

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF REDMOND, WASHINGTON, APPROVING A
DEVELOPMENT AGREEMENT FOR PROPERTY
OWNED BY REDMOND WA 188, LLC LOCATED ON
PARCEL NO. 128630-0012

WHEREAS, Redmond WA 188, LLC owns Parcel No. 128630-0012, an approximately 4.82-acre site (the “Property”), and

WHEREAS, Redmond WA 188, LLC has requested that the City and Redmond WA 188, LLC enter into a development agreement for the Property, in order to set forth the development standards and other provisions that will govern and vest the development, use, of a Master Planned Development including a two-story approximately 135,000-square-foot building, containing approximately 133,500 square feet of manufacturing and wholesale trade use, and site improvements including a public plaza/open space, truck loading docks, landscape screening, and surface parking; and

WHEREAS, pursuant to RZC 21.76.070(P), the Redmond City Council reviewed and approved the Redmond Flex Master Planned Development and Site Plan Entitlement application, and

WHEREAS, pursuant to RCW 36.70B.200, the Redmond City Council held and opened a public hearing on the proposed agreement on November 21, 2023 and closed the record on November 21, 2023; and after considering all testimony presented at the public hearing, determined that a development agreement for the Property should be approved; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON,
HEREBY RESOLVES AS FOLLOWS:

Section 1. **Development Agreement Approved.** That certain agreement entitled, “Redmond Flex Master Plan Development Agreement,” attached hereto as Exhibit A and incorporated herein by this reference as if set forth in full, is hereby approved and shall govern development of the Property described in said agreement. The Mayor is hereby authorized to execute the Development Agreement on behalf of the City.

Section 2. **Recording.** As provided in RCW 36.70B.190, a signed original of the Agreement shall be recorded with the real property records of King County, Washington and shall be binding on the parties and their successors and assigns.

RESOLVED this _____th day of _____, 2023.

CITY OF REDMOND

Angela Birney, MAYOR

ATTEST/AUTHENTICATED:

CHERYL XANTHOS, CITY CLERK

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO. _____

EXHIBIT A
DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT ("Agreement") is entered into this _____ day of _____, 2023 ("Effective Date"), by and between the City of Redmond ("City"), a Washington municipal corporation, and Redmond WA 188, LLC ("Owner"), a Washington limited liability company. The City and Owner are referred to collectively as the "Parties" and individually as a "Party."

RECITALS

- A. On December 18, 2007, the City passed Resolution No. 1265, which approved the Union Hill Corporate Campus ("UHCC") Development Agreement that established provisions for the future development of 60.62 acres of real property located in southeast Redmond and, owned at the time by Taylor/Magnussen ("UHCC Development Agreement").
- B. The UHCC Development Agreement was executed by the City and Taylor/Magnussen on February 16, 2008 and was recorded on February 21, 2008 under King County recording number 20080221001446.
- C. While the UHCC Development Agreement applied to the entire 60.62 acre UHCC Property, the UHCC Development Agreement primarily addressed development on the 54.77 acres of Manufacturing Park-zoned land that is now developed as a Costco Warehouse and Fuel Center (Lots 1 and 2), MV Transport (Lots 3 and 5), Self Storage Facility (Lot 4), and Fedex (Full Phase Operations) Facility (Lot 6).
- D. Subsequent to the execution of the UHCC Development Agreement, on August 29, 2012, the City approved a seven (7) lot short plat of the UHCC Property that subdivided the entire 60.62-acre parcel that is subject to the UHCC Development Agreement (the "UHCC Short Plat"). The UHCC Short Plat was recorded on September 6, 2012, under King County recording number 20120906900004.
- E. On February 26, 2014, the City executed the 1st Amendment to the UHCC Development Agreement ("1st Amendment"), which addressed construction of a regional stormwater pond. The legal description in the First Amendment included Lot 7, and the stormwater pond included capacity for Lot 7. The 1st Amendment was recorded on March 12, 2014, under King County recording number 20140312000190.
- F. On January 5, 2016, the City executed the 2nd Amendment to the UHCC Development Agreement ("2nd Amendment"). The 2nd Amendment also included Lot 7 in the legal description. The 2nd Amendment was recorded on May 23, 2017 under King County recording number 20170523000767.
- G. On, March 26, 2019, the City executed the 3rd Amendment to the UHCC Development Agreement, which described development that has occurred to date on UHCC Short Plat Lots 1-6 ("3rd Amendment"). The 3rd Amendment was recorded on April 10, 2019 under King County recording number 20190410000243. The 3rd Amendment also confirmed

