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TG-160278

March 2, 2016

VIA E-MAIL (DPRATT@UTC.WA.GOV)
AND VIA U.S. MAIL

David Pratt
Assistant Director
Washington Utilities and Transportation
Commission
P.O. Box 47250
Olympia, WA 98504

Re: Solid Waste Collection Service
Cancellation of Franchise Due to Annexation by City of Deer Park

RECEIVED
RECORDS MANAGEMENT
2016 MAR -4 AM 8:13
STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

Dear Mr. Pratt:

Our office serves as legal counsel for the City of Deer Park, Washington ("City"). On October 3, 2007, the City adopted Ordinance No. 2007-851, annexing certain real property commonly known as the Dyck and others annexation area to the City ("Annexation Area"). A copy of Ordinance No. 2007-851 is attached hereto as Exhibit A. Subsequently, on February 17, 2016, the City adopted Ordinance No. 2016-959, cancelling Sunshine Disposal, Inc's ("Sunshine") franchise granted by the Washington Utilities and Transportation Commission ("WUTC") to operate in the Annexation Area. A copy of Ordinance No. 2016-959 is attached hereto as Exhibit B.

This letter is to confirm the City's cancellation of Sunshine's WUTC solid waste franchise for the provision of solid waste services to the Annexation Area. The City has contracted with Waste Management, Inc. for the collection of solid waste in the City, including the Annexation Area.

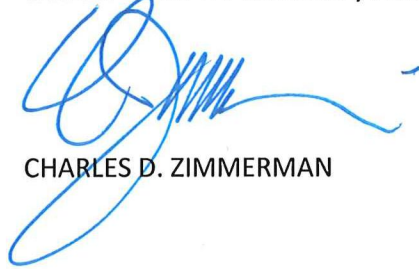
This cancellation notice applies to any solid waste services provided under WUTC franchise within the Annexation Area by Sunshine. Given that most of the real property located within the Annexation Area is presently undeveloped and is not receiving any solid waste collection services, Sunshine will not incur any measurable damages due to cancellation of its WUTC franchise in the Annexation Area. Accordingly, pursuant to RCW 35.13.280 and RCW 35A.14.900, the franchise termination will be effective seven (7) years from the date of this letter, on March 2, 2023.

David Pratt
March 2, 2016
Page 2

If you have any questions regarding this matter, please feel free to call me.

Very truly yours,

OGDEN MURPHY WALLACE, P.L.L.C.

A handwritten signature in blue ink, appearing to read 'Charles D. Zimmerman', with a large, loopy flourish on the left side.

CHARLES D. ZIMMERMAN

Attachments

cc: Mayor Robert Whisman, City of Deer Park, w/attachments (via e-mail only)
Sunshine Disposal, Inc., w/attachments (via U.S. Mail)
Waste Management, Inc., w/attachments (via U.S. Mail)

Return to: City of Deer Park
P.O. Box F
Deer Park, WA 99006



COVER SHEET

Document Title: Annexation Ordinance 2007-851

Reference: Dyck and Others Annexation Ordinance – City of Deer Park

Grantors: City of Deer Park

Grantees: Dyck Living Trust, Robert L. Dyck Family Trust, Rodney & Theresa
Douvia, Sandra Heupel, Cynthia Rosenberry, Frank Scalise, Vija
Hendersen

Legal Description:

The NW ¼ of the SW ¼ of Section 35, Township 29 North, Range 42 East,
W.M.;

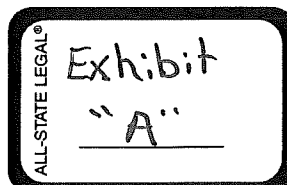
TOGETHER WITH the South 471.98 feet of the SW ¼ of the NW ¼ of said
Section 35;

AND TOGETHER WITH the East 30 feet of the NE ¼ of the SE ¼ of Section 34,
Township 29 North, Range 42 East, W.M.;

AND TOGETHER WITH the East 30 feet of the South 471.98 feet of the if the
SE ¼ of the NE ¼ of Section 34, Township 29 North, Range 42 East, W.M.;

Situate in the County of Spokane, State of Washington.

