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**BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE**

**ENDING THE PRISON INDUSTRIAL
COMPLEX (EPIC), ET AL**

Hearing Examiner File No.:
MUP-17-001

From a decision by the Director, Department
of Construction and Inspections, on a Master
Use Permit

DCI Project No. 3020845

**DECLARATION OF SEATTLE CITY
COUNCILMEMBER MICHAEL
O'BRIEN IN SUPPORT OF
APPELLANTS' MOTION FOR
RECONSIDERATION**

I declare under penalty of perjury under the laws of the State of Washington that the
following is true and correct:

1. I am a member of the Seattle City Council where I represent District 6, Northwest
Seattle.
2. I have served as a councilmember for the city of Seattle since 2010. Currently, I
am in my third term which began in 2016 and ends in 2019.

1 3. During my second term in office, I was the Chair of the Planning, Land Use and
2 Sustainability Committee. I now serve as the Vice-Chair of the Planning, Land Use and Zoning
3 Committee during my third term.

4 4. On October 13, 2014 the Council passed certain amendments to SMC
5 27.53A.004 regarding the proposed King County development for the new Children and Family
6 Justice Center (CFJC). *See* Ordinance Number 124610; *see also* Council Bill Number 118202. I
7 served as chair of the committee and sponsor of the Ordinance.

8 5. The Ordinance explicitly states, among other things, that “the development
9 standards for institutions in Section 23.45.570 apply, and subsections 23.45.570.D and
10 23.45.570.F relating to structure width and setbacks may be waived or modified by the Director
11 as a Type II decision.”

12 6. For purposes of this Ordinance, the Department of Construction and Inspection
13 Director’s decision was categorized as Type II so that it would be eligible for review under
14 appeal by a Hearing Examiner.

15 7. Attached as Exhibit 1 to this declaration is a true and correct copy of the staff
16 report created as part of the legislative process related to the Ordinance.

17 8. Attached as Exhibit 2 to this declaration is a true and correct copy of the fiscal
18 note related to the Ordinance that was created as part of the legislative process related to the
19 Ordinance.

20 9. The Council and I relied upon the information contained within Exhibit 1 and 2
21 when considering and voting upon the Ordinance.
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1 10. The legislative history on this point described in the staff report and fiscal note
2 accurately reflects the City Council's and the Planning, Land Use and Sustainability
3 Committee's and my intent to provide an avenue for appellate review by a Hearing Examiner
4 when a waiver or modification of standards was granted or denied by the Director.

5 11. The Council and I understood when passing the Ordinance that there was
6 considerable public interest in the development of the new King County facility and that
7 decisions related to construction of a new youth detention center were particularly
8 controversial.

9 12. Given this public controversy, a right to appeal the City's land use decisions to
10 the Hearing Examiner is a crucial piece of the Ordinance.

11 13. The failure to add explicit language to SMC 23.76.006.C regarding the waiver
12 and modifications of standards to youth services centers was an inadvertent legislative drafting
13 error. The absence of such language in SMC 23.76.006.C does not reflect the actual legislative
14 intent in passing the Ordinance.

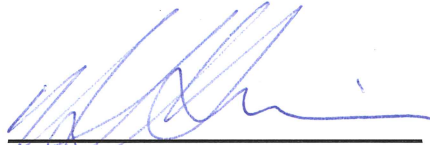
15 14. Decisions to waive or modify standards as related to CFJC are appealable Type
16 II decisions and were meant to be understood as such when Ordinance Number 124610 was
17 codified.

18 15. Unfortunately, legislative drafting errors sometimes occur, particularly when
19 addressing complicated statutory schemes like those contained in Seattle Land Use Code. Such
20 obvious unintentional errors should not render otherwise clear legislative actions invalid.

21 16. The Council intended to grant interested stakeholders the right to appeal the
22 Director's MUP decisions regarding the King County development to the Hearing Examiner.
23

1 The City then informed the public that interested stakeholders could appeal these decisions to
2 the Hearing Examiner. The City should be bound to that legislative intent and those public
3 representations.

4 Signed this 13th day of March 2017 in Seattle, Washington.

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7 Michael O'Brien
8 Member of Seattle City Council
9 District 6, Northwest Seattle
10 Mike.O'Brien@seattle.gov
11 Seattle City Hall
12 600 Fourth Avenue
13 Seattle, WA 98104
14 (206) 684-8800 – phone
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