

## DEVELOPMENT AGREEMENT

This Development Agreement (this “**Agreement**”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2024 (the “**Effective Date**”) by and between the following parties:

CITY OF BANKS (“**City**”)  
Jolynn Becker, City Manager  
13680 NW Main Street  
Banks, OR 97106

THE HOLT GROUP, INC. (“**Holt**”)  
Attn: \_\_\_\_\_  
1301 SE Tech Center Drive, Suite #150,  
Vancouver, WA 98683

### RECITALS

- A.** Holt is under contract to purchase the approximately 206 acres of real property legally described on **Exhibit A** attached hereto and depicted on **Exhibit B** attached hereto (collectively, the “**Property**”).
- B.** The City of Banks is an Oregon municipal corporation (“**City**”) located in Washington County, Oregon that is responsible for land use planning and permitting on all land within its corporate boundaries pursuant to ORS Chapters 197 and 227, the City’s Comprehensive Land Use Plan, the City’s adopted functional plans, Transportation System Plan, the Banks Municipal Code (“**BMC**”), and the City’s Public Works Design Standards (“**PWDS**”) that govern the design and construction of public improvements (together with the codes and regulations of certain other jurisdictions that also govern the design and construction of public improvements). The City and Holt are sometimes referred to herein, collectively, as the “**Parties**” and, individually, as a “**Party**.”
- C.** Holt intends to develop the Property with housing, commercial and industrial buildings, parks, open space, and recreational improvements, including a citywide park with a bicycle and pedestrian railroad overcrossing to nearby public property (collectively, the “**Project**”). A copy of Holt’s preliminary/conceptual plan for the Project is attached as **Exhibit C** and incorporated herein by this reference.
- D.** The City owns and operates a municipal water system, consisting of a source, treatment, storage and distribution facilities, that is the exclusive source of potable water for all properties and development within the City of Banks. The demand for potable water in recent years during the dry season has exceeded the capacity of the City’s municipal water system, which has led to water supply shortages, the imposition of conservation measures,

and the curtailment of new development that increases the demand for potable water from the City's system.

- E.** At the time of execution of this Agreement, the City has in place BMC 152.003(D) (Adequate Utilities) and Resolution 2022-03, as amended, which collectively require all residential subdivision developers to ensure that there is sufficient potable water available, through either existing capacity in the City's municipal water system or by providing one or more new sources of water and necessary related facilities to utilize those water sources to serve the potable water demand estimated for their proposed developments or otherwise satisfy the requirements of BMC 152.003(D) and Resolution 2022-03 (collectively, the "**Water Supply Obligations**").
- F.** In addition to constraints on the availability of water in the City, the City is also lacking sufficient parkland for its existing population and there are existing safety hazards at the Aerts Road/OR Highway 6 and Banks Rd/Aerts Rd intersections.
- G.** Holt has submitted, or will submit, one or more applications to the City for, among other permits and approvals required for development of the Project, approval of (i) a comprehensive plan map amendment, (ii) a zoning map amendment, (iii) a master plan, (iv) a subdivision preliminary plat, and (v) conditional use permit for the Citywide Park, with respect to the Project (collectively, the "**Development Permits**").
- H.** Holt and the City now desire to establish the infrastructure improvements to be constructed to permit development of the Property upon issuance of the Development Permits and to agree upon (i) the methods for funding the cost of those infrastructure improvements and (ii) the timing of construction of those infrastructure improvements.

**NOW, THEREFORE**, based on the foregoing Recitals, which are incorporated herein by this reference, the mutual covenants provided for in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Section 1.** Definitions. Capitalized terms used and not defined herein shall have the meanings assigned to such terms in **Exhibit D** attached hereto.

**Section 2.** Not a Statutory Development Agreement. The Parties recognize and agree that this Agreement is not, and shall not be construed to be, a statutory development agreement under ORS 94.504 to 94.528, is not intended to implement and shall not be subject to the requirements of ORS 94.504 to 94.528.

**Section 3.** Not a Land Use Decision, appeal by Writ of Review only. The Parties understand and agree that the City's approval of this Agreement does not constitute a land use decision and is not a land use decision under state law, but instead contemplates a series of land use applications that Holt or its successors will submit for decision by the City. Consideration and

approval of this Agreement by the City requires a public hearing, and when signed, this Agreement constitutes the City's final decision with regard to the matters addressed herein. This Agreement, when signed, may be appealed by any Party with standing to Circuit Court through a Writ of Review process under ORS 34.010 to 34.102.

**Section 4.** Effective Date and Term. This Agreement shall be effective upon full execution and delivery by the authorized representatives of all Parties ("**Effective Date**"). This Agreement shall be, and remain, in force for a period of twenty (20) years from the Effective Date, after which it shall expire automatically and become null and void (the "**Termination Date**"), except that any entitlements (land use permits and approvals, land divisions, and building permits), easements, dedications, water rights, and the like granted to or by the City, Washington County, or Holt shall remain valid and continue to impose on-going obligations and benefits on the holder thereof.

**Section 5.** Amendment and Modification. This Agreement may be amended or modified prior to the Termination Date, including an extension of the Termination Date, only upon the mutual written agreement of both Parties. The City Council has authorized the Mayor to execute this Agreement, and the City Manager has been authorized to approve future changes to the Exhibits attached hereto, as well as to the Critical Dates (as defined in Section 8.9 below), without the necessity of City Council review or approval provided (a) no such change eliminates Holt's obligation to construct one or more of the Improvements and (b) such change does not obligate the City to incur additional unreimbursed costs in excess of \_\_\_\_\_ and 00/100 Dollars (\$\_\_\_\_\_.00).

**Section 6.** Applicable Development Standards. This Agreement and all development specifically described herein (including, without limitation, Holt's division of the Property and development of the Project) shall be subject to the City's land use regulations and land division standards in Title XV of the BMC and the PWDS that are in effect on the Effective Date (collectively, the "**Development Standards**"), except as specifically modified by this Agreement. Any amendments to the City's land use regulations, land division standards or PWDS adopted by the City after the Effective Date will only apply to the Project if and to the extent the Parties, in their sole and absolute discretion, enter into a binding amendment to this Agreement to cause such amendments apply to the Project.

**Section 7.** Concept Project Schedule; Critical Dates; Home Occupancy Timing; Certain Costs.

7.1 Preliminary Project Schedule. A preliminary project schedule is attached hereto as **Exhibit E** (the "**Concept Project Schedule**"). The Concept Project Schedule is intended to outline the order of operations and sequence of Improvements and actions needed for the Project to succeed in a timely manner. The Concept Project Schedule is not intended to be binding on the Parties, but the Parties will update the Concept Project Schedule from time-to-time to reasonably reflect changes in the schedule for construction of the Improvements. An update to the Concept

Project Schedule will not be considered an amendment to this Agreement but will be signed by both the City Manager and an authorized representative of Holt.

7.2. Critical Dates. Time is of the essence with respect to the performance of all of the City's Critical Date Obligations (as defined in Section 8.9 below). The City shall use commercially reasonable efforts to satisfy each Critical Date Obligation under this Agreement by the applicable Critical Date therefor. Promptly after learning of an event that may result in the City being unable to complete a Critical Date Obligation under this Agreement by the applicable Critical Date therefor, the City shall provide written notice thereof to Holt, and the Parties will negotiate a reasonable adjustment to the applicable Critical Date.

7.3 Application of Concept Project Schedule and Exhibits to Home Occupancy Timing. The Concept Project Schedule and other Exhibits sometimes correlate Improvements to the home occupancy of a specific number of dwelling units, in which case a final certificate of occupancy shall not be granted for the specified dwelling unit (or those in addition to it) until the Improvement has been constructed substantially in accordance with the approved plans therefor, is operating substantially as designed, and the City has not notified Holt in writing of the existence of a defect in the initial construction thereof that materially affects the operation of such Improvement for its primary purpose (such condition is sometimes referred to herein as "**Substantial Completion**"). By way of example only, the Transportation Improvement Table in **Exhibit G** indicates that the Aerts Road/OR Highway 6 Intersection Improvement (Roundabout) must be operational before the occupancy of 174 dwelling units. The one-hundred seventy-fourth (174) dwelling unit on the Property, and any subsequent dwelling units on the Property, will receive a final certificate of occupancy only after the Aerts Road/OR Highway 6 Intersection Improvement (Roundabout) is operational. When calculating dwelling units, model homes are excluded from all dwelling unit counts for the timing of Improvements.

