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January 24, 2020

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Re: Local Improvement District No. 36

Dear Council Members:

Our firm represents Blaine Fortune Holding LLC (“Blaine Fortune Holding”) with respect to its property within Local Improvement District No. 36 (the “LID”). Blaine Fortune Holding objects to the LID estimated assessment for the reasons set forth below. While we understand that Blaine Fortune Holding will have the opportunity to make a formal objection to the assessment at a later time, it is the purpose of this letter to provide an opportunity to work towards a fair and reasonable assessment agreeable to those property owners within the LID. In furtherance of such efforts, we rely upon the LID formation hearing slides made available at the November 12, 2019 public hearing as providing the most current cost estimate to fund the LID.

First, Blaine Fortune Holding objects to the inclusion in the LID assessment of the purported cost to purchase the land upon which the storm water facility will be located, Lot 3 of the Gateway Specific Binding Site Plan No. 4 (“Lot 3”). It is our understanding that the City acquired Lot 3 at public sale in 1947 pursuant to Whatcom County Auditor File Number 639447. At the time of purchase, Lot 3 was part of the airport and was used for municipal airport purposes until 2008 when the airport was closed and rezoned to its present Gateway Industrial zoning. Pursuant to RCW 35.44.020, only the cost of acquisition of that property purchased in connection with the LID may be included in the assessment. The acquisition of the subject property by the City cannot reasonably be said to have been for the purpose of a storm water detention facility where the property was used for municipal airport activities for over seventy years. Because the Property was not purchased in connection with or for the purpose of the LID, the City may not include the cost of acquisition in the assessment. RCW 35.44.020.

Second, the City has not provided sufficiently detailed information in support of the other included costs and as a result there is not enough information from which Blaine Fortune Holding may understand the basis for the total costs to be assessed. The loan amount that the City requested from the Whatcom County Economic Development Initiative (“EDI”) was \$1,766,666.00. The most current cost estimate by the City includes additional costs, with little or no explanation as to why such expenses are now necessary. As a result, it appears the City expects property owners within the LID to shoulder the burden of the costs for which the City had failed to account to the EDI. Blaine Fortune Holding objects accordingly.¹

It was the further understanding of Blaine Fortune Holdings that the storm water facility would be completed this spring. Public Works, however, has recently indicated that construction will not be completed until the end of this year. The delay in completion of the storm water facility is significantly hampering Blaine Fortune Holding’s ability to move forward with the development of its property. This is especially problematic in light of the increasing costs of the facility. Moreover, the City continues to store material and equipment on Blaine Fortune Holding’s property without any written agreement to do so. The City’s use of Blaine Fortune Holding’s property as a storage site is making access to Blaine Fortune Holding’s property increasingly difficult.

Blaine Fortune Holding acknowledges the benefits of a regional storm water facility, but such benefits cannot be realized to the detriment of the small businesses within the LID. Therefore, we strongly urge the City Council to reconsider the costs being included in the LID assessment and to ensure all property owners with the LID are treated in a fair and reasonable manner.

¹ While we appreciate the City’s confirmation that the grant amount will not be assessed against the property owners, it still appears the City has included significant costs which are excessive or otherwise unrelated to the LID.

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Very truly yours,
BROWNLIE WOLF & LEE, LLP

A handwritten signature in blue ink, appearing to read 'Heather Wolf', with a long horizontal flourish extending to the right.

Heather Wolf
Elizabeth Slattery

cc: Ravyn Whitewolf, Public Works Director
Jonathan K. Sitkin
Client