

## RESOLUTION NO. 2019-08-05

**A Resolution of the Clark County Council selecting a financing plan for public infrastructure in the vicinity of NE 179<sup>th</sup> Street and authorizing entry into Developer Agreements between Clark County and the following owners and developers of real property in the vicinity of NE 179<sup>th</sup> Street (hereinafter referred to collectively as the “Developers”):**

- (1) MILL CREEK JV, LLC; WILFRED N ZILKE FAMILY TRUST; WILFORD ZILKE AND MARJORIE ZIELKE, husband and wife; GARY WEBB TRUST; and BIRCHWOOD FARMS, LLC (hereinafter referred to as “Holt”);
- (2) ROMINGER HOMEPLACE, LLC , a Washington limited liability company, and BTMC, LLC, a Washington limited liability company (hereinafter referred to as the “Wollam”); and
- (3) M & H WASHINGTON PROPERTY, LLC, a Washington limited liability company, and HINTON DEVELOPMENT CORP, a Washington corporation (hereinafter referred to as “Hinton”);
- (4) THREE CREEKS-MUMFORD LLC, a Washington limited liability company; THREE CREEKS NORTH LLC, a Washington limited liability company; and THREE CREEKS INVESTORS LLC, a Washington limited liability company (hereinafter referred to collectively as “Killian”) regarding an amendment to previously approved development agreements with Killian.

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

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

10           **WHEREAS**, Clark County intends to fund the necessary improvements by  
11 selecting a public financing option and entering into Developer Agreements with  
12 Developers that will become effective upon the Council's adoption of a future ordinance  
13 finding that the relevant localized critical links and intersection improvements are  
14 reasonably funded and amending the Comprehensive Plan to remove the urban holding  
15 overlay for Developers' property; and

16           **WHEREAS**, RCW 36.70B.170 through .210 authorize the County to enter into  
17 Developer Agreements with persons or entities having ownership or control of real  
18 property within the County; and

19           **WHEREAS**, the Developers own and intend to develop certain real property in  
20 the vicinity of NE 179<sup>th</sup> Street, described in the proposed Development Agreements  
21 attached hereto as *Exhibit A*, which property is located in Clark County, Washington; and

22           **WHEREAS**, at the direction of the Clark County Council, County staff has  
23 worked with the Owners to prepare the proposed Developer Agreements, which detail an  
24 exchange of valuable consideration; and

25           **WHEREAS**, at the direction of the Clark County Council, County staff has  
26 prepared a range of public financing options to fund a portion of the localized critical  
27 links and intersection improvements in the vicinity of NE 179<sup>th</sup> Street; and

28           **WHEREAS**, the Clark County Council prefers and selects the public financing  
29 option number eight (8) set forth in *Exhibit B*, which will require future Council action to  
30 implement; and

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



33           **WHEREAS**, the Council concluded that approval of the proposed Developer  
34   Agreements (set forth in *Exhibit A*) and public financing option number eight (8) (set  
35   forth in *Exhibit B*) will further the public welfare; now therefore,

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


38           1.       The Clark County Council approves the Developer Agreements set forth  
39   in *Exhibit A* between Clark County, Washington, and Holt, Killian, Wollam, and Hinton,  
40   the infrastructure financing portions of which will become effective upon the Council's  
41   future adoption of an ordinance finding that the relevant localized critical links and  
42   intersection improvements are reasonably funded, and amending the Comprehensive Plan  
43   to remove the urban holding overlay for Developers' property.


44           2.       The Clark County Council selects the public financing option number  
45   eight (8) set forth in *Exhibit B*, which will require future Council action to implement.

ADOPTED this 20<sup>th</sup> day of August, 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

  
Taylor Hallvik  
Deputy Prosecuting Attorney

By: \_\_\_\_\_  
Julie Olson, District 2

By: \_\_\_\_\_  
John Blom, District 3

By: \_\_\_\_\_  
Gary Medvigy, District 4



# EXHIBIT A

When Recorded, Return to:

Randall B. Printz  
Landerholm, Memovich, Lansverk  
& Whitesides, P.S.  
P.O. Box 1086  
Vancouver, WA 98666-1086

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ABOVE SPACE RESERVED FOR RECORDING INFORMATION

## DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into by and between CLARK COUNTY, a political subdivision of the State of Washington (the "County") and MILL CREEK JV LLC, WILFRED N ZILKE FAMILY TRUST, WILFORD ZILKE AND MARJORIE ZIELKE, husband and wife, GARY WEBB TRUST, BIRCHWOOD FARMS LLC, (collectively referred to as "Holt", or the "Developer," which terms also include any successor in interest to the Property during the term of this Agreement).

### RECITALS

A. **WHEREAS**, the County has land use planning and permitting authority over unincorporated lands within its boundaries, and

B. **WHEREAS**, Holt, owns or controls certain parcels of real property in unincorporated Clark County Washington with the following tax identification numbers: 181466000, 181548000, 181580000, 181581000, 181701000, and 181702000, and which are more particularly described in Exhibit A and incorporated by reference herein (together, the "Property"); and,

C. **WHEREAS**, the Property is subject to a comprehensive plan overlay designation of Urban Holding (UH), and a zoning overlay designation of Urban Holding-10 (UH-10), with underlying plan and zoning designations of Urban Low Density Residential (UL), and Single Family Residential (R1-5), respectively; and

D. **WHEREAS**, Holt and the County would like to further plan for the development of the Property with a unique and innovative design and a wide range of residential densities, advance funding for transportation improvements, predictable infrastructure and regulations, and parks, trails and open spaces; and,

**E. WHEREAS,** This Agreement addresses the Comprehensive Plan criteria to lift the UH overlay from the Property and includes the Developer's agreement to satisfy the criteria. The County's approval of this Agreement represents the County Council's determination for the Property that the completion of localized critical links and intersection improvements are reasonably funded. In order for Developer to facilitate the items identified in this Agreement, Developer desires to obtain removal of the UH overlay designation and zoning from the Property so that development may occur thereon. In this regard, the removal of the UH overlay from the Property via a County ordinance will be processed concurrently with the approval of this Agreement; and,

**F. WHEREAS,** Holt and the County want to enable the Property to develop in a manner consistent with the Master Plan attached hereto as Exhibit B and incorporated by reference herein; and under the land use and development standards currently applicable to the Property (unless otherwise provided for in the Master Plan) and to allow for substantial environmental review to occur prior to development of the Property, including analysis of transportation impacts, recognizing that the State Environmental Policy Act encourages advanced environmental review and discourages piecemeal review; and,

**G. WHEREAS,** the County has the authority to enter into Development Agreements pursuant to RCW 36.70B.170 which provides, in part:

The Legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all is set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic cost of development; and,

**H. WHEREAS,** for purposes of this Agreement, "Development Standards" includes, but is not limited to all of the standards listed in RCW 36.70B.170(3) and,

**I. WHEREAS,** the County and Holt wish to provide long-term predictability to both Holt and the County on various development issues through the implementation of this Agreement and its attendant Master Plan; and,

**J. WHEREAS,** Holt, the County, and others have collaborated over a number of years through a public-private partnership, to facilitate the implementation of the Comprehensive Plan through the improvement of transportation infrastructure in the area of the 179<sup>th</sup> Street interchange with Interstate 5 ("179<sup>th</sup> Interchange Area"). This is an area which faces challenges to development and to fully implementing the Comprehensive Plan, because of congestion and a lack of capacity on existing local roadways and intersections, lack of access to underdeveloped properties, and resulting traffic safety problems. Each Party has dedicated significant resources

to planning for that area, which provides a gateway to development of currently underutilized land in the 179<sup>th</sup> Interchange Area. It is necessary for the Parties to complete certain planning efforts in the area, so that public and private funding will be available to complete the needed infrastructure, and that development of the infrastructure can go forward. Completion of certain intersections and other transportation links in the area will further implement the Comprehensive Plan and allow certain properties to develop, thereby generating further resources for more transportation improvements, and addressing the continuing harm to the public because of the problems and challenges listed above. This Agreement will document the completion of planning relevant to the subject property, Holt's contributions to the completion of certain infrastructure in the area, and the County's assurances that Holt may proceed as set forth herein.

**K. WHEREAS,** Holt's traffic engineer has prepared trip generation and distribution information based upon the expected development of the Property in accordance with the Master Plan (Exhibit B), and a copy of the trip generation estimates is attached hereto and incorporated herein as Exhibit E; and

**L. WHEREAS,** this Agreement addresses the Comprehensive Plan criteria to remove the UH plan and zoning overlays from the Property and includes Holt's agreement to satisfy the criteria through the construction of or reasonable funding of the mitigation measures, including the critical links and intersections, identified in Exhibit D.

**NOW, THEREFORE,** based on the foregoing Recitals, the parties agree as follows:

**1. Development Agreement: Effective Date.**

This Agreement is a Development Agreement to be implemented in accordance with RCW 36.70B.170 through RCW 36.70B.210. It shall become a contract between Holt and the County upon the later of (1) the date ten days after the day of the County's approval by ordinance or resolution following a public hearing as provided for in RCW 36.70B.170, or (2) the date on which a fully executed version is recorded with the County Auditor (the "Effective Date").

**2. Duration of Agreement**

- a. This Agreement shall take effect upon the Effective Date and shall terminate ten years thereafter; provided that, the ten-year period of effectiveness specified in this Agreement shall be tolled pending any appeals of this Agreement or of any county, state or federal land use decisions entitling Holt to commence or complete development of the Property.
- b. In recognition of the need for the Clark County Council ("Council") to make a formal determination that the improvements needed to create transportation capacity sufficient to accommodate the trips generated by the Master Plan, including the critical links and intersections as provided for in the Comprehensive Plan, are reasonably funded; and in recognition that removal of the current Urban Holding



overlays must occur before development of the Property may occur; and recognizing that at the time this matter comes before the Council the final funding package for the critical links and intersections may not yet be adopted, the Parties agree that the County shall remove the Urban Holding designations from the Property upon the effective date of the Council's adoption of an ordinance determining that the improvements needed to create transportation capacity sufficient to accommodate the trips generated by the Master Plan, including the critical links and intersections in the 179<sup>th</sup> Interchange Area, are reasonably funded within six years, as required by the Comprehensive Plan; provided, however, that the County has no obligation to adopt such an ordinance.

**3. Vesting**

- a. Except as set forth in Section 3.b, below, any land use application submitted with respect to the Property during the term of this Agreement, shall be vested to the zoning and land use regulations applicable to the Property on the Effective Date.
- b. Section 3.a, above, does not apply to the following applications for development permits:
  - i. Subject to Section 3.b.iv, below, an application for development of the Property that would generate more trips than indicated in Section 7 of this Agreement is governed by zoning and land use regulations and any other Development Standards in accordance with the Clark County Code in effect when the fully complete application is submitted;
  - ii. Subject to Section 3.b.iv, below, an application for a building permit is governed by the state or local building codes in effect when a fully complete application for a building permit is submitted;
  - iii. A critical area review in connection with a development application must be done in conjunction with that application and all applicable critical area regulations in effect when the fully complete application is submitted govern the application;
  - iv. An application for development is subject to stormwater regulations pursuant to the National Pollution Discharge Elimination System under the Federal Clean Water Act and Washington State law (NPDES) that are in effect at the time specified by the NPDES Phase I Municipal Stormwater Permit ("Stormwater Permit") issued to Clark County, if any, or at the date of final engineering approval by the County.
- c. Any land use approvals granted under the pendency of this Agreement shall expire on the dates provided for in the applicable development regulations of the County in effect at the time of this Agreement, or at the expiration of this Agreement, whichever date occurs later in time; except that approvals governed by the regulations described

by section 3.b above shall expire on the dates provided for in the regulations in effect at the times set forth in section 3.b, or at the date specified in the Stormwater Permit, if applicable. Pursuant to RCW 36.70B.170(4), the County reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

**4. Conceptual Master Plan**

- a. Attached as Exhibit B and incorporated by reference herein, is a master plan for the Property (the "Master Plan"). A detailed demonstration of how the Master Plan satisfies certain criteria provided for in CCC 40.520.080 is attached hereto as Exhibit C. The design of the Master Plan is unique and innovative through its "front loading" of transportation mitigation, its blending and transitioning of density both within and outside of the Property, its provisions for trails and open space (in excess of 15% of the Property area) and the trails' and open space's relationship to, protection of and integration with existing critical areas on the Property. The Master Plan provides for a variety of housing types and lot sizes. The Master Plan will provide the Parties with predictability regarding certain aspects of the future development of the Property, including access locations on to public streets and any associated offsite improvements related to transportation. The County finds and agrees that the Master Plan satisfies the provisions of CCC 40.520.080.C.4.d and CCC 40.520.080.D.1-.3; provided that Holt must submit architectural plans that are acceptable to the County pursuant to CCC 40.510.050-1.9.c(2)(m) in conjunction with an application for PUD approval as set forth in subsection (b).
- b. Holt shall submit an application for a PUD that complies with the PUD ordinance's application requirements. Holt's application for preliminary plat approval and PUD approval may be filed and the County will process such applications upon execution of this Agreement. No public hearing or decision shall be made on any applications until the County removes the Urban Holding designation from the Property. Concurrently with the County's review of any preliminary plat applications and PUD applications, Holt may submit engineering plans to the County and the County shall review those plans in its normal course.
- c. If a preliminary plat is approved with design or conditions that are different from the concurrently submitted and reviewed final engineering plans, then Holt shall resubmit engineering plans that conform to the preliminary plat approvals. Any costs associated with such changes shall be the responsibility of Holt. While the County agrees to allow concurrent review of land use applications and final engineering, nothing herein shall be construed to require the County to provide expedited review that is different from the county's usual timelines for an application for land use or engineering review.
- d. No final engineering approval shall be granted until the Urban Holding designation has been removed from the Property and a preliminary plat application has been

approved. The application shall be processed as a Type III land use application and reviewed by the County. The application shall be substantially similar to the Master Plan. Any aspects of a land use application relating to the Property that are not substantially similar to the Master Plan shall be reviewed under the applicable regulations as if no Master Plan had been approved. Architectural submittals under CCC 40.510.050-1.9.c(2)(m) shall be submitted and reviewed in conjunction with the application for a PUD. Any approval criteria not addressed and found satisfied in this this Agreement shall be addressed during the PUD application and decision process.

- e. Except as set forth in Section 3, above, future development of the Property is subject to the applicable provisions of the Clark County Code as of the Effective Date, and must be generally consistent with the Master Plan.

**5. Effect on Fees or Charges**

As provided for in RCW 36.70B.180, and except for those development standards described in Section 3.b, above, during the term of this Agreement, the development standards to which the Property is subject pursuant to this Agreement shall not be subject to unilateral amendment, or amendment to zoning ordinances, development standards, or regulations, or a new zoning ordinance or development standard or regulation adopted after the Effective Date. Provided, however, that the vesting granted by this Agreement shall not apply to impact fees, taxes, or permit application fees, which shall be determined or calculated consistent with the County's provisions applicable on the date such fee, charge or tax is triggered. As provided for in Ch. 36.70B RCW, the County reserves the right to impose new standards or changes in development regulations to the extent required by a serious threat to public health and safety.

**6. SEPA**

Pursuant to the State Environmental Policy Act (SEPA), piecemeal environmental review is to be discouraged. As such, the Parties wish for SEPA review to be accomplished as part of the Agreement for as many of the Property's potential adverse environmental impacts as can be reasonably analyzed, based upon current information contained within the SEPA checklist submitted with this Agreement, including, but not limited to, the traffic study, GIS data as to the general presence of wetlands on some portions of the Property and off site storm water impacts. This review is done under the Consolidated Review provisions of SEPA. The SEPA checklist attendant with this Agreement identifies various potential adverse impacts including transportation, parks, wetlands sewer, water and storm water. The Checklist also identifies a variety of technical reports or information that provides a basis for the proposed mitigation or partial mitigation of these impacts. It is the intent of this Agreement and its attendant SEPA process, to have the County issue a Threshold Determination (as that term is utilized in RCW 43.21C) on the identified conceptually



proposed impacts of the development of the Property. Uses and impacts that are identified at future stages of the development, i.e., preliminary plat approval or PUD approval, that have been previously analyzed through this or other SEPA processes, shall not be re-analyzed as long as the future identified adverse impacts are substantially similar to and of the same or less intensity as those previously analyzed under this or other SEPA processes. Any probable significant adverse environmental impacts of the Property's future proposed development that have not been analyzed under the SEPA process attendant with this Agreement or previously through some other lawful SEPA process, shall be undertaken at the time of such future development.

**7. Transportation**

Kittelson and Associates Transportation Engineers and the County have analyzed the transportation impacts of the full development (based upon the Master Plan in Exhibit B) of the Property as identified in the traffic study. Based upon the Master Plan, the Property at full development will increase the existing number of PM peak hour trips on the transportation system by 657 PM peak hour and 6346 average daily trips. Based upon Kittelson's and the County's analysis, the future development of the Property shall be conditioned upon the construction of, or the reasonable funding within six years of, the critical links and intersections provided for in the Comprehensive Plan and the other mitigation measures provided for in Exhibit D, which is attached hereto and incorporated by reference herein. The Property shall be vested during the term of this Agreement with 657 PM peak hour, 498 AM peak hour and 6346 average daily trips and no additional off site transportation mitigation or analysis will be required during the term of this Agreement; provided, however, that in the event Holt proposes uses or intensities of uses that would cause the total number of PM Peak or Average Daily trips to exceed the number of trips analyzed as part of this Agreement, then the County may require, and Holt shall provide, additional transportation analysis and lawful mitigation for those increased trips. The transportation vesting provided for in this Section shall be subject to the mitigation measures and the timing provided for in Exhibit D. Some of the transportation improvements may be on the County's Transportation Capital Facility Plan. Holt or successor in interest to the Property, upon construction of such qualifying transportation improvement, shall be eligible to apply for Transportation Impact Fee Credits, but only if such improvements are eligible for Credits under the County's applicable Capital Facilities Plan and Transportation Impact Fee programs.

**8. Advance Payment Of TIF/Surcharge**

- a. To increase the County's ability to fund and construct certain transportation improvements in the area which will provide systemic benefits in excess of the impacts that will be created through the implementation of the Master Plan, Holt agrees to accelerate the manner in which Holt or a successor in interest to the Property would pay Transportation Impact Fees ("TIFs"). Holt shall pay TIFs associated with the Property based upon the TIF rate applicable at the time this

Agreement becomes effective. In addition to the payment of TIF, Holt shall also pay the Surcharge as described below. Instead of paying TIFs at the time of individual building permits, (as is currently provided for by the County's code), Holt, or its successor in interest agrees to the following permit application and TIF payment schedule.

- b. Holt shall submit a fully complete application, (or if deemed incomplete, submit materials to achieve fully complete status within 28 days of the determination that the application is not fully complete), for preliminary plat approval for at least 150 lots prior to February 15<sup>th</sup>, 2020. Assuming Holt receives preliminary plat approval and no appeal is filed, Holt shall pay within 30 days of receiving said preliminary plat approval the sum of \$3025 for each lot receiving preliminary plat approval. Holt shall submit a fully complete application, (or if deemed incomplete, submit materials to achieve fully complete status within 28 days of the determination that the application is not fully complete), for preliminary plat approval for at least 150 additional lots prior to February 15<sup>th</sup>, 2021. Assuming Holt receives preliminary plat approval and no appeal is filed, Holt shall pay within 30 days of receiving said preliminary plat approval the sum of \$3025 for each lot receiving preliminary plat approval. Holt shall submit a fully complete application, (or if deemed incomplete, submit materials to achieve fully complete status within 28 days of the determination that the application is not fully complete), for preliminary plat approval for at least 150 additional lots prior to February 15<sup>th</sup>, 2022. Assuming Holt receives preliminary plat approval and no appeal is filed, Holt shall pay within 30 days of receiving said preliminary plat approval the sum of \$3025 for each lot receiving preliminary plat approval. Holt shall submit a fully complete application, (or if deemed incomplete, submit materials to achieve fully complete status within 28 days of the determination that the application is not fully complete), for preliminary plat approval for at least 91 additional lots prior to February 15<sup>th</sup>, 2023. Assuming Holt receives preliminary plat approval and no appeal is filed, Holt shall pay within 30 days of receiving said preliminary plat approval the sum of \$3025 for each lot receiving preliminary plat approval.
- c. Holt shall submit an application for final plat approval for at least 150 lots prior to November 1st, 2020. Assuming Holt receives final plat approval, Holt shall pay \$3025 for each lot receiving final plat approval. Holt shall submit an application for final plat approval for at least 150 additional lots prior to November 1st, 2021. Assuming Holt receives final plat approval, Holt shall pay \$3025 for each lot receiving final plat approval. Holt shall submit an application for final plat approval for at least 150 additional lots prior to November 1st, 2022. Assuming Holt receives final plat approval, Holt shall pay \$3025 for each lot receiving final plat approval. Holt shall submit an application for final plat approval for at least 91 additional lots prior to November 1st, 2023. Assuming Holt receives final plat approval, Holt shall pay \$3025 for each lot receiving final plat approval

- d. In addition to the TIF, each building permit for each lot developed upon the Property, shall pay an additional surcharge (the "Surcharge") in the amount of \$3,500 per lot. The Surcharge shall be paid at the time of the issuance of the building permit.
- e. Regardless of the schedule provided for in Section 8.b above, Holt agrees that by December 31, 2023, if the combined amount of TIF and Surcharge paid by Holt is less than \$2,900,000, then Holt shall, on or before December 31<sup>st</sup>, 2023, pay to the County the difference between what Holt has paid in combined TIF and Surcharge and \$2,900,000 (the "Gap Amount"). The Gap Amount shall 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 \$2,900,000 Holt's total obligations to pay TIF, Surcharge, or combined TIF and Surcharge that may arise from the Property's future development approvals.
- f. Notwithstanding any other provision of Section 8 of this Agreement relating to the timing of the submission of a preliminary plat application or the submission of a final plat application, Holt shall not have to submit any of the applications referenced in Section 8 of this Agreement, provided Holt makes the payment that otherwise would be due if such application had been submitted and approved by the dates set forth in Section 8. Nothing in this paragraph shall be construed to alter the dates upon which such payments shall be made to the County as provided for in this Agreement, regardless of whether Holt submits any land use applications.
- g. If Developer fails to timely make any payment due pursuant to Section 8 of this Agreement, Developer may not submit, and County may not accept or process, any further land use or permit application relating to development of the Property until all payments then due in accordance with Section 8 have been fully made.
- h. Subject to the provisions of Section 8(e), nothing herein shall prevent Holt from applying for and receiving preliminary plat approval for more lots earlier in time than provided for in subsection 8(b) above. Provided, however, that if Holt does apply for and receive preliminary plat approval for more than 150 lots prior to August 15<sup>th</sup> 2020; 300 lots prior to August 15<sup>th</sup>, 2021, 450 lots prior to August 15<sup>th</sup> 2022, or 541 lots prior to August 15<sup>th</sup> 2023, Holt shall pay the per lot fee identified in subsection 8(b): (1) August 15<sup>th</sup> 2020, based upon 150 lots; (2) August 15<sup>th</sup> 2021, based upon 300 lots if 300 lots or more have received preliminary plat approval; (3) August 15<sup>th</sup> 2022, based upon 450 lots if 450 lots or more have received preliminary plat approval; and (4) August 15<sup>th</sup>, 2023 based upon 541 lots if 541 lots have received preliminary plat approval. The amount of TIF owed under section 8(b) that has not been paid for a lot receiving preliminary plat approval pursuant to this subsection shall be paid at the time of final plat approval for that lot.

**9. Amendment**

The Parties may agree to any amendments to this Agreement to facilitate necessary infrastructure improvements and other matters; provided, however, that this Agreement may only be amended by mutual, written agreement of the Parties that is approved by the Clark County Councilors pursuant to a Type IV legislative process as set forth in the Clark County Code.

**10. Miscellaneous**

- a. Failure by either party at any time to require performance by the other party of any of the provisions hereof shall in no way affect the parties' rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this non-waiver clause.
- b. This Agreement shall be construed with, and governed by, the laws of the State of Washington. The parties agree to venue in the Superior Court for Clark County, State of Washington, to resolve any disputes that may arise under this Agreement.
- c. If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.
- d. This Agreement is assignable and shall run with the land and be binding upon and inure to the benefit of the parties, their respective heirs, successors and assigns. This Agreement shall be recorded.
- e. The recitals contained herein are agreed to state binding obligations of the Parties, as their terms provide.

CLARK COUNTY

By \_\_\_\_\_  
Shawn Hennessee, County Manager

Approved as to form only:  
Anthony F. Golik, Prosecuting Attorney

By \_\_\_\_\_  
Deputy Prosecuting Attorney



MILL CREEK JV LLC  
By TCK, Inc, Manager

By Greg Kubicek, President

WILFRED N ZILKE FAMILY TRUST

By Wilfred N. Zilke, Trustee

WILFORD ZILKE AND MARJORIE ZIELKE

By Wilford Zilke

By Marjorie Zilke

**GARY WEBB TRUST**

By Gary Webb Trustee of the Gary Webb Trust

**BIRCHWOOD FARMS LLC**

By Edward C. Prentice, Co-Manager

STATE OF WASHINGTON )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that Wilfred N Zilke, as trustee of the Wilfred N Zilke Family Trust, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the



STATE OF WASHINGTON )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that Shawn Hennessee is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument as the County Manager of the Clark County, Washington, and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State of  
Washington, residing at Vancouver.  
My appointment expires:

STATE OF WASHINGTON )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that Edward C Prentice as co-manager of Birchwood Farms is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the State of  
Washington, residing at Vancouver.  
My appointment expires:

STATE OF WASHINGTON )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that Greg Kubicek as co-manager of Birchwood Farms is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and

acknowledged it as the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Notary Public in and for the State of  
Washington, residing at Vancouver.  
My appointment expires:

STATE OF WASHINGTON )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that Gary Webb, as trustee of the Gary Webb Family Trust, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Notary Public in and for the State of  
Washington, residing at Vancouver.  
My appointment expires:

STATE OF WASHINGTON )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that Greg Kubicek, on behalf of TCK LLC as manager for Mill Creek JV LLC, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Notary Public in and for the State of  
Washington, residing at Vancouver.



My appointment expires:



## Exhibit A

752952 - \$10.00 - Clark County Title Company - Sue McMerrick - 09/15/2016

**5325450 D 09/15/2016 10:37 AM**  
Total Pages: 4 Rec Fee: \$76.00  
CLARK COUNTY TITLE COMPANY  
SIMPLIFILE LC E-RECORDING  
eRecorded in Clark County, WA

**AFTER RECORDING, RETURN TO:**

Hunt & Associates, PC  
101 SW Main St., Ste. 805  
Portland, OR 97204  
Attn: Lawrence B. Hunt

**Document Title:**

**NON-MERGER DEED IN LIEU OF FORECLOSURE**

**Reference Numbers of Related Documents:**

Deed of Trust recorded April 4, 2005 in Auditor's File No. 3968416; Non-Merger Deed in Lieu of Foreclosure recorded December 31, 2008 in Auditor's File No. 4519496  
**Grantor:**

**RENAISSANCE CUSTOM HOMES LLC, an Oregon limited liability company**

**Grantee:**

**GARY F. WEBB TRUST, Gary F. Webb, Trustee**

**Legal Description:**

That portion of the Northwest quarter of the Northeast quarter of Section 13, Township 3 North, Range 1 East of the Willamette Meridian, Clark County, Washington, *continued on Exhibit A.*

**Assessor's Tax Parcel ID Number(s):**

**181701-000; 181702-000**

### **NON-MERGER DEED IN LIEU OF FORECLOSURE**

Title to the real property herein described is vested in fee simple in Renaissance Custom Homes LLC, an Oregon limited liability company and ("Grantor"), subject to the lien of a Deed of Trust dated March 19, 2008 and recorded April 4, 2005, 2008 in the Records of Clark County, Washington, in Auditor's File No. 3968416 ("Deed of Trust"). The beneficiary of the Deed of Trust is Gary F. Webb Trust ("Grantee"). The Deed of Trust secures certain obligations owed by Grantor to Grantee pursuant to a Real Estate Sales Agreement (as amended from time to time), a Promissory Note, and a Personal Guarantee of Randy Sebastian (together with the Deed of Trust, the "Agreements").

Under the Agreements, \$883,716.48 is due and payable; together with \$18,648.17 in property taxes paid by Webb Trust; attorney fees and costs; accrued interest to date, and other costs and expenses to which Grantee is entitled thereunder.

The Deed of Trust is in default and subject to immediate foreclosure. Grantor is unable to pay the indebtedness and desires to avoid foreclosure proceedings. Grantor therefore desires to give an absolute deed of conveyance of said property and satisfaction of the indebtedness secured by said Deed of Trust.

Grantee agrees to accept such conveyance upon the terms and conditions hereinafter stated.

NOW, THEREFORE, in consideration of the cancellation of the debt and all evidence of indebtedness secured by said Deed of Trust, Grantor does hereby grant, bargain, sell and convey to Grantee all of the real property located in Clark County, Washington, described on Exhibit A hereto, SUBJECT TO a Residential Lease Agreement dated April 28, 2006 between The Management Group, Inc. as agent for Lessor and Charles and Jill Holt as Lessees; and any and all liens and encumbrances of record.

Grantor covenants that:

This deed is absolute in legal effect and form, conveys fee simple title to the premises herein described to Grantee, terminates Grantor's redemption rights to the real property (if any) or other right or interest of Grantor or anyone claiming through or under Grantor, and does not operate as a mortgage, trust, conveyance or security of any kind;

Grantor surrenders possession of the real property to Grantee;

Grantor warrants and hereby agrees to forever defend the title to the real property against all claims and demands of all persons, other than the liens and encumbrances of record;

This deed does not effect a merger of the fee ownership of the real property and the lien of the Deed of Trust described above, whether Grantee is now or hereafter may be the owner or holder of such lien or security interest. The ownership of the real property and the liens of the Deed of Trust, together with any other liens and security interests now or hereafter owned

or held by Grantee, shall hereafter remain separate and distinct. This deed does not preclude Grantee from continuing or instituting any action, suit or proceeding to foreclose the Deed of Trust or other security interest should Grantee deem it appropriate; provided, however, that by accepting this deed, Grantee covenants and agrees that Grantee shall forever forbear from taking any action whatsoever to collect against Grantor or Randy Sebastian on the Agreements or any other obligation secured by the Deed of Trust;

In executing this deed, Grantor is not acting under any misapprehension as to the effect thereof, nor under any duress, undue influence or misrepresentations by Grantee, its agents or attorneys;

The true and actual consideration for this transfer, stated in terms of dollars, is none. The consideration consists of the release of Grantor's liability under the Agreements described above.

IN WITNESS WHEREOF, Grantor has executed this deed as of this 29 day of December, 2008.

