

2015-081707



01908568201500817070080080

\$93.00

12/11/2015 02:25:16 PM

After recording return to:

Katie Riggs

CITY RECORDER

PO BOX 3040

Oregon City, OR 97045

City Planning No.: CP 14-03, DP 14-04, NR 14-10

D-OD

Cnt=2 Stn=1 JANIS

\$40.00 \$5.00 \$16.00 \$22.00 \$10.00

8p  
5m  
Tax Map/Lot: 3-2E-  
09D/1400

Drainage Area Served:  
7.91 Acres

### MAINTENANCE COVENANT AND ACCESS EASEMENT

THIS MAINTENANCE COVENANT AND ACCESS EASEMENT ("Agreement") is made this 4<sup>th</sup> day of ~~October~~<sup>November</sup>, 2015, between OREGON CITY SCHOOL DISTRICT 62 ("Developer"), and the CITY OF OREGON CITY, a municipal corporation of the State of Oregon formed pursuant to ORS Chapter 457 (the "City").

### RECITALS

A. Developer is the owner and developer of certain real property located in the City of Oregon City, Clackamas County, Oregon, legally described on Exhibit A attached hereto and commonly known as OREGON CITY SCHOOL DISTRICT TRANSPORTATION MAINTENANCE FACILITY, 14551 MEYERS ROAD, OREGON CITY, OR 97045 (the "Development").

B. Developer has developed or will develop at the Development a stormwater management facility as further described below:

List the Type, Quantity, and Location of all stormwater management facilities proposed and constructed within the development.

2 - Storm Detention Ponds, both located north of the developed area of the parcel.
1 - Contech CDS water quality manhole located upstream of the easterly pond
1 - Contech Jellyfish filter system located in a manhole upstream of the westerly pond
1 - StormGate manhole located upstream of the westerly pond
10 - Trap and Siphon catchbasins located in various parking areas on-site

C. The City has approved construction plans submitted by Developer for the Development, including the on-site stormwater facilities as described above (together with any other stormwater facilities that may hereafter be constructed on the Development, the "Stormwater Facilities").

D. To protect future lot owners in the Development, as well as owners of neighboring property, the City requires Developer to enter into this Agreement as a condition to the City's approval of construction plans and building permit(s), if applicable, for the Development.

E. The Stormwater Facilities enable development of property while mitigating the impacts of additional surface water and pollutants associated with stormwater runoff prior to discharge from the property to the public stormwater system. The consideration for this Agreement is connection to the City's stormwater system.

F. The Stormwater Facilities are designed by a registered professional engineer to accommodate the anticipated volume of runoff and to detain and treat runoff in accordance with City's Stormwater and Grading Design Standards and its amendments.

G. Failure to inspect and maintain the Stormwater Facilities can result in an unacceptable impact to the public stormwater system.

### **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer agree as follows:

**1. Covenant to Maintain and Repair.** Developer shall, at its sole expense, itself or through qualified independent contractors, at all times maintain the Stormwater Facilities in good working order, condition and repair, clear of all debris, and in compliance with all applicable state and local rules, regulations, and guidelines (including those adopted from time to time by the City and including the City's Stormwater and Grading Design Standards).

**2. Covenant to Inspect.** Developer shall perform annual inspections of all Stormwater Facilities covered by this agreement. The annual inspection required by this Agreement shall identify any work necessary to repair or maintain facilities in good working order. Developer shall provide Oregon City Public Works with annual maintenance inspection forms, including an identification of the corrective actions the Developer has taken in response to the annual inspection. See the City's Public Works Department Engineering Policies for appropriate inspection forms.

