

SUBDIVISION IMPROVEMENTS AGREEMENT

FOR THE Paintrock SUBDIVISION
Crossing

THIS AGREEMENT is made and entered into as of this 3 day of MARCH, 2009 by and between COUNTY OF BIG HORN, a body corporate and politic of the State of Wyoming (the "County") and JOHN R. ALM (the "Developer" and/or "Owner").

WITNESSETH

WHEREAS, the Developer is the property owner of that land known as:

(insert legal description of entire parcel), containing (insert acreage) acres, Big Horn County, Wyoming (the "Property")

WHEREAS, the County adopted the Big Horn County Subdivision Regulations which guide and control the subdivision of land within Big Horn County, Wyoming, hereinafter referred to as the "Big Horn County Subdivision Regulations;" and

WHEREAS, the Developer intends to subdivide the property (the "Development") in accordance with the specific terms and conditions of the Big Horn County Subdivision Regulations and those set forth herein; and

WHEREAS, the Developer and County are required to set forth their agreements with respect to the Development; and

WHEREAS, the County has determined that the terms and conditions set forth herein will serve a public use and will promote the public health, safety, and general welfare; and

NOW, THEREFORE, in consideration of the premises above and the terms and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Developer hereby agree as follows:

ARTICLE 1 PUBLIC AND DEVELOPMENT IMPROVEMENTS

A. Scope of Improvements

The improvements are to be provided in accordance with the terms and conditions of this Agreement and are described in detail in the Final Plat and Final Plat Submissions which exist as approved in the official file of the Planning Department or as otherwise recorded in the Office of the County Clerk and Recorder and are incorporated herein and made a part of this agreement by reference, and generally set forth below:

1. Utility Improvements - shall include the following described improvements as shown on the Final Plat Submissions including:
 - a. Domestic water supply distribution system with connection to an existing water system;
 - b. Storm sewers or storm drainage system, including grading and erosion controls;
 - c. Irrigation system;
 - d. Utilities, such as telephone and electric service.
2. Road and Drainage Improvements - shall include the following described improvements shown on the Final Plat Submissions including:
3. Other Improvements - shall be required pursuant to the plat identified in the Final Plat Submissions, including:
 - a. Other facilities as may be specified in the Final Plat submissions.

B. Responsibility for and Warranty of Improvements

The Developer agrees to undertake all responsibility for funding and completing the improvements and warrants that the Improvements will be installed in a good and workmanlike manner and in substantial compliance with the plans and requirements of this agreement and shall be substantially free of defects in materials and workmanship.

C. Other Agreements Concerning Improvements

1. All Improvements shall be designed and constructed in accordance with the Regulations and the plans and specifications set forth in the Final Plat submissions.
2. The Developer may record the final plat and thereby transfer title to subdivision lots or tracts upon the Developer providing documentation satisfactory to the Board of County Commissioners that guarantees the Developer has adequate financial resources available to develop and complete the improvements required to be constructed by the Developer as set forth herein. The amount of any such financial guarantee shall be ONE HUNDRED PERCENT (100%) of the total cost of constructing the Improvements, including labor and materials, as estimated by the Developer and approved by Big Horn County. The estimate is itemized in detail to show the amount for each part of the work to be performed and attached hereto as Exhibit A.
 - a. Such financial guarantee shall provide for payment to Big Horn County upon demand if the Developer has not performed the obligations specified in this Subdivision Improvements Agreement following notice from the County to the Developer of noncompliance as set forth herein.

b. The financial guarantee shall be for a term of two (2) years from the date of issue, unless earlier released as set forth herein. Such financial guarantee may be in the form of:

i. an irrevocable letter of credit from a bank or other reputable institution approved by the Board;

ii. an Escrow Account in a bank approved by the Board; or

iii. a surety performance bond from a bonding company authorized to do business in the State of Wyoming.

3. The Developer agrees to complete all the Improvements required by Article 1 within two (2) years of the date the Subdivision Plat is approved; the developer may request a 6 month extension. Failure to complete the Improvements within the approved time as stated shall result in:

a. if no lots have been conveyed during the approved period, automatic revocation of the subdivision permit; or

b. if lots have been conveyed during the approved period, the County may call the bond or other form of guarantee to the extent necessary to complete the guaranteed Improvements.

