

**INTERLOCAL AGREEMENT
REGARDING
COLUMBIA GARDENS WINE VILLAGE,
PHASE II DEVELOPMENT**

I. PARTIES

This Interlocal Agreement is entered into this ____ day of December, 2016, between the PORT OF KENNEWICK, a Washington municipal corporation (“Port”), the CITY OF KENNEWICK, a Washington municipal corporation, (“City”) and COLUMBIA BASIN COLLEGE (“College”) referred to collectively as the “Parties”. The Parties agree as follows:

II. RECITALS

2.1 Economic Development Authority. The Port and the City are authorized, including under Chapters 39.33 and 39.34 of the Revised Code of Washington, to contract with each other and other public agencies in order to effectively and efficiently operate, administer and carry out their programs and public projects.

2.2 Project Area. The Port owns approximately 14 acres of undeveloped land in the City which it intends to develop as an urban wine village (the “Project Area”). The Project Area is divided into Phase I, which will house two small wineries, a barrel storage building and a wine effluent treatment system. Phase I is as shown on Exhibit “A”. Phase II will consist of two separate areas, the “Columbia Gardens Phase II” and the “Willows”, and each area shall be developed with utilities, streets and lots for sale or lease for winery and related purposes and to work in partnership with the College to build a Culinary Arts School, all of which will complement the wineries to be established in Phase I. Phase II, consisting of the two separate areas, is as shown on the site plan attached hereto as Exhibit “B”, with additional detail shown for Columbia Gardens on Exhibit “B-1”.

2.3 Opportunity for Collaborative Development. The Parties recognize that successful economic development within the City benefits the economic and social welfare of the City and the surrounding area. The Parties also recognize the significant void in educational offerings for culinary arts, as identified by the College. The Parties understand the challenges related to the Project Area, including but not limited to the fact that the Phase II Project Area property is undeveloped and has limited infrastructure. Nonetheless, the Parties, cognizant of the unprecedented opportunity for collaborative development by investing in redevelopment of challenging properties, hereby choose to move forward on a unique and visionary process for potential redevelopment of the Project Area. Specifically, the Parties seek to complete the Phase II Project Area infrastructure, and to foster the development of a waterfront culinary school of approximately 20,000 square feet to be operated by the College. Establishment of the culinary school project will dramatically enhance the status of the Project Area, permitting the Parties to attract major private sector investment.

III. OBLIGATIONS OF THE PARTIES

3.1 Drawings. The Port shall produce drawings plans and cost estimates for the public infrastructure improvements for the Phase II Project Area as shown on Exhibit “B”. Such improvements are intended to serve multiple public uses (the “Public Infrastructure Improvements”). The Public Infrastructure Improvements shall include streets with street lights and street furniture; public parking lots, and utilities, including gas, electric, water, sewer, and other related utilities. For Columbia Gardens Phase II, the Public Infrastructure Improvements will also include stubbing to the wine effluent treatment system. Utilities will be stubbed to the site for the Culinary Arts School. The Parties shall reasonably agree on the design as well as the size and location of all Public Infrastructure Improvement elements. The costs of all biddable engineered drawings will be shared equally between the Port and the City and shall be included in the reimbursables of the Rural County Capital Funds described below, unless the Parties agree in writing otherwise.

3.2 General Provisions Related to Construction. The Port shall permit, design, and engineer the Public Infrastructure Improvements for the Phase II Project. The Port shall bid the construction and monitor/administer construction of the Public Infrastructure Improvements; construction shall proceed in a workmanlike manner; and shall be completed with all due dispatch. The City shall pay the Port a three percent (3%) construction administration fee based on the amount of the successful bid. Funding for the Public Infrastructure Improvements shall be from the Parties’ respective allocations of Benton County Rural County Capital Funds (“RCCF”) which must be used for economic development purposes.

