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**Downtown Waterfront Development Agreement**

Reference Numbers(s) of Related Documents:

Additional Reference #'s on Page \_\_\_\_\_

Grantor(s):  
**The City of Vancouver, a Washington municipal corporation**

Additional Grantors on Page \_\_\_\_\_

Trustee(s)

Grantee(s):  
**Columbia Waterfront LLC, A Washington limited liability company**

Additional Grantees on Page \_\_\_\_\_

Legal Description: (abbreviated form i.e. lot, block, plat or section township, range, quarter/quarter)

**Development agreement**  
**SW 1/4, S27428, T2N, R1E**

Additional Legal on Page \_\_\_\_\_

Assessor’s Property Tax Parcel/Account Number:

**~~Plat~~ 49335-000 ; 502180-000 ; 48841-000 ; 48843-000 ; 502240-000**

Additional Parcel #'s on Page \_\_\_\_\_

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

**DOWNTOWN WATERFRONT  
DEVELOPMENT AGREEMENT**

**Between**

**THE CITY OF VANCOUVER,  
a Washington municipal corporation**

**And**

**COLUMBIA WATERFRONT LLC,  
A Washington limited liability company**

**Dated  
October 19, 2009**

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## **DOWNTOWN WATERFRONT DEVELOPMENT AGREEMENT**

**DATED:** October 19, 2009

**BETWEEN:** THE CITY OF VANCOUVER,  
a Washington municipal corporation (the "City")

**AND:** COLUMBIA WATERFRONT LLC,  
a Washington limited liability company  
c/o 19767 SW 72<sup>nd</sup> Avenue  
Tualatin, OR 97062 (the "Developer")

### **RECITALS**

The City adopted the Vancouver City Center Vision and District Plan on June 18, 2007 (the "VCCV"). The VCCV establishes a long-term comprehensive plan for several districts within the central part of the City of Vancouver. The VCCV sets forth the City's vision and comprehensive plan for the Columbia West Renaissance (Waterfront) District (the "CWRD").

The VCCV contains Guiding Principles and Plan Policies. Among the Guiding Principles are the following:

- Build on the successes and experience with the Esther Short Plan;
- Promote residential development, including affordable housing as key to a vital and attractive City Center;
- Support the Vision with strategic investments and public infrastructure — especially transportation.

Among the VCCV's Plan Policies are the following:

- Encourage residential development, including affordable housing, as the key to the City Center vitality ;
- Focus waterfront redevelopment on residential uses supported by significant public access, recreation, cultural, hospitality, entertainment and limited commercial uses;

- Overcome the barrier-like feeling of the BNSF railroad berm between downtown and the waterfront.

The VCCV established development goals for the CWRD. Those goals are not mandates; but rather, are aspirational goals for the CWRD. The public benefits from achieving the development goals of the VCCV for the CWRD are numerous and include: high-density urban redevelopment of a former industrial site, a vibrant mixed-use neighborhood, public access to riverfront development, a neighborhood including public parks, plazas and a riverside esplanade, and sustainable development.

Developer has acquired ownership of that approximately twenty-eight -acre parcel of land which constitutes most of the CWRD. A description of the Developer Parcel is attached as Exhibit A. Developer also has the right to acquire a small parcel of land adjacent to and northeast of the property described in Exhibit A, which is described on Exhibit A-1. The parcels described in attached Exhibits A and A-1 are collectively the "Developer Parcel." Developer intends to build a multi-phase redevelopment project (the "Project") that seeks to achieve the development goals of the VCCV for the CWRD.

The VCCV recognizes that the development goals for the CWRD cannot be accomplished, given the existing BNSF berm and tunnels and the existing street pattern in the vicinity of the berm. These conditions are extraordinary impediments to accomplishing the development goals of the VCCV for the redevelopment of the CWRD. In addition, to further the goals of the VCCV, the CWRD right-of-way acquisition and the relocation of a sewer trunkline will need to occur. The cost of overcoming these impediments are beyond the economic capability of the redevelopment of the Developer Parcel or any other property within the CWRD.

In order to further the development goals of the VCCV for the CWRD and to thereby achieve the public benefits of this redevelopment, the City is willing to invest public funds in the work which is necessary to tunnel through the BNSF berm and build the related

infrastructure improvements so that the CWRD can become an integral and exciting part of the central city of the City of Vancouver. The Developer cannot proceed with the development of the Developer's Parcel in a manner consistent with the VCCV without an assurance of this public investment. In addition, the Developer cannot proceed with the Project without certain other long-term assurances regarding the land use entitlements for the Developer's Parcel.

In order for the City to determine if the Developer's plans for the Project further the goals of the VCCV, and in order for the Developer to obtain the necessary predictability about what design and regulatory standards will apply to the development of the Project over the long term development of the Project, Developer has prepared a Master Development Plan which is attached as Exhibit B (the "Master Development Plan").

The Master Development Plan identifies certain development thresholds (such as square footages of certain uses and design standards). The intent of this Agreement is to establish the Master Development Plan and the design standards provided for in this agreement as the framework for the future development approvals required for the Project and described below. The execution of this agreement by the City, including the Master Development Plan, expressly does not constitute any quasi-judicial or legislative approvals of the Project.

The parties desire to enter into this Downtown Waterfront Development Agreement (the "Agreement") in order to assure sufficient funding for the necessary infrastructure work, to establish a collaborative framework to achieve the development goals of the VCCV and to provide certain basic commitments so that the parties can proceed with further planning and development activities.

The City has the authority to enter into this Agreement pursuant to RCW 36.70B.170(1), and the purposes of this Agreement are consistent with the legislative findings in RCW 36.70B.170(1).

NOW, THEREFORE, in consideration of the mutual promises of the parties set forth in this Agreement, the City and the Developer agree as follows:

**SECTION 1 NATURE OF THIS AGREEMENT**

This Agreement is a development agreement authorized pursuant to RCW 36.70B.170 through RCW 36.70B.210 and VMC 20.250.010 through VMC 20.250.050. Accordingly, it is a contractual agreement between the City and the Developer, subject to the City's approval by resolution adopted following a public hearing as provided for in RCW 36.70B.170 and VMC 20.250.050.

**SECTION 2 EFFECTIVE DATE AND DURATION OF AGREEMENT**

**2.1 Effective Date.**

This Agreement shall not be effective unless and until it is approved by the City Council of the City of Vancouver as provided in Section 1 above, subject to Section 2.2. The "Effective Date" of this Agreement is the date of the approval by the City Council of the City of Vancouver of the resolution adopting this Agreement.

**2.2 Effect of Appeal.**

In the event that the resolution of the City Council adopting this Agreement is appealed, then this Agreement shall remain effective during the pendency of the appeal or subsequent appeals; however, the obligations of the parties set forth in this Agreement shall be suspended pending the determination and final outcome of any and all appeals. In the event an appeal is filed, the City and the Developer both agree to vigorously resist any appeal. In the event that an appeal results in an outcome that is not an affirmation of the resolution adopting this Agreement, then the City agrees to appeal that initial determination until a final appeal has been determined. In the event that any final appeal of the City's resolution does not affirm the resolution adopting this Agreement, then either the City or the Developer may, by written notice

to the other, terminate this Agreement within sixty (60) days of the effective date of any such final appeal.

2.3 Duration.

The duration of this Agreement shall be for a period of twenty (20) years commencing with the Effective Date of this Agreement and terminating at the end of the 20<sup>th</sup> anniversary of the Effective Date, unless sooner terminated pursuant to the terms of this Agreement, except for the provisions of Section 9.3.4 which shall terminate as provided in Section 9.3.4.

**SECTION 3 PROJECT SITE**

3.1 Necessary Components of Project Site.

The parties agree that the following parcels of property or property interests are all of the required components of the "Project Site":

3.1.1 The Developer's Parcel described on attached Exhibit A;

3.1.2 A leasehold estate in that parcel of property owned by the Port of Vancouver and described on attached Exhibit C;

3.1.3 A leasehold estate in the shoreline and submersible lands along the north bank of the Columbia River owned by the State of Washington, Department of Natural Resources ("DNR") and described on attached Exhibit D;

3.1.4 That parcel of property owned by the City and described in Exhibit E;

3.1.5 An access easement on land owned by the Port of Vancouver and described on attached Exhibit F;

3.1.6 Those rights-of-way owned by the City and described on attached Exhibit G; and

### 3.2 Assemblage and Acquisition of Project Site.

With respect to the above components of the Project Site, other than the Developer's Parcel, the parties acknowledge and agree as follows.

3.2.1 Developer has obtained from the Port of Vancouver a leasehold estate with respect to the property described on attached Exhibit C for the term of not less than 80 years.

3.2.2 The City agrees within ten (10) days of the Effective Date to initiate the process necessary to declare that portion of property owned by the City and described in Exhibit E (the "Surplus Property") as surplus. If the Surplus Property has been declared surplus by the action of the City Council, then the City agrees to convey the Surplus Property to the Developer in exchange for the conveyance to the City and dedication of that land owned by the Developer and described on attached Exhibit H (the "Developer Exchange Land"). The appraised fair market value of the Surplus Property and the Developer Exchange Land shall be determined by an MAI appraiser, mutually acceptable to the City and the Developer, experienced in the valuation of commercial property in the central city of the City of Vancouver. The appraisal shall be completed within sixty (60) days of the determination that the Surplus Property is surplus. After the Issuance of the Final Development Approvals with conditions acceptable to the Developer, the closing of the exchange of the Surplus Property and the Developer Exchange Land shall occur at the earlier of: (i) a mutually agreeable date within 160-180 days after written notice from the City to the Developer that the City is prepared to close; or (ii) on a mutually agreeable date within sixty (60) days after all rights-of-way within the Developer Exchange Land have been improved with public street improvements which have been completed and accepted by the City. Closing shall occur at a title insurance company mutually acceptable to the parties. At the closing, the parties shall convey their respective property to each other by means of bargain and sale deeds without any representations or warranties regarding the condition of

each property except for the warranty of title contained in the bargain and sale deed and free and clear of any monetary liens or encumbrances. Each party, at its expense, shall provide the other party with a standard ALTA form owner's title insurance policy insuring Developer as the owner of the Surplus Property and the City as owner of the Developer Exchange Land, subject to only those non-monetary liens and encumbrances which are of record. In addition, the Developer shall provide the City with lien releases from all contractors and subcontractors that were involved in constructing the above-described street improvements. All closing costs, including transfer taxes, shall be shared equally between the City and Developer. If the appraised fair market value of the Surplus Property exceeds the fair market value of the Developer Exchange Land, the Developer shall pay the excess to the City in cash. In the event the fair market value of the Surplus Property exceeds the fair market value of the Developer Exchange Land, the City shall not be required to make any payment to the Developer.

3.2.3 Within sixty days of the date that the Development Approvals are Final, the City agrees to commence the process of vacating the street rights-of-way described on attached Exhibit G and to thereafter expeditiously process the street vacation of these rights-of-way so as to declare these rights-of-way as surplus within six (6) months of the Final approval of the Development Approvals. Developer acknowledges that the vacation of a right-of-way is an exercise of the City's police power and, accordingly, the City cannot and is not committing to the vacation of these rights-of-way. Upon the final action of the City necessary for the vacation of these streets rights-of-way, the City agrees to convey these vacated street rights-of-way to Developer. Any consideration that may be owed to the City under the applicable provisions of RCW 35.79.030, shall be paid to the City by the Developer within thirty (30) days of the effective date of the street vacation.

## **SECTION 4    MASTER DEVELOPMENT PLAN**

### **4.1    City Approval of Master Development Plan.**

In reviewing the attached Master Development Plan, the City acted in its proprietary capacity as a party to this Agreement and did not act in its regulatory capacity, and the action of the City in reviewing the Master Development Plan was not a land use approval.

### **4.2    Preparation of Development Approvals.**

Any application for the Development Approvals (defined below) submitted by the Developer for the Project Site shall be consistent with the Master Development Plan, the provisions of this Agreement and provide for the following:

4.2.1 An average floor area ratio (the ratio of square feet of gross floor area divided by the buildable area, including above ground parking), of the Project exclusive of rights-of-way, public parks and open spaces and esplanade area across the entire Project Site equal to 4.5:1. The Developer shall establish a minimum FAR for each block. The average FAR of all blocks combined, (except for blocks 9 and 12 which shall not be considered for FAR purposes, but shall exceed an FAR of 1:1) shall equal or exceed 4.5:1. The Developer may vary below the minimum per block FAR by up to 10%, provided a commensurate amount of square footage is transferred to another block. In the event that the Developer constructs a development on a block and the FAR of that development exceeds the minimum FAR assigned to that block, then the excess may be used to reduce the minimum FAR for a development on a different block. The Developer acknowledges the scope of the Environmental Impact Statement issued as part of the adoption of the VCCV, as well as any additional environmental review that may accompany the Development Approvals, and acknowledges that levels of development, density or transportation impacts beyond those covered by that Environmental Impact Statement or any additional SEPA review that may occur with respect to the Development Approvals may require further compliance with the State Environmental Protection Act.



4.2.2 Office Uses: No less than 400,000 square feet and no more than 1,120,000 square feet;

4.2.3 Residential Uses: No less than 2,500 residential units and no more than 3,300 residential units.

4.2.4 Retail Uses: No less than 100,000 square feet and no more than 400,000 square feet;

4.2.5 Park, trail and open space areas of approximately ten (10) acres in the general configuration and locations identified in the Master Development Plan.

4.2.6 All vertical development within the Project shall meet, at a minimum, the equivalent of a Leadership in Energy Efficiency and Design (LEED) silver standard or better, as published by the U.S. Green Building Council, or other equivalent sustainable design standard acceptable to the City that complies with the then currently adopted IBC.

4.2.7 Uses that would otherwise be allowed in the CX zone.

#### 4.3 Design Standards.

The Developer intends to incorporate the design standards set forth in attached Exhibit I in its application for Development Approvals. The design standards attached as Exhibit I are acceptable to the City in its proprietary, non-regulatory capacity. The design standards that apply to the Project will be those set forth in the Final Development Approvals.

### **SECTION 5 LAND USE APPROVALS**

#### 5.1 Generally.

In general, Developer acknowledges that in order for the Developer to commence construction of the Project, the Developer will need to submit applications for and obtain the City's approval of the land use reviews described below. The Developer acknowledges that by approving the Master Development Plan, in its proprietary capacity, the City is not thereby

approving applications to be submitted for the following described land use approvals set forth in Section 5.2.

5.2 Required Land Use Approvals.

Developer agrees to submit technically complete applications for the following Development Approvals (defined below) no later than October 15, 2009. All of the applications for the Development Approvals must be consistent with: (i) the provisions of this Agreement; (ii) the Master Development Plan; and (iii) the Core Park Improvement Plan referred to in Section 9.3.3. After submittal of a technically complete application by the date set forth above, the Developer agrees to vigorously pursue the Development Approvals. The "Development Approvals" are the following land use approvals: Planned Unit Development approval; Preliminary Plat approval; Critical Areas Permit approval; Tree Removal Permit approval; Street Vacation approval; Planned Action Ordinance Concurrence approval; Shoreline Conditional Use approval; and Shoreline Substantial Development Permit approval.

5.3 City Regulatory Authority.

Notwithstanding the City's execution and approval of this Agreement, the City retains its regulatory authority over the Development Approvals referred to in Section 5.2. The City shall be free to approve, approve with conditions or disapprove any or all of the Development Approvals referred to in Section 5.2, based on the applicable criteria for such approvals. In the event that the City disapproves of an application for a Development Approval, then the Developer shall have no claim or cause of action against the City on account of the City's execution of this Agreement.

5.4 Potential Appeals.

In the event that, after the City approves a Development Approval referred to in Section 5.2, an appeal of that approval is filed, then the City and the Developer agree to vigorously resist any appeal until all appeals are exhausted and until there is final judicial

resolution of any and all appeals. In the event that any Development Approval granted by the City is ultimately resolved in a manner that overturns the Development Approval, then either party may terminate this Agreement by written notice to the other given within sixty (60) days of final judicial action. The Development Approval shall be "Final" upon the earlier of: (i) the City's issuance of the Development Approvals and the expiration of all appeal periods with no appeal being filed; or (ii) the resolution of all appeals in favor of the Development Approvals, with no further appeal being possible.

## **SECTION 6    TERMINATION BASED ON CONDITION SUBSEQUENT**

### **6.1    Termination Events.**

In the event that any of the following events occur, then either party may terminate this agreement by written notice to the other within sixty (60) days of the occurrence of such event:

6.1.1 The resolution of the City Council approving this Agreement is ruled invalid by final judicial action.

6.1.2 Developer is unable to obtain from the Port of Vancouver the easement referred to in Section 3.1.5.

6.1.3 Developer is unable to obtain the leasehold estate from the State of Washington, Department of Natural Resources referred to in Section 3.1.3.

6.1.4 Developer fails to pay the amount referred to in Section 7.3.1.1, the amounts referred to in Section 7.3.1.2 when and as due, or fails to provide the security referred to in Section 7.3.2, when and as required by those Sections.

6.1.5 The City is unable to enter into an agreement or agreements with BNSF, acceptable to the City, covering the relative rights and obligations of the City and BNSF with respect to the rail improvement and relocation project and the transportation improvement projects referred to in Section 7.2 below.

6.1.6 The Developer fails to diligently and in good faith pursue the Final Development Approvals; provided however, that only the City may terminate under this subsection.

6.1.7 The City fails to diligently and in good faith process the Developer's application for the Development Approvals; provided however, that only the Developer may terminate under this subsection.

6.2 Effect of Termination.

In the event of a termination elected pursuant to Section 6.1 prior to the date when the Developer's payment under Section 7.3.1.1 is due, such a termination shall terminate this Agreement in its entirety. In the event of a termination elected pursuant to Section 6.1 after the date when the Developer's payment under Section 7.3.1.1 is due, then the Agreement shall terminate except for the payment and performance obligations of the parties set forth in Section 7.

**SECTION 7 TRANSPORTATION IMPROVEMENTS, CONSTRUCTION AND FUNDING**

7.1 City Obligation to Commence and Complete Construction.

7.1.1 The City and Developer agree that in order to achieve the densities and uses called for in the VCCV and the Master Development Plan and to adequately mitigate the transportation impacts associated with the VCCV and the Project, off-site transportation infrastructure improvements must be completed. The City agrees to cause the following described off-site transportation improvements to be substantially completed no later than December 31, 2011, subject to the conditions in Section 7.1.2. The City agrees to pay the cost of completing the off-site transportation improvements, subject to Developer's obligation to make a contribution to the cost of these improvements pursuant to Section 7.3.1. The City's obligations under this Section 7.1 and 7.2 shall survive and supersede the termination provisions of Section 6, if Developer has

timely made all of its required payments and provided security to the City as provided for under Section 7.3

7.1.2 The City's obligations under Section 7.1.1 are subject to the following pre-conditions:

7.1.2.1 Developer has obtained the property interests referred to in Section 3.1.2, 3.1.3 and 3.1.5; and

7.1.2.2 Developer has paid the amount referred to in Section 7.3.1.1 and provided the City with security as described in Section 7.3.2

7.2 Required Off-Site Transportation Improvements.

The following are the off-site transportation improvement projects that need to be completed pursuant to the terms of this Agreement. These off-site transportation improvements are described on attached Exhibit J. The City agrees to cause the following described off-site transportation improvements to be substantially completed no later than December 31, 2011 (unless an earlier date is specified below), subject to the conditions in Section 7.1.2.

7.2.1 The relocation of the sewer trunkline located in Sixth Street North through a future Grant Street extension to Eighth Street, then west under the BNSF rail line at Eighth Street and Jefferson, by December 31, 2009.

7.2.2 The reconstruction of the BNSF main line and associated berm from approximately Columbia Street on the east to approximately Jefferson Street on the west, including construction of two new bridge structures located approximately at the current south terminus of Esther Street ("Esther Street Portal") and the former south terminus of Grant Street ("Grant Street Portal").

7.2.3 The construction of the extension of Esther Street, including the installation of sewer, water, and storm water utilities but not cable, fiber optic, telephone or gas (the "Private Utilities"), south through the Esther Street Portal to the north boundary of the Project Site. The City

will cooperate with the providers of the Private Utilities by granting easements for the location of the Private Utilities and coordinating the work of the City with the installation work of the providers of the Private Utilities. The City will not pay any of the cost of installing the Private Utilities.

7.2.4 The construction of Grant Street, including the installation of sewer, water and storm water utilities, but not the Private Utilities, from the north boundary line of the Project Site through the Grant Street Portal to a full movement intersection at Eighth Street. The City will cooperate with the providers of the Private Utilities by granting easements for the location of the Private Utilities and coordinating the work of the City with the installation work of the providers of the Private Utilities. The City will not pay any of the cost of installing the Private Utilities.

7.2.5 The construction of urban design elements on the north side the of Esther Street Portal and the Grant Street Portal, including landscaping, streetscaping, hardscaping, pedestrian walkways, street improvements and bike improvement, consistent with City construction drawings.

7.2.6 The City has commenced the process with the Federal Railway Administration ("FRA") to establish a "quiet" zone for the rail crossings at West 8<sup>th</sup> Street (east of Jefferson Street) and at Jefferson Street (north of West 8<sup>th</sup> Street). The City agrees to diligently pursue this process and to fund any improvements necessary (in excess of the costs paid by the Washington Department of Transportation or BNSF) to establish an exemption from FRA regulations and establish quiet zones at these intersections. The City makes no commitment as to the outcome of these efforts because the outcome is not within the City's control.

### 7.3 Funding of Off-Site Transportation Improvements.

7.3.1 Developer Contribution. Developer agrees to pay a total of \$8,000,000, which shall be used for paying a portion of the cost of the off-site transportation improvements described in Section 7.2 and any other transportation mitigation measure imposed by the City as

a condition of the Development Approvals, except as follows. In addition to the \$8,000,000, the Developer shall pay for: (i) all traffic improvements and mitigation measures that are on the Project Site; (ii) a temporary traffic signal and related improvements at the intersection of Columbia Street and the Projects <sup>2nd St</sup> east/west arterial; and (iii) any transportation mitigation improvements required in the event the Project generates P.M. peak-hour trips in excess of the number of trips referred to in Section 8.3.1. This amount of \$8,000,000 shall be paid on the following schedule: <sup>10th</sup>

7.3.1.1 Developer shall pay to the City the sum of \$800,000 upon the later of: (i) the date the City executes a binding construction and maintenance agreement with BNSF or (ii) the Effective Date of this Agreement. This represents Developer's share of the civil design costs incurred as of the Effective Date with respect to the design of the off-site transportation improvements

7.3.1.2 On or before June 30, 2010 ("Initial Payment Date"), Developer shall pay to the City \$350,000. For the next three years, on the anniversary date of the Initial <sup>10/31/10</sup> Payment Date, the Developer shall make an additional \$350,000 payment to the City. On the <sup>2010</sup> fourth anniversary date of the Initial Payment Date, the Developer shall make a final payment in <sup>2011</sup> the amount of \$5,800,000, subject to the early payment provisions set forth below. These funds <sup>2012</sup> shall be used by the City to pay a portion of the cost of the off-site transportation improvements. <sup>2013</sup>

800 K
350 K
350 K
350 K
350 K
<u>5,800 K</u>
8,000 K

Payment of the first payment under this subsection prior to June 30, 2010 shall not cause the Initial Payment Date to be other than June 30, 2010. All amounts referred to in this Section 7.3.1.2 shall be accelerated and be due and payable within thirty (30) days after Developer (or an assignee, grantee or transferee of a portion of the Project Site) is issued the first building permit for the construction of a vertical structure intended for occupancy on the Project Site. In the event that the Developer fails to make any payment when and as required under this Section 7.3.1.2, then thirty (30) days written notice to Developer and the guarantors referred to in

Section 7.3.1.3, the City may accelerate the required payment of all unpaid amounts due under this Section 7.3.1.2 plus interest thereon at the rate of the City's cost of capital for financing the off-site transportation improvements.

7.3.1.3 Developer Payment Security. The following persons or entities agree to provide to the City personal guarantees, in the form attached as Exhibit K within thirty (30) days of the Effective Date, in the following percentages of the total amount of the Developer's payment obligations under Section 7.3.1.2:

Gramor Columbia Waterfront LLC	30.00%	✓
Al Kirkwood	20.00%	✓
Steve Hansen	20.00%	✓
Steve Oliva	20.00%	✓
Barry Cain	6.67%	✓
George Diamond	3.33%	✓

7.3.2 Effect of Appeal. In the event that an appeal is filed with respect to the City's resolution referred to in Section 2.1 or with respect to any land use approval referred to in Section 5.2, then Developer shall continue to be obligated to make the payments referred to in Section 7.3.1.2, so long as the City continues to construct and pay for the off-site transportation improvements referred to in Section 7.2.

7.3.3 Payment Default. In the event of a payment default of Developer's payment obligations in Section 7.3.1, the City shall have the right to terminate or suspend its obligation to fund and construct the transportation improvements referred to in Section 7.2.

## **SECTION 8 VESTING**

The Project shall be vested to and have the right to utilize the following uses, design standards, urban services capacities, including transportation capacity allocations and mitigation measures through the year 2029, as follows.



### 8.1 Uses.

All uses currently allowed under existing zoning, as well as uses set forth in the Master Development Plan, including conditional uses, will be vested.

### 8.2 Design Standards.

All setbacks, landscape standards, design and architectural standards, street and pedestrian standards, parking standards, critical area and shoreline standards, floor area ratio and building coverage standards, stormwater, sewer, water and other utility standards and all other planning standards applicable to the development of the Project provided for under: state statutes and regulations (to the extent this Agreement can legally affect state statutes and regulations), City ordinances and regulations in effect on the submission date of the Developer's pre-application for the Development Approvals, all as provided for in this Agreement, the Master Development Plan, as it may be modified by any subsequent land use approvals issued by the City.

### 8.3 Transportation Concurrency Standards.

8.3.1 The Project shall be vested with 2,391 P.M. peak-hour trips ("Maximum Trips") which will be evidenced by the issuance of the City's Certificate of Concurrency attached as Exhibit L. The Project's trip generation and distribution to the City's transportation system shall be vested through the year 2029.

8.3.2 Pursuant to VMC 20.250.040, the Project, through execution of this Agreement, shall be deemed to have satisfied all transportation concurrency regulations. The Developer's payment of funds under Section 7.3 shall constitute full and final satisfaction of any and all off-site mitigation or other regulatory requirements related to any of the Project's off-site transportation impacts (subject to Section 7.3.1); provided, however, if changes in the Project are proposed and approved in the future that increase the number of P.M. peak-hour trips above the

amount provided for in the attached Certificate of Concurrency, then the City shall have the right to impose additional lawful mitigation requirements upon such excess future trips.

8.3.3 For each building constructed as part of the Project, the City will determine the number of P.M. peak-hour trips that that building is expected to utilize and shall subtract that number of trips from the Maximum Trips. The number of vested trips remaining for the yet to be developed portions of the Project after subtracting trips for developed portions of the Project as described in this Section, shall be referred to as "Remaining Trips." The Developer shall, as part of the sale of a block or development parcel within the Project, assign a portion of the Remaining Trips to the block or development parcel being sold, based upon the building described in the Final Development Approvals (as they may be amended) and the P.M. peak-hour trips to be generated by such a building by setting forth such an assignment in an instrument to be recorded after approval of the instrument by the City, and thereafter, by recording the approved instrument. The Developer may not assign any of the Maximum Trips or Remaining Trips to parcels outside of the Project Site. Nothing herein shall be construed to reduce the Maximum Trip allocation to the Project as evidenced by the Certificate of Concurrency attached as Exhibit L, during the vesting period provided for in this Agreement. The purpose of the preceding sentence is to assure that if there is a change of use in a building or a part thereof that increases the number of PM Peak hour trips above the original trip determination by the City under this Section, that such trips are vested and allowed, provided they do not cause the Project as a whole to exceed the Maximum Trips.

#### 8.4 Benefits and Obligations Run With the Land.

The vested rights set forth in Section 8 shall be binding on the Developer Parcel, shall burden and benefit the Developer Parcel, shall run with the land (the Developer Parcel) and shall be binding upon and inure to the benefit of the parties to this Agreement and their

respective transferees, successors in interest or assignees, and shall benefit and bind the City, all according to the terms of this Agreement.

## **SECTION 9    ADDITIONAL PROJECT REQUIREMENTS**

The following are additional requirements and agreements between the City and the Developer with respect to the Project.

### **9.1    Dedication of On-Site Streets.**

The Developer agrees that as the Project's infrastructure is being completed, the Developer will dedicate all on-site Project streets to the City, as required by the City's street dedication process. Nothing in this Agreement shall be construed to limit the Developer's right to receive transportation impact fee credits for any dedicated right-of-way qualifying for such credits.

### **9.2    Dedication of On-Site Utilities.**

The Developer agrees that as the Project's infrastructure is being completed, the Developer will dedicate to the City all sewer, water and drainage improvements as required by the City's dedication process.

### **9.3    Public Parks, Esplanade and Open Spaces; Trail.**

9.3.1    Conceptual Parks Plan. The City and the Developer have completed a public involvement process to secure public input regarding the ultimate design and amenities to be included in the City's park, (Conceptual Parks Plan) attached as Exhibit M.

9.3.2    Waterfront Esplanade. The parties desire that a public esplanade be constructed along the length of the Developer Parcel or leased by the Developer from the State of Washington, Department of Natural Resources ("DNR") and for it to be built in conformance to the Waterfront Esplanade Concept Plan attached as Exhibit N. After the issuance of the Final Development Approvals with conditions acceptable to the Developer, the Developer agrees to provide to the City (through the dedication of land owned by the Developer and/or assignment

of the DNR lease), at no cost to the City (other than Park Impact Fee Credits if such dedicated or leased land is on or placed upon in the future, the City's Capital Facilities Plan for Parks), the land identified in the Waterfront Esplanade Concept Plan and the Core Park Improvements Plan (defined below). The land leased by the Developer from the DNR and described in attached Exhibit D shall be assigned to the City, and the City shall accept such assignment within thirty (30) days of the Developer receiving the Final Development Approvals with conditions acceptable to the Developer. The Developer shall dedicate the land (except for the DNR leasehold) identified in the Waterfront Esplanade Concept Plan and the Core Park Improvements Plans on a mutually agreeable date (i) within 160-180 days after notice from the City; or (ii) within thirty (30) days after final completion of the improvements shown on the Core Park Improvements Plan, subject to the following. The dedication of this land may be delayed at the request of the City to a mutually agreeable date, or alternatively, the City may direct the Developer to convey this land to a third-party, non-profit organization dedicated to holding land for public park purposes. The Developer shall convey this land to the City free and clear of any liens or encumbrances (except for below-grade utility easements), and Developer shall provide the City with lien releases from all contractors and subcontractors that were involved in the construction of the Core Park Improvements. The City agrees to accept the conveyance of this land subject to a restrictive covenant restricting the use of this land in perpetuity to public park use consistent with the use of other City owned parks and the placement of buildings that are not inconsistent or not otherwise provided for in Exhibit M, each and benefiting the Developer Parcel, and with no other restrictions. Developer shall defend, indemnify and hold harmless the City from any and all costs of remediation of hazardous substances on or under the property described in attached Exhibit R ("Former Boise Property") as required by any state or federal agency, on the following terms and conditions:

9.3.2.1 Developer shall have the right to conduct all excavation on the Former Boise Property associated with the Waterfront Esplanade Plan and the Core Park Improvement Plan;

9.3.2.2 The City shall be responsible for any cost of such excavation in excess of the estimated costs of the Core Park Improvements, provided that those cost are incurred for work consistent with Exhibit M;

9.3.2.3 Developer shall have the right to develop the plan for any required remediation of hazardous substances on the Former Boise Property and Developer shall have the right to control such remediation;

9.3.2.4 Developer shall not be required to transfer title to the Former Boise Property to the City prior to the completion of such remediation;

9.3.2.5 Developer shall complete the Core Park Improvements by January 30, 2016; and

9.3.2.6 All obligations on the part of Developer under this paragraph shall terminate on January 30, 2016.

At the present time, the City has not identified sufficient funding to construct the Waterfront Esplanade Concept Plan, nor have the parties agreed upon the final plans and specifications for its construction. As such, the City shall not be obligated to construct the Waterfront Concept Plan unless and until appropriate capital funding has been secured through mutual or exclusive efforts of the parties for such construction. All park improvements constructed by the City shall be constructed consistent with the Waterfront Esplanade Concept Plan, unless otherwise agreed by the parties. Except as otherwise provided in this Agreement, the Developer

shall not be obligated to construct the Waterfront Esplanade Concept Plan, unless the parties have agreed upon and have secured sources of funding for the construction of the public esplanade and park. However, upon mutual agreement, the Developer is free to cause the Waterfront Esplanade Concept Plan or a portion thereof to be built at the Developer's sole cost and expense.

9.3.3 Core Park Improvements. The Developer agrees to construct the Core Park Improvements for the waterfront park that are part of the Waterfront Esplanade Concept Plan on or before the issuance of the first certificate of occupancy (temporary or permanent) for any vertical development within the Project. "Core Park Improvements" shall consist of: demolition and removal of existing concrete, asphalt and other construction debris and rubble; grading of the public use areas all as depicted on Exhibit P to a useable finish and approximate final grade; installation of turf in the graded areas and necessary irrigation systems; physical demarcation of the upland boundary of the public use areas through the installation of appropriate signage; and construction of a 14-foot wide waterfront trail along the Project Site's entire Columbia River shoreline in the primary trail alignment depicted in Exhibit O that meets the City's multi-use waterfront trail standards published as of the date of this Agreement. The trail shall be a concrete trail (or other hard surface acceptable to the City) or shall consist of other hard surface material that is ADA compliant, all weather and which meets LEED neighborhood design standards. The park and trail improvements described above shall be in the approximate location as depicted on the Core Park Improvement Plan attached as Exhibit O or another mutually agreeable location established in the final design and permitting process. This trail and park area will be open to the public subject to the City's park rules and regulations and any additional reasonable rules and regulations to be agreed upon between the Developer and the

City needed to accommodate development of the Project. The Developer shall be entitled to any applicable park impact fee credits based upon construction of the trail or dedication of any park land to the City to the extent that such improvements are eligible for such credits under the City's Park Capital Facility Plan, as amended. The Developer agrees to maintain the trail and Core Park Improvements for a period of two (2) years after the completion of the trail for its entire length to a level equivalent to the City's urban regional park maintenance standard. Thereafter, the City shall be responsible for the maintenance of the trail and the Core Park Improvements to the same standard.

9.3.4 Use of Open Spaces, Parks and Pedestrianways. The Developer agrees that all open spaces, parks and pedestrian ways as identified in Exhibit O, within the Project will be open to the general public, subject only to reasonable rules and regulations designed to protect public safety and private property. The City agrees that it shall not permit any commercial activities to take place on any of the property dedicated by the Developer to the City, except for temporary commercial activities that are associated with ticketed or non-ticketed events, festivals and similar public gatherings. Temporary commercial activities shall be those that run for not more than three (3) consecutive days (with an additional day for set-up and an additional day for removal) and which cumulatively do not occur for more than thirty (30) days during a calendar year. After a period of three (3) years of active use of the park space, open space and trail, either party may, by written notice to the other, require a reassessment of the above restriction on commercial activities, and both parties shall consider modifying the above restrictions in good faith. With respect to any land dedicated to the City for park, open space, trails, utilities, streets or pedestrian walkways, the City agrees that it will not construct any permanent buildings or structures, except park furniture or other non-commercial amenities

reflected in the Conceptual Parks Plan or are otherwise typical for a regional park such as portable public restrooms, signage or information kiosks, and the City shall use such land in a manner generally consistent with the use of other City-owned public parks. The City shall provide and/or allow the Developer to reserve easements upon, above or below ground with respect to land dedicated to the City for the extension and construction of utilities, installation of piping for solar-heated water, maintenance of vegetation for views, outdoor restaurant seating and underground parking, provided such activities or uses are executed consistent with all applicable regulations. The provisions of this Section 9.3.4 will terminate on the 25<sup>th</sup> anniversary of when the Developer first conveys land to the City pursuant to Section 9.3.2.

#### 9.4 System Development Charge Credits.

9.4.1 The City has determined that portions of the transportation improvements to be constructed by the Developer or paid for by the Developer pursuant to this agreement, are eligible for TIF credits pursuant to VMC Section 20.915.090. The City, having applied Section 20.915.040 and 20.915.090 of the VMC, has determined that the expenditure by Developer of the sum of \$8,000,000 pursuant to Section 7.3.2 and the construction by the Developer of transportation improvements eligible to receive TIF credits, will, upon that expenditure and completion of the transportation improvements, entitle Developer to a Transportation Impact Fee credit in the amount of \$8,000,000.

9.4.2 With respect to the Project's utility infrastructure, including sewer, water and drainage improvements, including the replacement of the Columbia Blvd. sewer pump station, listed on the City's sewer, water or storm water Capital Facilities Plans, upon construction of those improvements by the Developer and acceptance by the City, the City has determined that the



Developer shall receive systems development charge credits, subject to Section 14.04.235 of the VMC and the provisions of Resolution M-2492.

9.4.3 If Developer elects to construct the esplanade using its own funds, then the City's staff agrees to recommend that the City place the Waterfront Esplanade Plan on the Parks Capital Facilities Plan. The estimated value of the land and cost of the park improvements to be placed in the Parks Capital Facilities Plan shall be mutually agreed upon by the City and the Developer. If placed on the City's Parks Capital Facilities Plan and dedicated and constructed by the Developer, the Developer shall be entitled to Park Impact Fee Credits in the amount of the estimated value provided for in the Parks Capital Facilities Plan.

9.5 Staging Site.

The Developer agrees to make available to the City approximately two (2) acres of land west of the Grant Street Bridge, south of the railroad berm all within blocks 10, 13 and 14 as depicted on Exhibit P, for construction staging secured by temporary fencing. This property should be approximately square in shape and will be used for the staging of construction materials, equipment and other purposes associated with construction of the City's waterfront infrastructure improvements. The City reserves the right to supply temporary electrical power to the site for the purposes of installing security lighting and power to a construction trailer across the Developer's land at a location mutually agreed to by the City and the Developer. The City will hold the Developer harmless for liability associated with the use of this land and, at completion of the improvements, will return the property to its original condition or better. In the event of contamination caused by the above construction activity, the City will clean up and properly restore the property at no expense to the Developer. The Developer agrees to permit

access to this site across the Developer Parcel. The duration of this use is limited up to the earlier of: (i) the completion of the above construction activities; or (ii) December 31, 2011.

