



Joint Public Notice

Application for a Department of the Army Permit and a Washington Department of Ecology Water Quality Certification and/or Coastal Zone Management Consistency Concurrence

US Army Corps of Engineers Regulatory Branch Post Office Box 3755 Seattle, WA 98124-3755 Telephone: (206) 764-3482 ATTN: Jordan Bunch, Project Manager WA Department of Ecology SEA Program Post Office Box 47600 Olympia, WA 98504-7600 Telephone: (360) 407-6076 ATTN: SEA Program, Federal Permit Coordinator Public Notice Date: May 28, 2020 Expiration Date: June 27, 2020

Reference No.: NWS-2020-145 Name: Vigor Shipyards, Inc.

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) and the Washington Department of Ecology (Ecology) have received an application to perform work in waters of the U.S. as described below and shown on the enclosed drawings dated February 2020.

The Corps will review the work in accordance with Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Ecology will review the work pursuant to Section 401 of the CWA, with applicable provisions of State water pollution control laws and the Coastal Zone Management Act.

The Corps will also review the work in accordance with Section 14 of the Rivers and Harbors Act of 1899, as codified at 33 U.S.C. Section 408 (Section 408), for work that may alter a Corps civil works project. An alteration is defined as any action that builds upon, alters, improves, moves, occupies or otherwise affects the usefulness, or the structural or ecological integrity of a Corps federally authorized project. The proposed project may alter the West Waterway Deepening Project.

<u>APPLICANT</u>: Vigor Shipyards, Inc. Attention: Johnathan Cook 1801 16th Avenue Southwest Seattle, Washington 98134 Telephone: (206) 623-1635

AGENT: Floyd|Snider Attention: Erin Murray 601 Union Street, Suite 600 Seattle, Washington 98101 Telephone: (206) 292-2078

LOCATION: In the Duwamish Waterway at 1801 16th Avenue Southwest in Seattle, Washington.

<u>WORK</u>: The applicant proposes to improve 2.7 acres of subtidal, intertidal, and riparian habitat in an industrially zoned but ecologically important area. The project would reconfigure and improve stormwater conveyance and discharge by cutting, capping, and abandoning (15) existing stormwater outfalls and constructing a new

NWS-2020-145, Vigor Shipyards, Inc.

aboveground stormwater treatment system within the project area. The project would remove a net of 67,000 square feet (SF) of existing overwater, 5,000 creosote-treated piles, and other in-water structures. Portions of existing piers would be reconfigured and reconstructed. The project would also dredge up to 7,000 cubic yards (CY) of contaminated sediment, and 40,000 CY of clean sediment to support in-water habitat creation and for final cleanup of previously capped contaminated sediments. An extra 22,000 CY of excavated clean material from the uplands would also be used for in-water habitat creation. Up to 17,000 CY of habitat substrates, consisting of a range of imported gravel and soil mixtures, based on the location in the habitat, would be placed within the habitat area. Up to 5,000 CY of imported planting soil would be placed within a planted riparian buffer. Earthwork and planting in the project area would be completed and followed-up with maintenance and monitoring through adaptive management actions, as necessary, for 10 years post-construction. A debris barrier consisting of a row of (24) solid composite plastic piles up to 16-inch in diameter would be installed across the West Waterway channel opening to protect the habitat area from damage by large floating debris while providing unimpeded fish passage. The completed habitat area would be protected in perpetuity through establishment of a Washington Department of Natural Resources (DNR) Conservation Easement.

<u>PURPOSE</u>: Create new in-water habitat for juvenile salmonids at the confluence of the Duwamish Waterway and Elliot Bay as a condition of a Natural Resource Damage (NRD) settlement.

DREDGED MATERIAL MANAGEMENT PROGRAM (DMMP):

<u>Dredged Material Testing</u>: The proposed dredged material has been evaluated under the terms of a National Resource Damages (NRD) settlement and overseen by Trustees including NOAA, EPA, Ecology, the Muckleshoot Indian Tribe, and the Suquamish Tribe. For this project, the Trustees determined that 40,000 cubic yards were suitable for beneficial use as fill for the in-water constructed habitat area. Another 7,000 cubic yards were found unsuitable for open-water disposal. After mechanical removal, this unsuitable material will be loaded onto trucks and transported to an upland disposal area approved by the Washington State Department of Ecology and the King County Department of Health.

<u>Dredging Plan</u>: A dredging plan, sufficient to adequately separate contaminated material from sediments suitable for open-water disposal, will be prepared by the applicant and submitted to the Trustees and regulatory agencies for review prior to dredging. A pre-dredging conference will be held to review quality control plans and procedures for material separation.

<u>ADDITIONAL INFORMATION</u>: The high tide line shown on the project drawings have not yet been verified by the Corps. If the Corps determines the boundaries of the waters are substantially inaccurate a new public notice may be published.

MITIGATION: No mitigation has been proposed for this activity.

<u>ENDANGERED SPECIES</u>: The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of the ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat. After receipt of comments from this public notice, the Corps will evaluate the potential impacts to proposed and/or listed species and their designated critical habitat.

<u>ESSENTIAL FISH HABITAT</u>: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed action would impact EFH in the project area.

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If the Corps determines that the proposed action may adversely affect EFH for federally managed fisheries in Washington waters, the Corps will initiate EFH consultation with the NMFS. The Corps' final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

<u>CULTURAL RESOURCES</u>: The Corps has reviewed the latest published version of the National Register of Historic Places, Washington Information System for Architectural and Archaeological Records Data and other sources of information. A historic properties investigation has been conducted within the permit area. No historic properties determined eligible for or listed on the National Register of Historic Places were found to exist within the permit area. The Corps invites responses to this public notice from Native American Tribes or tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns regarding historic properties and sites of religious and cultural significance at or near the project area. After receipt of comments from this public notice, the Corps will evaluate potential impacts and consult with the State Historic Preservation Officer and Native American Tribes in accordance with Section 106 of the National Historic Preservation Act, as appropriate.

