

RESOLUTION NO. 3244

A RESOLUTION of the Port Commission of the Port of Seattle authorizing the Executive Director to enter into an Interlocal Agreement with The City of Seattle concerning Southwest Harbor Project matters, homeporting of cruise lines and fireboat service, and credits towards drainage fees.

WHEREAS, the Port and The City of Seattle seek to further intergovernmental cooperation and coordination in the provision of public benefits; and

WHEREAS, in 1995, negotiations began to resolve several long-standing issues between the Port and The City of Seattle; and

WHEREAS, the parties have successfully negotiated three of those issues (Southwest Harbor Project matters; homeporting of cruise lines and fireboat service; and credits towards drainage fees); and

WHEREAS, the parties wish to memorialize the outcome of their negotiations by entering into an interlocal agreement.

NOW, THEREFORE, BE IT RESOLVED by the Port Commission of the Port of Seattle that:

Section 1. The Executive Director of the Port of Seattle is hereby authorized to execute and implement the Interlocal Agreement Between The City of Seattle and the Port of Seattle dated January 17, 1997, and attached hereto as Attachment "1" and by this reference incorporated herein.

Section 2. Port staff is authorized to take all necessary actions to fulfill the terms of the Interlocal Agreement, including contribution of \$12,000 to the City of Seattle's Ballard

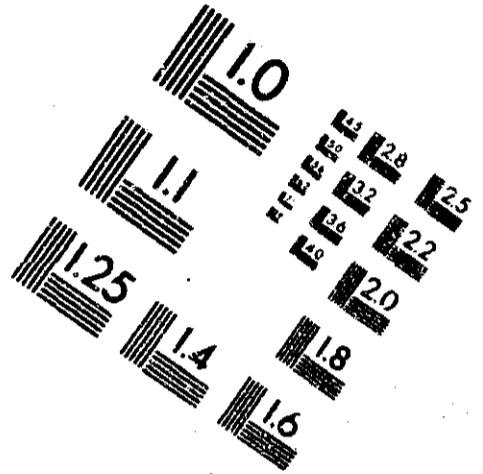
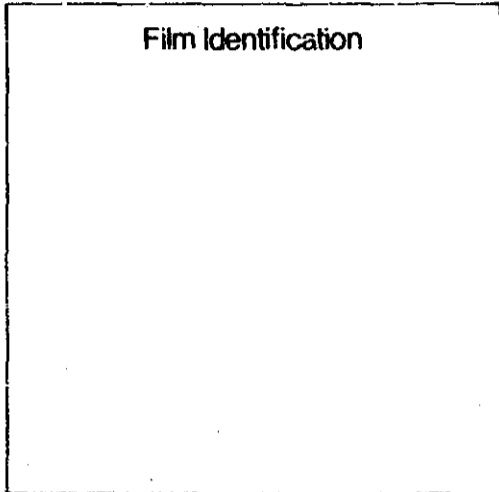
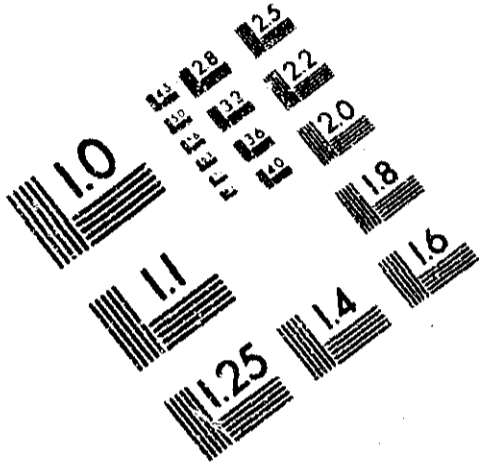
Interbay Northend Manufacturing and Industrial Center planning effort. Port funds will be used to explore in greater depth issues related to the marine and fishing industries.

ADOPTED by the Port Commission of the Port of Seattle at a regular meeting thereof, held this 8th day of April, 1997, and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the seal of the Commission.

Paige R. Miller
Patricia Daw
Paul Schurz

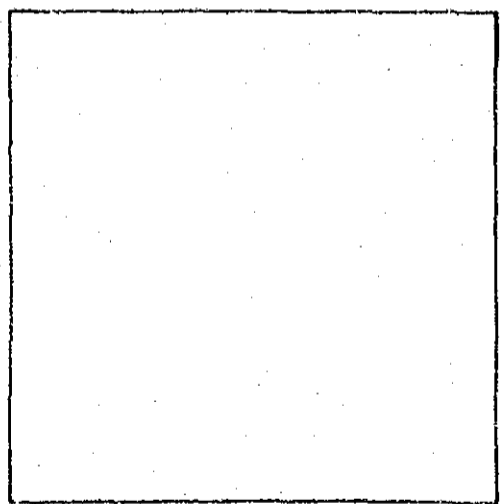
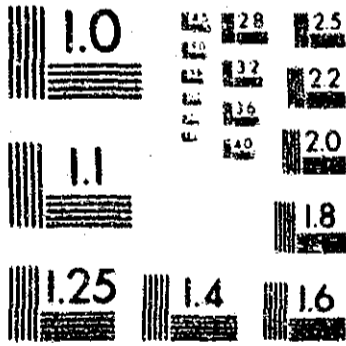
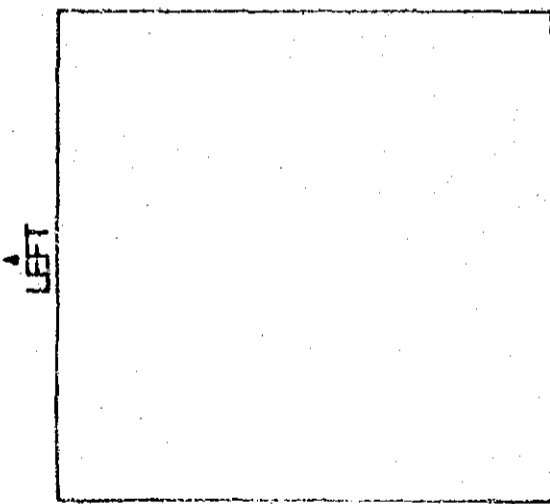
Port Commission