Assessor's Tax Parcel ID Numbers: 29352.9060, 29352.9059, 29353.9039,
29353.9040, 29353.9043, 29353.9046, 29353.9044, 29353.9023, 29353.9045,
29353.9032



ORDINANCE 2007-851

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON, ANNEXING CERTAIN REAL PROPERTY COMMONLY KNOWN AS THE DYCK AND OTHERS ANNEXATION AREA TO THE CITY PURSUANT TO THE PETITION METHOD, SAID ANNEXATION BEING LEGALLY DESCRIBED AS SET FORTH IN EXHIBIT "A" TO THIS ORDINANCE, AND DEPICTED IN THE MAP, EXHIBIT "B" TO THIS ORDINANCE; DESIGNATING THE ZONING OF THE ANNEXATION AREA; APPROVING THE TITLE AND EXHIBIT "A" AS THE SUMMARY OF THE ORDINANCE; CONTAINING A SEVERABILITY PROVISION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, petitioners, the owners of property constituting not less than 10 percent in assessed value, according to the assessed valuation for general taxation of the property for which annexation is petitioned, prior to initiation of their petition, notified the City Council of their intention to commence annexation proceedings for the area commonly known as the Dyck and Others Annexation Area to the City of Deer Park ("City"); and

WHEREAS, the City Council met with said initiating owners and determined by Council action that the City would accept the proposed annexation providing that existing City indebtedness shall be assumed by the area to be annexed and further providing that the City's Comprehensive Plan shall be deemed to apply to the area upon such annexation; and

WHEREAS, a sufficient petition for annexation was subsequently filed with the City Council pursuant to RCW 35A.14.120, signed by the owners of not less than 60 percent in value, according to the assessed valuation for general taxation, of the property for which annexation is

petitioned, seeking annexation to the City of an approximately 50 Plus acre area Northwest and contiguous to the City, as described in Exhibit "A" and as shown on Exhibit "B; and

WHEREAS, a Certificate of Sufficiency was completed by Ralph Baker, Spokane County Assessor, thereby certifying the petition for annexation; and

WHEREAS, pursuant to RCW 35A.14.130, the City fixed May 17, 2006, at the hour of 7:00 p.m. as the date and time for a public hearing on said proposed annexation and caused notice of such hearing to be published and posted in accordance with the law, and the hearing having been held on that date and all interested parties appearing at said hearing and desiring to be heard in regard to the proposed annexation having been heard by the Council; and

WHEREAS, having considered the foregoing matters, the City Council determined that the best interest and general welfare of the City and adjacent territory would be served by annexing the Dyck and Others Annexation Area to the City; and

WHEREAS, a Development and Annexation Agreement was entered into effective April 18, 2007 between the Dyck and others group (the Robert L. Dyck Family Trust and Vija Henderson) and the City for purposes of confirming certain aspects of the future development of the requested annexation territory as set forth therein; and

WHEREAS, on April 18, 2007, the City Council passed Resolution 2007-005 declaring the City's intention to annex the property subject to the Boundary Review Board process set forth in Chapter 39.93 RCW; and

WHEREAS, following the action of the City Council, a notice of intention was filed by the City with the Spokane County Boundary Review Board ("BRB") on July 12, 2007, proposing to annex the area consisting of approximately 50 Plus acres to the City; and

WHEREAS, pursuant to the notice of intention, the BRB conducted a preliminary review of the annexation petition on the scheduled date of August 13, 2007, wherein the BRB considered the factors set forth in RCW 36.93.170 and the objectives set forth in RCW 36.93.180; and

WHEREAS, a period of forty five days elapsed without the BRB's jurisdiction having been invoked pursuant to RCW 36.93.100, thereby completing the annexation approval process required by law; and

WHEREAS, the City Council continues to find that it is in the best interest of the health, safety, morals, and general welfare of the citizens of the City and the citizens of the annexation area for the annexation area to be annexed to the City; now, therefore

**THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

Section 1. Annexation. The territory that is contiguous and adjacent to the present corporate limits of the City of Deer Park and is commonly known as the Dyck and Others Annexation Area and is legally described in Exhibit "A" attached hereto and depicted on the map, Exhibit "B", attached hereto (hereinafter the "Annexation Area"), should be and hereby is annexed to and made a part of the City of Deer Park.