<u>PUBLIC HEARING</u>: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

<u>EVALUATION – CORPS</u>: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Native American Nations or tribal governments; Federal, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

The described discharge will be evaluated for compliance with guidelines promulgated by the Environmental Protection Agency under authority of Section 404(b)(1) of the CWA. These guidelines require an alternatives analysis for any proposed discharge of dredged or fill material into waters of the United States.

<u>SOURCE OF FILL MATERIAL</u>: The source of the fill material will be clean dredged sediment and excavated material, riprap, and habitat mix sourced from dredging the basin between Pier 1 and Pier 3, including dredging the slope below Pier 2P. No contaminated sediments would be disposed of in-water.

<u>EVALUATION – ECOLOGY</u>: Ecology is soliciting comments from the public; Federal, Native American Nations or tribal governments, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Ecology will be considering all comments to determine whether to certify or

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deny a Section 401 Water Quality Certification and /or Coastal Zone Management consistency for the proposed project.

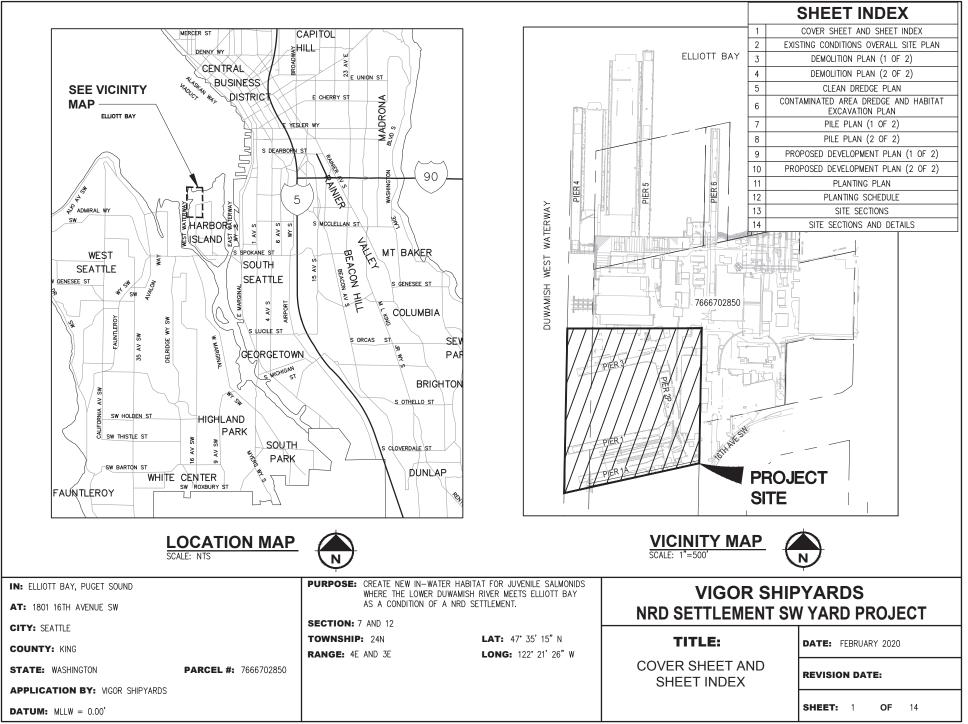
<u>COMMENT AND REVIEW PERIOD</u>: Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether authorizing the work would not be contrary to the public interest. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. Either conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commenter's name, address, and phone number. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration.

<u>CORPS COMMENTS</u>: All e-mail comments should be sent to jordan.a.bunch@usace.army.mil. Conventional mail comments should be sent to: U.S. Army Corps of Engineers, Regulatory Branch, Attention: Jordan Bunch, P.O. Box 3755, Seattle, Washington 98124-3755. All comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act including any personally identifiable information such as names, phone numbers, and addresses.

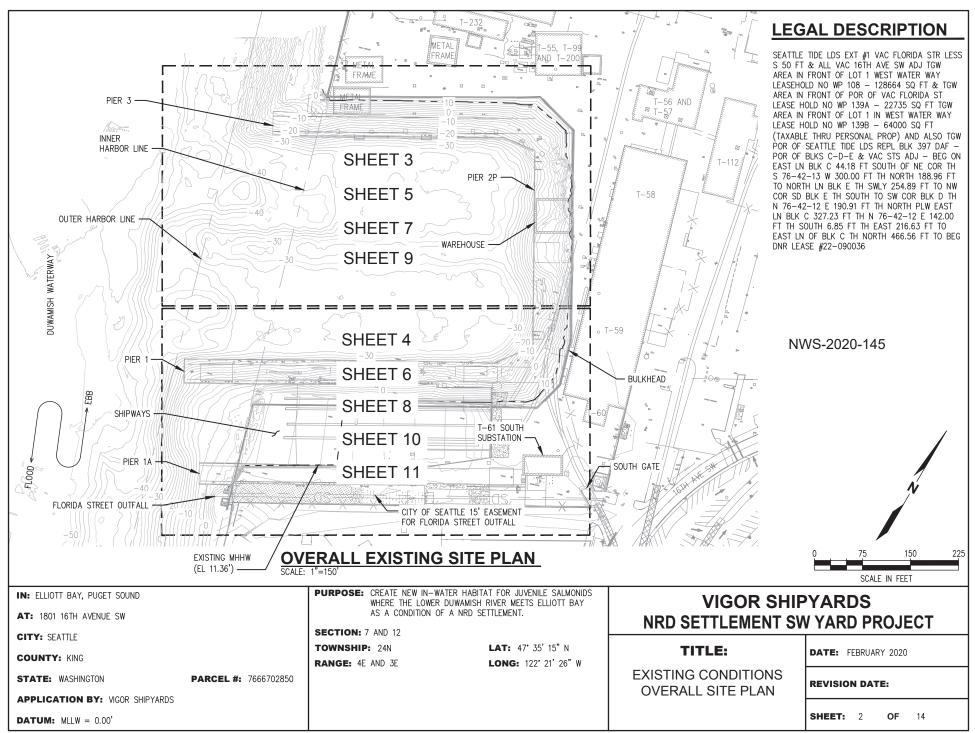
<u>ECOLOGY COMMENTS</u>: Any person desiring to present views on the project pertaining to a request for water quality certification under Section 401 of the CWA and/or Coastal Zone Management consistency concurrence, may do so by submitting written comments to the following address: Washington State Department of Ecology, Attention: Federal Permit Coordinator, Post Office Box 47600, Olympia, Washington 98504-7600, or e-mail to ecyrefedpermits@ecy.wa.gov.

