

DEVELOPMENT AGREEMENT

March ~~16~~23, 2006 Draft

THIS AGREEMENT is entered into this _____ day of _____, 2006 by and between Pacific Coast Investment Company, a Washington corporation("PCI"); Olympic Coast Investment, Inc., a Washington corporation("OCI"), and the CITY OF ISSAQUAH, a Washington Municipal Corporation (the "City").

RECITALS

A. The City has authority under the laws of the State of Washington to enact laws and enter into agreements to promote the health, safety, and welfare of its citizens and thereby control the use and development of property within its jurisdiction, and to undertake the annexation of property located outside its boundaries pursuant to Chapter 35A.14 RCW.

B. Pacific Coast Investment Company ("PCI") owns parcel 162406-9007 (Tax Lot 7), real property of approximately 13.01 acres, more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "PCI Property").

C. Olympic Coast Investment, Inc. ("OCI") owns parcel number 162406-9076 (Tax Lot 76), real property of approximately 9.09 acres, more particularly described on Exhibit B attached hereto and incorporated herein by this reference (the "OCI Property").

D. Together these properties are known as, and shall be referenced herein as "Mallard Bay Properties."

E. The City annexed the Mallard Bay Properties as part of a larger annexation commonly known as the Providence Point/Hans Jensen Annexation. The annexation became effective on January 1, 2003.

F. Prior to the effective date of the Providence Point/Hans Jensen Annexation, the Mallard Bay Properties were located in unincorporated King County and zoned R24, a zone permitting multi-family, single-family-attached, senior and assisted living housing at a base density of 24 dwelling units/gross acre and a maximum density of 36 dwelling units/gross acre. The R24 zone is subject to a base height of 60 feet, which can be increased to 75 feet with additional street and interior setbacks.

G. In 1998, King County accepted an application for a commercial site development permit ("CSDP #B98CS004") on the Mallard Bay Properties. The CSDP proposes a development with 316 units of multi-family and/or senior housing, two club houses, recreation buildings and/or associated senior housing facilities, a maximum 605 parking stalls, landscaping and associated storm water facilities, (the "Mallard Bay Project"). On June 10, 1998, King County determined that the CSDP application was complete. Therefore, pursuant to King

County Code ("KCC") 20.20.070 and 21A.41.070.A.1, the CSDP is vested to the King County and other regulations in affect on the date that the CSDP application was submitted, May 6, 1998. The CSDP Site Plans for the Mallard Bay Properties are attached hereto as Exhibit C and incorporated herein by this reference.

H. The parties desire to enter into this Agreement in order to set forth in greater detail the provisions for:

1. PERMIT REVIEW to insure that the Mallard Bay Properties are developed in a manner consistent with their land use entitlements, applicable codes, and appropriate design standards;
2. PERMITTED DEVELOPMENT, including modifications to the CSDP for single family development and/or other modifications that may arise;
3. Retention of County VESTING status including submittal of subsequent subdivision, binding site plan, Site Development Permit, and/or building permit applications to the City or binding site plan to the County provided such applications remain within the parameters of the approved CSDP. Parameters include maximum density, traffic trips, building height, environmentally sensitive area impacts and mitigation;
4. Payment of applicable IMPACT & MITIGATION FEES;
5. Construction of an "EAST PLATEAU TRAIL CONNECTION" by the Mallard Bay Properties consistent with their prior Easement Agreement (#97-06-88A) with the Washington State Parks and Recreation Commission, as it now exists or may be amended;
6. CONSTRUCTION OF ROAD IMPROVEMENTS AT SE 43RD AND EAST LAKE SAMAMMISH PARKWAY. These improvements, as determined by the City, shall consist of either the roundabout described in Exhibit H or the "T" intersection improvements and related access and frontage improvements required by King County described in Exhibit C.

NOW THEREFORE, for and in consideration of mutual covenants and agreements contained in this Agreement, the parties hereby covenant and agree as follows:

AGREEMENTS

1. PERMIT REVIEW

A. Commercial Site Development Permit Review:

1. King County Review: King County shall continue to review, on behalf of the City, all land use permit applications for the Mallard Bay Project that were filed with the County before the effective date of the annexation.

