DEVELOPMENT AGREEMENT

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

RECITALS

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

WHEREAS, the City and the Owner recognize this area will develop over a period of years and wish to provide predictability about the development standards that will apply to the Property over the course of its full development in order to increase efficient use of urban services; provide compatibility amongst the various phases of the Property as they develop; and to allow for substantial environmental review to occur prior to any development, recognizing that Washington’s State Environmental Policy Act discourages piecemeal review; and,

WHEREAS, the City is a Washington Municipal Corporation with annexation powers, and land use planning and permitting authority over all land within its corporate limits; and,
WHEREAS, the Washington State Legislature has authorized the execution of Development Agreements between local governments and a person having ownership or control of real property within its jurisdiction pursuant to RCW 36.70B.170(1); and,

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

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

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

The legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic cost of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements; and

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

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

Section 2. Term of Amendment. This Agreement shall commence upon the Effective Date, and shall be valid for a period of fifteen (15) years; unless extended or terminated by mutual consent of the Parties; provided however, if this Agreement or any initial land use applications related to the Property and filed within one year of the effective date of this Agreement, are appealed, the term of this Amendment shall be tolled for the time during which the appeal is pending or 18 months, whichever is less.

Section 3. Previous Agreements. The parties agree that the Pre-Annexation Agreement dated May 22, 2008 and recorded under Clark County Auditor’s No. 4458438 and the Agreement dated December 21, 2009, between GM Camas LLC and the City, recorded under Clark County Auditor’s No. 4636619 are intended to be completely superseded by this by this Agreement with respect to the Property and those agreements will no longer apply to the Property or be binding on the parties.

Section 4. Vesting. Any land use applications submitted with respect to the Property during the term of this Amendment, shall be vested to: (1) the following zoning, land use regulations and Development Standards in effect on the effective date of this Agreement, unless otherwise provided for in this Agreement: CMC title 13 Divisions I, II, and IV; CMC title 14.02.050 and resolution 1193 adopting the 2012 SMMWW; CMC title 16.01-16.21; CMC 16.31; CMC Title 17 and CMC Title 18; Any land use approvals affecting the Property issued after the effective date of this Agreement shall remain in effect during the term of this Agreement, regardless of the time period that they would have otherwise been valid for; provided however, that preliminary plat approvals shall be valid for a period of seven years from the date of the approval, regardless of whether the end of such seven years occurs during or after the term of this Agreement. Nothing in this section shall preclude the City from extending such preliminary plat approval beyond seven years if the City determines such act is appropriate. An archeological pre-determination report shall be required for the project with an application for a Planned Residential Development. The City, based upon review of the archeological predetermination report, may require additional surveys, studies, or mitigation. The City is currently considering amendments to its zoning code that would (a) expressly provide for commercially zoned property to be included in a Planned Residential Development under certain prescribed conditions. While nothing in this Amendment shall be construed as indicating or requiring that the City will adopt such regulations, in the event that the City does adopt such regulations, the Property may be developed utilizing those regulations without waiving any of the rights vested under this Agreement. The vesting provided for under this Agreement shall not apply to System Development Charges, Impact Fees or application or review fees.

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Section 5. Master Plan. Attached as Exhibit “B” and incorporated by reference herein, is a Mixed Use Master Plan (Master Plan). The Master Plan will provide the Parties with predictability regarding the future development of the Property including any associated offsite improvements related to transportation or utilities. Future development of the Property shall be generally consistent with the Master Plan. Planning standards that the Owner may utilize for the Master Plan are provided for in Section 5.6. The property shall be developed with a maximum of 1,300 dwelling units and reserve a net 8.8 acres of undeveloped land for construction of commercial uses within the Urban Village area. At the sole discretion of the City, for each additional full acre of net developed commercial land within the Urban Village area beyond the initial 8.8 acres, an additional residential bonus of 40 units may be granted and applied to the overall property. In no event, shall more than 1400 dwelling units be developed on the Property. It is contemplated by the parties that due to the number of years it will likely take the project to fully build out, changing market conditions, future urban growth boundary expansion considerations and other factors, the parties may wish to revisit some portions of the Master Plan, including raising the maximum number of residential units or commercial square footage. While nothing contained herein shall be construed to obligate either party to amend the Master Plan, it is recognized that future evolution of the City may warrant consideration of such issues.

