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PIERCE COUNTY, WASHINGTON

**AFTER RECORDING RETURN TO:**

Dianne K. Conway  
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1201 Pacific Avenue, Suite 2100  
Post Office Box 1157  
Tacoma, WA 98401-1157

**DECLARATION OF RESTRICTIVE COVENANT**

4021 and 4121 Harborview Drive, Gig Harbor, Washington

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by the Gig Harbor Peninsula Historical Society (the Society), its successors and assigns. The Society is the fee owner of the real property (hereafter "Property") in the County of Pierce, State of Washington, that is subject to this Restrictive Covenant. The property is legally described in Exhibit A. This Declaration is for the benefit of the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology"), and it is binding upon the Property.

An independent remedial action consisting of a Limited Phase II Environmental Site Assessment (ESA) and follow-up investigations occurred at the property that is the subject of this Restrictive Covenant. The environmental investigations conducted at the property are described in the following documents: *Phase I and Limited Phase II Environmental Site Assessment - Proposed Gig Harbor Historical Society Site, 4021 and 4121 Harborview Drive, Gig Harbor, Washington*, prepared by Kleinfelder, Inc. Project No. 49567, December 2004; *Supplemental Environmental Investigation at the Gig Harbor Peninsula Historical Society Site*

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4021 and 4121 Harborview Drive, Gig Harbor, Washington, prepared by Kleinfelder, Inc.

Project No. 49567, June 14, 2006; and *Supplemental Environmental Investigation at the Gig*

*Harbor Peninsula Historical Society site 4021 and 4121 Harborview Drive, Gig Harbor,*

*Washington*, prepared by Kleinfelder, Inc. Project No. 49567, March 7, 2007. These documents are on file at Ecology's Southwest Regional Office.

This Restrictive Covenant is required because the 2004 Limited Phase II ESA identified concentrations of vinyl chloride in groundwater at the property that exceed the Model Toxics Control Act Method A for Groundwater established under WAC 173-340-720. Although the supplemental environmental investigations found no vinyl chloride, required groundwater monitoring is ongoing.

#### **Declaration**

The Society makes the following declarations regarding limitations, restrictions, and uses to which the Property may be put and specifies that these declarations constitute covenants to run with the land, as provided by law. These covenants are binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. No groundwater may be taken for any use from the Property.

Section 2. Any activity on the Property that may interfere with the continued protection of human health and the environment by resulting in the release or exposure to the environment of the vinyl chloride that may remain on the Property is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of the vinyl chloride that may remain on the Property or create a new exposure

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pathway for the vinyl chloride that may remain on the Property is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give 30 days advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property will be consummated by the Owner without adequate and complete provision for continued environmental protection.

Section 5. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner will allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of inspecting environmental conditions at the Property and inspecting records that are related to environmental conditions.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant will no longer limit use of the Property or be of any further force or effect. Such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

DATE SIGNED: 4/27/07

THE GIG HARBOR PENINSULA  
HISTORICAL SOCIETY

By: JL [Signature]  
Its: Executive Director

STATE OF WASHINGTON )

)ss.

County of Pierce )

I certify that I know or have satisfactory evidence that Jeinifer Kilmer 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 Executive Director of the Gig Harbor Peninsula Historical Society, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 27 day of April, 2007.

Molly M. Towstee  
Molly M. Towstee

(Type/Print Name above)

Notary Public in and for the

State of Washington, residing at Gig Harbor

My appointment expires: 12/2/07



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DRAFT DOCUMENT

**EXHIBIT 'A'**

**LEGAL DESCRIPTION:**

Parcel A:

All that portion of the following described tract, lying Easterly of the Eruaham-Hunt County Road, to-wit:

Commencing at the Northwest corner of Lot 2, Section 6, Township 21 North, Range 2 East, W.M., in Pierce County, Washington;  
Thence South 250 feet more or less to the center of a small creek;  
Thence Northeasterly along center of said creek to a point that is 417 feet East of the West line of said Lot 2;  
Thence North 130 feet more or less to the North line of said Lot 2;  
Thence West along North line of said Lot, 417 feet to the place of beginning, in Pierce County, Washington.

Together with that portion of vacated Harborview Avenue North (Burnham Street) adjoining, which upon vacation, attached to said property by operation of law.

Parcel B:

Beginning at Northwest corner of Lot 2, Section 6, Township 21 North, Range 2 East of Willamette Meridian, in Pierce County, Washington; thence running North 89° 08' East on North line of said Lot, 417 feet; thence South parallel to West line of said Lot, 405.15 feet to Northeasterly line of State Highway No. 14; thence North 46° 41' 20" West of said Northeasterly line 68.70 feet; thence North parallel to West line of said Lot and on West line of land of C. O. Austin, 144.45 feet to true point of beginning; thence South 45° 10' West 55.09 feet; thence North 46° 41' 20" West 83.97 feet; thence South 80° 18' 40" West 36 feet, more or less, to County Road; thence on a curve to the right radius 208.75 feet Northerly along Easterly line of said Road 43 feet, more or less, to center line of small creek; thence Easterly on said center line 145 feet, more or less, to a point North of true place of beginning; thence South parallel to West line of said Lot 97.92 feet, more or less, to true place of beginning.

