After Recording Return to:

Real Property Manager
Facilities/Property Management Department
3200 Cedar Street
Everett, WA 98201

TERMINATION OF EXISTING EASEMENTS AND NON-LANDFILL SITE UTILITY EASEMENTS AND ACCESS AGREEMENT

Grantors: OM EVERETT, INC., a Washington corporation, and
OMH TRANSFER AGENT, a Delaware limited liability company

Grantee: CITY OF EVERETT, a Washington municipal corporation

Legal Description (abbreviated) of Grantors' Property: A portion of the SE quarter of Section 29, Township 29N, Range 5 East of the Willamette Meridian and NE quarter of Section 32, Township 29N, Range 5 East of the Willamette Meridian, Snohomish County, Washington

Additional legal(s) on Pg. EXHIBIT "A" HERETO [Legal Description of Grantors' Property]
EXHIBIT "B" HERETO [Property Map]
EXHIBIT "C" HERETO [Legal Description and Depiction of Easement Area]
EXHIBIT "D" HERETO [Depiction of 36th Street to Pacific Ingress/Egress Easement Route]

Note: The oversize drawings related to Exhibit B hereto are filed under the following Snohomish County Assessor's Nos.: _____

Assessor's Tax Parcel ID Nos. _____

Reference No. (if applicable): _____

TERMINATION OF EXISTING EASEMENTS AND NON-LANDFILL SITE UTILITY EASEMENTS AND ACCESS AGREEMENT

This Termination of Existing Easements and Non-Landfill Site Utility Easements and Access Agreement ("Agreement") is made as of the ____ day of _____, 2008 by and between OMH Transfer Agent, LLC, a Delaware limited liability company ("OMH"), OM Everett, Inc., a Washington corporation ("OME") (collectively "Grantors"), and the City of Everett, a Washington municipal corporation (the "City").

RECITALS

A. Grantors are the owners of the land described on the attached Exhibit A (the "Grantors' Property"). In particular, OMH is the owner of the Simpson Pad, and the Mill Property and certain abutting properties as depicted in the survey attached hereto as Exhibit B ("Property Map"). OME is the owner of the Landfill Pad as depicted in the Property Map.

B. Grantors acquired Grantors' Property from the City of Everett, a Washington municipal corporation (the "City") pursuant to that certain Property Disposition Agreement dated February 21, 2007, as thereafter amended (the "PDA"). The City, prior to sale of Grantors' Property to Grantors, constructed various utility lines and related pipes and facilities on and under Grantors' Property.

C. The City desires to relinquish and has agreed with Grantors to terminate certain existing easements for utilities on the Grantors' Property that are no longer necessary or desirable. In addition, City wishes to obtain, and Grantors have agreed to grant, permanent, non-exclusive easements for the various utilities, including without limitation water and sanitary sewer improvements and lines and related pipes and facilities (the "Utilities") on and under Grantors' Property in the locations legally described and depicted in Exhibit C attached hereto ("the Easement Area") on the terms and conditions set forth herein.

AGREEMENT

In consideration of the mutual promises of the parties set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Termination of Existing Easements. The Parties agree that the following easements for utilities are hereby terminated in their entirety and shall henceforth no longer bind or burden the Grantors' Property:

a) Easement for water main recorded September 6, 1928 under Recording No. 435137;

b) Easement for sanitary sewer line recorded December 2, 1991 under Recording No. 9112020573; and

c) Easement for sanitary sewer line recorded April 27, 1992 under Recording No. 9204270223.

2. Grant of New Easements for Utilities and Access.

2.1 Grant of New Utilities Easement. Grantors each hereby grant and convey to the City permanent, non-exclusive twenty (20) foot wide easements (10 feet on each side of the centerline depicted) over, under and across the portion of Grantors' Property legally described and depicted on Exhibit C as the Easement Area for the purpose of ownership, maintenance, repair, inspection, operation, replacement, and relocation of the Utilities on the terms set forth herein. Grantors also authorize the City, following reasonable advance written notice to Grantors, to cut, trim and remove any and all brush, trees, other vegetation and debris on the Easement Area or on adjacent properties which, in the City's reasonable judgment, constitutes a hazard to the Utilities, and provide the City a right of access for such purposes.

2.2 Grant of Access Easement. OMH hereby grants and conveys to the users of those parcels directly adjacent to NE 36th Street, as identified in Exhibit B, a non-exclusive easement for purposes of ingress and egress over, along and across the Mill Property to provide these properties access from 36th Street to Pacific Avenue until such time as the anticipated Main Road is constructed and dedicated to the City as a public right of way. The route of this access is depicted in Exhibit D attached hereto. The route of this easement may be changed from time to time as necessary to accommodate development of the Mill Property and the Main Road.

3. Reservations.

3.1 Right to Use Surface. Grantors reserve the right, with the prior consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed, to use the surface of the Easement Area for walkways with shallow root structures (which shall not include any trees), plantings, curbs, parking, pedestrian and vehicular access, and all other uses not inconsistent with or that would materially interfere with the use of the Easement Area by the City as provided for herein or create a risk of damaging the Utilities. Without limiting the generality of the foregoing, no building or other permanent structure shall be placed upon, under or within the Easement Area during the term of this Agreement. In addition, Grantor acknowledges that the Utilities include certain sewer interceptors that are critical to the City's sewer system and cannot be adversely impacted nor their functionality interrupted in any way

by adjacent improvements, facilities, or activities, and notwithstanding Section 3.2 below, they cannot be relocated.

3.2 Right to Relocate Easement Area. Subject to the qualifications noted in Section 3.1 above, Grantors reserve the right to relocate the Easement Area. Grantors may relocate the Easement Area, or portions thereof, from time to time if, in the opinion of Grantors, it unreasonably interferes with the use by Grantors of Grantors' Property and if such relocation does not impair the functionality of the Utilities; provided, however, that Grantors shall bear the cost of relocating any such Utilities in accordance with the City's construction standards, and Grantors shall provide to the City a substitute easement area at no additional cost to the City if and as deemed necessary by the City and at a location reasonably acceptable to the City. Promptly upon such relocation, the parties shall execute, acknowledge and deliver to each other an amendment to this Agreement which (a) terminates this Agreement as to the land under which the relocated Utilities were located and (b) subjects to this Agreement the land under which the new Utilities are located.

3.3 Right to Grant Further Easements. Grantors reserve the right, with the prior consent of the City, which consent shall not be unreasonably withheld, to grant other persons easement rights in the Easement Area so long as (a) such easement rights do not interfere with the easements rights granted to City herein and (b) the City's consent may be reasonably withheld if the subsequent grant would result in a relocation or impairment of or material risk to the Utilities that is considered unacceptable to the City. In considering such a request by Grantors, the City is entitled to take into consideration the factors set forth in Section 3.1 above.

4. Notices. All notices, demands, consents, approvals and other communications (each, a "Notice") that are required or desired to be given by either party to the other under this Agreement shall be in writing and shall be (a) hand delivered, (b) sent by U.S. registered or certified mail, postage prepaid, return receipt requested, or (c) sent by reputable overnight courier service, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by Notice to the other. Notices shall be deemed given when delivered; provided, however, that if any Notice shall also be sent by telecopy or fax machine, such Notice shall be deemed given at the time and on the date of machine transmittal if the sending party receives a written send verification on its machines and forwards a copy thereof with its mailed or courier delivered Notice. Rejection or other refusal by the addressee to accept a Notice of the inability to deliver the Notice because of a changed address of which no Notice was given shall be deemed to be receipt of the Notice sent. Notice addresses for the parties are as follows:

To City: City of Everett
3200 Cedar Street

	Everett, WA 98201 Attention: City Property Manager
With a copy to:	City of Everett 2930 Wetmore Avenue Everett, WA 98201 Attention: City Attorney
To OM Inc.:	OM Everett, Inc. 733 8th Avenue San Diego, CA 92101 Attention: Charlie Hickcox
To OME LLC:	OMH Transfer Agent, LLC 733 8th Avenue San Diego, CA 92101 Attention: Charlie Hickcox
With a copy to:	Foster Pepper PLLC 1111 Third Ave., Suite 3400 Seattle, WA 98101 Attention: Beth A. Clark

Notice may be given by counsel for the parties, and such Notice shall be deemed given by City or OM or OMH, as the case may be, for all purposes under this Agreement.

5. Miscellaneous Provisions.

5.1 Enforcement. In the event of a breach of any of the covenants or agreements set forth in this Agreement, the parties hereto shall be entitled to any and all remedies available at law or in equity, including but not limited to the equitable remedies of specific performance or mandatory or prohibitory injunction issued by a court of appropriate jurisdiction; provided, however, that neither party shall be entitled to consequential damages. The parties hereto agree that in the event it becomes necessary for any party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms, covenants, agreements and/or conditions of this Agreement, it is understood and agreed that the prevailing party in such litigation shall be entitled to be reimbursed for all costs incurred or expended in connection therewith, including, but not limited to, reasonable attorney's fees (including appellate fees) and court costs. This section shall survive the expiration or termination of this Agreement with respect to obligations which arose during the term of this Agreement

5.2 Binding Effect. The covenants contained in this Agreement are not personal, but shall run with the land and be binding upon and inure to the benefit of OM and City and each of their respective heirs, personal representatives, transferees, successors and assigns.

5.3 Amendment. This Agreement shall not be modified, amended or terminated without the prior written approval of the then owner of the property that is benefited and the then owner of the property that is burdened by the provisions of any amendment to this Agreement.

5.4 Waiver. No waiver of any other provisions of this Agreement shall be effective unless it is in writing, signed by the person or entity against whom it is asserted and any such written waiver shall only be applicable in the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

5.5 Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

5.6 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington.

5.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which, when combined, shall constitute one single binding and enforceable agreement.

5.8. Third Parties. Except as expressly provided herein, this Agreement shall not be interpreted to create any right or liability with respect to any person or entity not a signatory to this Agreement.

5.9 Construction. This Agreement shall be construed as a whole. The misplacement, addition or omission of a word or character shall not change the intent of any part of this Agreement from that set forth by this Agreement as a whole. All provisions and parts of this Agreement are intended to be correlative and complementary. The headings of sections and paragraphs of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

5.10 Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements between them with respect to the same subject matter.

5.11 Record Notice. This Agreement shall be recorded with the Snohomish County Department of Records and Elections.

EXECUTED this _____ day of _____, 2008.

GRANTOR:

OMH Transfer Agent, LLC, a Delaware limited liability company

By: _____
Its: _____

OM Everett, Inc. a Washington corporation

By: _____
Its: _____

GRANTEE:

City of Everett, a Washington municipal corporation

By: _____
Ray Stephanson, Mayor

ATTEST:

By: _____
Sharon Marks, City Clerk

APPROVED AS TO FORM:

By: _____
Craig H. Shrontz, Special City Attorney

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of OMH Transfer Agent, LLC, a Delaware limited liability company, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this ____ day of _____, 2008.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at _____
My appointment expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of OM Everett, Inc., a Washington corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this ____ day of _____, 2008.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at _____
My appointment expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of the City of Everett, a Washington municipal corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this ____ day of _____, 2008.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at _____
My appointment expires _____

EXHIBIT "A"

Legal Description of Grantors' Property

[redacted]

LOT 13 AS DESCRIBED AND SHOWN ON CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 08-004, FILED UNDER AUDITOR'S FILE NO. 200804085006, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL 32:

LOT 17 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200608215004 AND BOUNDARY LINE ADJUSTMENT NO. 05-008 RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

EXCEPT THOSE PORTIONS CONVEYED TO THE CITY OF EVERETT BY DEEDS RECORDED UNDER RECORDING NO.'S _____
_____.

PARCEL 39:

TRACT 2 OF CITY OF EVERETT BLA NO. 1474-04-002 RECORDED UNDER RECORDING NO. 200402190061.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 40:

THE EAST HALF OF BLOCK 2 OF J.S. SINES ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED ALLEY ATTACHED THERETO BY ORDINANCE NO. 484-77 RECORDED DECEMBER 16, 1977 UNDER RECORDING NO. 7712160175, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 41:

LOT 13 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200608215004 AND CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 05-008 RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY.

PARCEL 42:

THAT PORTION OF GOVERNMENT LOT 3 IN SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTH LINE OF SAID LOT 3, 1,019.4 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT, SAME BEING ON THE EAST LINE OF THE LAND CONVEYED TO SEATTLE AND MONTANA RAILROAD CO. BY WARRANTY DEED RECORDED APRIL 25, 1902 IN VOLUME 71 OF DEEDS, PAGE 77;
THENCE EAST ALONG SAID SOUTH LINE OF GOVERNMENT LOT 3, A DISTANCE OF 256.8 FEET TO THE WEST RIGHT OF WAY LINE OF EVERETT & MONTE CRISTO RAILWAY CO. AS CONVEYED BY DEED RECORDED MARCH 9, 1898 IN VOLUME 46 OF DEEDS, PAGE 40;
THENCE NORTHERLY ALONG THE WEST LINE OF SAID RIGHT OF WAY 641.6 FEET TO THE SOUTH LINE OF PLAT OF EVERETT LAND COMPANY'S 1ST ADDITION TO EVERETT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 3 OF PLATS, PAGE 20, EXTENDED EASTERLY;
THENCE WESTERLY ALONG SAID PRODUCTION OF THE SOUTH LINE OF SAID PLAT AND THE SOUTH LINE OF SAID PLAT, 165.39 FEET TO THE EASTERLY LINE OF THE RIGHT OF SAID SEATTLE & MONTANA RAILROAD CO.;
THENCE ANGLE LEFT 75°45' AND PROCEED SOUTHERLY ALONG THE EASTERLY LINE OF SAID RIGHT OF WAY, 314 FEET TO POINT OF CURVE TO THE LEFT;
THENCE ALONG SAID CURVE, RADIUS OF 1,392.69 FEET, A DISTANCE OF 341 FEET TO THE POINT OF BEGINNING.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 43:

LOT 16 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200608215004 AND CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 05-008 RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL 44:

THAT PORTION OF WALNUT STREET,.DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 805, EVERETT LAND COMPANY'S 1ST ADDITION TO EVERETT, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 20, IN SNOHOMISH COUNTY, WASHINGTON;
THENCE NORTH TO THE SOUTH LINE OF 33RD STREET;
THENCE EAST TO THE WEST LINE OF THE NORTHERN PACIFIC RAILROAD RIGHT OF WAY;
THENCE SOUTHERLY ALONG THE WESTERLY OF SAID RIGHT OF WAY TO A POINT EAST OF THE TRUE POINT OF BEGINNING;
THENCE WEST TO THE TRUE POINT OF BEGINNING.

