

After Recording, Please Mail To:

Big Sky Developers, LLC
Attn.: Brad W. Seabaugh, Manager
67818 Ranch Road
West Richland, Washington 99353

Reference #:	
Grantor(s):	Big Sky Developers, LLC, a Washington limited liability company
Grantee(s):	Lots 1 thru 15, inclusive, and Lots 17 thru 21, inclusive, Sanderson Heights - Phase Two, according to the Plat thereof recorded in Volume D of Plats, Page 287, records of Franklin County, Washington.
Abbreviated Legal Description(s):	Lots 1 thru 15, inclusive, and Lots 17 thru 21, inclusive, Sanderson Heights - Phase Two, according to the Plat thereof recorded in Volume D of Plats, Page 287, records of Franklin County, Washington.
Assessor's Parcel Nos.:	126-151-272 and 19 other parcel numbers referenced in Exhibit "A" hereto.

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS
AND RESTRICTIONS RUNNING WITH THE LAND IN AND
FOR SANDERSON HEIGHTS SOUTH**

WITNESSETH:

THIS DECLARATION (hereinafter "Declaration") is made and entered into on the date set forth below by Big Sky Developers, LLC, a Washington limited liability company (hereinafter referred to as the "Declarant"), for purposes of subjecting the twenty (20) following-described platted residential lots to the various restated covenants, conditions and restrictions set forth herein:

Lots 1 thru 15, inclusive, and Lots 17 thru 21, inclusive, Sanderson Heights - Phase Two, according to the Plat thereof recorded in Volume D of Plats, Page 287, records of Franklin County, Washington.

(sometimes hereinafter said lots shall be collectively referred to as the "Sanderson Heights South Lots" and singularly referred to as "Sanderson Heights South Lot").



WHEREAS, the above-described recorded Plat and all terms and conditions set forth on the face thereof are hereby incorporated herein by this reference.

WHEREAS, the residential subdivision development within which the Sanderson Heights South Lots are located is commonly known as, and hereinafter referred to as, "Sanderson Heights South."

WHEREAS, the Declarant presently owns fourteen (14) of the Sanderson Heights South Lots (lot nos. 1, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 18, 19 and 21) upon which the Declarant (or the Declarant's successor-in-interest) intends to build homes for ultimate marketing and sale to new homebuyers.

WHEREAS, Buena Vista Custom Homes, Inc., presently owns the other six (6) Sanderson Heights South Lots (lot nos. 2, 3, 12, 13, 17 and 20) upon which it also intends to build homes for ultimate marketing and sale to new homebuyers.

WHEREAS, except for the twenty (20) above-described Sanderson Heights South Lots within the above-described recorded Plat, no other lots or tracts of property located within such Plat, or adjacent to/neighboring such Plat, are affected by, or subject to, the provisions of this Declaration.

WHEREAS, this Declaration and the various covenants, conditions and restrictions set forth herein as well as any subsequent amendments thereto are specifically intended to and shall "run with the land" (i.e., each and every Sanderson Heights South Lot) and shall be fully binding upon, enforceable against, and shall inure to the benefit of, all now existing or hereafter annexed Sanderson Heights South Lots and any and all persons and/or entities now or hereafter owning, possessing, or otherwise claiming or acquiring any right, title, or interest of any nature in the Sanderson Heights South Lots (or any portion thereof) for a period of ten (10) years from the date of recording this Declaration, at which time this Declaration and these covenants, conditions and restrictions shall automatically renew for successive periods of ten (10) years each unless sixty-five percent (65%) of the then-existing owners of Sanderson Heights South Lots meet and affirmatively vote within sixty (60) days prior to such time(s) of renewal to amend this Declaration and these covenants, conditions and restrictions either in whole or in part. Except as otherwise provided above for the sixty (60) day period(s) prior to such time(s) of automatic renewal, this Declaration and these covenants, conditions and restrictions may be amended only by an affirmative vote and approval of seventy-five percent (75%) of the owners of the Sanderson Heights South Lots.



WHEREAS, it is the intent and purpose of this Declaration and these covenants, conditions and restrictions to ensure that there will be a common-plan, uniform and high-quality of development in regard to structures and improvements upon Sanderson Heights South Lots, now and in the future, in order to enhance, protect and preserve the health, safety, welfare, security and value of monetary investment, as well as to promote, enhance and ensure harmony and compatibility among and between Sanderson Heights South homeowners, residents, and neighbors.

NOW, THEREFORE, it is hereby declared as follows:

1. **SUBSTANTIVE RECITALS.** All provisions of the above-stated recital paragraphs are substantive and integral to the intent and purpose of this Declaration and, as such, are hereby fully incorporated herein by this reference.

2. **BINDING EFFECT.** Any and all instruments of conveyance or transfer of any interest in any Sanderson Heights South Lot (including, without limitation, deeds and real estate contracts) shall contain (and if not, shall be deemed to contain) reference to this Declaration and shall be fully subject to this Declaration and the various covenants, conditions and restrictions set forth herein. Any and all leases or occupancy agreements relating to any Sanderson Heights South Lot, written or oral, shall contain (and if not, shall be deemed to contain) reference to this Declaration and shall be fully subject to this Declaration and the various covenants, conditions and restrictions set forth herein. No private agreement between adjacent lot/property owners shall modify or abrogate any portion of this Declaration and the various covenants, conditions and restrictions set forth herein.

