

PURCHASE AND SALE AGREEMENT

BY AND BETWEEN

**FRUIT VALLEY LAND, LLC,
a Delaware limited liability company**

and

**THE CITY OF VANCOUVER
A municipal corporation of the State of Washington**

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”) is entered into this _____ day of _____, 2023, between, **Fruit Valley Land, LLC**, a Delaware limited liability company, (“**Seller**”), and **the City of Vancouver**, a municipal corporation of the State of Washington, its heirs and assigns (“**Purchaser**”).

RECITALS

The property subject to this agreement (the “**Overall Property**”) is described in the attached Exhibit “**A**” and more fully described in **Section 1** of this Agreement.

Purchaser informed Seller on July 17, 2023 via an email from Ryan Lopossa from the City of Vancouver that in “lieu of a full acquisition of the parcels and if/when the properties are slated for development, the City will utilize the Title 20 land-use process to obtain a ROW dedication for the future construction of NW 32nd Avenue through the subject parcels”. The parties desire to enter into this Agreement in lieu of Purchaser initiating condemnation proceedings.

AGREEMENTS

1. PURCHASE AND SALE OF THE PROPERTY.

Seller agrees to sell and convey a portion of the Overall Property to Purchaser more particularly described in the attached Exhibit “**A-1**” comprising approximately 992,002 square feet (the “**Property**”), and Purchaser agrees to purchase and accept the Property from Seller, on the terms and conditions set forth in this Agreement. This purchase consists of a portion of the Overall Property and only the Property and any improvements thereon are being acquired. Seller is in the process of conducting a lot line adjustment to subdivide the Overall Property to create the separate legal lot for the Property as described in Exhibit A-1. The “**Property**” shall include:

- (a) All of the real property shown on Exhibit A-1, together with all strips and gores, easements, right-of-way, licenses, interests, rights and appurtenances appertaining to said real property, and all rights, titles and interests of Seller in and to any easements, rights-of-way, or other interests in, on or to any alley, highway, or street in, on across or adjoining said real property, if any (the real property described above is the “**Land**”); and
- (b) All buildings, fixtures, mechanical systems, and other improvements (collectively, “**Improvements**”) located on the Land; and
- (c) Any and all other rights, titles, interests, privileges and appurtenances owned by Seller and in any way related to, or used in connection with, the ownership of the Land and the Improvements; provided Purchaser desires to

receive assignment of the same; and

(d) All personal property and fixtures (if any) owned by Seller related to and located on the Land (the "Personal Property"). The Land, the Improvements and the Personal Property are sometimes collectively hereinafter referred to as the "**Property**").

2. PURCHASE PRICE.

The total purchase price for the Property is Five Million Twenty Thousand and no/100 Dollars (\$5,020,000.00) (the "Purchase Price"). The Purchase Price shall be paid to Seller by wire transfer of immediately available funds at the Closing (as that term is defined in **Section 6.1** below) net of all prorations as provided herein.

3. TITLE TO THE PROPERTY AND TITLE INSURANCE.

3.1 Seller shall deliver marketable, fee title to the Property described on Exhibit A-1 at closing, subject to the Permitted Exceptions accepted by Purchaser as identified in paragraph 3.3 below ("Permitted Exceptions").

3.2 Within five (5) days after the Effective Date, Seller shall deliver a preliminary title report for a standard ALTA type Owner's Policy of title insurance for the Land issued by Title Company (the "Title Report"), together with copies of all documents relating to the title exceptions referred to in such Title Report.

3.3 Not later than fifteen (15) days prior to the expiration of the Due Diligence Period, Purchaser shall notify Seller in writing of any title exceptions identified in the Title Report, which Purchaser disapproves. Any exception not disapproved in writing by such date shall be deemed approved by Purchaser, and shall constitute a "**Permitted Exception**" hereunder. Purchaser and Seller agree that (i) all non-delinquent property taxes and assessments, (ii) all matters created by or on behalf of Purchaser, including, without limitation, any documents or instruments to be recorded as part of any financing for the acquisition of the Property by Purchaser, and (iii) all matters agreed to by the parties hereto, shall constitute "**Permitted Exceptions**". Seller shall have ten (10) days after receipt of Purchaser's notification for disapproved title exceptions to provide Purchaser with a written notice of which disapproved exceptions Seller is willing or able to cause to be removed or insured against prior to closing. If Seller fails to provide such written notice to Purchaser it will be presumed that Seller is unwilling to cause any of the disapproved title exceptions to be removed or insured against, and Purchaser then shall elect, by giving written notice to Seller and Title Company within five (5) days thereafter, (x) to terminate this Agreement, or (y) to waive its disapproval of such exceptions, in which case such exceptions shall then be deemed to be Permitted Exceptions. Purchaser's failure to give such notice shall be deemed an election to waive the disapproval of any such exception. If Purchaser elects to terminate this

Agreement in accordance with clause (x) above, then neither party shall have any further rights or obligations under this Agreement, except for those obligations that are to survive the termination of this Agreement as expressly set forth elsewhere in this Agreement.

3.4 Purchaser will solely pay the cost of title insurance.

4. SELLER'S OBLIGATIONS.

Certification of Nonforeign Status: Seller warrants that Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1954, as amended, and that such warranty will be true as of the Closing Date. Seller shall deliver to Purchaser at Closing a Certificate of Nonforeign Status, in a form reasonably acceptable to Purchaser, setting forth Seller's address and United States taxpayer identification number and certifying that the Seller is not a foreign person as so defined.

