

**PROPOSED CONDITIONS OF APPROVAL
MAJOR MODIFICATION OF BULLFROG FLAT DEVELOPMENT APPROVALS**

This document proposes potential conditions on the City’s approval of Sun 47 North LLC’s (“Developer”) consolidated application for a major modification of the Bullfrog Flats UGA Master Site Plan approved by the City in 2003 (the “Major Modification Application”).

The Major Modification Application consists of Developer’s applications for Planned Mixed Use Final Plan (including site plan drawings referred to herein as the “Site Plan Set”), Boundary Line Adjustment, and Preliminary Subdivision.

These proposed Conditions of Approval (these “Conditions”) include general requirements and specific impact mitigation requirements on Developer during Developer’s buildout of the project on the “Property” (as depicted in the Site Plan Set and legally described in Exhibit E attached hereto) contemplated in the Major Modification Application (the “Project”).

As modified by these proposed Conditions, the Major Modification Application is referred to herein as the “Approved Plan.”

DEVELOPMENT STANDARDS

1. The “Development Standards” approved as a component of the Major Modification Application shall govern all aspects of development of the Project.
2. Except as expressly provided for in the Development Standards, Project shall be subject to all other requirements of the version of the CEMC effective on the date of Developer’s submission of a complete Major Modification Application to the City (as attached hereto as Exhibit G, the “Vested Code”).

PHASING

3. The Project may be developed in phases, provided:
 - A. For each Phase, all public and private infrastructure and other mitigation measures required by these Conditions for that Phase must be constructed before the City’s issuance of the first certificate of occupancy (or before the City’s approval of the first final inspection if a particular use within a phase does not require a certificate of occupancy) for that Phase.
 - B. Public and private infrastructure required for each Phase shall be designed and constructed to meet the standards provided for in the Development Standards, as supplemented by City engineering requirements and applicable development standards of the Vested Code where required.

C. No certificate of occupancy for any structure within a Phase may be issued without the Developer first conveying adequate water rights for such Phase to the City. Developer may elect to transfer its water rights to the City in Phases

RESIDENTIAL USES (SINGLE AND MULTI-FAMILY)

4. Within the portions of the Property identified for residential uses on the Site Plan Set (the “Residential Parcels”), the following uses shall be permitted:

Parcel	Permitted Uses
<p>Residential Parcels (Single/Multi-Family)</p>	<ul style="list-style-type: none"> • Single-Family Dwellings as contemplated in CEMC 17.16 (including Accessory Buildings) • Multi-Family Buildings as contemplated in CEMC 17.20 • Any other use permitted by CEMC 17.16.010 and 17.20.010. • Parks, Playgrounds, and similar recreational and/or accessory uses (including small-scale food and equipment concessions) • Residential Complementary Uses and Amenities, including but not limited to: <ul style="list-style-type: none"> ○ Clubhouses ○ Pools ○ Fitness Center • Maintenance and Repair uses appurtenant to the operation of the Single- and Multi-Family Communities

5. Lot and other standards applicable to development on the Residential Parcels are specified in the Development Standards. If a specific standard is not listed in the Development Standards, the standards of Chapter 17.16 of the Vested Code shall apply to single family development in the Residential Parcels, and the standards of Chapter 17.20 of the Vested Code shall apply to multi-family development on the Residential Parcels. In addition, if not otherwise specified in the Development Standards, the relevant standards of Chapters 17.04, 17.56, 17.64 of the Vested Code shall apply.

6. In general, all streets and alleys in the Residential Parcels shall be privately owned and maintained. However, no gates, walls or other access restrictions on these streets and alleys shall be permitted. Nothing in this Condition shall be interpreted to prohibit construction of a complex of residential units on a single legal lot, such as an apartment complex, with private drives, parking, circulation, recreational facilities, or other amenities available only to the residents of the Residential Parcels.

RECREATIONAL RESORT USES

7. Within the portions of the Property identified for transient recreational uses on the Site Plan Set (the “Recreational Resort”), the following uses shall be permitted:

Parcel	Permitted Uses
Recreational Resort	<ul style="list-style-type: none"> • Recreational Vehicles (RVs); Park Model Recreation Vehicles (“PMRVs”); and External Appurtenances to RVs <ul style="list-style-type: none"> ○ All as defined in CEMC 17.51.010(B), except that RVs and PMRVs may be occupied for Developer’s commercial purposes within the Recreational Resort in contravention of CEMC 17.51.010(C)(1). ○ Short-term rentals (as defined in defined in CEMC 17.160) shall be allowed within RVs and PMRVs in the Recreational Resort, in contravention of CEMC 17.160.050(C) and (D). • Short-term rental uses (of the types contemplated by CEMC 17.160). A variety of temporary¹ and permanent detached sleeping unit structures designed for R-3 Occupancy (as defined in the International Building Code as adopted by the State and Washington and the City) may be constructed and used as short-term rentals within the Recreational Resort, in contravention of CEMC 17.160.050 (C) and (D). • Accessory Uses (as defined in CEMC 17.51.010(I)).

¹ Temporary structures may be either conditioned or unconditioned, provided that any conditioned temporary structure will be insulated with walls and ceilings that meet a minimum R-5 insulation required as described in the International Energy Conservation Code (as adopted by the State of Washington and the City).

	<p>Retail Uses (of the types defined in CEMC 17.28.020)</p> <ul style="list-style-type: none"> • Parks, Playgrounds, and similar recreational and/or accessory uses (including small-scale food and equipment concessions) • Passive and Active outdoor recreation uses. • Uses and Amenities Complimentary to a Resort, including but not limited to: <ul style="list-style-type: none"> ○ Clubhouses ○ Pool ○ Spa ○ Fitness Center ○ Conference Space ○ Retail ○ Food & Beverage ○ Challenge and Adventure Courses ○ Recreational Amusement Park-Style attractions ○ Facilities for Art and Craft production ○ Indoor/Outdoor equipment storage facilities • Maintenance and Repair uses Appurtenant to the operation of a Recreational Resort
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8. Lot and other standards applicable to development on the Recreational Resort are specified in the Development Standards. If a specific standard is not listed in the Development Standards, the standards of Chapter 17.51 of the Vested Code shall apply to development in the Recreational Resort. In addition, if not otherwise specified in the Development Standards, the relevant standards of Chapters 17.04, 17.56, and 17.64 of the Vested Code shall apply.