**3. Easement.** Developer hereby grants the City, its employees, independent contractors and designees, a nonexclusive easement for ingress and egress over, across and under the Development from time to time at the City's sole discretion to inspect, sample, and monitor components of the Stormwater Facilities and discharges therefrom, as well as allow the City to take the actions described in Sections 4 and 5 of this Agreement. Developer understands and agrees that this easement limits the ability of Developer, its successors and assigns from constructing any permanent buildings, structures, landscaping or other improvements that would interfere with the functioning of the Stormwater Facilities or the City's access to perform the inspection and maintenance required under this Agreement.

**4. Failure to Perform Covenant.** If the City, in its sole discretion, determines that Developer is not in compliance with the covenant described in Sections 1 and 2, except in the case of an emergency, the City or its designee shall give the Developer written notice to perform the maintenance and/or repair work specified in the notice. If such work is not performed to the City's satisfaction within seven (7) days after the date of such notice, or such other time as the City may, in its sole discretion, determine, the City, its employees, independent contractors and designees may exercise their right under the Easement described in Section 3 of this Agreement to enter the Development to perform any and all work required bringing the Stormwater Facilities into compliance with this Agreement.

**5. Emergency.** If the City, in its sole discretion, determines that there exists or will likely exist an emergency on or about the Development with respect to the Stormwater Facilities, the City, its employees, independent contractors and designees may immediately exercise their rights under the Easement described in Section 3 of this Agreement to immediately enter the Development to perform any and all work required to bring the Stormwater Facilities into compliance with this Agreement, and in such case the City shall use reasonable efforts to notify the Developer prior to entering the Development. Notwithstanding the above, the work performed may consist only of avoiding or mitigating the emergency and/or cleaning and repairing the Stormwater Facilities to their original condition and standards.

**6. City Under No Obligation.** Developer, for itself and its successors and assigns (including all owners of lots in the Development), agrees that the City, as well as its departments, employees, independent contractors and/or designees shall have no obligation to exercise its rights under this Agreement, including the right under Sections 4 and 5 of this Agreement to perform the work required of the Developer, or to perform any other maintenance or repair of the stormwater facilities. Developer also agrees that none of the City, as well as its departments, employees, independent contractors and/or designees shall have any liability to Developer or any of Developer's successors or assigns (including owners of lots in the Development) in connection with the exercise or nonexercise of such rights, the maintenance or repair of the stormwater facilities, or the failure to perform the same.

**7. Developer Obligations.** In addition to the covenants and easement described above, Developer agrees to the following additional obligations.

a. Prior to the sale of any portion of the Development, Developer shall provide to the City's Public Works Department, a copy of the Operations and Maintenance Manual for the Stormwater Facilities, which shall include detailed diagrams and descriptions identifying the components and operations of the Stormwater Facilities.

b. Prior to final approval of the Development, developer shall record this document in the deed records of Clackamas County and provide a copy of the recorded document to the City.

c. Developer shall notify the City's Public Works Director in writing of the person responsible for compliance with Developer's obligations under this covenant ("Developer Designee"), and of any change in the Developer Designee. Developer expressly agrees that the

Developer Designee shall have the authority to bind Developer, its successors and assigns with respect to the matters described in this Agreement.

d. Upon sale or transfer of the Development, or any portion thereof, including any lots in a subdivision, the Developer shall inform the purchaser of the obligations required under this Agreement.

**8. Reimbursement.** If the City exercises its right to enter the Development pursuant to the Easement described in Section 3 of this Agreement, Developer shall reimburse the City for all of its costs and expenses incurred in connection therewith within thirty (30) days after receipt of an invoice. If Developer fails to pay the invoiced amount within such period, such amount shall thereafter accrue interest at the statutory rate. Such amount, together with interest, shall be a lien on the Development (and each of the lots contained therein) which may be foreclosed in accordance with ORS Chapter 88. If the Development is owned by more than one person (i.e., multiple lot owners), each such owner shall be jointly and severally liable for payment of the amounts provided for in Section 3.

