

85-29165



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IMPROVEMENT AGREEMENT

THIS AGREEMENT, relating to the installation of required improvements to be constructed in Deer Park III, Deer Park IV, Fairway Point Village V, and a Replat of a Portion of Fairway Village VI Subdivisions, Plat No. 631, hereinafter referred to as "Subdivision", made and entered into this 24th day of December, 1985, by and between DESCHUTES COUNTY, OREGON, a political subdivision of the State of Oregon, hereinafter referred to as "County", and SUNRIVER PROPERTIES OREGON, LTD., hereinafter referred to as "Developer", witnesseth:

WHEREAS, Developer is the subdivider of Subdivision; and

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

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

WHEREAS, Section 4.050, Ordinance No. 81-043, Deschutes County Subdivision and Partitioning Ordinance of 1981, provides that Developer may, in lieu of completing required improvements, enter into an agreement with County for the completion of the required improvements and provide a good and sufficient bond 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. That Developer shall complete all improvements in Subdivision as required by Deschutes County Ordinance No. 81-043, Deschutes County Subdivision and Partitioning Ordinance of 1981, and any other Deschutes County Ordinance applicable to the tentative approval of the subdivision plat, or or before December 31, 1988.

2. If the improvements required in accordance with Section 1 above are not completed by the date for completion shown in Section 1 above, County may contract to have the required improvements completed and recover from Developer the full cost and expense of completing said required improvements, together with court costs and attorney's fees necessary to collect said amounts.

3. Subdivider shall pay to County the actual costs incurred in the inspection of the completed improvements.

4. That a bond, a copy of which is marked Exhibit "A", attached hereto and by this reference incorporated herein, shall

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be the security required in accordance with Section 4.050 of Deschutes County Ordinance No. 81-043, County Subdivision and Partitioning Ordinance of 1981, and is on file with the Director of Public Works of County.

5. County may call upon Developer's bond upon default of this Agreement for any and all costs and expenses incurred by County in the completion of the required improvements of Subdivision. If the amount of the bond exceeds costs and expenses incurred by the County, County shall release the remainder, if any, to Developer, subject to Section 7, below. If the amount of the bond is less than the costs and expenses incurred by the County, Developer shall be liable to County for the difference.

6. The bond shall be released by County one year after the completion and inspection of the improvements required to be constructed by Developer in Subdivision.

7. This Agreement shall be signed in triplicate and a copy filed by Developer with the maker of the bond.

8. In the event an action of 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 as the court may adjudge in said action, suit, proceeding, or appeal.

9. Developer agrees not to sell any lot within the above referenced subdivisions until such time as all improvements required by Deschutes County Ordinance No. 81-043, and any other applicable Deschutes County Ordinance, have been completed. Provided, however, that Developer shall be allowed to sell lots in any of the referenced subdivisions if Developer shall post with the County an additional surety bond executed by a surety company authorized to transact business in Oregon or cash deposit in an amount equal to 110 percent of the cost of improvements and repairs not yet completed.

10. Developer hereby acknowledges that Sunriver Properties Management, Inc. has authority to execute this agreement on behalf of Sunriver Properties Oregon Ltd. and its general partner, Connecticut Mutual Life Insurance Co. under the terms of a Special and Limited Power of Attorney recorded February 14, 1983, in Volume 4 at Page 970, Official Records of Deschutes County, Oregon.

11. Developer agrees to provide Deschutes County by March 1, 1986, confirmation in writing, satisfactory to County Counsel, of the representations set forth in paragraph 10 above from Connecticut Mutual Life Insurance Co., and if said confirmation is not forthcoming that the improvements described herein

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shall be bonded by an independent surety company or a cash bond deposited in lieu of a bond.

DATED This 24th day of December, 1985.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Laurence A. Tuttle
LAURENCE A. TUTTLE, Chairman

ATTEST:

Lois Bristow Prante
LOIS BRISTOW PRANTE, Commissioner

Susan E. Stone
Recording Secretary

Dick Maudlin
DICK MAUDLIN, Commissioner

DEVELOPER:

SUNRIVER PROPERTIES OREGON, LTD.

Sheridan Atkinson
SHERIDAN ATKINSON, President
SUNRIVER PROPERTIES MANAGEMENT, INC.,
Attorney-in-Fact for SUNRIVER
PROPERTIES OREGON, LTD.

STATE OF OREGON, County of Deschutes: ss.

Before me, a Notary Public, personally appeared LAURENCE A. TUTTLE, ~~LOIS BRISTOW PRANTE~~, and DICK MAUDLIN, the above-named Board of County Commissioners of Deschutes County, Oregon, and acknowledged the foregoing instrument on behalf of Deschutes County, Oregon, this 28th day of December, 1985.



Susan E. Stone
NOTARY PUBLIC FOR OREGON
My Commission Expires: 01-13-86

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STATE OF OREGON, County of Deschutes: ss.

The foregoing instrument was acknowledged before me by
'SHERIDAN ATKINSON, President of Sunriver Properties Management,
Inc, Attorney-in-Fact for Sunriver Properties Oregon, Ltd. this
29 day of December, 1985.