5. PURCHASER'S DUE DILIGENCE.

5.1 During the period (the "**Due Diligence Period**") commencing on the Effective Date and ending at 5:00 p.m. on the date which is thirty (30) calendar days following the Effective Date (the "**Due Diligence Termination Date**"), Purchaser shall have the right to inspect, investigate, test and examine, at Purchaser's expense, all aspects, matters and conditions relating to the Property and the Purchaser's intended use thereof, including, but not limited to, zoning, the presence of hazardous or toxic substances, soil conditions, the availability of utilities, and governmental requirements and restrictions affecting the Property, provided, however, that in no event shall such inspections or tests unreasonably disrupt or disturb the on-going operation of the Property. No destructive testing or Phase II testing shall be done without the prior written approval of the Seller, which approval shall not be unreasonably withheld. Purchaser's due diligence shall also include a review of the status of all leases, licenses and contracts pertaining to the Property, if any. Seller shall reasonably cooperate, and shall instruct its agents, employees and representatives to reasonably cooperate in facilitating Purchaser's due diligence of the Property and the proposed transaction. After making such tests and inspections, Purchaser shall promptly restore the Property to the condition that existed prior to making such tests and inspections (which obligation shall survive the Closing or any termination of this Agreement). Prior to Purchaser entering the Property to conduct the inspections and tests described above, Purchaser shall obtain and maintain, or shall cause each of its contractors and agents to maintain (and shall deliver to Seller evidence thereof), at no cost or expense to Seller, general liability insurance, from an insurer reasonably acceptable to Seller, in the amount of Two Million Dollars (\$2,000,000.00) combined single limit for personal injury and property damage per occurrence. Such policies shall name Seller as an additional insured party and shall provide coverage against any claim for personal liability or property damage caused by Purchaser or its agents, representatives or consultants in connection with such inspections and tests. During the Due Diligence Period, Purchaser shall determine, in its sole discretion, that the nature and condition of the Property is suitable for Purchaser's intended use and that any existing tenants, licensees, or easements on the Property will not interfere with

Purchaser's intended use and that the due diligence information is acceptable.

5.2 Purchaser shall keep the Property free from all liens, and shall indemnify, defend, and hold harmless Seller from and against all claims, actions, losses, liabilities, damages, costs and expenses (including, but not limited to, attorneys' fees and costs) incurred, suffered by, or claimed against the Seller by reason of any damage to the Property or injury to persons caused by Purchaser and/or its agents, representatives or consultants in exercising its rights under this Article 5. If any mechanic's liens encumber the Property as a result of Purchaser's activities or investigation, Purchaser shall cause the mechanic's liens to be removed ten (10) days after receiving written notice from Seller or cause a bond to be posted in accordance with the provisions of the law of the State in which the Property is located. The foregoing provisions shall survive the Closing or any termination of this Agreement.

5.3 Any materials provided by Seller to accommodate and facilitate Purchaser's investigations relating to the Property are provided as an accommodation only, and except as expressly set forth herein, Seller makes no representations or warranties of any kind regarding the accuracy or thoroughness of the information contained in the materials delivered to Purchaser, nor is Seller representing that the materials are all of the materials concerning the Property in Seller's possession. Notwithstanding the foregoing, Seller represents to Purchaser that any due diligence materials delivered by Seller to Purchaser are true and correct copies of such due diligence materials maintained in Seller's files.

5.4 At any time during the Due Diligence Period, Purchaser may terminate this Agreement in its sole and absolute discretion by sending to Seller and Title Company written notice of such termination. If Purchaser terminates this Agreement during the Due Diligence Period, neither party shall have any further rights or obligations under this Agreement, except for those obligations that are to survive the termination of this Agreement, as expressly set forth elsewhere in this Agreement. Purchaser's failure to terminate this Agreement prior to the expiration of the Due Diligence Period in accordance with the provisions of this Article 5 shall be deemed approval of the Property and the matters covered by Purchaser's investigations and inspections thereof.

5.5 Prior to Closing, all information derived from Purchaser's tests, test results, and other due diligence investigation completed by Purchaser shall, to the extent permissible under existing law, remain confidential and not be disclosed to any party other than as is necessary to consummate the transaction contemplated hereby or to exercise Purchaser's rights hereunder, including without limitation, Purchaser's affiliates, counsel, and its consultants. Seller shall be entitled to receive copies of all tests, test results, and other reports and information developed by Purchaser during its Due Diligence Period whether or not escrow closes. Purchaser shall incur no liability in Seller's use of the reports or for Seller's distribution of the reports to third parties. Any distribution of the reports by Seller shall be conditioned upon Seller's advising such third party that they are not to rely on the any of the reports.

5.6 Purchaser shall pay all of the costs of all tests, inspections, due diligences and reviews conducted pursuant to this Agreement.

5.7 On or prior to the Due Diligence Termination Date, Purchaser shall notify Seller of either its election to terminate or of its approval and waiver of all contingencies. In the event that Purchaser does not give Seller notice of its election to terminate or its approval and waiver of all Contingencies on or prior to the Due Diligence Termination Date, then such contingencies shall be deemed waived and Purchaser's option to terminate under this **Section 5** will expire.

6. CLOSING.

6.1 Closing Date. This transaction shall be closed at a place, time, and date to be selected by Purchaser and reasonably acceptable to Seller, but in any event on or before fifteen (15) days after the Due Diligence Termination Date (the "Closing Date"). The word "Closing" refers to the date and time that the statutory warranty deed conveying the Property to the Purchaser is recorded in the Official Records of the County in which the Property is located (the "Official Records").

6.2 Manner and Place of Closing. This transaction shall be closed at a mutually agreeable place.

6.3 Prorations, Adjustments. All ad valorem real property taxes, assessments, utility charges and personal property taxes (collectively, "Expenses"), shall be prorated and adjusted between the parties as of the Closing Date. The parties acknowledge and agree this transaction is exempt from the real estate excise tax pursuant to WAC 458-61A-206.

6.4 Payment of the Purchase Price. Purchaser shall pay the total Purchase Price in cash at Closing, subject to any adjustments provided in this Agreement. All Closing funds, including Purchase Price, Expenses and closing costs, will go through the Escrow Officer per **Section 6.6** below.

6.5 Payment of Closing Costs. Purchaser will pay all closing costs for this transaction, excluding recurring expenses such as property taxes that are due, any utility charges that are due, and assessments that are due or liens against the property, which shall be prorated at Closing. Purchaser will pay for title insurance. No excise tax payment is required because the purchase offer on August 11, 2022 was made under threat of eminent domain. Purchaser shall pay the escrow fee. Seller and Purchaser shall pay their respective attorneys' fees. No real estate commission is associated with this sale of property.

