

RESOLUTION NO. 2019-_____

A Resolution of the Clark County Council authorizing entry into a First Amended and Restated Development Agreement among Clark County and the following owners and developers of real property in the vicinity of NE 179th Street:

M & H WASHINGTON PROPERTY, LLC, a Washington limited liability company, and HINTON DEVELOPMENT CORP, a Washington corporation (collectively hereinafter referred to as “Developers”);

WHEREAS, Developers own and seek to develop certain parcels of real property in the vicinity of NE 179th Street and Interstate 5, much of which is currently subject to an urban holding overlay pursuant to Clark County’s 20-Year Comprehensive Growth Management Plan 2015-2035; and

WHEREAS, Clark County’s Compressive Plan requires that prior to lifting the urban holding designation in the 179th Street/I-5 Interchange Area, the Council must determine that the completion of localized critical links and intersection improvements are reasonably funded, as shown on the County's 6-Year Transportation Improvement Plan or through a development agreement; and

WHEREAS, Clark County intends to fund the necessary improvements, in part, by entering into development agreements that will become effective upon the Council’s adoption of a future ordinance finding that the relevant localized critical links and intersection improvements are reasonably funded and amending the Comprehensive Plan to remove the urban holding overlay; and

WHEREAS, RCW 36.70B.170 through .210 authorize the County to enter into development agreements with persons or entities having ownership or control of real property within the County; and

WHEREAS, on August 20, 2019, the Clark County Council selected a financing option to reasonably fund localized critical links and intersection improvements and authorized entry into a Development Agreement (the “DA”) among Developers and Clark County, regarding certain real property owned by Developers in the vicinity of NE 179th Street, which property is located in Clark County, Washington; and

WHEREAS, Section 6.3.c of the DA approved on August 20, 2019 misstated as \$900,000 the amount of a payment that Developers agreed to pay to Clark County, and Council finds that the parties intended for the payment to be \$600,000, that Section 6.3.c should be amended to read as follows:

c. In addition to the TIF, Developer shall pay an additional surcharge in the amount of \$3,500 per lot (the “Surcharge”) for each building permit for each lot developed on the Property. Developer shall pay the Surcharge at the time of the issuance of the building permit. Developer anticipates building permits following the approvals of each phase as provided for in paragraph 6.3(b) above. Regardless of the schedule provided for in Section 6.3.a above, Developer agrees that by December 31, 2023, if the combined amount of TIF and Surcharge paid by Developer is less than \$600,000.00, then Developer shall, on or before December 31, 2023, pay to the County the difference between what Developer has paid in combined TIF and Surcharge and \$600,000.00 (the “Gap Amount”). The Gap Amount will be applied in the future to subsequent preliminary plat, final plat, or building permit applications on the Property as pre-paid TIF or prepaid Surcharge. Nothing in this Agreement limits to \$600,000.00 Developer’s total obligations to pay combined TIF and Surcharge that may arise from the Property’s future development approvals.

and,

WHEREAS, for ease of future reference to and implementation of the DA as amended, the parties desire to restate the amended agreement, and Clark County Council hereby adopts the following new section as a Recital in the agreement:

Q. Clark County Council approved a prior version of this Agreement in an open public hearing on August 20, 2019; however, that version of the Agreement contained misstatements in Section 6.3.c, and it was never executed by the Parties. Those misstatements are corrected by

amendment of Section 6.3.c, which was approved by the County Council in open public meeting on October 1, 2019. The initially approved Agreement has not been amended in any other respect as of that date, except for the correction of scrivener's errors and the addition of this Recital. The Parties have adequately reviewed this FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT, and agree that its terms reflect their intent.

WHEREAS, the FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT AMONG CLARK COUNTY, M & H WASHINGTON PROPERTY, LLC, AND HINTON DEVELOPMENT CORP. ("Amended Development Agreement", is attached hereto as *Exhibit A*;

WHEREAS, the Council considered this matter at a duly-advertised public hearing; and

WHEREAS, the Council concluded that approval of the amendments to the DA, and the approval and adoption of the proposed Amended Developer Agreement set forth in *Exhibit A* will further the public health, safety, and welfare of Clark County; now therefore,

THE BOARD OF COUNTY COUNCILORS OF CLARK COUNTY, STATE OF WASHINGTON, HEREBY RESOLVE AS FOLLOWS:

1. The Clark County Council approves the amendment to Section 6.3.c of the DA and the adoption of new Section Q of the Recitals of the DA, both as set forth above.

2. The Clark County Council approves the restatement of the amended DA, as set forth in *Exhibit A* hereto, the FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT AMONG CLARK COUNTY, M & H WASHINGTON PROPERTY, LLC, AND HINTON DEVELOPMENT CORP, portions of which will become effective upon the Council's future adoption of an ordinance finding that the relevant localized critical links and intersection improvements are

reasonably funded, and that the Urban Holding overlays are removed from Developers' property.

ADOPTED this _____ day of _____, 2019.

COUNTY COUNCIL
CLARK COUNTY, WASHINGTON

Attest:

Clerk to the Board

By: _____
Eileen Quiring, Chair

Approved as to form only:
ANTHONY F. GOLIK
Prosecuting Attorney

By: _____
Temple Lentz, District 1

Christine M. Cook
Senior Deputy Prosecuting Attorney

By: _____
Julie Olson, District 2

By: _____
John Blom, District 3

By: _____
Gary Medvigy, District 4