

After Recording, release to:
Subdivider to return to
City of Newberg
Engineering Division
Mail: P.O. Box 970
Street: 414 E. First Street
Newberg, Oregon 97132

OFFICIAL YAMHILL COUNTY RECORDS
JAN COLEMAN, COUNTY CLERK



\$36.00

200411728

11:15:43 AM 6/15/2004

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\$15.00 \$10.00 \$11.00

SUBDIVISION COMPLIANCE AGREEMENT

COLLEGE PLACE

Tax Lot 3218AD-03100

Planning Division File #: S-38-03

THIS AGREEMENT made and entered into this 26 day of May, 2004, by and between the **CITY OF NEWBERG**, a municipal corporation in the County of Yamhill, State of Oregon, hereinafter referred to as **CITY** and **Far West Development, Inc.**, hereinafter referred to as **SUBDIVIDER**.

RECITALS

1. **SUBDIVIDER** has petitioned the **CITY** to accept a subdivision plat known as "College Place" located in the City of Newberg, Oregon.
2. The **CITY's** Code 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** Code, 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** 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 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 remaining public improvements shall be completed on or before

the **1st day of September, 2004 (3 mos from date of agreement)**; 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 \$0.00 estimated cost of the unfinished work which amounts to \$0.00. The **SUBDIVIDER** shall deliver 10% of the value of the bond in cash, which amounts to \$0.00 to be deposited into an escrow account. The **CITY** shall retain one percent of the value of the security, minimum of \$500.00, from the cash escrow account as an administrative fee to manage the performance agreement. The City will continue to retain an additional one percent, minimum \$500.00, at the end of each ensuing month that the improvements are not complete until such time as the cash escrow account is exhausted. The amount of the landscaping bond is to be 110% of the \$0.00 estimated cost of the work which amounts to \$0.00. The street trees must be planted in front of any home prior to receiving final occupancy on that home. These bonds may be combined into one bond.

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 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 **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 as per the estimate dated September 3, 2003 to provide for the correction of and 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 \$19,486.00 total cost of public improvements which amounts to **\$2,922.90**. Remember the warranty bond isn't collected until completion of the project.

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** Code;
- (c) **SUBDIVIDER** has provided a maintenance bond or other form of security as indicated in paragraph 4;
- (d) 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;

- (e) **SUBDIVIDER** will provide accurate as-built construction plans to the Engineering Division;
 - (f) **SUBDIVIDER** agrees to comply with all the conditions of the Planning Commission approval of the preliminary plat;
 - (g) **SUBDIVIDER** agrees to pay an engineering fee to cover final review and inspection of all public improvements. The cost of the improvements, based on the engineer's estimate dated September 3, 2003, is \$19,486.00. The amount of engineering fees is 5% of the total cost of all improvements, which said amount is \$974.30; and
 - (h) There are no additional public improvements required for this subdivision.
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.

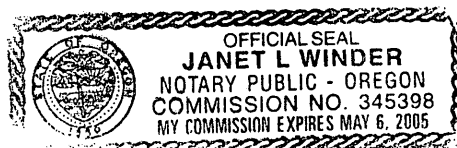
Far West Development, Inc.

[Signature]
Marc Willcuts, President

State of Oregon)
County of Yamhill) ss

This instrument was acknowledged before me on this 26th day of May, 2004, by Marc Willcuts, President of Far West Development, Inc. by authority of its Board of Directors.

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



Division Approval: [Signature]

CITY OF NEWBERG

[Signature]
James H. Bennett
City Recorder

APPROVED AS TO FORM

[Signature]
Terrence D. Mahr
City Attorney