination of Declarant's interest in Basalt Business Park, Declarant shall form an Oregon non-profit organization called the Basalt Business Park Owners' Committee (BBPOC). BBPOC shall be governed by a three person board of directors. BBPOC shall succeed to all powers, responsibilities and rights of Declarant under this Declaration.

- (a) **Organization of BBPOC.** Within 30 days after the commencement date of BBPOC, the initial board of directors for BBPOC shall be elected. Persons eligible for the initial BBPOC board of directors shall be limited to directors, officers, employees, agents, owners or partners of any corporation, partnership, joint venture or proprietorship owning any Lot within the Business Park. Declarant shall solicit from, and then circulate

to all Owners, a list of nominees for the initial board of directors' positions within the 30 day BBPOC organizational period. Declarant shall then conduct an election of the initial board of directors. The three nominees obtaining the three highest vote totals shall constitute the initial board of directors.

(b) The total number of votes entitled to be cast for each BBPOC director's position shall be based upon the total number of acres in the Lots of Business Park. Each Owner shall have the right to cast a vote based on the number of acres owned. The initial board of directors of BBPOC shall meet within ten days after their election and may at that time adopt any governing documents, including by-laws, guidelines, procedures, rules and regulations relating to BBPOC and the Basalt Business Park.

8.4 Failure to Organize. In the event Declarant is unsuccessful in organizing the board of directors of BBPOC within the 30 day organizational period specified by paragraph 8.3 above, Declarant shall have no further responsibilities relating to BBPOC and the BBPOC board of directors shall be organized exclusively by the Owners of Lots within Basalt Business Park. Such failure of organization of the BBPOC board of directors shall not affect the existence of BBPOC or the effectiveness of this Declaration.

SECTION 9. DURATION AND AMENDMENT OF THIS DECLARATION

9.1 Duration. This Declaration shall continue to remain in full force and effect at all times with respect to all property, and each part thereof, now or hereafter made subject thereto (subject however, to the right to amend and repeal as provided for herein) for a period of thirty (30) years from the date this Declaration is recorded. However, unless within one (1) year from the date of said termination, there shall be recorded an instrument directing the termination of this Declaration signed by Owners of not less than seventy-five percent (75%) of the property then subject to this Declaration, based on the number of acres subject to these restrictions, this Declaration, as in effect immediately prior to the expiration date, shall be continued automatically without further notice for an additional period of ten (10) years and thereafter for successive periods of ten (10) years unless within one (1) year prior to the expiration of such period the Declaration is terminated as set forth above in this section.

9.2 Amendment. This Declaration or any provision thereof, or any Covenant, Condition or Restriction contained herein, may be terminated, extended, modified or amended, as to the whole of said property or any part thereof with a written consent of the Owners of seventy-five percent (75%) of the property subject to these restrictions based on the number of acres owned as compared to the total number of acres subject to these restrictions, provided, however, that as long as Declarant holds an interest in Basalt Business Park as provided in paragraph 8.1 herein, no such termination, extension, modification or amendment shall be effective without the written approval of the Declarant. In no event shall any modification or amendment at any time create, limit or diminish special Declarant rights granted to Declarant hereunder without the written consent of Declarant. Any amendment, deletion or repeal of this Declaration shall not become effective until recorded in the Official Records of Deschutes County, Oregon.

SECTION 10. ENFORCEMENT

10.1 This Declaration shall be specifically enforceable by Declarant or by any Owner of any Lot in the Basalt Business Park. Any breach of this Declaration shall subject the breaching party to any and all legal remedies, including damages or the destruction, removal or the enjoining of any offending improvement or condition.

10.2 In the event that legal suit or legal action is instituted for the enforcement of this Declaration or for any remedy for the breach of this Declaration, the prevailing party shall recover that party's reasonable attorney's fees incurred in such suit or action (or any appeal therefrom) as adjudged by the trial or appellate court.

