

WAIVER AND MODIFICATION OF CONDITIONS AND RESTRICTIONS  
OF  
CHIA PARK

THIS AGREEMENT is made this \_\_\_\_\_ day of August, 1992, by and between not less than two-thirds of the current land owners of the Chia Park subdivision located within the city limits of Klamath Falls, Klamath County, Oregon.

RECITALS

A. On August 30, 1978, Joseph Green and Sarita Green, made, executed and caused to be recorded by the County Clerk of Klamath County, Oregon a certain declaration of Conditions and Restrictions of Chia Park, which was duly filed and recorded on September 15, 1978, in Volume M78, page 20454 to 20457, of the Deed Records of Klamath County, Oregon. A copy of the Conditions and Restrictions of Chia Park is attached hereto as Exhibit 1 and by this reference incorporated herein.

B. Chia Park is identified as Tract No. 1151 by a Surveyor's Certificate and a Consent and Dedication Certificate, both dated August 14, 1978. Chia Park is a replat of vacated portions of Blocks 21, 22 and 26 of "Buena Vista Addition" to Klamath Falls, Klamath County, Oregon. A copy of the Surveyor's Certificate and Consent and Dedication Certificate is attached hereto as Exhibit 2 and by this reference incorporated herein.

C. The Conditions and Restrictions of Chia Park provide in relevant part as follows:

"... These covenants may be modified at any time to conform to uses prohibited hereunder but allowed by existing municipal or other applicable governmental building codes and ordinances by an instrument signed by two-thirds of the then owners of the lots which shall be recorded in the Deed Records of Klamath County, Oregon..."

D. The current owners of the lots as defined by Restriction 19 of the Conditions and Restrictions of Chia Park are as follows:

Lot No. 3300

J. W. and Kathleen M. Miles  
2529 Berkeley  
Klamath Falls, Oregon 97601

Lot No. 3400	Michael A. Abts Aaron E. Abts Lois M. Abts 2549 Berkeley Klamath Falls, Oregon 97601
Lot No. 3500	Charles T. and Barbara J. Jones, Jr. 2569 Berkeley Klamath Falls, Oregon 97601
Lot No. 3600	Randel R. and Jil Castleberry 762 Wycliffe Drive Colorado Springs, Colorado 80906
Lot No. 3700	Gregory A. Lawson c/o D. D. & Lynn Langhorne 37649 Canterbury Fremont, California 94536
Lot No. 3800	Haldane and Patricia Harris 2619 Berkeley Street Klamath Falls, Oregon 97601
Lot No. 3900	Karen and Dave Pinkston 2627 Berkeley Klamath Falls, Oregon 97601
Lot No. 4000	John G. and Pamela L. Swires 540 Pelican Klamath Falls, Oregon 97601
Lot No. 4100	J. and Mary Ann Repose 528 Pelican Klamath Falls, Oregon 97601
Lot No. 4200	Richard T. Tarrant c/o Linda Billinger 740 Pt. San Pedro San Rafael, California 94901
Lot No. 4300	Stanley A. and Linda Sleeper 2637 Chantel Klamath Falls, Oregon 97601
Lot No. 4400	K. Louise Lambert Bakwill 444 Pelican Klamath Falls, Oregon 97601
Lot No. 4500	G. L. and Ruby F. Turner 434 Pelican Klamath Falls, Oregon 97601
Lot No. 4600	D. R. and Karla J. Estabrook, II 416 Pelican Klamath Falls, Oregon 97601
Lot No. 4700	Kent S. Oldham 404 Pelican Klamath Falls, Oregon 97601

E. It has become desirable to modify the Conditions and Restrictions of Chia Park by eliminating Restriction Nos. 3 and 18 and modifying Section 19 of said declaration. Restriction No. 3 provides as follows:

"HEIGHT RESTRICTIONS: No dwelling or building shall be erected on any lot exceeding one story in height. However, this height restriction is not intended to exclude one from building a cathedral ceiling, open-exposed beam ceiling, vaulted ceiling or shed roof ceiling provided that it does not hinder the view and meets plan approval as specified in item 18 of these conditions and restrictions."

Restriction No. 18 provides as follows:

"APPROVAL OF PLANS: No dwelling or other structure or fence shall be erected, altered or remodeled on any lot described herein until the plans, specification and exterior colors with plot plan showing location on the lot have been submitted to and approved by Green Construction, Inc., and a written permit has been issued therefore. Green Construction, Inc. shall act upon such applications within ten days after submission. Green Construction, Inc. may at any time designate a company or a committee of three persons to act in its place hereunder, and a statement of such designation shall be filed in the Deed Records of Klamath County, Oregon."

Restriction No. 19 provides as follows:

"LANDSCAPE REQUIREMENTS: It shall be the responsibility of the owner, and the owner shall further be described as the person or persons who are in 'title', through contract purchase or through deeding, to install landscaping approved in accordance with item No. 18 no later than six months after the final completion of a dwelling placed on any lot within Chia Park (If said owner fails to meet this requirement, the developer may at his option, seek restitution in a court of law or install the landscaping and place a lien against said property for landscaping.)

