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Skagit County Auditor

After Recording Return To:

Kevin Rogerson
City of Mount Vernon
910 Cleveland Avenue
Mount Vernon, WA 98273

GUARDIAN NORTHWEST TITLE CO.

PUBLIC BENEFITS AGREEMENT 19-2683

GRANTOR: VWA – MOUNT VERNON, LLC, an Ohio limited liability company

GRANTEE: CITY OF MOUNT VERNON, a Washington municipal corporation

Legal Description:
Abbreviated form: Lots 1- 7, BLA No. ENGR19-0308, Recording No. 201910040054; Ptn. of Lots 8-11, Block 3, Tog. With Vac. 6th St Abutting, Kincaid's Addition to Mt. Vernon; Ptn. of SW ¼, SW ¼, Sec. 20, Twn. 34 N, Rge. 4 E; Ptn. of Lots 1-4, Block 1, Kincaid's Addition to Mt Vernon, Alley Abutting

Additional legal on Exhibits A, B, C-1

Assessor's Property Tax Parcel Account Number(s): P121047, P26788, P26886, P53379, P53378, P53377, P103224, P53376, P53376, P53374, P53373, P53372, P54122, P54114

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Exhibits:

PUBLIC BENEFITS AGREEMENT

THIS PUBLIC BENEFITS AGREEMENT (this "Agreement") is dated as of October 3, 2019 (the "Effective Date"), between the CITY OF MOUNT VERNON, a Washington municipal corporation ("City"), and VWA – MOUNT VERNON, LLC, an Ohio limited liability company ("Developer").

RECITALS

A. Pursuant to that certain Real Property Disposition Agreement dated July 29, 2019 between City and Developer (the "Disposition Agreement"), concurrently herewith Developer is acquiring from City that certain real property in Mount Vernon, Washington legally described on Exhibit A attached hereto (the "Former City Property").

B. In addition, Developer owns that certain real property in Mount Vernon, Washington, legally described in Exhibit B attached hereto (the "Visconsi Property", and together with the Former City Property, the "Property"). Developer intends to develop the Property into a commercial project (the "Project").

C. As described in the Disposition Agreement, in an effort to enhance the downtown gateway and contribute to the cultural and recreational revitalization of the City of Mount Vernon, City desires a public trail, including fencing (the "Public Trail") and the Additional Improvements not required by the City of Mount Vernon Municipal Code ("MVMC") in connection with the Project (collectively, the "Improvements"). The Public Trail is to be constructed on a parcel of land created pursuant to City of Mount Vernon Boundary Line Adjustment No. ENG19-0308 (2019), recorded October 4, 2019 under Recording no. 201910040050, records of Skagit County, Washington (the "BLA"), and conveyed by Developer to City concurrently herewith via quit claim deed, and legally described on Exhibit C-1 attached hereto (the "Public Trail Area"). The Additional Improvements are to be installed on that portion of the Property and Public Trail Area depicted on Exhibit C-2 attached hereto (the "Additional Improvements Area").

D. As consideration for the City's conveyance of the Former City Property to Developer, Developer will build and maintain the Improvements at no cost to City and on the terms and conditions set forth in this Agreement. The parties intend by this Agreement to set forth their mutual agreement and undertakings with regard to the Improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each party and in future consideration of the benefit to the general public by the creation and operation of the Improvements, and as a direct benefit to City and other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Definitions. In addition to the terms defined in the Recitals above, the following terms shall have the meanings set forth below:

"Additional Improvements" has the meaning given in Section 5.3.2(b).

"Additional Improvements Area" has the meaning given in Recital C above.

"Business Day" means any day on which banks in Mount Vernon, Washington are required to be open for business, excluding Saturdays and Sundays.

"Certificate of Performance" means a certificate issued by City to Developer pursuant to Section 7 of this Agreement.

"City Default" shall have the meaning given in Section 15.

"Closing" means the close of the transfer of the Property pursuant to the Disposition Agreement.

"Commencement of Construction" and "Commence(s) Construction" means that construction of the Improvements has begun, following issuance of a fill and grading permit for the Project, including the Improvements.

"Contractor Performance Security" has the meaning given in Section 8.

"Construction Documents" means, collectively, all construction documentation that Developer is required to submit to City as part of the process to obtain fill and grade permits and other permits needed for the Improvements and upon which Developer and Developer's contractors will rely in constructing the Improvements, as more particularly set forth on Exhibit D attached hereto.

"Construction Start Date" means the date that is thirty (30) days after the Effective Date (subject to extension for Force Majeure).

"Covenant to Maintain and Access Easement" means that certain Covenant to Maintain and Access Easement granted by Developer to City and recorded contemporaneously herewith.

"Design Documents" means an architectural or artist's rendering that illustrates the scope of the Improvements (including the location of the Public Trail within the Property and the relationship of the Public Trail to its surroundings), consistent with the Design Regulations and the scope of development, as more particularly set forth on Exhibit D attached hereto.

"Design Regulations" means, collectively, the City of Mount Vernon Design and Construction Standards and Specifications, the City of Mount Vernon Downtown Subarea

Plan and Regulations and other Legal Requirements that affect the Improvements, the Property and the Public Trail Area.

"Developer Performance Security" has the meaning given in Section 12.

"Disposition Agreement" has the meaning given in Recital A.

"Effective Date" means the date set forth in the first paragraph of this Agreement.

"Environmental Laws" means includes any federal, state, municipal or local law, statute, ordinance, regulation, order or rule pertaining to health, industrial hygiene, environmental conditions or hazardous substances, including without limitation the Washington Model Toxics Control Act, RCW ch. 70.105B et seq. and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.

"Event(s) of Default" has the meaning given in Section 13 herein.

"Force Majeure" has the meaning given in Section 16.18 herein.

"Governmental Authorities" means any board, bureau, commission, department or body of any local, municipal, county, state or federal governmental or quasi-governmental unit, or any subdivision thereof, or any utility provider serving the Property or the Public Trail Area, having, asserting, or acquiring jurisdiction over or providing utility service to the Improvements, the Property, the Public Trail Area and/or the management, operation, use, environmental cleanup or improvement thereof.

"Hard Surface" has the meaning given in Section 5.6.2 herein.

"Hazardous Substances" means any hazardous waste or other substances listed, defined, designated or classified as hazardous, dangerous, radioactive, toxic, solid waste or a pollutant or contaminant in any Environmental Law, including (a) petroleum products and petroleum byproducts; (b) polychlorinated biphenyls; and (c) chlorinated solvents.

"Improvements" means the Public Trail and the Additional Improvements to be constructed on the Property and the Public Trail Area pursuant to this Agreement.

"Improvements Schedule" means the schedule for construction of the Improvements, which schedule shall provide for Commencement of Construction of the Improvements to occur by the Construction Start Date and construction of the Improvements to be substantially complete by the Outside Completion Date.

"Improvements Standards" means, unless otherwise approved by City in its sole discretion, that the Improvements are designed and constructed to conform to the standards for each set forth on Exhibit D and in MVMC Chapter 15.04 (Building Code), Chapter

15.16 (Grading, Excavation and Fill), Chapter 16.16 (Design Standards for Nonarterial Streets), Chapter 12.04 (Public Works Specifications), the City of Mount Vernon Engineering Standards (2nd Edition dated May 2016), and the Mount Vernon Comprehensive Plan.

"Legal Requirements" means all local, county, state and federal laws, ordinances and regulations and other rules, orders, requirements and determinations of any Governmental Authorities now or hereafter in effect, whether or not presently contemplated, applicable to the Property or the Public Trail Area, the Improvements or their ownership, operation or possession, including (without limitation) all those relating to parking restrictions, building codes, zoning or other land use matters, The Americans With Disabilities Act of 1990, as amended (as interpreted and applied by the public agencies with jurisdiction over the Property or the Public Trail Area), life safety requirements and environmental laws with respect to the handling, treatment, storage, disposal, discharge, use and transportation of Hazardous Substances.

"Lot 2" means the approximately 10,000 square foot parcel designated as Lot 2 on the Boundary Line Adjustment creating the legal lots comprising the Property, which Developer intends to convey to a commercial developer for separate development.

"Mortgagee" means the holder of a first mortgage or deed of trust ("Mortgage") encumbering Developer's interest in any portion of the Property, the proceeds of which are used to finance or refinance the construction of Improvements.

"Outside Completion Date" means the date that is the one (1) year anniversary of the Effective Date (subject to extension for Force Majeure).

"Plans" means, collectively, the Site Plan, Design Documents and the Construction Documents, as more particularly set forth on Exhibit D attached hereto.

"Project" has the meaning given in Recital B.

"Public Trail Access and Maintenance Easement" means that certain Public Trail Access and Maintenance Easement granted by Developer to City and recorded contemporaneously herewith.

"Public Trail Area" has the meaning given in Recital C.

"Site Plan" means the site plan depicting the location and layout of various elements of the Improvements, including parking, accessways and major site features, as more particularly set forth on Exhibit D attached hereto.

"substantial completion" or "substantially complete" means that all of the Improvements required to be developed by this Agreement are complete according to

approved Plans, except for punchlist items that do not substantially prevent the use of the Improvements for their intended purposes.

"Temporary Construction and Maintenance Easement" means that certain Temporary Construction and Maintenance Easement granted by City to Developer recorded contemporaneously herewith.

Section 2. Intent and Relations.

2.1 Generally; Public Benefits. Pursuant to this Agreement, Developer will, as consideration for the City's conveyance of the Property and at no cost to City, provide the Public Benefits to the City and the public. As used herein, the "Public Benefits" shall mean the provision, without charge to City or the other users permitted below, of the following: (i) construction of the Improvements in accordance with the Plans in compliance with all Legal Requirements, (ii) maintenance of the Improvements in accordance with the terms and conditions of this Agreement (including Section 5.6 below), and (iii) conveyance of fee simple title to the Public Trail Area by quit claim deed to City. City has entered into this Agreement relying on Developer's agreement that it will construct and maintain the Improvements in accordance with this Agreement.

2.2 Standards. Developer shall perform the terms of this Agreement according to the following standards:

2.2.1 All construction of the Improvements by Developer shall comply with, and be performed in accordance with, the Design Regulations, the Plans, this Agreement and all Legal Requirements.

2.2.2 Commencing with the Effective Date, Developer agrees to promptly begin and thereafter with diligence and commercially reasonable efforts, construction and completion the Improvements pursuant to the Plans, in accordance with the Improvements Schedule and with the requirements of City's process for permitting the Improvements and in a good and workmanlike manner and of good quality.

2.2.3 Developer shall cause a copy of this Agreement to be delivered to its architects and general contractor(s).

Section 3. Reserved.

Section 4. General Terms of Conveyance. Conveyance and ownership of the Property shall remain subject to the provisions of this Agreement during the term hereof. This Agreement shall be recorded prior to the recording of any Mortgage on the Property and all subsequent owners and lessees of all or any portion of the Property shall take subject to this Agreement during its term.

Section 5. Development.

5.1 Generally. Developer shall construct and complete Improvements on the Property in a manner that is consistent in all material respects with the Plans, such that the Improvements are built in accordance with the Improvements Standards. Developer shall Commence Construction of the Improvements by the applicable Construction Start Date and shall substantially complete the Improvements by the Outside Completion Date. Developer will not start construction prior to satisfaction of the conditions set forth in Section 5.2 below. Notwithstanding anything to the contrary contained in this Agreement, Developer is required to construct the Improvements pursuant to this Agreement whether or not Developer develops the Project. Developer agrees that once any construction work has begun, Developer will thereafter with diligence and commercially reasonable efforts proceed with such construction until the Improvements has been completed (subject to extensions for Force Majeure).

