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**IMPROVEMENTS AGREEMENT AND PERFORMANCE GUARANTEE
With the City of Tangent, Oregon**

This Improvements Agreement (“Agreement”) is entered into on the last signed date indicated below by and between the authorized representatives of the City of Tangent, an Oregon municipal corporation (“City”) and _____ (“Developer” or “Applicant”).

Background Recitals:

- A. The City granted Developer final permit or land use approval for the following application (“Development Approval”), which is incorporated herein by this reference:

Description of the Development Approval:

City File No.:

Date of Development Approval:

- B. The Developer proposed certain development or improvement to the following real property located in the City of Tangent, Linn County, Oregon (the “Property”):

Insert legal description of property here or attach as Exhibit

- C. The City approved the Development Approval may have included conditions that required the Developer to construct or install certain public improvements that will be dedicated to the City when complete, such as frontage improvements along an abutting public right-of-way, sidewalks, street light systems, sanitary sewer extensions, stormwater improvements, landscaping, irrigation (collectively “Public Improvements”). The City’s Development Approval may also have required the Developer to construct or install certain improvements on the Property that are not intended for dedication or public ownership, such as landscaping, irrigation systems, sanitary a sanitary sewer lateral, pedestrian pathways, etc. (collectively “Private Improvements”); and
- D. To ensure satisfactory completion of each condition and construction of all Public and Private Improvements at the appropriate time in the development schedule, the City will withhold building permits, occupancy permits and other discretionary

approvals until it verifies that all conditions are fulfilled, and all Improvements completed in accordance with the conditions of the Development Approval.

- E. The City's right and ability to condition development permits and require permit applicants and developers to fulfill, and otherwise comply with, those conditions is set forth in the Tangent Land Development Code ("TLDC"). Permit recipients and developers are advised to review TLDC §7.520 for the range of financial guarantees that may be required to ensure satisfactory fulfillment of conditions.
- F. TLDC §7.510 requires developers to execute an improvements agreement that ensures compliance with, and fulfillment of, all conditions of land use approval in a legally binding contractual agreement, especially those conditions that require the developer to design and construct Public or Private Improvements. This Agreement is intended to fulfill that obligation.

NOW THEREFORE, The premises being generally states in the foregoing background Recitals, which are incorporated herein by this reference, the Parties agree as follows:

1. The Developer acknowledges the conditions attached to the City's Development Approval and the Developer's legal obligation and agreement to complete and fulfill all such conditions of Development Approval, including the design and construction or installation of all Public and Private Improvements according to the following schedule:

list required public and private improvements and schedule for completion of each one

For any Improvements not completed and accepted or approved by the City in accord with this schedule, the Parties agree that the City may proceed to complete the Improvement(s) and recover its reasonable expenses incurred in doing so from the Developer. The financial guarantee described in Section 8 is intended to facilitate the City's cost recovery in this regard.

2. The Developer agrees that it shall design and construct or cause to be constructed all Public and Private Improvements in accordance with the construction drawings, details, descriptions and other representations made by the Developer to the City or otherwise required by City standards (most recent edition), the City's land use regulations, and all conditions attached to the Development Approval.
3. The Developer agrees that it shall complete, or cause to be completed by a qualified professional, all the surveying services necessary to stake the project prior to, and maintain throughout, construction. The Developer shall also submit to the City as-built drawings on reproducible 3 mil mylar when the project is complete.
4. Prior to beginning work on the Development, the Developer agrees to, and shall execute in a recordable form provided by the City, a Restrictive Covenant and Waiver of Remonstrance for the formation of a Local Improvement District (LID) for construction of any public improvements that the Developer does not construct or install but which will directly benefit the Property.
5. The Developer shall provide inspection services for the construction of all Public Improvements required by the Development Approval at the Developer's expense. Inspection services shall be provided by a suitably qualified professional engineer,

licensed in Oregon, or an inspector under the direct supervision of an Oregon licensed professional engineer. The extent and level of detail of inspection shall be determined by the City Engineer prior to the Developer beginning construction.

