

When Recorded, Return to:

City of Bellingham
Amy Kraham
Office of the City Attorney
210 Lottie Street
Bellingham, WA 98225

**DEVELOPMENT AGREEMENT BETWEEN
PORT OF BELLINGHAM AND CITY OF BELLINGHAM**

Grantor:	Port of Bellingham
Grantee:	City of Bellingham
Legal Description (Abbreviated):	See Exhibit 2.
Assessor's Tax Parcel ID#	Additional Tax Parcel ID# in Exhibit 2 attached hereto.

THIS DEVELOPMENT AGREEMENT, as amended or extended, (the "Agreement**")** between the Port of Bellingham ("**Port**"), a municipal corporation, and the City of Bellingham ("**City**"), a municipal corporation, is entered and effective as of the last date of signature below.

I. RECITALS

WHEREAS, the Port and the City have been working cooperatively since 2005 to plan for the redevelopment of the Waterfront District ("the **Waterfront District**") into a mixed-use urban waterfront with commercial, industrial, residential, public and recreational use; and

WHEREAS, the Port and the City recognize that the redevelopment is a long-term effort, requiring a phased implementation; and

WHEREAS, the Waterfront District, generally encompasses the waterfront properties from the southern end of the former Cornwall Avenue landfill to the I & J Waterway, including the former Georgia Pacific Corporation industrial properties, illustrated on **Exhibit 1** attached; and

WHEREAS, the Port currently owns or manages certain real properties within the Waterfront District, including fee simple properties, vacated rights-of-way which abut Port property, and State-Owned Aquatic Land managed by the Port under harbor area leases and/or a Port Management Agreement with the Washington State Department of Natural Resources; and

WHEREAS, these properties, individually referred to herein as a "**Port Property**" or collectively referred to herein as "**Port Properties**" are more particularly described and depicted in **Exhibit 2** attached and incorporated herein by reference. The term Port Property or Port Properties also includes all property assigned by the Port to any successor in interest; and

WHEREAS, the Waterfront District is a Brownfield site which was historically zoned and used for industrial purposes, including marine industrial uses, the former Georgia Pacific paper mill, two municipal landfills, the Port's Bellingham Shipping Terminal, a wood treatment facility, two federal channels, and currently includes six environmental cleanup sites requiring remedial action pursuant to the Model Toxics Control Act ("**MTCA**"), as determined by the Washington State Department of Ecology; and

WHEREAS, on January 4, 2005, the City and the Port executed the Interlocal Agreement Regarding The "New Whatcom Special Development Area" (as amended, the "**New Whatcom Interlocal**") that provided for the study of the environmental impacts of the redevelopment of the Waterfront District through the preparation of an Environmental Impact Statement, the preparation of a Subarea/Master Plan, and the preparation of a Development Agreement by the City and the Port; and

WHEREAS, the City and the Port collectively seek to enter into this Agreement to facilitate redevelopment of the Waterfront District, to provide predictability and certainty as to the development regulations (defined below), development phasing, State Environmental Policy Act (SEPA) process, and impact fee credits related to the development, structure, use, subdivision and/or activity proposed for a portion of the Port Property (a "**Project**"); and

WHEREAS, the Washington State Legislature has authorized the execution of development agreements between a local jurisdiction and an entity having ownership or control of real property within its jurisdiction to govern and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, the City and the Port jointly completed an Environmental Impact Statement for the Waterfront District Redevelopment Project, including a Draft Environmental Impact Statement, Supplemental Draft Environmental Impact Statement, 2010 Addendum to the Supplemental Draft Environmental Impact Statement, the Final Environmental Impact Statement, and the 2012 Addendum to the Final Environmental Impact Statement (collectively the "**EIS**") which evaluated a range of development alternatives, including a 2010 Updated Preferred Alternative for redevelopment of the Waterfront District; and

WHEREAS, SEPA compliance for this Agreement has been achieved through the publication of the Waterfront District Redevelopment Project FEIS, which contemplated the adoption of a Development Agreement between the City and the Port; and

WHEREAS, the City Planning Commission conducted a public hearing and recommended approval of the Waterfront District Sub-Area Plan (the "**Sub-Area Plan**", which has also at times been referred to as a master plan, master development plan or comprehensive scheme of harbor improvements) and Development Regulations referenced in this Agreement on June 6, 2013; and

WHEREAS, the Port Commission conducted a public hearing on August 20, 2013 and adopted the Sub-Area Plan by Port Resolution Number [REDACTED] as part of the Port's Comprehensive Scheme of Harbor Improvements and the City Council conducted a public hearing on August 5, 2013 and adopted the Sub-Area Plan by Ordinance Number [REDACTED] as part of the City's Comprehensive Plan; and

WHEREAS, the City has adopted development regulations to implement the Sub-Area Plan for the Waterfront District in effect as of the effective date of this Agreement by Ordinance Number **X**, which are codified at BMC 20.37.400 (the "**Development Regulations**") and BMC 20.25.080 (the "**Design Standards**"); and

WHEREAS, the City adopted an update to its Shoreline Master Program by Ordinance Number 2013-02-005 (**City Shoreline Master Program**) codified at **BMC Title 22**, which contains regulations for development of property within the jurisdiction of the Shoreline Management Act; and

WHEREAS, the City adopted a Planned Action Ordinance No. **XXXX** (the "**PAO**"), codified at **BMC XXX.X**, which provides for the designation of certain types of developments and land uses as Planned Actions and establishes SEPA review procedures and SEPA mitigating measures based on the EIS to be applied to these projects; and

WHEREAS, the City and Port have entered into an Interlocal Agreement for Facilities within the Waterfront District of even date herewith (the "**Facilities Agreement**"), which allocated obligations for phased implementations of facilities in the Waterfront District, including MTCA site cleanup, arterial streets, and parks; and

WHEREAS, this Agreement is a Development Agreement under RCW 36.70B.170 through 36.70B.210 and contains vesting, use and mitigation provisions in keeping with the statute and is a SEPA Lead Agency Agreement pursuant to WAC 197-11; and

WHEREAS, pursuant to RCW 36.70B.200, the City Council conducted a public hearing on August 5, 2013 and a resolution approving the Agreement was adopted on **XXXX**.