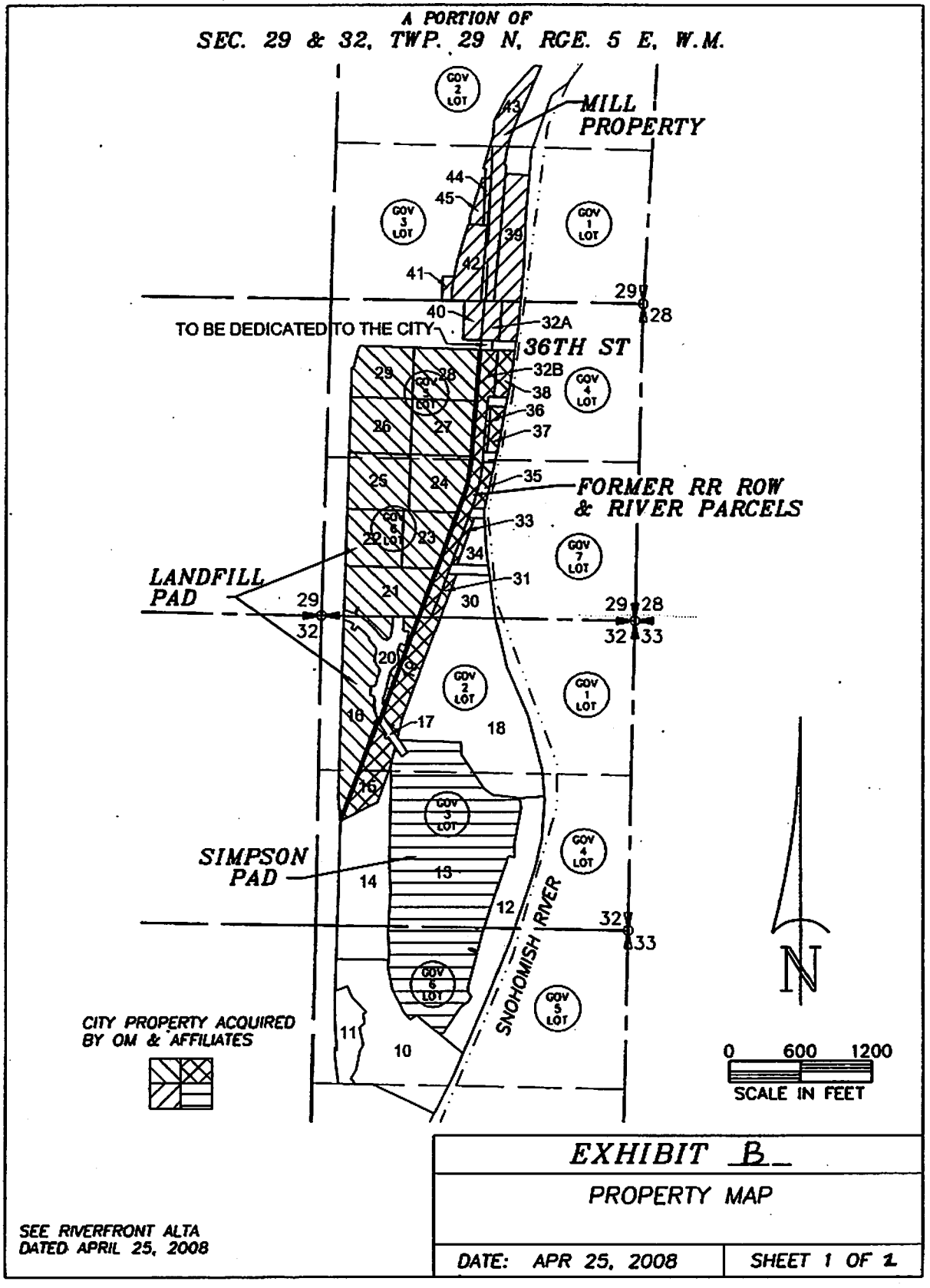
SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

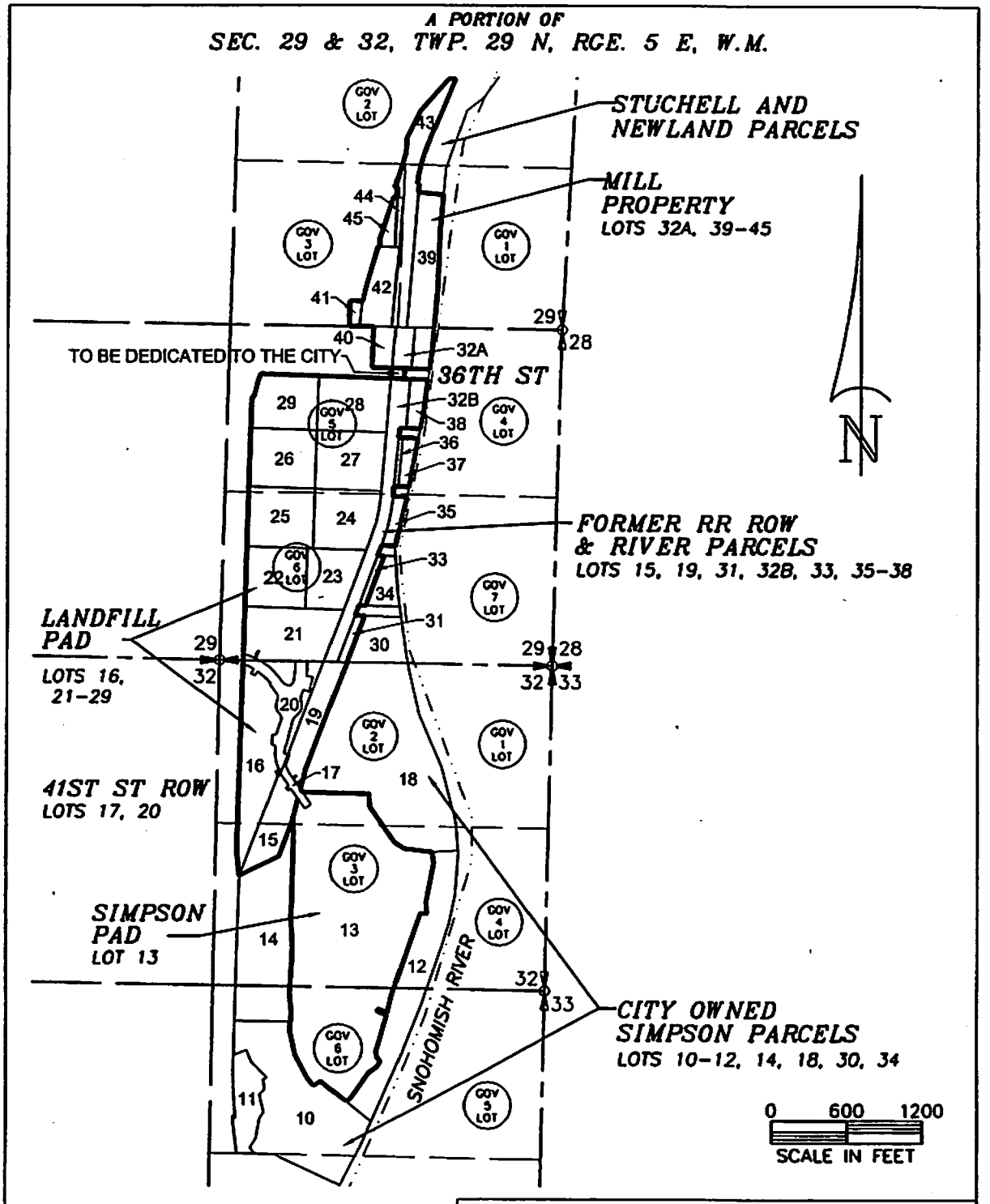
PARCEL 45:

ALL THAT PART OF LOTS 17 TO 32, INCLUSIVE, BLOCK 805, PLAT OF THE EVERETT LAND COMPANY'S 1ST ADDITION TO EVERETT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 3 OF PLATS, PAGE 20, LYING EASTERLY OF THE EASTERLY LINE OF THE RIGHT OF WAY OF ST PAUL, MINNEAPOLIS AND MANITOBA RAILWAY CO, WHICH EASTERLY RIGHT OF WAY LINE IS DESCRIBED IN VOLUME 79 OF DEEDS, PAGE 501, AS BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 32 THAT IS 25.8 FEET WEST OF THE NORTHEAST CORNER BLOCK 805;
THENCE SOUTHWESTERLY PARALLEL TO AND 100 FEET DISTANT SOUTHEASTERLY FROM CENTERLINE OF SAID RAILWAY CO RIGHT OF WAY TO INTERSECT THE WEST LINE OF LOT 19 AT A POINT 65.3 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 17, ALL IN SAID BLOCK 805.

EXHIBIT "B"

Property Map


A PORTION OF
SEC. 29 & 32, TWP. 29 N, RGE. 5 E, W.M.
MILL PROPERTY
TO BE DEDICATED TO THE CITY
36TH ST
FORMER RR ROW & RIVER PARCELS
LANDFILL PAD
SIMPSON PAD
SNOHOMISH RIVER
CITY PROPERTY ACQUIRED BY OM & AFFILIATES
N
0 600 1200
SCALE IN FEET
EXHIBIT B
PROPERTY MAP
DATE: APR 25, 2008
SHEET 1 OF 1
SEE RIVERFRONT ALTA DATED APRIL 25, 2008



SEE RIVERFRONT ALTA DATED APRIL 25, 2008

EXHIBIT B

Property Map

DATE: APR 25, 2008 | SHEET 2 OF 2

EXHIBIT "C"

Legal Description and Depiction of Easement Area

Perteet Inc.
Project No. S 3157.000
Apr. 9, 2008
MG Yeoman, PLS

Permanent Utility Easement
Legal Description
(North of 36th)

A 46.00 foot wide easement lying 23.00 feet on each side of centerline over the following described parcel of land in Government Lots 2, 3 and 5, Section 29 Township 29 North, Range 5 East, Willamette Meridian:

Lots 16 and 17 as shown on that certain City of Everett BLA 05-008 filed with Snohomish County Records under Auditor's File Number: 200608210287; TOGETHER WITH; the east half of Block 2, J.S. Sines Acre Tracts, according to the Plat thereof recorded in Volume 4 of Plats, Page 11, records of Snohomish County Washington. Said centerline more particularly described as follows:

COMMENCING at the northeast corner of Lot 28 shown on that certain City of Everett BLA 08-004 filed with Snohomish County Records under Auditor's File Number 200804085006; thence South 88° 04' 55" East along the north line of said BLA extended, a distance of 2.00 feet to the POINT OF BEGINNING:

Thence North 04° 52' 07" East a distance of 1569.01 feet to a point of curve of a 1161.19 foot radius non-tangent curve to the right, the radius point of which bears South 85° 11' 15" East; thence along the arc of said curve, through a central angle of 13° 08' 17" an arc length of 266.26 feet to a point of curve on said 1161.19 foot radius curve hereinafter referred to as Point "A"; thence along the arc of said curve, through a central angle of 5° 36' 05" an arc length of 113.52 feet; thence North 23° 33' 06" East a distance of 420.36 feet to the terminus of said centerline and description.

TOGETHER with a 20-foot wide easement having 10.00 feet on each side of the following described centerline: BEGINNING at aforesaid Point "A"; thence South 72° 02' 58" East as distance of 75.64 feet to the terminus of said centerline and description.

The side lines of said easements to be lengthened or shortened to meet at angle points and to terminate on the parcel boundary.

Perteet Inc.
Project No. S 3157.000
Apr. 9, 2008
MG Yeoman, PLS

Lift Station 33
Legal Description

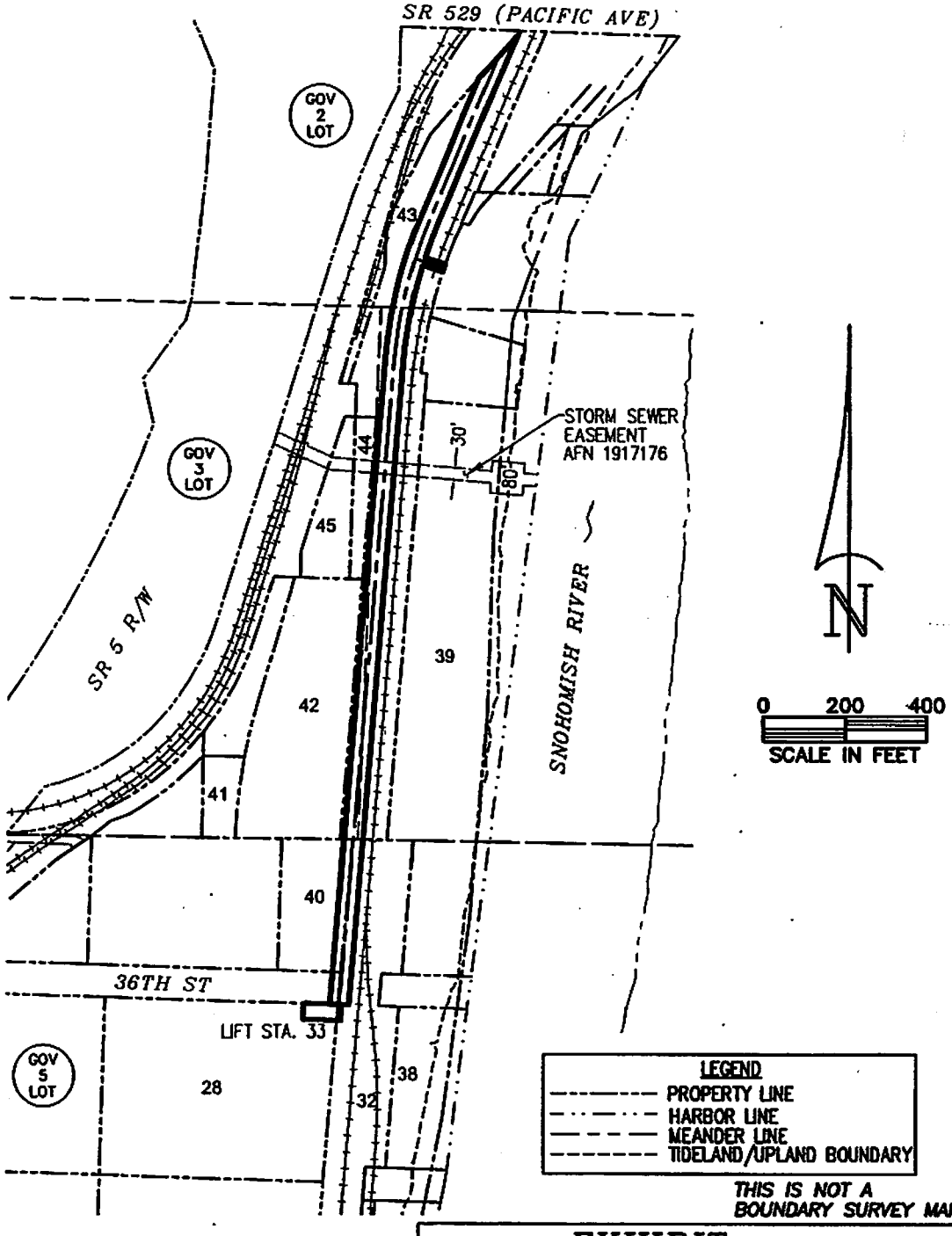
An easement over a portion of the following described parcel of land in Government Lot 5, Section 29 Township 29 North, Range 5 East, Willamette Meridian:

Lot 17 as shown on that certain City of Everett BLA 05-008 filed with Snohomish County Records under Auditor's File Number: 200608210287, TOGETHER WITH Lot 29 shown on that certain City of Everett BLA 08-004 filed with Snohomish County Records under Auditor's File Number 200804085006. Said easement described as follows:

BEGINNING at the northeast corner of said Lot 28; thence South 88° 04' 55" East along the north line of said lot extended a distance of 6.92 feet; thence South 01° 55' 05" West, a distance of 40.00 feet; thence North 88° 04' 55" West parallel with the north line of said Lot 29, a distance of 92.00 feet; thence North 01° 55' 05" East a distance of 40.00 feet to the north line of said Lot 28; thence South 88° 04' 55" East along said north line a distance of 85.08 feet to the POINT OF BEGINNING.

