

**RESOLUTION NO. 1322**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON,** approving the 2nd Addendum to the Restated and Amended Second Development Agreement By and Between the City of Des Moines (the "City"), and the Port of Seattle (the "Port") and the amended Des Moines Creek Business Park Master Plan.

**WHEREAS,** the City of Des Moines, pursuant to chapter 36.70B RCW has the authority to enter into a development agreement for development of property within its jurisdiction, and

**WHEREAS,** the Port owns property located within the City of Des Moines and wishes to develop the property, and

**WHEREAS,** the City Council desires to expedite the review and approval of this 2nd Addendum to the Amended and Restated Second Development Agreement so that it can be considered by the Port of Seattle Commission at an upcoming meeting this winter, and

**WHEREAS,** DMMC 18.105.050 provides for the City Council to review all the environmental and engineering details of any master plan presented for its approval, and

**WHEREAS,** the City Council has had an opportunity for an environmental and engineering review and approval process for this amended master plan in conjunction with its June 2012 review and approval of the Second Development Agreement. The technical detail of the Amended Master Plan does not materially differ from the June 2012 Master Plan except for the location of the internal loop road and staff will ensure there are no other material changes in addition to those reviewed on February 20, 2014 by the City Council, and

**WHEREAS,** pursuant to RCW 36.70B.200, a public hearing was held before the City Council on January 21, 2016, and all persons wishing to be heard were heard; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:**


The City Council hereby authorizes the City Manager to enter into the 2nd Addendum to the Restated and Amended Second Development Agreement By and Between the City of Des Moines and



**ADOPTED BY** the City Council of the City of Des Moines,  
Washington this 21st day of January 21, 2016 and signed in  
authentication thereof this 21st day of January, 2016.

  
MAYOR

APPROVED AS TO FORM:

  
City Attorney

ATTEST:

  
City Clerk

**SECOND ADDENDUM TO THE AMENDED & RESTATED SECOND  
DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF DES  
MOINES AND THE PORT OF SEATTLE**

**WHEREAS** this Second Addendum to the Amended & Restated Second Development Agreement (hereinafter "Second Addendum") is entered into between the City of Des Moines (hereafter "City") and the Port of Seattle (hereafter "Port") in connection with the real property described herein (hereinafter referred to as the "Property"), and development of the Property by its assigns for the purposes and on the terms and conditions set forth herein; and

**WHEREAS** the City and the Port entered into the Amended & Restated Second Development Agreement By & Between (hereinafter the "Second Development Agreement") the City of Des Moines and Port of Seattle in connection with the Development of the Des Moines Creek Business Park (hereinafter the "DMCBP") property on June 10, 2014; and

**WHEREAS** the City and the Port entered into the First Addendum to Amended & Restated Second Development Agreement By & Between (hereinafter the "First Addendum") the City of Des Moines and Port of Seattle in connection with the Development of the Des Moines Creek Business Park (hereinafter the "DMCBP") property on November 6, 2014; and

**WHEREAS** the following sections of the Second Development Agreement are superseded by this Second Addendum for purposes of this Agreement:

(1) **Section 3. PROPERTY DESCRIPTIONS** to reflect recent commitment of the Federal Aviation Administration (FAA) to lease and develop its regional headquarters on the parcels fronting South 216<sup>th</sup> Street during Phase II, and the reconfiguration of the interior public streets and private roads to accommodate Phase II.

(2) **Section 5, PROJECT**, to clarify that the project no longer includes the construction of South 214<sup>th</sup> Street, and that the internal loop road will now be South 211<sup>th</sup> Street and an extension of 20<sup>th</sup> Avenue South.

(3) **Section 7. DEVELOPMENT REGULATIONS** to clarify the nature of the pedestrian and bike pathway from 24<sup>th</sup> Avenue South through the DMCBP to the Des Moines Creek Trail.

