

2006-024989

Klamath County, Oregon



12/19/2006 10:33:33 AM

Fee: \$36.00

SUBDIVISION AGREEMENT

THIS AGREEMENT is entered into by and among the City of Klamath Falls, Oregon, an Oregon municipal corporation ("City"), Integrated Building Solutions, LLC, an Oregon limited liability company ("IBS"), and Environmental Container Systems, Inc., a California Corporation dba ECS Composites, Inc. ("ECS"), (collectively the "Parties") for the purpose of setting forth the relative responsibilities of the parties with respect to construction of a water line and drainage facilities along Altamont Drive in conjunction with the platting and development of Klamath Falls Industrial Park Tract 1463.

RECITALS

City is the historical owner of a parcel of land approximately 56.38± acres in the SW ¼ of Section 15 and the NW ¼ of Section 22, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon. This parcel is currently being subdivided as Klamath Falls Industrial Park Tract 1463 and is a replat of Parcel 1 of Land Partition 25-99 ("Parcel 1") and Parcel 3 of Land Partition 32-95 ("Parcel 3"). This entire parcel is referred to herein as "Tract 1463."

In late 2004, IBS contracted City to purchase the westerly 4.97 acres of Parcel 3 ("IBS Parcel"). To accommodate this request, City sold Parcel 3 (10 acres) in its entirety to IBS and, following completion of a property line adjustment process, IBS reconveyed to City the easterly 5.03 acres of said Parcel 3.

In early 2005, ECS contacted City to purchase the southerly 12.2 acres of the remainder of Parcel 3 combined with Parcel 1. To accommodate this request, City sold Parcel 1 and the remainder of 3 in their entirety and, following completion of a property line adjustment process, ECS contractually committed to reconvey to City the northerly 37.8± acres of Parcel 1 (the "City Parcel").

Pending reconveyance of the City Parcel by ECS to City, City determined that it would like to have available for sale additional parcels within the City Parcel. Therefore, the Parties, in cooperation with one another, agreed to subdivide Tract 1463 in its entirety into eight (8) parcels and the Parties jointly filed an application with City's Planning Department to subdivide Tract 1463. Pursuant to such application, the City Council of City approved the Tentative Plat of Tract 1463 on September 19, 2005. Lot 1 of the Tentative Plat is the IBS parcel and Lot 2 is the ECS parcel. Lots 3-8 will be reconveyed to the City (in compliance with the agreement between City and ECS) when the final subdivision plat for Tract 1463 is completely approved and filed with Klamath County.

The Planning and Engineering Departments of City, acting on behalf of the City in its governmental land use approval capacity (hereinafter referred to as "Klamath Falls"), have required the Parties (as the developers of Tract 1463 and as a condition of approval of the subdivision): a) to construct a water line and limited drainage facilities along the easterly boundary of Tract 1463; and b) to enter into a subdivision agreement with Klamath Falls to assure timely and complete construction of these facilities.

The parties intend by this agreement to satisfy the subdivision approval requirements of Klamath Falls.

AGREEMENT

In consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. City agrees to construct and maintain a water line along the easterly boundary of Tract 1463 in compliance with City of Klamath Falls approved design plans. City further agrees to construct a drainage way along the easterly boundary of Lots 3-5 (to drain into the "mapped wetland" along the easterly boundary of Lot 6) in compliance with City of Klamath Falls approved design plans. City agrees to complete or cause the completion of said construction by October 31, 2007, or in conjunction with any development of Lots 3-6, whichever shall first occur.
2. In compliance with Klamath Falls CDO Sections 11.920 and 11.925, and to assure that funds will be available to complete the required construction, City agrees to create a fund and set aside a sum of money equal to one hundred twenty percent (120%) of the cost of construction, as approved by the Klamath Falls Public Works Director. Said fund shall be earmarked exclusively to fund construction of the improvements identified in Paragraph 1 hereof.
3. This agreement is binding upon the parties hereto, and their heirs, successors and assigns, and shall be recorded in the office of the Klamath County Clerk in order to put prospective purchasers of Lots in Tract 1463, and other interested parties, on notice of the terms hereof.

CITY OF KLAMATH FALLS

By: J. J. Ball

Date: 9-7-06

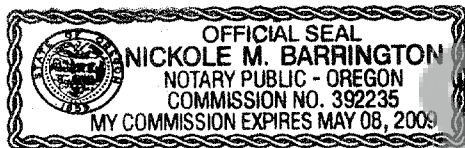
Attest:

Elisa D. Olson
City Recorder

STATE OF OREGON)
 ss.
COUNTY OF KLAMATH)

On the 7th day of September, 2006, personally appeared Jeffrey D. Ball and Elisa D. Olson, who, each being first duly sworn, did acknowledge and say: that the former is the City Manager and the latter is the City Recorder of the City of Klamath Falls, an Oregon municipal corporation; that the instrument was signed on behalf of said municipal corporation; and that this instrument was the voluntary act and deed of City.

BEFORE ME:



Nickole M. Barrington
Notary Public for Oregon
My Commission Expires: 5-8-2009

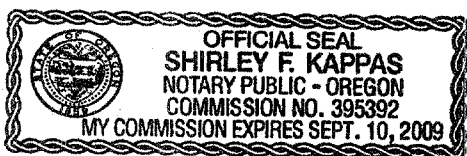
INTEGRATED BUILDING SOLUTIONS,
LLC.

By: *John Mick*
John Mick, President

Date: 9/13/06

STATE OF OR)
)ss.
County of Klamath)

On the 13th day of Sept., 2006, John Mick personally appeared and being first duly sworn, did acknowledge and say: that he/she was the representative for Integrated Building Solutions, LLC; that the instrument was signed on behalf of the said LLC; that he/she was authorized to sign this instrument on behalf of said LLC; and that this instrument was the voluntary act and deed of said LLC.



BEFORE ME:

Shirley F. Kappas
Notary Public for OR
My Commission Expires: 9-10-09

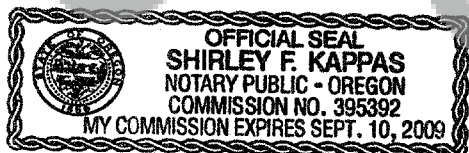
ENVIRONMENTAL CONTAINER SYSTEMS,
INC.

By: *Ted Bennett*
Ted BENNETT Exec VP/CFO

Date: 9/13/06

STATE OF OR)
)ss.
County of Klamath)

On the 13th day of September, 2006, Ted Bennett personally appeared and being first duly sworn, did say: that he/she was the representative for Environmental Container Systems, Inc.; that the instrument was signed on behalf of the said corporation; that he/she was authorized to sign this instrument on behalf of said Corporation; and that said instrument was the voluntary act and deed of said corporation.



BEFORE ME:

Shirley F. Kappas
Notary Public for OR
My Commission Expires: 9-10-09