

When Recorded Return to:

**DEVELOPMENT AGREEMENT FOR
THE VANCOUVER CLINIC at COLUMBIA PALISADES**

Grantor(s):	<u>The City of Vancouver and Vancouver Clinic Building, LLC</u>
Grantee(s):	<u>The City of Vancouver and Vancouver Clinic Building, LLC</u>
Legal Description (abbreviated):	<u>Lot 8, Columbia Palisades subdivision</u>
Assessor's Tax Parcel Identification No(s):	986050749
Reference No. of Related Documents:	N/A

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into between the City of Vancouver, a Washington Charter City of the First Class ("City") and Vancouver Clinic Building, LLC, a Washington limited liability company ("Applicant"), collectively the Parties.

RECITALS

- A. The City is a Charter City of the First Class incorporated under the laws of the State of Washington and has the authority to enact laws and enter into agreements to promote the health, safety, and welfare of its citizens and thereby to control the use and development of property within its corporate limits.
- B. In 2016, the City Council approved the Columbia Palisades Master Plan. Lot 10 of the Master Plan is identified for office use.
- C. In 2017, the Vancouver Hearing Examiner approved a preliminary subdivision for Columbia Palisades. (PRJ-145594/LUP-58874). On April 19, 2019, Columbia

Palisades Corp. recorded the Columbia Palisades final plat. Lot 10 of the Master Plan is designated as Lot 8 in the final plat.

- D. Vancouver Clinic Building, LLC owns Lot 8 of the Columbia Palisades subdivision, comprised of Assessor's Tax Parcel 986050749 ("the Property"). The Property is legally described in **Exhibit A**. The Covenants, Conditions and Restrictions for Columbia Palisades – Commercial reserve Tract J of Columbia Palisades for the use of the Owner of Lot 8 for vehicular parking in a surface parking lot.
- E. The Applicant wishes to construct an approximately 50,000 square foot medical clinic in phases with associated parking and maneuvering improvements on the Property and Tract J. The proposed medical office is consistent with the Columbia Palisades Master Plan office use designation.
- F. The City has evaluated the environmental impacts of developing the Property through its review of the Columbia Palisades Master Plan, for which it issued a final mitigated determination of non-significance ("MDNS") on July 11, 2016. The MDNS adequately addresses the impacts of the proposal. As provided in PRJ-160202/LUP-74082, no additional SEPA review is required.
- G. The City has the authority to enter into development agreements with those who own or control property within its jurisdiction pursuant to RCW 36.70B.170-36.70B.210 and Chapter 20.250 VMC.
- H. Pursuant to RCW 36.70B.170 *et. seq.*, a development agreement must set forth the development standards, including mitigation measures, and other provisions that shall apply to, govern, and vest the development of property for the duration specified in the agreement. Consistent with that requirement, the Parties intend that this Agreement specify the regulatory fees and transportation mitigation that will be required for the Applicant to construct the medical clinic contemplated herein.
- I. Pursuant to RCW 36.70B.170 *et. seq.* and VMC 20.250.050, the City Council shall consider the application for approval of a development agreement after holding a public hearing. The City Council held a public hearing on this Development Agreement on _____, 2021.
- J. On _____, 2021 the City Council adopted Ordinance No. _____ approving The Vancouver Clinic at Columbia Palisades Development Agreement.

AGREEMENT

IN CONSIDERATION OF mutual benefits, the parties agree as follows:

1. Definitions.

1.1 "Agreement" shall mean this Development Agreement.

1.2 "Applicant" shall mean Vancouver Clinic Building, LLC.