3. **RESIDENTIAL PURPOSE.** All Sanderson Heights South Lots are "residential lots" and shall be used only for single-family residential purposes. No multi-family housing units, horizontal property regimes, condominiums, or similar types of structures shall be allowed upon any Sanderson Heights South Lot. It is the goal and intent that Sanderson Heights South be developed into a quality residential development and that, consistent with such goal and intent, that all structures and improvements upon Sanderson Heights South Lots shall be, both internally and externally, designed, constructed, and maintained in an architecturally and aesthetically pleasing and desirable manner so as to fully promote and achieve such goal and intent.

4. **PERMITTED STRUCTURES.** No structure of any type or nature shall be erected, altered, repaired, placed or permitted to remain upon any Sanderson Heights South Lot other than one (1) stick-framed and site-built single-family residential



dwelling (which shall include an attached patio/deck and an attached private garage of not less than two (2) vehicle capacity), one (1) hot tub and related cabana/gazebo, one (1) unattached small-scale storage shed not to exceed 12'x12' in size, one (1) unattached stick-framed and site-built shop, and lot/yard fencing. Any and all of such structures shall be erected and constructed in strict conformance with applicable building code requirements and restrictions and shall further be erected, constructed, and finished in such a manner as to be fully and strictly compatible, both architecturally and aesthetically, with the residential dwelling structure located on the lot.

Without limiting or modifying any of the foregoing provisions of this paragraph, with specific regard to any such unattached shop, the exterior walls of the shop may not be of metal/steel composition, and the exterior wall containing the shop's main entry doors (and any other exterior wall that faces the same general direction as the exterior front of the residential dwelling on the lot faces) must be of the same design and construction as the front exterior of the residential dwelling. By way of illustration only and not by way of modification/limitation to any of the foregoing provisions of this paragraph, if a residential dwelling's front exterior was composed of gray stucco walls with gray-colored brick accents and the dwelling had a black composite shingle roof, then the exterior wall containing the main entry doors for any unattached shop upon such lot must be likewise constructed of same-colored gray stucco that incorporates some objectively noticeable degree of same-colored gray brick accents, and the shop's roofing must also be composed of same-colored black composite shingle roofing.

Each residential dwelling structure on a Sanderson Heights South Lot shall be a minimum of 2,200 square feet in overall living area size, exclusive of garages, open porches, and below-ground basements.

5. **POTABLE WATER.** There is no public or community source of potable water supply to the Sanderson Heights South Lots; all lot owners shall be required to drill a private well on the lot to obtain potable water to service the lot. The Declarant makes no warranties, assurances, or representations, express or implied, as to whether a well on any lot will provide and supply an adequate quantity or quality of potable water. Any and all water wells shall be placed on the lot so as to strictly conform with and to all requirements set forth on the face of the above-referenced and recorded Plat and all applicable governmental health regulations, codes and laws.

6. **SEPTIC TANKS.** Any and all septic tanks, dry wells, and drain fields shall be placed on the Sanderson Heights South Lots so as to strictly conform with and to all requirements set forth on the face of the above-referenced and recorded Plat and all applicable governmental health regulations, codes and laws.



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7. **IRRIGATION WATER.** The Sanderson Heights South Lots have no vested or appurtenant irrigation water rights. Limited irrigation water will be conditionally provided to the lot line of a Sanderson Heights South Lot pursuant to a defined-term *Miscellaneous Water Service Contract* between the United States of America and Sanderson Heights Irrigation Company, LLC (the "Irrigation Company"), dated March 26, 1999, and a subsequent, independent, and conditional agreement between the Declarant and the Irrigation Company, under the terms of which conditional agreement Declarant is responsible to pay for and install all irrigation-related infrastructure necessary and required to connect the Sanderson Heights South Lots to the Irrigation Company's water delivery system. A copy of said *Miscellaneous Water Service Contract* ("Contract") is available for review upon written request to the Declarant. In addition to the Sanderson Heights South Lots, the Irrigation Company conditionally provides irrigation water to other residential lots located within other neighboring residential subdivisions.

a. Subject to the various terms and conditions of said Contract, a limited quantity of irrigation water for purposes of lawn and landscape maintenance will be conditionally available to the lots (except in instances of water shortages) for an initial period of ten (10) years from the Contract date. Upon the expiration of said ten (10) year initial period, said Contract is renewable (unless terminated by either party in the manner provided in the Contract) for additional ten (10) year periods; provided that, however, said Contract (and the water supplied under said Contract) by its express terms and applicable federal law shall in no event last or be in effect longer than forty (40) total years from the Contract date of March 26, 1999. The Irrigation Company reserves and has the right (but not the obligation) to transfer and assign its rights in said Contract to another person/entity at any time without prior notice. Additionally, the Declarant reserves and has the right (but not the obligation) to transfer and assign its rights under said subsequent conditional agreement with the Irrigation Company to the homeowners association described in paragraph 31 below. Neither the Irrigation Company nor the Declarant make any warranties, assurances, or representations whatsoever, express or implied, as to whether or not the irrigation water conditionally made available to the Sanderson Heights South Lots pursuant to the terms of this paragraph will provide and supply an adequate quantity or quality of irrigation water to maintain lawn and landscaping on a regular, uninterrupted, continuous, or perpetual basis.

