

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“**Agreement**”) is made and entered into as of this \_\_\_\_\_, 2025, by and between the CITY OF LYNNWOOD, a Washington municipal corporation (“**City**”); and LYNNWOOD PUBLIC FACILITIES DISTRICT (“**District**”), a Washington municipal corporation. The City and the District are each a “Party” and collectively the “Parties” to this Agreement.

### RECITALS

- A. The Washington State Legislature has authorized the execution of development agreements between a local government and an entity having ownership or control of real property within its jurisdiction, pursuant to RCW 36.70B.170 through 36.70B.210 (“**Development Agreement Statute**”). This Agreement is authorized pursuant to the Development Agreement Statute and Lynnwood Municipal Code (“**LMC**” or “**Code**”) Chapter 8.90.0430, as established by Ordinance 3481.
- B. The District owns approximately 12.83 acres of real property, commonly known as the Lynnwood Event Center (“**Property**”), located at 3711 196th Street SW, as more fully described in Exhibit A and depicted on Exhibit B to this Agreement. The Property is located within the City’s City Center - Alderwood Subarea (“**City Center**”). The City’s Future Land Use Map designates the Property as “City Center,” and the Property is zoned as “City Center” under Ordinance No. 3476 adopted on January 27, 2025.
- C. The Property has been used by the District for operation of the Lynnwood Event Center (“**Event Center**”), constructed in 2005 as an approximate 64,000 square foot convention center. The balance of the Property has been used by the District’s tenants for a variety of retail, restaurant, and service-related uses.
- D. On September 9, 2004, the City published a Final Supplemental Environmental Impact Statement (“**FSEIS**”) for the City Center Subarea Plan. On March 14, 2005, the City adopted the City Center Subarea Plan as an amendment to the City’s Comprehensive Plan pursuant to Ordinance 2553.
- E. On May 14, 2012, Lynnwood City Council passed Ordinance No. 2943 adopting the City Center Planned Action Ordinance (“**2012 Planned Action**”) and enacting LMC 17.02.300, to provide for a streamlined entitlement review of development projects within the City Center that are consistent with the 2012 Planned Action and the environmental impacts evaluated and mitigation measures identified within the geographic and density level scope of the FSEIS.
- F. On September 12, 2022, Lynnwood City Council passed Ordinance 3425, amending the 2012 Planned Action to allow for additional development in the City Center (“**Planned Action**”).

- G.** On April 23, 2025, the City published a Final Environmental Impact Statement for the City Center - Alderwood Subarea Plan (“**FEIS**” and collectively with the FSEIS and all addenda, “**City Center EIS’s**”). On June 23, 2025, the City adopted the City Center - Alderwood Subarea Plan as an amendment to the City’s Comprehensive Plan pursuant to Ordinance 3482. The City Center Subarea Plan and City Center - Alderwood Subarea Plan shall be collectively referenced as the “**City Center Plan.**”
- H.** The District is planning to redevelop the Property with a mix of land uses consistent with the Planned Action (“**Project**”). The Project will include expansion of the Event Center to accommodate larger conventions and events therein, such as indoor/outdoor concerts and other entertainment, and construction of a plaza and open space, a structured parking garage, new public rights-of-way, private interior roads, and other necessary infrastructure to support redevelopment of the balance of the Property.
- I.** The District also intends to lease or sell individual pads on the Property to accommodate multifamily housing units, hotel, retail, restaurant, and office uses as part of the Project.
- J.** The District and the City desire to cooperate on design and construction of the extension of 194th Street SW (“**194th Street**”), as well as design and construction of 38th Avenue W (“**38th Avenue**”), on the Property.
- K.** The District has prepared a conceptual master plan to develop the Project over time (“**Master Plan**”), as depicted in Exhibits C-1 through C-37 to this Agreement.
- L.** Environmental impacts of the Project were identified, considered and mitigation measures proposed through the City Center EIS’s, the Planned Action, and mitigated determination of nonsignificance for the Project issued on \_\_\_\_\_.
- M.** The City has established a Tax Increment Financing Program (“**TIF**”) pursuant to Ordinance No. \_\_\_\_\_ for the purpose of financing designated City-owned public improvements and designated the Ring Road Project, defined in Section 1.13, as one of the TIF-funded projects, for which the City has allocated ten million dollars (\$10,000,000) from TIF to be used to finance the Ring Road Project.
- N.** Completion of the Project consistent with the Master Plan will promote the goals and policies of the Comprehensive Plan and City Center Plan.
- O.** The City has determined that the terms and conditions set forth herein will provide public benefits to the City, will serve the public interest, and are consistent with the purposes set forth in chapter 8.90 LMC to promote the general welfare and prosperity of the City by balancing the public and private interests and providing reasonable certainty for development of the Project.
- P.** By this Agreement, the Parties intend to set forth their mutual agreement and understandings as they relate to their respective roles and responsibilities regarding the

District's redevelopment of the Property, and thereby facilitate the permitting and construction of the Project.

## **AGREEMENT**

### **1. Definitions**

1.1. “**Active Use Space**” means an establishment authorized by the Vested Code Provisions that promotes high foot traffic and engages in any of the following:

1.1.1. Retail sale of goods and services to an individual consumer for their own use including but not limited to soft and durable goods and services, grocery, food and beverage, health, and personal care products, cut flowers and potted plants, and other activities involving retail sales;

1.1.2. Personal care services that provide appearance and body care to individuals such as barber and beauty shops, skin and nail care, tanning, health spas, massage and similar care services;

1.1.3. Pet care services that provide boarding, grooming, training, veterinarian and similar services for pets;

1.1.4. Outpatient healthcare services that provide medicine and dentistry to individuals, excluding hospitals and medical centers and other facilities providing overnight care;

1.1.5. Indoor fitness facilities;

1.1.6. Financial and banking services;

1.1.7. The preservation and exhibition of objects of historical, cultural, creative skills and imagination (art) and/or educational value (e.g., museums and art galleries);

1.1.8. Municipal services;

1.1.9. Higher education;

1.1.10. Amusement centers;

1.1.11. Motel and hotel lobbies; and

1.1.12. Child day care.

1.2. “**Agreement**” means this development agreement as may be amended in accordance with the terms hereof.

1.3. “**Binding Site Plan**” or “**BSP**” means a binding site plan as defined by RCW 58.17.020(7); and LMC 19.10.020.

1.4. “**Certificate of Occupancy**” means final inspection and certification by the City that the Project is in compliance with the International Building Code, the LMC, and other ordinances enforced by the City.

1.5. “**City Council**” means the City Council of the City.

1.6. “**Design Review**” means the Project Development Review process of the City as administered by its Development & Business Services Department under Chapter 8.90.0720 of the LMC.

1.7. “**Development Regulations**” means those portions of the LMC, Lynnwood Comprehensive Plan, Lynnwood City Center + Alderwood Subarea Plan, Lynnwood Zoning Map and Use Tables, City Center Design Guidelines, City Center Streetscape Plan, City Center Standard Plans, Lynnwood Engineering Design Manual, and any implementing policies, regulations, standards, procedures or guidelines addressing the zoning, land use, site design, building construction, utilities, stormwater, transportation concurrency, environmental review (including SEPA procedures and substantive authority), landscape, signage, permitting, planning, multiple-unit housing property tax regulations, traffic impact fees, park impact fees, and other elements that govern real estate development within the City. A term defined in the Development Regulations shall have the meaning assigned to it within the Development Regulations.

1.8. “**Event Center**” means the existing convention center located on the Property and owned by the District.

1.9. “**Force Majeure**” means any circumstances or acts beyond the reasonable control of the Parties to this Agreement which do not arise from a default by or collusion of the Party seeking delay.

1.10. “**LMC**” means the City of Lynnwood Municipal Code.

1.11. “**Master Plan**” means the conceptual master plan collectively depicted and addressed in Exhibits C-1 through C-37 to this Agreement, as may be amended or revised from time-to-time as specified in this Agreement.

1.12. “**Planned Action**” means the designation made by the City Council pursuant RCW 43.21C.440 and WAC 197-11-164 through 172, through adoption of Ordinance No. 2943, and thereafter amended by Ordinance 3425.

1.13. “**Ring Road Project**” means future public right-of-way known as 194th Street and 38th Avenue located on the Property, as depicted in Exhibit C-2, including but not limited

to, the Public Stormwater Lines, Public Water Lines, retaining walls north of 194th Street, and a traffic signal at the intersection of 194th Street and 36th Avenue.

1.14. **“Occupiable Space”** is given the same definition as the Vested Code Provisions, and means spaces for uses such as retail, office, residential, personal service shops, customer serving offices, restaurant, entertainment, and the like. Structured parking and self-service storage facilities (mini-storage and similar spaces designed to contain objects, not persons, as the primary use) are not considered occupiable space.

1.15. **“Property”** means the real property as described in the legal description as referenced in this Agreement and attached as Exhibit A.

1.16. **“Project”** means the proposed development of the Property as described in Section 2 of this Agreement, to include a mix of uses, types and density of development, infrastructure, signage, and amenities consistent with the Master Plan and this Agreement.

1.17. **“SEPA”** means the Washington State Environmental Policy Act, RCW 43.21C and WAC 197-11.

1.18. **“Vested Code Provisions”** means those Development Regulations and land use controls in effect as of the Effective Date of this Agreement, except as provided in Sections 14.2 and 14.3.

## **2. Project Description**

2.1. **Allowable Development Capacity.** The District shall have the right to develop the Project, redeveloping the Property up to the collective capacity set forth under one of the following alternatives for the Master Plan, each of which shall be referenced as the **“Allowable Development Capacity”**:

### **2.1.1. Alternative A:**

- 182,800 square feet of convention center use
- 550 multifamily residential units, which may be apartment, townhouse, or condominium uses as determined in the District’s sole discretion;
- 151,430 square feet of commercial uses (including but not limited to retail, restaurant, entertainment, spa, office uses permitted by LMC);
- 412 hotel units.

### **2.1.2. Alternative B:**

- 182,800 square feet of convention center use;
- 795 multifamily residential units, which may be apartment, townhouse, or condominium uses as determined in the District’s sole discretion;
- 151,430 square feet of commercial uses (including but not limited to retail, restaurant, entertainment, spa, office uses permitted by LMC)

2.1.3. The Project also includes:

- Parking for residential and non-residential uses listed above
- Plaza and open space improvements as provided in Section 5.2
- Transportation improvements as provided in Section 9
- Utility improvements as provided in Section 7 and Exhibits C-31, C-23, and C-33

2.2. **Flexibility of Master Plan.** As a component of this Agreement, the City Council has approved the Master Plan set forth in Exhibits C-1 through C-38. The Project, as shown in the Master Plan, is intended to be an overall master development approval and is considered a conceptual guide by which development of the Project should conform. Depictions of building footprints, land use densities, locations of residential and non-residential uses, bulk and scale, height or other design features shown in the Master Plan are illustrative only, except that the District shall provide ground floor facing street frontage as specified in Section 5.1 and depicted in Exhibit C-7 and open spaces/public plazas as specified in Section 5.2 and depicted in Exhibit C-8. Approved uses in the Master Plan may be transferred and located anywhere on site and the densities of uses may be modified, including increasing or decreasing the square footage of land uses allowed, so long as the resulting proposal generates the same or lesser trips as the Allowable Development Capacity for Alternative A, as shown on the transportation analysis accompanying the Master Plan and remains within the City Center EIS's and Planned Action envelope and consistent with the Vested Code Provisions (as defined herein), as provided below.