Containing an area of 0.05 acres, more or less.

A PORTION OF
SEC. 29, TWP. 29 N, RGE. 5 E, W.M.



THIS IS NOT A BOUNDARY SURVEY MAP

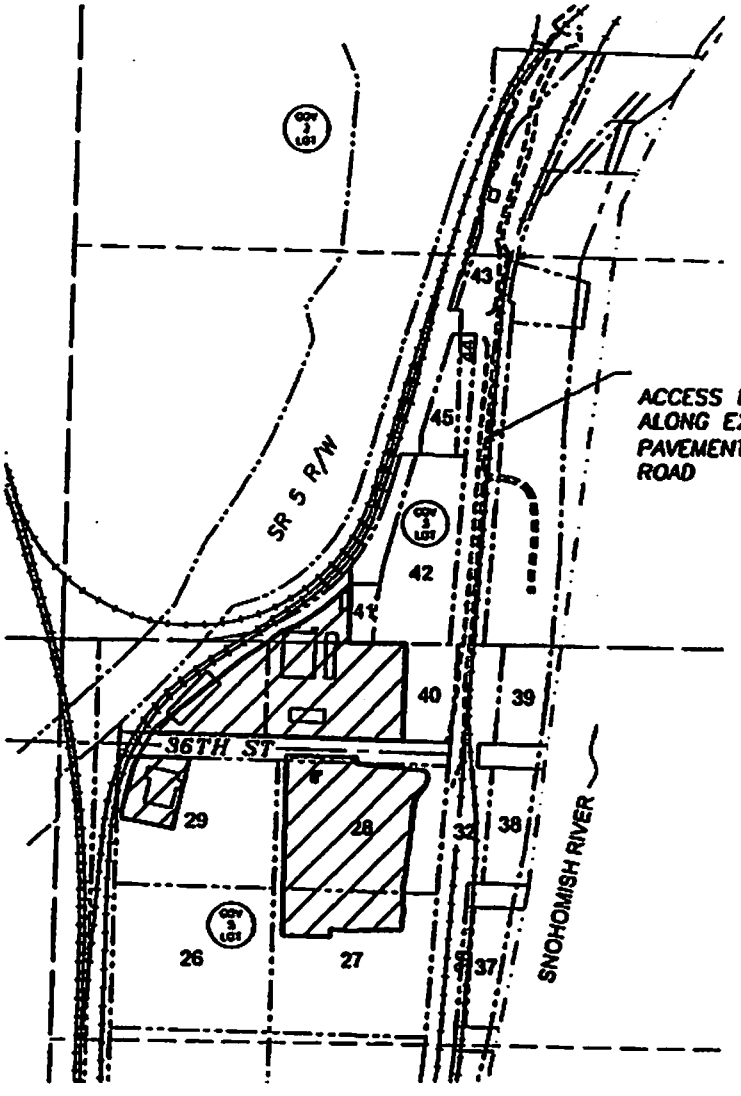
EXHIBIT ____

DATE: APR 25, 2008 | SHEET 1 OF 1

EXHIBIT "D"

Depiction of 36th Street to Pacific Ingress/Egress Easement Route

A PORTION OF
SEC. 29, TWP. 29 N, RGE. 5 E, W.M.



N

0 300 600
SCALE IN FEET

LEGEND

- LIMITS OF PUBLIC WORKS FACILITY
- SECTION LINE
- QUARTER SECTION
- GOV'T LOT
- HARBOR LINE
- PROPERTY LINE
- RAILROAD

SEE RIVERFRONT ALTA
DATED APRIL 25, 2008

EXHIBIT D

Ingress/Egress Route

DATE: APR 25, 2008 | SHEET 1 OF 1

After Recording Return to:

Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, WA 98101
Attn: Beth A. Clark

RECIPROCAL TEMPORARY CONSTRUCTION AND ACCESS EASEMENTS AGREEMENT

Grantor(s):	OMH TRANSFER AGENT, LLC, a Delaware limited liability company, OM EVERETT, INC., a Washington corporation, and CITY OF EVERETT, a Washington municipal corporation
Grantee(s):	OMH TRANSFER AGENT, LLC, a Delaware limited liability company, OM EVERETT, INC., a Washington corporation, and CITY OF EVERETT, a Washington municipal corporation
Legal Description	Full legal description on ***Exhibits*** _____
Parcel Nos:	_____
Reference Nos:	N/A

THIS RECIPROCAL TEMPORARY CONSTRUCTION AND ACCESS EASEMENTS AGREEMENT (this "Agreement") is made and entered into as of this _____ day of _____, 2008, by and between **OMH Transfer Agent, LLC,** a Delaware limited liability company (**"OMH"**), **OM Everett Inc.,** a Washington corporation (**"OME"**) and the **City of Everett,** a Washington municipal corporation (**"City"**). OMH and OM Everett are jointly referred to herein from time to time as **"OM"**. OMH, OM Everett Inc. and the City are collectively referred to herein from time to time as the **"Parties"**.

RECITALS

A. OMH is the owner of certain real property in the City of Everett, Snohomish County, Washington, and legally described in ***Exhibit A*** attached hereto and incorporated herein by this reference (the **"Residential Properties"**). The Residential Properties comprise two sites commonly referred to as the **"Simpson Pad"** and the **"Mill Property"** as legally described in ***Exhibit A*** and depicted in ***Exhibit C*** attached hereto and incorporated herein by this reference.

B. OME is the owner of certain real property in the City of Everett, Snohomish County, Washington, and legally described in ***Exhibit B*** attached hereto and incorporated herein by this reference (the **"Landfill Pad"**) and depicted in ***Exhibit C.***

C. City is the owner of certain real property in the City of Everett, Snohomish County, Washington, as depicted on ***Exhibit C*** as Lots 10, 11, 12, 14, 18, 30, and 34 (the **"City Parcels"**) . Certain portions of the City Parcels are adjacent to and abut the Residential Properties and the Landfill Pad as depicted in ***Exhibit C.***

D. OMH and OME acquired the Residential Properties and the Landfill Pad, respectively, from City pursuant to the terms and conditions of that certain Property Disposition Agreement entered into by and between the City and Oliver McMillan, LLC, a California limited liability company on February 21, 2007, as thereafter amended (the **"PDA"**). The PDA provides for the Residential Properties and the Landfill Pad to be developed as a high quality mixed use project (the **"Project"**) and further provides for an allocation of responsibilities to each of the Parties for certain work in connection with the Project. OME and OMH agree to grant to the City and its respective agents, representatives, contractors and suppliers, temporary construction easements for the benefit of the properties and for the purpose of allowing construction and installation of the work identified in the PDA, all on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Grant and Location of Easements to City. OM hereby grants to City, it successors and assigns, a non-exclusive temporary construction easement (**"City's Construction Easement"**), for the purpose of ingress, egress, construction staging, and construction activities within the scope of the City Work as defined and described in Section 18 of the PDA and any other work that may be undertaken by the City at the request of OME or OMH, or either of them or any of their successors and assigns (the **"City Work"**) over the Simpson Pad, the Mill Property and the Landfill Pad (the **"City Construction Easement Area"**). OM acknowledges that the existing fencing system surrounding the Landfill Pad is included within the City's Construction Easement and may remain on the property owned by OM and OME until removed by either party in connection with the Project development.

2. Grant and Location of Easements to OM. City hereby grants to each of OMH and OME, their successors and assigns, non-exclusive temporary construction easements (**"OM Construction Easement"**), over and across Lots 10, 11, 12, 14, 18, 30 and 34 (as depicted in Exhibit C) for the purpose of ingress, egress, construction staging, construction of the secondary fire access road, and construction of wetland enhancements or restoration actions, and over and across the 41st Street and 36th Street corridors for ingress and egress to the Residential Properties and the Landfill Pad prior to the City's dedication of these corridors as public right-of-way.

3. Term. The easements granted herein shall remain until completion of all work required by the PDA.

4. Granting Party's Use Rights. The reciprocal easement rights granted herein by the parties shall be subject to the granting party's continuing right of reasonable access, ingress and egress to and surface use of its property during the Term.

5. Restoration Obligations. Upon completion of its respective work hereunder, the grantee party shall remove all of its construction equipment, materials and debris from its respective easement area at its expense.

6. Liens. Each party shall keep the property of the other party free from any liens arising out of any work performed, materials furnished or obligations incurred by the party performing the work. If the party performing the work does not cause any such lien to be removed within ten (10) business days, then the non-performing party shall have the right to remove such lien by posting appropriate bonds and shall be entitled to reimbursement for all

costs reasonably incurred in removing such liens (plus an administrative overhead amount of 15% of the premium cost of any such bonds).

7. Miscellaneous Provisions.

7.1 Enforcement. In the event of a breach of any of the covenants or agreements set forth in this Agreement, the parties hereto shall be entitled to any and all remedies available at law or in equity, including but not limited to the equitable remedies of specific performance or mandatory or prohibitory injunction issued by a court of appropriate jurisdiction; provided, however, that neither party shall be entitled to consequential damages. The parties hereto agree that in the event it becomes necessary for any party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms, covenants, agreements and/or conditions of this Agreement, it is understood and agreed that the prevailing party in such litigation shall be entitled to be reimbursed for all costs incurred or expended in connection therewith, including, but not limited to, reasonable attorney's fees (including appellate fees) and court costs. This section shall survive the expiration or termination of this Agreement with respect to obligations which arose during the term of this Agreement.

7.2 Binding Effect. The covenants contained in this Agreement are not personal, but shall run with the land and be binding upon and inure to the benefit of OM and City and each of their respective heirs, personal representatives, transferees, successors and assigns.

7.3 Amendment. This Agreement shall not be modified, amended or terminated without the prior written approval of the then owner of the property that is benefited and the then owner of the property that is burdened by the provisions of any amendment to this Agreement.

7.4 Waiver. No waiver of any other provisions of this Agreement shall be effective unless it is in writing, signed by the person or entity against whom it is asserted and any such written waiver shall only be applicable in the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

7.5 Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

7.6 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington. This Agreement does not, by its express terms or by implication, constitute (in whole or part) any grant, issuance, decision, order, permit, finding, conclusion, holding, recommendation, approval, determination or other form of governmental action as to any matter whatsoever. OM expressly acknowledges and agrees,

and shall require any and all of OM's approved assignees to expressly acknowledge and agree, that City hereby gives no express or implied assurances or guarantees or any kind as to the outcome of any request for City development approval. No public or municipal services are provided to OM (or any OM assignee) by City pursuant to this Agreement, nor shall this Agreement in any way affect the provision of any such services by City in any capacity by which City may extend such services to the general public and in accordance with applicable law.

7.7 Venue and Jurisdiction. OM shall not commence or prosecute any suit, proceeding or claim to enforce the provisions of this Agreement or otherwise arising under or by reason of this Agreement other than in the state courts located in Snohomish County, Washington, or in federal court in the Western District of Washington. OM hereby irrevocably consents to the jurisdiction and venue of such courts.

7.8 Further Assurances. If at any time either of the parties reasonably determines that any further assignments, conveyances, assurances or instruments are reasonably necessary or desirable to carry out the provisions hereof and the transactions contemplated herein, the appropriate party shall execute and deliver, or cause to be executed and delivered, any and all proper assignments and assurances and to do, or cause to be done, all things reasonably necessary or proper to carry out fully the provisions hereof, provided that such things shall be at no additional material cost, expense or liability (beyond that set forth in this Agreement) to such party.

7.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which, when combined, shall constitute one single binding and enforceable agreement.

7.10 Third Parties. Except as expressly provided herein, this Agreement shall not be interpreted to create any right or liability with respect to any person or entity not a signatory to this Agreement.

7.11 Construction. This Agreement shall be construed as a whole. The misplacement, addition or omission of a word or character shall not change the intent of any part of this Agreement from that set forth by this Agreement as a whole. All provisions and parts of this Agreement are intended to be correlative and complementary. The headings of sections and paragraphs of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

7.12 Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements between them with respect to the same subject matter.

7.13 Record Notice. This Agreement shall be recorded with the Snohomish County Department of Records and Elections.

[*Remainder of page intentionally left blank; signature page follows*]

[*Signature page to Reciprocal Temporary Construction Easements Agreement*]

IN WITNESS WHEREOF, this Agreement is executed and effective as of the date first written above.

GRANTOR:

OMH Transfer Agent, LLC, a Delaware limited liability company

By: _____
Its: Managing Member

OM Everett Inc., a Washington corporation

By: _____
Its: _____

GRANTEE:

City of Everett

By: _____
Ray Stephanson, Mayor

ATTEST:

By: _____
Sharon Marks, City Clerk

APPROVED AS TO FORM:

By: _____
Craig H. Shrontz, Special City Attorney

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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 sated that he/she was authorized to execute the instrument and acknowledged it as the _____ of OMH Transfer Agent, LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2008.

_____
[PRINTED NAME] _____
NOTARY PUBLIC in and for the state of Washington, residing in: _____
My commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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 sated that he/she was authorized to execute the instrument and acknowledged it as the _____ of OM Everett Inc., a Washington corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2008.

_____
[PRINTED NAME] _____
NOTARY PUBLIC in and for the state of Washington, residing in: _____
My commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

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 sated that he/she was authorized to execute the instrument and acknowledged it as the _____ of the City of Everett, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2008.

_____
[PRINTED NAME] _____
NOTARY PUBLIC in and for the state of
Washington, residing in: _____
My commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION OF RESIDENTIAL PROPERTIES

LOT 13 AS DESCRIBED AND SHOWN ON CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 08-004, FILED UNDER AUDITOR'S FILE NO. 200804085006, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL 32:

LOT 17 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200608215004 AND BOUNDARY LINE ADJUSTMENT NO. 05-008 RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

EXCEPT THOSE PORTIONS CONVEYED TO THE CITY OF EVERETT BY DEEDS RECORDED UNDER RECORDING NO.'S _____

_____.

PARCEL 39:

TRACT 2 OF CITY OF EVERETT BLA NO. 1474-04-002 RECORDED UNDER RECORDING NO. 200402190061.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 40:

THE EAST HALF OF BLOCK 2 OF J.S. SINES ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF VACATED ALLEY ATTACHED THERETO BY ORDINANCE NO. 484-77 RECORDED DECEMBER 16, 1977 UNDER RECORDING NO. 7712160175, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 41:

LOT 13 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200608215004 AND CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 05-008 RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY.