6. Final approval for any Public and Private Improvements shall not occur until the City has inspected all such Improvements and found them to be consistent with the applicable Development Approval conditions, approved plans and designs, and consistent with all construction and Public Works Design Standards adopted by the City. City inspections are required to verify the correct completion of all Public and Private Improvements, and consistent with TLDC §7.510(2) and §7.100(5), the Developer shall be responsible for reimbursing the City for its cost(s) incurred in making all such inspections.
7. The City reserves the right to withhold building permits or any other permits and approvals until all conditions of the Development Approval are fulfilled to the City's satisfaction and all necessary Public and Private Improvements are satisfactorily constructed and approved or accepted by the City.
8. Performance and Performance Guarantee: Within 28 days (4 weeks) of the effective date of this Agreement, the Developer shall provide a financial guarantee pursuant to TLDC §7.520 and this Section 8 to secure timely and satisfactory completion of all Public Improvements listed in Section 1. The financial guarantee shall be in a form and amount approved by the City Attorney as sufficient to cover the City's reasonable costs to complete the required Improvement(s) in the event the Developer fails to do so, including design/engineering, inspections and related expenses, plus a 15% contingency (total 115% of estimated costs). The engineer's or professional contractors' cost estimate for all improvements is attached as Exhibit A to this Agreement and is \$_____. The financial guarantee that the Developer provides shall be 115% of this amount at the onset and may be reduced over time as the Developer completes construction of the Public Improvements. The City shall be entitled to draw upon any or all of the financial guarantee to complete any Improvements that the Developer has not completed by the deadline specified in Section 1, plus any City-approved extensions. Any such performance guarantee shall remain in effect until completion of the improvements as described in Section 1 and will be released upon the City Manager's written acceptance of the improvements. If the financial guarantee proves to be inadequate to complete the improvements, the Developer shall be responsible for the additional amounts needed. The City is entitled to also recover from the Developer its reasonable costs incurred to obtain any excess amounts. This Agreement does not preclude phased developments in which construction of certain Improvements are deferred until subsequent phases of the Development. Any such phasing, however, must be described in the Developer's application and allowed by the Development Approval.
 - A. Public Improvements. Design and construction of all Public Improvements shall be consistent with the City's adopted Public Works Design Standards and shall be subject to final inspection, approval and acceptance by the City. Public Improvements shall also be subject to the maintenance period and maintenance guarantee prescribed in Section 9. While the City may, in its sole discretion, allow issuance of building permits or occupancy prior to completion of Public Improvements, it will only do so upon Developer's execution and recordation of this Agreement and the Developer's posting of an acceptable financial guarantee under this Section 8.
 - B. Private Improvements. Private Improvements shall be designed and constructed by the Developer according to the schedule in Section 1. Upon completion, Private

Improvements must obtain City approval before this obligation is deemed fulfilled but will remain privately owned thereafter. Moreover, the maintenance period described in Section 9 does not apply to Private Improvements. In the event the Developer desires to proceed with some aspect or phase of the Development without first completing all required Private Improvements, the City may allow temporary occupancy of the property so long as the Developer provides a performance guarantee and financial security consistent with TLDC §7.520, in lieu of the yet-to-be-completed Private Improvements. The amount of the financial guarantee shall be 115% of the verified estimate of the cost of constructing or completing the deferred Private Improvements. Private Improvements so deferred shall, in any event, be completed and approved by the City within 9 months of issuance of a temporary occupancy permit. One 3-month extension may be granted by the City Manager if the City Manager determines that such a delay is warranted under the circumstances. Upon the Developer's completion of conditions of approval and the City's approval of the Private Improvements, the City Manager shall return the financial security, and issue a Final Occupancy Permit.

9. Maintenance Period and Maintenance Guarantee: All Public Improvements constructed by the developer shall be subject to a 1-year maintenance period, and the Developer shall execute a maintenance guarantee for Developer-constructed Public Improvements that will take effect on the date of City acceptance of those improvements and remain in effect for 1 year thereafter. The maintenance guarantee shall be valued at 10% of the verified cost of constructing the improvements and shall be available and payable to the City in the event any repair or correction to any dedicated Public Improvement(s) is needed during the 1-year maintenance period.
10. Consistent with TLDC §7.510, the Developer shall be responsible to repair all public rights-of-way and other public facilities that are damaged by the Developer or its contractors during construction and to return all public rights-of-way to a condition at least as good as before development or construction.
11. This Agreement shall remain in full force and effect until the Development is completed, and all Public and Private Improvements are inspected and approved, in writing, by the City. This Agreement shall be binding upon both parties, their heirs, successors and assign. No rights may be assigned, nor responsibilities delegated, to other parties that are not signatories to this Agreement, without the written agreement of both Parties.
12. The Parties agree that, should any suit or other action be commenced to enforce any aspect or obligation of this Agreement, the prevailing Party shall be entitled to an award of its reasonable costs, including any expert witness and attorney fees, incurred at trial, in mediation arbitration or in any appeal taken therefrom.
13. The Parties both have reviewed, understand and agree to be bound by the foregoing terms and provisions of this Agreement. Both Parties have had the opportunity to consult with legal counsel before entering into this Agreement.

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IT IS SO AGREED

For the Developer:

By: _____

Date: _____

Title: _____

State of Oregon)
) ss
County of _____)

This instrument was acknowledged before me on _____ by
_____ on behalf of the Developer described herein.

Notary Public – State of Oregon
My commission expires: _____

For the City of Tangent:

By: _____

Date: _____

Title: _____

State of Oregon)
) ss
County of Linn)

This instrument was acknowledged before me on _____ by
_____ on behalf of the City of Tangent as described herein.

Notary Public – State of Oregon
My commission expires: _____