b. Each Sanderson Heights South Lot shall be subject to a periodic (no less than annual) assessment or charge to pay for the lot's pro-rata share of the costs and expenses associated with obtaining and supplying irrigation water to the Sanderson



Heights South Lots pursuant to said Contract and said subsequent conditional agreement regardless of whether or not irrigation water is actually being utilized by a particular lot or lots. The failure of a lot owner to promptly pay such assessment or charge when due shall be adequate basis for the supply of irrigation water to be cut off from or discontinued to such lot. In addition, each assessment or charge levied or imposed, together with interest thereon at the rate of twelve percent (12%) per annum, shall be a separate, distinct, personal, and joint and several debt and obligation of the lot owner against whom the assessment or charge is levied or imposed or from whom the assessment or charge is levied or imposed or from whom the amount is due. In the event that any lot owner fails or refuses to pay any such assessment or charge within thirty (30) days of the date such assessment or charge becomes due, the amount(s) owing (together with accrued interest thereon at 12% per annum and any attorneys' fees and costs incurred in any collection or enforcement action) shall be automatically deemed as being a valid, enforceable and continuing lien against the lot(s) owned by such non-paying owner. Such lien may be perfected and made of record by preparing and recording a sworn claim of lien with the Franklin County Auditor that legally describes the non-paying owner's lot(s) and that sets forth the monetary amount of the lien and the basis for the lien. Such recorded lien may be thereafter foreclosed and enforced by a civil action in the court having jurisdiction in the manner prescribed for the judicial foreclosure of a mortgage. The court shall have the power to order the sale of the non-paying owner's lot(s). In any action brought to foreclose a lien, the non-paying lot owner shall be joined as a party to such action. The interest in the lot(s) of any other person/entity who, prior to the commencement of the action, has a recorded interest in the lot(s), or any part thereof, shall not be foreclosed or affected unless they are also joined as a party to the action. To the fullest extent allowed by law, each lot owner shall be deemed to have fully waived any homestead or exemption rights in effect at the time of any such foreclosure action.

8. FIRE PROTECTION SYSTEM.

a. The Sanderson Heights South Lots will be served by a limited quantity/volume water reservoir and pressurized fire protection pump and street hydrant system (the "System") owned by Sanderson Heights, LLC, pursuant to conditional agreement between the Declarant and Sanderson Heights, LLC, , under the terms of which conditional agreement Declarant is responsible to pay for and install all infrastructure (including, without limitation, 8" pipeline, valves, and hydrants) necessary and required to connect the Sanderson Heights South Lots to the System. In addition to the Sanderson Heights South Lots, the System serves other residential lots located within other neighboring residential subdivisions. Sanderson Heights, LLC, reserves and has the right (but not the obligation) to transfer and assign its rights in the



System to another person/entity at any time without prior notice. Additionally, the Declarant reserves and has the right (but not the obligation) to transfer and assign its rights under said conditional agreement with Sanderson Heights, LLC, to the homeowners association described in paragraph 31 below. Neither Sanderson Heights, LLC, nor the Declarant make any warranties, assurances, or representations whatsoever, express or implied, as to whether or not the System will provide adequate fire protection to the Sanderson Heights South Lots.

b. Each Sanderson Heights South Lot shall be subject to a periodic (no less than annual) assessment or charge to pay for the lot's pro-rata share of the costs and expenses associated with the operation, maintenance, and repair of the System. The failure of a lot owner to promptly pay such assessment or charge when due shall be adequate basis for System service to the affected lot to be terminated. In addition, each assessment or charge levied or imposed, together with interest thereon at the rate of twelve percent (12%) per annum, shall be a separate, distinct, personal, and joint and several debt and obligation of the lot owner against whom the assessment or charge is levied or imposed or from whom the assessment or charge is levied or imposed or from whom the amount is due. In the event that any lot owner fails or refuses to pay any such assessment or charge within thirty (30) days of the date such assessment or charge becomes due, the amount(s) owing (together with accrued interest thereon at 12% per annum and any attorneys' fees and costs incurred in any collection or enforcement action) shall be automatically deemed as being a valid, enforceable and continuing lien against the lot(s) owned by such non-paying owner. Such lien may be perfected and made of record by preparing and recording a sworn claim of lien with the Franklin County Auditor that legally describes the non-paying owner's lot(s) and that sets forth the monetary amount of the lien and the basis for the lien. Such recorded lien may be thereafter foreclosed and enforced by a civil action in the court having jurisdiction in the manner prescribed for the judicial foreclosure of a mortgage. The court shall have the power to order the sale of the non-paying owner's lot(s). In any action brought to foreclose a lien, the non-paying lot owner shall be joined as a party to such action. The interest in the lot(s) of any other person/entity who, prior to the commencement of the action, has a recorded interest in the lot(s), or any part thereof, shall not be foreclosed or affected unless they are also joined as a party to the action. To the fullest extent allowed by law, each lot owner shall be deemed to have fully waived any homestead or exemption rights in effect at the time of any such foreclosure action.