PARCEL 42:

THAT PORTION OF GOVERNMENT LOT 3 IN SECTION 29, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTH LINE OF SAID LOT 3, 1,019.4 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT, SAME BEING ON THE EAST LINE OF THE LAND CONVEYED TO SEATTLE AND MONTANA RAILROAD CO. BY WARRANTY DEED RECORDED APRIL 25, 1902 IN VOLUME 71 OF DEEDS, PAGE 77;
THENCE EAST ALONG SAID SOUTH LINE OF GOVERNMENT LOT 3, A DISTANCE OF 256.8 FEET TO THE WEST RIGHT OF WAY LINE OF EVERETT & MONTE CRISTO RAILWAY CO. AS CONVEYED BY DEED RECORDED MARCH 9, 1898 IN VOLUME 46 OF DEEDS, PAGE 40;
THENCE NORTHERLY ALONG THE WEST LINE OF SAID RIGHT OF WAY 641.6 FEET TO THE SOUTH LINE OF PLAT OF EVERETT LAND COMPANY'S 1ST ADDITION TO EVERETT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 3 OF PLATS, PAGE 20, EXTENDED EASTERLY;
THENCE WESTERLY ALONG SAID PRODUCTION OF THE SOUTH LINE OF SAID PLAT AND THE SOUTH LINE OF SAID PLAT, 165.39 FEET TO THE EASTERLY LINE OF THE RIGHT OF SAID SEATTLE & MONTANA RAILROAD CO.;
THENCE ANGLE LEFT 75°45' AND PROCEED SOUTHERLY ALONG THE EASTERLY LINE OF SAID RIGHT OF WAY, 314 FEET TO POINT OF CURVE TO THE LEFT;
THENCE ALONG SAID CURVE, RADIUS OF 1,392.69 FEET, A DISTANCE OF 341 FEET TO THE POINT OF BEGINNING.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

EXHIBIT A

PARCEL 43:

LOT 16 OF BOUNDARY LINE ADJUSTMENT RECORD OF SURVEY RECORDED UNDER RECORDING NO. 200608215004 AND CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 05-008 RECORDED UNDER RECORDING NO. 200608210287, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL 44:

THAT PORTION OF WALNUT STREET, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 805, EVERETT LAND COMPANY'S 1ST ADDITION TO EVERETT, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 20, IN SNOHOMISH COUNTY, WASHINGTON;
THENCE NORTH TO THE SOUTH LINE OF 33RD STREET;
THENCE EAST TO THE WEST LINE OF THE NORTHERN PACIFIC RAILROAD RIGHT OF WAY;
THENCE SOUTHERLY ALONG THE WESTERLY OF SAID RIGHT OF WAY TO A POINT EAST OF THE TRUE POINT OF BEGINNING;
THENCE WEST TO THE TRUE POINT OF BEGINNING.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 45:

ALL THAT PART OF LOTS 17 TO 32, INCLUSIVE, BLOCK 805, PLAT OF THE EVERETT LAND COMPANY'S 1ST ADDITION TO EVERETT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 3 OF PLATS, PAGE 20, LYING EASTERLY OF THE EASTERLY LINE OF THE RIGHT OF WAY OF ST PAUL, MINNEAPOLIS AND MANITOBA RAILWAY CO, WHICH EASTERLY RIGHT OF WAY LINE IS DESCRIBED IN VOLUME 79 OF DEEDS, PAGE 501, AS BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 32 THAT IS 25.8 FEET WEST OF THE NORTHEAST CORNER BLOCK 805;
THENCE SOUTHWESTERLY PARALLEL TO AND 100 FEET DISTANT SOUTHEASTERLY FROM CENTERLINE OF SAID RAILWAY CO RIGHT OF WAY TO INTERSECT THE WEST LINE OF LOT 19 AT A POINT 65.3 FEET NORTH OF THE SOUTHWEST CORNER OF LOT 17, ALL IN SAID BLOCK 805.

EXHIBIT A

EXHIBIT B

LEGAL DESCRIPTION OF LANDFILL PAD

LOTS 15, 16, 19, and 21 THROUGH 29, INCLUSIVE, AS DESCRIBED AND SHOWN ON CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 08-004, FILED UNDER AUDITOR'S FILE NO. 200804085006, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

PARCEL 31:

ALL THAT PORTION OF BLOCK 41 OF J.S. SINES ACRE TRACTS AS PER PLAT RECORDED IN VOLUME 4, PLAT, PAGE 11, SNOHOMISH COUNTY RECORDS, WHICH LIES NORTHWESTERLY OF A LINE PARALLEL TO AND DISTANT 72 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES FROM THE EASTERLY RIGHT OF WAY LINE OF THE FORMER NORTHERN PACIFIC RAILWAY COMPANY (NOW BURLINGTON NORTHERN INC.), AS NOW ESTABLISHED.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

[We need PARCEL 32B here, don't we???]

PARCEL 33:

ALL THAT PORTION OF BLOCK 30 OF J.S. SINES ACRE TRACTS AS PER PLAT RECORDED IN VOLUME 4, PLAT, PAGE 11, SNOHOMISH COUNTY RECORDS, WHICH LIES NORTHWESTERLY OF A LINE PARALLEL TO AND DISTANT 50 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES FROM THE EASTERLY RIGHT OF WAY LINE OF THE FORMER NORTHERN PACIFIC RAILWAY COMPANY (NOW BURLINGTON NORTHERN INC.), AS NOW ESTABLISHED.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 35:

ALL OF BLOCK 29 OF J.S. SINES ACRE TRACTS AS PER PLAT RECORDED IN VOLUME 4, PLAT, PAGE 11, SNOHOMISH COUNTY, RECORDS.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 36:

ALL THAT PORTION OF BLOCK 16 OF J.S. SINES ACRE TRACTS AS PER PLAT RECORDED IN VOLUME 4, PLAT, PAGE 11, SNOHOMISH COUNTY RECORDS, WHICH LIES WESTERLY OF A LINE PARALLEL TO AND DISTANT 30 FEET EASTERLY, MEASURED AT RIGHT ANGLES, FROM THE EASTERLY RIGHT OF WAY LINE OF THE FORMER NORTHERN PACIFIC RAILWAY COMPANY (NOW BURLINGTON NORTHERN INC.) AS NOW ESTABLISHED.

SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

PARCEL 37:

TRACT 16, OF J.S. SINES ACRES TRACTS, ACCORDING TO PLAT RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON;

EXCEPT THE WESTERLY 30 THEREOF.

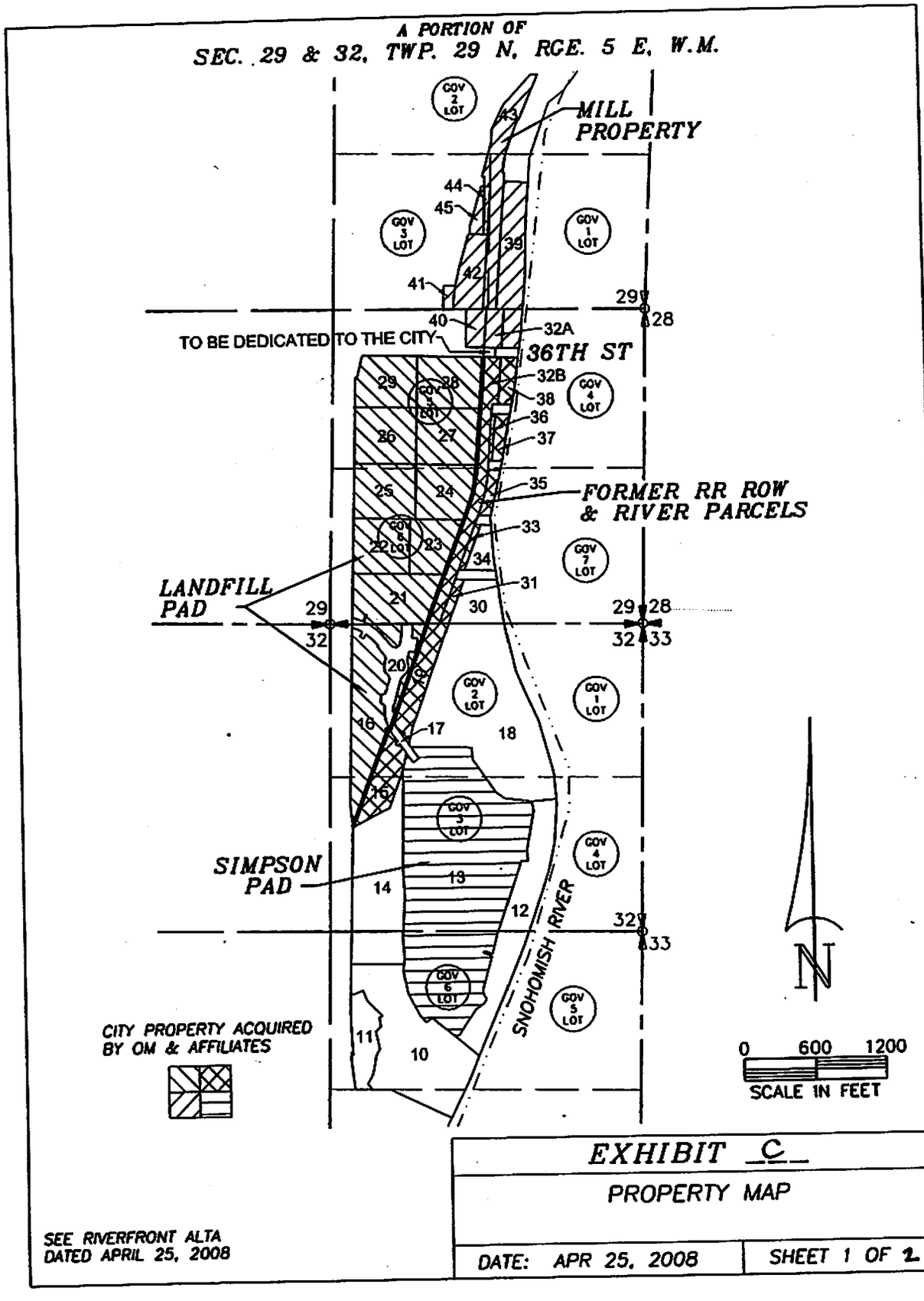
SITUATE IN SNOHOMISH COUNTY, WASHINGTON.

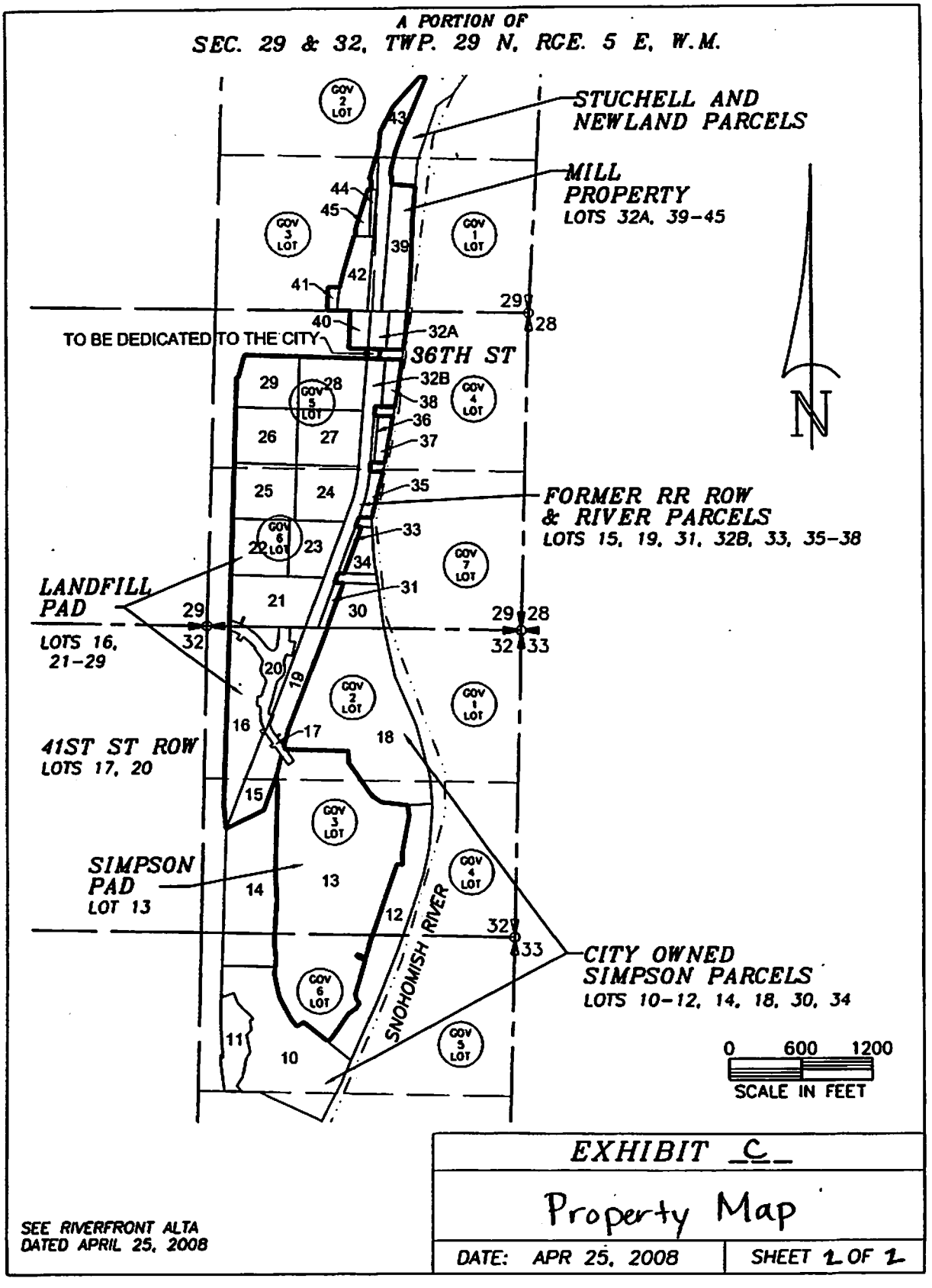
PARCEL 38:

ALL THAT PORTION OF BLOCK 15 OF J S SINES ACRE TRACTS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 11, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, THAT LIES EASTERLY OF A LINE DRAWN PARALLEL TO AND DISTANT 50 FEET EASTERLY MEASURED AT RIGHT ANGLES FROM THE WESTERLY SIDE LINES OF SAID BLOCK.

EXHIBIT C

PROPERTY MAP


A PORTION OF
SEC. 29 & 32, TWP. 29 N, RGE. 5 E, W.M.
MILL PROPERTY
TO BE DEDICATED TO THE CITY
36TH ST
FORMER RR ROW & RIVER PARCELS
LANDFILL PAD
SIMPSON PAD
SNOHOMISH RIVER
CITY PROPERTY ACQUIRED BY OM & AFFILIATES
0 600 1200
SCALE IN FEET
N
EXHIBIT C
PROPERTY MAP
DATE: APR 25, 2008
SHEET 1 OF 2
SEE RIVERFRONT ALTA DATED APRIL 25, 2008



SEE RIVERFRONT ALTA DATED APRIL 25, 2008

EXHIBIT C

Property Map

DATE: APR 25, 2008 | SHEET 1 OF 1

AFTER RECORDING RETURN TO:

Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101
Attn: Beth A. Clark

RECIPROCAL ACCESS, UTILITIES AND TRAIL EASEMENT AND AGREEMENT (SIMPSON PAD)

Grantor and Grantee:	OMH TRANSFER AGENT, LLC, a Delaware limited liability company ("OMH")
Grantor and Grantee:	The City of Everett, a Washington municipal corporation ("City")
Legal Description of Benefited and Burdened Simpson Pad:	Legal Description (abbreviated) of Simpson Pad:
Legal Description of Benefited and Burdened Abutting City Parcels:	Legal Description (abbreviated) of Abutting City Parcel:
Simpson Pad Tax ID#:	Portion of_____
Abutting City Parcel Tax ID#:	Portion of _____
Reference # (If applicable):	N/A

This Reciprocal Access, Utilities and Trail Easement and Agreement (Simpson Pad) (this "Agreement") is made this ___ day of _____, 2008, by and between OMH Transfer Agent, LLC, a Delaware limited liability company ("OM") and the City of Everett, a Washington municipal corporation ("City"). Each of OM and the City are at times referred to herein as a "Party," or collectively as the "Parties."

