



**FEASIBILITY ASSESSMENT:**  
**MEDIATING CLEAR ZONE ENCROACHMENT**  
**THROUGH ANNEXATION OF MILITARY**  
**INSTALLATIONS**

**January 2007**

**FINAL REPORT**



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120 Lakeside Avenue  
Suite 200  
Seattle, Washington 98122  
P (206) 324-8760

[www.berkandassociates.com](http://www.berkandassociates.com)

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<b>Principals:</b>	Bonnie Berk and Michael Hodgins
<b>Project Manager:</b>	Brian Murphy
<b>Project Team:</b>	Michael Hodgins, Brian Murphy, Natasha Fedo (Lead Analyst)

# EXECUTIVE SUMMARY

## **BACKGROUND AND PURPOSE OF THE ANALYSIS**

The City of Lakewood sponsored this study to evaluate the feasibility of annexing Fort Lewis, McChord Air Force Base (AFB) and Camp Murray as a means of generating tax revenue to facilitate acquisition of properties located in the Clear Zone north of McChord Air Force Base's runway and air operations.

According to a 2004 study conducted for the Office of Financial Management, Fort Lewis's and McChord AFB's substantial employment levels, payrolls, and other economic impacts comprise approximately 30 percent of all economic activity in Pierce County. Considering such regional economic importance of the military installations, it is critical to insulate the bases from the federal Base Realignment and Closure (BRAC) Commission process. Clear Zone encroachment issues figure prominently into preservation of these local military bases.

Currently, approximately 24 properties covering 50 acres in the McChord Clear Zone are privately owned and are either vacant land or developed with light industrial and storage facilities. All of the uses other than vacant land are incompatible with the Clear Zone designation. The BRAC Commission considers urban "encroachments" within military Clear Zones to hamper an installation's efficacy, which may lead to lost points in the review process and potential base closure.

The City of Lakewood is taking action by exploring the feasibility of an annexation-funded acquisition of the Clear Zone properties, in which revenue for the property acquisition program would be generated by the annexation of Fort Lewis, McChord AFB and Camp Murray, which currently are in the City's Potential Annexation Area (PAA).

The goal of this report is to inform the City on the following issues:

- **Impacts of Annexation:** What new operating costs and revenues would Lakewood realize if it were to annex the bases? What excess revenue, if any, would be available for purchase of Clear Zone properties?
- **Cost Analysis of Property Acquisitions:** What are the likely acquisition costs for the privately-owned parcels in the Clear Zone? What are the estimated costs beyond the value of the subject properties? What, if any, are relevant costs associated with ongoing ownership of these properties?

## ANNEXATION ANALYSIS

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The City of Lakewood's Potential Annexation Area consists of the urban cantonment areas of Fort Lewis and McChord AFB (soon to become Joint Base Lewis-McChord), and Camp Murray, a Washington State Military Department installation. The PAA is currently located within the City's designated urban growth boundary and is generally located to the east-southeast of the City's current limits.

The total PAA is approximately 12,300 acres, with 3,750 acres attributable to McChord AFB, 8,340 acres attributable to Fort Lewis, and 210 acres attributable to Camp Murray. All population and land uses within these areas are related to military uses.

**Key Assumptions.** There are several important points about the current analysis that should be highlighted:

- **Imperfect Information.** While we have conducted extensive research on various types of revenue that might be available to Lakewood via annexation of the military installations in question, in many cases we have had limited access to information. Considering these data shortcomings, we have tried to be very conservative in our estimates, erring on the side of discounting projected revenues.

For example, due to a lack of conclusive data regarding the amount of military spending on construction and service contracts that would be subject to state sales tax, we have discounted our estimates by 90% to approximate the subsequent taxable retail sales.

- **Assumption of General Fund Discretion.** Some estimated revenue sources have stipulations on their use imposed by Washington State statutes. For example, revenues from the Criminal Justice Sales Tax can only be used for the purpose of crime prevention and control, while state-shared gas tax revenues are slated for road maintenance.

We realize that under these provisions, these funds cannot be used directly for Clear Zone property purchase. However, since these funds are currently contributed to uses that are supported by other General Fund tax

revenues (Police and Street Maintenance), we have assumed that these revenue streams will free up an equivalent amount of the City's unrestricted General Fund revenues for the Clear Zone property acquisition program. This would require a clear and dedicated City policy to ensure that the funds are transferred appropriately.

The revenue generated from utility taxes imposed on garbage is to be used for public safety and transportation needs of the City per City ordinance. As this is a City policy, which could be revisited by the City Council at any time, we assume that the potential new revenues from this source could be made available for Clear Zone property acquisition.

