

**RESOLUTION NO. 991**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR,  
WASHINGTON, RELATING TO EXTENDING WATER AND SEWER  
SERVICE OUTSIDE THE CITY, AUTHORIZING THE EXECUTION OF ONE  
WATER UTILITY EXTENSION AGREEMENT, AND AUTHORIZING THE  
EXECUTION OF ONE SEWER UTILITY EXTENSION AGREEMENT WITH  
THE BLOCK LAND, LLC, TO A FIFTY-TWO (52) LOT RESIDENTIAL  
SUBDIVISION IN PIERCE COUNTY, WASHINGTON.**

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WHEREAS, Rush Construction (dba Block Land, LLC) is in the process of permitting through Pierce County a 52 lot residential subdivision outside city limits but inside the City's urban growth area; and

WHEREAS, Block Land, LLC has requested connection to the City of Gig Harbor's water and sewer utilities to serve their subdivision known as the Cushman Pointe Plat and located in the 4900 block of Reid Drive; and

WHEREAS, RCW 35.67.310 and RCW 35.92.200 authorize the City to provide water and sewer utility services to property beyond the City limits; and

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

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

WHEREAS, on May 11, 2015, the Gig Harbor City Council held a public hearing on Block Land, LLCs requested utility extension agreement;

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 Utility Extension Agreements attached hereto as Exhibit A, with the owner, Block Land, LLC.

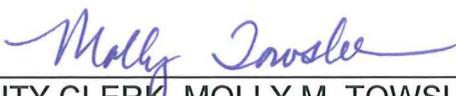
Section 2. The City Council hereby directs the City Clerk to record the Utility Extension Agreements against the Property legally described in Exhibit A of each Utility Extension Agreement, at the cost of the applicant.

PASSED by the City Council this 11<sup>th</sup> day of May 2015.

APPROVED:

  
MAYOR JILL GUERNSEY

ATTEST/AUTHENTICATED:

  
CITY CLERK, MOLLY M. TOWSLEE

FILED WITH THE CITY CLERK: 05/06/15  
PASSED BY THE CITY COUNCIL: 05/11/15  
RESOLUTION NO. 991

**WATER UTILITY EXTENSION AGREEMENT  
AND AGREEMENT WAIVING RIGHT TO PROTEST LID**

THIS AGREEMENT is entered into this 12 day of May, 2015, between the City of Gig Harbor, Washington, a municipal corporation of the State of Washington (the "City"), and Block Land, LLC., a Washington limited liability company (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 but is within the City's water service area; and

WHEREAS, the Owner desires to connect to the City water utility system, hereafter referred to as the "utility," and the City is willing to allow connection only upon certain terms and conditions in accordance with Title 13 of the Gig Harbor Municipal Code, as now enacted or hereinafter amended; and

WHEREAS, on May 11, 2015, the City Council held a public hearing on this Utility Extension Agreement; NOW, THEREFORE,

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

**TERMS**

1. Warranty of Title. The Owner warrants that Owner is the owner of the property described in Exhibit 'A', which is attached hereto and incorporated herein by this reference, and is authorized to enter into this Agreement.

2. Extension Authorized. The City hereby authorizes the Owner to extend service to Owner's property along Reid Drive NW upon receipt of an approved Pierce County encroachment permit as allowed through the City's franchise agreement with Pierce County.

3. Costs. Owner will pay all costs of designing, engineering and constructing the extension. All construction shall be done to City and/or Pierce County standards and according to plans approved by the City Engineer. Any and all costs incurred by the City in reviewing plans and inspecting construction shall be paid for by the Owner.

4. Water Capacity Commitment. The City agrees to provide to the Owner water utility service and hereby reserves to the Owner the right to connect to the City's water system 52 single family units and one irrigation system for a total of 53 additional water ERU's; provided however, that the City retains the authority to temporarily suspend such capacity where necessary to protect public health and safety, or where required to comply with the City's water rights, or any other permits required by any agency with jurisdiction. These capacity rights are allocated only to the Owner's system as herein described. Any modification to this system must first be approved by the

City. Capacity rights acquired by the Owner pursuant to this Agreement shall not constitute ownership by the Owner of any facilities comprising the City water system. The City agrees to reserve to the Owner this capacity as set forth in GHMC 13.34.030.

5. Capacity Commitment Payment.

A. The Owner agrees to pay the City the sum of \$74,628, which is fifteen percent (15%) of the current general facilities charge, to reserve the above specified capacity. This payment shall reserve the specified capacity for a period of up to three years from the date of this agreement. At the time of actual connection, per GHMC 13.34.040(7), the Owner shall pay the difference between what was paid for the capacity commitment payment and the actual cost of the current general facilities charge.

B. In the event the Owner has not made connection to the City's utility system by the date set forth above and no extension of the commitment period occurs as outlined below, such capacity commitment shall expire and the Owner shall forfeit one hundred percent (100%) of this capacity commitment payment to cover the City's administrative and related expenses.

C. In the event the Pierce County Boundary Review Board should not approve extension of the City's water system prior to the expiration of the commitment period, the Owner shall be entitled to a refund of the capacity commitment payment (without interest), less a five percent (5%) administrative fee.

