RESOLUTION NO. 1138

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, SETTING A PUBLIC HEARING FOR THE VACATION OF A PORTION OF WOODWORTH AVENUE.

WHEREAS, Richard L. Ammerman desires to initiate the procedure for the vacation of a portion of Woodworth Avenue, a portion of the original August 22, 1890 plat of Woodworth's Addition to Gig Harbor City;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gig Harbor, Washington:

Section 1. A public hearing upon said street vacation shall be held in the council chambers of Gig Harbor Civic Center on Monday, February 25, 2019 at 5:30 p.m., at which hearing all persons interested in said street vacation are invited to appear.

Section 2. The City Clerk is directed to post notices of the hearing in three public places and on the street to be vacated and to mail notices to all owners of any property abutting the portion of street to be vacated, pursuant to RCW 35.79.020.

PASSED this 14th day of January, 2019.

Kit Kuhn

Kit Kuhn, Mayor

ATTEST:

Molly Towslee

Molly M. Towslee, City Clerk

FILED WITH THE CITY CLERK: December 19, 2018
PASSED BY THE CITY COUNCIL: January 14, 2019
RESOLUTION NO. 1138

THORNTON
LAND SURVEYING, INC.

8803 State Highway 16
PO Box 249
Gig Harbor, WA 98335
T 253 858 8106
F 253 858 7466
thorntonls.com

19 June 2018

Mr. Willie Hendrickson
Engineering Technician
3510 Grandview Street
Gig Harbor, WA 98335

RE: Vacation of portion of Woodworth Ave right-of-way

Dear Mr. Hendrickson,

This letter serves as an official request to vacate a 33-foot wide strip of Woodworth Avenue abutting my property at 9114 Prentice Avenue, in the City of Gig Harbor. This right-of-way along with my property was created from the plat called "Woodworth's Addition to Gig Harbor City", in volume 5 of plats, page 66, records of Pierce county auditor. This portion of Woodworth Avenue abutting my property at parcel number 9815000181 have never been used as streets, nor have they been constructed.

Under the City of Gig Harbor's Municipal Code 12.14.018.C, which sites the "vacations of streets and alleys subject to 1889-90 Laws of Washington, Chapter 19, Section 32 (Non-user statue)", that portion of Woodworth Avenue right-of-way abutting our parcel has adversely, by operation of law, become ours legally since these right-of-way's were never opened nor used for their original purpose.

In light of this information, we wish to request that portion of Woodworth Avenue abutting my property be vacated. See attached drawings depicting the original location of the subject portion of Woodworth Avenue right-of-way in relation to our parcel.

Thank you for your assistance.

Sincerely,

Richard Ammerman

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PROPOSED
LEGAL DESCRIPTION

RIGHT-OF-WAY THAT WILL ATTACH BY OPERATION OF LAW TO AMMERMAN ADJOINER FOLLOWING VACATION OF A PORTION OF WOODWORTH AVENUE, GIG HARBOR, WASHINGTON, BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST, W. M., IN THE CITY OF GIG HARBOR, WASHINGTON, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EAST HALF OF WOODWORTH AVENUE, PER THE PLAT OF WOODWORTH'S ADDITION TO GIG HARBOR CITY, RECORDED IN VOLUME 5 OF PLATS AT PAGE 66, RECORDS OF PIERCE COUNTY, WASHINGTON, ADJACENT TO AND ABUTTING LOT 5, BLOCK 5 OF SAID PLAT.

BAY VIEW LN
9126 PRENTICE AV
Woodworth Ave.
Street Vacation
Location
9114 PRENTICE AV
WOODWORTH AVE
PRENTICE AVE
N
W
E
S

201810020008 MBALLAR 6 PGS
10/02/2018 08:12:01 AM $104.00
AUDITOR, Pierce County, WASHINGTON

Name & Return Address:

L. Paul Alvestad
GORDON & ALVESTAD, PLLC
7191 Wagner Way NW, Ste. 202
Gig Harbor, WA 98335

Please print legibly or type information.

Document Title(s) **ROAD EASEMENT AGREEMENT**
Grantor(s) **1. RICHARD L. AMMERMAN, an unmarried person** **2. JORGENSON GH, LLC, a Washington limited liability company** **___ Additional Names on Page ____ of Document**
Grantee(s) **1. RICHARD L. AMMERMAN, an unmarried person** **2. JORGENSON GH, LLC, a Washington limited liability company** **___ Additional Names on Page ____ of Document**
Legal Description (Abbreviated: i.e., lot, block & subdivision name or number OR section/township/range and quarter/quarter section) **Section 06 Township 21 Range 02 Quarter 11** **Complete Legal Description on Page ____ of Document**
Auditor's Reference Number(s)
Assessor's Property Tax Parcel/Account Number(s) **981-500-0181 and 981-500-0170**
The Auditor/Recorder will rely on the information provided on this cover sheet. The Staff will not read the document to verify the accuracy or completeness of the indexing information provided herein. **I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.** _____ **Signature of Requesting Party (Required for non-standard recordings only)** **Gpcovst.doc rev 4/02**