TOP



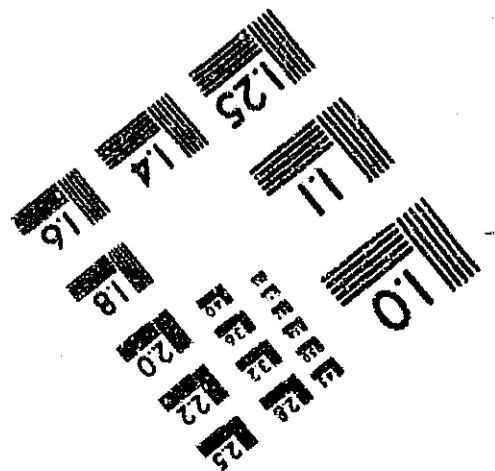
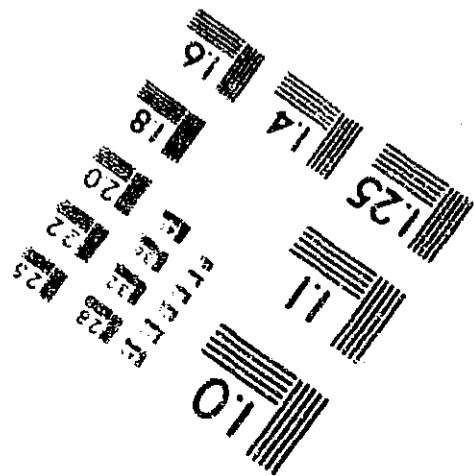
A & P International
612/854-0088 FAX 612/854-0482
8030 Old Cedar Ave. So., Ste. #215
Bloomington, MN 55425

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**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF SEATTLE AND THE PORT OF SEATTLE
January 17, 1997**

The City of Seattle ("the City") and the Port of Seattle ("the Port") seek to further intergovernmental cooperation and coordination in the provision of public benefits. This Interlocal Agreement ("Agreement") shall govern the parties' rights and duties in regard to the subjects addressed herein.

1. Southwest Harbor project

- A. Release and indemnity. The Port agrees to release, defend and indemnify the City from and against all claims, damages, suits and costs of any kind whatsoever, past, present or future, known or unknown, related to the West Seattle Landfill ("the Landfill") and the construction of the Southwest Harbor Project ("SWHP"), including but not limited to costs of response or remediation potentially recoverable under the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Washington State Model Toxics Control Act, and any similar statute. However, the foregoing release and indemnity shall not apply to any claims based upon environmental remediation that is not currently contemplated and that is specifically designed to address groundwater contamination caused by the Landfill. In exchange for the foregoing release and indemnity, the City shall pay the Port \$400,000 within 30 days of executing this agreement.

The City enters into this Agreement in order to amicably resolve issues of mutual concern and to forward a project of importance. The City does not admit liability in relation to the Landfill, and nothing in this Agreement shall be construed as such. This Agreement shall not be admissible in any subsequent proceeding, except insofar as needed to establish a claim or defense arising out of the terms of this Agreement.

- B. Capping in right-of-way. Landfill materials exist in the Harbor Avenue SW right-of-way. To the extent such landfill materials exist east of the future location of the east curb of the redesigned Harbor Avenue SW, the Port shall cap such materials with the plastic geomembrane and the other features utilized by the Port in its remediation of the portion of the landfill on its property. The City will pay the Port for 50 percent of the incremental cost of the capping of this area, up to a maximum City contribution of \$110,000. The incremental cost does not include costs that the Port would have incurred if the area were not capped, including but not limited to clearing, cutting and filling, installation of drainage features at the

cover boundary, etc. All areas east of the east curb of Harbor Avenue SW (e.g., the buffer, plantings, paths, etc.) shall be maintained by the Port of Seattle.