9. In general, all streets and alleys in the Recreational Resort shall be privately owned and maintained. Gates, walls or other access restrictions on these streets and alleys shall be permitted. Emergency service providers including the Kittitas County Sheriffs’ Office, the Cle Elum-Roslyn-South Cle Elum Police Department, ambulance service providers and the Office of the City Clerk shall be provided with access to the gates or security devices through uniform keypad access, lock box, master key or other similar method to allow rapid access through the device.

COMMERCIAL CENTER USES

10. Within the portions of the Property identified for commercial uses on the Site Plan Set (the “Commercial Center”), the following uses shall be permitted:

Parcel	Permitted Uses
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<p>Commercial Center</p>	<ul style="list-style-type: none"> • Those uses permitted outright in the CG General Commercial District (CEMC 17.32) • Those uses permitted outright in the Business Park District (CEMC 17.34) • Recreational Vehicle Storage <p>Note: The uses enumerated in CEMC 17.45.050(B) are not permitted to be developed within the Commercial Center or anywhere on the Property.</p>
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11. Lot and other standards applicable to development in the Commercial Center are specified in the Development Standards. If a specific standard is not listed in the Development Standards, the standards of Chapter 17.32 of the Vested Code shall apply to development in the Commercial Center. In addition, if not otherwise specified in the Development Standards, the relevant standards of Chapters 17.04, 17.56, and 17.64 of the Vested Code shall apply.

AFFORDABLE HOUSING MITIGATION

12. Developer will design and construct a minimum of 50 multi-family residential dwelling units (which may be spread throughout several structures on the Residential Parcels, each an “Affordable Multi-Family Structure”) that shall be affordable to residents earning 80% of the Area Median Income for Kittitas County for twenty (20) years following issuance of the certificate of occupancy for each Affordable Multi-Family Structure. Developer shall record a restrictive covenant in a form reasonably acceptable to the City evidencing such restriction in the records of Kittitas County no later than the issuance of a certificate of occupancy for each Affordable Multi-Family Structure.

TEMPORARY RECREATIONAL VEHICLE PARK

13. Developer may construct a maximum of 100 RV sites in the Commercial Center or Recreational Resort (the “Temporary RV Park”) to house workers engaged in the construction of the Project, provided that these sites shall be consistent with health department requirements and shall have all-weather access and pads.

14. The Temporary RV Park may not be located in any portion of the required open space or buffers and shall comply with all standards required by the Development Standards for the Temporary RV Park. If the Temporary RV Park is located in the Commercial Center, the precise location and design of the Temporary RV Park shall be reviewed pursuant to the Site and Design Review standards described in CEMC 14.30.140 for compliance with the Development

Standards provisions for RV Park uses and approved utilizing Type 1 Permit processing procedures described in CEMC 14.03.050 (the “Temporary RV Park Approval”).

15. The Temporary RV Park shall be removed no later than ten (10) years after the City issues the Temporary RV Park Approval, unless the Temporary RV Park is integrated into the Approved Plan as a permitted use as part of a future amendment to the Approved Plan. For the avoidance of doubt, any RV site built within the Temporary RV Park may be converted to permanent site if constructed within the Recreational Resort.

16. The number of RV sites constructed in the Temporary RV Park will count against the 1,334 total sites allowed in the Development until the sites are removed and are no longer habitable, unless the Temporary RV Park is later permitted as part of approved amendment to the Approved Plan.

BUFFERS AND OPEN SPACE

17. The open space shown on the Site Plan Set as Parcel 1 shall be set aside in a combination of permanent “River Corridor Open Space” and “Managed Open Space,” and managed in a manner consistent with the requirements, use limitations and management requirements described in the Cooperative Agreement between Trendwest, the Yakama Nation and the Washington Department of Fish and Wildlife (WDFW) dated December 4, 2000 (“Cooperative Agreement”); the Cle Elum River Corridor Grant of Conservation Easement between MountainStar Resort Development, LLC d/b/a Suncadia Development Company and Kittitas Conservation Trust dated August 31, 2004 (as recorded at Kittitas County Auditor’s No. 200409020038, the “River Corridor Conservation Easement”); the Natural Open Space Grant of Conservation Easement (Restated) between New Suncadia, LLC, and the Kittitas Conservation Trust dated December 3, 2015 (as recorded at Kittitas County Auditor’s No. 201512110029, the “Natural Open Space Easement”); and the Managed Open Space Grant of Conservation Easement (Restated) between New Suncadia, LLC, and the Kittitas Conservation Trust dated December 3, 2015 (as recorded at Kittitas County Auditor’s No. 201512110029, the “Managed Open Space Easement”). Collectively, the Cooperative Agreement, the River Corridor Conservation Easement, the Natural Open Space Easement, and the Managed Open Space Easement constitute the “Conservation Agreements”).

18. River Corridor Open Space constitutes the area described and depicted as in the River Corridor Conservation Easement as the “Cle Elum River Corridor.” Motorized vehicles, building structures, vegetative disturbances, domestic animal use, and human uses within the River Corridor Open Space will be subject to appropriate prohibitions and limitations identified in the Conservation Agreements.

19. All open space shown on the Site Plan Set as Parcel 1 that is outside of the River Corridor Open Space shall be considered Managed Open Space and may be more intensely managed or changed by selective logging, thinning or vegetation removal to establish better habitat conditions conducive to selected species and to establish more useable area for recreational purposes, subject to appropriate prohibitions and limitations identified in the Conservation Agreements. Though no residential development will occur in any open space identified on the

Site Plan, limitations on structures, motorized vehicles, domestic animal use, and human uses in the Managed Open Space will be less restrictive than in the River Corridor Open Space.

20. Developer may seek City approval for an interpretive center in the Managed Open Space, as further provided for in the Development Agreement.

21. Developer shall dedicate Kittitas County Tax Parcel 18705 to the City to provide adequate buffer between I-90 and the Development. The dedication of Kittitas County Tax Parcel 18705 shall constitute a condition precedent to the City's approval of the first building permit issued for the Project.

