

**EXTENSION AND FUNDING AGREEMENT
CITY OF KENMORE AND WEIDNER APARTMENT HOMES**

THIS AGREEMENT is made and entered into by and between the CITY OF KENMORE, WASHINGTON (City), LAKEPOINTE, INC. (Lakepointe), PIONEER TOWING CO. (Pioneer), and WEIDNER APARTMENT HOMES (Weidner) (individually a "Party" and collectively the "Parties").

RECITALS

A. Lakepointe and Pioneer are the owners of approximately 45 acres of land in the City along the shoreline of Lake Washington (Property).

B. King County approved, and the City has extended, a Commercial Site Development Permit (CSDP) and related Transportation Mitigation Agreement (TMA) for the Property. The CSDP and TMA provide for development of the Property as a mixed-use residential, commercial and entertainment urban village.

C. Weidner has entered into an agreement with Lakepointe and Pioneer to purchase the Property, subject to certain conditions.

D. On September 29, 2015, Lakepointe, Pioneer and Weidner (collectively, "Lakepointe Group") requested the City to extend the CSDP and TMA beyond December 31, 2015.

E. By letter to the Lakepointe Group dated December 15, 2015, the City extended the CSDP and TMA through June 30, 2016, upon satisfaction of two conditions (2015 Extension Letter). The Lakepointe Group was required to satisfy the first condition by December 31, 2015. If the Lakepointe Group satisfied the first condition by December 31, 2015, then the Lakepointe Group was required to satisfy the second condition by January 31, 2016. If the Lakepointe Group failed to satisfy the second condition by January 31, 2016, then the CSDP and TMA would terminate on February 1, 2016. If the Lakepointe Group satisfied both conditions by January 31, 2016, then the extension was effective until June 30, 2016. The City agreed to extend the CSDP and TMA from June 30, 2016 to December 31, 2016, upon satisfaction by the Lakepointe Group of two additional conditions. Finally, both extensions (to June 30, 2016 and to December 31, 2016), were subject to thirteen (13) conditions that were carried forward from previous extensions.

F. The Lakepointe Group satisfied all of the conditions for extending the CSDP and TMA to June 30, 2016 and then to December 31, 2016.

G. The 2015 Extension Letter recognized that redevelopment of the Property (Project), whether through the CSDP and TMA or new permits and approvals, will be a complex, multi-year effort requiring significant advance planning. The 2015 Extension Letter anticipated that Weidner may request additional extensions of the CSDP and TMA. The 2015 Extension Letter required Weidner to request an extension of the CSDP and TMA prior to

their expiration, so that the City and Weidner would be able to discuss whether sufficient progress toward the Project had occurred during the extension period and whether further extension should be subject to conditions.

H. The Lakepointe Group requested an extension of the CSDP and TMA beyond December 31, 2016 in a timely manner. The Parties have determined that sufficient progress toward the Project has occurred during the extension period through December 31, 2016, including but not limited to:

- meeting the conditions for the two six-month extensions through December 31, 2016;
- making reasonable efforts to acquire adjacent properties for future transportation and Project needs;
- identifying permits and process for Project development; and
- producing a report on project transportation trip generation and methodology.

The parties acknowledge that certain conditions should be imposed on further extension(s) of the CSDP and TMA, in order to facilitate the Project, whether pursuant to the CSDP and TMA or other permits and approvals. The Parties have agreed that an extension of the CSDP and TMA to December 31, 2017 is appropriate to continue progress toward and facilitate implementation of the Project.

I. On March 10, 2016, the City and Weidner entered into a Consultant Funding Agreement (Funding Agreement), which acknowledged that implementation of the Project will be a complex, multi-year endeavor requiring City involvement in feasibility studies, infrastructure planning, coordination with local, state and federal entities, and project-specific review. The Funding Agreement observed that the hiring of a dedicated project manager (Project Manager) would be beneficial, given the scope of the Project. Consequently, the City and Weidner agreed on a scope of work for the Project Manager, and Weidner agreed to reimburse the City for one-half of the City's cost for the Project Manager, up to a maximum amount. The Funding Agreement was effective through December 31, 2016.

J. To continue the progress toward and facilitate the implementation of the Project, the City and Weidner desire to enter into a new consultant funding agreement to cover additional services of the dedicated Project Manager during the extension of the CSDP and TMA to December 31, 2017.

