

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WHEREAS the following sections of the Second Development Agreement are superseded by this Second Addendum for purposes of this Agreement: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 216th 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 214th Street, and that the internal loop road will now be South 211th Street and an extension of 20th Avenue South.

(3) **Section 7. DEVELOPMENT REGULATIONS** to clarify the nature of the pedestrian and bike pathway from 24th 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 211th Street to connect to 20th Avenue South and vacating Tract E eliminating South 214th Street as a

public road but maintaining a 20-foot-wide joint use pedestrian and bike pathway dedicated Tract in the 214th 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 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 20th Avenue South connecting to S. 211th Street of the DMCBP Short Plat Alteration. The Port anticipates this area will be developed with commercial office 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 214th Street right-of-way (Tract E) which the City will vacate. The construction of the joint use access pathway will be completed in conjunction with the construction of the FAA Regional Headquarters (Phase II). 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.

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/20th Avenue South (Public). The Port shall construct an internal loop roadway identified in the Environmental Documents; provided that the roadway will be connected to 20th Avenue South in a dedicated right-of-way 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. These roads will be placed within 60-foot-wide rights-of-way, and shall align approximately with the South 21100 Block on 24th Avenue South and connect to the existing traffic signal at 20th Avenue South/South 216th 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 these roadways when construction is completed, and they are accepted in accordance with the provisions of the City's right-of-way permits. The Port shall construct South 211th Street north of the boundary of the vacated/surplused South 212th Street as shown on the Master Plan Amendment. The extension of 20th 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 214th Street right-of-way (Tract E) vacation. The 20th 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 20th Avenue South.

11.1.3 *(Deleted)*

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 January 21, 2016.

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:_____