

**RESOLUTION NO. 1182**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE TERMINATION OF A SEWER UTILITY EXTENSION AGREEMENT WITH THE WESTRY PLAT LOCATED IN THE 6800 BLOCK OF SKANSIE AVENUE, IN PIERCE COUNTY, WASHINGTON.**

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WHEREAS, the City of Gig Harbor received a request for a termination of sewer utility extension agreement (UEA) in May 2020 from RM Homes, LLC, for one proposed development consisting of two parcels owned by Duane Novotney (APN 0221077016) and Joy and Vonda Neilson (APN 0221077017); and

WHEREAS, the UEA allowed RM Homes to connect 8 new residential houses on a combined 2.14 acres located in the City's urban growth area to the City's sewer system for the proposed Westry Place Subdivision (Property); and

WHEREAS, the Property is located in sewer basin No. 21 and has an existing gravity sewer main located in Skansie Avenue; and

WHEREAS, each proposed UEA requires each owner to pay all costs for designing and constructing any necessary extension of the City's sewer utility and to pay all general facilities charges and monthly services charges for sewer services outside the city limits at 1.5 times the in-city rates; and

WHEREAS, RCW 35.67.310 authorizes the City to provide sewer service to properties beyond the City limits; and

WHEREAS, Ordinance No. 1235 allows the extension of the City's sewer utility to properties outside the City limits without the requirement to first annex and provides conditions for connection to the sewer utility; and

WHEREAS, Chapter 13.34 of the Gig Harbor Municipal Code (GHMC) requires the property owner seeking sewer utility service outside the city limits to enter into a utility extension agreement with the City as a condition of a utility extension; and

WHEREAS, the City Council has reviewed each UEA application and found them consistent with the criteria listed in Section 13.34.040(B); and

WHEREAS, the City currently has capacity to provide the requested sewer utility connection; and

WHEREAS, on June 10, 2019, the Gig Harbor City Council held a public hearing on Trinity Land Development's requested utility extension agreements for Westry Place and subsequently passed Resolution No. 1149 authorizing the Mayor to execute the two individual UEAs associated with the Property; and

WHEREAS, the City received a payment for \$17,352.00 for the two UEAs for the Property from RM Homes as capacity commitment payment on June 14, 2019, for future connection.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The City Council hereby authorizes the Mayor to execute the termination of two individual Utility Extension Agreements attached hereto as Exhibit A, with the parcel owners Duane Novotney and Joy and Vonda Neilson.

Section 2. The City Council hereby directs the City Clerk to record the Termination of Utility Extension Agreement against each parcel legally described in Exhibit A at the cost of the applicant.

Section 3. The City Council hereby directs the City's Finance Director to issue a

prorated return of the fees and costs paid by RM Homes for this Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID. Such prorated amount shall be calculated from the date this Termination is fully executed and recorded with the County until the expiration date of the original agreement.

PASSED by the City Council this 22nd day of June, 2020.

APPROVED:

  
\_\_\_\_\_  
MAYOR KIT KUHN

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
CITY CLERK

FILED WITH THE CITY CLERK: 06/15/20  
PASSED BY THE CITY COUNCIL: 06/22/20  
RESOLUTION NO. 1182

AFTER RECORDING RETURN TO:

City of Gig Harbor  
Attn: City Clerk  
3510 Grandview Street  
Gig Harbor, WA 98335

**WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM**

**Document Title(s) (or transactions contained therein):**

Termination of Utility Extension, Capacity Agreement

**Grantor(s) (Last name first, then first name and initials)**

City of Gig Harbor

**Grantee(s) (Last name first, then first name and initials)**

Novotney, Duane

**Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)**

Section 07 Township 21 Range 02 Quarter 31, Lot 1 of Pierce County Short Plat recorded  
September 26, 1983 under Recording No. 8309260285

**Assessor's Property Tax Parcel or Account Number:** 0221077016

**Reference Number(s) of Documents assigned or released:** 201906170003

**Termination of Utility Extension, Capacity Agreement and Agreement Waiving Right to Protest LID**

THIS Termination of Utility Extension, Capacity Agreement and Agreement Waiving Right to Protest LID is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Gig Harbor, Washington, a municipal corporation of the State of Washington (the "City"), and Duane Novotney (the "Owner").