7.4 Certain Costs. Holt and the City are parties to an Agreement to Pay Professional Expenses Related to Development Proposal executed by Holt on November 1, 2021 pursuant to which Holt agreed to reimburse certain costs incurred by the City in connection with (i) responding to Holt's inquiries of the City related to its development plans and (ii) review of Holt's development applications (the "**Reimbursement Agreement**"). Nothing herein is intended to supersede or amend the Reimbursement Agreement and Holt shall remain fully liable for certain costs and expenses thereunder, notwithstanding that this Agreement may indicate that the City is initially responsible for certain items "at its sole cost and expense."

**Section 8. Water Improvements.** The water system improvements (collectively, the "**Water Improvements**") are described and depicted on **Exhibit F**, which includes a conceptual plan for the location of the Water Improvements and other water system improvements contemplated herein (the "**Water Improvements Map**"), and includes the "**Water Improvements Table**," which details the Water Improvements and specifies the timing of when said Improvements must be constructed.

8.1. Deep Well #3.

8.1.1. City Responsibilities. The City hereby agrees to, at its sole cost and expense, perform all of the following:

8.1.1.1. By March 29, 2024 (the “**OWRD Critical Date**”), prepare and submit to the Oregon Water Resources Department the OWRD Transfer Application and OWRD Permit Amendment Application.

8.1.1.2. By October 31, 2024 (the “**OHA Critical Date**”), prepare and submit to the Oregon Health Authority the OHA Well Application.

8.1.1.3. Subject to Holt’s obligation to reimburse certain costs pursuant to the Reimbursement Agreement, permit Deep Well #3.

8.1.1.4. Subject to Holt’s obligation to reimburse certain costs pursuant to the Reimbursement Agreement, City will have the right to provide its own representative on site to observe construction of Deep Well #3 to confirm their substantial compliance with the approved Water Project Technical Specifications (as defined below).

8.1.1.5. Subject to Holt’s obligation to reimburse certain costs pursuant to the Reimbursement Agreement, City will review and approve the Water Project Design (as defined below) provided it reasonably determines that the Water Project Design complies with the project parameters listed in Footnotes #4 and #6 of Exhibit F (the “**Water Project Parameters**”). In the event that the City does not reasonably deny its approval of the Water Project Design within thirty (30) days after Holt’s submittal thereof, it will be deemed to have approved same.

8.1.1.6. Subject to Holt’s obligation to reimburse certain costs pursuant to the Reimbursement Agreement, City will review and approve the Water Project Technical Specifications (as defined below) provided it reasonably determines that the Water Project Technical Specifications are consistent with the approved, or deemed approved, Water Project Design. In the event that the City does not reasonably deny its approval of the Water Project Technical Specifications within thirty (30) days after Holt’s submittal thereof, it will be deemed to have approved same.

8.1.1.7. Subject to Holt’s obligation to reimburse certain costs pursuant to the Reimbursement Agreement, City will review and approve the Water Project Testing Report (as defined below).

8.1.1.8. Subject to Holt’s obligation to reimburse certain costs pursuant to the Reimbursement Agreement, as soon as possible after construction of Deep Well #3 is complete and water from Deep Well #3 can be put to full beneficial use consistent with the terms and conditions of the orders resulting from the OWRD Transfer Application and OWRD Permit Amendment Application, City will prepare and submit claims of beneficial use to perfect the water rights for Deep Well #3.

8.1.1.9. City will manage City water supplies in accordance with the Oregon Water Resources Department's approval of Deep Well #3. Such management practices may include the use of surface water when available in lieu of groundwater, balancing groundwater withdrawals between Well #1, Well #2, and Deep Well #3, balancing groundwater withdrawals across the City's groundwater rights, and other management activities. City will provide Holt with access to all data concerning water levels in and water use from Well #1, Well #2, and Deep Well #3.

8.1.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

8.1.2.1. Obtain the owner of the Property's signature on the Consent by Deeded Landowner form for the OWRD Transfer Application and OWRD Permit Amendment Application.

8.1.2.2. Prepare a design for Deep Well #3 consistent with the Water Project Parameters and Wellhead Parameters (the "**Water Project Design**") and submit a copy of the Water Project Design to the City for its review and approval. The Water Project Design shall also provide the following with respect to the wellhead (the "**Wellhead Parameters**"):

8.1.2.2.1. Wellhead shall accommodate separate conduits for SCADA transducers, other pressure sensors and controls, and manual measurement of water levels. Conduits shall extend from the wellhead to the bottom of the pump and motor system. The wellhead and pump facility will include components to allow for ASR and will be designed to accommodate anticipated pressure during recharge. Additional improvements related to ASR are anticipated to include a downhole flow control valve, bi-directional flow meters, recharge pipe loop, and water quality sampling locations.

8.1.2.2.2. Provide wellhead facility design such that pump to waste options are included.

8.1.2.2.3. Provide integrated well controls and SCADA system to monitor groundwater levels, water quality, production rate, pressure at the wellhead, and control production rates such that monitoring and control of the wellhead and pumping can be operated remotely.

8.1.2.2.4. Finish the wellhead facility such that it is accessible to a pump truck or truck mounted drill rig and that

the truck or drill rig may access the well from directly overhead.

8.1.2.3. Prepare technical specifications for Deep Well #3 consistent with the Water Project Design (the “**Water Project Technical Specifications**”) and submit a copy of the Water Project Technical Specifications to the City for its review and approval.

8.1.2.4. Construct Deep Well #3 in accordance with the Water Project Technical Specifications.

8.1.2.5. Have a geologist registered in the State of Oregon (i) observe drilling and construction, (ii) keep a geologic log, (iii) collect samples of all geologic materials, (iv) complete an analysis of the drill cuttings, and (v) document the construction methods and materials used by the selected water well drilling contractor.

8.1.2.6. Complete pump testing of Deep Well #3 by conducting a step rate test and a constant rate drawdown and recovery test. A step-rate test will be completed with four different rates with up to 120 minutes of pumping at each rate. The planned rates for the step tests are as follows (Holt may reasonably determine that other rates are more appropriate): 150 gallons per minute (gpm), 250 gpm, 350 gpm, and 450 gpm.

8.1.2.7. Complete a constant rate drawdown and recovery test in accordance with Section 8.1.2.10 below.

8.1.2.8. Complete plumbness and alignment testing of any completed well such that the method and results meet the most current American Water Resources Association standard for municipal wells.

8.1.2.9. Collect and submit to a certified drinking water laboratory all water quality samples necessary to meet OWRD, OHA New Drinking Water Source and EPA drinking water requirements. Provide the results of the water quality analysis to the City.

8.1.2.10. Provide the City with a report (the “**Water Project Testing Report**”) stamped and signed by a geologist registered in the State of Oregon that presents an analysis of whether Deep Well #3 can satisfy the MDD Requirement and the ADD Requirement, pursuant to the following methodology: (i) MDD Requirement: within 90 days of the completion of Deep Well #3 construction, a constant-rate test will be performed at a minimum capacity of 0.43 million gallons per day for a period of 24 hours. MDD Requirement shall be met if the pumping water level after 24 hours of continuous pumping is above 315 feet below ground surface (bgs) as established as the maximum pumping level; and (ii) ADD Requirement: within 90 days of the completion of Deep Well #3 construction, a constant-rate test will be performed at a minimum rate of 0.22 million gallons per day for a period of 48 hours and a straight line projection will then be used to estimate the drawdown in the well after 365 days of continuous pumping

(including interference from existing wells and seasonal water level variability). ADD Requirement shall be met if the projected pumping water level in Well 3 is above 315 feet bgs.

## 8.2. Additional Water Supply Improvements

8.2.1. City Responsibilities. The City hereby agrees to, at its sole cost and expense, perform all of the following:

8.2.1.1. Promptly after submittal of same to City, City will review, approve and sign the ASR Limited License Application for the Additional Water Supply Improvements.

8.2.1.2. City will provide authorizations and access to City facilities needed for Holt to construct the Additional Water Supply Improvements.

8.2.1.3. Following Substantial Completion and commissioning of the Additional Water Supply Improvements, City will be responsible for complying with all of the obligations under the ASR Limited License including, without limitation, any testing requirements thereunder.

8.2.2. Holt Responsibilities. Holt hereby agrees to, at its sole cost and expense, perform all of the following:

8.2.2.1. Prepare and submit to OWRD an application for an ASR Limited License to permit the Additional Water Supply Improvements (the “**ASR Limited License Application**”) within six (6) months of the effective date of final land use approval of the Development Permits, including resolution of any and all appeals and proceedings on remand.

8.2.2.2. Construct, Substantially Complete and commission the Additional Water Supply Improvements prior to completion of the Project.

## 8.3. Chlorination Facility.

8.3.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

8.3.1.1. Design, permit, and construct the Chlorination Facility, which shall be operational by November 30, 2025 (the “**Chlorination Critical Date**”).

