DEVELOPMENT MITIGATION AGREEMENT
BETWEEN THE CITY OF TACOMA AND
DCT BLAIR LOGISTICS CENTER LLC

THIS DEVELOPMENT MITIGATION AGREEMENT ("Agreement") is dated this ___ day of _____, 2018 (the "Effective Date"), between the City of Tacoma (the "City"), a Washington municipal corporation, and **DCT Blair Logistics Center LLC, a Delaware limited liability company** (the "Developer") (hereinafter collectively referred to as "Parties"), and is made pursuant to the following recitals and the terms and conditions herein.

RECITALS

A.   Developer is constructing a new logistics center (the "Project") within the Port of Tacoma area of the City.

B.   The SEPA analysis for the Project, dated **September 6, 2016**, resulted in a Mitigated Determination of Non-Significance ("MDNS") which specified a number of mitigation measures to be taken by the Developer.

C.   Among the required mitigation measures, there is one related to traffic impacts on City streets, listed in the MDNS as Mitigation Measure 1.

D.   State law allows the Developer and the City to enter into a voluntary agreement under which the Developer will pay the City to implement the necessary mitigation.

E.   The Developer and the City concur that this agreement is the most efficient way to implement Mitigation Measure 1 of the MDNS.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each party and in future consideration of the benefit to the general public by the implementation of the mitigation, and other valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1.   Recitals. Each of the recitals set forth above is incorporated into this Agreement as though fully set forth herein.

2.   Scope of Agreement. This Agreement addresses only MDNS Mitigation Measure 1, the Developer's obligation to mitigate any additional impacts identified in the MDNS, or by City code are unaffected by this Agreement.

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3.   Mitigation.

3.1   The land use scenario analyzed in the Transportation Impact Study generates trips by trucks/heavy vehicles which create significant relative impact to the operating capacity of the Taylor Way roadway (from Lincoln Avenue to SR 509) and Lincoln Avenue roadway (from Taylor Way to Alexander Avenue). A pavement structural analysis indicates a necessary pavement design (i.e., Structural Number) and/or additional pavement material/thickness that would be needed to support the forecasted traffic demands with the site-generated traffic. To mitigate the impact of the site's generated traffic, the applicant shall choose one of the following measures:

a.   Implement the prescribed pavement section/structure (as identified in the appendix of the Transportation Impact Study), which has associated pavement design structural numbers ranging from about 6.7 to 7.8 depending on the roadway segment, through the reconstruction of Taylor Way from Lincoln Avenue to SR 509 and Lincoln Avenue from Taylor Way to Alexander Avenue; or

b.   Enter into an agreement to provide funds in the amount of $156,500 (for Taylor Way portion) and $27,200 (for Lincoln Avenue portion), as derived from the relative cost increase in paving material thickness (which ranges from 0.75 inches to 1.00 inches of asphalt depending on the roadway segment), as a funding component of a future City-led roadway project(s) to improve the ability of the pavement on Taylor Way and Lincoln Avenue to support the anticipated traffic loading contributed by the site. In the event that the City of Tacoma requires the applicant to provide a pavement overlay on Lincoln Avenue as part of the site development's frontage improvements, the cost of the overlay shall be credited against the $27,200 improvement of the pavement conditions on Lincoln Avenue.

The City and the Developer agree that payment by the Developer to the City of the sum of $183,700.00 is sufficient and appropriate to allow the City to address the impact identified in MDNS Mitigation Measure 1.

4.   Payment.   The Developer will make the mitigation payments described herein within 30 days of full execution of this Agreement. Payment shall be by check made payable to 'City of Tacoma' and mailed to:

City of Tacoma
Public Works Traffic Engineering
Attn: Nadine Daly
747 Market St., Rm. 644
Tacoma, WA 98402

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5.   <u>Mitigation Implementation</u>.   Upon payment to the City of the sums identified in this Agreement, Developer shall have no further responsibility or liability for the impacts identified in MDNS Mitigation Measure 1. The City shall have full responsibility and liability for implementing the necessary mitigation.

6.   <u>Term of Agreement and Modification</u>.