5.2 Conditions Precedent to Commencement of Construction. The following conditions shall have been satisfied before commencing construction on the Property or the Public Trail Area:

5.2.1 Compliance with Agreement. Developer is in material compliance with this Agreement, including, without limitation, all contracting requirements and receipt of all necessary permits for construction of the Improvements.

5.2.3 Conveyance. Developer has acquired the Property.

5.2.4 Permits. Developer has obtained all permits and other regulatory approvals for the construction of the Improvements from City and any other applicable Governmental Authorities.

5.3 Construction Obligations and Development Fees.

5.3.1 In General.

(a) Permitting of the Improvements will be Developer's responsibility. Developer shall timely submit all permit applications to the applicable Governmental Authorities to meet the Construction Schedule.

(b) Developer is responsible for all excavation and disposal of soils and other materials it removes from the Property and the Public Trail Area in accordance with all Legal Requirements.

5.3.2 Improvements Work.

(a) The "Public Trail Improvements Work" is the work described on Exhibit E attached hereto under the heading "Public Trail Improvements Work." Developer shall construct the Public Trail Improvements Work as part of its

construction of the Improvements and in accordance with the Design Regulations, Improvements Standards and Plans approved by City.

(b) The "Additional Improvements" are the landscaping and other improvements described on Exhibit E attached hereto under the heading "Additional Improvements". Developer shall install the Additional Improvements within the Additional Improvements Area as part of its construction of the Improvements. City shall have review and approval rights of the Additional Improvements prior to installation by Developer.

(c) Developer shall start construction of the Public Trail Improvements Work and installation of the Additional Improvements (collectively, the "Improvements Work") not later than the Construction Start Date and shall complete the Improvements Work not later than the Outside Completion Date.

5.3.3 Development and Other Fees. Developer is responsible for payment of all development, utility, hookup, capacity, permit, plan check, SEPA and other fees, charges and surcharges required by City in its regulatory capacity for the construction of the Improvements. At the times required by City in its regulatory capacity, Developer shall pay all fees and development charges required in connection with the issuance of the Improvements permits.

5.4 Approval Required to Change Plans. City and Developer acknowledge and agree that they have previously reviewed and approved the Plans for the Improvements. City approval shall be required for any modification, replacement, alteration or addition to any previously approved component of the Plans. This review and approval is in addition to, and separate from, the normal City regulatory review and permitting process. City Approvals under this Section 5.4 shall not be considered approvals required under City's regulatory and permitting process.

5.5 Governmental Approvals. Developer shall apply, at its sole cost, to the appropriate Governmental Authorities or third parties for, and shall diligently pursue and obtain, all permits, licenses, permissions, consents or approvals required in connection with the construction of the Improvements. Without limiting the foregoing, Developer has previously obtained the fill and grade permit for construction and installation of site infrastructure for the development of the Improvements.

5.6 Maintenance and Repair.

5.6.1 Additional Improvements Maintenance; Additional Improvements Security. Developer, at Developer's sole cost and expense, shall be responsible for maintenance of the Additional Improvements in the Additional Improvements Area (the "Additional Improvements Maintenance"), which is further described on Exhibit F attached hereto and includes, without limitation, replacing any landscaping that is part of the Improvements that has died or is diseased and repairing or correcting any damage to

the Improvements, and irrigation of the Additional Improvements. On or prior to substantial completion of the Additional Improvements, Developer shall provide a maintenance bond, or a deposit in lieu of a bond (the "Additional Improvements Security"), in form, substance and amount approved by City. The Additional Improvements Security shall guarantee faithful performance of the installation of the Additional Improvements and performance of the Additional Improvements Maintenance by Developer and payment of all laborers, mechanics, subcontractors, and materialmen and other suppliers, and expire on the date that is two (2) years from the date of substantial completion of the Additional Improvements. If the Additional Improvements are completed in phases (one for each of the three items of Additional Improvements described on Exhibit F), then Developer shall similarly provide the Additional Improvements Security in phases for each of the three items as completed. Developer For purposes of clarity, upon expiration of the Additional Improvements Security, Developer (or its successor), at Developer's sole cost and expense, will be permanently responsible for the Additional Improvements Maintenance pursuant to the terms and conditions set forth in the Covenant to Maintain and Access Easement, which runs with the land and is binding on future owners and tenants of the Property. Developer (or its successor) shall be responsible for repairing or correcting any damage to the Improvements resulting from Developer's performance of the Additional Improvements Maintenance.

5.6.2 Construction and Temporary Maintenance of the Hard Surface of the Public Trail Area; Maintenance Security. Developer, at Developer's sole cost and expense, shall construct and install the hard surface of the Public Trail and decorative fencing on the Public Trail Area (the "Hard Surface") as set forth in this Agreement. In addition, Developer, at Developer's sole cost and expense, shall be responsible for maintenance and repair of the Hard Surface, including repairing cracks and holes, cleaning, sweeping and trash pick-up, for a period of one (1) year (the "Temporary Hard Surface Maintenance Period") after substantial completion of the Improvements (the "Temporary Hard Surface Maintenance"). Access to the Hard Surface for Developer to construct the Hard Surface and perform the Temporary Hard Surface Maintenance shall be pursuant to the Temporary Construction and Maintenance Easement. Without limiting the foregoing, on or prior to substantial completion of the Improvements, Developer shall provide a maintenance bond, or a deposit in lieu of a bond (the "Maintenance Security"), in form, substance and amount approved by City. The Maintenance Security shall guarantee faithful performance of the Temporary Hard Surface Maintenance by Developer and payment of all laborers, mechanics, subcontractors, and materialmen and other suppliers, and expire on the date that is one (1) year from the date of substantial completion of the Improvements. Developer shall be responsible for repairing or correcting any damage to the Improvements resulting from Developer's performance of the Temporary Hard Surface Maintenance.

5.6.3 Permanent Maintenance of the Hard Surface of the Public Trail Area. Following expiration of the Maintenance Security and the Temporary Hard Surface Maintenance Period, City, at City's expense, shall be responsible for maintaining the Hard

Surface (the "Permanent Hard Surface Maintenance"). Access to the portions of the Property reasonably necessary for City to perform the Permanent Hard Surface Maintenance shall be pursuant to the Public Trail Access and Maintenance Easement.

Section 6. Disclaimers; Indemnity.

6.1 AS IS. City makes no warranties or representations as to the suitability of the soil conditions or any other conditions of the Property or the Public Trail Area for any Improvements to be constructed by Developer. Developer agrees, represents and warrants that it has not relied on representations or warranties, if any, made by City as to the physical or environmental condition of the Property or the Public Trail Area for any Improvements to be constructed by the Developer.

6.2 Approvals and Permits. Approval by City of any item pursuant to this Agreement shall not constitute a representation or warranty by City that such item complies with Legal Requirements and City assumes no liability with respect thereto. Developer acknowledges that City has not made any representation or warranty with respect to Developer's ability to obtain any permit or approval, or to meet any other requirements for development of the Property or the Public Trail Area. Nothing in this Agreement is intended or shall be construed to require that City exercise its discretionary authority under its regulatory ordinances approve the required permits for the Improvements or grant regulatory approvals. City is under no obligation or duty to supervise the design or construction of the Improvements pursuant to this Agreement. City's approval of the Plans under this Agreement shall not constitute any representation or warranty, express or implied, as to the adequacy of the design or any obligation on City to insure that work or materials are in compliance with the Plans or any building requirements imposed by any governmental entity (including City in its regulatory capacity). City is under no obligation or duty, and disclaims any responsibility, to pay for the cost of construction of the Improvements, the cost of which shall at all times remain the sole liability of Developer.

6.3 Indemnity. Developer shall indemnify, defend and hold City, its employees, officers and council members harmless from and against all claims, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) arising out of Developer's development of the Improvements, maintenance of the Improvements or the construction of the Improvements, including any act or omission of Developer or its members, agents, employees, representatives, contractors, subcontractors, successors or assigns on or with respect to the Property or the Public Trail Area. City shall not be entitled to such indemnification to the extent that such claim, liability, loss, damage, cost or expense is caused by the gross negligence or willful misconduct of City or as a result of City's act or omission in connection with the maintenance and repair of the Improvements following the Temporary Hard Surface Maintenance Period. If a court of competent jurisdiction determines that this Agreement is subject to RCW 4.24.115, the scope of the foregoing indemnity shall be

limited with regard to damages for bodily injury to persons or damage to property resulting from the concurrent negligence of City or its agents or employees and of Developer or its agents or employees, as to which Developer agrees to indemnify City under this Section 6.3 to the extent of the negligence of Developer, its agents and employees. Developer further agrees that the foregoing indemnities specifically include, without limitation, claims brought by Developer's employees against City. THE FOREGOING INDEMNITIES ARE EXPRESSLY INTENDED TO CONSTITUTE A WAIVER OF DEVELOPER'S IMMUNITY UNDER WASHINGTON'S INDUSTRIAL INSURANCE ACT, RCW TITLE 51, TO THE EXTENT NECESSARY TO PROVIDE CITY WITH A FULL AND COMPLETE INDEMNITY FROM CLAIMS MADE BY DEVELOPER'S EMPLOYEES. DEVELOPER AND CITY ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF THIS SECTION 6.3 WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM. This indemnification shall survive expiration of this Agreement.

Promptly following receipt of notice, an indemnitee hereunder shall give Developer written notice of any claim for which Developer has indemnified it hereunder, and Developer shall thereafter vigorously defend such claim, at its sole cost, on behalf of such indemnitee. Failure to give prompt notice to Developer shall not constitute a bar to the indemnification hereunder unless such delay has prejudiced Developer in the defense of such claim. If Developer is required to defend any action or proceeding pursuant to this section to which action or proceeding an indemnitee is made a party, such indemnitee shall be entitled to appear, defend or otherwise take part in the matter involved, at its election, by counsel of its own choosing. To the extent an indemnitee is indemnified under this section, Developer shall bear the cost of the indemnitee's defense, including reasonable attorneys' fees and costs. No settlement of any non-monetary claim shall be made without City's written approval, not to be unreasonably withheld.

Section 7. Certificate of Performance.

7.1 When Developer Entitled to Certificate of Performance. Upon substantial completion of the Improvements in accordance with this Agreement, performance of the Temporary Hard Surface Maintenance obligations in Section 5.6.2, and satisfaction of the other conditions of this Section 7, City will furnish Developer with a recordable Certificate of Performance, substantially in the form attached hereto as Exhibit G hereto. Notwithstanding the foregoing, City shall not be required to issue the Certificate of Performance if Developer is not then in material compliance with the terms of this Agreement.

7.2 Effect of Certificate of Performance; Termination of Agreement. Issuance by City of a Certificate of Performance shall terminate this Agreement and each of its provisions except for the provisions described in Section 14 below that expressly survive termination of this Agreement. No party acquiring or leasing any portion of the Property after issuance of the Certificate of Performance shall (because of such purchase or lease)

have any obligation whatsoever under this Agreement; provided however, that this shall not apply to any separately recorded covenants, easements or other agreements provided for in this Agreement or the Disposition Agreement.

Section 8. Construction Performance and Payment Security. Developer shall, before commencing construction of the Improvements, provide or require its general contractor(s) to provide a performance and payment bond, or a deposit in lieu of a bond (the "Contractor Performance Security"), which security shall be in form, substance and amount approved by City. The Contractor Performance Security shall guarantee faithful performance of the completion of the Improvements and payment of all laborers, mechanics, subcontractors, and materialmen and other suppliers.