SECTION 11. BINDING EFFECT

The Covenants, Conditions and Restrictions of this Declaration shall run with the land included in the Basalt Business Park and shall bind, benefit and burden each Lot in the Basalt Business Park including any additions thereto. The terms of this Declaration shall inure to the benefit and shall bind Declarant, successors and assigns of Declarant and all Owners of any Lot in the Basalt Business Park, their successors, assigns, heirs, administrators, executors, mortgagees, lessees, invitees or any other party claiming or deriving any right, title or interest or use in or to any real property in the Basalt Business Park. The use restrictions and regulations set forth in Section 5 and Section 6 of this Declaration shall be binding upon all Owners, lessees, licensees, occupants and users of the property known as the Basalt Business Park and their successors in interest as set forth in this Declaration including any person who holds such interest as security payment of an obligation including any mortgagee or otherwise holder in actual possession of any Lot by foreclosure or otherwise and any other person taking title from such security holder.

SECTION 12. DECLARANT'S IMMUNITY

The Declarant has a non-exclusive right and power to enforce the covenants, conditions, and restrictions contained in this Declaration, but the Declarant has no legal obligation to enforce or attempt to enforce the provisions hereof. In the event Declarant refuses, neglects, fails or is negligent in enforcing or attempting to enforce the Declaration, there shall not exist or be created any cause of action or claim against Declarant, and each Owner or any person or entity claiming by, through or from said Owner hereby releases Declarant from and against any claim arising in connection with the development of the Property or related to Declarant's acts or omissions in preparing, filing or enforcing this Declaration and shall be stopped from making or enforcing any such claim.

(Signatures on next page)

IN WITNESS WHEREOF, Declarant has executed this Declaration this 24th day of March, 2004.

HAP TAYLOR & SONS, an Oregon corporation ("Declarant")

By [Signature]
Hap Taylor, Vice-President

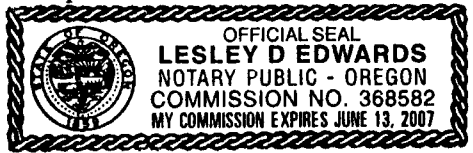
CONSENT BY OWNER:

BPCM, an Oregon General Partnership

By [Signature]
Craig Moore, General Partner

STATE OF OREGON)
)ss.
County of Deschutes)

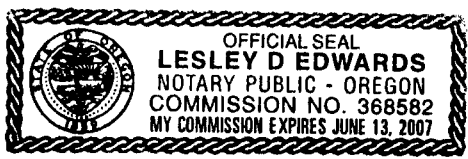
This instrument was acknowledged before me on 24th day of March, 2004, by Hap Taylor, the Vice President of HAP TAYLOR & SONS, an Oregon corporation, on behalf of the corporation.



[Signature]
NOTARY PUBLIC FOR OREGON
My Commission Expires: 6/13/07

STATE OF OREGON)
)ss.
County of Deschutes)

This instrument was acknowledged before me on 24th day of March, 2004, by Craig Moore, the General Partner for BPCM, an Oregon General Partnership, on behalf of the partnership.



[Signature]
NOTARY PUBLIC FOR OREGON
My commission Expires: 6/13/07

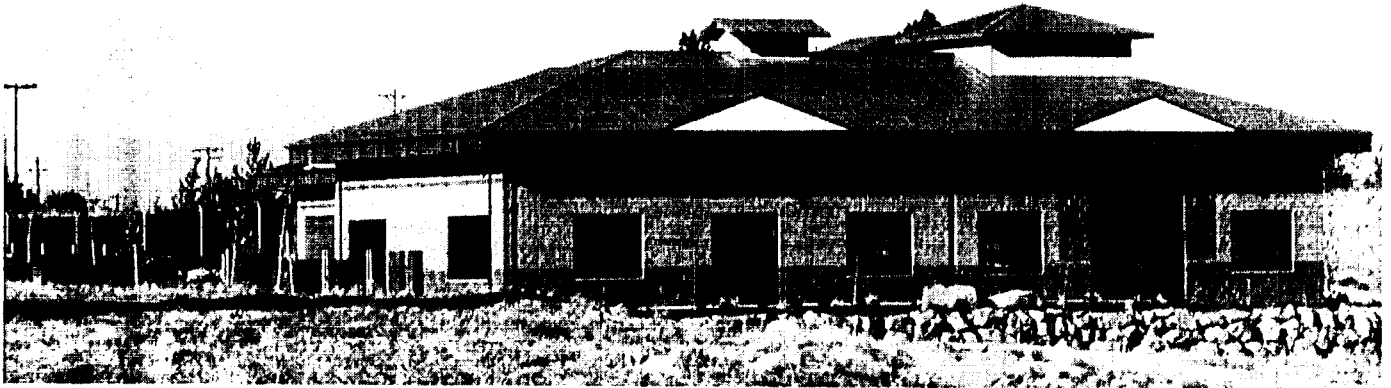
EXHIBIT "A"