22. The Development shall include a minimum of 100-foot buffer outside of and adjacent to the Bullfrog Road Right-of-Way adjacent to the Property. This buffer shall be designed to protect the existing generally wooded character of the Bullfrog Road entrance to the City, provided that the buffer need not provide a total visual screen of the Development from Bullfrog Road. Developer shall own and be responsible for any maintenance of this required buffer.

23. The project shall include a minimum of a 20-foot buffer outside of and adjacent to the SR-903 right-of-way. This buffer shall consist of a B.1 – Low Screen Buffer as described in CEMC 17.64.070.

24. Internal buffers between land uses within the Development, shall remain as open space as depicted on the Site Plan Set, with the exception that trails or pedestrian paths may be constructed within Buffer Areas.

25. Developer shall provide landscaping to create transitions and buffers between various uses present on the Property and along Property boundaries.

SIGNAGE

26. Each entrance to the Development may be permitted one monument type sign for the purposes of marking the entrance to the Development, subject to the requirements of the Development Standards and, where the Development Standards are silent, the requirements of CEMC 15.20.150 where signage is visible from a public right of way.

LIGHTING

27. Lighting throughout the Development will be subject to the Development Standards, as supplemented by the then-current best practices adopted by International Dark Sky Association.

28. Residential area light fixtures should not be mounted higher than 30 feet.

29. Unnecessary lighting of building facades should be avoided.

PARKS AND TRAILS

30. Developer shall comply with that certain Recreational Parcel Agreement by and between New Suncadia and the City dated January __, 2021 (the “Recreational Parcel Agreement”) regarding certain payments to be made toward the development of the Community Center, including the payment of \$2,000,000 to the City by December 31, 2028, as required by the Recreational Parcel Agreement.

31. All parks, park-like open spaces, and trailheads identified on the Site Plan Set will be allowed the following commercial uses: concessions, recreational or sports uses.

32. Developer shall construct parks within the Single-Family and Trailhead Park Parcels depicted on the Site Plan Set with an aggregate area no less than 2.5 acres. Developer shall own and maintain all parks within the Project. The Project may include private community centers, parks, or playgrounds operated by Developer for the benefit of the residents of the Residential Parcels and the users of the Recreational Resort that are not open to the public.

33. Parks and trails within the Development will be constructed in accordance with the Development Standards.

34. Developer shall construct a combination of soft-surface and hard-surface trails or other pedestrian circulation such as sidewalks that will provide uninterrupted bicycle and pedestrian routes connecting the Residential Parcels, the Commercial Center, and the Recreational Resort, generally along the routes shown on the Site Plan Set.

35. The trail network may be constructed in Phases. Where indicated on the Site Plan Set, equestrian trails shall be separated from pedestrian and bicycle trails.

FISH AND WILDLIFE

36. Developer shall comply with all of the requirements for fish and wildlife mitigation contained in the Conservation Agreements.

37. Landscaping installed by Developer should be planted with native plants, especially trees and shrubs that provide cover, nesting, and forage habitat for birds and small mammals to the maximum extent practicable.

38. Developer shall re-plant disturbed soils as quickly as seasonally practicable after construction and final grading to reduce soil erosion and colonization by non-native species.

PLANTS AND WETLANDS PROTECTION

39. Construction limits, including staging areas, for each Phase must be clearly marked in the field prior to beginning construction activities for that Phase.

40. The limits of wetland buffer areas would be clearly marked on construction plans for each Phase and in the field to prevent unauthorized damage to critical areas during construction of each Phase.

41. No construction staging areas are allowed within any wetland buffers located within the Recreational Resort.

42. Any wetland buffer areas temporarily disturbed for construction access and staging during any Phase must be revegetated following completion of construction activities related to that Phase, pursuant to a mitigation plan to be reviewed and approved by the City in its reasonable discretion prior to construction of that Phase.

43. Vehicle refueling and maintenance activities cannot be located within wetland buffers, or within at least 100 feet of wetlands.

44. As necessary and where practicable, clean stormwater runoff must be directed to the any wetlands catchment areas depicted on the Site Plan Set or included in to retain the wetland hydrology.

45. During Project development and operation, Developer will follow the noxious weed control and forest management techniques discussed in the Land Stewardship Plan for Suncadia dated December 2008 and revised February 2018 (attached hereto as Exhibit D, the “LSP”). Developer shall review and update the LSP, as necessary.

STORMWATER

46. All stormwater facilities constructed within the Development shall be owned and maintained by the Developer. All stormwater facilities constructed pursuant to any improvements to public rights-of-way shall be dedicated to the City upon completion.

47. Prior to the issuance of the first permit for the development of the Project, Developer will propose, and the City will review and approve in its reasonable discretion, a Temporary Stormwater Management Plan that shall include Best Management Practices as described in the 2019 Washington State Department of Ecology Manual for Eastern Washington (the “2019 Stormwater Manual”) to be implemented during construction each phase of the Project.

48. All construction and development activity within the Property shall comply with then-current edition of the Department of Ecology’s Stormwater Management Manual for Eastern Washington and the and the requirements contained in the Development Standards.

49. Prior to approval of the development of each Phase of the Project, the City shall ensure that the method of managing the stormwater from the proposed Phase complies with the then-current Department of Ecology’s Stormwater Management Manual for Eastern Washington.

EROSION CONTROL AND LANDSLIDE PREVENTION

50. Prior to the issuance of the first permit for any Phase of development for the Project, Developer will propose, and the City will review and approve in its reasonable discretion, a Temporary Erosion and Sediment Control (“TESC”) Plan and Stormwater Pollution Prevention (“SWPP”) Plan. The TESC and SWPP Plans shall include Best Management Practices to be implemented during construction each phase of the Project as described in the 2019 Stormwater Manual.

51. During construction of all Phases, Developer will utilize a Erosion and Sediment Control monitor certified by the Department of Ecology to monitor erosion and sediment control.

52. Unless the City determines reasonably necessary to complete road, trail, firewising, and/or utility corridors within a Phase, no vegetation shall be removed from slopes in excess of twenty-five percent (25%) (“Steep Slopes”) unless appropriate measures are taken to ensure slope stability.

