

**DEVELOPMENT AGREEMENT**  
**(Alexander Ridge)**

THIS DEVELOPMENT AGREEMENT ("Agreement") is made effective \_\_\_\_\_, 2024, by and between the McCordsville Town Council, fiscal body of the Town of McCordsville ("Town"), and Olthof Homes, a [\_\_\_\_\_] ("Developer" or "Owner," together with Town, the "Parties") to facilitate the construction of the Sidewalk as herein defined.

**RECITALS:**

A. Developer is the owner of certain property located on approximately 48 acres adjacent to 5343 W 900N as further described on Exhibit A attached hereto (the "Property").

B. Owner proposed to develop the residential project referred to as "Alexander Ridge" on the Property, which consists of 127 single family homes, and, among other amenities, a 5 foot wide concrete sidewalk extension of approximately 180 lineal feet (the "Sidewalk") across 5457 W CR 900N (Exhibit B), within public right-of-way that connects to internal pedestrian infrastructure, in accordance with the Alexander Ridge Planned-Unit Development (PUD) Ordinance (collectively, the "Project").

C. On [November 15, 2022], as amended on [December 13, 2022], the Town approved the Project.

D. Developer and Town desire that the Town construct the Sidewalk at Developer's sole cost and expense.

**AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual covenants and benefits of this Agreement, the receipt, adequacy and sufficiency of which is hereby acknowledged, and fully incorporating the above-stated recitals into this Agreement, the Town and Developer agree as follows:

1. Permits. The Developer shall obtain all applicable permits and approvals required by the McCordsville Code of Ordinances and by other applicable governmental authorities prior to commencement of any construction, grading, landscaping, tree removal or other changes to the Sidewalk contemplated by such permits. The Town will not unreasonably delay or condition issuance of the permits.

2. Sidewalk Costs. Developer shall bear all costs associated with (the "Sidewalk Costs") and responsibility for design of the Sidewalk in accordance with the Project PUD. Developer shall remit the Sidewalk Costs to the Town prior to the commencement of the Sidewalk Work in accordance with Paragraph 3 hereof.

3. Sidewalk Work. Within a reasonable time following receipt of the Sidewalk Costs from Developer, the Town shall make commercially reasonable efforts to cause construction of the Sidewalk (the "Sidewalk Work"). The payment of the Sidewalk Costs is a condition precedent to Town's obligations to perform the Sidewalk Work in accordance with this paragraph. Developer shall maintain sole responsibility for design of the Sidewalk and shall ensure that it complies with all applicable Town standards and other requirements. The maintenance obligations provided herein, whether by separate assignment or by the terms of such other agreement, will be maintained by Town, and Developer shall have no further liability for the maintenance of the improvements.

4. Notice to Cure. Upon Developer's determination that a breach of this Agreement has occurred by Town, Developer shall provide written notice to Town of the breach, and except in the event of an emergency, a reasonable period of time in which to cure such breach, prior to the Developer exercising its remedies hereunder. Developer's failure to notify Town of a breach of this Agreement shall not be deemed a waiver of any breach of this Agreement.

5. Indemnification. Developer shall defend, indemnify and hold the Town harmless from and against any and all claims, demands, actions, damages, injuries, costs or expenses of any kind or nature (“Claims”), arising out of the Sidewalk Work, including reasonable costs, expenses and attorneys’ fees incurred by the Town in connection with such Claims or the enforcement of this Agreement, except in the event of Town’s sole negligence.

6. Binding Effect. This Agreement shall be binding on Developer and its respective transferees, successors, and assigns, and any person or entity claiming any property right or ownership interest in the Sidewalk, including the future owners of the Project, as well as any nonprofit corporation(s) established to operate and manage the affairs of the Project and Alexander Ridge common areas. This Agreement may be amended only by an amendment signed by all parties hereto. Amendments to correct inconsistencies in the final site design, to modify minor aspects of the final site design consistent with the overall approved characteristics of the Project PUD, and typographical errors may be agreed to administratively by Town staff without Planning Commission or Town Council approval. This Agreement shall run with the land described in Exhibit A.