8.3.1.2. Own and maintain the Chlorination Facility.

8.3.2. Holt Responsibilities: Holt will contribute up to \$75,000 towards the costs incurred by the City in connection with construction of the Chlorination Facility (the “**Chlorination Contribution**”). Holt will pay the Chlorination Contribution to the City within thirty (30) days following substantial completion of the Chlorination Facility and receipt of

**Commented [DK1]:** Based upon our permitting timeline assumptions, Holt believes that this work could begin in roughly Fall 2026. This additional water supply is being provided as a hedge against the potential that OWRD declining groundwater level conditions (which we anticipate will be applied from the existing Well #2 water right certificate to the new Deep Well #3) will be triggered at some point during the lifetime the well, so operation of this supply is not correlated to a particular phase of development/occupancy of a specific number of homes. Accordingly, Holt will commit to completing construction on these Improvements prior to completion of the Project.



invoices from the City demonstrating the amounts incurred in connection with construction of the Chlorination Facility.

8.4. 1.0 MG Reservoir

8.4.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

8.4.1.1. By August 30, 2024 (the “**Reservoir Acquisition Critical Date**”), acquire property and construction easements necessary for construction of the Reservoir.

8.4.1.2. By April 1, 2024 (the “**Reservoir Design Commencement Critical Date**”), commence design of and land use applications for the Reservoir.

8.4.1.3. By January 31, 2025 (the “**Reservoir Design Completion Critical Date**”), complete design of the Reservoir and provide a copy of the Reservoir design to Holt for its review and approval.

8.4.1.4. By May 31, 2025 (the “**Reservoir Permit Critical Date**”), obtain any and all land use and construction permits and pay all permit and recording fees necessary for construction of the Reservoir.

8.4.1.5. Own and maintain the Reservoir.

8.4.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

8.4.2.1. Upon the City’s request, cause to be prepared (i) any surveys needed for any property line adjustment or land division that are necessary for the Reservoir and (ii) a topographic survey to be used in connection with the design of the Reservoir. Holt will use commercially reasonable efforts to provide the survey to the City within 30 days following the date on which the City and Holt mutually agree on the scope of the survey.

8.4.2.2. Review the City’s proposed design of the Reservoir and not unreasonably withhold its approval thereof.

8.4.2.3. Construct the Reservoir.

8.5. Railroad Water Main Crossings.

8.5.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

8.5.1.1. Subject to Holt's obligation to reimburse certain costs pursuant to the Reimbursement Agreement, promptly review applications for permits for construction of the Railroad Water Main Crossings.

8.5.1.2. Execute and deliver all utility crossing permit applications and right of entry applications necessary to obtain the approval of the Railroad Water Main Crossings from the railroad(s) with jurisdiction over same. Where existing agreements exist, the City will support amendments to those agreements with railroad owners to include new utilities.

8.5.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

8.5.2.1. Prepare permit applications for City execution and obtain any permits or approvals from the railroad(s) required for construction of the Railroad Water Main Crossings.

8.5.2.2. Design the Railroad Water Main Crossings, draft applications and pay application fees for all utility crossing permit applications and right of entry applications needed for Railroad Water Main Crossings.

8.5.2.3. Construct the Railroad Water Main Crossings.

8.6. East Loop/Aerts Road Water Main.

8.6.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

8.6.1.1. Subject to Holt's obligation to reimburse certain costs pursuant to the Reimbursement Agreement, promptly review applications for permits for construction of the East Loop/Aerts Road Water Main.

8.6.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

8.6.2.1. Design, obtain permit(s), and construct the East Loop/Aerts Road Water Main.

8.7. TVID Water

8.7.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

8.7.1.1. Support Holt's attempt to obtain permission to use Tualatin Valley Irrigation District ("TVID") water to provide irrigation to open spaces and parks within the Project.

8.7.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

8.7.2.1. Work with TVID to use water currently allocated for the golf course for irrigation of the proposed open spaces and parks within the Project.

8.7.2.2. If Holt obtains TVID water, or another source of non-potable water other than from the City, install the Non-Potable Water Main (Purple Pipe) for irrigation of public and HOA open spaces, parks, stormwater facilities, and collector planter strips.

8.8. Water Supply. The City agrees that construction of the Water Improvements, other than the Chlorination Facility for which Holt's sole obligation will be to pay the Chlorination Contribution, will satisfy in full Holt's Water Supply Obligations under BMC 152.003(D) and City of Banks Resolution 2022-03 with respect to providing adequate water supply and, as a result, upon completion thereof there will be water of a sufficient quality and quantity available to serve 100 percent of the Project's projected water needs. Any and all design, permitting, construction, operation or compliance costs associated with the City's water supply, including but not limited to expansion of ASR, beyond the Additional Water Supply Improvements, is solely the City's cost and responsibility.

8.8.1. Prior to construction of the Water Improvements, (i) the existing lot lines of the Property may need to be adjusted, (ii) large lot land divisions may be required, or (iii) both (collectively, "**Preliminary Land Divisions**") in order to facilitate property acquisition, phasing, or both. City agrees that it will not apply the requirements of BMC 152.003(D) or City of Banks Resolution 2022-03 to any Preliminary Land Divisions.

8.9. Critical Dates. The OWRD Critical Date, OHA Critical Date, Chlorination Critical Date, Reservoir Acquisition Critical Date, Reservoir Permit Critical Date, Reservoir Design Commencement Critical Date, and Reservoir Design Completion Critical Date are sometimes referred to herein, collectively, as the "**Critical Dates**" and, individually, as a "**Critical Date**" and the obligations to be performed by a Critical Date are sometimes referred to herein, collectively, as the "**Critical Date Obligations**" and, individually, as a "**Critical Date Obligation**."

**Section 9. Transportation Improvements**. The transportation system improvements (collectively, the "**Transportation Improvements**") are described and depicted on **Exhibit G** which includes a conceptual plan for the location of the Transportation Improvements and certain other Project related transportation improvements (the "**Transportation Improvements Map**"), and includes the "**Transportation Improvements Table**," which details the Transportation Improvements and specifies the timing of when said Improvements must be constructed. A conceptual transportation network plan of the Transportation Improvements is included on **Exhibit G-1**, and conceptual cross sections and plans for some of the Transportation Improvements are included in **Exhibit G-2**, **Exhibit G-3**, and **Exhibit G-4**.

9.1. Aerts Road/OR Highway 6 Intersection Improvement (Roundabout).

9.1.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

9.1.1.1. Upon request by Holt, the City will use reasonable efforts to cause Washington County or the Oregon Department of Transportation (“**ODOT**”) to exercise its eminent domain powers to acquire right-of-way and temporary construction easements for the Aerts Road/OR Highway 6 Intersection Improvement (Roundabout).

9.1.1.2. Coordinate and attend meetings with Washington County and ODOT regarding the Aerts Road/OR Highway 6 Intersection Improvement (Roundabout).

9.1.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

9.1.2.1. Attempt to obtain right-of-way and temporary construction easements for the Aerts Road/OR Highway 6 Intersection Improvement (Roundabout).

9.1.2.2. Design, obtain permit(s), and construct the Aerts Road/OR Highway 6 Intersection Improvement (Roundabout).

9.2. Banks Rd/Aerts Rd Intersection Improvements.

9.2.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

9.2.1.1. Subject to Holt’s obligation to reimburse certain costs pursuant to the Reimbursement Agreement, promptly review applications for permits for construction of the Banks Rd/Aerts Rd Intersection Improvements that are within the City’s regulatory or permitting authority.

9.2.1.2. Use reasonable efforts to enter into an agreement or other arrangement with Washington County that will allow Holt to construct the Banks Rd/Aerts Rd Intersection Improvements in accordance with **Exhibits G-1 and G-3** instead of Washington County’s standards.

9.2.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

9.2.2.1. Design, obtain permit(s), and construct the Banks Rd/Aerts Rd Intersection Improvements.

9.3. Banks Road Upgrade and Aerts Road Upgrade Projects. Concept cross-sections for the Banks Road Upgrade and Aerts Road Upgrade Projects are detailed in **Exhibit G-3**.

9.3.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

9.3.1.1. Subject to Holt's obligation to reimburse certain costs pursuant to the Reimbursement Agreement, promptly review applications for permits for construction of the Banks Road Upgrade and Aerts Road Upgrade Projects that are within the City's regulatory or permitting authority.

9.3.1.2. Use reasonable efforts to enter into an agreement or other arrangement with Washington County that will allow Holt to construct the Banks Road Upgrade and Aerts Road Upgrade Projects in accordance with the PWDS instead of Washington County's standards.