Review by the County shall occur in accordance with the regulations to which the applications are vested or provided for in this Agreement.

2. Issaquah Approval: Any decisions to approve, deny, or approve with conditions such applications shall be made by the City in accordance with Sections 3.1 & 3.2 of the 2002 Interlocal Agreement between Issaquah & King County.

B. SEPA Review:

1. MDNS Issued: King County issued a Mitigated Determination of Nonsignificance E98E0107 ("MDNS") for the CSDP on July 27, 1999. Issaquah timely appealed the MDNS and the parties settled that appeal in a Settlement Agreement dated December 2, 1999. A true and correct copy of the MDNS is attached hereto as Exhibit D and incorporated herein by reference. A true and correct copy of the Settlement Agreement is attached hereto as Exhibit E and incorporated herein by reference.
2. Critical Areas: The boundaries, classification, and required buffers of on-site streams and wetlands were determined by King County during its SEPA review and are reflected in the CSDP application materials.
3. SEPA Review for Site Development Permits: Environmental review has been completed for the broad Mallard Bay development proposal outlined by the CSDP. Additional environmental review by the City is contemplated with the Site Development Permits to implement the CSDP. Any additional environmental review will supplement, not duplicate, the environmental review completed for the CSDP consistent with RCW 43.21C.034, WAC 197-11-060, 197-11-600 and 197-11-660 and will focus on impacts resulting from the specific development proposal not covered by the environmental review for the CSDP and construction impacts.
4. SEPA Review of Modifications or Amendments: SEPA review may also be required for modifications or amendments to the CSDP, including changes to the "T" intersection improvements initially evaluated by King County, in accordance with SEPA Rules WAC 197-11 and Sections 1.E.1-4.2 of this Agreement.

C. Transportation Concurrency Review:

1. Concurrency Certificate Issued: King County issued a Certificate for Transportation Concurrency (No. 0621) for up to 432 multi-family units and 1,493 daily trips on April 3, 1998 (See Exhibit F).
2. Concurrency Review by Issaquah: Development generating up to 1,493 daily trips shall be exempt from the City's transportation concurrency requirements so long as the KC Concurrency Certificate remains valid.

The parties acknowledge that the transportation concurrency certificate is for more units than proposed in the CSDP and that the CSDP would have to be modified pursuant to Section 1.FE to allow more units (trips) than ultimately allowed by approval of the CSDP. Nothing herein shall pre-commit the City to any modification of the approved CSDP.

D. Community Conference:

1. Required: OCI and PCI agree that, prior to submitting the first [Site Development Permit or subdivision, building permit application](#) to the City for the OCI Property and the PCI Property, respectively, the owner of the Property on which the building is proposed will provide the information then currently required by the City for a Community Conference and participate in a Community Conference pursuant to IMC 18.04.140.
2. Recommendations Not Binding: The parties agree that any comments or recommendations offered at the Community Conference for each project, while not binding, will be considered by the owner of the Property on which the building is proposed.

E. CSDP Equivalent to a City Master Site Plan:

1. Purpose of the CSDP & Master Site Plan: The general purpose of King County's Commercial Site Development Permit and the City's Master Site Plan are similar and include: (a) establishing maximum densities and development standards; (b) providing flexibility to develop large parcels while assuring that appropriate provisions are made for utilities, transportation and pedestrian circulation, police and fire service, critical areas protection and usable open space; and, (c) allowing site development though project phasing over a period of years.
2. Future Permitting:
 - a) Level 2 Review pursuant to IMC 18.07.370-400 is required to process a Binding Site Plan, or to process minor amendments to the CSDP/MSP.
 - b) Level 3 Review pursuant to IMC 18.07.410- 450, is required for new buildings other than single family homes to implement the approved CSDP/MSP.
 - c) Level 4 Review pursuant to IMC 18.07.460-490 is required to process a Subdivision.
 - d) Level 5 Review pursuant to IMC 18.07.500-620 is required to process a major amendment to the CSDP/MSP. Other permits will be processed as outlined in IMC 18.07.
 - e) Approval Criteria. Applications requiring Level 0, 1, 2, 3, 4, or 5 review will be evaluated by the City of Issaquah using the following approval criteria:
 1. the conditions of approval for the CSDP.