**Impacts on City Revenues.** The following potential revenue streams that might be available to the City with annexation of the bases are examined in this report:

- Property taxes
- Utility taxes and franchise fees
- Sales taxes, including taxes on private vendors, construction activity, contracted services, and goods sourced to residents
- State-shared revenues
- Sales taxes – criminal justice
- Planning and building permit fees
- Business license fees
- Amusement, admission, and gambling taxes
- Business and Occupation Taxes
- Surface water management fees

The revenue streams from these various sources are classified in four categories corresponding to 1) the dependability of the potential revenue stream; and 2) our ability to assess the magnitude of the revenue stream given available information.

**Cost Implications.** In addition to the revenue streams described above, the potential cost implications of annexation must be calculated. After evaluating various potential costs, including building and construction permitting, police services, fire and Emergency Medical Technician services, road maintenance, road easements, animal control, and impacts to capital and enterprise funds, we have identified that there would be no or minimal operating expenses associated with the City's annexation of the military installations. As the federal bases most typically provide their own services, this analysis assumes that with annexation, Lakewood would not take over the provision of many of the services traditionally supplied by a municipality.

**Estimated Net Fiscal Impact of Annexation.** As there is no cost impact of annexation estimated for General Fund activities, all potential revenues resulting from annexation are assumed to be available for Clear Zone property acquisition. An assessment of potential revenue sources identifies the following key findings:

1. The Net Present Value (NPV) of all annexation-generated operating revenues over the next 20 years is approximately \$58.1 million (at 6% discount rate), assuming appropriate escalation of the revenue stream.
  - o The 6% discount rate reflects the approximate cost of capital for a public agency such as the City of Lakewood. As a result, the total revenues over the next 20 years could conceptually support a maximum bond value \$58.1 million if all revenues were dedicated to debt service.
2. \$27.9 million, or 48%, of the total NPV of all annexation-generated revenue is based on the most reliable data and definite sources of revenue.
3. The remaining estimated revenues are derived from categories that could vary based on imperfect information about either the underlying tax base or uncertainty about whether the tax would actually apply.
4. The least reliable estimate (in both accuracy and being the possible available source), property taxes, comprises only \$6.2 million of net present value, or 10.7%.

It is also important to point out that most of the estimated revenues (\$48.4 million of 20-year NPV or 83%) would come from the annexation of Fort Lewis. McChord AFB represents \$9.1 million of NPV or 16%, and annexation of Camp Murray would bring \$700,000, or 1%.

Of these City revenues, we estimate that only utility taxes and franchise fees (except for the Tacoma Public Utilities electricity franchise fee) represent new potential costs to the installations. These sources represent approximately 18% of the \$58.1 million NPV over the next 20 years. The rest of the revenues that Lakewood could collect do not signify new costs to Fort Lewis, McChord, or Camp Murray.

**Impacts to Pierce County and Other Jurisdictions.** Our analysis shows that Pierce County could bear an approximate \$2.1 million revenue impact in 2007. As state-shared revenues (liquor excise taxes, profits of the Washington State Liquor Control Board, gas tax revenues, and criminal justice assistance) are distributed to Washington cities based on population, there would be some impact on the other cities in the State.

## PROPERTY ACQUISITION FEASIBILITY ANALYSIS

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**Cost Analysis of Property Acquisitions.** As a part of this study, GVA Kidder Matthews (GVAKM) performed a property acquisition analysis to provide a project funding estimate. This limited analysis built upon a 2005 analysis by GPA Valuation and was based upon exterior-only inspections.

Based on exterior inspections of the properties in question and an assessment of regional market conditions, GVAKM estimates total base acquisition costs for all properties in the Clear Zone (CZ) at approximately \$49 million in 2007 dollars. In addition to the base acquisition costs estimated, GVAKM considered other costs, including appraisal fees, appraisal review fees, acquisition negotiation fees, acquisition title and escrow fees, property management service costs, relocation service costs, relocation payments, and condemnation and incidental costs. GVAKM estimated these additional costs to range from \$2.3 million to \$3.7 million. Demolition costs would add an additional \$2.3 million. The total potential costs of acquiring all properties in fee simple could be in the **\$53.6 to \$55.0 million** range.

In addition to full fee simple property acquisition, GVAKM identifies possible partial acquisition scenarios that may be a viable strategy to minimize costs in some cases, where the identified properties being considered for acquisition lie fully or partially within the CZ.

