

DESCHUTES COUNTY OFFICIAL RECORDS
MARY SUE PENHOLLOW, COUNTY CLERK

2002-06264



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DESCHUTES COUNTY CLERK

CERTIFICATE PAGE



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LICENSE AND IMPROVEMENT AGREEMENT # 2

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This License and Improvement Agreement (Agreement), relating to the installation of required improvements to be constructed in **RIDGE AT EAGLE CREST 36**, hereafter referred to as "Subdivision", as required in the conditions of approval of the approval in File #TP-01-924 made and entered into this 29 day of January, 2002, by and between DESCHUTES COUNTY, OREGON, a political subdivision of the State of Oregon, herein after referred to as "County"; and **EAGLE CREST, INC.**, hereinafter referred to as "Developer,"

WITNESSETH:

WHEREAS, Developer is the subdivider of the Subdivision in the approval granted under TP-01-924 and

WHEREAS, the improvements required for the Subdivision have not been completed; and

WHEREAS, Developer intends to file a final plat for the Subdivision prior to the completion of the required improvements; and

WHEREAS, Deschutes County Code Section 17.24.120 provides that Developer may, in lieu of completing required improvements prior to filing the final plat, enter into an agreement with the County for the completion of the required improvements and provide a good and sufficient form of security, consistent with Deschutes County Code Section 17.24.130, to provide for the completion of the required improvements; now, therefore,

IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES above mentioned, for and in consideration of the mutual promises hereinafter stated, as follows:

1. The real property subject to this Agreement, hereinafter the "Subdivision real property" is described as: the N ½ and the SW ¼ of Section 16, Township 15 South, Range 12 EWM, Deschutes County, Oregon.

2. Developer shall install and complete, or cause to be installed and completed, those improvements required by Condition no. 18 of the approval in TP-01-924, that remain to be completed as set forth in Exhibit "A", attached hereto and by this reference incorporated herein. All such improvements (hereinafter referred to as "required improvements") shall be installed and completed to county and State of Oregon specifications and be inspected and receive approval from the County Road Department and/or the State of Oregon no later than one (1) year from the date the final plat for the Subdivision is recorded with the County Clerk. Developer shall also repair all existing and constructed facilities, within and without the Subdivision, damaged during any such installation, on or before such date.

3. County shall have the right to come onto the property to make inspections of the required improvements. If the County determines that the required improvements have not been completed as specified by the completion date established in Section 2 herein, County or its agents may enter onto the subdivision real property and cause the required improvements to be installed and completed to required specifications and call upon Developer's security and any assets of Developer to recover from Developer the full cost and expense of completing the required improvements, together with court costs and attorney's fees necessary to collect said amounts.

4. This Agreement is made for the benefit of the County and not the Developers.

Return to:
W&H Pacific
920 SW Emkay, Suite C100
Bend OR 97702

5. Developer shall restore any monument erected or used for the purpose of designating a survey marker or boundary of any town, tract, plat or parcel of land which monument is broken, damaged, removed or destroyed, during the course of work provided for or anticipated by this Agreement, whether intentional or otherwise, by the Developer or Developer's agents, employees or independent contractors.

6. Developer shall pay to County the actual costs incurred in the inspection of the completed improvements.

7. The Developer's security shall consist of: a bond (#929229103) issued in favor of the County by National Fire Insurance Company of Hartford, organized and existing under the laws of the State of Connecticut, deposited with the County Treasurer in the amount of One Million Nine Hundred Fifty-Six Thousand (\$1,956,000.00) with a date of expiration of no less than 6 months past the completion date established by Section 2 herein. The amount of the bond represents 120% of the estimated costs, as set forth in Exhibit A hereto, of completing the required improvements to county standards.

Release of the security will require authorization by the Deschutes County Community Development Department, once improvements have been inspected and approved by County. Improvements required to be completed under this Agreement and covered by Developer's security are shown in Exhibit "A" attached hereto and by this reference incorporated herein.