6. Extension of Commitment Period. The Owner may extend the capacity commitment payment for the life of the underlying development application or the underlying development approval upon payment of a capacity commitment payment of 100% of the value of the current general facilities charge. At the time of actual connection, per GHMC 13.34.040(7), if the water general facilities charge has increased, the Owner shall pay the difference between what was paid for the extension of the capacity commitment payment and the actual cost of the current general facilities charge.

7. Permits; Easements. Owner shall secure and obtain, at Owner's sole cost and expense, any and all necessary permits, easements, approvals, and licenses to construct the extension in Reid Drive NW, including, but not limited to, all necessary easements, excavation permits, street use permits, or other permits required by state, county and city governmental departments including, but no limited to, the Pierce County Public Works Department, Pierce County Environmental Health Department, State Department of Ecology, Pierce County Boundary Review Board, and City of Gig Harbor.

8. Turn Over of Capital Facilities. If the extension of utility service to Owner's property involves the construction of water or water main lines, pump stations, wells, and/or other City required capital facilities, the Owner agrees if required by the City to turn over and dedicate such facilities to the City, at no cost, upon the completion of construction and approval and acceptance of the same by the City. As a prerequisite to such turn over and acceptance, the Owner will furnish to the City the following:

A. Record drawings in a form acceptable to the City Engineer;

B. Any necessary easements, permits or licenses for the continued operation, maintenance, repair or reconstruction of such facilities by the City, in a form approved by the City

Attorney;

C. A bill of sale in a form approved by the City Attorney; and

D. A bond or other suitable security in a form approved by the City Attorney and in an amount approved by the City Engineer, ensuring that the facilities will remain free from defects in workmanship and materials for a period of two years.

9. General Facilities Charges. The Owner agrees to pay the applicable general facilities charges, in addition to any costs of construction, as a condition of connecting to the City utility system. This payment shall be made at the rate schedules for charges outside the city limits (which is presently at 150% the rate charged to customers inside city limits) applicable at the time the Owner physically connects his/her property to the system. Any commitment payment that has not been forfeited shall be applied to the City's general facilities charges. Should the Owner not connect 100% of the Water Capacity Commitment, the Capacity Commitment payment shall be credited on a prorated percentage basis to the general facilities charges as they are levied.

10. Service Rates and Charges. In addition to the general facilities charges, the Owner agrees to pay for utility service rendered according to the rates for services applicable to properties outside the city limits as such rates exist (which is presently at 150% the rate charged to customers inside city limits) or as they may be hereafter amended or modified.

11. Annexation.

A. Owner understands that annexation of the property described on Exhibit 'A' to the City will result in the following consequences:

- i. Pierce County ordinances, resolutions, rules and regulations will cease to apply to the property upon the effective date of annexation;
- ii. City of Gig Harbor ordinances, resolutions, rules and regulations will apply to the property upon the effective date of annexation;
- iii. Water rates and charges will be reduced to the amounts listed in Title 13 for properties inside city limits;
- iv. Governmental services, such as police, fire and utility service will be provided to the property by the City of Gig Harbor upon the effective date of annexation;
- v. The property may be required to assume all or any portion of the existing City of Gig Harbor indebtedness, and property tax rates and assessments applicable to the property may be different from those applicable prior to the effective date of annexation;
- vi. Zoning and land use regulations applicable to the property after annexation may be different from those applicable to the property prior to annexation; and
- vii. All or any portion of the property may be annexed and the property may be annexed in conjunction with, or at the same time as, other property in the vicinity.

B. With full knowledge and understanding of these consequences of annexation and with full knowledge and understanding of Owner's decision to forego opposition to annexation of the property to the City of Gig Harbor, Owner agrees to sign a petition for annexation to the City of the property described on Exhibit "A" as provided in RCW 35.14.120, as it now exists or as it may hereafter be amended, at such time as the Owner is requested by the City to do so. The Owner also agrees and appoints the Mayor of the City as Owner's attorney-in-fact to execute an annexation petition on Owner's behalf in the event that Owner shall fail or refuse to do so and agrees that such signature shall constitute full authority from the Owner for annexation as if Owner had signed the petition himself. Owner further agrees not to litigate, challenge or in any manner contest, annexation to the City. This Agreement shall be deemed to be continuing, and if Owner's property is not annexed for whatever reason, including a decision by the City not to annex, Owner agrees to sign any and all subsequent petitions for annexations. In the event that any property described on Exhibit 'A' is subdivided into smaller lots, the purchasers of each subdivided lot shall be bound by the provisions of this paragraph.

12. Public Works Standards and Utility Regulations. Owner agrees to comply with all of the requirements of the City's public works standards relating to water and utility regulations when developing or redeveloping all or any part of the property described on Exhibit "A", and all other applicable water standards in effect at the time.

13. Liens. The Owner understands and agrees that delinquent payments under this agreement shall constitute a lien upon the above-described property. The lien shall be as provided in RCW 35.67.200, and shall be enforced in accordance with RCW 35.67.220 through RCW 35.67.290, all as now enacted or hereafter amended.

14. Termination for Noncompliance. In the event Owner fails to comply with any term or condition of this Agreement, the City shall have the right, at any time, to enter onto the Owner's property and for that purpose disconnect the water, in addition to any other remedies available to the City.