9.3.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

9.3.2.1. Design, obtain permit(s), and construct the Banks Road Upgrade and Aerts Road Upgrade Projects.

9.4. Oak Way/Main St Intersection Improvements

9.4.1. City Responsibilities: None.

9.4.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

9.4.2.1. Design, obtain permit(s), and construct the Oak Way/Main St Intersection Improvements.

9.5. Bike/Ped Overcrossing of Railroad. A conceptual plan and profile of the Bike/Ped Overcrossing of Railroad is included in **Exhibit G-4**. This transportation improvement is tied to the construction of the Citywide Park, which is planned for construction as part of Phase 2 of the Project/Phase A of the Citywide Park.

9.5.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

9.5.1.1. Support Holt's efforts to obtain permits and easements required for construction of the Bike/Ped Overcrossing of Railroad including, without limitation, from the Banks School District, ODOT Rail, and the affected railroad companies.

9.5.1.2. Upon request of Holt, coordinate and attend meetings with the railroad overcrossing stakeholders regarding the Bike/Ped Overcrossing of Railroad, including Banks School District, Portland & Western Railroad (PNWR), Port of Tillamook Bay Railroad (PTBR) and ODOT Rail regarding the Bike/Ped Overcrossing of Railroad.

9.5.1.3. Execute and deliver all railroad crossing permit applications and right of entry applications necessary to obtain the approval of the Bike/Ped Overcrossing from the railroad(s) with jurisdiction over same.

9.5.1.4. Subject to Holt's obligation to reimburse certain costs pursuant to the Reimbursement Agreement, promptly review applications for permits for construction of the Bike/Ped Overcrossing of Railroad that are within the City's regulatory or permitting authority.

9.5.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

9.5.2.1. Prepare applications for any permits or approvals needed from the railroad required for construction of the Bike/Ped Overcrossing of Railroad.

9.5.2.2. Design and construct the Bike/Ped Overcrossing of Railroad.

9.6. On-Site East-West Collector and On-Site North-South Collector.

9.6.1. City Responsibilities: The City hereby agrees to, at its sole cost and expense, perform all of the following:

9.6.1.1. Subject to Holt's obligation to reimburse certain costs pursuant to the Reimbursement Agreement, promptly review applications for permits for construction of the On-Site East-West Collector and On-Site North-South Collector Improvements.

9.6.2. Holt Responsibilities: Holt hereby agrees to, at its sole cost and expense, perform all of the following:

9.6.2.1. Design, obtain permit(s), and construct the On-Site East-West Collector and On-Site North-South Collector Improvements.

**Section 10. Park Improvements.** The park system improvements (collectively, the "**Park Improvements**") are described and depicted on **Exhibit H** which includes a conceptual plan for the location of the Park Improvements (the "**Park Improvements Map**"), and includes the "**Park Improvements Table**," which details the Park Improvements and specifies the timing of when said Improvements must be constructed.

10.1. Citywide Park. A conceptual plan of the Citywide Park is depicted on **Exhibit H-1**. The final design of the Citywide Park will be determined through the Development Permits review process and shall include only the improvements and amenities illustrated, listed, or described in Exhibit H-1. Any additional or revised amenities will be subject to Section 11.2 below.

10.1.1. City Responsibilities. The City hereby agrees to, at its sole cost and expense, perform all of the following:

10.1.1.1. Subject to Holt's obligation to reimburse certain costs pursuant to the Reimbursement Agreement, promptly review applications for permits for construction of the Citywide Park.

10.1.1.2. Accept (i) dedication from Holt of the Citywide Park and (ii) ownership and maintenance of the Citywide Park improvements prior to any public use. City may negotiate maintenance cost sharing agreements with third parties including, but not limited to, the Banks School District.

10.1.1.3. The City will maintain the Citywide Park and improvements therein as a first-class city park and in accordance with (i) the operation and maintenance manuals provided by the manufacturers of equipment installed in the Citywide Park and (ii) a landscaping schedule that is substantially in accordance with **Exhibit H-2** attached hereto as reasonably updated to reflect the landscaping installed in the Citywide Park, (collectively, the "**Park Maintenance Standards**") for a period of 10 years following dedication to the City of the Citywide Park; after which, the City shall manage and operate the Citywide Park in accordance with the City's adopted park standards.

10.1.1.4. If Holt determines that the maintenance of the Citywide Park does not meet the Park Maintenance Standards, Holt shall notify the City of the perceived deficiencies and afford the City sixty (60) days to remedy and make any adjustments to its maintenance of the Citywide Park. If the City does not remedy the applicable deficiencies within such sixty (60) day period, Holt reserves the right, at its sole and absolute discretion, to provide supplemental maintenance of the Citywide Park itself in accordance with the Park Maintenance Standards and the City will reimburse Holt for the costs it incurs in connection with performance of such work within thirty (30) days following receipt of an invoice therefor.

10.1.2. Holt Responsibilities. Holt hereby agrees to, at its sole cost and expense, perform all of the following:

10.1.2.1. Design, obtain permit(s), and construct the Citywide Park.

10.1.2.2. Design, obtain permit(s), and construct streets and utilities necessary for access to, and operation of, the Citywide Park.

10.2. Eastside Trail

10.2.1. City Responsibilities. The City hereby agrees to, at its sole cost and expense, perform all of the following:

10.2.1.1. Subject to Holt's obligation to reimburse certain costs pursuant to the Reimbursement Agreement, promptly review applications for permits for construction of the Eastside Trail that are within the City's regulatory or permitting authority.

10.2.2. Holt Responsibilities. Holt hereby agrees to, at its sole cost and expense, perform all of the following:

10.2.2.1. Design, obtain permit(s), and construct the Eastside Trail.

10.2.2.2. Dedicate a pedestrian access and maintenance easement to the City over the paved portion of the Eastside Trail.

**Section 11. Permit Review**

11.1. Improvement Permits.

11.1.1. For all permits required for the construction of the Improvements, the City will use reasonable efforts to ensure that (i) the construction documents are promptly reviewed by the City and (ii) permits are promptly made ready for pick up subject only to delays caused by Holt. In no event, however, is the City obligated or expected to process land use permits or development applications (including plan amendments and/or zone changes) faster than required by state law; although, the City will make best efforts to process all such applications quickly.

11.1.2. Time is of the essence with respect to the review timelines for City reviews of Improvements, but the Parties recognize the City has limited staffing and administrative ability to process multiple permit applications for Improvements simultaneously. The City will strive to meet the following permit review timelines for all Improvements over which the City has jurisdiction: (i) initial (1<sup>st</sup>) review = 3 weeks (15 business days); and (ii) subsequent reviews = 1 week (5 business days).

11.2. Development Permit Changes. In the event that the City conditions any Development Permit on Holt constructing public improvements that are in addition to, or different in scope, type, quality, or nature from, the Improvements contemplated herein or specified in the applicable Exhibit(s), the City and Holt will negotiate in good faith an amendment to this Agreement that compensates Holt for the additional SDC creditable costs it will incur as a result of such new or different public improvements.



11.3. Building Permits. Prior to submittal of any building permit applications for vertical construction of homes and from time to time thereafter, City and Holt will meet to coordinate timing and staffing for review of building permit applications for vertical construction of homes on the Property in order to help ensure that City staff are not overwhelmed and that the applications can be processed in a timely manner. Holt acknowledges that, depending on the number of applications submitted at any one time, the City may need to retain additional staff to ensure timely processing of Holt's applications and may require that, pursuant to the Reimbursement Agreement, Holt reimburse it for time spent reviewing Holt's applications.

11.4. Staffing. At Holt's request, the City and its contract engineers and land use planners will increase their staffing to provide timely and competent review of Holt's Improvement permit applications, Development Permit applications or building permit applications. In that event, Holt shall reimburse the City for the cost of the additional staffing of its contract engineers and land use planners pursuant to the Reimbursement Agreement.

**Section 12. Public Ownership and Maintenance of Improvements.**

12.1. City Responsibilities. Unless otherwise specified in this Agreement, for Improvements over which the City has jurisdiction, the City will accept (i) dedication from Holt Substantially Completed Improvements to the extent owned by Holt and (ii) ownership and maintenance of the Improvements.

12.2. Holt Responsibilities. Unless otherwise specified in this Agreement, Holt will dedicate the Improvements and underlying land, to the extent owned by Holt, to the public entity with jurisdiction over said Improvement.