6.6 Events of Closing. Provided the "Escrow Officer" has received the Purchaser's deposit of the purchase price, and is in a position to cause the title insurance policy to be issued in the form agreed to by Purchaser and the title company, this transaction shall be closed on the Closing Date as follows:

- a) Purchaser shall pay to Seller, by deposit of the entire Purchase Price with the Escrow Officer, in immediately available funds via wire transfer or such

other means of funding acceptable to Escrow Officer. The Purchase Price shall be adjusted for the Expenses and costs set forth in **Section 6.3** and **Section 6.5** of this Agreement. Purchaser shall also deliver to Escrow Officer any other instrument or document that may be reasonably required by Escrow Officer to consummate the transaction

- b) Any Expenses and costs set forth in Agreement **Section 6.3** and **Section 6.5** required to be paid by Seller or Purchaser at Closing shall be paid and satisfied of record at Seller's or Purchaser's expense, as applicable.
- c) Seller shall deliver to Escrow Officer:
 - a. A statutory warranty deed conveying to Purchaser title to the Property subject only to the Permitted Encumbrances;
 - b. Seller's Certifications of Nonforeign Status as provided in **Section 4** above;
 - c. A Washington real estate excise tax affidavit prepared by the Escrow Officer; and
 - d. Any other instrument or document that may be reasonably required by Escrow Officer to consummate the transaction.

6.7 Possession. The City of Vancouver will take legal possession on the Closing Date. The Property will transfer free and clear of all tenancies and parties in possession on the Closing Date.

7. FAILURE TO CLOSE.

7.1 Purchaser's Remedies. If, due to no fault or delay on the part of the Purchaser, the Seller for any reason fails to close the purchase of the Property, Purchaser's sole remedies shall be (i) to terminate this Agreement, whereupon both Seller and Purchaser shall be relieved of any further liability under this Agreement; or (ii) to pursue a remedy of specific performance of Seller's obligation to convey the Property to Purchaser within sixty (60) days of the Closing. If Purchaser fails to file such action for specific performance within such sixty (60) day period, the remedy will be considered waived and no longer enforceable.

7.2 Seller's Remedies. If, due to no fault or delay on the part of the Seller, the Purchaser fails to close the purchase of the Property and Purchaser has not terminated the purchase as authorized under this Agreement, Seller, as its exclusive remedies, shall be entitled to the remedy of specific performance and enforcement of this Agreement and seek recovery of Seller's verifiable out of

pockets costs incurred as a result of this Agreement. If Purchaser fails to file such action for specific performance within such sixty (60) day period, the remedy will be considered waived and no longer enforceable.

8. REPRESENTATIONS; CONDITION OF PROPERTY.

8.1 Seller's Representations and Warranties. To Seller's knowledge, Seller represents, warrants and covenants to Purchaser as follows:

- a) Seller has no actual knowledge of any pending litigation concerning the Property.
- b) Seller has not received any written notices of violation of laws concerning the Property.
- c) The persons who have executed this Agreement have been duly authorized to do so by Seller. All documents delivered at Closing will be executed by a duly authorized person. Seller has a good and legal right to enter into this Agreement, to perform all covenants of Seller contained in this Agreement in accordance with its terms, and to sell the Property in accordance with this Agreement.
- d) There are no outstanding agreements of sale, options, leases or other rights of third parties to acquire the Property or any interest therein, except this Agreement.
- e) Seller is not aware of any environmental contamination on or affecting the Property that has not been disclosed to Purchaser.
- f) Before Closing, Seller may not create, or voluntarily permit to be created, any liens, easements, encumbrances, tenancies or other conditions instruments affecting the occupation, use, enjoyment, maintenance or operation of all or any part of the Property without Purchaser's prior written consent, which Purchaser may withhold in its sole discretion.

8.2 Purchaser's Representations and Warranties. To Purchaser's knowledge, Purchaser represents, warrants and covenants to Seller as follows:

- a) The persons who have executed this Agreement have been duly authorized to do so by Purchaser. All documents delivered at Closing will be executed by a duly authorized person. Purchaser has a good and legal right to enter into this Agreement, to perform all covenants of Purchaser contained in this Agreement in accordance with its terms, and to purchase the Property in accordance with this Agreement.
- b) Prior to the Closing, Purchaser will have had the opportunity to investigate

all physical and economic aspects of the Property and to make all inspections and investigations of the Property which Purchaser deems necessary or desirable to protect its interests in acquiring the Property. Except as otherwise expressly set forth in this Agreement, (i) neither Seller, nor anyone acting for or on behalf of Seller, has made any representation, warranty, promise or statement, express or implied, to Purchaser, or to anyone acting for or on behalf of Purchaser, concerning the Property or the condition, use or development thereof, (ii) in entering into this Agreement, Purchaser has not relied on any representation, warranty, promise or statement, express or implied, of Seller, or anyone acting for or on behalf of Seller, (iii) all matters concerning the Property have been or shall be independently verified by Purchaser prior to the Closing, and Purchaser shall purchase the Property, or elect not to do so, based on Purchaser's own prior investigation and examination of the Property (or Purchaser's election not to do so); (iv) **AS A MATERIAL INDUCEMENT TO THE EXECUTION AND DELIVERY OF THIS AGREEMENT BY SELLER, PURCHASER IS PURCHASING THE PROPERTY IN AN "AS IS" AND "WHERE IS" PHYSICAL CONDITION AND IN AN "AS IS" STATE OF REPAIR, WITH ALL FAULTS**, including, without limitation, latent defects and other matters not detected in Purchaser's inspections, without recourse to Seller, and (v) except as provided herein, Purchaser waives, and Seller disclaims, all warranties of any type or kind whatsoever with respect to the Property, whether express or implied, including, by way of description but not limitation, those of transfer, quality, merchantability or fitness for a particular purpose and use, including, without limitation, Purchaser's intended uses or purposes. Upon the closing of the purchase and sale contemplated hereby, Purchaser shall be deemed to have accepted the Property, and each and every portion thereof, unconditionally and with any and all (none being implied hereby) rights to rescind, set aside or avoid the transactions contemplated hereby or to seek a reduction, adjustment, offset or recovery of the Purchase Price waived and relinquished. Without limiting the foregoing, Purchaser, upon Closing, shall be deemed to have waived, relinquished and released Seller from and against any and all matters arising out of latent or patent defects or physical conditions, violations of applicable laws and any and all other acts, omissions, events, circumstances or matter affecting the Property. For the foregoing purposes, and in consideration of the Due Diligence Period, Purchaser hereby specifically acknowledges that this release will extend to claims unknown at the time of executing this release, which if known by Purchaser would have materially affected its decision to enter into this Agreement. Purchaser hereby specifically acknowledges that Purchaser has carefully reviewed this subsection and discussed its import with legal counsel and that the provisions of this subsection are a material part of this Agreement.