15. Waiver of Right to Protest LID. (If applicable)

A. Owner acknowledges that the entire property legally described in Exhibit 'A' would be specially benefited by the following improvements (specify):

**Cushman Pointe Plat**

B. Owner agrees to sign a petition for the formation of an LID or ULID for the specified improvements at such time as one is circulated and Owner hereby appoints the Mayor of the City as his attorney-in-fact to sign such a petition in the event Owner fails or refuses to do so.

C. With full understanding of Owner's right to protest formation of an LID or ULID to construct such improvements pursuant to RCW 35.43.180, Owner agrees to participate in any such LID or ULID and to waive his right to protest formation of the same. Owner shall retain the right to contest the method of calculating any assessment and the amount thereof, and shall further retain the right to appeal the decision of the City Council affirming the final assessment roll to the superior court. Notwithstanding any other provisions of this Agreement, this waiver of the right to protest shall only be valid for a period of ten (10) years from the date this Agreement is signed by the Owner.

16. Specific Enforcement. In addition to any other remedy provided by law or this Agreement, the terms of this Agreement may be specifically enforced by a court of competent jurisdiction.

17. Covenant. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The Owner, and every purchaser, assignee or transferee of an interest in the Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of the Owner contained in this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned or transferred to it. All costs of recording this Agreement with the Pierce County Auditor shall be borne by the Owner.

18. Attorney's Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. In any suit or action seeking to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other remedy provided by law or this agreement. Venue of such action shall lie in Pierce County Superior Court or the U.S. District Court for Western Washington.

19. Notices. Notices and correspondence to the City and Owner shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated below. Notice to any person who purchases any portion of the Property from the Owner shall be required to be given by the City only for those property purchasers who provide the City with written notice of their address. The parties hereto may, from time to time, advise the other of any new addresses for notice and correspondence.

TO THE CITY:

City Administrator  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

TO THE OWNER:

Block Land, LLC  
6622 Wollochet Drive  
Gig Harbor, WA 98335

[Remainder of page intentionally left blank.]

20. Severability and Integration. This Agreement and the Exhibits attached hereto constitute the agreement between the parties on this subject matter, and there are no other understandings, verbal or written, that modify the terms of this Agreement. If any phrase, provision, or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of this Agreement, such invalidity shall not affect the other terms of this Agreement.

DATED this 12 day of May, 2015.

OWNER:

By: Gordon Rush

Printed: Gordon Rush

Its Managing member

(Owner, President, Managing Member)

CITY OF GIG HARBOR

By: Jill Guernsey

Printed: Jill Guernsey

Its Mayor

Attest:

Molly Towslee

City Clerk, Molly Towslee

Approved as to form:

Office of the City Attorney

Aug 5/15

STATE OF WASHINGTON

)

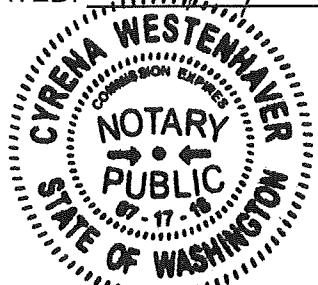
COUNTY OF PIERCE

) ss.  
)

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

DATED:

5/5/15



Cyrena Westenhaver  
Printed: CYRENA WESTENHAVER  
Notary Public in and for Washington  
Residing at: GIG HARBOR  
My appointment expires: 7/17/18

STATE OF WASHINGTON )  
COUNTY OF PIERCE ) ss.  
                    )

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

DATED: May 12, 2015

Molly Towslee  
Printed: Molly Towslee  
Notary Public in and for Washington  
Residing at Gig Harbor  
My appointment expires: 12/2/15



EXHIBIT A  
PROPERTY LEGAL DESCRIPTON

PARCELS "A" AND "B" OF PIERCE COUNTY BOUNDARY LINE ADJUSTMENT 9406010704, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 21 NORTH, RANGE 02 EAST OF THE W.M., IN PIERCE COUNTY, WASHINGTON.

EXCEPT J.S. REID COUNTY ROAD.

TOGETHER WITH THE FOLLOWING:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 21 NORTH, RANGE 02 EAST OF THE W.M., IN PIERCE COUNTY, WASHINGTON; THENCE EAST, 625.3 FEET; THENCE NORTH, 1043.3 FEET; THENCE WEST, 625.3 FEET; THENCE SOUTH, 1043.3 FEET TO THE PLACE OF BEGINNING.

EXCEPT THAT PORTION OF SAID TRACT HERETOFORE CONVEYED TO THE CITY OF TACOMA FOR USE AS A RIGHT OF WAY FOR A LIGHT AND POWER TRANSMISSION LINE OVER AND ACROSS A PART OF SAID TRACT.

ALSO EXCEPT THAT PORTION OF SAID TRACT HERETOFORE CONVEYED TO THE STATE OF WASHINGTON FOR USE AS A RIGHT OF WAY FOR THE NARROWS BRIDGE STATE HIGHWAY OVER AND UPON SAID TRACT.

ALSO EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON BY DEED RECORDED APRIL 29, 1957 UNDER RECORDING NO. 1785847.

