

EXHIBIT A

DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN VENTURE PROPERTIES, INC. AND THE CITY OF WILSONVILLE, OREGON

This Development and Annexation Agreement (“Agreement”) is entered into by and between the **City of Wilsonville**, an Oregon municipal corporation (“City”), and **Venture Properties, Inc.**, an Oregon corporation (“Developer”). The effective date of this Agreement is the _____ day of _____ 2024 (“Effective Date”). The City and Developer may be referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

- A. Developer proposes to construct residential housing within the area commonly referred to as Frog Pond West, which residential housing to be constructed by Developer is depicted on the map attached hereto and incorporated herein as **Exhibit A** (“Developer Property”). A map of the entire area of Frog Pond West is depicted on the map attached hereto and incorporated herein as **Exhibit B** (“Frog Pond West”).
- B. Developer presented to the City a proposed site plan for development of the Developer Property, as depicted in **Exhibit C** (“Proposed Development”) attached hereto and incorporated herein. The Proposed Development includes, but is not limited to, the following improvements: Public roadway and street lighting, public utility (sanitary sewer, water, and storm), and private franchise utilities. The Developer will be constructing the Boeckman Creek Regional Trail through the project and the associated Trailhead Park. Developer accepts all responsibility of the Proposed Development as amended and approved by the City.
- C. The Infrastructure Funding Plan (“Funding Plan”), a component of the Frog Pond West Master Plan (“Master Plan”), identifies four (4) off-site infrastructure projects: (1) Memorial Park pump station; (2) Boeckman Creek sanitary sewer trunk line; (3) west side water reservoir; and (4) Boeckman Bridge, which will be west of Frog Pond West over Boeckman Creek (“Boeckman Bridge”). These four (4) off-site infrastructure projects serve the broader City community, will be constructed by the City, and are funded through City system development charges (“SDC”), with possible contributions from other sources. In particular, Boeckman Bridge may be paid partially through a Boeckman Bridge transportation mitigation fee discussed herein in **Section IV** (“Boeckman Bridge Fee”). Developer will be responsible for paying the Boeckman Bridge Fee, to the extent required, at issuance of building permit.
- D. The Funding Plan also identifies four (4) on-site infrastructure projects: (1) local streets and sidewalks; (2) sanitary sewer lines; (3) water lines; and (4) stormwater management (“Developer Improvements”). Unless expressly identified otherwise herein, the construction and cost of these four (4) Developer Improvements are the responsibility of developers within Frog Pond West.

- E. The Funding Plan lists five (5) Master Plan infrastructure projects, which are the focus of the Funding Plan. These Master Plan infrastructure projects are: (1) the north side of SW Boeckman Road adjacent to Frog Pond West, including sanitary sewer (“Boeckman Road”); (2) the west side of SW Stafford Road adjacent to Frog Pond West, including sanitary sewer and water (“Stafford Road”); (3) the Neighborhood Park within Frog Pond West (“Neighborhood Park”); (4) the Trailhead Park in the western area of Frog Pond West (“Trailhead Park”); and (5) the Boeckman Creek Regional Trail along the west edge of Frog Pond West.
- F. The Boeckman Creek Regional Trail is included in the Master Plan and the Parks and Recreation Master Plan. This regional trail facility and associated trailhead access will be paid for by the City and constructed by Developer.
- G. Under current City policy, the cost and construction of the north part of Boeckman Road, west part of Stafford Road, and Neighborhood Park (“Unfunded Projects”) are the responsibility of developers within Frog Pond West. Attached hereto and incorporated herein as **Exhibit D** is a depiction of the “local portion” of Boeckman Road (which similarly applies for Stafford Road) that is the responsibility of the adjacent developer to construct under current City policy.
- H. Due to the size and expense of these three (3) Unfunded Projects and the multiple property ownerships with relatively small acreage within Frog Pond West, the City will take responsibility for constructing the Unfunded Projects and acquiring land as needed for the Neighborhood Park. Developer is responsible for paying system development charges (SDCs) and an additional infrastructure supplemental fee provided in **Section IV** (“Infrastructure Supplemental Fee”) at issuance of building permit in exchange for the City taking responsibility for constructing the Unfunded Projects.
- I. The City and Developer have agreed that this allocation for the work between the City and Developer is fair and equitable and is a proportional allocation between benefit to the public and benefit to Developer’s project.
- J. Developer will be solely responsible for all up-front costs associated with Developer’s particular Developer Improvements as described in **Section III**, below.

AGREEMENT

In consideration of the foregoing Recitals, and incorporating all of the above Recitals by reference in this Agreement as if fully set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, all of the above-named Parties agree as follows:

I. NEW DEVELOPMENT

Developer intends to construct residential development and other ancillary amenities within Frog Pond West. Developer’s Proposed Development has been approved by the City’s Development Review Board, and Developer is currently refining construction plans to be submitted in the permitting processes required by the City for residential development. Developer will pay all fees

required by the City for such residential development, including the Infrastructure Supplemental Fee and the Boeckman Bridge Fee described herein (collectively referred to as “Frog Pond West Fees”), in order to obtain the appropriate permits to move forward with Developer’s Proposed Development (“Development Approval”).