Section 5.1 SEPA. Pursuant to the State Environmental Policy Act (SEPA), piecemeal environmental review is to be discouraged. As such, the Parties wish for SEPA review to be accomplished as part of the Agreement for as many of the Master Plan’s potential adverse environmental impacts as can be reasonably analyzed, based upon current information submitted with this Agreement, including, but not limited to, the conceptual master plan, traffic study, tree analysis, GIS data as to the general presence of wetlands on some portions of the Property, ELS letter addressing off site impacts of storm water to surrounding plant and wetland communities. This may be done under the Consolidated Review provisions of SEPA. The SEPA checklist attendant with this Agreement identifies various potential adverse impacts including transportation, parks, trees, wetlands sewer, water and storm water. The Checklist also identifies a variety of technical reports or information that provides a basis for the proposed mitigation or partial mitigation of these impacts. It is the intent of this Agreement and its attendant SEPA process, to have the City issue a Threshold Determination (as that term is utilized in RCW 43.21C) on the identified impacts of the implementation of the Master Plan. Impacts that are identified at future stages of the development, i.e., Planned Residential Development approval or Preliminary Plat approval, that have been previously analyzed through this or other SEPA processes, shall not be reanalyzed; provided the future identified adverse impacts are substantially similar to and of the same or less intensity as those previously analyzed under this or other SEPA processes. Nothing in this Section shall preclude the City from requesting information on the potential adverse environmental impacts associated with a specific preliminary plat application that have not been previously analyzed as required under the State Environmental Policy Act.
Section 5.2 Parks. The Master Plan includes an extensive park/open space/trail network that can easily be accessed on foot, bike or by auto. This network provides developed and undeveloped areas of active and passive recreation, connected by a trail system that runs throughout the project. Attached as Exhibit “C”, which is incorporated by reference herein, is a parks/open space/trail plan and summary sheet which describes the major components of the recreational network. It is anticipated that, (assuming appropriate amendments are made to the Parks Plan and Park Impact Fee program that provides PIF credits in an amount acceptable to the Owner) future development phases of the Property shall implement the applicable parks/open space/trail portion of the Master Plan, or something substantially similar thereto. The Parties agree that a park in this area that would in whole or in part be Park Impact Fee Creditable. However, as of the date of this Agreement, specificity as to the size of the park or the extent of improvements of the park; or the amount of Park Impact Fee credits that would be available for park land dedication or construction of improvements has not yet been determined. Because of these factors, the Parties agree to work together through the Parks Plan update and Park Impact Fee program update to arrive at an agreement regarding the size and improvements of the park to be created by the Owner and the amount of Park Impact fee Credits that would be issued to the Owner for the construction and dedication of the park.

Section 5.3 Transportation. Kittelson and Associates Transportation Engineers and the City have analyzed the transportation impacts of the full development of the Property as depicted in the Master Plan. The attached analysis includes consideration of the transportation impacts of 1,300 hundred residential units. The Property at full development will increase the existing number of PM peak hour trips on the transportation system by ___ trips. Based upon Kittelson’s and the City’s analysis, the future development of the Property (PRD and Preliminary Plat approval) shall be conditioned upon the mitigation measures and timing of construction as provided for in Exhibit “D”, which is attached hereto and incorporated herein. The Property shall be vested during the term of this Agreement with ___PM peak hour and ___ average daily trips and no additional off site transportation mitigation or analysis will be required during the term of this Agreement; provided however, that in the event the Owner proposes uses or intensities of uses that would cause the total number of PM Peak or Average Daily trips to exceed the number of trips analyzed as part of this Agreement, then the City may require additional transportation analysis and lawful mitigation. The transportation vesting provided for in this Section shall be subject to the mitigation measures and the timing provided for in Exhibit “D”. Some of the transportation improvements (either on Goodwin Road, Ingle Road or off site) may be on the City’s Transportation Capital Facility Plan. The Owner or successor in interest to the Property, upon construction of such qualifying transportation improvement, shall receive Transportation Impact Fee Credits, but only if such improvements are eligible for Credits under the City’s applicable Capital Facilities Plan and Transportation Impact Fee programs.