9.6 Permanent Restrooms.

The Developer agrees that the City may build permanent public restrooms within a building to be built by the Developer on either Block 6, 8, 9, 11 or 12, at a location identified on attached Exhibit Q. The ultimate location of the public restrooms shall be selected by the Developer at one of the locations identified on Exhibit Q and shall be made available as part of the first phase of Developer's Project. Until the City and the Developer have agreed on the location of the public restrooms, no building permits for permanent structures may be issued for any of the above-referenced blocks. The Developer shall lease ground floor space within that building to the City for a term equal to the life of the building for \$1.00. The Developer shall create "shell space" served by sewer, water, HVAC and electricity stubbed to the interior walls. The City shall pay the cost of all restroom fixtures and improvements. The City shall pay the cost of maintaining these restrooms. The public restrooms will be operated consistent with other City-owned public restrooms. If sewer, water and electricity are separately metered to these restrooms, then the City shall pay for such utility services. After the public restrooms are open, temporary restrooms shall be allowed under Section 9.3.4 only in conjunction with events, festivals and similar gatherings. The parties agree to enter into commercially reasonable documents to implement the above.

**SECTION 10 GENERAL PROVISIONS**

10.1 Effective Date.

The "Effective Date" is that date by which this Agreement has been executed by both parties.

10.2 Waiver.

The failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision, nor shall any waiver of any breach of any provision constitute a waiver of any succeeding breach of that provision or a waiver of that provision itself.

10.3 Prior Agreements.

This Agreement is the entire, final, and complete agreement of the parties pertaining to the matters covered by this Agreement, and supersedes and replaces all prior or existing written and oral agreements between the parties and/or their representatives relating to the same matters.

10.4 Notices.

Any notice under this Agreement shall be in writing and shall be effective when actually delivered in person, or one (1) business day after being sent by facsimile, with receipt being electronically confirmed or one (1) business day after deposit with a nationally recognized overnight courier service, with charges pre-paid, or three (3) days after being deposited in the U.S. mail, registered or certified, return-receipt requested, postage prepaid and addressed or sent by facsimile to the party at the address or number set forth below or such other address or number as either party may designate by written notice to the other.

If to the City:	City of Vancouver
	PO Box 1995
	Vancouver, WA 98668
	Attn: Pat McDonnell
	City Manager
	Fax No.:(360) 487-8625

With a copy to:  
Office of the City Attorney  
Attn: Brent Boger  
Assistant City Attorney  
Fax No.: (360) 487-8501

If to the Developer: Columbia Waterfront LLC  
c/o Gramor, Inc.  
19767 SW 72<sup>nd</sup> Avenue  
Tualatin, OR 97062-8352  
Attn: Barry Cain  
President  
Fax No.: (503) 654-9188

With a copy to: Landerholm, Memovich, Lansverk & Whitesides, P.S.  
805 Broadway, Suite 1000  
Vancouver, WA 98660  
Attn: Randall B. Printz  
Fax No.: (360) 696-2122

10.5 Applicable Law; Venue.

This Agreement has been entered into in Washington, and the Project Site is located in Washington. The parties agree that the laws of the state of Washington shall be used in construing this Agreement and enforcing the rights and remedies of the parties. Venue shall be in the Superior Court for Clark County, Washington; provided that, if litigation is properly brought in federal court, venue shall be in the U.S. District Court for the State of Washington.

10.6 Attorneys' Fees.

In the event of litigation to enforce or interpret this Agreement, the prevailing party shall recover its litigation costs, disbursements, paralegal fees, expert fees and attorneys' fees as determined by the judge at trial or upon any appeal or petition for review.

10.7 Condition of City Property.

The City makes no representation or warranty regarding the physical or environmental condition of any property to be conveyed by the City to the Developer pursuant to this Agreement.

10.8 Brokerage Commissions.

Neither the City nor the Developer have used a real estate broker, agent or finder in connection with this Agreement. Each party (for purposes of this Section, the "Indemnitor") agrees to defend, indemnify and hold harmless the other party (for purposes of this Section, the "Indemnitee") from and against any and all commissions or fees and arising out of the actions of the Indemnitor.

10.9 Invalid Provision.

If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be severable, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never been a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and not be affected by such illegal, invalid or unenforceable provision or by its severance.

10.10 Time.

Time is of the essence in this Agreement.

10.11 City Inspection Rights.

The City shall be entitled at any reasonable time, to come upon any portion of the Project Site for purposes of inspecting the Project Site and the Developer's development of such portions for purposes of determining the Developer's compliance with its obligations under this Agreement. The City shall comply with any safety regulations generally imposed by the Developer with respect to construction activities on the Project Site.

10.12 Defined Terms.

A word that is capitalized and is not the first word in a sentence or is set off in quotation marks is a defined term. A defined term has the meaning given to it when first used in this Agreement.

10.13 Exhibits.

All Exhibits to this Agreement are an integral part of this Agreement and are incorporated into the text of this Agreement by reference.

10.14 Assignment.

Neither party may assign its respective rights or obligations under this Agreement without the prior written consent of the other party which consent shall not be unreasonably withheld; provided, however, that the Developer's obligations under Section 7.3.1 may only be assigned with the City's prior consent which may or may not be given in City's sole and complete discretion.

10.15 Amendment.

Any amendment to or modification of this Agreement must be in writing and signed by the parties.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement to be effective as of the date set forth above.

CITY:

CITY OF VANCOUVER, a Washington municipal corporation

By: 

Pat McDonnell, City Manager

Approved as to form:

By: 

R. Lloyd Tyler, City Clerk

By: Carrie Lewellen, Deputy City Clerk

Approved as to form:


By:   
Ted H. Gathe, City Attorney

DEVELOPER:

COLUMBIA WATERFRONT LLC, a Washington  
limited liability company

By: Gramor Columbia Waterfront LLC

By: Gramor Investments Inc.

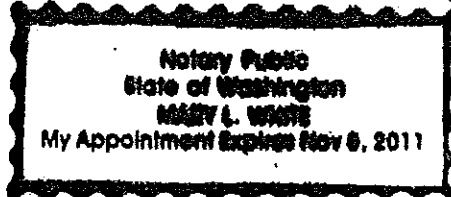
By: Barry A. Cain 

Its: President

STATE OF WASHINGTON )  
 )ss  
COUNTY OF CLARK )

I hereby certify that I know or have satisfactory evidence that Pat McDonnell is the person who appeared before me, and that said person acknowledged that he (he/she) is authorized to execute the foregoing document and acknowledges it as the City Manager of the City of Vancouver to be the free and voluntary act of such party for the uses and purposes therein mentioned.

Dated this 19<sup>th</sup> day of January, 2010  
~~2009~~

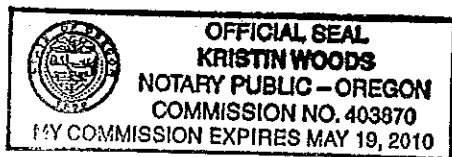


Mary L. White  
Notary Public for the State of Washington  
Residing at Vancouver  
My commission expires 11-8-11  
Name (print) MARY L. White

STATE OF OREGON )  
 )ss  
COUNTY OF WASHINGTON )

I hereby certify that I know or have satisfactory evidence that Barry Cain is the person who appeared before me, and that said person acknowledged that he (he/she) is authorized to execute the foregoing document and acknowledges it as the President of Gramor Investments, Inc., an Oregon corporation, Manager of Gramor Columbia Waterfront LLC, a Washington Limited Liability Company, Manager of Columbia Waterfront LLC, a Washington Limited Liability Company, to be the free and voluntary act of such party for the uses and purposes therein mentioned.

Dated this 8<sup>th</sup> day of January, 2010  
~~2009~~



Kristin Woods  
Notary Public for the State of Oregon  
Residing at Portland  
My commission expires May 19, 2010  
Name (print) Kristin Woods



**EXHIBIT A and A-1**

**Developer Parcel**

EXHIBIT A  
Developer's Parcel

Exhibit A

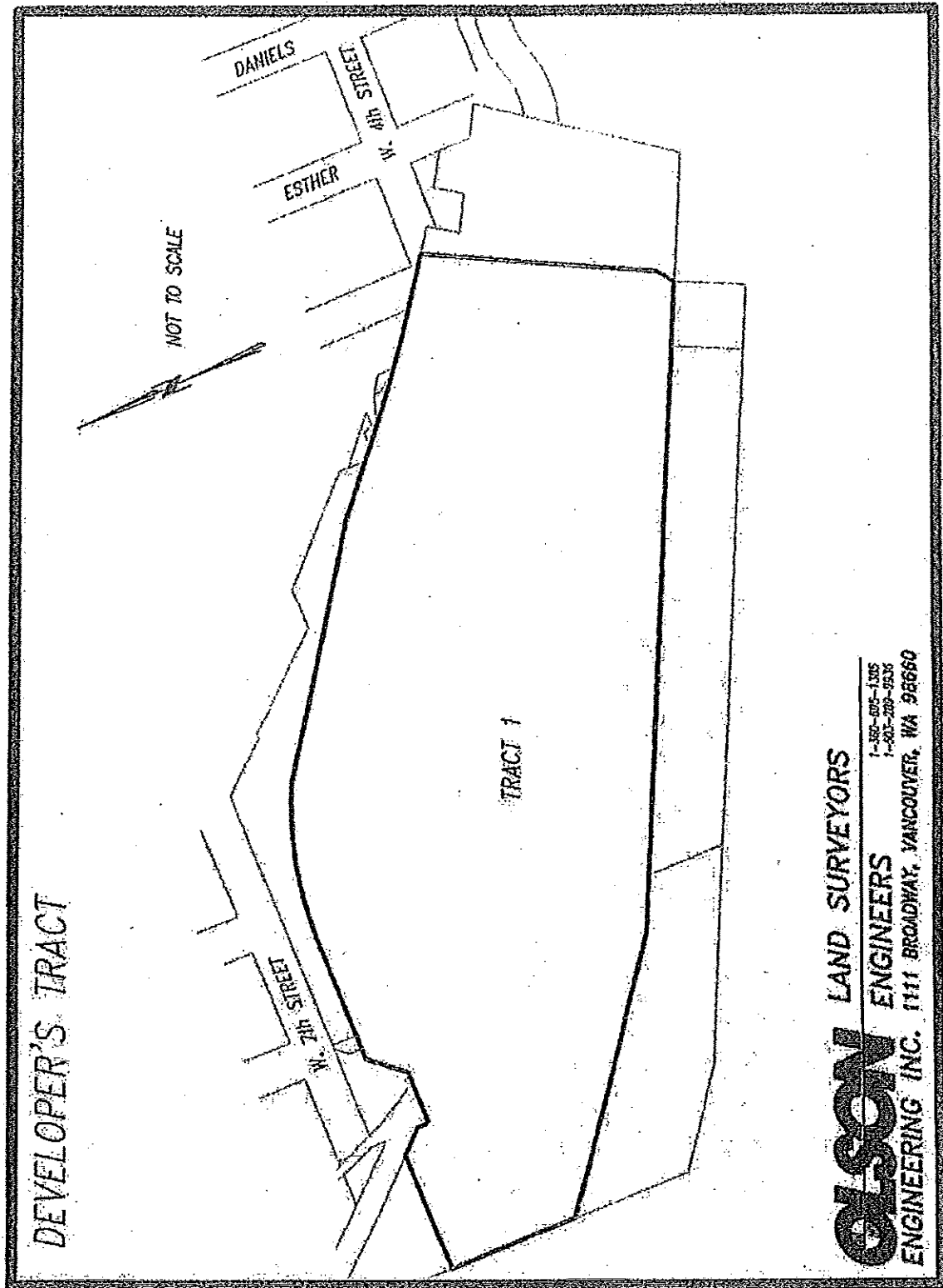
Real property in the City of Vancouver, County of Clark, State of Washington, described as follows:

TRACT 1:

A tract of land in the Southwest quarter of Section 27 and the Southeast quarter of Section 28, Township 2 North, Range 1 East, of the Willamette Meridian, Clark County, Washington, being more particularly described as follows:

COMMENCING at a 1 1/2" brass disk set in a monument box at the centerline of West Jefferson Street at a point on the North right-of-way line of West 7th Street (being 40.00 feet from centerline); THENCE S36°10'29"E, 1334.26 feet to a 1/2" iron rod with a plastic cap, scribed "Mursell 23856", said point marking the Northeast corner of First Class Tideland Tract No. 24 at a point on the West line of the Public Levee as shown on the Plat of Plan of a Part of the City of Vancouver as recorded in Book D of Plats, Page 30, Plat Records, Clark County, Washington, said iron rod being shown on that record of survey as recorded in Book 33 of Surveys, Page 13, Survey Records, Clark County, Washington; THENCE S00°45'25"W, along the West line of said Public Levee as shown on said Record of Survey, 219.19 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447" set at the Southwest corner of First Class Tideland Tract No. 25, said point being the TRUE POINT OF BEGINNING of the parcel herein described; THENCE S64°24'56"E, along the South line of said Tideland Tract No. 25, a distance of 132.26 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE N54°27'34"E, 41.54 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE N27°29'06"E, 493.71 feet; THENCE Northwestery, along the arc of a 3916.33 foot radius curve, concave Northerly, through a central angle of 06°01'08", an arc distance of 411.42 feet (chord bears N51°55'04"W, 411.23') to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE N48°54'29"W, 160.63 feet; THENCE N55°25'47"W, 567.92 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE Northwestery, along the arc of a 784.49 foot radius curve, concave Southerly, through a central angle of 25°10'39", an arc distance of 344.73 feet (chord bears N76°54'12"W, 341.96 feet) to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE N89°29'31"W, 250.73 feet; THENCE S40°02'17"W, 92.88 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE N89°27'21"W, 107.48 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE N41°58'41"W, 7.42 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE N00°45'25"E, 19.94 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE N41°49'38"W, 62.44 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447"; THENCE N89°29'31"W, 254.74 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447" set of the West line of Lot 8 of the West half of the Amos Short Donation Land Claim as shown in said Record of Survey, Book 33, Page 13; THENCE S00°45'25"W, along the West line of said Lot 8 and the West line of First Class Tideland Tract No. 17, a distance of 275.71 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447" set at the Southwest corner of said Tideland Tract No. 17, said point being on the Inner Harbor line as shown on said Record of Survey, Book 33, Page 13; THENCE S52°48'29"E, along said Inner Harbor Line, 603.87 feet to an angle point in said line; THENCE S64°24'56"E, continuing along said Inner Harbor Line, 1226.38 feet to the point of beginning.

Exhibit A





LAND SURVEYORS  
ENGINEERS

(503) 289-9936  
1111 Broadway  
Vancouver, WA  
98660

LEGAL DESCRIPTION FOR COLUMBIA WATERFRONT  
VANCOUVER MILL SITE  
"CARVE OUT" FROM BOISE NORTH LINE

September 15, 2009

A tract of land in the Southwest quarter of Section 27 and the Southeast quarter of Section 28, Township 2 North, Range 1 East, of the Willamette Meridian, Clark County, Washington, being more particularly described as follows:

COMMENCING at a 1-1/4" brass disk set in a monument box at the centerline of West Jefferson Street at a point on the North right-of-way line of West 7th Street (being 40.00 feet from centerline);

THENCE South 36° 10' 29" East, 1334.26 feet to a 1/2" iron rod with a plastic cap, scribed "Mursell 23856", said point marking the Northeast corner of First Class Tideland Tract No. 24 at a point on the West line of the Public Levee as shown on the Plat of Plan of a Part of the City of Vancouver as recorded in Book D of Plats, Page 30, Plat Records, Clark County, Washington, said iron rod being shown on that record of survey as recorded in Book 33 of Surveys, Page 13, Survey Records, Clark County, Washington;

THENCE South 00° 45' 25" West, along the West line of said Public Levee as shown on said Record of Survey, 219.19 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447" set at the Southwest corner of First Class Tideland Tract No. 25;

THENCE South 64° 24' 56" East, along the South line of said Tideland Tract No. 25, a distance of 132.26 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447";

THENCE North 54° 27' 34" East, 41.54 feet to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447";

THENCE North 27° 29' 06" East, 493.71 feet;

THENCE Northwesterly, along the arc of a 3916.33 foot radius curve, concave Northerly, through a central angle of 06° 01' 08", an arc distance of 411.42 feet (chord bears North 51° 55' 04" West, 411.23 feet) to a 5/8" iron rod with a plastic cap, scribed "Mursell 30447";

THENCE North 48° 54' 29" West, 160.63 feet;

THENCE North  $55^{\circ} 25' 47''$  West, 567.92 feet to a  $5/8''$  iron rod with a plastic cap scribed "Mursell 30447";

THENCE Northwesterly, along the arc of a 784.49 foot radius curve, concave Southerly, through a central angle of  $25^{\circ} 10' 39''$ , an arc distance of 344.73 feet (chord bears North  $76^{\circ} 54' 12''$  West, 341.96 feet) to a  $5/8''$  iron rod with a plastic cap scribed Mursell 30447";

THENCE North  $89^{\circ} 29' 31''$  West, 250.73 feet said point being the TRUE POINT OF BEGINNING of the parcel herein described;

THENCE South  $40^{\circ} 02' 17''$  West, 92.88 feet to a  $5/8''$  iron rod with a plastic cap, scribed "Mursell 30447";

THENCE North  $89^{\circ} 27' 21''$  West, 107.48 feet to a  $5/8''$  iron rod with a plastic cap, scribed "Mursell 30447";

THENCE North  $41^{\circ} 58' 41''$  West, 7.42 feet to a  $5/8''$  iron rod with a plastic cap, scribed "Mursell 30447";

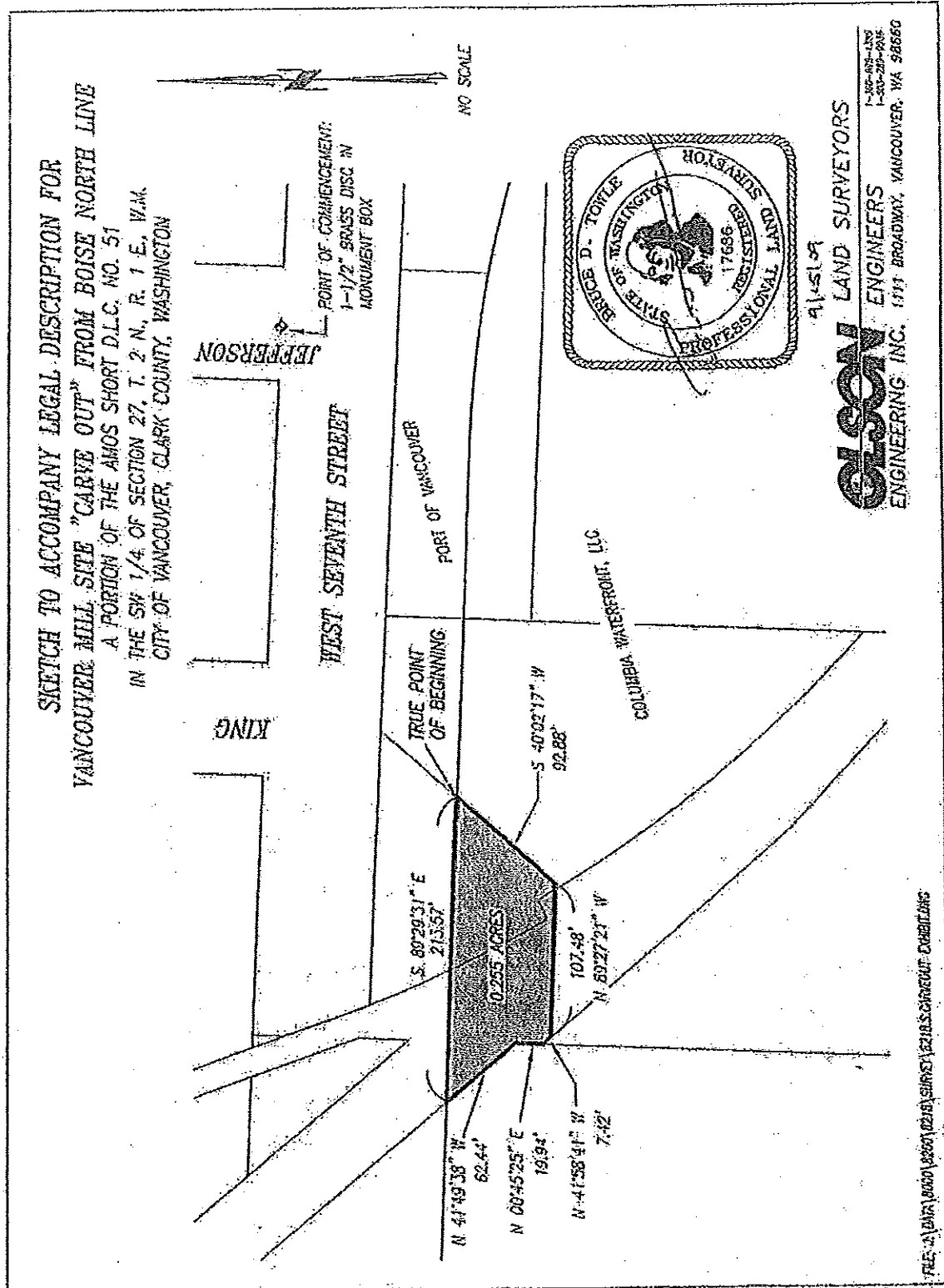
THENCE North  $00^{\circ} 45' 25''$  East, 19.94 feet to a  $5/8''$  iron rod with a plastic cap, scribed "Mursell 30447";

THENCE North  $41^{\circ} 49' 38''$  West, 62.44 feet to a  $5/8''$  iron rod with a plastic cap, scribed "Mursell 30447";

THENCE South  $89^{\circ} 29' 31''$  East, 213.57 feet to the point of beginning;

Containing 0.26 acres more or less.





**EXHIBIT B**

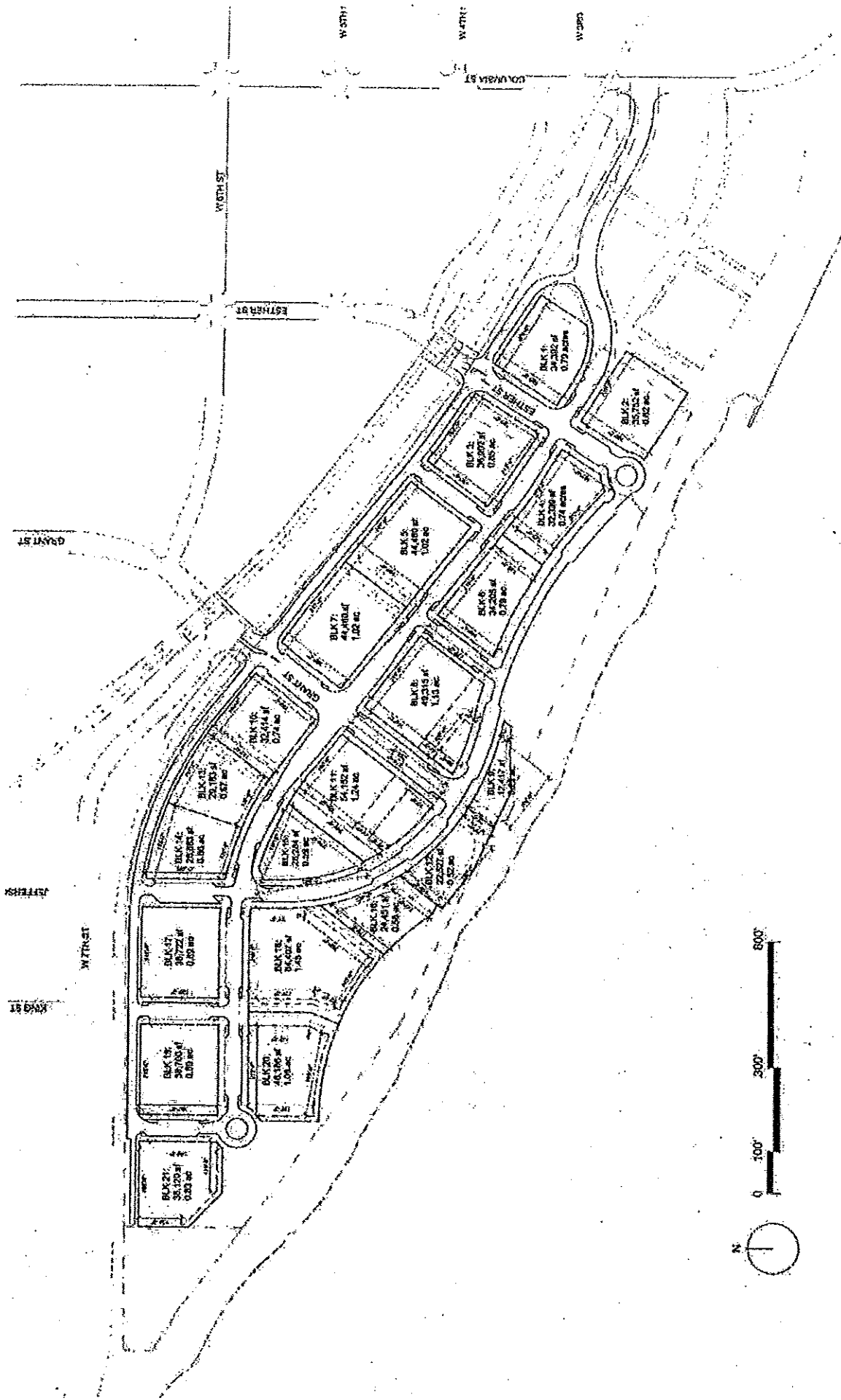
**Master Development Plan**

## **EXHIBIT B**

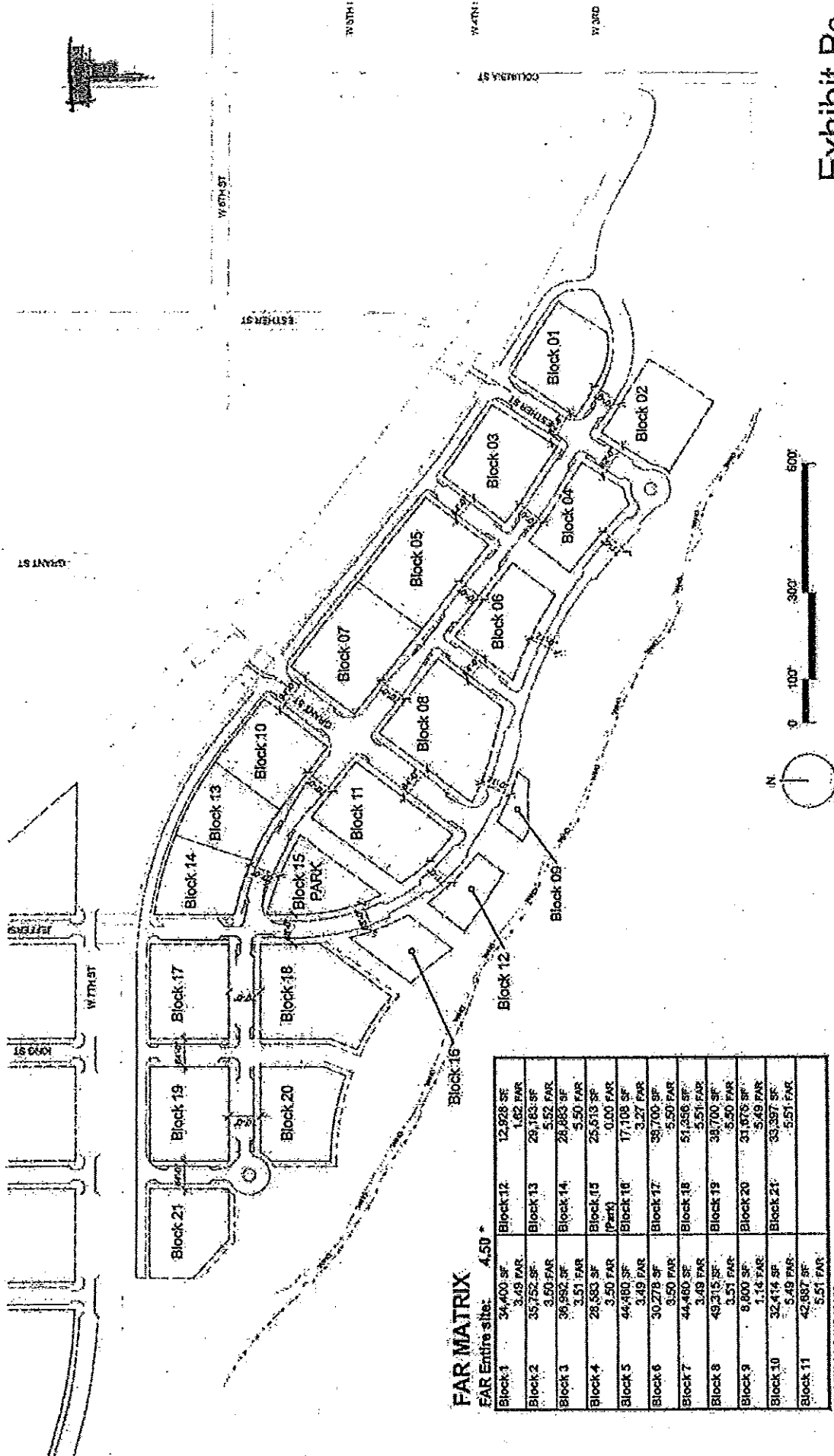
### **Master Development Concept Plan**

- B1: Master Site Plan, lot and block pattern and street grid configuration
- B2: Minimum floor area ratio by block
- B3: Conceptual use mix and location; maximum density and floor area ratio by block
- B4: Massing diagram of range of floor area ratio
- B5: Conceptual parking diagram
- B6: Park, plaza and open space locations and configuration





**Figure B.1**  
**Vancouver Waterfront**  
 Site Plan / Master Plan  
 Framework Plan



# FAR MATRIX

FAR Entire site: 4.50

Block 1	34,400 SF	Block 12	12,928 SF
Block 2	3,49 FAR	Block 13	1,62 FAR
Block 3	35,752 SF	Block 14	29,783 SF
Block 4	3,50 FAR	Block 15	5,52 FAR
Block 5	36,992 SF	Block 16	29,283 SF
Block 6	3,51 FAR	Block 17	5,50 FAR
Block 7	28,583 SF	Block 18	25,613 SF
Block 8	3,50 FAR	Block 19	0,00 FAR
Block 9	44,480 SF	Block 20	17,109 SF
Block 10	3,49 FAR	Block 21	3,27 FAR
Block 11	30,278 SF	Block 22	39,700 SF
Block 12	3,50 FAR	Block 23	5,50 FAR
Block 13	44,480 SF	Block 24	51,256 SF
Block 14	3,49 FAR	Block 25	5,51 FAR
Block 15	49,315 SF	Block 26	39,700 SF
Block 16	3,51 FAR	Block 27	5,50 FAR
Block 17	8,800 SF	Block 28	31,878 SF
Block 18	1,14 FAR	Block 29	5,49 FAR
Block 19	32,414 SF	Block 30	33,397 SF
Block 20	5,49 FAR	Block 31	5,51 FAR
Block 21	42,687 SF	Block 32	5,51 FAR
Block 22	5,51 FAR	Block 33	5,51 FAR

BLOCKS 1, 15 AND 17 ARE

**TWIST**  
ARCHITECTURE • DESIGN

Columbia Waterfront LLC

The Waterfront

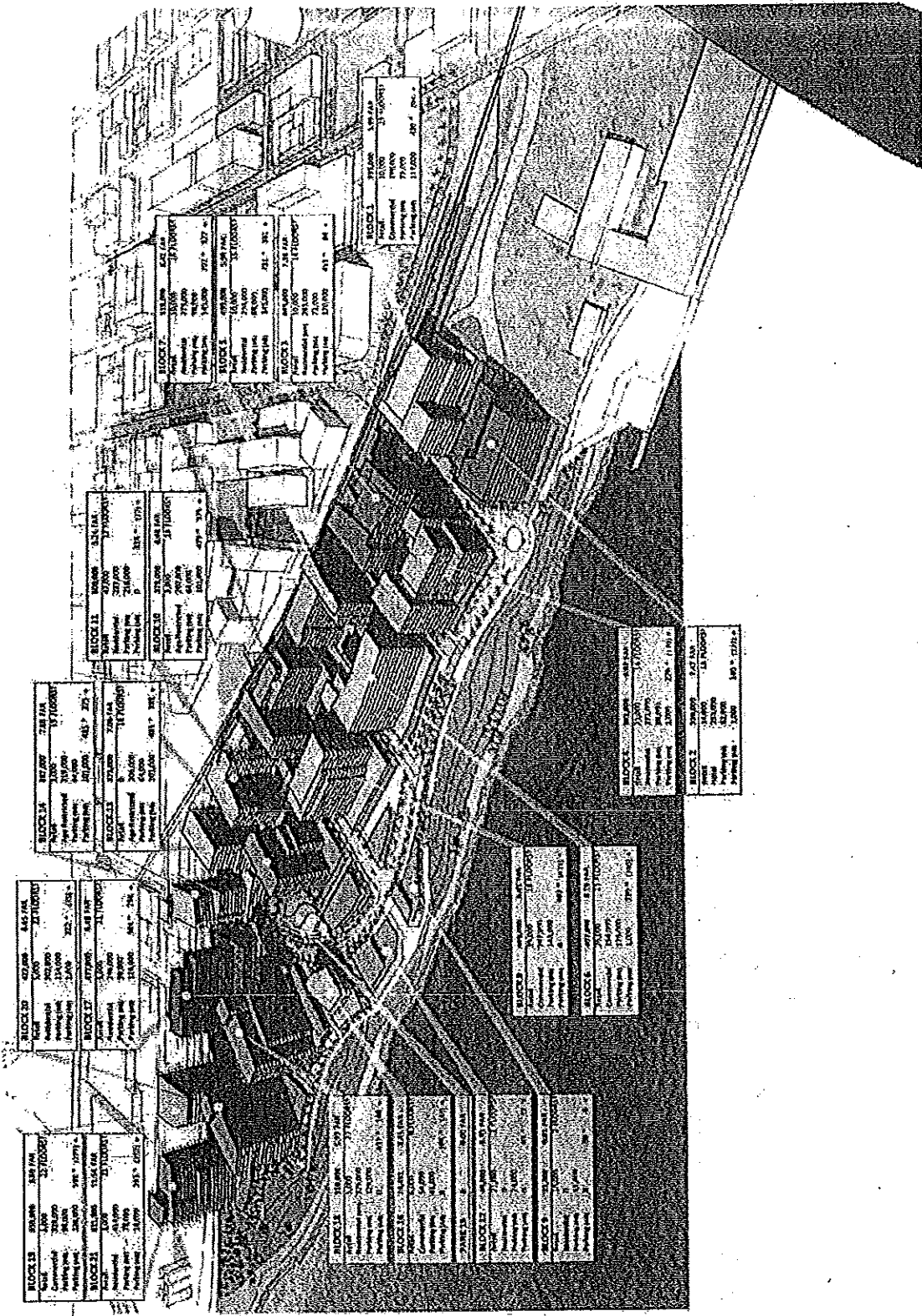
Preferred Schema

Project #20230110

June 21, 2023

Exhibit B2

Minimum FAR &  
Street ROW



# PROJECT STATISTICS

General Property	General Property
Residential	2,400,000
Commercial	970,000
Public	250,000
Industrial	0
Other	0
Public (A/C)	200,000
Public (B/C)	1,400,000
Total Parking	2,700,000
Total	2,700,000

Block Level Area	Block Level Area
Block 1	2,400,000
Block 2	970,000
Block 3	250,000
Block 4	0
Block 5	0
Block 6	0
Block 7	200,000
Block 8	1,400,000
Block 9	2,700,000
Block 10	2,700,000

Project Total	Project Total
Residential	2,400,000
Commercial	970,000
Public	250,000
Industrial	0
Other	0
Public (A/C)	200,000
Public (B/C)	1,400,000
Total Parking	2,700,000
Total	2,700,000

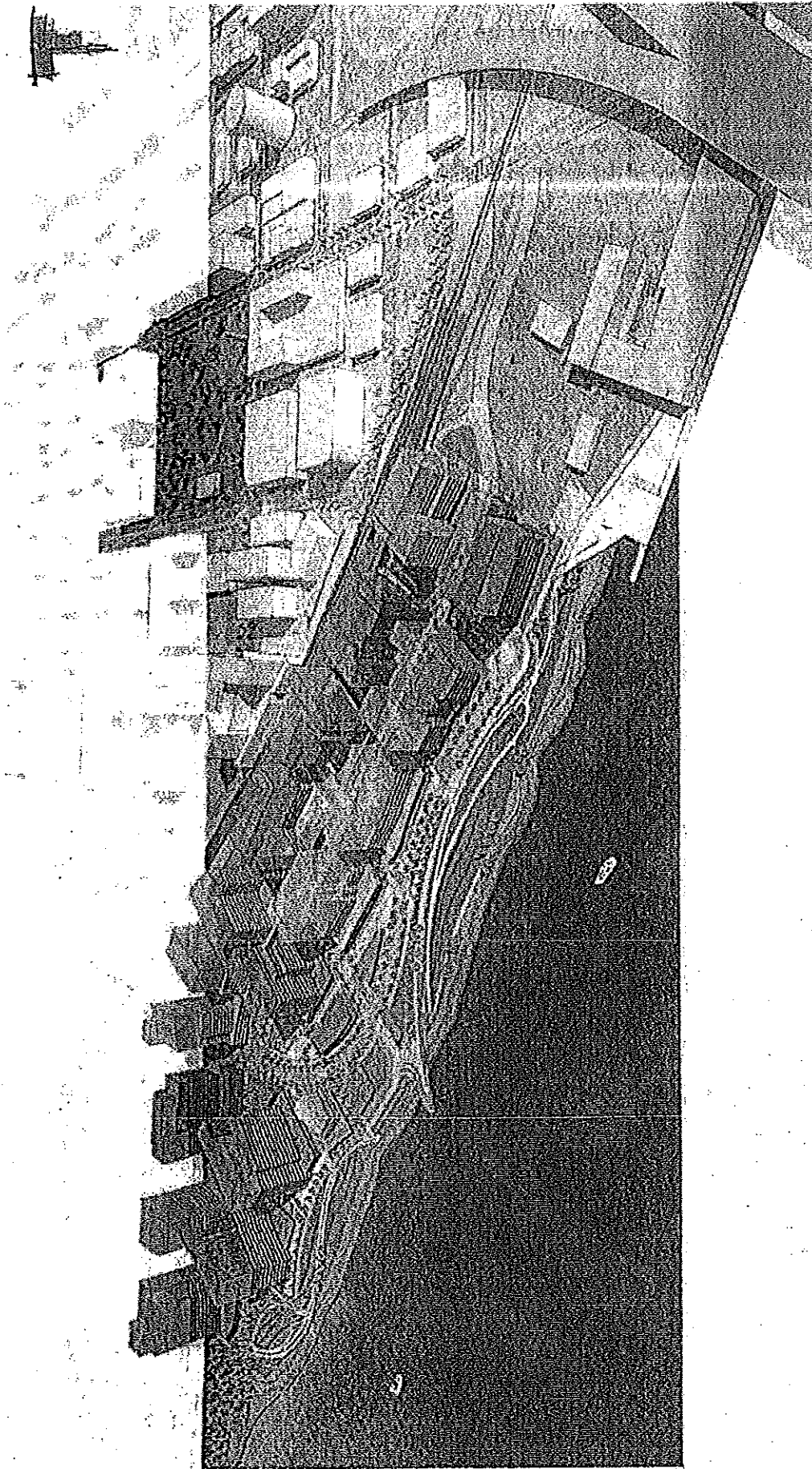
Project Total	Project Total
Residential	2,400,000
Commercial	970,000
Public	250,000
Industrial	0
Other	0
Public (A/C)	200,000
Public (B/C)	1,400,000
Total Parking	2,700,000
Total	2,700,000