AGREEMENT

In consideration of the following terms and conditions, the City, Lakepointe, Pioneer and Weidner agree as follows:

1. One-year Extension of CSDP and TMA. The CSDP and TMA are hereby extended through December 31, 2017. The CSDP and TMA will be extended for additional one-year periods upon compliance with the requirements and conditions in the Sections below.

2. Conditions of All Extensions. The one-year extension through December 31, 2017 and any additional one-year extensions are subject to the conditions stated in **Exhibit A**, attached hereto, which are restatements of the thirteen (13) conditions of the 2015 Extension Letter to the Lakepointe Group, extending the CSDP and TMA to December 31, 2016, modified as necessary to apply to the one-year extension. The City, in its discretion, may waive compliance with any condition.

Furthermore, Lakepointe, Pioneer, and Weidner agree to not allow future SR 520 bridge work pertaining to "The Rest of the West" (Interstate 5 to Lake Washington) to occur on the Lakepointe site as long as the CSDP is still active and approved. For purposes of this paragraph, "bridge work" pertains to construction, fabrication, staging, storage, equipment and material transport, barging, trucking, and demolition work. This condition only applies to SR 520 "Rest of the West" work and has been voluntarily agreed to by Lakepointe, Pioneer, and Weidner. This condition shall not be construed to waive or limit, or set a precedent for waiver or limitation of, other uses to which the property may legally be put.

3. Requirements and Conditions for First Additional One-Year Extension. If the Lakepointe Group desires to extend the CSDP and TMA for another year beyond December 31, 2017 to December 31, 2018, the Lakepointe Group must submit an extension notice, including the period of extension, on or before November 30, 2017. To justify an extension through December 31, 2018, the Lakepointe Group must have satisfied or reached the following milestones by November 30, 2017:

- a. Conduct a multidisciplinary work session (aka "charrette") to further determine the scope of the Project, including number of residential units, commercial square footage, and natural and public spaces.
- b. Develop an outreach and public input plan for communicating with the public on the Project's progress and future.
- c. Further develop, in coordination with the City, a site concept to visually depict natural and public spaces, roads, residential, commercial, and mixed use buildings of the Project.
- d. Enter into a general agreement with the City that generally defines the parameters of the Project (number of residential units, commercial square footage, natural and public open space, etc.), working relationship with the City, and path forward, including timelines for developing the Property.
- e. Coordinate with Washington State Department of Transportation to receive feedback on traffic modelling and potential transportation improvements related to the Project.
- f. Coordinate with Washington State Department of Ecology to receive preliminary feedback and/or guidance on environmental issues related to the Project.

The City, in its discretion, may waive compliance with any milestone.

4. Requirements and Conditions for Second Additional One-Year Extension. If

the Lakepointe Group desires to extend the CSDP and TMA for another year beyond December 31, 2018 to December 31, 2019, the Lakepointe Group must submit an extension notice, including the period of extension, on or before November 30, 2018. To justify an extension through December 31, 2019, the Lakepointe Group must have satisfied or reached the following milestones by November 30, 2018:

- a. Implement the outreach and public input plan, the development of which was a requirement for the first additional one-year extension.
- b. Make satisfactory progress toward Project development.
- c. Submit complete permit applications and required documentation for Property development, including but not limited to an application for an amendment to the TMA and/or CSDP or for a new site development permit and an application for a shoreline substantial development permit; and sign appropriate documents to commence preparation of a Draft Environmental Impact Statement.
- d. Resolve the question between the Parties as to whether the Lakepointe Property Utilization Agreement between Glacier Northwest, Inc. and Pioneer Towing Co. and Lakepointe, Inc. dated April 7, 2004 (Recording No. 20040414002559) (2004 Utilization Agreement) requires the owner of Lot B to allow construction and operation of Lakepointe Way or any other transportation and other infrastructure improvements on Lot B, and whether a boundary line adjustment is necessary to accommodate the location of Lakepointe Drive or other necessary project infrastructure.

The City, in its discretion, may waive compliance with any milestone.

5. Further Extension. If the CSDP and TMA have been extended through December 31, 2019 pursuant to Section 4 of this Agreement, and the Lakepointe Group has satisfied Section 4.c of this Agreement, prior to December 31, 2019, the CSDP and TMA shall be extended until the City has processed such applications to completion or until December 31, 2020, whichever shall occur first. The City, in its discretion, may extend this date.

