

RD → Approved

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LE, JH, JP ex.

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2/16/2010

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Sponsor: \_\_\_\_\_

16762

Proposed No.: 2010-0109

1 STRIKING AMENDMENT TO PROPOSED ORDINANCE 2010-0109, VERSION

2 1

3 On page 1, beginning on line 8 of the text file, strike everything through page 4, line 78  
4 and insert:

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 SECTION 1. Findings.

7 A. King County owns a 156.5 acre undeveloped parcel of land commonly know  
8 as the Summit Pit regional roads maintenance facility ("Summit"), located in  
9 unincorporated King County, surrounded by the city of Maple Valley, approximately  
10 thirty-one miles southeast of downtown Seattle.

11 B. The King County Council passed Ordinance 16359 approving execution of a  
12 purchase and sale agreement for the transfer of the property to Summit Place 156, LLC,  
13 and ("Summit Place").

14 C. The purchase and sale agreement with Summit Place has been executed by  
15 both parties and is dated February 20, 2009.

16 D. Prior to the King County Council's approval of the purchase and sale  
17 agreement with Summit Place, Ron Sims, former King County executive, Christy A.

18 Todd, interim city manager of the city of Maple Valley, and Brian Ross, president of  
19 Summit Place 156 LLC, all signed a Memorandum of Agreement Regarding Joint  
20 Planning, Interim Zoning, Pre-Annexation Zoning and Future Annexation of the Summit  
21 Pit Property (the MOA”).

22 E. On December 15, 2008, The King County Council passed Motion 12899  
23 ratifying the MOA and approving the county executive commencing negotiations with  
24 the city of Maple Valley for an interlocal agreement to annex the Summit Pit property.

25 F. The MOA, in Section 5, provides for representatives of the King County  
26 executive, the city of Maple Valley, and Summit Place 156 LLC (the “parties”) to meet  
27 for the purposes of joint planning, with a goal to adopt an interlocal agreement for joint  
28 planning by June 30, 2009.

29 G. The parties met faithfully after the execution of the MOA and agreed upon a  
30 joint plan consistent with the MOA.

31 H. The city of Maple Valley adopted Resolution No. R-09-688 on June 22, 2009,  
32 which authorizes the city manager to execute an interlocal agreement between the city of  
33 Maple Valley and King County to adopt the Joint Plan for Summit Place upon adoption  
34 of the interlocal agreement, unchanged, by the King County Council.

35 I. The King County executive transmitted the interlocal agreement to the King  
36 County Council on June 25<sup>th</sup> 2009 for approval. The legislation was assigned File  
37 Number 2009-0401.

38 J. Following the introduction of legislation approving the interlocal agreement,  
39 Summit Place expressed its concern to the King County council regarding the content of

40 the interlocal agreement. As a result, and upon the request of the Executive, Summit  
41 Place and the city of Maple Valley, action on proposed ordinance 2009-0401 was  
42 suspended. The Executive, Summit Place and the city of Maple Valley initiated  
43 discussions to resolve their differences regarding the interlocal agreement and matters  
44 related to the purchase and sale agreement for the Summit property.

45 K. As part of these discussions, Summit Place requested a one-year extension of  
46 all the deadlines in the purchase and sale agreement pertaining to Summit Place, in  
47 exchange for agreeing not to seek permits to develop prior to the property being annexed  
48 by the city of Maple Valley. Negotiations with King County regarding Summit Place's  
49 request ensued over several months with no resolution.

50 L. On November 9, 2009, the King County council passed Motion 13090 in part  
51 requesting that the King County executive negotiate an amendment to the purchase and  
52 sale agreement that would extend the deadlines for both parties by one year.

53 M. On January 14, 2009, Summit Place sent an e-mail to the King County  
54 executive representative that included a proposal to amend the purchase and sale  
55 agreement for the Summit property to extend all critical deadlines for both parties by one  
56 year and to establish additional criteria for setting the closing date.

57 N. The King County Executive proposes to execute with Summit Place an  
58 amendment to the purchase and sale agreement in substantially the form of Attachment A  
59 to this ordinance. The amendment would extend all critical deadlines for both parties by  
60 one year, reduce the number of Closing Waivers from two to one, set March 1, 2012 as  
61 the earliest date for commencing closing and, if closing is conducted in phases, require  
62 Summit Place to pay additional amounts at the first two closings that would be included

63 within the purchase price. The additional amounts would equal \$3,200,000 or  
64 \$3,280,000 depending on when the phased closing commences.

65 O. The additional payment minimally compensates King County for its economic  
66 loss associated with the one year delay.

67 P. In addition to negotiating an amendment to the purchase and sale agreement,  
68 the King County council, through Motion 13090, requested that the King County  
69 executive negotiate amendments to the MOA that would specify that neither the county  
70 nor Summit Place would submit applications for development of the Summit property  
71 until the property is annexed into the city of Maple Valley. The Executive intends to  
72 negotiate such an amendment simultaneously with negotiation of the amendment to the  
73 purchase and sale agreement.

74 Q. This ordinance constitutes an emergency because Buyer's contingency expires  
75 on February 20, 2010, at which time Buyer may terminate the agreement, exposing King  
76 County to financial risk before the council can act under its normal procedures.

77 SECTION 2. The King County executive is hereby authorized to amend the  
78 February 20, 2009 agreement for the sale of the Summit property, consistent with an  
79 amendment to the purchase and sale agreement substantially in the form of Attachment A  
80 to this ordinance, and to implement the amendment to the purchase and sale agreement.

81 SECTION 3. The county council finds as a fact and declares that an emergency  
82 exists and that this ordinance is necessary for the immediate preservation of public peace,  
83 health or safety or for the support of county government and its existing public  
84 institutions.

85 **EFFECT: Supports an amendment to the Summit Pit purchase and sale agreement**  
86 **and declares an emergency.**

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Proposed No.: 2010-0109

- 1 **TITLE AMENDMENT TO PROPOSED ORDINANCE 2010-0109, VERSION 1**
- 2 On page 1 of the text file's title, line 6, after "LLC" insert '; and declaring an emergency'
- 3 **EFFECT: Amends the title to reflect that the ordinance is an emergency ordinance.**