- 1.3** “City” shall mean the City of Vancouver.
- 1.4** “Development Regulations” shall include land use, development, zoning, and stormwater plans, policies, codes, and rules.
- 1.5** “Effective Date” shall mean the effective date of Ordinance No. _____, _____, 2021.
- 1.6** “Project” shall have the meaning set forth in Recital E and as described in Section 2 below.
- 1.7** “Property” shall have the meaning set forth in Recital D and as described in Exhibit A.
- 1.8** “Vesting Date” shall mean _____, 2021, which was the date the City Council approved this Development Agreement.
- 1.9** “VMC” shall mean the Vancouver Municipal Code, as adopted by the City.
- 2. Elements of the Proposed Development.** Applicant’s conceptual site plan for the Property, as depicted in **Exhibit B**, is for construction of medical office and general office spaces in phases, together with associated parking and maneuvering requirements on Lot 8 within the Columbia Palisades subdivision. Associated parking may also be located on Tract J. The Conceptual Site Plan is illustrative only.
- 2.1 Use Allowed Outright.** The Property is located in the Riverview Gateway Mixed Used (“RGX”) zoning district. A medical clinic is allowed outright in the RGX zone. VMC Table 20.430.030-1.
- 2.2 Phases.** The Applicant intends initially to construct a two-story approximately 26,000 square foot medical clinic. The second phase is planned for approximately 30,400 square feet.
- 3. Transportation Impact Fees.** The Applicant has paid the transportation impact fee for Phase I based on 26,000 square feet of medical office.
- 4. Concurrency.**
- 4.1 TAZ.** The Property is located in Transportation Analysis Zone (“TAZ”) 395, 192nd Avenue Corridor (SR 14 to NE 18th Street). The Level of Service (“LOS”) standard is 10 mph average peak hour travel. This corridor is a Category 1 corridor, operating well above the adopted level of service.
- 4.2 Reservation of Capacity.** A development agreement may reserve capacity in the transportation system for the proposed development’s trip generation. VMC 20.50.040.C. The City shall reserve capacity for the Applicant for Phase II of the medical clinic totaling 30,400 square feet generating 1,098 weekday daily trips, 73 AM weekday peak hour trips and 109 weekday PM peak hour trips for the term of this Development Agreement.

4.3 Voluntary Agreement. The SR-14 westbound ramp/SE 192nd Avenue intersection is currently operating at a failing level-of-service (LOS F). The City retained a traffic engineering consultant to define a benefit area and develop a proportionate share mitigation methodology to fund the mitigation of the intersection LOS. The methodology identified a unit cost per trip to be assessed for new weekday PM peak hour trips traveling through the intersection generated by development of \$2,000/new weekday PM peak hour trip. Prior to the issuance of a building permit for Phase II, the Applicant shall pay its proportionate share fee in an amount not to exceed \$2,000/new weekday PM peak hour trip for that building. The agreement to make this proportionate share payment is entered into voluntarily pursuant to RCW 82.02.020. Its PM peak hour trips will be calculated using ITE Code 720 (Medical Office).

- 5. Complete Mitigation of Transportation Impacts.** The payment of transportation impact fees and the voluntary agreement discussed in Section 4.3 mitigate the direct impacts that have been identified as a consequence of the Project. No additional mitigation of transportation impacts may be required.

6. Effective Date, Recording and Term of Agreement.

6.1 Effective Date. This Agreement shall go into effect on the Effective Date.

6.2 Recording. Pursuant to RCW 36.70B.190 and VMC 20.250.060, the Applicant shall record this Agreement with the Clark County Auditor's Office at Applicant's cost. The Agreement shall not be recorded until after the Effective Date.

6.3 Term. This Agreement shall continue in full force and effect for a period of ten (10) years from the Effective Date, unless terminated pursuant to Subsection 8.3 below.

7. Effect/Vesting.

7.1 Effect of Agreement/Vesting. Except as modified by this Agreement, and as set forth in Subsections 7.2 and 7.3 below, the Project shall be subject only to those Development Regulations in effect on the Vesting Date, and shall comply with such Development Regulations. In approving the Vesting Date, the City expressly modifies the timing of vesting that is otherwise specified in VMC 20.210.110.

7.2 Subsequently Enacted Development Regulations. Development of the Project shall not be subject to an amendment to the Development Regulations or to new Development Regulations adopted by the City.

7.3 Exceptions to Vesting. Project Vesting is subject to the following exceptions:

7.3.1 Uniform Codes. Requirements of the International Building Code, or any other similar uniform code as may be approved by the State Building Code Council and adopted by the City, shall apply to development of the Property, including, but not limited to, electrical, mechanical, fire, plumbing, property maintenance, residential, earthquake, and similar uniform construction codes in effect on the date that a complete application for the particular construction or building permit is submitted to the City.

