

## **ORDINANCE NO. 1157**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, DETERMINING THE FINAL ASSESSMENT REIMBURSEMENT AREA AND PRO RATA SHARES OF REIMBURSABLE COSTS IN CONNECTION WITH THE HARBOR HILL WATER TANK AND MAINLINE EXTENSION LATECOMERS AGREEMENT; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.**

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WHEREAS, chapter 35.91 of the Revised Code of Washington authorizes cities to enter into latecomer agreements for the purpose of providing partial reimbursement of certain water and sewer improvement costs paid by a private party; and

WHEREAS, chapter 13.35 of the Gig Harbor Municipal Code authorizes the City to enter into latecomer agreements for water and sewer improvements; and

WHEREAS, OPG Properties LLC, a Washington limited liability company, performed certain improvements including construction of the Harbor Hill Water Tank and mainline extension in conjunction with development of its property;

WHEREAS, OPG Properties LLC applied to the City for a latecomer agreement for reimbursements of said water and sewer improvements; and

WHEREAS, the City Engineer determined that the application of OPG Properties LLC met the criteria set forth in chapter 35.91 of the Revised Code of Washington and chapter 13.35 of the Gig Harbor Municipal Code, and approved the application; and

WHEREAS, as authorized in GHMC 13.35.080, OPG Properties LLC proposed the method for determining the fair pro rata share assessment, as later adjusted and accepted by the City Engineer, and made a preliminary determination of the assessment reimbursement area and pro rata share of costs to affected property owners by selecting a method of cost apportionment based on the benefit of the improvements and the proportional share of the reserved tank volume for each of the affected property owners; and

WHEREAS, copies of the proposed latecomer agreement and pro rata share of costs were sent via certified mail to each affected property owner listed in the agreement on December 26, 2008, along with notice of the City Council's consideration on January 12, 2009, and the same was also advertised in the Gateway Newspaper on December 31, 2008; and

WHEREAS, since that time, the City found a need to adjust the pro rata share of costs and new documents and notice of the City Council's further consideration on February 9, 2009, were provided to affected property owners on January 29, 2009; and

WHEREAS, the City Council considered the latecomer agreement and pro rata share of costs on February 9, 2009; and

WHEREAS, based on comments received from affected property owners, the City further evaluated certain properties not included in the original proposed latecomer agreement by using the City's water system model to determine if said properties benefited from the water system improvements constructed by OPG to meet water system fire flow requirements; and

WHEREAS, based on said water system modeling, ten additional properties have been added to the agreement and fair pro rata shares adjusted accordingly; and

WHEREAS, copies of the revised proposed latecomer agreement and pro rata share of costs were sent via certified mail to each affected property owner listed in the agreement on March 12, 2009, along with notice of the City Council's consideration on March 23, 2009, and the same was also advertised in the Gateway Newspaper on March 11, 2009; and

WHEREAS, the City Council considered the latecomer agreement and pro rata share of costs on March 23, 2009, and again on April 13, 2009 and considered all testimony presented; now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1. Assessment Reimbursement Area.** The City Council hereby adopts as its final determination the preliminary determination of the assessment reimbursement area as recommended by the City Engineer and as identified on **Exhibit C** of the latecomer agreement attached hereto and incorporated herein by this reference.

**Section 2. Reimbursable Costs.** The City Council hereby adopts as its final determination the total cost calculations, allocations among the benefited properties, and pro rata shares of reimbursable costs as recommended by the City Engineer and as identified on **Exhibit D** of the latecomer agreement.

**Section 3. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a

court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 4. Effective Date.** This ordinance shall take effect and be in full force five (5) days after publication an approved summary consisting of the title.

APPROVED:

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MAYOR CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

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MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

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ANGELA S. BELBECK

FILED WITH THE CITY CLERK: 02/04/09  
PASSED BY THE CITY COUNCIL: 04/13/09  
PUBLISHED: 04/22/09  
EFFECTIVE DATE: 04/29/08  
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