RENAISSANCE CUSTOM HOMES LLC

By: [Signature]  
Its: Member

STATE OF OREGON                    )  
  ) ss.  
County of Multnomah            )

On this day personally appeared before me Randall S. Sebastian, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed on behalf of Renaissance Custom Homes LLC, an Oregon limited liability company, for the uses and purposes therein mentioned.

Given under my hand and official seal this 29 day of December, 2008.

[Signature]  
Notary Public in and for the State of Oregon



**EXHIBIT A**

**DESCRIPTION:**

**ORDER NO.: K143926**

That portion of the Northwest quarter of the Northeast quarter of Section 13, Township 3 North, Range 1 East of the Willamette Meridian, Clark County, Washington, described as follows:

**BEGINNING** at a point that is North 89°10' East 156 feet from the quarter section corner common to Section 12 and 13, Township 3 North, Range 1 East of the Willamette Meridian; and running thence North 89°10' East 631.25 feet; thence South 885.91 feet; thence South 89°10' West 790.53 feet; thence North 0°13' East 126 feet; thence North 89°10' East 156 feet; thence North 0°13' East 739.56 feet to the Point of Beginning.

**EXCEPT** the South 126 feet as conveyed to Tommy L. Frasier et al by Deed recorded under Auditor's File Number 8506030097.

**ALSO EXCEPT** any portion lying within Northeast 179<sup>th</sup> Street.

**PARCEL II**

That portion of the Northwest quarter of the Northeast quarter of Section 13, Township 3 North, Range 1 East of the Willamette Meridian, Clark County, Washington, described as follows:

**BEGINNING** at a point that is North 89°10' East 787.25 feet from the quarter section corner, common to Section 12 and 13, Township 3 North, Range 1 East of the Willamette Meridian; and running thence North 89°10' East a distance of 258.75 feet; thence South a distance of 450 feet; thence South 89°10' West a distance of 258.75 feet; thence North a distance of 450 feet to the Point of Beginning. Any portion lying within NE 179<sup>th</sup> Street.





Parcel 3

The West 660 feet of the South half of the Southeast quarter of Section 12, Township 3 North, Range 1 East of the Willamette Meridian in Clark County, Washington.

EXCEPT that portion thereof, lying South of the following described line:

BEGINNING at the Northwest corner of the South half of the Southeast quarter of said Section 12; thence South 0°16'30" West, along the West line thereof, 701 feet, more or less, to a point that is 99 feet North 0°16'30" East from the intersection of the Westerly extension of the North line of that tract conveyed to Ervin P. Diment, by deed recorded under Auditor's File No. G 369035, records of said County with the West line of the Southeast quarter of said Section 12, said point being the true point of beginning of the following described line; thence North 89°13' East 660 feet to the terminus of said line description.

TOGETHER WITH an easement for ingress, egress and utilities over the East 30 feet of the West 660 feet of the South 619 feet of the Southwest quarter of the Southeast quarter of said Section 12;

EXCEPT that portion thereof lying within N.E. 179th Street.

*seg desk*

*Welford Gilbo  
Dec 5/83*

DEC 10 1983

DEC 30 1983

181548

REQ'D SEG

181466 seg to 181548

# 112 Sec 12-3-1

10.62A m/c

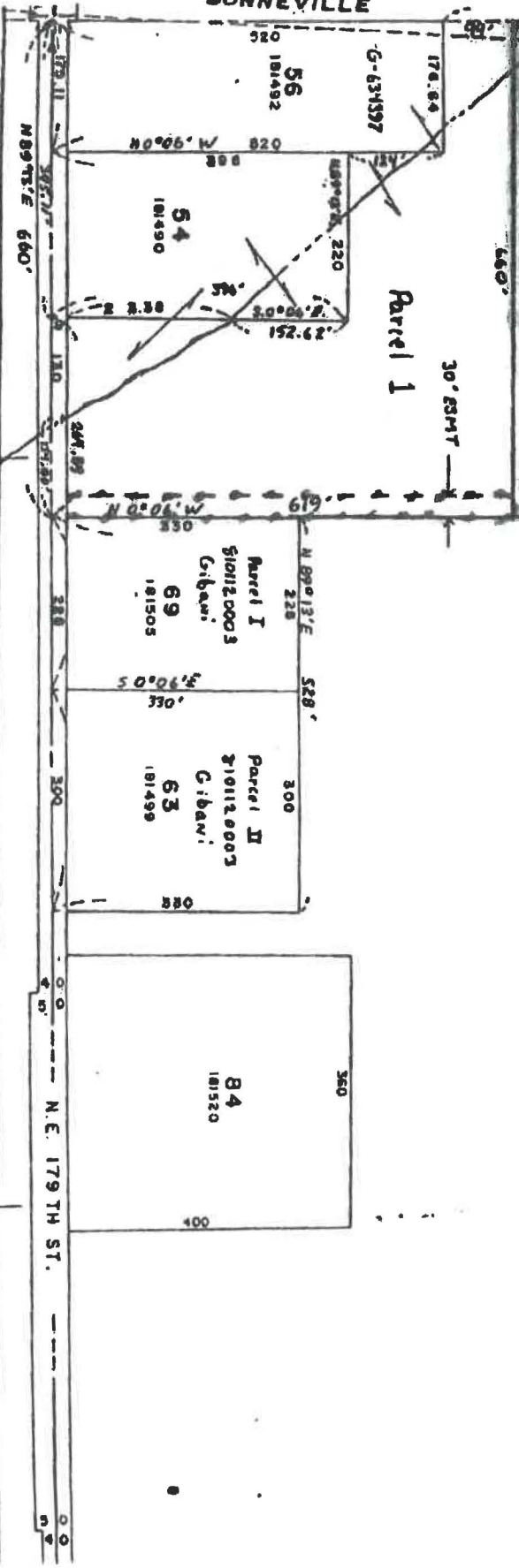
The Company has not surveyed the premises described in \_\_\_\_\_  
 The sketch below is furnished without charge solely for the purpose of assisting in locating said premises and the Company assumes no liability for inaccuracies therein. It does not purport to show ALL highways, roads and easements adjoining or affecting said premises.

Parcel 3

30  
 181456

Parcel 1

SUNNEVILLE





Printed: September 23, 2016  
Scale - 1:3600  
1" = 300'

Information shown on this map was collected  
from several sources. Clark County accepts  
no responsibility for any inaccuracies that  
may be present.



Clark County  
Geographic Information System

SE Qtr of Section 12 T3N R1E WM

9801300247

10

RETURN ADDRESS:

Chris Roubicek, P.S.

P.O. Box 600

Castle Rock, WA 98611

Real Estate Excise Tax

Ch. 11 Rev. Laws 1951

8633.00

has been paid

Recpt. #

424330

Date

1-29-88

Sec. 61, see Aff. No.

Do as Lasher

Clark County Treasurer

By

R2

Deputy

Chris Roubicek  
1-29-88

Document Title(s)

WARRANTY DEED

Reference numbers of related documents:  
on page n/a of document

Grantor(s):

(Last, First, Middle Initial)

1. PRENTICE, EDWARD A.
2. PRENTICE, MARJORIE M.
- 3.

etc. additional names on page n/a of document

Grantee(s):

(Last, First, Middle Initial)

1. PRENTICE, EDWARD, Manager Birchwood Farms, L.L.C.
2. PRENTICE, MARJORIE, Manager Birchwood Farms, L.L.C.
- 3.

etc. additional names on page n/a of document

Legal Description:

1. The East 1/2 of the NE quarter of the SE quarter of Section 12, Township 3 North, Range 1 East, W.M.

(lot, block, plat name, section-township-range)

Additional legal description is on page one of document

Assessor's Property Tax Parcel Account Number(s):

a portion of 181465 000

Reference Number(s) of Documents assigned or released:

none

1579

WARRANTY DEED

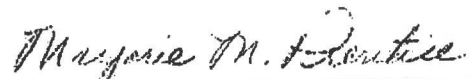
THE GRANTORS, EDWARD A. PRENTICE and MARJORIE M. PRENTICE, husband and wife, 18600 NE 50th Avenue, Vancouver, Washington 98686, for TEN DOLLARS and other valuable consideration in hand paid, receipt whereof is hereby acknowledged, GRANT, CONVEY, and WARRANT to BIRCHWOOD FARMS, L.L.C., c/o EDWARD A. PRENTICE and MARJORIE M. PRENTICE, Managers, 18600 NE 50th Avenue, Vancouver, Washington 98686, Grantee, the following described property situate in Clark County, Washington, to wit:

The East half of the Northeast quarter of the Southeast quarter of Section 12, Township 3 North, Range 1 East, W.M., Clark County, Washington.

SUBJECT TO AND TOGETHER WITH easements, restrictions and reservations of record.

Dated this 31st day of December, 1997.

  
EDWARD A. PRENTICE

  
MARJORIE M. PRENTICE

STATE OF WASHINGTON) ss  
COUNTY OF COWLITZ )

On this day personally appeared before me, EDWARD A. PRENTICE and MARJORIE M. PRENTICE, husband & wife, to me known to be the individuals named in and who executed the foregoing instrument, and who acknowledged to me that they signed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 31st day of  
December, 1997.



Christopher S. Roubicek  
Notary public in and for the  
State of Washington,  
residing at: Castle Rock  
My commission expires: 3-15-2001

1581



9611150044

Recorded at the request of Hall, Holland & Dimitrov

When recorded, return to:

Hall, Holland & Dimitrov

Attorneys at Law

1109 Broadway

Vancouver, WA 98680

Real Estate Excise Tax

Ch. 11 Rev. Laws 1981

EXEMPT

APR 405266 Date 11-15-96  
For details of tax paid see

APR 405266  
Doug Harder  
Clark County Treasurer  
R2  
County

**PERSONAL REPRESENTATIVE'S DEED**

1. **GRANTOR.** The undersigned, WILFRED N. ZILKE, is the duly appointed, qualified and acting personal representative of the Estate of H. MARJORIE ZILKE, Deceased.

2. **ESTATE.** H. MARJORIE ZILKE died on the 5th day of April, 1995. The Last Will and Testament of H. MARJORIE ZILKE dated September 4, 1990, was admitted to probate on May 5, 1995 and Grantor was appointed personal representative in the State of Washington, Superior Court of Clark County in Cause No. 95-4-00389-4.

3. **NONINTERVENTION POWERS.** By Order of Solvency entered in said probate proceedings on June 23, 1995, Grantor was authorized to settle the estate without further court intervention or supervision.

4. **DESCRIBED REAL PROPERTY.** Included among the property of the Estate of H. MARJORIE ZILKE, was the decedent's interest in real property located in Clark County, Washington and legally described as the easterly 20.35 acres being situate in Clark County, Washington, more particularly described as follows:

See Exhibit "A" annexed hereto and hereby incorporated herein.

5. **CONVEYANCE.** Grantor, Estate of H. MARJORIE ZILKE, hereby conveys and quitclaims to the WILFRED N. ZILKE FAMILY TRUST, the real property herein described representing the estate's interest in the described real property together with all after-acquired title of the Grantor therein.

DATED this 29<sup>th</sup> day of October, 1996.

Wilfred N. Zilke  
WILFRED N. ZILKE, Personal Representative  
of the Estate of H. Marjorie Zilke, Deceased,  
and not in his individual capacity.

141



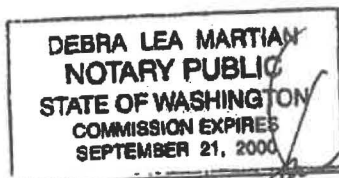
STATE OF WASHINGTON )

: ss.

County of Clark

On this 29<sup>th</sup> day of October, 1996, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared WILFRED N. ZILKE, to me known to be the person who signed as Personal Representative of the Estate of H. MARJORIE ZILKE, Deceased, and who executed the within and foregoing instrument and acknowledged said instrument to be his free and voluntary act and deed for the uses and purposes therein mentioned; and on oath stated that he was authorized to execute the said instrument as Personal Representative of said Estate.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Debra L. Martiam  
NOTARY PUBLIC for Washington,  
residing at Vancouver therein  
My Commission Expires: 9/21/2000

## EXHIBIT "A"

The East 20.35 acres of the following described Tract:

Tract Description

The Southeast Quarter of the Southeast Quarter of Section 12, Township 3 North, Range 1 East of the Willamette Meridian, Clark County Washington.  
Excepting therefrom the East 330 Feet of said Tract;  
Excepting therefrom that portion of said Tract lying within N.E. 179th Street;  
Excepting therefrom that portion of said Tract conveyed to Donald J. Orange et ux, by deed recorded under Auditor's File No. 8405220011 records of Clark County Washington.

(end Tract Description)

Said 20.35 acres being the East 20.35 acres of that certain parcel conveyed to Wilfred N. Zilke and H. Marjorie Zilke by deed recorded under Auditor's file No. 8306140153 records of Clark County Washington.

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

CERTIFICATE OF DEATH

146

DISTRICT

LOCAL FILE NUMBER

STATE FILE NUMBER

COPIES

HOSPITAL

OCCURRENCE

DEATH

OCCURRENCE

INFORMANT

INFORMANT

INFORMANT

INFORMANT

INFORMANT

INFORMANT

INFORMANT

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|  |  |  |  |
|--|--|--|--|
| 1 NAME<br>First: <b>Helen</b><br>Middle: <b>Marjorie</b><br>Last: <b>Zilke</b>   |  | 2 SEX (M / F)<br><b>Female</b>   | 3 DEATH DATE (Mo, Day, Yr)<br><b>April 5, 1995</b>   |
| 4 AGE LAST BIRTH DAY (Yrs)<br><b>65</b>  | 5 UNDER 1 YEAR<br>AGE: <b>65</b>         | 6 UNDER 1 DAY<br>AGE: <b>65</b>  | 7 BIRTH DATE (Mo, Day, Yr)<br><b>Feb 13, 1930</b>  |
| 8 BIRTH PLACE (City, State or Foreign Country)<br><b>Alberta, Canada</b>   |  | 9 WAS DECEDENT EVER IN U.S. ARMED FORCES? (Yes / No)<br><b>No</b>  | 10 COUNTY OF DEATH<br><b>Clark</b>   |
| 11 CITY, TOWN OR LOCATION OF DEATH<br><b>Vancouver</b>   |  | 12 PLACE OF DEATH—(a) BOX FOR PLACE THEN GIVE ADDRESS OR INSTITUTION NAME<br><b>Southwest Washington Medical Center</b>                        |  |
| 13 SMOKING IN LAST 15 YEARS? (Yes / No)<br><b>No</b>   |  | 14 MARRITAL STATUS—Married, Never Married, Widowed, Divorced (Specify)<br><b>Married</b>   |  |
| 15 SURVIVING SPOUSE (If wife, give maiden name)<br><b>Wilfred Norman Zilke</b>   |  | 16 SOCIAL SECURITY NO.<br><b>537-50-4243</b>   | 17 DECEDENT'S EDUCATION (Specify only highest grade completed)<br>Elementary/Secondary (9-12): <b>12</b><br>College (1-4 or 5-): |
| 18 USUAL OCCUPATION (One kind of work done during most of working life. DO NOT USE RETIRED)<br><b>Homemaker</b>  |  | 19 KIND OF BUSINESS OR INDUSTRY<br><b>Home</b>   |  |
| 20 Was Decedent of Hispanic origin or descent? (Ancestry) (Specify Yes or No. If Yes, specify Cuban, Mexican, Puerto Rican, etc.)<br><b>No</b>   |  | 21 RACE (Specify)<br><b>White</b>  |  |
| 22 RESIDENCE—Number and Street<br><b>4206 N.E. 179th Street</b>  |  | 23 CITY/TOWN OR LOCATION<br><b>Vancouver</b>   | 24 INSIDE CITY LASTED? (Yes / No)<br><b>No</b>   |
| 25 COUNTY<br><b>Clark</b>  |  | 26 LENGTH OF RES IN CO<br><b>31 Yrs</b>  | 27 STATE<br><b>WA</b>  |
| 28 ZIP CODE<br><b>98686</b>  |  | 29 FATHER'S NAME—FIRST, MIDDLE, LAST<br><b>John McNeill Carswell</b>   |  |
| 30 MOTHER'S NAME—FIRST, MIDDLE, MAIDEN SURNAME<br><b>Helen Winnifred Fisher</b>  |  | 31 MOTHER'S NAME—FIRST, MIDDLE, MAIDEN SURNAME<br><b>Helen Winnifred Fisher</b>  |  |
| 32 INFORMANT—NAME<br><b>Wilfred Zilke</b>  |  | 33 MAILING ADDRESS (Street or RFD No., City or Town, State, ZIP)<br><b>4206 N.E. 179th Street Vancouver, WA 98686</b>                          |  |
| 34 SURVIVAL ORGANIZATION (Specify)<br><b>Cremation</b>   | 35 DATE (Mo, Day, Yr)<br><b>4/7/1995</b> | 36 CEMETERY/CREMATORY—NAME<br><b>Park Hill Crematorium</b>   | 37 LOCATION—CITY/TOWN, STATE<br><b>Vancouver, Washington</b>   |
| 38 FUNERAL DIRECTOR SIGNATURE<br><b>X [Signature]</b>  |  | 39 NAME OF FACILITY<br><b>Evergreen Staples Funeral Chapel</b>   |  |
| 40 ADDRESS OF FACILITY<br><b>4700 St. Johns Road Vancouver, Washington 98661</b>   |  | 41 DATE SIGNED (Mo., Day, Yr)<br><b>April 6, 1995</b>  |  |
| 42 HOUR OF DEATH (24 Hrs.)<br><b>0820</b>  |  | 43 DATE SIGNED (Mo., Day, Yr)<br><b>April 6, 1995</b>  |  |
| 44 NAME AND TITLE OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)<br><b>Michael J. Markham, M.D. 505 N.E. 87th Avenue #310, Vancouver, WA 98664</b>   |  | 45 HOUR OF DEATH (24 Hrs.)<br><b>0820</b>  |  |
| 46 NAME AND ADDRESS OF CERTIFIER—PHYSICIAN, MEDICAL EXAMINER OR CORONER (Type or Print)<br><b>Michael J. Markham, M.D. 505 N.E. 87th Avenue #310, Vancouver, WA 98664</b>  |  | 47 HOUR OF DEATH (24 Hrs.)<br><b>0820</b>  |  |
| 48 NAME AND ADDRESS OF CERTIFIER—PHYSICIAN, MEDICAL EXAMINER OR CORONER (Type or Print)<br><b>Michael J. Markham, M.D. 505 N.E. 87th Avenue #310, Vancouver, WA 98664</b>  |  |  |  |
| 49 ENTER THE DISEASES, INJURIES, OR COMPLICATIONS WHICH CAUSED THE DEATH:  |  |  |  |
| IMMEDIATE CAUSE (Final statement of condition resulting in death):<br>DO NOT ENTER THE MODE OF DEATH, SUCH AS CARDIAC OR RESPIRATORY ARREST, SHOCK, OR HEART FAILURE. LIST ONLY ONE CAUSE ON EACH LINE. Sequentially list conditions, if any, leading to immediate cause. Enter UNDERLYING CAUSE (Disease or injury which initiated events resulting in death) LAST. |  | INTERVAL BETWEEN ONSET AND DEATH   |  |
| A. <b>Respiratory Arrest</b>   |  | INTERVAL BETWEEN ONSET AND DEATH   |  |
| B. <b>Subarachnoid Hemorrhage</b>  |  | INTERVAL BETWEEN ONSET AND DEATH<br><b>5 days</b>  |  |
| C. <b>Aneurysm - Cerebral</b>  |  | INTERVAL BETWEEN ONSET AND DEATH   |  |
| D. <b>Due to, or as a consequence of:</b>  |  | INTERVAL BETWEEN ONSET AND DEATH   |  |
| 50 OTHER SIGNIFICANT CONDITIONS—CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE LISTED ABOVE  |  |  |  |
| 51 ACC. SUICIDE, HOMIC. UNDET., OR PENDING INVEST. (Specify)   |  | 52 AUTOPSY? (Yes / No)<br><b>Yes</b>   | 53 WAS CASE REFERRED TO MEDICAL EXAMINER OR CORONER? (Yes / No)<br><b>No</b>   |
| 54 PLACE OF INJURY—AT HOME, FARM, STREET, FACTORY, OFFICE, ALDO, ETC. (Specify)  |  | 55 INJURY DATE (Mo, Day, Yr)   | 56 HOUR OF INJURY (24 Hrs.)  |
| 57 DESCRIBE HOW INJURY OCCURRED:   |  |  |  |
| 58 INJURY AT WORK? (Yes / No)  |  | 59 PLACE OF INJURY—AT HOME, FARM, STREET, FACTORY, OFFICE, ALDO, ETC. (Specify)  |  |
| 60 LOCATION—STREET OR RFD NO., CITY/TOWN, STATE  |  | 61 RECORD AMENDMENT (Program use only)<br>ITEM: <b>1704</b> OCCURRENCE: <b>INVOICE</b> REVIEWED BY: <b>[Signature]</b> DATE: <b>APR 7 1995</b> |  |

FOR INSTRUCTIONS SEE BACK AND HANDBOOK

DOH 110-008 (Rev 7/91) (Formerly DSHS 1-152)

DOH 01-003 (7/94)

THIS IS A CONTROLLED COPY OF THE RECORD OF DEATH. IT IS NOT TO BE REPRODUCED OR DISTRIBUTED OUTSIDE THE OFFICE OF THE DEPARTMENT OF HEALTH.

# USE BELOW FOR REQUESTING OFFICIAL CHANGES ONLY

ANY CHANGES MADE BELOW VOID THIS CERTIFICATE, A NEW CERTIFICATE MUST BE ISSUED TO VALIDATE CHANGES.

|   |                   |
|---|-------------------|
| THE RECORD IS INCORRECT OR INCOMPLETE AS FOLLOWS:   |                   |
| THE RECORD NOW SHOWS:   | THE TRUE FACT IS: |
|   |                   |
|   |                   |
|   |                   |
| REPRESENT THE PERSON AS (E.G. SELF, PARENT, GUARDIAN, ETC.) SPECIFY   |                   |
| PHONE NUMBER  |                   |
| I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT |                   |
| SIGNATURE   | DATE              |
|   |                   |

All vital records are as received. Changes must be made by affidavit. An item may be changed by affidavit only once. Subsequent changes must be made by court order.

## Birth Certificates

- Only a parent, legal guardian or the adult (18 or older) may change the birth certificate.
- All changes must be established by documentary proof submitted with the affidavit.
- The proof(s) must match exactly the asserted true fact(s). For example, if the affidavit says the name is Mary Ann Doe, then the proof must show the name to be Mary Ann Doe, Mary A. Doe or M.A. Doe does not prove the name is Mary Ann Doe.
- The proof(s) for names must be five (or more) years old, while proof(s) for dates, places, or ages must have been established within five years of birth.
- Examples of acceptable documents or proof:
 

|                       |                           |                               |
|-----------------------|---------------------------|-------------------------------|
| Baptismal Certificate | Marriage Record           | School Record                 |
| U.S. Census Record    | Medical Record            | Voter's Registration Card     |
| Hospital Records      | Military Record           | which bears an effective date |
| Insurance Records     | Your Child's Birth Record |                               |
- Simple name changes require a certified copy of a court ordered name change, except that minor spelling changes may be made with an affidavit and documentary proof.
- Parents may change their child's given name with only their signature until the child's 18th birthday.

## Death Certificate

- Only the informant, the funeral director, or executor/administrator (if evidence confirming such position is presented) may change the non-medical information.
- The medical information (cause of death) may be changed only by the attending physician or the coroner/medical examiner.
- Routine changes will normally be made only during the first year after death. Other changes will be made only for legally important reasons (property, inheritance, etc.) and must be approved by the State Registrar.

## Marriage/Dissolution (Divorce) Certificates

- Personal fact (name, spelling changes in name, date or place of birth or residence) may be changed by affidavit plus proof by the person (see description of proofs in oaths above).
- To change the date or place of marriage or dissolution, the officiant (marriage) or clerk of court (dissolution) must sign the affidavit.

**CELEBRATED**

FILED  
James Holland

CLERK OF COURT  
LUCE

APR 7 1995

Karen Stelupard, M.D.

Dr. Karen Stelupard  
Health District Officer  
S.W. Wash Health Dist

144A

00135537



9801300249

**RETURN ADDRESS:**

Chris Roubicek, P.S.  
P.O. Box 600  
Castle Rock, WA 98611

Real Estate Excise Tax  
Ch. 11 Rev. Laws 1951

EXEMPT

Ass. # 4 24331 Date 1-29-98  
For details of tax paid see

Att. #

Doug Lasher

Clark County Treasurer

By

R2

Dispov

*Chris Roubicek*

**Document Title(s)**

QUITCLAIM DEED

Reference numbers of related documents:  
on page n/a of document

**Grantor(s):**

(Last, First, Middle Initial)

1. PRENTICE, EDWARD A.
2. PRENTICE, MARJORIE M.
- 3.

etc. additional names on page n/a of document

**Grantee(s):**

(Last, First, Middle Initial)

1. PRENTICE, EDWARD, Manager Birchwood Farms, L.L.C.
2. PRENTICE, MARJORIE, Manager Birchwood Farms, L.L.C.
- 3.

etc. additional names on page n/a of document

**Legal Description:**

1. The NW quarter of the SE quarter of Section 12,  
Township 3 North, Range 1 East, W.M.

(lot, block, plat name, section-township-range)

Additional legal description is on page one of document

**Assessor's Property Tax Parcel Account Number(s):**

181465-000 and 181469-000

Reference Number(s) of Documents assigned or released:

none

1586

QUITCLAIM DEED

THE GRANTORS, EDWARD A. PRENTICE and MARJORIE M. PRENTICE, husband and wife, 18600 NE 50th Avenue, Vancouver, Washington 98686, FOR AND IN CONSIDERATION OF TRANSFER to a limited liability company which is wholly owned by Grantors' children, hereby GRANT, CONVEY, and QUITCLAIM to BIRCHWOOD FARMS, L.L.C., c/o EDWARD A. PRENTICE, Manager, 18600 NE 50th Avenue, Vancouver, Washington 98686, Grantee, the following described property situate in Clark County, Washington, to wit:

The Northwest Quarter of the Southeast Quarter of Section 12, Township 3 North, Range 1 East of the W.M., except that portion taken by the United States of America for Power line right-of-way, as shown in the judgment filed as Auditor's file No. E 4196 in the office of the Auditor of said Clark County.

The West half of the Northeast Quarter of the Southeast Quarter of Section 12, Township 3 North, Range 1 East of the Willamette Meridian, Clark County, Washington.

SUBJECT TO AND TOGETHER WITH easements, restrictions and reservations of record.

Dated this 31st day of December, 1997.

  
EDWARD A. PRENTICE

  
MARJORIE M. PRENTICE

1587

STATE OF WASHINGTON)

COUNTY OF COWLITZ ) SS

On this day personally appeared before me, EDWARD A. PRENTICE and MARJORIE M. PRENTICE, husband & wife, to me known to be the individuals named in and who executed the foregoing instrument, and who acknowledged to me that they signed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 31st day of December, 1997.



Christopher J. Roubicek  
Notary public in and for the  
State of Washington,  
residing at: Castle Rock  
My commission expires: 3-15-2001

1588





12-3-1

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30, ~~SE~~ ~~SE~~

## WARRANTY DEED.

83 06140153

500

THE GRANTORS, De Wayne T. Ernesti and Adella M. Ernesti, husband and wife, in consideration of the sum of Ten Dollars and other valuable consideration in hand paid, receipt whereof is hereby acknowledged, do hereby convey and warrant unto Wilfred N. Zilke and H. Marjorie Zilke, husband and wife, Grantees, an undivided one half interest in the following described real property situate in Clark County, Washington, to-wit:

- X. That portion of the South half of the Southeast quarter of Section 12, Township 3 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Northwest corner of said South half of the Southeast quarter; thence South 0°16'30" West, along the West line thereof, 800 feet, more or less, to the intersection with the Westerly extension of the North line of the tract conveyed to Ervin P. Diment, by deed recorded under Auditor's File No. G 369035, Deed Records; thence North 89°13'00" East, along said North line and its extension, 176.69 feet to the Northeast corner thereof; thence South 0°06'00" East, along the East line of said Diment Tract, 124.00 feet to the Northwest corner of the tract conveyed to Peter J. Stone, by deed recorded under Auditor's File No. G 357721, Deed Records; thence North 89°13'00" East, along the North line of said Stone Tract, 220.00 feet to the Northeast corner thereof; thence South 0°06'00" East, along the East line of said Stone Tract 152.62 feet to the North corner of the tract conveyed to Peter J. Stone, by deed recorded under Auditor's File No. G 402589, Deed Records; thence Southeasterly along the Easterly line of said last mentioned Stone Tract, to the North line of N.E. 179th Street; thence South 0°06'00" East, 20 feet to the South line of said South half of the Southeast quarter; thence North 89°13'00" East, along said South line, 134.89 feet to the Southwest corner of the tract conveyed to Charles E. Officer by deed recorded under Auditor's File No. G 393410, Deed Records; thence North 0°06'00" West, along the West line of said Officer Tract, 330 feet to the Northwest corner thereof; thence North 89°13'00" East, along the North line of said Officer Tract, 528 feet to the Northeast corner thereof; thence South 0°06'00" East, along the East line of said Officer Tract, 330 feet to the South line of said South half of the Southeast quarter; thence North 89°13'00" East, along said South line, 1122 feet, more or less, to the Southwest corner of the tract conveyed to Douglas N. Woods, by deed recorded under Auditor's File No. G 375636; thence North, along the West line of said Woods Tract and along the West line of the tract conveyed to Charles P. Ratermann, by deed recorded under Auditor's File No. G 385613 and the

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6.1443

Shundy

255

N.A. 14-83

7

West line of the tract conveyed to Leonard Burda, et al., by deed recorded under Auditor's File No. G 375639, a distance of 1320 feet, more or less, to the North line of said South half of the Southeast quarter; thence West, along said North line, 2310 feet, more or less, to the point of beginning.

EXCEPT that portion taken by the United States of America, under Declaration of Taking, recorded April 8, 1939, under Auditor's File No. E 4186.

ALSO EXCEPT that portion conveyed to John W. Kohler and D. Elizabeth Kohler, husband and wife, by Deeds dated April 7, 1977, and recorded under Auditor's File No. G-758537, index 1067379 and under Auditor's File No. G-758558, index 1067381, records of Clark County, Washington. X

SUBJECT TO Mortgage to Vancouver Federal Savings and Loan Association with an approximate balance owing of \$30,000.00 which mortgage the Grantees hereby assume and agree to pay according to its terms and conditions.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands this 7<sup>th</sup> day of June, 1983.