2. County development standards to which the CSDP is vested including drainage standards, critical areas, impervious surface coverage, building height as modified by section 2.A.3 “Building Height”, setbacks, lot size, lot width ~~as modified by section 2.A.3 “Building Height”~~.
3. Design Criteria Checklist, IMC 18.07, Appendix 2, unless otherwise vested to County standards.
4. Residential Standards, IMC 18.07.370-440, unless otherwise vested to County standards.
5. General Development Standards, IMC 18.07.040-107, unless otherwise vested to County standards.
6. Approval criteria established in the IMC applicable to Level 2, 3, 4, or 5 reviews, unless otherwise vested to County standards.

F. Amendments to the CSDP/Master Site Plan:

1. Processing Amendments: Amendments to the CSDP/Master Site Plan shall be processed in accordance with IMC 18.04.~~610~~540 as it now exists or is hereafter amended.
2. Minor Amendments Defined: For purposes of this Agreement, Minor Amendments as defined in IMC 18.02.030 and IMC 18.04.~~540~~610 include changes in the CSDP that DO NOT:
 - a) Increase gross building floor area by more than 10 percent.
 - b) Increase the number of dwelling units. Dwelling units shall be calculated using the formula provided in Subsection 2.C below.
 - c) Increase total impervious surface area except as provided for in Section 2.A.4 of this Agreement.
 - d) Result in parking or loading less than the requirements of the King County Code, KCC21A.18 “Parking and Circulation.”
 - e) Locate buildings outside of the building envelope shown on the approved CSDP.
 - f) Change the number of ingress and egress points, unless the amendment results from a modification to implement a roundabout at the intersection at SE 43rd Way and East Lake Sammamish Parkway SE.
 - g) Increase the area of site disturbance by more than 10 percent.
 - h) Increase environmentally sensitive area square foot impacts by more than 10 percent.

3. Additional Information May be Required: The City may require additional information, including an environmental checklist together with any necessary technical studies, in order to determine whether a proposed amendment is minor or major. In determining whether there is a significant change in impacts from peak hour trips, the City will compare the impacts of the proposed amendment to the impacts described in the May 19, 1999 Mallard Bay Traffic Impact Analysis prepared for the CSDP.
4. Major Amendments: Any modification that does not meet the provisions of IMC 18.07.~~540610~~(A) and exceeds any of the thresholds in subsections 1.~~FE~~.2 above will be processed as a major amendment in accordance with IMC 18.07.~~540610~~(B), provided, however, that if the modification directly results from a City request, the modification will be processed as a Minor Amendment pursuant to Section 1.~~FE~~.2.above.

G. Phasing and Extensions of Time to Complete the CSDP/MSP:

1. Phasing: KCC 21A.41.100 allows an applicant to submit a phasing plan and provides that the CSDP shall expire if the applicant has not met the conditions and time schedule specified in the approved phasing plan. The phasing plan approved in conjunction with the CSDP shall be deemed an approved phasing plan pursuant to IMC 18.07.~~650570~~.E and IMC 18.07.~~580660~~.F.~~74~~. Once approved by the City of Issaquah, the phasing plan will be attached to this Agreement as Exhibit G. Any requested extension in the approved phasing plan is subject to subsection 1.~~FG~~.2: below.
2. Issaquah Approval: Nothing in this section shall require the City to grant an extension of time to complete the CSDP/Master Site Plan beyond the timeframe established by the approved CSDP phasing plan.

2. PERMITTED DEVELOPMENT

A. Permitted Development:

1. In Accordance with the Approved CSDP: The Mallard Bay properties shall develop in accordance with the approved CSDP, subject to the building provisions outlined in subsection 2.A.3 below, and subject to the review processes defined in subsection 1.E.2 above.
2. Transferring Density: The CSDP will permit dwelling units to be transferred between the OCI Property and the PCI Property when all of the conditions identified in this section are met. A transfer of dwelling units from one property to another which satisfies these conditions shall not be considered an amendment to the CSDP:
 - a) the density permitted by the County's R-24 zoning designation applicable to each parcel is not exceeded;
 - b) the "total" number of multi-family equivalent units for the Mallard Bay Project approved by the CSDP is not exceeded. If residential uses other than multi-family are proposed, the equivalent density,

as determined in accordance with Section 2.C. below, shall not be exceeded.