7.3.2 Public Health and Safety. The City reserves the authority to impose new or different regulations on the development of the Property to the extent required by serious threat to public health and safety.

7.3.3 Review Procedures. Procedures for review of permit applications, including City application and permit review fees.

7.3.4 Stormwater Regulations. Vesting does not apply to City, state, or federal stormwater regulations which are generally applicable throughout the City.

8. General Provisions.

8.1 Authority. The City and Applicant each represents and warrants that it has the respective power and authority, and is duly authorized to execute, deliver, and perform its obligations under this Agreement. The parties intend this Agreement to be interpreted to the full extent authorized by law as an exercise of the City's authority to enter into such agreements.

8.2 Covenants Running with the Land/Assignment. The Conditions, covenants, and benefits set forth in this Agreement shall run with the land, and every purchaser, assignee or transferee of an interest in the Property or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be entitled to the benefits of this Agreement, for the duration of the Agreement, unless this agreement is terminated pursuant to Subsection 8.3 below. Applicant may sell the Property or assign its rights and obligations under this Agreement without the consent of the City. Applicant shall give City written notice of such sale or assignment within thirty (30) days after closing or after assignment of this Agreement.

8.3 Termination. Nothing in this Agreement obligates Applicant to construct the Project. This Agreement shall expire and be of no further force and effect if: (a) Applicant does not execute this Agreement; (b) Applicant provides written notice that it does not intend to construct the Project; (3) subsequent applications for the Project are not approved; or (4) this Agreement or subsequent applications are appealed, and such appeals are not resolved in favor of approval and on terms and conditions satisfactory to Applicant. Otherwise, this Agreement may only be terminated upon the mutual agreement of the parties.

8.4 Modifications. This Agreement may be modified only by written agreement of the parties hereto.

8.5 No third party beneficiary. This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

8.6 Integration. This Agreement and its exhibits represent to the entire agreement of the parties with respect to the subject matter hereof. The exhibits to this Agreement are incorporated into this Agreement by this reference as if fully set forth.

8.7 Governing Law and Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue for any action shall lie in Clark County Superior Court.

8.8 Severability. If any provision of this Agreement, or the application thereof to any person, place, or instance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, then: (a) this Agreement shall thereafter be modified to implement the intent of the parties to the maximum extent allowable under law; and (b) the remainder of the Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.

8.9 Attorneys' Fees. In the event any litigation or dispute resolution process is instituted to interpret or enforce any provision of this Agreement or with respect to any dispute relating to this Agreement, the prevailing party shall be entitled to recover from the losing party reasonable attorneys' fees, expert fees, litigation expenses, and associated costs, including those incurred at trial and on appeal.

8.10 Effect of Recitals. The recitals set forth above are a material part of this Agreement and are fully incorporated herein.

IN WITNESS WHEREOF, this Agreement has been entered into by the City and _____.

DATED this _____ day of _____, 202__.

VANCOUVER CLINIC BUILDING, LLC

CITY OF VANCOUVER

By: _____

By: _____

Its: _____

Eric Holmes, City Manager

Approved as to form:

Jonathan Young, City Attorney

STATE OF WASHINGTON)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she is authorized to execute the instrument and acknowledged it as the _____ of THE CITY OF VANCOUVER, a municipal corporation organized and existing under the laws of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2021.

Notary Public

Residing at _____

Commission expires: _____

STATE OF WASHINGTON)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she is authorized to execute the instrument and acknowledged it as the _____ of Vancouver Clinic Building, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2021.

Notary Public

Residing at _____

Commission expires: _____

Exhibit A: Legal Description of Property

Lot 8, Columbia Palisades subdivision, Clark County Washington, Tax Parcel No. 986050749.