F. The current owners of real property, both improved and unimproved, affected by the Conditions and Restrictions of Chia Park desire that Restrictions Nos. 3 and 18 be eliminated and that Restriction No. 19 be amended as provided herein.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

#### AGREEMENT

1. Restrictions Nos. 3 and 18 of the Conditions and Restrictions of Chia Park are eliminated.
2. Restriction No. 19 of the Conditions and Restrictions of Chia Park is amended to state as follows:

"19. LANDSCAPE REQUIREMENTS: It shall be the responsibility of the owner, and the owner shall further be described as the person or persons who are in 'title' through contract purchase or through deeding, to install landscaping in accordance with all applicable county, municipal or other governmental codes or ordinances no later than six (6) months after the final completion of a dwelling placed on any lot within Chia Park. If said owner fails to meet this requirement, a two-thirds majority of the landowners may petition a court of

appropriate jurisdiction for specific performance, requiring that the owner landscape his property in accordance with applicable county, municipal or other governmental codes; or install the landscaping and place a lien against said property for landscaping. Only those landowners who contribute financially for the costs of landscaping on owner's property shall have a lien against that owner's property."

3. All parties signing this document consent to the Waiver and Modifications of the Conditions and Restrictions of Chia Park and acknowledge that they make no claim that future construction on any of the lots contained within Chia Park should conform to Restriction Nos. 3, 18 and 19 of the original declaration and that they do hereby amend Restriction No. 19 as provided above.

4. By not less than two-thirds of the property owners as defined by Restriction 19 of the Conditions and Restrictions of Chia Park signing this document, the heirs, successors and assigns of all property owners of Chia Park are bound and benefitted by the terms hereof.

IN WITNESS WHEREOF, the parties have bound themselves by signing and dating their signatures below.

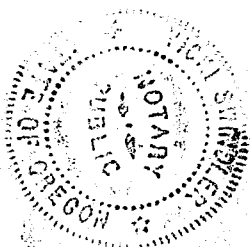
DATED this 9 day of August, 1992.

John W. Miles  
J. W. Miles

Kathleen M. Miles  
Kathleen M. Miles

STATE OF OREGON       )  
                                  ) ss  
County of Klamath    )

Personally appeared the above-named J. W. Miles and Kathleen Miles, husband and wife, and acknowledged the foregoing instrument to be their voluntary act. Before me:



Vicki Sundler  
Notary Public for Oregon  
My Commission Expires: 10-8-93

DATED this 3rd day of August, 1992.

Michael A. Abts  
Michael A. Abts

Aaron E. Abts  
Aaron E. Abts

Lois M. Abts  
Lois M. Abts

STATE OF OREGON       )  
                              ) ss  
County of Klamath    )

Personally appeared the above-named Michael A. Abts, Aaron E. Abts and Lois M. Abts, and acknowledged the foregoing instrument to be their voluntary act. Before me:

William J. Rogers  
Notary Public for Oregon  
My Commission Expires: 8/8/92

DATED this 9 day of August, 1992.

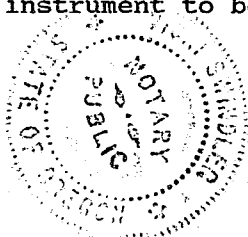
Charles T. Jones, Jr.  
Charles T. Jones, Jr.

Barbara J. Jones  
Barbara J. Jones

Oregon  
STATE OF CALIFORNIA )  
                              ) ss  
County of Klamath )

Personally appeared the above-named Charles T. Jones, Jr. and Barbara J. Jones, husband and wife, and acknowledged the foregoing instrument to be their voluntary act. Before me:

Vicki Drundler  
Notary Public for California  
My Commission Expires: 10-8-93



DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
Randel R. Castleberry

\_\_\_\_\_  
Jil Castleberry

STATE OF COLORADO    )  
                              ) ss  
County of \_\_\_\_\_)

Personally appeared the above-named Randel R. Castleberry and Jil Castleberry, husband and wife, and acknowledged the foregoing instrument to be their voluntary act. Before me:

\_\_\_\_\_  
Notary Public for Colorado  
My Commission Expires: \_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
Gregory A. Lawson

STATE OF CALIFORNIA )  
                              ) ss  
County of \_\_\_\_\_)

Personally appeared the above-named Gregory A. Lawson, and acknowledged the foregoing instrument to be his voluntary act. Before me:

\_\_\_\_\_  
Notary Public for California  
My Commission Expires: \_\_\_\_\_

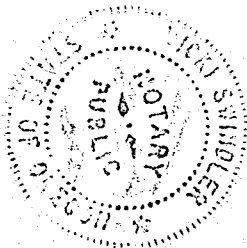
DATED this 9 day of August, 1992.

Haldane Harris  
Haldane Harris

Patricia Harris  
Patricia Harris

STATE OF OREGON       )  
                                  ) ss  
County of Klamath     )

Personally appeared the above-named Haldane Harris and Patricia Harris, and acknowledged the foregoing instrument to be their voluntary act. Before me:



Vicki D. Swindle  
Notary Public for Oregon  
My Commission Expires: 10-8-93

DATED this 9th day of August, 1992.