Section 9. Liens. NOTICE IS HEREBY GIVEN THAT CITY WILL NOT BE LIABLE FOR ANY LABOR, SERVICES, MATERIALS OR EQUIPMENT FURNISHED OR TO BE FURNISHED TO DEVELOPER OR ANYONE HOLDING AN INTEREST IN THE PROPERTY (OR ANY PART THEREOF) OR THE PUBLIC TRAIL AREA THROUGH OR UNDER DEVELOPER. Moreover, Developer will not suffer or permit to be enforced against the Public Trail Area or any real property owned by City any mechanics, materialmen's or contractors liens or any judgment or claim for damage arising from Developer's construction, use, maintenance or repair of the Improvements, its exercise of its rights hereunder or performance of its obligations under this Agreement (collectively, "Liens"). If any such Lien is claimed, Developer shall cause the same to be removed from title to the Public Trail Area or any real property owned by City, as applicable, within thirty (30) days after receiving notice of such Lien and in all events before any action is brought to enforce the same against the Public Trail Area or any real property owned by City, as applicable.

Section 10. Insurance. The requirements of this Section 10 shall apply until the Certificate of Performance is recorded unless otherwise noted in this Section.

10.1 Insurance Requirements. Developer shall maintain and keep in force insurance covering the Improvements, as provided below, and maintain such additional insurance as required by City.

10.1.1 Builders Risk. Upon Commencement of Construction, Builders Risk insurance covering interests of City, Developer, its contractor, subcontractors, and sub-subcontractors in the Improvements work. Builders Risk insurance shall be on a all-risk policy form (and may be in a separate policy or included in the property insurance policy) and shall insure against the perils of fire and extended coverage and physical loss or damage including flood (if the Improvements are located in a special flood hazard area and flood insurance is available), earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. This Builders Risk insurance covering the work will have a deductible of not more than $50,000 for each occurrence. Higher deductibles for flood (if applicable) and earthquake perils may be accepted by City upon written request by the Developer and written acceptance by City. Builders Risk insurance

shall be written in the amount of the completed value of the Improvements with no coinsurance provisions. The Builders Risk insurance shall be maintained until City issues the Certificate of Performance.

10.1.2 Commercial General Liability. Commercial General Liability insurance shall be written with limits no less than $2,000,000 for each occurrence and a $5,000,000 general aggregate limit. The Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 (or equivalent form) and shall cover liability arising from premises, operations, stop gap liability, independent contractors, personal injury and advertising injury, and liability assumed under an insured contract. Developer's Commercial General Liability insurance shall be endorsed to name City as an additional insured using ISO Additional Insured endorsement CG 20 26 07 04 – Additional Insured Designated Person or Organization or a substitute endorsement providing equivalent coverage.

10.2 Insurance Policies. Insurance policies required herein:

10.2.1 Shall be issued by companies authorized to do business in the State of Washington with the following qualifications:

10.2.2 The companies shall have an A.M. Best rating of at least A X and be licensed in the State of Washington.

10.2.3 Developer's insurance coverage shall be primary insurance as respects City. Any insurance, self-insurance, or insurance pool coverage maintained by City shall be excess of the Developer's and contractor's insurance and shall not contribute with it.

10.2.4 Each such policy or certificate of insurance mentioned and required in this Section 10 shall have attached thereto (1) an endorsement that such policy shall not be canceled without at least thirty (30) days prior written notice to Developer and City; (2) an endorsement to the effect that the insurance as to any one insured shall not be invalidated by any act or neglect of any other insured; (3) an endorsement pursuant to which the insurance carrier waives all rights of subrogation against the parties hereto; and (4) an endorsement pursuant to which this insurance is primary and noncontributory.

10.2.5 The certificates of insurance and insurance policies shall be furnished to Developer and City before Commencement of Construction under this Agreement. The certificate(s) shall clearly indicate the insurance and the type, amount and classification, as required under this Section 10.

10.2.6 Cancellation of any insurance or non-payment by Developer of any premium for any insurance policies required by this Agreement shall constitute an immediate Event of Default under Section 13 of this Agreement, without cure or grace period. In addition to any other legal remedies, City at its sole option after written notice

may obtain such insurance and pay such premiums for which, together with costs and attorneys' fees, Developer shall be liable to City.

10.3 Adjustments. The types of policies, risks insured, coverage amounts, deductibles and endorsements may be adjusted from time to time as Developer and City may mutually determine.

Section 11. Destruction or Condemnation.

11.1 Total or Partial Destruction. If the Improvements are totally or partially destroyed at any time during the term of this Agreement, Developer shall reconstruct or repair the damage consistent with the Plans and Improvements Standards. In any event, Developer shall at its cost secure the Property and the Public Trail Area, clear the debris and generally make the Property and the Public Trail Area as safe and attractive as practical given the circumstances.

If for any reason the Improvements are not reconstructed as provided above, without limiting any other rights or remedies that City has, no further development of the Property and the Public Trail Area can occur without the prior approval of City. This Agreement shall continue to restrict future development of the Property and Developer or any successor of Developer shall obtain City's approval of the development plan (and all other required regulatory approvals) before the Property and the Public Trail Area is developed.

11.2 Condemnation. If during the term of this Agreement the whole or any substantial part of the Property is taken or condemned in the exercise of eminent domain powers (or by conveyance in lieu thereof), such that Developer can no longer materially meet its obligations under this Agreement, this Agreement shall terminate upon the date when possession of the Property or portion thereof so taken shall be acquired by the condemning authority. As used herein, "substantial" shall be defined as reasonably preventing the operation of the Improvements and conduct of Developer's activities as contemplated hereby. If a taking occurs that is not substantial, this Agreement shall continue in full force and effect as to the part of the Property not taken.

Section 12. Right to Assign or Otherwise Transfer. Developer represents that Developer's acquisition of the Property is intended for development and not for speculation. Until substantial completion of the Improvements has been achieved and the Maintenance Security and the Additional Improvements Security has been provided to City as required by this Agreement, any transfers of the Property pursuant to the following sections shall be made expressly subject to the terms, covenants and conditions of this Agreement.

12.1 During the term of this Agreement, Developer will not transfer the Property or any part thereof (except Lot 2) without providing financial security to City for the obligations of Developer under this Agreement, including without limitation construction

of the Improvements in accordance with this Agreement (the "Developer Performance Security"). The Developer Performance Security shall take the form of (i) a standby irrevocable letter of credit for a term of one year issued by a federally-insured bank having an investment grade or higher rating from a recognized commercial rating service, which letter of credit shall be payable upon presentment from the City of a demand for payment accompanied by a statement from the City that a default hereunder has occurred, or (ii) such other form of security (including a bond) as is mutually agreeable to the parties. The amount of the letter of credit or other form of security shall be the estimated cost of the Improvements as agreed by the parties pursuant to the Disposition Agreement. All costs of the letter of credit or other form of security shall be the responsibility of Developer. If an Event of Default occurs hereunder, City may draw on the letter of credit or such other form of security. In addition, if a default by Developer occurs hereunder that has not yet ripened into an Event of Default, and the letter of credit is expiring within thirty (30) days after such default, City may also draw upon the letter of credit.

"Transfer" as used herein includes any sale, conveyance, transfer, ground lease (excepting only the proposed ground lease between Developer and 7-Eleven Inc. or its affiliate on Lot 4 of the BLA, or assignment, whether voluntary or involuntary, of any interest in the Property and includes transfer to a trustee in bankruptcy, receiver or assignee for the benefit of creditors, any merger, consolidation, liquidation or dissociation of Developer. In addition, "Transfer" includes any sale or any transfer of direct or indirect interests in Developer or any of its constituent entities, other than transfers of minority interest that do not individually or in the aggregate result in the change of control or management of Developer, the Property or the Improvements or transfers of equity interests. For the avoidance of doubt, "Transfer" does not include encumbrance of the Property by any easements, nor does it include the grant of mortgages, deeds of trust, or similar instruments by Developer and recorded against the Property.

12.2 As part of the closing of any Transfer, Developer shall deliver to City (a) a copy of the document evidencing the implementation of such transfer, including a suitable estoppel agreement(s), and (b) a written assumption of all obligations of Developer under this Agreement executed by the transferee in form reasonably satisfactory to City.

12.3 The transferee (and all succeeding and successor transferees) shall succeed to and assume all rights and obligations of Developer under this Agreement, including any unperformed obligations of Developer as of the date of such transfer. No transfer by Developer, or any successor, shall release Developer, or such successor, from any such unperformed obligations without the express written consent and release by City.

Section 13. Default By Developer. Developer's failure to keep, observe, or perform any of its duties or obligations under this Agreement shall be a default hereunder, including, without limitation, any of the following specific events:

(a) The failure of Developer to substantially comply with the standards of performance for the Improvements as set forth in Section 2 of this Agreement,

including without limitation submission of Plans and permit applications for approval as required herein.

(b) The failure of Developer to construct the Improvements substantially in accordance with this Agreement.

(c) The failure of Developer to comply with Section 10 of this Agreement.

(d) The making by Developer of an assignment for the benefit of creditors or filing a petition in bankruptcy or of reorganization under any bankruptcy or insolvency law or filing a petition to effect a composition or extension of time to pay its debts.

(e) The appointment of a receiver or trustee of all or any of the property of Developer, which appointment is not vacated or stayed within sixty (60) days, or the filing of a petition in bankruptcy against Developer or for its reorganization under any bankruptcy or insolvency law that not dismissed or stayed by the court within sixty (60) days after such filing.

(f) Intentionally deleted.

(g) The failure of Developer to provide and maintain any security required under this Agreement, including but not limited to, the Contractor Performance Security, the Additional Improvements Security, the Maintenance Security or, if applicable, the Developer Performance Security (collectively, the "Security").

(h) Any default in the performance of any other obligations of Developer hereunder.

(i) The failure of Developer to Commence Construction of the Improvements by the Construction Start Date or the failure to have the Improvements substantially complete by the Outside Completion Date.

The happening of any of the above described events shall be an "Event of Default" hereunder. Notwithstanding the foregoing, except in the case of Sections 13(d), (e) and (g) above as to which notice but no cure period shall apply, Developer shall have thirty (30) days following written notice from City to cure such default (or if such default cannot reasonably cured within such 30-day period, if Developer fails to commence such cure within such 30-day period and thereafter diligently pursue such cure to completion within one hundred twenty (120) days after written notice from City).

Section 14. Remedies For Developer Default.

14.1 Default by Developer. If an Event of Default occurs and such Event of Default is not cured within any applicable time period under Section 13 or under Section 14.3, City shall have all cumulative rights and remedies under law or in equity, including but not limited to the following:

14.1.1 Security; Damages. City shall be entitled to draw on the applicable Security required hereunder and construct or maintain the Improvements as applicable. In addition, Developer shall be liable for any and all damages incurred by City, including Liquidated Damages as described in Section 14.1.4 below.

14.1.2 Specific Performance. City shall be entitled to specific performance of Developer's obligations under this Agreement without any requirement to prove or establish that City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

14.1.3 Injunction. City shall be entitled to restrain, by injunction, the actual or threatened commission or attempt of an Event of Default and to obtain a judgment or order specifically prohibiting a violation or breach of this Agreement without, in either case, being required to prove or establish that City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

14.1.4 Liquidated Damages.

(a) If Developer fails to Commence Construction of the Improvements by the applicable Construction Start Date, then Developer shall pay to City liquidated damages in the amount of $2,000 per day until the date that Developer Commences Construction as required under this Agreement. The parties agree that City's damages in the event of such failure are difficult to measure and such liquidated damages are a reasonable estimate of the damages that City will suffer for Developer's failure to Commence Construction as required under this Agreement.