C. Cooperation in regard to the new storm drain and other refuse in the right of way. In exchange for the payment by the City to the Port of an additional \$375,000, which shall be paid upon the completion of the work described in this subsection C, the Port shall perform the following:

1. Construction of drain line. The Port will design and construct a storm drain at or near the east curb of the redesigned Harbor Avenue SW. This storm drain shall connect to the northern end of the storm drain built by Metro that is located in the vicinity of SW Hanford Street, and shall extend in a northerly direction to SW Florida Street, where it will connect with a line and outfall constructed by the Port independent of this Agreement. The storm drain shall be sized to accommodate runoff from both the east and west sides of Harbor Avenue SW, plus the runoff from the Port's Southwest Harbor Project. The storm drain shall be built to City specifications for work of this type, and shall be subject to review and approval by the City. Upon completion, the Port shall provide the City with a complete set of reproducible Mylar as-built drawings. The storm drain shall be owned and maintained by the City of Seattle. The Port and the City agree to split the City-imposed permit and inspection fees associated with the storm drain street-use permit. The City will pay the Port \$175,000, half of the estimated cost of the new storm drain.
2. Excavation along Harbor Avenue SW. In connection with the installation of the storm drain, the Port shall excavate all materials that exist between the existing east curb of Harbor Avenue SW and the future east curb, to a depth of 4 feet, unless additional excavation is required at greater depths for the installation of the storm drain. The Port shall not be required to install shoring unless such shoring is otherwise required for the installation of the storm drain. The Port and its contractor(s) shall employ usual caution in excavating near the City's curb and pavement, but shall not be liable for minor damage to them unless the Port or its contractor(s) are grossly negligent in the excavation. The City warrants that there are no City sewers or storm drains in the area to be excavated, but the Port or its contractor(s) shall use the "one-call system" to verify in advance whether other public or private utilities are present. If utilities are present, the City will require the owner to relocate or cap the utilities at utility expense to allow completion of this road project.

The Port shall place the excavated materials under the engineered geomembrane constructed as part of the remediation of the Landfill, provided the materials meet the waste acceptance criteria established for the Port's remediation of the landfill by the Washington Department of Ecology. The City will pay for the testing, transportation and disposal of all excavated

materials that do not meet the waste acceptance criteria and must be disposed of off-site. All areas excavated by the Port pursuant to this subparagraph shall be backfilled and compacted to City specifications with clean structural fill (type 17 or equivalent) adequate to support a new road. The City agrees to cooperate with the Port to the extent necessary to obtain the approval of county or state regulators. The City will pay the Port \$200,000 for this work.

D. Transferring ownership of City sewer and drainage facilities. On September 11, 1995, the Seattle City Council voted to grant conceptual approval for the street vacations requested by the Port of Seattle for the Southwest Harbor Project according to the terms and conditions described in the letter marked Exhibit A, attached hereto and made a part of this Agreement. In connection with the Port's street vacation request, the City agrees to transfer to the Port, ownership of certain of the City's Drainage and Wastewater Utility facilities located within the right of way of the streets requested for vacation according to the conditions and obligations of the City and the Port as described below:

1. City obligations. The City will transfer to the Port ownership and associated easement rights for the sanitary sewer and drainage facilities, including the 26th Avenue SW lift station, highlighted on the attached plans, marked Exhibit B, attached hereto and by this reference made a part of this Agreement.

The City will contribute \$68,000 toward construction, by the Port, of a pump station and force main to be located along Harbor Avenue SW in the vicinity of SW Florida Street. The City, after approving construction, will assume ownership of the pump station and force main including all associated operation and maintenance responsibilities.

The City will allow the continued use of the SW Hinds Street Outfall by the Port for stormwater drainage from Port properties currently drained by that outfall.

The City will implement Best Management Practices for the Harbor Avenue SW stormwater that will discharge to the Pier 2 Outfall.

2. Port obligations. The Port will allow use of the Pier 2 Outfall for City storm drainage from Harbor Avenue SW.

The Port will design and construct a new 30-inch storm drain line, as approved by the City, that connects the storm drain system in Harbor Avenue SW with the Pier 2 Outfall.

The Port will design and construct a new pump station and force main, as approved by the City, in the vicinity of the Harbor Avenue SW intersection with SW Florida Street.

The Port will implement Best Management Practices for Port property that drains into the City's Hinds Street Outfall, which shall include the use of catch-basin filters unless and until alternative Best Management Practices are approved and implemented.

The Port will release, defend, and indemnify the City from and against any claims, damages, suits, and costs of any kind (collectively, "Claims") relating to hazardous substances, if any, that flow out of the SW Florida Street outfall after the date of this Agreement, except to the extent such hazardous substances are present in the outfall discharge due to a direct action of the City (e.g., a spill from a City truck after the date of this Agreement). If the Port dredges the area in the vicinity of the SW Florida Street outfall for navigational or berthage purposes, such as due to a request by APL for a berth extension to the north of the current Terminal 5, the Port agrees to release and hold the City harmless for any Claims the Port may potentially have against the City for the recovery of the costs of dredging and disposal of the sediments removed or relocated for such navigational or berthage purposes.

2. Additional fire service required by possible homeporting of cruise lines

- A. The Port and the City will cooperate in exploring possible revenue sources to pay for an additional fire boat for the central waterfront.
- B. In the event a major cruise line establishes and enters into a contract with the Port to use Seattle as one of its home ports, the City in its discretion may determine that an additional fire boat is necessary. In that event, the Port will pay 50 percent of the cost of acquiring the boat (after subtracting from the cost any funds obtained from sources other than the City), up to a maximum Port contribution of \$500,000. The City will staff and operate the fire boat. After January 1, 2006, either party may terminate this section by notifying the other.
- C. The Mayor's Office will continue to be responsive and facilitate productive discussions between the Port and various City departments on issues of mutual concern; for example, special permits for occasional bunkering by repositioned cruise ships, review by DCLU of the Port's request for permitting of a passenger terminal at the Bell Street Pier (Pier 66), and issues that may involve the Fire Marshall. Nothing herein shall obligate the City to grant a future permit application or other request.