RECITALS

A. OM is the owner of certain real property located in the City of Everett, Snohomish County, Washington, referred to herein as the "Simpson Pad" and legally described in Exhibit A attached hereto. The Simpson Pad is depicted in the site plan attached hereto as Exhibit B.

B. City is the owner of that certain real property located adjacent to and abutting the Simpson Pad in the City of Everett, Snohomish County, Washington, legally described in Exhibit C attached hereto and also depicted on Exhibit B attached hereto as Lots 10, 12, 14, and 18 (the "Abutting City Parcels").

C. OM and City are parties to that certain Property Disposition Agreement dated as of February 21, 2007, as thereafter amended, ("PDA"), pursuant to which OM acquired from City the Simpson Pad and certain other adjacent property referred to collectively in the PDA as the "City Property" for future development as a high quality mixed use development (the "Project") according to the terms and conditions of the PDA.

D. OM and City have agreed that it is mutually beneficial for development and maintenance of the Project and for development and future maintenance of certain public amenities to be provided in connection with the Project, for City to have certain easement rights to an identified portion of the Simpson Pad and for OM to have certain easement rights to an identified portion of the Abutting City Parcel as further described below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant of Easement to OM. City hereby declares, establishes, creates and grants to OM for the benefit of and appurtenant to the Simpson Pad an irrevocable, nonexclusive and perpetual easement (the "OM Easement"), for the purposes and uses described herein, on, under, over, across and through the portions of the Abutting City Parcels extending the length of the common boundary between the Simpson Pad and the Abutting City Parcels (the "Common Boundary"), and lying between the Common Boundary and the edge of the defined wetland boundary on the Abutting City Parcels, as depicted on Exhibit B (the "OM Easement Area"), together with reasonable access to adjacent City parcels as needed for construction of OM's Project. The OM Easement shall burden the Abutting City Parcels, shall run with the land, and shall be appurtenant to, run with, and be for the benefit of the Simpson Pad.

2. Grant of Easement to City. OM hereby declares, establishes, creates and grants to City for the benefit of and appurtenant to the Abutting City Parcels an irrevocable, nonexclusive and perpetual easement (the "City Access Easement"), for the purposes and uses described herein, on, under, over, across and through that portion of the Simpson Pad lying

between the Common Boundary and the inner edge of the defined wetland buffer on the Simpson Pad, as depicted on Exhibit B (the "City Easement Area") together with reasonable access to adjacent OM parcels as needed for construction of the City Work.. The City Easement shall benefit the City and all users of the City Easement Area and shall burden the Simpson Pad, shall run with the land, and shall be appurtenant to, run with, and be for the benefit of the Abutting City Parcels.

3. Use of Easements. The OM Easement shall be used for the purpose of installation, operation, maintenance and repair of Project-related utilities and/or storm drainage improvements. The City Easement shall be used for the construction, installation, repair, maintenance and use of public amenities, including, but not limited to, public trails and pathways. The Parties shall comply with all laws, statutes, ordinances, rules, regulations and requirements of all governmental authorities related to the exercise of their respective rights and obligations under this Agreement. Upon completion of any work by a Party within its respective easement area, that Party shall restore the surface of the property and all affected improvements as nearly as possible to the condition of such at the commencement of the work.

4. Reservations; No Obstructions. OM reserves the right to use and enjoy the City Easement, and City reserves the right to use and enjoy the OM Easement, for all purposes consistent with the full use and enjoyment by the other Party of the easement rights granted herein. OM covenants and agrees that it will not obstruct or impede the OM Easement Area or any City improvements or utilities located therein, and no fence, partition, or structure of any type or kind other than as permitted herein shall ever be placed, kept, permitted or maintained on the OM Easement Area. City covenants and agrees that it will not obstruct or impede the City Easement Area or any Project-related improvements or utilities located therein, and no fence, partition, or structure of any type or kind other than as permitted herein shall ever be placed, kept, permitted or maintained on the City Easement Area. Notwithstanding the foregoing, OM acknowledges and agrees that the City's wetland buffers, trails and pathways may involve low fences, landscaping and other physical separations and such facilities and improvements shall not be considered an obstruction in violation of the Agreement. In addition, OM acknowledges and agrees that OM's rights under this Agreement are subject to the City's critical areas ordinance and nothing in this Agreement is intended to limit the applicability of the critical areas ordinance or any other applicable law or regulation. Except in the event of an emergency, each Party shall use its best efforts to provide the other Party with notice of its planned construction activities within the Easement Area and to schedule and undertake such activities so as to minimize impacts on the other Party's normal operations and activities. The Parties shall provide all appropriate and reasonable safety measures during any exercise of the rights granted to and obligations assumed by them in this Agreement.

5. Liability. Nothing herein is intended to impair or limit the application of RCW 4.24.200 and 4.24.210 with respect to third party claims arising out of any use of the City Easement Area.

6. Miscellaneous Provisions.

6.1 Enforcement. In the event of a breach of any of the covenants or agreements set forth in this Agreement, the parties hereto shall be entitled to any and all remedies available at law or in equity, including but not limited to the equitable remedies of specific performance or mandatory or prohibitory injunction issued by a court of appropriate jurisdiction; provided, however, that neither party shall be entitled to consequential damages. The parties hereto agree that in the event it becomes necessary for any party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms, covenants, agreements and/or conditions of this Agreement, it is understood and agreed that the prevailing party in such litigation shall be entitled to be reimbursed for all costs incurred or expended in connection therewith, including, but not limited to, reasonable attorney's fees (including appellate fees) and court costs. This section shall survive the expiration or termination of this Agreement with respect to obligations which arose during the term of this Agreement.

6.2 Binding Effect. The covenants contained in this Agreement are not personal, but shall run with the land and be binding upon and inure to the benefit of OM and City and each of their respective heirs, personal representatives, transferees, successors and assigns.

6.3 Amendment. This Agreement shall not be modified, amended or terminated without the prior written approval of the then owner of the property that is benefited and the then owner of the property that is burdened by the provisions of any amendment to this Agreement.

6.4 Waiver. No waiver of any other provisions of this Agreement shall be effective unless it is in writing, signed by the person or entity against whom it is asserted and any such written waiver shall only be applicable in the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

6.5 Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

6.6 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington. This Agreement does not, by its express terms or by implication, constitute (in whole or part) any grant, issuance, decision, order, permit, finding, conclusion, holding, recommendation, approval, determination or other form of governmental action as to any matter whatsoever. OM expressly acknowledges and agrees, and shall require any and all of OM's approved assignees to expressly acknowledge and agree, that City hereby gives no express or implied assurances or guarantees or any kind as to the outcome of any request for City development approval. No public or municipal services are provided to OM (or any OM assignee) by City pursuant to this Agreement, nor shall this Agreement in any

way affect the provision of any such services by City in any capacity by which City may extend such services to the general public and in accordance with applicable law.

6.7 Venue and Jurisdiction. OM shall not commence or prosecute any suit, proceeding or claim to enforce the provisions of this Agreement or otherwise arising under or by reason of this Agreement other than in the state courts located in Snohomish County, Washington, or in federal court in the Western District of Washington. OM hereby irrevocably consents to the jurisdiction and venue of such courts.

6.8 Further Assurances. If at any time either of the parties reasonably determines that any further assignments, conveyances, assurances or instruments are reasonably necessary or desirable to carry out the provisions hereof and the transactions contemplated herein, the appropriate party shall execute and deliver, or cause to be executed and delivered, any and all proper assignments and assurances and to do, or cause to be done, all things reasonably necessary or proper to carry out fully the provisions hereof, provided that such things shall be at no additional material cost, expense or liability (beyond that set forth in this Agreement) to such party.

6.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which, when combined, shall constitute one single binding and enforceable agreement.

6.10 Third Parties. Except as expressly provided herein, this Agreement shall not be interpreted to create any right or liability with respect to any person or entity not a signatory to this Agreement.

6.11 Construction. This Agreement shall be construed as a whole. The misplacement, addition or omission of a word or character shall not change the intent of any part of this Agreement from that set forth by this Agreement as a whole. All provisions and parts of this Agreement are intended to be correlative and complementary. The headings of sections and paragraphs of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

6.12 Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements between them with respect to the same subject matter.

6.13 Record Notice. This Agreement shall be recorded with the Snohomish County Department of Records and Elections.

IN WITNESS WHEREOF, this Agreement is executed and delivered the day and year first above written.

OM:

OM TRANSFER AGENT, LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

CITY OF EVERETT

By: _____
Ray Stephanson, Mayor

ATTEST:

By: _____
Sharon Marks, City Clerk

APPROVED AS TO FORM:

By: _____
Craig H. Shrontz, Special City Attorney

Date: _____

ATTEST:

By: _____
Sharon Marks, City Clerk

APPROVED AS TO FORM:

By: _____
_____, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of OM Transfer Agent, LLC , to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2008.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington, residing at _____

My appointment expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of the City of Everett, to be the free and voluntary act of such trust for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2008.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington, residing at _____

My appointment expires _____

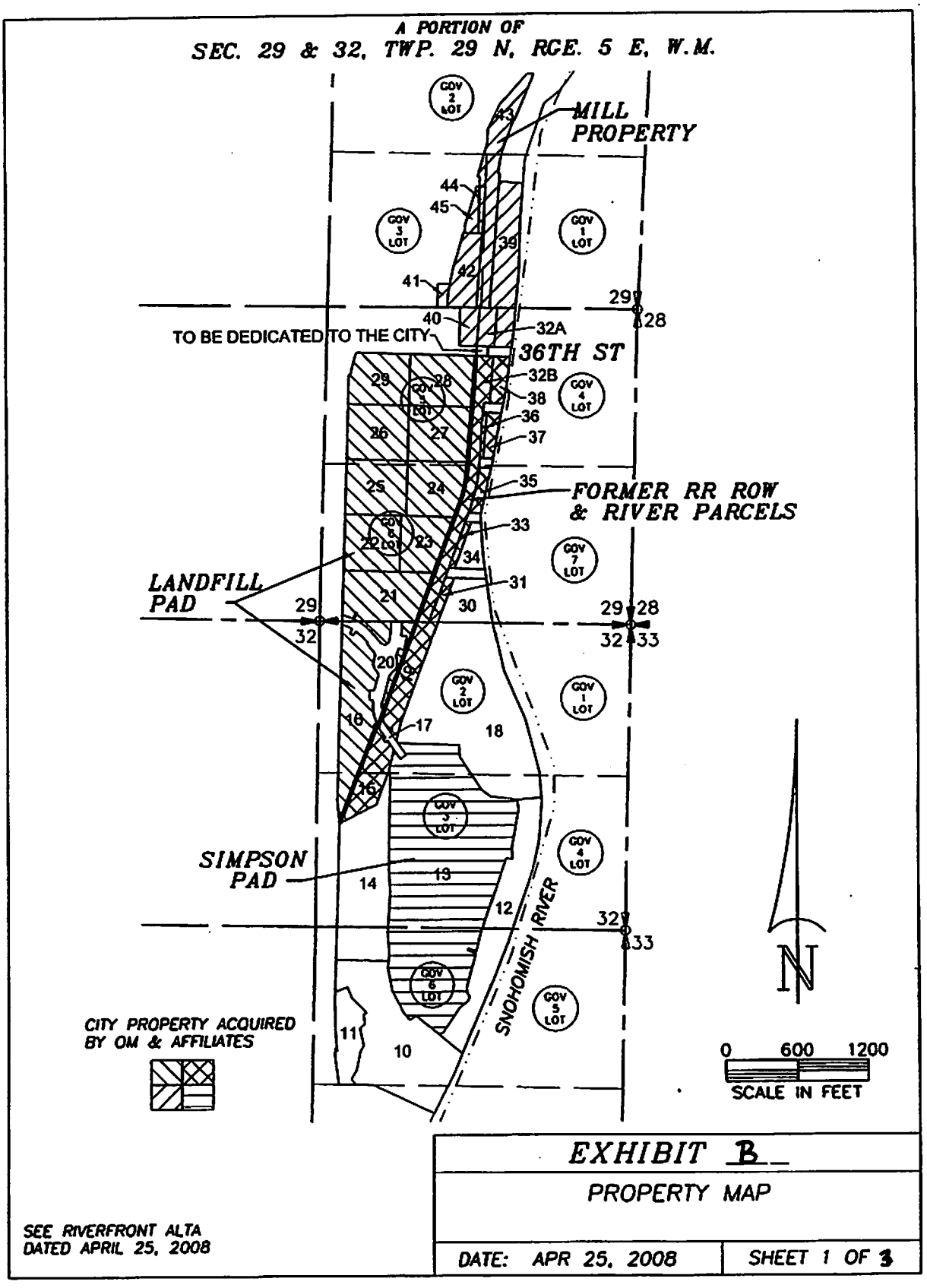
EXHIBIT A

Legal Description of Simpson Pad

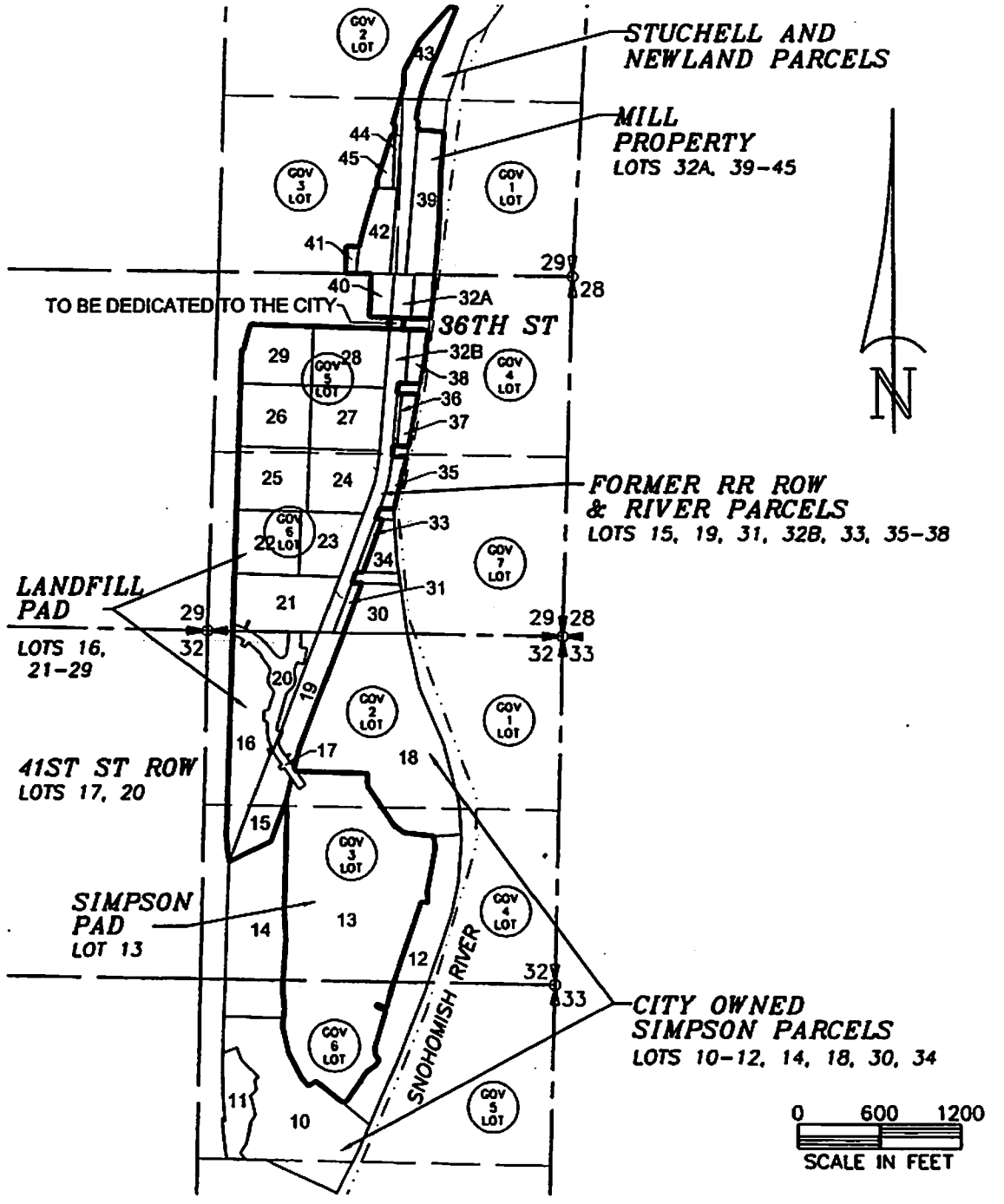
LOT 13 AS DESCRIBED AND SHOWN ON CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 08-004, FILED UNDER AUDITOR'S FILE NO. 200804085006, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

