



TO: Clark County Council

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DATE: January 21, 2020

SUBJECT: Consideration of an amendment to and restatement of a
Development Agreement

INTRODUCTION

This is a proposal to amend and restate the Development Agreement among Clark County and Mill Creek JV LLC, Wilfred N Zilke Family Trust, Wilfred Zilke and Marjorie Zielke, Gary Webb Trust and Birchwood Farms LLC (Holt DA). The Holt DA requires advance payments of Traffic Impact Fees and development surcharges in exchange for the removal of the urban holding overlays. The proposed amendment would shift the financial obligations of the development agreement to be solely with Holt Homes, rather than with all the property owners and their successors in interest.

BACKGROUND

On August 20, 2019, Clark County authorized entry into the Holt DA, a developer agreement with property owners concerning property near or along 179th Street that is owned or under contracts with Holt Homes to be purchased by the latter. The Holt DA contingently approved the removal of urban holding overlays from the subject properties in consideration for financial arrangements to fund the critical transportation links and intersections improvements. Those financial arrangements are necessary for the county to reasonably fund the necessary transportation projects.

Following Clark County's authorization of the Holt DA, one property owner decided not to sign the developer agreement. This property owner requests that the financial obligations stated in the developer agreement be with Holt Homes, the developer, rather than the other property owners. Although it was previously authorized, the Holt DA remains ineffective without the signatures of all of the property owners.



PROPOSED AMENDMENT

The Holt DA approved on August 20, 2019 obligates all the property owners to pay the County specified traffic impact fees (TIF) at specified dates along with surcharges. The surcharges are additional payments for each lot developed. As private financing, the advanced TIF payments and the surcharges provide the county with leverage to capture state and federal grants. The County needs to have certain payments made and grants secured prior to constructing critical links and intersection improvements, but the development of the subject properties could be delayed for a number of reasons. Therefore, the Holt DA and development agreements concerning other properties on or near 179th Street set December 31, 2023 as the date that certain payments to Clark County are due, regardless of the status of each development.

As amended, the development agreement would obligate “Holt or a successor or assignee of Holt,” rather than the other property owners and Holt, to pay \$2,900,000 in advanced TIF payments or a combination of advanced TIF payments and surcharges by that date. The amended Holt DA would not therefore provide that the obligations to pay advanced TIF and surcharges run with the land. The proposed amendment, however, adds language to secure Holt’s financial obligations to the County through bonding.

Staff proposes that for clarity and ease of use, the initially approved development agreement and these amendments merge into an amended and restated development agreement. The proposed amendments are as set forth on Exhibit 1, attached hereto. The proposed First Amended and Restated Development Agreement is shown as Exhibit 2, attached hereto. A copy of the bond to guarantee provisions of the Development Agreement is attached as Exhibit 3. Staff asks that the Council approve the restated format set forth in Exhibit 2.