- (a) Columbia Gardens Phase II. The Parties shall endeavor to commence the Columbia Gardens Phase II Public Infrastructure Improvements in calendar year 2017. The City and Port shall each commit to half of the cost for the Public Infrastructure Improvements, not to exceed \$550,000 each. Funds not used on the Columbia Gardens Phase II Public Infrastructure Improvements shall be carried over for Willows Public Infrastructure Improvements.
- (b) Willows. The City and Port shall each contribute \$500,000 for Willows Public Infrastructure Improvements. These sums, together with any surplus from the Columbia Gardens Phase II Public Infrastructure Improvements, shall be used as a “match” portion for an Economic Development Agency (“EDA”) grant in an amount of approximately \$2,000,000. The City shall prepare the grant application with input from the Port, and the Port shall be the applicant for the EDA grant, and if successful, the City and the Port shall use grant proceeds to fund construction of the Willows Public Infrastructure Improvements.

Should RCCF in the amounts set forth above not be provided to the Port and/or City, or should EDA funds not be awarded, the Port and City will continue to work together to explore potential funding opportunities for the Phase II Public Infrastructure Improvements.

3.3 Dedication. Upon completion of construction of the Public Infrastructure Improvements, the Port shall dedicate the underground utility improvements (water, sewer, and wine

effluent) to the City and the City will accept dedication thereof. The Port shall retain ownership of the interior street.

3.4 Operations and Maintenance.

3.4.1 The City:

- (a) Shall be responsible for the Operations and Maintenance of the Natural Trail Extension paved pathway, including any retaining walls and railings installed as part of the trail.
- (b) Shall be responsible for the Operations and Maintenance for the streetlights on Columbia Drive and street area where the transit stop pull-out area is along Columbia Drive.
- (c) Shall enter into a lease with the Port for a small wine effluent treatment room located in the Port's barrel storage building. The room shall be used by the City to monitor its wine effluent treatment system. There shall be no rent due under the lease. If the utilities can be apportioned, the City shall be responsible for those prorated utilities charges directly associated with the small effluent treatment room.
- (d) Work with the Port on the permitting of the Monument Signage for Phase II.

3.4.2 The Port:

- (a) The Port agrees to be responsible for the on-going Operations and Maintenance for the Natural Trail Extension, including any landscaping and irrigation system, art work, benches, path lighting and lighting circuits, path connections and other appurtenances, excluding the paved pathway. Notwithstanding the forgoing, the City shall remain liable for major repairs to the trail including, but not limited to, repaving or reconstructing the pathway in the event of damage.
- (b) The Port agrees to be responsible for the on-going Operations and Maintenance costs for the Columbia Drive Streetscape, including landscaping, irrigation systems, art work, benches, sidewalk maintenance (including clearing of snow and ice) and other appurtenances north of the back of the curb along Columbia Drive, excluding the streetlights and streetlight circuits.
- (c) The Port, at its sole discretion may institute a property/business owners' association to include a fee to cover the common/share use areas and amenities (streetscape, parking lots, etc.) on-going Operations and Maintenance Costs.

3.4.3 The College: The College will be responsible for all maintenance and operations of the Culinary Arts School once ownership is transferred by the Public Development Authority ("PDA") to the College, as described below.

3.5 Construction and Operation of Culinary School.

3.5.1 Property. The Port shall provide a parcel of bare land (as outlined in red on Exhibit “B”) to the City and the City shall transfer the parcel to the PDA described in Section 3.5.2. This parcel of bare land shall be provided to the College for the Culinary Arts School on a no-cost basis for the public purpose of providing an educational offering to the public. Should the PDA, as described in Section 3.5.2, and the College fail to commence construction of the Culinary School on the Willows site within 48 months of the effective date of this Agreement, and pursue construction diligently to completion, the parcel of bare land shall be reconveyed to the Port for no consideration. Additionally, the College shall not pursue other sites for a Culinary Arts School for a period of 48 months from the effective date of this Agreement. The College agrees to take the lead on a capital campaign for purposes of fundraising for the Culinary Arts School Facility.