53. All clearing and grading shall be set back a minimum of twenty-five (25) feet from the top of all Steep Slopes, or a greater distance if the City Engineer determines a greater distance is necessary to protect slope stability. The City Engineer may permit clearing and grading to the top of Steep Slopes if a geotechnical report demonstrates that such work will not adversely affect slope stability.

54. Unless the City determines reasonably necessary to complete road, trail and/or utility corridors, and then only if appropriate measures are taken to ensure slope stability, no fill, topsoil, or debris shall be deposited on Steep Slopes.

55. No construction on the Property shall use gravel or other construction materials from the floodplain of the Cle Elum River.

56. Developer will not place structural fill on or adjacent to the top of slopes greater than 40%.

57. Developer will not construct any permanent cuts or fill slopes that exceed a maximum inclination of fifty percent (50%).

AIR QUALITY

58. Developer and all of Developer’s contractors must implement an air quality control plans for construction activities. Air quality control plans should include best management practices to control fugitive dust and odors such as including, but not limited to, the use of water sprays or other non-toxic dust control methods on unpaved roadways; minimizing vehicle speed while traveling on unpaved surfaces; preventing the track-out of mud onto public streets; the covering of soil piles when practicable; and, minimizing work during periods of high winds when practicable.

59. The following mitigation measures should be used to minimize air quality and odors issues caused by construction equipment tailpipe emissions: Maintain the engines of construction equipment according to manufacturers’ specifications; Minimize idling of equipment while the equipment is not in use; and, if there is heavy traffic during some periods of the day, schedule haul traffic during off-peak times (e.g., between 9:00 AM and 4:00 PM) when it would have the least effect on traffic and would minimize indirect increases in traffic-related emissions.

60. Wood-burning stoves are not permitted on the Residential Parcels, and wood-fueled campfires are not permitted in the Recreational Resort except to the extent permitted by the Fire Chief. Fires fueled by non-spark emitting fuel sources such as propane and natural gas are permitted throughout the Project.

61. All development within the Property shall comply with applicable air quality regulations, including: National Ambient Air Quality Standards (NAAQS); State Ambient Air Quality Standards; the Department of Ecology's Indoor Burning Smoke Reduction Zone regulatory framework; State and City of Cle Elum outdoor burning regulations; and State of Washington greenhouse gas laws.

WATER SUPPLY

62. Consistent with the requirements of the Agreement Regarding Water Supply for the Bullfrog Flats UGA dated June 19, 2001, Developer shall transfer water rights to the City of Cle Elum sufficient to provide adequate water supply to all uses within the Property, with the exception of each Affordable Multi-Family Structure described in Condition 12, above. The City shall be responsible to provide (or ensure from others) sufficient water supply for each Affordable Multi-Family Structure described in Condition 12, above.

63. All development within the Property shall include low-flow fixtures consistent with State building code requirements, limitations on landscaping and other water-conservation measures codified in the Cle Elum Municipal Code.

64. Developer shall contribute its proportionate share the cost of the water supply system improvements identified in the Addendum to the Final Supplemental Environmental Impact Statement for the Project required to mitigate the Project's impacts to the City's water system (collectively, the Water System Improvements"), as described in that certain 47 North Water System Impact Mitigation Plan attached hereto as Exhibit B (the "Water Supply System Impact Mitigation Plan").

SOLID WASTE

65. Developer shall manage all construction debris, separate recyclable materials, and otherwise manage all its solid waste and household hazardous waste consistent with the requirement for such handling in the 2020 Kittitas County Solid Waste and Moderate Risk Waste Management Plan, attached hereto as Exhibit F.

NOISE

66. Construction and operation of the Project shall be consistent with Vested Code requirements related to noise, including CEMC 2.48.130, 8.12.020, 10.20, 10.24.020, and 17.51.010. However, because the Vested Code is focused primarily on nuisances and does not address or provide numerical thresholds for construction, transportation, or operational noise, applicable State noise regulations will apply where the CEMC has not established noise thresholds.

67. Before making any commercial use of the Recreational Resort, Developer shall submit a management plan for the Recreational Resort, including rules governing park quiet hours, to the City.

68. Roof equipment in the Commercial Center may require noise baffling, if necessary, to meet State noise standards. This City may impose baffling requirements as part of the building permit review for any buildings constructed in the Commercial Center.

SCHOOLS

69. Developer shall mitigate for the Development's impact on the Cle Elum-Roslyn School District by comply with the requirements of that certain Sun 47 North – Cle Elum-Roslyn School District Impact Mitigation Agreement dated [_____, 2023] and attached hereto as Exhibit A.

CULTURAL RESOURCES

70. Developer shall not take any measures that encourage access or discovery of significant cultural resources sites within the River Corridor Open Space. Only grading or construction activity consistent with the provisions of the Conservation Agreements shall be permitted in the River Corridor Open Space area.

71. Developer shall comply with all state regulations (e.g., RCW 27.44, RCW 27.53, RCW 43.21C) related to cultural resources. This includes the need for an Archaeological Site Alteration Permit from DAHP for any disturbance to archaeological sites with objects that pre-date the historic era (i.e., precontact archaeological sites) or disturbance to historic archaeological resources that are eligible for or listed in the National Register of Historic Places. Alterations to a site can include adding fill, building on, removing trees, using heavy equipment on, compacting, or other activities that would change or potentially impact the site, as well as archaeological excavations.

72. Developer shall adopt and the City shall approve an inadvertent discovery plan before issuance of any approval for Developer's first Phase. The inadvertent discovery plan shall be made available onsite during construction.

73. During all ground disturbing activities with potential to intersect Holocene deposits, which were observed up to 8.5 feet below ground surface, including clearing, grubbing, grading, and construction excavations, onsite monitoring by a professional archaeologist or cultural resources specialist must occur. Additionally, all construction personnel must be trained on the identification of archaeological resources.