EXHIBIT B

Depiction of Simpson Pad, Abutting City Parcels and Easements


A PORTION OF
SEC. 29 & 32, TWP. 29 N, RGE. 5 E, W.M.
MILL PROPERTY
TO BE DEDICATED TO THE CITY
36TH ST
FORMER RR ROW & RIVER PARCELS
LANDFILL PAD
SIMPSON PAD
SNOHOMISH RIVER
CITY PROPERTY ACQUIRED BY OM & AFFILIATES
N
0 600 1200
SCALE IN FEET
EXHIBIT B
PROPERTY MAP
DATE: APR 25, 2008
SHEET 1 OF 3
SEE RIVERFRONT ALTA DATED APRIL 25, 2008

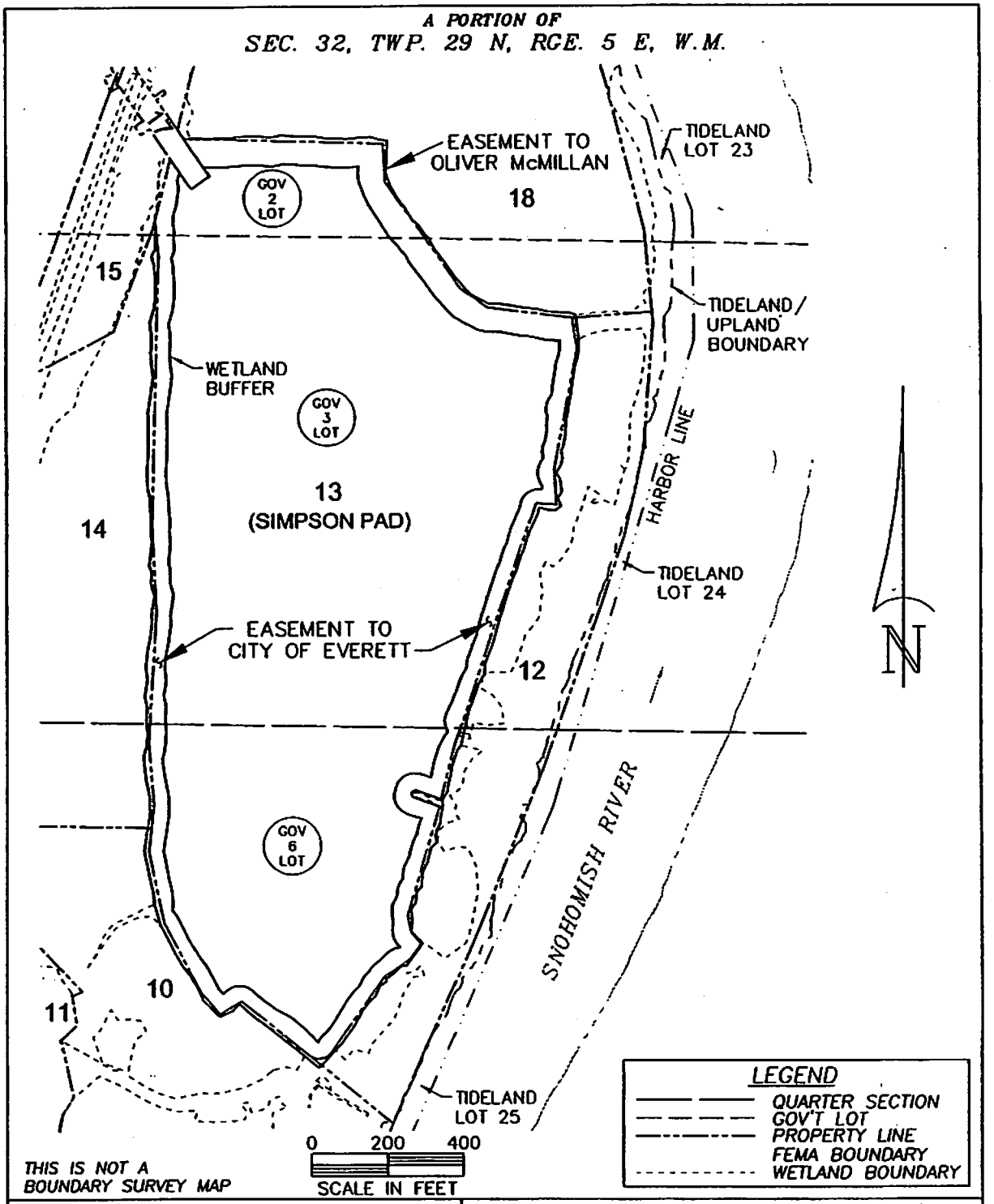
A PORTION OF
SEC. 29 & 32, TWP. 29 N, RGE. 5 E, W.M.



SEE RIVERFRONT ALTA
DATED APRIL 25, 2008

EXHIBIT B

DATE: APR 25, 2008 | SHEET 2 OF 3



CITY OF EVERETT	EXHIBIT B RECIPROCAL EASEMENT	
	DATE: APR 22, 2008	SHEET 3 OF 3

EXHIBIT C

Legal Description of Abutting City Parcels

LOTS 10, 12, 14, AND 18 AS DESCRIBED AND SHOWN ON CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 08-004, FILED UNDER AUDITOR'S FILE NO. 200804085006, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101-3299
Attention: Beth A. Clark

SECONDARY FIRE ACCESS ROAD EASEMENT AGREEMENT

Grantor:	The City of Everett, a Washington municipal corporation
Grantee:	OMH Transfer Agent, LLC, a Delaware limited liability company
Legal Description:	Official legal description on Exhibit A
Assessor's Tax Parcel ID#:	
Reference # (if applicable):	N/A

This Secondary Fire Access Road Easement Agreement (this "Agreement") is made this _____ day of _____, 2008, by and between The City of Everett ("Grantor") and OMH Transfer Agent, LLC, a Delaware limited liability company ("Grantee").

RECITALS

A. Grantor is the current owner in fee of certain real property legally described on Exhibit A attached hereto and incorporated herein by reference (the "Grantor's Property").

B. Grantee is the current owner in fee of the property, immediately to the north of and adjacent to the Grantor Property, legally described on Exhibit B attached hereto and incorporated herein by reference (the "Grantee's Property").

C. Grantor has agreed to allow Grantee to construct, maintain and repair a secondary fire access road over and across the Grantor Property for the purpose of vehicular access by fire and emergency vehicles to and from Grantee Property to Lowell-River Road/52nd Avenue, Everett, Washington.

AGREEMENT

For and in consideration of the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Grant of Easement. Grantor, as owner of the Grantor's Property, does hereby quit claim to Grantee for the benefit of the Grantee Property a permanent, perpetual and nonexclusive easement forty (40) feet in width ("Easement") on, over, across, and through that certain portion of the Grantor Property as shown on Exhibit C attached hereto and incorporated herein by reference (the "Fire Access Easement Area") solely for the purposes set forth herein. Grantee acknowledges and agrees that the easement granted herein is subject to all existing easements on Grantor's Property and Grantor makes no representations or warranty regarding Grantee's right or ability to use the easement described herein for their intended purposes. In addition to the foregoing, Grantee shall have the right to use and have access to such areas adjacent to the Easement Areas as may be reasonably necessary to construct and install the improvements described herein.

2. Purpose. The purpose of this Easement is solely for the use of the Fire Access Easement Area as a twenty (20) foot wide (approximately) secondary fire and emergency vehicle access road to and from the Grantee Property to Lowell-River Road/52nd Avenue, Everett, Washington, together with an additional ten (10) feet on either side of roadway for all necessary ingress and egress for construction, maintenance and repair of such Fire Access.

3. Repair and Maintenance. Grantee shall be responsible for all repair and maintenance obligations related to the fire access roadway or future fire access bridge.

4. Relocation. Grantor, at its cost, may relocate the Fire Access Easement Area and/or Future Easement Area at any time, provided that Grantee shall at all times have legally adequate fire and emergency vehicle access to and from the Grantee Property as approved by the City of Everett Fire Marshal, and further provided, that if such relocation should occur prior to Grantee's construction of the roadway within the Fire Access Easement Area, the City shall only bear costs which are in excess of those that would have been expended by Grantee for construction of the roadway within the Fire Access Easement Area.

5. Miscellaneous Provisions.

5.1 Enforcement. In the event of a breach of any of the covenants or agreements set forth in this Agreement, the parties hereto shall be entitled to any and all remedies

available at law or in equity, including but not limited to the equitable remedies of specific performance or mandatory or prohibitory injunction issued by a court of appropriate jurisdiction; provided, however, that neither party shall be entitled to consequential damages. The parties hereto agree that in the event it becomes necessary for any party to defend or institute legal proceedings as a result of the failure of either party to comply with the terms, covenants, agreements and/or conditions of this Agreement, it is understood and agreed that the prevailing party in such litigation shall be entitled to be reimbursed for all costs incurred or expended in connection therewith, including, but not limited to, reasonable attorney's fees (including appellate fees) and court costs. This section shall survive the expiration or termination of this Agreement with respect to obligations which arose during the term of this Agreement.

5.2 Binding Effect. The covenants contained in this Agreement are not personal, but shall run with the land and be binding upon and inure to the benefit of OM and City and each of their respective heirs, personal representatives, transferees, successors and assigns.

5.3 Amendment. This Agreement shall not be modified, amended or terminated without the prior written approval of the then owner of the property that is benefited and the then owner of the property that is burdened by the provisions of any amendment to this Agreement.

5.4 Waiver. No waiver of any other provisions of this Agreement shall be effective unless it is in writing, signed by the person or entity against whom it is asserted and any such written waiver shall only be applicable in the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

5.5 Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

5.6 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Washington. This Agreement does not, by its express terms or by implication, constitute (in whole or part) any grant, issuance, decision, order, permit, finding, conclusion, holding, recommendation, approval, determination or other form of governmental action as to any matter whatsoever. OM expressly acknowledges and agrees, and shall require any and all of OM's approved assignees to expressly acknowledge and agree, that City hereby gives no express or implied assurances or guarantees or any kind as to the outcome of any request for City development approval. No public or municipal services are provided to OM (or any OM assignee) by City pursuant to this Agreement, nor shall this Agreement in any way affect the provision of any such services by City in any capacity by which City may extend such services to the general public and in accordance with applicable law.

5.7 Venue and Jurisdiction. OM shall not commence or prosecute any suit, proceeding or claim to enforce the provisions of this Agreement or otherwise arising under or by reason of this Agreement other than in the state courts located in Snohomish County, Washington, or in federal court in the Western District of Washington. OM hereby irrevocably consents to the jurisdiction and venue of such courts.

5.8 Further Assurances. If at any time either of the parties reasonably determines that any further assignments, conveyances, assurances or instruments are reasonably necessary or desirable to carry out the provisions hereof and the transactions contemplated herein, the appropriate party shall execute and deliver, or cause to be executed and delivered, any and all proper assignments and assurances and to do, or cause to be done, all things reasonably necessary or proper to carry out fully the provisions hereof, provided that such things shall be at no additional material cost, expense or liability (beyond that set forth in this Agreement) to such party.

5.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which, when combined, shall constitute one single binding and enforceable agreement.

5.10 Third Parties. Except as expressly provided herein, this Agreement shall not be interpreted to create any right or liability with respect to any person or entity not a signatory to this Agreement.

5.11 Construction. This Agreement shall be construed as a whole. The misplacement, addition or omission of a word or character shall not change the intent of any part of this Agreement from that set forth by this Agreement as a whole. All provisions and parts of this Agreement are intended to be correlative and complementary. The headings of sections and paragraphs of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

5.12 Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements between them with respect to the same subject matter.

5.13 Record Notice. This Agreement shall be recorded with the Snohomish County Department of Records and Elections.

EXECUTED and delivered under seal as of the day and year first above written.

GRANTOR: CITY OF EVERETT

By: _____
Its: _____

ATTEST:

By: _____
Sharon Marks, City Clerk

APPROVED AS TO FORM:

By: _____
Craig H. Shrontz, Special City Attorney

Date: _____

GRANTEE: OMH TRANSFER AGENT LLC, a Delaware limited liability company

By: _____
Its: _____

STATE OF WASHINGTON)
)
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of the City of Everett, a Washington municipal corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2008.

_____
(Signature of Notary)

_____
(LEGIBLY PRINT OR STAMP NAME OF NOTARY)
Notary public in and for the State of Washington,
residing at _____
My appointment expires _____

USE THIS SPACE FOR NOTARIAL STAMP/SEAL

STATE OF WASHINGTON)
)
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of OMH TRANSFER AGENT, LLC, a Delaware limited liability company, to be the free and voluntary act of such limited liability company for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2008.