To ensure proper consideration of all comments, responders must include the following name and reference number in the text of their comments: Vigor Shipyards, LLC; NWS-2020-145

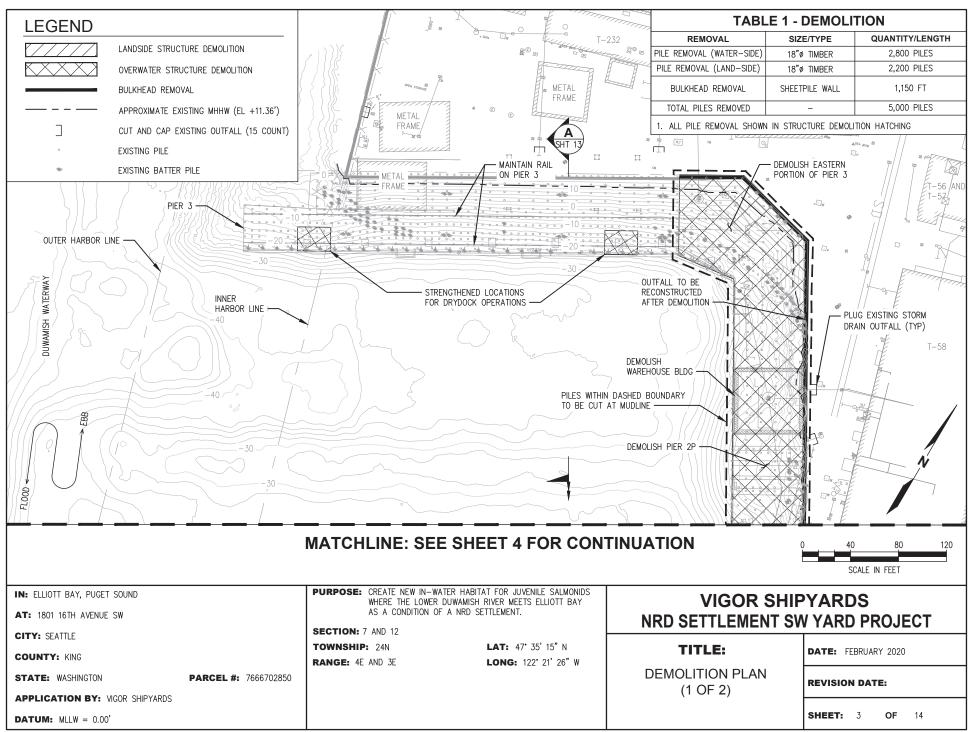
Encl: Figures (14)



