

SUBDIVISION COMPLIANCE AGREEMENT MILL VIEW ESTATES SUBDIVISION

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1379

THIS AGREEMENT made and entered into this 8 day of Dec, 1994, by and between the **CITY OF NEWBERG**, a municipal corporation in the County of Yamhill, State of Oregon, hereinafter referred to as **CITY** and **RON MANNING**, hereinafter referred to as **SUBDIVIDER**.

R E C I T A L S

1. **SUBDIVIDER** has petitioned the **CITY** to accept a subdivision plat known as "MILL VIEW ESTATES SUBDIVISION" located in the City of Newberg, Oregon.
2. The **CITY**'s subdivision ordinance and applicable ordinances and laws of the **CITY**, require that the **SUBDIVIDER** execute and file with the **CITY** an agreement providing for, among other things, the period within which all required improvements shall be made within said subdivision and that if such work is not completed within the period specified, the **CITY** may complete the same and recover the full cost and expenses thereof from the **SUBDIVIDER**.
3. The **CITY** is agreeable to acceptance of said subdivision plat upon the execution of this agreement and compliance by the **SUBDIVIDER** with the provisions of the **CITY** subdivision ordinance, as amended.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements of the parties, it is agreed as follows:

1. The **SUBDIVIDER** agrees to install all of the required public improvements as provided in the **CITY** subdivision ordinance and binds itself to use such materials and to so construct all of the improvements according to **CITY** standards as defined by the applicable ordinances, the approved construction plans, and the rules and regulations of the **CITY** as shown on the subdivision plat.
2. The **SUBDIVIDER** agrees to provide for the restoration of any monuments 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 down, damaged or obliterated, removed or destroyed, whether willfully or not, by the **SUBDIVIDER**, its agents, employees or contractors.
3. If the subdivision plat is recorded prior to completion and acceptance of all improvements and conditions of approval: The **SUBDIVIDER** agrees that all of said public improvements shall be completed on or before the **1st** day of **September, 1995**; the **SUBDIVIDER** agrees that in case it shall abandon the work or fail to make satisfactory progress on the work, the **CITY** may cause the work to be completed by contract or by its own forces; the **SUBDIVIDER** shall be liable to the **CITY** for any and all loss and damage from such default, either from the greater expense of so completing or repairing faulty or damaged work, or from any other related course; and upon execution of this agreement, the **SUBDIVIDER** shall deliver to the **CITY** a bond for the purposes assuring **SUBDIVIDER's** full and faithful completion of the required improvements within said subdivision. The amount of the bond is to be 150% of the estimated **\$150,000.00** construction cost.
4. At such time as all required improvements, except sidewalks along the vacant parcels and miscellaneous improvements, within the subdivision, have been completed in accordance with the **CITY's** requirements, the **SUBDIVIDER** shall notify the **CITY** of the readiness for final inspection. Upon certification by the City Engineer that all requirements of the **CITY** have been met, the **SUBDIVIDER** will submit to the **CITY** a maintenance bond or other such security in a form approved by the **CITY** in the sum of **15%** of the total public improvement costs to provide for the correction of any defective materials or workmanship for a period of one (1) year after final acceptance as defined by **CITY** ordinances.
5. The **SUBDIVIDER** agrees that sidewalks and miscellaneous improvements within said subdivision shall be completed no later than the time that such buildings are erected upon lots in the subdivision and occupancy permits are issued. Occupancy permits for said buildings may be withheld pending completion of sidewalks and miscellaneous improvements.
6. The conditions, covenants and restrictions, if any, shall be approved by the **CITY** and recorded prior to the sale of any lots.
7. The **CITY** agrees to accept the completed required subdivision improvements upon certification by the City Engineer:
 - (a) That all required subdivision improvements have been constructed in accordance with applicable **CITY** standards;
 - (b) **SUBDIVIDER** has fulfilled the requirements of the **CITY's** subdivision ordinance;
 - (c) **SUBDIVIDER** has provided a copy of the recorded maintenance agreement for any common improvements that are not accepted for maintenance by the **CITY**;
 - (d) **SUBDIVIDER** has provided a maintenance bond or other form of security as indicated in paragraph 4;

- (e) The water and sewer development fees will be charged in accordance with the appropriate **CITY** ordinances and resolutions **at the time that the building permits are issued** for each additional lot;
- (f) **SUBDIVIDER** agrees to pay an engineering fee to cover final review and inspection requiring connection to the improvements. The estimated cost of the improvement, based on the engineer's estimate, is **\$150,000.00**. The amount of engineering fees is estimated to be 5% of the total cost of all improvements, which said amount is **\$7,500.00**. The actual engineering costs shall be calculated at the end of the project and any difference will be refunded or charged as appropriate.
- (g) **SUBDIVIDER** shall provide accurate as-built construction plans to the Engineering Department.
- (h) **SUBDIVIDER** agrees to comply with all the conditions of the Planning Commission approval of the preliminary plat.

8. The date of this agreement shall be the date the City Recorder signs and affix the seal of the **CITY** in execution of said agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above mentioned.

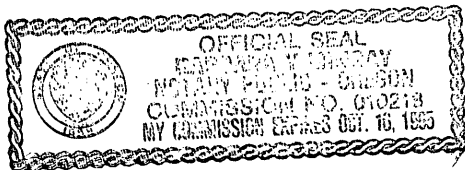
SUBDIVIDER

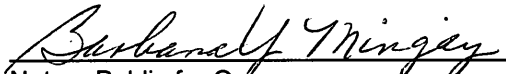
Ron Manning, dba Manning Construction


 Ron Manning, Owner

State of Oregon)
City of Newberg)
 County of Yamhill)

This instrument was acknowledged before me this 8th day of December, 1994, by **Ron Manning**, known by me to be owner.