EXCISE TAX EXEMPT DATE 10/2/18
Pierce County

By Marissa Pollard **Auth. Sig**

ROAD EASEMENT AGREEMENT

For the mutual benefit of both of those parcels of property hereinafter described and other good and valuable consideration in hand paid, receipt of which is hereby acknowledged, Grantor, **RICHARD L. AMMERMAN**, an unmarried person, hereby grants, conveys and warrants to Grantee, **JORGENSON GH LLC**, a Washington limited liability company, their successors and assigns, a perpetual, non-exclusive easement relative to the properties legally described as follows:

Ammerman Parcel- No: 9815000181

Parcel A:

LOT 5, BLOCK 5, WOODWORTHS ADDITION TO GIG HARBOR CITY, PIERCE COUNTY, WASHINGTON, ACCORDING TO PLAT RECORDED IN BOOK 5 OF PLATS AT PAGE 66, IN PIERCE COUNTY, WASHINGTON.

Parcel B:

A TRACT OF LAND IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST, OF THE W.M., IN PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
BEGINNING THE INTERSECTION OF THE WESTERLY LINE OF CHESTER STREET WITH THE SOUTH LINE OF WOODWORTHS ADDITION TO GIG HARBOR CITY, PIERCE COUNTY, WASHINGTON, ACCORDING TO PLAT RECORDED IN BOOK 5 OF PLATS AT PAGE 66;
THENCE WEST 140 FEET TO THE EAST LINE OF FLORENCE STREET;
THENCE SOUTHERLY ALONG THE EASTERLY LIEN OF FLORENCE STREET PRODUCED TO THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER;
THENCE NORTH 86°42'00" EAST ALONG SAID SOUTH LINE TO THE WESTERLY LINE OF FOREST STREET PRODUCED;
THENCE NORTHEASTERLY ALONG SAID WESTERLY LINE PRODUCED TO THE POINT OF BEGINNING.

Together with the following described property (the "Vacated Portions"):

RIGHT-OF-WAY THAT WILL ATTACH BY OPERATION OF LAW TO AMMERMAN ADJOINER FOLLOWING VACATION OF A PORTION OF WOODWORTH AVENUE, GIG HARBOR, WASHINGTON, BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 1 EAST, W.M., IN THE CITY OF GIG HARBOR, WASHINGTON, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EAST HALF OF WOODWORTH AVENUE, PER THE PLAT OF WOODWORTH'S ADDITION TO GIG HARBOR CITY, RECORDED IN VOLUME 5 OF PLATS AT PAGE 66, RECORDS OF PIERCE COUNTY, WASHINGTON, ADJACENT TO AND ABUTTING LOT 5, BLOCK 5 OF SAID PLAT.

(hereinafter referred to as "Servient Estate")

Jorgenson Parcel - No: 9815000170

LOT 4, BLOCK 5, WOODWORTH'S ADDITION TO GIG HARBOR CITY, PIERCE COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK 5 OF PLATS PAGE 66, IN PIERCE COUNTY WASHINGTON.

SUBJECT TO: TERMS AND CONDITIONS OF ORDINANCE NO. 1142 OF THE CITY OF GIG HARBOR VACATING A PORTION OF WOOODWORTH AVENUE RECORDED OCTOBER 20, 2008

(hereinafter referred to as "Dominant Estate")

This Easement shall be over and across that portion of the Servient Estate legally described as follows:

RIGHT-OF-WAY THAT WILL ATTACH BY OPERATION OF LAW TO AMMERMAN ADJOINER FOLLOWING VACATION OF A PORTION OF WOODWORTH AVENUE, GIG HARBOR, WASHINGTON, BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST, W. M., IN THE CITY OF GIG HARBOR, WASHINGTON, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EAST HALF OF WOODWORTH AVENUE, PER THE PLAT OF WOODWORTH'S ADDITION TO GIG HARBOR CITY, RECORDED IN VOLUME 5 OF PLATS AT PAGE 66, RECORDS OF PIERCE COUNTY, WASHINGTON, ADJACENT TO AND ABUTTING LOT 5, BLOCK 5 OF SAID PLAT.

The Easement is for the following purposes and contains the following conditions and restrictions:

1. Grant and Description and Location of Easements. The Grantor hereby grants to Grantee a non-exclusive, perpetual easement across, along, in, and upon Grantor's property for the purpose of ingress and egress on the Vacated Portion of the Servient Estate and is limited to the existing concrete driveway running approximately southwest to northeast on the Vacated Portion and depicted in the Survey recorded under Pierce County AFN 201808295008.

2. Third-Party Rights. Grantor reserves all rights with respect to the Servient Estate, including, without limitation, the right to grant licenses and permits to others subject to the rights granted in this Agreement. This Easement shall not be deemed to grant to Grantee any rights except as expressly stated herein

3. Non-Exclusive Rights. Nothing herein shall limit Grantor's rights to use or occupy the real property subject to the Easement granted herein, or grant to any other person any right of use or occupancy with respect thereto, provided such exercise of Grantor's rights does not unreasonably interfere with the rights granted to Grantee hereunder.