Similarly, the Port will continue to work with the Fire Marshall on issues of safety concern to the City and the Port. This includes permit conditions and fees for occasional bunkering by repositioned cruise ships. The Port will also work with Fire and DCLU on conditions for permitting of a passenger terminal at the Bell Street Pier (Pier 66).

3. Credit to the Port on annual drainage fee for in-kind services

The Port owns land in Seattle and pays money to the City for drainage fees. At the same time, the Port performs a number of environmental services that help lower the City's costs. These services include water quality programs such as source control inspections of tenant properties, sediment remediation, research projects, and maintenance of separate NPDES stormwater permits for several Port facilities. It is the City's intent to credit the Port up to \$100,000 annually for in-kind services.

Commencing in 1997, the Port will invoice the City annually for up to \$100,000 and provide a description of the water quality services provided and the cost of such to the Port, substantially in the form attached as Exhibit C. The City will meet with the Port annually to review the programs to be carried out that year and to agree to the amount to be credited for work performed in the preceding year. The City will pay the Port one-half of the agreed-upon amount of credit on April 30 and the other half on October 31 of each year.

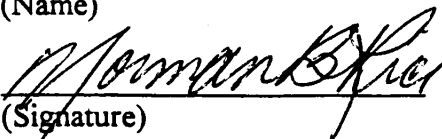
4. Accepting funds from the Port to aid neighborhood planning

The Port of Seattle will contribute \$12,000 to the City of Seattle's Ballard Interbay Northend Manufacturing and Industrial Center planning effort. The Port funds will be used to explore in greater depth issues related to the marine and fishing industries.

THE CITY OF SEATTLE

Norman B. Rice

(Name)


(Signature)

Mayor, City of Seattle

(Title)

Date: March 19, 1997

THE PORT OF SEATTLE

(Name)

(Signature)

(Title)

Date: _____

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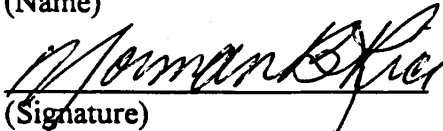
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THE CITY OF SEATTLE

Norman B. Rice

(Name)



(Signature)

Mayor, City of Seattle

(Title)

Date: March 19, 1997

THE PORT OF SEATTLE

M. R. DINSMORE

(Name)



(Signature)

EXECUTIVE DIRECTOR

(Title)

Date: 5-1-97

LIST OF EXHIBITS:

- A. Final conditions for the Port of Seattle's Southwest Harbor Project, September 28, 1995 (seven-page memorandum from Beverly Barnett, SED)
- B. Storm drain and sewer lines to be transferred from City Ownership to Port ownership (two color-coded maps)
- C. Standard Water Quality Services drainage fee reimbursement credit letter

EXHIBIT A

Date: September 28, 1995

To: All Interested Persons

From: Beverly Barnett, SED

SUBJECT: FINAL CONDITIONS FOR THE PORT OF SEATTLE'S SOUTHWEST
HARBOR PROJECT
C.F. 300283

On September 11, 1995, the Seattle City Council voted to grant conceptual approval to the vacations requested by the Port of Seattle for the Southwest Harbor Project. The streets to be vacated are:

- West Marginal Way Southwest, south of Southwest Florida Street to the northerly margin of Southwest Hinds Street;
- Southwest Florida Street, east of Harbor Avenue Southwest;
- 26th Avenue Southwest, from Southwest Spokane Street to West Marginal Way Southwest;
- 29th Avenue Southwest, that remaining portion east of Harbor Avenue Southwest; and
- Alley, between Southwest Spokane Street and West Marginal Way Southwest.

The petition to vacate a portion of City View Street was withdrawn.

The vacations were granted subject to a number of conditions. All conditions imposed on the vacation must be fully satisfied before the final ordinance granting the vacations can be considered for passage.

The vacations are subject to the following conditions:

1. The design for the shoreline public access area and the approaches to the access area, shall be determined through a

community process similar to the design process previously used by the Port. The final design shall reflect community priorities for the site as well as safety concerns. The final design shall reflect the DOC/Port MOU and addendum. The final design must be approved by SED and DCLU, prior to issuance of the building permits for the public access areas.

2. The 50 to 100-foot buffer along Harbor Avenue Southwest shown on DCLU Master Use Permit submittals for projects 9404118 and 9404124, portions of which are in City right-of-way and portions of which are on Port property, shall be fully developed by the Port as recommended in the FEIS (pages 4-39 to 4-41). This buffer shall extend east an average of 100 feet from a rebuilt Harbor Avenue Southwest curb line, and shall include a walkway, bike trail, plantings, and where possible without restricting the use of the industrial land to the east, an earthen berm and plantings. The goal is to provide visual and sound separation and screening for street-level pedestrians, traffic, and residences and businesses along Harbor Avenue Southwest. A buffer strip 50 feet wide to the south of Southwest Hanford Street shall be provided. Throughout this area adjacent to Harbor Avenue Southwest (approximately 2,100 linear feet), a berm with side slopes consistent with Department of Parks and Recreation criteria for maintenance shall be constructed, planted, and maintained as a park-like area.