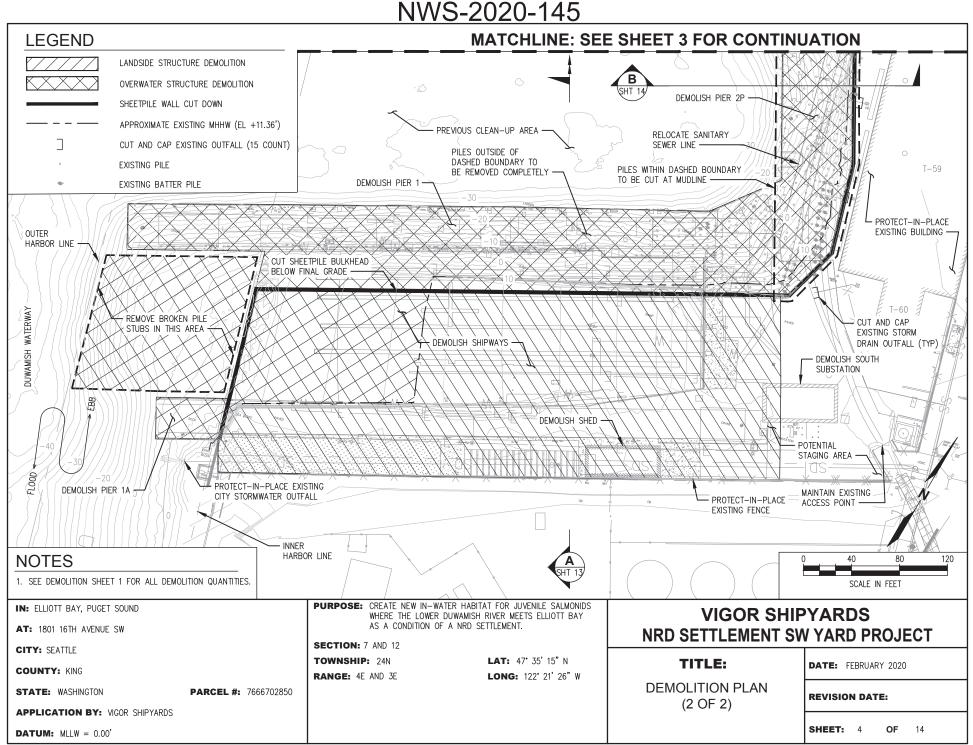
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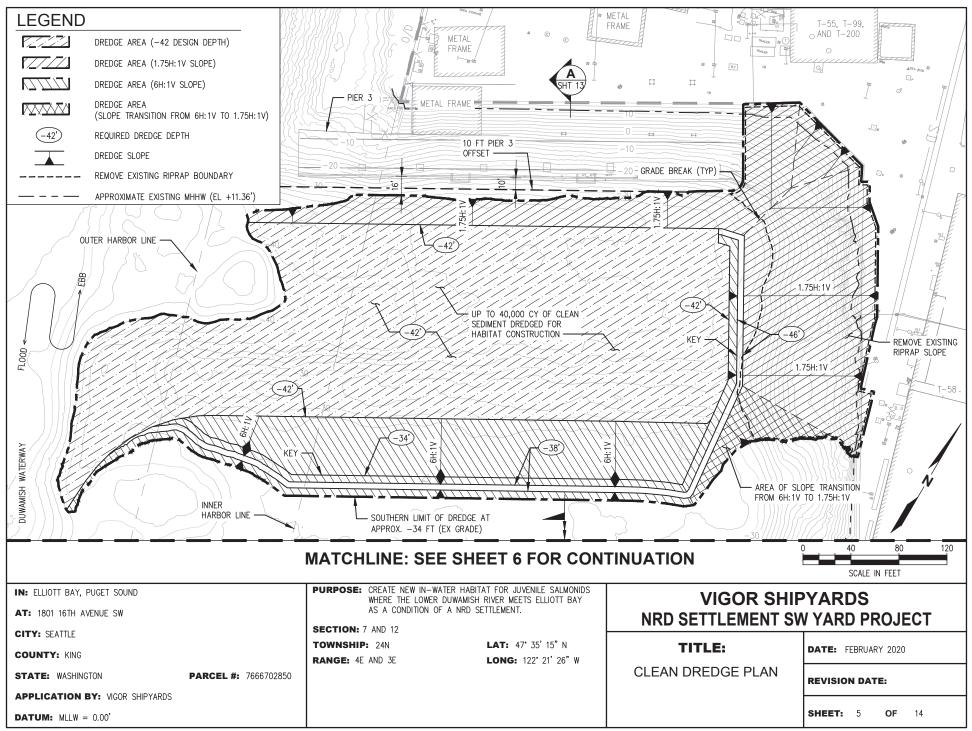
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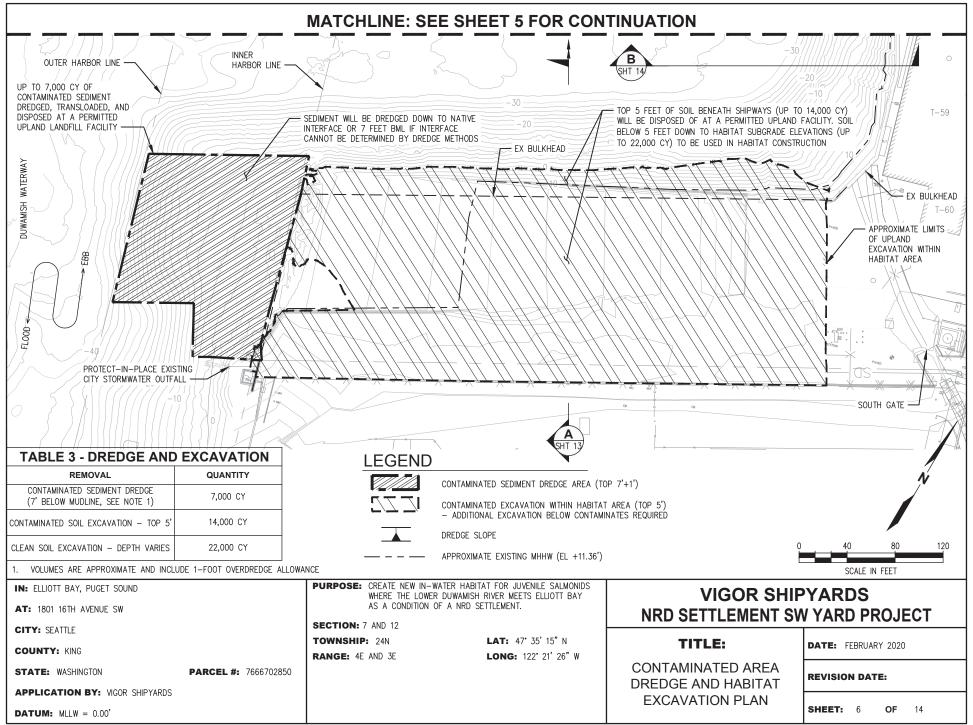
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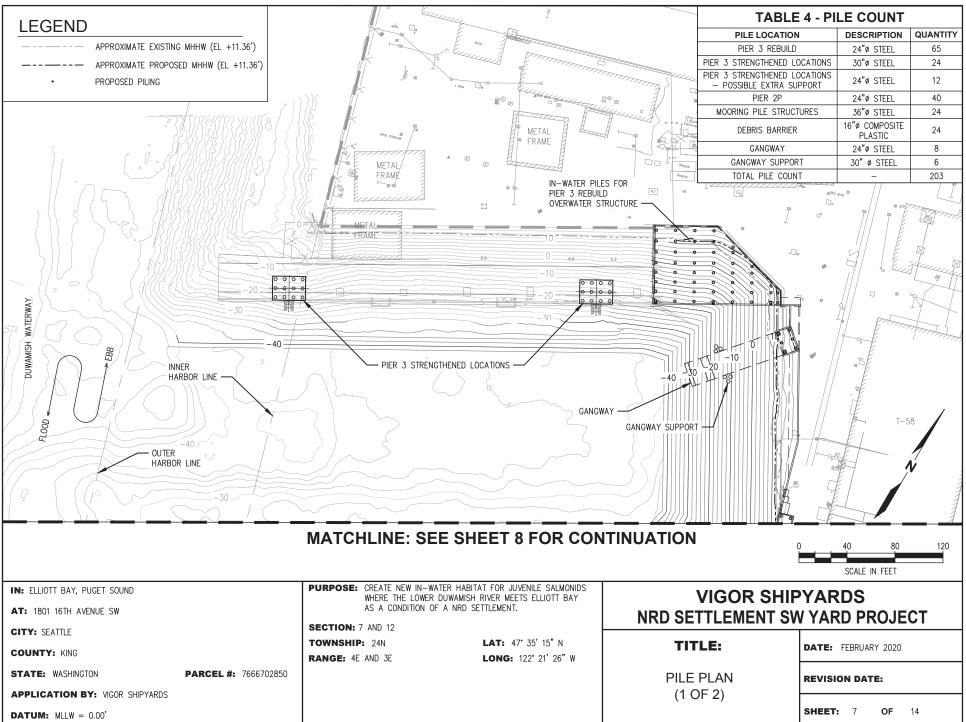
