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01/04/2008 2 11pm \$46.00  
SNOHOMISH COUNTY, WASHINGTON

AFTER RECORDING, RETURN TO

**BAILEY, DUSKIN, PEIFFLE & CANFIELD, P.S.**  
**P.O. BOX 188**  
**ARLINGTON, WA 98223**

**DEVELOPMENT AGREEMENT**

**GRANTOR(S):** Ferrill's Arlington LLC  
**GRANTEE(S):** City of Arlington  
**LEGAL (Abbrev.):** Section 22, Township 31 North, Range 5 East  
**ASSESSOR'S TAX #:** 31052200401800

The City of Arlington, a Washington municipal corporation ("City"), and Ferrill's Arlington LLC, do enter into the following agreement to promote the development of certain real property located within the City, upon the following terms and conditions ("Agreement")

**1 0 RECITALS**

1 1 Location of Property Applicant warrants that it controls certain real property located at 6323 172nd Street NE, Arlington (the Property),

1 2 Grantor has constructed a sanitary sewer main from 59<sup>th</sup> Street NE through offsite easements and along the south boundary of the Property as part of his development project

**2 0 SANITARY SEWER**

2 1 EASEMENT Grantor is negotiating with the neighboring property owners, who will benefit from the said sanitary sewer main, to share the costs of the sewer main. Immediately after the Grantor receives all payments from these property owners, the Grantor shall provide a bill of sale conveying the sanitary sewer to the City of Arlington, and a 10-foot public utility easement

2.2 Liability The Grantor has constructed a concrete block wall approximately 5 feet from the centerline of the sanitary sewer along the south boundary of the property. Prior to and after dedication of the sanitary sewer, the Grantor waives any and all claims against the City for any harm, loss or damage to the concrete block wall related to the operation, maintenance, and repair of the sewer main and manholes except for claims arising from the City's sole negligence. After dedication of the sanitary sewer to the City by the Grantor, as set forth in this Development Agreement, the City shall hold the Grantor harmless from claims related to the operation, maintenance and repair of the sewer main and manholes except for claims arising from the sole negligence of the Grantor. In the event of concurrent negligence of the Grantor and the City, each shall be responsible for their respective degrees of fault.

### 3.0 GENERAL PROVISIONS

3.1 Recording This Agreement shall, when approved by the City Council and executed by the parties hereto, be filed as a matter of public record in the office of the Snohomish County Auditor and shall be in the nature of a covenant running with the property. It is the intent to have this Agreement, so long as it is in force, to be considered, interpreted, and regarded as a covenant running with the land as to Applicant's Property.

3.2 Applicable Law This Agreement shall be governed by and be interpreted in accordance with the laws of the State of Washington.

3.3 Binding Effect This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each party hereto. The parties acknowledge that Applicant shall have the right to assign or transfer all or any portion of the interests, rights and obligations under this Agreement to other parties acquiring an interest or estate in the property. Consent by the City shall not be required for any transfer or rights pursuant to this Agreement.

3.4 Severability If any provision of this Agreement is determined to be unenforceable or invalid by a court of law, then this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law.

3.5 Modification This Agreement shall not be modified or amended except in writing signed by the City Administrator and Applicant or their respective successors in interest.

3.6 Merger This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

3.7 Duty of Good Faith Each party hereto shall cooperate with the other in good faith to achieve the objectives of this Agreement. The parties shall not unreasonably withhold requests for information, approvals or consents provided for, or implicit, in this Agreement.

3.8 Disclosure Upon Transfer Applicant agrees that in the event of a proposed sale, gift, transfer, segregation, assignment or devise of the Property, Applicant shall disclose the existence of this Agreement to the interested party.

3.9 No Presumption Against Drafter This Agreement has been reviewed and revised by legal counsel for all parties and no presumption or rule that ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this agreement.

3.10 Notices All communications, notices and demands of any kind which a party under this Agreement is required or desires to give to any other party and be either (1) delivered personally, (2) sent by facsimile transmission with an additional copy mailed first class, or (3) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

If to the City

City of Arlington  
238 North Olympic Ave  
Arlington, WA 98223

If to the Applicant

Ferrill's Arlington, LLC  
6323 172nd Avenue NE  
Arlington, WA 98223

If to the Property Owner

Same as above

Notice by hand delivery or facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed received 48 hours after deposit. Any party at any time by notice to the other party may designate a different address or person to which such notice shall be given.

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IN WITNESS WHEREOF, the undersigned have set their hands the day and date set out next to their signatures

APPLICANT

**Ferrill's Arlington LLC**

Date December 28, 2007.