GVAKM describes two partial acquisition scenarios:

- In Alternative 1, the four properties that lie predominantly outside of the CZ, with only a small portion of their total site area or operations lying within the CZ, can be subject to partial acquisition. This scenario could result in a net reduction in the total estimated base acquisition costs of approximately \$8.5 million, or about 16%.
- GVAKM considers a second Alternative in which partial acquisition scenarios are based on impacts to value that might range anywhere from 25% to 50% of the full fee simple acquisition cost basis. Under this Alternative, potential acquisition costs range from as low as \$10.8 million up to perhaps \$24.5 million, versus about \$49.0 million in a full fee simple acquisition scenario. However, this Alternative assumes continuation of all existing uses, which may not be amenable to McChord or provide the desired result in terms of the BRAC objectives. GVAKM also warns that these partial acquisition scenarios are usually fairly complex and can present unexpected costs.

**Implications of Property Acquisition by the City.** In addition to property acquisition costs, it is important to understand other implications of the potential transfer of the CZ properties into City ownership. The estimated revenues that the City is currently collecting from the properties in the CZ total approximately \$95,000 in 2007 considering property taxes, sales taxes, utility taxes, and franchise fees and business license fees. Some of these revenues

may be lost to the City should the acquisition be completed, but the overall impact would be minimal.

## FINANCIAL FEASIBILITY ANALYSIS OF ANNEXATION-FUNDED PROPERTY ACQUISITION PROGRAM

To determine the feasibility of the property acquisition program, it is necessary to compare the estimate of the revenue stream from annexation with the upfront and ongoing costs of a CZ protection program.

The matrix in **Exhibit ES-1** demonstrates the potential feasibility of pursuing the strategy of using annexation to fund CZ property acquisition, considering different levels of revenue reliability and two acquisition scenarios. The two acquisition scenarios include a full fee simple base estimate and Alternative 1, in which some properties are partially purchased and others are acquired at 100%.

The revenue column in this table totals the net present value of 20-year revenue stream by the different levels of reliability of the estimate. These revenues figures are additive from top to bottom: \$27.9 million is the most conservative estimate, including only the most certain revenue streams, while a more optimistic estimate, including revenue streams that are both uncertain and based on imperfect information, totals \$58.2 million.

### Exhibit ES-1

#### Feasibility of Property Acquisition Matrix

Revenue Categories by Levels of Estimate Reliability	Potential Annexation Revenues (20-yr NPV)	GVAKM Acquisition Estimates	
		Base Estimate	Alternative 1
		<b>\$54,300,000</b>	<b>\$45,850,000</b>
Definite source of revenue + more reliable information base	<b>\$27,910,000</b>	(\$26,390,000)	(\$17,940,000)
<i>Above PLUS</i>			
Definite source of revenue + less reliable information base	<b>\$40,950,000</b>	(\$13,350,000)	(\$4,900,000)
<i>Above PLUS</i>			
Tentative source of revenue + more reliable information base	<b>\$51,950,000</b>	(\$2,350,000)	\$6,100,000
<i>Above PLUS</i>			
Tentative source of revenue + less reliable information base	<b>\$58,160,000</b>	\$3,860,000	\$12,310,000

Estimated ongoing maintenance costs associated with acquired Clear Zone properties are estimated to be minimal. These costs are not reflected in the table above.

Grey cells reflect the difference between potential revenues from annexation and estimated Clear Zone acquisition  
Source: Berk & Associates, 2007

The results in the matrix describe the range of possible outcomes:

- If the City elects to follow the most conservative estimates, it could pursue issuance of a 20-year bond for approximately \$28 million; however, this would likely not be enough to cover the costs of acquisition in either the full fee simple or partial purchase (Alternative 1) scenarios.
- If the City is optimistic about the revenues and costs of acquisition, it is possible that the 20-year bond for \$50 million to \$58 million could cover the purchase of CZ properties, albeit with a thin margin.

Given the uncertainties identified in this study's assessment of revenue streams resulting from annexation of the bases, as well as the approximate nature of the cost estimate for CZ property acquisition, the City is not left with a clear and simple conclusion: the decision to implement this strategy is a difficult decision and needs to be weighed with caution. The figures used in the analysis are estimates and any particular number in this analysis, such as the amount of sales tax expected to be generated from the bases, will almost certainly differ from the actual revenue stream realized should annexation occur. However, while any individual figure may be imprecise, we believe the overall findings reflect the best knowledge available about the fiscal feasibility of proposed annexation and CZ property acquisition program.