- c) The density can be accommodated without varying or adjusting the site development standards to which the project is vested and any applicable city regulations applied to the development by this Agreement.

- 3. Building Height: Building height over fifty (50) feet is subject to the approval criteria of IMC 18.07.355.C as follows:

No building in the Mallard Bay Project will exceed the sixty-five (65) foot height limit established for the R-24 zone, however, buildings may exceed 50 feet in height if a Site Development Permit has been approved for the project by the City and all of the following criteria are met:

- a) The adjustment of height will enhance the architectural design by:
 - (1) Modulating the roof of the structure through varied heights or pitches,
 - (2) The use of varied exterior materials, or
 - (3) Allowing parapets, gables, bell/clock towers or other features; and
- b) The gross floor area for each story above fifty (50) feet is reduced by twenty-five (25) percent of the gross floor area of the story beneath it; and
- c) At least fifty (50) percent of the required parking for the project is provided under the building or in structure parking; and
- d) Design features, such as transparent windows and doors, artwork, fountains, street furniture, varied exterior materials, and/or landscape elements or plazas are used to give the ground floor of the building a pedestrian scale; and
- e) Highly reflective glass shall not exceed seventy (70) percent of the length of the first floor adjacent to pedestrian way; and
- f) Solid walls on the first floors of buildings shall not exceed twenty (20) feet in length unless softened by a combination of design details, modulation and landscaping; and
- g) Trees shall be incorporated into the landscape design to provide a visual break of the wall mass which balances the additional height and bulk of the building.

- 4. Impervious Surface: Any reduction in floor area resulting from the Building Height limitations outlined above for buildings 50 – 65 ft. in height may be offset on a gross sq. ft. by sq. ft. basis by an increase in the impervious surface up to the City's MF-H maximum impervious surface area of 50 percent of the lot area.

5. PCI, OCI and the City shall explore opportunities for Green Building measures on both Tax Lots 7 and 76 including but not limited to Built Green and/or LEED certification, and Low Impact Stormwater Development (LID) such as the use of water quality swales along drives and in wetland buffers and the improvement of the value and function of related wetlands and habitat through the controlled discharge and treatment of storm water to these areas.

B. Lot creation for Detached, Zero-lot Line, Cluster Development, or Townhouses:

1. Alternative Housing Types Permitted by Zoning: The City has zoned the Mallard Bay Properties Multi-family - High Density (MF-H). This zoning designation allows single family detached, single family cluster development, single family zero lot line development, and multi-family development including apartments, condominiums, townhouses, and stacked flats (an undefined but similar common type of allowed multifamily unit). These terms are defined in IMC 18.02.
2. Single Family Attached Housing Defined: For purposes of this Agreement, “Single Family Attached Housing” shall mean and include single family cluster development, single family zero lot line development and townhome development.
3. Creation of Lots / Conformance with the CSDP: The parties recognize that to provide single family detached or attached dwelling units, PCI or OCI may wish to create lots within the Mallard Bay Property. In that event the CSDP will govern the site development requirements, except as provided in Subsections 2.B.4 and 2.B.5, and except for internal circulation. Site development requirements include, but are not limited to, the permitted density, height, drainage standards, impervious surface ratios, sensitive areas protection and mitigation, access, and off-site improvements. Individual lots for the single family detached or attached units may be created either through a subdivision or binding site plan.
4. Setbacks: The Issaquah Municipal Code provides for cluster development standards in IMC 18.07.360 and 420. For cluster developments, setbacks at exterior site boundaries equal setbacks of the underlying zone. Interior setbacks, such as on each lot are flexible. The Issaquah Municipal Code also provides setback standards for zero-lot line development that allow zero setbacks on one interior side yard and require the standard setback on the other interior side yard (IMC18.07420.C.8.d). The parties agree that, to implement the CSDP, the internal side yard setbacks will not be required in a single family attached development on the Mallard Bay Property, whether characterized as a clustered, zero-lot line or townhouse

development. Setbacks at exterior site boundaries will be those established by the CSDP.