II. CITY’S IMPROVEMENTS (City Obligations)

In consideration for Developer paying certain additional fees described in **Section IV**, the City agrees to construct the Unfunded Projects and to acquire certain real property necessary for development of the Neighborhood Park. The City retains sole and absolute discretion regarding the means, manner, timing, materials, phasing, and all other aspects of acquisition and construction of the Unfunded Projects. Developer agrees to cooperate with the City with regard to the City’s construction of the Unfunded Projects, including, but not limited to, providing access to project sites, allowing tie-in to existing and future infrastructure, and coordinating Developer Improvements with construction of the Unfunded Projects. The City may also elect, in its sole and absolute discretion, to assign its responsibility to construct any of the Unfunded Projects.

III. DEVELOPER’S IMPROVEMENTS (Developer Obligations)

Section 3.1 – Description of Developer Improvements

Developer agrees to perform the Developer Improvements, as provided in the Proposed Development (**Exhibit C**), which Developer Improvements are generally described as follows:

Developer is constructing Frog Pond Terrace, a 19-lot subdivision to the north of the Morgan Farm Phase 2 residential subdivision and to the south of Frog Pond Lane. Developer is also extending the existing local street identified as “SW Woodbury Loop” and widening the existing local street identified as “SW Brisband Street.” Additionally, local streets are to be constructed as part of the Proposed Development. Developer will be constructing the Trailhead Park and a portion of the Boeckman Creek Regional Trail through the project. These improvements are shown in **Exhibit C**. Developer is responsible for constructing and installing all infrastructure, utilities, and other improvements as required under the City of Wilsonville City Code and conditions of approval for the Proposed Development.

Section 3.2 – Developer Improvement Costs

The foregoing Developer Improvements shall be constructed by Developer at Developer’s sole expense, except Developer may receive SDC credit relating to installation of a water line along Frog Pond Lane, as well as credit or refund relating to construction of the Trailhead Park and the Boeckman Creek Regional Trail, including some potential soft costs. Except as otherwise provided in Section 3.4, the foregoing Developer Improvements must be completed, inspected by the City, and deemed complete by the City before the City will issue any temporary occupancy permits to Developer for homes in the Proposed Development, assuming Development Approval.

Section 3.3 – SDC Credit for Expenses – Water Improvements

If Developer is entitled to Water SDC credit pursuant to **Section 3.2**, Developer must submit a request for SDC credit to the City within ninety (90) days of written acceptance of the improvements by the City. A cover page invoice with Developer's letterhead shall accompany the request for SDC credits. Developer must submit sufficient documentation for specific costs related to construction of such improvements and in a format acceptable by the City. Developer shall also submit a signed letter of completion certifying payment in full to all subcontractors and suppliers. If Developer fails to submit an acceptable request for SDC credit or reimbursement within ninety (90) days from the City's letter of acceptance issuance date, Developer forfeits its right to receive the SDC credit unless the Parties agree in writing.

The City will issue the SDC credits within thirty (30) days of receiving the approved final construction costs request documents for SDC credit, provided there is mutual agreement on any true-up charges. If there is a disagreement on any or all of the true-up charges, that true-up sum(s) may be withheld until such time as any such disagreement is resolved, with that sum(s) being paid within seven (7) days of resolution.

Section 3.4 – Reimbursement of Expenses – Park Improvements

Due to Developer's construction of the Trailhead Park and a portion of the Boeckman Creek Regional Trail, Developer will be entitled to SDC credit or refund, which Developer has estimated to currently equal SEVEN HUNDRED SIXTY-TWO THOUSAND ONE HUNDRED SIXTY-SIX DOLLARS (\$762,166) ("Park Costs"). The Park Costs consist of \$170,000 for land acquisition of approximately 0.34 acres for the Trailhead Park ("Acquisition Costs") and capital improvements estimated to be \$592,166 ("Improvement Costs"). The Improvement Costs are currently an estimate only, and any changes to the Improvement Costs will be handled in accordance with the terms set forth in this Section 3.4.

3.4.1. Acquisition Costs. The City and Developer agree that the Parties will execute a Statutory Warranty Deed for the Trailhead Park to be placed in escrow pending plat recording and completion of the Trailhead Park improvements, which Deed must be in substantially similar form to **Exhibit E** attached hereto and incorporated herein. The City will pay Developer the Acquisition Costs no later than thirty (30) calendar days after the Effective Date of this Agreement or after Developer's execution of the Statutory Warranty Deed, whichever is later.

3.4.2. Parks System Development Charges. The City and Developer hereby agree that Developer will not pay any Parks System Development Charges (SDCs) for the Proposed Development in lieu of receiving Parks SDC credits. The total amount that Developer would have paid to the City in Parks SDCs that it is now not paying is TWO HUNDRED SIXTY-SIX THOUSAND DOLLARS (\$266,000) at the Effective Date's rate (\$14,000/lot), which is subject to future increases and which will increase the credited amount depending on when the building permits are issued for the homes ("SDC Credit"). The SDC Credit will be applied to the Improvement Costs. For avoidance of doubt, the payment the City will pay to Developer to

reimburse Developer the Improvement Costs will be reduced by the SDC Credit amount.