NOW THEREFORE, the parties agree as follows:

AGREEMENT

Section 1. Exhibits

Exhibit 1	Waterfront District Boundary	Depicts the entire Waterfront District site.
Exhibit 2	Port Properties	Depicts and describes the Port Properties which is subject to this Agreement.
Exhibit 3	Interim Permitted Use Areas	Depicts a portion of the Waterfront District site where certain industrial uses will be permitted on an interim basis.

Section 2. Vesting. During the term of this Agreement, the Port and any successor in interest of Port Property shall have a vested right to develop Port Properties in accordance with and to the extent permissible under the Development Regulations, Design Standards and the PAO in

existence as of the date of the adoption of this Agreement adopted contemporaneously with this Agreement by the City and the Port. In addition, the Port and any successor in interest shall have a vested right to develop Port Properties in accordance with and to the extent permissible under the City Shoreline Master Program in existence as of the date of the adoption of this Agreement until such time as an update is required by the State of Washington and adopted by the City pursuant to RCW 90.58.080. The right to vest to the Development Regulations and the PAO does not include the right to be vested to other statutes, codes or regulations referenced in the Development Regulations and/or the PAO. Provided, however, that pursuant to RCW 36.70B.170(4), the City hereby reserves authority to impose new or different regulations relating to the Port Properties, to the extent required by a serious threat to public health and safety.

Section 3. Affordable Housing – The Port shall work with developers and non-profit organizations to ensure the development of at least 10% of the total residential units as a condition of the City’s investment in certain parks and arterial streets as defined in the Facilities Agreement.

Section 4. Development Phasing - The anticipated build-out of the Waterfront District is described in the table below.

Development Area	2012 Existing Development	Building Square Footage: New/ Cumulative				
		Phase 1	Phase 2	Phase 3	Phase 4	Phase 5
North of Whatcom Waterway ¹	350,000	50,000/ 400,000	50,000/ 450,000	50,000/ 500,000	200,000/ 700,000	800,000/ 1,500,000
South of Whatcom Waterway ²	220,500	500,000/ 720,500	500,000/ 1,220,500	600,000/ 1,820,500	600,000/ 2,420,500	1,379,500/ 3,800,000
Cumulative Total Sq ft	570,500	1,120,500	1,670,500	2,320,500	3,120,500	5,300,000

¹ Marine Trades Development Area

² Downtown Waterfront, Log Pond, Shipping Terminal and Cornwall Beach Development Areas

Section 5. Mix of Land Uses and Living Wages-

a. To ensure the Waterfront District contains the mix of land uses envisioned in the Waterfront District Sub-area Plan, the ratio between industrial, commercial and residential square footage, (the **Target Land Use Ratios**) shall be consistent with the ratios set forth below:

Area	Land Use Designation	Minimum Percentages			Maximum Percentages		
		Ind	Com	Res	Ind	Com	Res
Marine Trades	Industrial MX	60	0	0	100	40	0
Downtown Waterfront	Commercial and Institutional MX	0	20	35	10	60	60
Log Pond	Industrial MX	60	0	0	100	40	0
Shipping Terminal	Industrial MX	60	0	0	100	40	0
Cornwall Beach	Commercial MX	0	0	0	10	100	60

This requirement does not apply to each individual building or Project, but applies to the Waterfront District as a whole. The mix of uses achieved shall be evaluated periodically. If the Target Land Use Ratios are not achieved by the end of Phase 2, the Port and the City may amend this Agreement and agree to amend the Development Regulations to provide more or less stringent land use restrictions or increased incentives.

b. Living Wages. It shall be the policy and goal of the Port and City to cooperate to create high quality, high skill, and higher-paying jobs in the new Waterfront District, through appropriate permitting, regulation, and selection of private sector partners, lessees, and successors in interest.

Section 6. SEPA Review and Mitigation Measures. Those Projects that are determined to be Planned Actions pursuant to the PAO shall incorporate mitigation measures as designated in the PAO. Projects that are not determined to be a Planned Action shall be subject to SEPA review as follows:

- The City of Bellingham is the nominal lead agency pursuant to WAC 197-11-944 and shall be SEPA Lead Agency for Commercial and Institutional Mixed Use Land Use Areas as described in BMC 20.37.400.
- The Port of Bellingham shall be SEPA Lead Agency for Industrial Mixed-Use Land Use Areas as described in BMC 20.37.410.

Section 7. Arterial Streets. If the City has not yet delivered Arterial Streets, as defined in the Facilities Agreement, a developer may construct one or more Arterial Streets, or choose to delay the Project until the City is able to construct the required Arterial Streets. If the Port or its successor in interest constructs an Arterial Street identified as a City responsibility in the Facilities Agreement, the Port or successor in interest will receive a Transportation Impact Fee ("**TIF**") credit, pursuant to BMC 19.06.030(D), with the exception that no credit will be given for any dedication of land required for the Arterial Street. The City is not responsible for reimbursing a developer for costs exceeding credit given for TIF, but may consider other forms of credit or reimbursement through future development agreements with developers.

Section 8. Parks and Open Space- City owned public parks and open space will be developed and maintained by the City in accordance with the Facilities Agreement.

Section 9. Impact Fee Credits and Exemptions.

a. Transportation Impact Fee Credits and Exemption.

1. The Port Property is granted a **TIF** credit based upon vehicles trips generated by the former Georgia Pacific mill and other historic industrial uses within the Waterfront District. This credit is retained by the Port and may be applied to Projects within the Waterfront District by the Port. The City will calculate remaining credit available by subtracting PM peak hour trips from existing uses as of the date of execution of this Agreement from 1077 historic peak hour trips. Application of such credit will be deemed complete upon the City's receipt of a letter from the Port stating its intent to utilize the transportation impact fee credit prior to the issuance of a building permit by the City. If no building permit is required for the use the traffic impact fee shall be calculated prior to site occupancy.
2. For purposes of BMC 19.06.030(E), a project employing 100 or more FTEs by a single employer is hereby considered to serve a "broad public purpose."

b. Park Impact Fee Credit. Pursuant to the Facilities Agreement, the Port has committed to transfer portions of Port Property for parks and open space to the City. Park impact fee credit will be granted for the dedication of park land as dedication occurs per the Facilities Agreement. This credit is retained by the Port and may be applied to Projects within the Waterfront District by the Port. Application of such credit will be deemed complete upon the City's receipt of a letter from the Port stating its intent to utilize park impact fee credit prior to the issuance of a building permit by the City.