4. Indemnification. Grantee shall indemnify, defend and hold harmless Grantor and their agents from and against any claim, liability, loss or damages arising out of or relating to (i) Grantee's or his agent's, invitee's or licensee's use or occupancy of the Easement and the real property subject to the Easement, (ii) Grantee's exercise of his rights hereunder, or (iii) any breach by Grantee or any of his agent's, invitee's or licensee's of any provision hereof.

5. Construction of Improvements on Easement Area. Grantee shall construct, maintain and repair any roadway improvements within the Easement area solely at his own expense. All construction work shall be conducted so as not to interfere with Grantor's use of the Servient Estate. No other improvements can be made by the Grantee..

6. Compliance with Government Mandates. Grantee shall at all times exercise their rights herein in accordance with the requirements of all applicable statutes, ordinances, rules and regulations of any public authority having jurisdiction.

7. Dispute Resolution / Venue. Any disagreement, dispute, controversy, or claim arising out of or relating to this Easement or the interpretation of validity hereof shall be settled exclusively and finally by arbitration in accordance with RCW 7.04 as now in effect or hereafter

amended. The parties to this Easement agree that the proper venue of any action on this Easement shall be in Pierce County, Washington.

8. Run with the Land. This Easement shall run with the land and the rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors and assigns.

DATED this 21 day of September, 2018.

GRANTOR:

Richard L. Ammerman

GRANTEE:

JORGENSON GH, LLC, a Washington limited liability company

By _____
Scott Jorgenson, Governor

By Staci Jorgenson
Staci Jorgenson, Governor

STATE OF WASHINGTON)
) ss.
County of Pierce)

On this day personally appeared before me RICHARD L. AMMERMAN, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he executed said instrument as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 21st day of Sept., 2018.

DIANA K WAXLER NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 10-18-20

Diana Kay Waxler
NOTARY PUBLIC
Print Name: DIANA KAY WAXLER
My appointment expires: 10-18-20

STATE OF WASHINGTON)
) ss.
County of Pierce)

I certify that I know or have satisfactory evidence that SCOTT JORGENSON is the person who appeared before me, and said person acknowledged he signed this instrument, and on oath stated that he was

authorized to execute the instrument and acknowledged it as a Member of JORGENSON GH, LLC to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: Sept. 25, 2018.

Diana Kay Waxler
NOTARY PUBLIC
Print Name: DIANA KAY WAXLER
My appointment expires: 10-18-20

STATE OF WASHINGTON)
) ss.
County of Pierce)

I certify that I know or have satisfactory evidence that STACI JORGENSON is the person who appeared before me, and said person acknowledged she signed this instrument, and on oath stated that she was authorized to execute the instrument and acknowledged it as a Member of JORGENSON GH, LLC to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: Sept. 25, 2018.

Diana Kay Waxler
NOTARY PUBLIC
Print Name: DIANA KAY WAXLER
My appointment expires: 10-18-20

GIG HARBOR

"THE MARITIME CITY"

VACATION OF STREETS AND ALLEYS

GIG HARBOR MUNICIPAL CODE CHAPTER 12.14

Name: Dick Ammerman Date: 12/4/2018

Site address: 9114 Prentice Ave

Phone Number: 253-224-0194 Parcel Number: 9815000181

OWNER REQUIREMENTS

- ✓ The petition or resolution shall be filed with the city clerk, and the petition shall be signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated. **SUBMITTED**
- ✓ Nonrefundable payment to the City of a pre-hearing fee of $150.00, to defray the administrative cost incurred in processing such vacation petitions. **SUBMITTED**
- ✓ Legal description prepared by a Licensed Surveyor of area to be vacated. **SUBMITTED**
- ✓ Site map prepared by a Licensed Surveyor. **SUBMITTED**
- ✓ Compensation to the City for vacation if applicable [GHMC § 12.14.018]. Compensation not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)]. **NOT REQUIRED**

CITY REVIEW

- ✓ Determine Non-user Statute application. **WOODWORTHS ADDITION – AUGUST, 1890**
- ✓ Verify all information provided in the petition, legal description, location map, and site map.
- ✓ Describe topography and vegetation (forested, cleared, etc.) using GIS aerial and digital camera photos of site. **LANDSCAPED WITH DRIVEWAY APPROACH**
- ✓ Verify existing utilities or call One Call Locate to determine what utilities are on the property. **NONE**
- ✓ Determine current extent of public use of area proposed to be vacated as a Prescriptive Easement. **DRIVEWAY APPROACH EASEMENT REQ'D FOR PROPERY TO NORTH – EASEMENT SUBMITTED 12/3/18**
- ✓ Determine possible retention for future public uses: Roadway, water, sewer, storm drainage, parking facilities, parks, view areas, and access to waterfront. **NONE**
- ✓ Verify payment of pre-hearing $150 fee and $500 appraisal fee. **$248 – RECEIT NO. 279356**
- ✓ Prepare aerial vicinity map.
- ✓ Prepare Council Resolution to proceed and determine hearing date.
- ✓ Legal Review
- ☐ Post Notices of Public Hearing
- ☐ Prepare Council Ordinance for Public Hearing and adoption of street vacation.