2.3. **Additional Development Capacity.** The City and the District recognize Sound Transit Lynnwood Link light rail service to the Lynnwood City Center Station may result in reduced vehicular traffic and/or mode shifts that would support further increases in transit-oriented development density. The District may request a modification in the Allowable Development Capacity if the District can provide the City with information supporting the adjustment request including: (1) transportation impact analysis demonstrating increased transit and multi-modal ridership and a decrease in vehicular ownership or usage; (2) compliance with the Planned Action and intent of the City Center Plan; and (3) other relevant factors as may be reasonably requested by the City. Based on the foregoing criteria, the City may administratively and upon review and approval of the Development & Business Services Director and Public Works Director approve an increase in the Allowable Development Capacity of no more than 10 percent. If approved, the Allowable Development Capacity shall be amended accordingly; however, all other provisions of the Agreement remain in full effect. Adjustments of more than 10 percent of the Allowable Development Capacity shall be governed pursuant to Section 15.3.

2.4. **Phasing.** The District may elect to construct the Project in one or more Project-phases. The baseline phasing sequence for the Project provided in Exhibit C-5 ("**Baseline Phasing Plan**") identifies the District's desired sequence for constructing the Project, generally described as follows: Phase 1-Demolition/Site Remediation/Public Roads; Phase

2-Multifamily; Phase 3-Event Center/Structured Parking Garage/Retail Plaza; Phase 4-Hotel. The Baseline Phasing Plan may be modified as provided below:

2.4.1. **Modified Phasing Plan.** If the District elects to develop one or more multifamily buildings prior to construction of 194th Street, the District may utilize the modified phasing plan (“**Modified Phasing Plan**”) shown in Exhibit C-6.

2.4.2. **Other Phasing Plan Modifications.** The District may modify the Baseline Phasing Plan or the Modified Phasing Plan to facilitate development of the Project, including additional or alternative temporary, interim, or phased conditions, subject to approval through the letter of concurrence process identified in Section 15.1, provided the Development & Business Services Director, after consultation with the Public Works Director, concurs that adequate vehicular, pedestrian, fire, and other life/safety access is provided with said modification.

### **3. SEPA Compliance**

The City has adopted the Planned Action Ordinance pursuant to the City Center FSEIS. Additionally, the City issued the Planned Action Final Environmental Impact Statement for the Draft City Center + Alderwood Subarea Plan and adopted the City Center + Alderwood Subarea Plan on June 23, 2025. The Project is within the scope of the maximum anticipated level of development in the Planned Action and within the scope of environmental mitigations identified and conditioned to mitigate that anticipated maximum level of development in the City Center EIS’s. The Parties agree that the environmental impacts stemming from the Project and Master Plan have been analyzed by the Planned Action, the City Center EIS’s, and the Mitigated Determination of Nonsignificance for the Project. Except as provided in Section 3.2, individual projects implementing the Master Plan and this Agreement shall be considered to have been reviewed pursuant to SEPA and no individual SEPA determination for a Project or Project-phase shall be required, nor shall additional conditions be imposed under the City’s SEPA authority. SEPA compliance for any Project or Project-phase shall be limited to the submittal of a Planned Action SEPA process checklist per LMC 17.02.300.

3.1. **SEPA Mitigation.** Mitigation specified in the Planned Action and City Center EIS’s serve to adequately address the environmental impacts of the Project. Consistent with this Agreement, no additional SEPA mitigation shall be imposed for any Project or Project-phase.

3.2. **Additional SEPA Review.** Any application for development that exceeds the Allowable Development Capacity, including any modifications as provided in Section 2.3, may, in the City’s SEPA Responsible Officials’ discretion, require additional SEPA review consistent with the Vested Code Provisions.

### **4. Project Design and Approvals**

4.1. **Binding Site Plan or Subdivision:** The Parties agree that a Binding Site Plan or Subdivision is necessary for development of the Project in accordance with LMC Title 8

and RCW Chapter 58.17. The Property shall be deemed “classified for commercial use” as this term is used in RCW 58.17.040(4) for the purpose of legally dividing the property through administrative approval of one or more binding site plans. The Binding Site Plan will identify the property boundary, interior parcel lot lines, common infrastructure, parking areas, and associated private codes, covenants, and restrictions (“CC&Rs”). The Binding Site Plan is intended to allow land tenants and building owners to develop individual parcels in accordance with the Vested Code Provisions, City administrative approvals, CC&Rs and such other conditions as may be a part of the Agreement or other actions or conditions of approval by the City. Upon approval by the City, the Binding Property Plan will be recorded with the Snohomish County Auditor's Office.

4.2. **Project Review:** The District shall be responsible to apply for Design Review and associated permits, including but not limited to applications for planning and zoning permits, clearing and grading permits, tree permits, building permits and other such permits and approvals required under the LMC and necessary to authorize development of the Project or each respective Project-phase (“**Project Entitlement Application**”). Each Project Entitlement Application must demonstrate consistency with the Vested Code Provisions and this Agreement, including any Design Departures and Transportation Departures as provided herein. The City will review the Project Entitlement Application as provided by the LMC; however, the Parties may agree to expedited review procedures for a Project Entitlement Application subject to the District’s commitment to pay for expedited permitting review.

## 5. **Design Departures**

Pursuant to RCW 36.70B.170 et. seq. and LMC 8.90.0430.E, the City has approved the modifications to the Vested Code Provisions specified in this section. Any Project Entitlement Application shall be reviewed against the modifications. All other Vested Code Provisions shall still apply.

5.1. **Ground Floor Use Limitations.** The Project may depart from LMC 8.30.0420.C as follows: Structured parking may occupy the ground floor of a building; provided, that the ground floor space facing street frontage within the Master Plan shall consist of: (1) a minimum of 65 percent of Active Use Space in areas shown in green on Exhibit C-7 (fronting 37th Avenue West and the Woonerf shown on Exhibit C-1); and (2) a minimum of 60 percent of Occupiable Space in areas shown in blue on Exhibit C-7 (fronting 196th Street SW); and (3) a minimum of 20 percent of Occupiable Space in areas shown in orange on Exhibit C-7 (fronting 194th Street, 38th Avenue, and between the parking garage and hotel shown on Exhibit C-1).

5.2. **Open Space.** The Project may depart from Section 1.K.1 of the City Center Design Guidelines (“CCDG”) as follows: The Master Plan shall include open space / public plazas in an amount at least equal to one (1) percent of the sum of the square feet of building area and the square feet of site area, as shown in Exhibit C-8. Compliance with CCDG Section 1.K.1 shall be based on completion of the entire Master Plan and not determined by completion of individual phases.



5.3. **Setbacks.** The Project may depart from LMC 8.30.420.E.1.2, 8.30.420.E.1.3, and the open space/public plazas provisions in CCDG Section 1.K as follows: Structures developed consistent with the street setbacks shown in Exhibit C-9, which depicts building footprints within the southwest quadrant of the Master Plan area along 196th Street and for the Retail Buildings immediately adjacent to the existing Event Center, shall be allowed within the Master Plan.

5.4. **Building Heights.** The Project may depart from LMC Table 8.30.27. as follows:

5.4.1. **Maximum Height.**

5.4.1.1. Maximum building height shall be 35 feet for any portion of a building within the Project that is 100 feet or less from a residential zone (“**100-Foot Residential Setback**”), and

5.4.1.2. Maximum building height of any portion of a building within the Project shall be 100 feet or less from that portion of the property located between the 100-Foot Residential Setback to a line 360 feet north of the centerline of 196th Street.

5.4.2. **Minimum Height.** Buildings containing an Active Use on the ground floor (“**Retail Buildings**”) shall not be subject to a minimum building height. Upper stories of Retail Buildings may contain any use allowed in the Vested Code Provisions. Retail Buildings that are not subject to a minimum building height shall only be allowed in that portion of the District Master Plan shown in Exhibit C-14 (“**Event Center Block**”). The Event Center Block includes a portion of land not currently owned by the District. As such, the parties acknowledge that this modification shall only apply on those portions of the Event Center Block owned now, or in the future, by the District. The location of the Retail Buildings will be subject to review by the City at the time of building permits.

5.5. **Signage.** The District will prepare a master signage program for the Master Plan (“Master Signage Program”). Through the letter of concurrence process specified in Section 15.1, the Development & Business Services Director shall be authorized to approve deviations to the following Vested Code Provisions for the Master Signage Program:

5.5.1. **Mural signs.** The Master Signage Program may be authorized to deviate from LMC 8.40.0870.G. by allowing mural signs, provided that:

5.5.1.1. Use of the Property for on-premise or off-premises business names shall not exceed 10% of the mural sign square footage;

5.5.1.2. Mural signs shall not otherwise contain any off-premise commercial messages, including but not limited to advertisements for businesses, products, or services not located on the Property.

5.5.1.3. Mural signs for on-premises businesses must comply with the size limits for wall signs in Section 5.4.4 and may include artistic or illustrations and references depicting names, products, or services in abstract, artful ways that depict the service, values, or mission of a brand in subtle, creative ways, further provided that such depictions are not primarily promotional in nature.

5.5.1.4. Mural signs proposed by Future Owners or tenants within the Master Plan must be approved by the District; and

5.5.1.5. District-approved mural signs must be reviewed by the City's Arts Commission for recommendation to the Development & Business Services Director, who shall make the final determination to approve a mural sign.

5.5.2. **Monument signs.** The Master Signage Program may be authorized to deviate from LMC 8.40.0830.B. as follows:

5.5.2.1. Minimum Setback: Leading edge of monument signs may be located a minimum distance of six and one-half (6.5) feet from the street right-of-way.

5.5.2.2. Height: Monument signs must be no more than six and one-half (6.5) feet high at the minimum setback from the street right-of-way and one additional foot in height for each one foot back in a perpendicular line from the street.

5.5.2.3. Area Maximum: Maximum message area shall not exceed 150 square feet per side and may be located anywhere within the Property. No area limit shall apply to the non-message areas of the sign.

