



After Recording, Return To:

Hayden Homes, LLC  
Attention: Tammy Harty  
2464 SW Glacier Place, Suite 110  
Redmond, Oregon 9775

**CASCADE TITLE CO.**

MISC 08-227

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| <b>Document Title:</b><br><br>Amended and Restated First Declaration of Annexation for Desert Glade Phase 3   |
| <b>Reference Number(s):</b><br><br>Document Number 2006-026961  |
| <b>Grantor(s):</b> Hayden Homes, LLC an Oregon limited liability company  |
| <b>Grantee(s):</b> Hayden Homes, LLC, an Oregon limited liability company   |
| <b>Abbreviated Legal Description:</b><br><br>Tract A, Desert Glade Phase 3, according to the plat thereof recorded in Volume 15 of Plats, Page 311, Benton County Records<br><br>Now known as Lots 1 through 59 and Tract A, Desert Glade Phase 4, being marketed as Harvest Meadows, Phase 4, according to the plat thereof recorded in Volume 15 of Plats, Page 338, Benton County Records. |
| <b>Assessor's Property Tax Parcel/Account Number(s):</b><br><br>1-1898-100-0007-001   |
| <small>The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.</small>   |

**AMENDED AND RESTATED FIRST DECLARATION  
OF ANNEXATION FOR DESERT GLADE PHASE 3**

THIS AMENDED AND RESTATED FIRST DECLARATION OF ANNEXATION FOR DESERT GLADE PHASE 3 (this "Declaration of Annexation") is made as of the 9th day of April 2008 (the "Effective Date"), by HAYDEN HOMES, LLC, an Oregon limited liability company ("Hayden Homes").

A. Hayden Enterprises, Inc. ("Hayden Enterprises") previously recorded that certain Declaration of Protective Covenants, Conditions and Restrictions for Desert Glade Phase 3 dated August 10, 2006 and recorded on August 16, 2006 as Document Number 2006-026961 in the real property records of Benton County, Washington (the "Declaration").

B. Hayden Enterprises subsequently recorded that certain First Declaration of Annexation of Real Property to Declaration of Protective Covenants, Conditions and Restrictions for Desert Glade Phase 3 dated May 16, 2007 and recorded on August 27, 2007 as Document Number 2007-028466 in the real property records of Benton County, Washington (the "Original First Declaration of Annexation"). The Original First Declaration of Annexation was intended to make the real property described below (the "Phase 4 Land") subject to the Declaration and part of the Subdivision:

Tract A, Desert Glade Phase 3, according to the plat thereof recorded in Volume 15 of Plats, Page 311, Benton County Records.

Now known as Lots 1 through 59 and Tract A, Desert Glade Phase 4, being marketed as Harvest Meadows, Phase 4, according to the plat thereof recorded in Volume 15 of Plats, Page 338, Benton County Records.

C. The Original First Declaration of Annexation is not valid or binding on the Phase 4 Land because Hayden Enterprises previously conveyed the Phase 4 Land to Hayden Homes by Quit Claim Deed dated March 9, 2007 and recorded on March 16, 2007 as Document Number 2007-008021 in the real property records of Benton County, Washington.

D. Hayden Enterprises has assigned to Hayden Homes all of its rights as "Declarant" under the Declaration by that certain Assignment and Assumption of Declarant Rights dated as of April 9, 2008 and filed for record with the Benton County Auditor's Office contemporaneously with this Declaration of Annexation.

E. Hayden Homes now desires to annex the Phase 4 Land into the Subdivision and to make the Phase 4 Land subject to the Declaration, as more particularly set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Hayden Homes hereby declares the following:

1. **Annexation.** Pursuant to the rights reserved in Article IX of the Declaration, Hayden Homes, as the successor "Declarant," hereby declares the following:

(a) The Phase 4 Land is hereby annexed into the Subdivision and shall be subject to all of the terms of the Declaration, except as modified in this Declaration of Annexation.

(b) The following easements shall be granted and reserved with respect to the Phase 4 Land, in addition to the easements set forth in Article IV of the Declaration:

(i) **Easement of Encroachment.** Declarant grants reciprocal appurtenant easements of encroachments, and for maintenance and use of any permitted encroachment, between adjacent Units due to unintentional placement or settling or shifting of improvements constructed, reconstructed or altered thereon (in accordance with the terms of this Declaration) to a distance of not more the three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. In no event, however, shall an easement for encroachment exist if such encroachment occurred due willful and knowing conduct on the part of, or with the knowledge and consent of, the person claiming the benefit of such easement.

(ii) **Easements for Utilities, Etc.**

(1) Declarant reserves for itself, for the benefit of the Property, and grants to all utility providers, perpetual, nonexclusive blanket easements upon, across, over and under the Phase 4 Land for purposes of ingress, egress, installation, maintenance, repair and replacement of utilities and infrastructure; cable and other systems for sending and receiving data and/or other electronic signals; security and similar systems; walkways, pathways and trails; stormwater drainage systems; irrigation systems; sanitary sewer systems; street lights; signage; and entry features; provided, however, that the exercise of these easements does not unreasonably interfere with the use of any Lot.

(2) Declarant also reserves for itself the nonexclusive right and power to grant and record such specific easements over the Phase 4 Land as may be necessary, in the sole discretion of Declarant, to exercise the rights and easements granted by the preceding paragraph. The Owner of any Lot to be burdened by any easement granted pursuant to this Section shall be given advance written notice of the grant, and the location of the easement on such Lot shall be subject to the written approval of the Owner (which shall not be unreasonably withheld, delayed or conditioned); provided, however, that an Owner shall be deemed to have consented to the location of an easement on his or her Lot if the Owner has not responded to a written request within thirty (30) days after such request was mailed to the Owner at the address for his/her/their Lot.

(3) All work associated with the exercise of the easements described in this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to commencement of the work. The exercise of these easements shall not extend to permitting entry into any Unit without the Owner's consent, nor shall it unreasonably interfere with the use of any Lot by the Owner thereof. Except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

(c) In addition to any special rights reserved to the "Declarant" under the Declaration, Hayden Homes, as the successor "Declarant," shall have the following special declarant rights with respect to the Phase 4 Land:

So long as Declarant owns a Lot within the Subdivision, Declarant shall have the right to construct and maintain upon any Lots owned by Declarant such facilities and activities as Declarant, in its sole opinion, may require or desire in connection with the construction or sale of Units and Lots within the Subdivision, including, but not limited to, business and construction offices (within Units or in free standing trailers), signs, banners, flags, model units, and sales offices (within Units or in free standing trailers). Declarant shall have easements for access to and use of such facilities at no charge.

2. **Miscellaneous.**

2.1 The Declaration of Annexation shall replace and supersede the Original First Declaration of Annexation.

2.2 All capitalized terms not defined in this Declaration of Annexation shall have the meaning ascribed to such terms in the Declaration.

[Signature appears on the following page]

IN WITNESS WHEREOF, Hayden Homes has executed this Declaration of Annexation as of the Effective Date.

HAYDEN HOMES:

HAYDEN HOMES, LLC,  
an Oregon limited liability company

By: [Signature]  
Name: Dennis Murphy  
Title: President

ACKNOWLEDGMENT

State of Oregon                    )  
  ) ss.  
County of Deschutes            )

I certify that I know or have satisfactory evidence that Dennis Murphy is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the President of HAYDEN HOMES, LLC, an Oregon limited liability company, the company that executed the within and foregoing instrument, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 14<sup>th</sup> day of April 2008.

[Signature]  
Print Name: Tammy Harty  
Notary Public in and for the State of Oregon  
My Commission expires: Mar 23, 2012

