

After Recording return to:
City of North Bend
City Clerk
P.O. Box 896
North Bend, WA 98045

UTILITY EASEMENT AGREEMENT

This UTILITY EASEMENT AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 20____, between EAGLE RIDGE ENTERPRISES INC. ("Grantee") and property owner City of North Bend, a municipal corporation organized under the laws of the State of Washington ("Grantor"). The abbreviated legal description of the Property is: TRACT E, SI VIEW DIVISION NO. 1, ACCORDING TO THE PLAT THEROF RECORDED IN VOLUME 170 OF PLATS, PAGES 74 THROUGH 87, UNDER RECORDING NUMBER 9410251115, RECORDS OF KING COUNTY WASHINGTON. The Grantee and Grantor comprise the Parties.

The tax parcel number for the Property is: 7787101-0000-00.

RECITALS

- A. Grantor owns that certain real property located in North Bend, Washington, the legal description of which is attached hereto as **Exhibit A**, and incorporated herein by this reference ("Grantor's Property").
- B. Grantee has proposed a project called Mountain View Estates located at 885 SE Cedar Falls ("the Project"). The project proposes to construct approximately 93 lineal feet of 8" diameter storm drainage conveyance pipe and approximately 40 lineal feet of 8" diameter watermain in a 15' (foot) wide utility easement(s) located on parcel number 7787101-0000-00 as described on **Exhibit B** and shown on **Exhibit C**.
- C. Grantee requests access to the Grantor's Property to make and operate the improvements described.
- D. For valuable mutual benefits and public purposes and the sum of \$10.00, Grantor desires to grant to Grantee, its assigns and successors, a non-exclusive easement, the legal description of which is attached hereto as **Exhibit B**, for access under, over, and across the Easement Area for the purposes set forth herein, and Grantee desires to accept the grant of such access.
- E. The Parties desire to enter into this Easement Agreement to support the construction, operation, and maintenance of the public utility improvements described herein.

NOW, THEREFORE, in consideration of the mutual benefits hereby acknowledged as sufficient, the Grantee and Grantor agrees to the following terms and conditions of the Agreement:

1. Recitals Incorporated. The recitals set forth above are incorporated herein as part of the Agreement between the Grantee and Grantor.
2. Grant of Permanent Utility and Temporary Construction Easement.
 - a. Grantor hereby grants and conveys to Grantee, its successors and assigns, access to use and occupy the Easement Area, together with the rights of ingress and egress for purposes of constructing, operating, and maintaining the storm drainage and watermain improvements.
 - b. The Easement will be recorded, and Grantee shall pay the recording costs.
 - c. This Easement will be effective commencing the date of execution by the Parties.
3. Scope of Work in Easement Area. The Parties acknowledge that construction of the storm drainage and watermain improvements will generally include some demolition of existing pavement and sidewalk, excavation of soils, placement and compaction of subgrade materials, installation of storm drainage and watermain improvements and placement and compaction of hot mix asphalt, placement of cement concrete, hereafter referred to as the "Hardscape Work." Grantee shall keep the Grantor Property free of all liens, charges, or other monetary encumbrances arising out of any work within the Easement Area.
4. Construction Period. The Grantee agrees to require that the contractor hired to construct the storm drainage and watermain improvements within the easement area shall complete the work within three hundred and sixty five (365) days. The three hundred and sixty five days shall commence on the first day work is performed within the easement area. The Parties agree that the storm drainage and watermain improvements will be completed in conjunction with work of the larger project.
5. Restoration of Easement Area. The Parties agree that the work described in Section 3, "Scope of Work in Easement Area" shall constitute full restoration of the Easement Area to a condition better than existing at the time of granting of this Easement.
6. Cost of Work. The Parties acknowledge that Grantor will not be responsible to pay for the costs associated with the construction of the storm drainage and watermain improvements within the Easement Area.
7. Termination of Agreement. The Parties agree that this Agreement shall automatically terminate and be of no effect if the project is abandoned by the Grantee.
8. Entire Agreement. This Agreement contains the entire agreement between the Parties, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the Parties. Either Party may request changes to the Agreement. Changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement and recorded.

9. Reservations. Grantor reserves the right to enter upon and make use of the Easement Area for all uses not inconsistent with the rights granted herein to Grantee.
10. Indemnity. Grantee shall defend, indemnify, and hold Grantor harmless from all liability, claims, damages, losses, and expenses, whether direct, indirect, or consequential, including, but not limited to, reasonable attorneys' fees, expert witness fees, and other expenses of litigation resulting from personal injury or property damage arising out of or in connection with Grantee's construction of the facilities. Grantee will also require the contractor constructing the facilities to indemnify the Grantor.
11. Insurance. During any period that Grantee is exercising its Temporary Construction Easement rights, Grantee shall maintain and/or self-insure, or cause its general contractor to maintain, commercial general liability insurance on an occurrence basis, insuring against claims for personal injury (including, without limitation, bodily injury or death), property damage liability and such other loss or damage from such causes of loss as are embraced by insurance policies of the type known as "Commercial General Liability Insurance," with a combined single limit of not less than \$2,000,000 per occurrence. The commercial general liability insurance policy required hereunder is intended to cover claims arising out of use by Grantee, its contractors, and their agents, contractors, employees, licensees, lessees, or subcontractors of the Grantor Property under this Agreement.
12. Successors and Assigns. All of the terms of this Agreement shall be binding upon the successors and assigns of the Parties. This Agreement is freely assignable by Grantee without the consent of the Grantor.
13. Governing Law and Venue. This Agreement shall be interpreted and enforced pursuant to the laws of the State of Washington. Venue for any lawsuit arising out of this Agreement shall be in King County, Washington.
14. Severability. If any provision of this Agreement is held to be invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.
15. Attorneys' Fees. In any action between the Parties to enforce any of the terms and conditions of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, expert witness fees, and costs including those incurred at trial or on appeal.
16. Remedies. In the event of a breach of any of the covenants or agreements set forth in this Agreement, the Parties shall be entitled to any and all remedies available at law or in equity, including but not limited to the equitable remedy of specific performance.
17. Authority. Each Party represents to the other that it is fully authorized to enter into this Agreement and to bind the properties described herein, and that no other consent, joinder, or subordination is required in order for each Party to be bound by the obligations described herein.
18. Covenant Running with the Land. The covenants, agreements, and easements granted herein shall be deemed covenants running with the land and shall inure to the benefit of and shall be binding upon the respective grantees, heirs, successors, and assigns of the Parties.