(4) **Section 8. MASTER PLAN** to approve a Revised Master Plan for the full DMCBP as Exhibit B and requiring the final short plat to reflect the Master Plan Amendment plus account for any administrative design or as-built adjustments.

(5) **Section 11. TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS** to reconfigure South 211<sup>th</sup> Street to connect to 20<sup>th</sup> Avenue South and vacating Tract E eliminating South 214<sup>th</sup> Street as a public road but maintaining a 20-foot-wide joint use pedestrian and bike

pathway dedicated Tract in the 214<sup>th</sup> right-of-way as a requirement of Subsection 7.3.1.

(6) **Section 14, PERMITTING** to refer to the Master Plan Amendment approved by this Addendum.

; and

**WHEREAS**, the City Council adopted Resolution 1252 on February 20, 2014, which proposed to expedite the review and approval of plans to develop the DMCBP; and

**WHEREAS**, the Port's developer has identified the need for some clarification and changes to the Second Development Agreement and the approved Master Plan because of its selection as the FAA Regional Headquarters developer; and

**WHEREAS**, the City and the Port now enter into this Second Addendum to clarify the terms and conditions for the Master Plan Amendment; and

**NOW, THEREFORE**, the City and the Port agree to amend Section 3, Property Descriptions, Section 5, Project, Section 7, Development Regulations, Section 8, Master Plan, and Section 11, Transportation Infrastructure Improvements, as follows:

## I. SECTION 3, PROPERTY DESCRIPTIONS

**3.1 Property.** The Property subject to this Agreement is commonly referred to as the DMCBP and is fully described in Revised Exhibit A attached hereto and incorporated herein by this reference.

## II. SECTION 5, PROJECT

**5.2 Phases.** It is anticipated that the Project will be developed in three phases that correspond to the three geographical areas identified in the Amended Master Plan (Exhibit B) and generally described as follows:

**5.2.2 Area 2** – Area 2 consists of Lots 4 – 5, ~~and South 214<sup>th</sup> Street~~ of the DMCBP Short Plat Alteration and covers approximately 30 acres. The Port anticipates this area will be developed with approximately 497,425 square feet of business park uses, including light industrial or commercial office uses.

**5.2.3 Area 3** – Area 3 consists of Lots 6 – 9, Tracts B, D and X, and 20<sup>th</sup> Avenue South connecting to S. 211<sup>th</sup> Street of the DMCBP Short Plat Alteration. The Port anticipates this area will be developed with ~~business park uses, including light industrial,~~ commercial office, ~~or retail~~ uses.

### III. SECTION 7, DEVELOPMENT REGULATIONS

The following subsections are changed to read as follows:

**7.3.1 Joint Use Access Path.** The Port will construct a 12-foot-wide joint use pedestrian and bike pathway in a new 20 foot dedicated Tract (Tract D) in the former South 214<sup>th</sup> Street right-of-way (Tract E) which the City will vacate located adjacent to ~~South 214<sup>th</sup> Street and 20<sup>th</sup> Avenue South north of 216<sup>th</sup> street~~ (previously identified as the internal Loop Road). The construction of the joint use access pathway will be completed in conjunction with the construction of the FAA Regional Headquarters (Phase II) South 214<sup>th</sup> Street and 20<sup>th</sup> Avenue South, connecting at South 216<sup>th</sup> Street. The Joint use Access Path will be completed as part of the construction of Areas 2 and 3 where South 214<sup>th</sup> Street is planned and connecting to 20<sup>th</sup> Avenue South as show on the Master Plan. The City will take over maintenance responsibility of the joint use path when its construction is completed, and it is accepted in accordance with the provisions of the City's approved civil plans and right-of-way permit. Construction of the path shall be concurrent with the development of Area 3. As part of the DMCBP Short Plat Alteration, this segment will be shown in a 20-foot-wide dedicated Tract.