3.5.2 Public Development Authority. The Port and the College will cooperate with and support the City’s establishment of a PDA pursuant to RCW 35.21.730 *et seq.* The purpose of the PDA will be for the fundraising and building of the Culinary Arts School. The Port agrees to pay the legal fees necessary for the formation of the PDA in an amount not to exceed Ten Thousand Dollars (\$10,000.00) and the City agrees to administer the PDA. Any costs for the development of the PDA shall not be reimbursable from the RCCF. The College will be responsible for the fundraising for the Culinary Arts School. The College will be the recipient of the Culinary Arts School upon completion of construction and dissolution of the PDA. The College agrees to operate the Culinary Arts School.

IV. ADMINISTRATION

4.1 Responsibilities. This Agreement shall be administered by the City Manager or her designee, the Port Chief Executive Officer or his designee, and the College President or his designee. Working in partnership and on behalf of their respective agencies these individuals shall be responsible for:

- (a) Establishing policies for implementing this Agreement;
- (b) Providing periodic progress reports;
- (c) Monitoring progress of the Parties and other agencies in the fulfillment of their respective responsibilities; and
- (d) Follow applicable City and Port bid and prevailing wage law policies and procedures when awarding bids for this project.

4.2 Document Review. The Parties shall cooperate by sharing all relevant information, including planning, financial and environmental documents, to the extent allowed by law.

4.3 Expenses and Financial Contingency. Except as otherwise provided, the obligations of each Party shall be performed at the sole expense of said Party.

V. GENERAL

5.1 Amendment. This Agreement shall not be altered or varied except in writing signed by each Party.

5.2 Governing Law. Each of the Parties has independent authority to contract; and, this Agreement is pursuant to that authority and shall be governed by, construed and enforced in accordance with the substantive laws of the State of Washington.

5.3 Venue. The venue for any action arising out of this Agreement shall be the Superior Court for Benton County.

5.4 Non Waiver. Nothing in this Agreement and no actions taken pursuant to this Agreement shall constitute a waiver or surrender of any rights, remedies, claims or causes of action a Party may have against the other Party or others under any provision of this Agreement or any provision of law.

5.5 Agreement Term. The term of Agreement shall commence on its execution by both Parties and end December 31, 2020 ("Agreement Term").

5.6 Inspection of Records and Filing. The records and documents with respect to all matters covered by this Agreement shall be subject to inspection by the Parties during the term of this Agreement and for three years after its termination. This Agreement shall be filed or listed pursuant to RCW 39.34.040.

5.7 No Separate Legal Entity. It is not the intention that a separate legal entity, with the exception of the PDA noted above, be established to conduct the cooperative undertaking nor is the joint acquisition, holding or disposing of real or personal property anticipated.

5.8 Severability. In the event any term or condition of this Agreement or application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect any other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

5.9 Defense and Indemnity. Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees and witness costs) arising from or in connection with or caused by any act, omission, or negligence of such indemnifying party.

5.10 Integration. With the exception of the Interlocal Agreement between the City of Kennewick and the Port of Kennewick for Columbia Gardens - Phase I executed on November 8, 2013, and amended on July 21, 2015, this Agreement supersedes all prior agreements and

understandings (whether written or oral) between the Parties with respect to the subject matter hereof.

5.11 Breach. In the event of a breach of this Agreement, the non-breaching Party shall retain all legal and equitable remedies against the breaching Party.

5.12 Consistency of Land Use Standards. The Parties agree that City land use regulations in effect on the effective date of this Agreement (including those that govern uses, density and intensity of land; and design, improvement and construction standards), aid in the revitalization of the Bridge to Bridge area into a vibrant, waterfront destination. Therefore, at any time within the 48 month period described in Section 3.5.1 of this Agreement, the Port and the College reserve the right to terminate this Agreement if the City enacts new land use regulations, or amends its land use regulations, and the effect of said enactment or amendment would, in the discretion of the Port or the College, negatively impact the revitalizations efforts described in this Agreement. The Party terminating this Agreement shall provide the others with 30 days written notice of its intent to terminate this Agreement.


