

RESOLUTION NO.: R-2014-113

ORIGINAL  
STAMPED IN RED

*Approving the sale by the Columbia Development Corporation of the Palmetto Compress and Warehouse Company Building located at 612 Devine Street, Richland County TMS #08914-02-01 and 617 Devine Street, Richland County TMS #08915-13-03 to 612 Devine Street Associates, LLC and authorizing the City Manager to execute an Agreement between the City of Columbia and 612 Devine Street Associates, LLC*

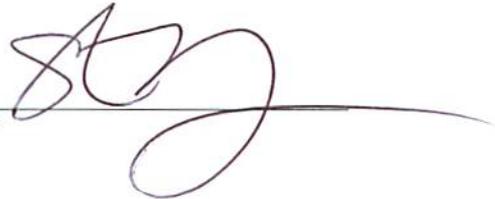
BE IT RESOLVED by the Mayor and City Council this 18th day of November, 2014, that the sale by the Columbia Development Corporation of the Palmetto Compress and Warehouse Company Building located at 612 Devine Street, Richland County TMS #08914-02-01 and 617 Devine Street, Richland County TMS #08915-13-03 to 612 Devine Street Associates, LLC is hereby approved.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the attached Agreement, or on a form approved by the City Attorney, between the City of Columbia and 612 Devine Street Associates, LLC for development of the property.

Requested by:

Assistant City Manager Gentry

Mayor



Approved by:

Cherise Wilson  
City Manager

ATTEST:

Approved as to form:

[Signature]  
City Attorney

Erika D. Moore  
City Clerk

Introduced: 11/18/2014

Final Reading: 11/18/2014

**PALMETTO COMPRESS BUILDING**

**AGREEMENT**

This AGREEMENT (the "Agreement") is hereby made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2014, by and among 612 DEVINE STREET ASSOCIATES, LLC, a South Carolina limited liability company (the "Company"), and THE CITY OF COLUMBIA SOUTH CAROLINA (the "City").

**WITNESSETH:**

WHEREAS, the Company contemplates receiving from Palmetto Compress Preservation Developers, LLC ("Palmetto") an assignment of Palmetto's rights under that certain Contract of Sale dated October 17, 2013 between Palmetto and Compress Holding Company, LLC ("Seller") pertaining to the acquisition of the land and improvements located in the City of Columbia, and more specifically described as an approximately 4.02 acre tract of land (the "Main Site"), together with an approximately .69 acre tract of vacant land located in close proximity to the Main Site (the "Garage Site"), all as shown on Exhibit A attached hereto (collectively, the Main Site and the Garage Site may be referred to as the "Project Site"); and

WHEREAS, the Company, upon acquisition of the Project Site, intends to develop and renovate the building commonly known as the "Palmetto Compress Building" creating apartments, a hotel and commercial use on the Main Site and possibly a parking garage (the "Garage") on the Garage Site, (collectively, the "Project"); and

WHEREAS, the City is desirous of having the Company develop the Project at the Project Site; and

WHEREAS, the Company anticipates that the Project will result in an investment of approximately \$50 million; and

WHEREAS, the site work and infrastructure necessary to construct and operate the Project at the Project Site are substantial; and

WHEREAS, the Project may qualify for certain tax credits which are instrumental to the viability of the Project; and

WHEREAS, the City has determined that (i) the Project is anticipated to benefit the general public welfare of the area by providing services, employment, recreation, tourism and other public benefits not otherwise adequately provided locally; and (ii) that the Project will increase the tax base of the City; and

WHEREAS, the City also expects the Company's investment to greatly enhance the prospects for development of surrounding properties, thereby further increasing the tax base of the City as a result of the Project; and

  
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Company

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City

WHEREAS, the City has identified the need for sanitary sewer improvements, increased parking, enhanced street lighting and improved pedestrian connectivity within this area and has agreed to proceed with those projects within the timeframes identified herein; thereby acknowledging such public improvements are beneficial to development taking place on the Property and within the surrounding area.