74. In the event that ground disturbing or other activities during construction on the Property result in the inadvertent discovery of archaeological deposits, work will be halted in the immediate area, the discovery will be covered, and contact will be made with DAHP. Work will be halted until such time as further investigation and appropriate consultation is concluded. In the unlikely event of the inadvertent discovery of human remains, work will be immediately halted in the area, the discovery covered and secured against further disturbance, and contact made with law enforcement personnel, consistent with the provisions set forth in RCW 27.44.055 and RCW 68.60.055. FSEIS Appendix B contains additional protocols for inadvertent discoveries that must be complied with.

TRANSPORTATION

75. Developer shall be responsible for all costs associated with the construction of all on-site transportation facilities (vehicular and pedestrian) and all access points to the Property from Bullfrog Road and SR 903.

76. To the maximum extent feasible, plans for each Phase shall identify those on-site transportation facilities that are required for development of such Phase. The Development Standards will govern design and construction of the vehicular and pedestrian transportation facilities on the Property. Additionally, each Phase must be implemented to ensure the development of a cohesive and integrated transportation network to prevent any transportation discontinuities.

77. No direct access from the Property to I-90 shall be permitted. In addition, access to SR 903 and to Bullfrog Road shall be limited to the approximate locations depicted on the Site Plan.

78. Developer shall be obligated to pay its pro-rata share of the cost of development of off-site transportation facility improvements required to mitigate the impacts of the Project on the City's roadway network. Developer shall comply with the requirements of that certain 47 North Transportation Impact Mitigation Plan attached to the Development Agreement as Exhibit D (the "Transportation Impact Mitigation Plan"). Developer and the City agree that the Transportation Impact Mitigation Plan identifies the off-site roadway network improvements identified by the FSEIS and the Addendum thereto and equitably apportion Developer's financial responsibility for the monitoring and construction of those improvements.

79. Construction Trucks shall be routed, to maximum extent possible, on temporary construction routes within the Property, rather than relying on public roads outside of the Property. If necessary to protect the public health, safety, and welfare, the City may impose reasonable additional truck route requirements, applicable to the City as a whole.

MITIGATION FOR GOVERNMENT SERVICES AND OTHER FISCAL IMPACTS

80. The FSEIS and the Addendum thereto included assessments of the Project's projected impacts on police and fire services provided by the City, and concluded, based on expected tax revenues generated by the Project, that mitigation for fiscal impacts related to governmental services are not anticipated to be necessary. A limited fiscal monitoring program will commence concurrent with the issuance of the first certificate of occupancy for the Project (the "Fiscal Monitoring Period").

81. The fiscal monitoring program shall be implemented, as follows:

A. At the end of each fiscal year following the commencement of fiscal monitoring program, the City will calculate and credit the City's Bullfrog Shortfall Accounting Fund described in CEMC 3.104 (the "Public Services Fund") with all City revenues attributable to the Project (as further discussed in Condition 84(D), the "City Tax Revenues") and any other payment made by Developer into the Public Services Fund

pursuant to any separate agreement between the City and Developer (the “Additional Payments,” and, when taken together with the City Tax Revenues, the “City Revenues”).

B. After calculating and crediting the Public Services Fund with the fiscal year City Revenues, the City will debit the Public Services Fund for the costs associated with providing police and fire services for the Property during the immediately completed fiscal year (as further described in Condition 84(G), below, the “City Expenditures”).

C. At the end of each fiscal year following the commencement of fiscal monitoring program, if the City Revenues credited to the Public Services Fund at the end of such fiscal year, together with any previous balance or credit provided for under these Conditions or any Additional Payments received by the City, are insufficient to pay the City Expenses debited from the Public Services Fund during the prior fiscal year (a “Shortfall”), then Developer will pay the City the difference (as further detailed in Condition 84(I)). If City Revenues exceed City Expenditures for the fiscal year (a “Surplus”), then the amount of the Surplus will be carried forward in the Public Services Account for use in the next fiscal year.

D. ”City Tax Revenues” shall include the following City revenue streams:

i. Property Tax Revenues. The City shall obtain the total assessed valuation of the Property annually when available from the Kittitas County Assessor. At the beginning of each calendar year, the percentage of the ad valorem real property tax for the Property that is levied by the City shall be calculated and credited to the Public Services Fund. In setting its property tax levy amount each year, the City shall include all new construction and annexation valuations from the previous year.

ii. Utility Tax Revenues. City utility taxes are an important source of recurring revenues. The City currently levies the following utility taxes on electric, telephone, cable television service, water, and sewer service. Annual taxes from utility services to the attributable to the Property shall be credited to the Public Services Fund.

iii. Sales and Use Tax Revenues. Each taxable sale which occurs within the boundaries of the Property (based on sales tax distribution data is available from the State Department of Revenue) shall be credited to the Public Services Fund. Sales Tax on construction materials and labor used in the construction of the Project and any Use Tax attributable to the installation of a manufactured home on the Property shall be accounted for and credited to the Public Services Fund.

iv. State Shared Revenues. State shared revenues include but are not limited to liquor excise tax, liquor profits tax, and motor vehicle fuel tax. These revenues are distributed based on the population of the City. The State of Washington Office of Financial Management certified population on April first of each year is used to distribute State-shared revenues for the next year. Therefore, each year on April 1st, the City shall determine what percentage of its certified

population permanently resides within the Property. That percentage would then be multiplied by the revenues received from the State in the next year and the resulting amount credited to the Public Services Fund.

E. Revenue Transfers. To simplify recording of revenue, the City will initially deposit all City Tax Revenues into the City's general, street, and capital projects funds. Then City Tax Revenues will be transferred to the Public Services Fund as described above.