7. Enforcement. A violation of any prior existing agreements between the Parties by Developer shall be a violation of this Agreement and shall entitle the Town to all rights and remedies available against such party under this Agreement, at law, or in equity and including, but not limited to, those remedies set forth in Section 154.225 of the McCordsville Code of Ordinances.

8. Enforcement; Severability. Any failure or delay by Town or Developer to enforce any provision contained in this Agreement shall in no event be deemed, construed, or relied on as a waiver or estoppel of the right to eventually do so in the future. Each provision and obligation contained in this Agreement shall be considered to be an independent and separate covenant and agreement and, in the event one or more of the provisions and/or obligations shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, all remaining provisions and/or obligations shall nevertheless remain in full force and effect. If changes in federal or state laws or regulations enacted after this Agreement has been executed, operate to prevent compliance with parts of this Agreement, or render compliance impractical or unreasonably difficult, the inconsistent provisions of this Agreement shall be modified, deleted or suspended as necessary to conform to such changes in federal or state law.

9. Access to Property. At any time throughout the period of development and construction of any part of the Sidewalk in accordance with this Agreement, Town and its contractors, representatives, consultants, and agents shall be permitted, and are granted authority, to enter all or any portion of the Property for the purpose of inspecting and/or completing the respective improvements and for purposes of inspecting for compliance with and enforcing this Agreement.

10. Governing Law and Venue. This Agreement shall be governed and construed according to the laws of the State of Indiana. The parties further agree that Hancock County Circuit Court shall be the exclusive forum and venue of any dispute arising from this Agreement.

11. Notices. During the term of this Agreement, or until written notice of a change in address is delivered to the other parties, any notice, demand, request, consent or approval permitted or desired to be given under this Agreement (“Notice”) shall be in writing and delivered either in person or sent (i) by personal delivery, in which case notice shall be deemed to have been duly given when delivered; (ii) by certified mail, return receipt requested, with postage prepaid, in which case notice shall be deemed to have been duly given on the date indicated on the return receipt; or (iii) by reputable delivery service (including by way of example and not limitation Federal Express, UPS and DHL) which makes a record of the date and time of delivery, in which case notice shall be deemed to have been duly given on the date indicated on the delivery service's record of delivery to the addresses set forth in the preamble of this Agreement.

12. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which, for all purposes, shall be deemed to constitute an original and all of which counterparts, when taken

together, shall be deemed to constitute one and the same agreement, even though all of the parties hereto may not have executed the same counterpart. Delivery via facsimile or PDF transmission by email of a counterpart of this Agreement as executed by the parties making such delivery shall constitute good and valid execution and delivery of this Agreement for all purposes.

13. Injunctive Relief. In the event of any threatened or actual violation of any of the terms, conditions, covenants, easements or obligations of this Agreement, the non-violating party and its respective successors and/or assigns, shall have, in addition to the right to collect damages, the right to enjoin said threatened or actual violation, in any court of competent jurisdiction.

Dated: \_\_\_\_\_, 2024

*Signature Page to Alexander Ridge Development Agreement*

MCCORDSVILLE TOWN COUNCIL, fiscal body of the  
Town of McCordsville, Indiana

By: \_\_\_\_\_  
Greg Brewer, President

*[signatures continue on the following page]*

*Signature Page to Alexander Ridge Development Agreement*

OWNER/DEVELOPER

OLTHOF HOMES, a [\_\_\_\_\_]

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

## **EXHIBIT A TO DEVELOPMENT AGREEMENT**

### **ALEXANDER RIDGE LEGAL DESCRIPTION OF PROPERTY**

#### Alexander Ridge – Overall Description

A part of the Northeast Quarter of Section 24, Township 17 North, Range 05 East of the Second Principal Meridian, Vernon Township, Hancock County, Indiana. This description prepared by: Bruce E. Strack, Indiana LS 20200057, working for Stoepelwerth and Associates, Inc. as part of Project 104403, being more particularly described as follows:

