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CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL 117595

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AN ORDINANCE authorizing the Director of Finance and Administrative Services to execute and deliver a building separation easement and restrictive covenant agreement granting an air rights easement over portions of the West Precinct / 911 Communication Center, and to accept payment therefor.

WHEREAS, The City of Seattle owns certain real property commonly known as the West Precinct / 911 Communication Center (West Precinct), located at 810 Virginia Street, Seattle; and

WHEREAS, Cascadia Holdings, LLC owns property northwest and adjacent to the West Precinct at 2030 8th Avenue, Seattle, and has entered into an agreement to convey the property to GID Development (GID); and

WHEREAS, GID intends to build a 39 story residential tower with work and retail space at the base, contingent upon its acquisition of an easement and restrictive covenant (Easement and Covenant) over two portions of the West Precinct property that is required for the proposed design to comply with International Building Code requirements for fire protection; and

WHEREAS, West Precinct operations will not be adversely affected by the proposed Easement and Covenant, and the City's ability to develop this City property in the future will not be unduly restricted as a result of granting the Easement and Covenant; and

WHEREAS, the Director of Finance and Administrative Services (FAS) has had the easement areas appraised by a licensed, independent appraiser, who ascribed a cumulative market value of \$230,000; and

WHEREAS, both the City and GID agree that the value of the easement areas as appraised represents fair market value for the interest to be conveyed; NOW, THEREFORE

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of FAS or his designee is authorized to execute and deliver, for and on behalf of the City, a Building Separation Easement and Restrictive Covenant,



1 substantially in the form of Attachment 1 hereto. The Director of FAS or his designee is further
2 authorized to negotiate and execute such additional agreements as the Director or his designee
3 deem necessary or advisable to carry out the purposes of this ordinance or the orderly
4 development of the GID development.

5 Section 2. The property identified in the Building Separation Easement and Restrictive
6 Covenant is not essential for the present operation or any anticipated future needs of the City.

7 Section 3. Upon receipt, the compensation for the Building Separation Easement and
8 Restrictive Covenant, in the amount of \$230,000, shall be deposited into the Unrestricted
9 Subaccount of the Cumulative Reserve Fund (00164).

10 Section 4. This ordinance shall take effect and be in force 30 days after its approval by
11 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
12 shall take effect as provided by Seattle Municipal Code Section 1.04.020.
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Passed by the City Council the ____ day of _____, 2012, and signed by
me in open session in authentication of its passage this ____ day of _____,
2012.

President _____ of the City Council

Approved by me this ____ day of _____, 2012.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2012.

Monica Martinez Simmons, City Clerk

(Seal)

ATTACHMENT 1 BUILDING SEPARATION EASEMENT AND RESTRICTIVE
COVENANT



Richard J. Gholaghong
FAS W. Precinct Easement 2 ORD ATT 1
August 7, 2012
Version 17

After Filing Return To:
John C. McCullough
McCullough Hill Leary, PS
701 Fifth Avenue, Suite 7220
Seattle, Washington 98104

BUILDING SEPARATION EASEMENT AND RESTRICTIVE COVENANT

Grantor: The City of Seattle

Grantee: Cascadia Holdings, LLC

Abbreviated Legal Description (lot, block and plat name, or section-township-range):

Lots 1 through 4 and 11 and 12, Block 25, Plat of the Second Addition to the Town of Seattle,
as laid off by the Heirs of Sarah A. Bell (deceased)

Additional legal description is on pages 12 of document

Assessor's Property Tax Parcel Account Number(s):

066000-0560-03

Reference Numbers of Documents Assigned or Released (if applicable): N/A



BUILDING SEPARATION EASEMENT AND RESTRICTIVE COVENANT

This Building Separation Easement and Restrictive Covenant (the "Covenant") is entered into this ___ day of _____, 2012, by and between THE CITY OF SEATTLE, WASHINGTON, a charter city ("City") and Cascadia Holdings, LLC, a Washington limited liability company ("Cascadia") with respect to the following:

RECITALS

A. City is the owner of the real property located in the City of Seattle, King County, Washington, legally described on Exhibit A attached hereto and incorporated herein by this reference (the "City Property").

B. Cascadia is the owner of the real property located in the City of Seattle, King County, Washington, legally described on Exhibit B attached hereto and incorporated herein by this reference (the "Cascadia Property"). As used herein, the term "Properties" refers to the City Property and the Cascadia Property and the term "Property" refers to either of the Properties, as appropriate from the context.

C. The City, acting in its regulatory capacity, has issued Cascadia a demolition permit in connection with its proposed construction of a residential and commercial project on the Cascadia Property (Project No. 3010926; permit no. 6298264) ("the Project"). In addition, Cascadia has submitted applications for building permits for construction of the Project (_____). For the purposes of this Covenant, the Project includes any revisions, replacements or modifications to the original permits issued by the City.

D. The International Building Code (IBC), 2009 Edition, with amendments, additions and exceptions, is the Building Code for the City, which is hereinafter referred to as the "Building Code".