**Section 13. SDCs and TDTs.**

13.1. Fixed SDC Rates and Other Development Fees. During the Term of this Agreement, the system development charges ("**SDCs**") and other development fees applicable to development with the Property shall be fixed at the rates set forth in the **Exhibit I** (the "**Fixed Rate Schedule**");

13.2. Waiver of SDCs. The City hereby agrees that, provided that Holt substantially completes all of the Water, Park, and Transportation Improvements contemplated in this Agreement and all incorporated Exhibits, and subject to the limitations set forth below in this Section 13.2, the City will not impose or collect, and hereby fully waives, any and all water, parks, and transportation SDCs otherwise applicable to the construction of single-family residential dwellings (attached or detached) up to a maximum of 955 dwellings, and some industrial and commercial development on the Property as part of the Project as described below. Any development on the Property in excess of the limits described below shall be subject to SDCs at the Fixed SDC Rate. The scope of the Improvements detailed in the Exhibits is the basis for the agreed upon waiver of SDCs. If it is later determined that the scope, capacity, or quality of the Improvements must be materially changed, then the Parties agree that, following a request therefor

from Holt, the Parties will negotiate in good faith an amendment to this Agreement that reflects the impact of the changed scope, capacity, or quality on the financial obligations of Holt hereunder.

13.2.1 Transportation SDC Waiver Limitations.

13.2.1.1 The waiver of transportation SDCs applies to a maximum of eight hundred five (805) single-family detached residential units and one hundred fifty (150) single-family attached residential (attached townhome) units (total of 955 dwellings), the HOA clubhouse amenity in support of the Project's residents, the Citywide Park (including structures), 60,000 gross square feet of mini-warehouse use, and 65,340 gross square feet of shopping center use.

13.2.1.2 The amount of mini-warehouse use and shopping center use described in Section 13.2.1.1 is derived from the traffic impact analysis assumptions in support of the Project. If the uses that develop on the commercial or industrial zoned portions of the Property differ from the assumptions in Section 13.2.1, then the SDC obligation for that use shall be reduced by the amount of the waived SDC. By way of a hypothetical example, the amount of waived TSDC for a 60,000 SF mini-warehouse is \$81,360 (60.00 x \$1,356 which is the Fixed SDC Rate for transportation SDCs). If a 25,000 SF general light industrial use is developed instead, that use's TSDC obligation would have been \$125,575 (25.00 x \$5,023, the Fixed SDC Rate), but when offset by the waived TSDC, \$44,215 would be owed (\$125,575 - \$81,360).

13.2.1.3 Holt will not seek TDT credit for Improvements described on Exhibit J as TSDC "Credit Type" Improvements.

13.2.2 Water SDC: The waiver of water SDCs applies to a maximum of nine hundred fifty-five (955) 3/4" water meters, one (1) 3" water meter, one (1) 2" meter, and two (2) 1" water meters.

13.2.3 Parks SDC: The waiver of parks SDCs is unlimited.

13.3 TDT Administration. Within the City limits, the City administers the Washington County Transportation Development Tax ("**TDT**") on behalf of Washington County, in accordance with Washington County Code ("**WCC**") Chapter 3.17 and the Countywide Transportation Development Tax Procedures Manual, dated July 2021 (collectively, the "**TDT Code**"). The City shall apply the TDT Code to the Project and process TDT credit voucher applications filed by Holt in accordance with the TDT Code, as clarified herein.

13.3.1 TDT Rate and Previous Use. When calculating the TDT amount to be imposed upon development within the Project, the then-applicable TDT rate shall apply, and the "previous use," as defined in WCC 3.17.030(AA) and described in WCC 3.17.040 and WCC 3.17.050, is an 18-hole golf course.

13.3.2. Advocacy for Amendments to TDT Project List. The City agrees to advocate to have Washington County amend the Washington County Transportation TDT Capital Improvement Projects List (the “**TDT Project List**”) to include the following Transportation Improvements so that they are eligible for TDT credit: the Banks Rd/Aerts Rd Intersection Improvements (Section 9.2), the Aerts Rd Upgrade (Section 9.3), the Oak Way/OR 47 Intersection Improvement (Section 9.4), and the New East-West Collector in East Banks (Section 9.6).

13.3.3. TDT Credit Methodology. The TDT Code details the methodology for processing TDT credit voucher requests. The Parties agree that the TDT Code will apply to Transportation Improvements as detailed in **Exhibit J**.

13.4 Financial Assurances. The Improvements will be completed over time, with most Improvements anticipated to be substantially completed during the first few phases of the Project. Prior to recording the final plat for each phase, the Improvements within that phase, or the applicable portion of an Improvement within that phase, must either be Substantially Complete or Holt shall provide to the City a sufficient financial assurance, in a form and amount reasonably satisfactory to the City to ensure that the applicable Improvement will be Substantially Completed or the City can use the financial assurance to complete the Improvement as a public works project. The Parties anticipate that building permits for residential units within the Project will be issued prior to all Improvements being Substantially Complete, but after Holt provides financial assurances for the Improvements’ Substantial Completion, or the applicable portion thereof, within that phase. In no event will the City be required to issue final certificates of occupancy for buildings in any particular phase without the Improvements associated with that phase being Substantially Complete. Typically, SDCs and TDTs are collected at the time of building permit issuance, but the Parties agree that SDCs will be waived and TDTs will be deferred at the time of building permit issuance as detailed in Sections 13.2 and 13.3.

**Section 14. Development Permit Applications.**

14.1 Accept and Process Development Permits. The City shall accept and process in the normal course all Development Permit applications submitted by Holt or its agent(s) in conformance with the requirements of this Agreement and applicable provisions of the BMC and the PWDS. Where there is any conflict between the BMC, the PWDS, or the Comprehensive Plan, on the one hand, and this Agreement on the other, the terms and requirements of this Agreement shall control. As used in this paragraph, “normal course” means in accordance with the applicable statutory timing requirements, if any.

14.2 Obligation to Construct. Notwithstanding anything to the contrary herein, Holt shall have no obligation to design or construct any or all of the Improvements unless and until (i) a final land use approval, including resolution of any and all appeals and proceedings on remand, approves Development Permits that will allow the division and development of the Property with at least 930 residential dwelling units, generally consistent with **Exhibit C** and (ii) Holt actually develops the phase of the Property that contains the applicable Improvement, or

portion thereof, pursuant to the Development Permits. Holt may elect to terminate this Agreement in its entirety, at Holt's sole and absolute discretion, by written notice to the City given at any time, except that, if the City has waived SDCs with respect to building permits issued prior to the date of such termination and the value of the waived SDCs exceeds the SDC creditable value of the Improvements constructed by Holt, then Holt will either (i) complete construction of Improvements with an SDC creditable value sufficient to offset the waived SDCs or (ii) pay to the City the difference between the SDC creditable value of the Improvements constructed and the SDCs waived prior to the date of termination. Holt's termination of this Agreement shall terminate all City obligations provided for in this Agreement. In no event shall Holt have any obligation to construct an Improvement unless a final land use approval issued by the City, including resolution of any and all appeals and proceedings on remand, requires construction of such Improvement as a condition on such approval and Holt proceeds with development of the Property, or the applicable portion thereof, pursuant to such land use approval, in which case those obligations shall survive termination of this Agreement. Notwithstanding anything to the contrary above, Holt will accept a rezoning of the Property from Community Facilities (CF) to a residential zone that (a) provides that the property underlying the Citywide Park will retain its CF designation and (ii) is subject to a condition of approval that, prior to issuance of the building permit for vertical construction of the first dwelling or commercial structure on the Property, the party that requests such first building permit shall be required to provide the City with a sufficient financial assurance, in a form and amount reasonably satisfactory to the City, to ensure that the Citywide Park will be designed, constructed, and improved as provided in Section 10.1 and Exhibits H and H1 or the City can use the financial assurance to design, construct, and improve the Citywide Park as a public works project.

14.3 Capacity. The water, transportation, and parks infrastructure capacity created by the Improvements and dedicated to the City is intended to be available primarily to serve the development of the Project and the Property. Accordingly, upon completion of the Improvements provided for in Sections 8, 9 and 10 above, in no event will the City determine that insufficient capacity exists for the development of the Project or the Property. If other properties are proposed for development and propose to use the Improvements, the City will consider the water, transportation, and parks infrastructure capacity demands of the Project and Property to be vested such that other projects may be approved only if there is excess capacity remaining in the Improvements. Further, if other properties use excess Improvement capacity created by Holt as part of this Project, the City and Holt will negotiate in good faith the terms of a reimbursement district through which the City will collect proportionate share contributions from the developers of those other properties and use them to reimburse Holt for part of its costs to design and construct those Improvements that are in excess of the Project's needs.