**RECITALS**

WHEREAS, the Owner is the owner of certain real property located in Pierce County which is legally described as set forth in Exhibit "A" and shown in the location map in Exhibit "B" attached hereto and incorporated herein by this reference; and

WHEREAS, the Owner's property is not currently within the City limits; and

WHEREAS, the Owner requested and received from the City a Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID as documented in Pierce County Auditor recording number 201906170003; and

WHEREAS, the Owner informed the City that he desires to terminate the Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID and relinquish any and all rights contained in such agreements; and

WHEREAS, the City Council considered the request and agreed to terminate the Utility Extension Agreement and Capacity Agreement; NOW, THEREFORE,

FOR AND IN CONSIDERATION of the mutual benefits and conditions hereinafter contained, the parties agree as follows:

1. The Parties agree that the Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID recorded under Recording No. 201906170003 is hereby terminated, released, and extinguished, as are any and all rights the Parties may have under or pursuant to the Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID.

2. The parties agree that the Owner shall receive a prorated return of the fees and costs paid by the Owner for this Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID. Such prorated amount shall be calculated from the date this Termination is fully executed and recorded with the County until the expiration date of the original agreement.

4. Each signatory below represents and warrants that he or she is fully authorized and empowered to execute this Agreement on behalf of the party for whom he or she is purporting to sign.

5. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

In witness whereof, this Agreement is executed on the dates set forth below.

***[Signature of Parties on following pages]***

OWNER:

CITY OF GIG HARBOR

By: \_\_\_\_\_  
Duane Novotney

By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk, Molly Towslee

Approved as to form:  
Office of the City Attorney

\_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

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

DATED: \_\_\_\_\_

\_\_\_\_\_  
Printed: \_\_\_\_\_  
Notary Public in and for Washington  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

[Notary continues on next page]

STATE OF WASHINGTON            )  
  ) ss.  
COUNTY OF P I E R C E        )

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

DATED: \_\_\_\_\_

\_\_\_\_\_  
Printed: \_\_\_\_\_  
Notary Public in and for Washington  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_



**EXHIBIT A  
PROPERTY LEGAL DESCRIPTION**

**PARCEL 0221077016**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PIERCE, STATE OF WA, AND IS DESCRIBED AS FOLLOWS:

Parcel A:

Lot 1, Pierce County Short Plat recorded September 26, 1983 under Recording No. 8309260285, records of Pierce County, Washington.

Parcel B:

A non-exclusive easement for ingress and egress as delineated on Pierce County Short Plat recorded September 26, 1983 under Recording No. 8309260285, records of Pierce County, Washington.

Parcel C:

A non-exclusive easement for ingress and egress over the South 30 feet of the North half of the Southeast quarter of the Northeast quarter of the Southwest quarter of Section 7, Township 21 North, Range 2 East, W.M., in Pierce County, Washington.

EXCEPT J.H. McDougal Road.

Situate in the County of Pierce, State of Washington.



AFTER RECORDING RETURN TO:

City of Gig Harbor  
Attn: City Clerk  
3510 Grandview Street  
Gig Harbor, WA 98335

**WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM**

**Document Title(s) (or transactions contained therein):**

Termination of Utility Extension, Capacity Agreement

**Grantor(s) (Last name first, then first name and initials)**

City of Gig Harbor

**Grantee(s) (Last name first, then first name and initials)**

Neilson, Joy and Vonda

**Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)**

Section 07 Township 21 Range 02 Quarter 31, Lot 2 of Pierce County Short Plat recorded  
September 26, 1983 under Recording No. 8309260285

**Assessor's Property Tax Parcel or Account Number:** 0221077017

**Reference Number(s) of Documents assigned or released:** 201906170004

**Termination of Utility Extension, Capacity Agreement and Agreement Waiving Right to Protest LID**

THIS Termination of Utility Extension, Capacity Agreement and Agreement Waiving Right to Protest LID is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Gig Harbor, Washington, a municipal corporation of the State of Washington (the "City"), and Joy and Vonda Neilson (the "Owner").