By

  
Stephen P. Ferrill, Manager

**CITY OF ARLINGTON:**

Date \_\_\_\_\_

By

  
Mayor

Approved as to Form

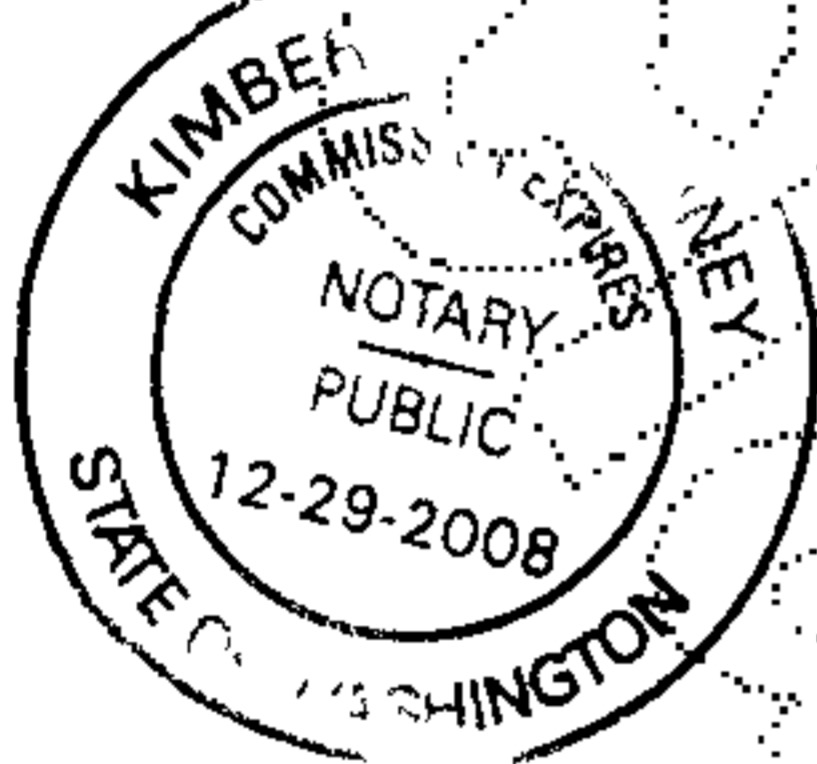
  
City Attorney



STATE OF WASHINGTON )  
 ) ss  
COUNTY OF SNOHOMISH )

On this 28<sup>th</sup> day of December, 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Stephen P. Ferrill, to me known to be the Manager of FERRILL'S ARLINGTON, LLC, the limited liability company that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes herein mentioned, and on oath stated that he/she is authorized to execute the said instrument

Witness my hand and official seal hereto affixed the day and year first above written

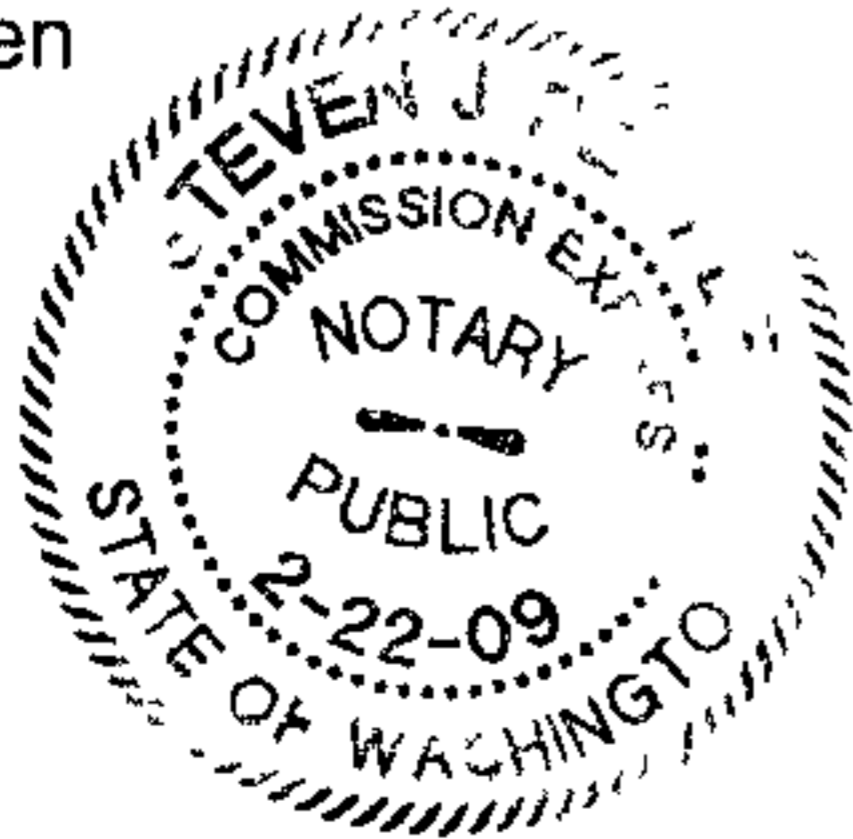


Kimberly K. Romney  
NOTARY PUBLIC in and for the State of Washington, residing at Granite Falls  
My commission expires 12-29-2008  
Printed name Kimberly K. Romney

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF SNOHOMISH )

On this 3<sup>rd</sup> day of January, 2008, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Margaret Larson, to me known to be the Mayor of the City of Arlington, the municipal corporation that executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes herein mentioned, and on oath stated that she is authorized to execute the said instrument and that the seal affixed (if any) is the corporate seal of said municipal corporation

Witness my hand and official seal hereto affixed the day and year first above written



Steve J. DePelle  
NOTARY PUBLIC in and for the State of Washington, residing at Arlington  
My commission expires 2/22/2009  
Name Steve J. DePelle