Project Total	Project Total
Residential	2,400,000
Commercial	970,000
Public	250,000
Industrial	0
Other	0
Public (A/C)	200,000
Public (B/C)	1,400,000
Total Parking	2,700,000
Total	2,700,000

**Vancouver Waterfront**  
Site Plan / Master Plan  
April 10, 2005

B3

Figure  
Statistics



**TWIST**  
ARCHITECTURE • DESIGN

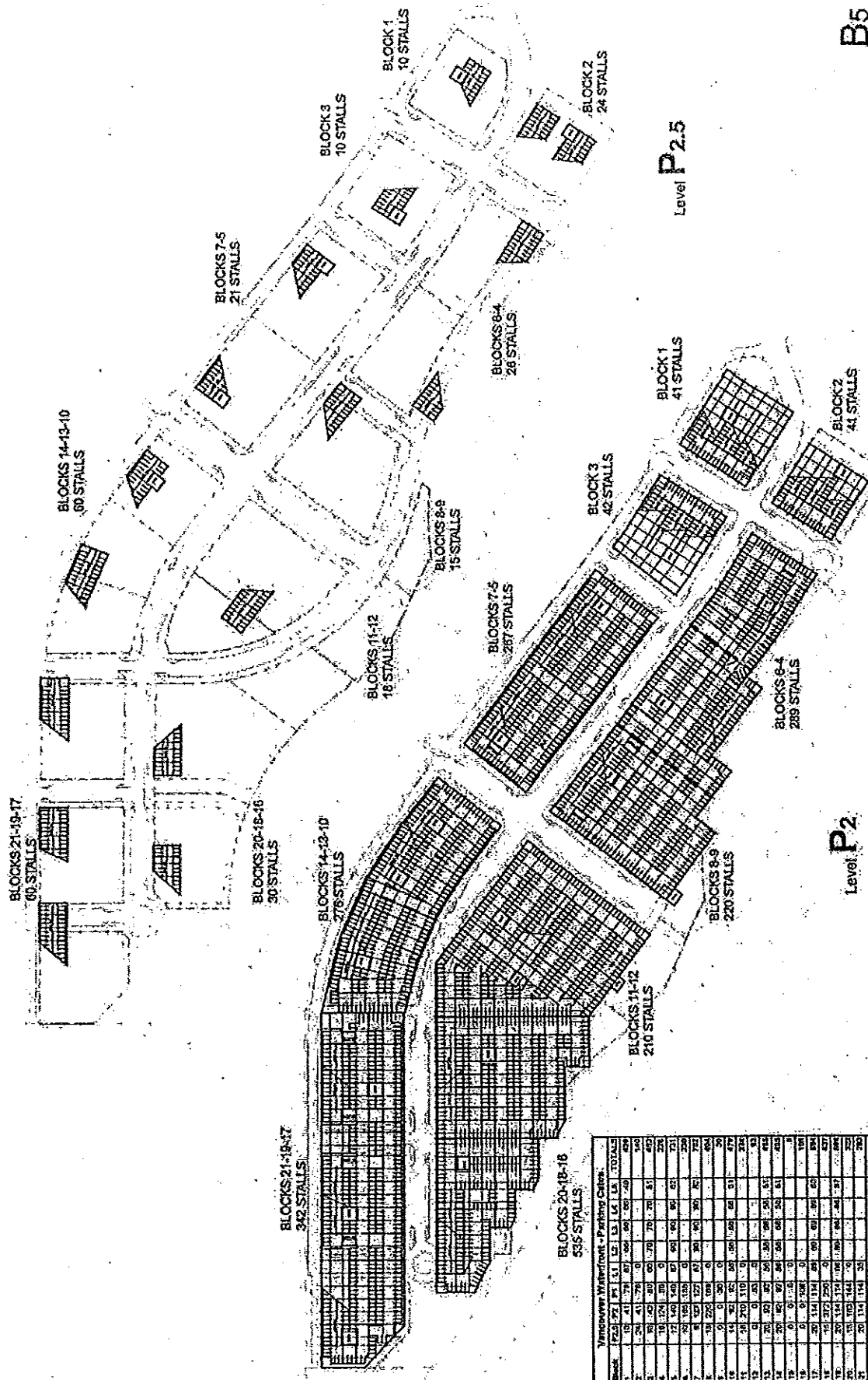
Columbia Waterfront LLC

**The Waterfront**  
Preferred Scheme  
Issued: 2/28/2017  
July 1, 2020

FAR 4.5 to 7.5

FAR Comparison

Exhibit B4



Vancouver Waterfront - Parking Counts												
Block	P2.5	P2	P1	G1	G2	G3	G4	G5	G6	G7	G8	TOTAL
1	0	0	0	0	0	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0	0	0	0	0	0
6	0	0	0	0	0	0	0	0	0	0	0	0
7	0	0	0	0	0	0	0	0	0	0	0	0
8	0	0	0	0	0	0	0	0	0	0	0	0
9	0	0	0	0	0	0	0	0	0	0	0	0
10	0	0	0	0	0	0	0	0	0	0	0	0
11	0	0	0	0	0	0	0	0	0	0	0	0
12	0	0	0	0	0	0	0	0	0	0	0	0
13	0	0	0	0	0	0	0	0	0	0	0	0
14	0	0	0	0	0	0	0	0	0	0	0	0
15	0	0	0	0	0	0	0	0	0	0	0	0
16	0	0	0	0	0	0	0	0	0	0	0	0
17	0	0	0	0	0	0	0	0	0	0	0	0
18	0	0	0	0	0	0	0	0	0	0	0	0
19	0	0	0	0	0	0	0	0	0	0	0	0
20	0	0	0	0	0	0	0	0	0	0	0	0
21	0	0	0	0	0	0	0	0	0	0	0	0
22	0	0	0	0	0	0	0	0	0	0	0	0
23	0	0	0	0	0	0	0	0	0	0	0	0
24	0	0	0	0	0	0	0	0	0	0	0	0
25	0	0	0	0	0	0	0	0	0	0	0	0
26	0	0	0	0	0	0	0	0	0	0	0	0
27	0	0	0	0	0	0	0	0	0	0	0	0
28	0	0	0	0	0	0	0	0	0	0	0	0
29	0	0	0	0	0	0	0	0	0	0	0	0
30	0	0	0	0	0	0	0	0	0	0	0	0
31	0	0	0	0	0	0	0	0	0	0	0	0
32	0	0	0	0	0	0	0	0	0	0	0	0
33	0	0	0	0	0	0	0	0	0	0	0	0
34	0	0	0	0	0	0	0	0	0	0	0	0
35	0	0	0	0	0	0	0	0	0	0	0	0
36	0	0	0	0	0	0	0	0	0	0	0	0
37	0	0	0	0	0	0	0	0	0	0	0	0
38	0	0	0	0	0	0	0	0	0	0	0	0
39	0	0	0	0	0	0	0	0	0	0	0	0
40	0	0	0	0	0	0	0	0	0	0	0	0
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47	0	0	0	0	0	0	0	0	0	0	0	0
48	0	0	0	0	0	0	0	0	0	0	0	0
49	0	0	0	0	0	0	0	0	0	0	0	0
50	0	0	0	0	0	0	0	0	0	0	0	0
51	0	0	0	0	0	0	0	0	0	0	0	0
52	0	0	0	0	0	0	0	0	0	0	0	0
53	0	0	0	0	0	0	0	0	0	0	0	0
54	0	0	0	0	0	0	0	0	0	0	0	0
55	0	0	0	0	0	0	0	0	0	0	0	0
56	0	0	0	0	0	0	0	0	0	0	0	0
57	0	0	0	0	0	0	0	0	0	0	0	0
58	0	0	0	0	0	0	0	0	0	0	0	0
59	0	0	0	0	0	0	0	0	0	0	0	0
60	0	0	0	0	0	0	0	0	0	0	0	0
61	0	0	0	0	0	0	0	0	0	0	0	0
62	0	0	0	0	0	0	0	0	0	0	0	0
63	0	0	0	0	0	0	0	0	0	0	0	0
64	0	0	0	0	0	0	0	0	0	0	0	0
65	0	0	0	0	0	0	0	0	0	0	0	0
66	0	0	0	0	0	0	0	0	0	0	0	0
67	0	0	0	0	0	0	0	0	0	0	0	0
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69	0	0	0	0	0	0	0	0	0	0	0	0
70	0	0	0	0	0	0	0	0	0	0	0	0
71	0	0	0	0	0	0	0	0	0	0	0	0
72	0	0	0	0	0	0	0	0	0	0	0	0
73	0	0	0	0	0	0	0	0	0	0	0	0
74	0	0	0	0	0	0	0	0	0	0	0	0
75	0	0	0	0	0	0	0	0	0	0	0	0
76	0	0	0	0	0	0	0	0	0	0	0	0
77	0	0	0	0	0	0	0	0	0	0	0	0
78	0	0	0	0	0	0	0	0	0	0	0	0
79	0	0	0	0	0	0	0	0	0	0	0	0
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81	0	0	0	0	0	0	0	0	0	0	0	0
82	0	0	0	0	0	0	0	0	0	0	0	0
83	0	0	0	0	0	0	0	0	0	0	0	0
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91	0	0	0	0	0	0	0	0	0	0	0	0
92	0	0	0	0	0	0	0	0	0	0	0	0
93	0	0	0	0	0	0	0	0	0	0	0	0
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97	0	0	0	0	0	0	0	0	0	0	0	0
98	0	0	0	0	0	0	0	0	0	0	0	0
99	0	0	0	0	0	0	0	0	0	0	0	0
100	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0

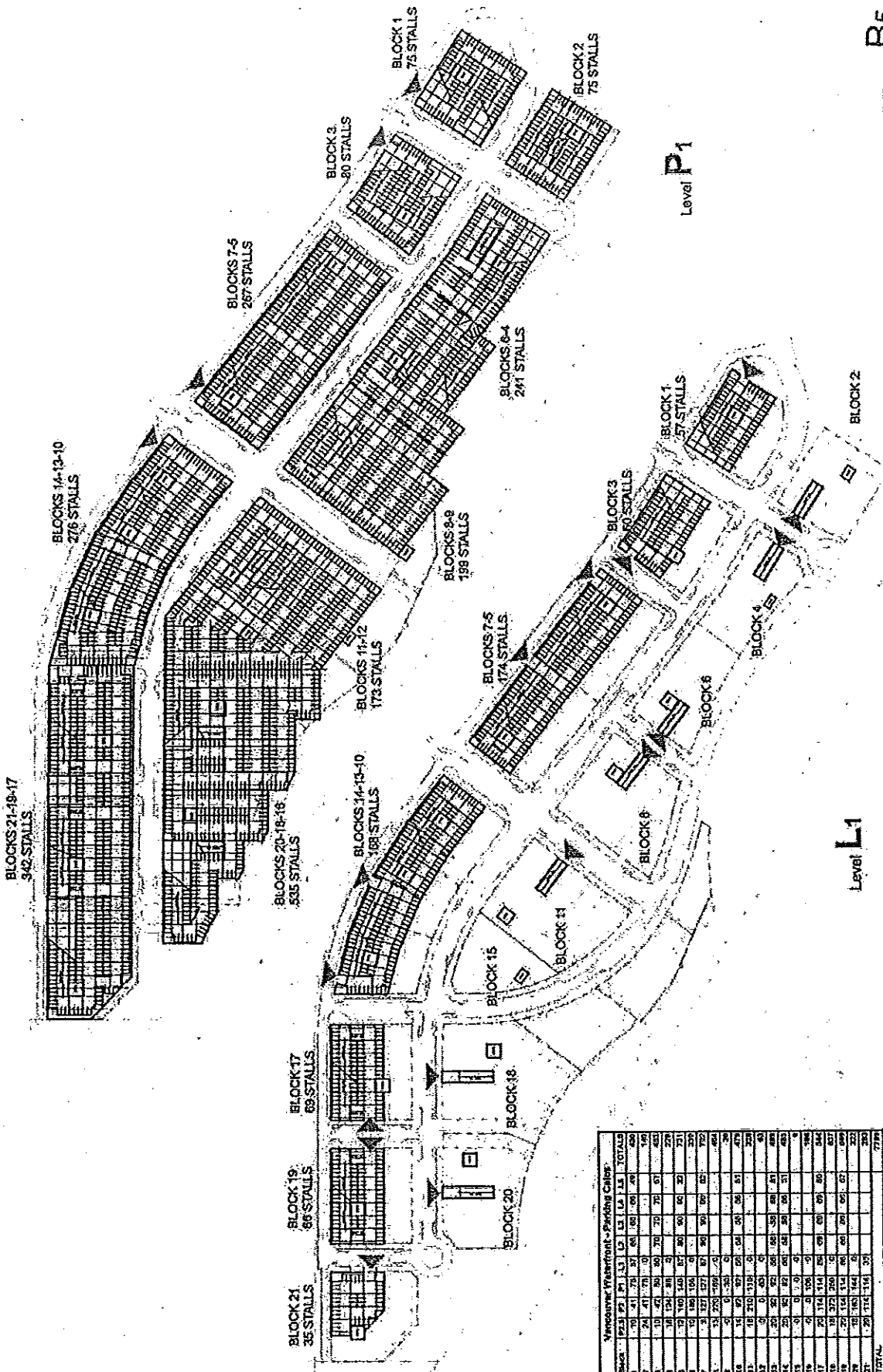
**Vancouver Waterfront**  
 Conceptual Parking Diagrams  
 June 1995

**Figure**  
 Below Grade  
 Parking

B5

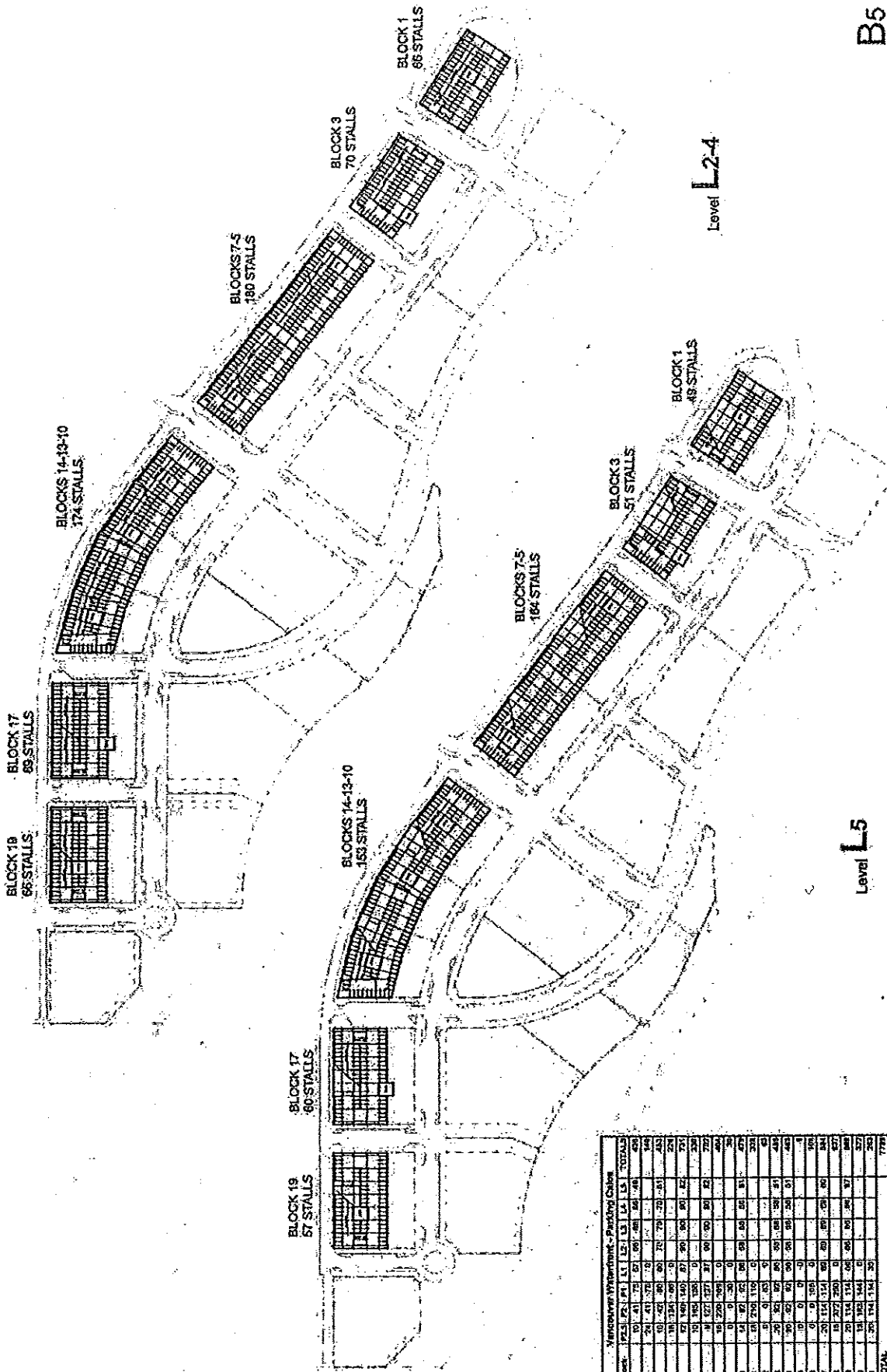
Level P2

Level P2.5



Vancouver Waterfront - Parking Crib

Block	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	TOTAL
1	75	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	75
2	0	75	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	75
3	0	0	80	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	80
4	0	0	0	241	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	241
5	0	0	0	0	267	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	267
6	0	0	0	0	0	193	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	193
7	0	0	0	0	0	0	174	0	0	0	0	0	0	0	0	0	0	0	0	0	0	174
8	0	0	0	0	0	0	0	57	0	0	0	0	0	0	0	0	0	0	0	0	0	57
9	0	0	0	0	0	0	0	0	173	0	0	0	0	0	0	0	0	0	0	0	0	173
10	0	0	0	0	0	0	0	0	0	181	0	0	0	0	0	0	0	0	0	0	0	181
11	0	0	0	0	0	0	0	0	0	0	535	0	0	0	0	0	0	0	0	0	0	535
12	0	0	0	0	0	0	0	0	0	0	0	174	0	0	0	0	0	0	0	0	0	174
13	0	0	0	0	0	0	0	0	0	0	0	0	57	0	0	0	0	0	0	0	0	57
14	0	0	0	0	0	0	0	0	0	0	0	0	0	173	0	0	0	0	0	0	0	173
15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	181	0	0	0	0	0	0	181
16	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	535	0	0	0	0	0	535
17	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	174	0	0	0	0	174
18	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	57	0	0	0	57
19	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	173	0	0	173
20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	535	0	535
21	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	342
TOTAL	75	75	80	241	267	193	174	57	173	181	535	174	57	173	181	535	174	57	173	181	535	7791



Vancouver Waterfront - Parking Cams

Block	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	TOTAL
1	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
2	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
3	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
4	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
5	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
6	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
7	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
8	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
9	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
10	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
11	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
13	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
14	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
15	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12
TOTAL	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12	12

**Vancouver Waterfront**  
 Conceptual Parking Diagrams  
 June 12, 2007

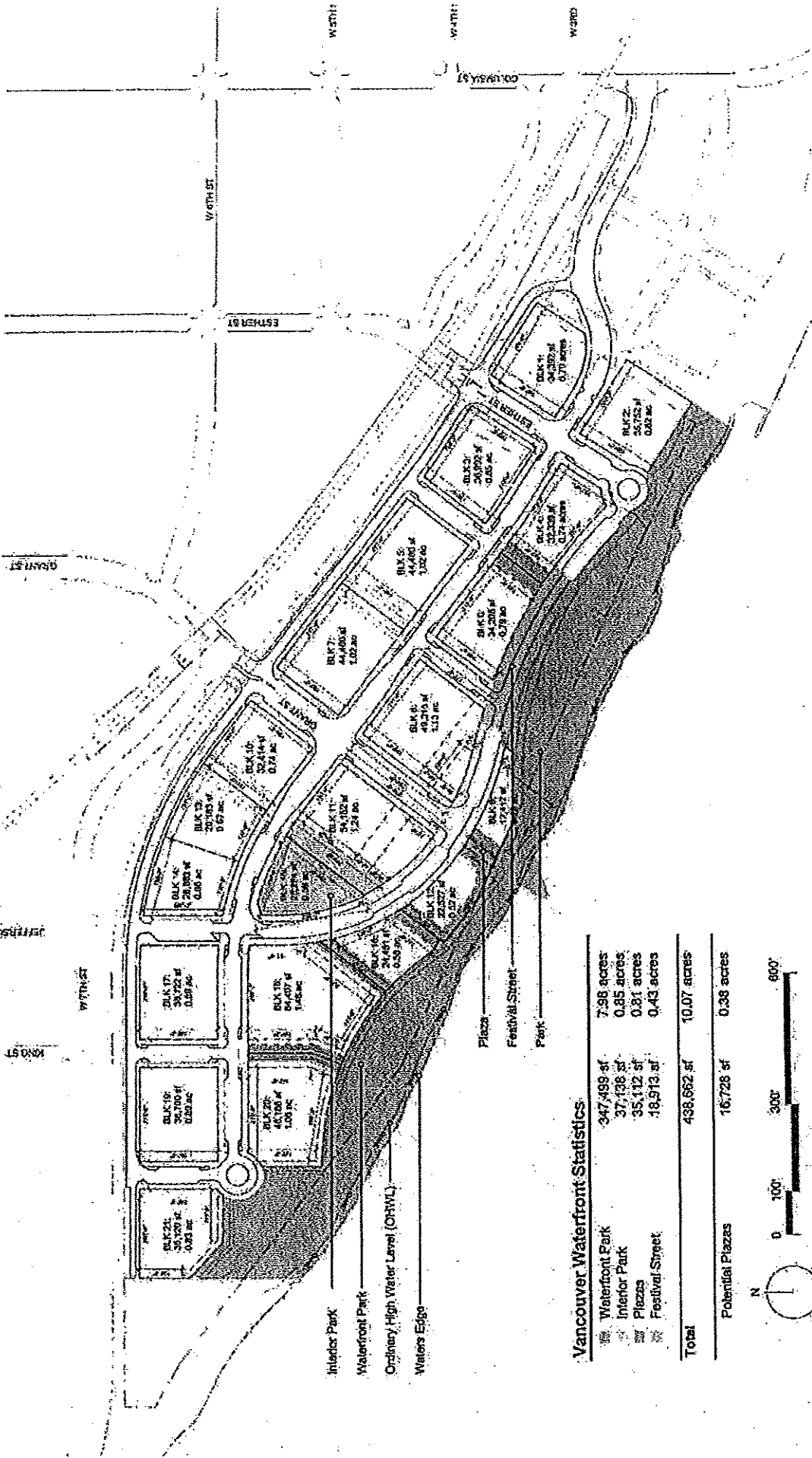
**Figure**  
 Above Grade  
 Parking

**B5**

**Level L5**

**Level L2-4**





### Vancouver Waterfront Statistics

Waterfront Park	347,499 sf	7.98 acres
Interior Park	37,138 sf	0.85 acres
Plazas	35,112 sf	0.81 acres
Festival Street	18,913 sf	0.43 acres
<b>Total</b>	<b>438,662 sf</b>	<b>10.07 acres</b>
Potential Plazas	16,728 sf	0.38 acres





EXHIBIT C

**Port of Vancouver Leasehold Property**



LAND SURVEYORS  
ENGINEERS

(503) 289-9936  
1111 Broadway  
Vancouver, WA  
98660

LEGAL DESCRIPTION FOR GRAMOR DEVELOPMENT  
PORT OF VANCOUVER LEASE PARCEL

January 24, 2008

A portion of Lot 59 and Lot 60 of Binding Site Plan for a portion of the Port of Vancouver, recorded in Book 53 of Surveys at Page 141, sheet 8 of 8, records of the Clark County Auditor, lying in the Amos Short Donation Land Claim, situated in the Southwest quarter of Section 27, Township 2 North, Range 1 East of the Willamette Meridian in the City of Vancouver, Clark County, Washington, described as follows:

BEGINNING at the Southeast corner of Block 36, of the "City of Vancouver" as shown in Book 53 of Surveys at Page 141, records of the Clark County Auditor, said point also being the Northeast corner of said Lot 59 as shown on said Survey;

THENCE South  $59^{\circ} 12' 14''$  East, along the North line of said Lot 60, a distance of 71.99 feet;

THENCE leaving said North line, South  $37^{\circ} 58' 31''$  West, a distance of 443.92 feet to the Inner Harbor line as described in Harbor Line Commission - First Biennial Report - Appendix;

THENCE North  $62^{\circ} 51' 57''$  West, along said Inner Harbor Line, a distance of 270.37 feet to a point which bears South  $56^{\circ} 00' 44''$  West, from a  $1/2$ " iron rod with plastic cap stamped "Mursell 23856";

THENCE leaving said Inner Harbor line, North  $56^{\circ} 00' 44''$  East, a distance of 1.13 feet to said  $1/2$ " iron rod;

THENCE continuing, North  $56^{\circ} 00' 44''$  East, a distance of 41.54 feet to a  $5/8$ " iron rod with plastic cap stamped "Mursell 30447";

THENCE North  $29^{\circ} 02' 16''$  East, a distance of 419.30 feet to a point on the North line of said Lot 59;

THENCE North  $29^{\circ} 02' 16''$  East, a distance of 74.41 feet to a point which bears North  $29^{\circ} 02' 16''$  East, a distance of 493.71 feet from said  $5/8$ " iron rod.

THENCE South  $53^{\circ} 48' 42''$  East, a distance of 59.64 feet;

THENCE South  $34^{\circ} 55' 44''$  West, a distance of 68.95 feet to the North line of said Lot 59;

THENCE South  $59^{\circ} 12' 14''$  East, along said North line, a distance of 81.75 feet;

THENCE North  $34^{\circ} 55' 44''$  East, a distance of 62.73 feet;

THENCE South  $56^{\circ} 00' 41''$  East, a distance of 78.14 feet to the West line of vacated Esther Street;

THENCE South  $02^{\circ} 18' 57''$  West, along said West line, a distance of 66.23 feet to the POINT OF BEGINNING.

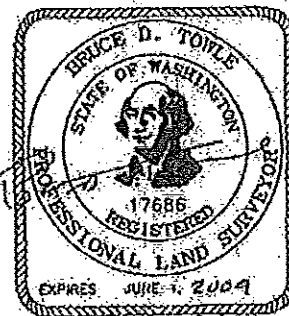
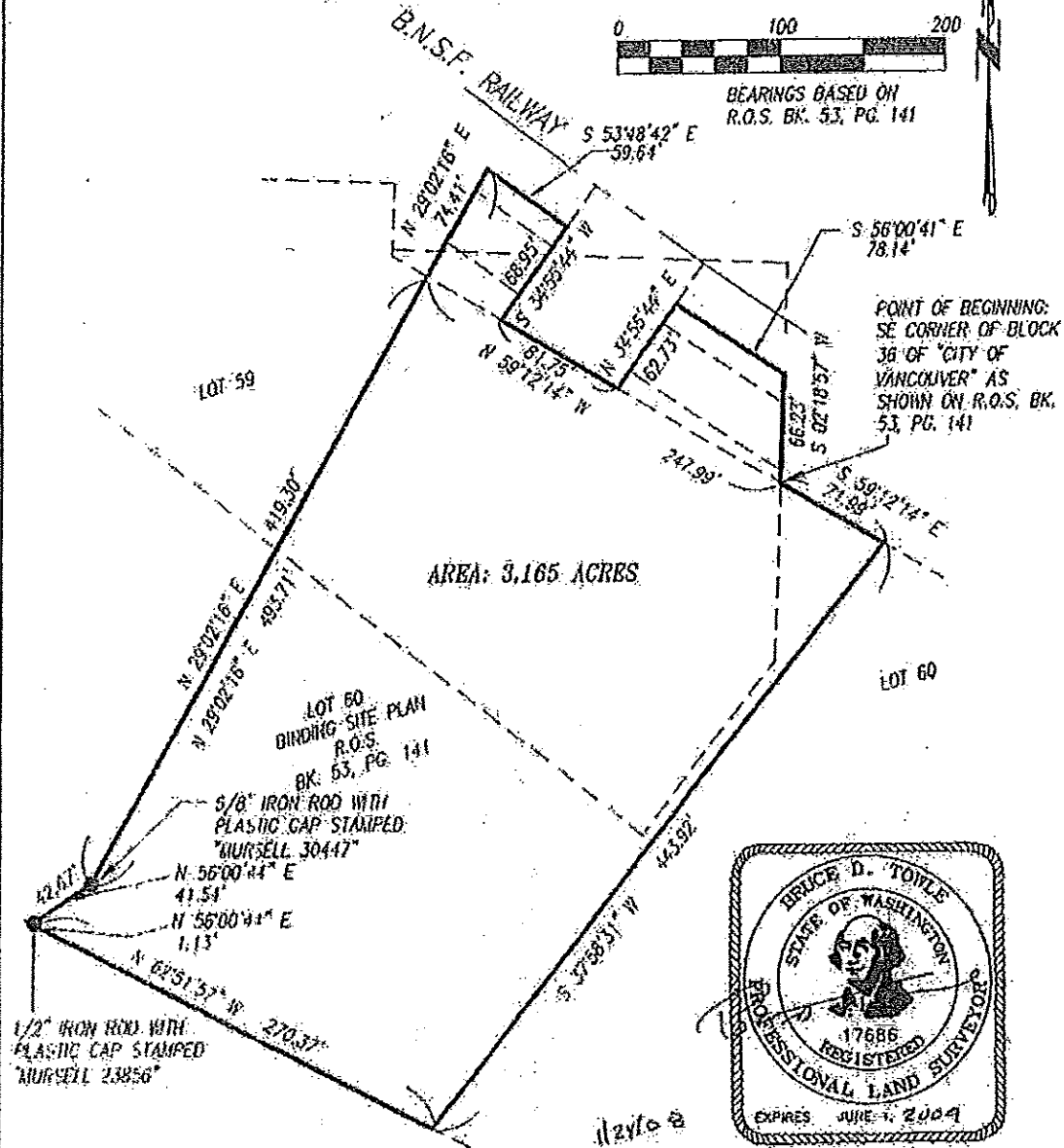
Containing 137,880 Sq. Ft. or approximately 3.165 acres.



1/24/08

SKETCH TO ACCOMPANY LEGAL DESCRIPTION FOR  
PORT OF VANCOUVER LEASE PARCEL

A PORTION OF THE AMOS SHORT D.L.C. NO. 51  
IN THE SW 1/4 OF SECTION 27, T. 2 N., R. 1 E., W.M.  
CITY OF VANCOUVER, CLARK COUNTY, WASHINGTON



**CLSON** LAND SURVEYORS  
ENGINEERS  
ENGINEERING INC. 1111 BROADWAY, VANCOUVER, WA 98660

1-800-825-1225  
1-509-722-4936

FILE: J:\DATA\0600120016218\30447 16218.51511.DWG

**EXHIBIT D**

**Department of Natural Resources Leasehold**

EXHIBIT D  
Department of Natural Resources  
Leasehold Submersible Lands

Exhibit D

Parcel "A"

HARBOR LANDS IN FRONT OF SECTION 27, TOWNSHIP 2 NORTH, RANGE 1 EAST, W.M., IN CLARK COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:  
THE HARBOR AREA LYING IN FRONT OF TRACTS 19, 20, 21, 22, 23 AND 24 AND INTERVENING VACATED INGALLS AND HARNEY STREETS, VANCOUVER TIDELANDS, BOUNDED BY THE INNER AND THE OUTER HARBOR LINES, THE PRODUCED WEST LINE OF SAID TRACT 19, AND A LINE RUNNING SOUTHWESTERLY AT RIGHT ANGLES TO THE HARBOR LINES, FROM THE SOUTHEAST CORNER OF SAID TRACT 24, TO THE OUTER HARBOR LINE, AS SHOWN ON THE OFFICIAL MAPS OF SAID TIDELANDS ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS AT OLYMPIA, WASHINGTON, CONTAINING AN AREA OF 160,890 SQUARE FEET.

Parcel "B"

HARBOR LANDS IN FRONT OF SECTIONS 27 AND 28, TOWNSHIP 2 NORTH, RANGE 1 EAST, W.M. IN CLARK COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:  
BEGINNING AT THE SOUTHEAST CORNER OF THE AMOS SHORT D.L.C.; THENCE S00°46'30" W, ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID SHORT D.L.C. 150.47 FEET TO THE INNER HARBOR LINE; THENCE N64°24'56" W, ALONG SAID INNER HARBOR LINE, 2997.01 FEET TO THE TRUE POINT OF BEGINNING; THENCE N64°24'56" W ALONG SAID INNER HARBOR LINE, 119.05 FEET; THENCE N52°48'29" W, ALONG SAID INNER HARBOR LINE, 604.00 FEET; THENCE S00°46'37" W, 248.52 FEET TO THE OUTER HARBOR LINE; THENCE S52°48'28" E ALONG SAID OUTER HARBOR LINE 228.30 FEET; THENCE S64°24'56" E, ALONG SAID OUTER HARBOR LINE, 452.19 FEET TO A POINT WHICH BEARS S00°45'25" W FROM THE TRUE POINT OF BEGINNING; THENCE N00°45'25" E, 165.27 FEET TO THE TRUE POINT OF BEGINNING; CONTAINING AN AREA OF 126,070 SQUARE FEET.

Parcel "C"

HARBOR LANDS IN FRONT OF SECTION 27 OF TOWNSHIP 2 NORTH RANGE 1 EAST OF THE WILLAMETTE MERIDIAN IN CLARK COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:  
BEGINNING AT A POINT ON THE INNER HARBOR LINE AT THE SOUTH EAST CORNER OF FIRST CLASS TIDELAND TRACT NO. 24; THENCE S25°35'04" W, PERPENDICULARLY TO SAID INNER HARBOR LINE, 150.00 FEET TO THE OUTER HARBOR LINE; THENCE S64°24'56" E ALONG SAID OUTER HARBOR LINE, 132.26 FEET; THENCE N25°35'04" E 150.00 FEET TO SAID INNER HARBOR LINE; THENCE N64°24'56" W ALONG SAID INNER HARBOR LINE, 132.26 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 19,840 SQUARE FEET.