9. **LEGAL COMPLIANCE.** Without limiting other applicable provisions of this Declaration, all structures and improvements upon Sanderson Heights South Lots shall be designed, located, and placed on the lot in such a manner that strictly conforms to and complies with all applicable planning and building codes and otherwise



applicable setback requirements. Further, all structures and improvements upon Sanderson Heights South Lots shall be designed, located, and placed on the lot in such a manner so as not to encroach upon any recorded or otherwise known or apparent easement area.

10. **NO FURTHER DIVISION.** No Sanderson Heights South Lot may be further divided or partitioned in any manner.

11. **NO NUISANCES.** No noxious or injurious activity shall be conducted upon any Sanderson Heights South Lot, nor shall any type of activity be conducted upon any lot that is or may become an annoyance or nuisance to other lot owners/occupants.

12. **GARBAGE/WASTE.** No Sanderson Heights South Lot shall be used or maintained as a dumping ground for garbage, waste, or unwanted materials of any kind or nature including, without limitation, building materials, lawn or yard clippings and rocks. Trash, garbage and other waste items shall not be kept or accumulated on any Sanderson Heights South Lot except in sanitary containers that are shielded from view from any street or by other lot owners/occupants via objectively attractive and aesthetically-pleasing fencing/screening.

13. **UNSIGHTLY ITEMS.** No unused or inoperable vehicles, "junkyard" type materials (e.g., equipment, machinery, automobiles in disrepair, and automobile parts), or any other types of objectively unsightly or offensive items shall be accumulated or allowed to remain upon any Sanderson Heights South Lot.

14. **VEHICLE PARKING.** No vehicles of any type nor utility or recreational vehicles of any type (including, without limitation, boats, campers, motor-homes, trailers, snowmobiles and personal watercraft), whether operable or not and whether regularly driven/used or not, shall be parked, stored, or otherwise maintained for any length of time on any street, thoroughfare or cul-de-sac within Sanderson Heights South. Violations of this paragraph shall subject such vehicles to public impound, at the full risk and expense of the vehicle owner(s). Vehicles owned by the Declarant (or any of its employees, agents, contractors, or suppliers) shall be exempt from the provisions of this paragraph during the period that the Declarant is constructing homes within Sanderson Heights South.

15. **COMMERCIAL VEHICLES.** No commercial vehicles of any type, whether operable or not and whether regularly driven/used or not, shall be parked or stored on any Sanderson Heights South Lot. For purposes of this paragraph,

commercial vehicles shall not include passenger cars or standard-size vans and pickup trucks used for both business and personal use, provided that any commercial-related signs, logos, or other markings thereon shall be unobtrusive and unobjectionable. Commercial vehicles owned by building contractors (or their employees, workers, agents, sub-contractors, or suppliers) shall be exempt from the provisions of this paragraph during the period that the contractor is actively constructing a home or other permitted structure within Sanderson Heights South.

16. **LIGHTING.** Except for any street or common area lights installed by the Declarant in its discretion, no spotlights, floodlights, or other type of high-intensity exterior lighting shall be placed or utilized on any Sanderson Heights South Lot that in any way causes light to be directed or reflected toward any other lot.

17. **MINERALS.** No oil or natural gas exploration/drilling, refining operations, or similar or related activities of any type shall be conducted on any Sanderson Heights South Lot; nor shall any type of quarrying or mining-related operations or activities be conducted on any lot.

18. **SIGNAGE.** No signs of any type or nature shall be erected, placed, or otherwise maintained or displayed on any Sanderson Heights South Lot; provided that, one (1) unlighted "for sale"/"for rent" sign may be temporarily placed and displayed on a lot provided that the sign does not exceed five (5) square feet in size; and provided further that, the Declarant reserves the right to erect, place and display signs of any size or nature on Declarant-owned lots or any common area within Sanderson Heights South incidental to the Declarant's promotion and sales of lots (and houses constructed by the Declarant thereon).

19. **DECLARANT ACTIVITIES.** The Declarant shall be entitled to maintain such facilities within Sanderson Heights South as in the Declarant's sole opinion may be reasonably required, convenient or incidental to the Declarant's construction, promotion and sale of Sanderson Heights South Lot (and houses constructed by the Declarant thereon), including, without limitation, a business office, storage areas, model units, sales office, construction office and parking areas for prospective purchasers and construction-related personnel (including on-street parking until such time as construction and sales have been completed).

20. **PROHIBITED STRUCTURES/USES.** Without limiting other applicable provisions of this Declaration, no recreational vehicle of any type (including, without limitation, motor-homes, trailers and campers), mobile home/manufactured home of any type (whether building code-approved or not), factory assembled structure of any



type (whether building code-approved or not), modular home of any type (whether building code-approved or not), basement, tent, shack, garage, barn or any other type of structure or outbuilding of a temporary character shall ever be used as a temporary or permanent residence on any Sanderson Heights South Lot.

21. **COMPLETION PERIOD.** All structures and improvements erected or placed upon a Sanderson Heights South Lot shall be of new construction and shall be fully completed as to external appearance (including, without limitation, finished painting and roofing) within six (6) months from the date of the commencement of construction or improvement work.

22. **LANDSCAPING.** Upon a residential dwelling being constructed on a Sanderson Heights South Lot, such lot shall be appropriately and attractively landscaped incidental to the construction and completion of the residential dwelling structure on the lot. The landscaping shall be fully completed within six (6) months from the date on which a certificate of occupancy is obtained for such structure. All landscaping shall be continuously maintained in a neat and attractive manner.