AND ALSO EXCEPT ALL THAT PORTION OF THE FOLLOWING DESCRIBED PARCEL, LYING SOUTHWESTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OPPOSITE HIGHWAY ENGINEER'S STATION, 1094+20.94 AND 250 FEET, NORTHEASTERLY THEREFROM, WHEN MEASURED AT RIGHT ANGLES AND/OR TO THE CENTER LINE OF SR 16, MILE POST 8.34 TO MILE POST 18.87, NARROWS BRIDGE TO OLYMPIC DRIVE; THENCE NORtherly TO A POINT OPPOSITE HIGHWAY ENGINEER'S STATION BR2 2+10.66 AND 179.20 FEET NORTHEASTERLY FROM THE BR2 LINE OF SAID HIGHWAY AND THE END OF THIS LINE DESCRIPTION.

**EXHIBIT B**  
**PROPERTY LOCATION MAP**

## C.E.S. NW INC.

**CIVIL ENGINEERING & SURVEYING**

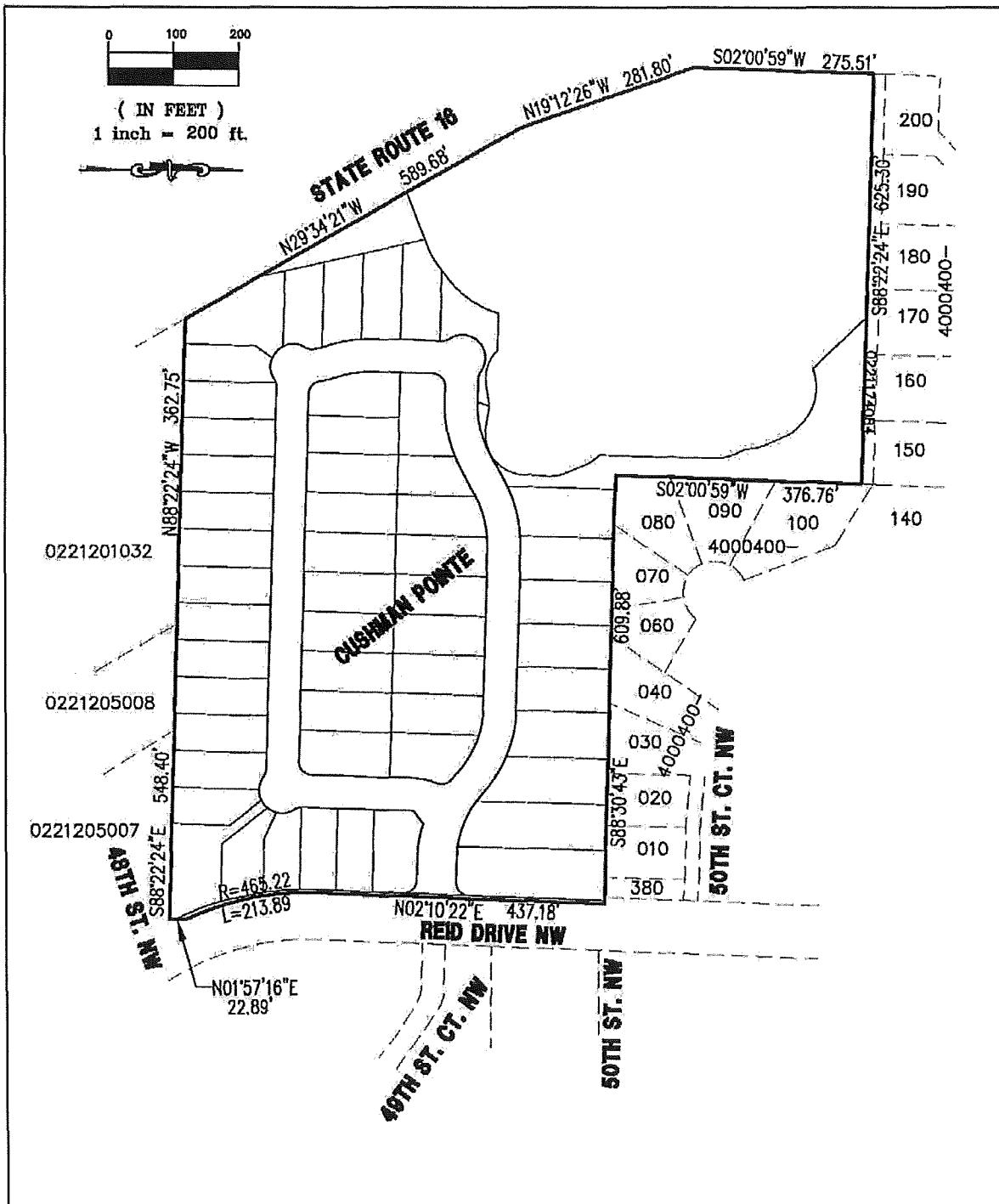
310 - 29TH ST. NE, SUITE  
101 PUYALLUP, WA 98372

## CUSHMAN POINTE

**EXHIBIT MAP**

**EXHIBIT**

04-22-15



RECEIVED BY

MAY 06 2015

CITY OF GIG HARBOR

AFTER RECORDING RETURN TO:

The 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):**

Sewer Utility Extension Agreement and Agreement Waiving Right to Protest LID

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

Block Land, LLC.