### **Assessment of External Funding Options**

Any potential gap in funding may be bridged by external financial support, but exactly how much can be contributed to this cause is difficult to determine.

**Federal and State Grants.** Federal and state grants, including the Federal Readiness and Environmental Protection Initiative (REPI) and the State Military Communities Infrastructure Projects Grants, exist to address such issues. McChord AFB submitted a FY07 REPI application that was not funded. As this funding was instrumental in providing a local match for a desired State Military Communities Infrastructure grant, the applicability of both of these fund sources for this effort is highly questionable.

**State Sales and Use Tax Credit.** In March 2006, Washington State legislature passed a bill authorizing a local sales and use tax credit to assist cities with negative revenue impacts resulting from annexations. Revenues from the sales tax credit must be applied to a net deficit associated with annexation and may not exceed the difference between costs and revenues from the potential annexation areas. While the statute is clear that this revenue may be used to cover operating deficits, it is much less clear the degree to which capital needs might be included.

While Lakewood meets several requirements, as the City could potentially generate significant revenues while incurring minimal costs from annexation of military installations, the key question is whether or not the acquisition of the Clear Zone properties could be considered a cost associated with annexation. It seems unlikely that these costs would be considered eligible for the State

sales tax credit, as they are capital expenditures not related to the annexation area but to an area elsewhere that is already located within the current City limits.

**Other Federal Fund Sources.** Other potential federal fund sources exist that should be pursued to offset local risks and costs associated with the proposed Clear Zone program. Title 10, Section 2684a of the U.S. Code states that “The Secretary of Defense or the Secretary of a military department may enter into an agreement with an eligible entity described in subsection (b) to address the use or development of real property in the vicinity of a military installation.” Further, “funds authorized to be appropriated for operation and maintenance of the Army, Navy, Marine Corps, Air Force, or Defense-wide activities may be used to enter into agreements under this section.” According to City sources, McChord staff report that the base has, in the past, attempted to get funding to buy out at least some of the CZ. The use of appropriated capital funds by the military to solve the encroachment issues at McChord AFB would be an appropriate and desirable use of funds from a City perspective and should be encouraged through the City’s lobbying efforts and Congressional delegation.

The bases’ Congressional delegation continues to seek a federal solution to encroachment at McChord AFB. The possible application of new and existing federal fund sources will surely be pursued by the delegation.

### **Risks and Potential Local Partnerships to Share Risks**

If the City of Lakewood funds Clear Zone acquisition by issuing bonds secured with anticipated revenues from the annexation of the bases, the City is shouldering the risk that, should the anticipated revenues be less than projected, the City will be required to use General Fund dollars to serve its debt. Furthermore, while the proposed Clear Zone acquisition program might help insulate McChord from closure under BRAC, it would not ensure that McChord or Fort Lewis would never be closed for some other reason, perhaps including further realignment and consolidation with another facility. Should such a turn of events come to pass within the lifetime of the debt service, the City may find itself responsible for debt payments without access to the offsetting revenue stream associated with annexation. The potential revenue streams to the City from the redevelopment or reuse of the base properties is not predictable, and so the City should consider the risk that, under the very worst scenario, the City may have to shoulder maintenance of the debt service substantially or entirely from its General Fund.

The City of Lakewood is clearly not the only beneficiary of the continued operations of Pierce County’s military bases, both in terms of economic impacts of base operations and with regard to the military strategic value of the bases. Local partnerships can offer the benefit of support and shared risk, especially considering that many local jurisdictions currently benefit from the military presence in Pierce County.

Pierce County has set aside \$250,000 in its adopted 2007 budget for land acquisition in the CZ. In addition to the County, other Pierce County cities and economic development agencies such as the Tacoma-Pierce County Chamber, the Pierce County Economic Development Board, and the Port of Tacoma might be approached with a request that they contribute to a regional solution to address McChord encroachment. Such a solution would require a lead actor to advance acquisition as the City of Lakewood is exploring. Contributions by additional partners would serve to reduce the City's costs and risk exposure.

**Condemnation.** RCW 8.04.170 allows for condemnation of property for military purposes, requiring action by the Governor to initiate the process. The City and/or Pierce County might partner with the State in such an endeavor. Under such an approach, annexation of the bases as studied in this report might serve to finance participation by the City of Lakewood.