Section 2. Zoning. Zoning of the Annexation Area shall be Residential 2B, the zoning depicted in the official pre-annexation zoning map of the City. The City Director of Community Services is directed to insert this zoning for the Annexation area on the official zoning map of the City when this Ordinance becomes effective.

Section 3. Taxation. The territory annexed by this Ordinance shall be assessed and taxed at the same rate and upon the same basis as the land now located in the City of Deer Park, Washington.

Section 4. City Indebtedness. The territory annexed by this Ordinance shall be subject to and assume all current City indebtedness on the same basis as other land located in the City.

Section 5. Summary. The title of this Ordinance and Exhibit "A" to this Ordinance collectively are hereby approved as a summary of this Ordinance.

Section 6. Publication. The City clerk is hereby directed to cause a summary of this Ordinance to be published in a newspaper of general circulation in the City and the City's official newspaper. The City Clerk is further directed to file certified copies of this ordinance with the Board of Commissioners for Spokane County, the Spokane County Boundary Review Board, the Spokane County Auditor, and the Spokane County Assessor.

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

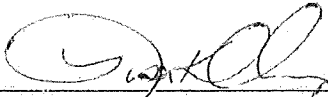
Section 8. Effective date. This Ordinance shall take effect and be in full force five (5) days after publication of a summary of this Ordinance.

APPROVED:



ROBERT WHISMAN, MAYOR

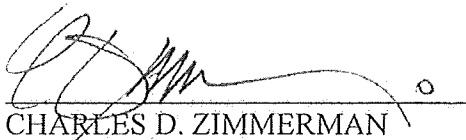
ATTEST:



LISA KELLING, CLERK/TREASURER

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By:



CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK :	09/24/07
PASSED BY THE CITY COUNCIL :	10/03/07 - THREE READING PROCESS
PUBLISHED :	10/10/07
EFFECTIVE DATE :	10/15/07
ORDINANCE NO. :	2007-851

SUMMARY OF ORDINANCE NO. 2007-851

of the City of Deer Park, Washington

On the 3rd day of October, 2007, the City Council of the City of Deer Park, passed Ordinance No. 2007-851. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON, ANNEXING CERTAIN REAL PROPERTY COMMONLY KNOWN AS THE DYCK AND OTHERS ANNEXATION AREA TO THE CITY PURSUANT TO THE PETITION METHOD, SAID ANNEXATION BEING LEGALLY DESCRIBED AS SET FORTH IN EXHIBIT "A" TO THIS ORDINANCE, AND DEPICTED IN THE MAP, EXHIBIT "B" TO THIS ORDINANCE; DESIGNATING THE ZONING OF THE ANNEXATION AREA; APPROVING THE TITLE AND EXHIBIT "A" AS THE SUMMARY OF THE ORDINANCE; CONTAINING A SEVERABILITY PROVISION; AND PROVIDING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 3RD day of OCTOBER, 2007.



LISA KELLING, CLERK/TREASURER

EXHIBIT A

LEGAL DESCRIPTION

**Dyke & Others Annexation to Deer Park
January 10, 2006**

The NW 1/4 of the SW 1/4 of Section 35, Township 29 North, Range 42 East,
W.M.;

TOGETHER WITH the South 471.98 feet of the SW 1/4 of the NW 1/4 of said
Section 35;

AND TOGETHER WITH the East 30 feet of the NE 1/4 of the SE 1/4 of Section
34, Township 29 North, Range 42 East, W.M.;

AND TOGETHER WITH the East 30 feet of the South 471.98 feet of the SE 1/4
of the NE 1/4 of Section 34, Township 29 North, Range 42 East, W.M.;

situate in the County of Spokane, State of Washington.