This buffer area shall include approximately 2 acres of City right-of-way and 3.9 acres of Port property. Final design approval by SED and DCLU shall be required prior to issuance of the building permit for the Harbor Avenue Southwest improvements. Development of the buffer areas shall be complete prior to the date operations commence at the expanded Terminal-5. The buffer width shall be maximized to the extent feasible and as design proceeds the buffer should be widened wherever possible.

3. The on-average, 35-foot wide strip on Port property along the north side of Southwest Spokane Street shown on DCLU Master Use Permit submittals for projects 9494118 and 9494124, and as described in the FEIS (page 4-41), shall be improved by the Port with a bike trail, walkways and plantings.

SED, and DCLU shall have final approval of the size, design and layout of the landscape strips along Southwest Spokane Street and Harbor Avenue SW. All improvements shall be complete no later than the date operations commence at the expanded Terminal-5.

4. The Port shall also provide the property and improvements for the bike corridor starting at West Marginal Way Southwest and Chelan Avenue, then south on the east side of West Marginal Way Southwest to West Marginal Place. The Port shall continue with the Aquatic Lands Enhancement Account (ALEA) design process for this and other portions of the bike trail. The design process shall address design elements and options such as the decision whether to have separated trails or a single multi-use path. All improvements shall be complete prior to the date operations commence at the expanded Terminal-5.
5. As required by the Duwamish Public Access Plan, a public access easement agreement shall be executed prior to issuance of the building permit for the public access and open space areas which shall ensure that the shoreline access area and the public trails and open space will remain forever open and available to the public.
6. The Port is responsible for providing and maintaining the improvements, amenities and landscaping on all of the open space areas. The Port shall demonstrate a continued commitment to design excellence by a design contract and construction budget that amply provides the means necessary to ensure the development of high quality public open space and shoreline access area.
7. The Port shall continue to work with the Design Commission. The Design Commission shall review the shoreline access and buffer/trail designs at the points of schematic design and design development. Final approval by the Design Commission is required prior to issuance of the building permit for these improvements.
8. The street trees along West Marginal Way Southwest will need to be moved during yard construction. The Port shall work with SED to relocate and transplant as many of the street trees as possible.
9. The Port shall ensure that no trucks queue on Southwest Spokane Street waiting to enter the APL facility. The Port shall require that APL allow the security guard to let trucks through the security gate and onto the yard, or devise some other means to ensure there is no back up of trucks onto Southwest Spokane Street.
10. The Port shall continue to work with Police, Fire, SED and the Coast Guard on an emergency communication protocol and train movement advisory system. Such protocol shall be in place before the date expanded terminal operations commence.

11. The utility issues shall be resolved to the full satisfaction of the affected utility prior to final street vacation approval. This may include easements, restrictive covenants, relocation agreements, or Port acquisition of the facilities. The affected utilities include:

- Metro has facilities in West Marginal Way Southwest and some of the other rights-of-way,
- US West has facilities in most of the rights-of-way,
- City Light will require easements and the relocation of facilities,
- Washington Natural Gas may require easements,
- The Drainage & Wastewater Utility has both sewage and drainage facilities in the rights-of-way, in addition, provision will need to be made for drainage from Harbor Avenue Southwest, and
- The Water Department has significant facilities which will need to be relocated.

12. The Port shall continue to work with the City and Metro to coordinate public notification of construction detour routes, the Port shall pay its proportionate costs of the public notice. In addition, the Port shall be responsible for any additional costs of detour routes due to the street vacations. SED shall consider the impacts of the detour routes on the broader West Seattle community and shall consider the need for additional traffic control devices on Southwest Genesee Street.

The Port shall make every effort to keep Marginal Way Southwest open as long as is feasible. The Port shall make a particular effort to keep Marginal Way Southwest open until the completion of the replacement of the bridge labeled Bridge "A".

As an additional recommendation:

13. SED and the Port shall explore the feasibility of creating a pedestrian-only path at the north end of the site from the end of the currently proposed public access to the West Waterway. The path must not negatively impact the environmental and habitat restoration area and must be approved by DNR. In addition, the path must not have negative impacts on the operation of the adjacent facility. SED shall work with DNR, the Muckleshoot Indian Tribe and the Port, and shall present a

recommendation on the feasibility of the path to the City Council as soon as practicable.

14. The Port of Seattle shall construct at its own expense an overpass from the Spokane Street Low Level Bridge for truck traffic to enter and exit the terminal. All container terminal traffic originating from or traveling to anywhere on the Southwest Harbor Project site, whether leased to APL or another container terminal tenant, shall use the overpass and/or Southwest Spokane Street, rather than Harbor Avenue Southwest.

The Port of Seattle shall maintain in the Southwest Harbor project design the current 24-foot wide gravel road on the perimeter of the proposed intermodal storage yard. Maintaining this feature allows for the future option of servicing all the properties within the Southwest Harbor Project site with a private industrial perimeter road with access from Southwest Spokane Street, rather than Harbor Avenue Southwest.