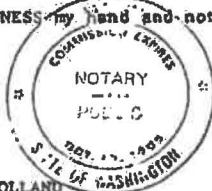
DeWayne T. Ernesti

Adella M. Ernesti  
Grantors

STATE OF WASHINGTON)  
County of Clark ) ss

On this day before me personally appeared DeWayne T. Ernesti and Adella M. Ernesti, husband and wife, to me known to be the same persons named in and who executed the foregoing instrument, and acknowledged to me that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

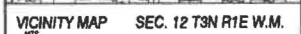
WITNESS my hand and notarial seal this 7<sup>th</sup> day of June, 1983.



Deed Hall  
Notary Public for Washington  
Residing at Vancouver, therein. -256




HALL & HOLLAND  
Attorneys at Law  
1109 Broadway  
Vancouver, WA 98660








SETBACKS:  
FRONT: 10-FEET (MINIMUM: 10-FEET)  
SIDE: 5-FEET, 0-FEET  
STREET SIDE: 10-FEET  
REAR: 10-FEET


| POD   |                             |              |                  |           |           |               |  |  |
|-------|-----------------------------|--------------|------------------|-----------|-----------|---------------|--|--|
| A     | AREA                        | PRODUCT TYPE | APPROX. LOT SIZE | 18" WIDTH | 18" DEPTH | DENSITY RANGE |  |  |
| A-1   | 4.18 ACRES (91,882 SQ)      | ATTACHED     | 3,000-5,000 SF   | 32"       | 60"       | 28-29 DU      |  |  |
| A-2   | 7.88 ACRES (222,940 SQ)     | DETACHED     |                  | 32"       | 60"       | 45-47 DU      |  |  |
| A-3   | 6.70 ACRES (91,479 SQ)      | ATTACHED     |                  | 32"       | 60"       | 28-30 DU      |  |  |
| A-4   | 11.29 ACRES (271,281 SQ)    | DETACHED     |                  | 32"       | 60"       | 48-50 DU      |  |  |
| A-5   | 20.26 ACRES (502,105 SQ)    | DETACHED     |                  | 32"       | 60"       | 53-54 DU      |  |  |
| A-6   | 11.78 ACRES (271,895 SQ)    | DETACHED     |                  | 32"       | 60"       | 69-71 DU      |  |  |
| B     |                             |              |                  |           |           |               |  |  |
| B-1   | 18.85 ACRES (431,576 SQ)    | DETACHED     | 6,000-9,000 SF   | 60"       | 60"       | 108-118 DU    |  |  |
| B-2   | 11.10 ACRES (253,708 SQ)    | DETACHED     |                  | 60"       | 60"       | 64-72 DU      |  |  |
| C     |                             |              |                  |           |           |               |  |  |
| C-1   | 18.32 ACRES (418,682 SQ)    | DETACHED     | 9,000-12,000 SF  | 70"       | 80"       | 105-119 DU    |  |  |
| TOTAL | 115.87 ACRES (2,614,661 SQ) |              |                  |           |           | 852-754 DU    |  |  |

| OPEN SPACE/CRITICAL AREAS                            |   |                          |
|--|---|--------------------------|
| OS-1   |  | 17.74 ACRES (772,007 SF) |
| OS-2   |  | 8.41 ACRES (365,800 SF)  |
| OS-3   |  | 8.52 ACRES (369,007 SF)  |
|  |   |                          |
| PARK AREA  |   |                          |
| PARK (DOES NOT INCLUDE<br>STORMWATER POND OPEN AREA) |   | 4.38 ACRES (189,629 SF)  |

OPEN SPACE REQUIRED BY MUD, BASED UPON THE NET SITE AREA IS TWELVE PERCENT (12%)  
NET SITE AREA 148 ACRES X .12 = 17.82 ACRES  
OPEN SPACE PROVIDED = APPROX. 88 ACRES

**LEGEND**

 HOUSING POD DESCRIPTION  
 HOUSING POD ACREAGE  
 EST. HOUSING LOT AMOUNT

 PEDESTRIAN TRAIL


 MAIN ROADWAY



EXHIBIT B

PRELIMINARY MASTER PLAN FOR:  
**MILL CREEK PUD**

---

**OLSON** LAND SURVEYORS  
ENGINEERS  
ENGINEERING INC.  
222 E. EVERGREEN BLVD., WANDAVILLE, WA 98090  
206-836-0100 FAX  
206-836-0101

PRELIMINARY

|                                       |              |
|---------------------------------------|--------------|
| CHANDLER / REMSONS                    |              |
| DESIGNED BY:                          | DATE:        |
|                                       |              |
|                                       |              |
|                                       |              |
|                                       |              |
|                                       |              |
|                                       |              |
|                                       |              |
|                                       |              |
|                                       |              |
| DESIGNED: SAHILW                      |              |
| DRAWING: SAHILW                       |              |
| CHECKED: AFS                          |              |
| DATE: MARCH 29 08                     |              |
| SCALE:                                | H = 1" = 20' |
|                                       | V =          |
| COPYRIGHT BY: CLARK ENGINEERING, INC. |              |
| BILL CHECK PUD                        |              |
| JOB NO. 7262.01 01                    |              |
| SHEET                                 |              |
| P1                                    |              |

**APPLICANT/OWNER:**  
THE HOLT GROUP  
PO BOX 81428  
VANCOUVER, WA 98080  
(360) 502-0514  
FAX UNAVAILABLE  
randy@holtgroupinc.com

**CONTACT:**  
OLSON ENGINEERING, INC.  
ATTN: REBECCA WATERS  
222 E. EVERGREEN BLVD  
VANCOUVER, WA 98080  
(360) 696-1385  
FAX (360) 696-0177  
rwb@olsoneng.com

**CONTACT:**  
OLSON ENGINEERING, INC.  
ATTN: REBECCA WAHLSTROM  
222 E. EVERGREEN BLVD.  
VANCOUVER, WA 98660  
(360) 696-1365  
FAX (360) 696-8117  
rwa@olsoneng.com

GRAPHIC SCALE

0 100 200

(IN FEET)

FILE: <http://www.7200/7200/7200/7200/7200/7200> - has not been done since a few





## MILL CREEK MASTER PLAN NARRATIVE

### Background

The Master Plan for the Mill Creek Planned Unit Development consists of Parcels #181466-000, 181581-000, 181548-000, 181701-000, 181702-000 and 181580-000 and is located in the general vicinity of NE 179<sup>th</sup> Street and NE 50<sup>th</sup> Avenue. All of the master Plan's parcels are zoned R1-7.5. The total area of the Master Plan is approximately 144 acres. A mix of home types and lot sizes are proposed. The proposed residences include attached and detached homes with lot sizes primarily in three categories: 2,000 to 5,000 square feet; 6000 – 8,000 square feet; and 8,001 to 12,000 square feet.

The proposed Master Plan contains approximately 28 acres of active and passive recreational areas, which comprise approximately 23% of the net site area. The open space areas will be owned and maintained by a Home Owner's Association. Street trees, street lighting, trails and parks will be present throughout the project. The above project design elements were incorporated into the project by the Applicant to further the goals of the County's PUD ordinance and to demonstrate compliance with it.

The Master Plan property is well over six acres in size and zoned R1-7.5; thus eligible to utilize the County's PUD provisions. The proposed residential uses for the Master Plan are uses permitted in the R1-7.5 zone. No structures in the Master Plan will exceed the building heights allowed in the R1-7.5 zone and the Master Plan proposes approximately twenty-eight acres of open space. This exceeds the minimum open space requirement of twelve percent by several percent.

The open spaces are comprised of both active and passive recreational areas. While storm water facilities will be generally located along the wetland areas, they will not be used to count toward the open space requirements of the PUD, unless they are incorporated into the overall PUD design and not fenced. The active park areas will include many of the features identified in the PUD code. All open spaces will be conveyed to a home owners association that will be created prior to the recording of the first final plat approval. All streets within the Master Plan will provide street trees and street lighting as required by the PUD code.

The following demonstrates in more detail how the proposed Master Plan attendant to the Development Agreement satisfies the PUD approval criteria. Reference to the Master Plan and its tables and pod locations in conjunction with this narrative is essential to understanding how the proposed project complies with the applicable PUD criteria. The Master Plan does not seek a density bonus even though allowed under the County's PUD code.

### Analysis

*Prior to preliminary approval of the proposed PUD, the Hearing Examiner or the responsible official must find that the following three (3) conditions exist:*

- 1. Alternate designs proposed will provide a plan equal or superior to the standard being varied.*

All of the parcels in the master Plan are zoned R1-7.5. If the property is developed under its current zoning, without the use of a PUD, the project would consist of several hundred units with a fairly uniform lot size of approximately 7500 square feet. The proposed Master Plan, utilizing the PUD standards, allows for a variety of housing types; including attached and detached homes. If the project utilizes the County's PUD standards as depicted in the Master Plan, the project will include a broad range of densities, home styles, home sizes and lot sizes. Development of the project as a PUD, consistent with the Master Plan, will provide homes to a larger demographic and create a more socially and architecturally diverse neighborhood. The critical areas will be preserved in open space tracts which will contain trails, viewing, and seating areas.

The parks and opens spaces will be combination of active and passive recreation opportunities that will be constructed concurrently within phases of the PUD as it is developed. The PUD's total open space and park area will exceed twenty (20) acres in size. This minimum amount of open space far exceeds the County's PUD requirement of twelve percent (12%) open space.

The active park areas will include a broad range of elements designed to support use and enjoyment by people all ages. These elements will include nature play, picnic areas and other elements that provide multiple active recreational opportunities. Features such as Botchy Ball, active soft and hard scape play areas and other recreational amenities will be included in the PUD. Passive recreation areas will include trails and pathways that connect the residents with the natural resources, way points, interpretative features, benches and viewing locations throughout the PUD. Parks and open spaces will be connected by trails, paths and multi modal routes and will strive to achieve connectivity to future routes outside of the community. Holt will engage and seek input to its final parks and open space plan with the Clark County Parks department as part of the PUD approval process. The timing of parks and open space development and dedication shall be determined at the time of PUD approval.

Park areas with typical improvements are proposed in the interior of the project. Sidewalks and trails will link the open space and park areas to the various neighborhoods within the community.

- 2. Through lot size, setbacks, building orientation, and screening, the proposed PUD shall provide a gradual transition adjacent to lower density neighborhoods or nonresidential uses.*

The Master Plan was designed to preserve critical areas and be compatible with the adjacent parcels' zoning. The lower density portions of the Master Plan are located along the perimeter of the site. The Master Plan generally transitions from lower density on the perimeter to higher density in the interior and along the critical areas and arterials. In general, the density standards on the Master Plan's perimeter are consistent with the adjoining parcels' zoning or there is a major roadway (50<sup>th</sup> Avenue or 179<sup>th</sup> Street) located between the Master Plan and neighboring parcels. A more detailed description of the how the Master Plan furthers the goals and complies with the approval criteria of the PUD ordinance is contained below. A minimum ten foot (10') rear yard setback will apply to all lots on the perimeter of the PUD. Again, viewing the Master Plan concurrently with review of this narrative is essential to understanding how the Master Plan complies with the PUD criteria.

The Master Plan has frontage on both NE 179<sup>th</sup> Street and NE 50<sup>th</sup> Avenue. The parcels south of NE 179<sup>th</sup> Street are surrounded by R1-7.5 zoning which requires a minimum lot size of 7500 square feet. Under the R1-7.5 zoning standards, if critical areas exist within a proposed subdivision, the density transfer provisions of Clark County's Code allows lot sizes in the 6000 square foot range. B pod standards are proposed for these southern parcels, which are equivalent to the surrounding parcels zoning and could be achieved without the use of a PUD.

Some of the Master Plan is located to the north of NE 179<sup>th</sup> St. and is adjacent to NE 179 Street and NE 50<sup>th</sup> Avenue. There are 10 parcels (all zoned R1-7.5) that are not part of the Master Plan and which are located between the Master Plan and the surrounding roads. B and C pods are proposed for the portions of the Master Plan that abut these parcels; thus this portion of the Master Plan will be equivalent or slightly less dense than the surrounding parcels and will serve as a transition to the higher densities in the interior of the Master Plan.

The existing zoning on the west side of the Master Plan is R1-7.5, except for the R1-10 zoned property on the northwest side of the Master Plan. B pods are proposed along the entire west side of the proposed Master Plan. As discussed earlier, the B pod densities are equivalent to R1-7.5 zoning. The nearby R1-10 zoned parcels do carry a lower density, but they are separated from the Master Plan by a 250 foot wide BPA right of way that will act as a buffer along those properties. The BPA right of way continues to the south to NE 179 St. and serves as a substantial buffer for the entire west side of the Master Plan.

The property to the east of the Master Plan, across NE 50<sup>th</sup> Avenue is outside of the Urban Growth Boundary (UGB) and zoned R-5. Densities within an urban zoned project cannot be consistent with properties outside of the UGB and comply with urban zoning standards. An A pod is proposed along the road frontage of NE 50<sup>th</sup> Ave., a designated Minor Arterial, as it's appropriate to site higher densities along higher volume roadways. Landscape buffers will be provided as well as street trees and landscape strips along the road frontage which will serve as a buffer to the roadway.

The properties on the west half of the north side of the Master Plan are zoned R-5 and not in the UGB. B pods are proposed adjacent to the parcels with R-5 zoning. As discussed above, there will be less similarity in lot size and densities in this area because of the UGB. A road is proposed along the north boundary of the property on the east and west sides of the central critical area that runs through the Master Plan. Along with the buffer of space that the street provides, landscape buffers street trees and landscape strips along the road frontage will provide additional buffering to the properties to the north.

The properties on the east half of the north side of the Master Plan are zoned R1-20. Approximately one half of the R1-20 zoning will abut the stream corridor and the associated buffer that lies within the Master Plan in this area. A street is proposed along the project boundary for the remaining area. Along with the buffer of space that the street provides, landscape buffers street trees and landscape strips along the road frontage will provide additional buffering to the properties to the north. The density of the Master Plan in this area will follow a logical transition from the R1-20 zoning lying north of the Master Plan to the street and then then to the larger C pods and finally to the higher densities in the interior of the Master Plan.

3. *The applicant proposes design features that may include, but are not limited to, designs centered on protected natural areas, front porches/recessed garages, pedestrian-*

*friendly orientation, benches/gazebos, water features, recreational areas, stormwater systems designed as features, and affordable housing.*

There are two stream corridors within the Master Plan that generally have a north to south orientation. Both areas contain critical areas and will be preserved and protected in open space tracts. Trails are proposed in the outer edges of these open space areas, as well as benches and sitting areas. All homes within the Master Plan will have direct pedestrian access to sidewalks with ultimate connections to the trail system and to transit opportunities along 179<sup>th</sup> Street. This will provide for both active and passive recreation and opportunities for educational signage relating to the natural environment. These trails will be linked to the internal network of trails and sidewalks which will also connect to the more active park areas. The design and location of the proposed trail crossing on 179<sup>th</sup> Street will be determined at the time of the development of the first phase of the PUDs development that is adjacent to 179<sup>th</sup> Street in the general location of the trail crossing as depicted on the Master Plan. The County's approval shall be required for such crossing. Three more active park areas are proposed within the Master Plan which will have either nature play elements or play structures.

### Conclusion

Under the Code, the purpose of a PUD is to provide flexibility in design and creative site planning. While increased density is allowed, the Master Plan does not create more density for the proposed project than would otherwise be allowed under the R1-7.5 zoning. The Master Plan complies or has obligations to comply with all of the provisions of CCC 40.520.080(A), (B) and (C). The Master Plan as designed satisfies the approval criteria provided for in CCC 40.520.080(D)(1), because it provides a much superior design than could be achieved through a non-PUD project utilizing the property's R1-7.5 zoning. This superior design includes a much broader range of lot sizes, transitions of density, a broader range of housing types and far more active and passive open spaces than would be required with a standard R1-7.5 subdivision.

The Master Plan as designed satisfies the approval criteria provided for in CCC 40.520.080(D)(2), because the Master Plan contains a variety lot sizes and areas of densities that are logically placed to achieve a compatible transition from the surrounding properties to the more dense areas of the Master Plan. Moreover, the Master Plan utilizes transmission corridors, natural areas and roads to further buffer surrounding development.

The Master Plan as designed satisfies the approval criteria provided for in CCC 40.520.080(D)(3) because the Master Plan includes design features such as trails, protected natural areas, pedestrian friendly orientation, benches/gazebos, and recreational areas.

## Exhibit D – Mitigation Measures

Development of the Mill Creek PUD is predicated on several planned transportation improvements being constructed or reasonably funded within six years involving the NE 179<sup>th</sup> Street corridor between I-5 and NE 15<sup>th</sup> Avenue to the west to which the PUD applicant will be contributing financially. Assumed improvements include:

1. Completion of NE 10<sup>th</sup> Avenue between NE 154<sup>th</sup> Street and NE 164<sup>th</sup> Street (currently under construction by Clark County)
2. Reconfiguration of the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection to provide:
  - two northbound left-turn lanes and two northbound right-turn lanes; and
  - two westbound through lanes and a separate westbound right-turn lane to the I-5 northbound on-ramp
3. Widening and completion of NE 15<sup>th</sup> Avenue between NE 179<sup>th</sup> Street and NE 10<sup>th</sup> Avenue to an ultimate improvement width (providing two westbound and two eastbound through travel lanes between the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection and NE 15<sup>th</sup> Avenue);
4. Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street approximately midway between NE 15<sup>th</sup> Avenue and the I-5 Northbound off-ramp;
5. Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street at NE 15<sup>th</sup> Avenue (replacing the existing traffic signal);
6. Construction of NE 15<sup>th</sup> Avenue between the new roundabout on NE 179<sup>th</sup> Street at NE 15<sup>th</sup> Avenue and NE 10<sup>th</sup> Avenue (allowing for termination of the existing NE 10<sup>th</sup> Avenue connection to NE 179<sup>th</sup> Street); and
7. Termination of Union Road at NE 179<sup>th</sup> Street through provision of alternative access for properties along Union Road south of NE 179<sup>th</sup> Street.

The following improvements at the proposed roadway connections to NE 50<sup>th</sup> Avenue and NE 179<sup>th</sup> Street are required for implementation in conjunction with site development:

1. A stop sign will be installed on each of the new public site roadway approaches to NE 50<sup>th</sup> Avenue and NE 179<sup>th</sup> Street. The stop signs should be installed in accordance with Clark County standards and the *Manual on Uniform Traffic Control Devices (MUTCD)*.
2. Left-turn lanes will be provided on NE 179<sup>th</sup> Avenue at each of the three site public roadway connections to NE 179<sup>th</sup> Avenue. The turn lanes should provide at least 50 feet of storage.
  - Provision of an eastbound left-turn lane at the central site access on NE 179<sup>th</sup> Street (Intersection B) may require off-site right-of-way acquisition to accommodate the

associated roadway widening and tapers along NE 179<sup>th</sup> Street. If provision of an eastbound left-turn lane is not possible at the time of site development, it may be necessary to restrict the access to right-turns only on an interim basis.

3. While not yet necessitated based on projected 2020 build-out traffic volumes, provision of a northbound left-turn lane at the NE 50<sup>th</sup> Avenue intersection is required with site development if the NE 50<sup>th</sup> Avenue frontage widening provides sufficient width to make the improvement.



## Exhibit E – Trip Generation Estimates

### Mill Creek PUD Trip Generation Estimates

| Land Use                     | ITE Code | Size      | Weekday<br>Daily | Weekday AM Peak Hour |     |     | Weekday PM Peak Hour |     |     |
|------------------------------|----------|-----------|------------------|----------------------|-----|-----|----------------------|-----|-----|
|                              |          |           |                  | Total                | In  | Out | Total                | In  | Out |
| Single Family Detached Homes | 210      | 606 units | 5,770            | 455                  | 114 | 341 | 606                  | 382 | 224 |
| Residential Townhome         | 230      | 99 units  | 576              | 43                   | 7   | 36  | 51                   | 34  | 17  |
| Total Trips                  |          |           | 6,346            | 498                  | 121 | 377 | 657                  | 416 | 241 |



AFTER RECORDING RETURN TO:  
Jordan Ramis PC  
Attn: James D. Howsley  
1499 S.E. Tech Center Place, Suite 380  
Vancouver, WA 98683

*Space above for recording information only.*

### DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (this "Agreement") is entered into by and between CLARK COUNTY, a political subdivision of the State of Washington (the "County") and ROMINGER HOMEPLACE, LLC ("Owner"), a Washington limited liability company, and BTMC, LLC ("Wollam"), a Washington limited liability company, ) on this \_\_\_\_ day of \_\_\_\_\_, 2019.

### RECITALS

A. Owner owns certain parcels of real property in unincorporated Clark County Washington (APNs 182170000, 182164000 and 182168000) totaling approximately 38.64 acres, which are more particularly described in Exhibit A, which is attached hereto and incorporated by reference herein (together, the "Property"). Wollam has authority over and development control over the Property.

B. Clark County's 20-Year Comprehensive Growth Management Plan 2015-2035, as adopted by Ordinance No. 2016-06-12 and most recently amended by Interim Ordinance No. 2019-04-02 ("Comprehensive Plan"), provides that an Urban Holding Overlay Plan Designation and Zone ("UH Overlay") may be applied to property with a specific underlying urban zone when development policies require a legislative action pursuant to the requirements of Clark County Code ("CCC") Section 40.560.010 prior to urban development thereon.

C. The Comprehensive Plan applies the UH Overlay to certain property located within the Vancouver Urban Growth Area within the 179<sup>th</sup> Street Corridor ("179<sup>th</sup> Street Corridor"). The Property is within this 179<sup>th</sup> Street Corridor and is subject to the UH Overlay and a zoning overlay designation of Urban Holding-10 ("UH-10"), with underlying plan and zoning designations of Urban Medium Density Residential ("UM") and Residential ("R-12"), respectively.

D. The Connecting Washington transportation funding package approved by the 2016 Washington Legislature is expected to provide money for the reconstruction of the Interstate 5/179<sup>th</sup> Interchange during the period from 2023 to 2025.

E. The 179<sup>th</sup> Street Corridor comprises an area lacking in and requiring transportation improvements.

F. Other owners and developers of properties within the 179<sup>th</sup> Street Corridor ("Killian", "Hinton", and "Holt", collectively "179<sup>th</sup> Street Developers"), as specifically depicted and identified in the attached Exhibit F attached hereto and incorporated herein (the "Other 179<sup>th</sup> Street Developments"), have proposed development agreements and transportation improvement plans that would alleviate the transportation deficiencies within the Corridor and facilitate economic development, provided that the UH Overlay is removed to allow for the underlying urban use to be developed.

G. The County finds that approval and implementation of development agreements related to the 179<sup>th</sup> Street Developments and removal of the UH Overlay would provide the private share contribution for the needed transportation improvements, including right-of-way and intersection and other improvements, thereby facilitating economic development within the area and its larger region.

H. CCC 40.560.010(I) provides that UH Overlay changes are processed through Type IV processes initiated by the County and consistent with the procedures and criteria under the Comprehensive Plan.

I. Clark County Code ("CCC") 40.560.010.I.1 provides that plan map and rezone amendments removing the UH designation must be consistent with the procedures and criteria set forth in the Clark County 20-Year Comprehensive Growth Management Plan 2015-2035, ("Comprehensive Plan"). The Comprehensive Plan provides that to remove the UH overlay, the County 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.

J. Pursuant to RCW 36.70B.170(1), any local government of the state of Washington is authorized to enter into a development agreement with any owner of real property within its jurisdiction setting forth the development standards that will apply to and govern and vest the development, use and mitigation of the development of the real property during the specified term of the agreement.

K. The County has determined that the proposed mitigation contained within this Agreement, will satisfy the Comprehensive Plan criteria requiring reasonable funding for the completion of localized critical links and intersection improvements, and therefore the UH Overlay will be removed from this Property.

L. The Developer has also proposed a Conceptual Plan for development of the Property, as depicted on Exhibit B and specifically described in Exhibit C, which are both attached hereto and incorporated herein. The Conceptual Plan shows proposed public trails within the development and enhanced pedestrian access to anticipated public transportation corridors and external properties.

M. The Parties desire to provide long-term predictability to both Developer and the County on various development issues through the implementation of this Agreement and its attendant Conceptual Plan. The Parties desire to plan for the development of the Property with advance funding for transportation improvements and predictable infrastructure and regulations.

N. Developer, the County, and the other 179<sup>th</sup> Developers have collaborated over a number of years through a public-private partnership, to facilitate the implementation of the Comprehensive Plan through the improvement of transportation infrastructure in the area of the 179<sup>th</sup> Street Corridor. This area faces challenges to development in order to fully implement the Comprehensive Plan, including lack of capacity on existing local roadways and intersections, lack of access to underdeveloped properties, and resulting traffic safety problems. Each Party has dedicated significant resources to planning for that area, which provides a gateway to development of currently underutilized land in the 179<sup>th</sup> Street Corridor. It is necessary for the Parties to complete certain planning efforts in the area, so that public and private funding will be available to complete the needed infrastructure, and that development of the infrastructure can go forward. Completion of certain intersections and other transportation links in the area will further implement the Comprehensive Plan and allow certain properties to develop, thereby generating further resources for more transportation improvements, and addressing the continuing harm to the public because of the problems and challenges listed above. This Agreement will document the completion of planning relevant to the subject Property, Developer's contributions to the completion of certain infrastructure in the area, and the County's assurances that Developer may proceed as set forth herein.

O. Developer's traffic engineer has prepared trip generation and distribution information based on the expected development of the Property in accordance with the Conceptual Plan (Exhibits B and C), and a copy of the trip generation estimates is attached hereto and incorporated herein as Exhibit E.

P. This Agreement addresses the Comprehensive Plan criteria to remove the UH plan and zoning overlays from the Property and includes Developer's agreement to satisfy the criteria through the construction of or reasonable funding of the mitigation measures, including the critical links and intersections, identified in Exhibit D, which is attached hereto and incorporated herein.

## AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

**Section 1. Development Agreement.** This Development Agreement is to be implemented under the authority of and in accordance with RCW 36.70B.170 – 210. It will become a contract between the Parties upon its approval by ordinance or resolution following a public hearing as provided in RCW 36.70B.170 and its execution by the Parties.

**Section 2. Effective Date; Term of Agreement.** The Effective Date of this Agreement is the later of the following: (1) the date ten (10) days after the day of the County's approval by ordinance or resolution determining that the completion of critical links and infrastructure improvements necessary for development of the Property are reasonably funded, following a public hearing as



provided for in RCW 36.70B.170, or (2) the date on which a fully executed version is recorded with the County Auditor. This Agreement will take effect upon the Effective Date and will terminate ten (10) years thereafter, unless extended or terminated by mutual written consent of the Parties.

### **Section 3. Conceptual Plan.**

**3.1 Purpose.** The Conceptual Plan, attached hereto as Exhibits B and C, provides for design mitigation with additional pedestrian connections not required by the County Code for ease of use for public transportation and additional consideration of trail design within the project. The Conceptual Plan will provide the Parties with predictability regarding certain aspects of the future development of the Property, including access location on to public streets and external properties.

**3.2 Preliminary plat approval.** Developer's application for preliminary plat approval may be filed and the County will process such applications upon execution of this Agreement. No public hearing or decision will be made on any applications until the County removes the UH designation from the Property.

**3.3 Engineering Plans.** Concurrently with the County's review of any preliminary plat applications, Developer may submit engineering plans to the County and the County will review those plans in its normal course. If a preliminary plat is approved with design or conditions that are different from concurrently submitted and reviewed final engineering plans, then Developer will resubmit engineering plans that conform to the preliminary plat approvals. Any costs associated with such changes will be the responsibility of Developer. While the County agrees to allow concurrent review of land use applications and final engineering, nothing herein will be construed to require the County to provide expedited review that is different from the County's usual timelines for an application for land use or engineering review.

**3.4 UH Designation Removal.** No final engineering approval will be granted until the UH designation has been removed from the Property and a preliminary plat application has been approved. The application will be processed as a Type III land use application and reviewed by the County. Any approval criteria not addressed and found satisfied in this Agreement will be subject to the approval criteria in effect when the fully complete application is submitted, and will be addressed during the subdivision application and decision process.

**3.5 Vesting.** Except as set forth in this Agreement, future development of the Property is subject to the applicable provisions of the Clark County Code as of the Effective Date.

**Section 4. Effect on Fees or Charges.** As provided for in RCW 36.70B.180, during the term of this Agreement, the development standards provided for in this Agreement will not be subject to unilateral amendment, or amendment to zoning ordinances, development standards, or regulations, or a new zoning ordinance or development standard or regulation adopted after the effective date of this Agreement; provided, however, that except as set forth in Paragraph 6.3 of this Agreement, the vesting granted by this Agreement will not apply to impact fees, taxes, land use or permit application fees, building code provisions, or environmental regulations that do not vest according to Washington State law, which will be vested, determined or calculated consistent with the County's



provisions applicable on the date such fee, charge, or tax is triggered or according to the generally applicable rules for vesting of building code regulations and such environmental regulations. As provided for in RCW 36.70B, the County reserves the right to impose new standards or changes in development regulations to the extent required by a serious threat to public health and safety.

**Section 5. Environmental Review.** For the purposes of this Agreement, no additional SEPA review is required. Any required project-level SEPA review for development at the Property and subject to this Agreement will be submitted during the preliminary plat application process.

**Section 6. Traffic.**

**6.1 Traffic Study.** Kittelson and Associates Transportation Engineers and the County have analyzed the transportation impacts of the full development (based on the conceptual set of future uses and square footages) of the Property as identified in the traffic study and the Conceptual Plan. Based upon this set of uses, the Property at full development will increase the existing number of PM peak hour trips on the transportation system by 325 trips. The trip generation estimates are set forth, attached hereto, and incorporated herein as Exhibit E.

**6.2 Anticipated Impacts.** Based upon Kittelson's analysis as approved by the County, the future development of the Property will be conditioned upon the mitigation measures and timing of construction as provided for in Exhibit D.. The Property will be vested during the term of this Agreement with 325 PM peak hour and 3,250 average daily trips and no off-site transportation mitigation or analysis, other than that provided for in this Agreement, will be required in conjunction with development of the Property during the term of this Agreement; provided however that in the event Wollam proposes uses or intensities of uses that would cause the total number of PM peak or average daily trips to exceed the number of trips set forth in this Section 6.2, then the County shall require additional transportation analysis and lawful mitigation, according to the standards in effect for all of the proposed uses and/or intensities of uses, and for all of the trips. The transportation vesting provided for in this Section will be subject to the mitigation measures and the timing provided in Exhibit D. Some of the transportation improvements may be on the County's Transportation Capital Facility Plan. Wollam, upon construction of qualifying transportation improvement, will be eligible to apply for TIF Credits, but only if such improvements are eligible for credits under the County's applicable Capital Facilities Plan and TIF programs.