Section 10. Environmental Remediation. There are six (6) separate cleanup sites subject to ongoing Model Toxics Control Act ("**MTCA**") investigation and cleanup actions overseen by the Washington State Department of Ecology ("**Ecology**") located inside the boundaries of the Waterfront District. The Port is the lead project coordinator for five (5) of the sites, including the Cornwall Avenue Landfill, Georgia-Pacific West, Whatcom Waterway, Central Waterfront, and I&J Waterway. The City is the lead project coordinator for the RG Haley site. Port Property within a MTCA site may be subject to institutional controls, such as deed restrictions for management of contaminants in air, soil, groundwater, and marine sediment, which may be imposed by the Department of Ecology in Consent Decrees for each site.

Section 11. Development Approval Procedures. All proposed Projects shall be submitted to the City for review under the BMC.

Section 12. Concurrency. The City has adopted [BMC 13.70](#) Multimodal Transportation Concurrency to meet the State law requirement (RCW 36.70A.030 (6) (b)). The City calculates and reports Person Trips Available for Concurrency Services Area for the Waterfront District ("**CSA 6**") (Transportation Report on Annual Concurrency), on an annual basis. The City hereby agrees to increase the time allowed under BMC 13.70.060 for submission of a complete

application for a development permit to the City of Bellingham's Permit Center from one year to five years for the term of this agreement.

For purposes of clarification, as long as proposed new development is consistent with the EIS, further traffic study will not be required for projects that produce more than 50 peak hour trips, as stated in the 2012 Application for Multimodal Transportation Concurrency.

Pursuant to BMC 13.70.020, the City will calculate and include additional Person Trips Available in the Transportation Report on Annual Concurrency for planned transportation infrastructure and transit service, as outlined in the Facilities Agreement, provided that: 1) the City has completed design of infrastructure; 2) the City has secured financial commitments; and 3) the infrastructure will be constructed within a three (3) year period and/or transit service is actively available to new development within CSA 6.

Section 13. Interim Permitted Use Areas. The Parties acknowledge that the transition of a portion of the Downtown Waterfront Area, as identified on **Exhibit 3**, from industrial use to non-industrial use may take years to occur. Thus, notwithstanding any other provision of this Agreement, upon the Port's written acknowledgement and the City's written decision, as described below, the following interim uses ("Interim Permitted Use(s)") shall be considered permitted for those properties:

- Manufacture and Assembly
- Repair of Large Equipment such as vessels, vehicles and floor based tools,
- Warehousing, Wholesaling and Freight Operations, and
- Water-related and water-dependent Industrial uses, including Aquaculture, Boat/ship building, Boat repair, Net repair, Web house, and offices supporting the same, or other uses similar to above.

A Director's Interpretation application shall be submitted by the Port. The application shall include: the Port's acknowledgement of its approval of an Interim Permitted Use and a termination date certain, the name of the business, the proposed Interim Permitted Use and the location of such use on Exhibit 3. The City's Planning Director shall issue a Director's interpretation as to whether the proposed use is an allowed Interim Permitted Use pursuant to this section prior to issuance of any permits. Interim business activity may not occur on the property prior to the issuance of the City's written verification to the Port. The Interim Permitted Use shall be a conforming use for the term of this Agreement or until such time as the property is converted to a non-industrial use, whichever occurs first. Upon expiration of this Agreement, the Interim Permitted Use shall cease and the property shall be vacated and the Port shall be responsible for enforcing such vacation.

Section 14. Term. The term of this Agreement shall commence on the last date of signature below and remain in effect for a period of twenty (20) years following the effective date of this Agreement. The Parties agree to review this agreement every four (4) years to mutually determine whether any adjustments, modifications or amendments are warranted.

Any action permitted or required under this Agreement must commence during the term of this Agreement even though additional time beyond the term may be required to obtain the specific permit or complete construction of the permitted project. For example, for these purposes, commencement means the filing of a complete binding site plan for a construction project or an

application for a building permit. Nothing herein supersedes existing law or regulation regarding diligent pursuit of a project.

Section 15. Permit Handbook. The City agrees to develop a user-friendly Permit Handbook within ninety (90) days following the effective date of this Agreement. The Permit Handbook will provide information about the permitting procedures and points of contact at the City and Port for potential developers of Port Properties.

Section 16. General Provisions

- A. **Additional Property.** Nothing herein limits the parties from adding any property to this Agreement or adding any parties to this Agreement by written amendment to this Agreement so long as those properties are within the Waterfront District Sub-area Plan boundary.
- B. **Recording; Covenant Running with the Land.** This Agreement shall be filed as a matter of public record in the office of the Whatcom County Auditor and shall run with the land.
- C. **Additional Restrictions upon sale or transfer of Port Properties.** Nothing herein prevents the Port or its successors in interest from imposing additional use restrictions or other covenants or requirements as part of the sale or lease of any Port Property, as long as such use restrictions or other covenants or requirements do not conflict with the terms and conditions contained herein.
- D. **Additional Development Agreements.** Nothing contained in this Agreement precludes the City and a successor in interest to Port Property from entering into an additional development agreement as long as such agreement does not conflict with the terms and conditions contained herein.
- E. **Applicable Law.** This Agreement shall be governed by and be interpreted in accordance with the laws of the State of Washington.
- F. **Successors, Assignment and Binding Effect.** All obligations that are not specifically granted solely to the Port or City in this Agreement shall be binding upon and inure to the benefit of the successors and assigns of each party hereto. The Parties acknowledge that the Port shall have the right to lease, divide, assign, or transfer all or any portion of the interests, rights and obligations under this Agreement to other parties acquiring an interest or estate in the property. Consent by the City shall not be required for any such lease, assignment, transfer or rights pursuant to this Agreement.
- H. **Severability.** If any provision of this Agreement is determined to be unenforceable or invalid by a court of law, then this Agreement shall thereafter be modified to implement the intent of the Parties to the maximum extent allowable under law. If this Agreement for any reason is determined to be invalid, then the zoning of the property may revert to the zoning as it existed on the date of this Agreement was recorded
- I. **Modification.** This Agreement and portions hereof shall not be modified or amended except in writing signed by the City and the Port or their respective successors in interest. Any modification or amendment of this Agreement must be approved by the

Commission for the Port of Bellingham, and by resolution of the City Council following a hearing.