8. This Agreement is contingent upon the recording of the final plat.

9. County may draw upon Developer's security upon default of this Agreement for any and all costs and expenses anticipated to be incurred by County, as determined by the County, in the completion of the required improvements of Subdivision. If the amount available to be drawn from Developer's security is less than the costs and expenses anticipated to be incurred, or actually incurred, by the County, County may apply the proceeds of the security to the costs of completion of the required improvements and then hold Developer liable for the difference. For the purposes of this Agreement and access to any security offered and accepted to secure Developer's performance, a default shall include failure to install or have installed any portion of the improvements to County specifications and failure to complete any required inspections by 1 year's time from the date of the recording of the plat.

10. The security shall be released by County upon request by Developer within ninety (90) days after the completion, inspection and approval of the required improvements.

11. In accordance with Deschutes County Code Section 17.24.120(C), building permits may be issued for any lot or parcel of the Subdivision.

12. The existence of this Agreement shall be noted upon the final plat by reference to the recording book and page numbers.

13. By signature of this Agreement, any mortgagee or other holder of a security interest in the property (hereinafter referred to as Mortgagee) agrees to subordinate its security interest in the Subdivision real property to this Agreement. In particular, Mortgagee agrees that this Agreement would survive any foreclosure by Mortgagee on the Subdivision real property.

14. The original of this Agreement shall be recorded with the Deschutes County Clerk and shall be a condition and covenant that shall run with the land and be binding upon the Subdivision real property. It is the intent of the parties that the provisions of this Agreement shall be binding upon the parties, their successors, heirs, executors, administrators, and assigns, or any other party deriving any right, title or interest in or to the Subdivision real property, including any person who holds such interest as security for the payment of any

obligation, including the Mortgagee or other secured party in actual possession of said real property by foreclosure or otherwise or any person taking title from such security holder.

15. By their signatures, all signatories to this Agreement signing in a representative capacity certify that they are authorized to sign on behalf of and to bind their respective principals.

16. This Agreement shall expire 6 months after the completion date established by Section 2 herein or upon expiration of the land use permit for the Subdivision, whichever is sooner, or by the explicit release by County from this Agreement granted as part of an approval for a change of use of the Subdivision real property.

17. County's rights under this Agreement, including County's right to draw upon Developer's security in whole or in part and any other assets of Developer to pay the full costs and expenses of completing the improvements and repairs required herein (including costs of enforcement), shall survive the expiration of this Agreement.

18. It is agreed by and between the parties that Developer is not carrying out a function on behalf of the County, and County does not have the right of direction or control of the manner in which Developer completes performance under this Agreement or exercise any control over the activities of the Developer.

19. County is not, by virtue of this Agreement, a partner or joint venturer with Developer in connection with Developer's subdivision, and shall have no obligation with respect to Developer's debts or any other liabilities of each and every nature.

20. Developer shall be responsible for any and all injury to any and all persons or property caused directly or indirectly by reason of any and all activities by Developer in the performance of this Agreement; and further agrees to indemnify, save harmless and defend the County, its officers, agents and employees from and against all claims, suits, actions, damages, costs, losses and expenses in any manner resulting from, arising out of, or connected with any such injury.

21. In the event an action or suit or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Agreement, County shall be entitled to recover, in addition to other sums or performances due under this Agreement, reasonable attorney's fees and costs as the court may adjudge in said action, suit, proceeding or appeal.

22. Waiver of the strict performance of any provision of this Agreement shall not constitute the waiver of any other provision or of the Agreement.

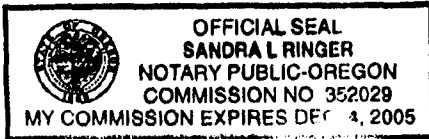
23. Upon request of Developer, County may release any of Developer's obligations under the terms and conditions of this Agreement in writing upon completion and County inspection and approval of any portion of the required improvements.

24. County, by virtue of this instrument, is entitled to enter upon the real property described herein to enforce, as necessary or convenient, the terms of this instrument.

DATED this 29 day of January, 2002.