the amount of the traffic mitigation credit that remains available for the future development of Lot 7 and confirms that the UHCC project proponents have completed the mitigation required by the UHCC Development Agreement, with the exception of the pedestrian trail.

- H. The UHCC Development Agreement, as amended by the 1st Amendment, 2nd Amendment and 3rd Amendment (collectively, the “Amended UHCC Development Agreement”) governs the UHCC Property. Lot 7 is the only remaining undeveloped parcels that are subject to the Amended UHCC Development Agreement. Lot 7 of the UHCC Short Plat is the sole property subject to this Agreement.
- I. Owner is planning the development of Lot 7, located at 6900 188th Avenue NE in Redmond, Washington and legally described on the attached Exhibit A (the “Property”).
- J. Owner has submitted a Consolidated Master Planned Development and Site Plan Entitlement (“MPD-SPE”) application for development of a 142,000 square foot 2-story manufacturing and wholesale trade building under City File No. LAND-2021-00474 (“Project”). The MPD-SPE has been the subject of a public review process that included recommendations for approval by the City’s Design Review Board and Technical Committee. The Redmond City Council also conducted a public hearing to obtain further public comment on this Agreement.
- K. Owner desires to design the project in conformance with the development standards in effect as of the effective date of this Agreement. At the time of the UHCC Development Agreement, the Property was zoned R-12 Multifamily Urban Residential. The Property has since been rezoned and approximately 43,560 s.f. (1 acre) of land is located within the Neighborhood Commercial-1 (“NC-1”) zone and approximately 210,084 s.f. (4.82 acres) of land is located within the Northeast Design District 2 (“NDD-2”) zone.
- L. The Parties desire to create a new Development Agreement that applies only to the Property rather than seek a fourth amendment to the Amended UHCC Development Agreement.
- M. The Parties further desire in this Agreement to confirm and clarify those provisions from the Amended UHCC Development Agreement that remain applicable to the Property. This Development Agreement is considered supplemental to the Amended UHCC Development Agreement and the Amended UHCC Development Agreement remains in full force and effect. If there is a conflict between the UHCC Development Agreement and this Development Agreement, this Development Agreement will control as to Lot 7 only.
- N. Environmental impacts of the development proposed by the Site Plan Entitlement were identified and the City issued a (DNS) for the Project on September 19, 2022, under City File No. SEPA-2021-00635.
- O. Completion of the Project in accordance with this Agreement will promote the goals and

policies of the Redmond Comprehensive Plan, including but not limited to, LU-4, LU-11, LU-42, LU-53, N-SE-19, N-SE-61, N-SE-63, N-SE-87.

- P. RCW 36.70B.170 through 36.70B.210 authorize cities to enter into development agreements with property owners to govern the future development of real property. A development agreement between Owner and the City is a collaboration that will provide mutual benefit for the Parties and the residents and businesses of Southeast Redmond.
- Q. By executing this Agreement, the Parties intend to set forth their mutual agreements and understandings as they relate to the development of the Property and the Project.

AGREEMENT

PURSUANT TO RCW 36.70B.170 through 36.70B.210 and in consideration of, and subject to, the mutual promises, benefits, and obligations set forth herein, the City and Owner enter into the following Development Agreement and agree to be bound by its terms.