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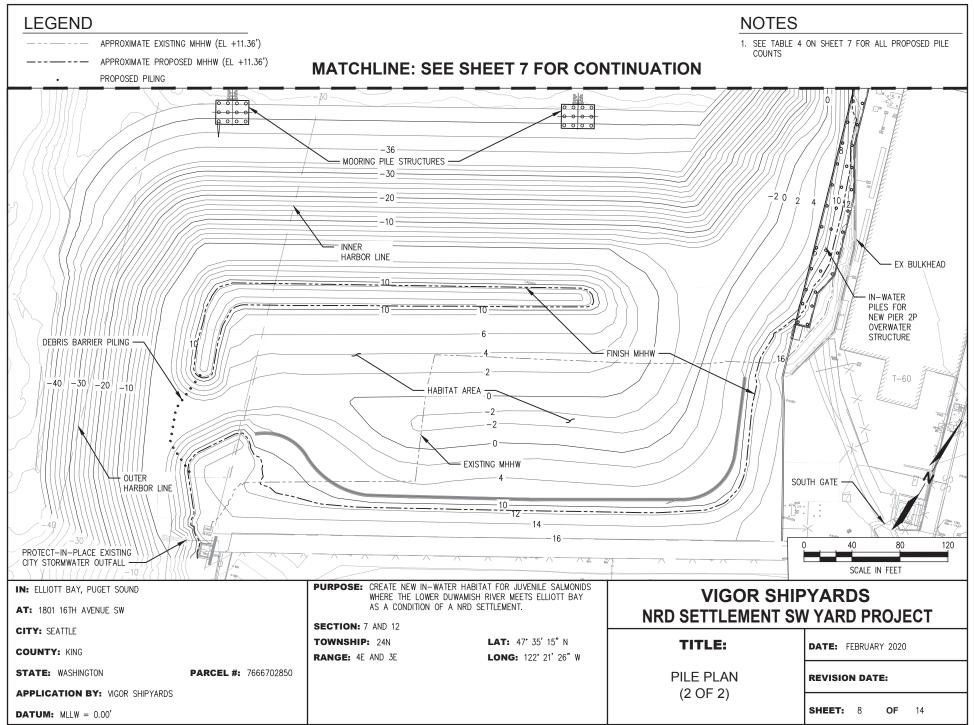
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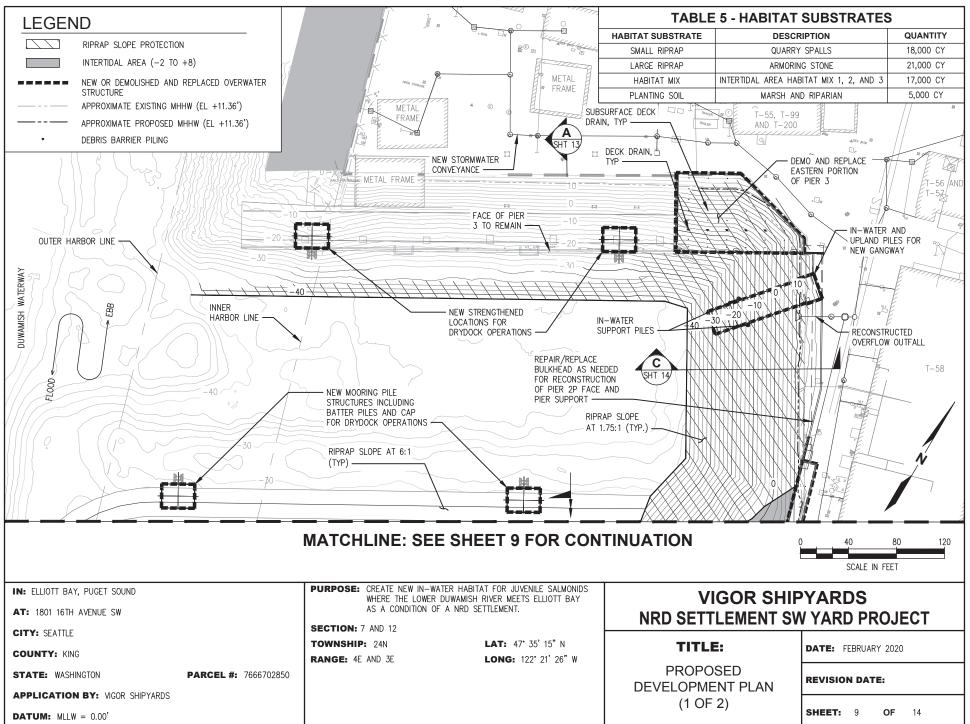
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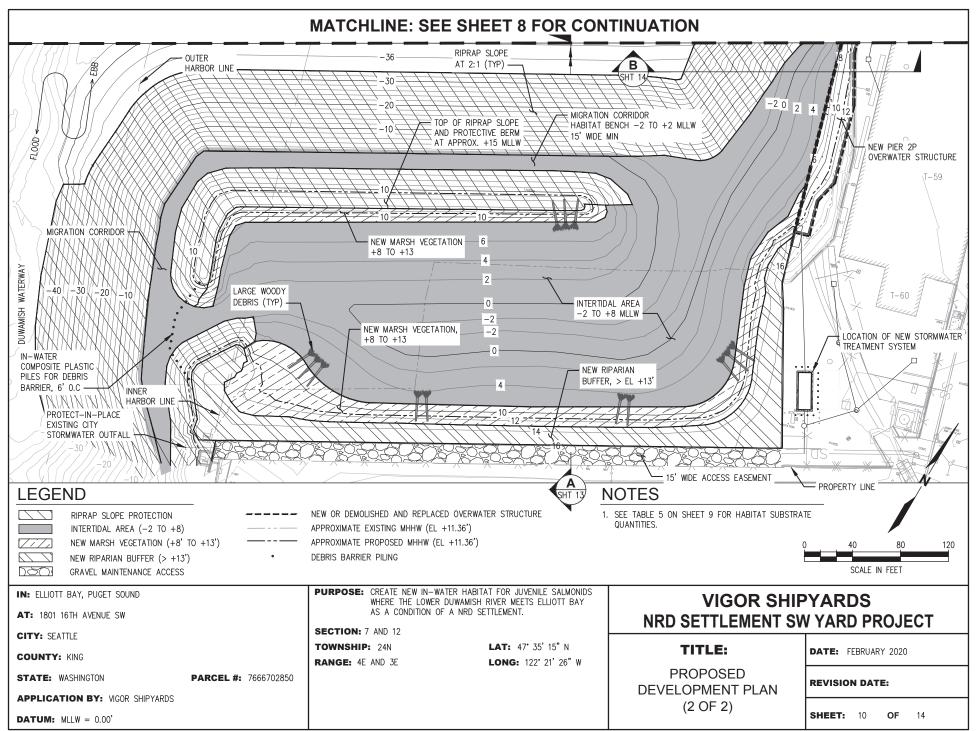