Together with that portion of vacated Harborview Avenue North (Burnham Street) adjoining, which upon vacation, attached to said property by operation of law.

Parcel C:

Commencing at the Northwest corner of Government Lot 2, Sec. 6, Twp. 21 North, Range 2 East of W.M.; thence North 87° 08' 12" East along the North line of said lot 417 feet to the true point

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of beginning of this description; thence continuing North 87°08'12" East along the North line of said lot 138.59 feet; thence South 0°38' East 20.13 feet to an angle point in the government meander line; thence South 15°05'25" West 475 feet, more or less, along the government meander line, and along the segment of said meander line extended to the Northerly right of way line of state Highway No. 14; thence Northwesterly following said right of way line to a point North 87°08'12" East 367 feet from the west line of said lot; thence North parallel to said West line of lot 225 feet, more or less, to center of creek, being the creek referred to in contract between J. M. Galbraith Company and Ervin S. Craig and wife, recorded November 25, 1959 under Recording No. 1878550, records of said County; thence North 74°30' East (approximate course) 51.88 feet along center of creek to a point North 87°06'12" East 417 feet from the West line of said lot; thence North parallel to said West line of lot 130 feet to the point of beginning. And including any second-class tidelands lying within the boundaries: above described.

Except therefrom that portion conveyed to Howard Austin and Ruth Austin, husband wife, by Deed recorded March 7, 1968 under Recording No. 2229592, described as follows:

Beginning at the Northwest corner of Government lot 2, Section 6, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington (said N.W. corner being Town of Gig Harbor unrecorded Monument #112 - stamped #112 and 1/16); thence along said lot line, North 87°08'12" East 470.0 feet to the true point of beginning; thence continuing along said lot line, North 87°08'12" East 84.79 feet; thence South 0°06'55" West 19.88 feet to Angle Point of Balanced Meridian Line; thence along said Meander Line South 15°05'43" West 6.85 feet; thence South 86°22'39" West 39.25 feet; thence North 65°49'05" West 27.85 feet; thence Northwesterly to the true point of beginning.

Parcel D:

Beginning at the Northwest corner of lot 2, Section 6, Township 21 North, Rang 2 East of the W.M., in Pierce County, Washington; thence running North 89°08' East on the North line of said lot, 417 feet; thence South parallel to West line of said lot 405.15 feet to the Northeasterly line of former State Highway No. 14, now Harborview Avenue West; thence North 46°41'20" West on said Northeasterly line 68.70 feet to the true point of beginning; thence North 54.84 feet; thence South 46°01' West 39.89 feet, more or less, to the Northeasterly line of said Harborview Avenue West; thence South 46°41'20" East 39.50 feet to the true point of beginning.

Parcel E:

All that portion of property described in deed recorded under Record n9 No. 1670316, in Pierce County, Washington, lying Northeasterly of the following described property partition line:

Beginning at the Northwest corner of Government lot 2, Section 6, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington; thence along West line of said Lot 2, South 0°20'26" East 504.42 feet; thence parallel to the North line of said Lot 2, North 87°08'12" East 417.00 feet thence North 47°24'30" West 68.29 feet to a point on the center line of Harborview Avenue West (a monumented street in the Town of Gig Harbor, Wash.); thence North 0°20'26"

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West 68.29 feet to the Northeasterly line of said Harborview Avenue West; thence continuing North 0°20'26" West 115.60 feet to the true point of beginning of above said property partition line; thence along property partition line North 46°59'56" West to Northwesterly line of said property described in said deed recorded under Recording No. 1670316.

Parcel F:

Beginning at the Northwest corner of Government Lot 2, Section 6, Township 2 North, Range 2 East of the W.M. in Pierce County, Washington (said Northwest corner being Town of Gig Harbor, unrecorded Monument #112-stamped #112 and 1/16); thence North 87°08'12" East along the North line of lot 2, 309.23 feet to true point of beginning on Southerly right of way line of Harborview Avenue North; thence, on lot line, North 87°08'12" East 161.57 feet; thence North 69°37'35" West 30.48 feet; thence North 75°08'18" West 27.96 feet; thence North 64°35' West 68.71 feet to the Southerly right of way line of Harborview Avenue North; thence on said right of way line Southwesterly to true point of beginning, the above being portion of Lot 7, Block 1, Extension of the City of Gig Harbor, Pierce County, Washington, according to Plat recorded in Volume 6 of Plat 5 at Page 74, in Pierce County, Washington.

Except that portion conveyed to the Town of Gig Harbor by Instrument recorded under Recording No. 1520257.

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