

RESOLUTION NO 89 0349

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF BELLA VISTA )  
DIVISION NUMBER 2 )  
STORMWATER FACILITIES AGREEMENT )

RESOLUTION

BEFORE the Board of County Commissioners of Spokane County, Washington whereas the Development of the plat of Bella Vista Division Number 2 requires the installation of certain storm drainage facilities which facilities are located within easements and not upon public roads; and

WHEREAS, in conjunction with said facilities it is necessary that an agreement be made between the developer of the subdivision and Spokane County as to further maintenance of the storm drainage facilities and whereas the County Engineers office has prepared an agreement for this purpose and recommends approval thereof by the Board of County Commissioners.

THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Spokane County, Washington that the agreement and declaration of covenants concerning storm water facilities in Bella Vista Division Number 2 between Greenstone Corporation and Spokane County is hereby approved and the Chairman of the Board be and is hereby authorized to execute same by and on behalf of Spokane County.

PASSED AND ADOPTED by the Board of County Commissioners of Spokane County, this 22 day of August, 1989.

BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

*Patricia A. Mummey*  
Patricia A. Mummey, Chair

*John R. McBride*  
John R. McBride

*Steven Hasson*  
Steven Hasson

ATTEST:

WILLIAM E. DONAHUE  
Clerk of the Board

By *Sherry Bays*  
Deputy Clerk

REQUESTED *Co Eng*  
AUG 24 3 38 PM '89

WILLIAM E. DONAHUE  
AUDITOR  
SPOKANE COUNTY, WASH.  
SAMPSON

*Interoffice*

AGREEMENT AND DECLARATION OF COVENANT

THIS AGREEMENT and Declaration of Covenant (hereinafter referred to as "agreement") made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between \_\_\_\_\_  
GREENSTONE CORPORATION hereinafter

referred to as the "Developer", and Spokane County, a political subdivision of the State of Washington, hereinafter referred to as the "County", to wit:

WHEREAS, the Developer is the owner of a certain tract of land platted into lots, blocks and streets, known as Bella Vista Division 2, hereinafter referred to as the "Subdivision" and being more particularly described as follows:

See Attachment "A"

WHEREAS, pursuant to the provisions of RCW Chapter 36.89 and Section 9.14.220 of the Spokane County Code, the County may assume maintenance and operation responsibility of drainage facilities which lie outside the county road right-of-way, under certain conditions;

WHEREAS, a system of stormwater collection and disposal is to be installed outside the County road right-of-way in order that storm sewers shall be available to the residents of the Subdivision as they occupy the houses therein, and

WHEREAS, the single system of stormwater collection and disposal to be installed will jointly and collectively serve the plat known as Bella Vista Division 2, and;

WHEREAS, the Developer is in need of a governmental agency to assume responsibility for the continuous and satisfactory operation and maintenance of the storm water system, and

WHEREAS, the County is willing to assume the responsibility of operation and maintenance of the stormwater system on the terms and conditions hereafter set forth,

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants hereafter set forth; the parties hereto agree as follows:

1. Construction — The Developer at his sole expense shall construct a stormwater collection system and disposal facility, together with all appurtenant facilities, to a capacity and design satisfactory to the County. The plans and specifications for this construction shall be approved by the County Engineer prior to the construction. The design shall conform to Board of County Commissioners Resolution No. 80-1952 as amended. For the purpose of this agreement, "Subdivision Stormwater System" shall be the System as indicated on the approved plan, entitled Bella Vista Division 2, and shall refer to all storm sewer lines, manholes, disposal facilities and appurtenant facilities. There shall be no cost to the County for the construction of the Subdivision Stormwater System. The Subdivision Stormwater System shall be constructed and accepted by

the County for operation and maintenance no later than the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_. To the extent that the Subdivision Stormwater System is not constructed and accepted by the County for operation and maintenance by this date, the County may, at its option, without the necessity of any notice whatsoever, look to the security as provided for in paragraph 15 to complete the construction of the Subdivision Stormwater System.

2. Right of Inspection -- The County and the Developer mutually agree that the county may perform inspections of the Subdivision Stormwater System during the course of construction to determine if the System is is being constructed and installed pursuant to the approved plans and specifications. All costs of said inspection shall be borne solely by the Developer. Said costs include but are not necessarily limited to labor (including all fringe benefits) and mileage. The County shall to the extent that variations from the approved plans and specifications are observed notify the Developer of any work found to be unsatisfactory and the Developer shall immediately correct the same at no cost to the County.