5.5.2.4. Quantity: The Master Signage Program may include up to four monument signs on the Property.

5.5.2.5. Sight Triangles: All deviations to the requirements of LMC 8.40.0830.C remain subject to the driveway and intersection sight triangle requirements of LMC 8.40.0330.

5.5.3. **Ground signs.** The Master Signage Program may be authorized to deviate from LMC 8.40.0830.C. as follows:

5.5.3.1. Height: Ground signs shall not exceed a maximum of eight (8) feet in height.

5.5.3.2. Area Maximum: Maximum message area shall not exceed 30 square feet per side. No area limit shall apply to the non-message areas of the sign.

5.5.3.3.Quantity: The Master Signage Program may include up to nine (9) ground signs on the Property.

5.5.3.4.Sight Triangles: All deviations to the requirements of LMC 8.40.0830.C remain subject to the driveway and intersection sight triangle requirements of LMC 8.40.0330.

5.5.4. **Wall signs.** The Master Signage Program may be authorized to deviate from LMC 8.40.0830.D. as follows:

5.5.4.1.Frontage Area: The total allowable area for wall signs, including mural signs, is one and one-half (1.5) square feet per lineal foot of building frontage facing public streets and one (1) square foot per lineal foot of building frontage facing private streets and pedestrian streets.

5.5.5. **Projecting signs.** The Master Signage Program may be authorized to deviate from LMC 8.40.0830.E. as follows:

5.5.5.1.Height. The vertical dimension of projection signs shall not exceed 20 feet. For two-story or less buildings, projecting signs may extend above the parapet up to 15% of the building's total height. For buildings that are three or more stories, projecting signs must not exceed the parapet.

5.5.6. **Gateway Signs.** The Master Signage Program may be authorized to deviate from LMC 8.40.0830 as follows:

5.5.6.1.Signage Type: Establish a new sign typology for gateway signage identifying the name of the Property, and which may take the form of a street spanning arch or similar structure marking the entrances to the Property or areas within the Property. Examples images of gateway signs are shown in Exhibit C-15.

5.5.6.2.Height: Where spanning private access or fire lanes, gateway signs shall provide a minimum vertical clearance of 13.5 feet or meet the applicable clearance requirements of the Lynwood Fire Department, whichever is greater.

5.5.6.3.Quantity: The Master Signage Program may include up to two (2) gateway signs on the Property.

5.5.6.4.Location: The District shall be allowed to locate gateway signs anywhere on the Property, provided such signs shall not be permitted to extend over or span any public rights-of-way.

5.5.6.5. Subject to Additional Fire Code Official Approval: The final placement and design of all gateway signs, including any arching structures over public or private streets, shall be subject to review and approval by the fire code official to ensure compliance with applicable safety and access standards.

5.5.7. **Building or Property Names.** Signage which contains certain named buildings within the Master Plan and/or the designated name of the Property shall not be considered off-premises signs, even if the name of the building or the Property is also the name of a business, product, person, service, or commercial activity that does not take place within the Master Plan.

5.6. **City Center Design Guidelines.** The existing Event Center design complies with the intent and principles of the CCDG and no alterations to the existing facades are required for compliance with the CCDG pursuant to LMC 8.90.0950.A (nonconformance with design standards set forth in LMC Chapter 8.45 are not subject to LMC 8.90 Article 09). The following alternative process for compliance with the CCDG, listed in Table 5.6, applies to expansion of the Event Center. Additional deviations from the CDDG not listed in Table 5.6 may be mutually agreed upon by the District and the City, consistent with the process set forth in LMC 8.45.0110.D.1.A.

**Table 5.6.: City Center Design Guideline Modifications Applicable to the Event Center Expansion**

CCDG Section	Applicable Standard
A. Architectural Materials	Standards applicable to the east façade ground floor at the Event Center loading dock must be consistent with the overall theme of the building materials but may prioritize durability and cost-effective materials over strict compliance with design guideline material palette and guidelines.
C. Street Level: Street-Facing Entrances	Exceptions from standard entrance spacing and orientation requirements due to building massing and site constraints for deviations that still achieve the intent of the CCDG are allowed.
D. Street Level: Transparency	Remove transparency requirements on the east façade due to the functional requirements of the loading dock area. Reduce transparency requirements along the other parts of the eastern façade where the functional requirements of this façade make it unfeasible.

E. Street Level: Weather Protection	Allow alternative compliance in areas where landscape buffers exist between the building and sidewalk or where canopies may not be feasible, appropriate, or necessary.
F. Street Level: Details	Not applicable to the Event Center expansion.
G. Middle Stories	Not applicable to the Event Center expansion.
H. Upper Stories	Not applicable to the Event Center expansion.
I. Roofline Expression	Flexibility in roofline treatments in recognition of the Event Center's unique program and existing architectural character is allowed.
J. Treating Blank Walls	Eastern ground floor face exempt from blank wall requirements along the eastern service and loading areas on this façade.
M. Gateway Locations	Not applicable to the Event Center expansion.
Other Deviations not listed	Other deviations not listed in Table A1 may be authorized upon mutual agreement by the District and the City, and pursuant to LMC 8.45.0110.D.1.A.

## 6. **Transportation Departures**

6.1. **Off-Site Parking.** The Project may depart from LMC 8.40.0740 as follows: The distance allowed for off-site parking shall be 2,640 feet (1/2 mile) for special events, as defined in the Vested Code Provisions, that are subject to a special event permit under LMC Chapter 5.30. The maximum distance of 1,000 feet for off-site parking applies to land uses within the Master Plan that are not special events.

6.2. **Surface Parking.** The Project may depart from CCDG, Section I.B. as follows: New and existing surface parking lots may be used on an interim basis for the purpose of overflow, residential uses, and non-residential uses at any location within the Master Plan as Project-phases are under development and until such time as the structured parking garage has been constructed. Interim parking areas may be unpaved and without curbs and use gravel surfacing. Interim sidewalks may be paved with asphalt. Interim walking paths may use gravel or woodchips.

6.3. **Design Standard Modifications for 194th Street.** The Project may depart from the Vested Code Provisions applicable to 194th Street as indicated in Table 6.3 and shown in the corresponding exhibits.

**Table 6.3: Design Standard Modifications for 194th Street**

<b>Component</b>	<b>Applicable Standard</b>	<b>Exhibit</b>
Sidewalks	Sidewalks provided only on south and east sides of 194 <sup>th</sup> Street	C-17
	10 feet on south (east) side only	C-17
Right-of-way Width	56-foot wide right-of-way provided for 194 <sup>th</sup> Street	C-17
Driveway Spacing	Reductions from the 75-foot minimum standard may be administratively approved by the City. Reduced driveway spacing shall not impair sight distance or compromise safe intersection operations, as determined through City engineering review. If cumulative driveway density or operational impacts are found to adversely affect circulation or safety, the City may require appropriate access control measures, including but not limited to: (1) right-in/right-out turn restrictions, (2) raised medians, or (3) advance warning signage.	C-2
Tree Spacing	Reductions from the minimum requirement for 30-feet on center may be administratively approved by the City if needed to accommodate light poles	C-29
Street Lighting	60-feet on center for pedestrian lighting; 180 feet on center for street lighting	C-29
Design Speed / Posted Speed Limit:	20 mph design speed, reduced speed warning signs to 15 mph posted speed approaching corner in northwest corner	N/A

6.4. **Design Standard Modifications for 38th Avenue.** The Project may depart from the Vested Code Provisions applicable to 38th Avenue as indicated in Table 6.4 and shown in the corresponding exhibits.

**Table 6.4: Design Standards Modifications for 38th Avenue**

<b>Component</b>	<b>Applicable Standard for Development Agreement</b>	<b>Exhibit</b>
Driveway Spacing	Reductions from the 75-foot minimum standard may be administratively approved by the City for the Event Center garage driveway, to accommodate final location and phasing of the future 194 <sup>th</sup> Street/38 <sup>th</sup> Avenue intersection, or for the hotel, to accommodate guest drop-off/pick-up loop. Reduced driveway spacing shall not impair sight distance or compromise safe intersection operations, as determined through City engineering review. If cumulative driveway density or operational impacts are found to adversely affect circulation or safety, the City may require appropriate access control measures, including but not limited to: (1) right-in/right-out turn restrictions, (2) raised medians, or (3) advance warning signage.	C-2

Tree Spacing	Reductions from the minimum requirement for 30-feet on center may be administratively approved by the City if needed to accommodate light poles	C-29
Street Lighting	60-feet on center for pedestrian lighting; 180 feet on center for street lighting	C-29

## 7. **Utilities**

### 7.1. **Stormwater Detention and Treatment**

7.1.1. **General Standards.** Except as specified in Section 7.1.5, required stormwater facilities will be installed for all Project-phases at the sole cost of the District. All stormwater facilities shall meet applicable City, State and Federal regulations in accordance with the Western Washington Phase II NPDES Municipal Stormwater Permit issued by the Washington State Department of Ecology (“**Ecology**”) that is in effect at the time of the applicable Project Entitlement Application. No additional stormwater improvements shall be required of the District, except as required by law, regulations or Ecology permit requirements.

7.1.2. **Use of Future Technologies.** The Parties recognize that stormwater treatment science is evolving. The District shall have the option, but not the requirement, to use any treatment options contained in current or future Ecology stormwater manuals and corresponding City stormwater technical manuals that are approved for general use by the City so long as the resulting use of technology would lead to stormwater treatment equivalent to, or better than, other authorized stormwater treatment technologies and so long as such technologies are consistent with Federal and State law, including Ecology’s Phase II permit, as now exists or as may hereafter be amended.

7.1.3. **Project-Phase Design.** The conceptual stormwater plan shown in Exhibit C-31 anticipates that the existing infiltration system in the southwest portion of the Property will be removed and replaced. Existing or new detention facilities for each Project-phase must be sized and located to meet the applicable requirements of City, State, and Federal stormwater regulations, in compliance with Ecology’s Phase II permit.

7.1.4. **Acknowledgement of Sufficient Stormwater Capacity.** It is anticipated that the District’s stormwater will discharge off-site to the natural environment consistent with applicable local and State requirements. The City acknowledges that it is not aware of capacity constraints in the natural conveyance system.

7.1.5. **New Stormwater Within Public Rights of Way.** The Parties acknowledge that new stormwater lines (“**Public Storm Lines**”) must be constructed to convey stormwater discharge from 194th Street and 38th Avenue, as depicted in Exhibit C-31. Except as provided in Section 7.4, and subject to Sections 9.4, 9.5, and 9.6 the City shall design and install the Public Storm Lines at no cost to the District.