WHEREAS, the Company has submitted to the South Carolina Department of Health and Environmental Control (SC DHEC) a Non-responsible Party Voluntary Cleanup Contract (VCC) pursuant to the South Carolina Brownfields/Voluntary Cleanup Program (S.C. Code Ann. §44-56-710 *et seq.*) pertaining to the Project Site.

WHEREAS, the City recognizes that the VCC process may extend beyond the expiration of the Contract of Sale between Palmetto and Seller and would approve of an extension of such contractual period to April 1, 2015 or fifteen (15) days after an executed VCC, whichever occurs first, to allow for the assignment of the Contract of Sale to 612 Devine Street Associates, LLC.

WHEREAS, the purpose of this Agreement is (i) to set forth the various commitments of the City and the Company in connection with the development of the Project Site in order to protect the Company's development rights, and (ii) to finalize the commitments of the Company and the City, and to induce the Company to locate the Project on the Project Site.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

#### I. DEFINITIONS

"City" means the City of Columbia, South Carolina and its successors and assigns.

"Code" means the South Carolina Code of Laws, 1976, as amended.

"Company" means 612 Devine Street Associates, LLC, and its successors and assigns.

"County" means Richland County, South Carolina, and its successors and assigns.

"Garage Site" shall have the meaning it is given in the recitals to this Agreement.

"Main Site" shall have the meaning it is given in the recitals to this Agreement.

"Permits" means any permits required for work to be conducted on the Project Site, including, but not limited to, environmental permits as well as building permits, air and water discharge permits, FAA permits, federal and state wetlands and other environmental permits, business license permits, and other permits necessary to begin work on the Project Site.

  
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“Project” shall have the meaning it is given in the recitals to this Agreement.

“Project Site” shall have the meaning it is given in the recitals to this Agreement.

“Public Agencies” means the City and County.

## II. DEVELOPMENT OF THE PROJECT

2.1. Timing. The Company anticipates that the closing on the Project Site will occur within fifteen (15) days of a fully-executed VCC contract between 612 Devine Street Associates, LLC and SC DHEC, which is expected to be prior to April 1, 2015. It is anticipated the Project will encompass an investment of approximately \$50,000,000. Construction on the Project is anticipated to commence in the first quarter of 2015.

2.2. The Company agrees to escrow \$100,000 with a mutually agreed upon Escrow Agent, to be paid by the escrow agent to the Seller at closing and credited against the purchase price. Such funds shall be refundable unless and until the VCC is fully executed by all required parties, execution of the VCC by the Company to be within the sole discretion of the Company. Such funds shall not be refundable in the event the VCC is executed but the Closing does not occur within fifteen (15) days of that execution.

2.3. Notwithstanding anything in this agreement to the contrary, the Company agrees that it shall not demolish the building on the Property nor shall it apply for a demolition permit at any time prior to the completion of the initial redevelopment of the Property as a residential mixed use facility, excepting however, demolition necessitated by fire or other casualty.

2.4. Permits or Approvals. The City agrees to give the Company such appropriate assistance as may be necessary to attempt to expedite the issuance of the Permits/Approvals for the Project as may be provided to any and all other developers. The Company will be responsible for providing the necessary information required by the permitting agencies for the Permits/Approvals.

2.5. Development of Main Site. The City has plans to proceed with improvements within the area surrounding the Main Site and has committed to do so within the timeframe identified herein.

(a) Install no later than November 15, 2015 unless mutually agreed upon by both parties, and maintain after installation, street lighting, landscaping, irrigation sidewalks and parking along (collectively, the “Streetscaping”) the 600 block of Pulaski Street, consistent with City specifications and requirements for such improvements. This work is included as part of the sanitary sewer project currently under design. The Company will provide its engineer to help coordinate the details of the design to ensure the interface with the Main Site is consistent with the development, to include curb cut locations, if needed. The streetscaping will be performed in accordance with the applicable Innovista zoning requirements and design guidelines. The Company shall

provide the City the layout of said improvements by December 1, 2014 for purposes of incorporating such plans into the sanitary sewer project bid package. The Company will notify the City if said plans change after December 1 due to development changes but acknowledges that any such changes shall be minimal in order to be accommodated as part of the City's project. The parking along the 600 block of Pulaski has been approved as angled parking.

