

WTC 89391

2011-007108  
Klamath County, Oregon

Recording requested by and when  
recorded, please return to:

Running Y Development, LLC  
NVHG OR Resorts, LLC  
32 Hyde Lane  
Westport, CT 06880



00103184201100071080050058

06/10/2011 01:37:34 PM

Fee: \$57.00

**DECLARATION OF RESTRICTIVE COVENANT  
(WAIVER OF REMONSTRANCE)**

THIS DECLARATION OF RESTRICTIVE COVENANT (WAIVER OF REMONSTRANCE) (this "Declaration") to be effective upon its recording in Klamath County, Oregon, is made and executed on the date hereinafter set forth by RUNNING Y DEVELOPMENT, LLC, a Delaware limited liability company (hereinafter referred to as "Declarant").

**Recitals**

A. Declarant owns that certain real property in Klamath County, Oregon, described on **Exhibit A** (the "Property") attached hereto and incorporated herein by reference. Unless otherwise indicated, all references in this Declaration to the Property shall mean all of the Property and any portion thereof, including any partitions or subdivisions of the Property.

B. Declarant and its affiliates desire to develop the property described in attached **Exhibit B** (the "Benefited Property"). Because of the anticipated size and scope of the future development likely on the Benefited Property, combined with economic and market conditions, the development of the Benefited Property will necessarily occur in multiple phases over several years. In order to assure the ability of Declarant and its affiliates to fulfill this vision over such a long period of time, Declarant needs certainty as to the conditions it will face and the commitment of those who acquire an interest in the Property to cooperate with Declarant and its affiliates.

C. Accordingly, Declarant is encumbering the Property with this Declaration to assure that the Property shall be held, sold, hypothecated, and conveyed subject to the terms of this Declaration, which shall be deemed to be covenants running with the land and imposed on and intended to burden the Property and benefit the Benefited Property. The covenants contained herein shall be binding on each Subsequent Owner (as hereinafter defined).

**Declaration**

Now, therefore, Declarant hereby declares as follows:

1. Waiver of Remonstrance. Declarant declares and establishes a covenant for the Property whereby each Subsequent Owner of the Property, by virtue of having acquired an interest in the Property, is deemed to have waived any and all rights of remonstrance or protest

57AMJ

regarding the development of the Benefited Property for destination resort-related uses (including, without limitation, residential, recreational, commercial or hospitality uses), residential (including any residential subdivisions) uses, public purposes or retail or other commercial purposes, including, without limitation, further development as part of the destination resort currently known as the Running Y Ranch Resort. Without limiting the generality of the foregoing, this waiver shall prohibit objections to land use applications (including, without limitation, partitions, subdivisions and conditional use); objections to zone change applications; objections to the location, extension and/or installation of utilities and utility improvements; objections to proposed local improvement districts that include the Property and that would support or facilitate the development of the Benefited Property; objections to reimbursement districts that include the Property and that would support or facilitate the development of the Benefited Property; and objections to building permit applications. By virtue of such waiver, no Subsequent Owner shall have any remaining rights to complain or protest about the protected activities described above.

2. Condition. The foregoing waiver of remonstrance shall not apply to any applications to develop the Benefited Property that would require a change in the historical and accepted agricultural practices on the Property.

3. Subsequent Owner. As used in this Declaration, "Subsequent Owner" shall mean and include any of the following, whether an individual or individuals or an entity, that may have an interest in the Property: the owner of a fee interest, the holder of a leasehold interest, the contract purchaser of a fee interest, a lender with a security interest and any family member, agent, tenant, employee or representative of any of the foregoing.

4. Enforcement. The terms of this Declaration are for the sole benefit of the owner(s) of the Benefited Property (each, a "Benefited Party") and may only be enforced by a Benefited Party.

5. Binding Effect. This Declaration shall run with the land and shall be binding upon each and every Subsequent Owner and shall inure to the benefit of the owner(s) of the Benefited Property. Any deed conveying an ownership interest in the Property to a Subsequent Owner shall include a reference to this Declaration; provided, however, that the failure to include such a reference shall not exempt the Subsequent Owner from the covenants contained in this Declaration and shall not preclude enforcement of this Declaration against the Subsequent Owner.