E. Chapters 6 & 7 of the Building Code establish requirements for fire resistance of building walls and for protection of openings such as windows and doors, including minimum distances that buildings must be separated from property lines (the "Fire Protection Standards"). Under Fire Protection Standard 705.8, for the Project to have 45% unprotected openings on the building façade facing the south property line of the Cascadia Property, there must be a separation of at least ten (10) feet (the "Minimum Separation Distance") from the nearest property line; however, parties may by covenant provide for the maintenance of the Minimum Separation Distance between two structures, regardless of the location of intervening property lines.



F. Cascadia desires to ensure that the Project may have unprotected openings on its facades facing the City Property, and therefore desires to ensure that the Minimum Separation Distance is maintained between those facades.

In consideration of the mutual covenants herein contained, City and Cascadia hereby agree:

1. **Grant of Restrictive Covenant; Building Separation Area.** Subject to all of the terms and conditions herein, City covenants that, except as provided below, it will not construct, maintain or replace any permanent or temporary structure or improvement on the City Property within the Building Separation Area described on Exhibits C and D attached hereto, if such permanent or temporary structure would cause the Project to fail to comply with the Fire Protection Standards. The City may construct such improvements in the Building Separation Area, pursuant to permits duly issued by the City (acting in its regulatory capacity), if such improvements would not cause a structure (whether existing or to be constructed) on either Property (including the Project) to fail to comply with the Fire Protection Standards. City and Cascadia acknowledge that certain improvements including a pedestrian walkway and railing, a canopy, and an automobile entrance card reading device are currently installed in the Building Separation Area and agree that the City (acting in its regulatory capacity) has confirmed that such improvements do not violate the Fire Protection Standards. The City shall permit Cascadia to use the Building Separation Area from time to time for the purpose of maintenance, repair and/or cleaning of the structures on Cascadia's Property, on a temporary basis. Cascadia shall provide the City with not less than 72 hours' advance written notice of its intent to use the Building Separation Area for any such maintenance or cleaning, and for any purpose that involves suspension of equipment over any portion of the Building Separation Area, which notice shall describe the nature and extent of the intended use.

2. **Cascadia Covenants.** For so long as this Covenant is in effect and provided the City Property remains in use as a police precinct and/or communications center, Cascadia agrees to the following conditions:

(a) Cascadia shall install and maintain in the Project translucent glass reasonably acceptable to the City to a height of seven (7) feet above the Eighth Avenue sidewalk in all street-level windows facing the City Property driveway. At Cascadia's option, the glass pane closest to Eighth Avenue will either be translucent or have a window display or treatment with an opaque backing so as to obscure the view of the City Property from the interior of the Cascadia Property.

(b) Cascadia shall pay the costs of installing a privacy film or similar visual screen acceptable to the City on the City Property 911 Call Center windows. The City shall be responsible for maintaining the film after installation.



(c) Cascadia hereby grants the City a license, for the life of the Project, to install and maintain four (4) security cameras on the Cascadia Property at locations reasonably acceptable to the parties to record activity on the City Property. Cascadia shall provide electricity and electrical outlets for such security cameras.

(d) Cascadia shall install and maintain "No Parking" signs in the vacated alley adjacent to the Cascadia Property.

(e) At City's request, Cascadia will permit the City to install an anchor bolt on the side of its building for a sign to be suspended over the City Property that identifies the entrance to the police parking garage. The City will obtain any necessary permits for such installation and shall restore any damage to the building caused by such installation.

3. **Future Building Codes.** City recognizes and acknowledges that the Building Code is from time to time amended, including amendments to adopt revisions to the Building Code, and that the Fire Protection Standards may at a future time be amended or replaced by new requirements following the date hereof (the "New Code Requirements"). Cascadia further acknowledges that the purpose of this Agreement is to assure compliance with Building Code requirements under which the Project has been designed and will be constructed. Cascadia agrees that any new construction or redevelopment on the Cascadia Property after completion of the Project shall comply with the Building Code as the same may be amended, modified, or replaced by new provisions.

4. **Term.** This Covenant, and all rights and obligations of the parties hereto, shall become effective only when Cascadia has obtained a building permit for the Project and paid the City of the sum of Two Hundred Thirty Thousand Dollars (\$230,000.00) in cash. The Covenant shall remain in full force and effect for as long as the Project exists on the Cascadia Property; provided, however, that this Covenant shall terminate upon the occurrence of any of the following events: (i) the expiration of the master use permit for the Project; (ii) failure by Cascadia (or its successor) to commence construction of the Project within ten (10) years of the effective date of the Ordinance by which this Covenant is authorized, and thereafter diligently to pursue such construction to completion without significant interruption (except for force majeure); or (iii) modifications to the Seattle Land Use Code or the Seattle Building Code, such that the restrictions on the City Property set forth in Section 1 above are no longer required under the Fire Protection Standards and/or the Land Use Code to provide separation from a structure on the Cascadia Property as contemplated herein. For purposes of this Section 3, "commence construction" shall mean the demolition of all above-grade improvements on the Property and initiation of work under an issued shoring and excavation permit for the Project. If the City asserts that an event of termination under this Section 3 has occurred, the City shall provide written notice thereof to Cascadia. Cascadia shall thereafter have 180 days within which to commence to cure any such event of



termination (including by commencement of construction), in which event, upon such action by Cascadia, this Covenant shall remain in full force and effect. Any delay by the City in providing notice of an event of termination as provided herein shall not constitute a waiver by the City of any such right to terminate this Covenant.