- F. "City Expenditures" shall be calculated using the following methodology:
- i. The City will quantify its expenditures to provide police and fire service to the Property a "per ERU" basis. The City Expenditures shall be the "per ERU" cost of providing police and fire services, multiplied by each ERU within the Project that is completed and occupiable at the end of each fiscal year, as further outlined herein.
 - ii. The City's "per ERU" cost of providing police and police and fire services to the Property shall be based on the estimated cost to the City to provide the services as outlined in the FSEIS Addendum's fiscal analysis. This analysis contemplates the City's provision of police and fire services at the level-of-service standards in effect at the time of the Project's approval; this will ensure that City's "per ERU" cost to provide police and fire services are reasonably foreseeable as required by SEPA.
 - iii. The "per ERU" cost of providing police and fire services for the Property shall be calculated as follows:
 1. At full buildout, the Project will consist of 933² Equivalent Residential Units designed and intended for overnight occupancy (each, an "ERU").
 2. In fiscal year 2028 (the "Base Year"), the total of the City Expenditures attributable to the Project, based on the assumptions in the FSEIS Addendum which are acknowledged to be overly conservative, is \$991,000. This equates to a "per ERU" expense of \$1,062 in 2028 dollars.
 3. The City's "per ERU" expense for police and fire services for the Base Year shall be adjusted as follows (for both the fiscal years before and after 2028): the \$1,062 "per ERU" expense for the Base Year will be discounted by 2% per annum for each fiscal year

² ERUs for the 527 Single Family Residential Sites and 180 Multi-Family Residential Sites are calculated in accordance with the City Code. However, given the variety of structural types in the Recreational Resort, the City has determined that ERUs for the Recreational Resort will be calculated by multiplying 627 (the number of Recreational Resort Sites) by 0.36 to determine the number of ERUs within the Recreational Resort.

preceding the Base Year and in increased by 2% per annum in each fiscal year after the Base Year.

- iv. The City will keep record of when any certificate of occupancy for any ERU within the Project. At the end of each fiscal year, the City will determine the number of ERUs with certificates of occupancy within the Project. Each ERU will be pro-rated for the number of months in the fiscal year it was permitted for occupancy. The prorated ERUs will then be multiplied by the "per ERU" expenditure attributable to that fiscal year to calculate the City Expenditure for said fiscal year.

G. Annual Reconciliation and Transfer Statement. At the end of each fiscal year after all the City Revenues have been allocated to the Public Services Fund, the City shall prepare statement comparing the City Revenues to the City Expenditures for that fiscal year (the "Fiscal Impact Mitigation Statement"). The Fiscal Impact Mitigation Statement shall include the following line items, at a minimum:

- i. Line 1 – Beginning cash balance in the Public Services Fund.
- ii. Line 2 – City Revenue deposits into the Public Services Fund over the past fiscal year as described above in Condition 86D.
- iii. Line 3 - Total cash value of the Public Services Fund.
- iv. Line 4 - Total City Expenditures based on the calculation described in Condition 84F.
- v. Line 5 - Ending cash balance of the Public Services Fund.
- vi. Line 6 - Required ending balance for the Public Services Fund. This is required to be a minimum of \$50,000.
- vii. Line 7 – Developer Shortfall payment (if any). This is equal to the required ending balance (Line 6) minus the actual ending balance (Line 5).

H. The Fiscal Impact Mitigation Statement must be completed and submitted to the Developer by February 15th of the following year, and any amounts due from Developer shall be paid to the City no later than March 31st of the following year by wire transfer. The City must submit supporting documentation with the Fiscal Impact Mitigation Statement.

82. The Fiscal Monitoring Period will terminate upon the earlier of (a) when, at the end of any twelve (12) consecutive month period during the Fiscal Monitoring Period, City Revenues exceed City Expenditures or (b) the end of fiscal year 2037.

MEDICAL SERVICES

83. Developer shall comply with the requirements of that certain mitigation plan attached hereto as Exhibit C (the “Hospital District Impact Mitigation Plan”). Developer and the City agree that the Hospital District Impact Mitigation Plan appropriately mitigates for those impacts to the Hospital District identified by the FSEIS and the Addendum thereto and equitably apportion Developer’s financial responsibility for those impacts.

CONSTRUCTION SAFETY

84. When using spark-emitting equipment, the Washington Department of Natural Resources’ guidelines on Industrial Fire Precaution Levels shall apply to all equipment and clearing and grading activities within the Property until hydrants are operational to provide fire protection.

85. Prior to any construction related to the Project, Developer shall create a comprehensive construction plan that will include (1) a Fire and Life Safety plan consistent with the City of Cle Elum’s adopted building code requirements for construction, (2) a snow management plan, (3) designated emergency haul routes and access areas, and (4) provisions for fencing and signing the construction site.

86. Any emergency vehicle access other than the public rights-of-way shall be coordinated with the City of Cle Elum Fire Marshall.

MISCELLANEOUS

87. Any reference in these Conditions to separate agreements by or among the City, Developer, and/or any third parties shall include any amendments, extensions, or other modifications to those agreements.

EXHIBIT A

**SUN 47 NORTH - CLE ELUM-ROSLYN SCHOOL DISTRICT IMPACT MITIGATION
AGREEMENT**

[INSERT ONCE NEGOTIATED]

EXHIBIT B

47 NORTH WATER SYSTEM IMPACT MITIGATION PLAN

This 47 North Water System Impact Mitigation Plan (this “Plan”) is entered into by and between the City of Cle Elum, a Washington municipal corporation (“City”), and Sun 47 North LLC, a Michigan limited liability company (“Developer”), effective as of the date of that certain that certain Amended and Restated Development Agreement by and between the City and Developer dated _____, 2023 (the “Development Agreement”) of which this Plan is incorporated into. Any term not defined herein shall be assigned the meaning given to in the Development Agreement.

RECITALS

A. Potential impacts to the City’s water system resulting from the construction of the Approved Plan were analyzed prior to the City’s issuance of the Final Supplemental Environmental Impact Statement on April 16, 2021 (the “FSEIS”) and the Addendum thereto on March 9, 2023 (the “Addendum”). Collectively, the FSEIS and the Addendum constitute the “Environmental Documents”).

B. The Environmental Documents determined that construction of the Approved Plan would require construction of a new water pump and reservoir (the “New Reservoir”) in “Pressure Zone 3” as well an additional filter train in the existing Water System treatment plant (each, a “Water System Improvement” and, collectively, the “Water System Improvements”).³

C. Under that certain Water Supply System Project Development Agreement dated June 19, 2001, by and among the City of Cle Elum, the City of South Cle Elum, and Trendwest (the “Water Supply DA”), Trendwest, Sun’s predecessor-in-interest, was responsible for paying a share of the cost of a new regional water supply system (“Water System”) improvements (proportionate to the extent the new regional water supply system was necessary to serve the Property), as well as all costs necessary to transport water to the Property.