Section 5.4 Tree Preservation. The Property has been previously logged and portions cleared for a golf course, but there remain a large number of trees of varying species
on the Property. In order to enhance the ability to preserve trees in a predictable manner, the Parties wish to provide a comprehensive tree preservation plan for the future development of the Property, rather than through a piece meal approach whereby tree preservation is determined on a phase by phase basis as the Property develops over many years. In addition to the preservation of nearly five thousand trees, over 2,000 trees will be planted in conjunction with the development of the property consistent with the City’s landscape requirements. Attached as Exhibit “E”, which is incorporated by reference herein, is a Comprehensive Tree Preservation Plan for the Master Plan. Future development phases of the Property shall implement and be consistent with the Comprehensive Tree Preservation Plan for each tree area identified in Exhibit E, or something substantially similar thereto, as approved by the City. Compliance with the Tree Preservation Plan provided for in Exhibit “E” in a future PRD or other design or application for the development of the Property, will be deemed to satisfy the City’s tree preservation regulations for the project as whole, including CMC 17.19.030. At the time any Preliminary Plat or Site Plan Review application, is applied for, the development applicant shall provide a report from a certified arborist or biologist regarding the health of the trees to remain in the development applied for to assure that no trees will be left standing that will cause an unreasonable risk of harm to future residents of the project.

Section 5.5 Planning Standards. The Parties: in recognizing the critical area constraints on the Property, particularly slopes and wetlands; the desire to reduce impacts to those critical areas; the Property’s variety of different zoning designations, densities and uses; and, the desire to create a neighborhood environment that will offer a variety of housing types that will be functionally integrated through pedestrian, open space and trail connectivity, have created planning standards to enhance the Property’s ability to achieve these and other goals. These standards may be used in addition to those that would otherwise be available through the City’s PRD or density transfer provisions. Attached as Exhibit “F” is a set of these Planning Standards relating to various identified portions of the Conceptual Master Plan that may be used in the development of the property.

Section 5.6 Existing Covenant The parties agree the existing Conservation Covenant, recorded with the Clark County auditor under file #9608010075, shall expire and no longer apply to the Property upon approval of planned Residential Development of the entire property. Such PRD application shall be reviewed in absence of consideration of the covenant, but instead evaluate critical areas based upon current analysis and regulations. Notwithstanding the expiration of the Conservation covenant, the City may, as part of a development review process, require separate conservation covenants to be recorded as part of mitigating any critical or sensitive area impacts.

Section 6 Storm Water Regulations. With respect to Storm water Detention Standards only, during the term of this Agreement the Property shall adhere to and be regulated by the rules and regulations and ordinances that are in effect on the date of this Agreement; specifically, CMC title 14.02.050 and resolution 1193 adopting the 2012
The Parties recognize that there may be opportunities for regional storm water strategies or facilities in the North Lacamas Lake area. The Parties agree to continue to explore with each other and with interested third parties options for regional storm water strategies / facilities in this area.

Section 6.1. The City shall have no liability for any damages or losses suffered by the Owner or the Owner’s successors if a federal or state agency takes action that voids, nullifies or preempts the City's agreement to permit vesting under this Agreement. Owner and Owner’s successors shall further indemnify and hold harmless the City of Camas from any and all liability, including third party liability, under any applicable state or federal regulations including, but not limited to, the Clean Water Act, for any actual or alleged violation of said regulations arising from the City’s agreement to allow the vesting described in this Section 6.1 or in the event said third party or agency challenges the adoption of this Agreement within the applicable timeframes. In such event, the City, in its sole discretion, may require the owner or the owner successors to post a bond in an amount deemed reasonably sufficient to cover all costs and expenses associated with any claim or action for liability as described herein, including reasonable attorney’s fees to be incurred by the City in defending any third party claim. Upon notice of any claim or action for liability against City relating to this Section, the City shall timely notify Owner or Owner’s successors of their duties for indemnification of the City. Within ten (10) days of such notice, Owner may, at Owner’s sole discretion, revoke its vested rights to the City’s current storm water standards arising under this section by giving written notice of such revocation to the City. Upon such revocation, the Owner shall have no further liability to the City or obligation to indemnify the City. The Owner may choose to waive the vesting provided for in Section 6, if it notifies the City in writing. In that event, any fully complete development application submitted to the City and relating to the Property, shall vest to the storm water rules and regulations in effect at the time such application is submitted to the City. If the Owner chooses to waive the vesting provided for in Section 6, then all vested rights created in Section 6, shall become null and void, but such choice shall not affect any other provisions of this Agreement.