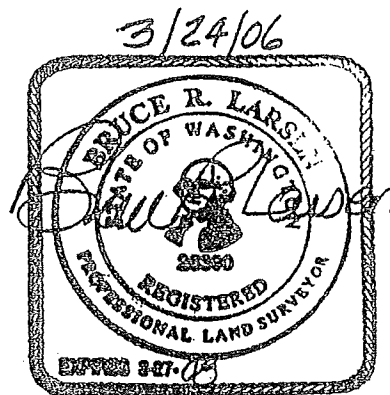
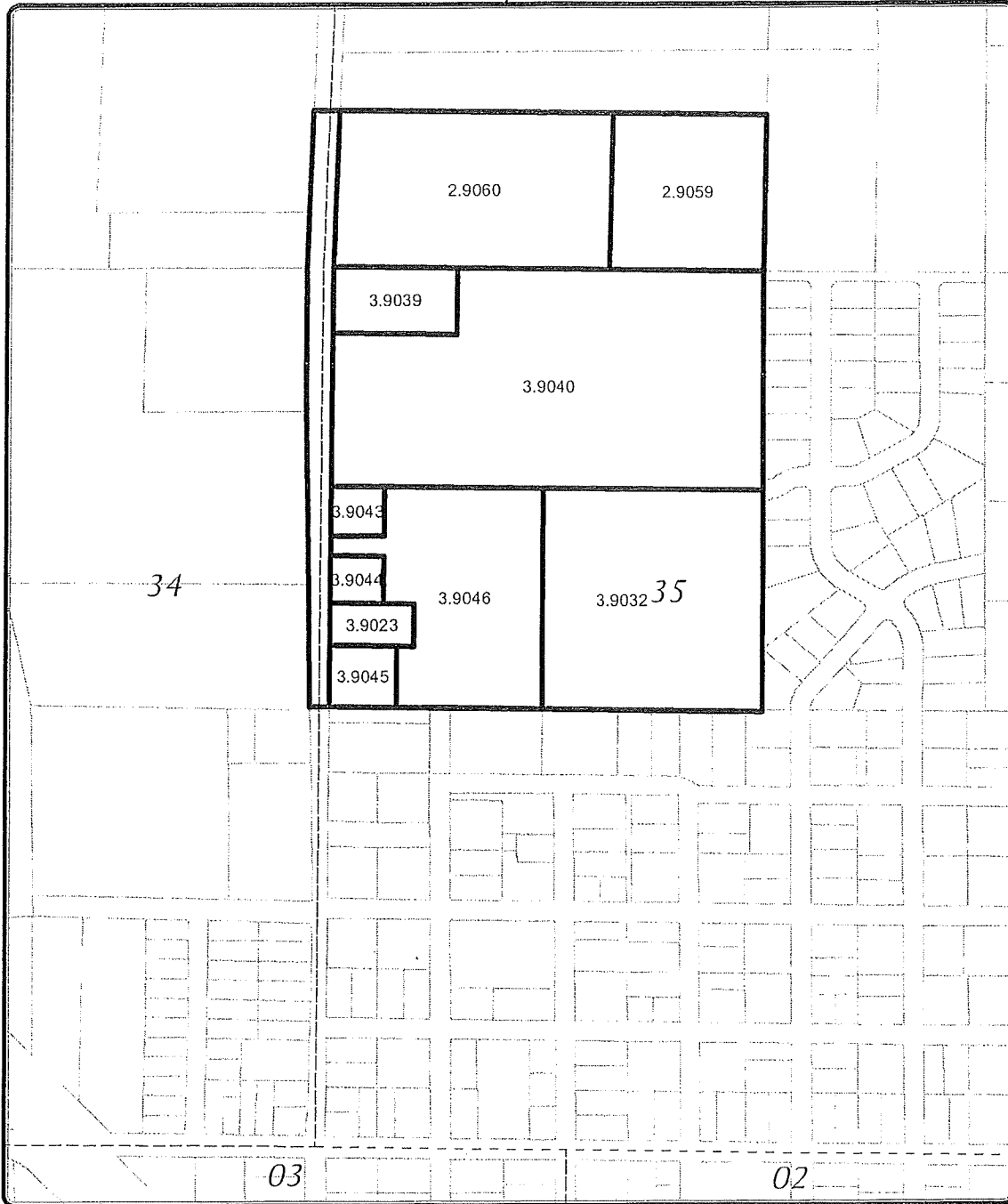


Exhibit B

Parcel Map

Location: Sect. 35, T29, R42



BRB 612-07: Annexation of 57.2 Acres to the City of Deer Park
Washington State Boundary Review Board for Spokane County

Assessor Parcel No. = 2935+(No. Given on Map)

WASHINGTON STATE BOUNDARY REVIEW BOARD
FOR SPOKANE COUNTY

CERTIFICATE OF EXPIRATION OF 45-DAY PERIOD

I hereby certify that more than 45 days have elapsed since the following described Notice of Intention was filed with the Washington State Boundary Review Board for Spokane County and that at no time during said period was a Request for Review filed with the Board. The proposed action is hereby deemed approved as provided in RCW 36.93.100.