Beginning at the Northwest corner of said Quarter Section; thence North 86 degrees 54 minutes 57 seconds East, along the East line of said Quarter Section, a distance of 130.00 feet to the Northwest corner of the land described in Instrument Number 201708147 in the Office of the Hancock County Recorder; thence South 00 degrees 10 minutes 49 seconds West, along the West line of said land and the West line of the land described in Instrument Number 201708146 in said Recorder's Office, a distance of 242.00 feet to the Southwest corner of said Instrument Number 201708146; thence North 86 degrees 54 minutes 57 seconds East, along the South line of said land, a distance of 180.00 feet to the Southeast corner thereof; thence North 00 degrees 10 minutes 49 seconds East, along the East line of said land, a distance of 242.00 feet to the North line of said Quarter Section; thence North 86 degrees 54 minutes 57 seconds East, along said line, a distance of 437.79 feet; thence South 00 degrees 10 minutes 08 seconds West a distance of 864.13 feet; thence South 90 degrees 00 minutes 00 seconds East a distance of 600.39 feet to the East line of the West Half of said Quarter Section; thence South 00 degrees 14 minutes 26 seconds West, along said line, a distance of 1,093.47 feet to the Southeast corner of the North Half of the Southwest Quarter of said Quarter Section; thence South 87 degrees 22 minutes 26 seconds West, along the South line of said Half Quarter-Quarter Section, a distance of 1,347.60 feet to the West line of said Quarter Section; thence North 00 degrees 10 minutes 49 seconds East, along said line, a distance of 1,979.11 feet to the Point of Beginning, Containing 48.225 acres, more or less.

## **EXHIBIT B TO DEVELOPMENT AGREEMENT**

### **TRACT I**

Beginning at a point on the North line of Section 24, Township 17 North, Range 5 East in Hancock County, Indiana, 130.0 feet East of the Northwest corner of Northeast Quarter of said Section, thence East 130.0 feet along the North line of said Section, thence South parallel to the West line of said quarter section 185.0 feet, thence West 130.0 feet parallel to the North line of said quarter section, thence North 185.0 feet parallel to the West line of said quarter section to the point of beginning, containing 0.55 of an acre, more or less.

Subject to real estate property taxes for the second half of 2016, due and payable in November, 2017, and subject to real estate property taxes due and payable thereafter. Taxing Unit: Vernon. Parcel ID Number: 30-01-24-100-007.000-016 (Tract I).

Subject to any and all easements, agreements and restrictions of record.

The address of such real estate is commonly known as 5457 West 900 North, McCordsville, Indiana 46055.

### **TRACT II**

A part of the Northeast Quarter of Section 24, Township 17 North, Range 5 East in Vernon Township, Hancock County, Indiana; said part being more particularly described as follows:

Commencing at a railroad spike marking the Northwest corner of said quarter section; thence North 86 degrees 54 minutes 55 seconds East (assumed bearing) along the North line of said quarter section a distance of 260.00 feet to the Northeast corner of a 0.55 acre tract recorded as Instrument No. 70-2807 in the Office of the Recorder of Hancock County, Indiana, said point being the POINT OF BEGINNING of this description; thence continuing North 86 degrees 54 minutes 55 seconds East along said North line a distance of 50.00 feet to a Mag Nail; thence South 01 degree 11 minutes 19 seconds West parallel with the West line of said quarter section a distance of 242.00 feet to a 5/8" capped ("HGS") rebar; thence South 86 degrees 54 minutes 55 seconds West parallel with the North line of said quarter section a distance of 180.00 feet to a 5/8" capped ("HGS") rebar on the Southerly extension of the West line of said 0.55 acre tract; thence North 01 degrees 11 minutes 19 seconds East along said Southerly extension a distance of 57.00 feet to the Southwest corner of said 0.55 acre tract; (the next two (2) calls are along the South and East lines of said 0.55 acre tract) North 86 degrees 54 minutes 55 seconds East a distance of 130.00 feet; North 01 degrees 11 minutes 19 seconds East a distance of 185.00 feet to the POINT OF BEGINNING. Containing 0.445 acres, more or less.

Subject to any and all easements, agreements and restrictions of record.

The address of such real estate is commonly known as 5457 West 900 North, McCordsville, Indiana 46055.