3. Certification -- The County will assume no responsibility for the Subdivision Stormwater System until the System is complete and the Developer furnishes the County with a certification by a registered professional engineer that the system has been constructed in accordance with the approved construction plans and specifications therefore.

4. Easements -- The Developer shall furnish the County with perpetual easements and/or deeds for all portions of the Subdivision Stormwater System lying outside of dedicated public rights of way.

5. Warranty -- All work performed by the Developer or his agents and all facilities installed in connection with the construction of the Subdivision Stormwater System shall be guaranteed for a period of twelve months from date of acceptance as provided in paragraph 7 below. The Developer also warrants that the Subdivision Stormwater System will be adequate to serve the Subdivision at full development which will consist of sixty ( 60 ) dwelling units and/or lots utilizing the Subdivision Stormwater System.

For the purposes of this agreement, costs to the Developer by virtue of this warranty shall not be considered maintenance and operation costs.

6. Additions -- No additional service areas outside the Subdivision shall be connected during the life of this agreement to the Subdivision Stormwater System without the expressed written approval of the County.

7. Acceptance -- Upon completion of any phase of the Subdivision Stormwater System and certification as provided above, the County shall make a completion inspection and upon finding a phase of the system satisfactory shall accept that phase of the system for operation and maintenance subject to the Developer warranty. Acceptance of any phase of the system for operation and maintenance by the County shall be made possible by the Developer prior to establishment of the roads and occupancy of the Subdivision. The Developer shall advise all persons,

89 0949

firms or corporations employed by him to sell lots within the Subdivision of the necessity of "acceptance" of the Subdivision Stormwater System for operation and maintenance prior to the establishment of the roads and occupancy of any dwelling units and/or lots on the property serviced by the Subdivision Stormwater System.

8. Operation and Maintenance -- The County shall provide the personnel, vehicles, additional equipment other than provided for above, and materials necessary to operate and maintain the Subdivision Stormwater System and shall keep an accurate record of the costs thereof. Such records shall be open to the inspection of the Developer.

9. Annual Charges -- The County shall be responsible for the collection of fees in accordance with the following schedule:

<u>For each Unit and/or lot connected to the Subdivision Stormwater System</u>	<u>Annual Cost</u>
Single Family Residence	\$ <u>25<sup>00</sup></u> Per Unit

Annual service charges shall be applicable for each unit and/or lot beginning the month following the date of acceptance at the part of the System serving the units as provided above in paragraph 7. The County shall be on a calendar year basis, except that the charge for the first year of service shall be prorated for that portion of the calendar year remaining after service charges become effective. The bill for the first calendar year, or portion thereof, shall be considered delinquent if unpaid within sixty (60) days after the billing date. For each calendar year following the calendar year in which service was commenced, annual billings shall be mailed by February 28th of each year, and shall be considered delinquent if unpaid on April 30th of the same year. All service charges collected shall be deposited in a special fund in the County Treasury to be used only for the purpose of maintaining and operating the facilities provided for herein.

10. Revision of Annual Charges -- The above schedule of annual charges shall remain in force and effect until such time as a revised schedule of charge is approved by resolution of the Board of County Commissioners after public notice of the intention to revise charges and public hearing thereon. The effective date of revised charges shall be as provided by such resolution but no less than thirty days after the adoption of such resolution. The Developer shall be responsible for insuring that all initial occupants of any dwelling unit built on lots within the Subdivision are aware of the provisions within this paragraph concerning fees and also the provisions within paragraph 7 concerning the necessity of the County's acceptance of the System prior to occupancy.

11. Excess or Deficit Costs -- To the extent that the annual charges received from units served by the System exceed the operation and maintenance cost of the system, it is understood and agreed by the parties that said excess monies shall be rebated to each unit. If the annual charges are not sufficient to cover the operation and maintenance costs of the system, the schedule of charges shall be increased as stated in paragraph 10.

12. Delinquent Charges -- Delinquent charges shall bear interest at the rate of twelve percent (12%) per annum, computed on a monthly basis from the date of delinquency as provided in this Agreement. The County shall have a lien as provided in RCW 36.89.090 and Section 9.14.225 of the Spokane County Code.

13. Survival of Covenants and Binding Effect -- All of the promises, covenants, terms and conditions of this agreement shall survive the conveyance hereunder, and this agreement shall extend to and bind the successors and assigns of the respective parties hereto. The terms of this agreement shall be included in the sales agreements conveying any part of the plat Bella Vista Division No. 2.