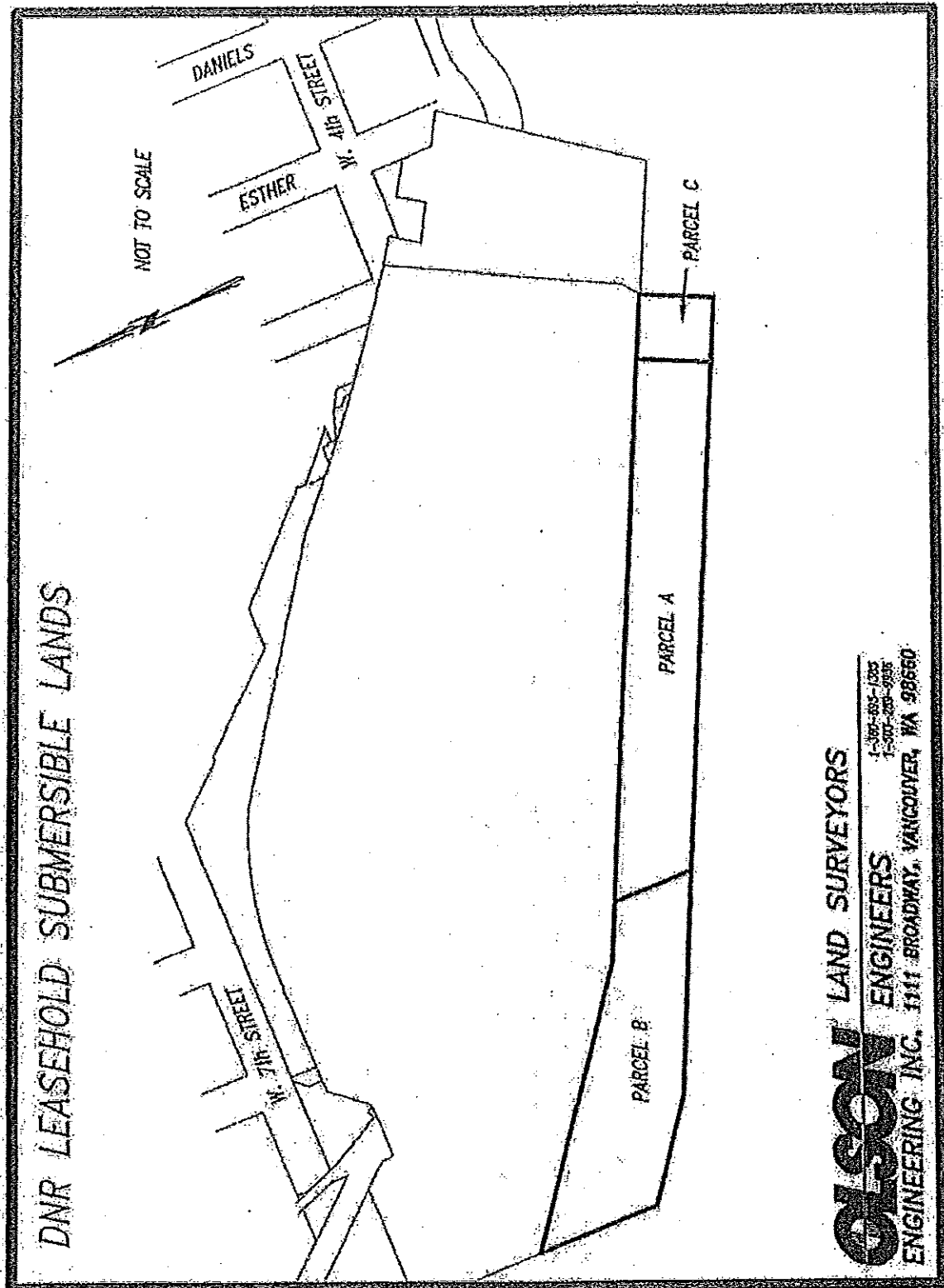
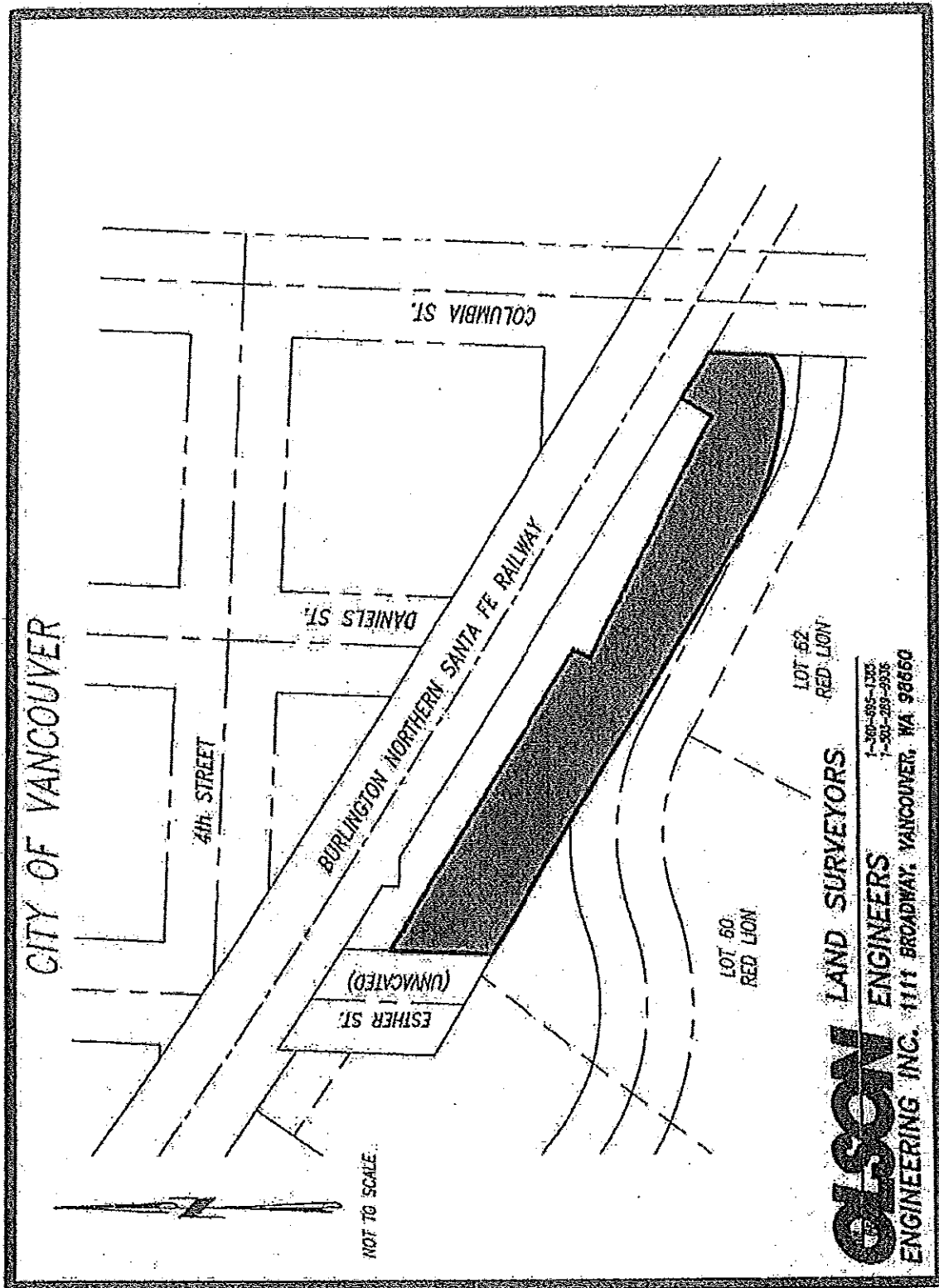


EXHIBIT E

City Surplus Property



Exhibit E



**EXHIBIT F**

**Port of Vancouver Easement Parcel**



LAND SURVEYORS  
ENGINEERS

(509) 289-9936  
1111 Broadway  
Vancouver, WA  
98660

LEGAL DESCRIPTION FOR GRAMOR DEVELOPMENT  
72.00 FOOT ROADWAY  
PORT OF VANCOUVER PROPERTY

January 24, 2008

All that portion of the following described parcel of land lying Southerly of the North line of Lot 60 of Binding Site Plan for a portion of the Port of Vancouver, recorded in Book 53 of Surveys at Page 141, Sheet 8 of 8, records of the Clark County Auditor, lying in the Amos Short Donation Land Claim, situated in the Southwest quarter of Section 27, Township 2 North, Range 1 East of the Willamette Meridian in the City of Vancouver, Clark County, Washington, being a strip of land 72.00 feet wide, lying 36.00 feet on each side of the following described centerline:

COMMENCING at the Southeast corner of Block 36, of the "City of Vancouver" as shown in Book 53 of Surveys at Page 141, records of the Clark County Auditor, said point also being the Northeast corner of Lot 59 as shown on said Survey;

THENCE South  $59^{\circ} 12' 14''$  East, along the North line of said Lot 60, a distance of 71.99 feet;

THENCE leaving said North line, South  $37^{\circ} 58' 31''$  West, a distance of 149.30 feet to a point on the arc of a non-tangent 200.00 foot radius curve to the left and TRUE POINT OF BEGINNING;

THENCE from a tangent bearing of South  $69^{\circ} 47' 30''$  East, along said curve to the left, through a central angle of  $39^{\circ} 28' 06''$ , an arc distance of 137.77 feet to a point of reverse curvature with a 200.00 foot radius curve to the right;

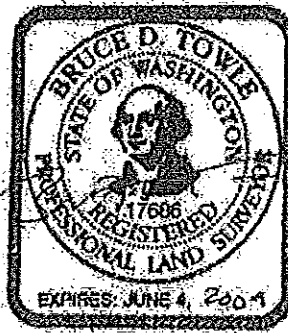
THENCE along said curve to the right, through a central angle of  $47^{\circ} 49' 25''$ , an arc distance of 166.94 feet;

THENCE South  $61^{\circ} 26' 11''$  East, a distance of 210.68 feet to a point of curvature with a 170.00 foot radius curve to the left;

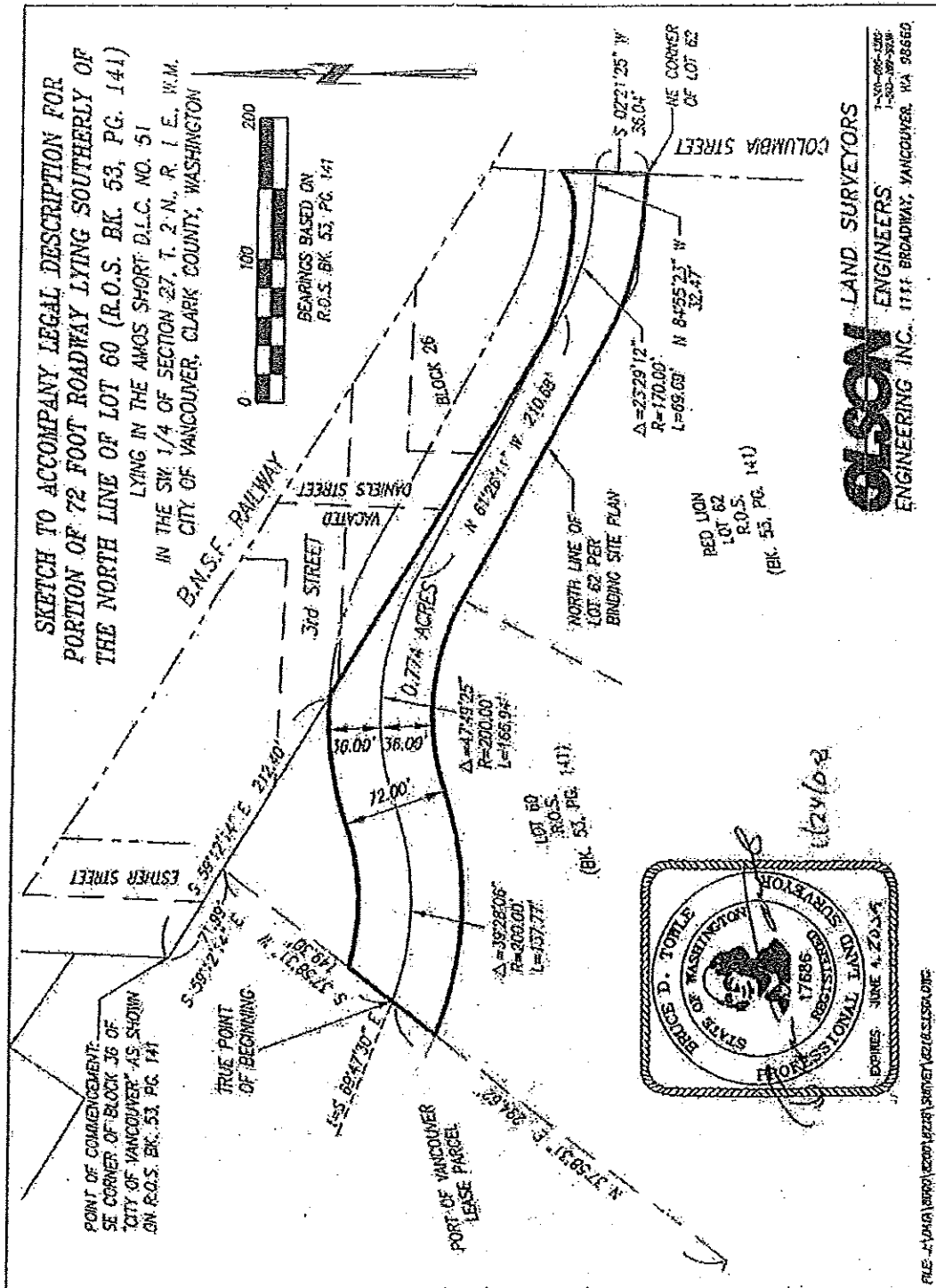
THENCE along said curve to the left, through a central angle of  $23^{\circ} 29' 12''$ , an arc distance of 69.69 feet;

THENCE South  $84^{\circ} 55' 23''$  East, 32.47 feet, more or less, to a point on the West right of way line of Columbia Street, said point being 40.00 feet from, when measured perpendicular to the centerline of said Street, said point also being the Terminus of said centerline.

The intent of this description is to provide a uniform strip of land, 72.00 feet wide, the sidelines of which shall be lengthened or shortened as necessary to intersect said West line of Columbia Street and a line which bears South  $37^{\circ} 58' 31''$  West and North  $37^{\circ} 58' 31''$  East from the TRUE POINT OF BEGINNING to provide a uniform strip of land.



1/24/09



**EXHIBIT G**

**To Be Vacated Street Rights-of-Way**



LAND SURVEYORS  
ENGINEERS

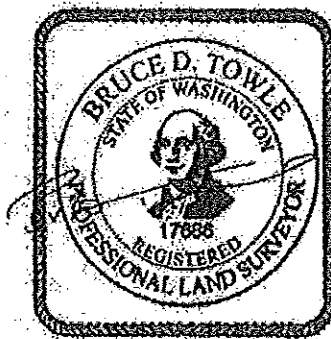
(503) 289-9936  
1111 Broadway  
Vancouver, WA  
98660

LEGAL DESCRIPTION FOR COLUMBIA WATERFRONT  
Esther Street Right-of-Way to be Vacated

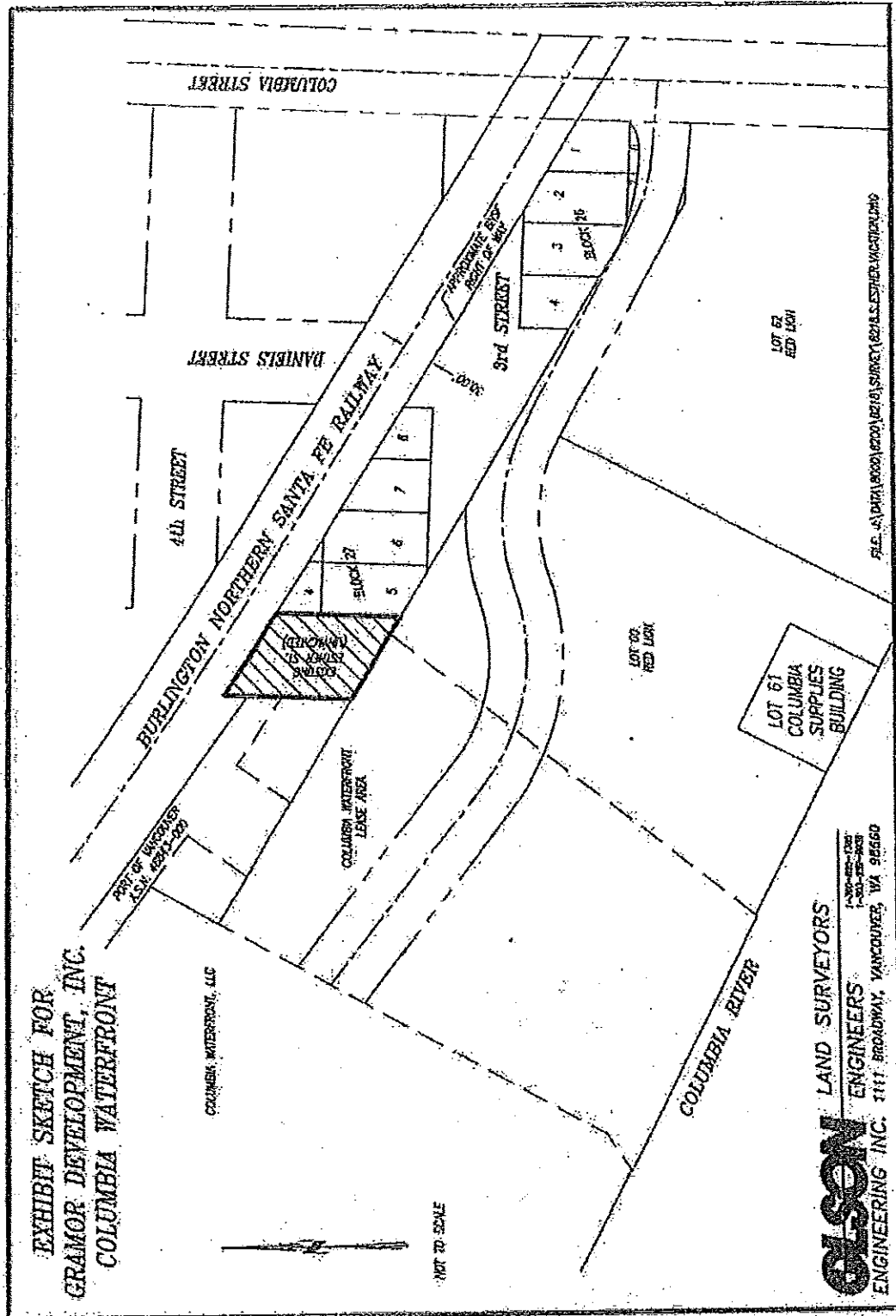
May 7, 2009

A parcel of property in the Plat of "West Vancouver" as platted in Book "D", Page 30 of Clark County Plat records and lying in the Southwest quarter of Section 27, Township 2 North, Range 1 East of the Willamette Meridian, Clark County, Washington described as follows:

All of Esther Street within said Plat of West Vancouver lying South of the Burlington Northern Santa Fe Railroad right-of-way.



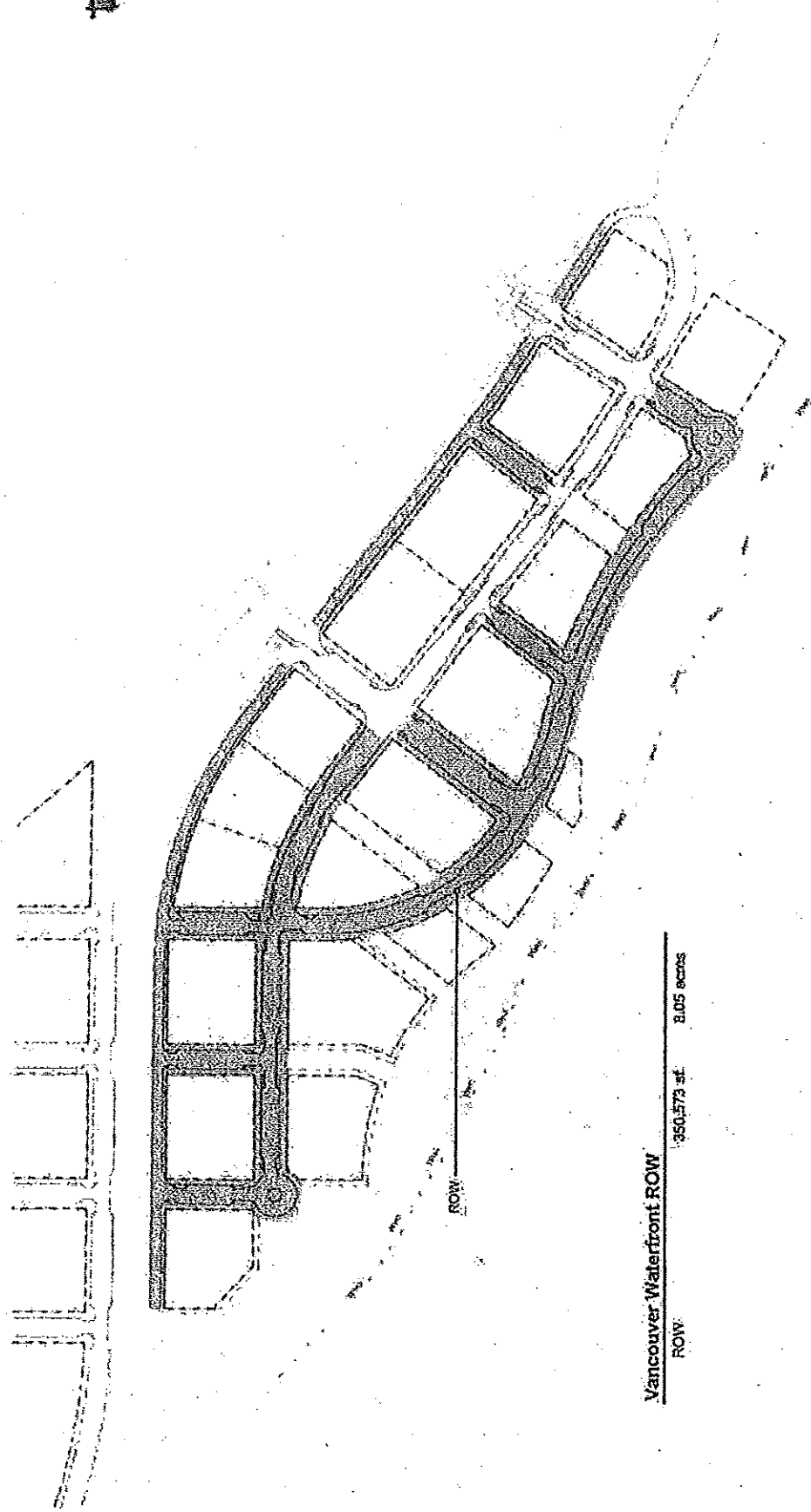
5/7/09





**EXHIBIT H**

**Developer Exchange Land**



Vancouver Waterfront ROW

ROW 350,573 sq. ft. 8.05 acres

Exhibit H

The Waterfront  
Preferred Scheme

Columbia Waterfront LLC

**TWIST**  
ARCHITECTURE + DESIGN

schema  
plan

## EXHIBIT I

### Design Standards

The design standards set forth in this Exhibit I do not eliminate all other applicable City code established design standards, but rather only override the City code design standards that directly conflict with the following design standards.

## EXHIBIT I

- 1) Notwithstanding VMC 20.630.020(G), construction and permitted uses will be allowed under designated right-of-ways as determined by the master plan. The City will be responsible for the construction and maintenance of the at grade right-of-way. Right-of-way must be designed to accommodate current and future infrastructure needs including, but not limited to, the following:
  1. Design guidelines established by an approved master plan on the Property.
  2. Accommodate both current and future utility needs.
  3. Design adequate clearances and design tolerances for below grade parking and service uses.
- 2) Notwithstanding VMC 20.630.040, new construction facing a service or "alley" street on one side only may reduce the transparency requirement to 50% to include parking and service access. The balance of the building wall facing the service street shall be devoted to interest-creating features.
- 3) Notwithstanding VMC 20.630.050(C)(2)(b), for buildings over 120' in height, street facade (podiums) shall not exceed 68 feet in height and towers above podiums shall not be less than 50% or more than 75% of the footprint of the podium. When a tower/podium combination is proposed, no less than two adjoining faces of the tower shall form an unbroken plan from street level to at least 50% of total building height for blocks over 50,000 square feet.
- 4) Notwithstanding VMC 20.630.060(F), surface parking lots, including off-site accessory parking lots, may be allowed upon approval of a phased development plan, which provides for future buildings and elimination of the surface parking.
- 5) Notwithstanding VMC 20.630.080(D)(1), the design of the street system shall be based on a grid pattern and pedestrian system similar to the existing City Center grid of 200 foot blocks. Based on site and environmental constraints the planning official may approve smaller or larger blocks. Where blocks are 400 feet or longer on a face, a mid block pedestrian connections shall be provided, except for Grant and Esther Streets where no mid block connection shall be required.
- 6) Notwithstanding VMC 20.630.080(D)(4), The Developer may depart from the light design guidelines provided in the City's standards. The Developer shall submit proposed light design standards for approval by the City as part of the Development Approvals.

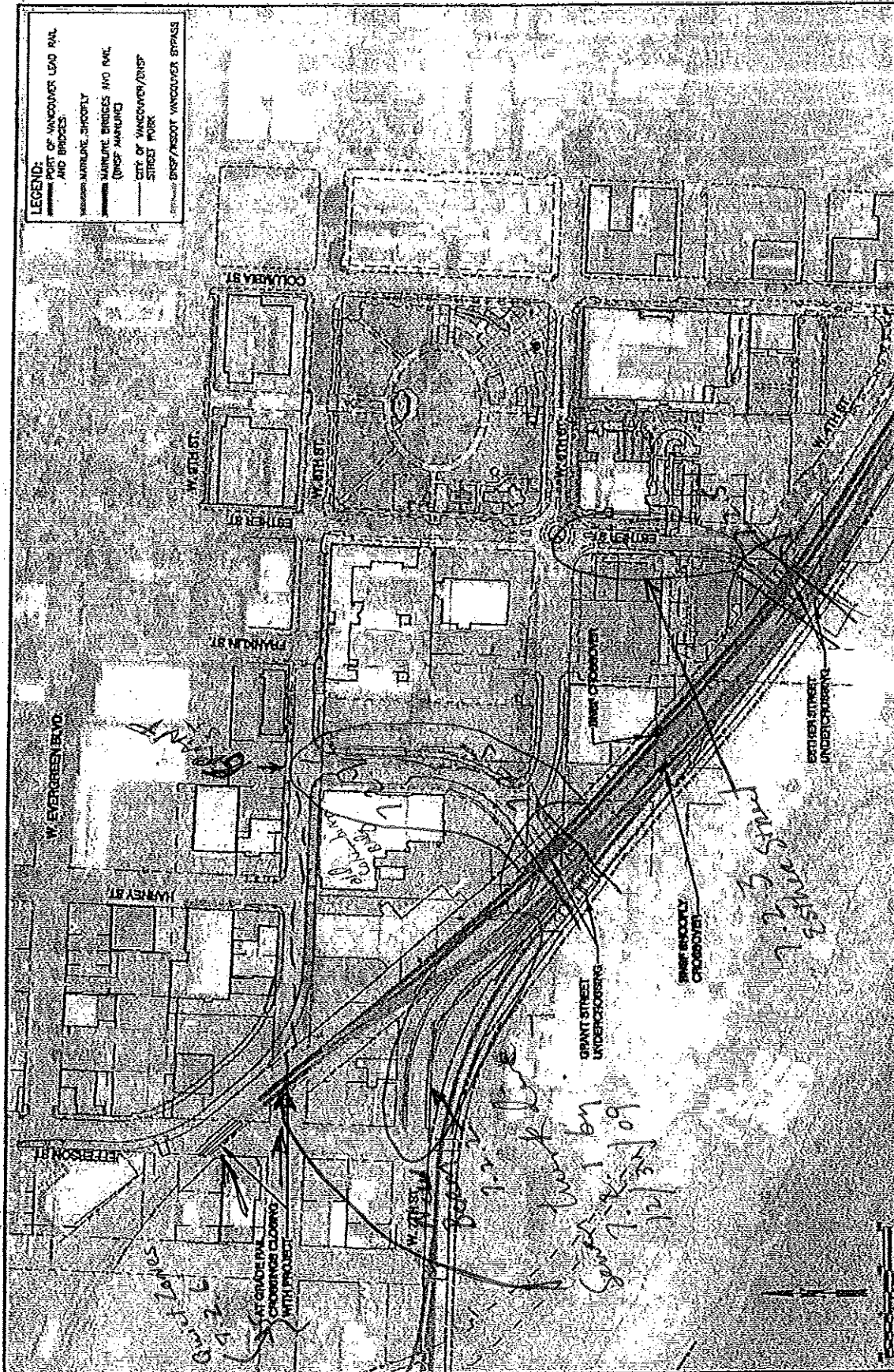
- 7) Notwithstanding VMC 20.630.080(D)(5), above grade structural parking is prohibited between the river and the first 90 feet of the buildings floor plate located nearest to the shoreline and at the interface of buildings and the river shoreline on blocks 2, 4, 6, 8, 9, 11, 12, 16, 15, 18, 20, 21, but shall be allowed beyond that 90 foot line if appropriately screened at the ground floor level consistent with the applicable provisions of VMC 20.630.
- 8) Notwithstanding VMC Table 20.430.030 – 1, ground floor residential units shall be allowed in multi story buildings, providing the floor area ratio requirements provided for in the Agreement are complied with.

**EXHIBIT J**

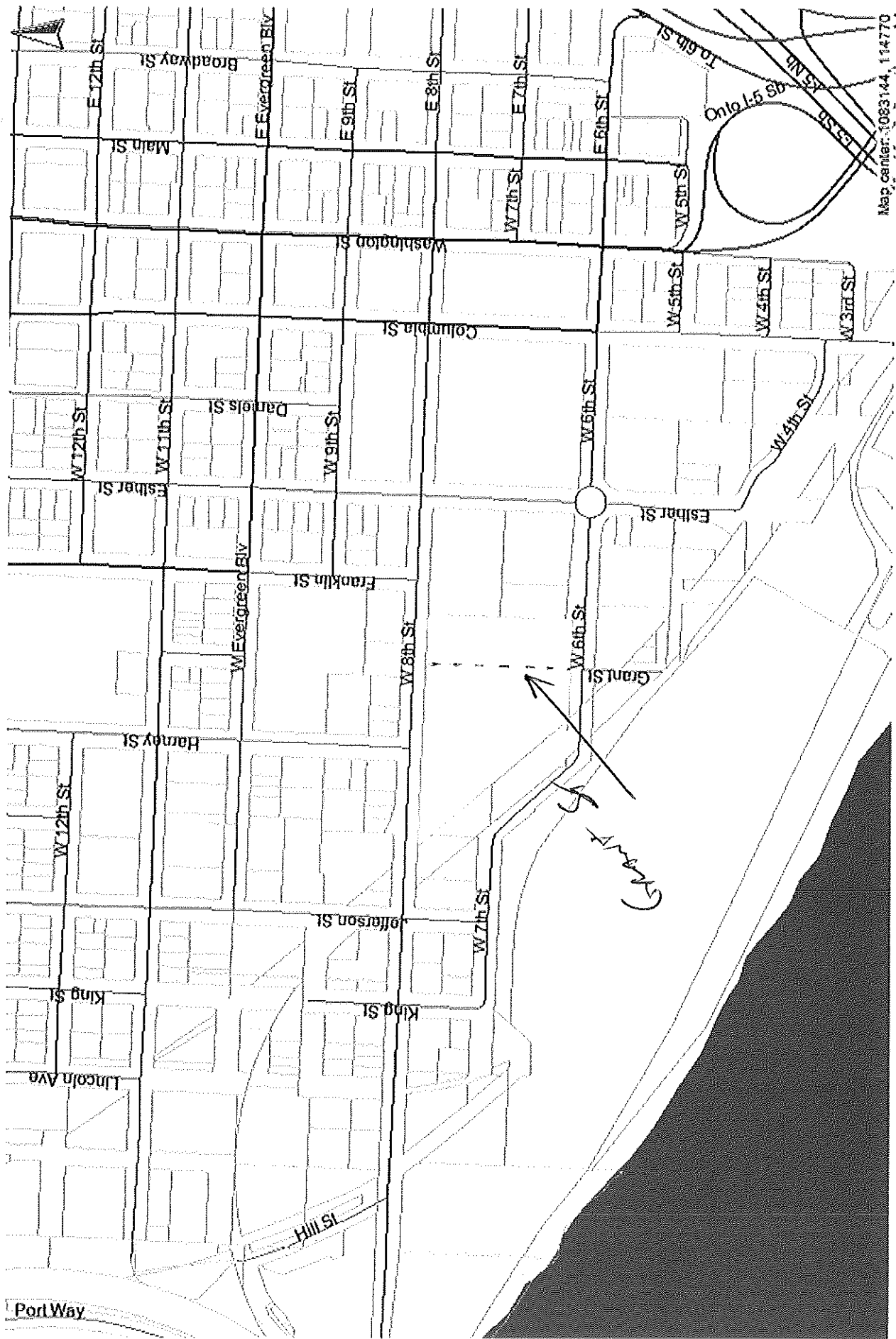
**Off-Site Transportation Improvements**

# Main Line & Beam reconstruction

**LEGEND:**  
 PORT OF VANCOUVER LEAD RAIL  
 AND BRIDGES.  
 MAINTAIN BRIDGES AND RAIL  
 (DRESS MAINTAIN)  
 CITY OF VANCOUVER/INSP  
 STREET WORK  
 BRIDGE/INSP/INSPOT VANCOUVER BRIDGE



All due by 12/31/2011 except 7.2.1





Current Map: Basic Property Information


Layers Legend Find Parcel Find Location Index Map Bookmarks Create PDF Legal Home Exit Sign In

Map Layers

- Base Layers
  - ☒ Parcels
  - ☒ Roads
  - ☒ Major Roads
  - ☒ City Boundaries
  - ☒ Rural Centers
  - ☒ County Boundary
  - ☒ Urban Growth Boundaries
  - ☒ Major Waterbodies
  - ☐ Stream Channels
  - ☐ Road Atlas Page Layout
  - ☒ Aerial Photography (Best Available)
  - ☐ Semi-Transparent Photography
  - ☐ Photography with Roads and Parcels

☒ Automatically Refresh Map

☐ Hints: (click to expand)



Scale: 1: 2,026 Quick View: Select a location Map Tool: Zoom In Active Layer: Parcels

powered by geocortex

**EXHIBIT K**

**Form of Guaranty**

## Exhibit K

### GUARANTY AGREEMENT

Effective  
Date: \_\_\_\_\_

From: \_\_\_\_\_ ("Guarantor")

In Favor of: The City of Vancouver, (the "City")  
a Washington municipal corporation

Columbia Waterfront LLC, a Washington limited liability company, entered into that Downtown Waterfront Development Agreement dated \_\_\_\_\_, 2009 with the City (the "Agreement"). Pursuant to the Agreement, Columbia Waterfront LLC is obligated to pay to the City the sum of \$8,000,000, when and as set forth in Section 7.3.1 of the Agreement.

Guarantor is a member in Columbia Waterfront LLC and Guarantor will benefit from the City entering into the Agreement. The City would not have entered into the Agreement unless Guarantor agreed to enter into this Guaranty Agreement (the "Guaranty").

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows.

#### SECTION 1 GUARANTEED OBLIGATION

As used in this Agreement, the "Guaranteed Obligation" means the obligation of Columbia Waterfront LLC to pay to the City the sum of \$\_\_\_\_\_, when and as required by Section 7.3.1 of the Agreement, which is a portion of the obligation of Columbia Waterfront LLC to pay a total of \$8,000,000 to the City.

## SECTION 2 AGREEMENT OF GUARANTY

2.1 Guarantor hereby guarantees, as primary obligor and not as surety, the punctual and complete performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of the Guaranteed Obligation, in every instance without requiring any notice of nonpayment, nonperformance or nonobservance or proof of notice or demand in order to charge Guarantor therefor, and Guarantor agrees to pay any and all reasonable expenses which may be paid or incurred by the City in collecting any or all of the Guaranteed Obligation and/or enforcing any rights under this Guaranty.

2.2 Guarantor waives any and all notice of the creation or accrual of any of the Guaranteed Obligation and notice of or proof of reliance by the City upon this Guaranty or acceptance of this Guaranty, and the Guaranteed Obligation shall conclusively be deemed to have been created, contracted, incurred or continued, as the case may be, in reliance upon this Guaranty, and all dealings between Columbia Waterfront LLC or Guarantor and the City after the date hereof shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guaranty.

2.3 Guarantor agrees that whenever at any time or from time to time it shall make any payment to the City on account of Guarantor's liability hereunder, it will notify the City in writing that such payment is made under this Guaranty for such purposes. No payment or payments made by Columbia Waterfront LLC or any other guarantor or any other person, or received or collected by the City from Columbia Waterfront LLC or any other guarantor or any other person, in any manner and at any time or from time to time, in reduction of or in payment of the Guaranteed Obligation shall be deemed to modify, reduce, release or otherwise affect the

liability of Guarantor hereunder which shall, notwithstanding any such payment or payments, remain liable for the Guaranteed Obligation until the Guaranteed Obligation is paid in full, which shall occur when the obligation of Columbia Waterfront LLC to pay the City \$8,000,000 has been paid in full.

2.4 Guarantor expressly agrees that the City may, without notice to the undersigned, modify the obligations of Columbia Waterfront LLC under the Agreement and grant extensions and concessions to Columbia Waterfront LLC in respect thereof (including, without limitation, changes in the time, manner or place of payment or any other term of any such obligations of Columbia Waterfront LLC) without in any manner affecting the liability of Guarantor hereunder.

2.5 This Guaranty shall remain in effect, and all rights of the City hereunder, and all obligations of Guarantor under this Guaranty, shall be continuing, absolute and unconditional notwithstanding: (a) any lack of validity or enforceability of the Guaranteed Obligation; (b) the absence of any attempt to collect the Guaranteed Obligation from Columbia Waterfront LLC, or Guarantor, any other guarantor or any other person or of any other action to enforce the same; (c) any bankruptcy, reorganization or insolvency of Columbia Waterfront LLC or Guarantor, or any successor or assignee thereof, or any disaffirmance or abandonment by a trustee thereof; (d) any law, regulation or order of any jurisdiction affecting any term of the Guaranteed Obligation or the City's rights with respect thereto; (e) any other circumstance which might otherwise constitute a defense, set-off or counterclaim applicable to, or a discharge of, Columbia Waterfront LLC, Guarantor or any other guarantor.



### SECTION 3 SUBROGATION

3.1 Guarantor hereby agrees, notwithstanding anything to the contrary in this Guaranty, to expressly, irrevocably and unconditionally waive and relinquish any and all claims (as that term is defined in title 11 of the United States Code) it may now have or later have against Columbia Waterfront LLC for any payment or transfer of anything of value Guarantor may make, or may be obligated to make, for any reason whatsoever, including, without limitation, any and all rights of subrogation, reimbursement, indemnity, exoneration and contribution which Guarantor may have now or hereafter have against Columbia Waterfront LLC. This section shall inure to the benefit of the City and its respective successors and assigns.

3.2 GUARANTOR HEREBY WAIVES AND RELINQUISHES ANY DEFENSE BASED UPON THE LOSS OF ANY REIMBURSEMENT OR SUBROGATION RIGHTS AND ANY OTHER DEFENSE WHICH MAY ARISE OUT OF ANY ANTI-DEFICIENCY STATUTES OR OTHER LAWS OR LEGISLATIVE ENACTMENTS, AND ANY DEFENSE THAT MAY ARISE OUT OF ELECTION OF REMEDIES, OR DISCHARGE OR SATISFACTION OF OBLIGATIONS.

### SECTION 4 RENEWALS, EXTENSIONS, MODIFICATIONS, ETC.

Guarantor hereby consents that, without the necessity of any reservation of rights against Guarantor: (a) any demand for payment of any of the Guaranteed Obligation made by the City may be rescinded and the Guaranteed Obligation continued; (b) the Guaranteed Obligation or the liability of any party upon or for any part thereof or guaranty thereof, may from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised, waived, surrendered or released by the City; and (c) subject to the terms thereof, any instrument

or agreement evidencing, relating to, securing or guaranteeing the Guaranteed Obligation may be amended, modified, supplemented or terminated, in whole or in part, as the City may deem advisable from time to time, all without notice to or further assent by Guarantor, who will remain bound hereunder notwithstanding any such renewal, extension, modification, acceleration, compromise, amendment, supplement, termination, sale, exchange, waiver, surrender or release. Guarantor acknowledges and agrees that the City has no obligation to provide Guarantor with any information regarding Columbia Waterfront LLC or any other guarantor and that Guarantor has the ability to obtain without the assistance of the City all such information.