EXECUTED the day and year first above written.

IN WITNESS WHEREOF, this Easement is executed this _____ day of

_____, 20_____

GRANTOR, Kenneth Hearing, Mayor, City of North Bend

GRANTEE, Michael Fohn, Eagle Ridge Enterprises Inc.

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to the individual described in and who executed the foregoing instrument, and acknowledged to me that he/she signed and sealed the said instrument as a free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal the _____ day of _____, 20____.

NAME: _____
(Print Name)
Notary Public in and for the State of Washington
Commission Expires: _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this personally appeared before me, Mayor Kenneth Hearing, of the Washington municipal corporation for the City of North Bend, known to me to be the Grantee that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such persons, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

Given under my hand and official seal the _____ day of _____, 20_____.

NAME: _____

(Print Name)

Notary Public in and for the State of Washington

Commission Expires: _____

EXHIBIT A

**D.R. STRONG
CONSULTING ENGINEERS
KIRKLAND WA 98033**

DRS Project No. 15078
3/16/17

LEGAL DESCRIPTION: BURDENED PROPERTY

Tract E, Si View Division No. 1, according to the Plat thereof recorded in Volume 170 of Plats, pages 74 through 87, under Recording Number 9410251115, records of King County, Washington.

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EXHIBIT B

**D.R. STRONG
CONSULTING ENGINEERS
KIRKLAND WA 98033**

DRS Project No. 15078
3/16/17

LEGAL DESCRIPTION: UTILITY EASEMENT

That portion of Tract E, Si View Division No. 1, according to the Plat thereof recorded in Volume 170 of Plats, pages 74 through 87, under Recording Number 9410251115, records of King County, Washington described as follows;

Commencing at the the most west northwest corner of that parcel of land conveyed to Tony and Donna Hastings by Statutory Warranty Deed recorded under Recording Number 20010702001623, records of said county; thence thence S10°36'46"W, along the common boundary of said Tract E and Hastings Parcel, 69.88 feet to THE POINT OF BEGINNING of the herein described easement; thence continuing S10°36'46"W, along said common boundary, 41.62 feet; thence N88°52'07"W 18.29 feet to a point on the west line of said tract and the east right of way margin of Mountain View Boulevard, as dedicated by said plat, said point being on the arc of a 745.00 foot radius curve to the left, the center of which bears N84°35'42"W thence northerly along said curve, west line and east margin through a central angle of 01°09'22", a distance of 15.03 feet thence; thence S88°52'07"E 17.06 feet; thence N17°19'45"W 47.93 feet to a point on the west line of said tract and east margin, said point being on the arc of a 1373.00 foot radius curve to the right, the center of which bears S85°57'24"E, thence northerly along said curve west line and east margin through a central angle of 01°39'24", a distance of 39.70 feet; thence S17°19'45"E 62.23 feet to THE POINT OF BEGINNING,

Contains 1,152± square feet, (0.0264±acres)



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EXHIBIT C

SE. 6TH STREET

MOUNTAIN VIEW BLVD.

R=1373.00'
Δ=01°39'24"
L=39.70'

S85°57'24"E(R)

R=745.00'
Δ=01°09'22"
L=15.03'

N84°35'42"W(R)

UTILITY EASEMENT
HEREBY GRANTED TO
THE CITY OF NORTH
BEND

TRACT E
SI VIEW DIV. NO. 1
VOL. 170, PG'S. 74-87,
REC. NO. 9410251115

S171°45'E
62.23'

69.88'

S10°36'46"W

41.62'

S88°52'07"E
17.06'

N88°52'07"W
18.29'

MOST WEST NW.
CORNER OF
HASTINGS PARCEL
PER DEED REC. NO.
20010702001623

PROPOSED PLAT OF
MOUNTAIN VIEW
ESTATES

UTILITY EASEMENT
HEREBY GRANTED TO
THE CITY OF NORTH
BEND

POB



NORTH

GRAPHIC SCALE

0 15' 30' 45'

1 INCH = 30 FT.



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MOUNTAIN VIEW ESTATES

OFF-SITE
UTILITY EASEMENT
EXHIBIT



D.R. STRONG
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www.drsstrong.com

PROJECT SURVEYOR: SJS
DRAFTED BY: SJS
FIELD BOOK: 602
DATE: 2/22/17
PROJECT NO.: 15078
SHEET 1 OF 1