- J. **Further Good Faith Cooperation.** Each party hereto shall cooperate with the other in good faith to achieve the objectives of this Agreement. The Parties shall not unreasonably withhold requests for information, approvals or consents provided for, or implicit, in this Agreement.
- K. **No Presumption Against Drafter.** This Agreement has been reviewed and revised by legal counsel for all Parties and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.
- L. **Notices.** All communications, notices, and demands of any kind which a party under this Agreement is required, or desires to give to any other party, shall be in writing and be either (1) delivered personally, (2) sent by facsimile transmission with an additional copy mailed first class, or (3) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

City: City of Bellingham:
Mayor's Office
City of Bellingham
210 Lottie Street
Bellingham, WA 98225

With a Copy To:

Office of the City Attorney
City of Bellingham
210 Lottie Street
Bellingham, WA 98225

Port: Port of Bellingham
Executive Director
Port of Bellingham
1801 Roeder Avenue
Bellingham, WA 98225

Notice by hand delivery or facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed received 48 hours after deposit. Any party at any time by notice to the other party may designate a different address or person to which such notice shall be given.

M. Waiver. No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant,

agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

N. Dispute Resolution. In the event of any dispute as to the interpretation or application of the terms or conditions of this Agreement, the Port and the City, through their designated representatives, shall meet within ten (10) days after the receipt of a written request from any party for the purpose of attempting in good faith to resolve the dispute. Such a meeting may be continued by mutual agreement to a date certain to include other persons or parties, or to obtain additional information.

1. **Mediation.** In the event that such a meeting does not resolve the dispute and prior to commencing any litigation except for a request for a temporary restraining order and preliminary injunction, the Parties shall first attempt to mediate the dispute. The Parties shall mutually agree upon a mediator to assist them in resolving their differences. If the Parties are unable to agree upon a mediator, they will seek appointment of such mediator by the Whatcom County Superior Court Presiding Judge consistent with this Agreement. Each party shall take its turn in striking one name from the list until one name remains. A flip of a coin shall determine which party strikes the first name. Any expenses of the mediator shall be borne equally by the Parties. However, each side shall bear its own costs and attorney fees arising from participation in the mediation.
2. **Waiver of Jury Trial.** Each party waives any right to a trial by jury in any action or proceeding to enforce or defend any rights under or relating to this Agreement or any amendment, instrument or other document delivered in connection with this Agreement.

O. Entire Agreement. This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein. This Agreement supersedes all previous understandings or agreements between the parties concerning the subject matter of this Agreement.

P. Requisite Authority for Port Managed Properties. The Port hereby represents that it has the requisite authority to enter into this Agreement with respect to Port Properties managed by the Port, but owned by another entity.