5. **Reservation.** Each party reserves the right to use its respective Property for any use or improvement not inconsistent with the terms hereof.

6. **Enforcement.** Cascadia or City may, at its discretion, bring a lawsuit to compel performance of the terms and conditions of this Agreement. Alternatively, the City may enforce violations of this Agreement as provided in the Building Code and the Seattle Land Use Code, now or as hereafter amended. The remedies provided in this section are non-exclusive and shall not prevent the City or Cascadia from pursuing any other rights or remedies available at law or in equity. Enforcement of the provisions of this Covenant shall be by an appropriate proceeding at law or in equity against any person, corporation or other entity violating or attempting to violate said provisions, either to restrain such violation, to enforce liability or to recover damages, or by any appropriate proceeding at law or in equity against the affected real property to enforce any lien or charge arising by virtue hereof. The prevailing party in any such enforcement proceeding shall be awarded its costs and expenses, including reasonable attorneys' fees, incurred in connection therewith.

7. **Indemnity.** Cascadia hereby agrees to indemnify, defend and hold the City harmless from and against any and all damages, claims, liabilities or expenses (including attorneys' fees incurred with or without litigation or on appeal) for property damage or personal injury arising out of or in any way relating to any actual or alleged negligence or intentional misconduct by Cascadia or its employees, agents, contractors or subcontractors associated with their use of the Building Separation Area. Cascadia agrees that the foregoing indemnity specifically covers liability for actions brought by its employees. City and Cascadia acknowledge and agree that the above indemnity is not being provided by Cascadia to City in, or in connection with or collateral to, a contract or agreement relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate.

The foregoing indemnity is specifically and expressly intended to constitute a waiver of the indemnifying party's immunity under Industrial Insurance, Title 51 RCW, to the extent necessary to provide the indemnified party with a complete indemnity against claims asserted by the indemnifying party's employees and has been the subject of specific negotiation between the parties.

8. **No Public Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Building Separation Area to the general public or



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for any public purposes whatsoever, it being the intention of the parties hereto that this Agreement shall be strictly limited to and for the purposes herein expressed.

9. **Notices.** All notices provided for herein may be delivered in person, sent by Federal Express or other overnight courier service or mailed in the United States mail postage prepaid and, if mailed, shall be considered delivered three (3) business days after deposit in such mail. The addresses to be used in connection with such correspondence and notices are the following, or such other address as a party shall from time to time direct:

City: Finance & Administrative Services
ATTN: Nancy Stachey
P.O. Box 94689
Seattle WA 98124
206-684-0690 / 206-684-0525
nancy.stachey@seattle.gov

Copies to: Seattle Police Department
ATTN: Cpt. James Dermody
810 Virginia Street
Seattle WA 98101
206-684-8680 /
james.dermody@seattle.gov



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Cascadia: Cascadia Holdings, LLC
Attn: Evan McMullen
808 Lenora Street
Seattle, Washington 98121
Telephone: (206) 660-0020
Facsimile: 206-467-6532
Email: sales@cosmopolitanmotors.com

Copies to: Ian Eisenberg
500 Union Street, Suite 1030
Seattle WA 98121
Email: ian@usnetwork.com

Copies to: Shawn Dougherty
Email: Shawn.dougherty@northwesthardwoods.com

10. **Costs and Expenses.** Each party hereto will bear its own costs and expenses in connection with the negotiation, preparation and execution of this Covenant and other documentation related hereto and in the performance of its duties hereunder. Cascadia shall bear the expense of recordation of this Covenant in the records of King County, Washington.

11. **Failure to Enforce.** No delay or omission on the part of an owner of a Property in exercising any rights, power or remedy provided in this Covenant shall be construed as a waiver of or acquiescence in any breach of the terms and conditions of this Covenant.

12. **Covenants Running with Land.** The covenants hereby granted or reserved, the restrictions hereby imposed and the agreements herein contained or contemplated hereby shall be deemed easements, restrictions and covenants running with the land and shall inure to the benefit of and be binding upon, the City, Cascadia and their respective heirs, personal representatives, successors and assigns. Upon conveyance of the Cascadia Property by Cascadia to another party, the acquiring party shall become the successor to Cascadia, and Cascadia itself shall be relieved of all obligations under this Covenant as of the date of such conveyance, except for such liabilities as shall have accrued prior to the date of such conveyance.

13. **Miscellaneous.**



(a) **Unenforceability.** If any provision of this Covenant is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remainder of such provision or any other provisions hereof.

(b) **Governing Law.** This Covenant shall be construed and enforced in accordance with the laws of the State of Washington.

(c) **Counterparts.** This Covenant may be executed in counterparts, each of which shall be deemed an original, but which when taken together shall constitute one and the same instrument.