14.4 Development Permit Approval Period. The Project will be platted and developed in phases, which are conceptually shown on Exhibit C. The parties desire certainty on how the BMC's provisions related to the approval periods for land use approvals is interpreted and applied to the Project's Development Permits, and agree to the following:

14.4.1 Holt will submit to the City a final plat for the first phase of the Project

within three (3) years after final land use approval of the Development Permits, including resolution of any and all appeals and proceedings on remand;

14.4.2 Holt will submit to the City a final plat for phases subsequent to the first phase within two (2) years of recordation of the final plat of the preceding phase;

14.4.3 Holt will complete Improvements within each phase as provided in this Agreement, including but not limited to those described in Sections 13.4 and 14.2, and will construct the Citywide Park as Phases A and B within the second phase of the Project;

14.4.4 Within two (2) years of preliminary land use approval of Preliminary Land Divisions, Holt will record a deed finalizing any property line adjustment(s), and will submit to the City a final plat implementing any land divisions, contemplated by the Preliminary Land Divisions; and

14.4.5 Modifications or extensions of the phases or timing in this Section 14.4 must be approved by the City Manager.

**Section 15. Additional Easements.** Holt and the City acknowledge that additional easements and improvements not expressly contemplated herein may be necessary in order to operate or construct the Improvements. Accordingly, the City agrees to work in good faith with Holt, consistent with the terms of this Agreement, to obtain such additional easements, and to allow Holt to construct such additional improvements. In addition, the City agrees to cooperate in good faith with all construction to be performed by Holt hereunder including, without limitation, by closing public rights-of-way as requested by Holt in connection therewith.

**Section 16. Annexation of Additional Property.** If Holt acquires, or enters into a contract or option to acquire, property that is located adjacent to the Property that Holt desires to annex to the Property (such property, "**Additional Property**"), (i) Holt shall notify the City of such acquisition, (ii) the Parties will negotiate an appropriate amendment to this Agreement to address the development of those additional lands, and (iii) any such additional lands will have priority with respect to the use of any excess capacity generated by the construction of the Improvements.

**Section 17. Oregon Prevailing Wage Law.** The City and Holt acknowledge and agree that construction of the Improvements is not intended to be considered "public works" subject to ORS 279C.800 to 279C.875 and the administrative rules adopted thereunder. Any elements of the Improvements constructed by the City may qualify as public works projects and may be subject to prevailing wage rates.

**Section 18. Post Construction Obligations.** The City agrees that Holt's sole obligation with respect to the Improvements after completion of each component thereof will be to provide a customary 1-year warranty bond against defects in initial construction (12% of public Improvement costs). In no event will the City condition acceptance of any of the Improvements

on Holt providing any other warranty or on Holt maintaining the Improvements (whether before or after the City's acceptance of same).

**Section 19. Dispute Resolution and Remedies.** Should a disagreement arise between the City and Holt regarding interpretation and application of this Agreement, the Parties agree to attempt to resolve the disagreement by first meeting and conferring. If this does not result in resolution the Parties agree to employ a mutually agreeable mediator to resolve the disagreement. Both sides shall bear their own costs incurred in mediation and shall share the cost of the mediator. If mediation proves unsuccessful, the disagreement may be resolved by arbitration or judicial action filed in Circuit Court for Washington County, Oregon or federal District Court for the District of Oregon. This Agreement shall be construed in accordance with, and governed by, the laws of the State of Oregon. In the event a dispute arises under this Agreement and either Party files legal action to interpret or enforce its terms, the prevailing Party in any arbitration, legal action in state or federal court, and any appeals therefrom shall be entitled to recover its reasonable costs thus incurred, including expert witness and attorney fees, from the losing Party.

**Section 20. No Waiver.** Failure of any Party at any time to require performance by the other Party of any of the provisions or requirements of this Agreement shall in no way affect the Parties' rights hereunder to enforce any and all rights and obligations set forth in this Agreement, nor shall any failure by a Party to declare a default or breach of this Agreement by another Party be deemed a waiver of any default or breach or a waiver of this non-waiver clause.

**Section 21. No Third-Party Beneficiaries.** This Agreement is strictly and solely between the Parties signed below, and it shall not create any obligation on the part of either Party to perform or pay anything to or on behalf of anyone not a Party to this Agreement. This Agreement does not create any rights in favor of or for any person or entity that is not a Party to this Agreement.

**Section 21. Severability.** If any portion of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the validity and enforceability of the remaining provisions shall not be affected thereby.

**Section 24. Assignment.** Holt may assign its rights and delegate its obligations under this Agreement, in whole or in part, to one or more persons, corporations, partnerships or other entities including, without limitation, those succeed to Holt's interests in the Property or any portion thereof, who shall be bound by the applicable burdens, benefits, requirements and terms of this Agreement. The City may not assign its interest in this Agreement and may not delegate its obligations hereunder. This Agreement does not run with the land, but any land use approvals and conditions attached thereto shall run with title to the land and, if development of the applicable portion of the Property commences in accordance therewith, shall be the obligation of the applicable landowner(s).

**Section 25. Incorporation of Recitals.** Each of the recitals set forth above are intended to be, and are incorporated as, covenants between the Parties and shall be so construed.

**Section 26. Entire Agreement.** Each of Exhibits A, B, C, D, E, F, G, G-1 to G-4, H, H-1 and I attached to this Agreement are incorporated herein by this reference and are made a part of this Agreement. This Agreement, including without limitation Exhibits A, B, C, D, E, F, G, G-1 to G-4, H, H-1 and I referenced herein and the recitals, constitute the entire agreement between the Parties with regard to the matter addressed herein. No terms or representations not set forth in this Agreement or the referenced Exhibits shall be considered a part of, or enforceable under, this Agreement.

**Section 27. Notices.** Unless otherwise specified herein, all notices will be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

City:           The City of Banks  
                  Attn: Jolynn Becker, City Manager  
                  13680 NW Main Street  
                  Banks, OR 97106  
                  Email: \_\_\_\_\_

Holt:           The Holt Group, Inc.  
                  Attn: \_\_\_\_\_  
                  1301 SE Tech Center Drive, Suite #150,  
                  Vancouver, WA 98683  
                  Email: \_\_\_\_\_

Notices will be deemed received by the addressee upon the earlier of actual delivery or refusal of a Party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision.

*[signatures on following page]*

**IT IS SO AGREED**, as indicated by the below-signed authorized representatives of the Parties hereto.

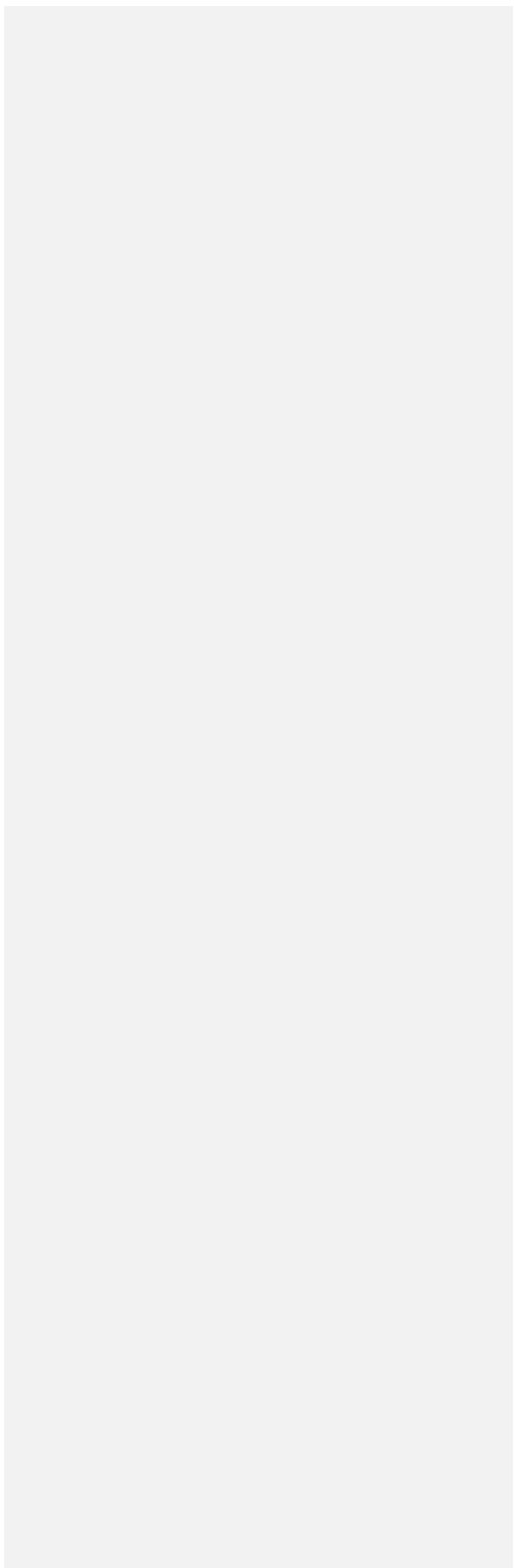
THE HOLT GROUP, INC.,  
a Washington Corporation