Section 7 Streetscape. Owner agrees to incorporate into its development application submittal package streetscape standards for primary streets within the Property addressing street specifications, tree spacing and species, sidewalk separation, trash receptacles, benches and other street amenities that will create an inviting, safe passage for not only vehicular but pedestrian traffic. Owner streetscape standards will be consistent with the streetscape standards identified in Exhibit “G” or to the adopted streetscape standards, at the City's sole discretion, at the time of development approval. At the time of application, Owner shall further be required to meet the current City minimum Street standards in CMC 17.19 and the Camas Design Standards Manual.

Section 8 Significant Views. The property includes land (Green Mountain) that is recognized as an important scenic and forested backdrop to Lacamas Lake as viewed from roads and vistas around the lake, which in turn plays a role in defining the City's character.
The City’s Comprehensive Plan identifies the goal of “preserving the scenic and aesthetic quality of shoreline areas and vistas to the greatest extent possible.” The Comprehensive Plan also identifies as a strategy to achieve these goals: establishment and maintenance of a permanent open space network and greenways; and, preserving the visual integrity of the wooded hillsides that provide the backdrop for the City; including the preservation of natural vegetation, minimizing disruption of soils and slopes, maintaining drainage patterns and encouraging wildlife habitats. As such, any development application under this Amendment shall comply with CMC 16.33 including any necessary mitigation plan, prepared and reviewed in accordance with CMC 16.33. Compliance with this section shall include, but not be limited to, review of any Development Application for consistency with the policies under CMC Section 16.33.010(B) and may be conditioned or denied to mitigate views impacts consistent with CMC Section 16.33.010(B)(4), (5).

Section 9  Golf Course. The parties acknowledge that a portion of the property is currently utilized as a golf course and related uses, subject to a conditional use permit. Nothing contained within this Amendment shall be construed as an indication on the part of the City that such use is prohibited or constrained in any manner and such use may continue after the execution of this Agreement.

Section 10. Remedies. Should a disagreement arise between the City and Developer regarding the interpretation and application of this Agreement, the parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting proves unsuccessful to resolve the dispute, the disagreement may be resolved by judicial action filed in the Clark County Superior Court.

Section 11. Performance. Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the parties' rights hereunder to enforce the same, nor shall any waiver by a party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this non-waiver clause.

Section 12. Venue. This Agreement shall be construed in accordance with and, governed by, the laws of the State of Washington. The parties agree to venue in the Superior Court for Clark County, State of Washington, to resolve any disputes that may arise under this Agreement.

Section 13. Severability. If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

Section 14. Inconsistencies. If any provisions of the Camas Municipal Code are deemed inconsistent with the provisions of this Agreement, the provisions of this Agreement shall prevail.
Section 15.  Binding on Successors and Recording. The rights and obligations created by this Agreement are assignable and shall be binding upon and inure to the benefit of Owner, the City, and their respective heirs, successors and assigns. Only Owner and the City or their assigns shall have the right to enforce the terms of this Amendment. This Agreement shall be recorded against the real property indicated on Exhibit “A” with the Clark County Auditor.

Section 16. Recitals. Each of the recitals contained herein are intended to be, and are incorporated as, covenants between the parties and shall be so construed.

Section 17. Amendments. This Agreement may only be amended by mutual agreement of the parties. Pursuant to RCW 36.70B.170(4), the City reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

Exhibits:

Exhibit A: Legal Description of Property
Exhibit B: Master Plan
Exhibit C: Park Plan
Exhibit D: Transportation Mitigation
Exhibit E: Tree Plan
Exhibit F: Planning Standards
Exhibit G: Streetscape Standards

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

CITY OF CAMAS

By ______________________________
Title ______________________________

GREEN MOUNTAIN LAND LLC

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

DATED: ______________________, 2014.

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

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

DATED: ______________________, 2014.

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