1. Land and FAR. The Property governed by this Agreement, exclusive of public right-of-way, consists of approximately 253,644 square feet of land located at 6900 188th Avenue NE and legally described on Exhibit A to this Agreement. Approximately 43,560 s.f. of land is located within the Neighborhood Commercial-1 (“NC-1”) zone and approximately 210,084 s.f. of land is located within the Northeast Design District 2 (“NDD-2”) zone. The Property governed by this Agreement is depicted on Exhibit B to this Agreement. Future dedications of land for right-of-way or other public use or improvements and future acquisitions of right-of-way the City or other public agencies through condemnation or otherwise shall not reduce the land area used for calculating floor area ratio (“FAR”) in the NC-1 zone, the development rights provided for in this Agreement, or development rights provided through applicable land use regulations.

2. The Project. The Project is the proposed development of the Property and consists approximately 142,000 square foot 2-story manufacturing and wholesale trade building, with a small commercial component. The Project is intended to accommodate an array of uses, such as life sciences, technology, research and development /maker space, warehousing/distribution, and light manufacturing. Any proposed changes to the Project, including proposed uses, will be governed by Section 5.3 of this Agreement.

3. Vested Rights.

3.1 Development Regulations. Under Section 18 of the Amended UHCC Development Agreement, the City has approved Owner’s request for the Project be subject to the NC-1 and NDD-2 zoning standards in effect as of the Effective Date of this Agreement. The City agrees that except as expressly stated otherwise herein, the Project otherwise remains subject to the terms of the Amended UHCC Development Agreement and the rules and regulations in effect as of the effective date of the UHCC Development Agreement, subject the exceptions noted in Section 18 of the UHCC Development Agreement.

3.2 City’s Reserved Rights. Notwithstanding any other provisions of this Agreement, pursuant to RCW 36.70B.170(4) the City reserves authority to impose new or

different officially adopted regulations of general applicability to the extent required by a serious threat to public health and safety, as determined by the Redmond City Council after written notice and an opportunity to be heard has been provided to Owner.

3.3 Future Amendments to Code. Owner may request to be bound by future amendments to the Redmond Zoning Code, the Redmond Municipal Code, or other regulations, policies, or guidelines against which Owner is vested under this Agreement. The City's Planning and Community Development Director may deny such request if the Director determines that compliance with the vested regulation is necessary to meet the City's intent in approving the SPE and Master Plan for this Project or the Amended UHCC Development Agreement and associated Master Plan or to achieve a development of like quality and benefit to the City. If Owner disagrees with such denial, Owner may apply for an amendment of this Agreement as provided in Subsection 3.2 below.

3.4 Amendments to Agreement. This Agreement may be amended administratively if no new land use not allowed under current regulations is proposed, no reduction in the amount of open space is proposed, no increase in the total amount of square footage or number of dwelling units is proposed; no reduction in the infrastructure required by this Agreement or the Master Plan conditions of approval is proposed; and the request does not involve a request to be bound by future code amendments that has been denied by the Planning and Community Development Director as provided in Subsection 3.1 above. Any amendment not meeting the criteria of the preceding sentence must be approved by the Redmond City Council using the process for consideration of development agreements set forth in the RZC.

4. Term. The term of this Agreement shall be ten (10) years, except as provided in this Section. The City and Owner may agree to extend the term of this Agreement, provided that such extension is approved by the Redmond City Council.

5. Development Approvals.

5.1 Approvals. Detailed plans for development of the Property shall be as approved through the site plan entitlement process and other approval processes set forth in the RZC, as applicable. Road widths, right-of-way dedications, and street and utility improvements shall be governed by the coordinated civil review for construction plan approval.

5.2 Conditions. The City shall not impose any condition on the Project, or on any development proposal within the Project, that is inconsistent with the Site Plan Entitlement, except as authorized in this Agreement or otherwise authorized by applicable City codes or state or federal regulations, including but not limited to those codes and regulations set forth in Section 5.2 against which Owner is not vested, or under those circumstances set forth in Section 5.3.

