RESOLUTION NO. 863

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE APPROVING A DEVELOPMENT AGREEMENT FOR THE INSTALLATION OF A STORM LINE ON OLYMPIC DRIVE

WHEREAS, the Growth Management Act authorizes local governments to enter into development agreements to govern the design of projects, the amount and payment of impact fees imposed or agreed to for such projects, and to address mitigation measures and such development agreements are the proper exercise of city police power or contract authority;

WHEREAS, the City desires a storm system to be installed across the property at 3300 Olympic Blvd. The installation of a storm system requires extensive earthwork, which is disruptive to the development of the property, as well as to neighboring properties; and

WHEREAS, the owners of the subject property, Joseph and Jennifer Guzzo, have applied for site development permits and building permits and will soon be conducting the earthwork on the site for the purpose of their reconstruction project. In the interest of judicious use of City's resources and in the interest of the public affected by the disruption of the necessary earthwork, the City desires to utilize the Guzzos' contractor to install the storm system; and

WHEREAS, performing the earthwork and construction of the storm system with the necessary disruption to those immediately adjacent areas at the same time is the best way to ensure that the work is completed successfully, and with the least risk of adverse consequences to the City; and

WHEREAS, the foregoing facts would clearly support a Council determination to utilize the "special facilities or market conditions" exemption for the construction of the storm system, to contract with the same contractor that is conducting the earthwork for the Guzzos on the property; and

WHEREAS, as required by RCW 36.70B.200 a public hearing was held on this Development Agreement by the City Council on June 18, 2018;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF UNIVERSITY PLACE, WASHINGTON, AS FOLLOWS:

- Section 1. <u>Approval of Form of Documents</u>. The City Council hereby approves execution of the Development Agreement in substantially the form of the document accompanying this Resolution.
- Section 2. <u>Completion of Transaction</u>. The City Manager or designee is authorized to take and execute any additional measures or documents that may be necessary to complete this transaction and to implement the Development Agreement, which are consistent with the executed Development Agreement and the terms of this Resolution.
- Section 3. <u>Legislative Findings</u>. To the extent that aspects of this Development Agreement implicate the provisions of chapter 39.04 RCW, the City Council finds that there are "special facilities or market conditions," as defined by RCW 39.04.280(1)(b) which would exempt this project from those requirements. Specific findings include the following:
 - a. The "special facilities or market conditions" exemption has been utilized by local jurisdictions across the State for more than twenty (20) years and has never been the subject of a reported Washington State Court case or Attorney General Opinion; and

- b. The circumstances that may constitute "special facilities or market conditions" are not defined by State law, but rather are left to the legislative judgment of each local Council; and
- c. The owners of the subject property, Joseph and Jennifer Guzzo, will soon be conducting the earthwork on the site for the purpose of their construction project. In the interest of judicious use of City's resources and in the interest of the public affected by the disruption of the necessary earthwork, the City desires to utilize those contractors employed by the Guzzos to install the storm system; and
- d. The earthwork and construction of the storm system and the necessary disruption to those immediately adjacent areas pursuant to a development agreement is the best way to ensure that the work is completed successfully, and with the least risk of adverse consequences to the City;

Section 4. <u>Effective Date</u>. This Resolution shall be effective immediately upon adoption by the City Council.

ADOPTED BY THE CITY COUNCIL ON JUNE 18, 2018.

Kent Keel, Mayor

ATTEST:

Emetita Genetiaa City Clerk

APPROVED AS TO FORM:

Matthew S. Kaser, City Attorney