### IV. SECTION 8, MASTER PLAN

**8.1 Approval.** The City agrees that the Master Plan Amendment attached as new Exhibit B and incorporated by this reference satisfies requirements of DMMC 18.105.050 for the DMCBP. for Area 1 & 2. ~~The Port agrees that a master plan amendment for Area 3 will be submitted to the City for review that will be processed in accordance with DMMC 18.105.060 and as an amendment to this Agreement pursuant to Section 17.2.~~

**8.2 Limitation.** The Parties acknowledge that approval of the Master Plan Amendment by the City constitutes approval of the general layout of the Project and is subject to permitting conditions to be identified on individual permits and City approval of the final short plat alteration. This final short plat alteration is expected to include slight adjustments in Tract locations to account for final design or as-built conditions. Master Plan Amendment approval does not constitute acceptance or approval of specific details of the Project. When the Port seeks permits to develop an individual area within the Property, the Port shall submit appropriate permit applications which include but are not limited to the applications identified in Section 14 and the supplemental traffic impact analysis as described in Section 9.3.

## V. SECTION 11, TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS

**11.1.2 South 211th Street/20<sup>th</sup> Avenue South (Public).** The Port shall construct an internal loop roadway identified in the Environmental Documents ~~as South 211th Street~~; provided that the roadway will be modified to be a dead end cul-de-sac and not be connected to South 214th Street or 20th Avenue South in a dedicated Tract right-of-way, discussed in Section 11.1.3 with a public roadway when cumulative DMCBP development exceeds 390 PM peak hour trips as required by the traffic trip thresholds in **Exhibit D**. Prior to the issuance of the building permit for the final building in Area 2 or Area 3, the Port shall provide an updated traffic impact memorandum verifying the cumulative PM peak hour traffic based on the actual building land uses constructed in Areas 1, 2 and 3 to date. ~~This~~ These roads will be placed within a 60-foot-wide rights-of-way, and shall align approximately with the South 21100 Block on the of 24<sup>th</sup> Avenue South and connect to the existing traffic signal at 20<sup>th</sup> Avenue South/South 216<sup>th</sup> Street, and shall be dedicated to the City as part of the Amended DMCBP Short Plat. Prior to the construction of the road, the Port shall prepare civil engineering plans for review and approval by the City generally consistent with the cross-section provided in the City's Street Development Standards. The City will take over maintenance responsibility of ~~this~~ these roadways when ~~its~~ construction is completed, and ~~it is~~ they are accepted in accordance with the provisions of the City's right-of-way permits. ~~The threshold trigger for completion of South 211<sup>th</sup> Street shall be concurrent with the development of Area 1.~~ The Port shall construct South 211<sup>th</sup> Street north of the boundary of the vacated/surplused South 212<sup>th</sup> Street as shown on the Master Plan Amendment. The extension of 20<sup>th</sup> Avenue South will be provided in a 60-foot-wide right-of-way to be dedicated to the City at the time of the South 214<sup>th</sup> Street right-of-way (Tract E) vacation. The 20<sup>th</sup> Avenue extension shall also include enhanced pedestrian crossing treatments approved by City Engineering staff to accommodate pedestrian crossings at the Joint Use Path crossing of 20<sup>th</sup> Avenue South.

~~The Port shall have the option of paying the design and construction change order cost of the City associated with building the roadway approach located in the right-of-way, or build these improvements independently of the City's current 24<sup>th</sup> Avenue South construction project. The City has made adjustments to the locations of the utilities and associated vaults to accommodate the roadway approach at South 211<sup>th</sup> Street on the west side of 24<sup>th</sup> Avenue South.~~

**11.1.3 South 214<sup>th</sup> Street/20<sup>th</sup> Avenue South (Public):** ~~(Deleted)~~ The Port shall construct the internal road providing a connection from South 216<sup>th</sup> Street to 24<sup>th</sup> Avenue South as identified in the Environmental Documents; provided that

~~the alignment of the roadway will be modified to connect to 24<sup>th</sup> Avenue South at the approximate location of the vacated/surplused South 214<sup>th</sup> Street.~~