(b) If Developer fails to have the Improvements substantially complete by the Outside Completion Date, then Developer shall pay to City liquidated damages in the amount of $2,000 per day until the date that the Improvements are substantially complete as required under this Agreement. The parties agree that City's damages in the event of such failure are difficult to measure and such liquidated damages are a reasonable estimate of the damages that City will suffer for Developer's failure to have the Improvements substantially complete as required under this Agreement.

14.2 Copy of Notice of Default to Mortgagee. Whenever City delivers any notice or demand to the Developer with respect to any breach or default by the Developer in its obligations or covenants under this Agreement, City shall at the same time forward a

copy of such notice or demand to each Mortgagee approved by City or that provides a written request for such notice to City, in each case at the last address of such holder shown in the records of City.

14.3 Mortgagee's Option To Cure Defaults. After any default in or breach of this Agreement by Developer or its successor in interest, each Mortgagee shall (insofar as the rights of City are concerned) have the right, at its option, to cure or remedy such breach or default within thirty (30) days after the Developer's failure to cure said default or breach prior to the expiration of an applicable cure period, and if permitted by its loan documents, to add the cost thereof to the mortgage debt and the lien of its Mortgage. If the breach or default is with respect to construction of the Improvements, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee, either before or after foreclosure or action in lieu thereof, from undertaking or continuing the construction or completion of the Improvements, provided that the Mortgagee notifies City in writing of its intention to complete the Improvements according to the approved final Construction Documents. Any Mortgagee who properly completes the Improvements and performs Developer's obligations in Section 5.6 shall be entitled, upon written request made to City, to issuance of a Certificate of Performance in accordance with Section 7 above.

14.4 Provisions Surviving Termination. Upon termination of this Agreement, the provisions of Section 6.3 (Indemnity), and Section 16.16 (Attorneys' Fees) shall survive issuance of the Certificate of Performance and any termination of this Agreement. Notwithstanding the foregoing, upon termination of this Agreement, to the extent a matter requiring indemnification has arisen under Section 6.3 (Indemnity), such obligation shall remain with the parties then obligated therefor, and such obligation shall not be assumed or deemed assumed by any subsequent owner of all or any portion of the Property.

Section 15. Representations and Warranties. Each party hereby represents and warrants to the other that (a) it has full right, power and authority to enter into this Agreement and perform in accordance with its terms and provisions; (b) the individuals signing this Agreement on its behalf have the authority to bind and to enter into this transaction; and (c) it has taken all requisite action to legally authorize the execution, delivery, and performance of this Agreement.

Section 16. Miscellaneous.

16.1 Estoppel Certificates. City and Developer shall at any time and from time to time, within fifteen (15) days after written request by the other, execute, acknowledge and deliver, to the party requesting same or to any prospective mortgagee or assignee designated by Developer, a certificate stating that (i) this Agreement is in full force and effect and has not been modified, supplemented or amended in any way, or if there have been modifications, identifying such modifications, and if this Agreement is not in force and effect, the certificate shall so state; and (ii) to its knowledge, all conditions under the Agreement have been satisfied by City or Developer, as the case may be, and that no defenses or offsets exist against the enforcement of this Agreement by the other party, or,

to the extent untrue, the certificate shall so state. The party to whom any such certificate shall be issued may rely on the matters therein set forth and thereafter the party issuing the same shall be estopped from denying the veracity or accuracy of the same.

16.2 Inspection. Until the Certificate of Performance is recorded, City shall have the right at all reasonable times to inspect the Property and the Public Trail Area, including any construction work thereon, to determine compliance with the provisions of this Agreement. Further, City shall have all rights in its regulatory capacity to inspect the Property and construction activity.

16.3 Entire Agreement. This Agreement, the Improvements Documents and any documents attached as exhibits thereto contain the entire agreement between the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them with reference to such subject matter.

16.4 Modification. This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of each party hereto in the same manner as such party has authorized this Agreement.

16.5 Successors and Assigns; Joint and Several. This Agreement shall be binding upon and inure to the benefit of the successors in interest and assigns of each of the parties hereto except that there shall be no transfer of any interest by Developer except pursuant to the express terms of this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor or assign of such party who has acquired its interest in compliance with the terms of this Agreement, or under law. The obligations of Developer and of any other party who succeeds to its interests hereunder or in the Property shall be joint and several.

16.6 Notices. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the parties at the following addresses:

If to City:

City of Mount Vernon
910 Cleveland Avenue
Mount Vernon, WA 98273
Attention: Kevin Rogerson
Phone: (360) 336-6203
Email: kevinr@mountvernonwa.gov

With a copy to:

K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
Attention: Shannon J. Skinner
Phone: (206) 623-7580
Email: shannon.skinner@klgates.com

If to Developer:

VWA – Mount Vernon, LLC
c/o Visconsi Companies, Ltd.
30050 Chagrin Blvd., Ste. 360
Pepper Pike, OH 44124
Attention: Brad Goldberg
Phone: (216) 464-5550
Email: bgoldberg@visconsi.com

With a copy to:

Pacifica Law Group LLC
1191 Second Avenue, Suite 2000
Seattle, WA 98101
Attention: John De Lanoy
Phone: (206) 602-1205
Email: john.delanoy@pacificalawgroup.com

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, (d) hand delivered, in which case notice shall be deemed delivered when actually delivered, or (e) sent via electronic mail, provided that receipt of same is telephonically confirmed by the recipient or his or her assistant, in which case notice shall be deemed delivered when receipt is telephonically confirmed (provided that such confirmation is before 5:00 p.m. on a Business Day, and, if after such time, then on the next Business Day). Any notice given by counsel to a party shall have the same effect as if given by such party. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

16.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16.8 Waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both parties of the time for

performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

16.9 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

16.10 Governing Law; Jurisdiction. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington. In the event any action is brought to enforce any of the provisions of this Agreement, the parties agree to be subject to the jurisdiction in the Skagit County Superior Court for the State of Washington or in the United States District Court for the Western District of Washington.

16.11 No Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between City and Developer.

16.12 No Third Party Rights. The parties intend that the rights, obligations, and covenants in this Agreement and the collateral instruments shall be exclusively enforceable by City and Developer, their successors and assigns. No term or provision of this Agreement shall be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder, except as may be otherwise expressly provided herein. Nothing in this section is intended to modify the restrictions on assignment Nothing in this section is intended to modify the restrictions on assignment contained in Section 12 hereof.

16.13 Consents. Whenever consent or approval by City is required under the terms of this Agreement, all such consents or approvals, if given, shall be given in writing from the Mayor (or Deputy Mayor) of City.

16.14 Conflict of Interest. No member, official, or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of City shall be personally liable to Developer or any successor in interest upon the occurrence of any default or breach by City or for any amount which may become due to Developer or its successor or on any obligations under the terms of this Agreement.

16.15 Non-Discrimination. In the implementation of this Agreement, including operation of the Improvements, Developer shall not discriminate against any person or entity by reason of race, color, creed, national origin, age, handicap, marital status, sex or religion. In the event of a breach of this nondiscrimination covenant, subject to the cure

provisions of Section 13 hereof, City shall have the right to exercise all of its remedies for default hereunder.

16.16 Attorneys' Fees. If any legal action or other proceeding is brought for the enforcement of this Agreement (including, without limitation, enforcement of any obligation to indemnify, defend or hold harmless), or because of an alleged dispute or default in connection with any of the provisions of this Agreement, the substantially prevailing party shall be entitled to recover the reasonable attorneys' fees (including those in any bankruptcy or insolvency proceeding), accountants' and other experts' fees and all other fees, expenses and costs incurred in connection with that action or proceeding, in addition to any other relief to which it may be entitled.

16.17 Captions; Exhibits. The headings and captions of this Agreement and the Table of Contents preceding the body of this Agreement are for convenience of reference only and shall be disregarded in constructing or interpreting any part of the Agreement. All exhibits and appendices annexed hereto at the time of execution of this Agreement or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.

16.18 Force Majeure. Whenever a period of time for performance of an action to be performed by either party is prescribed in this Agreement, the period of time for performance shall be extended by the number of days that the performance is actually delayed due to war, acts of terrorism, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation (including suits filed by third parties concerning or arising out of this Agreement), weather or soils conditions which necessitate delays, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, acts of the other party, acts or failure to act or delay in acting of any public or governmental entity, including to issue permits or approvals for the Improvements (provided that all submissions by Developer are timely, substantially complete and in accordance with applicable submittal requirements) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform; provided that the lack of funds or financing of Developer is not independently a cause beyond the control or without the fault of Developer ("Force Majeure"). If Developer wishes to claim an extension for a Force Majeure event occurring on or after the Effective Date, Developer shall notify City in writing within fourteen (14) days of such Force Majeure event, which notice shall describe: (i) the cause and nature of such Force Majeure event; and (ii) Developer's proposed extensions for times of performance under this Agreement (if any) due to Force Majeure delay.

16.19 Fair Construction; Severability. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the context may require. The parties hereby acknowledge and agree that each was properly

represented by counsel and this Agreement was negotiated and drafted at arms' length so that the judicial rule of construction to the effect that any ambiguities are to be construed against the drafting party shall be inapplicable in the interpretation of this Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Agreement. If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Agreement or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, unless rights and obligations of the parties have been materially altered or abridged by such invalidation or unenforceability.

16.20 Time of the Essence. In all matters under this Agreement, the parties agree that time is of the essence.

16.21 Computation of Time. In the computation of any period of time hereunder, the day of the act or event from which the period of time runs shall be excluded and the last day of such period shall be included. If any deadline hereunder falls on a day that is not a Business Day, then the deadline will be deemed extended to the next following Business Day.

16.22 Covenants Running with the Land. This Agreement and the parties' rights and obligations under this Agreement touch and concern the land and (i) are irrevocable during the term of this Agreement, (ii) shall be appurtenant to, binding on shall run and pass with each and every portion of the Visconsi Property and the Public Trail Area, and (iii) are enforceable by the parties hereto, their successors and assigns.

[Signatures on the following page]

IN WITNESS WHEREOF, the parties hereto have executed this document as of the day and year first above written.

CITY:

CITY OF MOUNT VERNON, a Washington municipal corporation

By: _____
Name: Jill Boudreau
Title: Mayor

State of Washington

County of Skagit

This record was acknowledged before me on October 2, 2019 by Jill Boudreau as Mayor of the City of Mount Vernon, a Washington municipal corporation.

SHAWNA J. GOSSETT
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
04-25-2020

(Stamp)

_____
(Signature of notary public)

Notary
(Title of office)

My Commission Expires: 04/25/2020
(Date)

[*Signatures continue on following page*]

VISCONSI:

VWA – MOUNT VERNON, LLC, an
Ohio limited liability company

By: Dominic A. Visconsi Jr.
Name: Dominic A. Visconsi, Jr.
Its: Manager

State of Ohio
County of Cuyahoga

This record was acknowledged before me on October 1, 2019 by Dominic A Visconsi Jr as Manager of VWA – Mount Vernon, LLC, an Ohio limited liability company.

