

DEVELOPMENT AGREEMENT

This Development Agreement is made this ____ day of _____, 2024, between the City of Boardman, an Oregon municipal corporation, hereinafter “City”, and Gary and Carol Maughan and Maughan Et. Al., LLC, a Washington limited liability company hereinafter “Developer.”

RECITALS

A. Developer wishes to develop a subdivision known as Chapparral Park located within the City of Boardman, County of Morrow for residential dwellings.

B. City has agreed to purchase property from Developer for the sum of \$600,000.

C. Developer has agreed to use the sale proceeds in the amount of \$600,000 for infrastructure improvements including the placement of water and sewer lines within the Chapparral Park Subdivision.

D. Developer desires to develop property in accordance with the conditions for approval of the Chapparral Park Subdivision and agrees to be bound by and comply with the terms and conditions contained in this Agreement and perform all conditions of approval.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement, the parties agree as follows:

1. Incorporation of Recitals. The recitals and all defining terms set forth therein are hereby incorporated into this Agreement and by this reference made a part hereof.

2. Property Description and Binding Covenants. The Property is that property described and depicted in Exhibit “1” attached hereto and by this reference made a part hereof. It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with the title to the Property and the benefits and burdens shall bind inure to all successors and interests to the parties.

3. Term. The term of this Agreement shall be effective upon adoption of the City Council approving this Agreement pursuant to ORS 94.508. The term of this Agreement shall commence on the effective date and shall continue for a period of four (4) years unless terminated sooner in accordance with the provisions contained herein.

4. City Findings. The City hereby finds and determines that execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with the City of Boardman Comprehensive Plan and City Code.

5. Approval. The approval of the Chapparral Park Subdivision will be subject to the

terms and conditions contained in this Agreement and pursuant to the applicable provisions of City's Code.

6. Extension of Sewer and Water Line. Developer will be responsible for infrastructure improvements including placement of sewer and water lines within Chapparal Park Subdivision in accordance with City standards. Developer shall submit engineered construction drawings for City review and approval. The construction of the extensions and connections of the sewer and water lines shall be under supervision and inspection by City.

7. Costs of Infrastructure Improvements. The Developer shall be responsible for the entire cost of the design and construction of the infrastructure improvements including sewer and water lines and use the sale proceeds in the amount of \$600,000 for said improvements within Chapparal Park Subdivision.

8. Permitted Uses, Density and Intensity of Uses, Height and Size of Allowed Structures. Upon approval of the Chaparral Park Subdivision the uses allowed under this Agreement include residential development. The height, size and density of the development shall comply with all City standards of the applicable provisions of the City Code and as established an approved site plan.

9. Schedule of Fees and Charges. The City may charge any processing fee for any land use approvals, building permits and similar permits and entitlements which are in force and effect at the time application is submitted for those permits. The City may also impose any system development charge for development of the Project or connection to City utilities and services.

10. Future Rules, Ordinances and Regulations. Except as otherwise provided in this Agreement, the ordinances, rules, regulations and official policies governing the property including, but not limited to, the law governing the issue of permits and approvals for the Project and the land use regulations applicable to the Project shall be those ordinances, rules, regulations in effect as of the date of the applications for land use approvals. To the extent any future rules, ordinances, regulations or policies are inconsistent with the permitted uses, density and intensity of use, maximum building height and size, the terms of this Agreement shall prevail. To the extent any future rules, ordinances, regulations or policies are not inconsistent with the permitted uses, density and intensity of use, maximum building height and size, limitation on fees, or any other term of this Agreement, such rules, ordinances, regulations or policies shall be applicable to the same extent as to other property in City. Notwithstanding anything in this Agreement to the contrary, the City shall apply the Uniform Building Code and State Structural Speciality Code to building permits for the projects that are in effect at the time of application for those permits.

11. Application of Changes. This Agreement does not include the application of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations. To the extent that such changes in City laws, regulations, plans or polices prevent or preclude compliance with one or more

provisions of this Agreement, the City and Developer shall take such action and cooperate as reasonably necessary to modify this Agreement. It is specifically understood and agreed by and between the parties that the development contemplated by this Agreement is a private undertaking and no partnership, joint venture or other association of any kind is formed by this Agreement.