PORT OF BELLINGHAM

Rob Fix
Executive Director, Port of Bellingham

Date:_____

CITY OF BELLINGHAM

Kelli Linville
Mayor, City of Bellingham

Date:_____

APPROVED AS TO FORM: _____
Office of the City Attorney

ATTEST: _____
Finance Director

Date:_____

Exhibit 1: Waterfront District Boundary



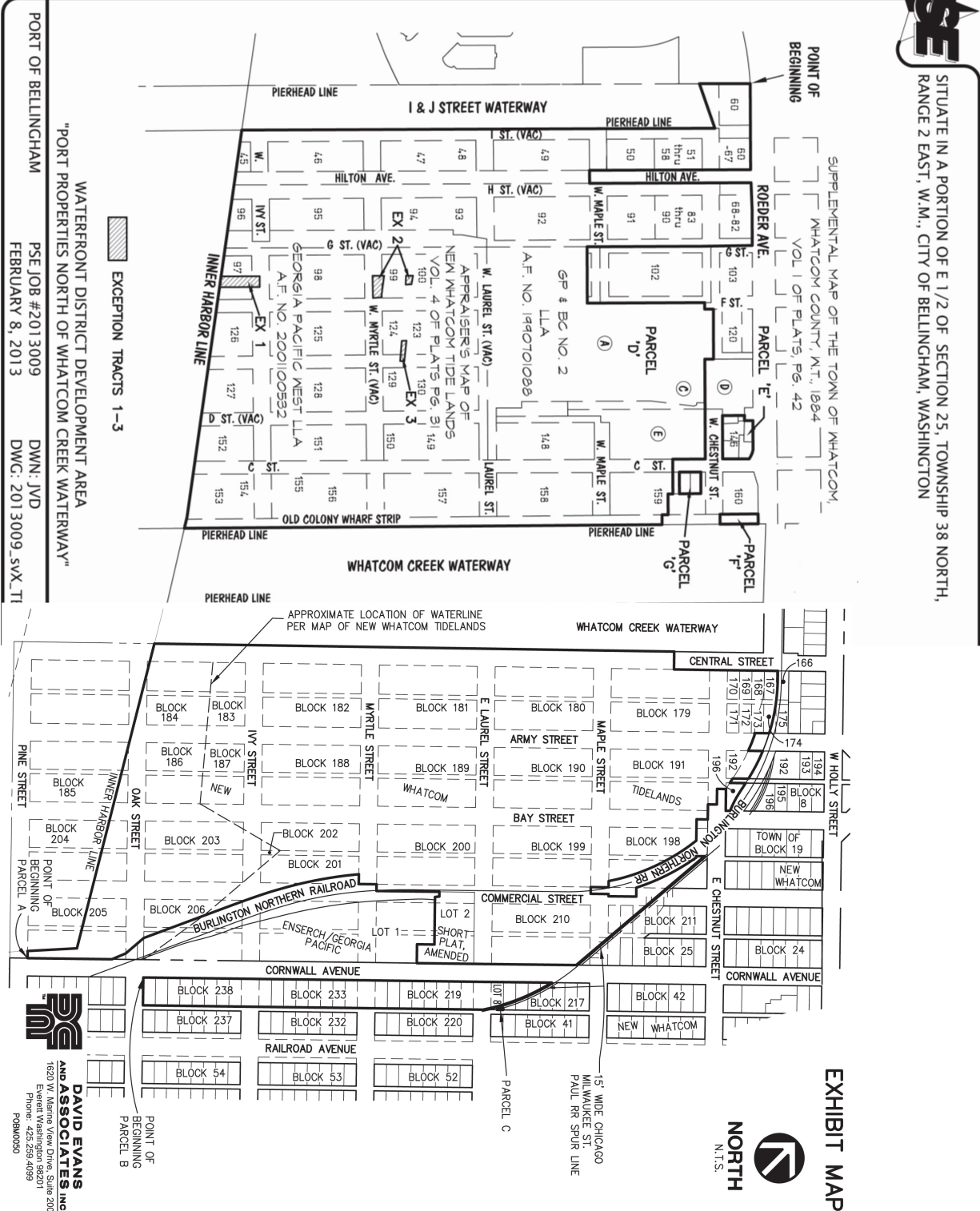
Exhibit 2: Port Properties

Depiction and Legal Description (page 1 of 7)

PACIFIC SURVEY & ENGINEERING INC EMAIL: pse@psurvey.com
1812 CORNWALL AVE, BELLINGHAM, WA 98225 PHONE: 671.7387 FAX: 671.4685 www.psurvey.com



SITUATE IN A PORTION OF E 1/2 OF SECTION 25, TOWNSHIP 38 NORTH,
RANGE 2 EAST, W.M., CITY OF BELLINGHAM, WASHINGTON





Pacific Surveying & Engineering

1812 Cornwall Avenue ^ Bellingham, WA 98225
Phone 360.671.7387 ^ fax 360.671.4685
E-mail pse@psurvey.com

www.psesurvey.com

WATERFRONT DISTRICT
DEVELOPMENT AGREEMENT AREA LEGAL DESCRIPTION
PORT PROPERTIES NORTH OF WHATCOM CREEK WATERWAY

THOSE PORTIONS OF BLOCKS 44, 45 AND 60, PLAT OF "SUPPLEMENTAL MAP OF THE TOWN OF WHATCOM, WHATCOM COUNTY, W.T., 1884," NOW A PART OF THE CONSOLIDATED CITY OF BELLINGHAM, AS PER THE MAP THEREOF, RECORDED UNDER VOLUME 1 OF PLATS, PAGE 42, RECORDS OF WHATCOM COUNTY, WASHINGTON, LOTS OR BLOCKS 45 THROUGH 102, 121 THROUGH 133, AND 146 THROUGH 159, PLAT OF "WHATCOM COUNTY TIDE LAND APPRAISERS' MAP OF NEW WHATCOM TIDE LANDS, " ACCORDING TO THE MAP THEREOF, RECORDED UNDER VOLUME 4 OF PLATS, PAGE 31, RECORDS OF WHATCOM COUNTY, WASHINGTON, LOTS A THROUGH E OF "GEORGIA PACIFIC WEST LOT LINE ADJUSTMENT," ACCORDING TO THE MAP THEREOF, RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 2001100532, AND LOTS A, B, C, AND E OF "GP & BC NO. 2 LOT LINE ADJUSTMENT," ACCORDING TO THE MAP THEREOF, RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 1990701088, TOGETHER WITH ROADS AND ALLEYS ABUTTING, AS THE SAME HAVE EITHER BEEN VACATED, ARE TO BE VACATED BY THE CITY OF BELLINGHAM, OR WILL BE SUBJECT TO AN INTERLOCAL AGREEMENT FOR A LICENSE TO USE CERTAIN RIGHTS OF WAY (C STREET, MAPLE STREET BETWEEN C STREET AND THE OLD COLONY WHARF STRIP, AND LAUREL STREET BETWEEN C STREET AND THE OLD COLONY WHARF STRIP), AND TO THE EXTENT THAT SUCH ROADS OR ALLEYS LIE WITHIN THE PROPERTY DESCRIBED AS FOLLOWS:

PARCEL 'D'

BEGINNING AT THE INTERSECTION OF THE NORTHERLYMOST CORNER OF SAID BLOCK 60, SUPPLEMENTAL MAP OF THE TOWN OF WHATCOM, WITH THE SOUTHWESTERLY MARGIN OF ROEDER AVENUE, AS THE SAME EXISTED IN JANUARY 2013; THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SAID BLOCK 60 TO THE NORTHEASTERLY PIERHEAD LINE OF THE I & J STREET WATERWAY; THENCE SOUTHEASTERLY ALONG SAID PIERHEAD LINE TO THE EASTERLYMOST CORNER THEREOF; THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERLY PIERHEAD LINE OF SAID I & J STREET WATERWAY TO THE INNER HARBOR LINE, AS THE SAME IS SHOWN ON THE STATE OF WASHINGTON COMMISSIONER OF PUBLIC LANDS 1971 SUPPLEMENTAL MAP OF BELLINGHAM HARBOR; THENCE SOUTHEASTERLY ALONG SAID INNER HARBOR LINE TO THE NORTHWESTERLY PIERHEAD LINE OF WHATCOM CREEK WATERWAY, SAID POINT ALSO BEING ON THE SOUTHEASTERLY LINE OF THE "COLONY WHARF STRIP"; THENCE NORTHEASTERLY ALONG SAID PIERHEAD LINE TO THE SOUTHEASTERLY EXTENSION OF THE NORTHEASTERLY LINE OF THE SOUTHWESTERLY 240 FEET OF SAID BLOCK 159 OF NEW WHATCOM TIDELANDS; THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY LINE EXTENDED TO THE NORTHWESTERLY LINE OF SAID COLONY WHARF STRIP, ALSO BEING THE SOUTHEASTERLY LINE OF SAID BLOCK 159; THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY LINE TO THE NORTHEASTERLY LINE OF THE SOUTHWESTERLY 268 FEET OF SAID BLOCK 159; THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY LINE TO THE SOUTHEASTERLY LINE OF THE NORTHWESTERLY ONE HALF OF SAID BLOCK 159; THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY LINE TO THE SOUTHWESTERLY LINE OF THE SOUTHWEST 30 FEET OF THE NORTHEAST 150 FEET OF SAID NORTHWESTERLY ONE HALF OF BLOCK 159; THENCE NORTHWESTERLY ALONG SAID

