



07/18/2007 11:18:42 AM

Fee: \$26.00

**RESTRICTIVE COVENANT
LOCAL IMPROVEMENT CONTRACT**
City of Klamath Falls, Oregon

This Agreement is entered into this 18 day of July 2007 by and between the City of Klamath Falls (City) and 5 Star OR, LLC. (Owner):

WHEREAS, Owner is the legal owner of the following described real property ("Property"):

Map and Tax Lot Number: R-3809-33CD-1100 and 1101
Property Address: 1940 South 6th Street and 1546 Owens Street
Partition Number and Parcel: Land Partition 116-06, Parcels 1 & 2
See Attached Exhibit A, incorporated by reference herein and attached as Exhibit A.

WHEREAS, Owner desires to develop the Property, which will contribute to the need for, as well as benefit from, the following improvements:

Construction of right-of-way improvements including grading, pavement, alleys, gutters, pathways, sidewalks, storm drains, illumination, traffic control devices and all other improvements necessary to bring the street into compliance with the City's applicable street standards.

WHEREAS, a condition of the Owner's land use approval from City for the development of the Property (6-CUP-07) is Owner's agreement to participate in the cost of said future improvements;

NOW THEREFORE, In consideration of the foregoing recitals and the conditions and obligations set forth herein:

THE PARTIES HERETO AGREE AS FOLLOWS:

1. City agrees not to require Owner to improve the right-of-way at this time. In the event and at such time as the City initiates the formation of a Local Improvement District (LID) for the funding and construction of the improvements designated above, Owner hereby waives any and all right to remonstrate against formation of a Local Improvement District (LID) by the City for the purpose of improving Owens Street south of Union Street and north of Shasta Way, and assessing the proportionate cost to benefited properties pursuant to the City's right-of-way improvement regulations in effect at the time of such improvement.

The phrase "right to remonstrate against the formation of an LID" refers solely to a property owner's right under the City Charter Section 38 to be counted as part of an extraordinary majority of property owners that can, in certain circumstances, suspend proceedings on formation of an LID for six months. The waiver of this right does not limit or otherwise restrict the ability of a property owner bound by this covenant to appear at any of the required public hearings and testify regarding formation of the LID, whether the boundaries include all benefited property, the equity of the assessment formula, the scope and nature of the project or of the final assessment, or any other issue regarding the LID.

2. City agrees that a LID assessment levied against Owner's Property shall not exceed the benefit conferred upon the Property.
3. In the event that a suit or action is instituted to enforce the terms of this covenant, the prevailing party shall be entitled to recover reasonable attorneys fees and all other fees, costs and expenses incurred in connection with the suit or action, including any appeals, in addition to all other amounts allowed by law
4. This agreement shall run with the Property and shall be binding upon and inure to Owner and Owner's successors in interest to the Property.



CITY OF KLAMATH FALLS

By: _____

Signature of City Staff Representative

OWNER

Bob McDonald

Dated: _____

7/15/07

STATE OF OREGON

County of Klamath

This instrument was acknowledged before me this 18th day of July, 2007, by Debbie Andrews

NOTARY PUBLIC FOR OREGON

Signature of Notary

After Recording Return to:
City Planning Department
226 South 5th Street
Klamath Falls, OR 97601