**RECITALS**

WHEREAS, the Owner is the owner of certain real property located in Pierce County which is legally described as set forth in Exhibit "A" and shown in the location map in Exhibit "B" attached hereto and incorporated herein by this reference; and

WHEREAS, the Owner's property is not currently within the City limits; and

WHEREAS, the Owner requested and received from the City a Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID as documented in Pierce County Auditor recording number 201906170004; and

WHEREAS, the Owner informed the City that he desires to terminate the Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID and relinquish any and all rights contained in such agreements; and

WHEREAS, the City Council considered the request and agreed to terminate the Utility Extension Agreement and Capacity Agreement; NOW, THEREFORE,

FOR AND IN CONSIDERATION of the mutual benefits and conditions hereinafter contained, the parties agree as follows:

1. The Parties agree that the Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID recorded under Recording No. 201906170004 is hereby terminated, released, and extinguished, as are any and all rights the Parties may have under or pursuant to the Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID.

2. The parties agree that the Owner shall receive a prorated return of the fees and costs paid by the Owner for this Utility Extension Agreement, Capacity Agreement, and Agreement Waiving Right to Protest LID. Such prorated amount shall be calculated from the date this Termination is fully executed and recorded with the County until the expiration date of the original agreement.

4. Each signatory below represents and warrants that he or she is fully authorized and empowered to execute this Agreement on behalf of the party for whom he or she is purporting to sign.

5. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

In witness whereof, this Agreement is executed on the dates set forth below.

***[Signature of Parties on following pages]***

OWNER:

CITY OF GIG HARBOR

By: \_\_\_\_\_  
Joy and Vonda Neilson

By: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk, Molly Towslee

Approved as to form:  
Office of the City Attorney

\_\_\_\_\_

STATE OF WASHINGTON            )  
  ) ss.  
COUNTY OF \_\_\_\_\_        )

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

DATED: \_\_\_\_\_

\_\_\_\_\_  
Printed: \_\_\_\_\_  
Notary Public in and for Washington  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

[Notary continues on next page]

STATE OF WASHINGTON            )  
  ) ss.  
COUNTY OF P I E R C E        )

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

DATED: \_\_\_\_\_

\_\_\_\_\_  
Printed: \_\_\_\_\_  
Notary Public in and for Washington  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

**EXHIBIT A  
PROPERTY LEGAL DESCRIPTION**

**PARCEL 0221077017**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PIERCE, STATE OF WA, AND IS DESCRIBED AS FOLLOWS:

**PARCEL A:**

Lot 2, Pierce County Short Plat Number 8309260285, according to the Plat thereof recorded September 26, 1983, records of the Pierce County Auditor;

Situate in the County of Pierce, State of Washington.

**PARCEL B:**

A non-exclusive easements for private road and utilities as delineated on Pierce County Short Plat Number 8309260285, according to the Plat thereof recorded September 26, 1983, records of the Pierce County Auditor;

Situate in the County of Pierce, State of Washington.

**PARCEL C:**

A non-exclusive easement for private road and utilities over the South 30 feet of the North half of the Southeast quarter of the Northeast quarter of the Southwest quarter of Section 7, Township 21 North, Range 1 East of the Willamette Meridian, as granted by Statutory Warranty Deed recorded March 4, 1987 under recording number 8703040485;

Except the East 30 feet thereof for J. H. McDougall Road;

Situate in the County of Pierce, State of Washington.