_____
(Signature of Notary)

_____
(Legibly Print or Stamp Name of Notary)
Notary public in and for the State of Washington,
residing at _____
My appointment expires _____

Use this space for Notarial stamp/seal

Exhibit A

Grantor's Property

LOTS 10 AND 11 AS DESCRIBED AND SHOWN ON CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 08-004, FILED UNDER AUDITOR'S FILE NO. 200804085006, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

Exhibit B

Grantee's Property

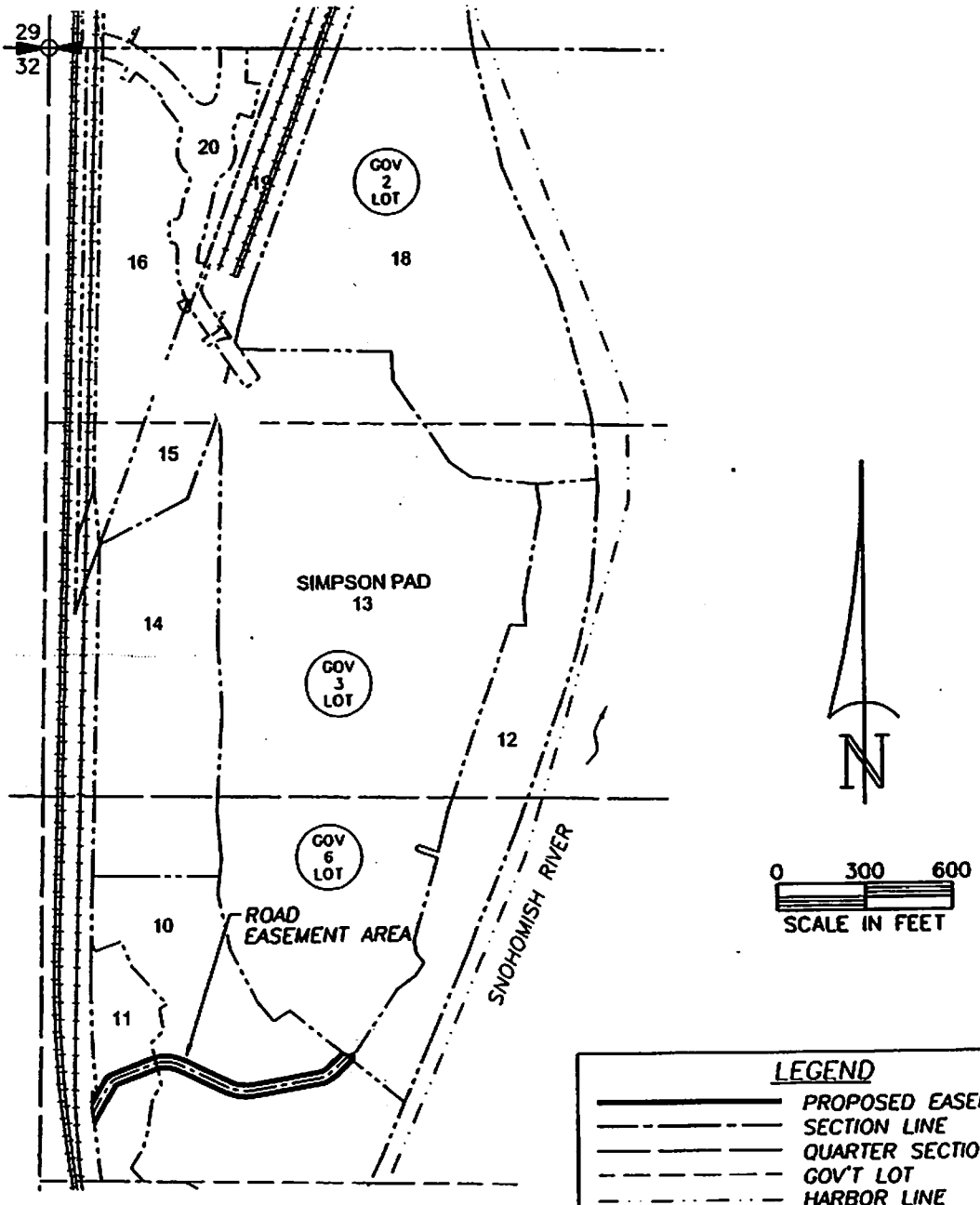
LOT 13 AS DESCRIBED AND SHOWN ON CITY OF EVERETT BOUNDARY LINE ADJUSTMENT NO. 08-004, FILED UNDER AUDITOR'S FILE NO. 200804085006, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

Exhibit C

Depiction of Fire Access Easement Area

A PORTION OF

SEC. 32, TWP. 29 N, RGE. 5 E, W.M.



BOUNDARY SURVEY PER BLA 08-004, AFN 200804085006.

CITY OF EVERETT

EXHIBIT "C"

FIRE ACCESS

DATE: APR 25, 2008

SHEET 1 OF 1

GRANT OF EASEMENT FOR EXISTING LANDFILL SYSTEMS
AND RELATED UTILITIES

Reference No. (if applicable): _____

Grantor: OM EVERETT, INC., a Washington corporation
OMH TRANSFER AGENT, LLC, a Delaware limited liability company

Additional on Pg. N/A

Grantee: CITY OF EVERETT, a Washington municipal corporation

Additional on Pg. N/A

Legal Description (abbreviated): A portion of the SE quarter of Section 29, Township 29N, Range 5 East of the Willamette Meridian and NE quarter of Section 32, Township 29N, Range 5 East of the Willamette Meridian, Snohomish County, Washington

Additional legal(s) on Pg. EXHIBIT "A" HERETO
EXHIBIT "B" HERETO
EXHIBIT "C" HERETO
EXHIBIT "D" HERETO
EXHIBIT "E" HERETO
EXHIBIT "F" HERETO
EXHIBIT "G" HERETO

Assessor's Tax Parcel ID Nos.

GRANT OF EASEMENT FOR
EXISTING LANDFILL SYSTEMS AND RELATED UTILITIES

THIS EASEMENT AGREEMENT (the **"Agreement"**) is made this ____ day of _____, 2008, by and between OM EVERETT, INC., a Washington corporation ("OME") and OMH TRANSFER AGENT, LLC, a Delaware limited liability company ("OMH")(hereinafter collectively referred to as **"Grantor"** or **"OM"**) and CITY OF EVERETT, a municipal corporation of the State of Washington (the "City") (hereinafter referred to as **"Grantee"**), and their respective successors and assigns (collectively, the **"Parties"**), with reference to the following facts:

RECITALS

A. Grantor is the owner of certain real property located in the City of Everett, Snohomish County, Washington, and legally described in attached Exhibit A and shown on attached Exhibit B incorporated herein by reference (**"Grantor's Property"** or **"City Property"**). The Parties previously entered into a Property Disposition Agreement dated February 21, 2007, and thereafter amended, (**"PDA"**) providing for Grantor's acquisition and development of the City Property as a high quality mixed use development (the **"Project"**).

B. A portion of the Grantor's Property (the **"Landfill Pad"**) was formerly a municipal landfill that is in the long-term operation and maintenance phase of remediation and is subject to a consent decree and cleanup action plan entered into between the Grantee and the Washington Department of Ecology (**"Ecology"**) dated April 2, 2001, as amended by agreement among OME, Grantee and Ecology dated April 23, 2008 (**"Consent Decree Amendment"**). The original Consent Decree and Cleanup Action Plan as modified by the Consent Decree Amendment are hereafter referred to as the **"CAP/CD."** The property subject to the CAP/CD ("Landfill Property") and the Landfill Pad are legally described in attached Exhibits C and D, respectively, incorporated herein by reference.

C. The CAP/CD requires the construction, operation and maintenance of a system to manage landfill gas. Under the CAP/CD, Grantee constructed facilities to collect and discharge landfill gas (**"Existing Landfill Gas Management System"**). The Existing Landfill Gas Management System is located on that certain real property legally described depicted on the drawings in attached Exhibit E.

D. Grantee also constructed a system to collect leachate and certain stormwater (**"Existing Leachate Collection System"**) which is located on that certain real property depicted on the survey attached hereto as Exhibit F.

E. Pursuant to the CAP/CD, Grantee has installed 11 active groundwater monitoring wells east of the Landfill Property on a portion of the City Property owned by Grantor, which

wells are used to monitor potential contamination in groundwater. In addition, Grantee has installed 3 active groundwater monitoring wells on a certain portion of the Grantor's Property owned by OMH and commonly known as the "**Mill Property.**". The foregoing 14 monitoring wells are collectively referred to herein as the "**Existing Groundwater Monitoring System**" and are depicted on the survey attached as **Exhibit G**, incorporated herein by reference.

F. Grantee also has installed certain electrical, water and sanitary sewer utility improvements on the Landfill Property and ancillary to the Existing Landfill Gas Management System and the Existing Leachate Collection System ("**Related Utilities**") as depicted on the survey attached **Exhibit F**, incorporated herein by reference.

G. The areas within the City Property where the Existing Landfill Gas Management System, the Existing Leachate Collection System, the Existing Groundwater Monitoring System and the Related Utilities are located are collectively referred to as the "**Easement Area.**" The Easement Area shall include such reasonable access as is necessary for the Grantee's use and enjoyment of the easement rights herein granted without interference with or disturbance of Grantor's use or operations on the remainder of the Grantor's Property or the businesses conducted thereon.

H. OliverMcMillan, LLC, a California limited liability company, and its affiliate OME entered into an agreement titled the "Landfill and Environmental Indemnification Agreement" ("**Environmental Agreement**" or "**LEIA**") providing for their respective obligations for the design, construction, use, operation and maintenance, and ownership of the existing and future expanded Landfill Gas Management System, and for the Leachate Collection System, Groundwater Monitoring System and Related Utilities. The Environmental Agreement also provides that Grantee will be solely responsible for the construction, use, operation and maintenance of the existing and future Leachate Collection System, the existing and future Groundwater Monitoring System, and the Related Utilities and will retain ownership of these systems.

I. In order to continue to operate and to maintain the Existing Landfill Gas Management System, Existing Leachate Collection System, Existing Groundwater Monitoring System, and Related Utilities, existing as of the date of this Agreement (collectively, the "**Easement Improvements**"), until such time as the Easement Improvements may be expanded, modified or replaced under the terms of the Environmental Agreement, Grantee desires to acquire from Grantor a non-exclusive easement for the existing Easement Improvements within the Easement Area, and Grantor is willing to grant such easement on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

GRANT OF EASEMENTS

OM hereby BARGAINS, SELLS, AND CONVEYS to the City and the City's contractors, agents and employees (hereafter **"Representatives"**), the following easements (collectively, the **"Easements"**):

1. Easement for Existing Landfill Gas Management System. A permanent, non-exclusive easement over, under, across, and through the Easement Area depicted in Exhibit E as the location of the Existing Landfill Gas Management System ("Landfill Gas Management System Easement"). The portion of the Landfill Gas Management System Easement generally located in the center of the Landfill Property is twenty (20) feet in width (10 feet on each side) of the centerline of the pipe), as depicted on Exhibit E. The portion of the Landfill Gas Management System Easement lying on the westerly and northerly portions of the Landfill Property is an area legally described and shown in Exhibit E. The Landfill Gas Management System Easement is for the purpose of use, operation, maintenance, inspection, and repair (including replacement of pipe in the same location) of the Existing Landfill Gas Management System, as required by Ecology under the CAP/CD, together with rights of ingress and egress over and across that real property depicted in Exhibit D for access to the Existing Landfill Gas Management System until such time as the easement in this paragraph is terminated under Paragraph 12, and for no other purposes under this Agreement without Grantor's prior written consent. This Landfill Gas Management System Easement shall terminate in accordance with the provisions in Paragraph 12.

2. Easement for Existing Leachate Collection System. A permanent, non-exclusive easement over, under, across, and through the Easement Area as depicted and legally described in Exhibit F (""Leachate Easement"), including twenty (20) feet in width (10 feet on each side) of the centerline legally described in Exhibit F, for the purpose of use, operation, maintenance, inspection, and repair (including replacement of pipe in the same location) of the Existing Leachate Collection System, together with rights of ingress and egress over and across Grantor's Property for reasonable access to the Existing Leachate Collection System, until such time as the Leachate Easement is terminated under Paragraph 12, and for no other purposes under this Agreement without Grantor's prior written consent.

3. Easement for Related Utilities. A non-exclusive easement over, under, across and through the Easement Area as depicted and legally described in Exhibit F as the location of the Related Utilities, including twenty (20) feet in width (10 feet on each side) of the centerline legally described in Exhibit F, for the purpose of use, operation, maintenance, inspection, and repair of the Related Utilities, together with rights of ingress and egress over and across Grantor's Property for reasonable access to the Related Utilities until such time as the easement in this paragraph is terminated under Paragraph 12 and for no other purpose under this Agreement without Grantor's prior written consent. The easement for Related Utilities shall terminate in accordance with the provisions in Paragraph 12.

4. Easement for Existing Groundwater Monitoring System. A non-exclusive easement over, under, across, and through the Easement Area depicted in Exhibit G as the locations of the Existing Groundwater Monitoring System for the purpose of use, operation, maintenance, inspection, and repair (including replacement of a well in the same location) of the Existing Groundwater Monitoring System, as required by Ecology under the CAP/CD, together with rights of ingress and egress over and across Grantor's Property for reasonable access to the Existing Groundwater Monitoring System, until such time as the easement in this paragraph is terminated under Paragraph 12, and for no other purposes under this Agreement without Grantor's prior written consent. The easement for the Existing Groundwater Monitoring System shall terminate in accordance with the provisions in Paragraph 12.

TERMS AND CONDITIONS OF EASEMENTS

The grants set forth above (the "Easements") are made and accepted subject to the terms and conditions set forth herein.

5. Grantee's Use of Easement Area. Grantee and its Representatives shall at all times maintain the Easement Improvements in compiance with all applicable federal, state and local laws, regulations, ordinances, codes, court and administrative orders and consent decrees and permit conditions in the exercise of Grantee's rights and obligations under the Easements, including the CAP/CD. Grantee and its Representatives shall exercise Grantee's rights and obligations under the Easements so as to use all commercially reasonable efforts to minimize interference with the use and enjoyment of Grantor's property by Grantor, or any lessees, licensees, agents, employees, tenants, customers, or invitees of Grantor or the business operations of such parties.

6. Relocation of Easement Improvements. Grantor reserves the right to relocate the Easement Improvements or Easement Area or portions thereof from time to time if, in the opinion of the Grantor, it unreasonably it unreasonably interferes with the use by Grantor of Grantor's Property, as provided in this paragraph. Except as set forth herein or agreed to otherwise by the Parties, Grantor shall bear the cost of relocating any affected Easement Improvements, Grantor shall provide the City with a substitute easement location reasonably suited to the City's needs at no additional cost to the City, and such relocation does not impair the functionality of the utilities and shall otherwise be reasonably acceptable to the City. Promptly upon the completion of such relocation, the Parties shall amend this Agreement to reflect the modified Easement Improvements and Easement Area.

Except as may be subsequently agreed in writing by the Parties, Grantor's obligations under this paragraph to bear relocation costs are not intended to apply, and shall not apply, to relocation of the existing Easement Improvements that the Parties have agreed to modify or replace in order to construct the Minimum Development Element on the Landfill Property as defined in the PDA or as may be necessary for the City to perform the City Work as defined in the PDA, including (a) the modification or expansion of the Landfill Gas Management System as

provided in the Environmental Agreement; (b) City maintenance or repairs to the Leachate Collection System; and (c) any modification of the Existing Groundwater Monitoring System required Ecology or requested by the Grantor as being reasonably necessary for Grantor's development of the Project; or (e) demolition and removal of that portion of the Landfill Gas Management System described in Paragraph 1 lying generally within the center of the Landfill Property which shall be done by the City in connection with the City's initial grading activities.. Any relocation of the Easement Improvements after OM has obtained a Partial Certificate of Completion from the City under the PDA shall be at the sole cost and expense of the Party requesting the relocation.