**SECTION 5 FAILURE OR INDULGENCE NOT WAIVER; REMEDIES CUMULATIVE**

No failure or delay on the part of the City in the exercise of any power, right or privilege under this Guaranty, and no course of dealing with respect thereto, shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any power, right or privilege thereunder preclude any other or further exercise thereof or the exercise of any other power, right or privilege. All rights and remedies existing under this Guaranty are cumulative to, and not exclusive of, any rights and remedies provided by law or otherwise available.

**SECTION 6 WAIVER OF DEMAND, PROTEST, NOTICE, ETC.**

Except as otherwise specifically provided in this Guaranty, Guarantor waives presentment, demand and protest and notice of presentment, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any documents evidencing the Guaranteed Obligation at any time held by the City on which Guarantor may in any way be liable.

#### SECTION 7 AMENDMENT; ASSIGNMENT

Except as otherwise provided herein, no amendment, modification, termination, or waiver of any provision of this Guaranty, or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Guarantor and the City.

#### SECTION 8 SEVERABILITY

The invalidity, illegality or unenforceability in any jurisdiction of any provision in or obligation under this Guaranty shall not affect or impair the validity, legality or enforceability of the remaining provisions or obligations under this Guaranty.

#### SECTION 9 SUCCESSORS AND ASSIGNS

This Guaranty shall be binding upon and inure to the benefit of the City and shall be binding upon Guarantor's heirs, personal representatives, administrators, successors and assigns, except that Guarantor may not assign his or her rights or obligations hereunder or any portion hereof without the written consent of the City, which may be withheld in the City's sole discretion.

#### SECTION 10 TERMINATION OF GUARANTY

This Guaranty, and all obligations of Guarantor hereunder, shall terminate upon payment and performance in full of all Guaranteed Obligation. If, at any time, all or part of any payment of the Guaranteed Obligation theretofore made by Guarantor or any other person is rescinded or otherwise must be returned by the City for any reason whatsoever (including,



without limitation, the insolvency, bankruptcy or reorganization of any Guarantor or any other person), this Guaranty shall continue to be effective or shall be reinstated as to the Guaranteed Obligation which was satisfied by the payment to be rescinded or returned, all as though such payment had not been made.

#### SECTION 11 WAIVER OF TRIAL BY JURY

GUARANTOR ACKNOWLEDGE(S) AND AGREE(S) THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS GUARANTY OR THE RELATIONSHIP ESTABLISHED HEREBY WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES, AND THEREFORE, GUARANTOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING (INCLUDING ACTIONS SOUNDING IN TORT) TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR ARISING FROM THE TRANSACTION CONTEMPLATED HEREUNDER OR THE RELATIONSHIP ESTABLISHED HEREBY AND AGREE(S) THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE AND NOT BY A JURY.

#### SECTION 12 ATTORNEYS' FEES

In the event any suit, action, arbitration, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Guaranty or to enforce or interpret any provision herein, the prevailing party shall be entitled to recover its attorneys' and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in

connection therewith, as determined by the court or arbitrator at trial or by the court on any appeal or review, in addition to all other amounts provided by law.

SECTION 13 VOLUNTARY GUARANTY

Guarantor represents and acknowledges that it is executing this Guaranty voluntarily and for its own benefit.

IN WITNESS WHEREOF, this Guaranty has been duly executed by Guarantor as of the date and year first above written.

Guarantor: \_\_\_\_\_



P.O. Box 1995 • Vancouver, WA 98668-1995  
www.ci.vancouver.wa.us

December 16, 2009

Barry Cain, Managing Member  
Columbia Waterfront, LLC  
19767 SW 72<sup>nd</sup> AVE, SUITE 100  
Tualatin, OR 97062

RE: Waterfront Development Agreement – Personal Guarantees

Barry:

We are in receipt of your requested changes to the form of the personal guaranty that was attached as Exhibit "K" to the Council-approved Columbia Waterfront, LLC Development Agreement.

There has been some discussion about the effect of interim payments on the amount of the guaranty. It is our intent that the interim payments will operate to proportionately reduce the amount of the guaranty consistent with each individual's share for the overall obligation. For example, a 20% guarantor would guaranty \$1.6 million prior to initial payment (20% of the \$8,000,000 developer contribution). After payment of the \$800,000 payment due under paragraph 7.3.1.1 of the Development Agreement, the guaranty amount would drop to \$1.44 million, or 20% of \$7.2 million. The enclosed chart expresses the City's view of how the guaranty will operate.

We believe that the intent expressed in this letter has been the intent expressed by the parties throughout negotiations, before the City Center Revitalization Authority and before the City Council. We do not believe that there is any need to change the language of the Development Agreement or to depart from the guaranty form attached at Exhibit K if your intent as to how the guaranty operates is consistent with the enclosed chart.

Please feel free to contact me if you have any questions.

Sincerely,

Eric J. Holmes  
Economic Development Director

OPERATION OF DEVELOPMENT AGREEMENT  
EXHIBIT K  
GUARANTY

Guarantor	Share	Guaranty amount prior to initial payment	Guaranty amount after initial payment	Guaranty amount after payment due on 6/30/2010	Guaranty amount after Payment due on 6/20/2011	Guaranty Amount After Payment due on 6/30/2012	Guaranty Amount After Payment Due on 6/30/2013
Gramor LLC (Barry Cain)	30%	\$ 2,400,000	\$ 2,160,000	\$ 2,055,000	\$ 1,950,000	\$ 1,845,000	\$ 1,740,000
Al Kirkwood	20%	\$ 1,600,000	\$ 1,440,000	\$ 1,370,000	\$ 1,300,000	\$ 1,230,000	\$ 1,160,000
Steve Hansen	20%	\$ 1,600,000	\$ 1,440,000	\$ 1,370,000	\$ 1,300,000	\$ 1,230,000	\$ 1,160,000
Steve Oliva	20%	\$ 1,600,000	\$ 1,440,000	\$ 1,370,000	\$ 1,300,000	\$ 1,230,000	\$ 1,160,000
Barry Cain	6.67%	\$ 533,600	\$ 480,240	\$ 456,895	\$ 433,550	\$ 410,205	\$ 386,860
George Diamond	3.33%	\$ 266,400	\$ 239,760	\$ 228,105	\$ 216,450	\$ 204,795	\$ 193,140
Total	100.00%	\$ 8,000,000	\$ 7,200,000	\$ 6,850,000	\$ 6,500,000	\$ 6,150,000	\$ 5,800,000

## GUARANTY AGREEMENT

Effective

Date: January 8, 2010

From: Barry A. Cain

6.67%

("Guarantor")

In Favor of: The City of Vancouver,  
a Washington municipal corporation

(the "City")

Columbia Waterfront LLC, a Washington limited liability company, entered into the Downtown Waterfront Development Agreement dated October 19, 2009 with the City (the "Agreement"). Pursuant to the Agreement, Columbia Waterfront LLC is obligated to pay to the City the sum of \$8,000,000, when and as set forth in Section 7.3.1 of the Agreement.

Guarantor is the manager of BAC Columbia Waterfront LLC, a Washington limited liability company, which is a member in Columbia Waterfront LLC and Guarantor will benefit from the City entering into the Agreement. The City would not have entered into the Agreement unless Guarantor agreed to enter into this Guaranty Agreement (the "Guaranty").

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows.

### SECTION 1 GUARANTEED OBLIGATION

As used in this Agreement, the "Guaranteed Obligation" means the obligation of Columbia Waterfront LLC to pay to the City the sum of \$533,600 when and as required by Section 7.3.1 of the Agreement, which is a portion of the obligation of Columbia Waterfront LC to pay a total of \$8,000,000 to the City.

## SECTION 2 AGREEMENT OF GUARANTY

2.1 Guarantor hereby guarantees, as primary obligor and not as surety, the punctual and complete performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of the Guaranteed Obligation, in every instance without requiring any notice of nonpayment, nonperformance or nonobservance or proof of notice or demand in order to charge Guarantor therefor, and Guarantor agrees to pay any and all reasonable expenses which may be paid or incurred by the City in collecting any or all of the Guaranteed Obligation and/or enforcing any rights under this Guaranty.

2.2 Guarantor waives any and all notice of the creation or accrual of any of the Guaranteed Obligation and notice of or proof of reliance by the City upon this Guaranty or acceptance of this Guaranty, and the Guaranteed Obligation shall conclusively be deemed to have been created, contracted, incurred or continued, as the case may be, in reliance upon this Guaranty, and all dealings between Columbia Waterfront LLC or Guarantor and the City after the date hereof shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guaranty.

2.3 Guarantor agrees that whenever at any time or from time to time it shall make any payment to the City on account of Guarantor's liability hereunder, it will notify the City in writing that such payment is made under this Guaranty for such purposes. No payment or payments made by Columbia Waterfront LLC or any other guarantor or any other person, or received or collected by the City from Columbia Waterfront LLC or any other guarantor or any other person, in any manner and at any time or from time to time, in reduction of or in payment of the Guaranteed Obligation shall be deemed to modify, reduce, release or otherwise affect the

liability of Guarantor hereunder which shall, notwithstanding any such payment or payments, remain liable for the Guaranteed Obligation until the Guaranteed Obligation is paid in full, which shall occur when the obligation of Columbia Waterfront LLC to pay the City \$8,000,000 has been paid in full.

2.4 Guarantor expressly agrees that the City may, without notice to the undersigned, modify the obligations of Columbia Waterfront LLC under the Agreement and grant extensions and concessions to Columbia Waterfront LLC in respect thereof (including, without limitation, changes in the time, manner or place of payment or any other term of any such obligations of Columbia Waterfront LLC) without in any manner affecting the liability of Guarantor hereunder.

2.5 This Guaranty shall remain in effect, and all rights of the City hereunder, and all obligations of Guarantor under this Guaranty, shall be continuing, absolute and unconditional notwithstanding: (a) any lack of validity or enforceability of the Guaranteed Obligation; (b) the absence of any attempt to collect the Guaranteed Obligation from Columbia Waterfront LLC, or Guarantor, any other guarantor or any other person or of any other action to enforce the same; (c) any bankruptcy, reorganization or insolvency of Columbia Waterfront LLC or Guarantor, or any successor or assignee thereof, or any disaffirmance or abandonment by a trustee thereof; (d) any law, regulation or order of any jurisdiction affecting any term of the Guaranteed Obligation or the City's rights with respect thereto; (e) any other circumstance which might otherwise constitute a defense, set-off or counterclaim applicable to, or a discharge of, Columbia Waterfront LLC, Guarantor or any other guarantor.

### SECTION 3 SUBROGATION

3.1 Guarantor hereby agrees, notwithstanding anything to the contrary in this Guaranty, to expressly, irrevocably and unconditionally waive and relinquish any and all claims (as that term is defined in title 11 of the United States Code) it may now have or later have against Columbia Waterfront LLC for any payment or transfer of anything of value Guarantor may make, or may be obligated to make, for any reason whatsoever, including, without limitation, any and all rights of subrogation, reimbursement, indemnity, exoneration and contribution which Guarantor may have now or hereafter have against Columbia Waterfront LLC. This section shall inure to the benefit of the City and its respective successors and assigns.

3.2 GUARANTOR HEREBY WAIVES AND RELINQUISHES ANY DEFENSE BASED UPON THE LOSS OF ANY REIMBURSEMENT OR SUBROGATION RIGHTS AND ANY OTHER DEFENSE WHICH MAY ARISE OUT OF ANY ANTI-DEFICIENCY STATUTES OR OTHER LAWS OR LEGISLATIVE ENACTMENTS, AND ANY DEFENSE THAT MAY ARISE OUT OF ELECTION OF REMEDIES, OR DISCHARGE OR SATISFACTION OF OBLIGATIONS.

### SECTION 4 RENEWALS, EXTENSIONS, MODIFICATIONS, ETC.

Guarantor hereby consents that, without the necessity of any reservation of rights against Guarantor: (a) any demand for payment of any of the Guaranteed Obligation made by the City may be rescinded and the Guaranteed Obligation continued; (b) the Guaranteed Obligation or the liability of any party upon or for any part thereof or guaranty thereof, may from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised, waived, surrendered or released by the City; and (c) subject to the terms thereof, any instrument



or agreement evidencing, relating to, securing or guaranteeing the Guaranteed Obligation may be amended, modified, supplemented or terminated, in whole or in part, as the City may deem advisable from time to time, all without notice to or further assent by Guarantor, who will remain bound hereunder notwithstanding any such renewal, extension, modification, acceleration, compromise, amendment, supplement, termination, sale, exchange, waiver, surrender or release. Guarantor acknowledges and agrees that the City has no obligation to provide Guarantor with any information regarding Columbia Waterfront LLC or any other guarantor and that Guarantor has the ability to obtain without the assistance of the City all such information.

**SECTION 5 FAILURE OR INDULGENCE NOT WAIVER; REMEDIES CUMULATIVE**

No failure or delay on the part of the City in the exercise of any power, right or privilege under this Guaranty, and no course of dealing with respect thereto, shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any power, right or privilege thereunder preclude any other or further exercise thereof or the exercise of any other power, right or privilege. All rights and remedies existing under this Guaranty are cumulative to, and not exclusive of, any rights and remedies provided by law or otherwise available.

**SECTION 6 WAIVER OF DEMAND, PROTEST, NOTICE, ETC.**

Except as otherwise specifically provided in this Guaranty, Guarantor waives presentment, demand and protest and notice of presentment, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any documents evidencing the Guaranteed Obligation at any time held by the City on which Guarantor may in any way be liable.

## **SECTION 7 AMENDMENT; ASSIGNMENT**

Except as otherwise provided herein, no amendment, modification, termination, or waiver of any provision of this Guaranty, or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Guarantor and the City.

## **SECTION 8 SEVERABILITY**

The invalidity, illegality or unenforceability in any jurisdiction of any provision in or obligation under this Guaranty shall not affect or impair the validity, legality or enforceability of the remaining provisions or obligations under this Guaranty.

## **SECTION 9 SUCCESSORS AND ASSIGNS**

This Guaranty shall be binding upon and inure to the benefit of the City and shall be binding upon Guarantor's heirs, personal representatives, administrators, successors and assigns, except that Guarantor may not assign his or her rights or obligations hereunder or any portion hereof without the written consent of the City, which may be withheld in the City's sole discretion.

## **SECTION 10 TERMINATION OF GUARANTY**

This Guaranty, and all obligations of Guarantor hereunder, shall terminate upon payment and performance in full of all Guaranteed Obligation. If, at any time, all or part of any payment of the Guaranteed Obligation theretofore made by Guarantor or any other person is rescinded or otherwise must be returned by the City for any reason whatsoever (including,

without limitation, the insolvency, bankruptcy or reorganization of any Guarantor or any other person), this Guaranty shall continue to be effective or shall be reinstated as to the Guaranteed Obligation which was satisfied by the payment to be rescinded or returned, all as though such payment had not been made.

#### **SECTION 11    WAIVER OF TRIAL BY JURY**

GUARANTOR ACKNOWLEDGE(S) AND AGREE(S) THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS GUARANTY OR THE RELATIONSHIP ESTABLISHED HEREBY WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES, AND THEREFORE, GUARANTOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING (INCLUDING ACTIONS SOUNDING IN TORT) TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR ARISING FROM THE TRANSACTION CONTEMPLATED HEREUNDER OR THE RELATIONSHIP ESTABLISHED HEREBY AND AGREE(S) THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE AND NOT BY A JURY.

#### **SECTION 12    ATTORNEYS' FEES**

In the event any suit, action, arbitration, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Guaranty or to enforce or interpret any provision herein, the prevailing party shall be entitled to recover its attorneys' and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in


connection therewith, as determined by the court or arbitrator at trial or by the court on any appeal or review, in addition to all other amounts provided by law.

SECTION 13 VOLUNTARY GUARANTY

Guarantor represents and acknowledges that it is executing this Guaranty voluntarily and for its own benefit.

IN WITNESS WHEREOF, this Guaranty has been duly executed by Guarantor as of the date and year first above written.

Guarantor:

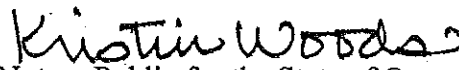
  
Barry A. Cain

STATE OF OREGON                    )  
  )ss  
COUNTY OF WASHINGTON        )

I hereby certify that I know or have satisfactory evidence that Barry A. Cain is the person who appeared before me, and that said person acknowledged that he (~~he/she~~) is authorized to execute the foregoing document and acknowledges it to be the free and voluntary act of such party for the uses and purposes therein mentioned.

Dated this 8<sup>th</sup> day of January, 2010, 2009.



  
Notary Public for the State of Oregon  
Residing at Portland  
My commission expires May 19, 2010

## GUARANTY AGREEMENT

Effective Date: January 8, 2010

From: Gramor Columbia Waterfront LLC *30%* ("Guarantor")

In Favor of: The City of Vancouver, (the "City")  
a Washington municipal corporation

Columbia Waterfront LLC, a Washington limited liability company, entered into the Downtown Waterfront Development Agreement dated October 19, 2009 with the City (the "Agreement"). Pursuant to the Agreement, Columbia Waterfront LLC is obligated to pay to the City the sum of \$8,000,000, when and as set forth in Section 7.3.1 of the Agreement.

Guarantor is a member in Columbia Waterfront LLC and Guarantor will benefit from the City entering into the Agreement. The City would not have entered into the Agreement unless Guarantor agreed to enter into this Guaranty Agreement (the "Guaranty").

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows.

### SECTION 1 GUARANTEED OBLIGATION

As used in this Agreement, the "Guaranteed Obligation" means the obligation of Columbia Waterfront LLC to pay to the City the sum of \$2,400,000 when and as required by Section 7.3.1 of the Agreement, which is a portion of the obligation of Columbia Waterfront LLC to pay a total of \$8,000,000 to the City.

## SECTION 2 AGREEMENT OF GUARANTY

2.1 Guarantor hereby guarantees, as primary obligor and not as surety, the punctual and complete performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of the Guaranteed Obligation, in every instance without requiring any notice of nonpayment, nonperformance or nonobservance or proof of notice or demand in order to charge Guarantor therefor, and Guarantor agrees to pay any and all reasonable expenses which may be paid or incurred by the City in collecting any or all of the Guaranteed Obligation and/or enforcing any rights under this Guaranty.

2.2 Guarantor waives any and all notice of the creation or accrual of any of the Guaranteed Obligation and notice of or proof of reliance by the City upon this Guaranty or acceptance of this Guaranty, and the Guaranteed Obligation shall conclusively be deemed to have been created, contracted, incurred or continued, as the case may be, in reliance upon this Guaranty, and all dealings between Columbia Waterfront LLC or Guarantor and the City after the date hereof shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guaranty.

2.3 Guarantor agrees that whenever at any time or from time to time it shall make any payment to the City on account of Guarantor's liability hereunder, it will notify the City in writing that such payment is made under this Guaranty for such purposes. No payment or payments made by Columbia Waterfront LLC or any other guarantor or any other person, or received or collected by the City from Columbia Waterfront LLC or any other guarantor or any other person, in any manner and at any time or from time to time, in reduction of or in payment of the Guaranteed Obligation shall be deemed to modify, reduce, release or otherwise affect the

liability of Guarantor hereunder which shall, notwithstanding any such payment or payments, remain liable for the Guaranteed Obligation until the Guaranteed Obligation is paid in full, which shall occur when the obligation of Columbia Waterfront LLC to pay the City \$8,000,000 has been paid in full.

2.4 Guarantor expressly agrees that the City may, without notice to the undersigned, modify the obligations of Columbia Waterfront LLC under the Agreement and grant extensions and concessions to Columbia Waterfront LLC in respect thereof (including, without limitation, changes in the time, manner or place of payment or any other term of any such obligations of Columbia Waterfront LLC) without in any manner affecting the liability of Guarantor hereunder.

2.5 This Guaranty shall remain in effect, and all rights of the City hereunder, and all obligations of Guarantor under this Guaranty, shall be continuing, absolute and unconditional notwithstanding: (a) any lack of validity or enforceability of the Guaranteed Obligation; (b) the absence of any attempt to collect the Guaranteed Obligation from Columbia Waterfront LLC, or Guarantor, any other guarantor or any other person or of any other action to enforce the same; (c) any bankruptcy, reorganization or insolvency of Columbia Waterfront LLC or Guarantor, or any successor or assignee thereof, or any disaffirmance or abandonment by a trustee thereof; (d) any law, regulation or order of any jurisdiction affecting any term of the Guaranteed Obligation or the City's rights with respect thereto; (e) any other circumstance which might otherwise constitute a defense, set-off or counterclaim applicable to, or a discharge of, Columbia Waterfront LLC, Guarantor or any other guarantor.

### **SECTION 3 SUBROGATION**

3.1 Guarantor hereby agrees, notwithstanding anything to the contrary in this Guaranty, to expressly, irrevocably and unconditionally waive and relinquish any and all claims (as that term is defined in title 11 of the United States Code) it may now have or later have against Columbia Waterfront LLC for any payment or transfer of anything of value Guarantor may make, or may be obligated to make, for any reason whatsoever, including, without limitation, any and all rights of subrogation, reimbursement, indemnity, exoneration and contribution which Guarantor may have now or hereafter have against Columbia Waterfront LLC. This section shall inure to the benefit of the City and its respective successors and assigns.

3.2 GUARANTOR HEREBY WAIVES AND RELINQUISHES ANY DEFENSE BASED UPON THE LOSS OF ANY REIMBURSEMENT OR SUBROGATION RIGHTS AND ANY OTHER DEFENSE WHICH MAY ARISE OUT OF ANY ANTI-DEFICIENCY STATUTES OR OTHER LAWS OR LEGISLATIVE ENACTMENTS, AND ANY DEFENSE THAT MAY ARISE OUT OF ELECTION OF REMEDIES, OR DISCHARGE OR SATISFACTION OF OBLIGATIONS.

### **SECTION 4 RENEWALS, EXTENSIONS, MODIFICATIONS, ETC.**

Guarantor hereby consents that, without the necessity of any reservation of rights against Guarantor: (a) any demand for payment of any of the Guaranteed Obligation made by the City may be rescinded and the Guaranteed Obligation continued; (b) the Guaranteed Obligation or the liability of any party upon or for any part thereof or guaranty thereof, may from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised, waived, surrendered or released by the City; and (c) subject to the terms thereof, any instrument



or agreement evidencing, relating to, securing or guaranteeing the Guaranteed Obligation may be amended, modified, supplemented or terminated, in whole or in part, as the City may deem advisable from time to time, all without notice to or further assent by Guarantor, who will remain bound hereunder notwithstanding any such renewal, extension, modification, acceleration, compromise, amendment, supplement, termination, sale, exchange, waiver, surrender or release. Guarantor acknowledges and agrees that the City has no obligation to provide Guarantor with any information regarding Columbia Waterfront LLC or any other guarantor and that Guarantor has the ability to obtain without the assistance of the City all such information.

**SECTION 5 FAILURE OR INDULGENCE NOT WAIVER; REMEDIES CUMULATIVE**

No failure or delay on the part of the City in the exercise of any power, right or privilege under this Guaranty, and no course of dealing with respect thereto, shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any power, right or privilege thereunder preclude any other or further exercise thereof or the exercise of any other power, right or privilege. All rights and remedies existing under this Guaranty are cumulative to, and not exclusive of, any rights and remedies provided by law or otherwise available.

**SECTION 6 WAIVER OF DEMAND, PROTEST, NOTICE, ETC.**

Except as otherwise specifically provided in this Guaranty, Guarantor waives presentment, demand and protest and notice of presentment, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any documents evidencing the Guaranteed Obligation at any time held by the City on which Guarantor may in any way be liable.

## SECTION 7 AMENDMENT; ASSIGNMENT

Except as otherwise provided herein, no amendment, modification, termination, or waiver of any provision of this Guaranty, or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Guarantor and the City.

## SECTION 8 SEVERABILITY

The invalidity, illegality or unenforceability in any jurisdiction of any provision in or obligation under this Guaranty shall not affect or impair the validity, legality or enforceability of the remaining provisions or obligations under this Guaranty.

## SECTION 9 SUCCESSORS AND ASSIGNS

This Guaranty shall be binding upon and inure to the benefit of the City and shall be binding upon Guarantor's heirs, personal representatives, administrators, successors and assigns, except that Guarantor may not assign his or her rights or obligations hereunder or any portion hereof without the written consent of the City, which may be withheld in the City's sole discretion.

## SECTION 10 TERMINATION OF GUARANTY

This Guaranty, and all obligations of Guarantor hereunder, shall terminate upon payment and performance in full of all Guaranteed Obligation. If, at any time, all or part of any payment of the Guaranteed Obligation theretofore made by Guarantor or any other person is rescinded or otherwise must be returned by the City for any reason whatsoever (including,

without limitation, the insolvency, bankruptcy or reorganization of any Guarantor or any other person), this Guaranty shall continue to be effective or shall be reinstated as to the Guaranteed Obligation which was satisfied by the payment to be rescinded or returned, all as though such payment had not been made.

#### **SECTION 11    WAIVER OF TRIAL BY JURY**

GUARANTOR ACKNOWLEDGE(S) AND AGREE(S) THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS GUARANTY OR THE RELATIONSHIP ESTABLISHED HEREBY WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES, AND THEREFORE, GUARANTOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING (INCLUDING ACTIONS SOUNDING IN TORT) TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR ARISING FROM THE TRANSACTION CONTEMPLATED HEREUNDER OR THE RELATIONSHIP ESTABLISHED HEREBY AND AGREE(S) THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE AND NOT BY A JURY.

#### **SECTION 12    ATTORNEYS' FEES**

In the event any suit, action, arbitration, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Guaranty or to enforce or interpret any provision herein, the prevailing party shall be entitled to recover its attorneys' and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in

connection therewith, as determined by the court or arbitrator at trial or by the court on any appeal or review, in addition to all other amounts provided by law.

SECTION 13 VOLUNTARY GUARANTY

Guarantor represents and acknowledges that it is executing this Guaranty voluntarily and for its own benefit.

IN WITNESS WHEREOF, this Guaranty has been duly executed by Guarantor as of the date and year first above written.

Guarantor:

Gramor Columbia Waterfront LLC,  
a Washington limited liability company

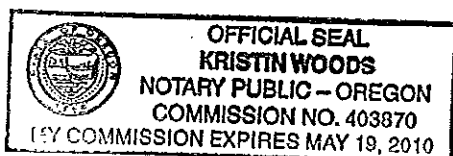
By: Gramor Investments, Inc.,  
an Oregon corporation, Manager

By: [Signature]  
Barry A. Cain, President

STATE OF OREGON                     )  
  )ss  
COUNTY OF WASHINGTON         )

I hereby certify that I know or have satisfactory evidence that Barry A. Cain is the person who appeared before me, and that said person acknowledged that he (he/she) is authorized to execute the foregoing document and acknowledges it as President of Gramor Investments Inc., an Oregon corporation, Manager of Gramor Columbia Waterfront LL, a Washington limited liability company to be the free and voluntary act of such party for the uses and purposes therein mentioned.

Dated this 8<sup>th</sup> day of January, 2010.



Kristin Woods  
Notary Public for the State of Oregon  
Residing at Portland  
My commission expires May 19, 2010

## GUARANTY AGREEMENT

Effective Date: January 8, 2010

From: Steven J. Oliva *20%* ("Guarantor")

In Favor of: The City of Vancouver, (the "City")  
a Washington municipal corporation

Columbia Waterfront LLC, a Washington limited liability company, entered into the Downtown Waterfront Development Agreement dated October 19, 2009 with the City (the "Agreement"). Pursuant to the Agreement, Columbia Waterfront LLC is obligated to pay to the City the sum of \$8,000,000, when and as set forth in Section 7.3.1 of the Agreement.

Guarantor is the manager of Oliva Columbia Waterfront LLC, a Washington limited liability company, which is a member in Columbia Waterfront LLC and Guarantor will benefit from the City entering into the Agreement. The City would not have entered into the Agreement unless Guarantor agreed to enter into this Guaranty Agreement (the "Guaranty").

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows.

### **SECTION 1. GUARANTEED OBLIGATION**

As used in this Agreement, the "Guaranteed Obligation" means the obligation of Columbia Waterfront LLC to pay to the City the sum of \$1,600,000 when and as required by Section 7.3.1 of the Agreement, which is a portion of the obligation of Columbia Waterfront LLC to pay a total of \$8,000,000 to the City.

## SECTION 2 AGREEMENT OF GUARANTY

2.1 Guarantor hereby guarantees, as primary obligor and not as surety, the punctual and complete performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of the Guaranteed Obligation, in every instance without requiring any notice of nonpayment, nonperformance or nonobservance or proof of notice or demand in order to charge Guarantor therefor, and Guarantor agrees to pay any and all reasonable expenses which may be paid or incurred by the City in collecting any or all of the Guaranteed Obligation and/or enforcing any rights under this Guaranty.

2.2 Guarantor waives any and all notice of the creation or accrual of any of the Guaranteed Obligation and notice of or proof of reliance by the City upon this Guaranty or acceptance of this Guaranty, and the Guaranteed Obligation shall conclusively be deemed to have been created, contracted, incurred or continued, as the case may be, in reliance upon this Guaranty, and all dealings between Columbia Waterfront LLC or Guarantor and the City after the date hereof shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guaranty.

2.3 Guarantor agrees that whenever at any time or from time to time it shall make any payment to the City on account of Guarantor's liability hereunder, it will notify the City in writing that such payment is made under this Guaranty for such purposes. No payment or payments made by Columbia Waterfront LLC or any other guarantor or any other person, or received or collected by the City from Columbia Waterfront LLC or any other guarantor or any other person, in any manner and at any time or from time to time, in reduction of or in payment of the Guaranteed Obligation shall be deemed to modify, reduce, release or otherwise affect the

liability of Guarantor hereunder which shall, notwithstanding any such payment or payments, remain liable for the Guaranteed Obligation until the Guaranteed Obligation is paid in full, which shall occur when the obligation of Columbia Waterfront LLC to pay the City \$8,000,000 has been paid in full.

2.4 Guarantor expressly agrees that the City may, without notice to the undersigned, modify the obligations of Columbia Waterfront LLC under the Agreement and grant extensions and concessions to Columbia Waterfront LLC in respect thereof (including, without limitation, changes in the time, manner or place of payment or any other term of any such obligations of Columbia Waterfront LLC) without in any manner affecting the liability of Guarantor hereunder.

2.5 This Guaranty shall remain in effect, and all rights of the City hereunder, and all obligations of Guarantor under this Guaranty, shall be continuing, absolute and unconditional notwithstanding: (a) any lack of validity or enforceability of the Guaranteed Obligation; (b) the absence of any attempt to collect the Guaranteed Obligation from Columbia Waterfront LLC, or Guarantor, any other guarantor or any other person or of any other action to enforce the same; (c) any bankruptcy, reorganization or insolvency of Columbia Waterfront LLC or Guarantor, or any successor or assignee thereof, or any disaffirmance or abandonment by a trustee thereof; (d) any law, regulation or order of any jurisdiction affecting any term of the Guaranteed Obligation or the City's rights with respect thereto; (e) any other circumstance which might otherwise constitute a defense, set-off or counterclaim applicable to, or a discharge of, Columbia Waterfront LLC, Guarantor or any other guarantor.

### SECTION 3 SUBROGATION

3.1 Guarantor hereby agrees, notwithstanding anything to the contrary in this Guaranty, to expressly, irrevocably and unconditionally waive and relinquish any and all claims (as that term is defined in title 11 of the United States Code) it may now have or later have against Columbia Waterfront LLC for any payment or transfer of anything of value Guarantor may make, or may be obligated to make, for any reason whatsoever, including, without limitation, any and all rights of subrogation, reimbursement, indemnity, exoneration and contribution which Guarantor may have now or hereafter have against Columbia Waterfront LLC. This section shall inure to the benefit of the City and its respective successors and assigns.

3.2 GUARANTOR HEREBY WAIVES AND RELINQUISHES ANY DEFENSE BASED UPON THE LOSS OF ANY REIMBURSEMENT OR SUBROGATION RIGHTS AND ANY OTHER DEFENSE WHICH MAY ARISE OUT OF ANY ANTI-DEFICIENCY STATUTES OR OTHER LAWS OR LEGISLATIVE ENACTMENTS, AND ANY DEFENSE THAT MAY ARISE OUT OF ELECTION OF REMEDIES, OR DISCHARGE OR SATISFACTION OF OBLIGATIONS.

### SECTION 4 RENEWALS, EXTENSIONS, MODIFICATIONS, ETC.

Guarantor hereby consents that, without the necessity of any reservation of rights against Guarantor: (a) any demand for payment of any of the Guaranteed Obligation made by the City may be rescinded and the Guaranteed Obligation continued; (b) the Guaranteed Obligation or the liability of any party upon or for any part thereof or guaranty thereof, may from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised, waived, surrendered or released by the City; and (c) subject to the terms thereof, any instrument



or agreement evidencing, relating to, securing or guaranteeing the Guaranteed Obligation may be amended, modified, supplemented or terminated, in whole or in part, as the City may deem advisable from time to time, all without notice to or further assent by Guarantor, who will remain bound hereunder notwithstanding any such renewal, extension, modification, acceleration, compromise, amendment, supplement, termination, sale, exchange, waiver, surrender or release. Guarantor acknowledges and agrees that the City has no obligation to provide Guarantor with any information regarding Columbia Waterfront LLC or any other guarantor and that Guarantor has the ability to obtain without the assistance of the City all such information.

**SECTION 5 FAILURE OR INDULGENCE NOT WAIVER; REMEDIES CUMULATIVE**

No failure or delay on the part of the City in the exercise of any power, right or privilege under this Guaranty, and no course of dealing with respect thereto, shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any power, right or privilege thereunder preclude any other or further exercise thereof or the exercise of any other power, right or privilege. All rights and remedies existing under this Guaranty are cumulative to, and not exclusive of, any rights and remedies provided by law or otherwise available.

**SECTION 6 WAIVER OF DEMAND, PROTEST, NOTICE, ETC.**

Except as otherwise specifically provided in this Guaranty, Guarantor waives presentment, demand and protest and notice of presentment, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any documents evidencing the Guaranteed Obligation at any time held by the City on which Guarantor may in any way be liable.

## SECTION 7 AMENDMENT; ASSIGNMENT

Except as otherwise provided herein, no amendment, modification, termination, or waiver of any provision of this Guaranty, or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Guarantor and the City.

## SECTION 8 SEVERABILITY

The invalidity, illegality or unenforceability in any jurisdiction of any provision in or obligation under this Guaranty shall not affect or impair the validity, legality or enforceability of the remaining provisions or obligations under this Guaranty.

## SECTION 9 SUCCESSORS AND ASSIGNS

This Guaranty shall be binding upon and inure to the benefit of the City and shall be binding upon Guarantor's heirs, personal representatives, administrators, successors and assigns, except that Guarantor may not assign his or her rights or obligations hereunder or any portion hereof without the written consent of the City, which may be withheld in the City's sole discretion.

## SECTION 10 TERMINATION OF GUARANTY

This Guaranty, and all obligations of Guarantor hereunder, shall terminate upon payment and performance in full of all Guaranteed Obligation. If, at any time, all or part of any payment of the Guaranteed Obligation theretofore made by Guarantor or any other person is rescinded or otherwise must be returned by the City for any reason whatsoever (including,

without limitation, the insolvency, bankruptcy or reorganization of any Guarantor or any other person), this Guaranty shall continue to be effective or shall be reinstated as to the Guaranteed Obligation which was satisfied by the payment to be rescinded or returned, all as though such payment had not been made.

#### **SECTION 11 WAIVER OF TRIAL BY JURY**

GUARANTOR ACKNOWLEDGE(S) AND AGREE(S) THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS GUARANTY OR THE RELATIONSHIP ESTABLISHED HEREBY WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES, AND THEREFORE, GUARANTOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING (INCLUDING ACTIONS SOUNDING IN TORT) TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR ARISING FROM THE TRANSACTION CONTEMPLATED HEREUNDER OR THE RELATIONSHIP ESTABLISHED HEREBY AND AGREE(S) THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE AND NOT BY A JURY.

#### **SECTION 12 ATTORNEYS' FEES**

In the event any suit, action, arbitration, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Guaranty or to enforce or interpret any provision herein, the prevailing party shall be entitled to recover its attorneys' and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in

## GUARANTY AGREEMENT

Effective Date: January 8, 2010

From: George N. Diamond <sup>3.33%</sup> ("Guarantor")

In Favor of: The City of Vancouver, (the "City")  
a Washington municipal corporation

Columbia Waterfront LLC, a Washington limited liability company, entered into the Downtown Waterfront Development Agreement dated October 19, 2009 with the City (the "Agreement"). Pursuant to the Agreement, Columbia Waterfront LLC is obligated to pay to the City the sum of \$8,000,000, when and as set forth in Section 7.3.1 of the Agreement.

Guarantor is the manager of Diamond Columbia Waterfront LLC, a Washington limited liability company, which is a member in Columbia Waterfront LLC and Guarantor will benefit from the City entering into the Agreement. The City would not have entered into the Agreement unless Guarantor agreed to enter into this Guaranty Agreement (the "Guaranty").

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows.

### SECTION 1 GUARANTEED OBLIGATION

As used in this Agreement, the "Guaranteed Obligation" means the obligation of Columbia Waterfront LLC to pay to the City the sum of \$266,400 when and as required by Section 7.3.1 of the Agreement, which is a portion of the obligation of Columbia Waterfront LLC to pay a total of \$8,000,000 to the City.

## SECTION 2 AGREEMENT OF GUARANTY

2.1 Guarantor hereby guarantees, as primary obligor and not as surety, the punctual and complete performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of the Guaranteed Obligation, in every instance without requiring any notice of nonpayment, nonperformance or nonobservance or proof of notice or demand in order to charge Guarantor therefor, and Guarantor agrees to pay any and all reasonable expenses which may be paid or incurred by the City in collecting any or all of the Guaranteed Obligation and/or enforcing any rights under this Guaranty.

2.2 Guarantor waives any and all notice of the creation or accrual of any of the Guaranteed Obligation and notice of or proof of reliance by the City upon this Guaranty or acceptance of this Guaranty, and the Guaranteed Obligation shall conclusively be deemed to have been created, contracted, incurred or continued, as the case may be, in reliance upon this Guaranty, and all dealings between Columbia Waterfront LLC or Guarantor and the City after the date hereof shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guaranty.