**6.3 Traffic Impact Fees; Advance Payment.** To increase the County's ability to fund and construct certain transportation improvements in the area that will provide systemic benefits in excess of the impacts that will be created through the implementation of the Conceptual Plan, Developer agrees to accelerate the manner in which Developer or a successor in interest to the Property would pay Transportation Impact Fees ("TIFs"). Developer will pay TIFs associated with the Property based on the TIF rate applicable at the time this Agreement becomes effective. In addition to the payment of TIF, Developer will also pay the Surcharge as described below. Instead of paying TIFs as the time of individual building permits, as it currently provided for by the County's Code, Developer, or its successor in interest, agrees to the following permit application and TIF payment schedule.

a. Developer shall submit a fully complete application for preliminary plat approval of approximately 325 lots prior to February 15, 2020 with a phasing Development Agreement: Rominger Homeplace LLC/BTMC, LLC (Wollam) – Clark County  
Page 5

plan. Assuming Developer receives preliminary plat approval and no appeal is filed, Developer will pay within 30 days of receiving preliminary plat approval the sum of \$3,025.00 for each lot receiving preliminary plat approval.

b. Developer shall submit a fully complete application for final plat Phase I approval for 125 lots prior to December 31, 2021. Developer shall submit a fully complete application for final plat Phase II approval for 100 lots prior to December 31, 2022. Developer shall submit a fully complete application for final plat Phase III approval for 100 lots by July 15, 2023. If Developer submits an application for final plat approval for all lots, assuming Developer receives final plat approval, Developer will pay \$3,025.00 for each lot receiving final plat approval. Developer may alternatively submit an application for final plat approval for the lots in phases. If Developer submits an application for final plat approval for a certain amount of lots in multiple phases, assuming Developer receives final plat approval for those respective phases, Developer will pay \$3,025.00 for each lot receiving final plat approval in the respective phase.

c. In addition to the TIF, Developer shall pay an additional surcharge in the amount of \$3,500.00 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 applying for building permits following the approvals of each phase as provided in paragraph 6.3(b) above. Regardless of the schedule provided for in Section 6.3.(a)-(b) above, Developer agrees that by December 31, 2023, if the combined amount of TIF and Surcharge already paid by Developer is less than \$1,400,000.00, 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 \$1,400,000.00 (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 \$1,400,000.00 Developer's total obligations to pay combined TIF and Surcharge that may arise from the Property's future development approvals.

d. Notwithstanding any other provision of Section 6 of this Agreement relating to timing of the submission of a preliminary plat application or the submission of a final plat application, Developer need not submit any of the applications referenced in Section 6 of this Agreement, if Developer timely makes the payment that otherwise would be due if such application has been submitted and approved. Nothing in this paragraph will be construed to alter the dates upon which such TIF payments will be made to the County as provided for in Section 6 of this Agreement, regardless of whether Developer submits any land use applications.

e. If Developer fails to timely make any payment due pursuant to Section 6 of this Agreement, Developer may not submit, and County may not process, any further land use or permit application relating to development of the Property until all payments then due in accordance with Section 6 have been fully made.

**Section 7. Threat to Public Health.** Nothing in this Section will preclude the County from requesting information on the potential adverse environmental impacts associated with a specific land use application that have not been previously analyzed as required under SEPA.

## MISCELLANEOUS PROVISIONS

**Section 8. Recitals.** The Recitals contained herein are agreed to be binding obligations on the Parties, as their terms provide.

**Section 9. Counterparts.** This Agreement may be executed in counterparts; however all signature pages will be recorded together, and the complete recorded Agreement, including Exhibits A-F, will constitute the final instrument.

**Section 10. Amendments; Termination.** The Parties may agree to any amendments to this Agreement to facilitate necessary infrastructure improvements and other matters; provided, however, that this Agreement may only be amended by mutual, written agreement of the Parties that is approved by the Clark County Council pursuant to a Type IV legislative process as set forth in the Clark County Code. This Agreement will terminate upon the mutual agreement of the Parties in writing, which will be recorded, or upon expiration of the Term, whichever first occurs.

**Section 11. County's Reserved Authority.** Notwithstanding anything in this Agreement to the contrary, the County will have the authority to impose new or different regulations to the extent required by a serious threat to public health and safety as required by RCW 36.70B; provided, however that traffic congestion is not a serious threat to public health and safety, and that such action will only be taken by legislative act of the Clark County Council after appropriate public process.

**Section 12. Authorization.** The persons executing this Agreement on behalf of County and Developer are authorized to do so and, upon execution by such parties, this Development Agreement will be a valid and binding obligation of such parties in accordance with its terms. Developer has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby.

**Section 13. Run with the Land.** This Agreement will run with the land and be binding on the Parties' successors and assigns, and will be recorded with the Clark County Auditor.

**Section 14. Public Hearing.** The Clark County Council has approved execution of this Agreement by resolution after a public hearing.

**Section 15. Dispute Resolution.** Should a disagreement arise between the Parties, the Parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting proves unsuccessful to resolve the dispute, the disagreement may be resolved by a civil action.

**Section 16. Venue.** This Agreement will be construed in accordance with the laws of the State of Washington, and venue is in the Clark County Superior Court.

**Section 17. Attorneys' Fees.** If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U. S. Bankruptcy Code) is instituted in connection with any



controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party will be entitled to recover its reasonable attorney fees and costs. . It is understood and agreed that to the extent Clark County prevails in a suit, action or other proceeding relating to this agreement, it will be entitled to recover it's reasonable attorney fees calculated on an hourly basis regardless of whether it is represented by in house counsel and/or outside counsel.

**Section 18. Performance.** Failure by any Party at any time to require performance by the other Parties of any of the provisions hereof will not affect the Parties' rights hereunder to enforce the same, nor will any waiver by a Party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this clause.

**Section 19. Severability.** If any portion of this Agreement will be invalid or unenforceable to any extent, the validity of the remaining provisions will not be affected thereby.

**Section 20. Inconsistencies.** If any provisions of the Clark County Code and land use regulations are deemed inconsistent with this Agreement, the provisions of this Agreement will prevail, excepting the County's reserved authority described above.

**Section 21. Survival.** Any promise or condition set forth in this Agreement, the full performance of which is not specifically required prior to the expiration or earlier termination but which by its terms is to survive the termination of this Agreement, will survive the expiration or earlier termination of this Agreement and will remain fully enforceable thereafter.

**Section 23. No Benefit to Third Parties.** The Parties are the only parties to this Agreement and are the only parties entitled to enforce its terms, except as otherwise specifically provided in this Agreement. There are no third-party beneficiaries.

**Section 24. Entire Agreement.** This Agreement, including its exhibits attached hereto, constitutes the entire agreement between the Parties as to the subject matter.

**Section 25. Notices.** All notices will be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

County: Attn. Shawn Hennessee, County Manager  
PO Box 5000  
Vancouver, WA 98666-5000

With a copy to: Christine Cook or  
Taylor Hallvik  
Deputy Prosecuting Attorney  
1013 Franklin Street  
Vancouver, WA 98660

Owner: Rominger Homeplace, LLC  
12112 NW 31<sup>st</sup> Ave  
Vancouver, WA 98665

Developer BTMC, LLC  
Terry Wollam, Jr.  
7701 NE Greenwood Dr, Ste 100  
Vancouver, WA 98662

With a copy to: Jordan Ramis, PC  
Attn: James D. Howsley  
1499 SE Tech Center Place, Suite 380  
Vancouver, WA 98683

Notices will be deemed received by the addressee upon the earlier of actual delivery or refusal of a party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision.

**Section 26. Interpretation of Agreement; Status of Parties.** This Agreement is the result of arm's-length negotiations between the Parties and will not be construed against any Party by reason of its preparation of this Agreement. Nothing contained in this Agreement will be construed as creating the relationship of principal and agent, partners, joint ventures, or any other similar relationship between the Parties.

**Section 27. Future Assurances.** Each of the Parties will promptly execute and deliver such additional documents and will do such acts that are reasonably necessary, in connection with the performance of their respective obligations under this Agreement according to the Schedule so as to carry out the intent of this Agreement.

Signatures appear on the following pages.

Rominger Homeplace, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Date

BTMC, LLC

By: Terry Wollam  
Its: Managing Member

\_\_\_\_\_  
Date

Clark County

By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Date



State of Washington )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ (title) of \_\_\_\_\_ (company) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2019

\_\_\_\_\_  
Signature  
My Commission Expires: \_\_\_\_\_

State of Washington )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ (title) of \_\_\_\_\_ (company) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2019

\_\_\_\_\_  
Signature  
My Commission Expires: \_\_\_\_\_

State of Washington   )  
  ) ss.  
County of Clark         )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ (title) of \_\_\_\_\_ (company) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2019

\_\_\_\_\_  
Signature  
My Commission Expires: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
County Attorney

## **EXHIBIT INDEX**

**EXHIBIT A – LEGAL DESCRIPTIONS**

**EXHIBIT B – CONCEPTUAL PLAN DEPICTION**

**EXHIBIT C – CONCEPTUAL PLAN NARRATIVE**

**EXHIBIT D – MITIGATION MEASURES AND TIMING OF CONSTRUCTION**

**EXHIBIT E – TRIP GENERATION ESTIMATES**

**EXHIBIT F – OTHER 179<sup>TH</sup> STREET DEVELOPMENTS**

DRAFT

**EXHIBIT A**

Legal Description

DRAFT

**EXHIBIT B**

Title

DRAFT

**EXHIBIT C**

Title

DRAFT



## **EXHIBIT A**

**Parcel I: APN: 182164-000**

**The South half of the following described real property:**

**The Northwest quarter of the Northwest quarter of Section Fifteen (15), Township Three (3) North, Range One (1) East of the Willamette Meridian;**

**EXCEPT right of way granted to Clark County, Washington, under auditor's file 64126 and G298128, of records of said county.**

**EXCEPT County or public roads; and**

**Parcel II: APN: 182168-000**

**The North half of the following described real property:**

**The Northwest quarter of the Northwest quarter of Section Fifteen (15), Township Three (3) North, Range One (1) East of the Willamette Meridian;**

**EXCEPT the following described property:**

**Beginning at a point 368.0 West from the Northeast corner of the Northwest quart of the Northwest quarter of Section 15, Township 3, North Range 1 East of the Willamette Meridian; running thence West 160 feet; then South 150 fee; thence East 160 feet; then North 150 feet.**

**EXCEPT right of way granted to Clark County, Washington, under auditor's file numbers F64126 and G297884, Records of said county.**

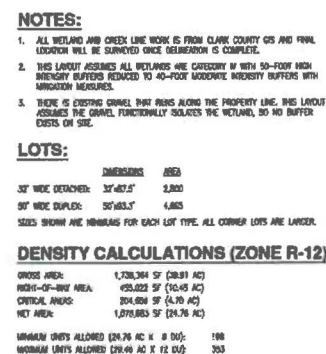
**EXCEPT County or public roads.**

**Parcel III: 182170-000**

**Beginning at a point 368.0 West from the Northeast corner of the Northwest quart of the Northwest quarter Section of 15, Township 3, North Range 1 East of the Willamette Meridian; running thence West 160 feet; thence South 150 feet; thence East 160 feet; thence North 150 feet.**

**EXCEPT County or public roads.**

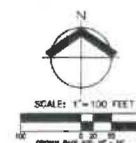
# DEVELOPMENT CONCEPT NE 179TH STREET SUBDIVISION



### DENSITY CALCULATIONS (ZONE R-12)

|                   |                         |
|-------------------|-------------------------|
| GROSS AREA:       | 1,738,364 SF (38.91 AC) |
| FOOT-OF-BAY AREA: | 493,023 SF (10.45 AC)   |
| CRITICAL AREAS:   | 204,604 SF (4.70 AC)    |
| NET AREA:         | 1,070,883 SF (24.76 AC) |

|   |     |
|---|-----|
| MINIMUM UNITS ALLOWED (24.76 AC X 8 DU):  | 198 |
| MODULAR UNITS ALLOWED (29.46 AC X 12 DU): | 353 |



DATE: 08/15/2022 PAGES: 2011 6373

AKS ENGINEERING & FORESTRY, LLC  
8000 NE 126TH AVE, STE 2500  
VANCOUVER, WA 98082  
360.982.6479  
WWW.AKS-ENG.COM

ENGINEERING • SURVEYING • NATURAL RESOURCES  
FORESTRY • PLANNING • LANDSCAPE ARCHITECTURE

**WOLLAM & ASSOCIATES  
CLARK COUNTY, WASHINGTON**

## **EXHIBIT C**

### **Conceptual Plan Narrative**

- The project contemplates approximately 325 single family residential lots consistent with the Development Agreement and Exhibit E
- This project will conform to the Urban Medium Residential R-12 zoning and Clark County Development Code with a mix of detached and attached single family housing products
- The Clark County Fairgrounds, Sunlight Supply Amphitheater, Fairgrounds Community Park, and Whipple Creek Regional Park are located either adjacent or in the nearby vicinity and the development contemplates a trail to connect with these existing amenities and provide potential for further continuation of additional of a trail off site.
- The project contemplates a trail running across in an west to east direction across the Property to connect with the Fairgrounds Property on the Property's eastern boundary
- The trail will have a dedicated pathway and will provide direct access to the NW 11<sup>th</sup> Avenue a public street
- The project also contemplates additional pedestrian pathways between the development and NW 179<sup>th</sup> Street which are currently not required by the Clark County Development Code
- The development will not take direct access onto NW 179<sup>th</sup> Street, but will take its access for the subdivision viw two locations on NW 11<sup>th</sup> Avenue
- The Development will provide for future connections via stubbed public streets and necessary dedications

## **EXHIBIT D**

### **Mitigation Measures and Timing of Construction**

Development of the Wollam Property presumes several planned transportation improvements will be constructed or deemed reasonably funded within six years along the NE 179<sup>th</sup> Street corridor which the Developer will be contributing financially towards. The assumed improvements include:

1. Completion of NE 10<sup>th</sup> Avenue between NE 154<sup>th</sup> Street and NE 164<sup>th</sup> Street (currently under construction by Clark County)
2. Reconfiguration of the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection to provide:
  - Two northbound left-turn lanes and two northbound right turn lanes; and
  - Two westbound through lanes and a separate westbound right-turn lane to the I-5 northbound on ramp
3. Widening and competition of the NE 15<sup>th</sup> Avenue between NE 179<sup>th</sup> Street and NE 10<sup>th</sup> Avenue to an ultimate improvement width (providing two westbound and two eastbound through travel lanes between the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection and NE 15<sup>th</sup> Avenue);
4. Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street approximately midway between NE 15<sup>th</sup> Avenue and the I-5 Northbound off-ramp;
5. Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street at NE 15<sup>th</sup> Avenue (replacing the existing traffic signal);
6. Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street at NE 15<sup>th</sup> Avenue and NE 10<sup>th</sup> Avenue (allowing for termination of the existing NE 10<sup>th</sup> Avenue connection to NE 179<sup>th</sup> Street); and
7. Termination of the Union Road at NE 179<sup>th</sup> Street through provision of alternative access for properties along Union Road south of NE 179<sup>th</sup> Street

The following improvements will occur in conjunction with site development.

1. Frontage improvements along NE 179<sup>th</sup> Street to meet the specifications of the County's arterial atlas and road standards.
2. Frontage improvements along NW 11<sup>th</sup> Avenue to meet the specifications of the County's arterial atlas and road standards.
3. Other conditions of approval as conditioned as part of the subdivision approval process.

## EXHIBIT E

### Trip Generation Estimates ITE 10<sup>th</sup> Edition

#### Wollam Property Development

| Land Use                     | ITE Code | Size      | Weekday Daily | Weekday Am Peak Hour |    |     | Weekday PM Peak Hour |     |     |
|------------------------------|----------|-----------|---------------|----------------------|----|-----|----------------------|-----|-----|
|                              |          |           |               | Total                | In | Out | Total                | In  | Out |
| Single Family Detached Homes | 210      | 325 Units | 3,068         | 241                  | 60 | 181 | 325                  | 205 | 120 |
| Total Trips                  |          |           | 3,068         | 241                  | 60 | 181 | 325                  | 205 | 120 |

## EXHIBIT F

DATE 7/11/2018



PHASING INTERIM IMPROVEMENTS, SUPPORTING ULTIMATE SOLUTIONS

**K** KITTELSON  
& ASSOCIATES



# Interchange Vicinity



# Development Summary and PM Peak Hour Trips

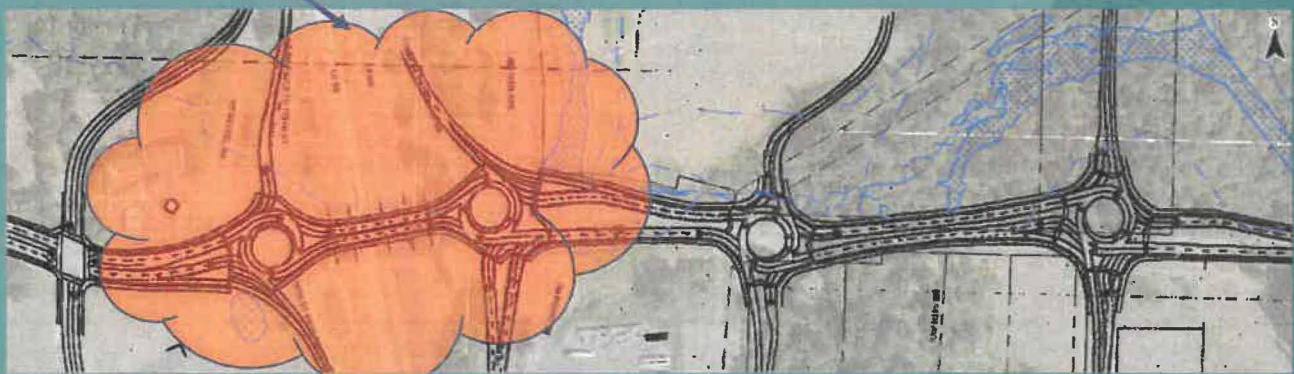
| Project                                  | Assumed Use   | PM Peak Hour Trip Generation |
|--|---|------------------------------|
| Killian Pacific/Three Creeks Master Plan | 60,000 Sq. Ft. Retail<br>(DA Approved Phase 1)  | 425 total                    |
|  | Three Creeks North Phase 1 (up to 200 single family detached homes and 326 apartment units) | 402 total                    |
|  | Phase 2 NE 179 <sup>th</sup> Street Commercial Center<br>(DA Approved Phase 2)              | 711 total                    |
| Mill Creek PUD                           | PUD Buildout<br>(606 single family homes and 99 townhomes)                                  | 657 total                    |
| Hinton Property                          | 129 single family homes   | 129 total                    |
| Wollam Property                          | 220 single family homes   | 220 total                    |





# Potential Ultimate Corridor Improvements

Future WSDOT I-5/179<sup>th</sup>  
Interchange Improvements



NE Delfel Rd

SB Ramp



NB Ramp

NE 12<sup>th</sup> Av

NE 15<sup>th</sup> Av



# Proposed Interim Corridor Improvements





# Cost of Interim Mitigations: NE 179<sup>th</sup> St: I-5 NB Ramp to NE 15<sup>th</sup> Av\*

- \$20.6 million
  - Widens 179<sup>th</sup> Street east of I-5
  - Cul-de-sacs 10<sup>th</sup> Avenue & Union Road
  - Reconstructs I-5 northbound ramp signal
  - Temporary 10<sup>th</sup> Avenue connection
  - New ultimate 12<sup>th</sup> Avenue roundabout
  - Adds turn lanes on 179<sup>th</sup> at 15<sup>th</sup> Avenue
  - Excludes of right-of-way costs
- Accommodates multiple developments
  - Three Creeks Phase 1 (60,000 sq. ft. retail previously vested)
  - Three Creeks North Master Plan Housing
  - Three Creeks Phase 2 (south retail previously vested)
  - Mill Creek PUD
  - Hinton Property
  - Wollam Property



*\*Excludes other off-site concurrency requirements*



# Interim Improvements: PM Peak Hour % of Capacity Utilized

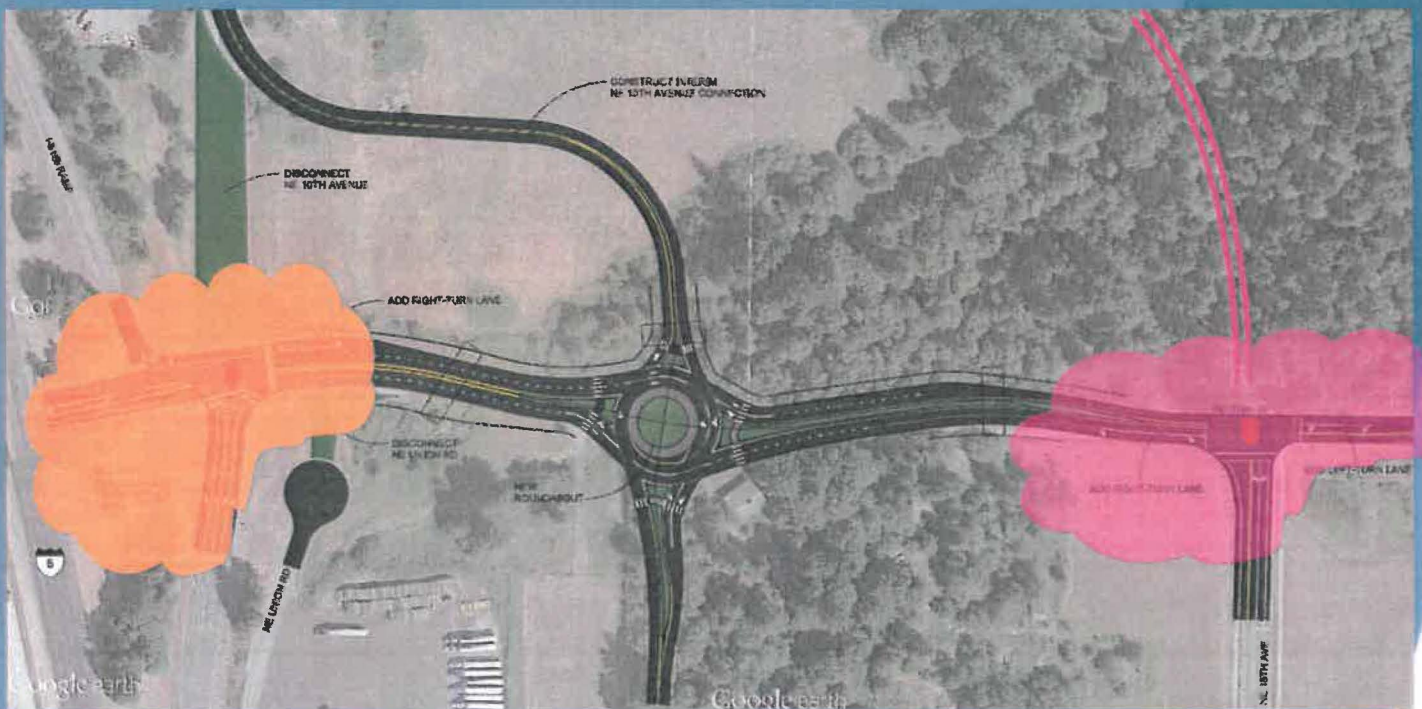




95th Percentile Queue Lengths



# Interim Roundabout Compatibility with Long-term Plans



Area to be improved with  
WSDOT Interchange Project

Ultimate Improvements

Future 15<sup>th</sup> Avenue, Roundabout  
& 4-5 Lane 179<sup>th</sup> Street

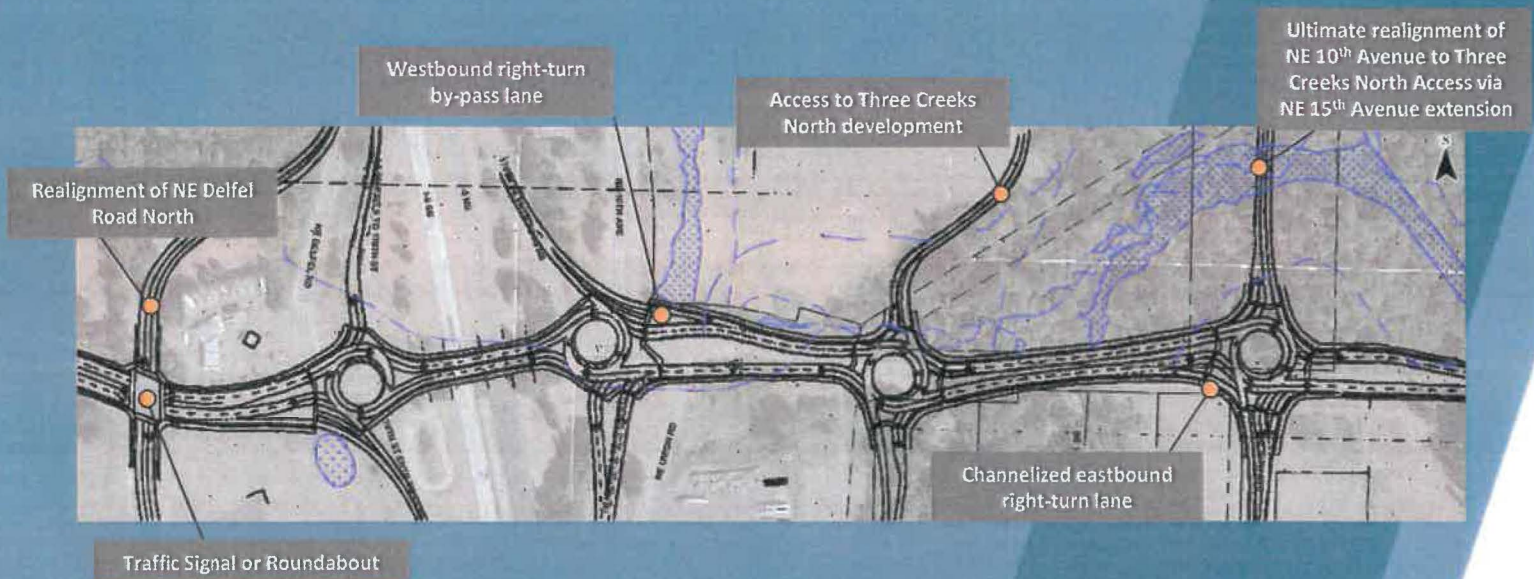


**Extra slides for Questions (if needed)**





# Conceptual Ultimate Improvement



# Interim Improvements: AM Peak Hour %of Capacity Utilized





# Recommended Mitigations

| Project                                  | Phase   | Recommended Mitigation on NE 179 <sup>th</sup> Street between NE Delfel Road (North) and NE 15 <sup>th</sup> Avenue  |
|--|---|--|
| Killian Pacific/Three Creeks Master Plan | 60,000 Sq. Ft. Retail (DA Approved Phase 1)   | No mitigation required, proceed as previously approved.  |
|  | Three Creeks North Phase 1 (up to 200 single family detached homes and 326 apartment units) | <ol style="list-style-type: none"> <li>NE 15<sup>th</sup> Avenue/NE 179<sup>th</sup> Street intersection: construct an eastbound right-turn lane with a right-turn signal overlap</li> </ol> <p>While not required for concurrency, consider voluntary improvements to terminate Union Road connection to NE 179<sup>th</sup> Street</p>   |
|  | Phase 2 NE 179 <sup>th</sup> Street Commercial Center (DA Approved Phase 2)                 | <ol style="list-style-type: none"> <li>Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street (with separate southbound right-turn lane) approximately midway between NE 15<sup>th</sup> Avenue and the I-5 Northbound off-ramp (NE 12<sup>th</sup> Avenue)</li> <li>Elimination of the existing NE 10<sup>th</sup> Avenue connection to NE 179<sup>th</sup> Street aligned with the I-5 Northbound off-ramp (Refer to Figure 4)</li> <li>Temporary extension of NE 10<sup>th</sup> Avenue to the new NE 12<sup>th</sup> Avenue multi-lane roundabout (forming the north approach to the roundabout) <ol style="list-style-type: none"> <li>This change allows for re-routing the existing NE 10<sup>th</sup> Avenue trips on an interim basis, creating capacity at the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection</li> <li>In the alternative, the temporary NE 10<sup>th</sup> Avenue extension would be unnecessary if NE 15<sup>th</sup> Avenue is first extended from NE 179<sup>th</sup> Street to NE 10<sup>th</sup> Avenue. Should NE 15<sup>th</sup> Avenue be constructed first, the north approach of the new NE 12<sup>th</sup> Avenue roundabout would be operated as a local street connection to serve properties between the NE 15<sup>th</sup> Avenue extension and NE 179<sup>th</sup> Street.</li> </ol> </li> </ol> |
| Mitli Creek PUD                          | PUD Buildout (606 single family homes and 99 townhomes)                                     |  |
| Hinton Property                          | 129 single family homes   | <ol style="list-style-type: none"> <li>Reconfiguration of the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection to provide: <ol style="list-style-type: none"> <li>two northbound left-turn lanes and two northbound right-turn lanes; and</li> <li>two westbound through lanes and a separate westbound right-turn lane to the I-5 northbound on-ramp</li> </ol> </li> </ol>  |
| William Property                         | 220 single family homes   | <ol style="list-style-type: none"> <li>Widening of NE 179<sup>th</sup> Street to provide two westbound and two eastbound through travel lanes between the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection and the new NE 12<sup>th</sup> Avenue roundabout</li> <li>Termination of Union Road south of NE 179<sup>th</sup> Street through provision of alternative access for properties along Union Road south of NE 179<sup>th</sup> Street</li> <li>Widening of NE 179<sup>th</sup> Street between the new NE 12<sup>th</sup> Avenue roundabout and NE 15<sup>th</sup> Avenue to provide: <ol style="list-style-type: none"> <li>two eastbound through travel lanes through the NE 12<sup>th</sup> Avenue roundabout, with the second eastbound lane becoming an interim right-turn drop lane at NE 15<sup>th</sup> Avenue; and</li> <li>one westbound through lane at NE 15<sup>th</sup> Avenue that opens to two westbound through travel lanes approaching the NE 12<sup>th</sup> Avenue roundabout.</li> </ol> </li> <li>Modification of the NE 15<sup>th</sup> Avenue/NE 179<sup>th</sup> Street intersection: construct a westbound left-turn lane</li> </ol>   |



AFTER RECORDING RETURN TO:  
Jordan Ramis PC  
Attn: James D. Howsley  
1499 S.E. Tech Center Place, Suite 380  
Vancouver, WA 98683

*Space above for recording information only.*

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### **DEVELOPMENT AGREEMENT**

This DEVELOPMENT AGREEMENT (this "Agreement") is entered into by and between CLARK COUNTY, a political subdivision of the State of Washington (the "County") and M & H WASHINGTON PROPERTY, LLC ("Owner"), a Washington limited liability company, and HINTON DEVELOPMENT CORP. ("Hinton"), a Washington corporation on this \_\_\_\_ day of \_\_\_\_\_, 2019. Owner and Hinton are together referred to as the "Developer", and those three terms include any successor in interest to the Property during the term of this Agreement.

### **RECITALS**

A. Owner owns certain real property in unincorporated Clark County Washington (APN 181675000) totaling approximately 32.45 acres, which is more particularly described in Exhibit A, which attached hereto and incorporated by reference herein (together, the "Property"). Hinton has authority over and development control over the Property.