(b) The City has plans for parking improvements underneath Blossom Street Bridge and agrees to use reasonable efforts to obtain approval from the South Carolina Department of Transportation ("SCDOT") for said improvements. The project consists of (i) construct, pave and line public parking spaces under the Blossom Street Bridge, anticipated to be 42 spaces plus or minus, depending on final design and approval; (ii) work with all parties to obtain approval from SCDOT to access to the area adjacent to the Main Site under the Blossom Street Bridge to include access lane and parking from the Main Site by means of one or more curb cuts to be installed by the Company as part of the development of the Main Site; and work with adjacent developers to support approval of and encourage the construction of a "one way in, one way out" U-shaped access lane under the Blossom Street Bridge benefitting the Main Site and the tract directly South of the Main Site (the "MDC-URC Track") all as indicated on Exhibit B. City will be responsible for construction of the portion of the walking trail that connects the walking trails to be constructed by the two private developers on each side of Blossom Street along the railroad tracks. Provided SCDOT permit approval is obtained, all construction referenced in this paragraph 2.3(a) shall be consistent with City specifications and requirements for on street parking and finished no later than November 15, 2015.

(c) The City intends to make improvements to the 600 block of Devine Street to include streetlight enhancements, sidewalk installation and crosswalks connecting pedestrian facilities to the north and south side of Devine Street. The Company shall include the design of the 600 block of Devine Street in the overall design of the Main Site and Garage Site to ensure a comprehensive approach to this area is accomplished. The City and Company agree to coordinate regarding the construction of the 600 block of Devine St to determine if there are efficiencies and cost savings to be recognized by performing this work as one comprehensive project. The City may elect to partner with the Company for this work if it is deemed beneficial to do so for both parties. Upon that determination, the City shall either cause to be constructed or provide the Company funding for improvements to the 600 block of Devine Street as described herein. Any such improvements shall comply with applicable design guidelines and required approvals. The City agrees to assist with the permit approval of curb cuts on Devine Street for access to the Main Site as needed by the Company for development of the Project Site. Such curb cuts must meet applicable specifications.

(d) The City is committed to proceeding with a pedestrian corridor consistent with the concept identified and approved in the Innovista Master Plan. The Company shall include the design of the pedestrian corridor in the overall design of the Main Site and

  
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City

Garage Site to ensure a comprehensive approach to this area is accomplished, according to the guidelines provided by the City, with the understanding that the City will afford flexibility in the width of the planting buffer to incorporate landscape requirements set forth by the Zoning Ordinance.. The City and Company agree to coordinate regarding the construction of the pedestrian corridor to determine if there are efficiencies and cost savings to be recognized by performing this work as one comprehensive project. The City may elect to partner with the Company for this work if it is deemed beneficial to do so for both parties. Upon that determination, the City shall either cause to be constructed or provide the Company funding for such improvements. Any such improvements shall comply with applicable design guidelines and associated approvals. The City and Company agree to proceed with this work within the same timeframe that the Main Site development will occur.

The Company acknowledges the pedestrian corridor indicated by the red dotted line of Exhibit C is a street side sidewalk along Huger Street. The City acknowledges a third party developer is seeking and/or has obtained approval and intends to construct the pedestrian corridor along the rail tracks starting at south side of the Blossom Street bridge to the MDC-URC Tract, then along the MDC-URC Tract on Blossom Street going West until Pulaski Street, then turning South along Wheat Street to Huger Street, all as indicated by the green line on Exhibit C, by August 15, 2015. All trails not already accommodated on sidewalks adjacent to street right-of-way shall be constructed in conformance with the specifications in Exhibit D, recognizing that some modifications to such specifications may be allowed by the City.

2.5 Development of Garage Site. The City and Company agree to continue to collaborate on the possible development of a public-private garage on the Garage Site.