SOUTHWESTERLY LINE TO THE SOUTHEASTERLY MARGIN OF 'C' STREET, AS DEEDED TO THE CITY OF BELLINGHAM UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 1300761; THENCE CONTINUING NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE EXTENDED TO THE NORTHWESTERLY MARGIN OF SAID 'C' STREET, ALSO BEING A POINT ON THE SOUTHEASTERLY LINE OF LOT 'E', GP & BC NO. 2 LOT LINE ADJUSTMENT, ACCORDING TO THE MAP THEREOF, RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 1990701088; THENCE NORTHEASTERLY ALONG SAID MARGIN AND SOUTHEASTERLY LINE TO THE EASTERLYMOST CORNER OF SAID LOT 'E', BEING A POINT ON THE SOUTHWESTERLY MARGIN OF W. CHESTNUT STREET; THENCE NORTHWESTERLY ALONG SAID MARGIN AND ALONG THE NORTHEASTERLY LINE OF SAID LOT 'E' TO THE EASTERLYMOST CORNER OF LOT 'C' OF SAID LOT LINE ADJUSTMENT; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT 'C' TO THE NORTHERLY MOST CORNER THEREOF; THENCE CONTINUING, AND ALONG THE NORTHERLY BOUNDARY OF LOT 'A' OF SAID LOT LINE ADJUSTMENT AS FOLLOWS:

NORTHWESTERLY TO THE INTERSECTION WITH THE CENTERLINE OF VACATED 'E' STREET, AS VACATED BY CITY OF BELLINGHAM ORDINANCE NUMBER 7552; THENCE NORTHEASTERLY ALONG SAID CENTERLINE TO THE CENTERLINE OF VACATED W. CHESTNUT STREET, AS VACATED BY CITY OF BELLINGHAM ORDINANCE NUMBER 8464; THENCE NORTHWESTERLY ALONG SAID CENTERLINE TO THE SOUTHEASTERLY MARGIN OF 'F' STREET; THENCE SOUTHWESTERLY ALONG SAID SOUTHEASTERLY MARGIN TO THE SOUTHWESTERLY MARGIN OF W. CHESTNUT STREET; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY MARGIN TO THE CENTERLINE OF VACATED 'F' STREET, AS VACATED BY CITY OF BELLINGHAM ORDINANCE NUMBER 7552; THENCE SOUTHWESTERLY ALONG SAID CENTERLINE TO AN ANGLE POINT IN SAID NORTHERLY BOUNDARY OF LOT 'A', SAID POINT LYING SOUTHWESTERLY OF THE INTERSECTION OF VACATED 'F' AND W. MAPLE STREETS; THENCE NORTHWESTERLY ALONG SAID NORTHERLY BOUNDARY TO THE CENTERLINE OF VACATED 'G' STREET, AS VACATED BY CITY OF BELLINGHAM ORDINANCE NUMBER 7552;

THENCE DEPARTING SAID NORTHERLY BOUNDARY OF LOT 'A', AND NORTHEASTERLY ALONG SAID CENTERLINE TO THE SOUTHWESTERLY MARGIN OF ROEDER AVENUE; THENCE NORTHWESTERLY ALONG SAID MARGIN TO THE NORTHWESTERLY MARGIN OF 'H' STREET; THENCE SOUTHWESTERLY ALONG SAID NORTHWESTERLY MARGIN TO THE SOUTHWESTERLY MARGIN OF VACATED W. MAPLE STREET, SAID POINT ALSO BEING ON THE SOUTHEASTERLY MARGIN OF HILTON AVENUE, AS DEEDED TO THE CITY OF BELLINGHAM UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 802290; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY MARGIN TO THE NORTHWESTERLY MARGIN OF SAID HILTON AVENUE; THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY MARGIN TO SAID SOUTHWESTERLY MARGIN OF ROEDER AVENUE; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY MARGIN TO THE **POINT OF BEGINNING.**

PARCEL 'E'

BLOCK 146, WHATCOM COUNTY TIDELAND APPRAISER'S MAP OF NEW WHATCOM TIDELANDS, STATE OF WASHINGTON, ACCORDING TO THE MAP THEREOF, RECORDED IN VOLUME 4 OF PLATS, PAGE 31, RECORDS OF WHATCOM COUNTY, WASHINGTON. TOGETHER WITH THE SOUTHEASTERLY HALF OF VACATED 'D' STREET ABUTTING, AS VACATED BY CITY OF BELLINGHAM ORDINANCE NUMBER 8464.

PARCEL 'F'

THAT CERTAIN TIDELAND PROPERTY, IN ACCORDANCE WITH "WHATCOM COUNTY TIDE LAND APPRAISERS' MAP OF NEW WHATCOM TIDE-LANDS, STATE OF WASHINGTON," AS PER THE MAP THEREOF, RECORDED IN VOLUME 4 OF PLATS, PAGE 31, RECORDS OF WHATCOM COUNTY AUDITOR'S OFFICE, DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT ON THE NORTHWESTERLY SIDE OF WHATCOM CREEK WATERWAY, AS ORIGINALLY LAID OUT, WHERE THE SOUTHWESTERLY SIDE OF THE RIGHT-OF-WAY OF THE BELLINGHAM TERMINALS AND RAILWAY COMPANY INTERSECTS SAID WATERWAY; THENCE RUNNING IN A SOUTHWESTERLY DIRECTION 230 FEET, MORE OR LESS, TO A POINT 15 FEET SOUTHWESTERLY FROM WHERE THE NORTHEASTERLY SIDE OF CHESTNUT STREET PRODUCED WOULD INTERSECT SAID WHATCOM CREEK WATERWAY; THENCE NORTHWESTERLY 40 FEET, MORE OR LESS, TO THE NORTHWESTERLY SIDE OF THE COLONY WHARF STRIP; THENCE NORTHEASTERLY 230 FEET, MORE OR LESS, TO THE SOUTHWESTERLY SIDE OF THE RIGHT-OF-WAY OF THE BELLINGHAM TERMINALS AND RAILWAY COMPANY; THENCE SOUTHEASTERLY 40 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 'G'

THE SOUTHWESTERLY 90.84 FEET OF THE NORTHEASTERLY 120.00 FEET OF THE NORTHWESTERLY HALF OF BLOCK 159, WHATCOM COUNTY TIDELAND APPRAISER'S MAP OF NEW WHATCOM TIDELANDS, STATE OF WASHINGTON, ACCORDING TO THE MAP THEREOF, RECORDED IN VOLUME 4 OF PLATS, PAGE 31, RECORDS OF WHATCOM COUNTY, WASHINGTON.