7.1.6. **Existing Stormwater Line.** The Parties acknowledge an existing stormwater line (“**Existing Stormwater Line**”) located on the west side of the Property, which is governed by a stormwater line easement between the District’s predecessor in interest and Alder Haus Associates, LLP under Snohomish County Recorder No. 200511140308 (“**Stormwater Line Easement**”), must be removed and the discharge coming from the Existing Stormwater Line should be redirected to the Public Stormwater Lines constructed by the City in 38th Avenue. The District shall attempt to obtain an agreement from Alder Haus Associates to extinguish the Stormwater Line Easement and/or obtain legal authorization to relocate the Existing Stormwater Line to connect to the Public Storm Lines. If the District is unable to successfully terminate the Stormwater Line Easement, the City may take such action as necessary to extinguish the Stormwater Line Easement. The City shall remove the Existing Stormwater Line at its sole cost.

## 7.2. **Water**

7.2.1. **General Standards.** Except as specified in Section 7.2.3, any water facilities required to serve the Project will be installed at the sole cost of the District. The conceptual water plan for the Project anticipates that a 12-inch water loop will be installed as shown in Exhibit C-32 and the entire site will be in the 573-pressure zone, connecting to an existing 24-inch water main in 36th Avenue W and a 12-inch water main in 196th Street SW.

7.2.2. **Acknowledgement of Sufficient Water Supply and Capacity to Serve Future Development.** The City and its consultants have analyzed its existing and future water supply, capacity, and infrastructure. Based on its review for the next 15 years, the City Engineer acknowledges that there is sufficient public water supply and City infrastructure planned or in place to serve the Master Plan development, other than what Owner will have to construct on-site to connect to the City’s water distribution system. The City agrees that no further concurrency review and/or mitigation of local water impacts are required.

7.2.3. **New Water Lines Within Public Rights of Way.** The Parties acknowledge that new water lines and fire hydrants to be located within future public rights of way, 194th Street and 38th Avenue, and dedicated to the City (“**Public Water Lines**”) must be constructed as part of the 12-inch water loop shown in Exhibit C-32. Except as provided in Section 7.4, and subject to Sections [9.4, 9.5, and 9.6], the City shall design and install the Public Water Lines at no cost to the District.

7.2.4. **Existing Water Main on Property.** The Parties acknowledge an existing water main (“**Existing Water Main**”) located along the north Property-line, which is governed by a water easement between Alderwood Water District and the District’s predecessor in interest under Snohomish County Recorder No. 2088712 (“**Existing Water Main Easement**”), shall be removed and retired at the sole cost of the City. The City shall install a blow off assembly where the Existing Water Main connects with the adjacent property owned by Alder Haus Associates, LLP.



Upon removal of the Existing Water Main, the Parties shall execute and record a termination of the Existing Water Main Easement.

### 7.3. Sanitary Sewers

7.3.1. **General Standards.** Any required sanitary sewer facilities required to serve the Project will be installed at the sole cost of the District. The conceptual sewer plan for the Project shown in Exhibit C-33 generally anticipates that existing lines serving the Event Center will remain and/or be replaced, an existing 8-inch sewer main to be removed along the west side of the Property, and both a new public sewer main and a private sewer main will be installed within the Property, connecting to an existing public sewer main within 196th Street SW.

7.3.2. **Acknowledgment of Sufficient Sanitary Sewer.** The City and its consultants have analyzed its existing and future sanitary sewer capacity and infrastructure. Based on its review for the next 15 years, the City Engineer acknowledges that there is sufficient local sanitary sewer capacity and City infrastructure in place or planned to serve the Project. The City agrees that no further concurrency review and/or mitigation of local sanitary sewer impacts are required.

7.3.3. **Public Sewer Within the Property.** The Parties acknowledge that a new sanitary sewer line (“**Public Sewer Line**”) must be constructed to convey sanitary sewer from an adjacent property as well as the Property. The Parties agree that the proposed location of the Public Sewer Line shown in Exhibit C-33 is a more feasible alternative to locating the Public Sewer Line within the future 38th Avenue. Subject to The District shall design and install the Public Sewer Line at no cost to the City. Upon dedication of the Public Sewer Line to the City, the District shall grant a 15-foot-wide easement to the City to maintain the Public Sewer Line on the Property, which shall provide that following any repair or maintenance activity of the Public Sewer Line by the City, the District shall be responsible for restoration of any decorative pavement within the Property.

7.3.4. **Existing Sanitary Sewer Line.** The Parties acknowledge an existing sanitary sewer line (“**Existing Sewer Line**”) located on the west side of the Property, which is governed by a sanitary sewer easement between the District’s predecessor in interest and Alder Haus Associates, LLP under Snohomish County Recorder No. 200511140309 (“**Sanitary Sewer Easement**”), must be removed and the sanitary sewer from the Existing Sewer Line must be redirected to the Public Sewer Line. The District shall be responsible for installing a new sewer main and connection to the Alder Haus Associates’ side sewer and to relocate the Existing Sewer Line to the Public Sewer Line at the District’s sole cost. The District shall further attempt to obtain an agreement from Alder Haus Associates to extinguish the Existing Sewer Line Easement and/or obtain legal authorization to relocate the Existing Sewer Line and connect to the Public Sewer Line. If the District is unable to successfully terminate the Sanitary Sewer Easement, the City may take such

action as necessary to extinguish the Sanitary Sewer Easement. The City shall remove the Existing Sewer Line at its sole cost.

7.4. **Modified Phasing Plan – Public Utilities.** Should the District elect to develop the Project using the Modified Phasing Plan described in Section 2.4.1, the District shall be responsible for constructing portions of the Public Storm Lines, Public Water Line, and fire hydrants within that portion of 194th Street indicated in Exhibit C-6. Subject to Sections 9.4, 9.5, and 9.6, the City shall reimburse the District for construction of the Public Storm Lines, Public Water Lines fire hydrants in 194th Street.

7.5. **Utility Charges.** The District shall pay standard connection charges to connect to the City’s utilities, including all water, sewer, or stormwater facilities provided by City, including all local and general facility charges and regional connection charges. The City shall not impose any additional requirements to construct off-site utility infrastructure for Master Plan projects. However, the District remains responsible for the costs associated with alteration or extension of on-site utility infrastructure necessary to connect to the City’s infrastructure.

## 8. **Transportation Concurrency**

8.1. **Concurrency.** The City’s transportation concurrency ordinance was adopted in accordance with a requirement of the Growth Management Act (“GMA”) (RCW 36.70A.060(6)(b)). The GMA requires the City to determine that transportation facility improvements or strategies will be in place concurrently with land development. “Concurrent with the development” is defined by the GMA to mean that any necessary “improvements or strategies are in place at the time of development or that a financial commitment is in place to complete the improvements or strategies within six years.” Pursuant to LMC Ch. 12.22, the City has determined that the Allowable Development Capacity meets the City’s standards for transportation concurrency and mitigates any significant adverse impacts to the City’s transportation system provided that the Project is developed in compliance with the terms of this Agreement, including any requirement that Owner pay transportation impact fees as required (subject to transportation impact fee credit as authorized by Code). The City agrees that no further concurrency review and/or mitigation of transportation impacts are required.

8.2. **Capacity Reservation Certificate.** The City acknowledges that there is sufficient transportation capacity to serve the Project and with the execution of this Agreement issues a capacity reservation certificate with an expiration date that is the same as the expiration date of this Agreement.

8.3. **Trip Cap.** New development within the Project under this Agreement is established as the Allowable Development Capacity under Alternative A, which corresponds to a net new p.m. peak hour trips (inbound and outbound) (“**Net New Trips**”) limit of 540 Net New Trips (“**Trip Cap**”), as demonstrated on the District’s transportation assessment included as Exhibit C and incorporated herein by reference. The Trip Cap shall be reserved by the City for use by the District through the Term of this Agreement. The allocation of Net New

Trips, as determined by each Project Entitlement Application for the Master Plan, against the Trip Cap shall be documented in a letter of concurrence between the City, the District, and Future Owner of the subject Project-phase (if any), which will be incorporated herein by reference. If the District is in compliance with the Trip Cap, the District shall only be required to produce a study for each Project or Project-phase to identify the associated Net New Trips with the specific proposal.

## **9. Transportation Improvements**

9.1. **Street and Property Circulation Plan.** To provide adequate access to adjacent public rights-of-way and interior circulation patterns, the District shall construct transportation improvements and pedestrian access for the Project that are not provided as part of the Ring Road Project. The conceptual vehicular access, pedestrian areas, waste collection areas, and fire access are shown in Exhibits C-1, C-3, and C-4, respectively.

9.2. **Ring Road Project.** The Master Plan incorporates two future public rights-of-way, 194th Street and 38th Avenue (“Ring Road Project”), to be located on the Property ringing the perimeter of the redeveloped mixed-use buildings, structured parking garage, and hotel. A portion of the Ring Road Project has been identified as a project in the City’s Capital Facility Plan. The City intends to add the remaining portion of the Ring Road Project to the Capital Facility Plan. The Parties intend for the Ring Road Project to be a City-owned public right-of-way, designed, constructed, and financed in accordance with the following terms.

### **9.3. Ring Road Project Design**

9.3.1. **Conceptual Design.** The Ring Road Project shall be designed on the Property consistent with the Vested Code Provisions except as provided in Section 6.3 and 6.4. The conceptual design for the Ring Road Project is depicted in Exhibit C-16 through Exhibit C-29 and Exhibit C-31 through Exhibit C-33.

9.3.2. **Detailed Design.** Except as provided in Section 9.6.2, the City will be responsible for detailed design, engineering, and construction plans for the Ring Road Project, consistent with the conceptual design described in Section 9.3.1 or as otherwise agreed to by the Parties. The City shall also be responsible for detailed design, engineering, and construction plans for retaining walls north of 194th Street and a traffic signal at the intersection of 194th Street and 36th Avenue West (“**Future 194th/36th Intersection**”), which shall also be considered part of the Ring Road Project. In consideration of the District’s contributions to initiate detailed design of the Ring Road Project, as well as the location of the Ring Road Project within the Master Plan, the City will consult with the District as detailed in separate agreements referenced in or contemplated by Sections 9.5 and obtain concurrence on the design of the Ring Road Project at the 30% and 90% stage. The City will obtain all required regulatory approvals prior to proceeding to construction of the roadway.