Purchaser's initials

8.3 Survival. All representations and warranties contained in this Agreement shall be true on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, and shall survive Closing and not be merged into any documents delivered at Closing. It is understood and agreed that the Purchaser may assign this Agreement.

9. GENERAL PROVISIONS.

9.1 Time of Essence. Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Agreement.

9.2 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, and their respective heirs, personal representatives, successors, and assigns.

9.3 Notices. Notices under this Agreement shall be in writing and shall be effective when actually delivered. If mailed, a notice shall be deemed effective on the second day after deposited as registered or certified mail, postage prepaid, directed to the other parties at the address shown below. Any party may change its address for notices by at least fifteen (15) days advance written notice to the other. The address of each party to this Agreement for purposes of notice shall be as follows:

Seller: Fruit Valley Land, LLC, a Delaware limited liability company
ATTN: Panattoni Development Company, Inc.
1821 Dock Street, Suite 100
Tacoma, WA 98402

Purchaser: The City of Vancouver
Ryan Lopossa, Transportation Manager
P.O. Box 1995
Vancouver, WA 98668-1995

Each party may change its address for notice by giving not less than fifteen (15) days' prior notice of such change to the other party in the manner set forth above.

9.4 Waiver. Failure of any party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

9.5 Attorneys' Fees. In the event suit, arbitration or action is instituted to interpret or enforce the terms of this Agreement or to rescind this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial, on any appeal, and on any petition for review, in addition to all other sums provided by law.

9.6 Integration. This Agreement supersedes and replaces all written and oral agreements previously made or existing between the parties and states the entire agreement of the parties, and the Parties shall not be bound by any stipulations, representations, agreements or promises, oral or otherwise, not included in or attached to this Agreement.

9.7 Applicable Law. This Agreement shall be construed, applied and enforced in accordance with the laws of the State of Washington.

9.8 Execution of Documents. The parties agree to execute such instructions to Title Company and such other instruments and to do such further acts as may be reasonably necessary to carry out the provisions of this Agreement.

9.9 Inducement. The making, execution and delivery of this Agreement by the parties hereto have been induced by no representations, statements, warranties or agreements other than those expressly set forth herein.

9.10 Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but, if any provision of this Agreement shall be invalid or prohibited thereunder, such invalidity or prohibition shall be construed as if such invalid or prohibited provision had not been inserted herein and shall not affect the remainder of such provision or the remaining provisions of this Agreement.

9.11 Construction; Interpretation. The language in all parts of this Agreement shall be in all cases construed simply according to its fair meaning and not strictly for or against any of the parties hereto. Section headings of this Agreement are solely for convenience of reference and shall not govern the interpretation of any of the provisions of this Agreement. References to “Sections” are to Sections of this Agreement, unless otherwise specifically provided.

9.12 Liability of Seller. Purchaser acknowledges and agrees that the liability of Seller under this Agreement shall be limited in the manner set forth in this Agreement and in no event shall the members, partners, shareholders, officers, directors, employees, or owners of Seller have any personal liability, for any breach of this Agreement by Seller, and any judgments against Seller shall be satisfied solely out of the assets of Seller.

9.13 Liability of Purchaser. Seller acknowledges and agrees that the liability of Purchaser under this Agreement shall be limited in the manner set forth in this Agreement and in no event shall the members, partners, shareholders, officers, directors, employees, or owners of Purchaser have any personal liability, for any breach of this Agreement by Purchaser, and any judgments against Purchaser shall be satisfied solely out of the assets of Purchaser.

9.14 Indemnification. Seller hereby agrees to indemnify Purchaser against and hold Purchaser harmless from any and all claims, actions, costs, liability, loss, damage or expense, including, without limitation, reasonable attorneys' fees, resulting from operational events originating or relating to the period before the date of the close of escrow. Purchaser hereby agrees to indemnify Seller against and hold Seller harmless from any and all claims, actions, costs, liability, loss, damage or expense, including, without limitation, reasonable attorneys' fees, resulting from operational events originating or relating to the period on or after the date of the close of escrow.

9.15 Brokers. The Parties represent and warrant that no party has had dealings with any broker working on a commission basis in connection with negotiation or execution of this Agreement. Each party shall defend, indemnify, and hold the other party harmless from any claim, loss, or liability made or imposed by any other person claiming a commission or fee in connection with this transaction and arising out of its own conduct.

9.16 Changes in Writing. This Agreement and any of its terms may only be changed, waived, discharged or terminated by a written instrument signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

9.17 Indemnified Parties. Any indemnification contained in this Agreement for the benefit of a party shall extend to such party's members, elected officials, officers, employees, and agents.

9.18 Facsimile Signatures. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, or the Escrow Officer, the parties shall confirm facsimile transmitted signatures by signing an original document.

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

9.20 Invalidity of Provisions. If any term or other provision of this Agreement is determined to be invalid, illegal or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect as long as the substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible.

9.21 Saturday, Sunday and Legal Holidays. If the time for performance of any of the terms, conditions and provisions of this Agreement shall fall on a Saturday, Sunday or legal holiday, then the time of such performance shall be

extended to the next business day thereafter.

9.22 Survival of Covenants. Any covenants and agreements which this Agreement does not require to be fully performed prior to the Closing Date shall survive the Closing Date and shall be fully enforceable thereafter in accordance with their terms.

9.23 Assignments. Seller may assign this Agreement in whole or in part, voluntarily or involuntarily, without prior consent of Purchaser, to Carl D. Panattoni, Adon Panattoni, the Panattoni Living Trust dated April 8, 1998, or Panattoni Development Company, Inc., or any affiliate thereof, or any entity owned in part or controlled by any of them. Any assignment shall not relieve Seller of liability hereunder.

10. Right of First Offer/Right of First Refusal

10.1 After the Closing and on the terms set forth herein, Seller shall have (a) the ongoing right of first offer (the "ROFO") to purchase the Property, or any part thereof, from Purchaser; and (b) the ongoing right of first refusal (the "ROFR") to purchase the Property.