5. Subdivision Review: Any application for a subdivision on the Mallard Bay properties shall be submitted with required review fees to the City of Issaquah for review and decision in conformance with IMC 18.13, the CSDP and this Agreement.
6. Binding Site Plan Review – Consistent with the CSDP: Prior to CSDP approval, King County may accept and review, in consultation with the City, a binding site plan for single family detached or attached lots and or condominiums that are consistent with and implement the CSDP. The applicant shall pay all applicable King County permit fees, and any other fees required by King County, for this review. Any decision to approve, deny, or approve the binding site plan with conditions shall be made by the City. Applicable permit fees shall also be paid to the City for this review and decision.

C. Equivalent Residential Density:

1. Conversion of Multi-Family Dwelling Units: All or part of the multi-family units approved by the CSDP may be converted to an equivalent number of single family detached, attached, senior and/or assisted living dwelling units within the building/site development envelopes approved by the CSDP including its related provisions for recreation, parking and stormwater facilities.
2. Multi-Family Equivalency: For purposes of the Agreement, multi-family equivalency shall be determined by calculating the daily trip generation for the type of dwelling unit proposed using the Institute of Transportation Engineers 1997 Trip General Manual. Using this Manual, the 316 multi-family units proposed in the CSDP would generate 1,493 daily trips. Thus, the aggregate trip generation for any single family attached housing on the Mallard Bay Property shall not exceed 1,493 daily trips.

3. IMPACT & MITIGATION FEES

A. Applicable Impact and Mitigation Fees:

The parties acknowledge that the City has adopted impact fees for transportation, schools, parks & fire protection and mitigation fees for general government and police service. Development of the Mallard Bay Project shall be subject to all applicable impact and mitigation fees other than transportation impact/mitigation fees which have been established by the December 2, 1999 Settlement Agreement described in Section 3.C, below.

B. Parks Impact Fees:

Mallard Bay will be given credit against the City's parks impact fee in accordance with IMC 18.17.080 for:

1. Any fee-in-lieu of on-site recreation space paid to King County pursuant to KCC 21A.14.185;
2. That portion of the East Plateau Regional Trail easement and trail construction on Tax Lot 7 and the adjoining public right-of-way that is designed and constructed using developer funds in accordance with Mallard Bay's prior Agreement with the Washington State Parks and Recreation Commission.
3. OCI and PCI shall prepare a grading plan acceptable to the City for the transportation and placement of any excess fill dirt generated by the Mallard Bay development to Squak Valley Park South. OCI and PCI commit to place and the City's Parks Department shall accept on an exclusive basis (in accordance with the approved grading plan) a minimum of 30,000 cubic yards of acceptable fill on Squak Valley South Park. The placement of this fill material will begin no later than May 1, 2007 and be completed no later than July 31, 2007. Should weather conditions prevent earthwork activity on the Mallard Bay properties by May 1, then the City, OCI, and PCI may mutually agree to extend the dates. Should the parties not mutually extend the dates, the City may solicit from others for the placement and source of fill material for Squak Valley South Park. OCI and PCI shall be given a credit against City Park Department mitigation fees for the placement of such excess soil on the park property in conformance with the approved grading plan. The credit against the park mitigations fees shall be calculated at \$12 per cubic yard of soil placed on the park site in accordance with the approved grading plan.. Should final grades be less than on the approved park grading plan, then the surface features shown shall be reflected at the lower grade in order to receive credit for the fill placement.
4. The total amount of credit received in aggregate of the Mallard Bay properties (Tax Lots 7 and 76) for the above items shall not exceed the amount of the required City Parks Impact Fee.

C. Transportation Impact Fees:

1. Established by Prior Agreement: Transportation impact/mitigation fees shall be governed by the Settlement Agreement between the City of Issaquah and Tye LLC dated December 2, 1999, Exhibit E. This Agreement shall serve to amend the above referenced Settlement Agreement only to the extent contained in this paragraph. The parties agree that payment of the fees specified therein, and the intersection improvements described in Section 5 fully mitigate the transportation impacts to King County and the City of Issaquah for the construction of 316 multi-family units or their equivalent on the Mallard Bay Properties.