23. **ANIMALS/PETS.** No animals of any kind shall be raised, bred or kept upon any Sanderson Heights South Lot. Provided that, however, dogs, cats or other types of commonly kept domestic household pets are permitted provided that such pets are not kept, bred or maintained for any commercial purposes and provided that the aggregate total of such pets shall not exceed three (3) pets per household (except that such maximum per household total may be temporarily exceeded in the event a household pet gives birth for a period of up to sixty (60) days from the date of birth). No permitted household pets shall be allowed to relieve themselves on, or wander or freely roam onto, other lots, common areas, or streets; and the owner of such pets shall take appropriate steps to ensure that such pets do not create objectionable or annoying noise (e.g., excessive barking) and shall be personally responsible for any injury, loss or damage caused by such pets to persons or property.

24. **FENCING.** Any and all fencing (including, without limitation, yard fencing, border fencing, and pool fencing) within Sanderson Heights South shall be constructed of chain-link fencing material with a powder coated finish (which shall not contain or incorporate any type of vision or view impairing slats or similar material) or, alternatively, shall be constructed of decorative wrought iron material (which shall not contain or incorporate any type of vision or view impairing slats or similar material) or, alternatively, shall be constructed of white vinyl material (which shall not contain or incorporate any type of vision or view impairing slats or similar material). For purposes of this paragraph, plants, trees, hedges, and similar types of vegetation shall



be considered as "fencing" or "fences" when planted and located in such a manner on a lot as to constitute a concentrated, mass planting. For further purposes of this paragraph, gates or movable access panels shall be considered as "fencing" or "fences."

a. **HEIGHT.** In general, except as provided otherwise below, no fence on any Sanderson Heights South Lot shall exceed six (6) feet in height. Provided that, in the event that applicable governmental regulations and/or other provisions contained in this Declaration specifically require a particular fence to be of a different height, then such regulations and/or other provisions shall take precedence and control.

b. **COMPLETION.** From the date on which the construction/installation of fencing commences, the construction/installation shall be fully completed within thirty (30) days.

c. **MAINTENANCE/REPAIR.** All fences shall be continuously maintained in good condition and repair. In the event any fencing is fully or partially damaged by any cause, the damaged fencing shall be fully repaired/replaced to its original condition within thirty (30) days from the date of damage.

d. **SETBACK.** No fence shall be erected or placed on any Sanderson Heights South Lot closer to any street or cul-de-sac than the applicable building setback line.

e. **LIMITED ACCESS.** For purposes of erecting, repairing or maintaining any fence located upon and along the dividing line between adjacent Sanderson Heights South Lots, a perpetual, limited and non-exclusive easement of five (5) feet in width on each side of such dividing line is hereby created to provide the adjacent lot owners on either side of the dividing line limited access to the other adjacent lot for such purposes.

25. **EASEMENTS.** Any easements shown on the face of the above-referenced recorded Plat shall be strictly observed. No structure of any type shall be constructed or located on a Sanderson Heights South Lot, nor shall any materials (e.g., wood, bricks, concrete blocks, etc.) be stacked or otherwise allowed to accumulate on any lot, so as to encroach upon any designated easement area. Provided that, however, fencing and/or landscaping may be erected or placed upon an easement area, provided that any lot owner electing to do so shall assume the risk that such fencing and/or landscaping may need to be promptly removed and replaced (at the lot owner's sole responsibility, cost and expense) in the event the easement area needs to be accessed and utilized for the



purpose(s) that the easement was created and exists for (e.g., installation and/or maintenance of utilities).

26. **VEGETATION.** All trees, vines, shrubs, hedges or similar type of vegetation shall not be allowed to grow and mature so as to encroach upon, or unreasonably block or impair the view of, any surrounding lot. Further, all lot owners shall take affirmative action to prevent the growth and/or facilitate the prompt removal of all varieties of noxious weeds.

27. **DRIVEWAYS.** Any and all private driveway and parking area upon a Sanderson Heights South Lot shall be of a gravel, concrete, or asphaltic concrete pavement (black top) surface.

28. **BUSINESS ACTIVITY.** No trade, craft, business, profession, commercial or manufacturing enterprise or commercial or business activity of any kind or nature shall be conducted or carried upon any Sanderson Heights South Lot. Provided that, this restriction shall not prevent a small-scale, "home-office" type of business activity utilizing computer and/or tele-communication technology to be carried on within the confines of a residential structure provided that such activity is conducted in a manner that does not negatively detract from the residential nature of such structure; is conducted in a manner that does not generate any customer or clientele traffic; and is conducted in a manner that does not expand to or involve any other area, structure or outbuilding upon the lot.

29. **COMMUNICATION DEVICES.** No radio antennas, television antennas, satellite dishes, or similar communication devices of any type shall extend more than three (3) feet above the roofline of any structure. Notwithstanding the above, no citizens band radio towers/antennas, ham radio towers/antennas, or any similar type of communication towers/antennas shall ever be allowed on any Sanderson Heights South Lot.

30. **UNLAWFUL ACTIVITY.** No Sanderson Heights South Lot owner shall carry on any type of activity on his/her lot that is in derogation or violation of any law.