**9.4. Conditions Precedent to City's Obligations to Construct the Ring Road Project.** The City's obligations to commence construction of the Ring Road Project is subject to the satisfaction of the following conditions:

**9.4.1. Environmental Clean-Up.** A portion of 38th Avenue is expected to be constructed on land designated by Ecology as the Alderwood Laundry and Dry Cleaners Site (Facility /Site No. 17078/Cleanup Site ID No. 12845) ("Site"). The Site is located on a portion of the Property and contains contamination in soil and groundwater from a former laundry and dry-cleaning facility, as generally depicted in Exhibit C-34. The District performed a Remedial Investigation & Feasibility Study ("RI/FS") has commissioned a Draft Clean Up Action Plan ("DCAP") for the Site. Ecology issued an opinion letter dated April 4, 2022 stating that upon completion of the proposed cleanup, no further remedial action ("NFA") will likely be necessary to clean up contamination at the Property. The District intends to perform the remedial action set forth in the DCAP in order to obtain an NFA for that portion of the Site on the Property. Prior to dedication of the 38th Avenue public right-of-way and/or construction of 38th Avenue by the City:

9.4.1.1. The District will either: (1) enter into a separate agreement with the City documenting the remedial actions the District must undertake and related steps the parties must perform prior to dedication and/or construction of 38th Avenue by the City and any subsequent steps to be taken by the parties necessary to obtain a NFA determination for the Site and/or for the specific portion of the Property to be used for construction and dedication of 38th Avenue ("Street Area"); or, (2) if feasible obtain a property specific NFA determination for the Street Area.

9.4.1.2. By separate agreement, the District will release, indemnify, and hold the City harmless for any claims related to the release of hazardous substances on or from that portion of the Site located on the Property known to exist as of the date of the dedication to the City and/or Street Area construction by the City.

**9.4.2. Dedication, Easements, and Ownership.** Except as provided in Section 12.1, the Ring Road Project shall be publicly owned and maintained. The Parties shall reach agreement on the terms of permanent easement agreements for components of the Ring Road Project, including the right-of-way, retaining walls contemplated in Section 12.2 and utilities as contemplated in Section 7. The District shall provide the necessary right-of-way for the Ring Road Project through conveyance of permanent easements giving the City the right to construct, operate, and maintain the roadway and related improvements in perpetuity, finalized upon forms approved by the Parties and upon confirmation that the City is ready to accept the dedication of land for right of way for the Ring Road Project. The Parties anticipate the right-of-way easement shall extend along 194th Street from the southern edge of the sidewalk on the south side of the road to two feet north of the back of the northern curb, and along 38th Avenue from the eastern edge of the

sidewalk on the eastern side of the road to the western edge for the Property. The District shall also convey temporary construction easement for components of the Ring Road Project that lie outside of the permanent right-of-way dedication area. Execution of the permanent easement agreement(s) for the Ring Road Project shall not precede the Parties reaching agreement on environmental indemnity and environmental cleanup as provided in Section 9.4.1.

**9.4.3. Ring Road Project Construction Financing.** The City shall have obtained funding and financing necessary to pay for the Project's construction.

**9.4.4. Cooperative Construction.** The Parties shall have entered into a separate agreement on the District's and City's respective responsibilities for construction and phasing of the Ring Road Project, as contemplated in Section 9.6 ("**Cooperative Construction Agreement**").

## **9.5. Financing for Ring Road Project**

**9.5.1. Transportation Improvement Board Grant.** The City will prepare and submit a grant application(s) to the Washington State Transportation Improvement Board ("**TIB**") for funding of the Ring Road Project. The City will act as the lead agency for the grant application(s) but will collaborate with the District on such application(s). The TIB funding request is estimated to be five million dollars (\$5,000,000). Applications are generally due in August and grant award announcements are made the following December. The City and the District anticipate the first TIB application would be submitted in August 2026. If TIB funding is not granted to the City in the first application cycle, the City will continue to submit applications for TIB funding in subsequent funding cycles. If TIB funding is not granted, the Parties may affect the terms of the Cooperative Construction Agreement or cause need to amend such agreement.

**9.5.2. Tax Increment Financing.** The City has allocated ten million dollars (\$10,000,000) from TIF to be used to finance the Ring Road Project. The City and the District may elect to enter into an interlocal agreement to identify and document financial contributions to the City and other costs incurred by the District associated with the design or construction of the Ring Road Project that shall be eligible for reimbursement from TIF ("**Ring Road Financing Agreement**"). Financial contributions and costs by the District eligible for reimbursement from TIF may include, but shall not be limited to, detailed design of the Ring Road described in Section 9.3 and, if the District elects the Modified Phasing Plan, the Half-Street Improvements. The Ring Road Financing Agreement shall identify any terms and conditions required for the City to reimburse the District from TIF.

**9.5.3. Ring Road Financing Agreement.** The Parties intend to document terms for financing the design and construction of the Ring Road Project in a separate interlocal agreement known as the Ring Road Financing Agreement. The proposed form of the Ring Road Financing Agreement is attached as Exhibit D.

**9.6. Cooperative Construction Agreement.** The Parties intend to document the terms of the District's and the City's respective responsibilities for constructing the Ring Road Project in a separate, future interlocal agreement known as the Cooperative Construction Agreement. The potential terms of the Cooperative Construction Agreement are identified below for reference by the Parties but are subject to modification by the City and the District prior to execution of the Cooperative Construction Agreement. The Cooperative Construction Agreement is not intended to constitute nor necessitate an amendment to this Agreement.

**9.6.1. Construction – Baseline Phasing Plan.** The Parties anticipate the Cooperative Construction Agreement may include the following terms for the Baseline Phasing Plan described in Section 2.4:

9.6.1.1. Prior to the City advertising the City's work on the Ring Road Project for public bid, the District shall commence the following as indicated on Exhibit C-5:

9.6.1.1.1. The District will perform remediation of the Property as specified in Section [9.4.1].

9.6.1.1.2. The District will cut and cap the utility services for buildings that will be demolished in the Ring Road Project right-of-way as designated on Exhibit C-5. The District will remove existing utilities within the demolition footprint except utilities that are needed to serve buildings that are to remain.

9.6.1.1.3. The District will demolish all existing buildings on the Property necessary to construct the Ring Road Project.

9.6.1.1.4. The District will install a new sewer main and connect Alder Haus Associates' side sewer to the District sewer alignment pursuant to Section 7.3.4.

9.6.1.1.5. The District will be responsible for developing the landscaping plan north of 194th Street and selecting the street trees, consistent with the Vested Code Provisions.

9.6.1.2. The City will be responsible for the following work, as indicated on Exhibit C-5:

9.6.1.2.1. The City shall perform all demolition (with the exception of the existing buildings and within the Site remediation areas) and grading required for the Ring Road Project to a mutually agreed profile, cross slope and area.

9.6.1.2.2. The City shall remove the Existing Sewer Line after the Public Sewer Line is installed by the District pursuant to Section 7.3.4.

9.6.1.2.3. The City shall construct the Public Water Line and fire hydrants pursuant to Section 7.2.3 and reconnect service to any remaining, operating buildings on the Property to the Public Water Line.

9.6.1.2.4. The City shall install the New Stormwater Lines, including the connection from the Alder Haus Associates' property, pursuant to Section 7.1.5.

9.6.1.2.5. The City shall remove the Existing Stormwater Line along the west side of the Property, pursuant to Section [7.1.6].

9.6.1.2.6. The City shall remove the Existing Water Main Easement north of 194th Street, pursuant to Section 7.2.4.

9.6.1.2.7. The City will construct all improvements within the graded right-of-way, including any required concrete curb/gutter, retaining walls, rockery and landscaping, vehicular and bicycle lanes, curbs, gutter, sidewalk, street and pedestrian lighting, street trees, and fire hydrants, as designated on Exhibit C-5, and finalize the graded right-of-way to a mutually agreed upon profile and cross slope.

9.6.1.2.8. The City shall install a new traffic signal at the Future 194th/36th Intersection. Such construction may require obtaining additional right-of-way east of the Property, which would also be the responsibility of the City.

9.6.1.2.9. The City will construct retaining walls on the Property needed for the construction of the Ring Road Project north of 194th Street as designated on Exhibit C-5 (including any engineered slopes).

9.6.1.2.10. The City will be responsible for installing landscaping north of 194th Street consistent with the design specified by the District in Section 9.6.1.1.5.

9.6.1.3. The Parties will agree to a construction sequencing and phasing schedule to accommodate the City's work to construct the Ring Road Project and the District's construction of additional improvements for Phase 1-Demolition/Site Remediation/Public Roads. If the District's improvements overlap with construction of the Ring Road Project, the

involved Parties shall take reasonable efforts to coordinate as mutually agreed the construction scheduling and activities prior to such overlapping work.

9.6.1.4. Each Party shall be responsible to obtain and pay for such necessary permits and approvals to complete their respective work on the Ring Road Project. The Parties agree to collaborate on obtaining singular or joint permits and authorizations where feasible.

9.6.2. **Construction - Modified Phasing Plan.** Should the District elect to develop the Project using the Modified Phasing Plan described in Section 2.4.1, the District will be responsible for constructing the portion of the Ring Road Project described in Exhibit C-6, including a portion of the public utilities as specified in Section 7.4, which represents a portion of 194th Street (“**Half-Street Improvements**”). To accommodate the Half-Street Improvements, the Parties anticipate the terms for the Cooperative Construction Agreement identified in Section 9.6.1 will be modified as follows:

9.6.2.1. In addition to the work identified in Section 9.6.1.1, the District shall conduct the following work necessary to construct the Half-Street Improvements depicted on Exhibit C-6 for the Ring Road Project:

9.6.2.1.1. The District will perform demolition and grading to a mutually agreed profile, cross slope and area.

9.6.2.1.2. The District will construct the Public Water Line and will reconnect service to any remaining, operating buildings on the Property to the Public Water Line.

9.6.2.1.3. The District will install the New Stormwater Lines.

9.6.2.1.4. The District will construct the following improvements within the graded 194th Street right-of-way: concrete curb/gutter, vehicular and bicycle lanes, curbs, gutter, sidewalk, street and pedestrian lighting, street trees, and fire hydrants, as designated on Exhibit C-6, and finalize the graded right-of-way to a mutually agreed upon profile and cross slope.

9.6.2.2. As set forth in the Ring Road Financing Agreement, the District shall be eligible for reimbursement from the City for construction of the aforementioned Half-Street Improvements.

9.6.2.3. All remaining terms in Section 9.6.1 remain unchanged.

9.7. **District and City to Negotiate Necessary Agreements in Good Faith.** The Parties shall negotiate in good faith all agreements necessary to accomplish the Ring Road Project,



including but not limited to those identified in Sections 9.3 through 9.6. The Parties agree that time is of the essence.