2.3 Guarantor agrees that whenever at any time or from time to time it shall make any payment to the City on account of Guarantor's liability hereunder, it will notify the City in writing that such payment is made under this Guaranty for such purposes. No payment or payments made by Columbia Waterfront LLC or any other guarantor or any other person, or received or collected by the City from Columbia Waterfront LLC or any other guarantor or any other person, in any manner and at any time or from time to time, in reduction of or in payment of the Guaranteed Obligation shall be deemed to modify, reduce, release or otherwise affect the

liability of Guarantor hereunder which shall, notwithstanding any such payment or payments, remain liable for of the Guaranteed Obligation until the Guaranteed Obligation is paid in full, which shall occur when the obligation of Columbia Waterfront LLC to pay the City \$8,000,000 has been paid in full.

2.4 Guarantor expressly agrees that the City may, without notice to the undersigned, modify the obligations of Columbia Waterfront LLC under the Agreement and grant extensions and concessions to Columbia Waterfront LLC in respect thereof (including, without limitation, changes in the time, manner or place of payment or any other term of any such obligations of Columbia Waterfront LLC) without in any manner affecting the liability of Guarantor hereunder.

2.5 This Guaranty shall remain in effect, and all rights of the City hereunder, and all obligations of Guarantor under this Guaranty, shall be continuing, absolute and unconditional notwithstanding: (a) any lack of validity or enforceability of the Guaranteed Obligation; (b) the absence of any attempt to collect the Guaranteed Obligation from Columbia Waterfront LLC, or Guarantor, any other guarantor or any other person or of any other action to enforce the same; (c) any bankruptcy, reorganization or insolvency of Columbia Waterfront LLC or Guarantor, or any successor or assignee thereof, or any disaffirmance or abandonment by a trustee thereof; (d) any law, regulation or order of any jurisdiction affecting any term of the Guaranteed Obligation or the City's rights with respect thereto; (e) any other circumstance which might otherwise constitute a defense, set-off or counterclaim applicable to, or a discharge of, Columbia Waterfront LLC, Guarantor or any other guarantor.

### SECTION 3 SUBROGATION

3.1 Guarantor hereby agrees, notwithstanding anything to the contrary in this Guaranty, to expressly, irrevocably and unconditionally waive and relinquish any and all claims (as that term is defined in title 11 of the United States Code) it may now have or later have against Columbia Waterfront LLC for any payment or transfer of anything of value Guarantor may make, or may be obligated to make, for any reason whatsoever, including, without limitation, any and all rights of subrogation, reimbursement, indemnity, exoneration and contribution which Guarantor may have now or hereafter have against Columbia Waterfront LLC. This section shall inure to the benefit of the City and its respective successors and assigns.

3.2 GUARANTOR HEREBY WAIVES AND RELINQUISHES ANY DEFENSE BASED UPON THE LOSS OF ANY REIMBURSEMENT OR SUBROGATION RIGHTS AND ANY OTHER DEFENSE WHICH MAY ARISE OUT OF ANY ANTI-DEFICIENCY STATUTES OR OTHER LAWS OR LEGISLATIVE ENACTMENTS, AND ANY DEFENSE THAT MAY ARISE OUT OF ELECTION OF REMEDIES, OR DISCHARGE OR SATISFACTION OF OBLIGATIONS.

### SECTION 4 RENEWALS, EXTENSIONS, MODIFICATIONS, ETC.

Guarantor hereby consents that, without the necessity of any reservation of rights against Guarantor: (a) any demand for payment of any of the Guaranteed Obligation made by the City may be rescinded and the Guaranteed Obligation continued; (b) the Guaranteed Obligation or the liability of any party upon or for any part thereof or guaranty thereof, may from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised, waived, surrendered or released by the City; and (c) subject to the terms thereof, any instrument

or agreement evidencing, relating to, securing or guaranteeing the Guaranteed Obligation may be amended, modified, supplemented or terminated, in whole or in part, as the City may deem advisable from time to time, all without notice to or further assent by Guarantor, who will remain bound hereunder notwithstanding any such renewal, extension, modification, acceleration, compromise, amendment, supplement, termination, sale, exchange, waiver, surrender or release. Guarantor acknowledges and agrees that the City has no obligation to provide Guarantor with any information regarding Columbia Waterfront LLC or any other guarantor and that Guarantor has the ability to obtain without the assistance of the City all such information.

**SECTION 5 FAILURE OR INDULGENCE NOT WAIVER; REMEDIES  
CUMULATIVE**

No failure or delay on the part of the City in the exercise of any power, right or privilege under this Guaranty, and no course of dealing with respect thereto, shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any power, right or privilege thereunder preclude any other or further exercise thereof or the exercise of any other power, right or privilege. All rights and remedies existing under this Guaranty are cumulative to, and not exclusive of, any rights and remedies provided by law or otherwise available.

**SECTION 6 WAIVER OF DEMAND, PROTEST, NOTICE, ETC.**

Except as otherwise specifically provided in this Guaranty, Guarantor waives presentment, demand and protest and notice of presentment, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any documents evidencing the Guaranteed Obligation at any time held by the City on which Guarantor may in any way be liable.



## SECTION 7 AMENDMENT; ASSIGNMENT

Except as otherwise provided herein, no amendment, modification, termination, or waiver of any provision of this Guaranty, or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Guarantor and the City.

## SECTION 8 SEVERABILITY

The invalidity, illegality or unenforceability in any jurisdiction of any provision in or obligation under this Guaranty shall not affect or impair the validity, legality or enforceability of the remaining provisions or obligations under this Guaranty.

## SECTION 9 SUCCESSORS AND ASSIGNS

This Guaranty shall be binding upon and inure to the benefit of the City and shall be binding upon Guarantor's heirs, personal representatives, administrators, successors and assigns, except that Guarantor may not assign his or her rights or obligations hereunder or any portion hereof without the written consent of the City, which may be withheld in the City's sole discretion.

## SECTION 10 TERMINATION OF GUARANTY

This Guaranty, and all obligations of Guarantor hereunder, shall terminate upon payment and performance in full of all Guaranteed Obligation. If, at any time, all or part of any payment of the Guaranteed Obligation theretofore made by Guarantor or any other person is rescinded or otherwise must be returned by the City for any reason whatsoever (including,

without limitation, the insolvency, bankruptcy or reorganization of any Guarantor or any other person), this Guaranty shall continue to be effective or shall be reinstated as to the Guaranteed Obligation which was satisfied by the payment to be rescinded or returned, all as though such payment had not been made.

#### **SECTION 11    WAIVER OF TRIAL BY JURY**

GUARANTOR ACKNOWLEDGE(S) AND AGREE(S) THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS GUARANTY OR THE RELATIONSHIP ESTABLISHED HEREBY WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES, AND THEREFORE, GUARANTOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING (INCLUDING ACTIONS SOUNDING IN TORT) TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR ARISING FROM THE TRANSACTION CONTEMPLATED HEREUNDER OR THE RELATIONSHIP ESTABLISHED HEREBY AND AGREE(S) THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE AND NOT BY A JURY.

#### **SECTION 12    ATTORNEYS' FEES**

In the event any suit, action, arbitration, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Guaranty or to enforce or interpret any provision herein, the prevailing party shall be entitled to recover its attorneys' and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in

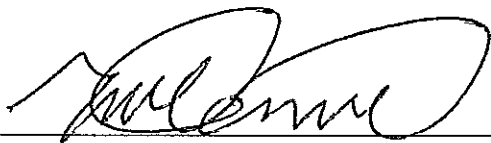
connection therewith, as determined by the court or arbitrator at trial or by the court on any appeal or review, in addition to all other amounts provided by law.

SECTION 13 VOLUNTARY GUARANTY

Guarantor represents and acknowledges that it is executing this Guaranty voluntarily and for its own benefit.

IN WITNESS WHEREOF, this Guaranty has been duly executed by Guarantor as of the date and year first above written.

Guarantor:

  
George N. Diamond

STATE OF OREGON )  
 )ss  
COUNTY OF WASHINGTON )

I hereby certify that I know or have satisfactory evidence that George N. Diamond is the person who appeared before me, and that said person acknowledged that he (he/she) is authorized to execute the foregoing document and acknowledges it to be the free and voluntary act of such party for the uses and purposes therein mentioned.

Dated this 22<sup>nd</sup> day of December 2009.



Kristin Woods  
Notary Public for the State of Oregon  
Residing at Portland, OR  
My commission expires May 19, 2010

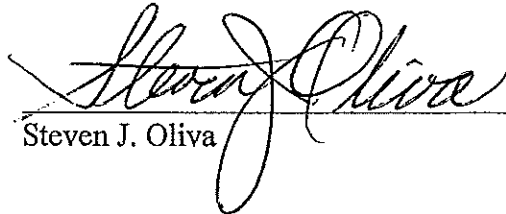
connection therewith, as determined by the court or arbitrator at trial or by the court on any appeal or review, in addition to all other amounts provided by law.

SECTION 13 VOLUNTARY GUARANTY

Guarantor represents and acknowledges that it is executing this Guaranty voluntarily and for its own benefit.

IN WITNESS WHEREOF, this Guaranty has been duly executed by Guarantor as of the date and year first above written.

Guarantor:

  
Steven J. Oliva

Oregon  
STATE OF WASHINGTON )  
washington )ss  
COUNTY OF CLARK )

I hereby certify that I know or have satisfactory evidence that Steven J. Oliva is the person who appeared before me, and that said person acknowledged that he (he/~~she~~) is authorized to execute the foregoing document and acknowledges it to be the free and voluntary act of such party for the uses and purposes therein mentioned.

Dated this 22nd day of December, 2009.



Oregon  
Notary Public for the State of Washington  
Residing at Portland, OR  
My commission expires May 19, 2010

## GUARANTY AGREEMENT

Effective Date: January 8, 2010  
From: Allan Kirkwood *AKK* ("Guarantor")  
In Favor of: The City of Vancouver, (the "City")  
a Washington municipal corporation

Columbia Waterfront LLC, a Washington limited liability company, entered into the Downtown Waterfront Development Agreement dated October 19, 2009 with the City (the "Agreement"). Pursuant to the Agreement, Columbia Waterfront LLC is obligated to pay to the City the sum of \$8,000,000, when and as set forth in Section 7.3.1 of the Agreement.

Guarantor is the president of Kirkwood & Kirkwood, Inc. which is the manager of Kirkwood Columbia Waterfront LLC, a Washington limited liability company, which is a member in Columbia Waterfront LLC and Guarantor will benefit from the City entering into the Agreement. The City would not have entered into the Agreement unless Guarantor agreed to enter into this Guaranty Agreement (the "Guaranty"). ✓

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows.

### SECTION 1 GUARANTEED OBLIGATION

*AKK*  
As used in this Agreement, the "Guaranteed Obligation" means the obligation of ~~Columbia Waterfront LLC~~ to pay to the City the sum of \$1,600,000 when and as required by ~~"Guarantor"~~ Section 7.3.1 of the Agreement, which is a portion of the obligation of Columbia Waterfront LLC to pay a total of \$8,000,000 to the City.

## SECTION 2 AGREEMENT OF GUARANTY

2.1 Guarantor hereby guarantees, as primary obligor and not as surety, the punctual and complete performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of the Guaranteed Obligation, in every instance without requiring any notice of nonpayment, nonperformance or nonobservance or proof of notice or demand in order to charge Guarantor therefor, and Guarantor agrees to pay any and all reasonable expenses which may be paid or incurred by the City in collecting any or all of the Guaranteed Obligation and/or enforcing any rights under this Guaranty.

2.2 Guarantor waives any and all notice of the creation or accrual of any of the Guaranteed Obligation and notice of or proof of reliance by the City upon this Guaranty or acceptance of this Guaranty, and the Guaranteed Obligation shall conclusively be deemed to have been created, contracted, incurred or continued, as the case may be, in reliance upon this Guaranty, and all dealings between Columbia Waterfront LLC or Guarantor and the City after the date hereof shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guaranty.

2.3 Guarantor agrees that whenever at any time or from time to time it shall make any payment to the City on account of Guarantor's liability hereunder, it will notify the City in writing that such payment is made under this Guaranty for such purposes. No payment or payments made by Columbia Waterfront LLC or any other guarantor or any other person, or received or collected by the City from Columbia Waterfront LLC or any other guarantor or any other person, in any manner and at any time or from time to time, in reduction of or in payment of the Guaranteed Obligation shall be deemed to modify, reduce, release or otherwise affect the

liability of Guarantor hereunder which shall, notwithstanding any such payment or payments, remain liable for the Guaranteed Obligation until the Guaranteed Obligation is paid in full, which shall occur when the obligation of Columbia Waterfront LLC to pay the City \$8,000,000 has been paid in full.

2.4 Guarantor expressly agrees that the City may, without notice to the undersigned, modify the obligations of Columbia Waterfront LLC under the Agreement and grant extensions and concessions to Columbia Waterfront LLC in respect thereof (including, without limitation, changes in the time, manner or place of payment or any other term of any such obligations of Columbia Waterfront LLC) without in any manner affecting the liability of Guarantor hereunder. ✓

2.5 This Guaranty shall remain in effect, and all rights of the City hereunder, and all obligations of Guarantor under this Guaranty, shall be continuing, absolute and unconditional notwithstanding: (a) any lack of validity or enforceability of the Guaranteed Obligation; (b) the absence of any attempt to collect the Guaranteed Obligation from Columbia Waterfront LLC, or Guarantor, any other guarantor or any other person or of any other action to enforce the same; (c) any bankruptcy, reorganization or insolvency of Columbia Waterfront LLC or Guarantor, or any successor or assignee thereof, or any disaffirmance or abandonment by a trustee thereof; (d) any law, regulation or order of any jurisdiction affecting any term of the Guaranteed Obligation or the City's rights with respect thereto; (e) any other circumstance which might otherwise constitute a defense, set-off or counterclaim applicable to, or a discharge of, Columbia Waterfront LLC, Guarantor or any other guarantor.

### SECTION 3 SUBROGATION

3.1 Guarantor hereby agrees, notwithstanding anything to the contrary in this Guaranty, to expressly, irrevocably and unconditionally waive and relinquish any and all claims (as that term is defined in title 11 of the United States Code) it may now have or later have against Columbia Waterfront LLC for any payment or transfer of anything of value Guarantor may make, or may be obligated to make, for any reason whatsoever, including, without limitation, any and all rights of subrogation, reimbursement, indemnity, exoneration and contribution which Guarantor may have now or hereafter have against Columbia Waterfront LLC. This section shall inure to the benefit of the City and its respective successors and assigns.

3.2 GUARANTOR HEREBY WAIVES AND RELINQUISHES ANY DEFENSE BASED UPON THE LOSS OF ANY REIMBURSEMENT OR SUBROGATION RIGHTS AND ANY OTHER DEFENSE WHICH MAY ARISE OUT OF ANY ANTI-DEFICIENCY STATUTES OR OTHER LAWS OR LEGISLATIVE ENACTMENTS, AND ANY DEFENSE THAT MAY ARISE OUT OF ELECTION OF REMEDIES, OR DISCHARGE OR SATISFACTION OF OBLIGATIONS.

### SECTION 4 RENEWALS, EXTENSIONS, MODIFICATIONS, ETC.

Guarantor hereby consents that, without the necessity of any reservation of rights against Guarantor: (a) any demand for payment of any of the Guaranteed Obligation made by the City may be rescinded and the Guaranteed Obligation continued; (b) the Guaranteed Obligation or the liability of any party upon or for any part thereof or guaranty thereof, may from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised,



waived, surrendered or released by the City; and (c) subject to the terms thereof, any instrument or agreement evidencing, relating to, securing or guaranteeing the Guaranteed Obligation may be amended, modified, supplemented or terminated, in whole or in part, as the City may deem advisable from time to time, all without notice to or further assent by Guarantor, who will remain bound hereunder notwithstanding any such renewal, extension, modification, acceleration, compromise, amendment, supplement, termination, sale, exchange, waiver, surrender or release. Guarantor acknowledges and agrees that the City has no obligation to provide Guarantor with any information regarding Columbia Waterfront LLC or any other guarantor and that Guarantor has the ability to obtain without the assistance of the City all such information.

#### **SECTION 5 FAILURE OR INDULGENCE NOT WAIVER; REMEDIES CUMULATIVE**

No failure or delay on the part of the City in the exercise of any power, right or privilege under this Guaranty, and no course of dealing with respect thereto, shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any power, right or privilege thereunder preclude any other or further exercise thereof or the exercise of any other power, right or privilege. All rights and remedies existing under this Guaranty are cumulative to, and not exclusive of, any rights and remedies provided by law or otherwise available.

#### **SECTION 6 WAIVER OF DEMAND, PROTEST, NOTICE, ETC.**

Except as otherwise specifically provided in this Guaranty, Guarantor waives presentment, demand and protest and notice of presentment, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any documents evidencing

the Guaranteed Obligation at any time held by the City on which Guarantor may in any way be liable.

#### SECTION 7 AMENDMENT; ASSIGNMENT

Except as otherwise provided herein, no amendment, modification, termination, or waiver of any provision of this Guaranty, or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Guarantor and the City.

#### SECTION 8 SEVERABILITY

The invalidity, illegality or unenforceability in any jurisdiction of any provision in or obligation under this Guaranty shall not affect or impair the validity, legality or enforceability of the remaining provisions or obligations under this Guaranty.

#### SECTION 9 SUCCESSORS AND ASSIGNS

This Guaranty shall be binding upon and inure to the benefit of the City and shall be binding upon Guarantor's heirs, personal representatives, administrators, successors and assigns, except that Guarantor may not assign his or her rights or obligations hereunder or any portion hereof without the written consent of the City, which may be withheld in the City's sole discretion.

#### SECTION 10 TERMINATION OF GUARANTY

This Guaranty, and all obligations of Guarantor hereunder, shall terminate upon payment and performance in full of all Guaranteed Obligation. If, at any time, all or part of any

payment of the Guaranteed Obligation theretofore made by Guarantor or any other person is rescinded or otherwise must be returned by the City for any reason whatsoever (including, without limitation, the insolvency, bankruptcy or reorganization of any Guarantor or any other person), this Guaranty shall continue to be effective or shall be reinstated as to the Guaranteed Obligation which was satisfied by the payment to be rescinded or returned, all as though such payment had not been made.

#### **SECTION 11    WAIVER OF TRIAL BY JURY**

GUARANTOR ACKNOWLEDGE(S) AND AGREE(S) THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS GUARANTY OR THE RELATIONSHIP ESTABLISHED HEREBY WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES, AND THEREFORE, GUARANTOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING (INCLUDING ACTIONS SOUNDING IN TORT) TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR ARISING FROM THE TRANSACTION CONTEMPLATED HEREUNDER OR THE RELATIONSHIP ESTABLISHED HEREBY AND AGREE(S) THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE AND NOT BY A JURY.

#### **SECTION 12    ATTORNEYS' FEES**

In the event any suit, action, arbitration, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Guaranty or to enforce or interpret any

provision herein, the prevailing party shall be entitled to recover its attorneys' and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or arbitrator at trial or by the court on any appeal or review, in addition to all other amounts provided by law.

**SECTION 13 VOLUNTARY GUARANTY**

Guarantor represents and acknowledges that it is executing this Guaranty voluntarily and for its own benefit.

IN WITNESS WHEREOF, this Guaranty has been duly executed by Guarantor as of the date and year first above written.

Guarantor:

Allan Kirkwood  
Allan Kirkwood

STATE OF WASHINGTON       )  
  )ss  
COUNTY OF CLARK       )

I hereby certify that I know or have satisfactory evidence that Allan Kirkwood is the person who appeared before me, and that said person acknowledged that he (he/she) is authorized to execute the foregoing document and acknowledges it to be the free and voluntary act of such party for the uses and purposes therein mentioned.

Dated this 5<sup>th</sup> day of January, 2009<sup>10</sup>



Jeanine Wisbeck  
Notary Public for the State of Washington  
Residing at Vancouver, WA  
My commission expires 02/15/2012

## GUARANTY AGREEMENT

Effective Date: January 8, 2010

From: Steven Hansen ("Guarantor")

In Favor of: The City of Vancouver, *Job* (the "City")  
a Washington municipal corporation

Columbia Waterfront LLC, a Washington limited liability company, entered into the Downtown Waterfront Development Agreement dated October 15<sup>th</sup>, 2009 with the City (the "Agreement"). Pursuant to the Agreement, Columbia Waterfront LLC is obligated to pay to the City the sum of \$8,000,000, when and as set forth in Section 7.3.1 of the Agreement.

Guarantor is the manager of Waterfront Development, LLC, which is a member in Columbia Waterfront LLC and Guarantor will benefit from the City entering into the Agreement. The City would not have entered into the Agreement unless Guarantor agreed to enter into this Guaranty Agreement (the "Guaranty").

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows.

### SECTION 1 GUARANTEED OBLIGATION

As used in this Agreement, the "Guaranteed Obligation" means the obligation of *the Guarantor SA* ~~Columbia Waterfront LLC~~ to pay to the City the sum of \$1,600,000 when and as required by Section 7.3.1 of the Agreement, which is a portion of the obligation of Columbia Waterfront LLC to pay a total of \$8,000,000 to the City.

## SECTION 2 AGREEMENT OF GUARANTY

2.1 Guarantor hereby guarantees, as primary obligor and not as surety, the punctual and complete performance and payment when due (whether at the stated maturity, by acceleration or otherwise) of the Guaranteed Obligation, in every instance without requiring any notice of nonpayment, nonperformance or nonobservance or proof of notice or demand in order to charge Guarantor therefor, and Guarantor agrees to pay any and all reasonable expenses which may be paid or incurred by the City in collecting any or all of the Guaranteed Obligation and/or enforcing any rights under this Guaranty.

2.2 Guarantor waives any and all notice of the creation or accrual of any of the Guaranteed Obligation and notice of or proof of reliance by the City upon this Guaranty or acceptance of this Guaranty, and the Guaranteed Obligation shall conclusively be deemed to have been created, contracted, incurred or continued, as the case may be, in reliance upon this Guaranty, and all dealings between Columbia Waterfront LLC or Guarantor and the City after the date hereof shall likewise be conclusively presumed to have been had or consummated in reliance upon this Guaranty.

2.3 Guarantor agrees that whenever at any time or from time to time it shall make any payment to the City on account of Guarantor's liability hereunder, it will notify the City in writing that such payment is made under this Guaranty for such purposes. No payment or payments made by Columbia Waterfront LLC or any other guarantor or any other person, or received or collected by the City from Columbia Waterfront LLC or any other guarantor or any other person, in any manner and at any time or from time to time, in reduction of or in payment of the Guaranteed Obligation shall be deemed to modify, reduce, release or otherwise affect the

liability of Guarantor hereunder which shall, notwithstanding any such payment or payments, remain liable for the Guaranteed Obligation until the Guaranteed Obligation is paid in full, which shall occur when the obligation of Columbia Waterfront LLC to pay the City \$8,000,000 has been paid in full.

2.4 Guarantor expressly agrees that the City may, without notice to the undersigned, modify the obligations of Columbia Waterfront LLC under the Agreement and grant extensions and concessions to Columbia Waterfront LLC in respect thereof (including, without limitation, changes in the time, manner or place of payment or any other term of any such obligations of Columbia Waterfront LLC) without in any manner affecting the liability of Guarantor hereunder.

2.5 This Guaranty shall remain in effect, and all rights of the City hereunder, and all obligations of Guarantor under this Guaranty, shall be continuing, absolute and unconditional notwithstanding: (a) any lack of validity or enforceability of the Guaranteed Obligation; (b) the absence of any attempt to collect the Guaranteed Obligation from Columbia Waterfront LLC, or Guarantor, any other guarantor or any other person or of any other action to enforce the same; (c) any bankruptcy, reorganization or insolvency of Columbia Waterfront LLC or Guarantor, or any successor or assignee thereof, or any disaffirmance or abandonment by a trustee thereof; (d) any law, regulation or order of any jurisdiction affecting any term of the Guaranteed Obligation or the City's rights with respect thereto; (e) any other circumstance which might otherwise constitute a defense, set-off or counterclaim applicable to, or a discharge of, Columbia Waterfront LLC, Guarantor or any other guarantor.

### SECTION 3 SUBROGATION

3.1 Guarantor hereby agrees, notwithstanding anything to the contrary in this Guaranty, to expressly, irrevocably and unconditionally waive and relinquish any and all claims (as that term is defined in title 11 of the United States Code) it may now have or later have against Columbia Waterfront LLC for any payment or transfer of anything of value Guarantor may make, or may be obligated to make, for any reason whatsoever, including, without limitation, any and all rights of subrogation, reimbursement, indemnity, exoneration and contribution which Guarantor may have now or hereafter have against Columbia Waterfront LLC. This section shall inure to the benefit of the City and its respective successors and assigns.

3.2 GUARANTOR HEREBY WAIVES AND RELINQUISHES ANY DEFENSE BASED UPON THE LOSS OF ANY REIMBURSEMENT OR SUBROGATION RIGHTS AND ANY OTHER DEFENSE WHICH MAY ARISE OUT OF ANY ANTI-DEFICIENCY STATUTES OR OTHER LAWS OR LEGISLATIVE ENACTMENTS, AND ANY DEFENSE THAT MAY ARISE OUT OF ELECTION OF REMEDIES, OR DISCHARGE OR SATISFACTION OF OBLIGATIONS.

### SECTION 4 RENEWALS, EXTENSIONS, MODIFICATIONS, ETC.

Guarantor hereby consents that, without the necessity of any reservation of rights against Guarantor: (a) any demand for payment of any of the Guaranteed Obligation made by the City may be rescinded and the Guaranteed Obligation continued; (b) the Guaranteed Obligation or the liability of any party upon or for any part thereof or guaranty thereof, may from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised, waived, surrendered or released by the City; and (c) subject to the terms thereof, any instrument



or agreement evidencing, relating to, securing or guaranteeing the Guaranteed Obligation may be amended, modified, supplemented or terminated, in whole or in part, as the City may deem advisable from time to time, all without notice to or further assent by Guarantor, who will remain bound hereunder notwithstanding any such renewal, extension, modification, acceleration, compromise, amendment, supplement, termination, sale, exchange, waiver, surrender or release. Guarantor acknowledges and agrees that the City has no obligation to provide Guarantor with any information regarding Columbia Waterfront LLC or any other guarantor and that Guarantor has the ability to obtain without the assistance of the City all such information.

**SECTION 5 FAILURE OR INDULGENCE NOT WAIVER; REMEDIES  
CUMULATIVE**

No failure or delay on the part of the City in the exercise of any power, right or privilege under this Guaranty, and no course of dealing with respect thereto, shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any power, right or privilege thereunder preclude any other or further exercise thereof or the exercise of any other power, right or privilege. All rights and remedies existing under this Guaranty are cumulative to, and not exclusive of, any rights and remedies provided by law or otherwise available.

**SECTION 6 WAIVER OF DEMAND, PROTEST, NOTICE, ETC.**

Except as otherwise specifically provided in this Guaranty, Guarantor waives presentment, demand and protest and notice of presentment, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any documents evidencing the Guaranteed Obligation at any time held by the City on which Guarantor may in any way be liable.

#### SECTION 7 AMENDMENT; ASSIGNMENT

Except as otherwise provided herein, no amendment, modification, termination, or waiver of any provision of this Guaranty, or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Guarantor and the City.

#### SECTION 8 SEVERABILITY

The invalidity, illegality or unenforceability in any jurisdiction of any provision in or obligation under this Guaranty shall not affect or impair the validity, legality or enforceability of the remaining provisions or obligations under this Guaranty.

#### SECTION 9 SUCCESSORS AND ASSIGNS

This Guaranty shall be binding upon and inure to the benefit of the City and shall be binding upon Guarantor's heirs, personal representatives, administrators, successors and assigns, except that Guarantor may not assign his or her rights or obligations hereunder or any portion hereof without the written consent of the City, which may be withheld in the City's sole discretion.

#### SECTION 10 TERMINATION OF GUARANTY

This Guaranty, and all obligations of Guarantor hereunder, shall terminate upon payment and performance in full of all Guaranteed Obligation. If, at any time, all or part of any payment of the Guaranteed Obligation theretofore made by Guarantor or any other person is rescinded or otherwise must be returned by the City for any reason whatsoever (including,

without limitation, the insolvency, bankruptcy or reorganization of any Guarantor or any other person), this Guaranty shall continue to be effective or shall be reinstated as to the Guaranteed Obligation which was satisfied by the payment to be rescinded or returned, all as though such payment had not been made.

#### SECTION 11    WAIVER OF TRIAL BY JURY

GUARANTOR ACKNOWLEDGE(S) AND AGREE(S) THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS GUARANTY OR THE RELATIONSHIP ESTABLISHED HEREBY WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES, AND THEREFORE, GUARANTOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING (INCLUDING ACTIONS SOUNDING IN TORT) TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR ARISING FROM THE TRANSACTION CONTEMPLATED HEREUNDER OR THE RELATIONSHIP ESTABLISHED HEREBY AND AGREE(S) THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE AND NOT BY A JURY.

#### SECTION 12    ATTORNEYS' FEES

In the event any suit, action, arbitration, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Guaranty or to enforce or interpret any provision herein, the prevailing party shall be entitled to recover its attorneys' and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in

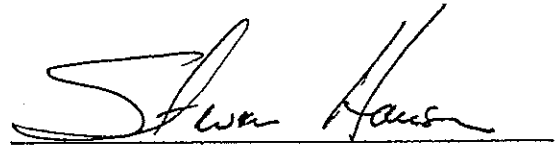
connection therewith, as determined by the court or arbitrator at trial or by the court on any appeal or review, in addition to all other amounts provided by law.

SECTION 13 VOLUNTARY GUARANTY

Guarantor represents and acknowledges that it is executing this Guaranty voluntarily and for its own benefit.

IN WITNESS WHEREOF, this Guaranty has been duly executed by Guarantor as of the date and year first above written.

Guarantor:

  
Steven Hansen

STATE OF WASHINGTON       )  
  )ss  
COUNTY OF CLARK        )

I hereby certify that I know or have satisfactory evidence that Steven Hansen is the person who appeared before me, and that said person acknowledged that he (he/she) is authorized to execute the foregoing document and acknowledges it to be the free and voluntary act of such party for the uses and purposes therein mentioned.

Dated this 5th day of January 2009.



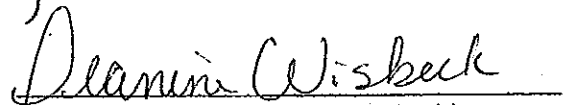
  
Notary Public for the State of Washington  
Residing at Vancouver, WA  
My commission expires 02/15/2012

EXHIBIT L

Certificate of Concurrency

P.O. Box 1995  
Vancouver, WA 98668-1995



[www.cityofvancouver.us](http://www.cityofvancouver.us)

October 19, 2009

Columbia Waterfront LLC  
19767 SW 72<sup>nd</sup> Avenue  
Suite 100  
Tualatin, Oregon 97062

Columbia Waterfront  
PRJ2008-02040; ENG2009-00056; TIA2009-00051  
**CERTIFICATE OF CONCURRENCY-Revised**

All projects submitted for review by the City of Vancouver require a certificate of concurrency, per VMC 11.95 and City Ordinances M-3354, M-3538, M-3536 and M-3537. Additionally, the applicant is required to submit a traffic study to assess the impact of the development to intersections serving the site per VMC 11.90 and VMC 11.95.

The project proposes to develop a master planned waterfront development at the site of the former Boise Cascade Paper facility located along the Columbia River in Downtown Vancouver. The proposed development has the characteristics that will extend the Downtown to Waterfront connecting the Esther Short neighborhood to the Columbia River. The project is anticipated to be completed 10 to 15 years. The development will include approximately 1,676 Condominiums, 1,624 Apartments, a 160 Room Hotel, approximately 218,000 SF of retail, approximately 1,119,000 SF of General Office and approximately 35,000 of restaurant. Based on submitted information, the parcel numbers are 0488410-000.

The following Average Daily Trips (ADT) and AM and PM peak hour vehicular trips are based on the Request for Certificate of Concurrency and Transportation dated May 12, 2009, from Chris Brehmer PE, with Kittelson & Associates. The trip generation is based on the ITE Trip Generation Manual, Land Use Codes 814 (Retail), 710 (General Office), 932 (Restaurant), 310 (Hotel), 230 (Condominiums), 220 (Apartments). The net new trips are as follow after 40% Central City Transit/Internal Reduction. The reduction has been justified in the traffic information.

Land Use	Time Period	Entering Trips	Exiting Trips	Total Trips
ITE Codes 814 (Retail), 710 (General Office), 932 (Restaurant), 310 (Hotel), 230 (Condominiums), 220 (Apartments)	ADT	12,320	12,320	24,640
	AM Peak Hour	1,085	923	2,008
	PM Peak Hour	1,079	1,312	2,391

The project is located within the following Transportation Analysis Zone (TAZ) and adopted Transportation Management Zones (TMZ).

TAZ/Corridor Name	TMZ/Corridor Limit	Number of PM Peak Trips to Corridor	TAZ
VCCV	See Attached	2,391	#20

The project will also send trips to the following Transportation Management Zones (TMZs) that the project is not located within:

Corridor Name	Corridor Limit	Number of PM Peak Trips to Corridor
NE 112 <sup>th</sup> Avenue	NE 28 <sup>th</sup> Street to NE 51 <sup>st</sup> Street	3
NE 112 <sup>th</sup> Avenue	Mill Plain Blvd. to 28 <sup>th</sup> Street	5
NE Fourth Plain Blvd	I-5 to Stapleton Road	0
NE Fourth Plain Blvd	Port of Vancouver to I-5	89
Andresen Road	Mill Plain Blvd to SR-500	7
Andresen Road	SR-500 to 78 <sup>th</sup> Street	2
SE 164 <sup>th</sup> Avenue	SR-14 to SE 1 <sup>st</sup> Street	37
SE 192 <sup>nd</sup> Avenue	SR-14 to NE 18 <sup>th</sup> Street	13
SE Mill Plain Blvd	I-5 to Andresen Road	347
SE Mill Plain Blvd	Andresen to I-205	3
SE Mill Plain Blvd	I-205 to SE 136 <sup>th</sup> Avenue	4
SE Mill Plain Blvd	SE 136 <sup>th</sup> Ave to SE 164 <sup>th</sup> Ave	1
SE Mill Plain Blvd	SE 164 <sup>th</sup> Ave to SE 192 <sup>nd</sup> Ave	1

NE 18 <sup>th</sup> Street	NE 112 <sup>th</sup> Ave to NE 138 <sup>th</sup> Ave	1
NB 28 <sup>th</sup> Street	NE 112 <sup>th</sup> Ave to NE 138 <sup>th</sup> Ave	1
NE Burton Road	Andresen Road to NE 112 <sup>th</sup> Ave	3
St. John's Boulevard	Fourth Plain to 78 <sup>th</sup> Street	47
NE Fourth Plain Blvd	NE 117 <sup>th</sup> Ave to NE 162 <sup>nd</sup> Ave	0
NE Fourth Plain Blvd	Port of Vancouver to I-5	4
136 <sup>th</sup> Avenue	Mill Plain Blvd to NE 28 <sup>th</sup> Street	0
NB 138 <sup>th</sup> Avenue	NE 28 <sup>th</sup> Street to Fourth Plain	0
NE 162 <sup>nd</sup> Avenue	SE 1 <sup>st</sup> Street to Fourth Plain	0
NE 18 <sup>th</sup> Street	NE 138 <sup>th</sup> Ave to NE 162 <sup>nd</sup> Ave	0

#### **I. VESTED TRIPS:**

The proposed development does not have trips vested as part of any previous applications.

#### **II. FINDINGS:**

The proposed development is located within the recently adopted Planned Action Ordinance M-3833 known as Vancouver City Center Vision (VCCV). The City adopted plans included Final Environmental Impact Assessment (FEIS) which included a detailed traffic study and other analysis to determine the impacts of future developments within the area. The VCCV has been divided in to six different zones known as Columbia West Renaissance, Esther Short, Central Downtown, Westside Government, Central Downtown and Uptown Village. The proposed development is located at Columbia West Renaissance and as part adopted plan indicated on Table 2-4, Page 2-7, that the area has potential of generating 2,030 net new PM peak trips. The applicant's traffic study shows that the proposed development has potential of generating 2,391 PM peak trips.

On June 16, 2009 the City's traffic engineering consultant DKS Associates, completed an updated traffic analysis within in the VCCV area to determine if the added trips within the Columbia West Renaissance would have an adverse impacted to the system. The analysis determined that the impact would be negligible and LOS Standards will be maintained. *(Please see attached memo dated June 16, 2009)*

The applicant submitted a master plan level Traffic Analysis dated May 12, 2009, which includes a trip generation and distribution, level of service analysis, safety analysis, and queuing analysis. The applicant held a pre-application meeting with City staff. The pre-application staff report included a traffic study scoping from City concurrency staff requiring a traffic study to evaluate the impact of the proposed development onto the affected City of Vancouver intersections and concurrency corridors. The applicant's traffic engineer completed the required analysis and the following are the findings:



#### **A. Level of Service (LOS)**

The applicant's Traffic Analysis includes a LOS analysis for signalized and non-signalized intersections receiving 10 or more the AM or PM peak hour trips based on the scoping provided by the City of Vancouver. The scope of the analysis was limited to the following intersection around the project and interaction inside the development. Other impacted intersections within the VCCV were analyzed as part of the over all area traffic study.

- SE Columbia Shores Boulevard/SE Columbia Way
- Columbia Street/SE Columbia Way
- Esther Street/SE Columbia Way
- Grant Street/SE Columbia Way
- Esther Street/Alley North
- Grant Street/Alley North

The LOS analysis assumes the buildout development projects. The results of the LOS and mitigation plans are outlined Pages 13 to 22.

The applicant's traffic study identifies a potential need for future signalization of the SE Columbia Way/Columbia Street intersection, though the need for signalization will be dependant in part on the timing and configuration of the Columbia River Crossing project. Staff concurs with this finding. In conjunction with the trip compliance letter to be required of each development phase, the applicant shall provide an operations analysis and traffic signal warrant analysis at the SE Columbia Way/SE Columbia Street intersection. If and when one or more traffic signal traffic warrants are met at the intersection, the applicant shall signalize the intersection.

The applicant's traffic analysis identifies a future level of service failure at the SE Columbia Shores Boulevard/SE Columbia Way intersection that will occur regardless of site development. The applicant further identifies a proposed mitigation strategy that would involve converting the existing traffic signal north-south phasing from permitted phasing to split phasing. Staff supports the proposed mitigation. The applicant shall pay a proportionate share fee of the future split phasing project at the intersection.