D. All of Developer’s obligations under the Water Supply DA have been satisfied. Nevertheless, as indicated in Recital B, the Environmental Documents indicate that construction of the Approved Plan will require further improvements to the Water System.

E. The FSEIS estimates that the cost to install the Water System Improvements is seven million eight hundred thousand dollars (\$7,800,000.00)⁴ (the “Water System Improvement Cost”),⁵ of which 59%⁶ is considered to be Developer’s proportionate share (totaling \$4,602,000, the “Developer’s Water System Improvements Percentage Share”).

³ See FSEIS at 3-36; Addendum at 3.8-4.

⁴ See FSEIS at 3-36.

⁵ The Water System Improvement Cost includes the construction of the New Reservoir. The New Reservoir is contemplated to include a two-million-gallon storage capacity. This capacity is in excess of the capacity required for the development of the Approved Plan; it includes capacity intended to serve other property within the City.

⁶ See Addendum Appendix B at Table 19.

F. During its acquisition of the Property from New Suncadia, Developer acquired a beneficial interest that certain Water Tank Easement Agreement recorded under Kittitas County Auditor's File No. 202112100039 (the "Water Tank Easement Agreement") for the construction of the "Pressure Zone 3" required as a part of the Water System Improvements. Developer obtained the Water Tank Easement Agreement for five hundred thousand dollars (\$500,000.00) (the "Water Reservoir Land Cost").⁷

G. Because the parties desire for the City to complete the construction of the Water System Improvements (because the City owns, operates, and has familiarity with the Water System), Developer desires, with the City's concurrence, to fund an escrow account to pay Developer's Water System Improvements Percentage Share.

NOW, THEREFORE, Developer and the City agree as follows:

AGREEMENT

1. **Recitals Incorporated.** Recitals A – G recited above are hereby incorporated into this Plan.

2. **Escrow Established.** Within thirty business days following the City's approval of the Amended and Restated Development Agreement, the Major Modification Application, and the expiration or satisfaction of any appeals thereof, Developer shall fund an escrow account in the amount of three million six hundred thirty four thousand dollars (\$4,102,000.00) (the "Water System Improvement Escrow")⁸ to be used for the construction of the Water System Improvements. The City shall administer the City's use of the Water System Improvement Escrow as provided for herein.

A. Before the City uses any funds from the Water System Improvement Escrow to fund the construction of the Water System Improvements, the City will:

i. use reasonable efforts to apply for grants and pursue any other available, alternative funding mechanism to cover the cost of construction of the Water System Improvements to the maximum extent possible (including the Developer's Water System Improvements Percentage Share); and

ii. demonstrate, through use of reliable monitoring data generated by the City, that any Water System Improvement is required before a particular Phase of the Project can be put into operation.

⁷ See Water Tank Easement Agreement at § 6.

⁸ The Water System Improvement Escrow is comprised of Developer's Water System Improvements Percentage Share, adjusted down by \$500,000 to account for the value of the Water Tank Easement Agreement that Sun will assign to the City at no cost to facilitate the construction of the "Pressure Zone 3" reservoir required as a part of the Water System Improvements. See Water Tank Easement Agreement at § 6 (for evidence of easement valuation).

B. The City shall, no later than March 31st of each year, provide Developer with a detailed accounting of the following: the funds debited from the Water System Improvement Escrow in the past fiscal year; the Water System Improvements toward which those funds were directed; the current status and planned completion date for the Water System Improvements; and the amount remaining in the Water System Improvement Escrow.

3. **City Obligations.** The City will ensure, through consultation with Developer, that any required Water System Improvements for a particular Phase are completed in time to correspond with completion of said Phase. In the event that Water System Improvements required for a particular Phase are not completed before such Phase is completed, the City shall not withhold certificates of occupancy or other final approvals necessary for Developer's operation of the Phase.

4. **Assignment of Water Tank Easement Agreement.** To facilitate the City's timely construction of the New Reservoir, Developer will assign its rights in the Water Tank Easement Agreement to provide the City with the property rights necessary to construct the New Reservoir (the "Water Reservoir Assignment"). Such assignment shall be made at no cost to the City and shall occur no later than the City's commencement of construction of the New Reservoir.

5. **Developer's Option to Complete Water System Improvements.** Developer retains the option to construct any or all of the Water System Improvements ("Developer's Self-Help Right"), provided that:

A. Developer provides the City Engineer written notice of its exercise of Developer's Self-Help Right, with such Notice including the Water System Improvement(s) that Developer will construct ("Developer's Self-Help Notice"); and

B. Developer's Self-Help Right is exercised before the City enters into any binding contract or letter of intent for the construction of the Water System Improvement(s) included in Developer's Self-Help Notice.

If the City believes that subsections (A) and (B) of this Section are not satisfied, the City Engineer shall make a written objection to Developer's Self-Help Notice within fifteen (15) business days (the "City Objection to Developer's Self-Help Right"), providing Developer with evidence that it has entered into a binding contract or letter of intent for the construction of the Water System Improvement(s) included in Developer's Self-Help Notice. Any dispute regarding the sufficiency or validity of Developer's Self-Help Notice or the City's objection thereto shall be resolved using the Amended and Restated Mediation Agreement attached to the Amended and Restated Development Agreement as Exhibit C or, in the absence of a valid Amended and Restated Development Agreement, by petition for declaratory judgment filed in Kittitas County Superior Court.

If the City either agrees that subsections (A) and (B) of this Section are satisfied or does not timely object to Developer's Self-Help Notice, Developer shall be entitled to a refund of any Water System Improvement Escrow deposit attributable to Developer's proportionate share of the cost of said Water System Improvement(s), adjusted for any funds reasonably withdrawn by the City

from the Water System Improvement Escrow during its ordinary course of pursuing design and permitting of the Water System Improvement(s). Any required refund shall be made by the City to Developer within sixty (60) days of the City's receipt of Developer's Self-Help Notice.

In addition, if the City agrees that subsections (a) and (b) of this Section are satisfied or does not timely object to Developer's Self-Help Notice, the City shall cooperate and provide Developer with any plans, drawings, or documentation related to the City's efforts to design and construct said Water System Improvement(s) within sixty (60) days of the City's receipt of Developer's Self-Help Notice.