10.2 ROFO. If, during the first seven (7) years after Purchaser closes on the purchase of the Property, (a) Purchaser determines to offer all or any portion of the ROFO Property to the market ("Take to Market") for sale; or (b) Purchaser receives a bona fide, unsolicited offer from an unrelated third party (an "Unsolicited Offer"; the third party making such Unsolicited Offer, the "Unsolicited Offeror") to purchase all or any portion of the Property (such portion of the Property, the "Offered Property"), then (A) in the Take to Market scenario, Purchaser will notify Seller, before taking the Offered Property to market, of the terms upon which Purchaser intends to offer the Offered Property for sale to market; and (B) in the Unsolicited Offer scenario, if Purchaser intends to accept an Unsolicited Offer, Purchaser will first provide Seller, before entering into any agreement with the Unsolicited Offeror, a copy of the written offer from the Unsolicited Offeror (in either such scenario, such notification from Purchaser to Seller, the "ROFO Purchase Notice"). At the time Purchaser delivers a ROFO Purchase Notice, Purchaser will also deliver to Seller a purchase agreement containing the economic terms set forth in the ROFO Purchase Notice in the substantially same form as this Agreement, and the following additional terms (the "ROFO/ROFR Purchase Agreement"): (i) a feasibility period of _____ (__) days, with Seller having a right of termination during such period; (ii) closing to occur within _____ (__) days after waiver by Seller, or expiration, of its feasibility period; (iii) for closing costs to be paid as is customary for the area in which the Property is located; (iv) that Seller may assign the purchase agreement to any third party without Purchaser consent; and (v) standard representations and warranties by Purchaser with respect to authority and ownership of the Property.

10.3 Exercise of ROFO. Seller will have thirty (30) days after receipt of a complete and correct copy of the ROFO Purchase Notice and the ROFO/ROFR

Purchase Agreement (the “ROFO Exercise Period”) to exercise its ROFO to purchase the Offered Property for the economic terms set forth in the ROFO Purchase Notice. Seller’s exercise of its ROFO will be deemed effective if Seller executes and delivers the ROFO/ROFR Purchase Agreement to Purchaser during the ROFO Exercise Period. If Seller elects not to, or fails to timely, exercise its ROFO, then (a) in the Take to Market scenario and subject to Seller’s ROFR, Purchaser will be free to take the Offered Property to market for sale for any purchase price that is not more than five percent (5%) lower than the purchase price set forth in the ROFO Purchase Notice; and (b) in the Unsolicited Offer scenario, Purchaser will be free to sell the Offered Property to the Unsolicited Offeror (or its affiliate) for any purchase price that is not more than five percent (5%) lower than the purchase price set forth in the ROFO Purchase Notice, and in either event, any such sale will otherwise be on terms and conditions materially similar to those set forth in the ROFO/ROFR Purchase Agreement (the purchase agreement by and between Purchaser and the Unsolicited Offeror, an “Unsolicited Contract”).

10.4 Unsolicited Offeror. If, in the Unsolicited Offer scenario, the Unsolicited Offeror negotiates a purchase price that is more than five percent (5%) lower than that which is set forth in the ROFO Purchase Notice or on terms and conditions materially different than those set forth in the ROFO/ROFR Purchase Agreement, before Purchaser may enter into such Unsolicited Contract, Purchaser must again deliver a ROFO Purchase Notice and ROFO/ROFR Purchase Agreement to Seller setting forth the proposed changes, and the terms of this Article 10 will apply again. Additionally, if Purchaser has not entered into the Unsolicited Contract as permitted herein, or fails to close on any Unsolicited Contract, in either event, within one hundred eighty (180) days following the expiration of the ROFO Exercise Period, Purchaser will be required, prior to Purchaser being able to enter into a contract for sale of such Offered Property with any party, to provide Seller with a new ROFO Purchase Notice and ROFO/ROFR Purchase Agreement covering such Offered Property, and Seller will have a new right, pursuant to **Sections 10.2 and 10.3** above, to purchase such Offered Property.

10.5 Take to Market; ROFR. If, in the Take to Market scenario, Seller elects not to purchase the Offered Property or fails to exercise its ROFO, and Purchaser proceeds to take the Offered Property to market, Seller will have a ROFR to purchase the Offered Property on the terms of a bona fide offer from an unrelated purchaser (the “Solicited Offeror”) if such offer contains a purchase price that is more than five percent (5%) lower than that which was set forth in the ROFO Purchase Notice. If Purchaser intends to accept an offer to purchase the Property from a Solicited Offeror for a purchase price that is more than five percent (5%) lower than that which is set forth in the ROFO Purchase Notice, Purchaser will first provide Seller, before entering into a contract with the Solicited Offeror, a copy of the written offer from the Solicited Offeror, except for any portions of such offer that are the subject of a confidentiality agreement by and between City and the Solicited Offeror; provided that Purchaser will, in any event, be required to notify Seller of the identity and ownership structure (if known) of the Solicited

Offeror and of the material business terms contained in the Solicited Offer (such notification from Purchaser to Seller, the “ROFR Purchase Notice”). At the time Purchaser delivers a ROFR Purchase Notice, Purchaser will also deliver to Seller a Purchaser-executed ROFO/ROFR Purchase Agreement for Seller’s potential purchase of the Offered Property on the economic terms set forth in the ROFR Purchase Notice.

10.6 Exercise of ROFR. Seller will have thirty (30) days after receipt of the ROFR Purchase Notice and the ROFO/ROFR Purchase Agreement (the “ROFR Exercise Period”) to exercise its ROFR to purchase the Offered Property for the economic terms set forth in the ROFR Purchase Notice. Seller’s exercise of its ROFR will be deemed effective if Seller executes and delivers the ROFO/ROFR Purchase Agreement to Purchaser during the ROFR Exercise Period. If Seller elects not to, or fails to timely exercise its ROFR, then Purchaser will be free to sell the Offered Property to the Solicited Offeror (or its affiliate) for any purchase price that is not more than five percent (5%) lower than the purchase price set forth in the ROFR Purchase Notice and any such sale will otherwise be on terms and conditions materially similar to those set forth in the ROFO/ROFR Purchase Agreement (the purchase agreement by and between Purchaser and the Solicited Offeror, a “Solicited Contract”).

10.7 Solicited Offeror. If the Solicited Offeror negotiates a purchase price that is more than five percent (5%) lower than that which is set forth in Purchaser’s ROFR Purchase Notice or on terms and conditions materially different than those set forth in the ROFO/ROFR Purchase Agreement, before Purchaser may enter into a purchase agreement with Solicited Offeror, Purchaser must again deliver a ROFR Purchase Notice and ROFO/ROFR Purchase Agreement to Seller setting forth the proposed changes, and the terms of this Article 10 will apply again. If Purchaser has not entered into the Solicited Contract covering such designated Offered Property, or Purchaser fails to close under any Solicited Contract, in either event within one hundred eighty (180) days following the expiration of the ROFR Exercise Period, Purchaser will be required, prior to Purchaser being able to enter into a contract for sale of such Offered Property with any party, to provide Seller with a new ROFR Purchase Notice and ROFO/ROFR Purchase Agreement covering such Offered Property, and Seller will have a new right, pursuant to **Sections 10.5 and 10.6** above, to purchase such Offered Property.