By: Holt Group Holdings, LLC,  
A Delaware limited liability company  
Its: Sole Member

\_\_\_\_\_

print name & title

Date: \_\_\_\_\_



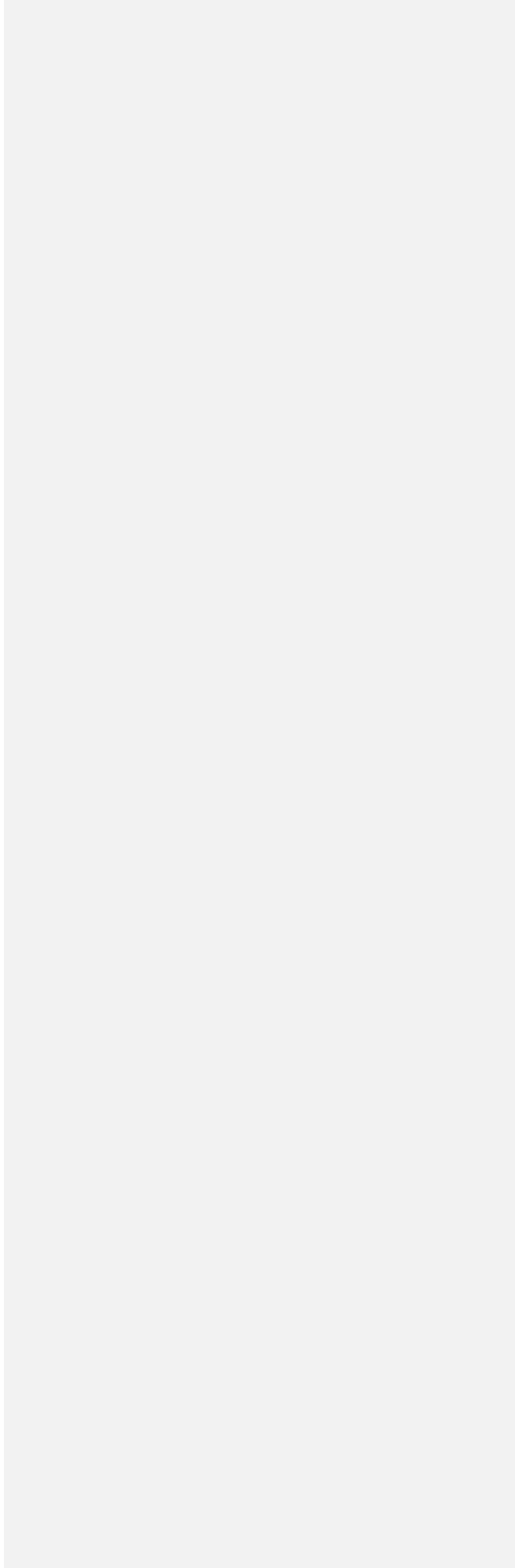


**For The City of Banks:**

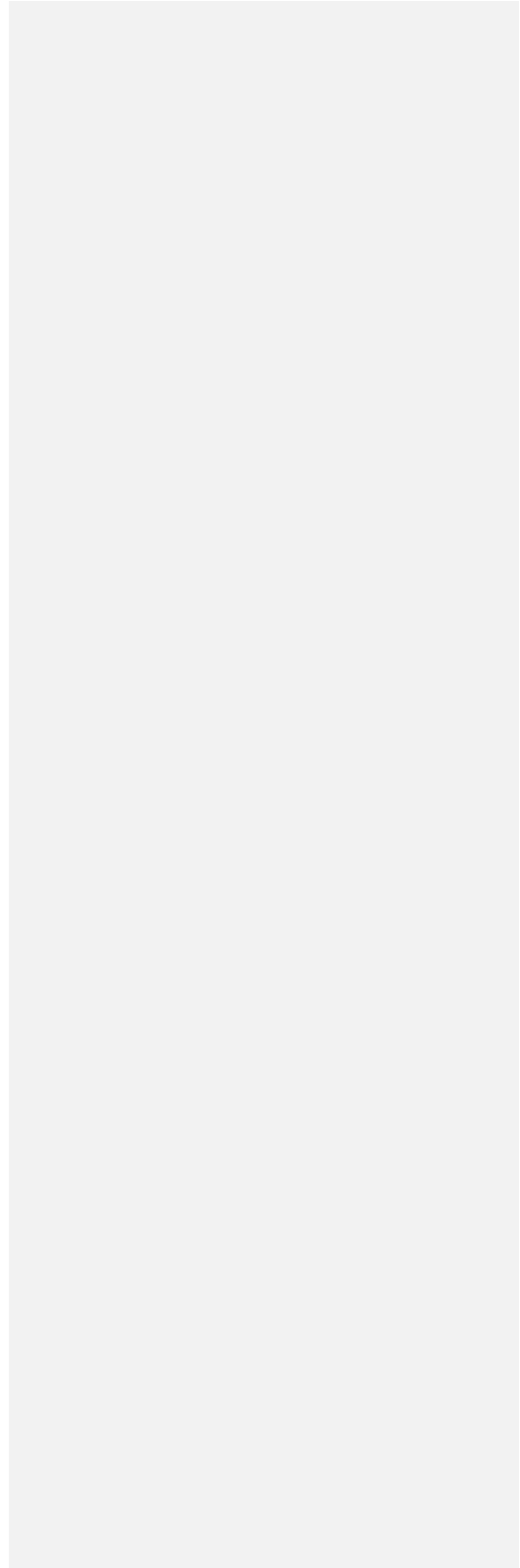
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print name & title