If the parcels known as the CEM property and the "lease option" area, within the Southwest Harbor site, are proposed for future development with a use other than a container terminal and/or leases are exercised for use other than a container terminal, and if warranted by a traffic impact study for such a use, the Port of Seattle shall fund and construct all the improvements necessary to make the road comply with applicable standards set forth in the City of Seattle Land Use Code and be feasible as a private industrial perimeter road, from which all uses on the CEM property and the "lease option" area can be accessed. This private industrial road shall be the only access to the above described properties.

The traffic impact study shall be performed by a third party jointly selected by the Port and community representatives such as Greater Harbor 2000 representatives, and the study shall incorporate the results of the traffic monitoring program in its analysis.

15. The Port of Seattle shall implement a traffic monitoring program to assess the level of service for morning and afternoon daily peak traffic periods at the following intersections:
 1. Harbor Ave SW/SW Spokane Street
 2. West Seattle Freeway/SW Spokane Street/Chelan Avenue SW
 3. Chelan Avenue SW/West Marginal Way SW/SW Spokane Street/Delridge Way SW.

The traffic monitoring shall compare levels of service at these intersections with analysis as presented in the Addendum to the Final Southwest Harbor Project EIS. The monitoring shall be conducted daily for a one week period every three months, for the first two years of terminal operations, and then for one week every six months until the terminal is operating at full capacity. The monitoring shall continue at six month intervals for an additional two years after attaining full capacity.

If the monitoring at any time shows that the level of service presented in the EIS is exceeded as a result of terminal operations, then the Port of Seattle and The City of Seattle Engineering Department, shall consult with the community representatives such as Greater Harbor 2000. The City shall determine the appropriate mitigation action based on City standards (such as establishing community improvement funds, street improvements, etc.), which the Port shall fund and implement.

16. Operation conditions at the terminal, including noise, light and glare, and transportation, will be imposed by DCLU as part of the SEPA review. Future monitoring of these conditions shall be the responsibility of DCLU. Conditions will be written to ensure that mitigation for these operational impacts shall occur in the future.
17. In planning and constructing the bike trail and other improvements along Spokane Street and Harbor Avenue Southwest, the Seattle Engineering Department shall consider the impacts of the trail development on the existing businesses. The Seattle Engineering Department shall strive to achieve a balance between the planned amenities, the existing businesses and future plans for the area.
18. In addition to SEPA conditions, the project shall comply with other applicable City regulations, including but not limited to, Seattle Municipal Code (SMC) 11.66 on Railroad Operations. As provided in SMC 11.66.080 (A) No person who is responsible for the operation of any railroad train or car which is engaged in switching shall direct the operation of or operate the same in such a manner as to prevent or interfere with the use of any street or alley for purposes of travel, or impede property access, for a period of time longer than four (4) consecutive minutes.

As provided in 11.66.080 (B) A time interval between successive switching operations shall be provided if the initial switching operation prevents or interferes with the use of the street or alley for purposes of travel or property

access, in order to allow waiting traffic to proceed, provided that the time interval between successive switching operations need not exceed two (2) consecutive minutes.