6. Project Manager Hiring and Reimbursement for City Expenses.

A. The City will enter into a professional services agreement with a person or firm who will serve as a dedicated project manager (Project Manager) for the development of the Project during all of the extension periods of this Agreement. The professional services agreement shall require the Project Manager to submit monthly invoices for services performed in the previous month, which invoices shall include a reasonable description of the services rendered. The scope of work for the Project Manager for the services of the Project Manager is stated at **Exhibit B**, attached hereto and incorporated herein. Prior to entering into this Agreement, the City will advise Weidner of the identity and qualifications of the Project Manager. Weidner shall not be responsible for third-party costs incurred by the Project Manager.

B. Subject to the limitations herein, Weidner shall reimburse the City for all of the services and expenses of the Project Manager during all of the extension periods in this Agreement. Weidner also shall reimburse the City for all of the services and expenses of the City's attorneys, traffic engineers, architects/landscape architects, financial consultants and environmental consultants (Consultants) that are related to the Project, the CSDP and TMA, and this Agreement and that are rendered and incurred between January 1, 2017 and Weidner's submittal of a completed site development application. The maximum amount of reimbursement shall be \$150,000 for calendar year 2017 and \$250,000 for each of calendar years 2018 and 2019. The Parties agree that Weidner, and not Lakepointe and Pioneer, shall be responsible for reimbursement of the services and expenses of the Project Manager and the Consultants.

C. Upon payment of an invoice from the Project Manager and the Consultants, the City shall promptly send a copy to Weidner. Weidner shall reimburse the City for the amount of an invoice within thirty (30) days of receipt of the invoice. All delinquent reimbursement amounts shall accrue interest at the rate of twelve percent (12%) per annum. If Weidner develops the Project, Weidner may use any or all reimbursement payments as credits toward eligible City fees and charges for the Project, or receive reimbursement from revenues received by the City from the Project to the extent that credits from City fees and charges are not eligible, feasible, and/or are exceeded. This credit option shall be available to Weidner only if Weidner commences development of the Project on or before December 31, 2020; provided that if a third party files a challenge to or appeal from this Agreement or any act related to this Agreement, this credit option deadline shall be extended by the period of such challenge or appeal. Commencement of development of the Project shall occur upon 1) the City's issuance of the first permit or approval for a major component of the Project, such as a building permit for a commercial or residential building, or a grading or similar permit for a major street serving the Project; and 2) actual site mobilization and breaking ground.

7. Effective Date and Term. This Agreement shall be effective on January 1, 2017, and shall terminate on the last day of the last one-year extension period for which the Lakepointe Group qualifies; provided, that Section 4(C) of this Agreement shall be effective until the terms of that section have been satisfied and completed. If a third party files a challenge to or appeal from this Agreement or any act related to this Agreement, the Parties agree to discuss the impacts of such challenge or appeal on this Agreement.

8. Notices. All notices and other communications under this Agreement shall be in writing by email, facsimile, regular U.S. mail or certified mail, return receipt requested. If to the City, the notice shall be sent to:

City Managers Office
City of Kenmore
18120 68th Ave NE / PO Box 82607
Kenmore, WA 98028

or to such other person or place as the City shall furnish to the Parties in writing. If to the Parties, the notice shall be sent to:

Kyran Hynes-Weidner Apartment Homes
9157 NE Juanita Dr, #300
Kirkland, WA 98034

or to such other person or place as the Parties shall furnish to the City in writing. Notices shall be deemed given upon delivery or, if mailed, upon the earlier of actual receipt or three (3) business days after the date of mailing.

9. Severability. If any section or part of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such action shall not affect the validity or enforceability of any other section or part of this Agreement.

10. Entire Agreement; Amendment. This Agreement contains the entire written agreement of the Parties and supersedes all prior discussions and agreements. This Agreement may be amended only in writing, signed by both Parties.

11. Successors and Assigns. All of the provisions, conditions, regulations and requirements contained in this Agreement shall be binding upon the successors and assigns of the Parties.

12. No Third Party Rights. This Agreement is solely for the benefit of the Parties and gives no right to any other party or person.

13. No Joint Venture. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of any other Party.

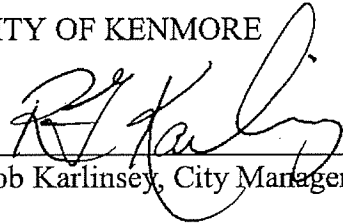
14. Jurisdiction and Venue. This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of King County, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

15. Enforcement; No Waiver; Prevailing Party Costs. In addition to the remedies provided by law, this Agreement shall be specifically enforceable by any Party. If any Party incurs attorney fees, costs or other legal expenses to enforce the provisions of this Agreement against another Party, all such fees, costs and expenses shall be recoverable by the prevailing Party. The failure of a Party to exercise any right or enforce any provision of this Agreement shall not be considered a waiver of such right or enforcement remedy.