5.3 Flexibility. The Project is intended to accommodate a number of different uses allowed under applicable zoning. This Agreement is not intended to require specific uses for the Project or limit the allowable uses to those listed in Paragraph 2 of this Agreement. Any use permitted by the zoning may be permitted on the Property so long as the combined uses in the Project do not create more than 544 PM peak hour trips, and the remainder of this Agreement shall remain in full force and effect. The Agreement may be administratively amended pursuant

to Section 3.2 to reflect changes to the Project permitted under this section.

5.4 Development Site/Land Division. The size, configuration and number of legal lots or development parcels within the Property may be modified if approved by the City without amendment of the Development Agreement through boundary line adjustments, lot consolidations, binding site plans, short plats, subdivisions or the creation of condominiums.

6. Utilities. As required in Section 1 of the 1st Amendment, at the time of civil engineering approval for Lot 7, Owner will pay to the City a Regional Stormwater Connection Fee in the amount of \$37,130.65. Under the 1st Amendment, Owner has paid the Reimbursement Fee of \$34,181.75 for Lot 7 for construction costs for completing Pond A. A fee of \$23,078.32, plus the applicable administrative fee, will be paid by Owner with the water meter application for a water main extension pursuant to City of Redmond Reimbursement Agreement 12-01. Owner acknowledges that other fees may be assessed at building permit issuance. The City agrees that water quality and stormwater detention measures are addressed through the Amended UHCC Development Agreement, and no additional measures would be required on Lot 7. Any required water mains, sewer mains, and storm drainage facilities will be installed in public right-of-way or in easements acceptable to the City. Any necessary right-of-way and easements shall be dedicated or conveyed to the City prior to issuance of a grading permit or building permit for any building in the Project, whichever is sooner. Construction of such improvements shall be in accordance with City standards, including but not limited to, the City's Standard Specifications and construction details, the City of Redmond Water and Wastewater Design Requirements for System Extensions, and the City of Redmond Stormwater Technical Notebook. Owner will construct improvements as shown in the civil plans developed during the Coordinated Civil Review process. No other utility improvements will be required, except as may be necessary to meet state or federal mandates against which Owner is not vested under Section 3.2 and except as may be required by the City under circumstances described in Section 3.3. Changes to the Project that result in administrative amendment to this Agreement will not result in additional utility requirements beyond those described in the Master Plan approved as part of LAND-2021-00474 or the Amended UHCC Development Agreement, the Coordinated Civil Review approval, and any conditions of approval related to utilities in the approvals for the Project, provided that there is no increase in stormwater runoff as the result of the amendment and provided that the utility demands of the amendment do not exceed the capacity anticipated in the Amended UHCC Development Agreement.

7. Allocation of Vehicle Trips to the Property. The remaining 544 PM peak hour vehicle trips created by the Amended UHCC Development Agreement traffic mitigation (Amended UHCC Development Agreement Paragraphs 9-11) was allocated to Lot 7 (the Property) in the 3rd Amendment to the Amended UHCC Development Agreement. The City agrees that the 544 PM peak hour trips may be used by Owner as an offset against the traffic impacts of future development on the Property.

8. Right-of-Way and/or Easement Dedication. In accordance with RZC 21.52.030.G, where a planned street right-of-way or roadway, sidewalk, slope, or utility easement, as indicated by RZC 21.52.030.D, or as necessary to complete a public street, lies within the proposed development, Owner shall be required to dedicate the right-of-way and/or easement to

the City as a condition of approval, unless stated otherwise in this Agreement. Prior to acceptance of the right-of-way and/or easement by the City, Owner will be required to remove or subordinate any existing private easements or rights that encumber the property to be dedicated and shall be required to remove any encroachments on such easements or rights-of-way.