11. Additional Provisions

11.1 Approval. This Purchase and Sale Agreement is subject to approval and acceptance by several Departments of the City of Vancouver, including the City Attorney, Finance, and the City Manager. This Agreement may also require approval from City Council. All approvals shall be deemed obtained upon Purchaser’s execution of this Agreement and this Agreement has been signed by the City Manager.

11.2 Effective Date. The date on which the last of Seller and Purchaser

signs this Agreement is the “Effective Date” of this Agreement.

Signatures are on next page.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the day and year first above written.

SELLER:

FRUIT VALLEY LAND, LLC

a Delaware limited liability company

By: PDC Seattle LPIV BB/TH, LLC
a Delaware limited liability company,
Manager

By: _____
Name: _____
Title: Local Partner

PURCHASER:

THE CITY OF VANCOUVER

By: _____
Eric Holmes, City Manager

Attest:

By: _____
Natasha Ramras, Deputy City Clerk

Approved as to form:

Jonathan Young, City Attorney

EXHIBIT A

Overall Property

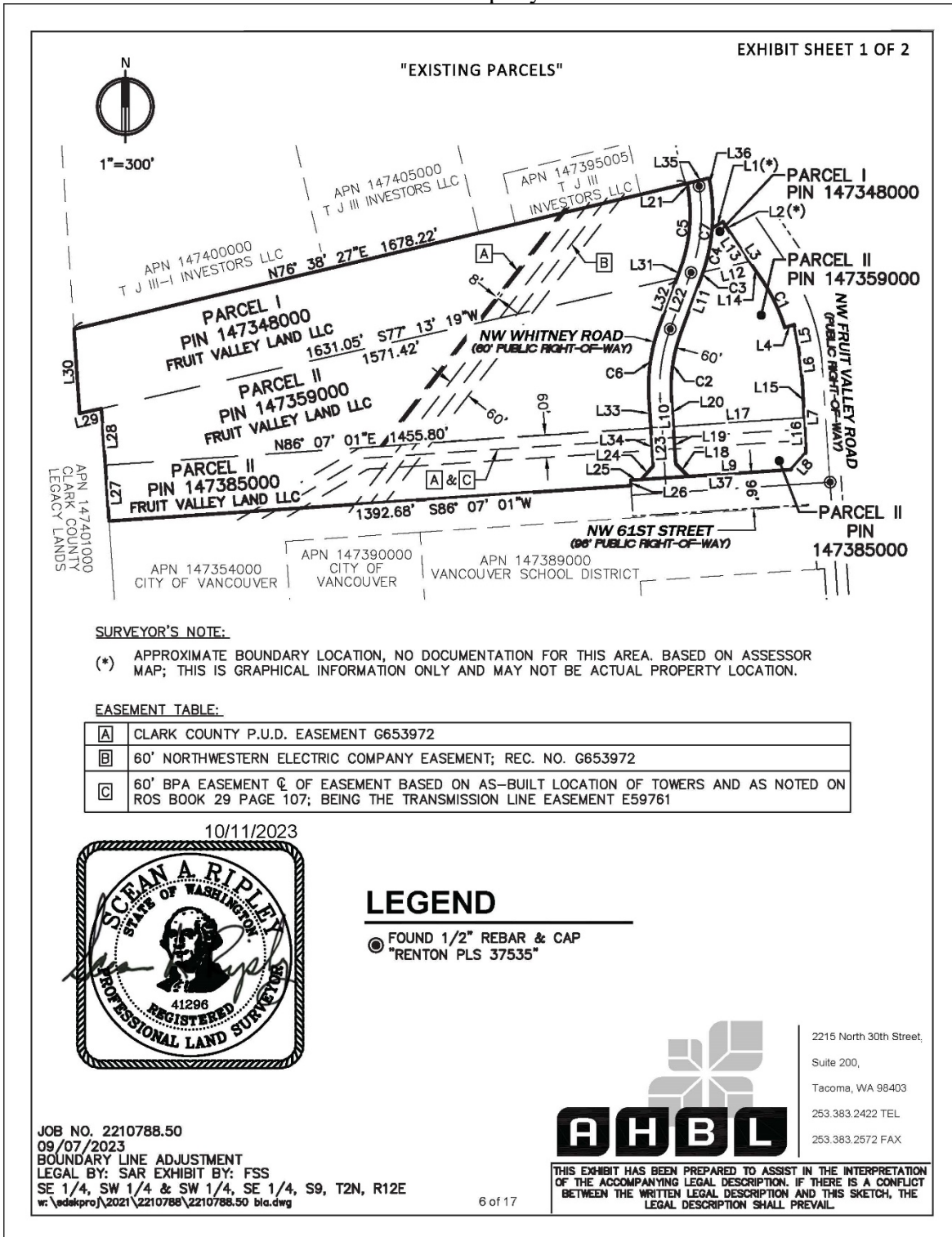


EXHIBIT A-1

Subject Property

THAT PORTION OF THE ABRAHAM ROBIE DONATION LAND CLAIM LYING WITHIN SECTION 9, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN IN CLARK COUNTY, WASHINGTON; BEING A PORTION OF DESCRIBED PROPERTY AS NOTED BELOW AS **“PROPERTY” DESCRIPTION**, AND LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE INTERSECTION OF WITH THE SOUTH LINE OF LOT 1, AS SHOWN ON A RECORD OF SURVEY – BOUNDARY LINE ADJUSTMENT MAP, RECORDED MARCH 26, 1998, AT BOOK 43 OF SURVEYS AT PAGE 15, EXTENDED EASTERLY AND THE EASTERLY RIGHT-OF-WAY MARGIN LYING 30.00 FEET EASTERLY OF THE MONUMENTED CENTERLINE OF NW WHITNEY ROAD, RECORDED MAY 19, 2005, AT BOOK 54 OF SURVEYS AT PAGE 92;