EXCEPTING THEREFROM THE FOLLOWING TRACTS OF LAND:

EXCEPTION TRACT 1

THE NORTHWESTERLY 50 FEET OF THE SOUTHEASTERLY 100 FEET OF LOT 97, SAID PLAT OF NEW WHATCOM TIDELANDS; TOGETHER WITH THE VACATED SOUTHWESTERLY ONE HALF OF IVY STREET ABUTTING, AS VACATED BY THE CITY OF BELLINGHAM UNDER ORDINANCE NUMBER 8670;

EXCEPTION TRACT 2

THE NORTHWESTERLY 50 FEET OF THE SOUTHEASTERLY 100 FEET OF LOT 99 LYING NORTHERLY OF RAILROAD AND THE SOUTHEASTERLY ONE HALF OF THAT PORTION OF LOT 99 LYING SOUTHWESTERLY OF RAILROAD, SAID PLAT OF NEW WHATCOM TIDELANDS; TOGETHER WITH THE VACATED NORTHEASTERLY ONE HALF OF MYRTLE STREET ABUTTING, AS VACATED BY THE CITY OF BELLINGHAM UNDER ORDINANCE NUMBER 8670;

EXCEPTION TRACT 3

THE SOUTHEASTERLY 50 FEET OF LOT 124 LYING NORTHEASTERLY OF RAILROAD, SAID PLAT OF NEW WHATCOM TIDELANDS; TOGETHER WITH THE VACATED NORTHWESTERLY ONE HALF OF 'E' STREET ABUTTING AS VACATED BY THE CITY OF BELLINGHAM UNDER ORDINANCE NUMBER 8670;

ALL SITUATED IN THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.



**WATERFRONT DISTRICT
DEVELOPMENT AGREEMENT AREA LEGAL DESCRIPTION
"PORT PROPERTIES SOUTH OF WHATCOM CREEK WATERWAY"**

THOSE PORTIONS OF LOTS OR BLOCKS 166 THROUGH 174, 179 THROUGH 192, 196, 198 THROUGH 206, 210, 211, 217, 219, 233, AND 238, PLAT OF "WHATCOM COUNTY TIDE LAND APPRAISERS' MAP OF NEW WHATCOM TIDE LANDS", ACCORDING TO THE MAP THEREOF, RECORDED UNDER VOLUME 4 OF PLATS, PAGE 31, RECORDS OF WHATCOM COUNTY, WASHINGTON; LOT 2 OF "ENSERCH/GEORGIA PACIFIC SHORT PLAT, AMENDED," ACCORDING TO THE MAP THEREOF, RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 921027178.

PARCEL "A":

TOGETHER WITH ROADS AND ALLEYS ABUTTING, AS THE SAME HAVE EITHER BEEN VACATED OR ARE TO BE VACATED BY THE CITY OF BELLINGHAM, AND TO THE EXTENT THAT SUCH ROADS AND ALLEYS LIE WITHIN THE PROPERTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERLY MOST CORNER OF SAID BLOCK 205, WHICH IS THE INTERSECTION OF THE NORTHEASTERLY MARGIN OF PINE STREET WITH THE NORTHWESTERLY MARGIN OF CORNWALL AVENUE;

THENCE NORTHEASTERLY ALONG SAID CORNWALL AVENUE TO THE NORTHWESTERLY LINE OF THE BURLINGTON NORTHERN RAILROAD;

THENCE NORTHEASTERLY ALONG SAID BURLINGTON NORTHERN RAILROAD TO THE SOUTHWESTERLY MARGIN OF VACATED MYRTLE STREET;

THENCE SOUTHEASTERLY ALONG SAID VACATED MYRTLE STREET TO THE INTERSECTION OF THE NORTHWESTERLY LINE OF VACATED COMMERCIAL STREET;

THENCE NORTHEASTERLY ALONG SAID VACATED COMMERCIAL STREET TO THE NORTHEASTERLY MARGIN OF SAID VACATED MYRTLE STREET;

THENCE SOUTHEASTERLY ALONG THE SAID VACATED MYRTLE STREET TO A POINT WHICH IS 30 FEET SOUTHEASTERLY OF THE NORTHWESTERLY MARGIN OF SAID VACATED COMMERCIAL STREET;

THENCE NORTHEASTERLY ALONG SAID LINE WHICH IS 30 FEET SOUTHEASTERLY OF THE NORTHWESTERLY MARGIN OF SAID VACATED COMMERCIAL STREET TO THE INTERSECTION OF THE NORTHWESTERLY MOST CORNER OF LOT 2 OF SAID "ENSERCH/GEORGIA PACIFIC SHORT PLAT, AMENDED";

THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 2 TO THE NORTHWESTERLY MARGIN OF CORNWALL AVENUE;

THENCE NORTHEASTERLY ALONG SAID CORNWALL AVENUE TO THE WESTERLY LINE OF 15 FOOT WIDE CHICAGO MILWAUKEE ST. PAUL RAILROAD SPUR LINE (ABANDONED);

THENCE NORTHERLY ALONG SAID WESTERLY LINE TO THE NORTHWESTERLY MARGIN OF THE VACATED ALLEY IN SAID BLOCK 198;

THENCE SOUTHWESTERLY ALONG SAID ALLEY TO THE EASTERLY MARGIN SAID BURLINGTON NORTHERN RAILROAD;

THENCE SOUTHWESTERLY ALONG SAID BURLINGTON NORTHERN RAILROAD TO A POINT WHICH IS 30 FEET SOUTHEASTERLY OF THE PROJECTED NORTHEASTERLY LINE OF SAID BLOCK 199;