COUNTY:

DESCHUTES COUNTY, OREGON

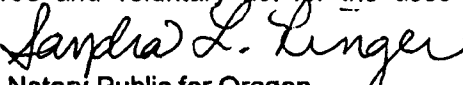




GEORGE J. READ, Director
Community Development Department

STATE OF OREGON, County of Deschutes) ss.

I certify that I know or have satisfactory evidence that **GEORGE J. READ** is the person who appeared before me, and said person acknowledged that he signed this instrument as the Director of Deschutes County Community Development Department, Deschutes County, Oregon, and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.



Notary Public for Oregon
My Commission Expires: 12/04/2005

DATED this 29th day of January, 2002.

DEVELOPER:

EAGLE CREST, INC.






By: **ALAN VAN VLIET**
Construction Director

STATE OF OREGON, Deschutes County) ss.

I certify that I know or have satisfactory evidence that **ALAN VAN VLIET** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Construction Director of **EAGLE CREST, INC.** to be the free and voluntary act of such parties, in his representative capacity, for the uses and purposes mentioned in this instrument.



Notary Public for Oregon
My Commission Expires: 3-9-04

Exhibit "A"

EAGLE CREST TO REDMOND PUMP STATION AND FORCEMAIN COST OPINION January 2002

ITEM	DESCRIPTION	EST. QUANTITY	UNIT	UNIT PRICE	TOTAL
1.	Mobilization and Bonding	All Req'd.	LS	\$10,000.00	\$10,000
2.	Site Preparation and Gravel Parking/Access	670	SY	\$7.00	\$4,690
3.	Wet Well Excavation and Backfill				
	a. Excavation	1,000	CY	\$14.00	\$14,000
	b. Native backfill	400	CY	\$6.00	\$2,400
4.	Wet Well				
	a. 3/4" minus leveling course	20	CY	\$27.00	\$540
	b. Concrete, incl. testing, forming, rebar, pour, finish	All Req'd.	LS	\$39,000.00	\$39,000
	c. Coat wet well with H2S resistant finish	3120	SF	\$2.50	\$7,800
	Strong seal or equal				
	d. 36"x72" access frame and hatch	1	EA	\$2,000.00	\$2,000
	e. Sloped floor	All Req'd.	LS	\$3,000.00	\$3,000
	f. Leakage test	All Req'd.	LS	\$2,500.00	\$2,500
5.	Bloxxide Feed System				
	a. 12"x12"x6" reinforced 3000 psi slab	All Req'd.	LS	\$800.00	\$800
	b. 4200 gallon bloxxide tank with heated wiring for freeze prevention. Bellows style pump and control panel assembly, valves, complete and installed, operational	All Req'd.	LS	\$25,000.00	\$25,000
	c. 3/4" sch.80 PVC piping to wetwell inflow line, and to discharge forcemain	100	LF	\$8.00	\$800
	d. Saddle taps for bloxxide feed	2	EA	\$200.00	\$400
	e. Fence enclosure around bloxxide tank	60	LF	\$14.00	\$840
	f. 12' Gate to tank	All Req'd.	LS	\$500.00	\$500
6.	Controls Building				
	a. 12'x16' insulated R38/R19 wood structure with composite 3 tab roofing, concrete slab floor, painted siding, details per Eagle Crest	All Req'd.	LS	\$12,000.00	\$12,000
	b. Heating, lighting, ventilation, details per planset	All Req'd.	LS	\$5,000.00	\$5,000
7.	Perimeter Fence				
	a. 6' chain link with 3 strand barbed wire and slats	170	LF	\$16.00	\$2,720
	b. Gate, double swing	All Req'd.	LS	\$500.00	\$500
8.	2" Sch. 40 water line to the site from Nutcracker Road. Common trench with CEC power	800	LF	\$15.00	\$12,000