9. Transportation Impact Fees and Credits. The Amended UHCC Development Agreement provides that construction of the required transportation improvements in the Amended UHCC Development Agreement fully offsets the City's required traffic mitigation impact fees and that no further traffic impact fees will be required for the development of the Amended UHCC Property. The City agrees that the impact fees associated with the Lot 7 Development are offset by the transportation improvements completed under the Amended UHCC Development Agreement, so long as the Lot 7 Development generates 544 PM peak hour trips or less. If the Lot 7 Development generates more than 544 PM peak hour trips, Owner would be required to pay impact fees for only those trips generated in excess of 544 PM peak hour trips.

10. Transportation Concurrency. As determined by the Amended UHCC Development Agreement, Phase II development, which includes development on the Property, was issued a Certificate of Concurrency with an expiration date that is the same as the expiration date of the Amended UHCC Development Agreement, February 15, 2028. The City agrees that the Certificate of Concurrency continues to apply to the development on the Property contemplated in this Agreement so long as the Lot 7 Development generates 544 PM peak hour trips or less. If the Lot 7 Development generates more than 544 PM peak hour trips, Owner may be required demonstrate that the Lot 7 Development continues to meet concurrency requirements.

11. Transfer of Ownership. In the event of transfer of ownership of all or any portion of the Property, the benefits accruing to, and the obligations placed upon the Owner under this Agreement shall run with the land and title to the Property and inure to the benefit of, and be binding upon, each person having any right or title or other legal interest in the Property with respect to that party's interest in the Property. This Agreement shall be deemed to create privity of contract and estate with and among all persons and entities acquiring any interest in the Property subsequent to the date hereof.

12. Miscellaneous Provisions.

12.1 Code Citations. All citations and references to the Redmond Zoning Code and Redmond Municipal Code in this Agreement shall refer to those provisions in force as of the date of this Agreement.

12.2 Recording. This Agreement shall be recorded with the King County Department of Records and Elections. The provisions of this Agreement shall run with the land and be binding upon and inure to the benefit of the Parties, their successors in interest and assigns.

12.3 Amended UHCC Development Agreement Not Affected. The provisions, benefits, and obligations of the signatories to the UHCC Development Agreement and its amendments are unchanged and unaffected by this new Development Agreement for the Property.

12.4 Amendments. Amendments to this Agreement shall be governed by Section 4.5 above.

12.5 Specific Performance. The Parties specifically agree that damages are not an adequate remedy for breach of this Agreement and that the Parties are entitled to specific performance of all terms of this Agreement by any Party in default hereof.

12.6 Governing Law - Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Washington, notwithstanding any conflicts of law provisions. Venue for any litigation under this Agreement shall be King County Superior Court.

12.7 Notices. All notices and other communications required or otherwise provided for by this Agreement shall be in writing and shall be given to the following persons:

City of Redmond:

Attention: Carol Helland
Director of Planning and
Community Development
P.O. Box 97010
Mail Stop: 4SPL
Redmond, WA 98073-9710

Redmond WA 188, LLC

Attention: Drew Zaborowski
Avenue 55
600 University Street, Suite 2305
Seattle, WA 98101

And to its Attorney:

Ogden Murphy Wallace, P.L.L.C.
Attention: James E. Haney
901 Fifth Avenue, Suite 3500
Seattle, WA 98164-2008

And to its Attorney:

McCullough Hill Leary, P.S.
Attention: Ian Morrison
701 Fifth Avenue, Suite 6600
Seattle, WA 98104

The Parties may, from time-to-time, notify each other in writing of changes in the names and addresses of persons to receive notices and communications and such changes shall become effective upon receipt by the non-notifying Party. Notices shall be deemed received within three days after being placed in the United States Mail, properly addressed and postage prepaid, or upon personal delivery.

12.8 Full Understanding – Construction. The Parties each acknowledge, represent and agree that they have read this Agreement, that they fully understand the terms thereof; that they have had the opportunity to be fully advised by their legal counsel and any other advisors with respect thereto; and that they are executing this Agreement after sufficient review and understanding of its contents.