Exhibit B: Conceptual Site Plan



Scenario 1A - office ph III

Parcel: 193,104 sf

Phase I and II Building - mob

1. 2 -story
2. 26,000 gsf ph I
3. 30,400 gsf ph II
4. Total gsf 56,400
5. 209 required parking stalls
6. F.A.R. = .29

Phase III Building - office

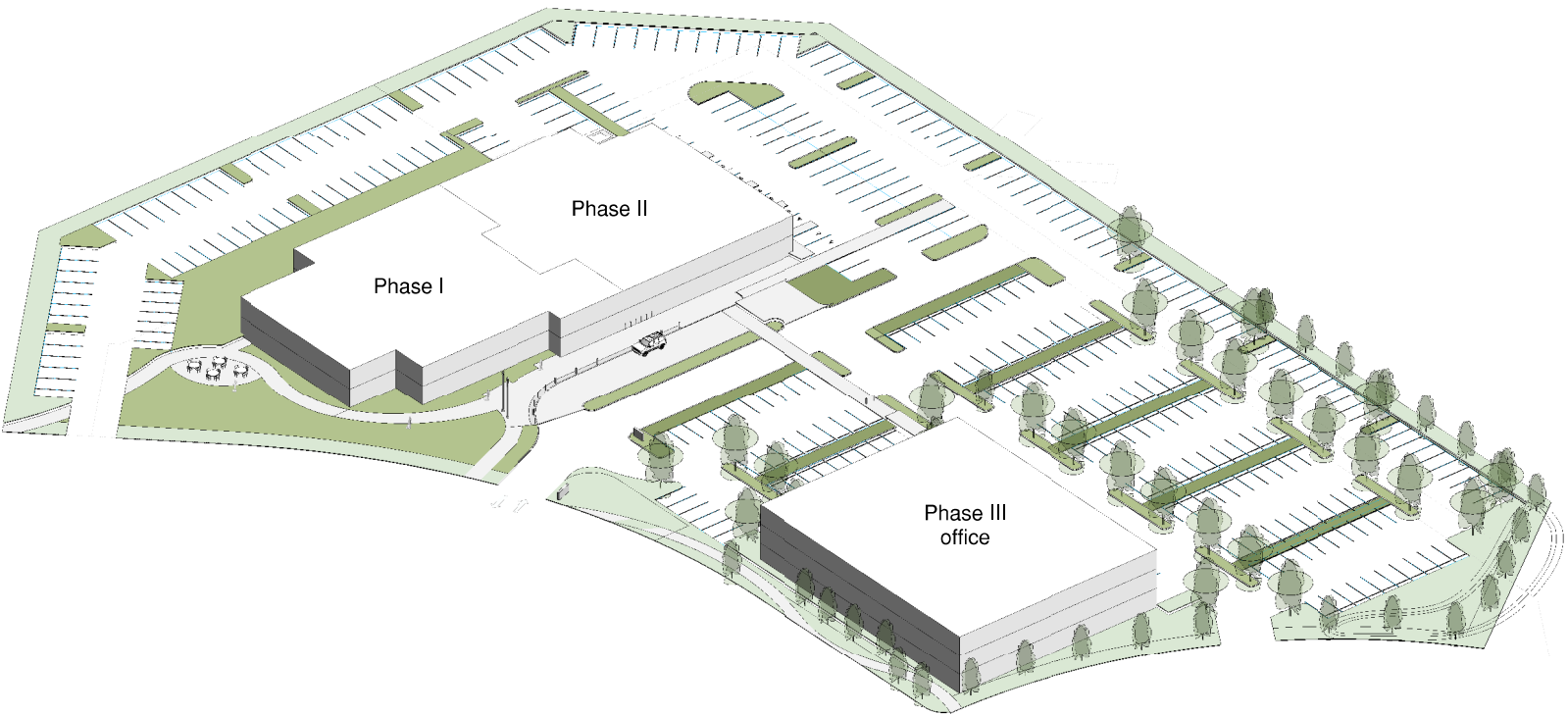
1. 3 - story
2. 46,500 gsf
3. 117 required parking stalls

326 required parking stalls

Total gsf = 96,500 gsf

Total F.A.R. = .5

TVC - VANCOUVER/CAMAS
F.A.R. SCENARIO 1A - office ph III
 zgf architects 06-11-2018



TVC - VANCOUVER/CAMAS
F.A.R. SCENARIO 1a - office ph III
zgf architects 06-11-2018