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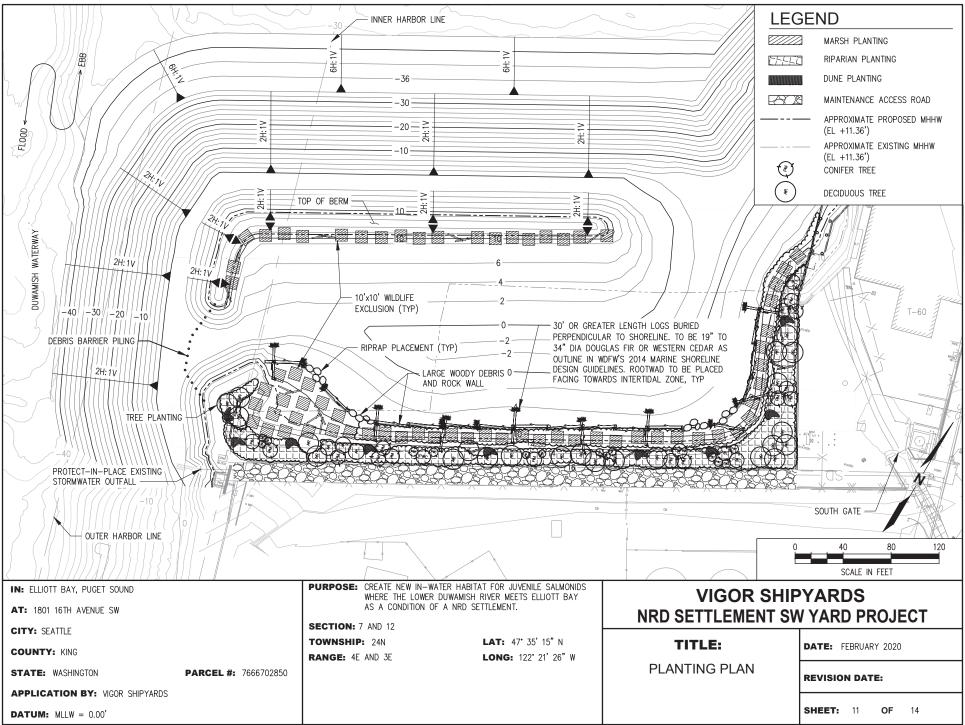
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Plotted: Jan 24, 2020 - 1:39pm econley Layout: 09 PROP DEVELOPMENT PLAN M:\2016\1600067 Vigor SW Yard Redevelopment\Drawings\Current Exhibits\2019-10-07 JARPA\09_10 - Proposed Development Plan.dwg