12. Assignment. This Agreement may be assigned by any of the Developer with the consent of the City, which consent shall not be unreasonably withheld.

13. Default, Remedies and Termination. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either party to perform any term or provisions of this Agreement shall constitute a default. In the event of an alleged default or breach of any term or condition of this Agreement, the party alleging such default or breach shall give the other party not less than seven days notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such seven-day period, the party charged shall not be considered in default for purposes of termination or instituting legal proceedings. After notice and expiration of a 30-day period without cure, the other party to this Agreement at its option may institute legal proceedings pursuant to this Agreement or give notice of intent to terminate the Agreement.

14. Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation. Venue for all legal action shall be in Morrow County Circuit Court, State of Oregon.

15. Applicable Law and Attorney Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon. Should any action be brought by either party for breach of this Agreement, or to enforce any provisions herein, the prevailing parties to such action shall be entitled to reasonable attorney fees, court costs and such other costs as may be fixed by the court. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney fees shall be entitled to all other reasonable costs for investigating such actions, taking depositions and discovery, and all other necessary costs incurred in the litigation. All such fees shall be deemed to have accrued on commencement of such action and the right to collect such fees as the prevailing party shall be enforceable whether or not such action is prosecuted to a final judgment.

16. Hold Harmless Agreement. Developer hereby agrees to indemnify, defend and hold the City, its elective and appointed boards, commissions, officers, agents, employees and representatives harmless from any liability for damage or claims for damage for personal injury, or bodily injury including death, as well as from claims for property damage which may arise from Developer's performance of this Agreement, whether such performance be by Developer or by any property Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, for acting as agent for Developer, or any of Developer's contractors or subcontractors, unless such damage or claim arises from the negligence or willful misconduct of the City. Developer agrees to and shall defend and indemnify the City and its elective and

appointed boards, commissions, officers, agents and employees from any suits or actions at law or in equity arising out of the execution, adoption or implementation of this Agreement.

17. Severability. Except as set forth herein, if any term, provision, covenant or condition of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties.

18. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonable and necessary to carry out this Agreement in order to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

19. Notices. Formal written notices, demands, correspondence and communications between the City and the Developer required by this Agreement shall be given when deposited by postage prepaid, first class mail, addressed to City or Developer at such address set forth below. Such written notices, demands, correspondence and communications may be directed in the same manner to such other persons and addresses as either party may from time to time designate. Notice is required to be given shall be addressed as follows:

City of Boardman
Attn: City Manager
P.O. Box 229
Boardman, OR 97818

Gary and Carol Maughan
Maughan Et. Al., LLC
57 N 420 E
Orem, UT 84097

Each party may change the address stated herein by giving notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

20. Waiver of Breach. The waiver by any party of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other term or provision by any other party.

21. City Funding. The parties agree that any provision herein which requires the City to expend funds is contingent upon future appropriations as part of the City budget process as provided in ORS 94.504(5). Nothing herein requires City to appropriate such funds.

22. Entire Agreement/Modifications. This Agreement, along with all exhibits incorporated herein constitutes the entire agreement between and among the parties with respect to the subject matter contained herein and all prior negotiations, discussions, writings and agreements with regards to the subject matter are superseded and of no further force and effect. This Agreement cannot be amended or modified without a writing signed by all the parties.

23. Counterparts. This Agreement may be signed in one or more counterparts, each of

which shall be an original and all of which, when taken together, shall constitute one and the same instrument.

CITY OF BOARDMAN

By: _____
Brandon Hammond, City Manager

MAUGHAN ET. AL., LLC

By: _____
Name: _____
Title: _____

Gary Maughan

Carol Maughan

STATE OF OREGON)
) ss.
County of Morrow)

This instrument was acknowledged before me on _____ 2024,
by Brandon Hammond as City Manager of the City of Boardman.

Notary Public of Oregon
My Commission Expires: _____

STATE OF _____)
) ss.
County of _____)

This instrument was acknowledged before me on _____ 2024,
by _____ as _____ of the Maughan Et. Al., LLC.

Notary Public of _____
My Commission Expires: _____

STATE OF _____)
) ss.
County of _____)

This instrument was acknowledged before me on _____ 2024,
by Gary Maughan and Carol Maughan.

Notary Public of _____
My Commission Expires: _____