4. Upon completing construction of the improvements, the Developer shall submit to the County Engineer "as-built" road and bridge plans including a list and drawings of all deviations from the approved plans and specifications set forth in the Final Plat Submissions; and letters from any utility or special district providing service to the development indicating that the Improvements are installed in accordance with the approved plans and specifications.

5. The financial guarantee shall be completely released when the following conditions are met:

a. the Developer submits a letter to the County Planner requesting release of the financial guarantee; and

b. "as-built" road and bridge plans are submitted, with all deviations from the approved plans shall be listed and shown on the "as-built" plans. Release of collateral will not occur if the County Engineer determines deviations are present which have not received prior approval and are not consistent with generally accepted engineering design; and

c. letters are submitted from appropriate utilities or special districts indicating Improvements are installed in accordance with approved plans as set forth in paragraph C.4, Article 1 hereof.

6. If it becomes necessary for the County to exercise its right to complete the Improvements, the County, any contractor under the County, or any successor to the Developer, their agents, subcontractors and employees shall have the right to enter upon the

streets and easements shown on the subdivision final plat and upon any part of the subdivision owned by the Developer or successor to the Developer for purposes of completing the Improvements.

7. In the event that it costs the County more to build the Improvements than provided by the bond or letter of credit, the Developer shall bear all such additional costs.

ARTICLE 2 MISCELLANEOUS

A. Agreement as Covenant

The County and the Developer agree that this Agreement, and all obligations contained herein, shall run with the land and shall be deemed a covenant with respect thereto, and shall be binding upon the parties and their respective heirs, successors and assigns. In order to effectuate this provision, the parties agree that this Agreement shall be recorded in the real estate records of the Office of the Clerk and Recorder at the Developer's expense.

B. Integrated Agreements and Amendments

This Agreement and any special terms and conditions appended hereto at the time of execution of the Agreement, as permitted below, constitute the entire, integrated agreement of the parties hereto with respect to the matters addressed herein. This Agreement, and each and every one of its terms and conditions, may be added to or amended only by the mutual written agreement of the parties hereto, which agreement will be executed with the same formalities as this Agreement shall have been executed. Special terms and conditions, if any, which are agreed upon by the parties hereto at the time this Agreement is executed shall be reduced to writing in accordance with this paragraph and appended to this Agreement.

C. Notice

Any notice, demands, or other communications required or permitted to be given in writing hereunder shall be delivered personally or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at the addresses set forth below, or at such other address as either party may hereafter or from time to time designate by written notice to the other party given in accordance herewith. Notice shall be considered given when personally delivered or mailed and shall be considered received by the party to whom it is addressed on the third day after such notice is given.

Notice to the County: Notice to the Developer:

Big Horn County Planner (insert Developer's name/address) Big Horn County
Planning Dept. P.O. Box 29, Basin, Wyoming 82410

D. Severability

It is understood and agreed by the parties hereto that if any part, term or provision of the Agreement is held by the courts to be illegal or in

conflict with any law of the State of Wyoming, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain that particular part, term or provision held to be invalid.

E. Enforcement

This Agreement shall inure to the mutual benefit of the parties hereto and their respective heirs, successors and assigns, and shall be enforceable according to its terms and conditions under the laws of the State of Wyoming and shall be covenants running with the land and be binding upon all future owners of the Property. In this regard, the parties hereto agree that this Agreement may be enforced by an action in law or in equity, by decree of specific performance or damages, or pursuant to such other legal and/or equitable relief as may be available under the laws of the State of Wyoming. Developer hereby gives the County and its authorized employees permission to enter the subject property to perform all necessary inspections for purposes set forth herein including enforcement.

F. Defaults and Remedies

1. Default by Developer. A default by Developer shall exist as hereinafter provided if:
 - a. Developer fails to construct the Subdivision Improvements in substantial compliance with the Plans and other requirements of this Agreement;
 - b. Developer fails to complete construction of the Subdivision Improvements by the Completion Date provided herein as the same may be extended;
 - c. Developer fails to cure any noncompliance specified in any written notice of noncompliance within a reasonable time after receipt of the notice of noncompliance;
 - d. Developer otherwise breaches or fails to comply with any obligation of Developer under this agreement;
 - e. Developer becomes insolvent, files a voluntary petition in bankruptcy, is adjudicated a bankrupt pursuant to an involuntary petition in bankruptcy, or a receiver is appointed for the Developer;
 - f. Developer fails to maintain in full force and effect a letter of credit or bond in the amounts specified in this Agreement.
2. Remedies of County. If the Board determines that a default by Developer exists, and if Developer fails to cure such default within the time specified by the Board of County Commissioners, the County shall be entitled to:

a. Make a draw on the letter of credit or bond for the amount reasonably determined by the County to be necessary to cure the default in a manner consistent with the approved Plans up to the face amount of the letter of credit; and sue the Developer for recovery of any amount necessary to cure the default over and above the amount available under the letter of credit or bond.