SCANNED

**EAGLE CREST TO REDMOND
PUMP STATION AND FORCEMAIN
COST OPINION
January 2002**

ITEM	DESCRIPTION	EST. QUANTITY	UNIT	UNIT PRICE	TOTAL
9.	Pumps and Slide Rail, Piping				
a.	S4TX Pumps, 125HP motors	2	EA	\$32,000.00	\$64,000
b.	8"x8" base elbows, discharge piping	All Req'd.	LS	\$1,500.00	\$1,500
c.	8" Kennedy RSGV	2	EA	\$600.00	\$1,200
d.	8" APCO lever/spring check valve	2	EA	\$1,500.00	\$3,000
e.	UV 575 valve vault and 3'x5' aluminum lid	1	EA	\$5,000.00	\$5,000
f.	Slide rails, lifting system, guides, corrosion resistant	All Req'd.	LS	\$2,000.00	\$2,000
10.	Pump panel, conduit, wiring, seals, boxes, pressure transducer, level control	All Req'd.	LS	\$58,000.00	\$58,000
11.	Flow meter, output connection to telemetry, Incl. UV 444 vault and access hatch	All Req'd.	LS	\$8,000.00	\$8,000
12.	Electrical Service to Station Site				
a.	Conduit and Wiring	800	LF	\$6.00	\$4,800
b.	660 PGE switch vault, as needed	1	EA	\$3,000.00	\$3,000
13.	Telemetry, with hookup to existing CBUC telemetry. Include a repeater station	All Req'd.	LS	\$9,000.00	\$9,000
Pump Station Subtotal:					\$305,990
14.	Forcemain, Incl. Exc, backfill, piping fittings, complete				
a.	Pump station to Cline Falls Highway and Cline Falls Highway to Highway 126 12" CL 160. 3' Cover	1,220	LF	\$35.00	\$42,700
b.	Pig launch wye and vault (UV676, 12x12x12 wye)	All Req'd.	LS	\$7,000.00	\$7,000
c.	Open cut Cline Falls Highway (Traffic control, CTB backfill, T cut, AC patch. Excluding pipe.	80	LF	\$100.00	\$8,000
d.	Bridge crossing. Bore ducts, plate holes, 10" pipe with casing, insulation	360	LF	\$1,000.00	\$360,000
e.	12" 45° bends to get into and out of bridge crossing. Mega-lug and T.B., as needed	4	EA	\$1,500.00	\$6,000
f.	Expansion joint at each end of crossing	2	EA	\$3,000.00	\$6,000
g.	8x12 reducers, restrained	2	EA	\$750.00	\$1,500
h.	8" Gate valves, each side of bridge	2	EA	\$600.00	\$1,200
i.	East end of bridge to the bore just west of 35th Street. 12" Class 160 with 3/4-0 bedding and backfill. State spec rock, 4' cover 12" restrained joint with casing, per ODOT	13,700	LF	\$35.00	\$479,500
j.	Highway 126 boring west of 35th Street, 36" Lasing.	80	LF	\$1,250.00	\$100,000
k.	12" forcemain north along west side of 35th, with 90° bend and tie to gravity manhole Per City of Redmond standards. Use outside drop	370	LF	\$45.00	\$16,650

SCANNED

ITEM	DESCRIPTION	EST. QUANTITY	UNIT	UNIT PRICE	TOTAL
i.	Air/Vacuum release valves with vault	3	EA	\$2,000.00	\$6,000
m.	12" inline gate valves with valve box and concrete pad	12	EA	\$1,000.00	\$12,000
n.	Shoulder fill along fill/guardrail sections	2.6	MILES	\$15,000.00	\$39,000
o.	Remove and replace delineators as needed	50	EA	\$25.00	\$1,250
p.	Traffic control (3 @ 18/hr, 10hr/day, 100 days)	All Req'd.	LS	\$54,000.00	\$54,000
q.	Driveway restoration	20	EA	\$400.00	\$8,000
r.	COID crossings	2	EA	\$4,000.00	\$8,000
s.	Leakage Testing	15400	LF	\$1.25	\$19,250
Forcemain Subtotal:					\$1,176,000
Pump Station & Forcemain Subtotal:					\$1,482,000
10% Contingency					\$148,000
Pump and Forcemain TOTAL:					\$1,630,000

SCANNED