**9.8. Future Intersection for 194<sup>th</sup> Street/38<sup>th</sup> Avenue.** The City and the District have identified that a future intersection of 194th Street and 38th Avenue will be located on the Property (“**Future 194th/38th Intersection**”) to extend 194th Street to 40th Avenue W. The Future 194th/38th Intersection will be located within an approximately 300-foot portion of 38th Avenue, shown in Exhibit C-30 as the area between the “194th Street SW - Northern Option” and the “194th Street SW - Southern Option.” Before the City finalizes the location of the Future 194th/38th Intersection, the City will coordinate with the District to minimize impacts to the Property and operations, and if necessary, identify appropriate design alternatives or mitigation measures to avoid such impacts. The City will be responsible for any modifications that are needed to 38th Avenue and 194th Street to construct the Future 194th/38th Intersection. Permanent features constructed on the east side of the roadway of 194th Street and 38th Avenue before the western extension of 194th Street, including sidewalk, driveways, pedestrian access points, landscaping, street lighting, and other utilities, shall be maintained as to not impact the Master Plan.

Should the District construct the parking garage shown on the Master Plan before the City constructs the Future 194th/38th Intersection, and provided the District constructs the parking garage driveway in alignment with the 194th Street SW - Southern Option, the City agrees to construct the Future 194th/38th Intersection in a location that will not necessitate prohibiting any turning movements to or from the garage, or would cause unacceptable level of service or queuing for any of the garage movements. If the garage driveway must be realigned or modified to achieve acceptable operation, the City shall be responsible for any redevelopment of the District’s property necessary to accommodate the Future 194th/38th Intersection. The City and the District acknowledge that the 194th/38th Future Intersection should be controlled by an all-way or two-way stop, rather than a roundabout, to minimize disruption to the District’s Master Plan.

## **10. Transportation Impact Fees**

**10.1. Independent Fee Calculation.** In accordance with LMC 3.105.070, which allows for an independent fee calculation to support the assessment of Transportation Impact Fees (“**TrIF**”) other than by the use of the rates listed in the City’s published fee schedule, the City approves use of the independent fee calculation for the Project as set forth in the District’s TrIF – Independent Fee Calculation Technical Memorandum, Exhibit C-37. The approved independent fee calculation for the Project shall apply at the time of issuance of a building permit for a Project or Project-phase, as follows:

10.1.1. Determine the PM peak hour trips generated by the Project-phase based on current ITE rates and methodologies that account for internal trip interactions;

10.1.2. Determine trips generated by existing uses to be removed by the Project-phase;

10.1.3. Determine the net change in trips between the proposed and existing trips;  
and

10.1.4. Apply the City's then-applicable TrIF rate per PM peak hour trip to the net change in trips.

10.2. **TrIF Credits.** Prior to dedicating land for the Ring Road Project, the District intends to request credits for TrIF ("**TrIF Credits**") equivalent to the total value of the land as part of the system improvements. To the extent some components of the Ring Road Project, such as 38th Street, are not currently recognized by the City as a system improvement, City staff will present for City Council consideration an amendment to the applicable rate study and the City's Capital Facilities Plan to identify 38th Street and include components of the Ring Road Project not already recognized as system improvements. The District shall be entitled to a TrIF Credit for dedications of land made by the District for system improvements that are included in the Capital Facilities Plan and applicable Rate Study in accordance with LMC 3.105.070 and LMC 3.105.090. The process for determining the TrIF credits shall be governed by LMC 3.105.090, except that the land value for the dedicated right-of-way shall be determined an MAI (Member of the Appraisal Institute of Appraisers) appraisal obtained by the District, such right-of-way area having been agreed to by the Parties and surveyed by the District. The District may update the appraisal, but the total TrIF Credits available will be established at the time of dedication. The total amount of TrIF Credits shall not exceed the total amount of TrIF that the District is required to pay for the Project. If the amount of TrIF Credits in a particular Project-phase exceeds the amount of TrIF required for that phase, the District may apply the remaining TrIF Credit against TrIF for future phases. The allocation of the credit shall be undertaken pursuant to a letter of concurrence between the City, the District, and Future Owner of the subject Project-phase (if any), which will be incorporated herein by reference.

## **11. Impact Fees**

Pursuant to RCW 82.02.020, the City may impose certain impact fees on development, limited to streets and roads, parks and open space, fire protection facilities, and school facilities. The City currently imposes streets and roads through TrIF and park impact fees through PIF; however, it does not currently impose fire protection and school facilities impact fees ("**Other Impact Fees**"). The District acknowledges that third-party agencies initiate Other Impact Fees; however, the City must adopt Other Impact Fees under the LMC. Accordingly, the City acknowledges that it shall provide the District with at least 30 days-notice prior to the City Council's potential adoption of any Other Impact Fees during the Term of this Agreement. If the City adopts Other Impact Fees pursuant to RCW 82.02.020 or other enabling legislation during the Term of this Agreement, the District will not be assessed Other Impact Fees for any Project or Project-phase that submitted Project Entitlement Application(s) prior to effective date of any Other Impact Fees.

## **12. Maintenance and Operations**

12.1. **Landscaping Responsibilities.** The District has prepared a conceptual design for landscaping north and northwest of the Ring Road Project, Exhibit C-35, which, subject to Sections 9.4, 9.5, and 9.6 will be installed by the City during construction of the Ring Road Project and maintained by the District. The City concurs that the conceptual design for landscaping north of 194th Street complies with tree replacement requirements found in LMC 17.15.090 and demonstrates an acceptable method by which tree replacement could be accomplished. Street trees within the Ring Road Project will be installed by the City and maintained by the District in conformance with LMC 12.12.050.

12.2. **Retaining Wall Responsibilities.** Subject to Sections 9.4, 9.5, and 9.6, the City will design, install, own, and maintain the retaining wall(s) north and west of the Ring Road Project. The City will obtain the District's concurrence in the visual appearance of the retaining wall(s) during its design. The District shall convey a permanent easement to the City to access, maintain, and repair the retaining walls located north and west of the dedicated right-of-way area on the Property upon construction of said retaining walls.

12.3. **Noise Limitations and Mitigation.** The Project includes operation of live indoor/outdoor music concerts and other amplified events associated with the expanded Event Center. The City has determined that outdoor music concerts and other amplified events shall be allowed as part of the Project, subject to the following conditions:

12.3.1. The Project must be constructed with: (1) one of the five options identified in the environmental noise assessment report ("**ENA Report**"), included as Exhibit C-38, to reduce noise at the Property lines in compliance with required EDNA limits established in Chapter 10.12 LMC, or (2) a supplemental or new environmental noise assessment report proposing an alternative option that reduces noise at the Property lines in compliance with required EDNA limits established in Chapter 10.12 LMC, subject to approval of said alternative option by Development & Business Services Director; and

12.3.2. The District must obtain a Special Event Permit under LMC 5.30.050 (or as hereafter amended), which will satisfy requirements in LMC 10.12.300(D) (or as hereafter amended); and

12.3.3. The District must comply with the sound monitoring plan included in the ENA Report, and any proposed revision to the sound monitoring plan must be approved by the Development & Business Services Director; and

12.3.4. The District must obtain an acoustic assessment of the multifamily buildings by a qualified acoustical consultant, as a requirement of project design review and post-construction as condition of certificate of occupancy, to ensure that the design of the interior living space of each residential unit can be maintained at 45 dBA Ldn or less. If the District conveys a portion of the Property to a third-party developer of the multifamily buildings, the obligations in this section 12.3 shall run to said third-party developer.

The City has determined that the conditions set forth in this Section 12.3 mitigates any significant adverse impacts resulting from operation of live indoor/outdoor music concerts and other amplified events as part of the Project.

### **13. Multifamily Tax Exemption Participation**

Pursuant to LMC Ch. 3.82 and Ch. 84.14 RCW, the Parties acknowledge that the Project is located within an eligible residential targeted area for participation in the multifamily tax exemption (“MFTE”) program. The District shall be eligible to apply, in its sole discretion, for MFTE for all eligible phases of the Project; provided, that the District acknowledges and agrees that if RCW Ch. 84.14 or other applicable law relating to the MFTE program is repealed, amended or modified such that the City may no longer implement the MFTE program, then the City’s authority and MFTE program under LMC Ch. 3.82 shall also be repealed, amended or modified consistent with the repeal, amendment or modification to RCW Ch.84.14 or other applicable laws, and the MFTE program may no longer be available to the District for the Project. The City shall review and approve an application pursuant to LMC 3.82.070-.100. Nothing in this Agreement shall create an obligation for the District to participate in a MFTE program.

### **14. Vested Rights**

14.1. **General Vesting.** Except as provided in Sections 14.2 and 14.3, the District shall be entitled to develop the Project under the Vested Code Provisions for the Term of this Agreement.

14.2. **Exemptions.** The following are exempt from vesting under this Agreement:

14.2.1. Plan review fees, inspection fees, and other land use application fees;

14.2.2. Connection charges, general facilities charges and monthly service charges;

14.2.3. Amendments to building, plumbing, fire and other construction codes adopted pursuant to RCW Ch. 19.27 or 19.27A;

14.2.4. Impact fees authorized by state law, except that calculation of impact fees methodologies shall be governed by the Vested Code Provisions and Section 10.1 concerning TrIF;

14.2.5. City enactments that are adopted pursuant to state or federal mandates (such as the City’s NPDES Municipal Stormwater Permits) that preempt the City’s authority to vest regulations;

14.2.6. City enactments that amend the nomenclature or noticing requirements for the applicable entitlement review processes; and

14.2.7. City enactments regarding multifamily tax exemption that are adopted pursuant to a state repeal, amendment or modification of RCW Ch. 84.14 or other applicable state law terminating the City's authority to implement a multifamily tax exemption program.

14.3. **Reserved Rights.** Notwithstanding any provision in this Agreement, the City reserves authority pursuant to RCW 36.70B.170(4) to impose new or different Development Regulations to the extent required by a serious threat to public health or safety, as determined by the City Council after written notice and an opportunity to be heard by the District.

14.4. **Future Code Amendments.** The District may at its option, develop the Property or Project-phases thereof in accordance with new LMC provisions, Development Regulations and other regulations, policies, or guidelines hereinafter adopted by the City after the Effective Date, including but not limited to future SEPA and/or Planned Action amendments for City Center, without obligation to bring other portions of the Property into conformance with newly-adopted LMC provisions, Development Regulations and other regulations. Application of any future LMC amendments under this provision shall be on a Project-phase basis.

## 15. **Modification of Agreement**

15.1. **Letter of Concurrence Process.** The Development & Business Services Director and the District's Executive Director may mutually execute letters of concurrence, which may be used to (a) authorize deviations from the Vested Code Provisions that are expressly allowed under the terms of this Agreement and subsequently requested by the District for the Master Plan, (b) document the City's approval of any proposed modification to the Baseline Phasing Plan or Modified Phasing Plan, (c) document agreement by the Parties as to the meaning or intent of any term of this Agreement, or (d) for any other purpose that does not modify, add to, or delete the terms of this Agreement.