3.4.3. SDC Refund. Subject to the conditions stated herein, the Parties hereby agree that the City will issue a refund check of the remaining balance (Improvement Costs minus SDC Credit), so long as the following conditions are met: (1) except as allowed in subsection 3.4.4.10 herein, Developer completes construction of the Trailhead Park and the portion of the Boeckman Creek Regional Trail consistent with City approval of the relevant Park public improvement plans prior to recording the Plat for the subdivision; (2) Developer must submit a written request for SDC refund to the City within ninety (90) days of written acceptance of the improvements by the City; and (3) if the refund amount exceeds the estimated Improvement Costs, the City obtains approval from the City Manager or the City Council, whichever is applicable. A cover page invoice with Developer's letterhead and a detailed accounting of all applicable expenditures shall accompany the request for SDC refund. Developer must submit sufficient documentation for specific costs related to construction of such improvements and in a format acceptable by the City. Developer shall also submit a signed letter of completion certifying payment in full to all subcontractors and suppliers. If Developer fails to submit an acceptable request for SDC refund within ninety (90) days from the City's letter of acceptance issuance date, Developer forfeits its right to receive a SDC refund unless the Parties agree in writing. If Developer fails to complete the construction of the Trailhead Park and the Boeckman Creek Regional Trail according to the approved plans or within the required time frame, Developer forfeits its right to receive a SDC refund and must pay to the City the SDC Credit. Developer may submit documentation reflective of the requirements stated above to obtain a partial refund (Improvement Costs less Retainage) upon Substantial Completion. *See* Subsection 3.4.4.8 *infra*.

3.4.3.1. The City will pay the refund within thirty (30) days of receiving the approved final construction costs request documents for refund, provided there is mutual agreement on any true-up charges. If there is a disagreement on any or all of the true-up charges or regarding the public improvements, that true-up sum(s) may be withheld until such time as any such disagreement is resolved, with that sum(s) being paid within seven (7) days of resolution.

3.4.4. Park and Trail Design and Construction Review. To promote communication, reduce potential disputes, and manage costs, the Parties agree to the following processes regarding the design and construction of the Trailhead Park improvements and the Boeckman Creek Regional Trail.

3.4.4.1. Project Managers. The City's Project Manager with regard to this Section 3.4.4 is Amy Pepper, Development Engineering Manager.

Developer's Project Manager with regard to this Section 3.4.4 is Kelly Ritz, Venture Properties, Inc.

- 3.4.4.2. Design Review. Developer will include the Trailhead Park and Boeckman Creek Regional Trail improvements with the Public Works Permit application. Developer will include a cost estimate so the parties may proactively discuss any potential issues regarding cost.
- 3.4.4.3. Bid Review. The City's Project Manager will review and approve all construction bids prior to the commencement of construction. Developer will forward, in electronic form, all relevant bid documents, and the City's Project Manager will respond as soon as possible, but no later than three (3) business days beginning with the business day following the submission to the City of all relevant materials. Developer's Project Manager will respond to any City questions or concerns as soon as possible, but no later than three (3) business days beginning with the business day following the City's question or concern.
- 3.4.4.4. Design Changes. The City's Project Manager will review and approve or reject all proposed design changes prior to those changes being made. Developer will forward, in electronic form, all relevant design change documents, and the City's Project Manager will respond as soon as possible, but no later than three (3) business days beginning with the business day following the submission to the City of all relevant materials. Similarly, any other additional communications between the City and Developer concerning design changes shall be as timely as possible, but no later than three (3) business days.
- 3.4.4.5. Review Change Orders. Prior to the commencement of work on items requiring a change order, Developer's Project Manager will submit electronically the requested change order with the City's Project Manager. The City's Project Manager will review and approve or reject the proposal no later than three (3) business days beginning with the day after submission to the City to review and approve or deny the requested change orders.
- 3.4.4.6. Cost Overruns. The City and Developer will agree to design the work so as to keep the costs of the work equal to or less than the Improvement Costs. Developer will make all reasonable efforts to construct The Trailhead Park and the Boeckman Creek Regional Trail at the Improvement Costs amount or less. In the case of cost overruns, the City Manager may, in the City Manager's sole and absolute discretion, approve the City's refund to Developer of costs that exceed, by no greater than 15%, the Improvement Costs amount. City's Manager will respond as soon as possible, but no later than three (3) business days beginning with the business day following the submission to the City of all relevant materials. All costs in excess of 15% must be approved by City Council. If Developer incurs such costs without

prior approval of the City Manager or City Council, as applicable, Developer will forfeit Developer's right to recover such costs from the City.

- 3.4.4.7. Construction Timeline. The Trailhead Park and Boeckman Creek Regional Trail shall be constructed and must be complete prior to final acceptance of the public infrastructure, which may occur after issuance of building permits if Developer has entered into a compliance agreement with the City contemplated in subsections 3.4.4.9 and 3.4.4.10 herein.
- 3.4.4.8. Retainage. Upon Substantial Completion (defined below), Developer may submit documentation consistent with Subsection 3.4.3 *supra* to receive a refund check for its Improvement Costs, less \$50,000. The City will retain \$50,000 until final City approval of the Trailhead Park and Boeckman Creek Regional Trail improvements. In the event of non-performance, the City may use the retainage to hire contractors to complete work.
- 3.4.4.9. Substantial Completion. Substantial completion means construction is to the point of complete where all public infrastructure facilities are usable for their intended purpose: utilities (storm, sanitary, and water) are tested, approved, and connected to public lines, streets have been paved, roadway striping is complete, street lighting is approved and activated, and all fire, life and safety issues meet code. At the point of the project meeting Substantial Completion, the City will approve the final plat. Developer is allowed to enter into a compliance agreement as described in subsection 3.4.4.10 so that Developer can record the plat for the Development at substantial completion of the public infrastructure, which, upon recording, will allow Developer to apply to the City for building permits.
- 3.4.4.10. Final Completion. Except as otherwise allowed in this Subsection 3.4.4.10, the City shall not issue the building permit for the 10th house until all of the improvements have been complete and accepted by the City. The City may enter into a compliance agreement with Developer consistent with other compliance agreements Developer has executed with the City for its other developments in Frog Pond West for those punch list items remaining at Substantial Completion, which will allow the issuance of the remaining building permits. The City's election to enter into a compliance agreement will not be unreasonably withheld. Final payment of the SDC Refund will occur no later than thirty days (30) after completion of all punch list items as determined by final acceptance by the City.