16. Counterparts. This Agreement may be signed in counterparts and, if so signed, shall be deemed one integrated agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives.

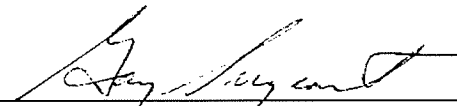
CITY OF KENMORE



Rob Karlinsey, City Manager

Date: 12-29-2016

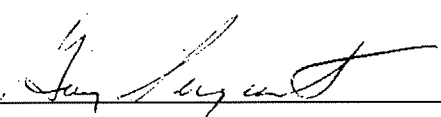
LAKEPOINTE, INC.



Printed name: Gary Sergeant
Its: President

Date: 12/29/16

PIONEER TOWING CO.




Printed Name: Gary Sergeant

Its: President

Date: 12/29/16

WEIDNER APARTMENT HOMES



Printed Name: W. Dean Weidner

Its: President

Date: 12/29/2016

EXHIBIT A

ADDITIONAL CONDITIONS FOR EXTENSION OF CSDP AND TMA

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1. The Lakepointe Group, or its component entities or successors in interest (Applicant), must provide adequate evidence to the City, prior to the City's issuance of construction permits for the Project, that the Applicant has obtained necessary consents and authorizations from owners of all property on which such construction and operation is proposed, particularly in light of the 2004 Utilization Agreement, the effect of which is in dispute between the Parties.
2. The Applicant, prior to the City's issuance of construction permits for the Project, must amend the TMA as necessary for the Project and as required by the City. If required by the City, the owners of Lot B must approve such amendment to the TMA. The City represents (and Lakepointe and Pioneer understand) that the City is unlikely to approve the deletion of Sections 3.17 and 3.19 of the TMA.
3. The City will not accept a building permit application or permit application to construct other site improvements within the 200-foot shoreline jurisdiction without an approved Shoreline Substantial Development Permit. The CSDP (including the master plan) and building permit applications must be amended to comply with conditions of shoreline permit approval.
4. The Applicant must submit a building permit application or permit application to construct other site improvements in accordance with the City's adopted surface water regulations in effect at the time of the Application.
5. The Applicant need not comply with the City's Critical Area Ordinance (CAO) if development occurs under the CSDP. However, if the Applicant seeks a minor modification of the CSDP, such modifications shall be designed (i) not to increase any nonconformity with the CAO, and (ii) where reasonably feasible, to achieve a higher level of conformance with the CAO, as compared to the vested Project, without impairing the functionality or integrity of the development plan or imposing significant new development costs. All major modifications of the CSDP will require conformance with the CAO.
6. The Applicant must submit a building permit application or permit in accordance with Building and Construction regulations per Kenmore Municipal Code Title 15 in effect at the time of permit application.
7. The Applicant must submit an updated traffic analysis with a building permit application or permit application to construct other site improvements. The Applicant may submit this updated traffic analysis before submitting such applications. The traffic analysis must include additional AM and PM peak hour turning movement traffic counts taken at the intersections of 68th Avenue NE and SE522, NE 170th Street and Juanita Drive NE and 61st Ave NE and SR522. In addition a three-day twenty-four (24) hour roadway count must be taken on SR522 west of 61st Avenue NE and

west of 68th Avenue NE south of NE 175th Street NE. The counts must be taken between March and October. The purpose of the counts is to provide an assessment of traffic levels adjacent to the Lakepointe site compared to the counts collected in 1997 documented in the Environmental Impact Statement. If this updated traffic analysis demonstrates additional adverse environmental impacts, such as increased traffic levels, the City shall conduct additional SEPA review, and may require additional mitigation a necessary.

8. The Applicant must pay traffic and park impact fees in accordance with impact fees in effect at the time of building permit application.

EXHIBIT B

SCOPE OF WORK--PROJECT MANAGER

SCOPE OF WORK—PROJECT MANAGER

The Project Manager will perform services necessary to assist, facilitate, and manage the progression of the Lakepointe Project, as well as represent the interests of the City. The Project Manager's services will include, but not be limited to, drafting, editing and reviewing documents, attending meetings, corresponding, traveling to meetings, managing other consultants, interfacing and negotiating with other agencies and lawmakers, and performing other services pertaining to the Lakepointe Project. The Project Manager shall be the point of contact for the Lakepointe Project, and shall coordinate and facilitate City department and consultant involvement in the Lakepointe Project.