## **PROGRAM IMPLEMENTATION AND NEXT STEPS**

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### **Recommended Annexation Approaches**

Within Washington State law, there are seven methods of annexation available to code cities. The City of Lakewood is analyzing three potential annexation areas: Fort Lewis, McChord Air Force Base, and Camp Murray. The appropriate method for annexation for federal bases differs from that for Camp Murray, a State installation:

- Within Washington State there is only one annexation method – Annexation of Federally Owned Areas – that can be applied to annex federally owned lands, including both Fort Lewis and McChord Air Force Base.
- Annexation of State-owned lands, such as Camp Murray, is guided by two annexation methods: Election (initiated by city council) and Direct Petition. Because Camp Murray has a single large land owner (the State) and relatively few residents/voters, we recommend the Direct Petition Method, which can be initiated by the State (rather than by voters).

### **Clear Zone Program Implementation**

The acquisition of properties in the Clear Zone involves a complex, multi-step process, made more complicated by the number of owners of the 24 properties in question. The following steps and considerations would be required as part of the Clear Zone program, some of which may need to be taken concurrently:

1. Development of a detailed Clear Zone property acquisition plan
2. Appraisals for each property
3. Appraisal reviews

4. Negotiations
5. Eminent domain proceedings
6. Relocation of existing users
7. Purchase process
8. Demolition and ongoing maintenance
9. Ongoing communication to community

## **Policy Considerations**

Given the strategic value of the Pierce County military installations, there are significant policy reasons why it is important to consider proceeding with a Clear Zone protection program (with or without an annexation element). In the event that Clear Zone encroachment issues were to threaten the long-term viability of any or all of the Pierce County military facilities, there would be a significant economic and fiscal cost to all local jurisdictions. Lakewood and other local jurisdictions would benefit in the long run from partnering to protect the revenue streams and employment that the bases contribute.

**Effects of Clear Zone Property Acquisition.** Policy consideration should also be given to the CZ properties: how would the property acquisition program affect land and business owners, as well as their employees and the families of these employees? The best scenario would be to relocate existing businesses to other locations in Lakewood, but some may choose to relocate outside City limits.

**Possible Eminent Domain Proceedings.** In addition, some landowners may not be amenable to selling their properties to the City through a CZ program, while others may contest the price the City is willing to pay for their properties. In such cases, the City may have no other option than enter into eminent domain proceedings to acquire these properties. While allowances for the greater costs associated with condemnation costs are made in the property acquisition estimates used in this study (see **Appendix A**), condemnation would also present the City with greater legal challenges, as well as the public relations complexities inherent with condemnation efforts.

**Consideration of Long-Term Handling of Annexation Revenues.** Another question relates to continuing revenue streams associated with annexation once Lakewood has paid down its debt related to Clear Zone property acquisition. It may be possible to reduce the utility tax rate for on-base utilities or to fund other improvements or services which would benefit the military installations with any excess revenues over City expenses.

## Program Implementation and Next Steps

**Preferred Option.** If the annexation-funded Clear Zone acquisition program explored in this report is pursued, the preferred option for the City would be to annex the military installations and evaluate the incoming revenue stream, as well as associated service costs (if any), to determine the actual net revenue of annexation impact prior to making property acquisitions in the Clear Zone. During this assessment period, the City could plan its the approach to Clear Zone property purchases and understand how much debt it could support without subsidizing the acquisitions.

However, the military installations may want a firm commitment from the City in terms of CZ property acquisition before consenting to annexation, so the City may not have the luxury of seeing the actual revenue impact before issuing debt and so may ultimately end up subsidizing the purchase if revenues are less than expected.

**Memorandum of Understanding.** Annexation of the military bases will require agreement by both the federal government and Pierce County. Given that annexation would have financial impacts to both the bases and the Pierce County and that action taken by either party to could block annexation, it would clearly be in the City's interest to establish a memorandum of understanding outlining agreement to annexation. This agreement should include assumptions about revenues, agreement on which entities will be responsible for service provision following annexation, and other financial and legal considerations.

U.S. Department of Defense Directive 4165.6 on Real Property Acquisition, Management, and Disposal directs the Department of Defense to remain "neutral relative to annexation." As shown by the case of Bremerton, this position of neutrality need not prohibit the government from either entering into a memorandum of understanding or from consenting to annexation. Prior to annexation, the City and the Puget Sound Naval Shipyard entered into a MOU in 1985 (reproduced in **Appendix E**). A lack of opposition to the proposed annexation was later communicated as consent by the Under Secretary of the Navy (as shown in **Appendix F**).

**Next Steps.** It would take some time for Lakewood to annex the military installations and establish a Clear Zone acquisition program. We have devised the steps below to help with this implementation process. Some of these steps may need to be taken concurrently.