#### **B. Accident History**

Detailed accident history were not analyzed as part this project, it will be analyzed as part of each detailed site plan review and approval. The applicant will be required to submit a traffic study compliance letter with each detailed site plan approvals.

#### **C. Project Access Review**

Based on the submitted master plan, the project is proposing number of accesses form the future parking garages on to the public streets. However, at the time detailed site plans each access will need to be evaluated to meet the City's Standards

#### D. Queuing Analysis

The applicant's traffic engineer performed a queuing analysis at the key intersections in the study scope. There are preliminary recommendations on page 21 of the study, however, at the time detailed site plans each access will need to be evaluated to meet the City's Standards

#### E. Concurrency Modeling

The City will incur a modeling expense for evaluating the impact of the proposed development on the concurrency corridors. The following are the operational model corridors impacted by the development and appropriate fees based on the submitted trip distribution. The fee is based on \$43.72/PM peak hour trip entering the corridor. The applicant shall reimburse this expense to the City prior to civil plan approval.

Corridor Name & Limit	Number of PM Peak Trips to Corridor	Fee Per Trip	Extension
NE 112 <sup>th</sup> Avenue 28 <sup>th</sup> Street to 51 <sup>st</sup> Street	3	\$43.72	\$131.16
NE 112 <sup>th</sup> Avenue Mill Plain to 28 <sup>th</sup> Street	5	\$43.72	\$218.60
Andresen Road Mill Plain Blvd to SR-500	7	\$43.72	\$306.04
Andresen Road SR-500 to 78 <sup>th</sup> Street	2	\$43.72	\$87.44
SE 164 <sup>th</sup> Avenue SR-14 to SE 1 <sup>st</sup> Street	37	\$43.72	\$1,500.00*
192 <sup>nd</sup> Avenue SR-14 to NE 18 <sup>th</sup> Street	13	\$43.72	\$568.36
Mill Plain Blvd. Andresen Road to I-205	3	\$43.72	\$131.16
Mill Plain Blvd. I-205 to 136 <sup>th</sup> Avenue	4	\$43.72	\$174.88
Mill Plain Blvd. 136 <sup>th</sup> Avenue to 164 <sup>th</sup> Avenue	1	\$43.72	\$43.72
NE 18 <sup>th</sup> Street NE 112 <sup>th</sup> Ave to NE 138 <sup>th</sup> Ave	1	\$43.72	\$43.72
<b>Total</b>			<b>\$3,205.08</b>

\* The maximum fee per corridor is \$1500.00.

#### F. Transportation Impact Fee (TIF)

The proposed project is located within the Vancouver TIF Subarea which has a rate of \$139/ADT. This project is multiphase and multi year project. There will be site plan application for each phase; therefore TIF will be calculated separately based on the TIF rate at the time of site plan approval.

#### G. Traffic Mitigations / Proportionate Share

Based on the applicant's submitted traffic information as part of the master plan the following table lists predictions of PM peak hour vehicular trips generated by the proposed project that will enter intersections that have been identified by the City of Vancouver as being in need of mitigation due to insufficient infrastructure to support both existing and anticipated traffic. Developments sending new PM peak hour trips to identified intersections are required to pay a proportionate share fee to help fund the necessary improvements.

The following table provides a breakdown and summary of the impacted intersections and required proportionate share fees based on trip distribution submitted by the applicant's traffic engineer. The applicant shall pay these fees to the City prior to civil plan approval.

Intersection	Number of PM Peak Trips or number of lots	Fee per Trip/Lot	Extension
Mill Plain Blvd. / 164th Ave	1 trip	\$184.20	\$184.20
Mill Plain Blvd. / NE 136 <sup>th</sup> Avenue*	1 trip	\$1,851.85	\$1,851.85
SE 20 <sup>th</sup> Street/SE 164 <sup>th</sup> Avenue	2 trips	\$143.95	\$287.90
SE McGillivray/ SE 164 <sup>th</sup> Avenue	8 Trips	\$494.51	\$3,956.08
SE 34 <sup>th</sup> Street/SE 164 <sup>th</sup> Avenue	36 Trips	\$844.59	\$30,405.24
NE 18 <sup>th</sup> Street / NE 112 <sup>th</sup> Avenue*	5 trips	\$3,608.55	\$18,042.75
Total			\$54,728.02

\* Denotes TIF creditable location.

#### H. Prior to Issuance Occupancy

The proposed project is subject to VMC 11.95.120, which requires that the applicant obtain Final Occupancy for the proposed project within 30 months from the issuance date of the certificate of concurrency and prior to permanently vesting the trips for the project. The applicant may apply for an additional 6-month extension if 50% of the required improvements are complete at time of application, or obtain an approved development agreement to extend the trip vesting for the duration as approved by the City Council. Based on the City records, the applicant is working with City staff to prepare a development

agreement for the City Council approval that will depict the total vested trips and other requirements.

The applicant will be required a compliance letter for each phase site plan application that will contain a trip generation, trip accounting and trip distribution for accounting and tracking purposes only.

### **III. CONCLUSIONS:**

This letter certifies that concurrency requirements have been met for the project with conditions, based on the traffic analysis submitted by the applicant. The following are the conditions that will apply to the project as part of this certificate of concurrency:

#### **A. Prior to Issuance of Final Master Plan:**

1. The applicant shall pay the model run and maintenance fees totalling \$3,205.08 for the trips entering the modeled corridors. Payment can be made at 4400 NE 77<sup>th</sup> Avenue, Development Review Department, lower level.
2. The applicant shall pay proportionate share fees totalling \$54,728.02. Payment can be made at 4400 NE 77<sup>th</sup> Avenue, Development Review Department, lower level.

#### **B. Prior to Issuance of any Building Permits:**

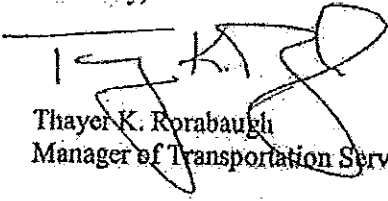
1. The applicant shall pay Transportation Impact Fee (TIF) due based on the TIF rate at the time each site plan.

#### **C. Prior to Final Plat Approval:**

1. The applicant shall comply with VMC 11.95 and City Ordinances M-3354, M-3538, M-3536 and M-3537 requirements.
2. To permanently vest the trips for the project, certificate of occupancy shall be obtained within 30-months from the issuance date of this certificate of concurrency, or obtain an approved developer's agreement with the City. Development agreements are subject to the City Council approval. Otherwise, the certificate of concurrency for the proposed project shall expire in 30-months from the issuance date of this certificate per amended VMC 11.95.120, adopted on February 20, 2001, by the City Council.

Additional transportation improvements are required as part of site development review, per the City of Vancouver's Street Standards, including but not limited to VMC 11.90.020 (Abutting street - Frontage improvements - Traffic Signal Participation), VMC 11.90.060 (Sight Distances), and VMC 11.90.083 (Arterial-Residential Street Intersections).

Sincerely,

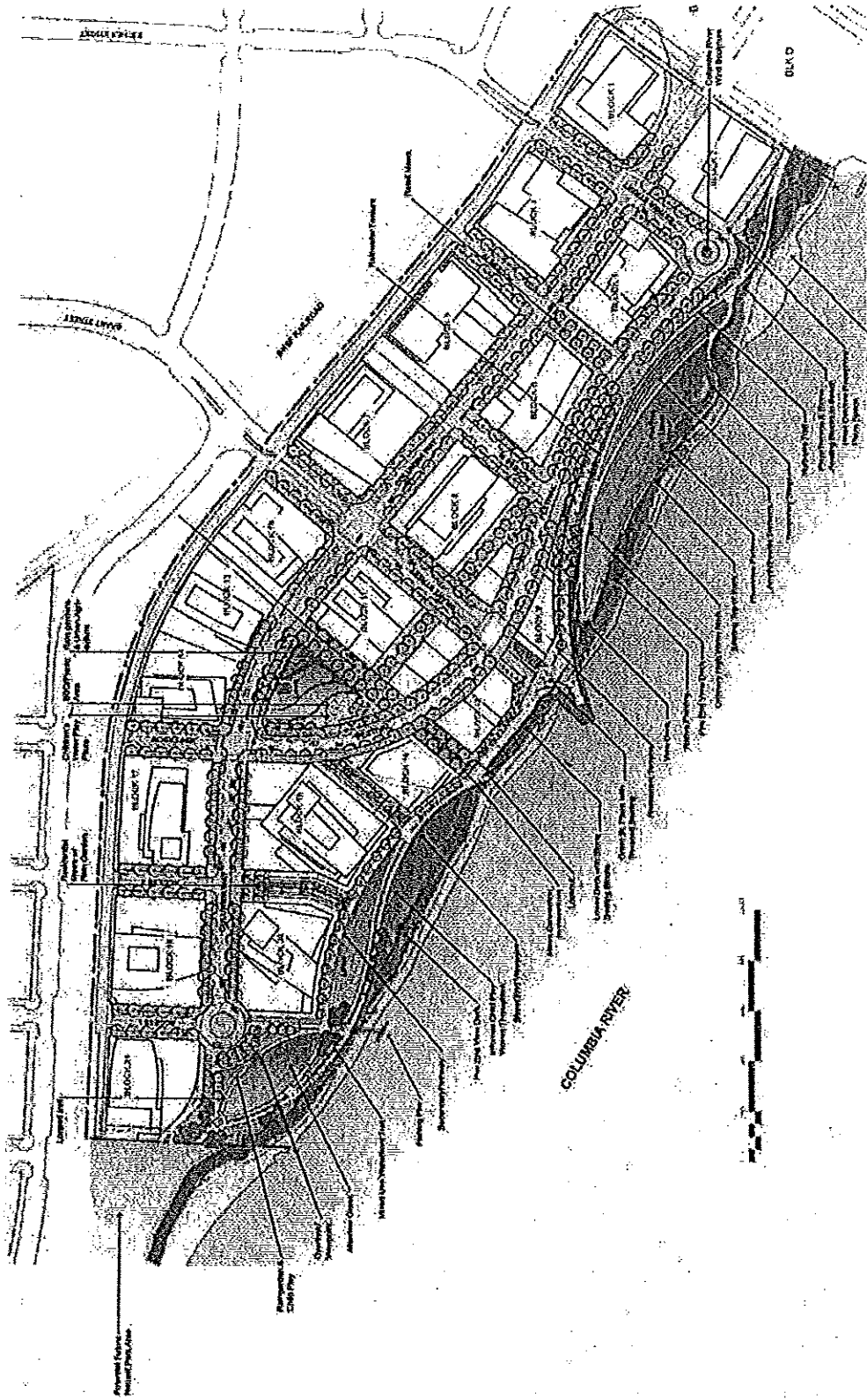


Thayer K. Rorabaugh  
Manager of Transportation Services

cc Ahmad Qayoumi, PE, Transportation Services  
Jon Wagner, Planning Case Manager, Development Review Services  
Greg Turner, Planning Case Manager, Development Review Service  
Randall Stark, PE, Transportation Services  
File: Waterfront Development

**EXHIBIT M**

**Conceptual Parks Plan**

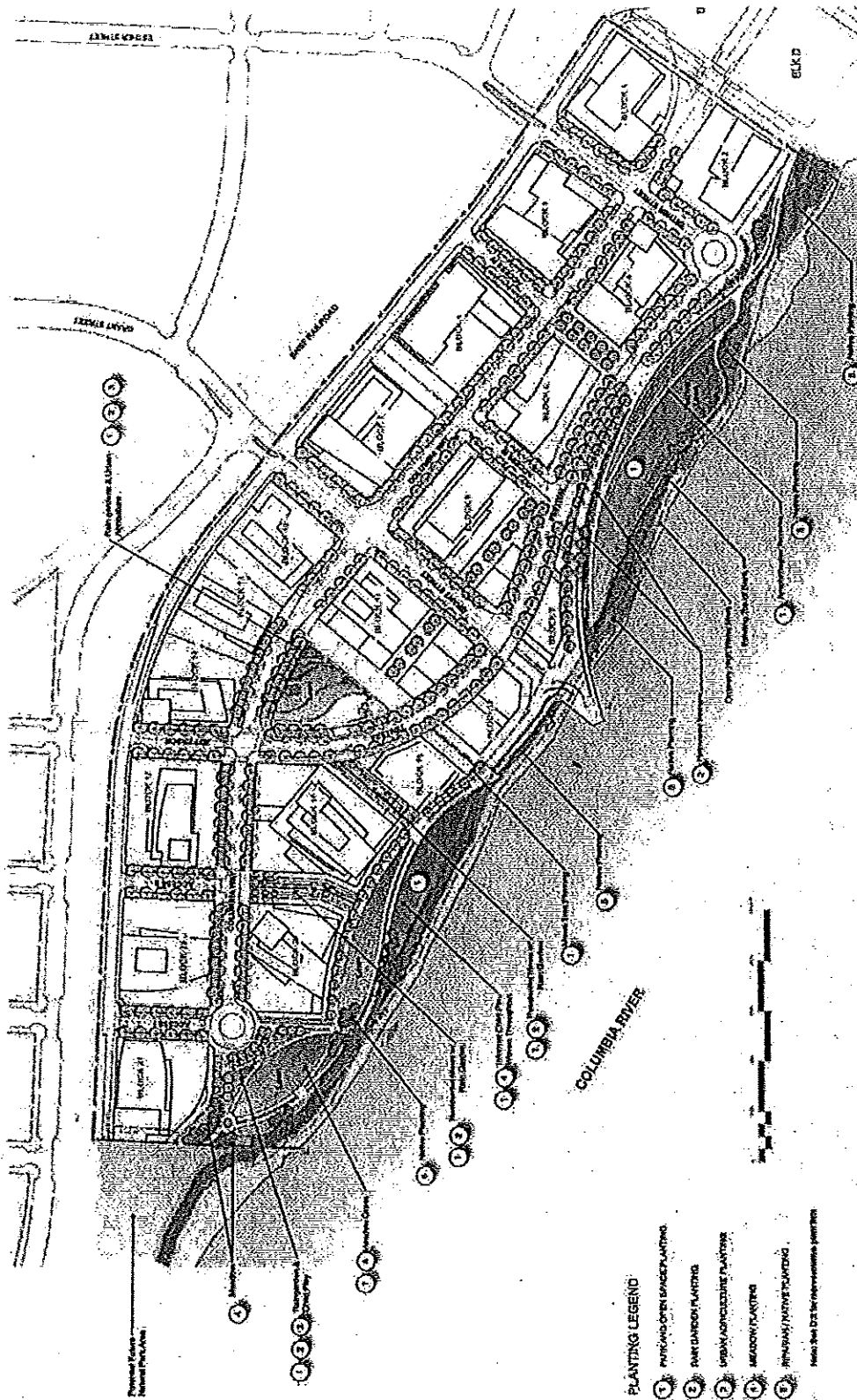


Scale 1" = 100'-0" (ARCH) (D)

**Vancouver Waterfront:**  
 Parks & Open Space Vision  
 May 22, 2009  
 Prepared for: City of Vancouver  
 Prepared by: P.W.L. Architects Inc.

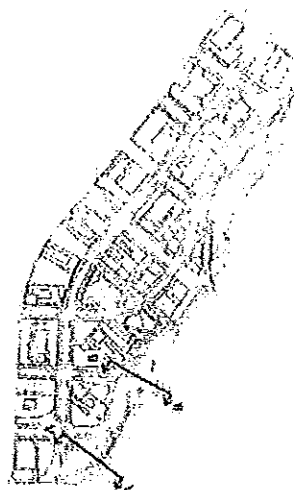
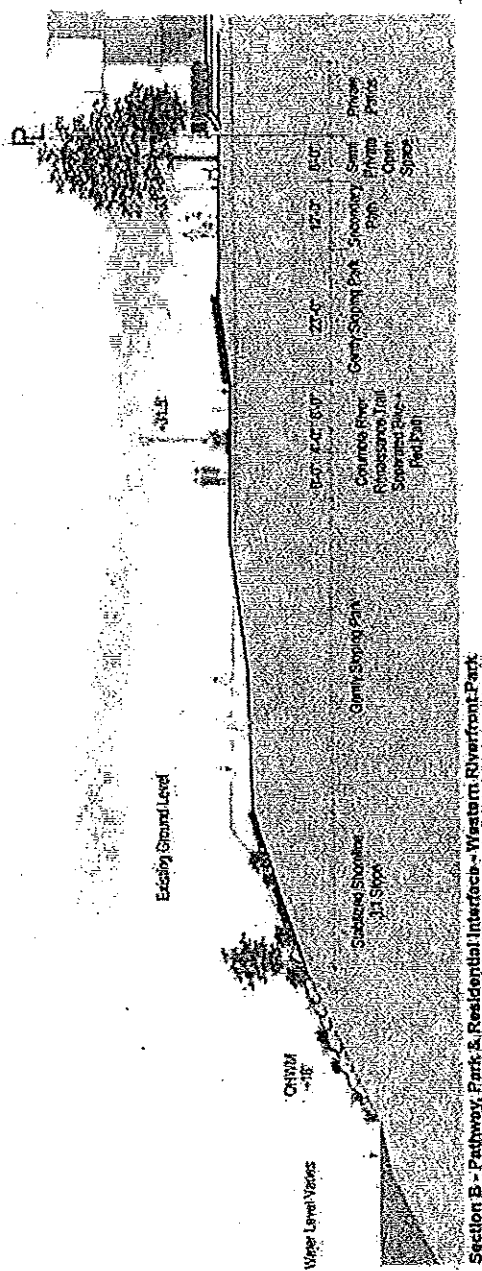
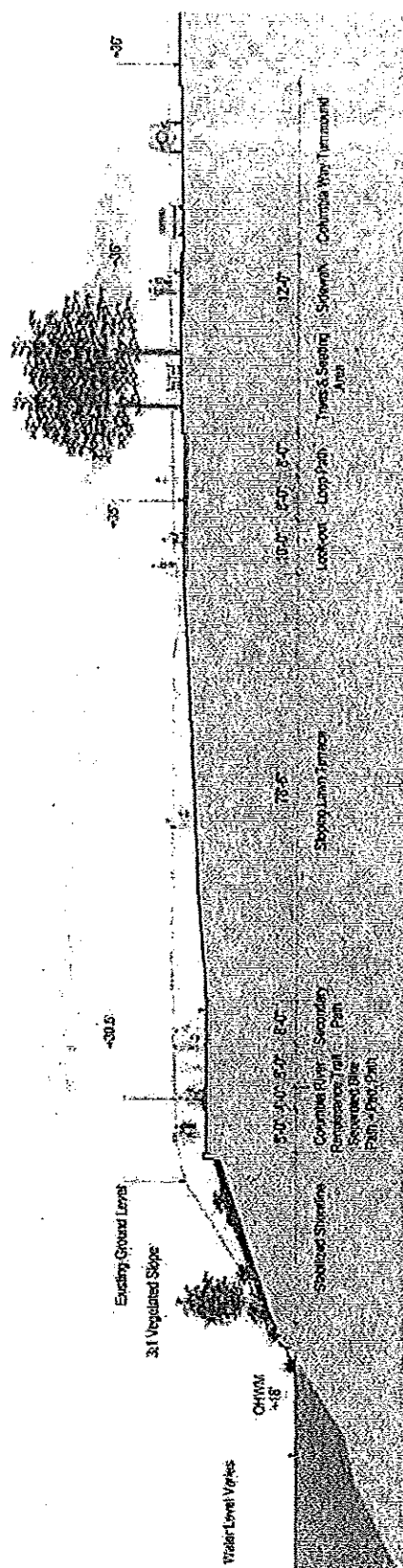
Figure M

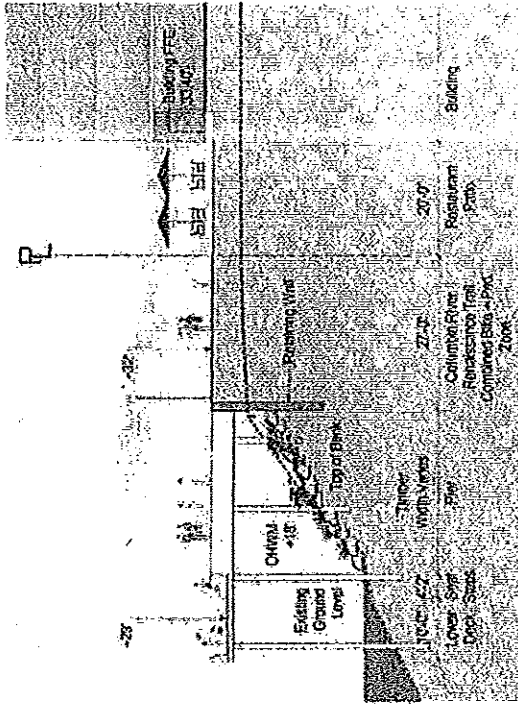
P.W.L. Architects Inc.



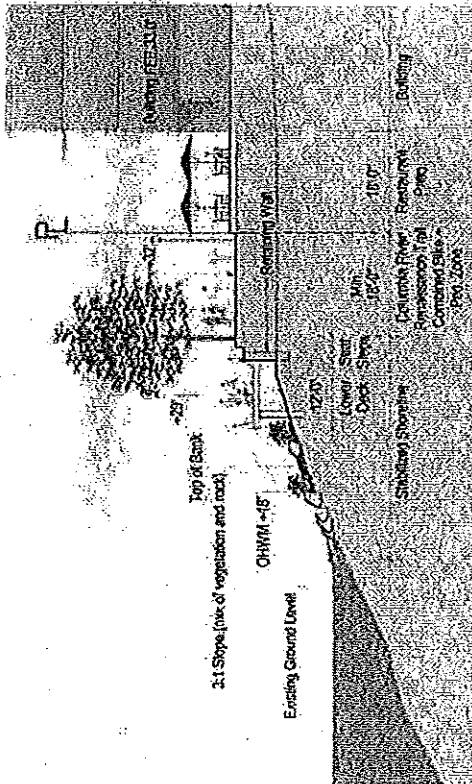
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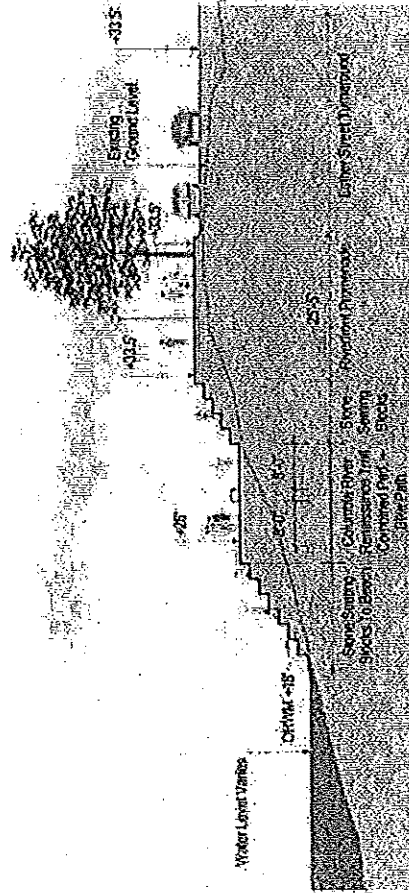




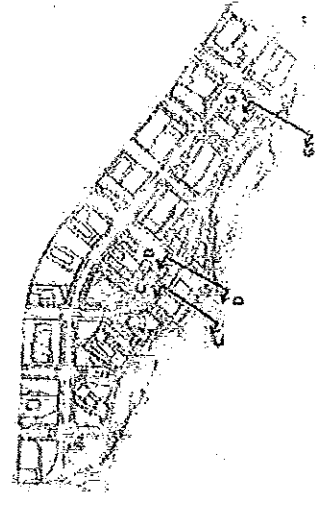
Section D - Grant St. Plaza - Potential lookout and view deck



Section C - Park, Pathway & Retail/Restaurant Interface - Waterfront Park by Grant St.



Section G - Estuary, Street End Riverfront Viewing - Eastern Waterfront Park



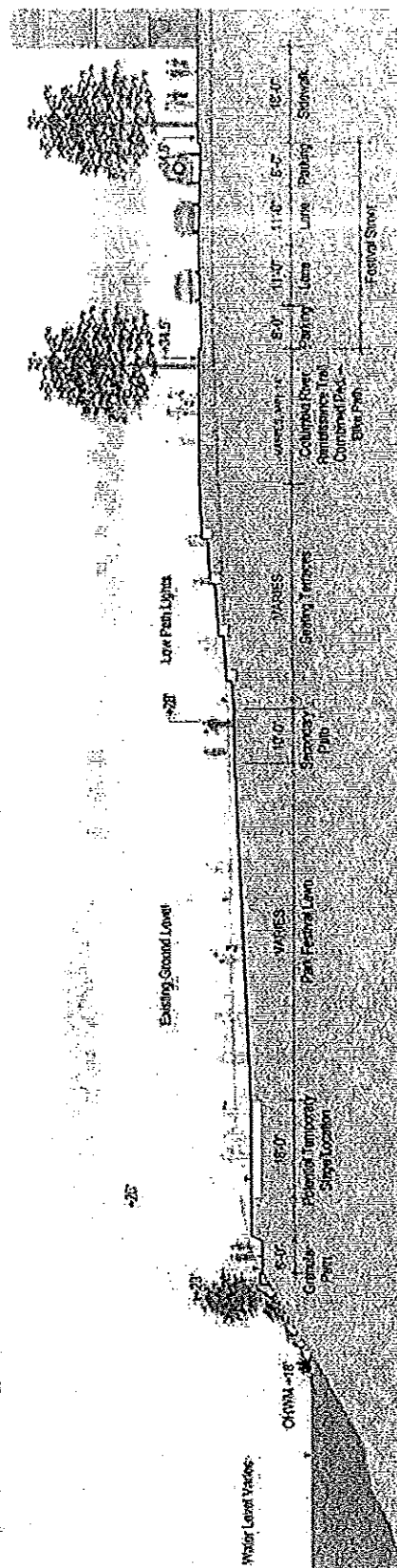
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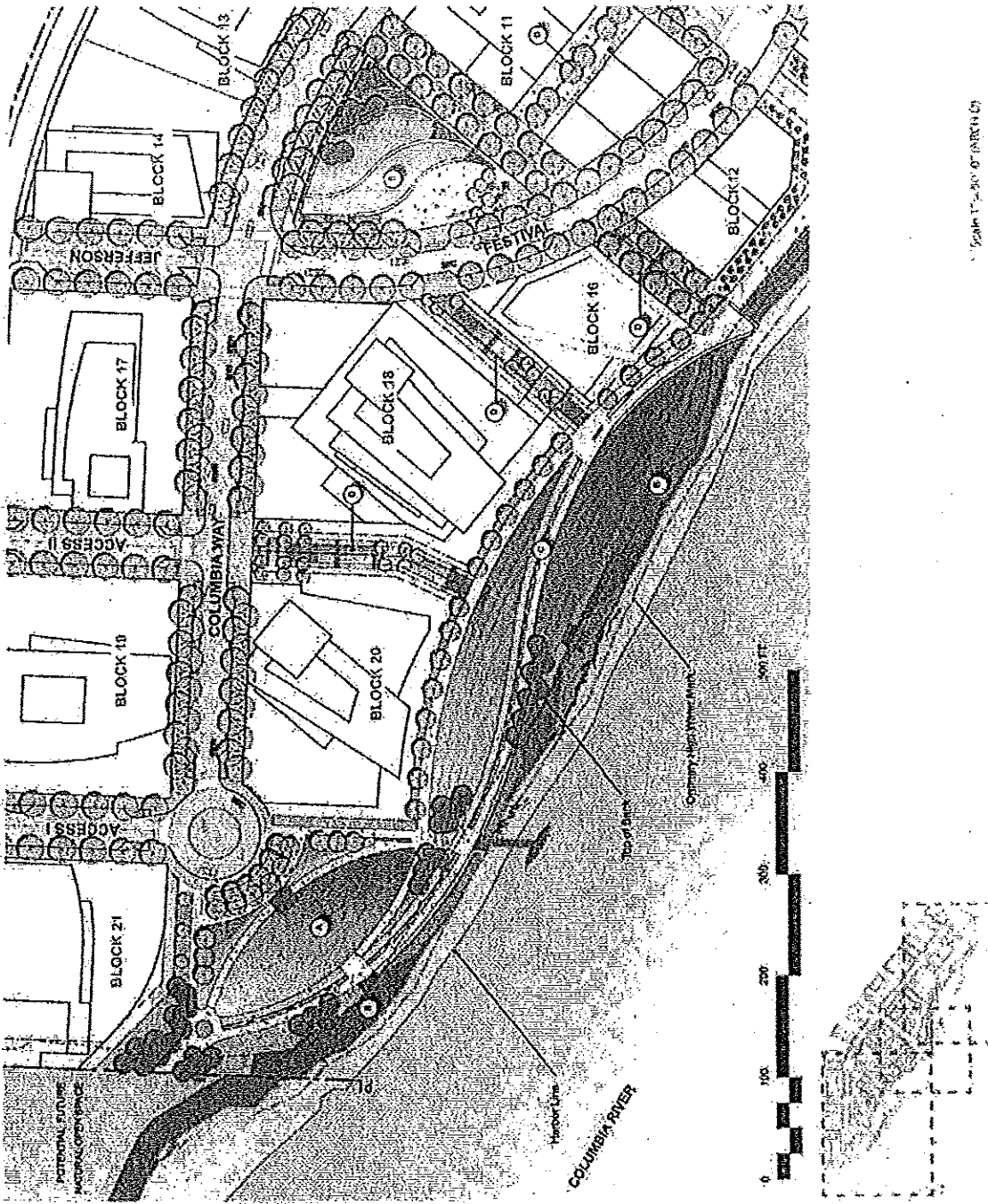
figure

Vancouver Waterfront  
Parks & Open Space Vision  
June 2004, 2007  
Vancouver City of Vancouver

PWWL 10/10/04



Section F - Festival Lawn, Seating Area and Pathway - Eastern Waterfront Park



#### ④ WESTERN WATERFRONT COMMONS

- Stormwater collection & cleansing
- Looped multi-use trails & pathways
- On-land dog trail
- Picnic lawn for watching sunset
- Informal children's play
- Bench seating along path
- Viewing promontory with public art
- Natural meadow/wetland plant gardens
- Stormwater collection
- Park terracing feature
- Separated and combined waterfront trails

#### ⑤ NATURAL AREA

- Bird Watching
- River Viewing
- Native Planting (Discovery/Exploration)
- Informal Seating
- Fishing Pier
- Riverfront Ecology Interpretation

#### ⑥ WESTERN WATERFRONT TRAIL PARK

- "Front Lawn" - passive open space
- Viewing piers with variety of seating opportunities & amount of shelter
- Informal children's play integrated within lawn area
- Separated waterfront multi-use recreational trail with seating
- Separated pathway marks connections to residential area
- Natural areas with native planting
- Historic references / memorials / future references
- Meadowgrass areas
- Appropriate lighting levels and planting to ensure visibility / safety (CPTED)

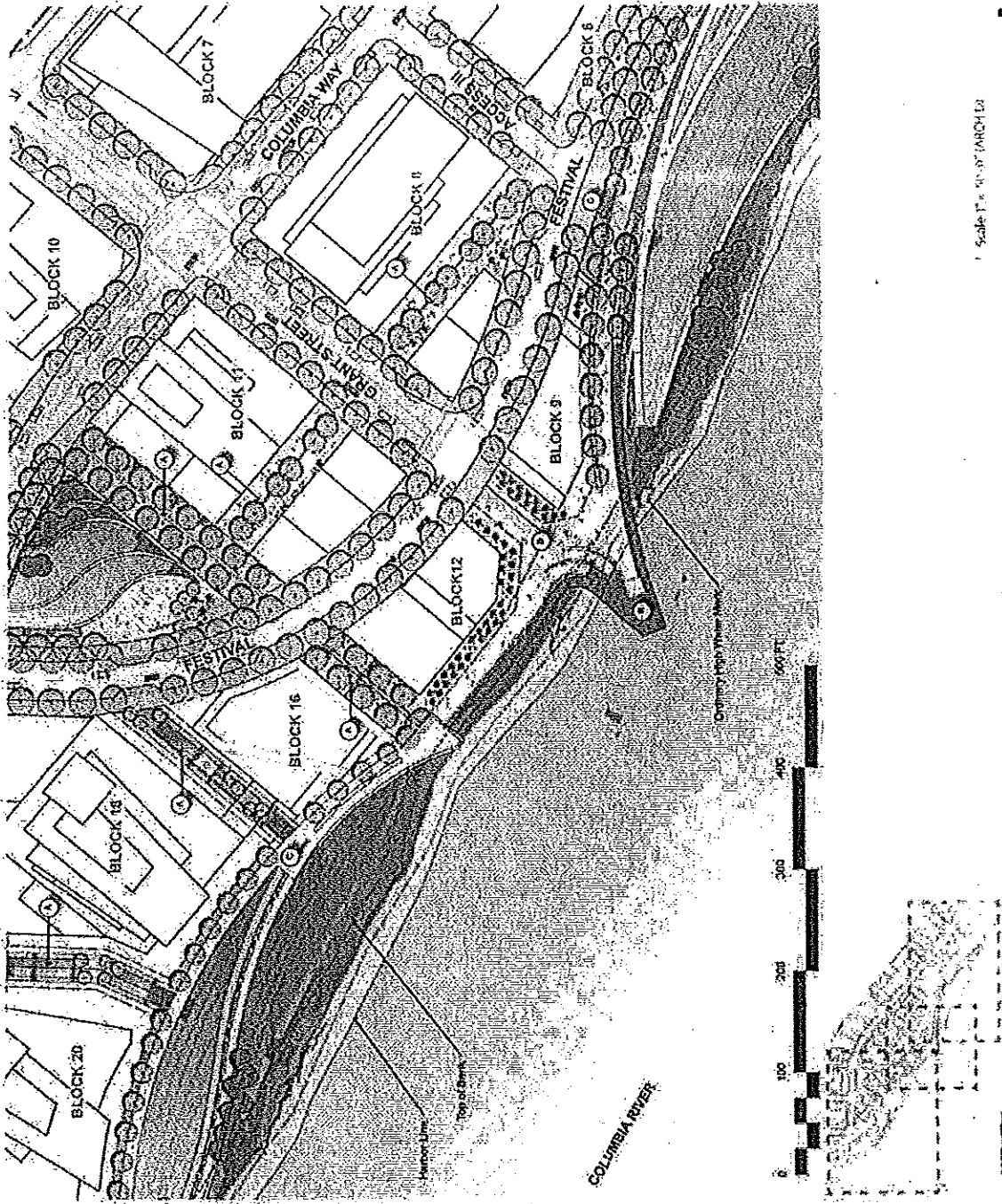
#### ⑦ NEWSPEDESTRIAN PARK CONNECTIONS

- Connections through site
- Waterfront character drawn into the site
- Stormwater collection & bio-swales
- Pathway connections to the water

#### ⑧ INTERNAL NEIGHBORHOOD PARK

- Informal play area
- Water play park
- Informal lawn for sunbathing, seating
- Neighborhood picnic / BBQ area
- Bench and seat wall seating
- Covered picnic shelter/gathering space
- Stormwater collection

Scale 1" = 50' (NORTH)



#### 1. RETAIL NEWS/PEDESTRIAN PARK CONNECTIONS

- Connections through site
- Waterfront character drawn into the site
- Stormwater collection & cleansing
- Pathway connections to the water

#### 2. GRANT STREET WATERFRONT PLAZA

- Multi-use plaza space
- Restaurant/cafe patios and terraces
- People gathering
- Dock(s) for dinner cruise boats & water taxi
- Pier structure over water with potential to use existing piles/dolphins
- Viewing promontory
- Combined multi-use waterfront trail with variety of seating
- Landmark public art feature
- Historic references / memories / future references
- Terraced seating
- Residential

#### 3. RETAIL NEWS/PEDESTRIAN CONNECTION

- Connections through site
- Waterfront character drawn into the site
- Viewing place

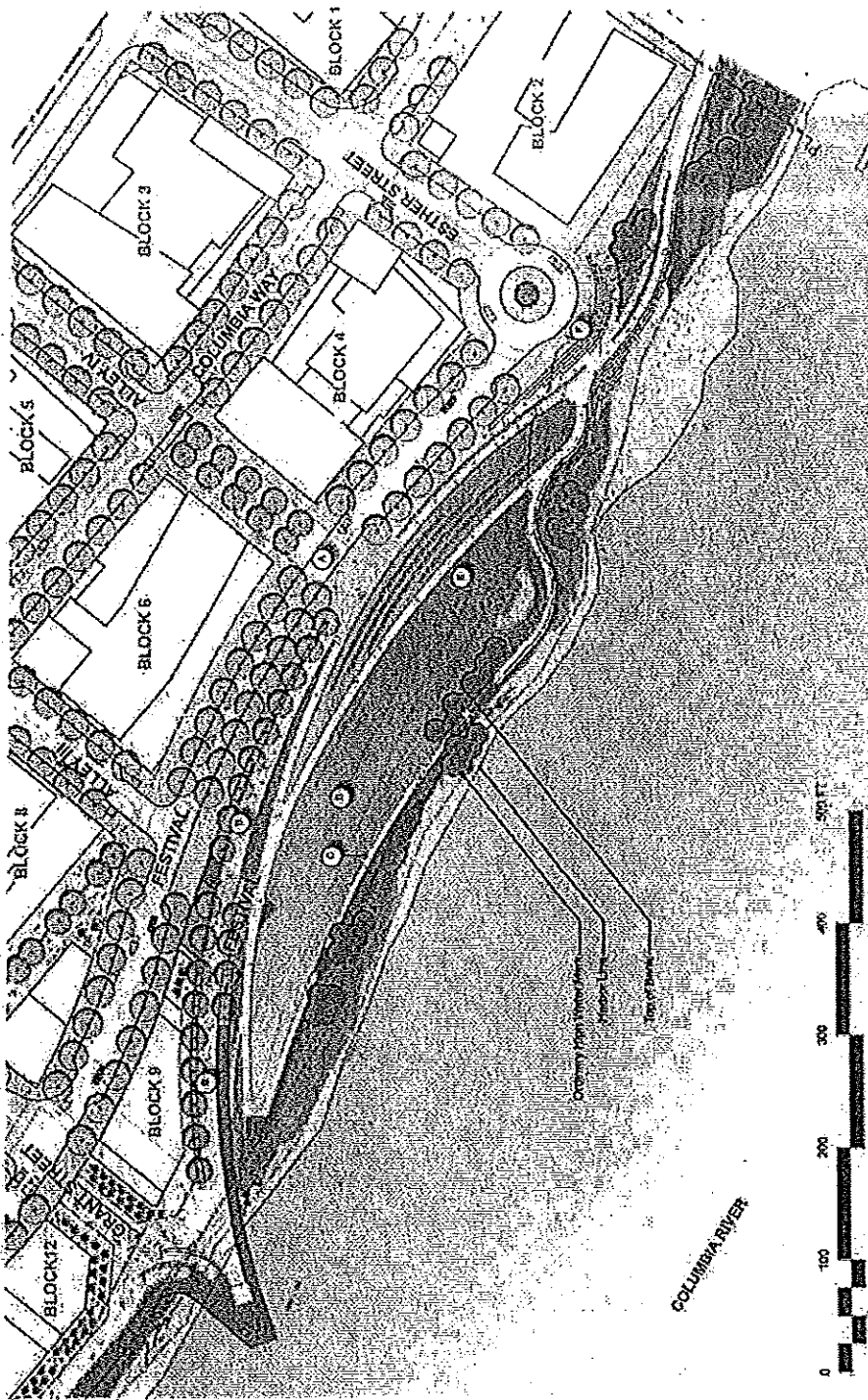
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**Vancouver Waterfront** figure. M