EXHIBIT B

ELLIOTT BAY

STORM DRAIN LINES TO BE TRANSFERRED
FROM CITY OWNERSHIP TO PORT OWNERSHIP

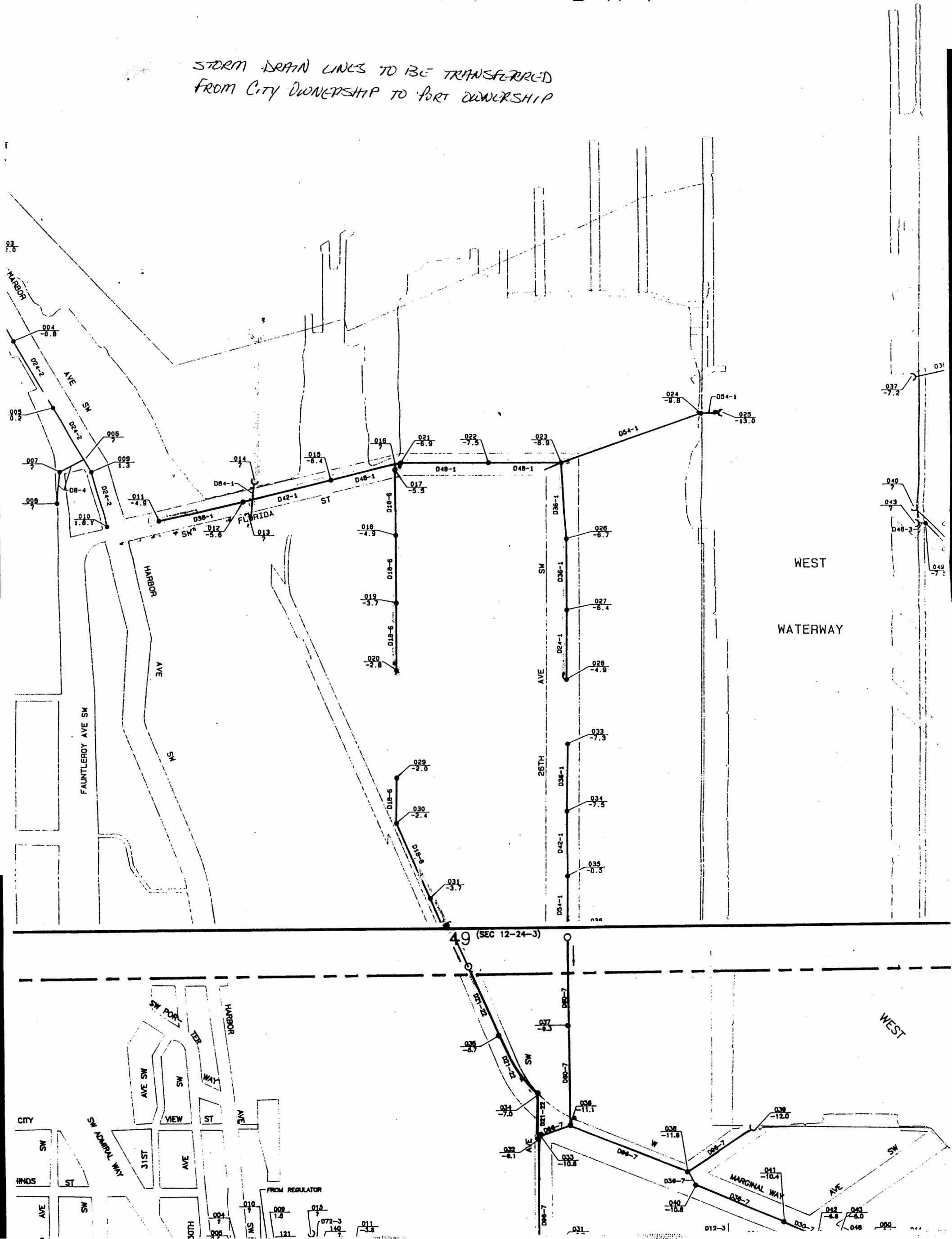
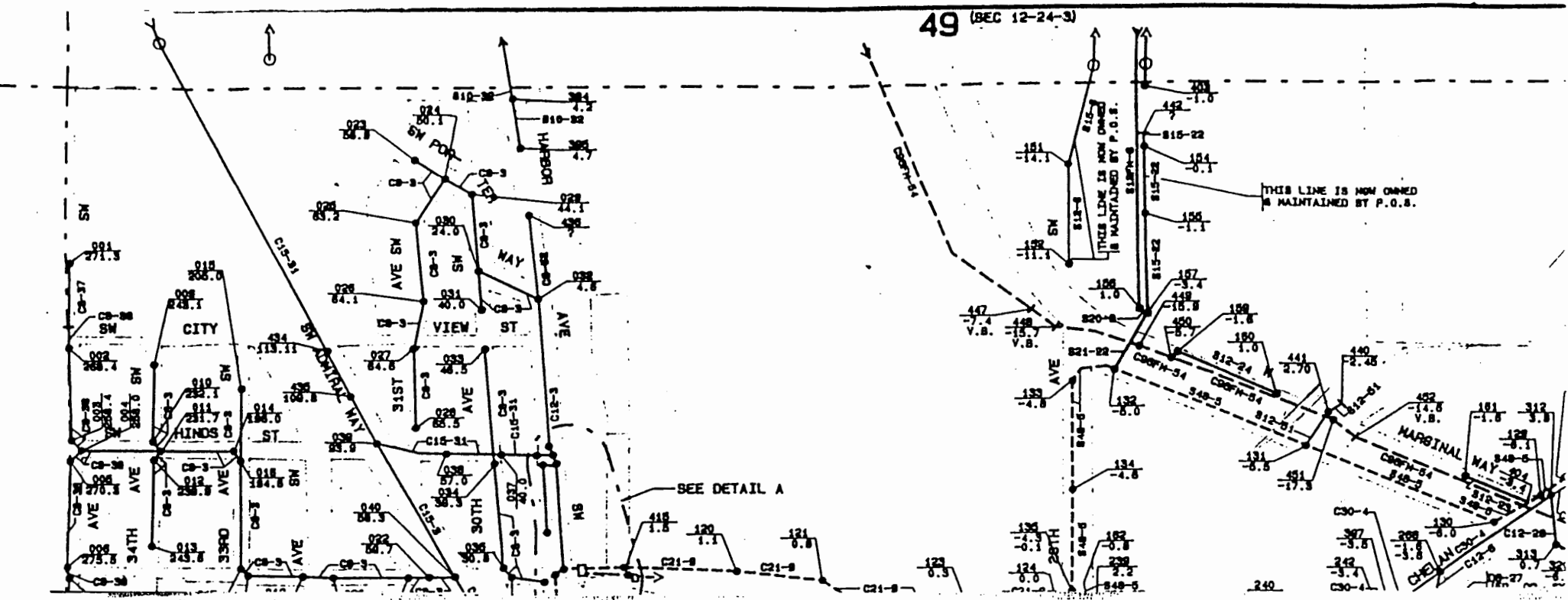
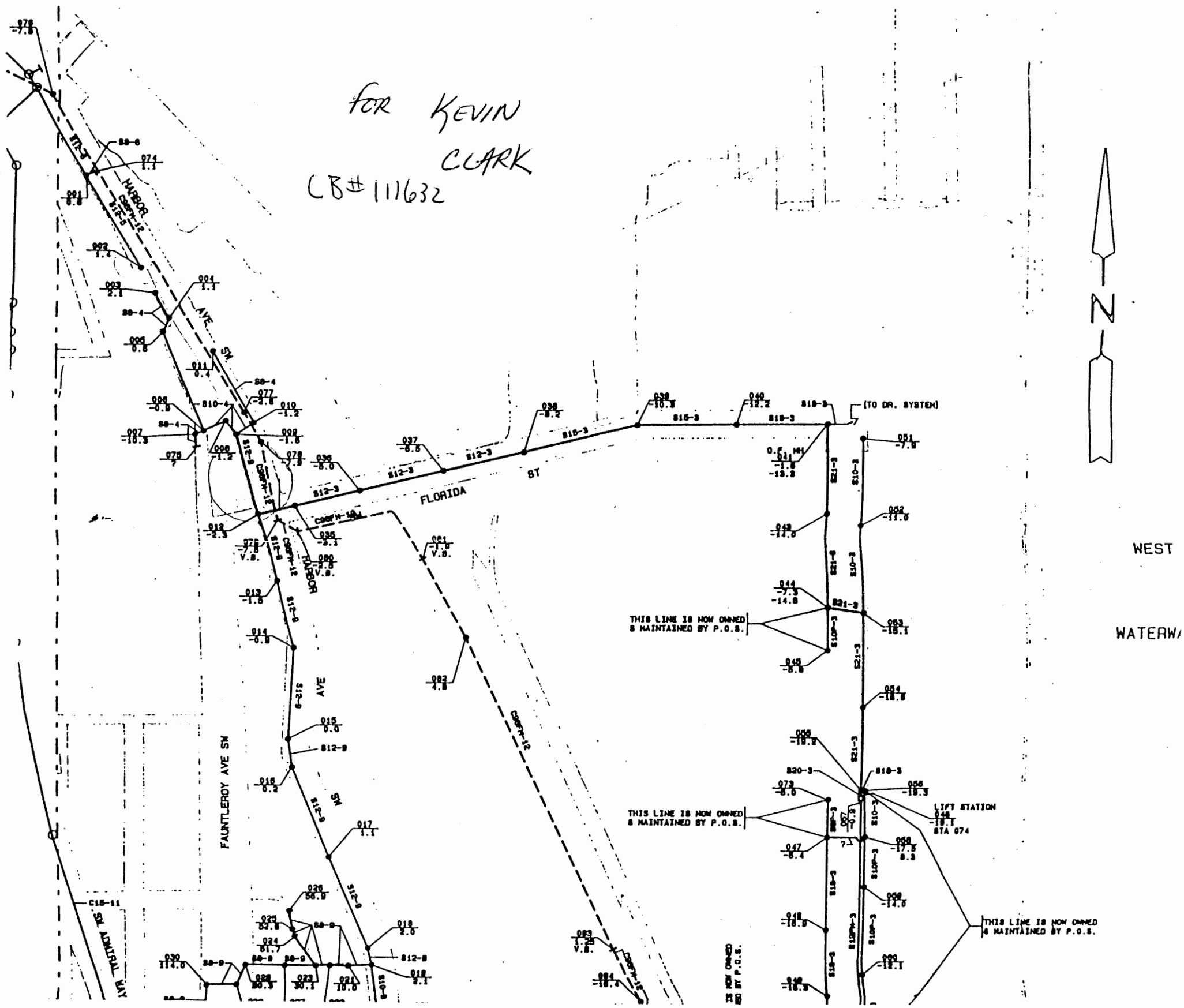