**Declaration of Covenants, Conditions and Restrictions
For Basalt Business Park**

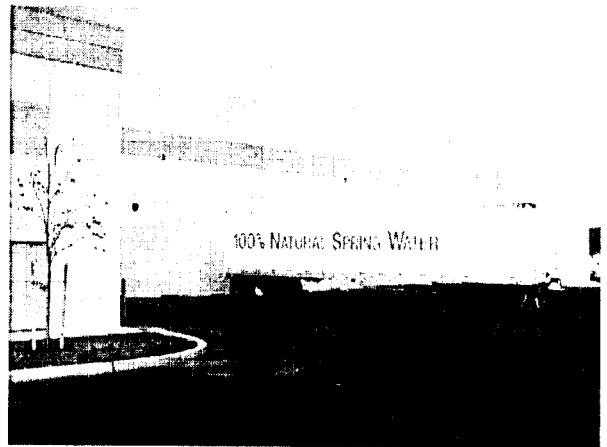
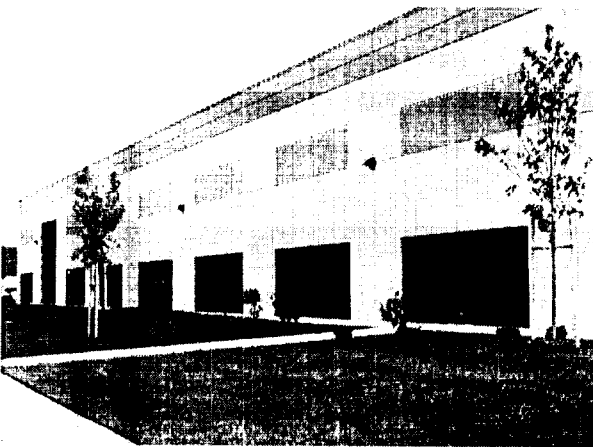
Lots 1 - 13 of Basalt Business Park, Deschutes County, Oregon recorded March 1, 2004 in the office of the County Recorder, Deschutes County, Oregon.

**FOR BASALT BUSINESS PARK
"EXHIBIT B"
ACCEPTABLE BUILDING DESIGN EXAMPLES**

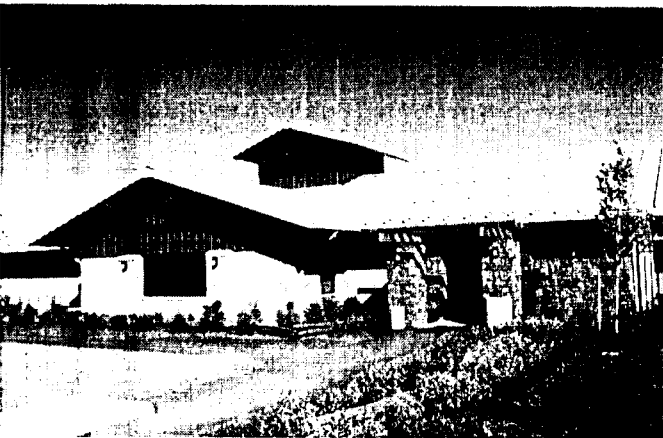
These images are meant to serve as examples only, they are not intended to be copied.



Above: Concrete Masonry bearing walls with articulated standing seam metal roof.



Above: Concrete tilt-up building with low slope roof and parapets. Entry at left, loading docks at right.



Above: Masonry and metal panel walls with metal roof.

Above: Pre-engineered steel with masonry and metal walls.