7. Restoration of Grantor's Property Due to Easement Activities and Removal of Easement Improvements. Upon use, operation, maintenance, inspection, and repair activities under the Easements (collectively the **"Easement Activities"**), or upon removal or abandonment of the Easement Improvements under Paragraph 12 (the **"Termination Activities"**), Grantee or its Representatives shall promptly remove all equipment and debris or materials from the Easement Area, repair any other damage to the Grantor's Property caused by Grantee or its Representatives to the reasonable satisfaction of Grantor, and leave the Grantor's Property in the same condition it was found prior to the commencement of the Easement Activities or Termination Activities, and/or at such elevations and condition as the Parties have agreed under the grading plan for the Landfill Property or as otherwise agreed by the Parties in writing. All costs, fees and expenses relating to restoration of the Grantor's Property with respect to the Easement Activities or Termination Activities, including the proper removal or abandonment of the Easement Improvements, and all fees, costs, labor, materials and expenses, shall be the sole responsibility of Grantee except as may otherwise be agreed by the Parties in writing. Grantee is not authorized under this Agreement to use, conduct activities on, or otherwise access, property outside the Easement Area. If Grantee or its Representatives damage property outside the Easement Area, Grantee shall repair such damage consistent with the terms and conditions of this Paragraph 7. Grantor retains all additional remedies or causes of action for activities of Grantee or its Representatives taken in violation of this Agreement.

8. Grantor's Use of Easement Area. The Easements granted to Grantee herein shall be non-exclusive, and Grantor shall retain all rights in the Easement Area not inconsistent with the performance of Grantor's obligations hereunder or the rights granted to Grantee under the Easements. Grantor may use the Easement Area for any lawful purpose permitted under applicable law, including, but not limited to, ingress and egress that does not unreasonably interfere with the easement rights granted Grantee under this Agreement; provided, however, that except as authorized under paragraph 7 above or an approved in any permit issued in connection with the Project, Grantor shall not engage in any excavation, tunneling, digging construction, alteration or other development of the Easement Area that would (a) interfere with, disturb or damage the Existing Landfill Gas Management, Existing Leachate Collection, Existing Groundwater Monitoring Systems, or Related Utilities in any way, (b) unearth, puncture, obstruct or interfere with the efficient use and operation of those Systems, (c) endanger the lateral support to those Systems, or (d) otherwise unreasonably hinder or interfere with Grantee's use, operation, maintenance or repair of those Systems, without the prior written consent of Grantee,

which consent shall not be unreasonably withheld or delayed. Grantor shall submit plans and specifications of any such proposed excavation, tunneling, digging, construction, alteration or other development located within the Easement Area in sufficient detail to permit Grantee to determine whether such proposed excavation, tunneling, digging, construction, alteration or other development would interfere with, disturb or damage the Existing Landfill Gas Management, Existing Leachate Collection, Existing Groundwater Monitoring Systems, or Related Utilities in any way or otherwise hinder or interfere with Grantee's rights under this Agreement or Grantee's use, operation, maintenance or repair of those Systems. **Grantor may fulfill its obligation to consult with and obtain the approval of Grantee under this section by the submittal and approval of permit applications to the City.** Any approval by Grantee pursuant to this Paragraph 9 shall be strictly limited to the facilities and/or excavation shown on the plans and specifications submitted by Grantor and shall in no event constitute or be construed as a certification of the accuracy, sufficiency or engineering adequacy of said plans and specifications. Any dispute under this section, including disputes concerning Grantee's failure to provide consent, shall be subject to the dispute resolution process set forth in Sections 7.6 and 7.7 of the Environmental Agreement.

9. Coordination of Activities. Grantee shall give at least fifteen (15) days' advance written notice of the proposed dates of any groundwater sampling or other Easement Activities in the Easement Area to Grantor at the address in Paragraph 16, or at such address or office as Grantor may from time to time designate. Grantee shall cooperate in the revision of such dates and/or the coordination of its and its Representatives' activities with those of Grantor if deemed necessary by Grantor to minimize conflicts, insure protection to each party's facilities, prevent hazardous conditions, or minimize interruption of Grantor's operations. Provided, however, that in the event of an emergency requiring immediate action by Grantee for the protection of its Easement Improvements or other persons or property, Grantee may take such action upon notice to Grantor as is reasonable under the circumstances.

10. Refuse, Waste and Hazardous Substances.

A. Refuse and Waste. Grantee and its Representatives shall not make, or suffer to be made, any filling in of the Easement Area or any deposit of refuse, garbage, hydrocarbons, pollutants, hazardous, toxic or harmful substances, or other waste matter (including chemical, biological, or toxic wastes) within or upon the Easement Area, except as approved in writing by the Grantor. At all times during the term of the easements granted under this Agreement, Grantee and its Representatives shall not commit or suffer waste to be committed to the Easement Area or, with respect to Easement Activities or Termination Activities, any other portion of the Grantor's Property.

B. Grantee to Take Corrective Action. If Grantee fails to remove all non-approved fill material, refuse, garbage, or other wastes from the Easement Area and restore the Easement Area to its condition immediately prior to the deposit of the unauthorized material within sixty (60) days following written notice from Grantor, or if such removal and restoration cannot reasonably be accomplished within sixty (60) days, if Grantee fails to commence such removal or

restoration within sixty (60) days or having commenced such removal or restoration, fails to diligently and continually prosecute such removal or restoration to completion, Grantee agrees that the Grantor may remove such materials and charge Grantee for the cost of removal and disposal.

C. Not Include Existing Contamination. For purposes of this section, reference to waste shall not include Existing Contamination, as that term is defined in the Environmental Agreement, that is located on the Landfill Pad in accordance with the CAP/CD. If Existing Contamination is removed or disturbed on the Landfill Pad as a result of Grantee's or its Representatives' Easement Activities or Termination Activities, Grantee shall, at its sole cost and expense, place the Existing Contamination on-site if agreed in writing by Grantor and, if necessary, by Ecology or, if agreement is not reached, dispose of the Existing Contamination off of Grantor's Property in accordance with all applicable laws, regulations, ordinances and other legal requirements, including the CAP/CD.

11. Liens and Encumbrances. If any Easement Activities or Termination Activities performed by the Grantee or its Representatives under this Agreement on the Easement Area results in a lien or other encumbrance being filed on Grantor's Property and the Grantee does not cause such lien or encumbrance to be removed within five (5) business days, then Grantor shall have the right to remove such liens by posting appropriate bonds and Grantee shall reimburse Grantor for all costs reasonably incurred in removing such liens plus an administrative overhead amount of 15% of the premium cost of any such bonds obtained by Grantor.

12. Termination of Easement.

A. Existing Groundwater Monitoring System and Existing Landfill Gas Management System. The Easements for the Existing Groundwater Monitoring System and the Existing Landfill Gas Management System shall each terminate when all of the following have occurred for the particular easement: (1) upon receipt by Grantee of written notice from Ecology or the Snohomish County Superior Court retaining jurisdiction under the Consent Decree that the Existing Groundwater Monitoring System or the Existing Landfill Gas Management System is no longer necessary and may be removed, (2) the period of time to challenge such decision and all appeal periods have passed, and (3) Grantee has properly removed or abandoned all groundwater monitoring wells in the Easement Area or the Existing Landfill Gas Management System in accordance with this Paragraph 12 and received written notice from Grantor of Grantor's acceptance of Grantee's removal or abandonment actions and of termination of the Easement. Grantee shall provide Grantor with a copy of written notice from Ecology or the Court within five (5) business days of receipt by Grantee. Upon receipt of said notice, Grantee shall promptly and in compliance with all laws and regulations and with the approval of all applicable environmental agencies, remove or abandon (based upon Grantor's request) all wells that were installed in the Easement Area or the Existing Landfill Gas Management System, and Grantor's property shall be restored as provided in Paragraph 7.

B. Modification of Existing Easement Improvements. Notwithstanding paragraph 12.A above, this Easement as it pertains to any of the existing Easement Improvements shall terminate at such time as the Parties have entered into one or more easements for expanded, modified, or replacement improvements which, by its express terms, supersede one or more of the Easements in this Agreement.

13. Liability of Grantee. Grantee will be responsible for its and its Representatives' compliance with all of the terms, covenants, conditions and provisions of this Agreement. In the event of any breach of the obligations of this Agreement, Grantee shall be responsible for all damages, liabilities and costs of corrective or remediation action measures resulting from its action or non-action (or action or non-action of its Representatives) as provided in Paragraph 15.

14. Insurance. Prior to commencement of Easement Activities or other activities authorized or required under this Easement Agreement by Grantee or its Representatives on Grantor's Property, Grantee shall submit to Grantor a certificate of insurance in a form reasonably acceptable to Grantor confirming that Grantee or its general contractors performing such activities have obtained customary commercial general liability and "builders risk" insurance in the amount of three million dollars ($3,000,000.00) provided, however, coverage of only one million dollars ($1,000,000.00) shall be required for minor contractors and exceptions otherwise granted upon approval of Grantor, not to be unreasonably withheld. The commercial general liability policy shall name the Grantor and OliverMcMillan, LCC, a California limited liability company, as additional insureds. Additional insured status shall be accomplished by endorsement to said commercial liability policy(ies).

Said coverage shall be maintained by Grantee or its contractors at all times while any of the Easements granted under this Agreement remain in effect. Nothing in this Easement Agreement limits or reduces Grantee's insurance obligations under the PDA or the Environmental Agreement.

15. Indemnification. Grantee hereby agrees to defend (with counsel reasonably satisfactory to Grantor), protect, hold harmless and indemnify the Grantor from any and all liability for damages, losses, liens, costs, expenses, penalties, actions, causes of action or claims ("Claims") including Claims for injury to any person or damage to any property arising out of, in connection with, or incident to any acts, errors, omissions, or conduct by such Grantee or its Representatives relating to this Agreement, except to the extent any Claims arise out of the negligence or willful misconduct of Grantor; provided, however, that to the extent any Claims are subject to indemnification under Section 11 of the Environmental Agreement, the Environmental Agreement shall govern such Claims. The provisions of this Paragraph 15 shall survive termination of any Easement under this Agreement.

16. Notices. Unless otherwise specified in this Agreement, any formal written notices required by this Agreement ("Notice") shall be given at the addresses set forth below in the following manner: (a) hand delivered with an acknowledgement of receipt noted; (b) sent by U.S. registered or certified mail, postage prepaid, return receipt requested; (c) facsimile transmission

with confirmation page including receipt; (d) sent by reputable overnight courier service, addressed to the appropriate Party at its address set forth below, or at such other address as such Party shall have last designated by Notice to the other; or (e) email or other electronic communication with confirmation sent by one of the above methods specified in this Paragraph 16. The Parties shall update the contact information below by formal written Notice under this Agreement; however, failure to update contact information by this method shall not render notice to the addressee below invalid. Notices shall be deemed given when delivered; provided, however, that if any Notice shall also be sent by telecopy or fax machine, such Notice shall be deemed given at the time and on the date of machine transmittal if the sending Party receives a written send verification on its machines and forwards a copy thereof with its mailed or courier delivered Notice. Rejection or other refusal by the addressee to accept a Notice or the inability to deliver the Notice because of a changed address of which no Notice was given shall be deemed to be receipt of the Notice sent.

If to Grantor:

OME and OMH
(as well as to OliverMcMillan, LLC)
733 8th Avenue
San Diego, CA 92101
Attn: Charlie Hickcox

With a copy to:

Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, WA 98101
Attn: Gillis E. Reavis

If to Grantee:

CITY OF EVERETT
Attn: City Property Manager
3200 Cedar Street
Everett, WA 98201

With a copy to:

CITY OF EVERETT
Attn: City Attorney
2930 Wetmore Ave.
Everett, WA 98201

K&L Gates
925 Fourth Ave. – Suite 2900
Seattle, WA 98104-1158
Attn: Kenneth S. Weiner

17. Successors; Runs with the Land. The rights and obligations of the parties shall run with the land and with the title to the Easement Area, and inure to the benefit of and be binding upon the Parties' Representatives, successors, assigns, lessees and sublessees, and successors in

interest, including successors-in-title as owners of any right, title or interest in all or a portion of the Easement Area. This Agreement is enforceable by the Parties hereto. This Agreement may be enforced by the Grantee notwithstanding that the Grantee does not own property to which this easement is appurtenant.

18. Governing Law; Venue. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Washington. It is agreed that venue for any lawsuit arising out of this Agreement shall be Snohomish County. In the event of any litigation to enforce or interpret the right, duties and obligations of the parties set forth herein, the prevailing party shall be entitled to an award of reasonable costs, expenses and attorneys' fees in connection therewith, at trial and on appeal.

19. Non-Waiver. The failure of a party to insist upon a strict performance of any of the terms, conditions and covenants herein or to exercise any remedy available to it will not be deemed a waiver of any rights or remedies that said party may have and will not be deemed a waiver of any subsequent breach or default in terms, conditions and covenants herein contained.

20. Severability. If any term or provision of this Agreement or the application thereof to any person or circumstances will to any extent be invalid and unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable will not be affected thereby, and each remaining term of this Agreement will be valid and be enforced to the extent permitted by law.

21. Entire Agreement; Modification. This Agreement sets forth the entire agreement of the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them. Any amendment or modification of this Agreement must be in writing and signed by the parties.

22. Captions. The captions and paragraph headings contained in this Agreement are for convenience of reference only and in no way define, describe, extend or define the scope or intent of this Agreement, nor the intent of any of the provisions hereof.

23. Incorporation of Recitals. Each of the recitals set forth above are by this reference incorporated into this Agreement as though fully set forth herein.

24. Other Easements. Grantor shall not grant any person any easement or easements within the Easement Area which would unreasonably interfere with Grantee's exercise of its rights under this Agreement without the prior written consent of Grantee.

Executed on the date herein set forth above.

GRANTOR
OM EVERETT, INC.,
a Washington corporation

By: _____
Name: _____
[print name]
Title: _____

GRANTOR
OMH TRANSFER AGENT, LLC,
a Delaware limited liability company

By: _____
Name: _____
[print name]
Title: _____

Terms of Easement Agreement accepted:

GRANTEE

CITY OF EVERETT,
a Washington municipal corporation,

By: _____
Ray Stephanson, Mayor

ATTEST: _____
Sharon Marks, City Clerk

Dated: _____

APPROVED AS TO FORM:

By: _____
_____, City Attorney

Dated: _____

EXHIBITS

Exhibit A	Grantor's Property
Exhibit B	Property Map (City Property)
Exhibit C	Landfill Property
Exhibit D	Landfill Pad
Exhibit E	Existing Landfill Gas Management System
Exhibit F	Existing Leachate Collection System and Related Utilities
Exhibit G	Existing Groundwater Monitoring System

STATE OF _____)
) SS.
COUNTY OF _____)

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

Dated: _____, 2008.

(S E A L)

_____
[Signature]

_____
[Print Name] NOTARY PUBLIC in and for the State of _____.
My commission expires: _____

STATE OF _____)
) SS.
COUNTY OF _____)

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

Dated: _____, 2008.

(S E A L)

_____
[Signature]

_____
[Print Name] NOTARY PUBLIC in and for the State of _____.
My commission expires: _____

EXHIBIT TITLE PAGES TO BE ADDED PER FINAL EXHIBITS