Robert A. Lovlie

NOTARY PUBLIC FOR OREGON

My Commission Expires: 4-18-87



IMPROVEMENT GUARANTEE

DEVELOPER: Sunriver Properties Oregon, Ltd.

BANK OR LENDING INSTITUTION: Connecticut Mutual Life Insurance Company, as general partner for Sunriver Properties Oregon, Ltd., hereinafter referred to as "Bank".

AMOUNT: TWO MILLION FIVE HUNDRED THOUSAND AND NO/100 (\$2,500,000.00).

Guarantee for the construction of the improvements necessary to complete the subdivisions known as Fairway Pont Village No. 5, Deer Park Village No. 3, and Deer Park Village No. 4., Sunriver, Oregon.

EXECUTED at Bend, Oregon, this 24th day of December, 1985.

In consideration of an agreement between Developer and Deschutes County, Oregon, a political subdivision of the State of Oregon, hereinafter referred to as "County", marked Exhibit "A", attached hereto and by this reference incorporated herein, Bank unconditionally guarantees and promises to pay to County, on demand, in lawful money of the United States of America, any and all of the above amount as follows:

1. Maximum liability of Bank shall be the amount of this Certificate.
2. Liability hereunder shall be open and continuous until the 31st day of December, 1988, unless released by County in writing on an earlier date.
3. In the event of a breach by Developer of the agreement set forth in Exhibit "A", and in the event that Developer fails to cure the breach within 90 days after receipt of written notice of said breach from County and to the satisfaction of the County, County may demand any or all of the amount of this Certificate and receive payment from Bank without further notice to Bank or Developer or approval of Developer. Bank hereby waives presentment, protest, demand or notice of any kind except as set forth herein. No payment by Bank of County of a portion of the amount of this Certificate shall discharge the remainder of the amount of this Certificate.
4. Upon default of the improvement agreement for the required improvements in the above subdivision, as determined by County, County may demand and be entitled to payment by Bank. Failure to make such demand shall not relieve Bank of its obligation hereunder or constitute a waiver.

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BANK:

CONNECTICUT MUTUAL LIFE INSURANCE
COMPANY, as general partner for
Sunriver Properties Oreg., Ltd., an
Oregon Limited partnership

Sheridan W. Atkinson
SHERIDAN W. ATKINSON, President
By: SUNRIVER PROPERTY MANAGEMENT
CO., INC.

ATTEST:

Robert A. Lovlien

STATE OF OREGON, County of Deschutes, ss:

The foregoing instrument was acknowledged before me this
24 day of November, 1985, by SHERIDAN W. ATKINSON.

Robert A. Lovlien
Notary Public for Oregon
My Commission Expires 4-18-87



0113 0652

December 24, 1985

DEPT OF PUBLIC WORKS
DESCHUTES COUNTY
61150 SE 27TH STREET
BEND OR 97702

Re: Deer Park III, Deer Park IV and Fairway Point Village V
and a Replat of Fairway Point Village VI
Subdivision Plat Number

The purpose of this letter is to provide information in support of that certain Improvement Agreement dated December 24, 1985, and an estimate of the cost of improvements necessary for each of the above-referenced subdivisions.

The estimated cost of improvements for Deer Park III is \$1,000,056.

The estimated cost of improvements for Deer Park IV is \$968,000.

The remaining improvements necessary for Fairway Point Village V and a Replat of Fairway Point Village IV is estimated to be \$300,000. In this particular subdivision, the sewer is already in, the water lines have been excavated and we estimate completion by next spring.

These estimates of completion are based upon my qualifications as a professional engineer licensed in the State of Oregon.

Under the terms of the Improvement Agreement, the developer is not allowed to sell any lots until such time as all improvements have been completed, provided, however, that in the event the developer wishes to sell lots in any of the above-described subdivisions, the developer will be able to post an additional surety bond for the amount of the improvements left to be completed in that particular subdivision. In other words, if the developer wishes to sell lots in Fairway Point Village V before completion of improvements, the developer will be able to post an additional surety bond in the amount of 110 percent of the estimated

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DEPARTMENT OF PUBLIC WORKS
December 24, 1985
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costs of completing the necessary improvements for that particular subdivision at that time. This will be the same for Deer Park III or IV in the event that developer wishes to sell lots prior to completion of the improvements.

This letter is being submitted to substantiate the amount of the improvement guarantee submitted as the bond required by the Improvement Agreement.



SHERIDAN W. ATKINSON P.E.

STATE OF OREGON)
COUNTY OF DESCHUTES) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND
RECORDER OF CONVEYANCES, IN AND FOR SAID
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN
INSTRUMENT WAS RECORDED THIS DAY:

1985 DEC 30 PM 4:04
MARY SUE PENHOLLOW
COUNTY CLERK

BY:  DEPUTY

NO. 85-29165 FEE 33-

DESCHUTES COUNTY OFFICIAL RECORDS

Rt: Gray Fancher in office