B. Clark County's 20-Year Comprehensive Growth Management Plan 2015-2035, as adopted by Ordinance No. 2016-06-12 and most recently amended by Ordinance No. 2019-02-02 ("Comprehensive Plan"), provides that an Urban Holding Overlay Plan Designation and Zone ("UH Overlay") may be applied to property with a specific underlying urban zone when development policies require a legislative action pursuant to the requirements of Clark County Code ("CCC") Section 40.560.010 prior to urban development thereon.

C. The Comprehensive Plan applies the UH Overlay to certain property located within the Vancouver Urban Growth Area within the 179<sup>th</sup> Street Corridor ("179<sup>th</sup> Street Corridor"). The Property is within this 179<sup>th</sup> Street Corridor and is subject to the UH Overlay and a zoning overlay designation of Urban Holding-10 ("UH-10"), with underlying plan and zoning designations of Urban Low Density Residential ("UL") and Single Family Residential ("R1-10"), respectively.

D. The Connecting Washington transportation funding package approved by the 2016 Washington Legislature is expected to provide money for the reconstruction of the Interstate 5/179<sup>th</sup> Interchange during the period from 2023 to 2025.

E. The 179<sup>th</sup> Street Corridor comprises an area lacking in and requiring said transportation improvements.

F. Other owners and developers of properties within the 179<sup>th</sup> Street Corridor ("Killian", "Wollam" and "Holt", collectively "179<sup>th</sup> Street Developers"), as specifically depicted and identified in the Exhibit F, attached hereto and incorporated herein, (the "Other 179<sup>th</sup> Street Developments"), have proposed development agreements and transportation improvement plans that would alleviate the transportation deficiencies within the Corridor and facilitate economic development, provided that the UH Overlay is removed to allow for the underlying urban use to be developed.

G. The County finds that approval and implementation of those development agreements related to the 179<sup>th</sup> Street Developments and removal of the UH Overlay would provide the private share contribution for the needed transportation improvements, including right-of-way and intersection and other improvements, thereby facilitating economic development within the area and its larger region.

H. CCC 40.560.010(I) provides that UH Overlay changes are processed through Type IV processes initiated by the County and consistent with the procedures and criteria under the Comprehensive Plan.

I. CCC 40.560.010.I.1 provides that plan map and rezone amendments removing the UH designation must be consistent with the procedures and criteria set forth in the Clark County 20-Year Comprehensive Growth Management Plan 2015-2035 ("Comprehensive Plan"). The Comprehensive Plan provides that to remove the UH overlay, the County 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.

I.

J. Pursuant to RCW 36.70B.170(1), any local government of the state of Washington is authorized to enter into a development agreement with any owner of real property within its jurisdiction setting forth the development standards that will apply to and govern and vest the development, use and mitigation of the development of the real property during the specified term of the agreement.

K. The County has determined that the proposed mitigation contained within this Agreement will satisfy the Comprehensive Plan criteria requiring reasonable funding for the completion of localized critical links and intersection improvements, and therefore the UH Overlay will be removed from this Property.

L. The Developer has also proposed a Conceptual Plan for development of the Property, as depicted on Exhibit B and specifically described in Exhibit C, which are both attached hereto and incorporated herein. The Conceptual Plan shows the proposed public trails within the development that enhances pedestrian access to, from and within the Property and external properties.

M. The Parties desire to provide long-term predictability to both Developer and the County on various development issues through the implementation of this Agreement and its attendant Conceptual Plan. The Parties desire to plan for the development of the Property with advance funding for transportation improvements and predictable infrastructure and regulations.

N. Developer, the County, and the other 179<sup>th</sup> Developers have collaborated over a number of years through a public-private partnership, to facilitate the implementation of the Comprehensive Plan through the improvement of transportation infrastructure in the area of the 179<sup>th</sup> Street Corridor. This area faces challenges to development in order to fully implement the Comprehensive Plan, including lack of capacity on existing local roadways and intersections, lack of access to underdeveloped properties, and resulting traffic safety problems. Each Party has dedicated significant resources to planning for that area, which provides a gateway to development of currently underutilized land in the 179<sup>th</sup> Street Corridor. It is necessary for the Parties to complete certain planning efforts in the area, so that public and private funding will be available to complete the needed infrastructure, and that development of the infrastructure can go forward. Completion of certain intersections and other transportation links in the area will further implement the Comprehensive Plan and allow certain properties to develop, thereby generating further resources for more transportation improvements, and addressing the continuing harm to the public because of the problems and challenges listed above. This



Agreement will document the completion of planning relevant to the subject Property, Developer's contributions to the completion of certain infrastructure in the area, and the County's assurances that Developer may proceed as set forth herein.

O. Developer's traffic engineer has prepared trip generation and distribution information based on the expected development of the Property in accordance with the Conceptual Plan (Exhibits B and C), and a copy of the trip generation estimates is attached hereto and incorporated herein as Exhibit E.

P. This Agreement addresses the Comprehensive Plan criteria to remove the UH plan and zoning overlays from the Property and includes Developer's agreement to satisfy the criteria through the construction of or reasonable funding of the mitigation measures, including the critical links and intersections, identified in Exhibit D, which is attached hereto and incorporated herein.

## **AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

**Section 1. Development Agreement.** This Development Agreement is a development agreement to be implemented under the authority of and in accordance with RCW 36.70B.170 – 210. It will become a contract between the Parties upon its approval by ordinance or resolution following a public hearing as provided in RCW 36.70B.170 and its execution by the Parties.

**Section 2. Effective Date; Term of Agreement.** The Effective Date of this Agreement is the later of the following: (1) the date ten (10) days after the day of the County's approval by ordinance or resolution determining that the completion of critical links and infrastructure improvements necessary for development of the Property are reasonably funded, following a public hearing as provided for in RCW 36.70B.170, or (2) the date on which a fully executed version is recorded with the County Auditor. This Agreement will take effect upon the Effective Date and will terminate ten (10) years thereafter, unless extended, or terminated by mutual written consent of the Parties.

### **Section 3. Conceptual Plan.**

**3.1 Purpose.** The Conceptual Plan, attached hereto as Exhibits B and C, provides for design mitigation with additional pedestrian connections not required by County Code for ease of use for public transportation and additional consideration of trail design within the project. The Conceptual Plan will provide the Parties with predictability regarding certain aspects of the future development of the Property, including public trails and walkways internal to the property and that can connect with offsite developments in the future..

**3.2 Preliminary plat approval.** Developer's application for preliminary plat approval may be filed and the County will process such applications upon execution of this agreement. No public hearing or decision will be made on any applications until the County removes the UH designation from the Property.

**3.3 Engineering Plans.** Concurrently with the County's review of any preliminary plat applications, Developer may submit engineering plans to the County and the County will review those plans in its normal course. If a preliminary plat is approved with design or conditions that are different from concurrently submitted and reviewed final engineering plans, then Developer will resubmit engineering plans that conform to the preliminary plat approvals. Any costs associated with such changes will be the responsibility of Developer. While the County agrees to allow concurrent review of land use applications and final engineering, nothing herein will be construed to require the County to provide expedited review that is different from the County's usual timelines for an application for land use or engineering review.

**3.4 UH Designation Removal.** No final engineering approval will be granted until the UH designation has been removed from the Property and a preliminary plat application has been approved. The application will be processed as a Type III land use application and reviewed by the County. Any approval criteria not addressed and found satisfied in this Agreement will be subject to the approval criteria in effect when the fully complete application is submitted, and will be addressed during the subdivision application and decision process.

**3.5 Vesting.** Except as set forth in this Agreement, future development of the Property is subject to the applicable provisions of the Clark County Code as of the Effective Date.

**Section 4. Effect on Fees or Charges.** As provided for in RCW 36.70B.180, during the term of this Agreement, the development standards provided for in this Agreement will not be subject to unilateral amendment, or amendment to zoning ordinances, development standards, or regulations, or a new zoning ordinance or development standard or regulation adopted after the effective date of this Agreement; provided, however, that except as set forth in Paragraph 6.3 of this Agreement, the vesting granted by this Agreement will not apply to impact fees, taxes, land use or permit application fees, building code provisions, or environmental regulations that do not vest according to Washington State Law, which will be vested, determined or calculated consistent with the County's provisions applicable on the date such fee, charge, or tax is triggered or according to the generally applicable rules for vesting of building code regulations and such environmental regulations. As provided for in RCW 36.70B, the County reserves the right to impose new standards or changes in development regulations to the extent required by a serious threat to public health and safety.

**Section 5. Environmental Review.** For the purposes of this Agreement, no additional SEPA review is required. Any required project-level SEPA review for development at the Property and subject to this Agreement will be submitted during the preliminary plat application process.

**Section 6. Traffic:**

**6.1 Traffic Study.** Kittelson and Associates Transportation Engineers and the County have analyzed the transportation impacts of the full development (based on the conceptual set of future uses and square footages) of the Property as identified in the traffic study and the Conceptual Plan. Based upon this set of uses, the Property at full development will increase the existing number of PM peak hour trips on the transportation system by 129 trips. The trip generation estimates are set forth, attached hereto and incorporated herein as Exhibit E.



**6.2 Anticipated Impacts.** Based upon Kittelson's analysis as approved by the County, the future development of the Property will be conditioned upon the mitigation measures and timing of construction as provided for in Exhibit D.. The Property will be vested during the term of this Agreement with 129 PM peak hour and 1,290 average daily trips and no off-site transportation mitigation or analysis, other than provided for in this Agreement, will be required in conjunction with development of the Property during the term of this Agreement; provided however that in the event Hinton proposes uses or intensities of uses that would cause the total number of PM peak or average daily trips to exceed the number of trips set forth in this Section 6.2, the increased trips will be subject to review and required mitigation under the County's concurrency ordinance in effect when the application vests. In the case of increased trips, vesting will occur no sooner than the Developer submits a fully complete application to the County. Except when the Developer proposes increased trips, the transportation vesting provided for in this Section will be subject to the mitigation measures and the timing provided in Exhibit D. Some of the transportation improvements may be on the County's Transportation Capital Facility Plan. Hinton upon construction of qualifying transportation improvement, will be eligible to apply for TIF Credits, but only if such improvements are eligible for credits under the County's applicable Capital Facilities Plan and TIF programs.

**6.3 Traffic Impact Fees; Advance Payment.** To increase the County's ability to fund and construct certain transportation improvements in the area that will provide systemic benefits in excess of the impacts that will be created through the implementation of the Conceptual Master Plan, Developer agrees to accelerate the manner in which Developer or a successor in interest to the Property would pay Transportation Impact Fees ("TIFs"). Developer will pay TIFs associated with the Property based on the TIF rate applicable at the time this Agreement becomes effective. In addition to the payment of TIF, Developer will also pay the Surcharge as described below. Instead of paying TIFs as the time of individual building permits, as it currently provided for by the County's Code, Developer, or its successor in interest, agrees to the following permit application and TIF payment schedule.

a. Developer will submit a fully complete application for preliminary plat approval of approximately 129 lots prior to February 15, 2020 with a phasing . Assuming Developer receives preliminary plat approval and no appeal is filed, Developer will pay within 30 days of receiving preliminary plat approval the sum of \$3,025.00for each lot receiving preliminary plat approval.

b. Developer will submit an application for final plat Phase I approval for 50 lots prior to Decemberb 31, 2021. Developer shall submit a fully complete application for final plat for Phase II approval for 50 lots prior to December 31, 2021. Developer shall submit a fully complete application for final plat for Phase II approval for 29 lots prior to July 15, 2023. If Developer submits an application for final plat approval for all lots, assuming Developer receives final plat approval, Developer will pay \$3,025.00for each lot receiving final plat approval. Developer may alternatively submit an application for final plat approval for the lots in phases. If Developer submits an application for final plat approval for a certain amount of lots in multiple phases, assuming Developer receives final plat approval for those respective phases, Developer will pay \$3,025.00for each lot receiving final plat approval in the respective phase.



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 will 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 \$900,000.00, 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 \$900,000.00 (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 \$900,000.00 Developer's total obligations to pay combined TIF and Surcharge that may arise from the Property's future development approvals.

d. Notwithstanding any other provision of Section 6 of this Agreement relating to timing of the submission of a preliminary plat application or the submission of a final plat application, Developer need not submit any of the applications referenced in Section 6 of this Agreement, if Developer timely makes the payment that otherwise would be due if such application has been submitted and approved. Nothing in this paragraph will be construed to alter the dates upon which such TIF payments will be made to the County as provided for in Section 6 of this Agreement, regardless of whether Developer submits any land use applications.

e. If Developer fails to timely make any payment due pursuant to Section 6 of this Agreement, Developer may not submit, and County may not accept or process, any further land use or permit application relating to development of the Property until all payments then due in accordance with Section 6 have been fully made.

**Section 7. Threat to Public Health.** Nothing in this Section will preclude the County from requesting information on the potential adverse environmental impacts associated with a specific land use application that have not been previously analyzes as required under SEPA.

## **MISCELLANEOUS PROVISIONS**

**Section 8. Recitals.** The Recitals contained herein are agreed to be binding obligations on the Parties, as their terms provide.

**Section 9. Counterparts.** This Agreement may be executed in counterparts; however all signature pages will be recorded together, and the complete recorded Agreement, including Exhibits A-F, will constitute the final instrument.

**Section 10. Amendments; Termination.** The Parties may agree to any amendments to this Agreement to facilitate necessary infrastructure improvements and other matters; provided, however, that this Agreement may only be amended by mutual, written agreement of the Parties that is approved by the Clark County Councilors pursuant to a Type IV legislative process as set

forth in the Clark County Code. This Agreement will terminate upon the mutual agreement of the Parties in writing, which will be recorded, or upon expiration of the Term, whichever first occurs.

**Section 11. County's Reserved Authority.** Notwithstanding anything in this Agreement to the contrary, the County will have the authority to impose new or different regulations to the extent required by a serious threat to public health and safety as required by RCW 36.70B; provided, however that traffic congestion is not a serious threat to public health and safety, and that such action will only be taken by legislative act of the Clark County Council after appropriate public process.

**Section 12. Authorization.** The persons executing this Agreement on behalf of County and Developer are authorized to do so and, upon execution by such parties, this Development Agreement will be a valid and binding obligation of such parties in accordance with its terms. Developer has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby.

**Section 13. Run with the Land.** This Agreement will run with the land and be binding on the Parties' successors and assigns, and will be recorded with the Clark County Auditor.

**Section 14. Public Hearing.** The Clark County Council has approved execution of this Agreement by resolution after a public hearing.

**Section 15. Dispute Resolution.** Should a disagreement arise between the Parties, the Parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting proves unsuccessful to resolve the dispute, the disagreement may be resolved by a civil action.

**Section 16. Venue.** This Agreement will be construed in accordance with the laws of the State of Washington, and venue is in the Clark County Superior Court.

**Section 17. Attorneys' Fees.** If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U. S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party will be entitled to recover its reasonable attorney fees and costs. . It is understood and agreed that to the extent that Clark County prevails in a suit, action or other proceeding relating to this Agreement it will be entitled to recover its reasonable attorney fees calculated on an hourly basis regardless of whether it is represented by in house counsel and/or outside counsel.

**Section 18. Performance.** Failure by any Party at any time to require performance by the other Parties of any of the provisions hereof will not affect the Parties' rights hereunder to enforce the same, nor will any waiver by a Party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this clause.

**Section 19. Severability.** If any portion of this Agreement will be invalid or unenforceable to any extent, the validity of the remaining provisions will not be affected thereby.

**Section 20. Inconsistencies.** If any provisions of the Clark County Code and land use regulations are deemed inconsistent with this Agreement, the provisions of this Agreement will prevail, excepting the County's reserved authority described above.

**Section 21. Survival.** Any promise or condition set forth in this Agreement, the full performance of which is not specifically required prior to the expiration or earlier termination but which by its terms is to survive the termination of this Agreement, will survive the expiration or earlier termination of this Agreement and will remain fully enforceable thereafter.

**Section 23. No Benefit to Third Parties.** The Parties are the only parties to this Agreement and are the only parties entitled to enforce its terms, except as otherwise specifically provided in this Agreement. There are no third-party beneficiaries.

**Section 24. Entire Agreement.** This Agreement, including its exhibits attached hereto, constitutes the entire agreement between the Parties as to the subject matter.

**Section 25. Notices.** All notices will be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

County: Attn. Shawn Hennessee, County Manager  
PO Box 5000  
Vancouver, WA 98666-5000

With a copy to: Christine Cook  
Senior Deputy Prosecuting Attorney or  
Taylor Halvik  
Deputy Prosecuting Attorney  
1013 Franklin Street  
Vancouver, WA 98660

Developer M & H Washington Properties, LLC  
Attn. Mark Hinton and Michael Menashe  
333 NW 9<sup>th</sup> Avenue #1504...  
Portland, OR 97209

With a copy to: Jordan Ramis, PC  
Attn: James D. Howsley  
1499 SE Tech Center Place, Suite 380  
Vancouver, WA 98683

Notices will be deemed received by the addressee upon the earlier of actual delivery or refusal of a party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision.

**Section 26. Interpretation of Agreement; Status of Parties.** This Agreement is the result of arm's-length negotiations between the Parties and will not be construed against any Party by reason of its preparation of this Agreement. Nothing contained in this Agreement will be construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar relationship between the Parties.

**Section 27. Future Assurances.** Each of the Parties will promptly execute and deliver such additional documents and will do such acts that are reasonably necessary, in connection with the performance of their respective obligations under this Agreement according to the Schedule so as to carry out the intent of this Agreement.

Signatures appear on the following pages.

M & H Washington Property, LLC

\_\_\_\_\_  
By: Mark Hinton  
Its: Governor

\_\_\_\_\_  
Date

\_\_\_\_\_  
By: Michael Menashe  
Its: Governor

\_\_\_\_\_  
Date

Hinton Development Corp.

\_\_\_\_\_  
By: Mark Hinton  
Its: President

\_\_\_\_\_  
Date

Clark County

\_\_\_\_\_  
By: Shawn Hennessee  
Its: County Manager

\_\_\_\_\_  
Date

Approved as to form only:  
Anthony F. Golik  
Clark County Prosecuting Attorney

\_\_\_\_\_  
By:  
Deputy Prosecuting Attorney



State of Washington    )  
  ) ss.  
County of Clark         )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ (title) of \_\_\_\_\_ (company) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2018.

(Seal or stamp)

\_\_\_\_\_  
Signature

My Commission Expires: \_\_\_\_\_



State of Washington )  
 ) ss.  
County of Clark )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ (title) of \_\_\_\_\_ (company) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2018.

\_\_\_\_\_  
Signature  
My Commission Expires: \_\_\_\_\_

(Seal or stamp)

Approved as to form:

\_\_\_\_\_  
City Attorney

## **EXHIBIT INDEX**

**EXHIBIT A – LEGAL DESCRIPTIONS**

**EXHIBIT B – CONCEPTUAL PLAN DEPICTION**

**EXHIBIT C – CONCEPTUAL PLAN NARRATIVE**

**EXHIBIT D – MITIGATION MEASURES AND TIMING OF CONSTRUCTION**

**EXHIBIT E – TRIP GENERATION ESTIMATES**

**EXHIBIT F – OTHER 179<sup>TH</sup> STREET DEVELOPMENTS**

**EXHIBIT A**

Legal Description

DRAFT

**EXHIBIT B**

Title

DRAFT

**EXHIBIT C**

Title

DRAFT





## **EXHIBIT A**

### **Legal Description**

**The South half of the Southeast quarter of the Northwest quarter, and the North half of the Northeast quarter of the Southwest quarter of Section 13, Township 3 North, Range 1 East of the Willamette Meridian in the County of Clark and State of Washington.**

**Except that portion thereof acquired by the United States of America for purposes of the Bonneville Project;**

**Also Except County or Public Roads.**

## EXHIBIT B



## **EXHIBIT C**

### **Conceptual Plan Narrative**

- The project contemplates up to 129 single family residential lots consistent with the Development Agreement and Exhibit E
- This project will conform to the Single Family Residential R1-10 zoning and the Mill Creek zoning overlay
- The United States Government, Bonneville Power Administration owns land immediately adjacent on the Property's eastern boundary
- Mill Creek runs in a southerly direction through the southwest corner of the property then along the western boundary of the property
- The project contemplates an trail with a mid-development access point along the backyard of the lots parallel to Mill Creek as depicted on Exhibit B
- The trail will provide for additional connections to the north, but will terminate near the southern boundary of the property to not interfere with adjacent properties
- The primary access for the subdivision will be via a stubbed public street NW 37<sup>th</sup> Avenue
- The Development will provide for future connections via stubbed public streets and necessary dedications

## **EXHIBIT D**

### **Mitigation Measures and Timing of Construction**

Development of the M & H Property presumes several planned transportation improvements will be constructed or deemed reasonably funded within six years along the NE 179<sup>th</sup> Street corridor which the Developer will be contributing financially towards. The assumed improvements include:

1. Completion of NE 10<sup>th</sup> Avenue between NE 154<sup>th</sup> Street and NE 164<sup>th</sup> Street (currently under construction by Clark County)
2. Reconfiguration of the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection to provide:
  - Two northbound left-turn lanes and two northbound right turn lanes; and
  - Two westbound through lanes and a separate westbound right-turn lane to the I-5 northbound on ramp
3. Widening and competition of the NE 15<sup>th</sup> Avenue between NE 179<sup>th</sup> Street and NE 10<sup>th</sup> Avenue to an ultimate improvement width (providing two westbound and two eastbound through travel lanes between the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection and NE 15<sup>th</sup> Avenue);
4. Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street approximately midway between NE 15<sup>th</sup> Avenue and the I-5 Northbound off-ramp;
5. Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street at NE 15<sup>th</sup> Avenue (replacing the existing traffic signal);
6. Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street at NE 15<sup>th</sup> Avenue and NE 10<sup>th</sup> Avenue (allowing for termination of the existing NE 10<sup>th</sup> Avenue connection to NE 179<sup>th</sup> Street); and
7. Termination of the Union Road at NE 179<sup>th</sup> Street through provision of alternative access for properties along Union Road south of NE 179<sup>th</sup> Street

The M & H Property is not adjacent to the NE 179<sup>th</sup> Street Corridor unlike the other developments subject to similar Development Agreements. However, in conjunction with the site development the project may be conditioned with other proportionate mitigation measures through the conditions of approval in the subdivision process.

## EXHIBIT E

### Trip Generation Estimates ITE 10<sup>th</sup> Edition

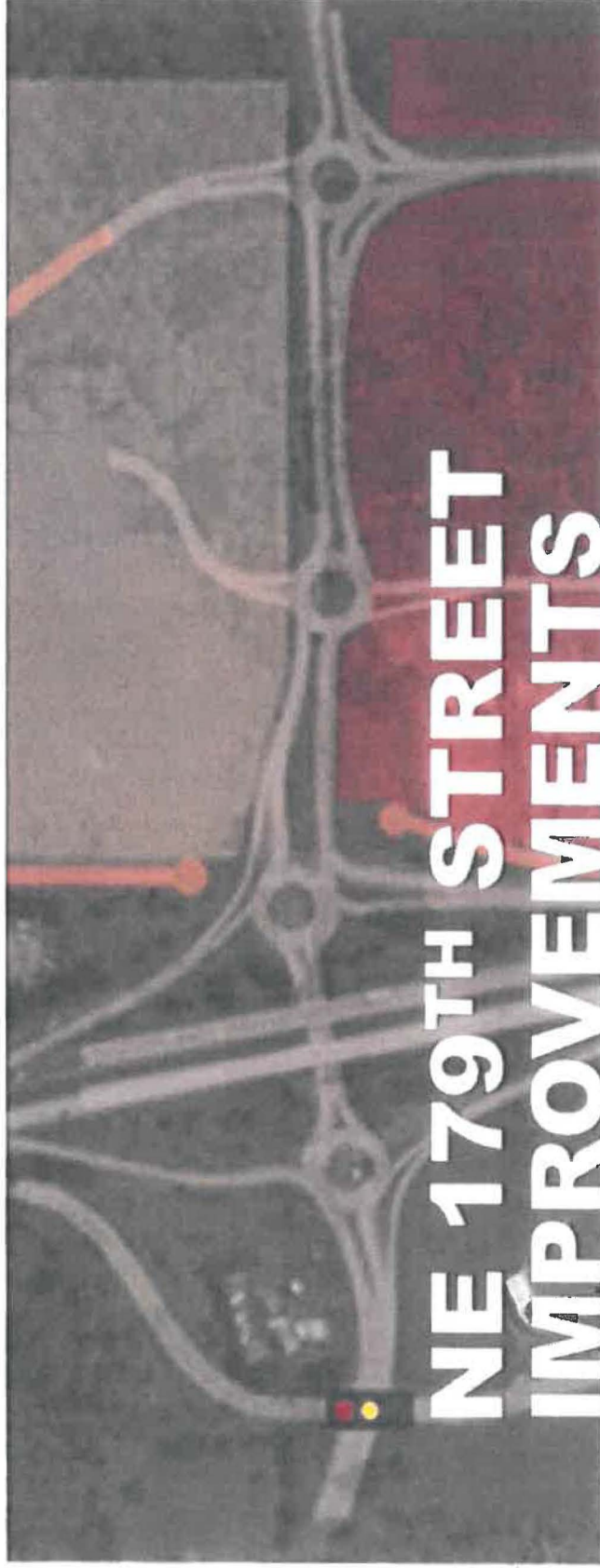
#### M & H Property Development

| Land Use                     | ITE Code | Size      | Weekday Daily | Weekday Am Peak Hour |    |     | Weekday PM Peak Hour |    |     |
|------------------------------|----------|-----------|---------------|----------------------|----|-----|----------------------|----|-----|
|                              |          |           |               | Total                | In | Out | Total                | In | Out |
| Single Family Detached Homes | 210      | 129 Units | 1,218         | 96                   | 24 | 72  | 129                  | 81 | 48  |
| Total Trips                  |          |           | 1,218         | 96                   | 24 | 72  | 129                  | 81 | 48  |



## EXHIBIT F

DATE 7/11/2018



PHASING INTERIM IMPROVEMENTS, SUPPORTING ULTIMATE SOLUTIONS



# Interchange Vicinity





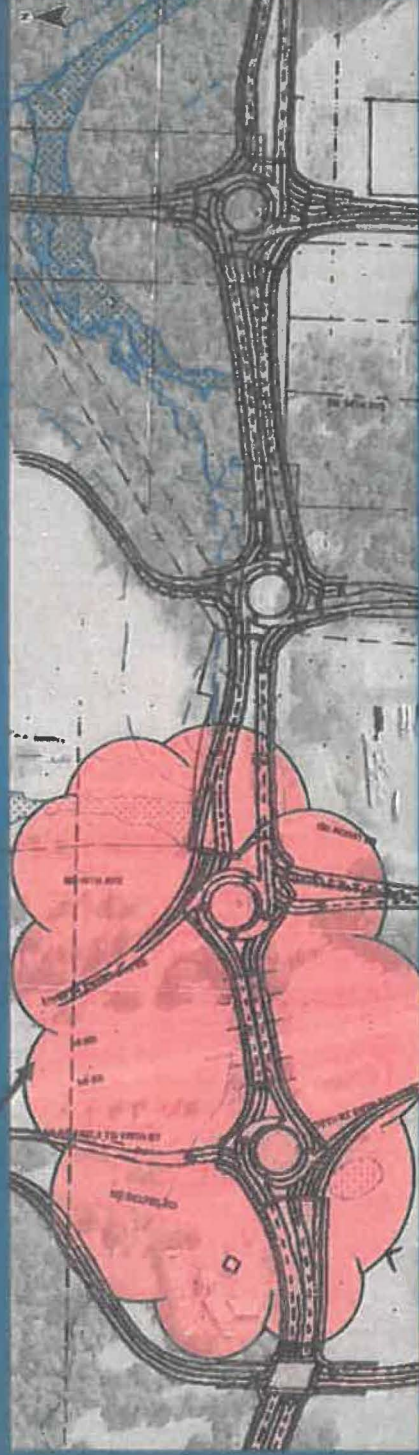
# Development Summary and PM Peak Hour Trips

| Project                                  | Assumed Use   | PM Peak Hour Trip Generation |
|--|---|------------------------------|
| Killian Pacific/Three Creeks Master Plan | 60,000 Sq. Ft. Retail<br>(DA Approved Phase 1)  | 425 total                    |
|  | Three Creeks North Phase 1 (up to 200 single family detached homes and 326 apartment units) | 402 total                    |
|  | Phase 2 NE 179 <sup>th</sup> Street Commercial Center<br>(DA Approved Phase 2)              | 711 total                    |
| Mill Creek PUD                           | PUD Buildout<br>(606 single family homes and 99 townhomes)                                  | 657 total                    |
| Hinton Property                          | 129 single family homes   | 129 total                    |
| Wollam Property                          | 220 single family homes   | 220 total                    |



