

ADDENDUM TO LICENSE AND WATER AND SEWER SERVICE AGREEMENT

The CITY OF BEND, an Oregon municipal corporation, hereinafter referred to as "CITY" and **Arrowood Development, LLC** hereinafter referred to as "USER" hereby execute the following Addendum to that certain LICENSE AND WATER AND SEWER SERVICE AGREEMENT BETWEEN CITY OF BEND AND CASCADE HIGHLANDS LIMITED PARTNERSHIP dated August 4, 2005 and recorded in the Official Records of Deschutes County at Volume 2005, Page 73584, hereinafter referred to as "Water/Sewer Service Agreement."

GENERAL CONDITIONS

- A1. USER has received, read and understands CITY's public facility improvement policies which are incorporated herein by reference. The terms used in this agreement have the meanings assigned to them by CITY's policies unless specifically provided otherwise in this agreement.
- A1.1 USER is the successor in interest to Cascade Highlands Limited Partnership and is developing the Tetherow (formerly Cascade Highlands) Destination Resort on the property referred to in the Water/Sewer Service Agreement referenced above.
- A1.2 USER desires CITY's acceptance of public dedication of street facilities and the extension of these public street facilities, as described herein, to USER'S property referred to in the Water/Sewer Service Agreement referenced above.
- A1.3 USER and CITY intend that this agreement shall constitute a covenant running with the land, binding on USER and USER'S heirs, successors, or assigns.
- A1.4 USER agrees to pay applicable sewer, water and street System Development Charges (SDC's) in accordance with the Water/Sewer Service Agreement referenced above.

ACCEPTANCE OF PUBLIC DEDICATION

- A2. USER and CITY acknowledge the public dedication of the street facilities known as Metolius Drive on Plat No. 818, Broken Top through Dedication Deed dated November 8, 1994 and recorded in the Official Records of Deschutes County at Volume 361, Page 0154 (Hereafter "Metolius Drive). Based on the land use decision approving the tentative plan for Tetherow Destination Resort (County file no. TP-06-973), USER and CITY agree Metolius Drive is necessary as a public right of way for access to the Tetherow Destination Resort. CITY agrees to accept the public dedication of Metolius Drive by executing and recording in the Official Records of Deschutes County the Acceptance document attached hereto as Exhibit "A." All obligations and provisions of this Addendum are expressly conditioned upon the CITY's acceptance of the public dedication.
- A2.1 CITY's agreement to accept Metolius Drive shall not be effective until USER agrees to financially assure USER's obligations hereunder in a manner acceptable to CITY in an amount reasonable necessary to secure USER's obligation to complete all improvements shown on attached

PROVISION OF PUBLIC STREET FACILITY IMPROVEMENTS

- A3. Upon CITY acceptance of public dedication as set forth in Section 2, public street facility improvements shall be supplied by USER through components constructed by CITY approved contractor, installed to City Standards and Specifications and owned by CITY. All public street facility improvements shall be installed within public right of ways or CITY easements. Easements shall be granted to CITY free and clear of all liens and encumbrances.
- A3.1 USER shall not connect to the public street facility known as Metolius Drive until CITY accepts the public street facilities improvements described in Section 4 installed by USER in writing.
- A3.2 USER agrees to construct the public street facility improvements described in Section 4 prior to occupancy of the 100th residential unit at the Tetherow Destination Resort or 2 years from the date of this Addendum Agreement, whichever is sooner.
- A3.3 USER agrees to maintain a locked gate at USER's boundary until such time as the public street facility improvements described in Section 4 are constructed in accordance herewith and accepted by CITY.
- A3.4 Except as otherwise set forth herein, USER shall comply with all applicable governmental laws, rules and regulations including but not limited to CITY ordinances, resolutions and the provisions of CITY public facility improvement policies as they now exist and as they may be changed from time to time. Any failure to comply with all terms and conditions of this agreement shall entitle CITY to terminate facility improvement services at CITY'S sole discretion.
- A3.5 USER shall execute the required CITY Public Facility Improvement Agreement (PFIA) prior to construction approval and shall abide by all terms thereof.

EXTENSION OF PUBLIC STREET FACILITY IMPROVEMENTS

- A4. USER agrees to perform all work necessary for the construction of the public facility improvements to Metolius Drive as shown on the preliminary drawings titled **Tetherow Resort – Metolius Drive Improvements** attached hereto as Exhibit "B", at USER's sole expense and in accordance with the City's Standards and Specifications.

PUBLIC FACILITY IMPROVEMENT REIMBURSEMENT

- A5. The parties agree USER shall be entitled to full reimbursement for 92.10% of the costs of the public street facility improvements as set forth in Exhibit "C" attached hereto.

ADDITIONAL CONDITIONS

- A6. All terms and provisions of the Water/Sewer Service Agreement and

Development Agreement related to the development of the Tetherow (formerly Cascade Highlands) Destination Resort shall remain in full force and effect.

A7. Execution of this document constitutes an accord and satisfaction between CITY and USER of all claims that have been brought or that could have been brought in connection with the public acceptance of Metolius Drive as those claims relate to the Development Agreement executed by the CITY, Deschutes County and USER's predecessor(s) in interest approved by CITY by Ordinance 1757 on October 18, 2000.

DATED this ____ day of _____, 2007

USER

By: _____

STATE OF OREGON County of Deschutes

This instrument was acknowledged before me on _____ by _____ as _____ for Arrowood Development. LLC.

NOTARY PUBLIC FOR OREGON

CITY OF BEND

Accepted By: _____

STATE OF OREGON
County of Deschutes

This instrument was acknowledged before me on _____ by _____ as _____ for the City of Bend.

NOTARY PUBLIC FOR OREGON

EXHIBIT A
DEDICATION DEED ACCEPTANCE

DRAFT

EXHIBIT B

METOLIUS PRELIMINARY CONSTRUCTION DRAWING

DRAFT

EXHIBIT C

METOLIUS PRELIMINARY COSTRUCTION COST ESTIMATE

DRAFT