Section 3.5 – Developer Bonds

Prior to commencement of construction of the infrastructure set forth in this Agreement, Developer must provide to the City performance and payment bonds, satisfactory to the City. Prior to commencement of construction, Developer shall also cause the City to be named as an additional insured on the applicable contractor's insurance policy for the construction of

the respective infrastructure provided for in this Agreement, in amounts and coverages reasonably satisfactory to the City.

Section 3.6 – Developer Compliance with Frog Pond West Master Plan and City Code

Developer agrees to adhere to the purpose, terms, conditions, guidance, regulations, and requirements contained in the Frog Pond West Master Plan and related Wilsonville Code. Developer is further obligated to act in good faith and pursuant to the City of Wilsonville Public Works Standards in providing access to infrastructure for other development within Frog Pond West. Developer will not prohibit, block, or otherwise impede another developer's ability to access and tie into infrastructure within Frog Pond West. If the City determines, in its sole and absolute discretion, that Developer is engaging in conduct or behavior to prevent, inhibit, or otherwise deter other development from accessing or tying into infrastructure within Frog Pond West, the City may withhold occupancy permits, building permits that are in process, future building permits, and SDC credits or reimbursements unless and until Developer allows other development to access the infrastructure within Frog Pond West.

IV. ADDITIONAL FEES

Section 4.1 – Infrastructure Supplemental Fee

In addition to SDCs required to be paid, Developer will pay an Infrastructure Supplemental Fee of \$31,471 per single-family home, as adjusted pursuant to City Resolution No. 2649, at issuance of each building permit. If Developer constructs duplexes, the Infrastructure Supplemental Fee is required for each of the two units within the duplex. Developer is not required to pay the Infrastructure Supplemental Fee for any accessory dwelling units, which are defined in Wilsonville Code 4.001.

Section 4.2 – Boeckman Bridge Fee

Developer will also pay the Boeckman Bridge Fee of \$3,219 per single-family home, as adjusted pursuant to City Resolution No. 2649, for the construction of Boeckman Bridge. The Boeckman Bridge Fee must be paid at issuance of each building permit. If Developer constructs duplexes, the Boeckman Bridge Fee is required for each of the two units within the duplex. Developer is not required to pay the Boeckman Bridge Fee for any accessory dwelling units, which are defined in Wilsonville Code 4.001.

Section 4.3 – Release of Restrictive Covenant Waiving Right of Remonstrance for Formation of Local Improvement District

Upon payment of the Infrastructure Supplemental Fee and the Boeckman Bridge Fee (if applicable) for a specific parcel, Developer may request the City release the Restrictive Covenant Waiving Right of Remonstrance for Formation of Local Improvement District ("Waiver of Remonstrance") that has been recorded against the parcel. The City shall agree to the release of the Waiver of Remonstrance upon the City's determination that Developer has complied with the requirements of this section for release. Developer is responsible for

providing a legal description for the specific parcel and paying any and all costs and fees, including recording fees, incurred by the City to release the Waiver of Remonstrance.

V. DISPUTE RESOLUTION

Section 5.1 – Dispute of Frog Pond West Fees

5.11 If Developer disputes the City’s adjustment of either of the Frog Pond West Fees, Developer must submit a letter of appeal (“Appeal Letter”), no later than ten (10) calendar days after the date of issuance of each building permit, addressed to the City’s Community Development Director and the City’s Finance Director. Developer cannot appeal the base Frog Pond West Fees of \$31,471 (Infrastructure Supplemental Fee) and \$3,219 (Boeckman Bridge Fee) listed in **Sections 4.1 and 4.2** above because these fees have already been negotiated and agreed upon. The Appeal Letter contesting the adjusted amount must include the following information:

- 5.1.1.1 The name of the Developer;
- 5.1.1.2 The location of the parcel;
- 5.1.1.3 The amount of the adjustment that Developer disputes; and
- 5.1.1.4 Reasons why Developer disputes the adjustment.

If Developer fails to provide any of the above-listed information in the Appeal Letter within the allowed ten (10) day period, the Community Development Director will send a letter dismissing the appeal for failure to comply with this Section.

5.12 Upon receipt of an Appeal Letter submitted in compliance with **Section 5.1.1**, the Community Development Director and Finance Director will review the Appeal Letter, will obtain and review any City information regarding the disputed adjustment, and may ask for additional information from the Developer. No later than thirty (30) calendar days after the date of the Appeal Letter, the Community Development Director and Finance Director will issue an opinion of the Community Development Director and Finance Director (“Directors’ Opinion”) regarding whether Developer is entitled to a refund of any portion of the adjusted amount.

5.13 If Developer disputes the Directors’ Opinion, then Developer may submit a notice of appeal (“Appeal Notice”), no later than fourteen (14) calendar days after the date of the Directors’ Opinion, to the City Manager to have the matter reviewed by the City Council. The Appeal Notice must include the information listed in **Section 5.1.1.1 through 5.1.1.4** as well as the following information:

- 5.1.3.1 Reasons why Developer disputes the findings in the Directors’ Opinion.

If Developer fails to provide any of the above-listed information in the Appeal Notice within the fourteen (14) day period, the City Manager will send a letter dismissing the appeal for failure to comply with this Section.

