



PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

210 Lottie Street, Bellingham, WA 98225
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HAND DELIVERED

November 30, 2010

Langabeer & Tull, P.S.
Attn: Robert Tull
709 Dupont Street
P.O. Box 1678
Bellingham, WA 98225

RE: Resumption of Fairhaven Highlands EIS Process

Dear Mr. Tull:

Pursuant to the letter issued to you by the City of Bellingham (City) on October 29, 2010 that detailed proposed terms to resume the Fairhaven Highlands Environmental Impact Statement (EIS) process, the City has received a check for \$9221.38 thereby fulfilling term (1). Please find attached the necessary materials to fulfill terms (2) and (3) as follows:

- 2. The City shall compile and convey to you all time and billing records for work completed on this EIS process to date on or before November 30, 2010 at 5:00 PM. The City shall also request the same of ESA Adolfson, Inc.*

Attachments A-C fulfill the City's portion of this term. **Attachment A** is the City Costs Budget for the EIS process. **Attachment B** is the Detail of Total Expenses Incurred by the City as well as ESA Adolfson Inc. (ESA Adolfson) for the EIS process to date. **Attachment C** is the Detail of City Labor for the EIS process to date. The City has requested ESA Adolfson to submit time and billings records for their work on the EIS process to date directly to your office by 5:00 PM today.

- 3. The City shall propose to you any necessary revisions to the December 30, 2009 request to amend the Agreement between the City of Bellingham and Greenbriar Northwest Associates, LLC for Reimbursement of Costs and Fees (Agreement) including a detailed scope of work for the additional \$107,802.00 on or before November 30, 2010 at 5:00 PM.*

In conjunction with ESA Adolfson, the City has completed an initial review of the approximately 600 comment letters received containing nearly 1,600 comments regarding the Fairhaven Highlands *Draft Environmental Impact Statement* (September, 2009). It is estimated that the cost for preparation of responses to these comments, and completion of the Final Environmental Impact Statement, will exceed the current Agreement between the City and Greenbriar Northwest Associates (GNA) by \$107,802, including an additional \$87,802 for work by ESA Adolfson and an additional \$20,000 for work by the City. These estimates assume that all of the comments related to earth, water, plants, animals, and transportation will first be addressed by consultants working directly for GNA; ESA Adolfson will prepare responses to the

other comments. The City and ESA Adolfson will then evaluate the responses by GNA consultants. Responses judged to be inadequate may then require additional work and/or third party independent review.

Attachment D is a proposed third amendment to the Agreement increasing the total project cost by \$107,802 from \$294,265 to \$402,067. Pursuant to Bellingham Municipal Code (BMC) 21.10.190 the City must receive within 120 days either:

- A. This third amendment to the Agreement signed by GNA accompanied by the first installment of the \$107,802 as set forth in the Agreement; or
- B. Proposed revisions by GNA to this third amendment to the agreement for the City's review and response.

Should the City not receive either of the above on or before March 30, 2011 at 5:00 PM, all associated land use permit applications with the Fairhaven Highlands development, including Planned Development Permit (PDC2005-00008), Wetland/Stream Permit (WET2005-00026), Preliminary Plat (SUB2005-00024) and Subdivision Variance (VAR2005-00008) will expire and become null and void per BMC 21.10.190 as no substantial steps will have been taken to respond to the City's request for revisions, corrections or additional information within the prescribed time frame. This BMC provision addresses not only the concern regarding "staleness" of information being used in a land use permit application, but also concern regarding the use of outdated development regulations.

This is consistent with term (4) in the letter issued to you by the City on October 29, 2010 which states that after the City fulfills terms (2) and (3), it is understood that GNA will commence good faith negotiations in a timely manner to amend the Agreement. Failure to do so will result in all land use permit applications associated with the Fairhaven Highlands development expiring and becoming null and void.

Should you have any questions, I can be contacted at (360) 778-8300 or jthomas@cob.org.

Best regards,



Jeff Thomas
Interim Director
Planning and Community Development

Attachments:

- "A" Fairhaven Highlands – City Costs Budget
- "B" Fairhaven Highlands – Detail of Total Expenses Incurred 2007-2010
- "C" Fairhaven Highlands – Detail of City Labor 2007-2010
- "D" Modification to Agreement Between City of Bellingham and Greenbriar Northwest Associates for Reimbursement of Costs and Fees Contract #2007-0542

Copy:

Mayor Dan Pike
City Council Members
Office of the City Attorney
ESA Adolfson, Inc