G. Other

1. Schedules. All schedules, exhibits and addenda attached to this Agreement and referred to herein shall for all purposes be deemed to be incorporated in this Agreement by this reference and made a part hereof.

2. Compliance with applicable laws. The performance by the parties hereto of their respective obligations provided for in this Agreement shall be in strict compliance with all applicable laws and rules and regulations of all government agencies having jurisdiction on the Property.

3. Authority of signatories. Each of the parties hereto represents to the other that as of the effective date of the Agreement, each such party has full power and authority to execute, deliver, and perform this Agreement; and that such execution, delivery, and performance will not contravene any contractual restriction binding upon such party or any of its assets; there is no legal action, proceeding or investigation of any kind now pending or, to the knowledge of such parties, threatened against or affecting such party as the same may pertain to execution, delivery or performance of this Agreement.

4. Headings. The article and paragraph captions of this Agreement are inserted for convenience and reference only and shall not be deemed to define, limit or construe the provisions hereof.

5. Waiver. Any one or more waivers of any covenant or condition by any party hereto shall not be construed as a waiver of a subsequent breach of the same covenant or condition; and a consent or approval to, or of, any act requiring consent or approval shall not be deemed to waive or render unnecessary such consent or approval to, or of, any subsequent similar acts.

6. Default. In the event a party alleges that the other is in default hereunder, the non-defaulting party shall first notify the defaulting party in writing of such default. The defaulting party shall have 20 working days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies hereunder.

7. Indemnification. Developer shall indemnify and shall save and hold County harmless and free from any suit or cause of action, claim, demand, obligation or liability of every nature and description brought or made against the County or its successors in interest which may arise from the performance or nonperformance of

the construction of the subdivision improvements by the Developer as provided herein or as a result of Developer's failure to comply with any and all other conditions of this Agreement. Unless otherwise agreed to by the County, Developer shall remain liable for performance of the obligations of Developer under this Agreement. Developer shall be responsible for all liability for design and construction of the improvements installed or work done pursuant to this Agreement and that County shall not be liable for any claim arising from acts of the County in approving, reviewing, checking, or inspecting any work or construction. In the event County is required to institute legal action to complete performance of this Agreement, or to defend any suit or claim, or liability resulting from or arising out of this Agreement, Developer shall pay to County the amount of any and all judgments against the County and all reasonable attorney's fees, costs of suit, and all other expenses of litigation incurred by County in connection therewith.

8. Governmental immunity. Nothing contained in this Agreement shall constitute a waiver of the County's immunity under common law and/or applicable state law.

9. No third party beneficiary. Except as herein provided, no person or entity other than a party to this Agreement shall have any right of action under this Agreement including, but not limited to, lenders, lot or home buyers, material men, laborers or others providing work, services or materials for the Improvements.

10. Entire Agreement. This Agreement, and any agreement or document referred to herein, constitutes the entire understanding between the parties with respect to the subject matter hereof and all other prior understandings or agreements shall be deemed merged in this Agreement.

COUNTY:

COUNTY OF BIG HORN, STATE OF WYOMING

By: _____

Chairman, Board of County Commissioners, Big Horn County

ATTEST:

By: _____

Clerk and Recorder

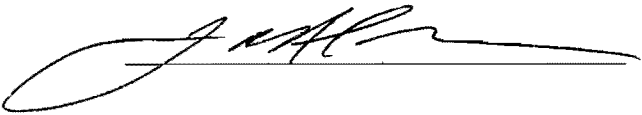
Big Horn County

APPROVED AS TO FORM:

By: _____

Big Horn County Attorney

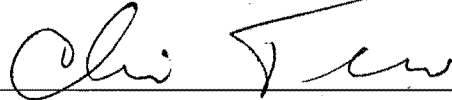
DEVELOPER:



) ss.

The foregoing instrument was acknowledged before me by
CHRIS TESEO, Notary Public this 4 day of March, 2009, by
_____.

WITNESS my hand and official seal.



Notary Public

My commission expires: 6-6-12