EXHIBIT B

ELLIOTT BAY

SEWER LINES TO BE TRANSFERRED
FROM CITY OWNERSHIP TO PORT OWNERSHIP

FOR KEVIN
CLARK
CB# 111632



49 (SEC 12-24-3)

Potential "Standard" letter

January 10, 1997

City of Seattle
600 Fourth Ave
Seattle, WA 98104-18

Dear

This letter certifies to the City of Seattle that the Port of Seattle has invested in storm drainage, infrastructure and other water quality improvements during 1996 in an amount exceeding \$100,000.

Operating Expenses:

NPDES audits for Surface Water Pollution Prevention Plans	\$ 30,000
These audits ensure that permittees are following the specifics in their Surface Water Pollution Prevention Plans.	
Catch Basin Insert Study, SWHP	\$ 45,000
This intergovernmental study evaluated the effectiveness of various catch basin inserts as pollution prevention devices.	
Surface Water System Maintenance	\$ 25,000
Catch basin cleaning, etc. at Terminal 30, Terminal 37/46, Terminal 115, Fishermen's Terminal, and Shishole Bay Marina.	
Surface Water Specialist	\$ 10,000
This is one FTE added to our staff. They will provide erosion sediment control training to Port staff, and oversee construction and maintenance projects. This is a portion of time allocation.	
Subtotal	\$110,000
 <u>Capital Costs (amortized straight line over 25 years)</u>	
Previous year's capital cost amortization	\$ 0
Construction of Surface Water Drainage System (\$203,000 total)	\$ 8,120
This is the GATX property at which there was previously no drainage system.	
Subtotal	\$ 8,120
 <u>TOTAL ANNUAL COSTS</u>	 \$118,120

As fulfillment to our agreement dated November , 1996 please issue a reimbursable check in the amount of \$100,000. Any questions can be directed to David Aggerholm, Manager Health, Safety & Environmental Management, at 728-3190.

Sincerely,

Mic Dinsmore
Executive Director