VI. EXECUTION AND APPROVAL

6.1 Warranty of Authority. Each Party to this Agreement warrants that it has the authority to enter into this Agreement.

6.2 Execution. The person executing for a respective Party has been duly authorized to and does execute the Agreement on behalf of that respective Party.

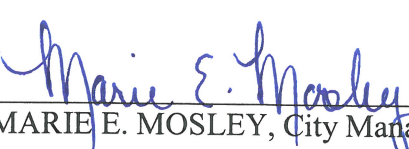
PORT OF KENNEWICK

Date: 12/21/16

By: 
TIM ARNTZEN, Chief Executive Officer


CITY OF KENNEWICK

Date: 1-4-17

By: 
MARIE E. MOSLEY, City Manager

COLUMBIA BASIN COLLEGE

Date: 1-5-17

By: 
RICHARD CUMMINS, President

421 SITE

PHASE #1 BUILDINGS

WINERY Building #1 North	3,050s/f
BARREL Building #1 South	3,050s/f
WINERY Building #2	3,775s/f
TOTAL PHASE 1	9,875S/F

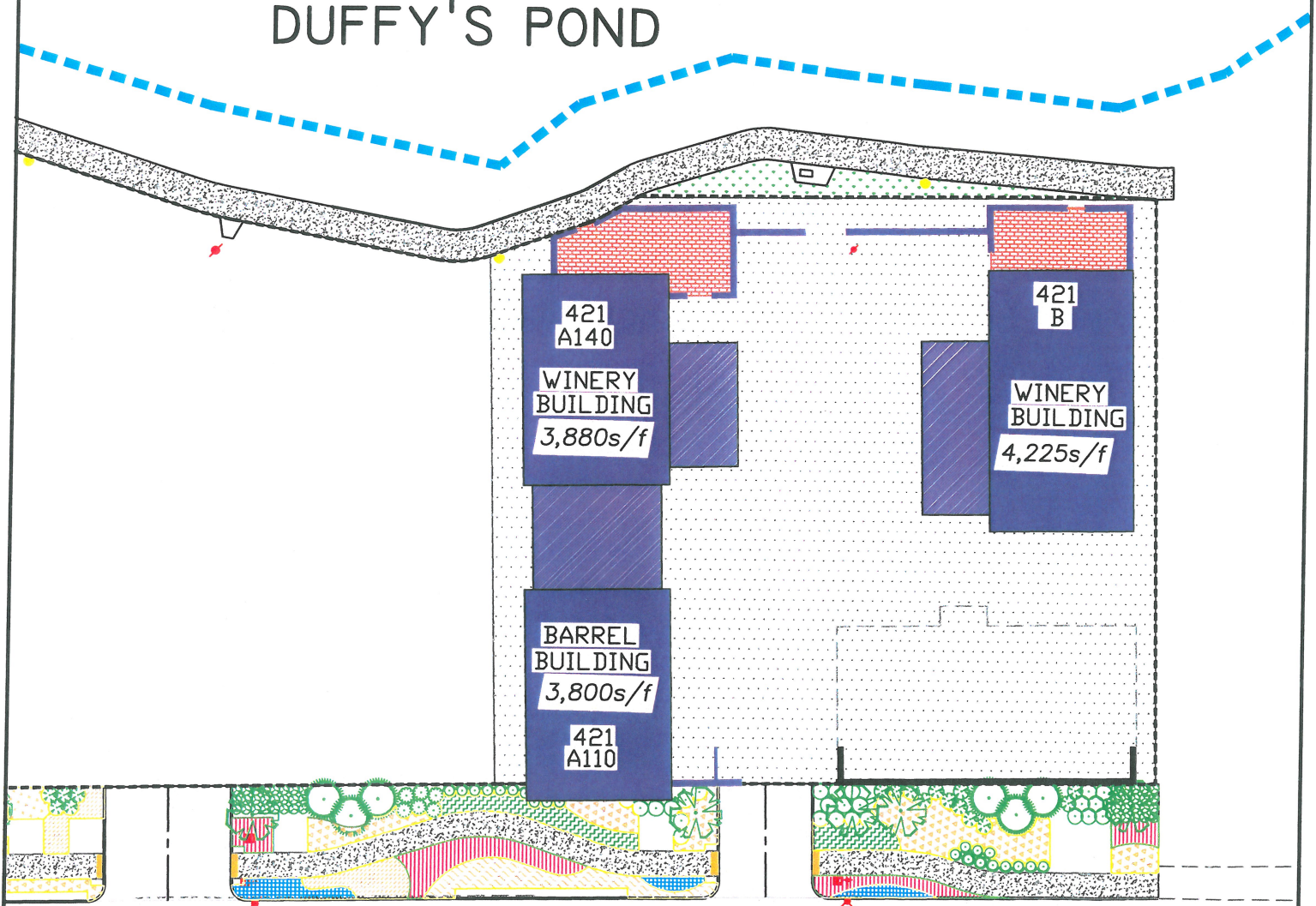
PHASE #2 BUILDING

WINERY Building #3	4,625s/f
TOTAL PHASE 1 & 2	14,500S/F

EXHIBIT "A"