~~South 214<sup>th</sup> Street/20<sup>th</sup> Avenue South will be constructed when cumulative DMCBP development exceeds 390 PM peak hour trips as required by the traffic trip thresholds in **Exhibit D**. If development does not exceed this 390 PM peak hour threshold, the Port will only be required to construct the first segment of South 214<sup>th</sup> Street. Prior to the issuance of the building permit for the final building in Area 2, the Port shall provide an updated traffic impact memorandum verifying the cumulative PM peak hour traffic based on the actual building land uses constructed in Area 1 and Area 2 to date. This first segment of South 214<sup>th</sup> Street will be modified to be a dead end cul-de-sac and will be placed within a 66-foot-wide (minimum) right-of-way and dedicated to the City as part of the DMCBP Short Plat. The City will take over maintenance responsibility of the first segment of this roadway when its construction is completed, and it is accepted in accordance with the provisions of the City's right-of-way permit.~~

~~Construction of the second segment of the South 214<sup>th</sup> Street/20<sup>th</sup> Avenue South internal road shall be concurrent with the development of Area 3. As part of the DMCBP Short Plat, this segment will be shown in a 66-foot wide (minimum) tract. When the construction of the second segment is completed, the tract will be dedicated to the City as right-of-way.~~

~~Prior to the construction of each segment of South 214<sup>th</sup> Street/20<sup>th</sup> Avenue South, the Port shall prepare civil engineering plans for review and approval by the City generally consistent with the City's Street Development Standards.~~

~~The Port shall have the option of paying the design and construction change order cost of the City associated with building the roadway approach and sidewalk curb returns located in the right-of-way, or build these improvements independently of the City's current 24<sup>th</sup> Avenue South construction project. The City has made adjustments to the locations of the utilities and associated vaults to accommodate the roadway approach at South 214<sup>th</sup> Street on the west side of 24<sup>th</sup> Avenue South.~~

## **VI. SECTION 14. PERMITTING**

**14.2 Short Subdivision.** The Port shall submit, for City approval, a Short Subdivision application substantially consistent with the approved Master Plan Amendment and DMMC 17.05 for Areas 1-3. The application materials required for Preliminary Plat are provided on Form DSW-03.



**VII. Entire Understanding, Modification, and Authority**

- A. Modification.** This Second Addendum may be amended or modified only by mutual agreement of the parties expressed in writing.
- B. Jurisdictional Authority.** This Second Addendum is specific to the Project and is not intended to transfer any degree of jurisdictional authority held by one party to the other party, nor is it to be misconstrued as recognition of jurisdictional authority which either party may duly claim.

**VIII. Effective Date**

This Second Addendum must be approved by the City Council of the City of Des Moines and the Port Commission of the Port of Seattle and shall become effective on the date of final signature below.

CITY OF DES MOINES

At the direction of the Des Moines City Council taken at an open public meeting on \_\_\_\_\_.

\_\_\_\_\_  
Anthony A. Piasecki, City Manager  
Date: \_\_\_\_\_

APPROVED AS TO FORM

\_\_\_\_\_  
Pat Bosmans, City Attorney  
City of Des Moines  
Date: \_\_\_\_\_

PORT OF SEATTLE

At the direction of the Port Commission of the Port of Seattle taken at an open public meeting on \_\_\_\_\_.

\_\_\_\_\_  
Ted J. Fick, Chief Executive Officer

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

APPROVED AS TO FORM

\_\_\_\_\_

Deputy General Counsel  
Port of Seattle

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

EXHIBIT A

**DES MOINES CREEK BUSINESS PARK  
LEGAL DESCRIPTION**

ALL OF CITY OF DES MOINES SHORT PLAT NO. LUA2013-0036, RECORDED NOVEMBER 13, 2014 AS RECORDING NO. 20141113900004, RECORDS OF KING COUNTY, WASHINGTON.