(d) **Amendment; Modification.** This Covenant may be changed, modified or amended in whole or in part only by a written and recorded agreement executed by all of the then record fee owners of all parts of the Properties and consented to by any holder of a mortgage or deeds of trust recorded against either Property at such time.

(e) **Waiver.** A party may, at any time or times, at its election, waive any of the conditions to its obligations hereunder, but any such waiver shall be effective only if contained in a writing signed by such party. No waiver shall reduce the rights and remedies of such party by reason of any breach of any other party. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

(f) **No Merger.** There shall be no merger of any easements, rights, or interests created by this Covenant by reason of the fact that the Properties may be owned or held directly or indirectly by or for the account of the same person or entity, and no such merger shall occur unless and until all persons and entities at the time having an interest in all the Properties (including, but not limited to, the holders of any bona fide first deed of trust or first mortgage, having an interest in, or an encumbrance on, all or any portion of said Properties) shall join in a written instrument effecting such merger and shall duly record the same.

(g) **City's Regulatory Authority.** The parties acknowledge and agree that nothing contained in this Covenant is intended to constrain in any way the City's regulatory authority with respect to the Project.

(h) **Entire Agreement.** This Covenant constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, express or implied, and all negotiations or discussions of the parties, whether oral or written, and there are no warranties, representations or agreements among the parties in connection with the subject matter hereof except as set forth herein and in this Covenant.



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

City: **THE CITY OF SEATTLE,**
 a First Class City

By _____
Its _____

Cascadia:

CASCADIA HOLDINGS, LLC
a Washington limited liability company

By: McMullen Family Holdings, LLC,
a Washington limited liability company,
a Manager

By: _____
Evan McMullen
Its: Manager

By: Dougherty Property Group LLC,
a Washington limited liability company,
a Manager

By: _____
Shawn Dougherty
Its: Manager

By: Waddington Holdings LP, a Manager

By: Weyburn LLC, Its General Partner

By: _____
Ian Eisenberg
Its: Authorized Signator



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STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 2012, before me, a Notary Public in and for the State of Washington, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that _____ was authorized to execute the instrument, and acknowledged it as the _____ of _____, to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My appointment expires _____
Print Name _____



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Exhibit A City Property Legal Description

Lots 1 through 4, and 11 and 12, Block 25, Plat of the Second Addition to the Town of Seattle, as laid off by the Heirs of Sarah A. Bell (deceased) according to the Plat thereof recorded in Volume 1 of Plats, page 121 in King County, Washington; Together with portion vacated alley adjoining as vacated by City of Seattle Ordinance No. 82555E



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Exhibit B Cascadia Holdings, LLC Property Legal Description

Lots 5 and 6, Block 25, Plat of the Second Addition to the Town of Seattle, as laid off by the Heirs of Sarah A. Bell (deceased) according to the Plat thereof recorded in Volume 1 of Plats, page 121 in King County, Washington; Together with portion vacated alley adjoining as vacated by City of Seattle Ordinance No. 82555



EXHIBIT C: EASEMENT A LEGAL DESCRIPTION AND SURVEY DRAWING

AIR RIGHTS EASEMENT
LEGAL DESCRIPTION

THAT PORTION OF LOT 4, BLOCK 25, PLAT OF THE SECOND ADDITION TO THE TOWN OF SEATTLE, AS LAID OFF BY THE HEIRS OF SARAH A. BELL (DECEASED), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 121, KING COUNTY, WASHINGTON, LYING ABOVE A BOTTOM LIMIT ELEVATION OF 162.0 FEET AND LYING BELOW A TOP LIMIT ELEVATION OF 518.4 FEET, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WESTERLY CORNER OF SAID LOT 4;
SAID POINT OF COMMENCEMENT LYING 33.00 FEET DISTANT AT RIGHT ANGLES TO THE CENTERLINE OF RIGHT OF WAY OF 8TH AVENUE;

THENCE NORTH $42^{\circ}17'45''$ EAST ALONG THE NORTHWEST LINE OF SAID LOT 4, A DISTANCE OF 82.48 FEET TO THE POINT OF BEGINNING;

THENCE DEPARTING SOUTH $47^{\circ}42'39''$ EAST 7.76 FEET TO A POINT FROM WHICH THE RADIUS OF A NON TANGENT CURVE, CONCAVE NORTHWEST BEARS NORTH $43^{\circ}23'23''$ WEST;
SAID CURVE HAVING A RADIUS OF 271.52 FEET;

THENCE NORTHEASTERLY 65.55 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF $13^{\circ}49'53''$;

THENCE NORTH $54^{\circ}35'08''$ WEST 1.00 FEET TO A POINT FROM WHICH THE RADIUS OF A NON TANGENT CURVE, CONCAVE NORTHWEST BEARS NORTH $57^{\circ}13'54''$ WEST;
SAID CURVE HAVING A RADIUS OF 270.49 FEET;

THENCE NORTHEASTERLY 17.63 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF $03^{\circ}44'01''$, TO THE NORTHEAST LINE OF SAID LOT 4;