Theresa M. Bales
(Signature of notary public)

Notary
(Title of office)

My Commission Expires: 9/21/2020
(Date)

NOTARIAL SEAL
STATE OF OHIO

THERESA M. BALES
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Geauga County
My Comm. Exp. 9/21/2020

(Stamp)

[Developer's Signature Page to Public Benefits Agreement]

EXHIBIT A

Legal Description of Former City Property

Vacant Lot Property

THAT PORTION OF LOTS 8, 9, 10 AND 11, BLOCK 3, AND THAT PORTION OF SOUTH 6TH STREET LYING BETWEEN SAID BLOCK 3 AND BLOCK 2 OF KINCAID'S ADDITION TO MOUNT VERNON, AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 84, RECORDS OF SKAGIT COUNTY, WASHINGTON, LYING WESTERLY OF A LINE DRAWN PARALLEL WITH AND 85 FEET DISTANT SOUTHWESTERLY MEASURED AT RIGHT ANGLES, FROM THE KINCAID STREET RAMP CENTERLINE OF PRIMARY HIGHWAY NO. 1, CONWAY JCT., PRIMARY STATE HIGHWAY NO. 1, NORTH OF BURLINGTON, THE SPECIFIC DETAILS CONCERNING ALL OF WHICH ARE TO BE FOUND WITHIN THAT CERTAIN MAP OF DEFINITE LOCATION NOW OF RECORD AND ON FILE IN THE OFFICE OF THE DIRECTOR OF HIGHWAYS AT OLYMPIA, AND BEARING DATE OF APPROVAL JANUARY 27, 1953, REVISED NOVEMBER 3, 1954.

EXCEPT THAT PORTION, THEREOF, IF ANY, NOT LYING WITHIN THE PROPERTY CONVEYED TO THE CITY OF MOUNT VERNON BY IN DEED RECORDED UNDER AUDITOR'S FILE NO. 842193.

TOGETHER WITH

THAT PORTION OF THE SOUTH 129 FEET OF THE NORTH 159 FEET OF THE EAST 30 FEET OF THE WEST 280 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M. LYING WITHIN THE PROPERTY CONVEYED TO THE CITY OF MOUNT VERNON BY DEED RECORDED AS SKAGIT COUNTY AUDITOR'S FILE NO. 842193.

WSDOT Parcel

LOTS 1 TO 4 INCLUSIVE, BLOCK 1, KINCAID'S ADDITION TO MT. VERNON, SKAGIT CO., WASH., AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 84, RECORDS OF SKAGIT COUNTY.

EXCEPTING THEREFROM THAT PORTION LYING NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT OF INTERSECTION OF THE SOUTH LINE OF SAID LOT 4 WITH THE WESTERLY RIGHT OF WAY LINE OF SR 5, AS

SHOWN ON SR 5, MOUNT VERNON: BLACKBURN ST. TO SKAGIT RIVER, AS IT EXISTED ON JULY 7, 2018; THENCE NORTHWESTERLY ALONG SAID WESTERLY RIGHT OF WAY LINE TO A POINT ON THE WEST LINE OF SAID LOT 1, BEING A POINT OPPOSITE HIGHWAY ENGINEER'S STATION K 2+80, ON THE K LINE SURVEY OF SAID HIGHWAY, AND 70 FEET SOUTHERLY THEREFROM AND THE TERMINUS OF THIS LINE DESCRIPTION.

Right of Way Parcel

KINCAID ADDITION ALLEY RIGHT-OF-WAY VACATION

THE PLATTED ALLEY BETWEEN BLOCKS 1 AND 2, KINCAID'S ADDITION TO MOUNT VERNON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 84, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SIXTH STREET RIGHT-OF-WAY VACATION

SIXTH STREET ABUTTING LOTS 1 AND 16 WITHIN BLOCK 1 OF PICKEN'S ADDITION TO THE TOWN OF MOUNT VERNON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 105, RECORDS OF SKAGIT COUNTY, WASHINGTON.

EXHIBIT B

Legal Description of Visconsi Property

LOTS 1 THROUGH 4, 6 AND 7 OF MOUNT VERNON BOUNDARY LINE ADJUSTMENT NO. ENGR19-0308, RECORDED UNDER NO. 201910040054 IN THE OFFICIAL RECORDS OF SKAGIT COUNTY, WASHINGTON.

TOGETHER WITH VACATED ROADS AND ALLEYS ABUTTING, AS THE SAME HAVE BEEN VACATED.

FORMERLY DESCRIBED AS:

PARCEL "A":
THAT PORTION OF THE WEST ½ OF THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., SKAGIT COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF KINCAID STREET, ACCORDING TO THE RECORDED PLAT OF THE TOWN OF MOUNT VERNON, WASHINGTON, AND A LINE DRAWN PARALLEL WITH AND DISTANT 54.0 FEET EASTERLY OF, AS MEASURED AT RIGHT ANGLES TO BURLINGTON NORTHERN RAILROAD COMPANY'S (FORMERLY GREAT NORTHERN RAILWAY COMPANY'S) MAIN TRACK CENTERLINE, AS ORIGINALLY LOCATED AND CONSTRUCTED; THENCE SOUTHERLY PARALLEL WITH SAID MAIN TRACK CENTERLINE A DISTANCE OF 429.0 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 215.0 FEET; THENCE NORTHERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 300.0 FEET; THENCE WESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 30.0 FEET; THENCE NORTHERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 129.0 FEET TO THE POINT OF INTERSECTION WITH SAID SOUTH RIGHT-OF-WAY LINE OF KINCAID STREET; THENCE WESTERLY ALONG SAID SOUTH RIGHT-OF-WAY LINE OF KINCAID STREET A DISTANCE OF 185.0 FEET TO THE POINT OF BEGINNING. EXCEPT THOSE PORTIONS THEREOF, IF ANY, LYING EAST OF THE EAST LINES OF THOSE PROPERTIES CONVEYED TO THE SEATTLE AND MONTANA RAILWAY COMPANY BY DEEDS RECORDED IN VOLUME 15 OF DEEDS, PAGE 411, AND IN VOLUME 18 OF DEEDS, PAGE 537.

EXCEPT THOSE TWO NORTHERLY AND NORTHEASTERLY PORTIONS THEREOF CONVEYED TO THE STATE OF WASHINGTON AND THE CITY OF MOUNT VERNON BY AUDITOR'S FILE NOS. 9803170090 AND 200005080050, RESPECTIVELY.

PORTION OF PARCEL "B":
THE EASTERLY 29.0 FEET OF BURLINGTON NORTHERN RAILROAD COMPANY'S (FORMERLY GREAT NORTHERN RAILWAY COMPANY) RIGHT-OF-WAY IN THE WEST ½ OF WEST ½ OF SOUTHWEST ¼ OF SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., AT MT. VERNON, SKAGIT COUNTY, WASHINGTON, LYING BETWEEN TWO LINES DRAWN PARALLEL WITH AND DISTANT, RESPECTIVELY, 25.0 FEET AND 54.0 FEET EASTERLY, AS MEASURED AT RIGHT ANGLES FROM SAID RAILROAD COMPANY'S MAIN TRACK CENTERLINE, AS NOW LOCATED AND CONSTRUCTED, SAID 54.0 FOOT PARALLEL LINE ALSO BEING ON THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN QUITCLAIM DEED FROM BURLINGTON NORTHERN RAILROAD COMPANY TO ALFCO, INC. DATED JULY 27, 1992 AND RECORDED AS DOCUMENT NO. 9209030031 IN AND FOR SKAGIT COUNTY, WASHINGTON, BEING ON THE WESTERLY BOUNDARIES OF TWO PARCELS OF LAND DESCRIBED IN WARRANTY DEED FROM THE GREAT NORTHERN RAILWAY COMPANY TO LIBBY, MCNEILL & LIBBY, A MAINE CORPORATION DATED MAY 8, 1955, BEING ON THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN WARRANTY DEED FROM THE GREAT NORTHERN RAILWAY COMPANY TO S.A. MOFFETT AND WIFE DATED NOVEMBER 14, 1944 AND BEING ON THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN QUITCLAIM DEED FROM BURLINGTON NORTHERN RAILROAD COMPANY TO GLACIER PARK COMPANY DATED OCTOBER 17, 1988, BOUNDED ON THE SOUTH BY THE NORTH LINE OF SECTION STREET AND BOUNDED ON THE NORTH BY THE EASTERLY EXTENSION OF THE SOUTH LINE OF BROADWAY STREET, ACCORDING TO THE RECORDED PLAT OF MT. VERNON, WASHINGTON.

EXCEPTING THEREFROM ANY PORTION THEREOF LYING SOUTHERLY OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF LOT 1, BLOCK 1, "PICKEN'S ADDITION TO THE TOWN OF MT. VERNON", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 105, RECORDS OF SKAGIT COUNTY, WASHINGTON.

PARCEL "C":
THOSE PORTIONS OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF SAID SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 20, DISTANT 620.11 FEET SOUTH OF THE NORTHWEST CORNER THEREOF; THENCE EASTERLY PERPENDICULAR TO SAID WEST LINE 65 FEET, MORE OR LESS, TO A POINT PERPENDICULARLY DISTANT 54 FEET EASTERLY FROM THE CENTERLINE OF THE MAIN TRACK

OF THE RAILWAY OF THE GREAT NORTHERN RAILWAY COMPANY, AS NOW LOCATED AND CONSTRUCTED, TO THE PLACE OF BEGINNING; THENCE NORTHERLY PARALLEL WITH SAID CENTER LINE OF MAIN TRACK AND DISTANT 54 FEET EAST THEREFROM 158 FEET; THENCE EASTERLY PERPENDICULAR TO SAID WEST LINE 215 FEET, MORE OR LESS, TO A POINT PERPENDICULARLY DISTANT 280 FEET EASTERLY FROM SAID WEST LINE, THENCE SOUTHERLY PARALLEL WITH SAID WEST LINE 158 FEET; THENCE WESTERLY PERPENDICULAR TO SAID WEST LINE 215 FEET, MORE OR LESS, TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION THEREOF LYING SOUTHERLY OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF LOT 1, BLOCK 1, "PICKEN'S ADDITION TO THE TOWN OF MT. VERNON", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 105, RECORDS OF SKAGIT COUNTY, WASHINGTON.

PARCEL "F":
LOT 16, BLOCK 2, "PICKEN'S ADDITION TO THE TOWN OF MT. VERNON", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 105, RECORDS OF SKAGIT COUNTY, WASHINGTON, EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON FOR PRIMARY STATE HIGHWAY NO. 1 BY DEEDS RECORDED APRIL 17, 1953, JULY 17, 1972 AND SEPTEMBER 1, 1972 UNDER AUDITOR'S FILE NOS. 487248, 771195 AND 775979.

PARCEL "G":
LOTS 1, 2, 3, 4, 5 AND 6, ALL IN BLOCK 2, "KINCAID'S ADDITION TO MT. VERNON, SKAGIT CO., WASH.", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 84, RECORDS OF SKAGIT COUNTY, WASHINGTON.

PARCEL "H":
LOT 1, BLOCK 1, "PICKEN'S ADDITION TO THE TOWN OF MT. VERNON", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 105, RECORDS OF SKAGIT COUNTY, WASHINGTON, TOGETHER WITH THE WEST 5 FEET OF VACATED SOUTH SIXTH STREET THAT HAS REVERTED THERETO BY OPERATION OF LAW.