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

City of Gig Harbor

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

Assessor's Property Tax Parcel or Account Number: 0221174086 and 0221174087

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

**SEWER UTILITY EXTENSION AGREEMENT  
AND AGREEMENT WAIVING RIGHT TO PROTEST LID**

THIS AGREEMENT is entered into this 12 day of May, 2015, between the City of Gig Harbor, Washington, a municipal corporation of the State of Washington (the "City"), and Block Land, LLC., a Washington limited liability corporation (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 desires to connect to the City sewer utility system, hereafter referred to as the "utility," and the City is willing to allow connection only upon certain terms and conditions in accordance with Title 13 of the Gig Harbor Municipal Code, as now enacted or hereinafter amended; and

WHEREAS, the Owner's property is located in the utility's sewer basin No. 9, which contains the utility's existing sewer pump station No. 9; and

WHEREAS, as shown by the Owner, the existing sewer pump station No. 9 does not have adequate capacity to provide emergency storage with the addition of the Owner's proposed improvements; and

WHEREAS, the Owner and the City agree that additional wetwell storage volume at the existing sewer pump station No. 9 is necessary to accommodate the Owner's proposed improvements; and

WHEREAS, on May 11, 2015, the City Council held a public hearing on this Utility Extension Agreement; NOW, THEREFORE,

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

**TERMS**

1. Warranty of Title. The Owner warrants that Owner is the owner of the property described in Exhibit 'A', which is attached hereto and incorporated herein by this reference, and is authorized to enter into this Agreement.

2. Extension Authorized. The City hereby authorizes the Owner to extend service to Owner's property along Reid Drive NW upon receipt of an approved Pierce County encroachment permit as allowed through the City's franchise agreement with Pierce County.

3. Costs. Owner will pay all costs of designing, engineering and constructing the extension. All construction shall be done to City and/or Pierce County standards and according to plans approved by the City Engineer. Any and all costs incurred by the City in reviewing plans and inspecting construction shall be paid for by the Owner.

4. Sewer Capacity Commitment. The City agrees to provide to the Owner sewer utility service and hereby reserves to the Owner the right to discharge to the City's sewage system 52 single family units for a total of 52 additional sewer ERU's; provided however, that the City retains the authority to temporarily suspend such capacity where necessary to protect public health and safety, or where required to comply with the City's NPDES permit, or any other permits required by any agency with jurisdiction. These capacity rights are allocated only to the Owner's system as herein described. Any modification to this system must first be approved by the City. Capacity rights acquired by the Owner pursuant to this Agreement shall not constitute ownership by the Owner of any facilities comprising the City sewage system. The City agrees to reserve to the Owner this capacity as set forth in GHMC 13.34.030.

5. Capacity Commitment Payment.

A. The Owner agrees to pay the City the sum of \$99,918, which is fifteen percent (15%) of the current general facilities charge, to reserve the above specified capacity. This payment shall reserve the specified capacity for a period of up to three years from the date of this agreement. At the time of actual connection, per GHMC 13.34.040(7), the Owner shall pay the difference between what was paid for the capacity commitment payment and the actual cost of the current general facilities charge.

B. In the event the Owner has not made connection to the City's utility system by the date set forth above and no extension of the commitment period occurs as outlined below, or if this agreement expires in accordance with Section 7 of this agreement, such capacity commitment shall expire and the Owner shall forfeit one hundred percent (100%) of this capacity commitment payment to cover the City's administrative and related expenses.

C. In the event the Pierce County Boundary Review Board should not approve extension of the City's sewer system prior to the expiration of the commitment period, the Owner shall be entitled to a refund of the capacity commitment payment (without interest), less a five percent (5%) administrative fee.

6. Extension of Commitment Period. The Owner may extend the capacity commitment payment for the life of the underlying development application or the underlying development approval upon payment of a capacity commitment payment of 100% of the value of the current general facilities charge. At the time of actual connection, per GHMC 13.34.040(7), if the sewer general facilities charge has increased, the Owner shall pay the difference between what was paid for the extension of the capacity commitment payment and the actual cost of the current general facilities charge.

7. Mitigation. Due to the need for additional wetwell storage volume at the existing sewer pump station No. 9 to accommodate the Owner's proposed improvements, the Owner shall provide the City a pro-rata share payment for the design, permitting, and construction of the additional wetwell storage volume. This payment shall be in the amount of \$79,573 based on the opinion of probable construction cost identified in Exhibit "C" and be paid to the City within three years from the date of this agreement or prior to final plat approval, whichever comes first. Failure

to pay the pro-rata share within the timeframe outlined above shall cause this utility extension agreement to expire.

8. Permits; Easements. Owner shall secure and obtain, at Owner's sole cost and expense, any and all necessary permits, easements, approvals, and licenses to construct the extension in Reid Drive NW, including, but not limited to, all necessary easements, excavation permits, street use permits, or other permits required by state, county and city governmental departments including, but no limited to, the Pierce County Public Works Department, Pierce County Environmental Health Department, State Department of Ecology, Pierce County Boundary Review Board, and City of Gig Harbor.