DUFFY'S POND

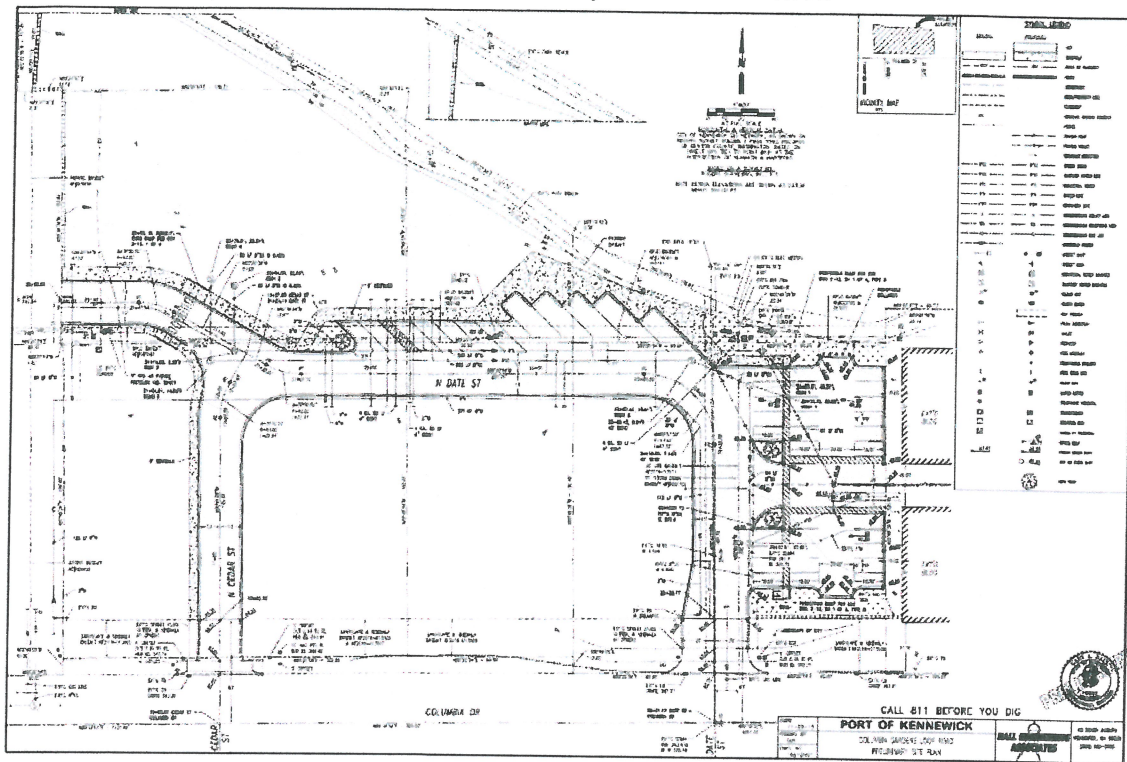


COLUMBIA DR.

DATE ST.

EXHIBIT "B"