FILE NO.: BRB 612-07: Proposed Annexation of 57.2 Acres to the City of Deer Park (Short Road)

INITIATOR(S): City of Deer Park

DATE FILED: July 12, 2007

45-DAY REVIEW
PERIOD ENDS: August 24, 2007

LEGAL DESCRIPTION: The following described lands situated in Spokane County, State of Washington, to wit: The Northwest quarter of the Southwest quarter of Section 35, Township 29 North, Range 42 East, W.M.; TOGETHER WITH the South 471.98 feet of the Southwest quarter of the Northwest quarter of said Section 35; AND TOGETHER WITH the East 30 feet of the Northeast quarter of the Southeast quarter of Section 34, Township 29 North, Range 42 East, W.M.; AND TOGETHER WITH the East 30 feet of the South 471.98 feet of the Southeast quarter of the Northeast quarter of Section 34, Township 29 North, Range 42 East, W.M.; Situate in the County of Spokane, State of Washington.

TIME LIMIT: The action proposed in this Notice of Intention must be officially consummated on or before August 24, 2010, or the approval, as defined in this document shall be null and void. (Boundary Review Board Rules of Practice and Procedure)

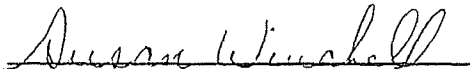
DATED at Spokane, Washington this twenty seventh day of August, 2007.

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SPOKANE COUNTY



Phyllis Meyer, Chair

ATTEST:



Susan M. Winchell, AICP
Boundary Review Board Director

ORDINANCE NO. 2016-959

AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON, ADDRESSING CANCELLATION OF SUNSHINE DISPOSAL, INC.'S WUTC PERMIT FOR SOLID WASTE COLLECTION IN CERTAIN ANNEXED AREAS AND GRANTING A SEVEN-YEAR FRANCHISE TO SUNSHINE DISPOSAL, INC., PURSUANT TO RCW 35A.14.900; CONTAINING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Deer Park previously annexed certain real property contiguous to the city limits through the passage of Ordinance No. 2007-851; and

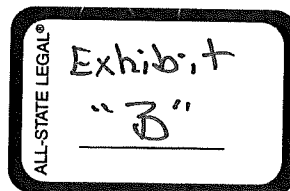
WHEREAS, such annexed area is more fully described within the above-referenced annexation ordinance; and

WHEREAS, Sunshine Disposal, Inc. ("Sunshine") holds a certificate, issued by the Washington State Utilities and Transportation Commission ("WUTC") authorizing the collection of solid waste, Certificate No. G-199, which is incorporated herein by reference as if fully set forth; and

WHEREAS, pursuant to RCW 35A.14.900, the annexation by the City cancelled Sunshine's WUTC certificate in those annexed areas from the effective date of the annexation; and

WHEREAS, Sunshine has continued to serve the annexed area to the present date; and

WHEREAS, pursuant to RCW 35A.14.900, the City is required to grant an exclusive franchise for garbage collection and/or disposal to the holder of any existing franchise or permit from the state of Washington to continue such business within the annexed territories for a term of not less than seven (7) years; and



WHEREAS, RCW 35A.14.900 provides a mechanism for the orderly transfer of solid waste collection activities from a private certificate holder to the City and authorizes the City to provide for the continuation of solid waste collection within the annexed areas; now, therefore,

THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Unless otherwise agreed in writing between Sunshine and the City, or the City exercises its rights pursuant to RCW 35A.14.900 to extend similar competing services upon a showing of Sunshine's inability or refusal to service the annexed area at a reasonable price, the City hereby grants Sunshine an exclusive franchise to provide solid waste collection services, as those services now exist, pursuant to Sunshine's WUTC permit, within those annexed areas described in the annexation ordinances identified below. This franchise may not be transferred, assigned, sold or in any manner conveyed without the prior express written approval of the City Council.

