

After Recording, release to:

Subdivider to return to MIKE WILLIAMS
City of Newberg 11700 NE 11700
Engineering Division SUNNY RIDGE LN
Mail: P.O. Box 970 NEWBERG OR
Street: 414 E. First Street 97132
Newberg, Oregon 97132

OFFICIAL YAMHILL COUNTY RECORDS
CHARLES STERN, COUNTY CLERK

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\$41.00

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11/26/2002 10:27:41 AM

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\$20.00 \$10.00 \$11.00

PARTITION COMPLIANCE AGREEMENT

Whistler's Ridge III Partition
Planning Division File #:S-28-01

THIS AGREEMENT made and entered into this 5 day of November, 2002, by and between the **CITY OF NEWBERG**, a municipal corporation in the County of Yamhill, State of Oregon, hereinafter referred to as **CITY** and **Sunny Ridge Partner's, LLC** hereinafter referred to as **PARTITIONER**.

RECITALS

1. **PARTITIONER** has petitioned the **CITY** to accept a plat known as Partition Plat No. 2002-41 located in the City of Newberg, Oregon.
2. The **CITY's** applicable ordinances and laws of the **CITY**, require that the **PARTITIONER** 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 partition 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 **PARTITIONER**.
3. The **CITY** is agreeable to acceptance of said partition plat upon the execution of this agreement and compliance by the **PARTITIONER** with the provisions of the **CITY** Code, as amended.

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

1. The **PARTITIONER** agrees to install all of the required public improvements as provided in the **CITY** Code 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 partition plat.
2. The **PARTITIONER** 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 **PARTITIONER**, its agents, employees or contractors.
3. If the partition plat is recorded prior to completion and acceptance of all improvements and conditions of approval: The **PARTITIONER** agrees that all of remaining public improvements shall be completed on or before the 1st day of April; the **PARTITIONER** 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

PARTITIONER 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 **PARTITIONER** shall deliver to the **CITY** a bond for the purposes assuring **PARTITIONER's** full and faithful completion of the required improvements within said partition. The amount of the landscaping bond is to be 110% of the \$800.00 estimated cost of the work which amounts to \$880.00. The street trees must be planted in front of any home prior to receiving final occupancy on that home.

4. At such time as all required improvements, except sidewalks along the vacant parcels and miscellaneous improvements, within the partition, have been completed in accordance with the **CITY's** requirements, the **PARTITIONER** shall serve written notification to the **CITY** of the readiness for final inspection. Upon certification by the City Engineer that all requirements of the **CITY** have been met, the **PARTITIONER** 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 as per the estimate dated February 12, 2002 to provide for the correction of any defective materials or workmanship for a period of two (2) years after final acceptance as defined by **CITY** Code. The amount of the bond is to be 15% of the \$62,742.00 total cost of public improvements which amounts to \$9,411.30.

5. The **PARTITIONER** agrees that sidewalks and miscellaneous improvements within said partition shall be completed no later than the time that such buildings are erected upon lots in the partition 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 partition improvements upon certification by the City Engineer:

- (a) That all required partition improvements have been constructed in accordance with applicable **CITY** standards;
- (b) **PARTITIONER** has fulfilled the requirements of the **CITY's** Code;
- (c) **PARTITIONER** has provided a copy of the recorded maintenance agreement for any common improvements that are not accepted for maintenance by the **CITY**;
- (d) **PARTITIONER** 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) **PARTITIONER** shall provide accurate as-built construction plans to the Engineering Division;
- (g) **PARTITIONER** agrees to comply with all the conditions of the Planning Commission approval of the preliminary plat;
- (h) A signalization fee, in the amount of \$205.00, will be charged on each lot at the time that building permits are issued.

- (i) **PARTITIONER** 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 dated February 12, 2002, is \$62,742. The amount of engineering fees is 5% of the total cost of those improvements which said amount is \$3,137.10.
- (j) There are no additional public improvements required for this partition.

8. The date of this agreement shall be the date the City Manager signs on behalf of the City of Newberg.

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

Sunnyridge Partners, LLC

Michael Willcuts

State of Oregon)
County of Yamhill) :s.s.

This instrument was acknowledged before me this 5 day of November, 2002 by Michael Willcuts, on behalf of Sunnyridge Partners, LLC.

Notary Public for Oregon

My Commission Expires: 5/6/05



Sunnyridge Partners, LLC

Marc Willcuts

State of Oregon)
County of Yamhill) :s.s.

This instrument was acknowledged before me this 5 day of November, 2002, by Marc Willcuts, on behalf of Sunnyridge Partners, LLC.

Notary Public for Oregon

My Commission Expires: 5/6/05



IN WITNESS WHEREOF, the parties have executed this Whistlers Ridge 3 Partition Agreement on the date first above mentioned.

Sunnyridge Partners, LLC

[Signature]
Michael Hanks

State of Oregon)
County of Yamhill) :s.s.

This instrument was acknowledged before me this 7 day of November, 2002, by Michael Hanks, on behalf of Sunnyridge Partners, LLC.

[Signature]
Notary Public for Oregon
My Commission Expires: 5/6/05



Sunnyridge Partners, LLC

[Signature]
Mart Storm

State of Oregon)
County of Yamhill) :s.s.

This instrument was acknowledged before me this 5 day of November, 2002 by Mart Storm, on behalf of Sunnyridge Partners, LLC.

[Signature]
Notary Public for Oregon
My Commission Expires: 5/6/05



CITY OF NEWBERG

[Signature]
James H. Bennett
City Recorder

APPROVED AS TO FORM

[Signature]
Terrence D. Mahr
City Attorney

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