THENCE SOUTHERLY ALONG SAID EASTERLY MARGIN, LYING 30.00 FEET EAST OF SAID MONUMENTED CENTERLINE OF NW WHITNEY ROAD THE FOLLOWING SIX COURSES:

- 1) SOUTH 09°28'14" EAST 16.73 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 480.00 FEET;
- 2) THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°40'50", AN ARC LENGTH OF 248.65 FEET (HAVING A CHORD BEARING OF SOUTH 05°22'11" WEST, A CHORD LENGTH OF 245.88 FEET);
- 3) THENCE SOUTH 20°12'35" WEST 160.20 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 420.00 FEET;
- 4) THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 23°57'35", AN ARC LENGTH OF 175.63 FEET (HAVING A CHORD BEARING OF SOUTH 08°13'48" WEST, A CHORD LENGTH OF 174.36 FEET);
- 5) THENCE SOUTH 03°45'00" WEST 176.09 FEET;
- 6) THENCE SOUTH 45°01'33" EAST 47.36 FEET MORE OR LESS TO THE EXISTING NORTH RIGHT-OF-WAY MARGIN OF NW 61ST STREET, ALSO BEING THE **POINT OF TERMINUS** OF SAID DESCRIBED LINE.

“PROPERTY” DESCRIPTION

PARCEL I:

THAT PORTION OF THE ABRAHAM ROBIE DONATION LAND CLAIM LYING WITHIN SECTION 9, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN IN CLARK COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID ROBIE DONATION LAND CLAIM THAT BEARS SOUTH 76°41'37" WEST 3494.91 FEET FROM THE NORTHEAST CORNER OF THE SAID CLAIM; THENCE SOUTH 3°56'15" WEST 152.03 FEET TO THE SOUTHWEST CORNER OF THE TRACT CONVEYED TO ELGON G. WILSON BY DEED RECORDED UNDER AUDITOR'S FILE NO.

G 511785, SAID POINT BEING THE TRUE POINT OF BEGINNING HEREOF; THENCE NORTH 78°41'37" EAST ALONG THE SOUTHERLY LINE OF SAID WILSON TRACT AND AN EXTENSION THEREOF, 1800.89 FEET TO THE WESTERLY RIGHT OF WAY LINE OF

SECONDARY STATE HIGHWAY NO. 1-T, FORMERLY FRUIT VALLEY ROAD; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID RIGHT OF WAY, 840.54 FEET MORE OR LESS, TO THE NORTH LINE OF THE TRACT CONVEYED TO H. R. WINSELL BY DEED RECORDED UNDER AUDITOR'S FILE NO. G 465493; THENCE SOUTH 77°10'26" WEST ALONG SAID LINE, 1819.03 FEET TO THE NORTHWEST CORNER OF SAID WINSELL TRACT; THENCE NORTH 3°56'15" WEST 814.70 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO PACIFIC POWER AND LIGHT COMPANY, A MAINE CORPORATION, RECORDED UNDER AUDITOR'S FILE NO. G 10607, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF THE COUNTY ROAD AND 5 CHAINS NORTHERLY, MEASURED ALONG SAID WEST LINE, FROM A POINT 16.29 CHAINS SOUTH AND 21.98 CHAINS WEST OF THE NORTHEAST CORNER OF ABRAHAM ROBIE DONATION LAND CLAIM; THENCE SOUTH 75° WEST ALONG THE SOUTH PROPERTY LINE OF GRANTOR'S PROPERTY, 368 FEET MORE OR LESS, TO THE CENTERLINE OF GRANTOR'S TRANSMISSION LINE; THENCE NORTH 36°24' EAST ALONG THE CENTERLINE OF SAID TRANSMISSION LINE 56 FEET TO THE TRUE POINT OF BEGINNING OF THE LAND TO BE CONVEYED HEREIN; THENCE NORTH 53°36' WEST 20 FEET; THENCE NORTH 35°24' EAST 30 FEET; THENCE SOUTH 53°36' EAST 40 FEET; THENCE SOUTH 36°24' WEST 30 FEET; THENCE NORTH 53°36' WEST 20 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS TO AND FROM SAID PROPERTY FROM SECONDARY STATE HIGHWAY 1-T.

ALSO EXCEPTING THEREFROM THAT PORTION BEING CONVEYED ON CONTRACT TO JAMES J. SWEIBERG ET UX, AND GREG ROUSETT, A SINGLE MAN, BY INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO. G 658693 AND DESCRIBED AS FOLLOWS:

A TRACT OF LAND IN SECTION 9, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN IN CLARK COUNTY, WASHINGTON, BEING A PORTION OF THE ABRAHAM ROBIE DONATION LAND CLAIM AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE ROBIE DONATION LAND CLAIM; THENCE SOUTH 76°41'37" WEST 2382.17 FEET ON THE NORTH LINE OF THE ROBIE DONATION LAND CLAIM TO A POINT; THENCE SOUTH 13°18'23" EAST 150 FEET TO AN IRON ROD AND THE TRUE POINT OF BEGINNING; THENCE NORTH 76°41'37" EAST 663.40 FEET TO AN IRON ROD; THENCE AROUND A CURVE TO THE LEFT, HAVING A DELTA OF 23°37'49", A RADIUS OF 693.00 FEET, A DISTANCE OF 285.81 FEET ON THE CURVE TO A POINT; THENCE SOUTH 76°41'37" WEST, 497.16 FEET TO AN IRON ROD; THENCE NORTH 13°18'23" WEST 230.00 FEET TO THE TRUE POINT OF BEGINNING.

FURTHER EXCEPTING THEREFROM THAT CERTAIN TRACT BEING CONVEYED ON CONTRACT TO PAC PAPER, INC., A CORPORATION, BY INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO. 7707080217 AND DESCRIBED AS FOLLOWS:

A TRACT OF LAND IN SECTION 9, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CLARK COUNTY, WASHINGTON, BEING A PORTION OF

THE ABRAHAM ROBIE DONATION LAND CLAIM AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE ROBIE DONATION LAND CLAIM; THENCE SOUTH 76°41'37" WEST 2382.17 FEET ALONG THE NORTH LINE OF THE ROBIE DONATION LAND CLAIM TO A POINT; THENCE SOUTH 13°18'23" EAST 380 FEET TO AN IRON ROD AND THE TRUE POINT OF BEGINNING; THENCE NORTH 76°41'37" EAST, 497.16 FEET; THENCE SOUTHERLY AROUND A CURVE TO THE LEFT HAVING A DELTA OF 29°38'46", A RADIUS OF 693.00 FEET, A DISTANCE OF 358.57 FEET; THENCE SOUTH 76°41'37" WEST, 609.46 FEET TO AN IRON ROD; THENCE NORTH 13°18'23" WEST, 350.00 FEET TO AN IRON ROD; THENCE NORTH 76°41'37" EAST, 169.13 FEET TO THE TRUE POINT OF BEGINNING.