 Notary Public for Oregon
 My Commission Expires: 10-16-95

CITY OF NEWBERG


 Duane R. Cole, City Recorder

APPROVED AS TO FORM


 Terry Mahr, City Attorney

After recording return to:
 City of Newberg
 Engineering Division
 414 E. First Street
 Newberg, Oregon 97132

December 8, 1994

Mr. Dale R. Miller
President
Prime Mortgage Security Corporation
10424 SE Cherry Blossom Dr., Ste. 105
Portland OR 97216

RE: Millview Estates, Ron Manning, Jr.
Escrow Account # 098-4005900

YOU ARE HEREBY AUTHORIZED AND DIRECTED TO HOLD IN THE ABOVE REFERENCED ESCROW ACCOUNT FOR MILLVIEW ESTATES, THE SUM OF \$175,000.00 TO BE HELD PURSUANT TO THE FOLLOWING INSTRUCTIONS:

1. The parties are entering into a subdivision agreement with the City of Newberg, Oregon, relating to the subdivision known as Millview Estates, which agreement provides for the construction of required subdivision improvements under the provisions of the City of Newberg Subdivision Ordinance and other regulations of the City of Newberg.
2. In the event that Ron Manning, Jr. fails to comply with any or all of the terms and conditions of said subdivision agreement, as determined by the City of Newberg, you are hereby authorized and directed to pay to the City of Newberg, from the sum held by you, an amount determined by the City of Newberg City Engineer that is necessary to construct the required subdivision improvements.
3. In the event all required subdivision improvements are constructed in accordance with said agreement, a Certificate of Compliance shall be executed by the City of Newberg stating that said improvements are constructed in accordance with the City's Subdivision Ordinance. Upon receipt by you of said Certificate of Compliance, you are further instructed to release any sums then held by you.
4. The City of Newberg shall have the first claim and priority to the sum of \$175,000.00 held by you in the event of the failure to perform any of the conditions of said agreement. The sum held by you may be reduced from time to time to allow you to make progress payments to the subdivider's contractors as construction is completed in conformance with the City's construction standards and specifications; provided, however, in no event shall the sum held by you be less than the sum required to complete construction of said subdivision improvements. No sum shall be released by you without first written approval by the City Engineer. The amount to be retained by you for completion of said construction shall be determined by the City Engineer.

IT IS UNDERSTOOD AND AGREED by Prime Mortgage Security Corporation, the subdivider and the City of Newberg, that the City of Newberg shall have the first claim and priority to the sums held by you under condition 4 above in the event of failure of the subdividers to construct said required subdivision improvements.

IT IS FURTHER UNDERSTOOD AND AGREED by said parties that the priority of the claim of the City of Newberg is paramount to all other persons, firms or corporation. Prime Mortgage Security Corporation hereby covenants and agrees with the City of Newberg and the subdivider that the sums held by it under condition 4 above, shall be held available to satisfy any claim of the City of Newberg arising out of or relating to said subdivision agreement, not withstanding default on any contract for the sale of real property or termination of any sale of real property located in said subdivision.

IT IS ACKNOWLEDGED by the parties that this agreement does not relieve the subdivider of the obligation to file a bond with the City of Newberg assuring the maintenance of said subdivision improvements for a period of one (1) year from the acceptance of the City of Newberg to be free of any defect in materials or workmanship.

In consideration of Prime Mortgage Security Corporation holding said sums upon the conditions and for the purpose above stated, the City of Newberg shall agree to the following:

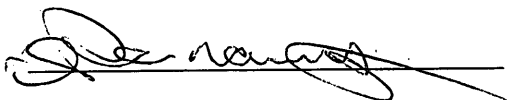
1. Accept the foregoing promises and covenants of the subdivider and Prime Mortgage Security Corporation in lieu of corporate surety bond as otherwise required in the provisions of the City of Newberg Subdivision Ordinance.
2. Issue it's public works permit authorizing the construction of said subdivision improvements subject to all applicable ordinances of the City of Newberg.
3. This agreement can not be changed without the written consent of the City of Newberg's Attorney.

In Witness Whereof, the parties have executed this Escrow Agreement on the 8th day
of ~~November~~, 1994.
December

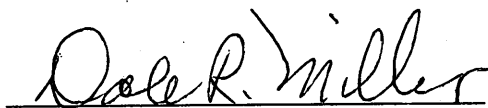
RON MANNING, JR.

PRIME MORTGAGE SECURITY
CORPORATION

By:



By:



By:

By:

"SUBDIVIDER"

"TRUST DEED HOLDER"

CITY OF NEWBERG

PRIME MORTGAGE SECURITY
CORPORATION

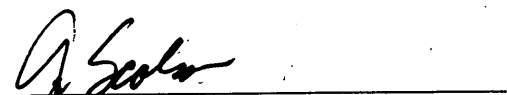
By:


Duane R. Cole
City Manager

By:

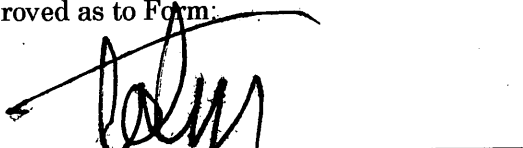

Dale R. Miller
President
Escrow Agent

By:


Greg Scoles
Community Development Director

Approved as to Form:

By:


Terrence D. Mahr
City Attorney

Recorded in Yamhill County, Oregon
CHARLES STERN, COUNTY CLERK



30.00

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