PARCEL "I":
THE EASTERLY 29.0 FEET OF THE BURLINGTON NORTHERN RAILROAD COMPANY'S (FORMERLY GREAT NORTHERN RAILWAY COMPANY) RIGHT-OF-WAY IN THE WEST ½ OF THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., LYING BETWEEN TWO LINES DRAWN PARALLEL WITH AND DISTANT, RESPECTIVELY, 25.0 FEET AND 54.0 FEET EASTERLY, AS MEASURED AT RIGHT ANGLES FROM SAID RAILROAD COMPANY'S MAIN TRACK CENTERLINE, AS NOW LOCATED AND

CONSTRUCTED, SAID 54.0 FOOT PARALLEL LINE ALSO BEING ON THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN QUIT CLAIM DEED FROM BURLINGTON NORTHERN RAILROAD COMPANY TO GLACIER PARK COMPANY DATED OCTOBER 17, 1988, BOUNDED ON THE SOUTH BY EASTERLY EXTENSION OF THE SOUTH LINE OF BROADWAY STREET AND BOUNDED ON THE NORTH BY A LINE DRAWN PARALLEL WITH AND 45 FEET SOUTHERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE K LINE SURVEY LINE OF SR 5, MOUNT VERNON; BLACKBURN ROAD TO SKAGIT RIVER. THE SPECIFIC DETAILS OF SAID K LINE ARE SHOWN ON THAT CERTAIN MAP OF DEFINITE LOCATION NOW OF RECORD AND ON FILE IN THE OFFICE OF THE SECRETARY OF TRANSPORTATION AT OLYMPIA, AND BEARING THE DATE OF APPROVAL, FEBRUARY 25, 1971, REVISED NOVEMBER 22, 1996.

EXCEPT THAT NORTHERLY PORTION THEREOF CONVEYED TO THE CITY OF MOUNT VERNON BY DEED RECORDED MAY 8, 2000 AS AUDITOR'S FILE NO. 200005080050.

ALSO EXCEPT THE WEST 5.6 FEET THEREOF AS CONVEYED TO THE BN LEASING CORPORATION BY DEEDS RECORDED APRIL 25, 2003 AND JUNE 27, 2003 AS AUDITOR'S FILE NOS. 200304250120 AND 200306270020, RESPECTIVELY.

BNSF GAP PROPERTY:
THAT PORTION OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF SAID SOUTHWEST ¼ OF THE SOUTHWEST ¼ THAT IS 462.11 FEET SOUTH OF THE NORTHWEST CORNER THEREOF; THENCE EASTERLY PERPENDICULAR TO SAID WEST LINE, A DISTANCE OF 65 FEET, MORE OR LESS, TO A POINT PERPENDICULAR AND 54 FEET EASTERLY, FROM THE CENTER LINE OF THE MAIN TRACK OF THE RAILWAY OF THE GREAT NORTHERN RAILWAY COMPANY, AS LOCATED ON MAY 8, 1955 TO THE TRUE POINT OF BEGINNING, WHICH POINT IS ALSO THE NORTHWEST CORNER OF THE SECOND PARCEL OF LAND DESCRIBED ON THAT CERTAIN DEED IN FAVOR OF LIBBY, MCNEILL & LIBBY CORPORATION BY DEED RECORDED OCTOBER 31, 1955 AS SKAGIT COUNTY AUDITOR'S FILE NUMBER 526435; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LIBBY, MCNEILL & LIBBY PARCEL 215 FEET, MORE OR LESS, TO THE NORTHEAST CORNER THEREOF, SAID POINT BEING ON A LINE 280 FEET PERPENDICULAR TO THE WEST LINE OF SAID SUBDIVISION; THENCE NORTH, A DISTANCE OF 3.11 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE GLACIER PARK COMPANY AS PARCEL 1 ON THAT CERTAIN DEED RECORDED JULY 2,

1989 AS AUDITOR'S FILE NO. 8906020025; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID GLACIER PARK PARCEL 215 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER THEREOF; THENCE SOUTH 3.11 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH VACATED ROADS AND ALLEYS ABUTTING, AS THE SAME HAVE BEEN VACATED.

ALL SITUATE IN THE CITY OF MOUNT VERNON, SKAGIT COUNTY WASHINGTON.

EXHIBIT C-1

Legal Description of Public Trail Area

LOT 5 OF MOUNT VERNON BOUNDARY LINE ADJUSTMENT NO. ENGR19-0308, RECORDED UNDER NO. 201910040054 IN THE OFFICIAL RECORDS OF SKAGIT COUNTY, WASHINGTON.

CONTAINING 5,467 SQUARE FEET, MORE OR LESS.

FORMERLY DESCRIBED AS:

THE WEST 10.00 FEET OF THE FOLLOWING DESCRIBED PARCEL "I":

THE EASTERLY 29.0 FEET OF THE BURLINGTON NORTHERN RAILROAD COMPANY'S (FORMERLY GREAT NORTHERN RAILWAY COMPANY) RIGHT-OF-WAY IN THE WEST ½ OF THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., LYING BETWEEN TWO LINES DRAWN PARALLEL WITH AND DISTANT, RESPECTIVELY, 25.0 FEET AND 54.0 FEET EASTERLY, AS MEASURED AT RIGHT ANGLES FROM SAID RAILROAD COMPANY'S MAIN TRACK CENTERLINE, AS NOW LOCATED AND CONSTRUCTED, SAID 54.0 FOOT PARALLEL LINE ALSO BEING ON THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN QUIT CLAIM DEED FROM BURLINGTON NORTHERN RAILROAD COMPANY TO GLACIER PARK COMPANY DATED OCTOBER 17, 1988, BOUNDED ON THE SOUTH BY EASTERLY EXTENSION OF THE SOUTH LINE OF BROADWAY STREET AND BOUNDED ON THE NORTH BY A LINE DRAWN PARALLEL WITH AND 45 FEET SOUTHERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE K LINE SURVEY LINE OF SR 5, MOUNT VERNON; BLACKBURN ROAD TO SKAGIT RIVER. THE SPECIFIC DETAILS OF SAID K LINE ARE SHOWN ON THAT CERTAIN MAP OF DEFINITE LOCATION NOW OF RECORD AND ON FILE IN THE OFFICE OF THE SECRETARY OF TRANSPORTATION AT OLYMPIA, AND BEARING THE DATE OF APPROVAL, FEBRUARY 25, 1971, REVISED NOVEMBER 22, 1996.

EXCEPT THAT NORTHERLY PORTION THEREOF CONVEYED TO THE CITY OF MOUNT VERNON BY DEED RECORDED MAY 8, 2000 AS AUDITOR'S FILE NO. 200005080050.

ALSO EXCEPT THE WEST 5.6 FEET THEREOF AS CONVEYED TO THE BN LEASING CORPORATION BY DEEDS RECORDED APRIL 25, 2003 AND JUNE 27, 2003 AS AUDITOR'S FILE NOS. 200304250120 AND 200306270020, RESPECTIVELY.

TOGETHER WITH THE WEST 15.60 FEET OF THE FOLLOWING DESCRIBED PARCEL "B", EXCEPTING ANY PORTION THEREOF LYING SOUTHERLY OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF LOT 1, BLOCK 1, "PICKEN'S ADDITION TO THE TOWN OF MT. VERNON", AS PER PLAT RECORDED IN VOLUME 2 OF PLATS, PAGE 105, RECORDS OF SKAGIT COUNTY, WASHINGTON:

PARCEL "B"
THE EASTERLY 29.0 FEET OF BURLINGTON NORTHERN RAILROAD COMPANY'S (FORMERLY GREAT NORTHERN RAILWAY COMPANY) RIGHT-OF-WAY IN THE WEST ½ OF WEST ½ OF SOUTHWEST ¼ OF SOUTHWEST ¼ OF SECTION 20, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., AT MT. VERNON, SKAGIT COUNTY, WASHINGTON, LYING BETWEEN TWO LINES DRAWN PARALLEL WITH AND DISTANT, RESPECTIVELY, 25.0 FEET AND 54.0 FEET EASTERLY, AS MEASURED AT RIGHT ANGLES FROM SAID RAILROAD COMPANY'S MAIN TRACK CENTERLINE, AS NOW LOCATED AND CONSTRUCTED, SAID 54.0 FOOT PARALLEL LINE ALSO BEING ON THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN QUITCLAIM DEED FROM BURLINGTON NORTHERN RAILROAD COMPANY TO ALFCO, INC. DATED JULY 27, 1992 AND RECORDED AS DOCUMENT NO. 9209030031 IN AND FOR SKAGIT COUNTY, WASHINGTON, BEING ON THE WESTERLY BOUNDARIES OF TWO PARCELS OF LAND DESCRIBED IN WARRANTY DEED FROM THE GREAT NORTHERN RAILWAY COMPANY TO LIBBY, MCNEILL & LIBBY, A MAINE CORPORATION DATED MAY 8, 1955, BEING ON THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN WARRANTY DEED FROM THE GREAT NORTHERN RAILWAY COMPANY TO S.A. MOFFETT AND WIFE DATED NOVEMBER 14, 1944 AND BEING ON THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN QUITCLAIM DEED FROM BURLINGTON NORTHERN RAILROAD COMPANY TO GLACIER PARK COMPANY DATED OCTOBER 17, 1988, BOUNDED ON THE SOUTH BY THE NORTH LINE OF SECTION STREET AND BOUNDED ON THE NORTH BY THE EASTERLY EXTENSION OF THE SOUTH LINE OF BROADWAY STREET, ACCORDING TO THE RECORDED PLAT OF MT. VERNON, WASHINGTON.

ALL SITUATE IN THE CITY OF MOUNT VERNON, SKAGIT COUNTY WASHINGTON.

EXHIBIT C-2

Description and Depiction of Additional Improvements Area

See depictions of Additional Improvement Areas on Exhibit E.

EXHIBIT D

Site Plan, Design Documents and Construction Documents

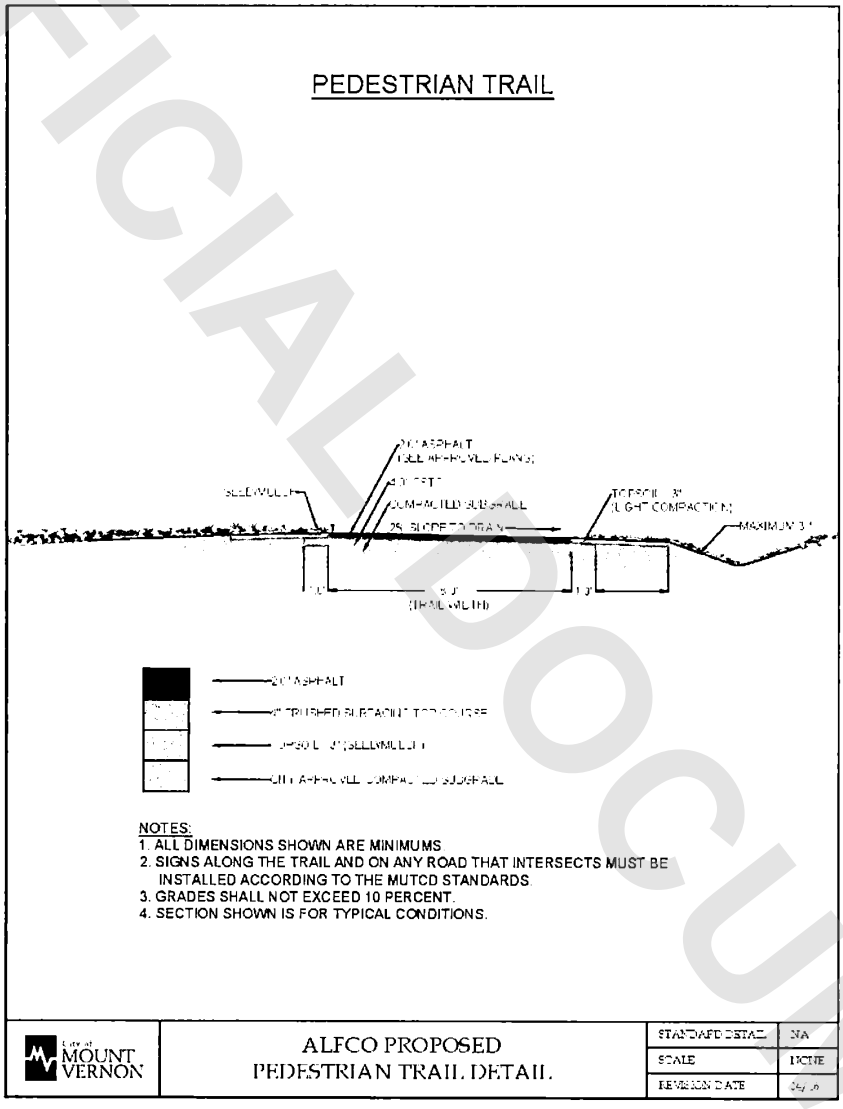
For the Site Plan, see depiction of Lot 5 on sheet 5 of Mount Vernon Boundary Line Adjustment No. ENGR19-0308, recorded under No. 201910040054 in the Official Records of Skagit County, Washington.