2. Payment: The Settlement Agreement provides that a mitigation payment of \$92,475 is to be paid at the issuance of the first building permit on either Property. The parties agree that this payment may be divided between the two properties. The owner of each Property shall pay its pro-rated share at the time of issuance of the first building permit for its Property. The pro ration will be defined by the daily traffic trips generated by each Property as described herein. The Settlement Agreement also requires a mitigation payment of \$138,870, which is to be paid in two phases at the issuance of the first building permit for each Property. The parties agree that this payment may be divided between the two properties based on the pro-ration of the traffic impacts defined by the daily traffic trips generated by each Property as described herein.

3. Credit Against Roundabout Design & Construction:
 - a) The City shall consider Mallard Bay's funding of the design and engineering and participation in the construction costs of the roundabout generally described in Section 5 below as mitigation in lieu of the \$231,345 in transportation mitigation fees described in paragraphs 1 and 2 above if the roundabout is selected by the City as the preferred intersection improvement.

 - b) If the roundabout described in Section 5 below is NOT selected by the City as the preferred intersection improvement, then the City shall provide OCI and PCI credit toward the mitigation fees described in paragraphs 1 and 2 above for appropriate and documented expenses incurred for the design, engineering and analysis of the that occurred prior to (date) in the amount of \$.

4. Additional Fees and/or Mitigation: Additional fees or mitigation will be required if the CSDP is modified pursuant to Section 1.F. to allow the construction of more than 316 multi-family units or their equivalent.

4. EAST SAMMAMISH PLATEAU TRAIL CONNECTION

A. Public Access Across Lot 7:

PCI shall complete that portion of the East Plateau Regional Trail on Tax Lot 7 and/or on the adjacent property owned by the State of Washington (in accordance with a separate Agreement between Mallard Bay and the Washington State Parks and Recreation Commission). PCI shall grant public access on that portion of the trail that crosses Tax Lot 7 through the dedication of a twenty foot wide public access easement or other appropriate conveyance approved by the City of Issaquah.

B. Trail Standards:

The trail shall be built to the King County Trail Standards as shown in Exhibit I.

C. Trail Permitting:

The applicant shall revise the CSDP application to show the proposed trail location, easement, construction standards and mitigation, if any. The trail connection shall be evaluated in conjunction with, and as part of, the review of the CSDP application by King County and the City of Issaquah.

D. Trail Completion:

Trail construction shall be complete and approved and accepted by the City prior to issuance of the first certificate of occupancy for any structure on the PCI property.

5. CONSTRUCTION OF ROAD IMPROVEMENTS AT SE 43RD WAY AND EAST LAKE SAMMAMISH PARKWAY

A. OCI and PCI agree, per the City's direction, to construct or contribute to the funding of one of the following transportation improvements to the intersection at SE 43rd Way and East Lake Sammamish Parkway:

1. the roundabout and related access and frontage improvements generally described in Exhibit H; or,
2. the intersection improvements and related access and frontage improvements required by King County and described in the CSDP plans ([Exhibit C](#)).

The option selected by the City shall be installed and completed in accordance with the conditions of approval for the CSDP and any amendments.

B. In the event the City selects the roundabout option described in Exhibit H, the City's Public Works and Planning Departments shall be responsible for obtaining Issaquah City Council approval for the roundabout based on the following conditions:

- ~~6.1.~~ Funding for the construction of the roundabout shall be shared by OCI, PCI, and the City in the following manner: a) OCI and PCI shall pay the first One Million Two Hundred Thousand Dollars (\$1,200,000); the City shall pay the next Five Hundred Thousand Dollars (\$500,000); the City and OCI/PCI shall each pay 50% of any costs above One Million Seven Hundred Thousand Dollars (\$1,700,000).
2. The City, OCI, and PCI shall work together to design a roundabout that meets traffic and pedestrian circulation standards and needs while at the same time minimizing the site impacts on Tax Lots 7 and 76. A goal in this regard is to locate the roundabout as far to the west as possible.
3. OCI and PCI shall initiate and fund the balance of design of the roundabout immediately following the approval of the roundabout by the Issaquah City Council consistent with these conditions. OCI and PCI shall deliver the [completed SEPA checklist](#), final design plans, specifications (Contract documents for public bidding), [and](#) engineer's estimate, ~~and completed SEPA checklist~~ to the City of Issaquah.
4. The City shall be responsible for the permitting and construction of the roundabout including the environmental/SEPA review associated with the

permitting. The preliminary schedule for the roundabout includes the design and permitting in late 2006 / early 2007 with construction in the Summer of 2007.

