

**5272584 AGR**

RecFee - \$78.00 Pages: 6 - KATE'S CLOSE LLC  
Clark County, WA 04/08/2016 11:32



When Recorded, Return to:

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



Parcels: Above Space for Recording Information Only  
125186-000 and 125185-000  
Sec 4, T1N, R3E WM

### **DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into by and between the City of Camas, a Washington Municipal Corporation, ("City,"); and, Kate's Close LLC, ("Kate's") collectively referred to as the "Parties";

### **RECITALS**

**WHEREAS**, a Final Order dated September 26, 2006, was issued by the City of Camas hearing examiner reference City File No. SUB #06-07; and

**WHEREAS**, said Final Order related to a preliminary plat application for certain real property situate at Clark County tax parcel numbers 125186-000 and 125185-000; and

**WHEREAS**, said Final Order included as a condition of approval the following:

22. For Brady Road improvements, the Applicant shall be required to provide standard half-width roadway improvements, subject to sidewalk deviation that has been approved, unless the Applicant may enter into a Development Agreement to pay a fee to the City in lieu of actual construction of those improvements. The fee shall be in the amount of estimated costs of constructing the improvement.

and

**WHEREAS**, Kates owns or controls the property otherwise subject to the Final Order as referenced herein; and

**WHEREAS**, Kate's further owns or controls certain real property located in the City of Camas, Washington, under Clark County tax parcel number 127358-066, more particularly described in the attached Exhibit "A" and is incorporated by reference herein ("the Property"); and

**WHEREAS**, the City intends on making improvements to Brady Road in the vicinity of the Property; and

**WHEREAS**, the City desires to obtain the Property from Kate's for use in conjunction with the Brady Road improvements; and

**WHEREAS**, the City has determined that the collective costs of the conditioned frontage improvements is approximately equivalent to the fair market value of the Property; and

**WHEREAS**, the City provided language in the condition of approval the developer may pay the City the estimated cost of the ½ street improvement in lieu of developer making improvements to Brady Road avoiding waste and maximizing benefit to the City; and,

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

**WHEREAS**, the City, has the authority to enter into Development Agreements pursuant to RCW 36.70B.170; and,

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 is 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; and,

**WHEREAS**, the City is further authorized to enter into Development Agreement pursuant to Camas Municipal Code ("CMC") 18.55.340 and CMC 18.22.060; and,

**NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**Section 1. Development Agreement**

This Agreement is a Development Agreement to be implemented in accordance with RCW 36.70B.170 through RCW 36.70B.210, CMC 18.55.340 and CMC 18.22.060. It shall become a contract between Kates and the City upon the City's approval by ordinance or resolution following a public hearing as provided for in RCW 36.70B.170, CMC 18.55.340 and CMC 18.22 and execution of the Agreement by all Parties.

## **Section 2. Effective Date and Duration of Agreement**

This Agreement shall take effect immediately upon its adoption by the City Council and recording and shall terminate on the earlier of six months from the date of execution by all parties or closing of the sale of the Property to the City, whichever shall occur earlier.

## **Section 3. City Obligation**

The consideration for the transfer shall be the City's assumption of the obligation to construct the Brady Road improvements identified in Engineering condition 22 in SUB #06-07.

## **Section 4. Transfer of Property**

Transfer of the Property shall occur by execution by Kate's Close LLC of a statutory warranty deed to the City of Camas in conjunction with final plat recording of the Subdivision, but in no event later than six months from the date of recording of this Agreement. City shall accept escrowed funds for required improvements that have not been completed at time of final plat. Upon final acceptance of project the funds will be released to Kate's Close, LLC. The City shall assume and pay all closing costs, including any policy of title insurance, associated with recording the Warranty Deed referenced herein.

## **Section 5. Waiver**

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 6. 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 7. Entire Agreement/Modifications**

This Agreement constitutes the entire agreement between and among the Parties with respect to the subject matter herein contained and all prior negotiations, discussions, writings and agreements between the Parties with respect to the subject matter herein contained are superseded and of no further effect, unless expressly provided for in this Agreement. This Agreement cannot be amended or modified without a writing signed by all of the Parties hereto. 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.

**Section 8. Captions**

The captions contained in this Agreement were inserted for the convenience of reference only. They do not in any manner define, limit, or describe the provisions of this Agreement or the intentions of the Parties.

**Section 9. Gender/Singular/Plural**

Whenever masculine, feminine, neutral, singular, plural, conjunctive, or disjunctive terms are used in this Agreement, they shall be construed to read in whatever form is appropriate to make this Agreement applicable to all the Parties and all circumstances, except where the context of this Agreement clearly dictates otherwise.

**Section 10. 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 11. Inconsistencies**

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

**Section 12. Binding on Successors and Recording.**

This Agreement shall run with the land and be binding upon and inure to the benefit of the Parties, and their respective heirs, successors and assigns. This Agreement shall be recorded against the real property situate at Clark County tax parcel numbers 125186-000 and 125185-000.

**Section 13. Recitals.**

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

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

CITY OF CAMAS, WASHINGTON

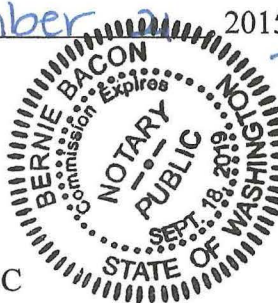
By (person signing) Scott Higgins  
Title Mayor

Date 12/21/15

STATE OF WASHINGTON )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that Scott Higgins 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 Mayor 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: December 21, 2015.



Bernie Bacon  
NOTARY PUBLIC for the State of Washington,  
Residing in the County of Clark  
My Commission Expires: 9/18/19

KATE'S CLOSE LLC

[Signature]

By (person signing) RONALD LEE CARL Date 12-30-15  
Title MANAGER

STATE OF WASHINGTON )  
 ) ss.  
County of \_\_\_\_\_ )

Please See Attachment

I certify that I know or have satisfactory evidence that David Lugliani signed this instrument, on oath stated that he was authorized to execute this instrument on behalf of Kate's Close LLC, and to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_, 2015.

\_\_\_\_\_  
NOTARY PUBLIC for the State of \_\_\_\_\_  
Residing in the County of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

CALIFORNIA NOTARY ACKNOWLEDGMENT

For An Individual Acting In His/Her Own Right:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 ) ss.  
County of Orange )

On 12-30-15 before me, Shrenik A Shah Notary Public, personally appeared  
Ronald Lee Carl

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

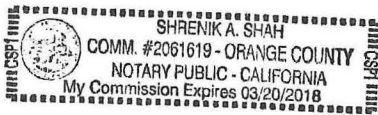
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

[NOTARIAL SEAL]

Shrenik A Shah, Notary Public  
Signature

Shrenik A Shah  
Print Name



My commission expires: 03-20-2018

HEL6850CA (1/15)