9. Turn Over of Capital Facilities. If the extension of utility service to Owner's property involves the construction of sewer main lines, pump stations, wells, and/or other City required capital facilities, the Owner agrees if required by the City to turn over and dedicate such facilities to the City, at no cost, upon the completion of construction and approval and acceptance of the same by the City. As a prerequisite to such turn over and acceptance, the Owner will furnish to the City the following:

- A. Record drawings in a form acceptable to the City Engineer;
- B. Any necessary easements, permits or licenses for the continued operation, maintenance, repair or reconstruction of such facilities by the City, in a form approved by the City Attorney;
- C. A bill of sale in a form approved by the City Attorney; and
- D. A bond or other suitable security in a form approved by the City Attorney and in an amount approved by the City Engineer, ensuring that the facilities will remain free from defects in workmanship and materials for a period of two years.

10. General Facilities Charges. The Owner agrees to pay the applicable general facilities charges, in addition to any costs of construction, as a condition of connecting to the City utility system. This payment shall be made at the rate schedules for charges outside the city limits (which is presently at 150% the rate charged to customers inside city limits) applicable at the time the Owner physically connects his/her property to the system. Any commitment payment that has not been forfeited shall be applied to the City's general facilities charges. Should the Owner not connect 100% of the Sewer Capacity Commitment, the Capacity Commitment payment shall be credited on a prorated percentage basis to the general facilities charges as they are levied.

11. Service Rates and Charges. In addition to the general facilities charges, the Owner agrees to pay for utility service rendered according to the rates for services applicable to properties outside the city limits as such rates exist (which is presently at 150% the rate charged to customers inside city limits) or as they may be hereafter amended or modified.

12. Annexation.

A. Owner understands that annexation of the property described on Exhibit 'A' to the City will result in the following consequences:

- i. Pierce County ordinances, resolutions, rules and regulations will cease to apply to

- the property upon the effective date of annexation;
- ii. City of Gig Harbor ordinances, resolutions, rules and regulations will apply to the property upon the effective date of annexation;
- iii. Sewer rates and charges will be reduced to the amounts listed in Title 13 for properties inside city limits;
- iv. Governmental services, such as police, fire and utility service will be provided to the property by the City of Gig Harbor upon the effective date of annexation;
- v. The property may be required to assume all or any portion of the existing City of Gig Harbor indebtedness, and property tax rates and assessments applicable to the property may be different from those applicable prior to the effective date of annexation;
- vi. Zoning and land use regulations applicable to the property after annexation may be different from those applicable to the property prior to annexation; and
- vii. All or any portion of the property may be annexed and the property may be annexed in conjunction with, or at the same time as, other property in the vicinity.

B. With full knowledge and understanding of these consequences of annexation and with full knowledge and understanding of Owner's decision to forego opposition to annexation of the property to the City of Gig Harbor, Owner agrees to sign a petition for annexation to the City of the property described on Exhibit "A" as provided in RCW 35.14.120, as it now exists or as it may hereafter be amended, at such time as the Owner is requested by the City to do so. The Owner also agrees and appoints the Mayor of the City as Owner's attorney-in-fact to execute an annexation petition on Owner's behalf in the event that Owner shall fail or refuse to do so and agrees that such signature shall constitute full authority from the Owner for annexation as if Owner had signed the petition himself. Owner further agrees not to litigate, challenge or in any manner contest, annexation to the City. This Agreement shall be deemed to be continuing, and if Owner's property is not annexed for whatever reason, including a decision by the City not to annex, Owner agrees to sign any and all subsequent petitions for annexations. In the event that any property described on Exhibit 'A' is subdivided into smaller lots, the purchasers of each subdivided lot shall be bound by the provisions of this paragraph.

13. Public Works Standards and Utility Regulations. Owner agrees to comply with all of the requirements of the City's public works standards relating to sewer and utility regulations when developing or redeveloping all or any part of the property described on Exhibit "A", and all other applicable sewerage standards in effect at the time.

14. Liens. The Owner understands and agrees that delinquent payments under this agreement shall constitute a lien upon the above-described property. The lien shall be as provided in RCW 35.67.200, and shall be enforced in accordance with RCW 35.67.220 through RCW 35.67.290, all as now enacted or hereafter amended.

15. Termination for Noncompliance. In the event Owner fails to comply with any term or condition of this Agreement, the City shall have the right, at any time, to enter onto the Owner's property and for that purpose disconnect the sewer, in addition to any other remedies available to the City.

16. Waiver of Right to Protest LID. (If applicable)

A. Owner acknowledges that the entire property legally described in Exhibit 'A' would be specially benefited by the following improvements (specify):

**Cushman Pointe Plat**

B. Owner agrees to sign a petition for the formation of an LID or ULID for the specified improvements at such time as one is circulated and Owner hereby appoints the Mayor of the City as his attorney-in-fact to sign such a petition in the event Owner fails or refuses to do so.

C. With full understanding of Owner's right to protest formation of an LID or ULID to construct such improvements pursuant to RCW 35.43.180, Owner agrees to participate in any such LID or ULID and to waive his right to protest formation of the same. Owner shall retain the right to contest the method of calculating any assessment and the amount thereof, and shall further retain the right to appeal the decision of the City Council affirming the final assessment roll to the superior court. Notwithstanding any other provisions of this Agreement, this waiver of the right to protest shall only be valid for a period of ten (10) years from the date this Agreement is signed by the Owner.

17. Specific Enforcement. In addition to any other remedy provided by law or this Agreement, the terms of this Agreement may be specifically enforced by a court of competent jurisdiction.

