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September 21, 2009 Council Meeting

Pdc

Sponsor: Larry Gossett *J.G.*

Proposed No.: 2009-0426

Lg moved PASSED: 8-0 RD Excused

1 **AMENDMENT TO PROPOSED ORDINANCE 2009-0426, VERSION 1**

2 On page 2, starting on line 50, delete "having determined that the land legally described
3 in Attachment A to this ordinance is surplus to the needs of King County, and"

4 **EFFECT: Deletes a statement that the Council determines that the property is
5 surplus to the County's needs, since this is determined by the Executive.**

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1 **AMENDMENT TO PROPOSED ORDINANCE 2009-0426, VERSION 1**

2 On Attachment B, the Real Estate Purchase and Sale Agreement, replace the page
3 containing Section 7.1.2 with the page attached to this amendment.

4 On Attachment B, Exhibit C, Development Agreement Between King County and City of
5 Redmond for Van Distribution Center Property, replace page 6 of 24 with the page 6 of
6 24 attached to this amendment.

7
8 **EFFECT: Modifies section 7.1.2 of the Purchase and Sale Agreement (PSA) to**
9 **correct a typographical error and clarify that a deed restriction is Exhibit C to**
10 **Exhibit E to the Purchase and Sale Agreement. Modifies a section of the**
11 **Development Agreement to clarify that the County is not responsible for paying any**
12 **capital cost of the SE Redmond regional stormwater facility.**

construction of the Facility, be responsible for accommodating – on property other than the VDC Property - all storm water drainage generated by the current improvements on the VDC Property, as well as any improvements that may be constructed on the VDC Property in the future. **Buyer** shall construct the Facility in substantial compliance with the Construction Plans attached hereto as **Exhibit D**. Nothing in this section shall be construed as requiring the County to approve any minor changes in construction plans or designs for the Facility and the design and construction shall be within the discretion of the **Buyer** as long as the Facility collect and treats the stormwater from the VDC Property as provided herein. If, for whatever reason, the Facility is unable to accommodate any or all storm water drainage generated by the current improvements on the VDC Property, as well as any improvements that may be constructed on the VDC Property in the future, the **Buyer** shall, at its sole cost, provide alternative or additional storm water facilities (not located on the VDC Property) to accommodate all storm water drainage generated by the current improvements on the VDC Property, as well as any improvements that may be constructed on the VDC Property in the future.

7.1.2 Deed Restriction. The covenant in Section 7.1.1 shall be memorialized by the “Deed Restriction” in the Deed as shown in **Exhibit C** to **Exhibit E** hereto. The **Seller** and its successors in interest shall have standing to enforce the covenants contained in the Deed Restriction against **Buyer**. The covenants in the Deed Restriction shall be enforced with the remedies set forth in Section 12.2 of this Agreement. **Seller** and **Buyer** further agree that these covenants may also be enforced by the **Seller** as a matter of contract through this Agreement, and that these covenants shall be binding obligations on **Buyer** when this Agreement becomes effective and shall survive Closing.

ARTICLE 8.

CONDITIONS PRECEDENT TO BUYER’S OBLIGATIONS

All obligations of **Buyer** hereunder are subject to the fulfillment of each of the following conditions at or prior to the Closing Date and **Seller** shall diligently attempt to cause each such condition to be fulfilled:

8.1. DELIVERY OF DOCUMENTS. **Seller** shall have delivered to **Buyer** at or prior to closing all documents required by the terms of this Agreement to be delivered to **Buyer**.

8.2. REPRESENTATIONS AND WARRANTIES. All representations and warranties of **Seller** contained herein or in any document delivered pursuant hereto shall be true and correct in all material respects when made and as of the Closing Date.

8.3. OBLIGATIONS. All obligations required by the terms of this Agreement to be performed by **Seller** at or before the Closing Date shall have been properly performed in all material respects.

8.4. TITLE. Any and all matters shown or referred to in the Title Commitment to which **Buyer** has objected within the time specified in Section 4.1.3, “Review of Title Commitment and Survey”, shall have been cured by the **Seller**, unless such objections have been

construction, expansion, addition, or enlargement are issued for each square foot of impervious surface (including pre-existing impervious surface) on the VDC Property after the construction, expansion, addition, or enlargement; or (b) Four Dollars (\$4.00) for each square foot of such impervious surface.

c) In the event that redevelopment, construction, expansion, addition, or enlargement as described in (b) above does not exceed the impervious surface or value threshold described in (b)(i) and (ii) above, then the County or its successor(s) in interest shall only be required to pay the City the lesser of (i) the SE Redmond Regional Facilities Surcharge in effect at the time permits are issued for the amount of impervious surface added to the VDC Property by the redevelopment, construction, expansion, addition, or enlargement; or Four Dollars (\$4.00) for each square foot of such impervious surface added to the VDC Property.

(d) The right to pay only the SE Regional Facilities Surcharge or alternate Four Dollars (\$4.00) per square foot amount described in this section shall run with the VDC Property.

5) Payment of the SE Redmond Regional Facilities Surcharge or the alternative Four Dollars (\$4.00) per square foot stipulated amount provided for in this section shall relieve the County of any further requirement to pay a SE Redmond capital facility charge or SE Redmond connection fee for the SE Redmond regional stormwater facility. Payment of the capital contribution shall not relieve the County from payment of any other fee associated with stormwater collection that are assessed against all other property owners for participation in the City's storm water collection and treatment system, including but not limited to, the citywide capital facilities charge imposed under RMC 13.20.030 and monthly stormwater utility fees. Payment of any capital contribution shall not entitle the County to any ownership interest in the regional stormwater facility and the facility shall be solely owned by the City.

6) The County shall comply with all applicable point source discharge standards for the discharge of drainage into the City's stormwater system, including but not limited to, the discharge of hazardous or other prohibited or regulated materials into the stormwater system.

D. Development Approval Process. Any development, redevelopment, expansion, use or mitigation on the VDC Property shall be approved through the site plan entitlement or applicable process as provided in the RCDG. The applicable process for the Development requires obtaining Site Plan Entitlement Review, which is a Type II process as described in RCDG 20F.30.35. The City shall not impose any condition on the development that is inconsistent with any provision of this Agreement or the BSP unless necessary on account of a serious threat to public health and safety pursuant to RCW 36.70B.170 and RCW 36.70B.180.