Dave Pinkston  
Dave Pinkston

Karen Pinkston  
Karen Pinkston

STATE OF OREGON       )  
                                  ) ss  
County of Klamath     )

Personally appeared the above-named Dave Pinkston and Karen Pinkston, husband and wife, and acknowledged the foregoing instrument to be their voluntary act. Before me:



Vicki D. Swindle  
Notary Public for Oregon  
My Commission Expires: 10-8-93

DATED this 9 day of August, 1992.

John G. Swires  
John G. Swires

Pamela L. Swires  
Pamela L. Swires

STATE OF OREGON       )  
                              ) ss  
County of Klamath    )

Personally appeared the above-named ~~John G. Swires and Pamela L. Swires, husband and wife~~, and acknowledged the foregoing instrument to be their voluntary act. Before me:

her

Vicki Swindler  
Notary Public for Oregon  
My Commission Expires: 10-8-93

Personally appeared the above-named John G. Swires and acknowledged the foregoing instrument to be his voluntary act. Before me

Vicki Swindler  
Notary Public for Oregon  
My Commission Expires: 10-8-93

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
J. Repose

\_\_\_\_\_  
Mary Ann Repose

STATE OF OREGON       )  
                              ) ss  
County of Klamath    )

Personally appeared the above-named J. Repose and Mary Ann Repose, husband and wife, and acknowledged the foregoing instrument to be their voluntary act. Before me:

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_



20754

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

Richard T. Tarrant

STATE OF CALIFORNIA )  
 ) ss  
County of \_\_\_\_\_ )

Personally appeared the above-named Richard T. Tarrant, and acknowledged the foregoing instrument to be his voluntary act. Before me:

Notary Public for California  
My Commission Expires: \_\_\_\_\_

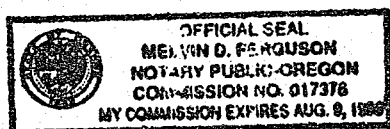
DATED this 10<sup>th</sup> day of September, 1992.

Stanley A. Sleeper  
Stanley A. Sleeper

mel 9/10/92 Linda Sleeper

STATE OF OREGON )  
 ) ss  
County of Klamath )

mel 9/10/92 Personally appeared the above-named Stanley A. Sleeper and ~~Linda Sleeper, husband and wife~~, and acknowledged the foregoing instrument to be their voluntary act. Before me:



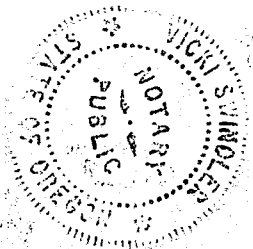
Melvin D. Ferguson  
Notary Public for Oregon  
My Commission Expires: 9/9/96

DATED this 9<sup>th</sup> day of August, 1992.

K. Louise Balkwill  
K. Louise ~~Lambert~~ Balkwill

STATE OF OREGON       )  
                              ) ss  
County of Klamath    )

Personally appeared the above-named K. Louise <sup>Balkwill</sup>~~Lambert~~, and  
acknowledged the foregoing instrument to be her voluntary act.  
Before me:



Vicki Sundt  
Notary Public for Oregon  
My Commission Expires: 10-8-93

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
G. L. Turner

\_\_\_\_\_  
Ruby F. Turner

STATE OF OREGON       )  
                              ) ss  
County of Klamath    )

Personally appeared the above-named G. L. Turner and Ruby F.  
Turner, husband and wife, and acknowledged the foregoing instrument  
to be their voluntary act. Before me:

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

DATED this 9 day of August, 1992.

20756

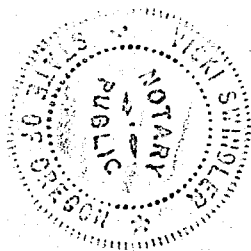
David R. Estabrook II  
D. R. Estabrook, II

Karla J. Estabrook  
Karla J. Estabrook

STATE OF OREGON       )  
                              ) ss  
County of Klamath     )

Personally appeared the above-named D. R. Estabrook, II and Karla J. Estabrook, husband and wife, and acknowledged the foregoing instrument to be their voluntary act. Before me:

Vicki Swindle  
Notary Public for Oregon  
My Commission Expires: 10-8-93



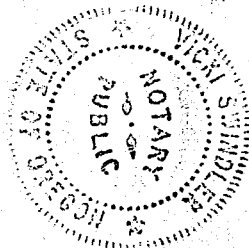
DATED this 9<sup>th</sup> day of August, 1992.

Kent Oldham  
Kent Oldham

STATE OF OREGON       )  
                              ) ss  
County of Klamath     )

Personally appeared the above-named Kent Oldham, and acknowledged the foregoing instrument to be his voluntary act. Before me:

Vicki Swindle  
Notary Public for Oregon  
My Commission Expires: 10-8-93



AFTER RECORDING RETURN TO:

Melvin D. Ferguson  
635 Main Street  
Klamath Falls, OR 97601

WAIVER AND MODIFICATION OF CONDITIONS AND RESTRICTIONS OF CHIA PARK  
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