# Potential Ultimate Corridor Improvements

Future WSDOT I-5/I-79th  
Interchange Improvements



NE 15th Av

NE 12th Av

NB Ramp

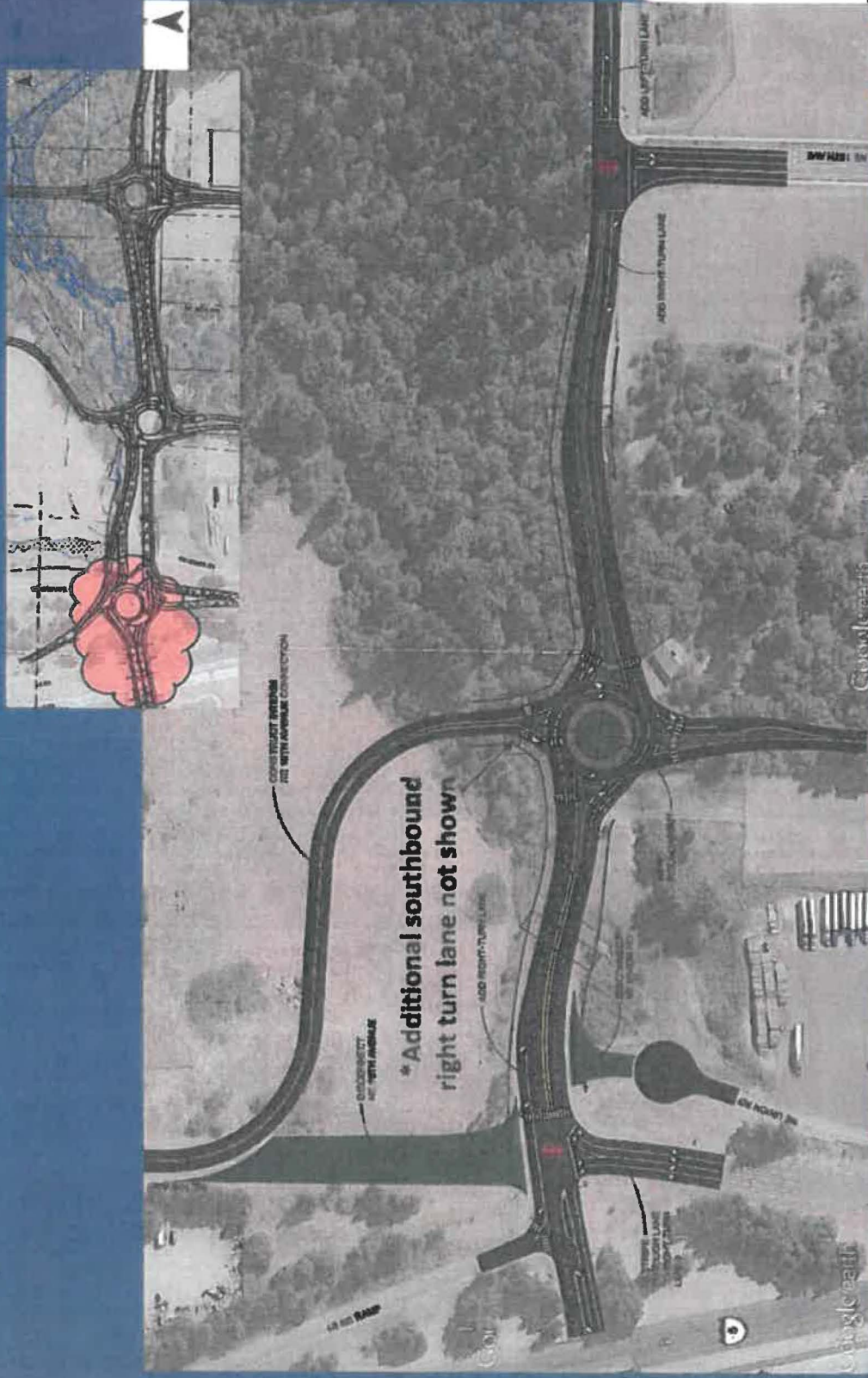
SB Ramp

NE Daffel Rd





# Proposed Interim Corridor Improvements





# Cost of Interim Mitigations: NE 179<sup>th</sup> St: I-5 NB Ramp to NE 15<sup>th</sup> Av\*

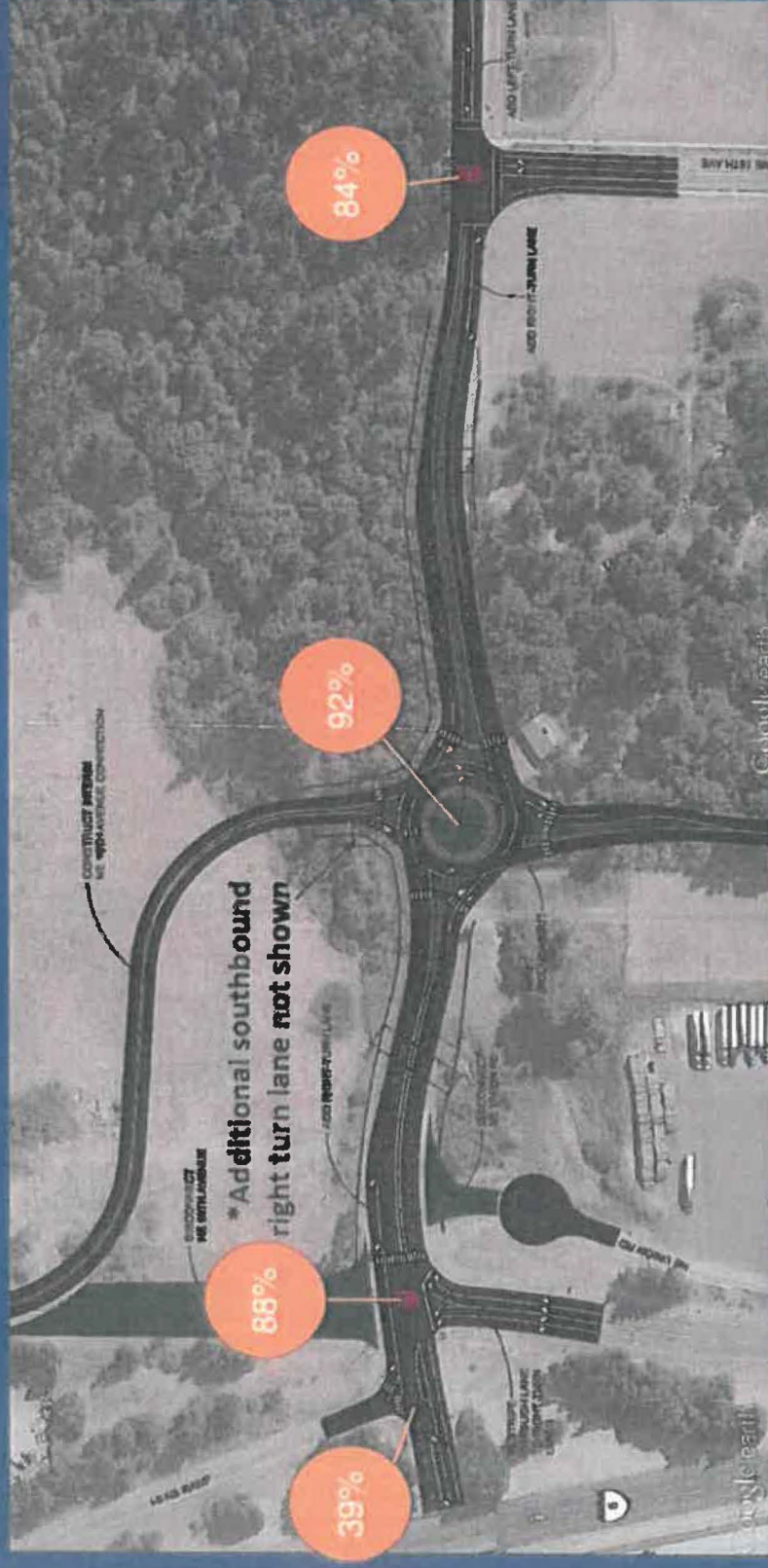


- \$20.6 million
  - Widens 179<sup>th</sup> Street east of I-5
  - Cul-de-sacs 10<sup>th</sup> Avenue & Union Road
  - Reconstructs I-5 northbound ramp signal
  - Temporary 10<sup>th</sup> Avenue connection
  - New ultimate 12<sup>th</sup> Avenue roundabout
  - Adds turn lanes on 179<sup>th</sup> at 15<sup>th</sup> Avenue
  - Excludes of right-of-way costs
- Accommodates multiple developments
  - Three Creeks Phase 1 (60,000 sq. ft. retail previously vested)
  - Three Creeks North Master Plan Housing
  - Three Creeks Phase 2 (south retail previously vested)
  - Mill Creek PUD
  - Hinton Property
  - Wollam Property

*\*Excludes other off-site concurrency requirements*

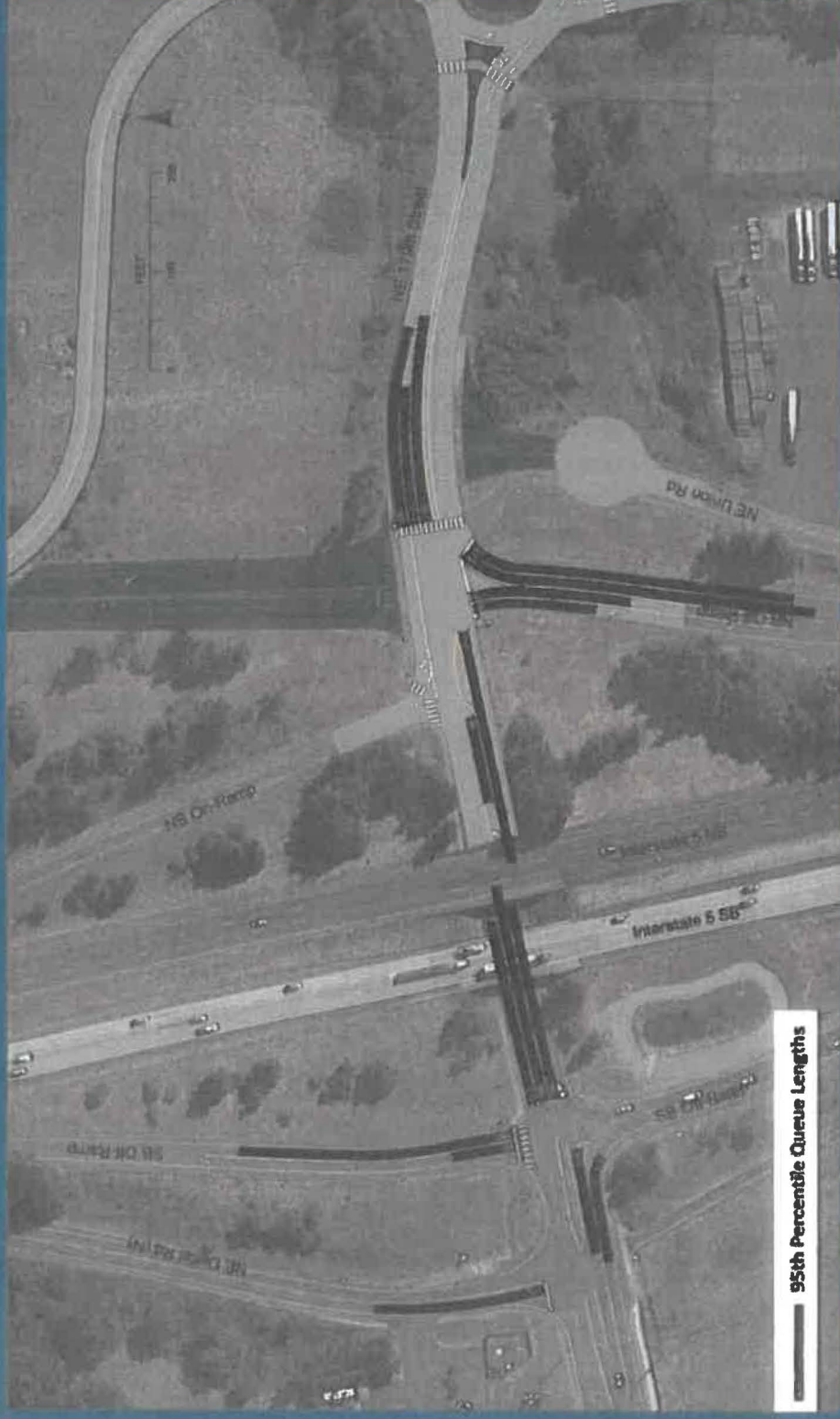


## Interim Improvements: PM Peak Hour % of Capacity Utilized





# Future Queues with Interim Improvements 2020 PM Peak Hour Analysis







**Extra slides for Questions (if needed)**





# Conceptual Ultimate Improvement

Ultimate realignment of  
NE 10<sup>th</sup> Avenue to Three  
Creeks North Access via  
NE 15<sup>th</sup> Avenue extension

Access to Three Creeks  
North development

Westbound right-turn  
by-pass lane

Realignment of NE Delfel  
Road North

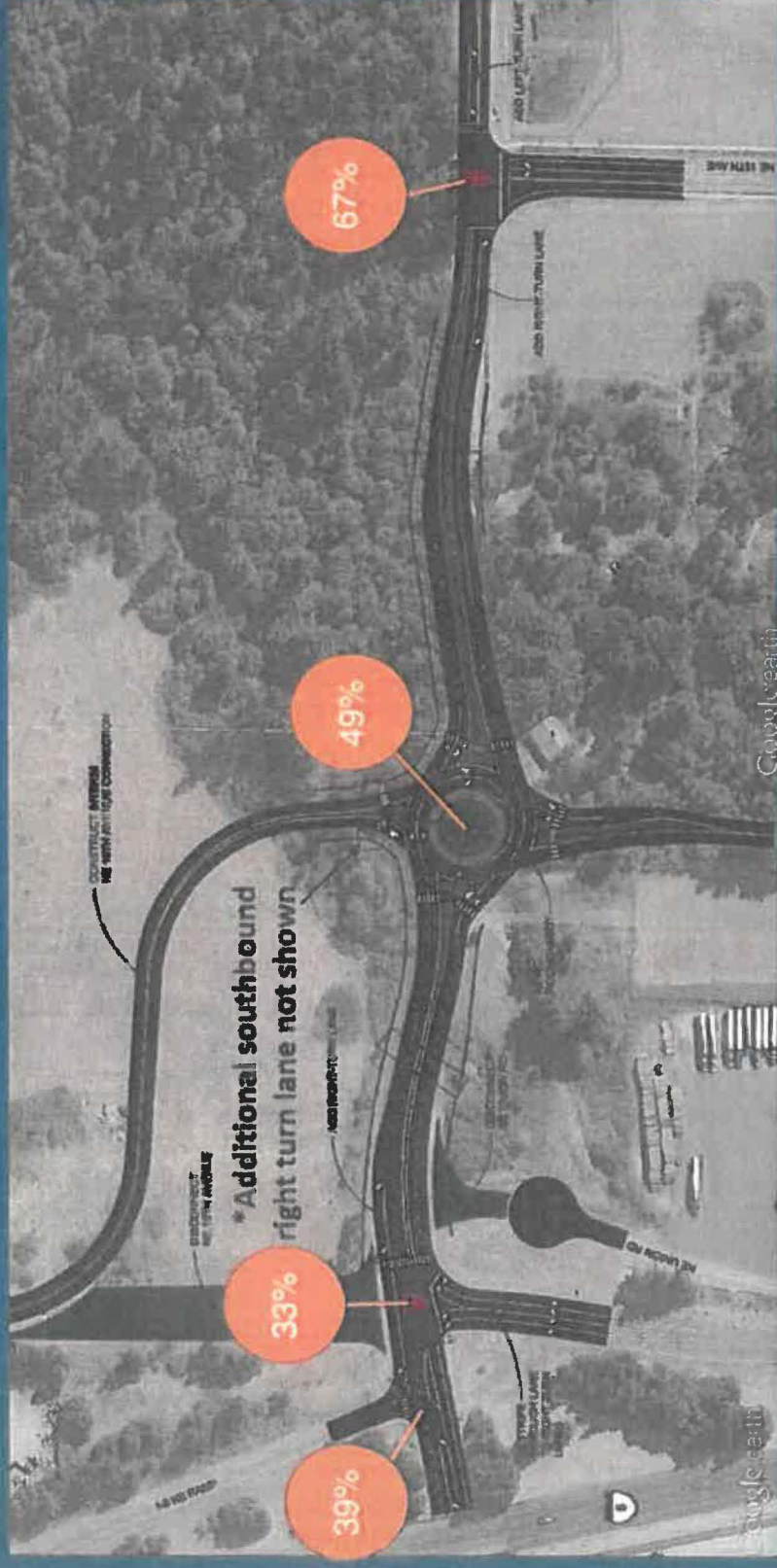


Channelized eastbound  
right-turn lane

Traffic Signal or Roundabout



# Interim Improvements: AM Peak Hour % of Capacity Utilized





# Recommended Mitigations

| Project                                    | Phase   | Recommended Mitigation on NE 179 <sup>th</sup> Street between NE Delfel Road (North) and NE 15 <sup>th</sup> Avenue  |
|--|---|--|
| Kilian, Eastfield Three Creeks Master Plan | 60,000 Sq. Ft. Retail (DA Approved Phase 1)   | No mitigation required, proceed as previously approved.  |
|  | Three Creeks North Phase 1 (up to 200 single family detached homes and 328 apartment units) | <p>1) NE 15<sup>th</sup> Avenue/NE 179<sup>th</sup> Street intersection: construct an eastbound right-turn lane with a right-turn signal overlap</p> <p>While not required for concurrency, consider voluntary improvements to terminate Union Road connection to NE 179<sup>th</sup> Street</p>   |
|  | Phase 2 NE 179 <sup>th</sup> Street Commercial Center (DA Approved Phase 2)                 | <p>1) Construction of a new multi-lane roundabout on NE 179<sup>th</sup> Street (with separate southbound right-turn lane) approximately midway between NE 15<sup>th</sup> Avenue and the I-5 Northbound off-ramp (NE 12<sup>th</sup> Avenue)</p> <p>2) Elimination of the existing NE 10<sup>th</sup> Avenue connection to NE 179<sup>th</sup> Street aligned with the I-5 Northbound off-ramp (Refer to Figure 4)</p> <p>3) Temporary extension of NE 10<sup>th</sup> Avenue to the new NE 12<sup>th</sup> Avenue multi-lane roundabout (forming the north approach to the roundabout)</p> <p>a. This change allows for re-routing the existing NE 10<sup>th</sup> Avenue trips on an interim basis, creating capacity at the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection</p> <p>b. In the alternative, the temporary NE 10<sup>th</sup> Avenue extension would be unnecessary if NE 15<sup>th</sup> Avenue is first extended from NE 179<sup>th</sup> Street to NE 10<sup>th</sup> Avenue. Should NE 15<sup>th</sup> Avenue be constructed first, the north approach of the new NE 12<sup>th</sup> Avenue roundabout would be operated as a local street connection to serve properties between the NE 15<sup>th</sup> Avenue extension and NE 179<sup>th</sup> Street.</p> |
|  | PUD Bulkhead (606 single family homes and 99 townhomes)                                     | <p>4) Reconfiguration of the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection to provide:</p> <p>a. two northbound left-turn lanes and two northbound right-turn lanes; and</p> <p>b. two westbound through lanes and a separate westbound right-turn lane to the I-5 northbound on-ramp</p>  |
| Hinton Property                            | 129 single family homes   | <p>5) Widening of NE 179<sup>th</sup> Street to provide two westbound and two eastbound through travel lanes between the I-5 Northbound off-ramp/NE 179<sup>th</sup> Street intersection and the new NE 12<sup>th</sup> Avenue roundabout</p> <p>6) Termination of Union Road south of NE 179<sup>th</sup> Street through provision of alternative access for properties along Union Road south of NE 179<sup>th</sup> Street</p>  |
|  | 220 single family homes   | <p>7) Widening of NE 179<sup>th</sup> Street between the new NE 12<sup>th</sup> Avenue roundabout and NE 15<sup>th</sup> Avenue to provide:</p> <p>a. two eastbound through travel lanes through the NE 12<sup>th</sup> Avenue roundabout, with the second eastbound lane becoming an interim right-turn drop lane at NE 15<sup>th</sup> Avenue; and</p> <p>b. one westbound through lane at NE 15<sup>th</sup> Avenue that opens to two westbound through travel lanes approaching the NE 12<sup>th</sup> Avenue roundabout.</p> <p>8) Modification of the NE 15<sup>th</sup> Avenue/NE 179<sup>th</sup> Street intersection: construct a westbound left-turn lane</p>  |
| Willam Property                            |   |  |

**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:**

Stephen W. Horenstein,  
Attorney Horenstein Law  
Group PLLC 500 Broadway,  
Suite 370  
Vancouver, WA 98660

|  |   |  |
|--|---|--|
| <b>Grantor</b>                                     | : | Three Creeks-Mumford LLC<br>Three Creeks North LLC<br>Three Creeks Investors LLC   |
| <b>Grantee</b>                                     | : | Clark County, Washington   |
| <b>Abbreviated Legal</b>                           | : | Sec 14, T3N, R1D, WM   |
| <b>Assessor's Tax Parcel Nos.</b>                  | : | 117800-000; 117840-000; 181190-000;<br>181199-000; 181200-000; 181201-000;<br>181206-000; 181901-000; 181905-000;<br>181914-000; 181930-000; 181932-000;<br>181937-000; 181938-000; 181942-000;<br>181957-000; 181963-000; 181971-000;<br>181979-000 |
| <b>Full Legal Description:</b>                     |   | See EXHIBIT A-1 to This Document   |
| <b>Reference Numbers of<br/>Related Documents:</b> |   | South Agreement: 4929770; 5321604<br>North Agreement: 5586031  |

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**AMENDMENT TO DEVELOPMENT AGREEMENTS**

This Amendment to Development Agreements (this "Amendment") is entered into on this \_\_\_\_ day of \_\_\_\_, 2019, by and between CLARK COUNTY, a political subdivision of the State of Washington (the "County") and THREE CREEKS-MUMFORD LLC, a Washington limited liability company; THREE CREEKS NORTH LLC, a Washington limited liability company; and THREE CREEKS INVESTORS LLC, a Washington limited liability company, all of which are referred to collectively as "Developer," which term also includes any successor in interest to Developer regarding the Property during the term of this Amendment.

## RECITALS:

A. Developer, County staff, County Council and others have collaborated since 2011 about facilitating the implementation of the Comprehensive Plan by improving the transportation infrastructure within the Vancouver Urban Growth Area near the interchange of 179<sup>th</sup> Street and Interstate 5 ("179<sup>th</sup> Interchange Area" or the "Area") through a public-private partnership. The 179<sup>th</sup> Interchange Area has long faced challenges to development in order to fully implement the Comprehensive Plan, including lack of capacity on existing local roadways and intersections, lack of access to underdeveloped properties, and resulting traffic safety problems. Each Party has dedicated significant resources to planning for that area, which provides a gateway to development of currently underutilized land in the 179<sup>th</sup> Interchange Area.

B. Developer owns several parcels of real property in the 179<sup>th</sup> Interchange Area which will be developed over time pursuant to site plan or plat approvals therefore and pursuant to this Development Agreement and the Development Agreements referenced in Section C and E below, and consistent with Clark County Code and the County's comprehensive plan.

C. On December 18, 2012, Developer and the County entered into a Development Agreement ("South Agreement") regarding the southern portion of the planned master development (the "South Property"). The South Agreement was recorded on January 8, 2013 under Clark County Auditor Number 4929770 and re-recorded on September 1, 2016 under Clark County Auditor Number 5321604.

D. The 2016 Washington Legislature approved the Connecting Washington transportation funding package which, during the period from 2023-2025, will provide money for the reconstruction of the Interstate 5/179<sup>th</sup> Street interchange.

E. Developer and the County entered into a second Development Agreement regarding a portion of the planned development on the north side of 179<sup>th</sup> Street (the "North Property"), recorded on February 20, 2019 under Clark County Auditor Number 5586031 (the "North Agreement").

F. The Parties desire to complete certain planning efforts in the Area, to make additional public and private funding available to complete the needed infrastructure and to allow such development to begin. More specifically, dedication of rights of way through and bordering Developer's Property (defined below) will allow certain intersections and other critical transportation links in the area to be built, which will further implement the comprehensive plan and allow various properties to develop. This development will generate further resources for more transportation improvements, thus allowing the full implementation of the comprehensive plan in this Area.

G. To accomplish these goals, and to ensure the best use of State, public, and private funds, Developer and the County intend to amend the South Agreement and the North



Agreement (collectively the "Development Agreements") with this Amendment, to address Developer's contributions to the completion of certain infrastructure in the 179th Interchange Area and willingness to pay Traffic Impact Fees (TIFs) and surcharges in advance, subject to eligibility for available TIF credits; the County's allocation and vesting of certain specified trips to the Developer's Property (defined below); and the County's assurances that Developer may proceed as set forth herein.

H. Developer owns and/or controls all of the real property subject to the Development Agreements and this Amendment (all of which are referenced by the auditor's tax parcel numbers in the caption above). Collectively, all of the referenced parcels are referred to herein as "Developer's Property" or the "Property". All of the Property, which is illustrated for convenience in Exhibit A-2, which is attached hereto and incorporated herein, is located within the County's jurisdiction. Thus, pursuant to RCW 36.70B.170(1), the parties are authorized to enter into this Amendment to establish the development standards and other provisions to govern, vest, and mitigate the development and use of the Property.

I. Developer's traffic engineer, Kittelson & Associates, prepared the Three Creeks Mixed-use Development Trip Generation Estimate, dated November 8, 2017, for Developer's Property. A copy of the "Kittelson Trip Estimate" is attached as Exhibit B and incorporated here by reference.

J. Because certain rights of way have been identified for dedication, various roadway improvements have been declared reasonably funded, and others are securing funding through public and private funding, including this and other development agreement(s) affecting the Area, the County has determined that upon the effective dates of the approval of expected public funding, the mitigation efforts described within the Development Agreements and this Amendment, along with the Holt Homes, Hinton, and Wollam development agreements regarding property in the 179<sup>th</sup> Street Interchange Area will satisfy the concurrency requirements for the Property.

K. This Amendment will update previous agreements regarding Developer's Property, provide advance funding and clarify land dedication requirements for transportation improvements, and establish the County's assurances that Developer may proceed as set forth herein.

L. The Parties wish to provide long-term predictability to both Developer and the County on various development issues through the implementation of this Amendment.

## **AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

**Section 1. Development Agreement Amendment.** This Amendment to the Development Agreements shall be implemented under the authority of and in accordance with RCW 36.70B.170 – 210. It will modify existing contracts between the Parties upon its Effective

Date, defined in Section 2. All of the recitals above are binding obligations of the Parties as their terms provide.

**Section 2. Effective Date; Term of Agreement.** The Effective Date of this Agreement is the later of the following: (1) the date ten (10) days after the day of the County's approval by ordinance or resolution following a public hearing as provided for in RCW 36.70B.170, or (2) the date on which a fully executed version is recorded with the County Auditor. This Agreement will take effect upon the Effective Date and will terminate ten (10) years thereafter, unless extended, amended, or terminated by mutual written consent of the Parties.

**Section 3. Purpose and Affected Land.**

**3.1 Purpose.** This Amendment will facilitate the development of Developer's Property in the 179<sup>th</sup> Interchange Area, and will facilitate further development of the Area at large, by providing innovative "front loading" of transportation mitigation funding and land to the County, pursuant to the terms below.

**3.2 Parcel Changes:**

**a. Additional North Parcels:** Developer owns Tax Parcel Nos. 181200-000, 181201-000, and 181206-000, all of which are legally described in **Exhibit A-1**. These "Additional North Parcels" may not have been previously identified or fully covered by the North Agreement. By this Amendment, these Additional North Parcels are added to, governed by, and may benefit from the terms of the North Agreement and this Amendment.

**b. Boundary Line Adjustments:** The boundary lines between Parcel Nos. 18199-000, 181200-000, and 181206-000 are to be adjusted as contemplated in the North Agreement (collectively the "Adjusted Properties"), with the proviso that the boundaries of these properties shall be adjusted once the County has determined the alignment for NE 15<sup>th</sup> Avenue, and has provided Developer with a legal description therefore. Those Adjusted Properties shall remain governed by and may henceforth benefit from the terms of the North Agreement and this Amendment.

**c. Additional South Parcels:** Developer owns Tax Parcel Nos. 181914-000; 181932-000; 181938-000; and 181979-000, all of which are legally described in **Exhibit A-1**. These "Additional South Parcels" were identified and contemplated in the South Agreement, Exhibit G, May 9, 2014 letter from Clark County, at page 3. By this Amendment, these Additional South Parcels are hereby added to, governed by, and may henceforth benefit from the terms of the South Agreement and this Amendment.

**Section 4. Traffic.**

**4.1 Traffic Study.** Developer retained Kittelson & Associates to analyze the anticipated trip generation associated with the contemplated, but not yet designed, Three Creeks Mixed-use Development. A copy of the resulting Kittelson Trip Estimate, which was provided to the County in November 2017, is attached at **Exhibit B**. The Kittelson Trip

Estimate includes documentation of trips associated with the then-current/former use of component properties and trip estimates for Developer's proposed or anticipated uses, which had not yet been submitted to the County for approval.

**a. South Property.** Trips for the South Agreement were evaluated in two phases.

(i) **Phase One.** The first phase of the contemplated development involved a 60,000 SF commercial center, which would generate an estimated 1,940 net new trips of the South Property daily and 171 net new PM peak hour trips above those trips already generated by the former Poulsbo RV site and former Jollie's restaurant. See Exhibit B, page 4, Table 4. The trip analysis for this phase determined that no mitigation is required for development in Phase One to occur.

(ii) **Phase Two.** The second phase of the contemplated development involved a 200,000 SF shopping center, which would generate an estimated 7,770 total daily trips of the South Property and 711 total weekday PM peak hour trips above those trips already generated by the former Poulsbo RV site and former Jollie's restaurant. See Exhibit B, page 4, Table 5. The trip analysis for this phase determined that certain transportation improvements along the NE 179<sup>th</sup> Street corridor were required before development could begin. The transportation improvements contemplated and partially funded through the Development Agreements, this Amendment, and other development agreements being negotiated in the Area are intended to resolve those concurrency concerns.

(iii) **Re-allocated Trips.** As described more fully in the North Agreement, section 4.1, Developer deferred 4,072 daily trips and 402 weekday PM peak hour trips reserved and vested to Phase Two of the South Property and re-allocated those trips to the properties governed by the North Agreement. Pursuant to CCC 40.350.020.M and this Agreement, those re-allocated trips are not available for Developer's use on Phase Two of the South Property until five years after the North Agreement was first recorded (i.e. on or after February 20, 2019) at which point the transportation infrastructure will be significantly improved. Developer, however, may use the re-allocated trips identified in this subsection (iii) for development of the properties governed by the North Agreement. Any trips utilized for development of Phase 2 of the South Property shall come from those trips not transferred to the North Property and remaining available through the South Agreement or new trips as provided for in the Kittelson Trip Estimate Letter attached hereto as Exhibit B.

**b. North Property.** Trips associated with the North Property are addressed in Exhibit B at page 5 and in the North Agreement.

(i) **Phase One.** The first phase of the conceptual development involved 200 single family homes and 326 apartments, for a total daily trip count of 4,072 (402 weekday PM peak hour trips), Exhibit B, page 5, Table 6. As discussed above, those trips were re-allocated from the South Agreement to the North Agreement, and thus, the County declared Phase One of the North Agreement to be reasonably funded.



(ii) After Phase One. The second and potential subsequent phase(s) of development of the North Property generate an estimated 9,046 daily trips and 887 weekday PM peak hour trips (8,674 net new daily trips and 857 net new weekday PM peak hour trips), as explained in Exhibit B, page 5, Table 7. The trip analysis for this parcel determined that certain transportation improvements along the NE 179<sup>th</sup> Street corridor were required before development could begin. The transportation improvements contemplated and partially funded through the Development Agreements, this Amendment, and other development agreements being negotiated in the Area are intended to resolve those concurrency concerns.

## **Section 5. Concurrency.**

**5.1 Traffic Impact Fees and Surcharge.** To increase the County's ability to fund and construct certain transportation improvements in the area that will provide systemic benefits proportionate to the impacts that will be created through the proposed conceptual development of the Property, as outlined in the Traffic Study, Developer agrees it will voluntarily pay Transportation Impact Fees ("TIFs") at the TIF rate applicable at the time this Amendment becomes effective (\$605) in advance of the time that TIF would generally be due for the development of the Property, and will voluntarily pay an additional surcharge in the amount of \$350 per average daily trip for each development on the Property. The total "Effective TIF" applied to the Property pursuant to this Amendment shall not exceed \$955 per trip. The calculation is as follows: \$605 (Current TIF) + \$350 (Surcharge) = \$955 (Effective TIF).