14. Term -- This agreement shall remain in full force and effect until the date of Conveyance as provided in paragraph 17 herein.

15. Security -- The Developer shall provide to the County in a form approved by the Prosecuting Attorney, Security in the amount of \$42,320. Said Security can be reduced as portions of the project are constructed and approved. Upon acceptance in accordance with Paragraph 7 herein, the Security may be reduced to \$5,000. Security shall remain in effect for one year after acceptance. Said Security will insure and guarantee the faithful performance of all the terms, conditions and requirements of this agreement particularly including, but not limited to, construction and warranties.

16. Tax -- The Developer shall be responsible for paying any and all real, personal, and other taxes as come due and are owing on the Subdivision Stormwater System or real property housing the same until the Subdivision Stormwater System is conveyed as provided for in paragraph 17 herein. In the event that any taxes are not paid when they come due and are owing, the County shall have the right to immediately terminate any of its obligations under this agreement to operate or maintain the Subdivision Stormwater System upon 30 days notice to the Developer, during which time the Developer may cure said breach, and the County reserves the right to pursue any other legal remedies available for the Developer's breach of this provision.

17. Conveyance and Reversion -- The County is in the process of developing a Comprehensive Stormwater Management Program and Plan. It is possible that part or all of this Subdivision Stormwater System may be incorporated into this Plan. At such time as part or all of the Subdivision Stormwater System is proposed to be incorporated, the County will give the Developer 30 days notice of such action. The Developer shall convey such portions of the Subdivision Stormwater System and all rights and appurtenances thereto as necessary. Conveyance shall be at no cost to the County; and shall be accomplished by a Bill of Sale for all real and personal property involved. Those facilities, if any as determined by the County Engineer, no longer necessary for the Subdivision Stormwater System shall be reconveyed and returned to the Grantor.

18. Comprehensive Stormwater Management Program -- The Developer or successor(s) in interest agree to join in any Comprehensive Stormwater Management Program and to pay such rates and charges in addition to or in lieu of those stated in para-



## ATTACHMENT "A"

A parcel of land in the Northeast Quarter of Section 2, T.24 N., R.44 E.W.M., in Spokane County, Washington, described as follows:

Beginning at the southeast corner of the final plat of BELLA VISTA DIVISION NO. 1, as recorded in Volume 17 of Flats, pages 13 through 16, in the Auditor's Office of said County (said point of beginning being a point on the east line of said Northeast Quarter); thence S.00°10'09"W. along said east line a distance of 669.92 feet; thence WEST a distance of 892.79 feet; thence N.02°59'58"W. a distance of 110.28 feet to the beginning of a non-tangent curve concave to the north having a radius of 280.00 feet (to which a radial line bears S.02°59'58"E.); thence westerly along said curve through a central angle of 24°46'40" an arc distance of 121.09 feet to a point of cusp with a tangent curve concave to the southwest having a radius of 30.00 feet (to which point of cusp a radial line bears N.21°46'42"E. from the center of said circle having a 30.00 foot radius); thence southeasterly along said curve through a central angle of 75°01'38" an arc distance of 39.28 feet; thence S.06°48'20"W. a distance of 138.05 feet; thence N.80°38'32"W. a distance of 150.04 feet; thence N.09°36'31"E. a distance of 161.23 feet; thence N.80°38'32"W a distance of 245.70 feet; thence N.09°21'28"E. a distance of 161.87 feet to the beginning of a tangent curve concave to the southwest having a radius of 30.00 feet; thence northwesterly along said curve through a central angle of 84°54'28" an arc distance of 44.46 feet; thence N.75°33'00"W. a distance of 108.46 feet; thence N.14°27'00"E. a distance of 220.00 feet; thence N.75°33'00"W. a distance of 267.18 feet; thence N.88°23'48"W. a distance of 127.65 feet; thence S.81°35'38"W. a distance of 135.80 feet; thence N.14°42'02"W. a distance of 292.82 feet to the southerly boundary of said BELLA VISTA DIVISION NO. 1; thence easterly along said southerly boundary the following five (5) courses:

- 1.) N.63°41'50"E. a distance of 592.95 feet;
- 2.) N.89°47'08"E. a distance of 466.00 feet;
- 3.) S.43°11'16"E. a distance of 204.99 feet;
- 4.) S.01°08'24"E. a distance of 400.39 feet;
- 5.) N.89°47'08"E. a distance of 875.43 feet to the point of beginning.

Containing 32.72 Acres, more or less