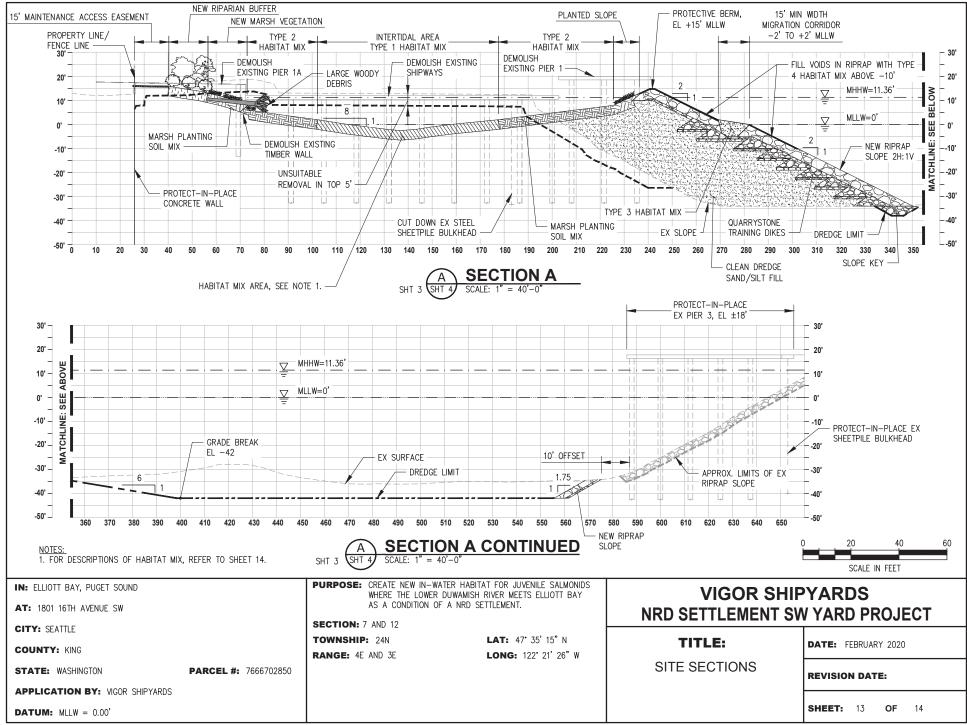
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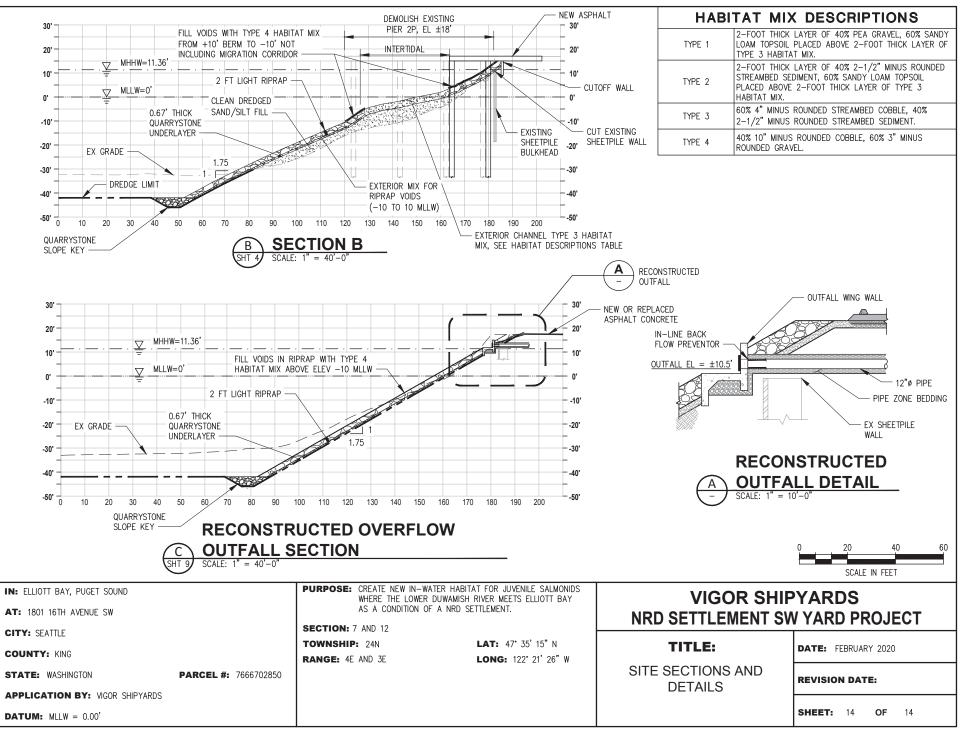
Plotted: Jan 24, 2020 — 1:41pm econley Layout: 11 PLANTING PLAN M:\2016\1600067 Vigor SW Yard Redevelopment\Drawings\Current Exhibits\2019—10—07 JARPA\11_12 — Planting Plan and Planting Schedule.dwg