2.6 The City shall provide no later than August 15, 2015, sewer service to the Main Site and the Garage Site with sufficient capacity to serve the Project Site. The City represents that a water line is available at the Project Site that should be adequate to serve the Project located on the Main Site. Company's engineer must perform calculations to certify such. The City will provide a hydrant test upon request to do so from the Company's Engineer, along with the information needed for performing the test.

2.7 The Company shall identify hydrants that may need to be added, if any, in the right of way around the Project Site no later than January 31, 2015. The City agrees to install up to two new hydrants, if the City deems necessary, no later than August 15, 2015. The City agrees to install any hydrants required by the City for permit approval, provided those hydrants are connected to the City's water system and not any portion of an on-site system retained by the Company.

### III. MISCELLANEOUS

3.1 Tax Credits. The City agrees, if appropriate, Main Site to assist in obtaining any local, state or federal income tax credits that may be applicable to the Project and which are identified by the Company upon the Company submitting satisfactory evidence of qualification for such credits to the City including the Special Property Tax Assessment for Rehabilitated Historic Properties (also known as the "Bailey Bill"), South Carolina Abandoned Buildings Revitalization Act credits and New Markets Tax Credits.

3.2 Governing Law. The governing law of this Agreement shall be the laws of the State of South Carolina.

3.3 Confidentiality. The City understands the importance to the Company of keeping all matters strictly confidential, except as consented to by the Company. The City and the Company acknowledge, however, that the Public Agencies are subject to various disclosure laws including the South Carolina Freedom of Information Act. To the fullest extent permitted by law, the City agrees to maintain the confidentiality of this Agreement and all documents and actions executed or taken in connection herewith, and all information provided to the Public Agencies by and on behalf of the Company in connection with the Project; provided, however, that if a Public Agency is required to respond to a Freedom of Information Act request, the Public Agency shall be required to comply with such law and agrees to notify the Company of the request and intended response prior to sending the response.

3.4 Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect for any reason whatsoever, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

3.5 Notices. Any notice, request, demand, claim, or other communication hereunder shall be in writing and shall be duly given or made (a) when personally delivered to the intended recipient or an officer of the intended recipient, (b) five days after it is sent by certified, first class mail, return receipt requested, postage prepaid, (c) three days after it is sent by any recognized courier service, or (d) when sent by telecopy or electronic transmission (with such telecopy or electronic transmission to be followed promptly by mail or overnight courier) to the following addresses of the recipients:

If to the Company:  
612 Devine Street Associates, LLC  
Attn: Mr. Daniel K. Rothschild  
1776 North Pine Island Road, Suite 224  
Plantation, Florida 33322  
Fax: 305-675-7733  
Email: [danielr@pmcpropertygroup.com](mailto:danielr@pmcpropertygroup.com)

With required copies to:

PMC Property Group, Inc.  
1608 Walnut Street, Suite 1400  
Philadelphia, PA 19103  
Attn: President

PMC Property Group, Inc.  
1608 Walnut Street, Suite 1400  
Philadelphia, PA 19103  
Attn: General Counsel

If to the City:

City of Columbia  
Assistant City Manager for Operations  
Attn: Melissa Gentry  
PO Box 147  
Columbia, SC 29217  
msgentry@columbiasc.net

With required copies to:

City of Columbia  
PO Box 147  
Columbia, SC 29217  
Attn: City Manager

City of Columbia  
PO Box 147  
Columbia, SC 29217  
Attn: City Attorney

3.6 Press Releases. The City and Company agree to work together and cooperate fully with the other on any and all press releases and publications concerning the Project.

3.7 Assignment. This Agreement is not assignable except that, subject to the consent of the City, the Company shall have the right to assign its rights and interests and delegate its obligations and responsibilities to any affiliate or designee of the Company, including, but not limited to, any entity acquiring the Company's assets by purchase, merger, or otherwise, and/or acquiring the Company's interest in the Project.

3.8 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original.