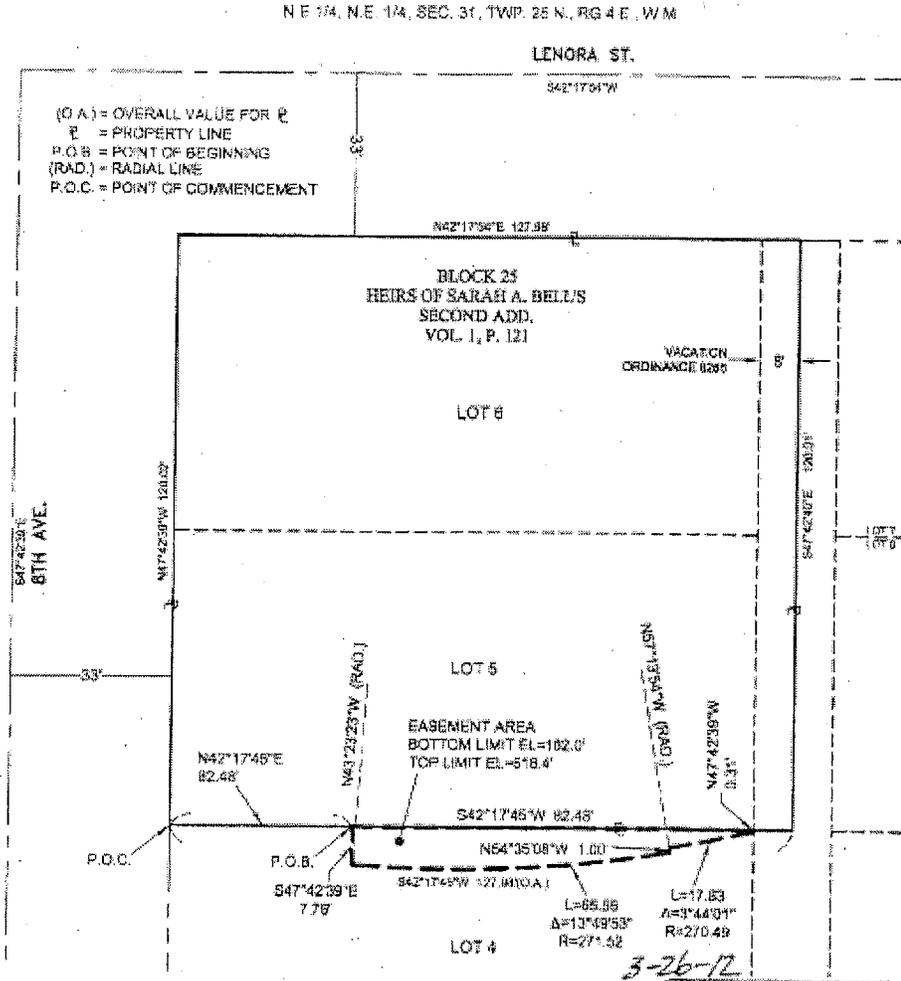
THENCE NORTH $47^{\circ}42'39''$ WEST ALONG SAID NORTHEAST LINE, A DISTANCE OF 0.31 FEET TO SAID NORTHWEST LINE OF LOT 4;
THENCE SOUTH $42^{\circ}17'45''$ WEST ALONG SAID NORTHWEST LINE, A DISTANCE OF 82.48 FEET TO THE POINT OF BEGINNING;

SAID ELEVATIONS DESCRIBED HEREIN ARE EXPRESSED IN TERMS OF NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) AS OF THE DATE OF THIS INSTRUMENT, AND ARE BASED UPON CITY OF SEATTLE BENCHMARK NO. 5007B, BEING A 2 INCH SURFACE BRASS DISK IN THE CONCRETE WALK AT THE NORTH QUADRANT OF INTERSECTION OF WESTLAKE AVENUE AND LENORA STREET AND HAVING A PUBLISHED ELEVATION OF 79.22 FEET;



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 FAS W. Precinct Easement 2 ORD ATT 1
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EXHIBIT C: EASEMENT A LEGAL DESCRIPTION AND SURVEY DRAWING



AIR RIGHTS EASEMENT
 PREPARED FOR: GID INVESTMENT ADVISORS LLC

 BUSH, ROED & HITCHINGS, INC.
 CIVIL ENGINEERS & LAND SURVEYORS
 2009 MINOR AVE. E. (206) 323-4144
 SEATTLE, WA 98102-3513
 BRH JOB: NO 2007273.03 03-24-12

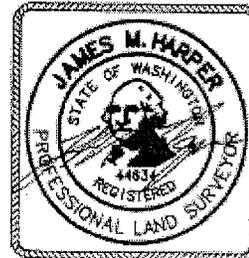
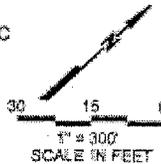