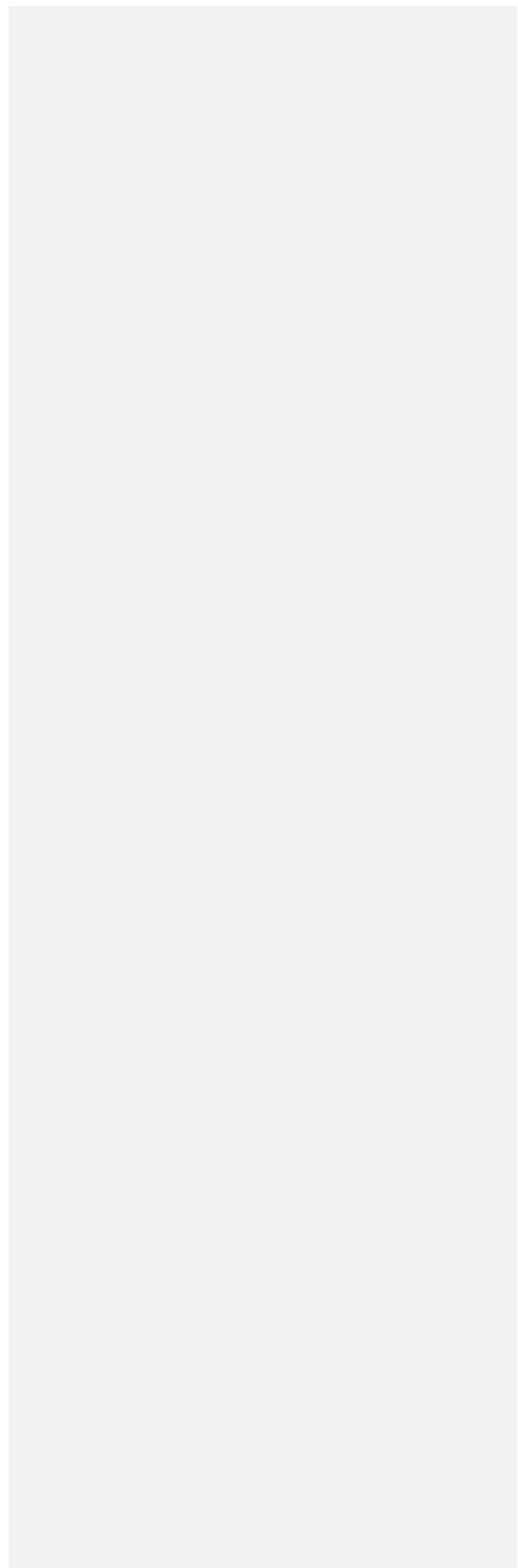
Date: \_\_\_\_\_



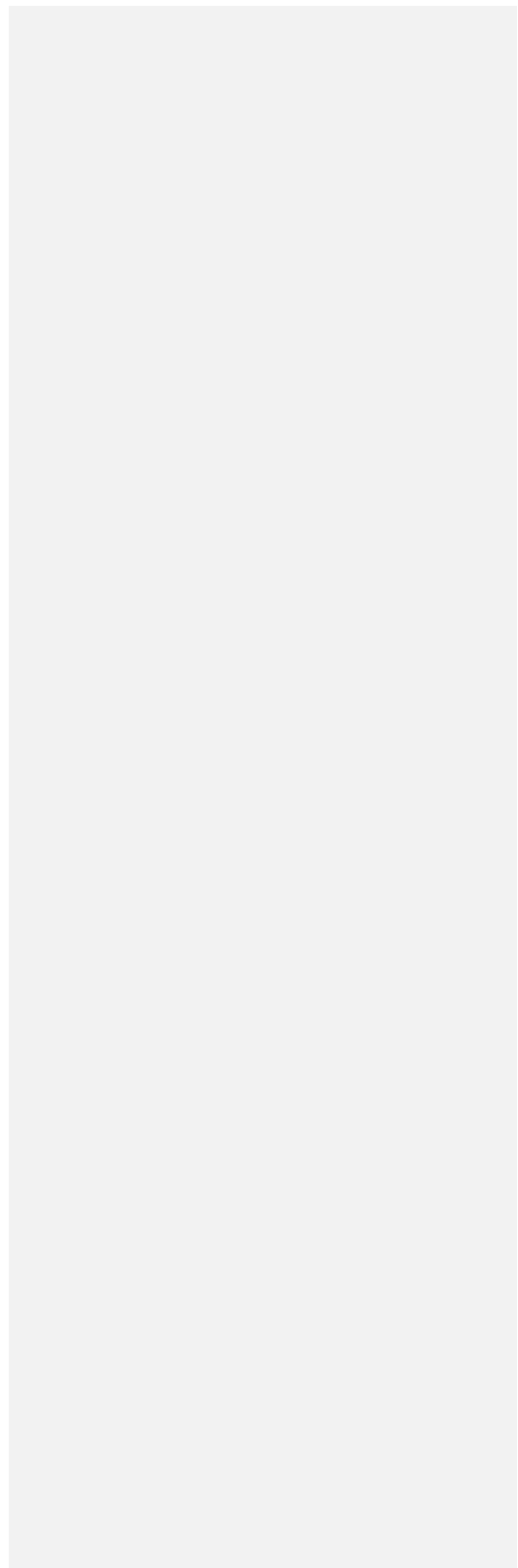
**EXHIBIT A**  
*Legal Description of Property*



**EXHIBIT B**  
*Depiction of Property*



**EXHIBIT C**  
*Conceptual Plans*



## EXHIBIT D

### Definitions

“**ADD**” means average daily demand.

“**ADD Requirement**” means an ADD of 0.22 MGD.

“**Additional Water Supply Improvements**” means CIP Items 14, 15, and 16 in Table 6-1 of the Water System Master Plan Amendment dated March 9, 2023 approved by the City of Banks on March 14, 2023 by Resolution No. 2023-03, which are a part of the East Springs Phase 1 Water Supply Improvements, as depicted on the Water Improvements Map (**Exhibit F**).

“**Aerts Rd/OR 6 Intersection Improvement (Roundabout)**” means a single lane roundabout with a phased westbound right-turn lane improvement to the Aerts Rd/OR 6 intersection and Washington Avenue Closure at Aerts Road depicted on the Transportation Improvements Map (**Exhibit G**), Transportation Network Plan (**Exhibit G-1**), and described in the Transportation Improvement Table (**Exhibit G**).

“**ASR**” means aquifer storage and recovery.

“**ASR Limited License**” means an approval by OWRD to use water stored by injection during ASR testing pursuant to OAR 690-350-0020.

“**Banks Rd/Aerts Rd Intersection Improvements**” mean the improvements to the Aerts Road/Banks Road intersection depicted on the Transportation Improvements Map (**Exhibit G**), Transportation Network Plan (**Exhibit G-1**), including the details in the footnotes to the Transportation Improvements Table (**Exhibit G**).

“**Banks Road Upgrade and Aerts Road Upgrade Projects**” means the improvements and widening to Banks Road and Aerts Road as depicted on the Transportation Improvements Map (**Exhibit G**), described in the Transportation Improvement Table (**Exhibit G**), and detailed on **Exhibits G-1 and G-3**, including but not limited to right-of-way dedication and construction of a multi-use path.

“**Bike/Ped Overcrossing of Railroad**” means a bicycle and pedestrian overcrossing over the railroad, which will connect the Citywide Park to certain property owned by the Banks School District located to the west of the railroad right-of-way as depicted on the Transportation Improvements Map (**Exhibit G**), described in the Transportation Improvement Table (**Exhibit G**), and detailed on **Exhibit G-4**.

“**Chlorination Facility**” means that certain chlorination facility (Sodium Hypochlorite Generation) being expanded at existing facility at Well #2 to accommodate additional water from Deep Well #3, as depicted on the Water Improvements Map (**Exhibit F**).

“**Citywide Park**” means the land and improvements of an approximately 20.0 acre citywide park and sports facility to be constructed on the Property located generally as depicted on the Parks Improvements Map (**Exhibit H**) and which is expected to include improvements as conceptually depicted on **Exhibit H-1** and described in the Parks Improvements Table (**Exhibit H**).

“**Deep Well #3**” means the groundwater well depicted and described on the Water Improvements Map (**Exhibit F**), including the land, associated water mains, and well specifications detailed in the Water Improvement Table (**Exhibit F**).

“**East Loop/Aerts Rd Water Main**” means that certain 12” water supply main that loops through the Project and connects to the Rose Avenue Railroad Water Main Crossing and water distribution mains within Banks Road as depicted on the Water Improvements Map (**Exhibit F**) and including the water main bores under railroad tracts detailed in the Water Improvement Table (**Exhibit F**).

“**Eastside Trail**” means those certain trail improvements depicted on the Parks Improvements Map (**Exhibit H**) and detailed in the Parks Improvements Table (**Exhibit H**).

“**Improvements**” means, collectively, the Water Improvements, the Transportation Improvements, and the Park Improvements.

“**MDD**” means maximum daily demand, which is the largest volume of water delivered in a single day expressed in gallons per day.

“**MDD Requirement**” means an MDD of 0.43 million gallons per day.

“**MGD**” means million gallons per day.

“**Non-Potable Water Main (Purple Pipe)**” means the water main for non-potable water from TVID depicted on **Exhibit F**.

“**Oak Way/Main St Intersection Improvements**” means the improvements and upgrades to the Oak Way/Main St intersection depicted on the Transportation Improvements Map (**Exhibit G**) and described in the Transportation Improvement Table (**Exhibit G**).

“**OHA Well Application**” means an application to the Oregon Health Authority for approval of a plan for development of Deep Well #3 in accordance with OAR 333-061-0060.

“**On-Site East-West Collector**” means collectors street segments that are internal to the Project as depicted on the Transportation Improvements Map (**Exhibit G**), described in the Transportation Improvement Table (**Exhibit G**), and detailed on **Exhibit G-2**, including but not limited to right-of-way dedication and construction of a multi-use path.

“**On-Site North-South Collector**” means collectors street segments that are internal to the Project as depicted on the Transportation Improvements Map (**Exhibit G**), described in the

Transportation Improvement Table (**Exhibit G**), and detailed on **Exhibit G-2**, including but not limited to right-of-way dedication and construction of a multi-use path.

**“OWRD Permit Amendment Application”** means a water right permit amendment application with the Oregon Department of Water Resources pursuant to which additional points of appropriation for new wells will be added to the City’s existing Water Right Permit [#G-7593] for Well #1.

**“OWRD Transfer Application”** means a water right transfer application with the Oregon Department of Water Resources pursuant to which additional points of appropriation for new wells will be added to the City’s existing Water Right Certificate [#95849] for Well #2.

**“Railroad Water Main Crossings”** mean those certain water line crossings under the railroad right-of-way as depicted on the Water Improvements Map (**Exhibit F**).

**“Reservoir”** or **“1.0 MR Reservoir”** means an approximately one million (1,000,000) gallon reservoir depicted the Water Improvements Map (**Exhibit F**), including the land, associated water mains, and road restoration detailed in the Water Improvement Table (**Exhibit F**).

**“Well #1”** means the existing City well as defined in the City’s water masterplan.

**“Well #2”** means the existing City well as defined in the City’s water masterplan.

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| <b>Summary report:</b>   |           |
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| <b>Changes:</b>  |           |
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