3.9 Default. In the event of a material breach of this Agreement or failure of the City or Company to meet the commitments evidenced in this Agreement, the Company and City shall have the right to pursue such remedies and damages as may be available at law or in equity.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

WITNESSES:

Frank Hampton  
John P. Thomas

WITNESSES:

Mike Gutz  
J. Alonso

612 DEVINE STREET  
ASSOCIATES, LLC

By: Carrie Rothschild

Its: v.r. 612 Devine St LLC

CITY OF COLUMBIA, SOUTH  
CAROLINA

Teresa Wilson  
By: Teresa Wilson  
Its: City Manager

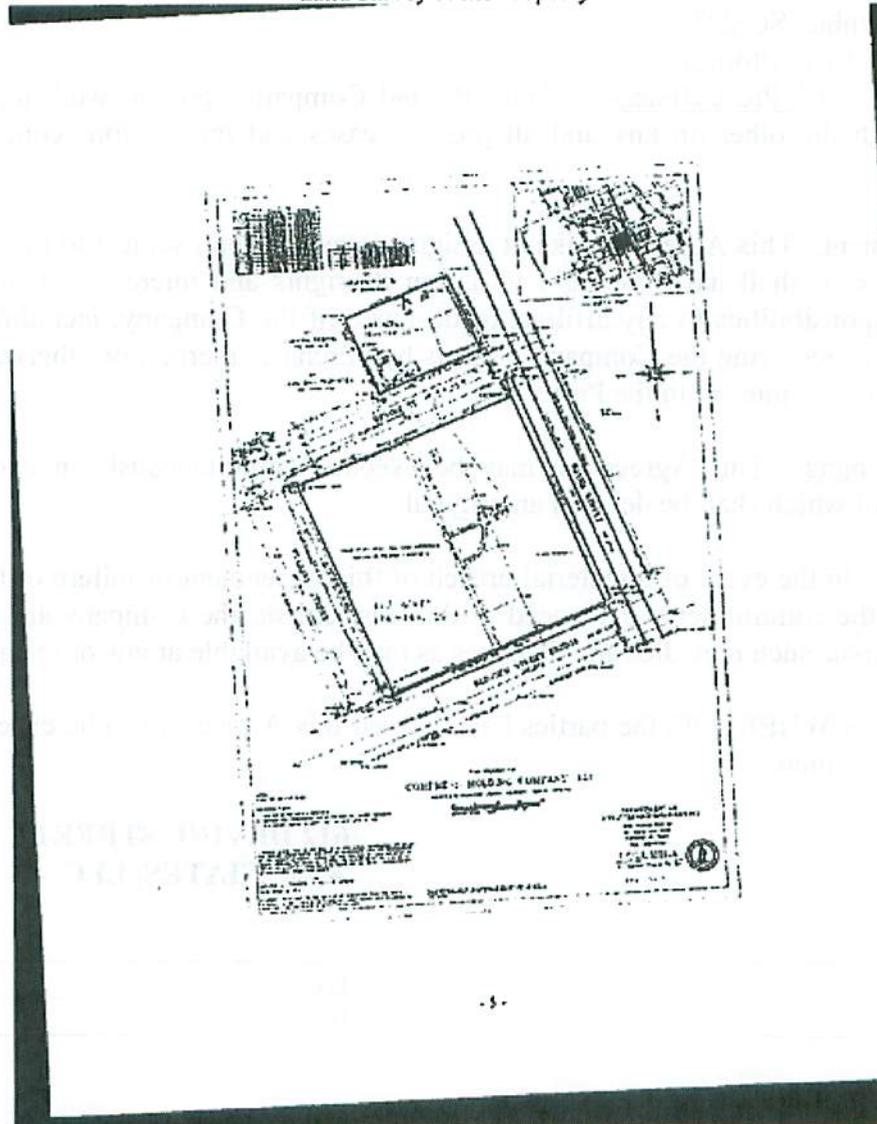
APPROVED AS TO FORM

Janne Lisowski  
Legal Department City of Columbia, SC

EXHIBIT A

Exhibit A

Land Survey of the Property



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AGREEMENT

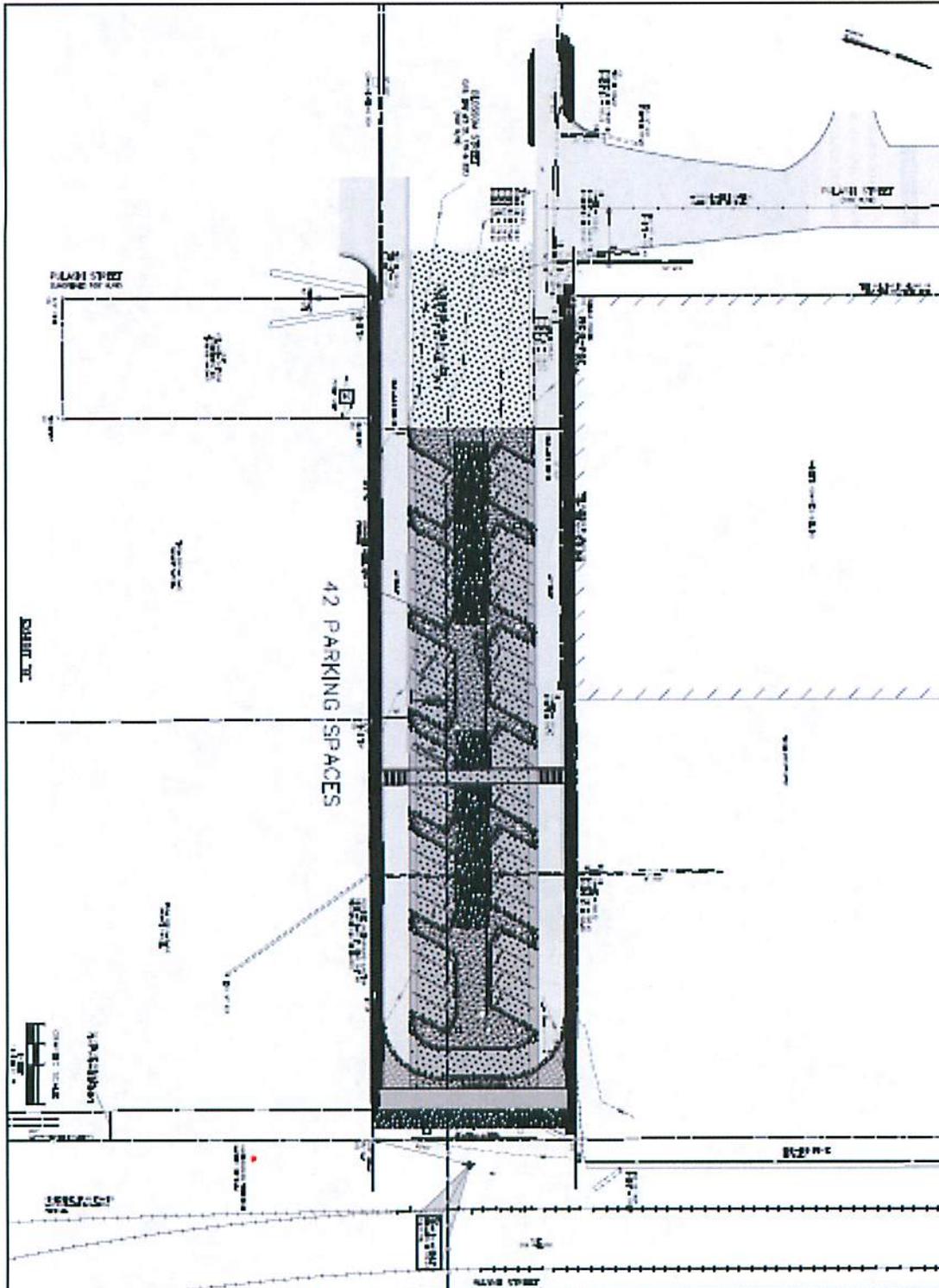
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Company

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City

EXHIBIT B



*JW*

EXHIBIT C



EXHIBIT D