12.9 Attorney's Fees. If either Party institutes litigation against the other Party to enforce any provision of this Agreement or to redress any breach thereof, the prevailing Party shall be entitled to recover its costs and reasonable attorney's fees incurred in such litigation.

12.10 Severability. If any section, sentence, clause or phrase of this Agreement is determined to be invalid or unconstitutional by any court of competent jurisdiction, the

remaining sections, sentences, clauses and phrases shall remain viable and in full force and effect.

12.11 Counterparts. This Agreement may be executed in counterparts, with each Party sending a .pdf of its signature to the other Party via email transmission. This Agreement, when fully executed and signature pages exchanged as provided herein shall be effective as the original document.

12.12 Equal Opportunity to Participate in Drafting. The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any Party based upon a claim that such Party drafted the ambiguous language.

12.13 Exhibits. This Agreement includes the following Exhibits:

Exhibit A: Legal Description of the Property

Exhibit B: Depiction of the Property

12.14 Final and Complete Agreement. This Agreement constitutes the final and complete expression of the Parties on all subjects relating to the development of the Property. This Agreement supersedes and replaces all prior agreements, discussions and representation on all subjects relating to the development of the Property. Neither Party is entering into this Agreement in reliance on any oral or written promises, inducements, representations, understandings, interpretations or agreements other than those contained in this Agreement and the exhibits hereto.

12.15 Effect of Expiration or Termination. Upon expiration or sooner termination of this Agreement, all rights and obligations of the Parties under this Agreement shall terminate and be of no further effect. All development for which a permit is issued after the expiration or termination of this Agreement shall be required to comply with all applicable development regulations in effect at that time and shall be required to pay impact fees in effect at the time of permit issuance. All development for which a permit is issued after expiration or termination of this Agreement shall be required to satisfy any applicable concurrency requirements notwithstanding the issuance of any concurrency certificate during the effective period of this Agreement. All development for which a permit is issued after the expiration or sooner termination of this Agreement shall be subject to SEPA review if not previously completed and may be conditioned to mitigate any environmental impacts of such development, notwithstanding any mitigation provided during the term of this Agreement and the City shall not be required to credit any mitigation provided during the term of this Agreement against any mitigation subsequently determined necessary to mitigate the environmental impacts of any development for which a permit is issued after expiration or sooner termination of this Agreement. It is the intent of the Parties that the requirements of this Agreement shall apply only during its term and that once this Agreement has expired or is terminated, all rights created by the terms of this Agreement will have expired or terminated. All conditions of any permit approvals shall continue to apply, however, as long as the development approved by such permits remains on the Property.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

REDMOND WA 188, LLC

By: _____
Its: _____
Date: _____

CITY OF REDMOND

By: _____
Angela Birney
Its: Mayor
Date: _____

Attest:

_Cheryl D. Xanthos, City Clerk

APPROVED AS TO FORM:

James B. Haney, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the _____ of REDMOND WA 188, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

Printed: _____
NOTARY PUBLIC in and for Washington
Residing at: _____

My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Angela Birney is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the CITY OF REDMOND, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

Printed: _____
NOTARY PUBLIC in and for Washington
Residing at: _____
My appointment expires: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

CADMAN GRAVEL COMPANY LOT 7 REDMOND SP #L080452 REC #20120906900004 SD
SP DAF LOT 2 REDMOND BLA #L070381 REC #20080311900009 SD BLA BEING POR LOT
A CADMAN GRAVEL COMPANY BSP AS AMENDED IN VOL 150 PGS 7-9 TGW POR S 1/2
OF SW 1/4 OF SE 1/4 STR 06-25-06 & POR OF N 1/2 OF NW 1/4 OF SE 1/4 & POR OF NE 1/4
OF NE1/4 OF SW 1/4 & POR OF E 1/2 OF E 1/2 OF NW 1/4 & LESS RD PER DEED REC
#20211115000001

EXHIBIT B

DEPICTION OF THE PROPERTY