Map of Parks & Open Space Vision  
2000-2010

PWL Architecture





#### 1 RETAIL NEWS/PEDESTRIAN CONNECTION

- Connections through site
- Waterfront character drawn into the site
- Pathway connections to the water

#### 2 ESPLADE

- Pedestrian area
- Public gathering spaces
- Seasonal retail space
- Public restaurants
- Informal and formal seating opportunities
- Combined bike/pedestrian waterfront trail

#### 3 WATERFRONT TRAIL

- Pedestrian trail
- Viewing areas with shelter
- Variety of seating opportunities
- Natural areas with native vegetation

#### 4 OPEN, FLEXIBLE MULTI-USE LAWN

- Multi-use Trail
- Informal sport activities (frisbee, etc.)
- Seating/sunbathing
- Riverfront viewing
- Overlook seating for festivals
- Community gathering/event space

#### 5 FESTIVAL LAWN

- Terraced lawn area with hard and soft seating opportunities
- Riverfront viewing from sloping lawn (place to watch fireworks)
- Informal performance space / Temporary Stage
- Gently sloped for wheelchair seating
- Power

#### 6 RIVERFRONT VIEWING PROMONTORY

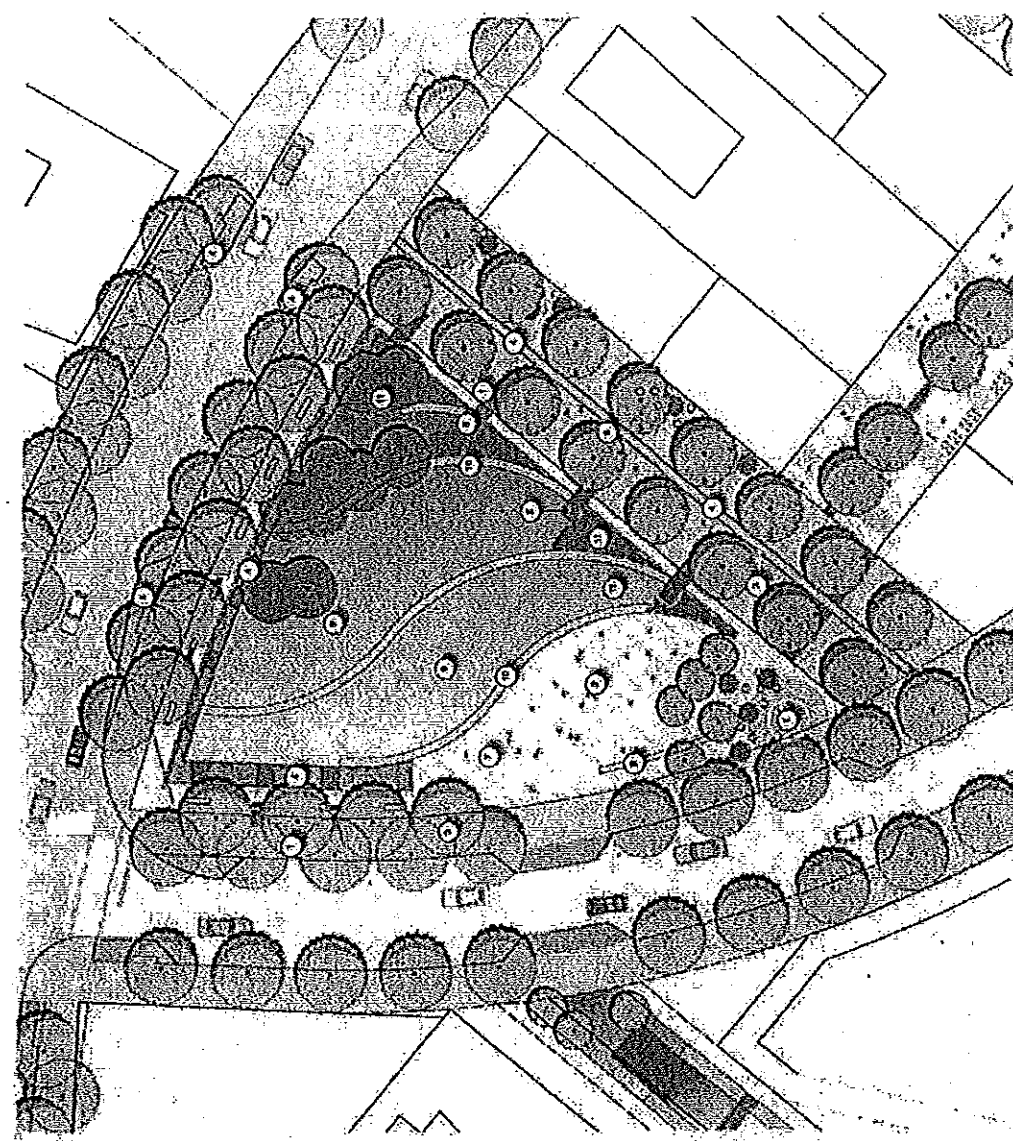
- Terraced viewing areas
- Visitor information kiosk
- Directional signs & wayfinding markers
- Ramps for universal accessibility
- Landmarks/wayfinding public art about history, industry/nature/river
- Connection to Eastern St. and the city
- Outdoor hotel restaurant on waterfront

Scale 1" = 500' (ARCH-D)

Vancouver Waterfront figure M

May 20, 2000 Parks & Open Space Vision  
City of Vancouver, British Columbia

PWL architectsbco



- KEY**
- ① PROPOSED WALKWAY
  - ② WALKWAY JUNCTION
  - ③ PROPOSED BENCH
  - ④ PLANTING
  - ⑤ TRUNK BRIDGE CROSSING
  - ⑥ PROPOSED PROPOSED WALKWAY JUNCTION
  - ⑦ WALKWAY JUNCTION
  - ⑧ PROPOSED BENCH
  - ⑨ PROPOSED BENCH
  - ⑩ TRUNK BRIDGE CROSSING
  - ⑪ PLANTING

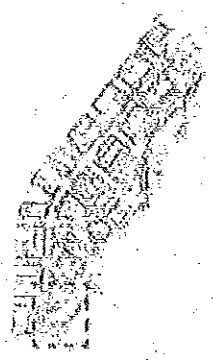
Scale 1" = 20' (ARCH D)

**Figure M**

**Vancouver Waterfront**  
 Van 12, 2008 Parks & Open Space Vision  
 Interim Landscape Plan

PWL 04/2009/04/14

1. POND AREA WITH PICOBAGS, TREE BODIES AND GRASS CUT PAVING
2. TUBES FOR VERTICALLY
3. SLOPED LAWN TERRACE
4. MEADOW SPACE AND NATURAL PLANTING
5. INFO SIGNPOLE AREA
6. STONE RETAINED WALL
7. TUBES PLANTING AND PLANT TO PLANTING
8. BENCHES
9. STONE
10. COLUMBARIAN TREES AND PLANTING
11. COLUMBARIAN TREES AND PLANTING - PICOBAGS WITH
12. COMBINED PATH
13. PLANT TO PLANTING
14. PARK GARDEN
15. PARK BUILT TO TOWN HOUSES
16. WATER BODIES WITH IMPERIAL CHILDREN PLANT



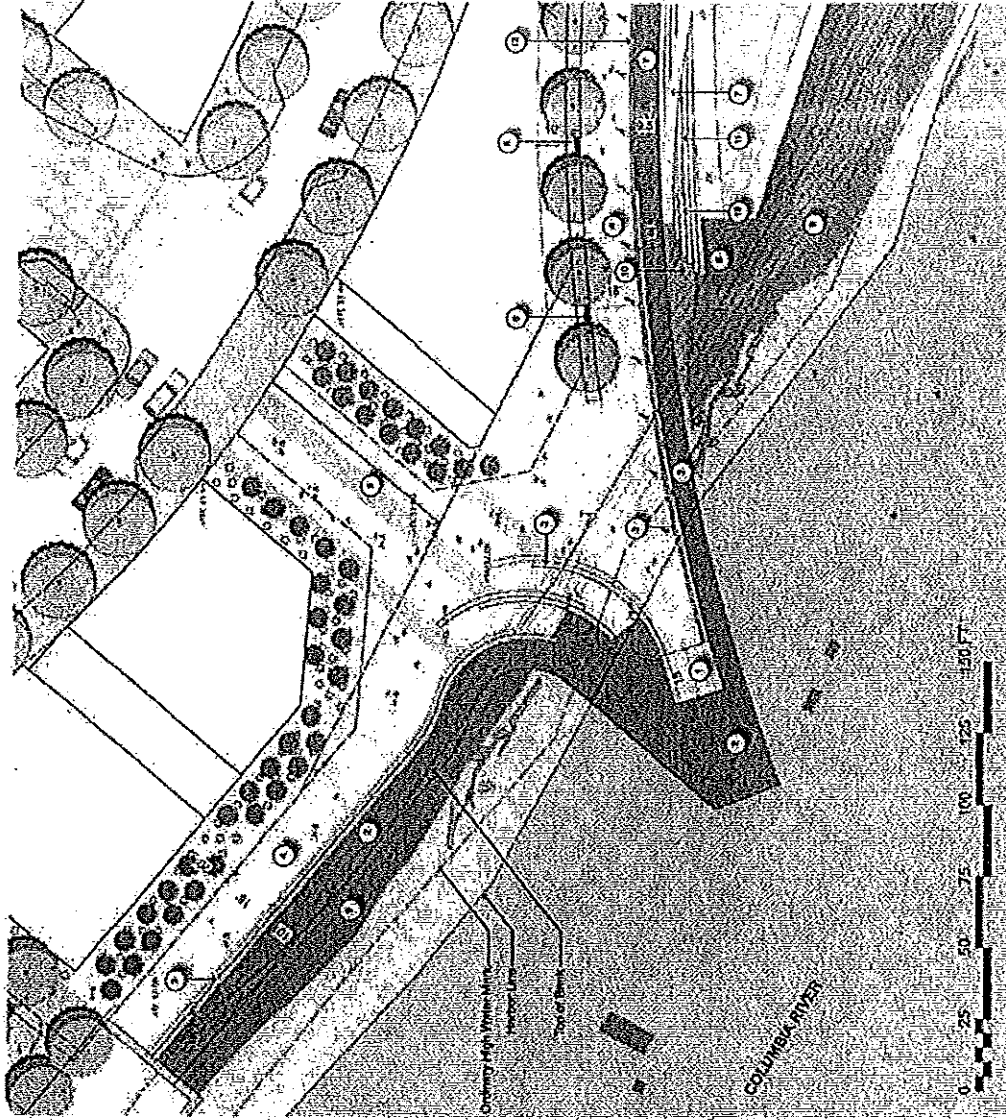
**M** figure  
**Vancouver Waterfront**  
near its 20th Parks & Open Space Vision  
Document. Vancouver's Greenest City 2020 Plan.

2019年12月31日



# DETAIL LEGEND:

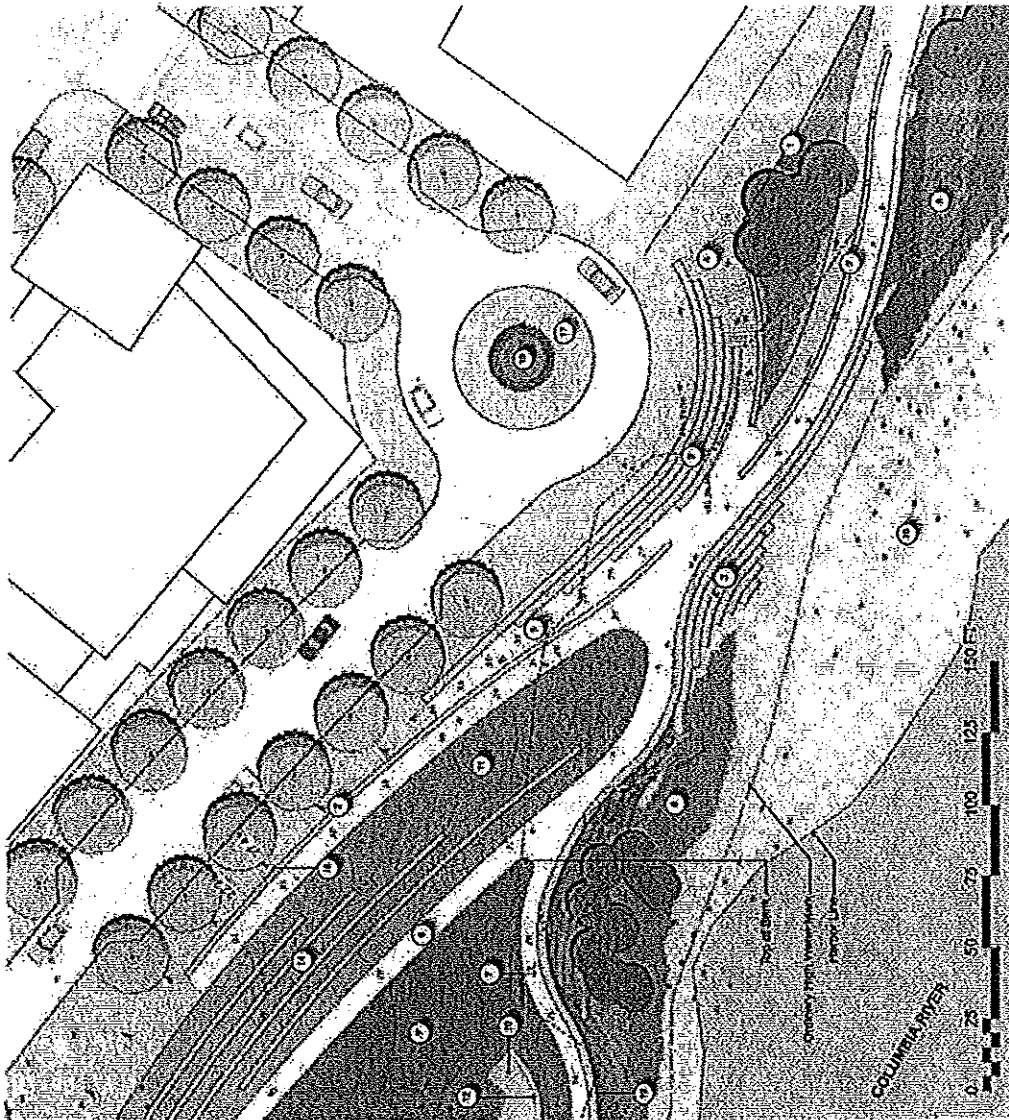
1. SEATING FEATURE
2. TRAMPOLINE CONNECTED TO DRIFTING COUCHES
3. STONE SEAT WALL
4. COLUMBIA RIVER TRAMPOLINE TRAIL - COLUMBIAN ROCKS AND PIERSTONES
5. SPECIAL PLANTING
6. BRICKS
7. JUMP
8. TRAMPOLINE VIEWING PLATFORM
9. NATURAL PLANTING
10. BARK GRACE
11. PROMOTRANCE
12. ADJUNCT STRUCTURES - REMNANTS OF BOATTIMES
13. STAIRS



Scale 1" = 20' (ARCH'D)

# DETAIL LEGEND:

1. HORIZONTAL LOGS
2. COORDINATED NON-IMPACTIAL - IMPACTED BRUSH AND PESTICIDES
3. UTILITY TRENCHES & BENCH
4. STAIRS
5. PUMP
6. SECONDARY CONCRETE PAVEMENT
7. GRAVELL APPLICABLE/STY
8. ARTISTAL PLANTING
9. FERTILIZER LAWN
10. TEMPORARY BARRIERS/PERFORMANCE STAKE
11. SLOPED LAWN
12. STONE RETAINING WALL
13. FEATURE LAND SCULPTURE
14. CONCRETE TERRACES WITH LAWN
15. ART LIGHT FEATURES
16. COATING PILES
17. TEXTURED PAVING



Scale: 1" = 20'-0" (ARCH D)

figure M

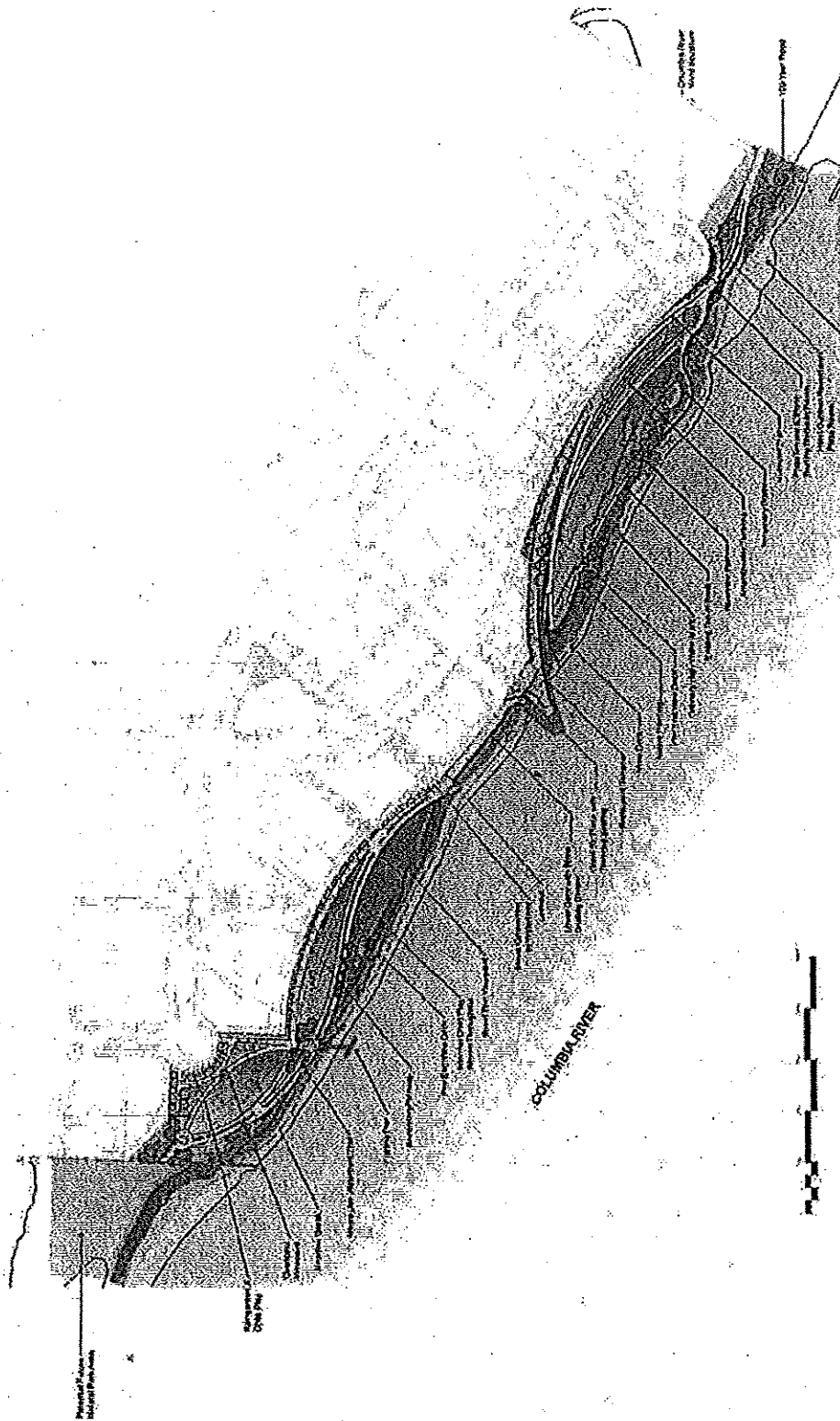
Vancouver Waterfront  
 May 2002  
 Parks & Open Space Vision  
 A Vision for the City of Vancouver

PAWLAK & ASSOCIATES

**EXHIBIT N**

**Waterfront Esplanade Concept Plan**

# Exhibit N



Scale 1" = 100' or 0.001175

**Vancouver Waterfront**  
Parks and Open Space

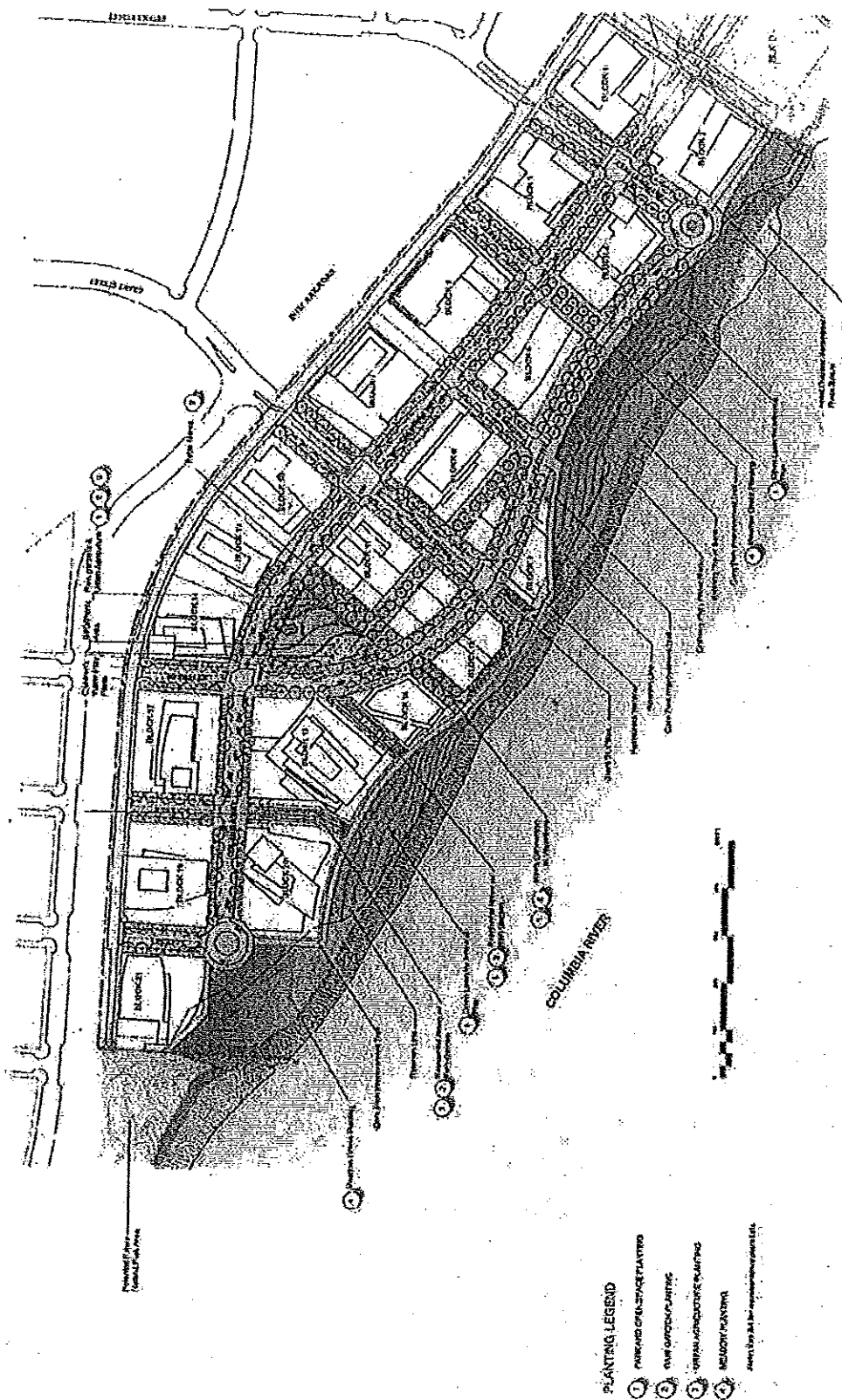
Int.  
Pg.

EXHIBIT O

Core Park Improvement Plan

IC 43307-47:001 v4.1 010251

**Vancouver Waterfront**  
Parlors & Open Space  
100-400



پیشہ ورانہ تعلیم کے شعبہ کے سربراہان

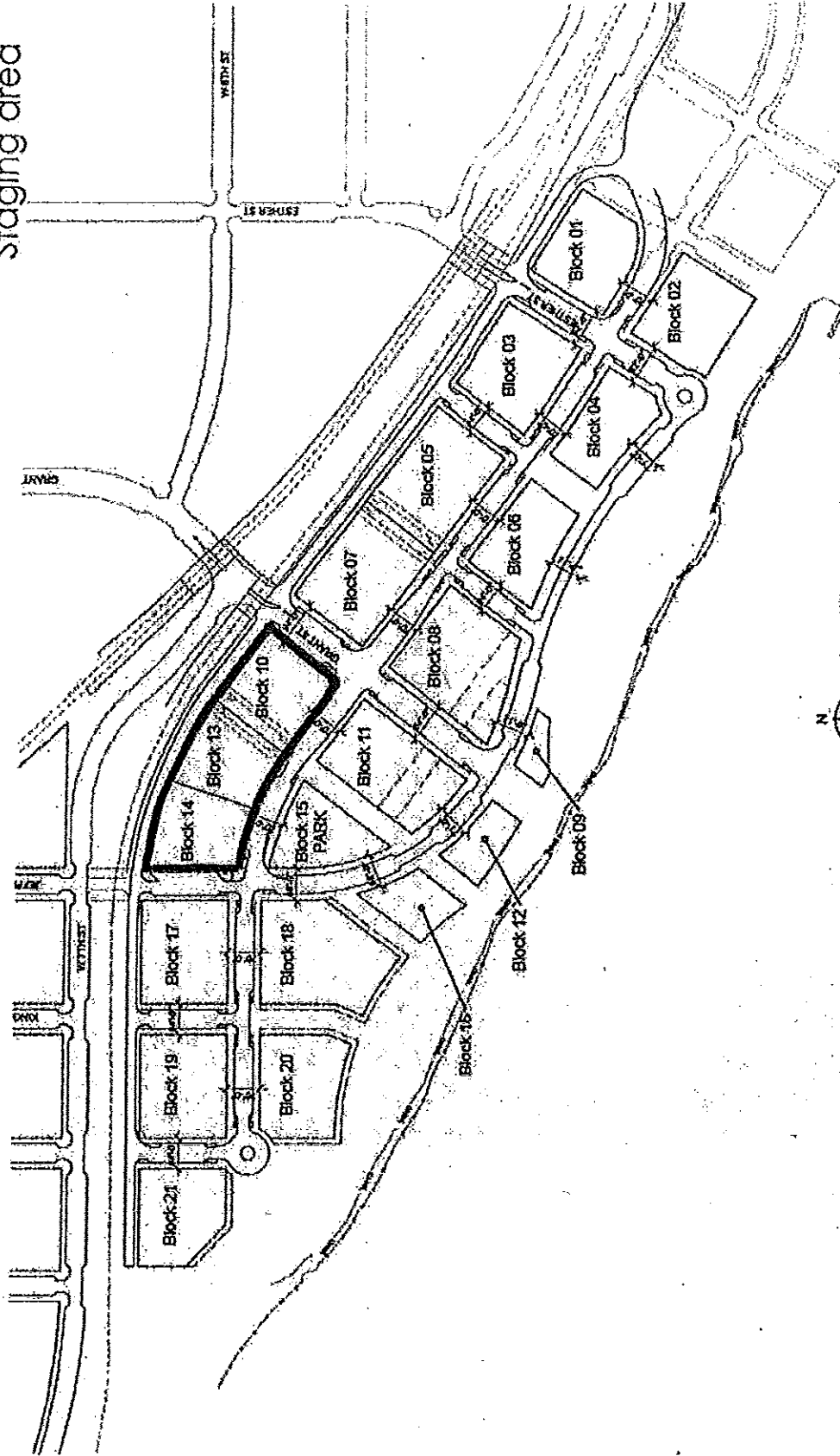
**EXHIBIT P**

**Description of Staging Area**

To be established by City and Developer prior to execution of the Development Agreement.

# Exhibit P

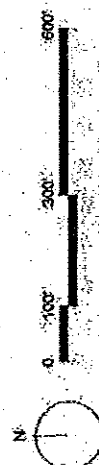
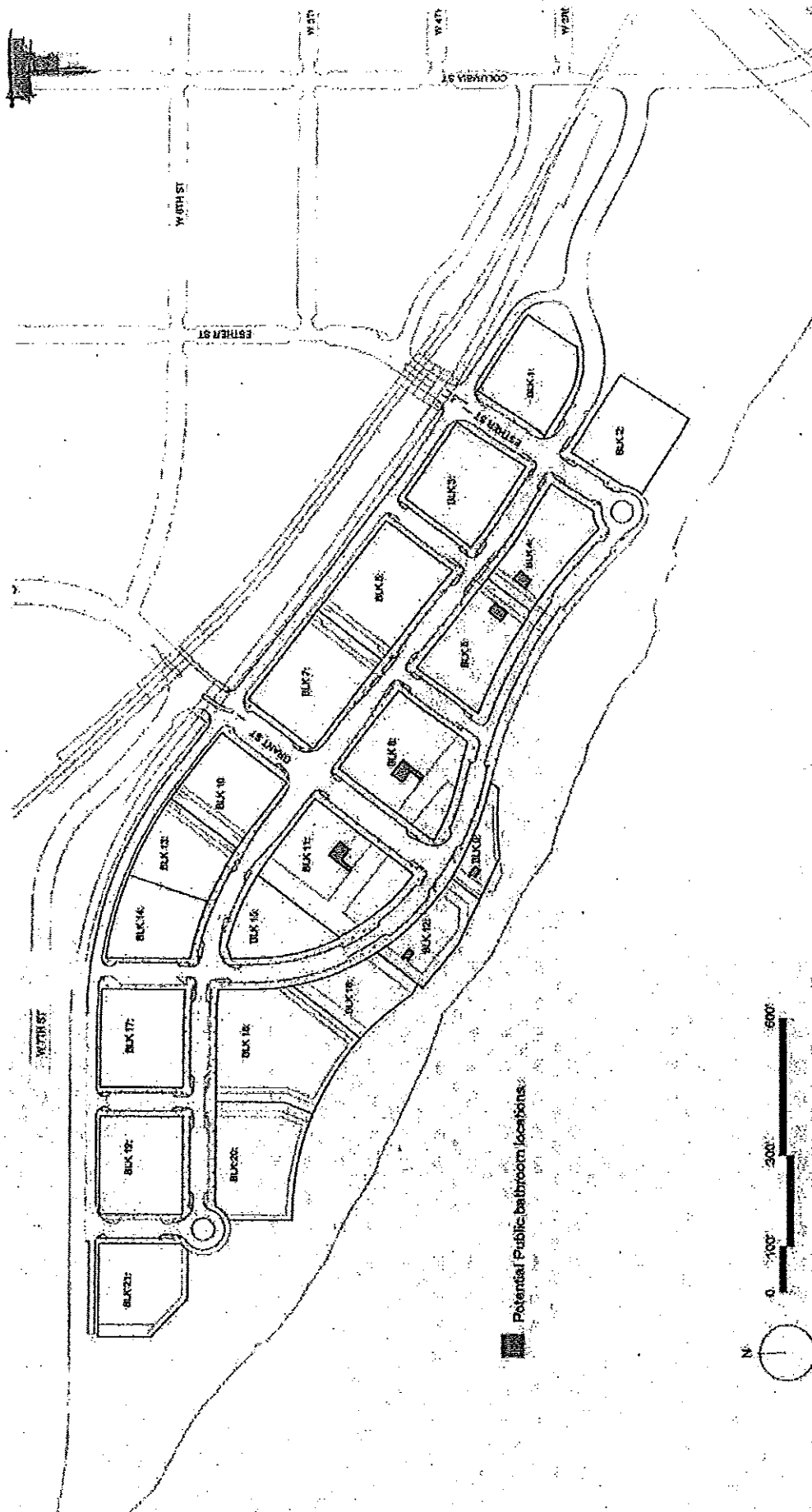
Staging area





**EXHIBIT Q**

**Public Restroom Locations**



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#### COLUMBIA WATERFRONT LLC

UBI Number	602699132
Category	LLC
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
Date of Incorporation	02/23/2007
Expiration Date	02/28/2011
Dissolution Date	
Registered Agent Information	
Agent Name	JGB SERVICE CORPORATION
Address	600 UNIVERSITY ST STE 3600
City	SEATTLE
State	WA
ZIP	98101
Special Address Information	
Address	

City

State

Zip

**Governing Persons**

Title	Name	Address
Manager	GRAMOR COLUMBIA WA , LLC	TUALATIN , OR

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You can find this information at: [http://www.sos.wa.gov/corps/search\\_detail.aspx?ubi=602699132](http://www.sos.wa.gov/corps/search_detail.aspx?ubi=602699132)

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#### GRAMOR COLUMBIA WATERFRONT LLC

UBI Number	602699123
Category	LLC
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
Date of Incorporation	02/23/2007
Expiration Date	02/28/2011
Dissolution Date	
Registered Agent Information	
Agent Name	JGB SERVICE CORPORATION
Address	600 UNIVERSITY ST STE 3600
City	SEATTLE
State	WA
ZIP	98101
Special Address Information	
Address	

City

State

Zip

**Governing Persons**

Title

Name

Address

Member

GRAMOR INVESTMENTS ,  
INC

TUALATIN , OR

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#### GRAMOR INVESTMENTS, INC.

UBI Number	602039540
Category	REG
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	OR
Date of Incorporation	05/24/2000
Expiration Date	05/31/2011
Dissolution Date	
Registered Agent Information	
Agent Name	JGB SERVICE CORPORATION
Address	3600 ONE UNION SQ
City	SEATTLE
State	WA
ZIP	98101
Special Address Information	
Address	
City	

State

Zip

**Governing Persons**

Title	Name	Address
Secretary	NICHOLAS , PATRICIA	TUALATIN , OR
President	CAIN , BARRY	TUALATIN , OR
Vice President	SORENSEN , DEAN	TUALATIN , OR

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You can find this information at: [http://www.sos.wa.gov/corps/search\\_detail.aspx?ubi=602039540](http://www.sos.wa.gov/corps/search_detail.aspx?ubi=602039540)



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#### BAC COLUMBIA WATERFRONT LLC

UBI Number	602699129
Category	LLC
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
Date of Incorporation	02/23/2007
Expiration Date	02/28/2011
Dissolution Date	
Registered Agent Information	
Agent Name	JGB SERVICE CORPORATION
Address	600 UNIVERSITY STE STE 3600
City	SEATTLE
State	WA
ZIP	98101
Special Address Information	
Address	

City

State

Zip

**Governing Persons**

Title

Name

Address

Manager

CAIN , BARRY

TUALATIN , OR

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You can find this information at: [http://www.sos.wa.gov/corps/search\\_detail.aspx?ubi=602699129](http://www.sos.wa.gov/corps/search_detail.aspx?ubi=602699129)

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#### KIRKWOOD COLUMBIA WATERFRONT, LLC

UBI Number	602694508
Category	LLC
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
Date of Incorporation	02/09/2007
Expiration Date	02/28/2011
Dissolution Date	
Registered Agent Information	
Agent Name	DANIEL KIRKWOOD
Address	2101 NE 129TH ST #201
City	VANCOUVER
State	WA
ZIP	98686
Special Address Information	
Address	
City	

State

Zip

**Governing Persons**

Title

Name

Address

Member

KIRKWOOD REAL ESTATE  
HOLDINGS, \*2101 NE 129TH ST #201  
VANCOUVER, WA[Purchase Documents for this Corporation »](#)[« Return to Search List](#)

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#### OLIVA COLUMBIA WATERFRONT, LLC

UBI Number	602645971
Category	LLC
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
Date of Incorporation	08/28/2006
Expiration Date	08/31/2010
Dissolution Date	
Registered Agent Information	
Agent Name	LISA O TRISLER
Address	915 W 11TH STREET
City	VANCOUVER
State	WA
ZIP	98660
Special Address Information	
Address	
City	

State

Zip

**Governing Persons**

Title	Name	Address
Member	OLIVIA , STEVEN	VANCOUVER , WA

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#### GRAMOR COLUMBIA WATERFRONT LLC

UBI Number	602699123
Category	LLC
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
Date of Incorporation	02/23/2007
Expiration Date	02/28/2011
Dissolution Date	
Registered Agent Information	
Agent Name	JGB SERVICE CORPORATION
Address	600 UNIVERSITY ST STE 3600
City	SEATTLE
State	WA
ZIP	98101
Special Address Information	
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State

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**Governing Persons**

Title

Name

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Member

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#### DIAMOND COLUMBIA WATERFRONT LLC

UBI Number	602699909
Category	LLC
Profit/Nonprofit	Profit
Active/Inactive	Active
State Of Incorporation	WA
Date of Incorporation	02/26/2007
Expiration Date	02/28/2011
Dissolution Date	
Registered Agent Information	
Agent Name	JGB SERVICE CORPORATION
Address	600 UNIVERSITY ST STE 3600
City	SEATTLE
State	WA
ZIP	98101
Special Address Information	
Address	

City

State

Zip

**Governing Persons**

Title	Name	Address
Member	DIAMOND , PAULA	18380 RIVEREDGE LN LAKE OSWEGO , OR
Manager	DIAMOND , GEORGE	18380 RIVEREDGE LN LAKE OSWEGO , OR

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