Finally, if Developer exercises Developer's Self-Help Right to construct the New Reservoir, it shall be required to construct the New Reservoir only as large as needed to provide adequate water storage required to mitigate the direct water storage requirements of the Approved Plan. If Developer has completed the Water Reservoir Assignment before exercising Developer's Self-Help Right to construct the New Reservoir, the City shall assign will assign its rights in the Water Tank Easement Agreement to Developer at no cost.

Notwithstanding anything to the contrary in Section 3 of this Plan, if Developer exercises Developer's Self-Help Right to construct the Water System Improvement(s), the City shall have the right to withhold certificates of occupancy or other final approvals necessary for Developer's operation of any Phase that requires completion of

6. **Escrow Termination.** The Water System Improvement Escrow shall terminate on the earlier of the following: the City's completion of construction of all of the Improvements; the City's earlier use of all funds deposited in the Water System Improvement Escrow pursuant to the terms of this Plan; or the expiration of the term of Development Agreement. If funds remain in the Water System Improvement Escrow on the Termination Date, Developer shall be entitled to a refund of any amount remaining in the Water System Improvement Escrow.

7. **Limitation of Developer Responsibility.** By depositing three million six hundred thirty-four thousand dollars (\$4,102,000.00) into the Water System Improvement Escrow in accordance with the terms of this Plan, the City agrees that Developer has satisfied its obligations to mitigate for the Project's impacts on the City's Water Supply System.

EXHIBIT C
HOSPITAL DISTRICT IMPACT MITIGATION PLAN

[INSERT ONCE NEGOTIATED]

EXHIBIT D
LAND STEWARDSHIP PLAN

See Attached

EXHIBIT E

LEGAL DESCRIPTION OF THE PROPERTY

LOTS 1, 2, 3, AND 4, TRACTS A, B, C, D AND E, AND TRACTS RW-1, RW-2 AND RW-3 OF THE CITY OF CLE ELUM SHORT PLAT NO. SUB-2007-001, AS RECORDED AUGUST 8, 2007, IN BOOK I (I) OF SHORT PLATS, PAGES 212 AND 213, UNDER AUDITOR'S FILE NO. 200708080012, RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON; BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 27 AND THE EAST HALF OF SECTION 28, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., IN THE COUNTY OF KITTITAS, STATE OF WASHINGTON;

TOGETHER WITH PARCELS 3 AND 5 OF BOUNDARY LINE ADJUSTMENT SURVEY, RECORDED APRIL 16, 2008, IN BOOK 35 OF SURVEYS, PAGES 8 AND 9, UNDER AUDITOR'S FILE NO. 200804160004, RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON; BEING A PORTION OF SECTIONS 21, 28, 32 AND 33 OF TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., IN THE COUNTY OF KITTITAS, STATE OF WASHINGTON;

ALSO TOGETHER WITH LOTS 1B AND AS DESCRIBED AND/OR DELINEATED ON THE FACE OF THAT CERTAIN SURVEY RECORDED MAY 23, 1995 UNDER AUDITOR'S NO. 581721 AND FILED IN BOOK 21 OF SURVEYS, PAGES 12 AND 13, RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON; BEING A PORTION OF SECTION 29, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., KITTITAS COUNTY, STATE OF WASHINGTON;

ALSO TOGETHER WITH LOTS 1E AND 1F, AS DESCRIBED AND/OR DELINEATED ON THE FACE OF THAT CERTAIN SURVEY RECORDED OCTOBER 11, 1996 UNDER AUDITOR'S FILE NO. 199610110005 AND FILED IN BOOK 22 OF SURVEYS, PAGES 96 AND 97, RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON; BEING A PORTION OF SECTION 30, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., KITTITAS COUNTY, STATE OF WASHINGTON;

ALSO TOGETHER WITH LOTS 3 AND 4, AS DESCRIBED AND /OR DELINEATED ON THE FACE OF THAT CERTAIN SURVEY RECORDED JUNE 13, 1995 UNDER AUDITOR'S FILE NO. 582256 AND FILED IN BOOK 21 OF SURVEYS, PAGES 46 AND 47, RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON; BEING A PORTION OF THE NORTH HALF OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., KITTITAS COUNTY, STATE OF WASHINGTON;

ALSO TOGETHER WITH LOTS 1C AND 2A, AS DESCRIBED AND /OR DELINEATED ON THE FACE OF THAT CERTAIN SURVEY RECORDED FEBRUARY 26, 2002 UNDER AUDITOR'S FILE NO. 200202260030 AND FILED IN BOOK 27 OF SURVEYS, PAGE 91, RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON; BEING A PORTION OF THE NORTH HALF OF SECTION 32, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., KITTITAS COUNTY, STATE OF WASHINGTON;

ALSO TOGETHER WITH TRACTS B AND C, AS DESCRIBED AND/OR DELINEATED ON THE FACE OF THAT CERTAIN SURVEY RECORDED APRIL 02, 2021 UNDER AUDITOR'S FILE NUMBER 202104020107 AND FILED IN BOOK 43 OF SURVEYS, PAGE 181, RECORDS KITTITAS COUNTY, STATE OF WASHINGTON; BEING A PORTION OF SECTIONS 28, 29, 32 AND 33, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., KITTITAS COUNTY, WASHINGTON;

EXCEPT ANY PORTION THEREOF LYING WITHIN THE BOUNDARY OF THE COUNTY ROAD KNOWN AS BULLFROG ROAD AS ESTABLISHED BY AGREEMENT, DEDICATION DEED AND SLOPE AND DRAINAGE EASEMENT RECORDED UNDER AUDITOR'S FILE NO. 20060118001;

AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE CITY OF CLE ELUM BY DEED RECORDED UNDER AUDITOR'S NO. _____.

CONTAINING 889.3 ACRES, MORE OR LESS.

EXHIBIT F

**KITTITAS COUNTY SOLID WASTE AND MODERATE RISK WASTE
MANAGEMENT PLAN**

See Attached

EXHIBIT G
VESTED CODE

See Attached