15.2. **Administrative Amendments.** Upon request by the District, this Agreement may be amended administratively by the Development & Business Services Director and the District's Executive Director, provided the request does not result in:

15.2.1. Increase in the Allowable Development Capacity, except as authorized in Sections 2.2 and 2.3;

15.2.2. A use not authorized by the Vested Code Provisions;

15.2.3. Increased trip generation above the Trip Cap, based on the methodology provided in Section 8.3.

15.2.4. Change to the term of the Agreement in Section 17.

Administrative amendment to this Agreement may be used to amend Exhibit A to add land adjacent to the Property (“**Adjacent Land**”), subject to the conditions specified in Section 15.2.1 through 15.2.3. The Development & Business Services Director’s decision on an administrative amendment to the Agreement is final and is not subject to administrative appeal.

15.3. **Amendment Procedures.** Any amendment of terms under this Agreement that is not eligible for administrative approval shall require either: (1) an amendment to the Agreement that shall be processed pursuant to LMC 8.90.0430, including but not limited to a public hearing before the City Council, but shall not require all the elements of LMC 8.90.0430 if those elements remain unchanged in the Agreement being amended; or (2) as an application for a new development agreement pursuant to the Code.

15.4. **Third-Party Ownership of the Property.** If the District conveys a portion of the Property to a third-party in fee (“**Future Owner**”), the District and the City may execute letters of concurrence and amendments to this Agreement without the participation of Future Owner; provided that if such amendment modifies terms and conditions applicable to Future Owner’s portion of the Property, Future Owner’s written consent shall be required for the Letter of Concurrence or amendment to this Agreement. The District’s written consent shall be required for all Letters of Concurrence and amendments to this Agreement between the City and Future Owners.

## 16. **Reporting**

The Parties acknowledge a shared goal of the prompt redevelopment of the Property. However, the Parties recognize that neither Party is prescient enough to anticipate all of the economic, market, construction, leasing and other factors that influence the real estate development process. Accordingly, the Parties acknowledge that the Project or Project-specific phases will proceed in the District’s sole discretion. In order to facilitate clear communication regarding the Project’s status and the potential timeline for Project or Project-phases, the District shall no less than annually on or before the anniversary of the Effective Date of the Agreement provide a report to the City that includes, but is not limited to, the following material:

- Status of any Project-related construction completed since the prior report or in-progress at time of the report;
- Status of any Project Entitlement Applications;
- Status of any Capacity Reservation Certificates that are pending applications, issued, and/or extinguished;
- The District’s evaluation of any relevant conditions, including but not limited to economic, regulatory or otherwise, that may impact the current or future Project or any Project-phases;
- The District’s marketing efforts for the Project; and

- Any other factor the District deems relevant for the report.

(collectively, the “**Annual Project Report**”).

The Annual Project Report shall be provided to the City’s Development & Business Services Director. Nothing in this Section 16 shall obligate the District to disclose confidential information regarding the Project’s financial status or current or potential tenants or partners as a component of the Annual Project Report.

The City has the right, but not the obligation, to provide comments on the Annual Project Report. If either Party wishes to confer regarding the Annual Project Report, the Party shall request a meeting and the Parties shall meet, in good faith, within fourteen (14) days after a Party’s request or some other mutually agreed upon timeframe for such a meeting to discuss relevant comments or concerns. Nothing in this Section 16 precludes the City Council or City staff from requesting information regarding the Project consistent with the LMC.

## **17. Term**

The term of this Agreement shall be fifteen (15) years from the Effective Date of this Agreement (“**Expiration Date**”). The City, acting through the Development & Business Services Director, Public Works Director, and the District may mutually agree in writing to extend the term of the Agreement. The Parties recognize that neither Party is prescient enough to anticipate all of the potential changes in the District’s needs, lease matters, construction techniques, or architectural design that may occur during that time period. The Vested Code Provisions are not intended to preclude future interpretations and adjustments in conjunction with Project Entitlement Applications, as provided in Section 14.4.

## **18. Dispute Resolution**

**18.1. Disputes and Coordination Issues.** Whenever any dispute arises between the Parties under this Agreement (“**Dispute**”), including any default, controversy or claim arising out of, or relating to, this Agreement, or any breach thereof, which are not resolved by routine meetings or communications, the provisions of this Section 18 shall apply. Any Party shall have the right to commence a resolution process by issuing a written request to the other Parties, which request shall contain brief details of the Dispute (“**Dispute Notice**”), excepting only those disputes subject to Section 18.5, which shall not require a Dispute Notice.

**18.2. Cooperative Discussions.** The Authorized Representatives of the Parties shall seek in good faith to resolve any such dispute or concern within ten (10) days after the date of the Dispute Notice. The Authorized Representatives shall meet within five (5) days after the date of the Dispute Notice, and shall continue to meet thereafter, as reasonably requested by a Party, in an attempt to resolve the Dispute. If the Dispute is resolved by the Authorized Representatives, the resolution shall be recorded in writing and signed by the Authorized Representatives of each Party and that resolution shall be final and binding on both Parties. If the Parties are unable to resolve the Dispute through cooperative

discussions within ten (10) days after the date of the Dispute Notice, then except as specifically provided in Section 18.4 for binding arbitration of monetary disputes less than \$50,000.00, the Parties may immediately pursue any remedies available under Washington law, and may commence litigation prior to, and without regard to, the provisions of Section 18.3 and 18.4, which shall be deemed entirely voluntary and discretionary.

**18.3. Mediation.** If the Parties are unable to resolve a Dispute in accordance with the provisions Section 18.2, the Parties may consider the use of voluntary non-binding mediation. In the event that non-binding mediation is agreed upon, the site of the proceedings shall be Lynnwood, Washington, unless otherwise agreed in writing by the Parties. The rules for mediation, the selection of the mediator, and the timetable and procedures for mediation, shall be determined by mutual agreement of the Parties. The mediator shall be skilled in the legal and business aspects of the subject matter of this Agreement. The mediation shall be conducted without prejudice to any Party and in strict confidence. Each Party shall share equally in the costs of the mediation except that each Party shall bear its discretionary costs, including, but not limited to, its attorneys' fees and expenses. If the Dispute is settled through mediation, the terms of the settlement shall be recorded in writing and signed by the Authorized Representatives of the Parties. Unless otherwise mutually agreed by the Parties in writing, the mediator shall not be utilized in any subsequent proceeding to provide evidence in any way relating to the Dispute, nor shall the mediator be entitled to act as a fact or expert witness to any Party in any subsequent proceeding. If within forty-five (45) days after the date of the Dispute Notice, the mediation has not resulted in settlement of the Dispute, then the mediation shall, unless otherwise mutually agreed in writing by the Parties, be terminated. If any Party withdraws from the mediation at any time, the mediation shall be terminated.

**18.4. Arbitration.** If the Parties are unable to resolve a Dispute in accordance with the provisions of Section 18.3, the Parties may consider the use of voluntary binding arbitration; provided, however, that binding arbitration shall be required for any strictly monetary Dispute, the value or potential financial impact of which is agreed by the Parties to be less than \$250,000.00. In the event that binding arbitration is required, or mutually agreed upon, and unless otherwise mutually agreed by the Parties in writing, the site of the proceedings shall be Lynnwood, Washington, and Washington law shall govern the arbitration proceedings. Upon completion of the cooperative discussions set forth in Section 18.3, the arbitration process shall commence immediately. The Parties shall determine by mutual agreement the rules for arbitration, the selection of the arbitrator, and the timetable and procedures for arbitration, including, but not limited to, (i) the extent, form, and time limits applying to any documentary or oral evidence of the Parties to be submitted to arbitration; (ii) site visits or inspections; (iii) meetings with the Parties; and (iv) appointment of experts; provided, however, that in the event the Parties are unable to agree within twenty-five (25) days after the date of the Dispute Notice, then the Rules of the Judicial Arbitration and Mediation Service, Seattle office, shall apply. The arbitrator shall be skilled in the legal and business aspects of the subject matter of this Agreement. The arbitration shall be conducted without prejudice to any Party and in strict confidence. The arbitrator shall decide the Dispute acting impartially and in good faith. The arbitrator shall reach a decision and communicate the decision in writing to the Parties, providing the



basis for the decision. The arbitrator's decision shall be final and binding on the Parties. The Parties shall implement the arbitrator's decision without delay. The arbitrator's fees and expenses, the other costs of arbitration, and the Parties' reasonable attorneys' fees and costs shall be borne by the Parties as the arbitrator shall specify in his decision; provided, however, that the "substantially prevailing" Party shall be entitled to recover its arbitration expenses and reasonable attorneys' fees and costs in preparation for, and during, the arbitration process. Unless otherwise mutually agreed by the Parties in writing, the arbitrator shall render a final decision on the Dispute within sixty (60) days after the date of the Dispute Notice. The arbitrator shall not be utilized in any subsequent proceeding to provide evidence in any way relating to the Dispute, nor shall the arbitrator be entitled to act as a fact or expert witness to either Party in any subsequent proceeding.

**18.5. Litigation.** If the Parties are not required, or do not mutually agree, to submit a Dispute to mediation under Section 18.3, or arbitration under Section 18.4, then after the time period set forth in Section 18.2 for cooperative discussion, either Party shall have the right and authority to commence litigation immediately, and primary jurisdiction for the resolution of any Dispute relating to, or arising out of, this Agreement shall reside in the Washington State Superior Court, Snohomish County, Washington. The Parties shall have all rights and remedies, whether at law or in equity, under Washington law, including, but not limited to, specific performance, damages and injunctive relief.

#### **18.6. Equitable Proceedings**

18.6.1. In the event a Party desires to seek interim relief, whether affirmative or prohibitive, in the form of a temporary restraining order, preliminary injunction, or other interim equitable relief with respect to a Dispute either before or after the initiation of a dispute resolution proceeding, that Party may initiate the proceeding necessary to obtain such relief ("**Equitable Proceeding**"). Nothing in this Section 18.6 shall be construed to suspend or terminate the obligation of the Parties to comply with the provisions of Sections 18.2, and 18.3 and 18.4 with respect to the Dispute that is the subject of such Equitable Proceeding while such Equitable Proceeding is pending, including any appeal or review.

18.6.2. Notwithstanding the decision of an arbitrator or mediator, as may be applicable, any interim relief granted by such Equitable Proceeding shall not be reversed or modified by the arbitrator's or mediator's determination, and any factual or legal determination made in such Equitable Proceeding shall be binding upon the Parties in the Dispute before any arbitrator or mediator.

### **19. Miscellaneous**

**19.1. Indemnification.** Except as otherwise specifically provided elsewhere in this Agreement and any exhibits hereto, each Party shall protect, defend, indemnify and hold harmless the other Party and their officers, agents, and employees, or any of them, from

and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever (“**Claim**”), which are caused by or result from any negligent act or omission of the Party’s own officers, agents, and employees in performing services pursuant to this Agreement. In the event of concurrent negligence, each Party shall indemnify, defend, and hold the other Party harmless only to the extent of the indemnifying Party’s negligence. The indemnification to the City contained in this Section 19.1 shall be for the benefit of the City as an entity, and not for members of the general public.