COLUMBIA GARDENS WINE VILLAGE PHASE II DEVELOPMENT COLUMBIA GARDENS/COLUMBIA DRIVE



WILLOWS

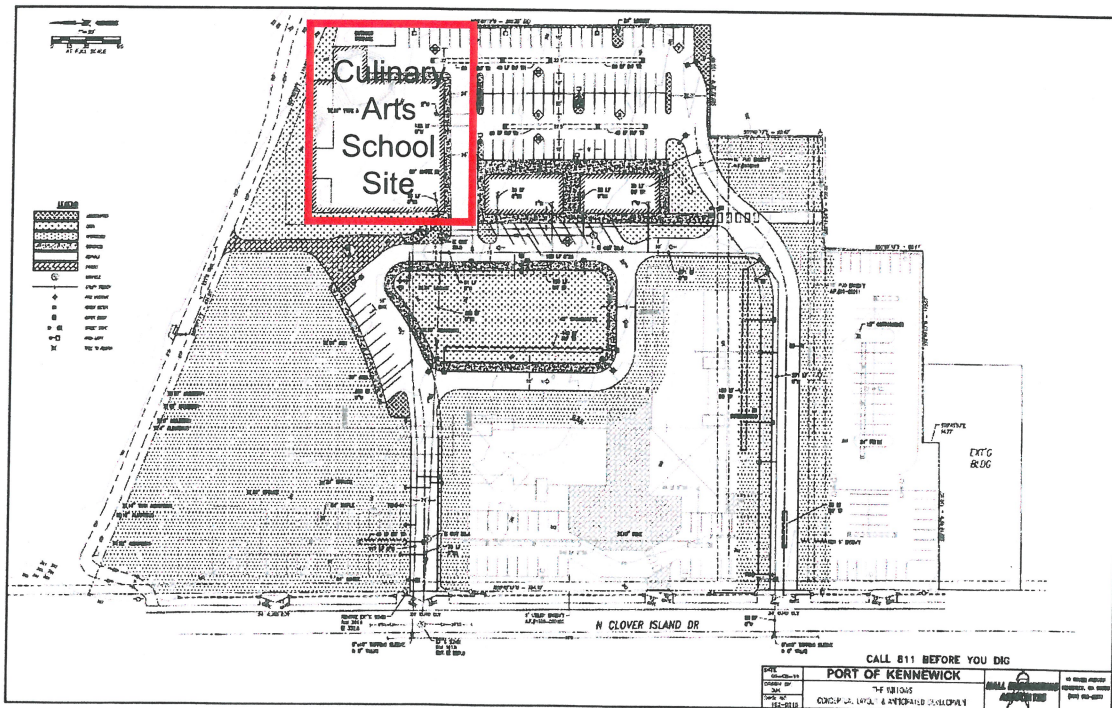
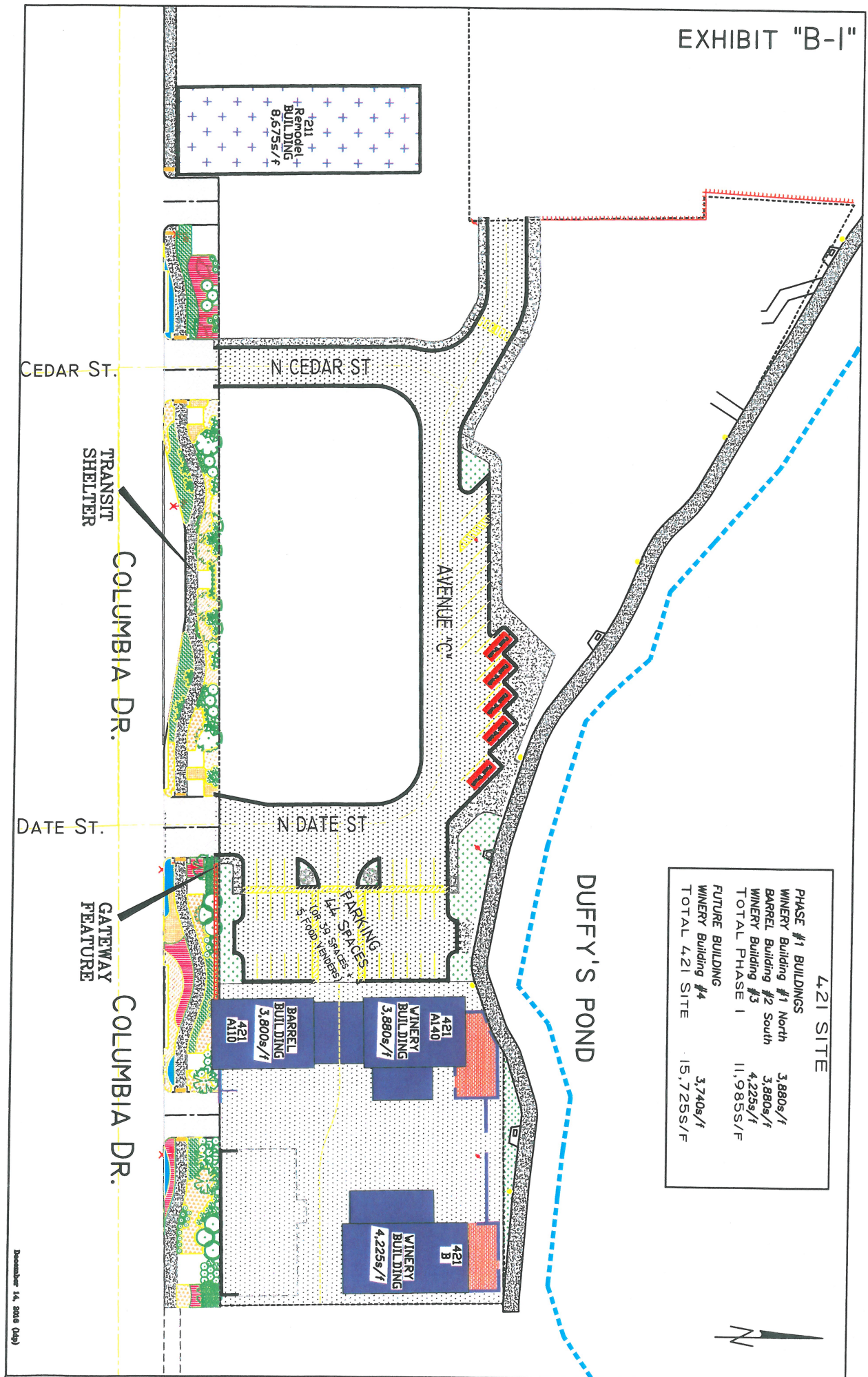


EXHIBIT "B-1"



421 SITE		
PHASE #1 BUILDINGS		
WINERY Building #1 North	3,880s/f	
BARREL Building #2 South	3,880s/f	
WINERY Building #3	4,225s/f	
TOTAL PHASE I	11,985s/f	
FUTURE BUILDING		
WINERY Building #4	3,740s/f	
TOTAL 421 SITE	15,725s/f	