- 5.14** Upon receipt of an Appeal Notice submitted in compliance with **Section 5.1.3**, the Community Development Director and Finance Director may supplement their Directors' Opinion with additional information ("Directors' Supplement") to be reviewed by the City Council, which Directors' Supplement must be submitted to the City Manager no later than fourteen (14) calendar days after the Appeal Notice. The City Council will review the entire record and may, in its sole discretion, request oral testimony. Such review must be held no later than thirty (30) calendar days after the Directors' Supplement or no later than forty- five (45) calendar days after the Appeal Notice if no Directors' Supplement is provided. City Council will issue a decision ("Council Decision") at the review meeting or at a later meeting if the City Council decides to continue the review to obtain additional information from the Developer and/or the City.
- 5.15** If Developer disputes the Council Decision, Developer will have a statutory right to a writ of review to Clackamas County Circuit Court pursuant to Oregon Revised Statutes 34.010 through 34.100.

Section 5.2 – All Other Disputes

- 5.21** **Mediation.** All disputes arising out of this Agreement, other than disputes subject to **Section 5.1** above, shall first be submitted to mediation. Any Party desiring mediation shall provide the other Party with a written notice (the "Request to Mediate"), which shall set forth the nature of the dispute. The Parties shall in good faith cooperate in the selection of a mediator and may adopt any procedural format that seems appropriate for the particular dispute. In the event a written settlement agreement is not executed by the Parties, in the Parties' sole discretion, within twenty (20) days from the date of the Request to Mediate, or such longer time frame as may be agreed upon in writing by the Parties, any Party may make demand for arbitration pursuant to the following paragraph.
- 5.22** **Arbitration or Litigation.** Any dispute arising under **Section 5.2.1** of this Agreement which is not resolved through mediation, upon mutual agreement of the Parties may be submitted to arbitration, to be conducted in Wilsonville, Oregon before a single arbitrator selected by mutual agreement of the Parties. The arbitrator shall have substantial experience in commercial real estate and construction disputes. If the Parties are unable to mutually agree upon and select an arbitrator within twenty (20) days, then any Party may file an action in Clackamas County Circuit Court in lieu of arbitration and there will be no obligation to arbitrate unless otherwise required by Oregon law. If arbitrated, judgment upon the arbitrator's award may be entered in any court having jurisdiction of the matter.
- 5.23** **Equitable Remedies.** Even if the parties undergo mediation or arbitration, the City may still request immediate equitable remedies of either specific performance or injunctive relief to occur while mediation or arbitration is pending or ongoing. The

parties will otherwise agree to abate the court case pending completion of the mediation or arbitration.

VI. RECORDING

This Agreement runs with Developer's land that is subject to this Agreement, as identified in Exhibit A. Either this Agreement or a memorandum of this Agreement will be recorded by the City with the Clackamas County Recorder's Office for all real property subject to this Agreement.

VII. MISCELLANEOUS PROVISIONS

Section 7.1 – Further Assurances

Each Party will cooperate and perform such acts and things reasonably necessary in connection with the performance of its obligations hereunder, in good faith to carry out the intent of the Parties hereto. Developer understands and agrees that no occupancy permit will be granted for the Proposed Development until the Developer Improvements have been completed and approved by the City as meeting the requirements set forth herein.

Section 7.2 – Modification or Amendment

No amendment, change, or modification of this Agreement will be valid unless in writing and signed by the Parties hereto.

Section 7.3 – Relationship

Nothing herein may be construed to create an agency relationship or a partnership or joint venture between the Parties.

Section 7.4 – Maintenance

Developer is responsible for maintenance of the Developer Improvements as provided in the 2017 City of Wilsonville Public Works Standards, Section 101.8.18 *Maintenance and Warranty*, and any amendments thereto. Developer remains responsible for submitting a maintenance bond, per Public Works Standards, to the City for all of its required Developer Improvements within the public right-of-way or public easements. If Developer fails to maintain the Developer Improvements during the applicable period, the City may do so and make a claim on the bond and directly against Developer. Any work required to be performed by the City will bear interest at a rate of twelve percent (12%) per annum.

Section 7.5 – Burden and Benefit

The covenants and agreements contained herein shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

Section 7.6 – No Continuing Waiver

The waiver by any Party of any breach of this Agreement will not operate or be construed to be a waiver of any subsequent breach.

Section 7.7 – Applicable Law

This Agreement shall be governed by and construed under the laws of the State of Oregon. Jurisdiction is in Clackamas County, Oregon.

Section 7.8 – Legal Fees

If any Party commences legal proceedings, including arbitration or bankruptcy, for any relief against any other Party arising out of or related to this Agreement, or the breach thereof, the losing Party shall pay the prevailing Party’s legal costs and expenses, including, but not limited to, arbitration costs, reasonable attorney fees, and expert witness fees, as determined by the court or the arbitrator at the trial level or on any appeal.

Section 7.9 – Time of Essence

Time is expressly declared to be of the essence of this Agreement.

Section 7.10 – Notices

All notices, demands, consents, approvals, and other communications which are required or desired to be given by any Party to each other hereunder shall be in writing and shall be faxed, hand delivered, or sent by overnight courier or United States Mail at its address set forth below, or at such other address as such Party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when delivered, three (3) days after mailing by United States Mail, or upon receipt if sent by courier; provided, however, that if any such notice or other communication shall also be sent by telecopy or fax machine, such notice shall be deemed given at the time and on the date of machine transmittal.

