

ATTACHMENT K:  
PRELIMINARY DEVELOPMENT  
AGREEMENT

After recording, return to:

STEVE C. MORASCH  
Landerholm, P.S.  
P.O. Box 1086  
Vancouver, WA 98666-1086

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Tax Lot 986028830, 986030206, 986028825,  
986030202, 986030201 and 258641000  
SE ¼ Section 33, T4N, R1E WM

Space Above for Recording Information Only

### **DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into by and between the City of La Center, a Washington Municipal Corporation, ("City,"); and, ECM Riverside LLC, ("ECM") collectively referred to as the "Parties";

### **RECITALS**

WHEREAS, on or about October 17, 2017 the City of La Center Land Use Hearing Examiner approved the subdivision known as Riverside Estates Subdivision, City File No. 2017-0007-SUB, as amended by the Post Decision Review in City File # 2018-010-PDR (Collectively and, as amended, the "Final Order"); and

WHEREAS, said Final Order pertains to certain real property situated at Clark County tax parcel numbers 986028830, 986030206, 986028825, 986030202, 986030201 and 258641000 (the "ECM Property"); and

WHEREAS, ECM owns or controls the ECM Property subject to the Final Order as referenced herein; and

WHEREAS, Condition A.19 of the Final Order requires the developer of the ECM Property to enter into a development agreement with the City that is consistent with the draft development agreement presented to the Hearings Examiner, and the purpose of the development agreement was to ensure compliance with the City's requirements for parks and unity types and densities;

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:

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 La Center Municipal Code ("LCMC") 18.60; 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, LCMC 18.60. It shall become a contract between ECM and the City upon the City's approval by ordinance or resolution following a public hearing as provided for in RCW 36.70B.170, LCMC 18.60 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 have a term of five years.

**Section 3. Parks and Open Spaces**

As shown on the site plan attached as Exhibit A-1 and incorporated herein, Phases 1 and 2 exceed the minimum requirements for parks and open spaces per LCMC 18.47.030(a)(ii), and the excess amount of parks and open spaces provided in Phases 1 and 2 is sufficient to meet the parks and open spaces requirement for Phase 3 for up to 75 units. ECM agrees to construct the parks as shown on attached Exhibit A-1.

The parks shown on Exhibit A-1 meet the provisions of LCMC 18.147.030 as follows: Due to the topography of the site, ECM is locating parks in the flattest areas to help maximize open space and access for park visitors. Also due to the large nature of the development (182

units) splitting park areas up throughout the site will help maximize park usage. The purpose of the 40% frontage requirement is to allow for visibility for public safety. Tract F has a pump station access road that provides visible access into the park site as the topography slopes gently downhill. Concurrently with the recording of the plat for Phase 1, ECM shall provide an interim trail connection to Tract F as shown on Exhibit A-1 that will be removed with the construction of NW 11<sup>th</sup> Street in Phase 2. Tract A has park visibility from two separate roads which allows for visibility into the site. Tract A is also considered drivable as there is an access road to the stormwater pond. Additionally, ECM shall provide one or more security cameras on light poles within Tract A and shall dedicate easements benefitting the City of La Center for access to these cameras so the police department may use and maintain the cameras.

ECM shall construct amenities for parks with each phase as set forth in the attached Exhibit B.

#### **Section 4. Phase 4.**

The parties are negotiating for Phase 4 to be developed as a City park. Any future development of Phase 4 other than as a City park shall require a new land use/subdivision approval that meets all applicable regulations in effect on the date such an application is submitted.

#### **Section 5. Trail Relocation.**

Condition 16 of the Final Order requires a trail and buffer along the western boundary of the site. However, the location of the trail referred to in condition 16 of the Final Order is no longer feasible due to the discovery of the extent of the wetlands that occurred after the Final Order was issued. Therefore, Condition 16 of the Final Order is modified to relocate the trail from the western boundary of the site to the eastern boundary of Phase 3 (the buffer shall remain on the western edge of the site). Prior to or concurrently with any conveyance of Phase 3, an easement shall be recorded for the trail in the approximate location as shown on Exhibit C. Except for the trail relocation, the buffer and trail requirements of Condition 16 shall remain in effect unless modified through the land use process. Any further modification of Condition 16 shall require a land use approval by the City of La Center following the applicable City post decision review procedures for modifying a condition of approval.

#### **Section 6. Phasing and Density.**

Development of the ECM Property is proposed to occur in phases. LCMC Table 18.140.030, Footnote 1 requires each phase of phased project shall meet the net density requirement on LCMC Table 18.140.030. The first phase of development shall meet or exceed the required density standard. If the first phase exceeds the maximum net density allowed each subsequent

phase must demonstrate that the overall density of the ECM Property falls within the net density range project allowed in LCMC Table 18.140.030.

### **Section 7. Design Standards and CC&Rs.**

ECM shall provide CC&Rs for the development to City staff for review and approval, which shall be recorded concurrently with the recording of the final plat for Phase 1. The CC&Rs shall contain provisions that comply with the design standards of LCMC 18.140.040(1). ECM shall include a provision in the CC&Rs relating to maintenance that complies with LCMC 18.147.050 and shall include a provision requiring the home owners association to pay the City of La Center the monthly costs of maintaining the security cameras referenced in Section 3, above.

### **Section 8. Types of Units**

ECM shall comply with LCMC 18.140 and shall plat the subdivision in compliance with Exhibit A-2. As shown on Exhibit A-2, the development meets the density and housing types requirements of LCMC 18.140.030(4), which requires no more than 75% of any single housing type. Phases 1 and 2 are single family detached housing phases and these two phases combined have 182 units, which shall not exceed 75% of the total units in the subdivision. Phase 3 shall be apartments as conceptually shown in exhibit A-3 and shall consist of a minimum of 62 units and a maximum of 155 units, which shall not be less than 25% (nor more than 75%) of the total number of units in the subdivision.

ECM shall create a note on the preliminary and final plat requiring a minimum of 62 dwelling units (25% of the total units) to be other than single family detached units.

### **Section 9. Multi-family clusters.**

Multifamily attached housing is generally not permitted in clusters of greater than 10 dwelling units. (LCMC 18.140.060(1).) However, the Final Order approved a modification to this standard in Condition 19 by requiring the applicant to enter a development agreement with the City that was “consistent with the current draft agreement.” The draft agreement that was provided to the Hearings Examiner included a provision to modify the standard of LCMC 18.140.060(1) to allow attached structures that exceeded the limit of ten units per structure, provided that the overall density does not exceed 16 net units per acre. Therefore, development of Phase 3 may exceed the limit of ten units per attached structure, provided that the overall density of the ECM Property does not exceed the 16 net units per acre. However, the parties agree that the development of phase three may not exceed 24 units in any single building and the building height shall be limited to forty three feet one inch (43’, 1”). Conceptual elevations and renderings of the multi-family buildings are attached as Exhibit D.

**Section 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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.



\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