EXHIBIT D: EASEMENT B LEGAL DESCRIPTION AND SURVEY DRAWING

**AIR RIGHTS EASEMENT
LEGAL DESCRIPTION**

THAT PORTION OF LOT 4, BLOCK 25, PLAT OF THE SECOND ADDITION TO THE TOWN OF SEATTLE, AS LAID OFF BY THE HEIRS OF SARAH A. BELL (DECEASED), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 121, KING COUNTY, WASHINGTON, LYING BELOW A TOP LIMIT ELEVATION OF 518.4 FEET, AND LYING ABOVE A BOTTOM LIMIT, DEFINED AS THE EXISTING FINISHED GRADE SURFACE, AND COINCIDENT WITH ANY AND ALL CHANGES IN GRADIENT OR ELEVATION, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WESTERLY CORNER OF SAID LOT 4;
SAID POINT OF COMMENCEMENT LYING 33.00 FEET DISTANT AT RIGHT ANGLES TO THE CENTERLINE OF RIGHT OF WAY OF 8TH AVENUE;
THENCE SOUTH 47°42'39" EAST" ALONG THE NORTHEAST MARGIN OF SAID RIGHT OF WAY, A DISTANCE OF 10.48 FEET;
THENCE NORTH 42°17'21" EAST 37.50 FEET;
THENCE NORTH 47°42'39" WEST 10.48 FEET TO THE NORTHWEST LINE OF SAID LOT 4;
THENCE SOUTH 42°17'45" WEST ALONG SAID NORTHWEST LINE TO THE POINT OF BEGINNING;
SAID ELEVATIONS DESCRIBED HEREIN ARE EXPRESSED IN TERMS OF NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) AS OF THE DATE OF THIS INSTRUMENT, AND ARE BASED UPON CITY OF SEATTLE BENCHMARK NO. 5007B, BEING A 2 INCH SURFACE BRASS DISK IN THE CONCRETE WALK AT THE NORTH QUADRANT OF INTERSECTION OF WESTLAKE AVENUE AND LENORA STREET AND HAVING A PUBLISHED ELEVATION OF 79.22 FEET;

THE ABOVE DESCRIBED PARCEL CONTAINS 393 SQUARE FEET (0.0090 ACRE), MORE OR LESS;

SITUATE IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON.



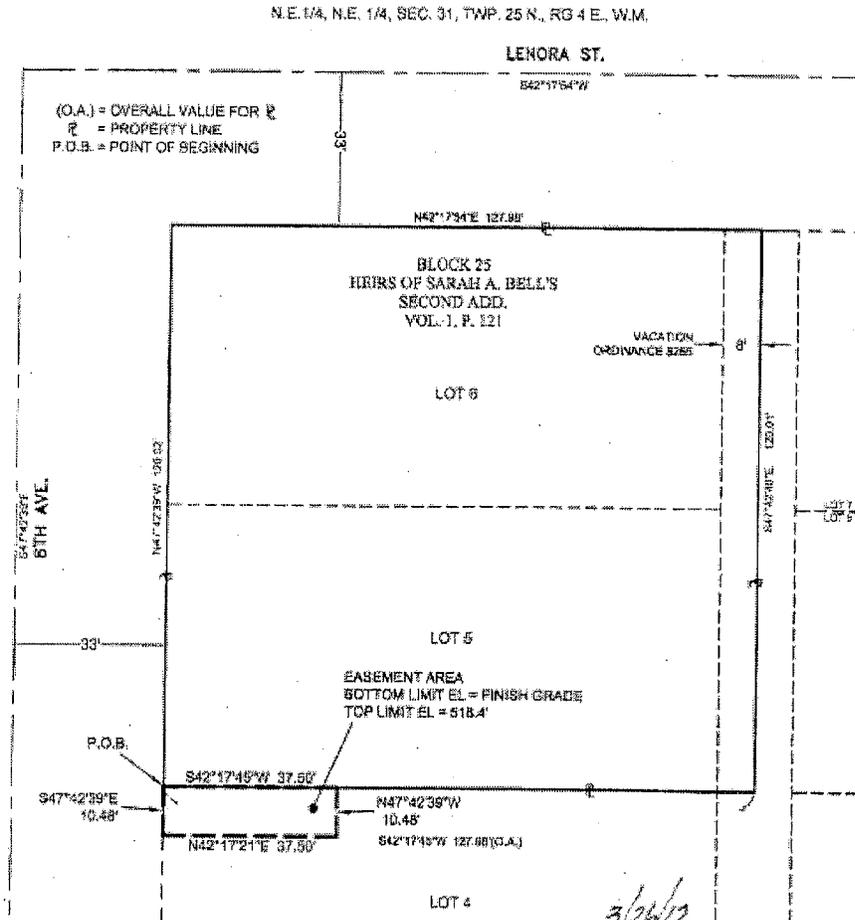
GID INVESTMENT ADVISORS LLC
2030 8TH AVENUE
JAMES M. HARPER, P.L.S.
BRH JOB NO. 2007273.03
MARCH 26, 2012

BUSH, ROED & MITCHINGS, INC.
2009 MINOR AVENUE EAST
SEATTLE, WA 98102
(206) 323-4144



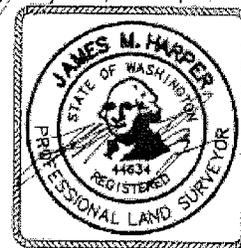
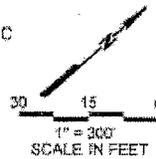
Richard J. Gholaghong
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EXHIBIT D: EASEMENT B LEGAL DESCRIPTION AND SURVEY DRAWING



