

After recording, return to:

RANDALL B. PRINTZ
Landerholm, Memovich,
Lansverk & Whitesides, P.S.
P.O. Box 1086
Vancouver, WA 98666-1086

Space Above for Recording Information Only

DEVELOPMENT AGREEMENT

This Development Agreement (the “Agreement”) is made and entered into by and between the CITY OF CAMAS, a Washington Municipal Corporation (hereinafter referred to as the “City”) CLB Washington Solutions LLC, a Delaware LLC. and Green Mountain Land LLC (hereinafter referred to as the “Owner”) (and collectively referred to as “Parties”).

RECITALS

WHEREAS, Owner owns or controls certain real property which is located within the City’s municipal boundary and which is more fully described in the attached Exhibit “A”, (hereinafter referred to as the “Property”); and,

WHEREAS, the City and the Owner recognize the area of the City known as the North Urban Growth Area (“NUGA”), will develop over a period of many years and the City desires to have parks, trails and open space amenities in the NUGA; and,

WHEREAS, the City’s Parks, Recreation and Open Space Plan (PROS) identifies a “Proposed Neighborhood Park (NP-16)”, which provides: “The City should identify a new neighborhood park to serve future growth within this area of Camas. This location presents an opportunity for a larger neighborhood park that includes a wider range of facilities. In particular, the City should make use of the unique topography of Green Mountain for views of Lacamas Lake and most of northern Camas. The City should develop this site to support trail activities and take maximum advantage of the views.”; and,

WHEREAS, the PROS provides: “There are several areas of planned development in Camas, including north of Lacamas Lake, and towards the northern and western edges of the city. The acquisition of land is critical to providing for future park and recreation needs; and,

WHEREAS, the PROS provides that Neighborhood Parks should be approximately 5-10 acres in size; at least 50% of which is suitable for active use; have good visibility from surrounding streets and have a minimum of 200 feet of street frontage; be relatively central to the area it is intended to serve and be accessible by walking, bicycling or driving with connections to the community trail network; and,

WHEREAS, the park at Green Mountain proposed by the Owner (the “Park”), a description and cost of which is attached hereto as Exhibit B and incorporated by reference herein, is consistent with the PROS Neighborhood Park criteria; and because of that, the City will exercise its best efforts to include the Park in the Park Impact Fee rate base and program which is currently under review for update and amendment by the City; such that upon construction of the Park, it shall be eligible for and receive Park Impact Fee Credits consistent with this Agreement; and,

WHEREAS, the Owner and the City have previously entered into a Development Agreement relating to the Property, which described a variety of potential park and trail features and which in part provides: “It is anticipated that, (assuming appropriate amendments are made to the Parks Plan and Park Impact Fee program that provides PIF credits in an amount acceptable to the Owner) future development phases of the Property shall implement the applicable parks/open space/trail portion of the Master Plan, or something substantially similar thereto. The Parties agree that a park in this area that would in whole or in part be Park Impact Fee Creditable. However, as of the date of this Agreement, specificity as to the size of the park or the extent of improvements of the park; or the amount of Park Impact Fee credits that would be available for park land dedication or construction of improvements has not yet been determined. Because of these factors, the Parties agree to work together through the Parks Plan update and Park Impact Fee program update to arrive at an agreement regarding the size and improvements of the park to be created by the Owner and the amount of Park Impact fee Credits that would be issued to the Owner for the construction and dedication of the park.”

WHEREAS, the Owner has received preliminary and final Planned Residential Development approval for the Property, has been before the Parks Board and wishes to begin construction of a substantial portion of the Park this summer, prior to occupancy of the first homes in the PRD; and,

WHEREAS, the City and the Owner wish to provide predictability and efficiency about the design, cost and delivery of the Park; and,

WHEREAS, the City and the Owner recognize that Owner's construction of the Park will benefit not only the Property, but also other properties in the NUGA; and,

WHEREAS, the City is a Washington Municipal Corporation with annexation powers, and land use planning and permitting authority over all land within its corporate limits; and,

WHEREAS, the Washington State Legislature has authorized the execution of Development Agreements between local governments and a person having ownership or control of real property within its jurisdiction pursuant to RCW 36.70B.170(1); and,

WHEREAS, pursuant to RCW 36.70B.170, a Development Agreement may set forth the development standards and other provisions that shall apply to, govern and vest the development, use and mitigation of the development of real property for the duration specified in the agreement; which statute provides:

(1) A local government may enter into a Development Agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW; and

WHEREAS, the legislative findings supporting the enactment of this section provide:

The legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic cost of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW

36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements; and

WHEREAS, for the purposes of this Agreement, “Development Standards” includes, but is not limited to, all of the standards listed in RCW 36.70B.170(3); and,

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Development Agreement. This Agreement is a Development Agreement to be implemented under the authority of and in accordance with RCW 36.70B.170 through RCW 36.70B.210 and CMC 18.55.340. It shall become a contract between the Owner and the City upon its approval by ordinance or resolution following a public hearing as provided for in RCW 36.70B.170 and CMC 18.55.340; and upon execution by all parties.

Section 2. Term of Agreement. This Agreement shall commence upon the Effective Date (which shall be the date of the last signature on the Agreement), and shall be valid for a period of fifteen (15) years; unless extended or terminated by mutual consent of the Parties.