31. **HOMEOWNERS ASSOCIATION.** The Declarant reserves, and shall have, the right and discretion (but not the obligation) to form a homeowners association for Sanderson Heights South at any time for purposes of representing all Sanderson Heights South Lot owners; provided that, if Declarant does not elect to form a homeowners association prior to Declarant closing on the sale of its last Sanderson Heights South Lot, the owners of the Sanderson Heights South Lots, by 51% majority



vote, may elect to form a homeowners association. In the event a homeowners association is formed, upon such association being legally formed with the state of Washington, each Sanderson Heights South Lot owner, by virtue of such ownership, shall immediately and automatically be a member of such homeowners association. Additionally, in the event a homeowners association is formed, the following provisions of this paragraph 31 shall apply:

a. **NAME.** The name of the homeowners association shall be "Sanderson Heights South Homeowners Association," or such other substantially similar name as may be legally available (hereinafter the "Association"). The Association shall be incorporated pursuant to the non-profit provisions of RCW Chapter 24.03, as now or hereafter amended, and shall also be subject to any applicable provisions of RCW Chapter 64.38, as now or hereafter amended.

b. **ARTICLES & BYLAWS.** If formed by the Declarant, the Association shall have articles of incorporation and bylaws as initially established by the Declarant in its discretion, provided that the Declarant shall have no liability whatsoever to any party associated with or arising out of the exercise of such discretion. If formed by majority vote of the owners of Sanderson Heights South Lots, the Association shall have articles of incorporation and bylaws as established and determined by such lot owners, provided that the terms and provisions of such documents shall be fully consistent with the terms and provisions of this Declaration. The Association shall be charged with the duties and invested with the powers prescribed by law and set forth in its articles of incorporation, bylaws, and this Declaration. Neither the articles of incorporation nor the bylaws shall, for any reason, ever be adopted, amended or otherwise charged, modified, or interpreted so as to be inconsistent with this Declaration.

c. **MEMBERSHIP.** Each and every Sanderson Heights South Lot owner, by virtue of such ownership and for so long as such ownership is maintained, shall be a member of the Association, and no lot owner shall have more than one (1) membership in the Association, except as hereinafter set forth with respect to voting. Membership in the Association shall not be assignable or transferable, except to a successor-in-interest of a lot owner's fee interest in a lot, and all memberships in the Association shall be directly appurtenant to the lot owned by such lot owner. Membership in the Association shall not be transferred, pledged or otherwise alienated in any way except upon and directly incidental to the transfer of fee title to a lot. Any attempt to make a prohibited membership transfer shall be null and void, and shall not be reflected on the books or records of the Association.



d. **VOTING.** Each Sanderson Heights South Lot owner shall be entitled to one (1) vote in Association affairs. Each vote allocable to a Sanderson Heights South Lot shall be cast as a single vote and may not be fractionally divided. In the event of co-ownership (e.g., by husband and wife, tenants-in-common, joint tenants, etc.) of any lot, those owners together shall comprise only one (1) aggregated vote. The term "owner" shall mean the owner of the fee interest (or, in the case of a real estate contract, it shall mean the contract vendee/purchaser) as reflected in the records of the Franklin County Auditor. The term "owner" shall not include the interests of tenants or licensee-occupants of a lot, nor shall the term include the interests of any party merely possessing an interest in the property to secure the performance of some obligation (e.g., mortgagee, beneficiary, lien-holder, etc.). A lot owner's voting rights in Association affairs may be suspended by the Association during any period of time that said owner fails to timely or fully pay any duly levied or imposed assessment or charge against the owner's lot. Notwithstanding the above, the Declarant shall have three (3) votes for each Sanderson Heights South Lot owned by it; provided that, upon the Declarant closing on the sale of a particular lot to another person/entity, that new lot owner shall only be entitled to one (1) vote in Association affairs as hereinabove provided.

e. **BOARD.** The affairs of the Association shall be conducted by a board of directors and such officers as the board may elect or appoint in accordance with the articles of incorporation and/or bylaws, as the same may be amended from time-to-time. The initial board shall be appointed by the Association's incorporator(s) and shall hold office until the Association's first annual meeting, at which time a new board shall be elected in accordance with the provisions set forth in the Association's articles and/or bylaws.

f. **POWER/AUTHORITY.** The Association's powers shall be exercised by and through its board of directors. Without any limitation to the broad powers generally provided to corporate board of directors by law and any other powers expressly or implicitly provided to the board under the terms of this Declaration to pursue and do all things reasonably necessary to fulfill its duties and effectuate the purposes and intent of this Declaration, the board shall have the following powers:

- (1) To levy, collect, and enforce assessments, dues, charges, and penalties against Sanderson Heights South Lots;
- (2) To provide or contract for the provision of any services to the Association and its members as the board deems to be beneficial and/or necessary including, without limitation, the provision of any labor or services



relating to the Association's ownership, maintenance, and use of any Association-owned property;

(3) To pursue legal action to enforce this Declaration and these covenants, conditions and restrictions, and to seek the enjoining of any violation thereof;

(4) To execute and record any duly-authorized amendments to this Declaration and the various covenants, conditions and restrictions set forth herein;

(5) To adopt, promulgate, and enforce reasonable rules and regulations governing matters of mutual concern to the Association's members (including, without limitation, rules and regulations governing the use of Association-owned property), provided that such rules and regulations are consistent with this Declaration and the Association's articles and bylaws, and provided further that such rules and regulations treat all members fairly and in a non-discriminatory manner; and