AIR RIGHTS EASEMENT
 PREPARED FOR: GID INVESTMENT ADVISORS LLC

 BUSH, ROED & HITCHINGS, INC.
 CIVIL ENGINEERS & LAND SURVEYORS
 2009 MINOR AVE. E., (206) 323-4144
 SEATTLE, WA 98102-3513
 BRH JOB. NO 2007273.03 03-24-12



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Finance and Administrative Services (FAS)	Hillary Hamilton / 684-0421	Jennifer Devore / 615-1328

Legislation Title:

AN ORDINANCE authorizing the Director of Finance and Administrative Services to execute and deliver a building separation easement and restrictive covenant agreement granting an air rights easement over portions of the West Precinct / 911 Communication Center, and to accept payment therefor.

Summary of the Legislation:

The Ordinance authorizes the Director of Finance and Administrative Services (FAS) to enter into an easement agreement conveying a permanent air rights easement over portions of the West Precinct / 911 Communication Center to Cascadia Holdings, LLC, ("Cascadia") owner of the adjacent property located at 2030 8th Avenue in Seattle. Cascadia, and/or GID Development ("GID"), which has an agreement to purchase Cascadia's property, needs the air rights easement to facilitate development of a residential tower on their property. The City will receive \$230,000 in compensation for the property rights. These proceeds will be deposited into the Unrestricted Subaccount of the Cumulative Reserve Fund. GID has agreed to mitigate several potential impacts of the development on the West Precinct / 911 Communications Center at its expense.

Background:

GID Development approached FAS in late 2011 concerning a proposed development of a high-rise residential tower at 2030 8th Avenue. The new development is located immediately adjacent to the West Precinct / 911 Communications Center as shown on Exhibit 1. The Department of Planning and Development and the Design Review Board have approved the design of the project subject to certain conditions. To comply with the City Building Code, the City requires a separation area between the proposed residential structure and any future development on West Precinct / 911 Communication Center property to accommodate the window design on the development's southeast side beginning at a height of 85'. In addition, the Design Review Board asked for design modifications to add windows on the first 85' of the southeast corner of the building adjacent to the West Precinct driveway off 8th Avenue, necessitating an additional separation area.

The City will convey the air right easements through a Building Separation Easement and Restrictive Covenant ("Easement and Covenant"), which identifies the Building Separation Area. The Building Separation Area is composed of two sections, identified as Easement A and B on Attachment 1. Easement A begins approximately 85' above street level (corresponding to the podium height of GID's proposed tower), extending vertically to a height of 518'. Easement B



covers the second separation area adjacent to the West Precinct Driveway, extending from street level to the 518' height limit for the proposed tower. FAS will retain certain rights within the building separation area in order to protect the current operation of this facility and the future value of the property. Terms and conditions are further described in the Building Separation Easement and Restrictive Covenant.

FAS ordered an appraisal of the building separation area in May 2012. The completed appraisal set the fair market value of Easements A and B at \$110,000 and \$120,000, respectively, for a total of \$230,000. Funds are proposed to be deposited into the Unrestricted Subaccount of the Cumulative Reserve Fund (50300).

- This legislation does not have any financial implications.
 This legislation has financial implications.

Appropriations: N/A

Appropriations Notes: There are no new appropriations with this legislation.
Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2012 Revenue	2013 Revenue
Unrestricted Subaccount of the Cumulative Reserve Fund (00164)	FAS	External Revenue	\$230,000	0
TOTAL			\$230,000	

Revenue/Reimbursement Notes:

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact: N/A

Spending/Cash Flow: N/A

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
 The legislation has limited long-term implications. Based on the City's appraisal of the highest and best use of the property, future potential development of the City's property will not be severely restricted. Under current zoning, the City could choose to build along the property line up to a height of 85' with the exception of Easement Area B. Although high-rise development of the City's property would require a spacing of 60' from an existing tower exceeding 160 feet in height in this zone (Downtown Mixed Commercial - DMC 240/290-400), the City's appraisal notes that a typical developer would build a tower on the southeast corner of the West Precinct property, well beyond



the 60-foot spacing requirement. The \$230,000 in compensation was determined by an appraisal of the Fair Market Value of the easement area, recognizing these limitations.

b) What is the financial cost of not implementing the legislation?

Without the building separation easement, GID would have to redesign its development project and/or abandon the project. GID Development has an option to purchase Cascadia's property contingent on meeting building separation requirements. If GID does not obtain the easements necessary to construct the design as approved, the deal to purchase the property from Cascadia may be abandoned, resulting in a loss of Real Estate Excise Tax revenue to the City associated with the sale between the two private parties.

c) Does this legislation affect any departments besides the originating department?