5. OCI and PCI shall have the right to proceed with the design, permitting, land development and vertical construction of housing developments consistent with the CSDP, this Agreement and or Issaquah City Code on Tax Lots 7 and 76 in advance of the construction of the roundabout. Under such circumstances, OCI and PCI shall be responsible for paying \$1,200,000 to the City at issuance of the first certificate of occupancy and bonding or providing adequate surety acceptable to the City for their share of the cost of the roundabout above \$1,700,000.
6. The City shall be responsible for the approval of any Minor Amendments to the CSDP needed to accommodate the design and construction of the roundabout including any necessary site plan, site development, drainage, mitigation or other related changes for Tax Lots 7 and/or 76.
7. Should the Issaquah City Council disapprove the City's participation in the roundabout, OCI and PCI shall have the right to proceed with development of Tax Lots 7 and 76 with the King County CSDP approved "T" Intersection improvements.

6. MISCELLANEOUS PROVISIONS

A. Applicability

The Mallard Bay properties are the only properties expressly subject to this Agreement. The provisions of this Agreement are for the benefit of the parties hereto, and are not for the benefit of any third party or entity.

- B.** The City will work cooperatively with King County, PCI and OCI to expedite the approval of development permits for Tax Lots 7 and 76.

C. Entire Agreement:

This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein. Any amendment to this Agreement shall be in writing and signed by all the parties to this Agreement.

C. Covenants, Conditions, and Restrictions (IMC 18.07.650.F):

The Property Owners may prepare separate CC&Rs for each Property and/or joint CC&Rs for those issues common to both Properties.

D. Breach of Agreement:

In case of any breach of this Agreement, the non-defaulting party shall be entitled to maintain an action.

E. Agreement is Binding:

The terms and conditions of this Agreement are intended to be and shall constitute covenants running with the land described on Exhibits A and B and shall be

binding upon and benefit the successors in interest and assigns of respective parties, for the benefit and burden of the PCI and OCI Properties and for the benefit of the City.

F. Recording with King County:

This Agreement and any amendment thereto shall be filed for recording with the King County Office of Records and Elections at the expense of PCI and OCI.

G. Timeline & Termination:

This Agreement shall terminate upon the expiration of the CSDP as it may be extended by the City.

H. Captions:

The captions in this Agreement are inserted for reference only and shall not be construed to expand, limit, or otherwise modify the terms and conditions of this Agreement.

I. Severability:

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected.

J. Governed by State Law:

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF ISSAQUAH

By: _____
Mayor

Attest/Authenticated:

City Clerk

Approved as to form:

Office of the City Attorney

Pacific Coast Investment Company

By: _____

Its: _____

Olympic Coast Investment, Inc.

By: _____

Its: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me _____, to me known to be the _____ of CITY OF ISSAQUAH, a Washington municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said city for the uses and purposes therein mentioned, and on oath stated that _____ is authorized to execute said instrument.

GIVEN under my hand and official seal this _____ day of _____, 2006.

Print Name

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me _____ to me known to be the _____ of Pacific Coast Investment Company, the _____ that executed

EXHIBIT A
LEGAL DESCRIPTION OF PCI PROPERTY

EXHIBIT B
LEGAL DESCRIPTION OF OCI PROPERTY

EXHIBIT C
COMMERCIAL SITE DEVELOPMENT PERMIT (CSDP) PLANS

EXHIBIT D
MITIGATED DECLARATION OF NONSIGNIFICANCE

EXHIBIT E
SETTLEMENT AGREEMENT WITH THE CITY OF ISSAQUAH

EXHIBIT F
KING COUNTY TRANSPORTATION CONCURRENCY CERTIFICATE

EXHIBIT G
PHASING PLAN

EXHIBIT H
PRELIMINARY ROUNDABOUT DESIGN

EXHIBIT I
EAST SAMMAMISH PLATEAU REGIONAL TRAIL CONSTRUCTION STANDARDS