FURTHER EXCEPTING THEREFROM THAT TRACT CONVEYED TO DENNIS E. LORIGAN AND DIANA J. LORIGAN, HUSBAND AND WIFE, BY DEED RECORDED UNDER AUDITOR'S FILE NO. 8207230033, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE FOLLOWING DESCRIBED TRACT LYING EASTERLY OF THE EAST RIGHT OF WAY LINE OF N.W. LAKESHORE AVENUE AND WESTERLY OF THE WEST LINE OF FRUIT VALLEY ROAD:
THAT PORTION OF THE ABRAHAM ROBIE DONATION LAND CLAIM LYING WITHIN SECTION 9, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN IN CLARK COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID ROBIE DONATION LAND CLAIM THAT BEARS SOUTH 76°41'37" WEST 3494.91 FEET FROM THE NORTHEAST CORNER OF SAID CLAIM; THENCE SOUTH 3°56'15" WEST 152.03 FEET TO THE SOUTHWEST CORNER OF THE TRACT CONVEYED TO ELGON G. WILSON BY DEED RECORDED UNDER AUDITOR'S FILE NO. G 511785, SAID POINT BEING THE TRUE POINT OF BEGINNING HEREOF; THENCE NORTH 78°41'37" EAST ALONG THE SOUTHERLY LINE OF SAID WILSON TRACT AND AN EXTENSION THEREOF, 1800.89 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SECONDARY STATE HIGHWAY 1-T, FORMERLY FRUIT VALLEY ROAD; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID RIGHT OF WAY, 840.54 FEET MORE OR LESS, TO THE NORTH LINE OF THE TRACT CONVEYED TO H. R. WINSSELL BY DEED RECORDED UNDER AUDITOR'S FILE NO. G 465493; THENCE SOUTH 77°10'26" WEST ALONG SAID LINE, 1819.03 FEET TO THE NORTHWEST CORNER OF SAID WINSSELL TRACT; THENCE NORTH 3°56'15" WEST 814.70 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO J. H. PROPERTIES, A PARTNERSHIP, BY DEED RECORDED SEPTEMBER 6, 1990, UNDER AUDITOR'S FILE NO. 9006010032.

EXCEPT ANY PORTION LYING WITHIN FRUIT VALLEY ROAD AND NW WHITNEY ROAD.

PARCEL II:

A TRACT OF LAND IN SECTION 9, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN IN CLARK COUNTY, WASHINGTON, WITHIN THE A. ROBIE

DONATION LAND CLAIM, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS NORTH 89°51' WEST 2193.32 FEET AND NORTH 5°58' WEST 803.15 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 9; THENCE NORTH 5°58' WEST 439.65 FEET; THENCE NORTH 12°40' WEST 158.5 FEET; THENCE SOUTH 75°35' WEST 1903.5 FEET; THENCE SOUTH 5°58' EAST 300 FEET MORE OR LESS, TO THE POINT WHICH BEARS SOUTH 84°32' WEST FROM THE POINT OF BEGINNING; THENCE NORTH 84°32' EAST 1900 FEET MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT ANY PORTION LYING WITHIN FRUIT VALLEY ROAD, NW WHITNEY ROAD AND NW 61ST STREET.

ALSO EXCEPT THAT PORTION CONVEYED TO THE CITY OF VANCOUVER, DESCRIBED AS FOLLOWS:

A TRACT OF LAND LYING IN THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, CLARK COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT NORTH 864.54 FEET AND WEST 2256.35 FEET OF THE SOUTHEAST CORNER OF SAID SECTION 9 AND AT A POINT 30.0 FEET LEFT OF ENGINEER'S STATION 96+57.79 RIGHT OF WAY CENTERLINE, FRUIT VALLEY ROAD - W. 34TH STREET TO NW WHITNEY ROAD RIGHT OF WAY PLAN, 22 PAGES, CITY OF VANCOUVER PROJECT NUMBER 071107, DATED APRIL 2003; THENCE NORTH TO A POINT 30.0 FEET LEFT OF ENGINEER'S STATION 98+09.37 RIGHT OF WAY CENTERLINE; THENCE WEST TO A POINT 57.76 FEET LEFT OF ENGINEER'S STATION 98+09.39 RIGHT OF WAY CENTERLINE; THENCE SOUTH TO A POINT 59.26 FEET LEFT OF ENGINEER'S STATION 97+16.29 RIGHT OF WAY CENTERLINE; THENCE SOUTHWEST TO A POINT 40.0 FEET LEFT OF ENGINEER'S STATION 103+77.87 NW 61ST STREET CENTERLINE; THENCE WEST TO A POINT 40.0 FEET LEFT OF ENGINEER'S STATION 101+04.02 NW 61ST STREET CENTERLINE; THENCE NORTHWEST TO A POINT 30.0 FEET RIGHT OF ENGINEER'S STATION 100+17.02 NW WHITNEY ROAD CENTERLINE; THENCE NORTH TO A POINT 30.0 FEET RIGHT OF ENGINEER'S STATION 100+75.59 NW WHITNEY ROAD CENTERLINE; THENCE WEST TO A POINT 30.0 FEET LEFT OF ENGINEER'S STATION 101+75.59 NW WHITNEY ROAD CENTERLINE; THENCE SOUTH TO A POINT 30.0 FEET LEFT OF ENGINEER'S STATION 100+73.95 NW WHITNEY ROAD CENTERLINE; THENCE SOUTHWEST TO A POINT 40.0 FEET LEFT OF ENGINEER'S STATION 99+78.78 NW 61ST STREET CENTERLINE; THENCE WEST TO A POINT 40.0 FEET LEFT OF ENGINEER'S STATION 99+50.0 NW 61ST STREET CENTERLINE; THENCE SOUTH TO A POINT 24.0 FEET LEFT OF ENGINEER'S STATION 99+50.0 NW 61ST STREET CENTERLINE; THENCE EAST TO THE POINT OF BEGINNING.