Yes -- the Seattle Police Department. This proposal was reviewed with West Precinct personnel to identify potential security and operational impacts of the project. All issues have been addressed to the satisfaction of the West Precinct. GID has agreed to several mitigation measures including:

- The developer will grant the City a license to install four security cameras on their property to provide additional security for the West Precinct.
- The developer will pay the costs of installing a privacy film or barrier on the windows of the 911 Communications Center.
- The developer will install translucent glass in street-level windows facing the West Precinct driveway off 8th Avenue to obscure the view of city property.
- The developer will cooperate with limiting parking and access to City property.

d) What are the possible alternatives to the legislation that could achieve the same or similar objectives? None known.

e) Is a public hearing required for this legislation?

No.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

g) Does this legislation affect a piece of property?

Yes -- refer to Exhibit 1 to the Fiscal Note.

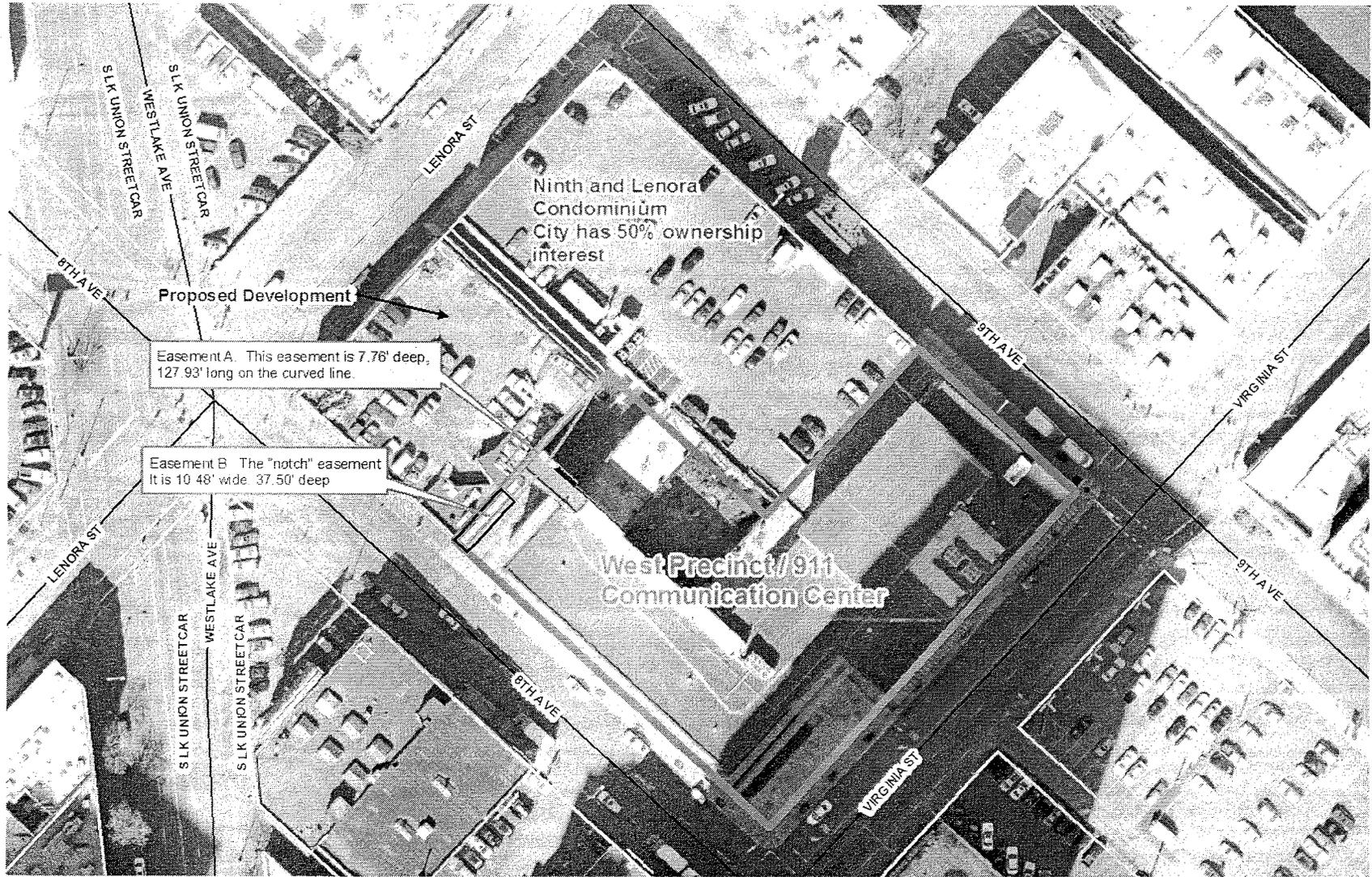
h) Other Issues:

None.

List attachments to the fiscal note below:

Exhibit 1 – Map of West Precinct/ 911 Communications Center showing Easements





Proposed Development

Easement A. This easement is 7.76' deep, 127.93' long on the curved line.

Easement B. The "notch" easement. It is 10.48' wide, 37.50' deep.

Ninth and Lenora Condominium
City has 50% ownership interest

West Precinct / 911 Communication Center

West Precinct / 911 Communications Center showing Easements