**9. Indemnification.** Developer agrees to indemnify, defend (with legal counsel reasonably acceptable to the City), and hold harmless the City, its employees, independent contractors and designees harmless from and against any liability, losses, costs, expenses (including reasonable attorney fees), claims or suits arising from Developer's failure to perform its obligations under this Agreements or the exercise of the City's rights under this Agreement.

**10. Run with the Land.** The parties' rights and obligations contained herein shall run with the land and shall be binding upon Developer and its successors and assigns (including, without limitation, subsequent owners of lots in the Development and any homeowner's association owning common areas in the Development). Those rights and obligations shall inure to the benefit of the City, as well as its successors and assigns.

**11. Attorney Fees.** If legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and in the appeal therefrom. The term "action" shall be deemed to include action commenced in the bankruptcy courts of the United States and any other court of general or limited jurisdiction.

**12. Assignment.** The obligations of Developer (and subsequent owners of lots in the Development) under this Agreement may not be assigned except (a) in connection with the sale of the property owned by such person (in which case the transferee will be deemed to assume such obligations), and (b) with the prior written consent of the City, to a homeowner's association that owns and maintains the common areas of the Development.

**13. Authority.** If Developer is an entity, the individual executing this Agreement on behalf of Developer represents and warrants to the City that he or she has the full power and authority to do so and that Developer has full right and authority to enter into this Agreement and perform its obligations under this Agreement.

IN WITNESS WHEREOF, Developer and the City have executed this instrument on the date first written above.

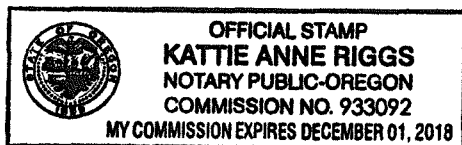
[Signature Page Follows]

<b>DEVELOPER:</b>	<b>CITY OF OREGON CITY</b>
	Accepted on behalf of the City of Oregon City on the condition that the covenant granted is free and clear from any taxes, liens, and encumbrances.
By: <u>Larry Didway</u> Larry Didway, Superintendent	By: <u>A. K. L.</u> City Manager
	By: <u>[Signature]</u> Public Works Director

**CITY**

STATE OF OREGON )  
 ) ss.  
County of Clackamas )

This instrument was acknowledged before me on November 4, 2015, by Anthony J. Konkol, III as City Manager of the City of Oregon City.

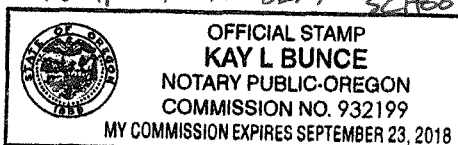


Kattie Riggs  
Notary Public for Oregon  
My Commission Expires 12-01-2018

**DEVELOPER**

STATE OF OREGON )  
 ) ss.  
County of Clackamas )

This instrument was acknowledged before me on 10-14-2015, by Larry Didway\*, Superintendent Oregon City School District 62 <sup>klb</sup>  
\* SUPERINTENDENT OREGON CITY SCHOOL DISTRICT 62



Kay L. Bunce  
Notary Public for Oregon  
My Commission Expires 9-23-2018 <sup>12/1/15</sup>

h

North Parcel Description  
Oregon City School District #62  
Clackamas County, Oregon  
September 17, 2015  
Project No. 2489-001 (A)

#### EXHIBIT "A"

A tract of land situated in the south one-half of Section 9, Township 3 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, being a portion of that property conveyed to Oregon City School District #62 by Deed Document Number 2012-080636, Clackamas County Deed Records, being more particularly described as follows;