18. Covenant. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The Owner, and every purchaser, assignee or transferee of an interest in the Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of the Owner contained in this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned or transferred to it. All costs of recording this Agreement with the Pierce County Auditor shall be borne by the Owner.

19. Attorney's Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. In any suit or action seeking to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other remedy provided by law or this agreement. Venue of such action shall lie in Pierce County Superior Court or the U.S. District Court for Western Washington.

20. Notices. Notices and correspondence to the City and Owner shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated below. Notice to any person who purchases any portion of the Property from the Owner shall be required to be given by the City only for those property purchasers who provide the City with written notice of their address. The parties hereto may, from time to time, advise the other of any new addresses for notice and correspondence.

TO THE CITY:

City Administrator  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

TO THE OWNER:

Block Land, LLC  
6622 Wollochet Drive  
Gig Harbor, WA 98335

21. Severability and Integration. This Agreement and the Exhibits attached hereto constitute the agreement between the parties on this subject matter, and there are no other understandings, verbal or written, that modify the terms of this Agreement. If any phrase, provision, or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of this Agreement, such invalidity shall not affect the other terms of this Agreement.

DATED this 5<sup>12</sup> day of MAY, 2015.

OWNER:

By: Gordon Rush

Printed: Gordon Rush

Its Managing Member  
(Owner, President, Managing Member)

CITY OF GIG HARBOR

By: Jill Guernsey

Printed: Jill Guernsey

Its Mayor

Attest:

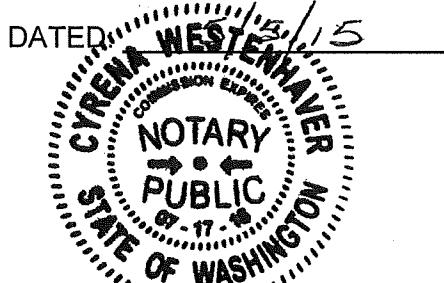
Molly Towslee  
City Clerk, Molly Towslee

Approved as to form:  
Office of the City Attorney

Aug 18, 2015

STATE OF WASHINGTON )  
COUNTY OF PIERCE ) ss.  
)

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



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

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

DATED: May 12, 2015



Cyrena Westenhaver  
Printed: CYRENA WESTENHAVER  
Notary Public in and for Washington  
Residing at: GIG HARBOR, WA.  
My appointment expires: 7/17/18

Molly M. Towslee  
Printed: Molly M. Towslee  
Notary Public in and for Washington  
Residing at: Gig Harbor  
My appointment expires: 12/2/15

EXHIBIT A  
PROPERTY LEGAL DESCRIPTON

PARCELS "A" AND "B" OF PIERCE COUNTY BOUNDARY LINE ADJUSTMENT 9406010704, MORE PARTICULARY DESCRIBED AS FOLLOWS:

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 21 NORTH, RANGE 02 EAST OF THE W.M., IN PIERCE COUNTY, WASHINGTON.

EXCEPT J.S. REID COUNTY ROAD.

TOGETHER WITH THE FOLLOWING:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 21 NORTH, RANGE 02 EAST OF THE W.M., IN PIERCE COUNTY, WASHINGTON; THENCE EAST, 625.3 FEET; THENCE NORTH, 1043.3 FEET; THENCE WEST, 625.3 FEET; THENCE SOUTH, 1043.3 FEET TO THE PLACE OF BEGINNING.

EXCEPT THAT PORTION OF SAID TRACT HERETOFORE CONVEYED TO THE CITY OF TACOMA FOR USE AS A RIGHT OF WAY FOR A LIGHT AND POWER TRANSMISSION LINE OVER AND ACROSS A PART OF SAID TRACT.

ALSO EXCEPT THAT PORTION OF SAID TRACT HERETOFORE CONVEYED TO THE STATE OF WASHINGTON FOR USE AS A RIGHT OF WAY FOR THE NARROWS BRIDGE STATE HIGHWAY OVER AND UPON SAID TRACT.