**5.2 Advance Payment.** Developer agrees to accelerate the schedule on which Developer will pay the Effective TIF for developments on the Property, up to the Advance Payment Amount provided in Section 5.1.c below.

**a. TIFs.** Instead of paying TIFs at the time of individual building permits, as it currently required by County Code, Developer, agrees to pay (i) one-half of the Current TIF payment required for each development within 30 days of receiving approval of a preliminary plat or a preliminary site plan, whichever is applicable to that development, and (ii) the remaining one-half of the Current TIF payment required for each development within 30 days of receiving approval of a final plat or a final site plan, whichever is applicable to that development.

**b. Surcharge.** In addition to the Current TIF (\$605), Developer agrees to pay Surcharge in the amount of \$350.00 per trip at the time the County issues the building permit(s) for that development.

**c. Advance Payment Amount.** The Parties agree that the schedule for advance payments of the Effective TIF as described in this Section 5 will apply only to \$1,900,000.00 ("Advance Payment Amount"). TIFs due for development of the Property during the term of this Amendment that exceed the agreed-upon Advance Payment Amount will be paid at the Effective TIF rate specified above (\$955), according to the schedule provided in County Code. If any payment of TIFs at the Effective TIF rate for a proposed development is partially less than and partially in excess of the Advance Payment

Amount, Developer shall pay the portion of the Effective TIF less than the Advance Payment Amount on the schedule provided in Section 5.1.a and b. above, and shall not be required to pay the remainder of the Effective TIF in excess of the Advance Payment Amount until Developer is issued building permits, as is currently required by County Code.

**d. Advance Payment Deadline.** Developer agrees that by December 31, 2023, Developer will (i) submit sufficient development applications as described in Section 5.1.a. and b. above; and/or (ii) dedicate rights-of-way of a value sufficient to receive commensurate TIF credits in accordance with County Code and policies; and/or (iii) voluntarily make advance Effective TIF payments independent of any plat or site plan application or building permit ("Voluntary Effective TIF Payments"), amounts, which, in the aggregate, will total the Advance Payment Amount, thus ensuring the County is paid the full Advance Payment Amount in cash and/or land from Developer, no later than December 31, 2023. Any such Voluntary Effective TIF Payments pursuant to 5.2.d.iii will subsequently be applied at building permit issuance to Developer's TIF obligations arising from development of the Property as pre-paid Effective TIF payments in accordance with the terms outlined above.

**e. Advance Payment Amount Is Not a Limit.** Nothing in this Amendment limits to \$1,900,000.00 Developer's total obligations to pay Effective TIF fees or TIFs that may arise from the Property's future development approvals. The \$1,900,000.00 amount only identifies the amount that must be paid in cash and/or in dedicated land, no later than December 31, 2023, and establishes the point at which advance payments are no longer required (meaning payments thereafter will revert to the schedule provided in County Code).

**f. Failure to Pay.** If Developer fails to timely make any payment due pursuant to Section 5 of this Amendment, Developer may not submit, and County may not process, any further land use or permit application relating to development of the Property until all payments then due in accordance with Section 5 have been fully made.

**g. Applications not Required.** Notwithstanding any other provision of Section 5.1 of this Amendment, Developer will not have to submit any of the applications referenced in Section 5 of this Amendment, provided Developer timely makes the payment that it has agreed to make in Section 5.2.d.

## **Section 6. Concurrent Submissions.**

**6.1 Preliminary Plat or Site Plan Approval.** Developer's application for preliminary plat or site plan approval may be filed and the County will process such applications upon execution of this Amendment, but shall not approve these applications until the Effective Date of the Amendment.

**6.2 Engineering Plans.** Concurrently with the County's review of any preliminary plat or site plan applications, Developer may submit engineering plans to the County and the County will review those plans in its normal course. If a preliminary plat or site plan is approved with design or conditions that are different from concurrently submitted



and reviewed final engineering plans, then Developer will resubmit engineering plans that conform to the preliminary plat or site plan approvals. Any costs associated with such changes will be the responsibility of Developer. While the County agrees to allow concurrent review of land use applications and final engineering, nothing herein will be construed to require the County to provide expedited review that is different from the County's usual timelines for an application for land use or engineering review.

**Section 7. Potential TIF Credits and Rights-of-Way Dedications.** Developer shall be eligible to apply for TIF credits, as consistent with Clark County Code and policies governing traffic impact fees and credits, for transportation mitigation provided and land that Developer dedicates for public rights-of-way according to the Development Agreements and this Amendment. Developer acknowledges that TIF credits are calculated at 85 % of the approved, appraised value of the dedicated land. Any TIF Credits awarded to Developer may be used to offset all or a portion of any TIF payments or Surcharges otherwise later due under this Amendment.

**7.1 Legal Descriptions.** No later than June 30, 2021, the County shall provide Developer legal descriptions identifying the locations of the 179<sup>th</sup> Street and 15<sup>th</sup> Avenue rights-of-way.

**7.2 Property Valuation.** No later than December 31, 2021, Developer shall provide the County an appraisal of the fair market value for each right-of-way, based upon the legal descriptions provided under Section 7.1. The Parties shall work together to agree on the fair market value of the rights-of-way within one hundred eighty (180) days after the County receives the appraisal.

**7.3 Dedication of Rights-of-Way.** Once the actions set forth in Sections 7.1 and 7.2, but no later than December 31, 2022, Developer shall dedicate the right-of-way for 179<sup>th</sup> Street and the right-of-way for 15<sup>th</sup> Avenue to the County. The rights-of-way for 179<sup>th</sup> Street and 15<sup>th</sup> Avenue need not be dedicated to the County at the same time. Each right-of-way can, but is not required to, be processed and dedicated independently of the other.

**Section 8. No Other Conditions for Concurrency.** No off-site transportation improvements other than those set forth in the Development Agreements and this Amendment shall be required of Developer by reason of the development of the Property, so long as development of the Property does not generate more total peak period trips than those described on **Exhibit B**. Subject to Clark County Code 40.350.020.M, Developer may reallocate trips among the various projects on the Property, as long as the total peak period trips do not exceed the total described on **Exhibit B**. If changes to the anticipated uses of Developer's Property are found to cause the site to generate new peak period trips in excess of those set forth in **Exhibit B**, the relevant additional trips will be subject to review and required mitigation under the County's concurrency ordinance in effect when such application vests.

## **Section 9. Vesting**

**9.1 Vesting to Standards.** "Development Standards" shall include but not be limited to the zoning and land use regulations applicable to the Property under the County's standards and the development standards provided in RCW 36.70B.170(3). The Parties agree the development of the Property contemplated in this Amendment vests as to Current TIF rate (\$605) and Surcharge rate (\$350) provided in this Amendment and as to the Development Standards, regulations, and zoning ordinances applicable to the Property, in effect as of the time of the Effective Date of this Amendment, except for environmental laws deemed by a Washington Court decision to not be subject to vesting, Building Permit Codes and regulations, applications for trips in excess of those set forth on Exhibit B, application and permit fees, and impact fees other than the TIFs and Surcharges that are set by this Amendment.

**9.2 Amendment of Standards.** This Amendment and the vested standards govern during the term of this Amendment and may not be subject to unilateral amendment, or amendment to zoning ordinances, land use ordinances, TIF rate increases, Surcharge increases, development standards, or regulations, or a new zoning ordinance or land use ordinance or development standard or regulation adopted after the effective date of this Amendment.

**9.3 Environmental Review.** For purposes of this Amendment, no additional non-project SEPA review is required. Any required project-level SEPA review for development on the Property and subject to this Amendment will be submitted during the preliminary plat or site plan application process.

**9.4 Public Health and Safety Issues.** Nothing contained herein shall preclude the County from exercising any and all rights it has under RCW 36.70B.170 to address serious threats to public health and safety.

#### **Section 10. Miscellaneous Provisions**

**10.1 Recitals.** The Recitals contained herein are intended to be, and are incorporated as, covenants between the Parties, as their terms provide, and will be so construed.

**10.2 Counterparts.** This Amendment may be executed in counterparts; however, all signature pages will be recorded together, and the complete recorded Amendment will constitute the final instrument.

**10.3 Termination.** This Amendment will terminate upon the mutual agreement of the Parties in writing, which will be recorded, or upon expiration of the Term, whichever first occurs.

**10.4 County's Reserved Authority.** Notwithstanding anything in this Amendment to the contrary, the County will have the authority to impose new or different regulations to the extent required by a serious threat to public health and safety as required by RCW 36.70B; provided, however that traffic congestion is not a serious threat to public

health and safety, and that such action will only be taken by legislative act of the County Council after appropriate public process.

**10.5 Authorization.** The persons executing this Amendment on behalf of County and Developer are authorized to do so. The Parties have each obtained any and all consents required to enter into this Amendment and to consummate or cause to be consummated the transactions contemplated hereby.

**10.6 Run with the Land.** This Amendment will run with the land and inure to the benefit of and be binding on the Parties' successors and assigns and will be recorded with the County Auditor.

**10.7 Public Hearing.** The County Council has approved execution of this Amendment by resolution after a public hearing.

**10.8 Dispute Resolution.** Should a disagreement arise between the Parties, the Parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting proves unsuccessful to resolve the dispute, the disagreement may be resolved by a civil action in Clark County Superior Court.

**10.9 Venue.** This Amendment will be construed in accordance with the laws of the State of Washington, and venue is in the Clark County Superior Court.

**10.10 Attorneys' Fees.** If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U. S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Amendment or to interpret or enforce any rights or obligations hereunder, the prevailing party will be entitled to recover its reasonable attorney fees and costs. It is understood and agreed that to the extent Clark County prevails in a suit, action or other proceeding relating to this agreement, it will be entitled to recover its reasonable attorney fees calculated on an hourly basis regardless of whether it is represented by in house counsel and/or outside counsel.

**10.11 Performance.** Failure by any Party at any time to require performance by the other Parties of any of the provisions hereof will not affect the Parties' rights hereunder to enforce the same, nor will any waiver by a Party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this clause.

**10.12 Severability.** If any portion of this Amendment will be invalid or unenforceable to any extent, the validity of the remaining provisions will not be affected thereby. If a material provision of this Amendment is held invalid or unenforceable such that a Party does not receive the benefit of its bargain, then the other Parties will renegotiate in good faith terms and provisions that will effectuate the spirit and intent of the Parties' agreement herein.



**10.13 Inconsistencies.** If any provisions of the County Code and land use regulations are deemed inconsistent with this Amendment, the provisions of this Amendment will prevail, excepting the County's reserved authority described above.

**10.14 Amendments.** This Amendment may only be amended by mutual written agreement of the Parties, and all amendments will be recorded in the Clark County deed records. Agreement by the County may only be obtained through a Type IV legislative proceeding.

**10.15 Survival.** Any covenant or condition set forth in this Amendment, the full performance of which is not specifically required prior to the expiration or earlier termination but which by its terms is to survive the termination of this Amendment, will survive the expiration or earlier termination of this Amendment and will remain fully enforceable thereafter.

**10.16 No Benefit to Third Parties.** The Parties are the only parties to this Amendment and are the only parties entitled to enforce its terms, except as otherwise specifically provided in this Amendment. There are no third-party beneficiaries.

**10.17 Entire Agreement.** This Amendment and the underlying Development Agreements, as amended from time to time, constitute the entire agreement between the Parties as to the subject matter.

**10.18 Notices.** All notices will be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested. Notices will be deemed received by the addressee upon the earlier of actual delivery or refusal of a party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision. Notices shall be addressed as follows:

County:                      Attn. Shawn Hennessee, County  
Manager  
PO Box 5000  
Vancouver, WA 98666-5000

With a copy to:            Christine Cook or  
Taylor Hallvik  
Deputy Prosecuting Attorney  
1013 Franklin Street  
Vancouver, WA 98660

Grantor/Owner:            Three Creeks-Mumford LLC  
101 E 6th Street, Ste 350  
Vancouver, WA 98660

With a copy to: Horenstein Law Group PLLC  
500 Broadway, Suite 370  
Attn: Stephen W. Horenstein  
Vancouver, WA 98660

Grantor/Owner: Three Creeks North LLC  
101 E 6th Street, Ste 350  
Vancouver, WA 98660

With a copy to: Horenstein Law Group PLLC  
500 Broadway, Suite 370  
Attn: Stephen W. Horenstein  
Vancouver, WA 98660

Grantor/Owner: Three Creeks Investors LLC  
101 E 6th Street, Ste 350  
Vancouver, WA 98660

With a copy to: Horenstein Law Group PLLC  
500 Broadway, Suite 370  
Attn: Stephen W. Horenstein  
Vancouver, WA 98660

**10.19 Interpretation of Amendment; Status of Parties.** This Amendment is the result of arm's-length negotiations between the Parties and will not be construed against any Party by reason of its preparation of this Amendment. Nothing contained in this Amendment will be construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar relationship between the Parties.

**10.20 Future Assurances.** Each of the Parties will promptly execute and deliver such additional documents and will do such acts that are reasonably necessary, in connection with the performance of their respective obligations under this Amendment according to the Schedule so as to carry out the intent of this Amendment.

**10.21 Supersedes Inconsistent Terms.** Provisions in the Development Agreements that are inconsistent with this Amendment are hereby superseded. Provisions in the South Agreement requiring mitigation are hereby superseded by the mitigation provisions herein. Except as explicitly superseded in accordance with this Section 10.21, the terms of the Development Agreements remain in full force and effect.

*[signature pages to follow]*



**CLARK COUNTY,**

**Washington**

By: \_\_\_\_\_  
Shawn Hennessee, County Manager

Date: \_\_\_\_\_

Approved as to form only:

Anthony F. Golik

Clark County Prosecuting Attorney

\_\_\_\_\_  
By:  
Deputy Prosecuting Attorney

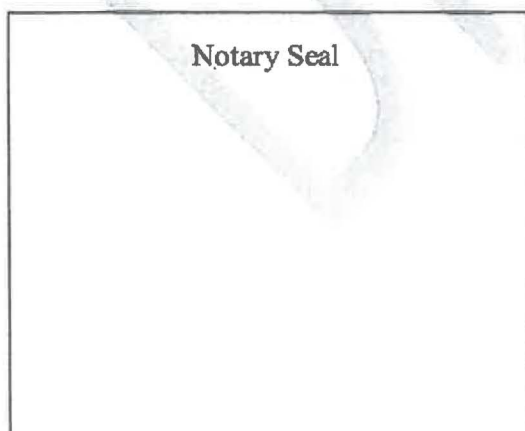
**THREE CREEKS -MUMFORD LLC, a**  
Washington limited liability company

By: \_\_\_\_\_  
Print Name: Lance Killian  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

State of Washington                    )  
  ) ss.  
County of Clark                         )

I certify that I know or have satisfactory evidence  
that Lance Killian is the person who appeared before me, and said person acknowledged  
that he signed this instrument, on oath stated that he was authorized to execute the  
instrument and acknowledged it as \_\_\_\_\_ of Three Creeks-Mumford LLC, a  
Washington limited liability company, to be the free and voluntary act of such party for  
the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2019.



\_\_\_\_\_  
Notary Public for Washington

\_\_\_\_\_  
Name of Notary

My appointment expires: \_\_\_\_\_

By: \_\_\_\_\_  
 Print Name: Lance Killian  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Dated:** \_\_\_\_\_, 2019.

Notary Public for Washington

Name of Notary

My appointment expires:

**THREE CREEKS INVESTORS LLC, a  
Washington limited liability company**

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

Print Name: Lance Killian

Title: \_\_\_\_\_

Date: \_\_\_\_\_

State of Washington )

) ss.

County of Clark )

I certify that I know or have satisfactory evidence  
that Lance Killian is the person who appeared before me, and said person acknowledged  
that he signed this instrument, on oath stated that he was authorized to execute the  
instrument and acknowledged it as \_\_\_\_\_ of Three Creeks Investors LLC, a  
Washington limited liability company, to be the free and voluntary act of such party for  
the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2019.

Notary Seal

\_\_\_\_\_  
Notary Public for Washington

\_\_\_\_\_  
Name of Notary

My appointment expires: \_\_\_\_\_



**EXHIBIT INDEX**

**EXHIBIT A-1 – LEGAL DESCRIPTIONS**

**EXHIBIT A-2 – DEPICTION OF DEVELOPERS' PROPERTIES**

**EXHIBIT B – KITTELSON & ASSOCIATES, THREE CREEKS MIXED-USE  
DEVELOPMENT TRIP GENERATION ESTIMATE, dated November 8, 2017**



**EXHIBIT A-1**  
Legal Descriptions

**117840-000**

Lot 8 and 9, MOUNTAIN VIEW ACRES, according to the plat thereof, recorded in Volume "D" of plats, Page 074, records of Clark County, Washington.

EXCEPT that portion of said premises lying East of the West line of NE 15<sup>th</sup> Avenue (as conveyed by deeds recorded under Auditor's File No.'s 4114159, 4165351 and 4162120).

ALSO EXCEPT any portion lying within William Smith Road (now known as NE 173<sup>rd</sup> Street).

**181930-000**

That portion of the Northwest quarter of Section 14, Township 3 North, Range 1 East of the Willamette Meridian, described as follows:

BEGINNING at a point that is North 89°35' East 832 feet from the Northwest corner of said Section 14; thence South 825 feet; then South 89°35' West 225.72 feet; thence North 796.1 feet to the South line of the County Road; thence North 69°57' East 79.54 feet; thence North 89°35' East 151.0 feet to the Point of Beginning.

EXCEPT that portion conveyed to the State of Washington under Auditor's File No. G 274953.

**181937-000**

That portion of the Northwest quarter of Section 14, Township 3 North, Range 1 East of the Willamette Meridian, described as follows:

BEGINNING at a point that is North 89°35' East 1100 feet East from the Northwest corner of Section 14, Township 3 North, Range 1 East of the Willamette Meridian; thence South 89°35' West 268.4 feet; thence South 825 feet; thence North 89°35' East 239.4 feet; thence Northerly 825 feet, more or less, to the Point of Beginning.

EXCEPT any portion lying within NE 179<sup>th</sup> Street.

181905-000, 181963-000 and 181971-000

**PARCEL A**

**BEGINNING** at a point 16 chains East of the Northwest corner of Section 14, Township 3 North, Range 1 East of the Willamette Meridian, in Clark County, Washington; thence East 191.4 feet, more or less, to the Northwest corner of the Stuart tract as conveyed by deed recorded under Auditor's File No. G 624943; thence South along said Stuart tract 660 feet to the Southwest corner of said Stuart tract; thence West 191.4 feet, more or less, to a point 660 feet South of the Point of Beginning; thence north 660 feet to the Point of Beginning.

**EXCEPT** that portion conveyed to Clark County by deed recorded July 14, 2005, under Auditor's File No. 4017134, records of Clark County, Washington.

**EXCEPT** any portion lying within N.E. 179<sup>th</sup> Street.

**ALSO EXCEPT** beginning at a point that is North 89°35' East 1100 feet East from the Northwest corner of Section 14, Township 3 North, Range 1 East of the Willamette Meridian, in Clark County, Washington; thence South 89°35' West 44 feet; thence South 825 feet; thence North 89°35' East 15 feet; thence Northerly 825 feet, more or less, to the Point of Beginning.

**PARCEL B**

**BEGINNING** at a point 1412.4 feet East of the Northwest corner of Section 14, Township 3 North, Range 1 East of the Willamette Meridian, in Clark County, Washington; thence South 660 feet; thence West 165 feet; thence North 660 feet; thence East 165 feet to the Point of Beginning.

**EXCEPT** that portion conveyed to Clark County by deed recorded July 14, 2005, under Auditor's File No. 4017134, records of Clark County, Washington.

**EXCEPT** any portion lying within N.E. 179<sup>th</sup> Street.

**PARCEL C**

**BEGINNING** at a point 1742.4 feet East of the Northwest corner of Section 14, Township 3 North, Range 1 East of the Willamette Meridian, in Clark County, Washington; thence South 660 feet; thence West 330 feet; thence North 660 feet; thence East 330 feet to the Place of Beginning.

**EXCEPT that portion conveyed to Clark County by deed recorded July 14, 2005, under Auditor's File No. 4017134, records of Clark County, Washington.**

**EXCEPT any portion lying within N.E. 179<sup>th</sup> Street.**

**181957-000**

**That portion of the Northwest quarter of Section 14, Township 3 North, Range 1 East of the Willamette Meridian, described as follows:**

**BEGINNING at a point which is 1,742.4 feet East and 660 feet South of the Northwest corner of Section 14; thence South 165 feet; thence West 671.4 feet; thence Northerly along the tract presently owned by Grantee 165 feet more or less to a point located 666.2 feet West of the Place of Beginning; thence East to the Place of Beginning.**

**TOGETHER WITH a 30 foot wide easement for ingress, egress and utilities, described as follows:**

**A 30 foot easement over the East portion of the following described property:**

**That property beginning at a point that is North 89°35' East 1,100 feet East of the Northwest corner of Section 15 Township 3 North, Range 1 East of the Willamette Meridian; thence South 89°35' West 44 feet; thence South 825 feet; thence North 89°35' East 15 feet; thence Northerly 825 feet, more or less, to the Point of Beginning.**

**EXCEPT that portion conveyed to Clark County by deed recorded October 26, 2005, under Auditor's File No. 4072444, records of Clark County, Washington.**

**TOGETHER WITH that portion of the Northwest quarter of Section 14, Township 3 North, Range 1 East of the Willamette Meridian, in Clark County, Washington, described as follows:**

**BEGINNING at a point that is North 89°35' East 1,100 feet East from the Northwest corner of Section 14, Township 3 North, Range 1 East of the Willamette Meridian; thence South 89°35' West 268.4 feet; thence South 825 feet; thence North 89°35' East 239.4 feet; thence Northerly 825 feet, more or less, to the Point of Beginning.**



**181190-000**

The South Half of the North Half of the Northwest Quarter of the Southwest Quarter of Section 11, Township 3 North, Range 1 East of the Willamette Meridian in Clark County, Washington.

EXCEPT that portion lying within SR-502, also known as NE 10th Avenue.

**181199-000**

The South half of the Northwest quarter of the Southwest quarter of Section 11, Township 3 North, Range 1 East of the Willamette Meridian, Clark County, State of Washington.

EXCEPT any portion lying within SR-502, also known as NE 10th Avenue.

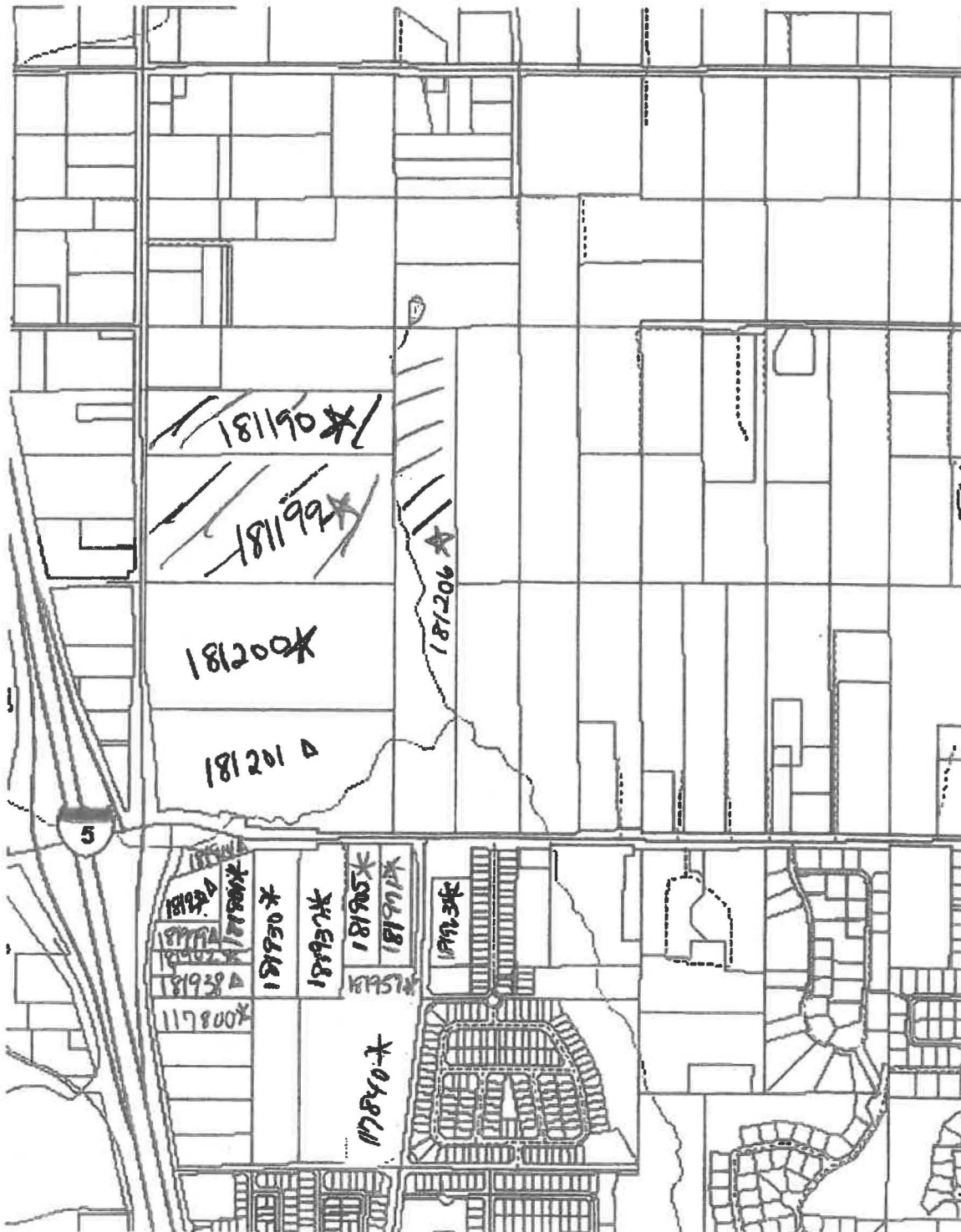
**181206-000**

The West half of the West half of the East half of the Southwest quarter of Section 11, Township 3 North, Range 1 East of the Willamette Meridian, Clark County, Washington.

EXCEPT that portion lying within the right of way of NE 179th Street.

EXCEPT the portion of the property that is zoned for General Commercial use.

# EXHIBIT A-2



North Agreement

South Agreement

Amendment to Development Agreements

Formerly UH Overlay Properties

# EXHIBIT B



November 8, 2017

Project #: 7859

David Jardin  
Clark County Department of Public Works  
1300 Franklin Street, 4<sup>th</sup> Floor  
Vancouver, WA 98666-9810

***RE: Three Creeks Mixed-use Development Trip Generation Estimate***

Dear David,

This letter summarizes the anticipated trip generation associated with phased build-out of the planned Three Creeks Mixed-use Development, including documentation of trips associated with current/former use of component properties comprising the site. The project encompasses land situated east of Interstate 5 (I-5) both north and south of NE 179<sup>th</sup> Street in Clark County. Figure 1 shows the conceptual development plan and phasing.

Current and/or approved site uses include:

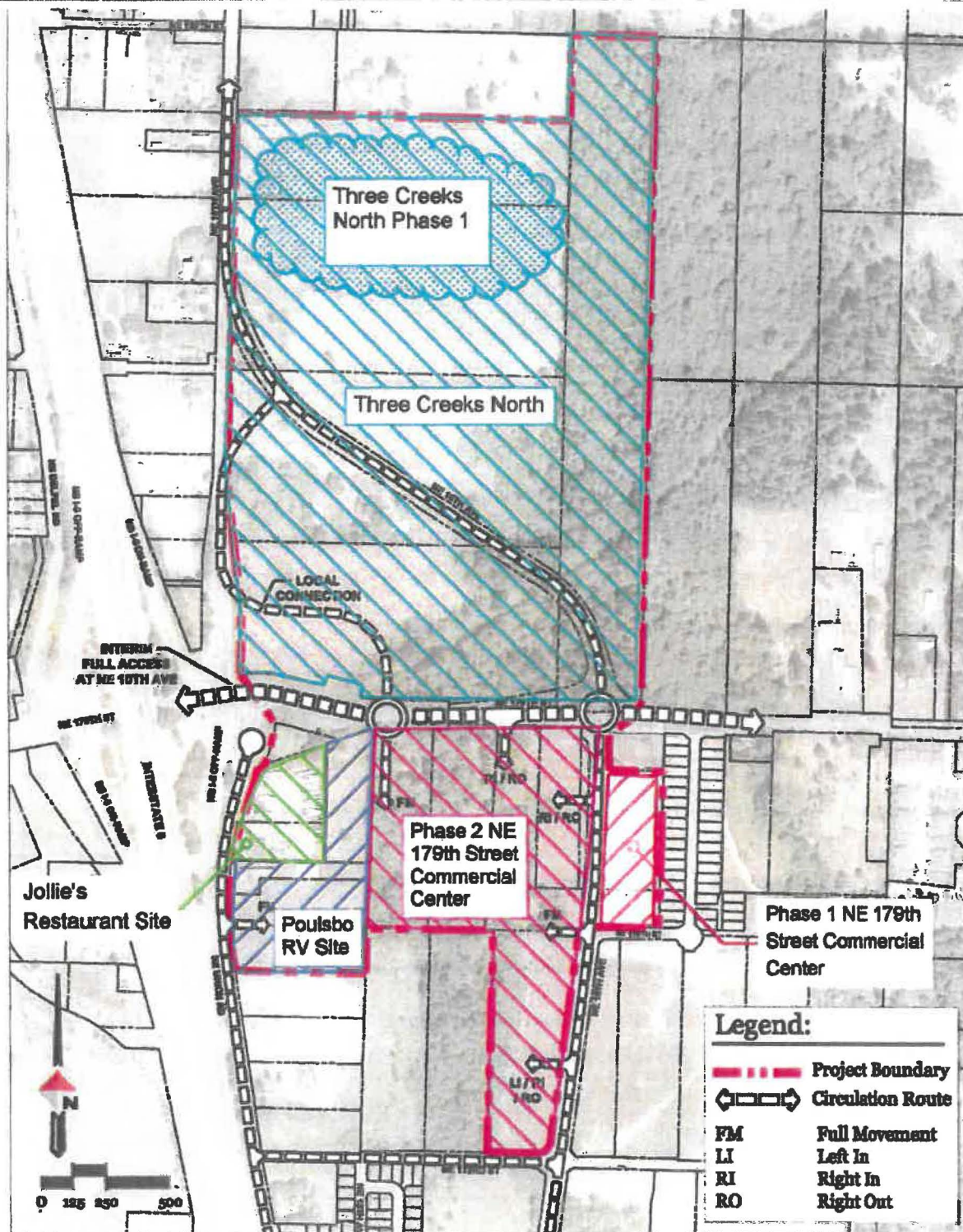
- Former Poulsbo RV site located on NE Union Road;
- Existing Jollie's 24-Hour Restaurant and Lounge located on NE Union Road;
- Three single family homes located north of NE 179<sup>th</sup> Street;
- Previously approved Phase 1 of the NE 179<sup>th</sup> Street Commercial Center; and
- Previously approved Phase 2 of the NE 179<sup>th</sup> Street Commercial Center (subject to concurrency mitigation requirements).