Design and Construction Specifications are described on Exhibit E.

EXHIBIT E

Description of Improvements Work

1. A public trail spanning from the south side of Kincaid Street approximately 464 linear feet to the southern extent of Developer's Property. This trail will include an 8-foot wide asphalt walkway and will be located within a 10-foot wide minimum tract. The public trail will be constructed to the specifications shown on the following detail:

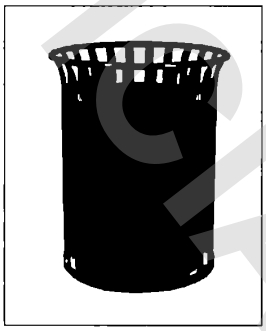


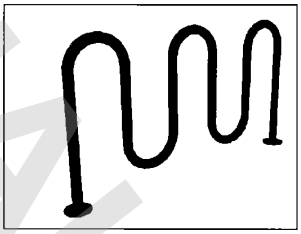
2. A decorative steel, power coated, fencing shall be installed one (1) foot east of the west boundary of the Public Trail Area to span the 464 linear feet of the trail meeting the following specifications:
   i. Pickets and rails will be pre-galvanized steel that will be connected with high-quality aluminum rivets.
   ii. The fence and its components shall be black and powder coated.
   iii. The fence panels, number of rails, picket size and spacing are all details that will need to be approved by the City before the fence is installed.
   iv. For illustrative purposes, following is a picture of the type of fence that shall be installed.

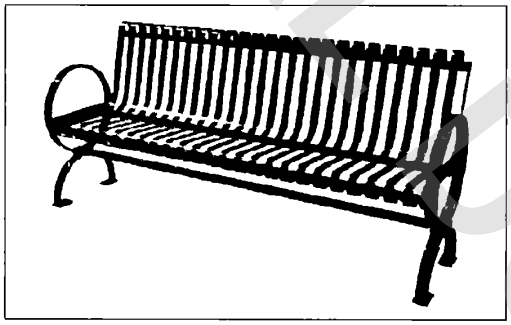
Description of Additional Improvements

1. Additional Improvements No. 1: A 366 square foot public plaza located on Lot 4 of the BLA constructed with decorative pavers (or stamped concrete). Developer shall install, or cause to be installed, the following amenities within the plaza: a bike rack, bench, and trash receptacle. All amenities shall be steel with black powder coated finish. Developer shall obtain City approval prior to installing these amenities.

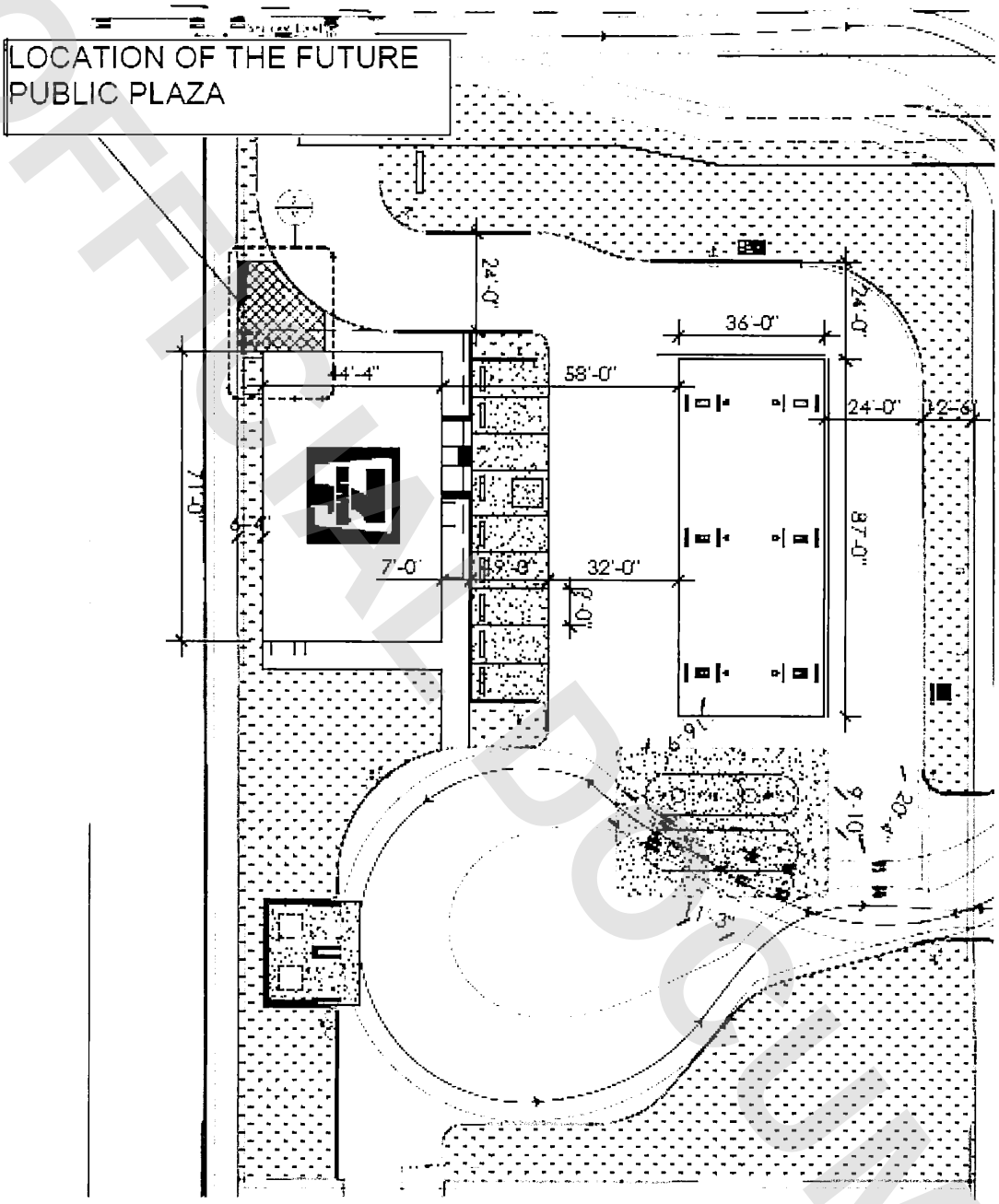
   For illustrative purposes, following are pictures of the types of amenities required to be installed. The approximate geographic location of the public plaza and its required amenities is shown on the following page.