Beginning on the south line of that property conveyed to Clackamas County Area Education District by Deed Document Number 83-2823, Clackamas County Deed Records, at a 5/8" iron rod marking the northeast corner of that property conveyed to Saunders by Deed Document Number 2005-127560, Clackamas County Deed Records;

thence, along said south line, South 89°39'28" East, 153.03 feet to a found Stone with an "X" on the south line of that property conveyed to Oregon City School District #62 by Deed Document Number 91-52218, Clackamas County Deed Records;

thence, along said south line of Oregon City School District #62 property, South 89°50'55" East, 374.70 feet to the west line of that property conveyed to Oregon City School District #62 by Book 488, Page 325, Clackamas County Deed Records;

thence, along said west line, South 00°27'09" East, 822.08 feet to the west right of way line of Loder Road, being 54.00 feet wide;

thence, along said right of way line, South 03°12'32" West, 83.69 feet to the north right of way line of Meyers Road, being 93.00 feet wide;

thence, along said north right of way line, North 85°01'25" West, 84.72 feet to a point of curvature;

thence, along a 357.00 foot radius curve to the right, through a central angle of 26°20'16" (chord bears North 71°50'46" West, 162.66 feet) a distance of 164.11 feet to a point of reverse curvature;

thence, along a 443.00 foot radius curve to the left, through a central angle of 03°01'00", (chord bears North 60°11'08" West, 23.32 feet) a distance of 23.32 feet to the south line of said Oregon City School District #62 property;

thence, along said south line, North 00°27'10" West, 8.66 feet to an angle point therein;

thence, continuing along said south line, North 89°38'25" West, 17.10 feet to a point of non-tangent curvature;

thence, continuing along a 443.00 foot radius curve to the left, radial bears North 25°48'47" East, through a central angle of 27°08'55", (chord bears North 77°45'40" West, 207.95 feet) a distance of 209.91 feet to a point of reverse curvature;

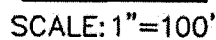
thence, along a 357.00 foot radius curve to the right, through a central angle of 07°00'05", (chord bears North 87°50'05" West, 43.60 feet) a distance of 43.62 feet to the west line of said Saunders property;

thence, along said west line, North 00°27'59" West, 783.43 feet to the Point of Beginning.

Containing 443,685 square feet.

Bearings are based on the centerline of Glen Oak Road between found monuments at the south one-quarter corner of Section 9 and the southeast corner of Section 9 per Survey Number 2008-277, Clackamas County Survey Records.





SCALE: 1"=100'  
CLACKAMAS COUNTY AREA  
EDUCATION DISTRICT  
DOC. NO. 83-2823  
15303

OREGON CITY SCHOOL  
DISTRICT #62  
DOC. NO. 91-52218

153.03  
S89°39'28"E

S89°50'55"E 374.70'

POINT OF BEGINNING  
5/8" IRON ROD

OREGON CITY SCHOOL DISTRICT #62  
DOC. NO. 2012-080636  
443,685 SQ. FT.

CURVE DATA TABLE					
CURVE#	LENGTH	RADIUS	DELTA	CH. BEARING	CH. LEN.
C15	164.11'	357.00'	26°20'16"	N71°50'46"W	162.66'
C16	23.32'	443.00'	3°01'00"	N60°11'08"W	23.32'
C17	209.91'	443.00'	27°08'55"	N77°45'40"W	207.95'
C18	43.62'	357.00'	7°00'05"	N87°50'05"W	43.60'

SAUNDERS  
DOC. NO. 2005-127560

N00°27'59"W 783.43'

500°27'09"E 822.08'—

LODER ROAD

OREGON CITY SCHOOL DISTRICT #62  
BOOK 488, PAGE 325

**EXHIBIT B**  
**PAGE 1 OF 1**

LOCATED IN THE S. 1/2 OF SECTION 9  
TOWNSHIP 3 S., RANGE 2 E., W.M.  
CLACKAMAS COUNTY, OREGON

DATE	17SEP15
DRAWN BY	SLH2
CHECKED BY	GRA
REVISION	1
JOB NO.	2489-001



**WESTLAKE**  
CONSULTANTS INC.

ENGINEERING ♦ SURVEYING ♦ PLANNING

PACIFIC CORPORATE CENTER  
15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652  
TIGARD, OREGON 97224 FAX (503) 624-0157