6.1   This Agreement shall become effective as of the date it is fully executed. This Agreement shall be recorded and run with the land. This Agreement shall remain in effect until full payment is made to the City.

6.2   No modification of this Agreement is valid unless evidenced in writing and signed by both Parties. No oral agreement may supersede, replace or amend this Agreement.

7.   <u>Default</u>. In the event of a default in compliance with terms of this agreement by either Party, this Agreement shall terminate, the Parties' rights and obligations under the MDNS Mitigation Measure 1 shall recur and be unaffected by the termination of this Agreement.

8.   <u>Severability</u>. Each provision of this Agreement shall be considered severable, and if for any reason any provision that is not essential to the effectuation of the basic purposes of the Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement that are valid.

9.   <u>Relationship of Parties</u>. Developer and the City shall not be construed as having a joint venture or partnership, and neither shall have the power to bind or obligate the other party except as set forth in this Agreement. Developer shall have no right or authority, express or implied, to commit or otherwise obligate the City in any manner whatsoever except to the extent specifically provided herein or specifically authorized in writing by the City.

10.   <u>No Third Party Rights</u>. The provisions of this Agreement are intended solely for the benefit of, and may only be enforced by, the Parties hereto and their respective successors and permitted assigns.

11.   <u>Notices</u>. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either party hereto by the other party, shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party to whom it is addressed or in lieu of such personal service, three (3) days after it is deposited in the United States mail, first-class postage prepaid, certified or registered, return receipt requested, addressed as follows, or sent via facsimile or email transmission to the fax numbers or email address set forth below, with machine confirmation of receipt followed by a "hard copy" mailed regular mail, within one (1) business day to the addresses listed as follows:

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City:	City of Tacoma
	Public Works Engineering
	747 Market Street, Rm. 644
	Tacoma, WA 98402

Attention: Josh Diekmann
Email: jdiekmann@cityoftacoma.org

Developer:	DCT Blair Logistics Center LLC
	c/o DCT Industrial Trust Inc.
	701 Fifth Avenue, Ste. 2830
	Seattle, WA 98104

Attention: Ben Brodsky
Email: bbrodsky@dctindustrial.com

Copy to: DCT Blair Logistics Center LLC
          c/o DCT Industrial Trust Inc.
          555 17th Street, Suite 3700
          Denver, CO 80207
Attention: DCT Legal
Email: cgarrison@dctindustrial.com

Either party may change its address for the purposes of this Section by giving written notice of such change to the other party in the manner provided in this Section.

12.   <u>Non Waiver of Governmental Rights</u>. Nothing contained in this Agreement shall require the City to take any discretionary action relating to development of the Project, including, but not limited to, zoning and land use decisions, permitting, or any other governmental approvals.

13.   <u>Counterparts</u>. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

14.   <u>Authority</u>. Each of the persons signing below represent and warrant that they have the requisite authority to bind the party on whose behalf they are signing.

15.   <u>Attorneys' Fees</u>. Each party shall be responsible for payment of the legal fees and costs of its own counsel in the event of any litigation, arbitration or other proceeding brought to enforce or interpret or otherwise arising out of this Agreement.

16.   <u>Non-Liability of City, Officials, Employees, and Agents</u>. No member, official, employee or agent of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Developer or successor or on any obligation under the terms of this Agreement.

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17.   Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington, without regard to principles of conflicts of laws, and venue of any action brought to enforce this Agreement shall lie exclusively in Pierce County, Washington. Jurisdiction shall lie with the Superior Court of the State of Washington. The Parties hereto consent to the jurisdiction of the Pierce County Superior Court and waive the right to file suit elsewhere.

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

CITY OF TACOMA	**DCT Blair Logistics Center LLC,** a Delaware limited liability company

_____
 Kurtis D. Kingsolver, P.E.
 Public Works Director/City Engineer
 	
 APPROVED AS TO FORM:
 	
 _____
 Steve Victor
 Deputy City Attorney
	By: DCT Industrial Operating Partnership LP,
	      a Delaware limited partnership,
	      its Sole Member
	
	      By: DCT Industrial Trust Inc.,
	             a Maryland corporation,
	             its General Partner
	
	 By: _____
	
	 Name: _____
	
	 Title: _____

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