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_x _	-	AG	ABIES GRANDIS	GRAND FIR	6-8'	B & B	AS SHOWN	-	AF	ATHYRIUM FELIX	LADY FERN	1 GAL	CONTAINER	AS SHO
	-	PM	PSEUDOTSUGA MENZIESII	DOUGLAS FIR	6-8'	B & B / CONTAINER	AS SHOWN		CSK		DWARF RED TWIG	1 GAL	CONTAINER	3' O.
	-	PS	PICEA SITCHENSIS	SITKA SPRUCE	6-8'	B&B	AS SHOWN	-			DOGWOOD			
	-	PCC	PINUS CONTORTA	SHORE PINE	6-8'	B & B	AS SHOWN	-	GS MA	GAULTHERIA SHALLON MAHONIA AQUIFOLIUM	SALAL TALL OREGON GRAPE	1 GAL	CONTAINER	AS SHO
-			CONTORTA					-	MN	MAHONIA NERVOSA	LOW OREGON GRAPE	1 GAL	CONTAINER	18" C
	-	TP	THUJA PLICATA	WESTERN RED CEDAR	6-8'	B & B	AS SHOWN	-	PM	POLYSTICHUM MUNIUTM	SWORD FERN	1 GAL	CONTAINER	AS SH
	ECIDUOUS	TREES						-	RG	ROSA GYMNOCARPA	BALDHIP ROSE	1 GAL	CONTAINER	AS SH
м)⊢	QTY	SYMBOL	SCIENTIFIC NAME	COMMON NAME	SIZE	CONDITION	SPACING	-	RN	ROSA NUTKANA	NOOTKA ROSE	2 GAL	CONTAINER	AS SH
	-	AM	ACER MACROPHYLLUM	BIG LEAF MAPLE	2-3'	B&B	AS SHOWN	-	SA	SYMPHORICARPOS	SNOWBERRY	1 GAL	CONTAINER	3' 0
	-	AR	ALNUS RUBRA	RED ALDER	2-3'	B & B	AS SHOWN			ALBUS				
	-	AMP	ARBUTUS MENZIESII	MADRONE	2-3" CAL	B&B/ CONTAINER	AS SHOWN	-	VP	VACCINIUM PARVIFOLIUM	RED HUCKLEBERRY	4" POT	CONTAINER	AS SH
	-	CN	CORNUS NUTALLII	PACIFIC DOGWOOD	2" CAL	B&B/CONTAINER	AS SHOWN	-	VO	VACCINIUM OVATUM	EVERGREEN	1 GAL	CONTAINER	AS SH
	-	CD	CRATAEGUS DOUGLASII	DOUGLAS HAWTHORN	2" CAL	B&B/ CONTAINER	AS SHOWN		-		HUCKLEBERRY	-		
	-	MFM	MALUS FUSCA	OREGON CRABAPPLE	3-4'	CONTAINER	AS SHOWN	HIGH SALT	MARSH (ELEV. 1	0-13)				
	-	PT	POPULUS TRICHOCARPA	BLACK COTTONWOOD	3" CAL	B&B/ CONTAINER	AS SHOWN	QTY	SYMBOL	SCIENTIFIC NAME	COMMON NAME	SIZE	CONDITION	SPAC
			HadridoArd A	1		1		-	AS		DOUGLAS ASTER	10"	CONTAINER	24" 0
7 🖬	ARGE SHR	UBS						-	AP	ATRIPLEX PATULA	SALTWEED	10"	CONTAINER	24" C
ノ匚	QTY	SYMBOL	SCIENTIFIC NAME		SIZE	CONDITION	SPACING	-	СМ	CAREX MACROCEPHALA	LARGEHEAD SEDGE	1 GAL	CONTAINER	18" C
	-	AA	AMELANCHIER ALNIFOLIA	SERVICEBERRY/SASKA TOON	5 GAL	CONTAINER	AS SHOWN	-	DCT	DESCHAMPSIA	TUFTED HAIRGRASS	1 GAL	CONTAINER	AS SH
	-	CSR	CORNUS SERICEA	RED TWIG DOGWOOD	2 GAL	CONTAINER	6' O.C.		DS	CESPITOSA DISTICHLIS SPICATA	SALTGRASS	4" POT	CONTAINER	AS SH
	-	CC	CORYLUS CORNUTA	HAZELNUT	1 GAL	CONTAINER	AS SHOWN			GRINDELIA				
_	-	HD	HOLODISCUS DISCOLOR	OCEANSPRAY	1 GAL	CONTAINER	AS SHOWN	-	GI	INTEGRIFOLIA	GUMWEED	4" POT	CONTAINER	AS SH
	-	MCA	MYRICA CALIFORNICA	PACIFIC WAX MYRTLE	5 GAL	CONTAINER	AS SHOWN	-	JB		BALTIC RUSH	4" POT	CONTAINER	AS SH
	-	OC	OEMLERIA CERASIFORMIS	INDIAN PLUM	1 GAL	CONTAINER	AS SHOWN	-	JN	JUNCUS NEVADENSIS	SIERRA RUSH	4" POT	CONTAINER	18" (
	-	PC	PHYSOCARPUS CAPITATUS	PACIFIC NINEBARK	1 GAL	CONTAINER	AS SHOWN	-	PP	POTENTILLA PACIFICA	PACIFIC SILVER WEED	1 GAL	CONTAINER	18" (
	-	RS	RIBES SANGUINEUM	RED FLOWERING CURRANT	1 GAL	CONTAINER	AS SHOWN	LOW SALT N	IARSH (ELEV. 7-	10)				
	-	SH	SALIX HOOKERIANA	HOOKER'S WILLOW	1 GAL	CONTAINER	AS SHOWN	QTY	SYMBOL	SCIENTIFIC NAME	COMMON NAME	SIZE	CONDITION	SPAC
	-	SR	SAMBUCUS RACEMOSA	RED ELDERBERRY	2 GAL	ESPALIER	AS SHOWN	-	со	CAREX LYNGBYEI	SLOUGH SEDGE	1 GAL	CONTAINER	18" (
_								-	CAP	COTULA CORONOPIFOLIA	BRASS BUTTONS	1 GAL	CONTAINER	18" (
HE	IERBACEO							-	JC	JAUMEA CARNOSA	JAUMEA	4" POT	CONTAINER	0-1
	QTY	SYMBOL	SCIENTIFIC NAME	COMMON NAME	SIZE	CONDITION	SPACING				AMERICAN	4.041		401
_	-	CQ	CAMASSIA QUAMASH	COMMON CAMAS	4" POT	CONTAINER	18" O.C.	-	SC	SCIRPUS AMERICANUS	THREESQUARE	1 GAL	CONTAINER	18" (
	-	EM	ELYMUS MOLLIS EQUISETUM HYEMALE	DUNEGRASS SCOURING RUSH	4" POT 4" POT	CONTAINER	18" O.C. 18" O.C.	-	SM	SCIRPUS MARITIMUS	SALTMARSH BULRUSH	1 GAL	CONTAINER	18" 0
-				COASTAL				-	SA	SCIRPUS ACUTUS	HARDSTEM BULRUSH	1 GAL	CONTAINER	18" (
	-	FC	FRAGARIA CHILOENSIS	STRAWBERRY	1 GAL	CONTAINER	AS SHOWN	-	sco	SPERGULARIA CANADENSIS VAR. O	WESTERN SANDSPURRY	1 GAL	CONTAINER	18" (
								-	SV	SALICORNIA VIRGINICA	PICKLEWEED	1 GAL	CONTAINER	18" (
								-	ТМ	TRIGLOCHIN MARITIMUM	SEASIDE ARROWGRASS	1 GAL	CONTAINER	18" (
										1	ARROWGRASS			
LIOTT BA	AY, PUGE	T SOUND		۲ (P		CREATE NEW IN-V WHERE THE LOWER					VIGOR S	ΗΙΡ	ARDS	
801 16TH	01 16TH AVENUE SW AS A CONDITION OF A NRD SETTL								NRD SETTLEMENT SW YARD PROJE			0.IE		
SEATTLE	E			s	ECTION: 7	AND 12								JUL
TY: KI	TOWNSHIP: 24N L							LAT: 47' 35' 15		TITLE: DATE			DATE: FEBRUARY	2020
	E: WASHINGTON PARCEL #: 7666702850							LONG: 122' 21'	26″ W	PLANTING SCHEDULE				
	CATION BY: VIGOR SHIPYARDS									REVISION DATE:				
M: MLLW = 0.00'													SHEET: 12	

Plotted: Jan 24, 2020 - 1:41pm econley Layout: 12 PLANTING SCHEDULE M:\2016\1600067 Vigor SW Yard Redevelopment\Drawings\Current Exhibits\2019-10-07 JARPA\11_12 - Planting Plan and Planting Schedule.dwg



Plotted: Jan 29, 2020 - 9:37am econley Layout: 13 SECTION A M:\2016\1600067 Vigor SW Yard Redevelopment\Drawings\Current Exhibits\2019-10-07 JARPA\13_14 - Section A_B.dwg



Plotted: Jan 29, 2020 - 9:44am econley Layout: 14 SECTION B M:\2016\1600067 Vigor SW Yard Redevelopment\Drawings\Current Exhibits\2019-10-07 JARPA\13_14 - Section A_B.dwg