In the event that any suit based upon a Claim is brought against a Party, the Party whose sole negligent actions or omissions gave rise to the claim shall defend the other Party at the indemnifying Party’s sole cost and expense; and if final judgment be rendered against the other Party and its officers, agents, and employees or be rendered jointly against the Parties and their respective officers, agents, and employees, the Party whose sole negligent actions or omissions gave rise to the claim shall satisfy the same.

As between the Parties and solely for purposes of this Section 19.1, each Party expressly waives any immunity, defense or protection that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW, or any other industrial insurance, workers' compensation or similar laws of the State of Washington to the fullest extent permitted by Applicable Law. This Section 19.1 shall not be interpreted or construed as a waiver of each Party’s right to assert such immunity, defense or protection directly against any of its own employees or any such employee's estate or other representatives. This Section 19.1 has been mutually negotiated by the Parties and shall survive the expiration or termination of this Agreement.

**19.2. Agreement Consistency with RCW 82.02.020.** The District agrees that the improvements, mitigation payments and dedications established by this Agreement shall be consistent with the requirements of RCW 82.02.020 and mitigate the direct impacts that have been identified as a consequence of the District’s proposed Master Plan projects.

**19.3. Agreement to Run with the Land.** For the term of this Agreement, the benefits and obligations of this Agreement shall be a covenant running with the land and continue following the subdivision, leasing, or transfer of ownership to the District’s successors and assigns in accordance with Section 19.4.

**19.4. Binding Effect; Assignability.** This Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors, heirs, legatees, representatives, receivers, trustees, successors, transferees and assigns. The District shall have the right, in its sole discretion, to assign or transfer its rights, in whole or in part, under this Agreement. The District shall provide City with written notice of any transfer or assignment at least thirty (30) days prior to the closing of any transaction.

**19.5. No Third Party Rights.** Except as specifically set forth in this Agreement, the provisions of this Agreement are for the exclusive benefit of the City or The District and their respective permitted successors and assigns and not for the benefit of any third person. This Agreement shall not be deemed to have conferred any rights upon any third person.

19.6. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

19.7. **Construction.** The section headings throughout this Agreement are for convenience and reference only and the words contained in them shall not be held to expand, modify, amplify or aid in the interpretation, construction or meaning of this Agreement. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identification of the person or persons, firm or firms, corporation or corporations may require. In the event there are any conflicts or ambiguities between the terms of the body of this Agreement and the terms in any of the exhibits, the terms of the body of this Agreement shall control.

19.8. **Recitals.** The Recitals are incorporated herein as material terms of this Agreement.

19.9. **Fair Construction.** This Agreement has been reviewed and revised by legal counsel for both Parties, and no presumption or rule construing ambiguity against the drafter of the document shall apply to the interpretation or enforcement of this Agreement. Nothing herein shall be construed as a waiver of the City's constitutional and statutory powers. Nothing herein shall be construed or implied that the City is contracting away its constitutional and statutory powers, except as otherwise authorized by law.

19.10. **Authority to Execute Agreement.** The Parties represent to each other that they possess sufficient and requisite jurisdiction and authority to enter into this Agreement.

19.11. **Attorney's Fees.** If any Party brings a claim suit to enforce or declare the meaning of any provision of this Agreement through arbitration or in superior court, the prevailing Party, in addition to any other relief, shall be entitled to recover its reasonable attorneys' fees and costs, including any incurred on appeal.

19.12. **Delays.** If either Party is delayed in the performance of its obligations in this Agreement due to Force Majeure, then performance of such obligation shall be excused for the period of delay. Force Majeure means extraordinary natural events or conditions such as war, riot, labor disputes, or other causes beyond the reasonable control of the obligated party. The City's or the District's inability to fund, or decision not to fund, any of its obligations shall not be an acceptable reason for delay.

19.13. **Survival.** The provisions of this Agreement shall survive the expiration of the term of this Agreement to the extent involving indemnification, maintenance of public improvements or other matter involving rights or obligations is extended beyond the expiration of the term of this Agreement.

19.14. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the Laws of the State of Washington. Venue for any legal action pertaining to this Agreement shall be in the State of Washington with jurisdiction in Snohomish County, Washington.

19.15. **Specific Performance.** The Parties specifically agree that damages are not an adequate remedy for breach of this Agreement and that the Parties are entitled to compel specific performance of all material terms of this Agreement by any Party in default hereof. All terms and provisions of this Agreement are material.

19.16. **Notices.** All notices which may be or are requested to be given, pursuant to this Agreement, shall be deemed given when hand delivered, delivered by e-mail, delivered by facsimile, or within 3 (three) business days of when deposited as certified mail in the United States Mail, postage prepaid, and marked registered or certified mail, return receipt requested, and addressed to the Parties at the following addresses unless otherwise provided for herein:

TO CITY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AND TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TO DISTRICT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AND TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The parties shall have the right to change the address or contact information for notice purposes at any time during the term of the Agreement upon prior written notification to the other Parties.

19.17. **Incorporation by Reference.** All exhibits and appendices annexed hereto are hereby incorporated by reference herein.

19.18. **No Joint Venture.** This Agreement is not intended to and nothing in this Agreement shall create any partnership, joint venture or other arrangement between the Parties.

19.19. **Entire Agreement.** This Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings between the Parties relating to the subject matter hereof. Notwithstanding the foregoing, the Parties agree that those letters of concurrence executed by the Parties in connection with the Agreement, both prior and subsequent to the Effective Date, shall serve as evidence of the Parties' intent in interpreting and administering the Development Agreement. Exhibit E to this Agreement identifies those letters of concurrence executed by the Parties preceding the Effective Date.

19.20. **Waiver.** The waiver by one Party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such Party of any other covenant, condition, or promise hereunder. The waiver by any or all Parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided by law or the provisions of this Agreement shall not exclude other consistent remedies unless they are expressly excluded.

19.21. **Exculpation.** Notwithstanding anything contained to the contrary in any provision of this Agreement, it is specifically agreed and understood that there shall be absolutely no personal liability of the part of any individual officers or directors of the Parties with respect to any of the obligations, terms, covenants, and conditions of this Agreement; and each Party shall look solely to the other Party or any such assignee or successor in interest for the satisfaction of each and every remedy available to a Party in the event of any breach by another Party or by any such assignee or successor in interest of any of the obligations, terms, covenants, and conditions of this Agreement to be performed by a Party, such exculpation of personal liability to be absolute and without any exception whatsoever.

19.22. **Recording.** This Agreement shall be recorded by Owner with the Snohomish County Auditor's Office, Recording Division; provided, that upon the mutual consent of the Parties, a memorandum of this Agreement may be recorded in place of this Agreement.

19.23. **Counterparts and Effective Date.** This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument as if all of the Parties to the aggregate counterparts had signed the same instrument. This Agreement shall become effective on the date (the "**Effective Date**") on which it has been executed by all the Parties, as indicated by the last date of signature below.

19.24. **Time is of the Essence.** For the purposes of this Agreement and all transactions contemplated thereunder, time is of the essence.

19.25. **Exhibits:** This Agreement includes the following exhibits which are incorporated by reference herein:

Exhibit A:      Legal Description

Exhibit B: Existing Site Plan  
Exhibit C: Master Plan Exhibit Index  
Exhibit D: Form of Ring Road Financing Agreement  
Exhibit E: Letters of Concurrence Index  
Exhibit F: Vested Code Provisions Index

**CITY:**

CITY OF LYNNWOOD,  
a Washington municipal corporation

**DISTRICT:**

LYNNWOOD PUBLIC FACILITIES DISTRICT,  
a Washington municipal corporation

By: \_\_\_\_\_  
Christine Frizzell, Mayor

By: \_\_\_\_\_  
Janet Pope, Executive Director

## **EXHIBIT A**

### **Legal Description**

## **EXHIBIT B**

### Existing Site Plan



## EXHIBIT C

### Master Plan Exhibit Index

The exhibits comprising the Master Plan are listed in the table below and available at the City of Lynnwood under File No. \_\_\_\_\_

Development Agreement Exhibit No.	Exhibit Name
C-1:	Overall Site Plan
C-2:	Street Name Conventions
C-3:	Solid Waste Collection
C-4:	Fire Department Access
C-5:	Baseline Phasing Plan
C-6:	Modified Phasing Plan
C-7:	Occupiable Space Ground Floor Use
C-8:	Proposed Open Space
C-9:	Setbacks
C-10:	Existing Maximum Height Limit
C-11:	Proposed Maximum Height Limit
C-12:	North Height Limit
C-13:	North West Height Limit
C-14:	Event Center Block Minimum Height Exemption
C-15:	Gateway Signage Example
C-16:	194 <sup>th</sup> Street SW Right-of-way Plan Sheet
C-17:	194 <sup>th</sup> Street SW Street Cross Section
C-18:	194 <sup>th</sup> Street SW Street Centerline Profile
C-19:	194 <sup>th</sup> Street SW Street Centerline Profile Continued
C-20:	Street Sections at 194 <sup>th</sup> St SW
C-21:	Street Sections at 194 <sup>th</sup> St SW Continued
C-22:	Street Sections at 194 <sup>th</sup> St SW Continued
C-23:	Street Sections at 194 <sup>th</sup> St SW Continued
C-24:	38 <sup>th</sup> Avenue W Right-of-way Plan Sheet
C-25:	38 <sup>th</sup> Avenue W Street Cross Section
C-26:	38 <sup>th</sup> Avenue W Street Centerline Profile
C-27:	38 <sup>th</sup> Avenue W Street Centerline Profile Continued
C-28:	Street Sections at 38 <sup>th</sup> Avenue W
C-29:	Street Tree and Street Lighting Layout
C-30:	Future 194 <sup>th</sup> /38 <sup>th</sup> Intersection Location Alternatives
C-31:	Conceptual Stormwater Plan
C-32:	Conceptual Water Plan
C-33:	Conceptual Sewer Plan
C-34:	Extents of Remediation on Site Plan
C-35:	Phase 1 Landscape Design – Preliminary Concept Package, Dated April 15, 2025
C-36:	Transportation Assessment, dated August 7, 2025
C-37:	Transportation Impact Fee – Independent Fee Calculation, dated June 10, 2025
C-38:	Noise Assessment Report, dated May 22, 2025

## **EXHIBIT D**

### **Form of Ring Road Financing Agreement**

## **EXHIBIT E**

### Letters of Concurrence Index

Letters of Concurrence Through Effective Date of Agreement

## **EXHIBIT F**

### **Vested Code Provisions Index**