(6) To contract and pay for any materials, supplies, labor, or professional services that the board deems reasonably necessary or appropriate for carrying out its powers and duties including, without limitation, legal and accounting services.

g. **ASSESSMENTS/DUES.** Each monetary assessment or other charge levied or imposed by the Association, together with interest thereon at the rate of 12% per annum, shall be a separate, distinct, personal, and joint and several debt and obligation of the Sanderson Heights South Lot owner(s) against whom the assessment or charge is levied or imposed and from whom the monetary amounts are due. In the event that any lot owner fails or refuses to pay any such assessment or charge within thirty (30) days of the date such assessment or charge becomes due, the amount(s) owing (together with accrued interest thereon at 12% per annum and any attorneys' fees and costs incurred in any collection or enforcement action) shall be automatically deemed as being a valid, enforceable and continuing priority lien against the lot(s) owned by such non-paying owner. Such lien may be perfected and made of record by the Association preparing and recording a sworn claim of lien with the Franklin County Auditor that legally describes the non-paying owner's lot(s) and that sets forth the monetary amount of the lien and the basis for the lien. Such recorded lien may be thereafter foreclosed and enforced by a civil action in Franklin County Superior Court. The court shall have the power to order the sale of the non-paying owner's lot(s). In



any action brought to foreclose a lien, the non-paying lot owner shall be joined as a party to such action. The interest in the lot(s) of any other person/entity who, prior to the commencement of the action, has a recorded interest in the lot(s), or any part thereof, shall not be foreclosed or affected unless they are also joined as a party to the action. To the fullest extent allowed by law, each lot owner shall be deemed to have fully waived any homestead or similar exemption rights in effect at the time of any such foreclosure action.

h. **ASSESSMENT EXEMPTION.** Except as otherwise provided in paragraphs 7.b and 8.b above relating to the payment of assessments/charges for irrigation water and fire protection system, no Sanderson Heights South Lot owned by the Declarant (or by any joint business venture involving the Declarant or by any assignee of Declarant under paragraph 34 below) shall be subject to any assessment or other type of charge levied, imposed, or authorized by the Association until such time as the Declarant closes on the sale of such lot(s), at which time such lot(s) shall thereafter be prospectively subject to such assessments and charges to the same extent as other non-Declarant owned Sanderson Heights South Lots.

32. **ENFORCEMENT.** In the event that any Sanderson Heights South Lot owner violates any of the covenants, conditions and restrictions contained herein, the Association and/or any other Sanderson Heights South Lot owner may file and pursue legal action, at law or in equity, against the person(s) who is/are in violation of, or who is/are attempting to violate, any of said covenants, conditions and restrictions for purposes of enjoining such person(s) from such violation and/or to recover damages from such person(s) resulting from such violation together with reasonable attorneys' fees and costs incurred in any such legal action. The failure of or delay by the Association or other Sanderson Heights South Lot owner to file and pursue any such legal action shall not be deemed a waiver and/or abandonment of the right to do so at any time thereafter. The Declarant, in its capacity as such, shall have the right (but not the obligation) to take action to enforce these covenants, conditions and restrictions and/or to seek the enjoining of any violations thereof.

33. **SEVERABILITY.** The invalidation of any one (1) or more of these covenants, conditions and restrictions (or any portion thereof) by court judgment, decree, order, or otherwise shall not affect or impair the validity or enforceability of any of the other covenants, conditions and restrictions contained herein, which shall all remain valid and in full force and effect.

34. **ASSIGNMENT.** All rights and authority granted or reserved to the Declarant under this Declaration shall be transferable and assignable by the Declarant



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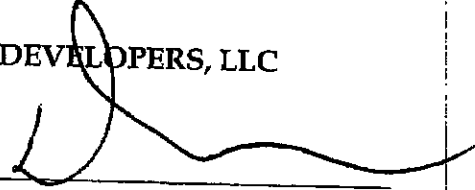
to any third-party person or entity of the Declarant's choice including, without limitation, to the Declarant's principals (or their respective heirs, successors, legal representatives or assigns). Provided that, any such transfer and assignment of the Declarant's rights under this paragraph 34 must be via written and recorded instrument signed by the Declarant that expressly references this paragraph 34 and that expressly and specifically identifies the specific nature and extent of rights being transferred and assigned by the Declarant.


35. **CAPTIONS/CONSTRUCTION.** The captions in this Declaration are included merely for purposes of convenience and ease of reference, and are not to be considered in the interpretation or construction of its terms and provisions.

36. **AGRICULTURAL USE AND ACTIVITY.** All Sanderson Heights South Lots are located within close proximity to existing and ongoing farm and agricultural uses that may from time-to-time produce, and cause the residents of Sanderson Heights South to be subjected to, odors, dust, noise, smoke, and other related and commonly associated impacts from normal and lawful farming and agricultural activities and practices. All lot owners acknowledge and fully accept the risk of any and all such potential impacts occurring.

IN WITNESS WHEREOF, the above-named and undersigned Declarant has caused this Declaration to be executed this 19 day of July, 2005, thereby subjecting the twenty (20) above-referenced and described lots within the above-referenced and described recorded Plat to the provisions of this Declaration and the various covenants, conditions and restrictions contained therein.