Section 3. In conjunction with the City’s current process for updating and amending its Park Impact Fee program, the City will exercise its best efforts to place the Park land and associated improvements in the Park Impact Fee program in such a manner that will enable the Owner, upon construction of some or all of the Park improvements or dedication of Park land, to receive Park Impact Fee Credits in amount equal to fifty (50%) of the costs identified in Exhibit B for the corresponding improvements or dedication of land.

Section 4. Because the first building permits are anticipated to be applied for in May 2017; and the first phase of the Park is anticipated to be constructed in the Summer of 2017; and the City’s Park Impact Fee program update is scheduled to be completed in the Fall of 2017, until adoption of the City’s Park Impact Fee Program update, at the time of building permit issuance for any building permits in the Green Mountain PRD, the City shall take and hold in escrow all Park Impact Fees then due. Upon adoption of the City’s Park Impact Fee Program in 2017, the City shall issue any Park Impact Fee Credits then due Owner, if any, and allow such Park Impact Fee Credits to be used to redeem any Park Impact Fees paid in cash up to that point in time; subject to payment of a reasonable administrative fee, if the City determines one is necessary to cover the administrative costs of the escrow described in this Section.

Section 5. Remedies. Should a disagreement arise between the City and Owner regarding the interpretation and application of this Agreement, the parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting proves unsuccessful to resolve the dispute, the disagreement may be resolved by judicial action filed in the Clark County Superior Court.

Section 6. Maintenance/Water Service. While the Park will be owned by the City upon construction of the Park (or some portion thereof) and acceptance by the City, the Owner shall be responsible for Park maintenance, consistent with City park standards, for a period of ten (10) years from City acceptance of the completed improvements, at which time the Owner's obligation to maintain shall cease and the City shall maintain the Park thereafter. Upon construction of the Park, or some portion thereof, the City agrees that it will provide water to the park for irrigation and other park uses, consistent with City park standards, at no cost to the Owner. Nothing in the Section shall be construed to place any obligation on the City to construct any water lines or other water facilities. Any maintenance activities carried out under this Agreement shall be accomplished by non-City employees or non-City contractors. Any and all wages or payments made to any persons or entities arising out of maintenance work under this Agreement shall be paid for by the Owner or its assigns and not the City. The Owner or its assigns shall require any person or entity performing maintenance work under this Agreement, to carry general liability insurance covering such persons or entities and activities. The Owner or its assigns shall indemnify and hold harmless the City for any damages sustained by the City, including reasonable attorney's fees, arising out of the negligence of any person or entity in the performance of the maintenance obligations provided for under this Agreement. Phase 1 park improvements will be completed by the Owner by no later than September 1, 2018, and Phase 2 park improvements will be completed by the Owner by no later than September 1, 2022.

Section 7. Performance. Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the parties' rights hereunder to enforce the same, nor shall any waiver by a party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this non-waiver clause.

Section 8. Venue. This Agreement shall be construed in accordance with and, governed by, the laws of the State of Washington. The parties agree to venue in the Superior Court for Clark County, State of Washington, to resolve any disputes that may arise under this Agreement.

Section 9. Severability. If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

Section 10. Inconsistencies. If any provisions of the Camas Municipal Code are deemed inconsistent with the provisions of this Agreement, the provisions of this Agreement shall prevail.

Section 11. Binding on Successors and Recording. The rights and obligations created by this Agreement are assignable and shall be binding upon and inure to the benefit of Owner,

the City, and their respective heirs, successors and assigns, with the exception that any assignment by Owner shall be consented to by the City, which consent shall not be unreasonably withheld. If Owner properly assigns its rights and obligations under this Agreement and no longer owns any portion of the Property, the City shall release Owner from any further obligation or liability under this Agreement. The rights and obligations created by this Agreement shall also run with the land, but only with respect to those portions of the Property that have not received final plat approval for a subdivision or Site Plan approval for a commercial or multi family development. Only Owner and the City or their assigns shall have the right to enforce the terms of this Amendment. This Agreement shall be recorded against the real property indicated on Exhibit "A" with the Clark County Auditor.

Section 12. Recitals. Each of the recitals contained herein are intended to be, and are incorporated as, covenants between the parties and shall be so construed.

Section 13. Amendments. This Agreement may only be amended by mutual agreement of the parties. Pursuant to RCW 36.70B.170(4), the City reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

Exhibits:

Exhibit "A": Legal Description of the Property

Exhibit "B": Depiction of Park, Park Improvements, and land to be constructed by and dedicated to the City and Engineers estimate of cost.

Remainder of page intentionally left blank

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the dates set forth below:

CITY OF CAMAS

GREEN MOUNTAIN LAND LLC

By _____
Title _____

By _____
Title _____

STATE OF WASHINGTON)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute this instrument and acknowledged it as the _____ of GREEN MOUNTAIN LAND, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2017.

NOTARY PUBLIC for the State of Washington,
Residing in the County of Clark
My Commission Expires: _____

STATE OF WASHINGTON)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute this instrument and acknowledged it as the _____ of the CITY OF CAMAS, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2017.

NOTARY PUBLIC for the State of Washington,
Residing in the County of Clark
My Commission Expires: _____