Section 2. The real property to which this franchise applies is as described in Ordinance No. 2007-851.

Section 3. The term of the franchise granted herein shall be for a period of seven (7) years from the effective date of this Ordinance.

Section 4. This franchise supersedes all oral and written negotiations, authorizations, ordinances, permits, and agreements pertaining to the annexed area set forth in Section 2 of this Ordinance.

Section 5. The City retains full authority to regulate and tax Sunshine as authorized by law and to require franchisee to dispose of all materials, garbage and refuse collected in designated

landfills or other solid waste disposal sites designated by the City Community Services Director and to pay applicable rates therefore.

Section 6. Sunshine shall perform its own billing and collection fee services and shall charge fees as provided in Certificate No. G-199, as the same exists now or may be hereafter amended.

Section 7. Complaints against Sunshine may be heard and decided by the City Community Services Director. The decision of the Community Services Director shall be final and binding, but no revocation of the franchise shall occur without a hearing before and decision made by the City Council.

Upon receiving a complaint, the Community Services Director shall notify Sunshine in writing within five business days. Sunshine shall have five business days from the date of receipt of the City notice to respond in writing. The Community Services Director shall take appropriate action and may make recommendations to the City Council if revocation or partial revocation is recommended. The City Council shall set the matter for public hearing within 30 days after receipt of the City Community Service Director's recommendation. The City Council's decision upon revocation or partial revocation shall be final.

Section 8. The City reserves the right to revoke the privileges extended to Sunshine in whole or in part, should the City determine Sunshine is unwilling or unable to provide adequate service to the annexed areas at a reasonable price with adequate service based upon safe, sanitary and reliable service, or in the event Sunshine violates the conditions of this franchise, applicable laws or ordinances, or otherwise adversely affects the public health and safety. The City Council's decision shall be final.

Section 9. Absent regulatory action by the City, operation by Sunshine in compliance with Chapter 81.77 RCW, the rules and regulations of the WUTC, and the ordinances and rules governing operations of the City of Deer Park Public utilities and public works, all as the same exist now or may be hereafter amended, shall establish a rebuttable presumption of adequate service at a reasonable cost.

Section 10. Sunshine shall extend service within the franchise territory to persons requesting said service unless other arrangements are made in writing with the City of Deer Park. The City Council may make reasonable rules and regulations as may be required to secure adequate and proper service to the public.

Section 11. This franchise is granted pursuant to state law and is not to be construed as appointing Sunshine as an agent of the City for the performance of any municipal, governmental or proprietary function. The City assumes no liability for the acts or omissions of Sunshine and assumes no responsibility for solid waste collection and disposal in the territory described in this franchise.

Section 12. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or the constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 13. This Ordinance shall take effect and be in full force five (5) days after publication of a summary of this Ordinance.

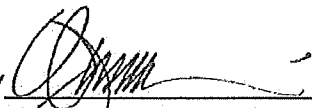
APPROVED:


MAYOR ROBERT WHISMAN

ATTEST/AUTHENTICATED:


CITY CLERK, DEBY CRAGUN

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

BY 
CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK:	<u>February 3, 2016</u>
PASSED BY THE CITY COUNCIL:	<u>February 17, 2016</u>
PUBLISHED:	<u>February 20, 2016</u>
EFFECTIVE DATE:	<u>February 25, 2016</u>
ORDINANCE NO.:	<u>2016-959</u>

SUMMARY OF ORDINANCE NO. 2016-959

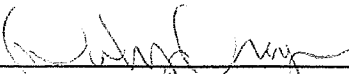
of the City of Deer Park, Washington

On the 17th day of February, 2016, the City Council of the City of Deer Park, Washington, passed Ordinance No 2016-959. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON, ADDRESSING CANCELLATION OF SUNSHINE DISPOSAL, INC.'S WUTC PERMIT FOR SOLID WASTE COLLECTION IN CERTAIN ANNEXED AREAS AND GRANTING A SEVEN-YEAR FRANCHISE TO SUNSHINE DISPOSAL, INC. PURSUANT TO RCW 35A.14.900; CONTAINING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 18th day of February, 2016.



CITY CLERK, DEBY CRAGUN