BIG SKY DEVELOPERS, LLC
Declarant

By: 
DAVID L. GREENO
Manager

By: 
BRAD W. SEABAGGH
Manager



APPROVAL AND RATIFICATION OF, AND CONSENT TO SUBJECT LOTS TO, DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS RUNNING WITH THE LAND IN AND FOR SANDERSON HEIGHTS SOUTH

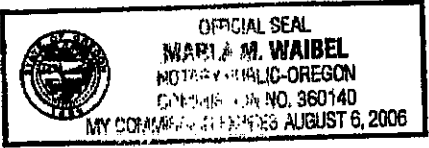
THE UNDERSIGNED, BUENA VISTA CUSTOM HOMES, INC., A CORPORATION, IS THE CURRENT FEE OWNER OF LOTS 2, 3, 12, 13, 17 & 20 OF AND WITHIN THE ABOVE-REFERENCED AND DESCRIBED RECORDED PLAT OF SANDERSON HEIGHTS - PHASE TWO. THE UNDERSIGNED CORPORATION, BY AND THROUGH ITS DULY-AUTHORIZED AND ACTING UNDERSIGNED AGENT/REPRESENTATIVE, HAS READ AND REVIEWED THE ABOVE DECLARATION AND HEREBY ACKNOWLEDGES AND AGREES THAT THE UNDERSIGNED CORPORATION'S SIX ABOVE-REFERENCED LOTS SHALL BE AND ARE FULLY SUBJECT TO SUCH DECLARATION AND THE VARIOUS COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED THEREIN.

Mark E. Bartholemy
BUENA VISTA CUSTOM HOMES, INC.
By: Mark E. Bartholemy
Operations Manager

STATE OF Oregon
County of Clackamas) : ss

On this day personally appeared before me, MARK E. BARTHOLEMY, to me known to be the individual described in and who executed the foregoing instrument as Operations Manager of, and on behalf of, BUENA VISTA CUSTOM HOMES, INC.; and who acknowledged that he signed the same as the fully authorized, free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

Given under my hand and seal this 3 day of August, 2005.



Marla M. Waibel
Print Name: MARLA M. Waibel
NOTARY PUBLIC in and for the state of _____, residing at _____
My commission expires: Aug 6, 2006



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STATE OF WASHINGTON)
County of Franklin : ss

On this day personally appeared before me, DAVID L. GREENO, to me known to be the individual described in and who executed the foregoing instrument as Manager of, and on behalf of, BIG SKY DEVELOPERS, LLC; and who acknowledged that he signed the same as the fully authorized, free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned.

Given under my hand and seal this 19 day of July, 2005.



Linda Smith
Print Name: Linda Smith
NOTARY PUBLIC in and for the state of
WA, residing at Kennebec
My commission expires: 3-5-06

STATE OF WASHINGTON)
County of Franklin : ss

On this day personally appeared before me, BRAD W. SEABAUGH, to me known to be the individual described in and who executed the foregoing instrument as Manager of, and on behalf of, BIG SKY DEVELOPERS, LLC; and who acknowledged that he signed the same as the fully authorized, free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned.

Given under my hand and seal this 19th day of July, 2005.



Linda Smith
Print Name: Linda Smith
NOTARY PUBLIC in and for the state of
WA, residing at Kennebec
My commission expires: 3-5-06



ACKNOWLEDGMENT

THE PROVISIONS CONTAINED AND SET FORTH WITHIN PARAGRAPH 7 ABOVE ARE HEREBY ACKNOWLEDGED BY SANDERSON HEIGHTS IRRIGATION COMPANY, LLC, THE WASHINGTON LIMITED LIABILITY COMPANY REFERENCED AND IDENTIFIED IN SAID PARAGRAPH.

Sanderson Heights Irrigation Company, LLC
By: Robert J. Spink, Manager

ACKNOWLEDGMENT

THE PROVISIONS CONTAINED AND SET FORTH WITHIN PARAGRAPH 8 ABOVE ARE HEREBY ACKNOWLEDGED BY SANDERSON HEIGHTS, LLC, THE WASHINGTON LIMITED LIABILITY COMPANY REFERENCED AND IDENTIFIED IN SAID PARAGRAPH.

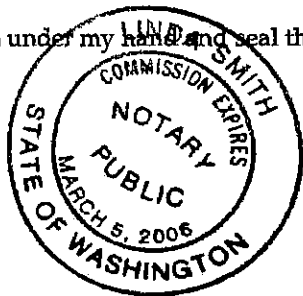
Sanderson Heights, LLC
By: Robert J. Spink, Manager

STATE OF WASHINGTON)

County of Franklin) : ss

On this day personally appeared before me, ROBERT J. SPINK, to me known to be the individual described in and who executed the foregoing Acknowledgments as Manager of, and on behalf of, SANDERSON HEIGHTS, LLC, and SANDERSON HEIGHTS IRRIGATION COMPANY, LLC, and who acknowledged that he signed the same as the fully authorized, free and voluntary act and deed of said limited liability companies, for the limited uses and purposes therein mentioned in said Acknowledgments.

Given under my hand and seal this 21 day of July, 2005.



Print Name: Linda Smith
NOTARY PUBLIC in and for the state of WA, residing at Kennecook
My commission expires: 3-5-06

EXHIBIT "A"

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