To City: City of Wilsonville
 Attn: Amanda Guile-Hinman, City Attorney
 29799 SW Town Center Loop East
 Wilsonville, OR 97070

To Developer: Venture Properties, Inc.
 Attn: Kelly Ritz
 4230 Galewood Street #100
 Lake Oswego, OR 97035

Section 7.11 – Rights Cumulative

All rights, remedies, powers, and privileges conferred under this Agreement on the Parties shall be cumulative of and in addition to, but not restrictive of or in lieu of, those conferred by law.

Section 7.12 – Counterparts

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

Section 7.13 – No Third-Party Beneficiaries and No Assignment

None of the duties and obligations of any Party under this Agreement shall in any way or in any manner be deemed to create any rights in any person or entity other than the Parties hereto or their respective heirs, successors, and assigns. Developer may not assign its rights under this Developer Agreement without the prior express written consent of the City.

Section 7.14 – Representations and Warranties

Each Party signing on behalf of Developer and the City hereby warrants actual authority to bind their respective Party. The Parties signing below also hereby warrant that entry into this Agreement and the enforcement of its terms will not violate any loan covenants or other agreements pertaining to any of the land or improvements impacted hereby.

Section 7.15 – Legal Review

All of the Parties to this Agreement hereby affirm that they have been represented in the negotiation hereof by their own independent legal counsel, who have reviewed this Agreement and advised their respective client concerning the same. Therefore, it shall be interpreted accordingly and shall not be construed against the drafter.

IN WITNESS WHEREOF, the Parties have hereunto set their hands as of the day and year first written above.

VENTURE PROPERTIES, INC,
an Oregon corporation

CITY OF WILSONVILLE,
a municipal corporation of Oregon

By: _____
Print Name: _____
As Its: _____

By: _____
Bryan Cosgrove
As Its: City Manager

APPROVED AS TO FORM:

Amanda Guile-Hinman, City Attorney

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EXHIBIT A

Map of Developer Property

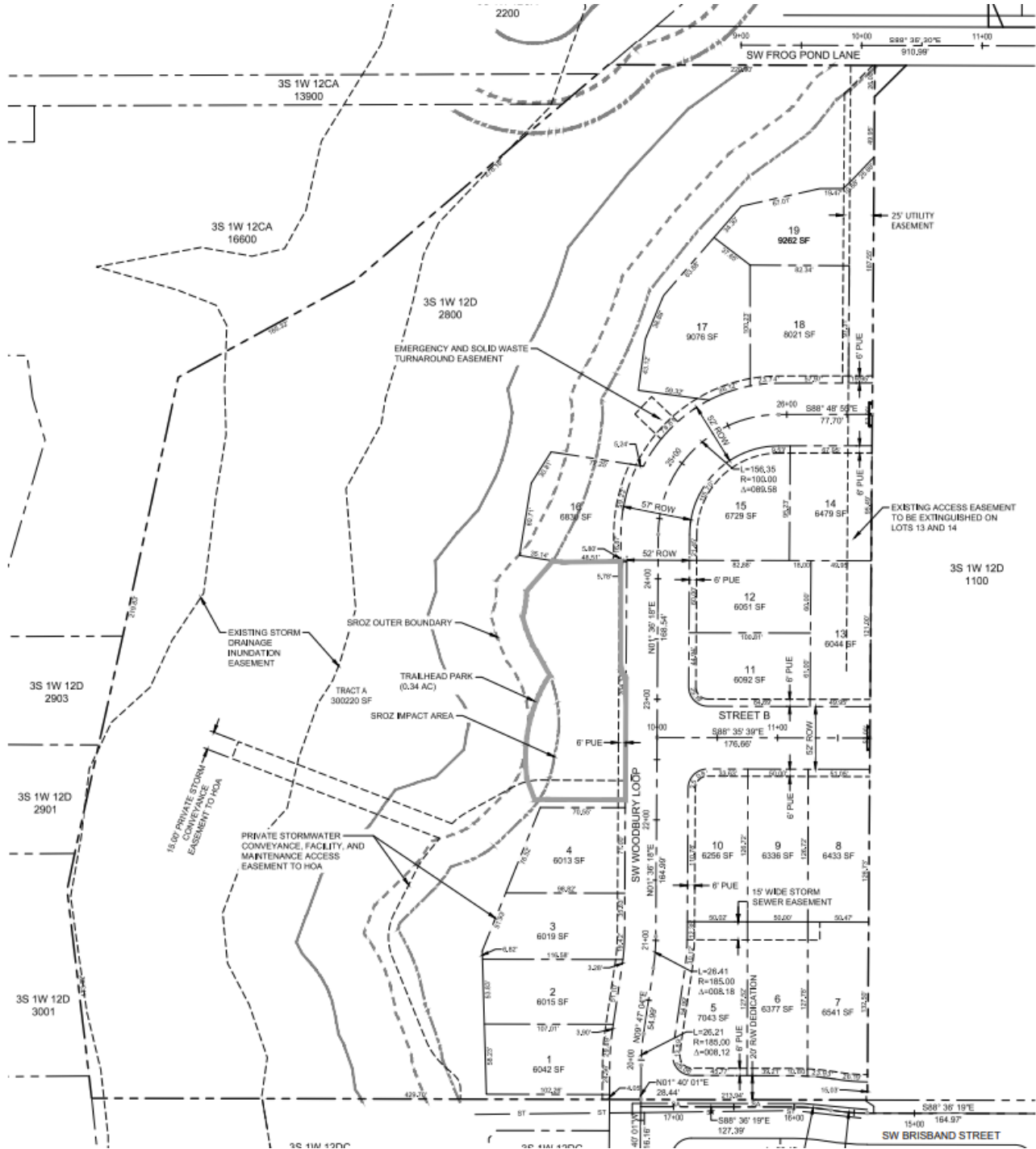
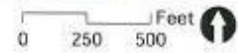
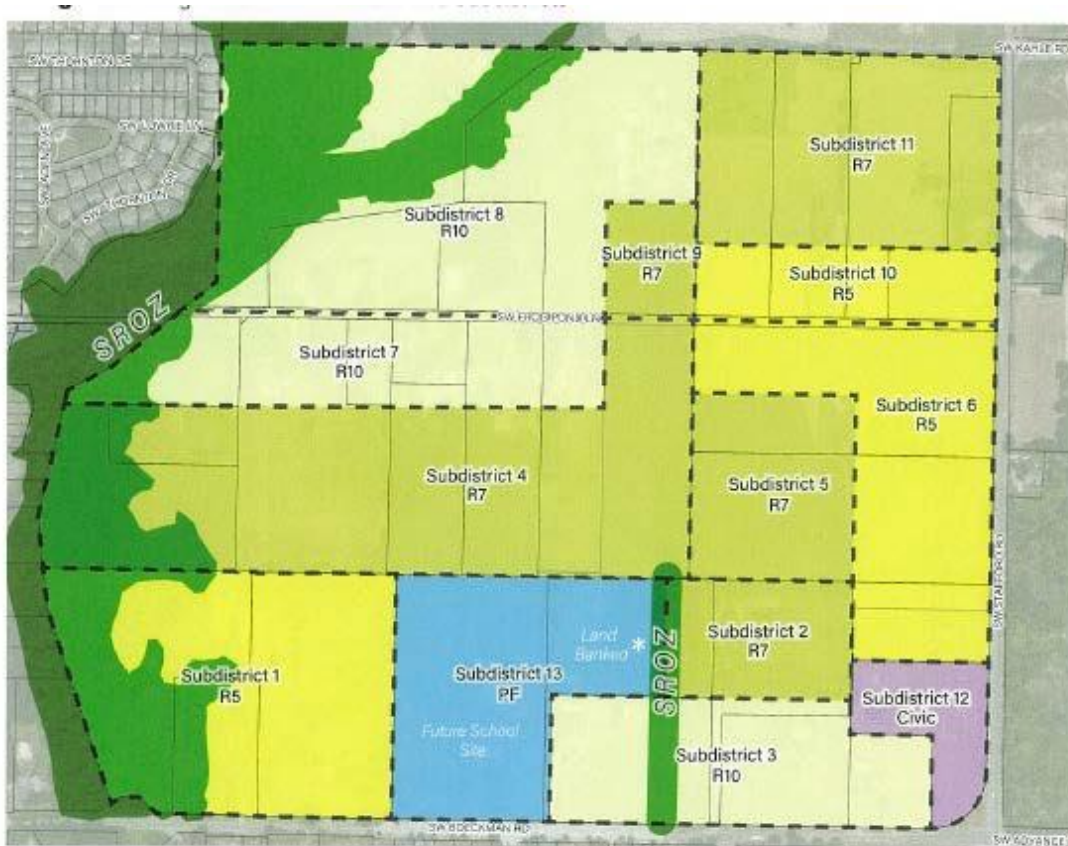