6. Disputes. In the event of a dispute relating to this Declaration, including without limitation any action in bankruptcy court, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith. In the event of suit, action, arbitration, or other proceeding, the amount thereof shall be determined by the judge or arbitrator, shall include fees and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this 8 day of June 2011.

DECLARANT:

RUNNING Y DEVELOPMENT, LLC  
a Delaware limited liability company

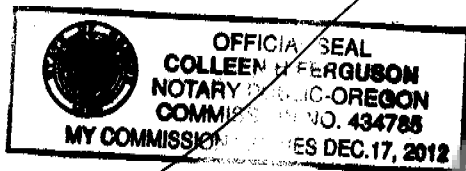
By: 

Name: SIMON HAUGERT

Title: Authorized Signatory

STATE OF OREGON     )  
  )ss.  
County of Crook     )

The foregoing instrument was acknowledged before me on this 8<sup>th</sup> day of June 2011, by Simon A. Haugert as the Authorized Signatory of Running Y Development, LLC, a Delaware limited liability company, on behalf of the company.

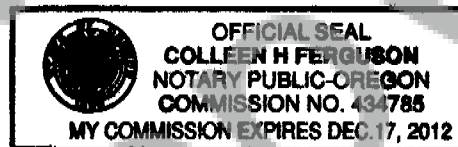


Colleen H. Ferguson

Notary Public for Oregon

My Commission Expires: 12-17-2012

Comm # 434785



**Exhibit A**  
**Property Subject to Waiver of Remonstrance**

That certain real property located in Klamath Falls County, State of Oregon,  
legally described as:

PARCEL 1:

Parcels 1 and 2 of Land Partition 05-11 being a re-plat of portions of Parcel 1 & 2 of LP 60-94 situated in the SW1/4 of Section 28, the SE1/4 of Section 29, Sections 31, 32, 33, Township 37 south, Range 8 east of the Willamette Meridian and Sections 4, 5, 6, the NE1/4 of Section 7, The North1/2 of Section 8, The NW1/4 of Section 9, Township 38 south, Range 8 east of the Willamette Meridian, Klamath County, Oregon, being recorded with the County Clerk on June 2, 2011 in Volume 2011-006764.

PARCEL 2:

Parcel 2 of Land Partition 04-11, being a re-plat of Parcel 1 of LP 69-06, situated in the SE1/4 Section 9, The E1/2 Section 16, the NW1/4 and S1/2 Section 15, and the N1/2 of Section 22, Township 38 south, Range 8 east of the Willamette Meridian, Klamath County, Oregon recorded with the County Clerk on June 1, 2011 in Volume 2011-006707.

**Exhibit B**  
**Benefited Property**

That certain real property located in Klamath Falls County, State of Oregon,  
legally described as:

Parcel 1:

Parcel 3 of Land Partition 05-11 being a replat of portions of Parcels 1 & 2 of LP 60-94 situated in the SW1/4 of Section 28, the SE1/4 of Section 29, Sections 31, 32, 33, Township 37 south, Range 8 east of the Willamette Meridian and Sections 4, 5, 6, the NE1/4 of Section 7, The North1/2 of Section 8, The NW1/4 of Section 9, Township 38 south, Range 8 east of the Willamette Meridian, Klamath County, Oregon, being recorded with the County Clerk on June 2, 2011 in Volume 2011-006764.

Parcel 2:

Parcels 1 and 3 of Land Partition 04-11, being a re-plat of Parcel 1 of LP 69-06, situated in the SE1/4 Section 9, The E1/2 Section 16, the NW1/4 and S1/2 Section 15, and the N1/2 of Section 22, Township 38 south, Range 8 east of the Willamette Meridian, Klamath County, Oregon recorded with the County Clerk on June 1, 2011 in Volume 2011-006707.