Proposed and/or anticipated uses on the site include:

- Three Creeks North Phase 1
- Three Creeks North Buildout (post Phase 1)
- Three Creeks South Buildout (remains undefined and is not included in this letter)

Further details on each of the trip generation components are provided below. A summary table at the end of the letter provides an overall summary of the cumulative site trip generation.





## Three Creeks Investors LLC - Site Circulation and Access

Image Source: DOWL

Conceptual Development Plan  
Clark County, Washington

Figure  
1

## FORMER POULSBO RV SITE

Trips associated with this property were previously documented in an August 8, 2016 letter to Clark County Department of Public Works (refer to Appendix 1). The trip estimates are shown in Table 1.

**Table 1. Former Poulsbo RV Trip Generation Estimate**

| Land Use                   | ITE Code | Size (Square feet) | Daily Trips <sup>1</sup> | Weekday AM Peak <sup>1</sup> |    |     | Weekday PM Peak |    |     |
|----------------------------|----------|--------------------|--------------------------|------------------------------|----|-----|-----------------|----|-----|
|                            |          |                    |                          | Total                        | In | Out | Total           | In | Out |
| Recreational Vehicle Sales | 842      | 9,580              | 300                      | 18                           | 14 | 4   | 24              | 9  | 15  |

<sup>1</sup> Trip estimate derived using *Trip Generation* Automobile Sales trip rate adjusted by a ratio comparing the weekday PM peak hour trip rates for Automobile Sales and Recreational Vehicle Sales in *Trip Generation*.

## EXISTING JOLLIE'S 24-HOUR RESTAURANT AND LOUNGE

Traffic counts were completed for a 48-hour period at the Jollie's site in September 2017 on two mid-week days (refer to Appendix 2). The observed site trip generation is summarized in Table 2.

**Table 2. Jollie's Restaurant and Lounge Trip Generation Estimate**

| Land Use                       | Data Source            | Daily Trips <sup>1</sup> | Weekday AM Peak <sup>2</sup> |    |     | Weekday PM Peak <sup>2</sup> |    |     |
|--------------------------------|------------------------|--------------------------|------------------------------|----|-----|------------------------------|----|-----|
|                                |                        |                          | Total                        | In | Out | Total                        | In | Out |
| Jollie's Restaurant and Lounge | On-site Traffic Counts | 709                      | 45                           | 24 | 21  | 70                           | 32 | 38  |

<sup>1</sup> Trip estimate reflects average of 48-hour traffic counts conducted in hourly intervals

<sup>2</sup> Trip estimate reflects peak of 7-9 AM and 4-6 PM traffic counts conducted in 5-minute increments on one day.

## THREE SINGLE FAMILY HOMES LOCATED NORTH OF NE 179<sup>TH</sup> STREET.

There were previously three single homes located on the Three Creeks North site, each accessed via NE 10<sup>th</sup> Avenue. The estimated trips associated with these homes are shown in Table 3.

**Table 3. Former Three Creeks North Site Trip Generation Estimate**

| Land Use                     | ITE Code | Size    | Weekday Daily | Weekday AM Peak Hour |    |     | Weekday PM Peak Hour |    |     |
|------------------------------|----------|---------|---------------|----------------------|----|-----|----------------------|----|-----|
|                              |          |         |               | Total                | In | Out | Total                | In | Out |
| Single Family Detached Homes | 210      | 3 units | 29            | 2                    | 0  | 2   | 3                    | 2  | 1   |

## PHASE 1 OF THE NE 179<sup>TH</sup> STREET COMMERCIAL CENTER

The approved and vested Phase 1 NE 179<sup>th</sup> Street Commercial Center is to be located south of NE 179<sup>th</sup> Street and east of NE 15<sup>th</sup> Avenue. Site-generated trips associated with this development are documented in the *Transportation Impact Analysis for Phase 1 of the NE 179<sup>th</sup> Street Commercial Center* dated July 22, 2013 and shown in Table 4.



**Table 4. Phase 1 NE 179<sup>th</sup> Street Commercial Center Trip Generation Estimate**

| Land Use                         | ITE Code | Size<br>(Square feet)           | Weekday<br>Daily | Weekday AM Peak Hour |      |      | Weekday PM Peak Hour |      |      |
|----------------------------------|----------|---------------------------------|------------------|----------------------|------|------|----------------------|------|------|
|                                  |          |                                 |                  | Total                | In   | Out  | Total                | In   | Out  |
| Shopping Center (using equation) | 820      | 60,000<br>(Previously approved) | 4,870            | 114                  | 71   | 43   | 425                  | 204  | 221  |
| Pass-by Trips (34%)              |          |                                 | (1,660)          | (40)                 | (20) | (20) | (144)                | (72) | (72) |
| Diverted Trips (26%)             |          |                                 | (1,270)          | (30)                 | (15) | (15) | (110)                | (55) | (55) |
| Net New Trips                    |          |                                 | 1,940            | 44                   | 36   | 8    | 171                  | 77   | 94   |

## PHASE 2 OF THE NE 179<sup>TH</sup> STREET COMMERCIAL CENTER

The approved and vested Phase 2 NE 179<sup>th</sup> Street Commercial Center is also to be located south of NE 179<sup>th</sup> Street but to the west of NE 15<sup>th</sup> Avenue. Development of this project is subject to delivery of concurrency-required transportation improvements along the NE 179<sup>th</sup> Street corridor. Site-generated trips associated with this development are documented in the *Transportation Impact Analysis for Phase 2 of the NE 179<sup>th</sup> Street Commercial Center* dated October 11, 2013 and shown in Table 5.

**Table 5. Phase 2 NE 179<sup>th</sup> Street Commercial Center Trip Generation Estimate**

| Land Use                     | ITE Code | Size<br>(Square feet) | Weekday Daily | Weekday AM Peak Hour |      |      | Weekday PM Peak Hour |       |       |
|------------------------------|----------|-----------------------|---------------|----------------------|------|------|----------------------|-------|-------|
|                              |          |                       |               | Total                | In   | Out  | Total                | In    | Out   |
| Shopping Center (Difference) | 820      | 200,000               | 7,770         | 166                  | 103  | 63   | 711                  | 341   | 370   |
| Pass-by Trips (34%)          |          |                       | (2,640)       | (56)                 | (28) | (28) | (242)                | (121) | (121) |
| Diverted Trips (26%)         |          |                       | (2,020)       | (44)                 | (22) | (22) | (184)                | (92)  | (92)  |
| Net New Trips                |          |                       | 3,110         | 66                   | 53   | 13   | 285                  | 128   | 157   |

## PROPOSED THREE CREEKS NORTH PHASE 1

Trips associated with the proposed Three Creeks North Site are summarized in Table 6.

**Table 6. Three Creeks North Phase 1 Trip Generation Estimate**

| Land Use                     | ITE Code | Size      | Weekday Daily | Weekday AM Peak Hour |           |            | Weekday PM Peak Hour |            |            |
|------------------------------|----------|-----------|---------------|----------------------|-----------|------------|----------------------|------------|------------|
|                              |          |           |               | Total                | In        | Out        | Total                | In         | Out        |
| Single Family Detached Homes | 210      | 200 units | 1,904         | 150                  | 37        | 113        | 200                  | 126        | 74         |
| Apartments                   | 220      | 326 units | 2,168         | 166                  | 33        | 133        | 202                  | 131        | 71         |
| <b>Total Trips</b>           |          |           | <b>4,072</b>  | <b>316</b>           | <b>70</b> | <b>246</b> | <b>402</b>           | <b>257</b> | <b>145</b> |

## PROPOSED THREE CREEKS NORTH BUILDOUT

Table 7 summarizes the trips associated with potential Three Creeks North buildout after Phase 1 completion.

**Table 7. Trip Generation Estimate**

| Land Use                             | ITE Code | Size              | Weekday Daily | Weekday AM Peak |            |            | Weekday PM Peak |             |             |
|--------------------------------------|----------|-------------------|---------------|-----------------|------------|------------|-----------------|-------------|-------------|
|                                      |          |                   |               | Total           | In         | Out        | Total           | In          | Out         |
| Hotel                                | 310      | 150 rooms         | 1,226         | 80              | 47         | 33         | 90              | 46          | 44          |
| Shopping Center <sup>1</sup>         | 820      | 7,640 square feet | 326           | 7               | 4          | 3          | 28              | 13          | 15          |
| Pass-By (34%)                        |          |                   | (110)         | 0               | 0          | 0          | (10)            | (5)         | (5)         |
| Diverted (26%)                       |          |                   | (84)          | 0               | 0          | 0          | (6)             | (3)         | (3)         |
| High-Turnover (Sit-Down) Restaurant  | 932      | 3,250 square feet | 414           | 35              | 19         | 16         | 32              | 19          | 13          |
| Pass-By (43%)                        |          |                   | (178)         | (16)            | (8)        | (8)        | (14)            | (7)         | (7)         |
| Medical-Dental Office                | 720      | 130,680 sq. ft.   | 4,722         | 312             | 246        | 66         | 467             | 131         | 336         |
| General Office                       | 710      | 130,680 sq. ft.   | 1,442         | 204             | 180        | 24         | 195             | 33          | 162         |
| Congregate Care Facility             | 253      | 201 beds          | 406           | 12              | 7          | 5          | 34              | 19          | 15          |
| Assisted Living                      | 254      | 159 beds          | 422           | 22              | 14         | 8          | 35              | 15          | 20          |
| Continuing Care Retirement Community | 255      | 37 beds           | 88            | 5               | 3          | 2          | 6               | 2           | 4           |
| <b>Total Trips</b>                   |          |                   | <b>9,046</b>  | <b>677</b>      | <b>520</b> | <b>157</b> | <b>887</b>      | <b>278</b>  | <b>609</b>  |
| <b>Total Pass-by</b>                 |          |                   | <b>(288)</b>  | <b>(16)</b>     | <b>(8)</b> | <b>(8)</b> | <b>(24)</b>     | <b>(12)</b> | <b>(12)</b> |
| <b>Total Diverted</b>                |          |                   | <b>(84)</b>   | <b>0</b>        | <b>0</b>   | <b>0</b>   | <b>(6)</b>      | <b>(3)</b>  | <b>(3)</b>  |
| <b>Net New Trips</b>                 |          |                   | <b>8,674</b>  | <b>661</b>      | <b>512</b> | <b>149</b> | <b>857</b>      | <b>263</b>  | <b>594</b>  |

Table 8 summarizes the cumulative site trip generation assuming full development of the Three Creeks North site but with some undeveloped areas still on the Three Creeks South site.

**Table 8. Cumulative Site Trip Generation Estimate**

| Land Use   | ITE Code               | Size    | Units       | Daily Trips | Weekday AM Peak |      |      | Weekday PM Peak |       |       |
|--|------------------------|---------|-------------|-------------|-----------------|------|------|-----------------|-------|-------|
|  |                        |         |             |             | Total           | In   | Out  | Total           | In    | Out   |
| Former & Existing Uses (Trip Credits)                                |                        |         |             |             |                 |      |      |                 |       |       |
| Recreational Vehicle Sales   | 842                    | 9,580   | square feet | 300         | 18              | 14   | 4    | 24              | 9     | 15    |
| Jollie's Restaurant and Lounge                                       | On-site Traffic Counts |         |             | 709         | 45              | 24   | 21   | 70              | 32    | 38    |
| Single Family Homes (3 Creeks North)                                 | 210                    | 3       | homes       | 29          | 2               | 0    | 2    | 3               | 2     | 1     |
| Subtotal Existing Trips (Trip Credits)                               |                        |         |             | 1,038       | 65              | 38   | 27   | 97              | 43    | 54    |
| Approved and Proposed Uses   |                        |         |             |             |                 |      |      |                 |       |       |
| Phase 1 NE 179 <sup>th</sup> Commercial Center (Previously Approved) |                        |         |             |             |                 |      |      |                 |       |       |
| Shopping Center  | 820                    | 60,000  | square feet | 4,870       | 114             | 71   | 43   | 425             | 204   | 221   |
| Pass-by Trips (34%)  |                        |         |             | (1,660)     | (40)            | (20) | (20) | (144)           | (72)  | (72)  |
| Diverted Trips (26%)   |                        |         |             | (1,270)     | (30)            | (15) | (15) | (110)           | (55)  | (55)  |
| Phase 2 NE 179 <sup>th</sup> Commercial Center (Previously Approved) |                        |         |             |             |                 |      |      |                 |       |       |
| Shopping Center  | 820                    | 200,000 | square feet | 7,770       | 166             | 103  | 63   | 711             | 341   | 370   |
| Pass-by Trips (34%)  |                        |         |             | (2,640)     | (56)            | (28) | (28) | (242)           | (121) | (121) |
| Diverted Trips (26%)   |                        |         |             | (2,020)     | (44)            | (22) | (22) | (184)           | (92)  | (92)  |
| Three Creeks North Phase 1 (Proposed)                                |                        |         |             |             |                 |      |      |                 |       |       |
| Single Family Residential  | 210                    | 200     | homes       | 1,904       | 150             | 37   | 113  | 200             | 126   | 74    |
| Apartments   | 220                    | 326     | homes       | 2,168       | 166             | 33   | 133  | 202             | 131   | 71    |
| Three Creeks North Buildout After Phase 1 (Proposed)                 |                        |         |             |             |                 |      |      |                 |       |       |
| Hotel  | 310                    | 150     | rooms       | 1,226       | 80              | 47   | 33   | 90              | 46    | 44    |
| Shopping Center  | 820                    | 7,640   | square feet | 326         | 7               | 4    | 3    | 28              | 13    | 15    |
| Pass-by Trips (34%)  |                        |         |             | (110)       | 0               | 0    | 0    | (10)            | (5)   | (5)   |
| Diverted Trips (26%)   |                        |         |             | (84)        | 0               | 0    | 0    | (6)             | (3)   | (3)   |
| High-Turnover (Sit-Down) Restaurant                                  | 932                    | 3,250   | square feet | 414         | 35              | 19   | 16   | 32              | 19    | 13    |
| Pass-By (43%)  |                        |         |             | (178)       | (16)            | (8)  | (8)  | (14)            | (7)   | (7)   |
| Medical-Dental Office  | 720                    | 130,680 | square feet | 4,722       | 312             | 246  | 66   | 467             | 131   | 336   |
| General Office   | 710                    | 130,680 | square feet | 1,442       | 204             | 180  | 24   | 195             | 33    | 162   |
| Congregate Care Facility   | 253                    | 201     | unit        | 406         | 12              | 7    | 5    | 34              | 19    | 15    |
| Assisted Living  | 254                    | 159     | bed         | 422         | 22              | 14   | 8    | 35              | 15    | 20    |
| Continuing Care Retirement Comm.                                     | 255                    | 37      | units       | 88          | 5               | 3    | 2    | 6               | 2     | 4     |
| Subtotal Approved Proposed Trips                                     |                        |         |             |             |                 |      |      |                 |       |       |
| Total  |                        |         |             | 25,758      | 1,273           | 764  | 509  | 2,425           | 1,080 | 1,345 |
| Pass-by Trips (34%)  |                        |         |             | (4,588)     | (112)           | (56) | (56) | (410)           | (205) | (205) |
| Diverted Trips (26%)   |                        |         |             | (3,374)     | (74)            | (37) | (37) | (300)           | (150) | (150) |
| Net New Trips  |                        |         |             | 17,796      | 1,087           | 671  | 416  | 1,715           | 725   | 990   |
| Approved and Proposed Net New Trips - Existing Net New Trips         |                        |         |             | 11,708      | 912             | 544  | 368  | 1,162           | 477   | 685   |

The traffic impacts of the proposed development are documented separately in the November 2017 *Transportation Impact Analysis Supporting Phased Development of Three Creeks Mixed-use Development*. Additional future development within Three Creeks south of NE 179<sup>th</sup> Street will be documented separately.

Please contact us if you have questions or comments regarding the trip estimates.

Sincerely,  
KITTELSON & ASSOCIATES, INC.

*Chris Brehmer*

Chris Brehmer, PE  
Senior Principal Engineer

*Julia Kuhn*

Julia Kuhn, PE  
Senior Principal Engineer



**Appendix A**  
**Former Poulsbo RV Site Trips**





# KITTELSON & ASSOCIATES, INC.

TRANSPORTATION ENGINEERING / PLANNING

610 SW Alder Street, Suite 700, Portland, OR 97205 503.228.5230 503.273.8169

August 8, 2016

Project #: 7859.4

David Jardin  
Clark County Department of Public Works  
1300 Franklin Street, Fourth Floor  
Vancouver, WA 98666-9810

## RE: Former Recreational Vehicle Site Trip Generation Estimate

Dear David,

This letter documents the estimated trip generation associated with the previous uses of a site located along Union Road south of NE 179<sup>th</sup> Street that is currently considered for redevelopment. This site was most recently used as a Recreational Vehicle (RV) dealership and is comprised of parcels 181901000, 18194200, 18938000, and 117800000.

The site currently includes two existing buildings that were used by the former RV dealership. A 5,580 square foot building was used as the office/sales building and a 4,000 square foot building housed five service bays for vehicle maintenance/repairs. Information provided by the former operator indicates that the site employed 30 to 40 sales, parts and service staff (depending on seasonal sales fluctuations).

Given that the RV dealership is no longer in operation on the site, we estimated the former site trip generation using rates obtained from *Trip Generation, 9<sup>th</sup> Edition*, published by the Institute of Transportation Engineers (ITE). Trip data for two land uses was considered in our analysis. *Trip Generation* offers only weekday PM peak hour trip data for Recreational Vehicle Sales (ITE Land Use Code 842) whereas it provides daily, weekday AM peak hour and weekday PM peak hour data for Automobile Sales (ITE Land Use Code 841). The weekday PM peak hour data for both land uses are comparable: the trip rate for Recreational Vehicle Sales is 2.54 trips/1,000 square feet of gross floor area and Automobile Sales is 2.62 trips/1,000 square feet of gross floor area. For this reason, we estimated site trip generation using the weekday PM peak hour ITE Recreational Vehicle Sales trip data and the daily and weekday AM peak hour trips based on the ITE Automobile Sales factored by the ratio of weekday PM peak hour trips between ITE Recreational Vehicle Sales and ITE Automobile Sales. These estimates are shown in Table 1.

**Table 1. Trip Generation Estimate**

| Land Use                   | ITE Code | Size (Square feet) | Daily Trips <sup>1</sup> | Weekday AM Peak <sup>1</sup> |    |     | Weekday PM Peak |    |     |
|----------------------------|----------|--------------------|--------------------------|------------------------------|----|-----|-----------------|----|-----|
|                            |          |                    |                          | Total                        | In | Out | Total           | In | Out |
| Recreational Vehicle Sales | 842      | 9,580              | 300                      | 18                           | 14 | 4   | 24              | 9  | 15  |

<sup>1</sup> Trip estimate derived using *Trip Generation* Automobile Sales trip rate adjusted by a ratio comparing the weekday PM peak hour trip rates for Automobile Sales and Recreational Vehicle Sales in *Trip Generation*.

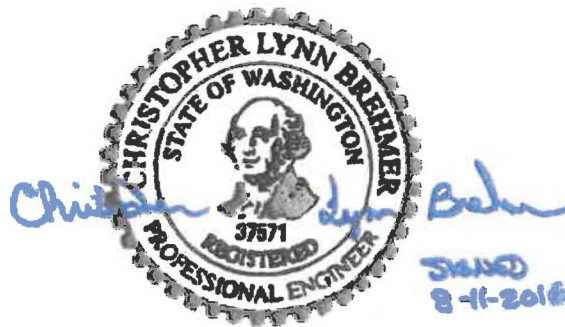
Please contact me if you have any questions or need additional information.

Sincerely,  
KITTELSON & ASSOCIATES, INC.

*Chris Brehmer*

Chris Brehmer, P.E.  
Principal Engineer

Cc: Lance Killian, Three Creeks Development



Appendix B  
Jollie's Restaurant Site Traffic  
Counts



14487731 - NE Union Rd - Jolie's Restaurant-Paved Dry-Gravel Day  
 Date Counted: 9/8/2017  
 Location/Intersection: NE Union Rd -- All Days Combined  
 Site Code: 14487731

All Days

|         | In | Out | Interval Total |
|---------|----|-----|----------------|
| 7:00 AM | 1  | 1   | 2              |
| 7:05 AM | 5  | 0   | 5              |
| 7:10 AM | 0  | 1   | 1              |
| 7:15 AM | 2  | 2   | 4              |
| 7:20 AM | 1  | 0   | 1              |
| 7:25 AM | 3  | 2   | 5              |
| 7:30 AM | 4  | 1   | 5              |
| 7:35 AM | 1  | 2   | 3              |
| 7:40 AM | 1  | 0   | 1              |
| 7:45 AM | 3  | 0   | 3              |
| 7:50 AM | 2  | 6   | 8              |
| 7:55 AM | 1  | 4   | 5              |
| 8:00 AM | 1  | 3   | 4              |
| 8:05 AM | 1  | 0   | 1              |
| 8:10 AM | 0  | 1   | 1              |
| 8:15 AM | 0  | 0   | 0              |
| 8:20 AM | 2  | 0   | 2              |
| 8:25 AM | 1  | 2   | 3              |
| 8:30 AM | 2  | 0   | 2              |
| 8:35 AM | 2  | 1   | 3              |
| 8:40 AM | 0  | 3   | 3              |
| 8:45 AM | 0  | 3   | 3              |
| 8:50 AM | 3  | 1   | 4              |
| 8:55 AM | 0  | 1   | 1              |
| Total   | 38 | 34  | 70             |

1-hour

43  
45  
41  
41  
37  
38  
38  
33  
43  
35  
35  
31  
27

AM Peak

24

21

45

|         | In | Out | Interval Total |
|---------|----|-----|----------------|
| 4:00 PM | 3  | 5   | 8              |
| 4:05 PM | 4  | 2   | 6              |
| 4:10 PM | 0  | 5   | 5              |
| 4:15 PM | 3  | 0   | 3              |
| 4:20 PM | 1  | 2   | 3              |
| 4:25 PM | 1  | 1   | 2              |
| 4:30 PM | 3  | 2   | 5              |
| 4:35 PM | 1  | 1   | 2              |
| 4:40 PM | 3  | 3   | 6              |
| 4:45 PM | 2  | 1   | 3              |
| 4:50 PM | 7  | 3   | 10             |
| 4:55 PM | 2  | 0   | 2              |
| 5:00 PM | 2  | 2   | 4              |
| 5:05 PM | 3  | 3   | 6              |
| 5:10 PM | 1  | 6   | 7              |
| 5:15 PM | 1  | 3   | 4              |
| 5:20 PM | 1  | 3   | 4              |
| 5:25 PM | 4  | 0   | 4              |
| 5:30 PM | 1  | 4   | 5              |
| 5:35 PM | 5  | 4   | 9              |
| 5:40 PM | 4  | 7   | 11             |
| 5:45 PM | 1  | 5   | 6              |
| 5:50 PM | 0  | 1   | 1              |
| 5:55 PM | 1  | 1   | 2              |
| Total   | 54 | 52  | 116            |

1-hour

55  
51  
51  
53  
54  
56  
57  
57  
64  
69  
70  
61

PM Peak

32

38

70



Daily Summary 14497735 - NE Union Rd -- Jolia's Restaurant-Paved Dry-Gravel Driv  
 Date Counted: 9/6/2017 - 9/7/2017  
 Location/Intersection: NE Union Rd -- All Drws Combined  
 Site Code: 14497735

All Drws

| 9/6/2017 | In  | Out | Interval Total |
|----------|-----|-----|----------------|
| 12:00 AM | 0   | 1   | 1              |
| 1:00 AM  | 2   | 1   | 3              |
| 2:00 AM  | 0   | 0   | 0              |
| 3:00 AM  | 1   | 1   | 2              |
| 4:00 AM  | 8   | 7   | 15             |
| 5:00 AM  | 10  | 6   | 16             |
| 6:00 AM  | 9   | 9   | 18             |
| 7:00 AM  | 24  | 19  | 43             |
| 8:00 AM  | 12  | 15  | 27             |
| 9:00 AM  | 17  | 16  | 33             |
| 10:00 AM | 19  | 20  | 39             |
| 11:00 AM | 19  | 19  | 38             |
| 12:00 PM | 28  | 21  | 49             |
| 1:00 PM  | 23  | 28  | 49             |
| 2:00 PM  | 23  | 25  | 48             |
| 3:00 PM  | 35  | 21  | 56             |
| 4:00 PM  | 30  | 25  | 55             |
| 5:00 PM  | 24  | 36  | 60             |
| 6:00 PM  | 20  | 21  | 41             |
| 7:00 PM  | 21  | 26  | 47             |
| 8:00 PM  | 11  | 15  | 26             |
| 9:00 PM  | 11  | 21  | 32             |
| 10:00 PM | 6   | 8   | 12             |
| 11:00 PM | 1   | 1   | 2              |
| Total    | 354 | 356 | 712            |

| 9/7/2017 | In  | Out | Interval Total |
|----------|-----|-----|----------------|
| 12:00 AM | 0   | 0   | 0              |
| 1:00 AM  | 1   | 3   | 4              |
| 2:00 AM  | 1   | 1   | 2              |
| 3:00 AM  | 1   | 1   | 2              |
| 4:00 AM  | 1   | 3   | 4              |
| 5:00 AM  | 10  | 2   | 12             |
| 6:00 AM  | 15  | 8   | 23             |
| 7:00 AM  | 16  | 14  | 30             |
| 8:00 AM  | 11  | 18  | 29             |
| 9:00 AM  | 7   | 9   | 16             |
| 10:00 AM | 17  | 14  | 31             |
| 11:00 AM | 29  | 15  | 44             |
| 12:00 PM | 32  | 25  | 57             |
| 1:00 PM  | 24  | 27  | 51             |
| 2:00 PM  | 16  | 20  | 36             |
| 3:00 PM  | 22  | 18  | 40             |
| 4:00 PM  | 20  | 20  | 40             |
| 5:00 PM  | 39  | 22  | 61             |
| 6:00 PM  | 17  | 24  | 41             |
| 7:00 PM  | 24  | 21  | 45             |
| 8:00 PM  | 28  | 22  | 50             |
| 9:00 PM  | 16  | 16  | 32             |
| 10:00 PM | 12  | 29  | 41             |
| 11:00 PM | 4   | 11  | 15             |
| Total    | 363 | 343 | 706            |

2-day Average

709

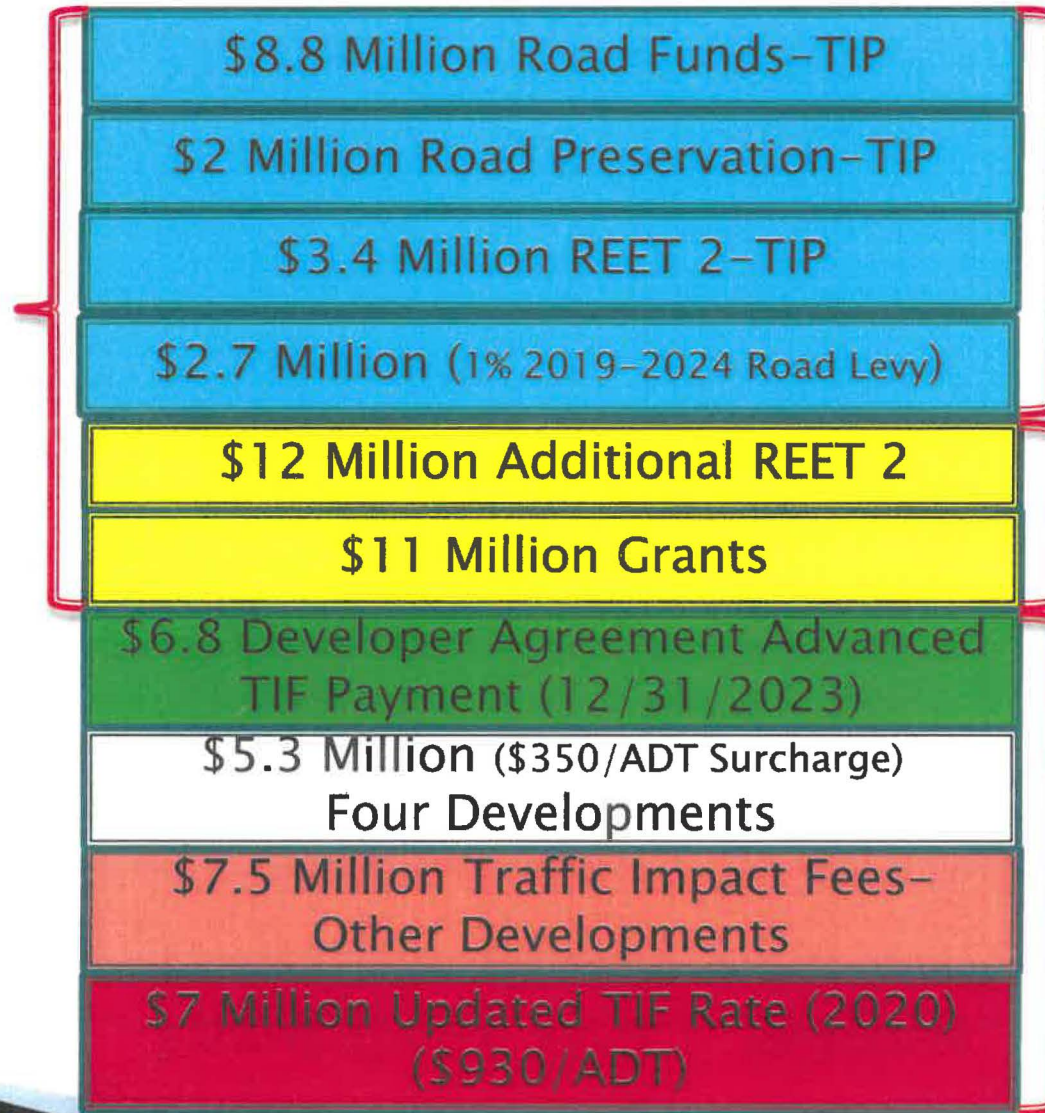


# EXHIBIT B

## Option 8: No Levy Increase

**Total Cost \$66.5 Million**

\$39.9 total  
possible  
county  
participation



\$16.9  
million  
adopted  
funds 2019

\$23 million  
additional  
resources

\$26.6  
million by  
development

EXHIBIT B