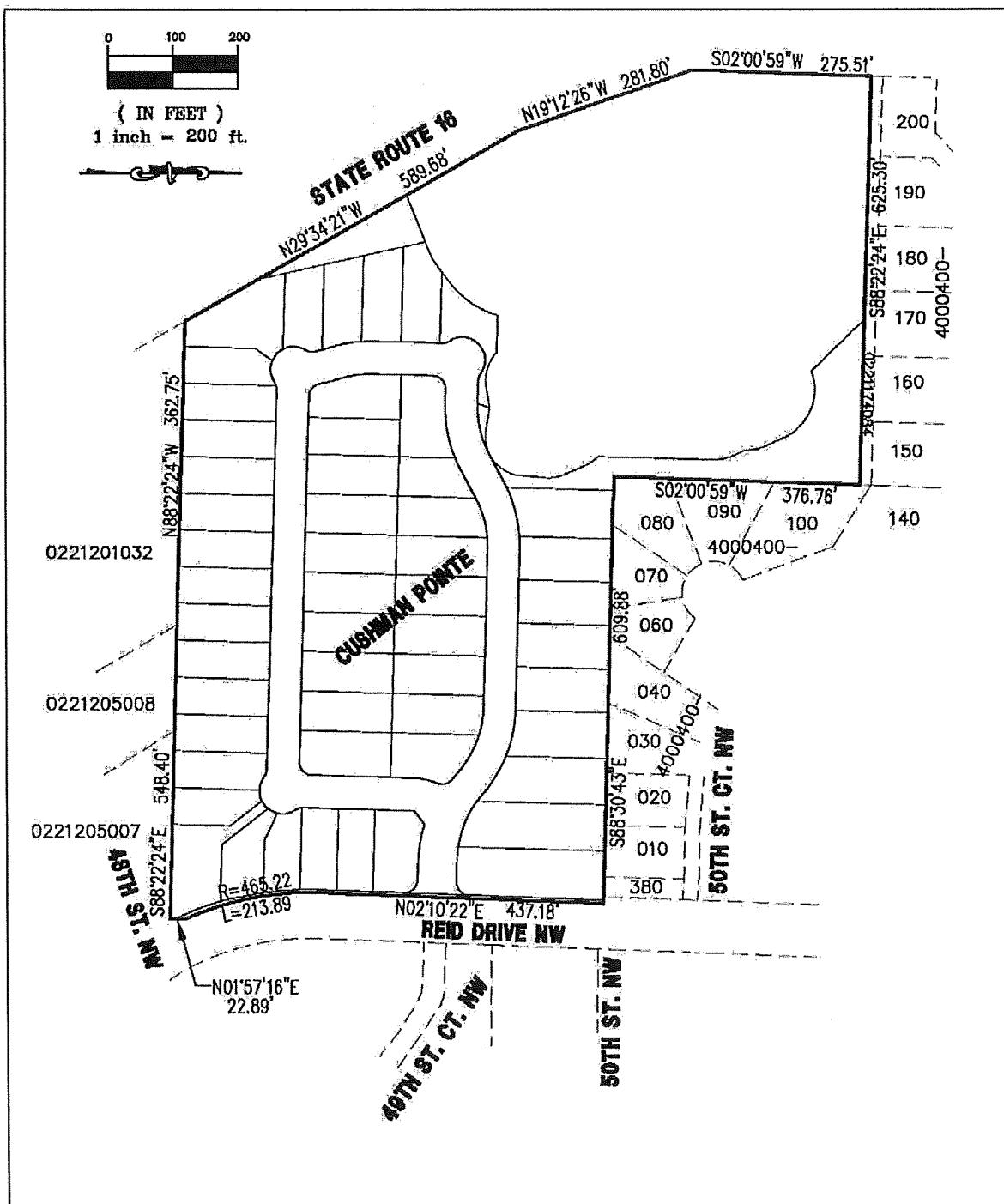
ALSO EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON BY DEED RECORDED APRIL 29, 1957 UNDER RECORDING NO. 1785847.

AND ALSO EXCEPT ALL THAT PORTION OF THE FOLLOWING DESCRIBED PARCEL, LYING SOUTHWESTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OPPOSITE HIGHWAY ENGINEER'S STATION, 1094+20.94 AND 250 FEET, NORTHEASTERLY THEREFROM, WHEN MEASURED AT RIGHT ANGLES AND/OR TO THE CENTER LINE OF SR 16, MILE POST 8.34 TO MILE POST 18.87, NARROWS BRIDGE TO OLYMPIC DRIVE; THENCE NORtherly TO A POINT OPPOSITE HIGHWAY ENGINEER'S STATION BR2 2+10.66 AND 179.20 FEET NORTHEASTERLY FROM THE BR2 LINE OF SAID HIGHWAY AND THE END OF THIS LINE DESCRIPTION.

EXHIBIT B  
PROPERTY LOCATION MAP

<p><b>C.E.S. NW INC.</b> CIVIL ENGINEERING &amp; SURVEYING 310 - 29TH ST. NE, SUITE 101 PUYALLUP, WA 98372 Bus: (253) 548-4282 Fax: (253) 548-4278</p>	<p><b>CUSHMAN POINTE</b> EXHIBIT MAP</p>	EXHIBIT <b>X1</b> 04-22-15
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**Exhibit C****City's Opinion of Probable Construction Costs****Remove Existing Wetwell and Install New Wetwell**

Item	Qty	Unit Cost	Unit	Extended Amount
Design	1	\$6,000	LS	\$6,000
Permitting	1	\$2,000	LS	\$2,000
Construction Testing	1	\$2,500	LS	\$2,500
Mobilization/demobilization	1	\$7,000	LS	\$7,000
Construction Surveying	1	\$1,500	LS	\$1,500
Erosion Control Measures	1	\$1,000	LS	\$1,000
72" Wetwell	1	\$10,000	LS	\$10,000
Manhole Interior Coating	386	\$30	SF	\$11,580
Concrete Fillet	40	\$20	CF	\$800
Excavation	50	\$50	CY	\$2,500
8" Sewer Pipe	10	\$150	LF	\$1,500
Site Restoration	1	\$1,500	LS	\$1,500
Hauling	1	\$2,300	LS	\$2,300
Shoring	1	\$3,000	LS	\$3,000
Bypass pumping	1	\$4,000	LS	\$4,000
Traffic control	1	\$1,000	LS	\$1,000
Soil Testing	1	\$1,500	LS	\$1,500
Disposal	1	\$2,100	LS	\$2,100

Subtotal = \$61,780  
Contingency (20%) = \$12,356  
Sales Tax (8.8%) = \$5,437  
**Total = \$79,573**