EXHIBIT B

Map of Frog Pond West



- | | | | |
|---|-------------------------------|--|---|
|  | R5 - Small Lot Single Family |  | Public Facilities |
|  | R7 - Medium Lot Single Family |  | Civic |
|  | R10 - Large Lot Single Family |  | Significant Resources Overlay Zone (SROZ) |

* Land banked for school facilities, a neighborhood park, and/or residential use.

EXHIBIT C

Proposed Development

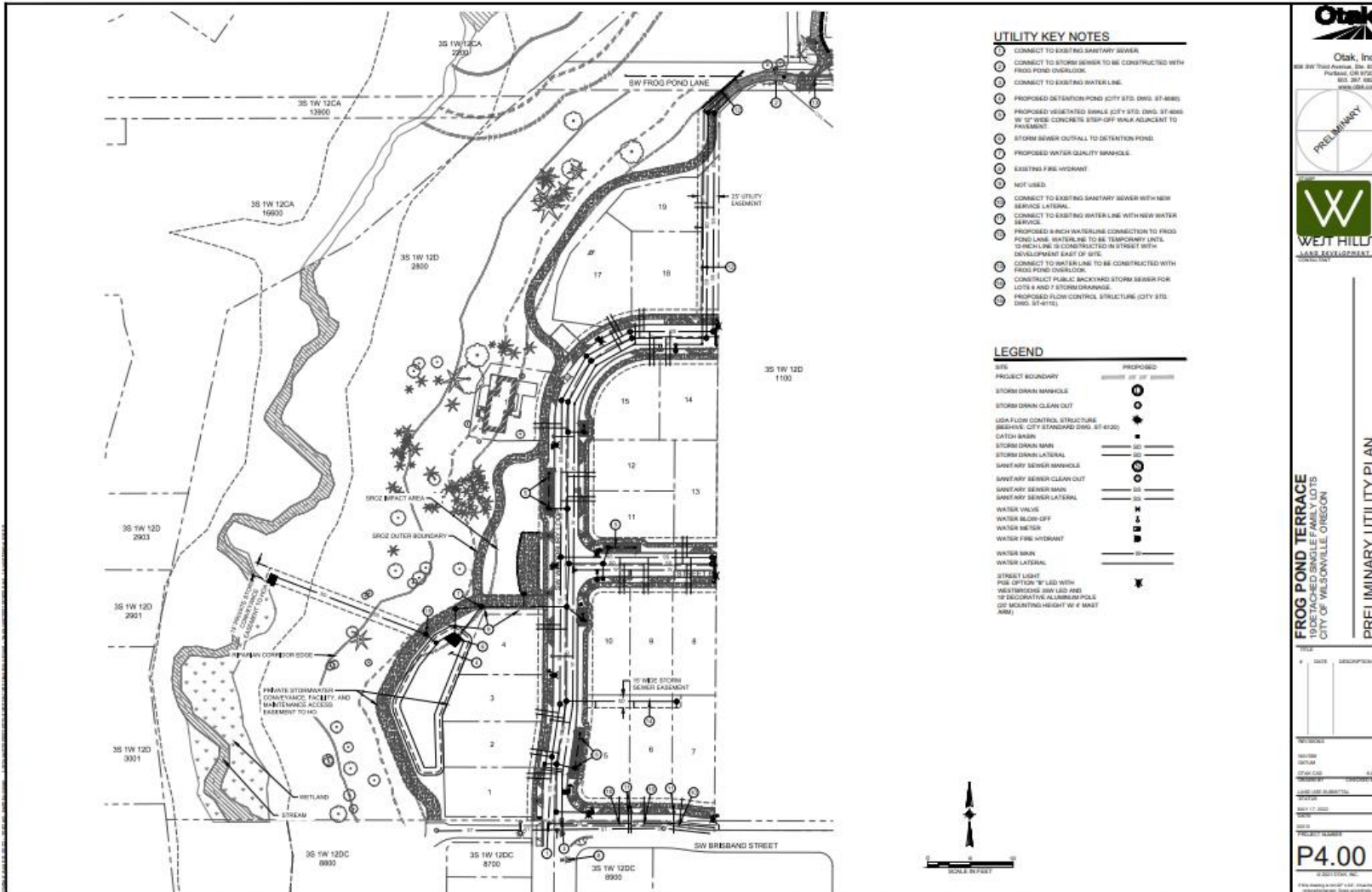


EXHIBIT D

Illustration of “Local Portion” of Boeckman Road (Applicable for Stafford Road)

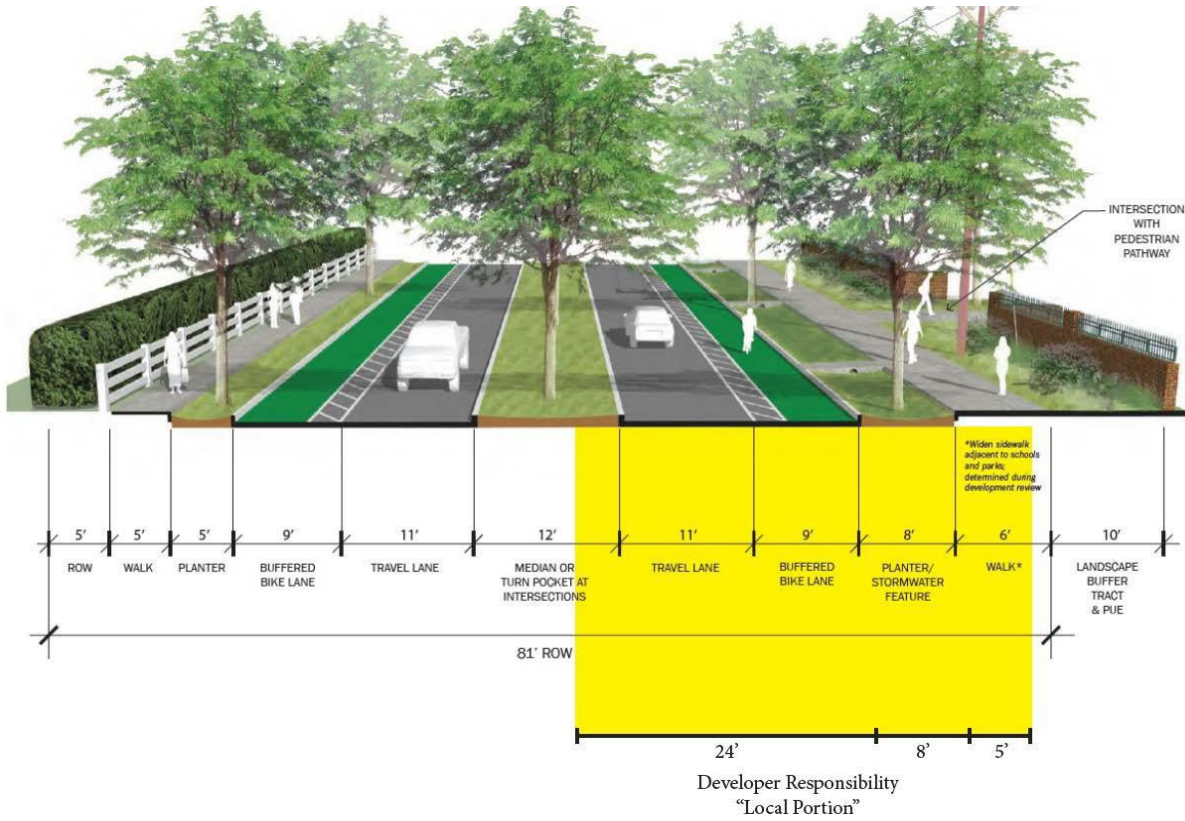


EXHIBIT E

Form of Statutory Warranty Deed

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