THENCE NORTHWESTERLY ALONG SAID PROJECTED LINE TO THE EASTERLY MOST CORNER OF SAID BLOCK 199 AND TO THE NORTHWESTERLY LINE OF SAID VACATED COMMERCIAL STREET;

THENCE NORTHEASTERLY ALONG SAID VACATED COMMERCIAL STREET TO THE SOUTHERN MOST CORNER OF SAID BLOCK 198;

THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID BLOCK 198 TO THE INTERSECTION OF WEST LINE OF SAID BURLINGTON NORTHERN RAILROAD;
THENCE NORTHERLY ALONG SAID BURLINGTON NORTHERN RAILROAD TO A POINT WHICH IS 50 FEET SOUTHWESTERLY OF THE NORTHEASTERLY LINE OF SAID BLOCK 198;
THENCE NORTHWESTERLY ALONG THE LINE WHICH IS 50 FEET SOUTHWESTERLY OF THE NORTHEASTERLY LINE OF SAID BLOCK 198 TO THE CENTERLINE OF VACATED BAY STREET;
THENCE NORTHEASTERLY ALONG SAID CENTERLINE TO THE SOUTHWESTERLY MARGIN OF CHESTNUT STREET;
THENCE NORTHERLY ALONG THE NORTHWESTERLY MARGIN OF SAID CHESTNUT STREET TO THE NORTHWESTERLY MARGIN OF BAY STREET;
THENCE NORTHEASTERLY ALONG SAID BAY STREET TO THE WEST LINE OF SAID BURLINGTON NORTHERN RAILROAD;
THENCE NORTHERLY ALONG SAID BURLINGTON NORTHERN RAILROAD TO THE SOUTHEASTERLY LINE OF THE ALLEY BETWEEN SAID BLOCKS 192 AND 196;
THENCE SOUTHWESTERLY ALONG SAID ALLEY TO THE SOUTHERLY MOST POINT OF SAID ALLEY;
THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID ALLEY TO THE NORTHWESTERLY MARGIN OF SAID ALLEY;
THENCE NORTHEASTERLY ALONG SAID ALLEY TO THE WEST LINE OF SAID BURLINGTON NORTHERN RAILROAD;
THENCE NORTHERLY ALONG SAID BURLINGTON NORTHERN RAILROAD TO THE SOUTHEASTERLY MARGIN OF ARMY STREET;
THENCE SOUTHWESTERLY ALONG SAID ARMY STREET TO THE SOUTHERN MOST POINT OF ARMY STREET;
THENCE NORTHWESTERLY ALONG THE WESTERLY LINE OF SAID ARMY STREET TO THE NORTHWESTERLY MARGIN OF SAID ARMY STREET;
THENCE NORTHEASTERLY ALONG SAID ARMY STREET TO THE WEST LINE OF SAID BURLINGTON NORTHERN RAILROAD;
THENCE NORTHERLY ALONG SAID BURLINGTON NORTHERN RAILROAD TO THE SOUTHEASTERLY MARGIN OF CENTRAL STREET;
THENCE SOUTHWESTERLY ALONG SAID CENTRAL STREET TO THE SOUTHERLY MOST POINT OF CENTRAL STREET;
THENCE NORTHWESTERLY ALONG THE WESTERLY LINE OF SAID CENTRAL STREET TO THE NORTHWESTERLY MARGIN OF SAID CENTRAL STREET;
THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY MARGIN OF VACATED CENTRAL STREET TO THE INNER HARBOR LINE;
THENCE SOUTHERLY ALONG SAID INNER HARBOR LINE TO THE NORTHEASTERLY MARGIN OF PINE STREET;
THENCE SOUTHEASTERLY ALONG SAID PINE STREET TO THE **POINT OF BEGINNING**.

SITUATE IN THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

PARCEL "B":

TOGETHER WITH SAID BLOCKS 217, 219, 233, AND TOGETHER WITH ROADS AND ALLEYS ABUTTING, AS THE SAME HAVE EITHER BEEN VACATED OR ARE TO BE VACATED BY THE CITY OF BELLINGHAM, AND TO THE EXTENT THAT SUCH ROADS AND ALLEYS LIE WITHIN THE PROPERTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WESTERLY MOST CORNER OF SAID BLOCK 238 WHICH IS THE INTERSECTION OF THE SOUTHEASTERLY MARGIN OF CORNWALL AVENUE WITH THE NORTHEASTERLY MARGIN OF OAK STREET AS THE SAME EXISTED IN JANUARY 2013;
THENCE SOUTHEASTERLY ALONG SAID OAK STREET TO THE SOUTHERLY MOST CORNER OF SAID BLOCK 238;
THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID BLOCKS 238, 233, AND 219 TO THE INTERSECTION OF THE WESTERLY LINE OF A 15 FOOT WIDE CHICAGO MILWAUKEE ST. PAUL RAILROAD SPUR LINE (ABANDONED);
THENCE NORTHEASTERLY ALONG SAID WESTERLY LINE TO THE SOUTHEASTERLY MARGIN OF CORNWALL AVENUE;
THENCE SOUTHWESTERLY ALONG SAID CORNWALL AVENUE TO THE **POINT OF BEGINNING**.

SITUATE IN THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

PARCEL "C":

TOGETHER WITH THAT PORTION OF LOT 8 OF SAID BLOCK 217 LYING EASTERLY OF THE EASTERLY LINE OF A 15 FOOT WIDE CHICAGO MILWAUKEE ST. PAUL RAILROAD SPUR LINE (ABANDONED).

SITUATE IN THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.



Tax Parcel ID#

3802251304450000
3802253411670000
3802253581980000
3802253882040000
3802253970640000
3802254021730000
3802254200220000
3802254320040000
3802254581250000
3802254721400000
3802254811920000
3802254931650000
3802254972290000
3802255091770000
3802255172260000
3802255212040000
3802255220210000
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3802255352020000
3802255382580000
3802255402230000
3802255402690000
3802255432620000
3802255442470000
3802255482620000
3802255522540000
3802364724920000
3802364965260000
3802365474830000
3803300042150000
3803300611900000
3803310145250000
3803310355490000

Exhibit 3: Interim Permitted Use Areas