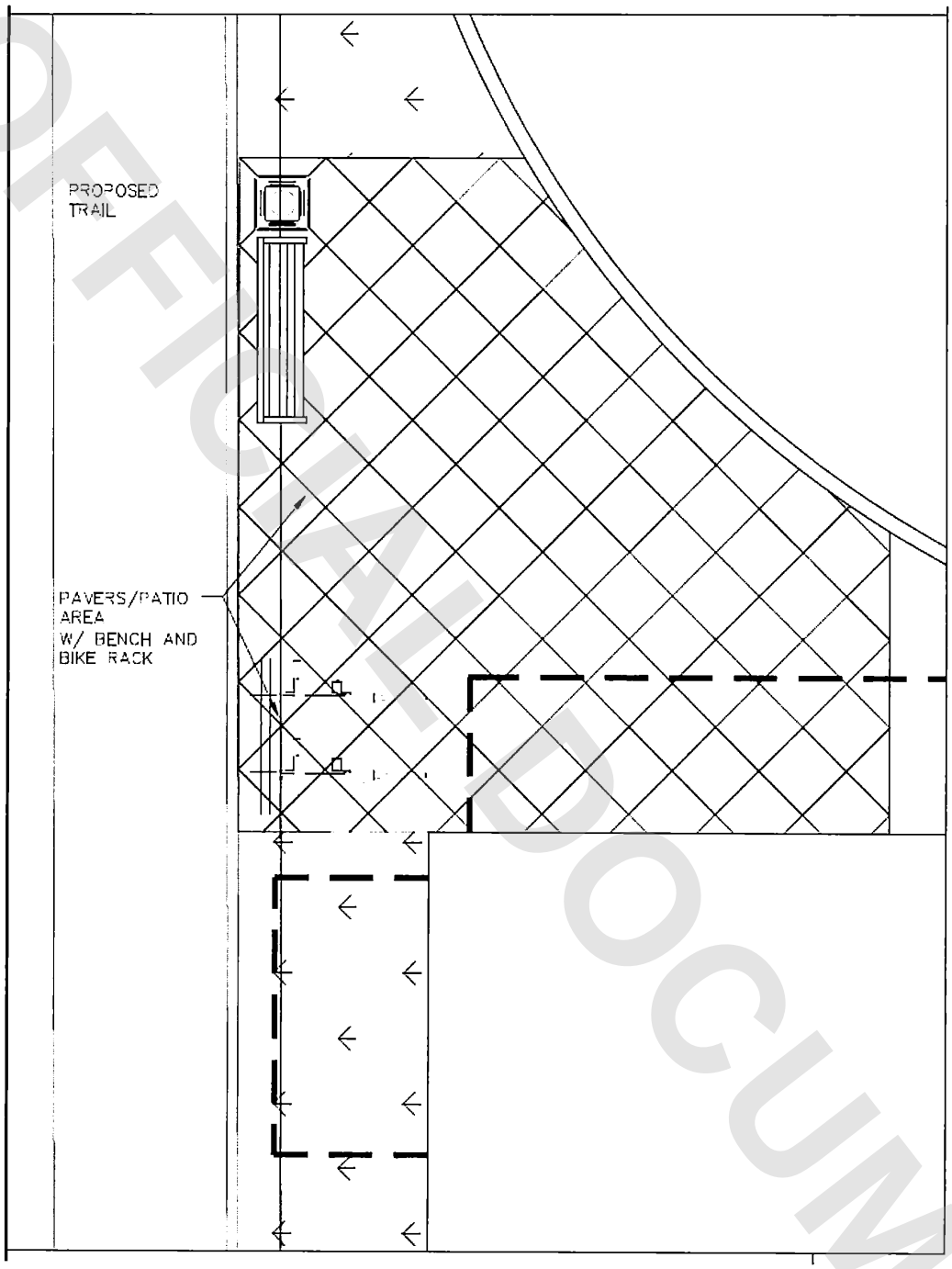




Depiction of Additional Improvements No. 1

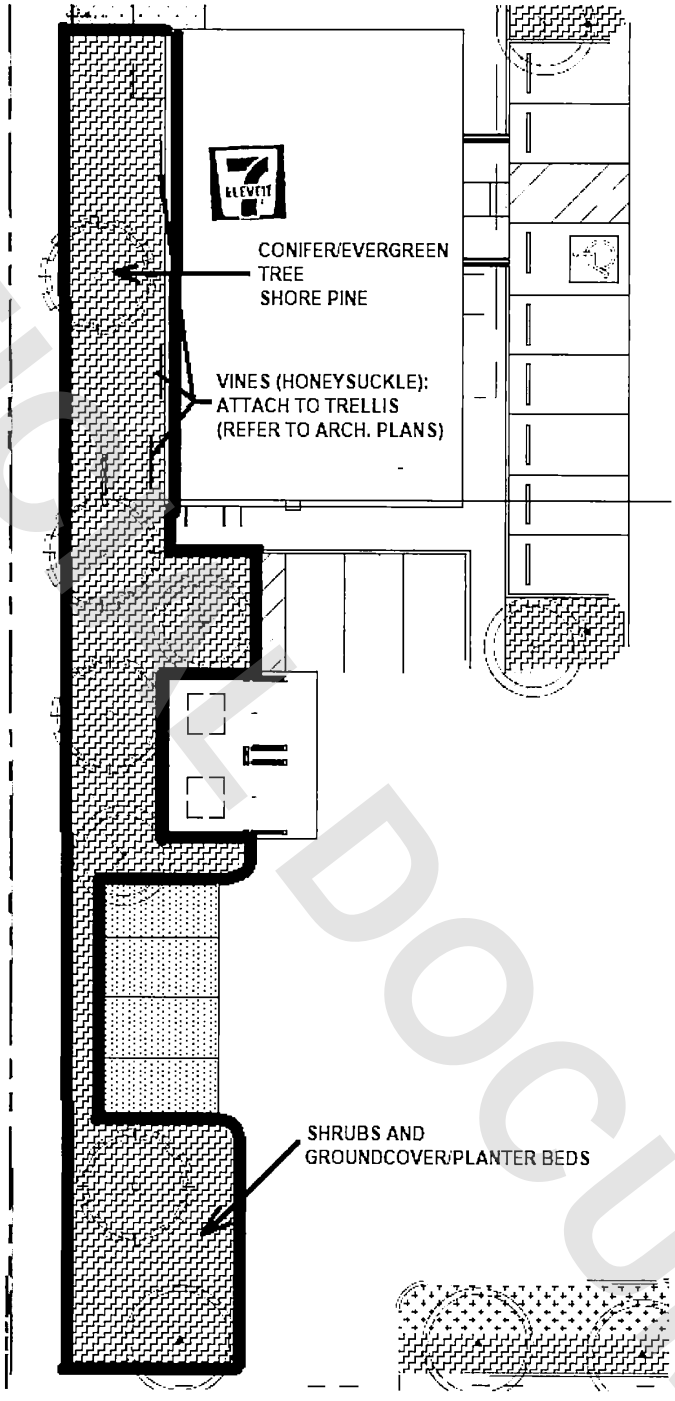


Depiction of Additional Improvements No. 1 (cont.)



2. Additional Improvements No. 2: Developer shall install, or cause to be installed, 3,320 square feet of landscaping improvements abutting the Public Trail Area on westernmost side of Lot 4, as shown on the following map. No less than eight trees (conifers and evergreen) shall be installed within this area. In addition, shrubs and groundcover plants shall also be installed to cover no less than 70% of the 3,320 square foot area two years after the shrubs and groundcover plants are installed. Note: the shape of the 3,320 square foot landscaping area can be modified with the approval of City so long as the overall square footage does not decrease. Minimum tree size for deciduous trees is 2-inch caliper. All evergreen trees shall be a minimum of 7 feet in height. All shrubs shall be a minimum of 2 gallon or equivalents. Developer shall obtain City approval prior to installing these trees, shrubs and groundcover.

Depiction of Additional Improvements No. 2



3. Additional Improvements No. 3: Developer shall install, or cause to be installed, 2,000 square feet of landscaping improvements abutting the Public Trail Area on westernmost side of Lot 6, as shown on the following map. No less than eight trees (conifers and evergreen) shall be installed within this area. In addition, shrubs and groundcover plants shall also be installed to cover no less than 70% of the 2,000 square foot area two years after the shrubs and groundcover plants are installed. Note: the shape of the 2,000 square foot landscaping area can be modified with the approval of City so long as the overall square footage does not decrease. Minimum tree size for deciduous trees is 2-inch caliper. All evergreen trees shall be a minimum of 7 feet in height. All shrubs shall be a minimum of 2 gallon or equivalents. Developer shall obtain City approval prior to installing these trees, shrubs and groundcover.

Depiction of Additional Improvements No. 3

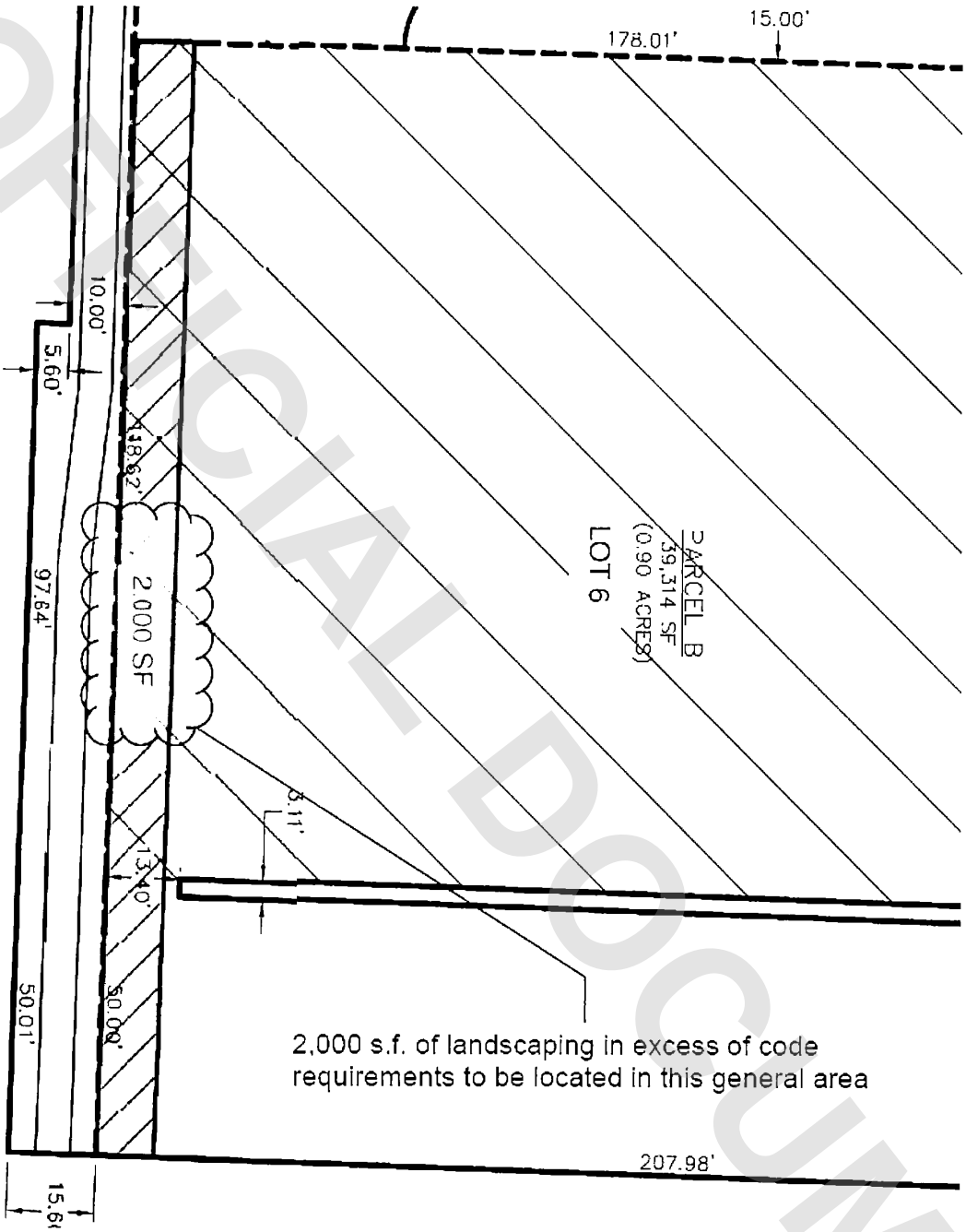


EXHIBIT F

Description of Additional Improvements Maintenance Requirements

A. LANDSCAPE MAINTENANCE REQUIREMENTS

Developer will be responsible for furnishing all labor, equipment and materials necessary to complete the maintenance of landscape areas used to offset the benefits derived from the City. Maintenance of the landscape areas includes, but in no way is limited to, the below listed activities that need to be completed in the listed intervals to ensure the trees, shrubs and groundcover are healthy and growing, and that broken, dead, dying vegetation is removed and replaced.

1. Mowing and edging lawn areas (weekly and monthly)
2. Seasonal mulching (quarterly)
3. Trimming trees, shrubs and groundcover (quarterly)
4. Weed Control (weekly and monthly depending on the time of year)
5. Removing broken, dead/dying trees, shrubs and groundcover (quarterly)
6. Replanting new trees, shrubs, and groundcover when removed (quarterly / semi-annually at the end of growing seasons)
7. Keeping the landscape areas reasonably free of weeds and trash (weekly)

B. PUBLIC PLAZA MAINTENANCE REQUIREMENTS

Developer will be responsible for furnishing all labor, equipment and materials necessary to complete the maintenance of the public plaza used to offset the benefits derived from the City. Maintenance of the public plaza areas includes, but in no way is limited to, the below listed activities that need to be completed in the listed intervals to ensure these amenities remain attractive and can safely be used by the public.

1. Checking the plaza surface and repair of any lips, holes, or trip hazards (quarterly)
2. Maintaining the plaza and plaza amenities (i.e. bench, trash can and bike rack) areas clean, sanitary and free of graffiti (weekly checks)

EXHIBIT G

Form of Certificate of Performance

After recording return to
_____
_____
_____

CERTIFICATE OF PERFORMANCE

GRANTOR: CITY OF MOUNT VERNON

GRANTEE: VWA – MOUNT VERNON, LLC

Abbreviated Legal Description

(Full legal description on Ex. A):

Assessor's Tax Parcel No(s):

Related Document: Development Agreement (Doc. No. _____)

The CITY OF MOUNT VERNON, a Washington municipal corporation ("City"), hereby certifies that VWA – MOUNT VERNON, LLC, an Ohio limited liability company ("Developer"), has satisfactorily completed the Improvements and performed the Temporary Hard Surface Maintenance on the Property described on Exhibit A attached hereto (the "Property"), described in the Public Benefits Agreement dated _____, 2019 (the "Agreement"), which was recorded in the Records of Skagit County Auditor, Washington, as Document No. _____, on _____, 2019.

This Certificate of Performance is and shall be a conclusive determination that the Developer has satisfied, or City has waived, each of the agreements, covenants and conditions contained in the Agreement as to the development of the Improvements pursuant to Section 5 of the Agreement.

Notwithstanding this Certificate of Performance, Section 14.4 of the Agreement provides for the survival of certain covenants as between City and Developer, and nothing in this Certificate of Performance affects such survival.

The Agreement is hereby terminated to the extent it is an encumbrance on the Property and is released from title to the Property.

IN WITNESS WHEREOF, City has caused this Certificate be executed as of _____, _____.

CITY OF MOUNT VERNON, a
Washington municipal corporation

By: _____
Name: _____
Title: _____

State of Washington

County of _____

This record was acknowledged before me on _____ by _____ as _____ of the City of Mount Vernon, a Washington municipal corporation.

_____
(Signature of notary public)

_____
(Title of office)

My Commission Expires: _____
(Date)

(Stamp)

Exhibit A

Legal Description

To be attached.