1. Allocate resources in terms of staff time; the City would need to dedicate some personnel time to this task
2. Establish a Memorandum of Understanding with Pierce County and the federal government as discussed above
3. Start discussions with McChord AFB to identify preferences for timing of Clear Zone acquisition

4. Get certified appraisals for the CZ properties and begin the negotiations with property owners
5. Begin conversations with Fort Lewis, McChord AFB, and Camp Murray regarding annexation; commence the annexation process (described in detail in Assessment of Annexation Approaches chapter of this report)
6. Research appropriate debt instruments
7. Forge solid local partnerships and apply for relevant state and federal grants
8. Conduct ongoing communication and public outreach designed to clarify the aims of the annexation and property acquisition program

**Timing and Phasing Options.** The encroachment issue at McChord is long-standing. Clearly an expeditious solution is desirable to enhance the security of the base. From a cost perspective, a near-term solution is also desirable. The cost estimates performed by GVAKM for this study note that the estimated costs have “essentially doubled” since the 2005 GPA Valuation study. This increase is attributed in part to the consideration of additional properties not considered in the original analysis, due to application of the “larger parcel” concept. The GVAKM study also notes that changes have occurred in market conditions, increasing the baseline value of the properties, and new building improvements have been made as well. It can be assumed that the costs associated with a CZ acquisition program will continue to increase over time.

In terms of revenue generation, there seems to be no advantage to partial or phased annexations, as Fort Lewis is estimated to generate more than 80% of revenues. Annexation of Camp Murray would contribute approximately \$700,000, or 1% of 20-year NPV, so it may not be advantageous to annex this State facility at all from a purely financial point of view. However, as Camp Murray borders Lakewood on one side and is surrounded by Fort Lewis on the others, this annexation would almost certainly need to happen if Fort Lewis is annexed to avoid the creation of unincorporated islands, something the boundary review boards normally seek to avoid when reviewing annexation initiatives.

A phased approach to Clear Zone property purchase may be possible, but will require discussions with McChord AFB to prioritize the properties and identify preferences for timing of acquisition. Debt could then be issued in stages, depending on the plan.

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## ACRONYMS

<b>AFB</b>	Air Force Base	<b>NOI</b>	Notice of Intent
<b>AICUZ</b>	Air Installation Compatible Use Zone	<b>NPV</b>	Net Present Value
<b>APZ</b>	Accident Potential Zones	<b>OFM</b>	Washington State Office of Financial Management
<b>AV</b>	Assessed Value	<b>PAA</b>	Potential Annexation Area
<b>BRAC</b>	Base Realignment and Closure	<b>PSE</b>	Puget Sound Energy
<b>BRB</b>	Boundary Review Board	<b>RCW</b>	Revised Code of Washington
<b>CZ</b>	Clear Zone	<b>REPI</b>	Readiness and Environmental Protection Initiative
<b>DoD</b>	U.S. Department of Defense	<b>ROTC</b>	Reserve Officers' Training Corps
<b>DOR</b>	Washington State Department of Revenue	<b>Sf</b>	Square Feet
<b>EMT</b>	Emergency Medical Technician	<b>SWM</b>	Surface Water Management
<b>FY</b>	Fiscal Year	<b>TPU</b>	Tacoma Public Utilities
<b>GIS</b>	Geographic Information System	<b>UGA</b>	Urban Growth Area
<b>GMA</b>	Washington State Growth Management Act	<b>USC</b>	United States Code
<b>GVAKM</b>	GVA Kidder Matthews	<b>WSLCB</b>	Washington State Liquor Control Board
<b>MHPI</b>	Military Housing Privatization Initiative		
<b>MOU</b>	Memorandum of Understanding		
<b>MP</b>	Military Police		
<b>MRSC</b>	Municipal Research and Services Center		
<b>MWR</b>	(Army) Morale, Welfare, and Recreation		
<b>NALF</b>	Naval Auxiliary Landing Field		
<b>NAS</b>	Naval Air Station		
<b>NCO</b>	Noncommissioned Officer		
<b>NGO</b>	Non-Governmental Organization		

# I. INTRODUCTION

Recognizing the considerable economic value of the continued operations of Pierce County's military installations, not only to the City, but to the Pierce County as a whole, the City of Lakewood is seeking to remedy conditions surrounding McChord Air Force Base that might negatively affect its military value. To this end, the City sponsored this study, which evaluates the financial feasibility of using the net revenues from annexing these neighboring military bases to offset land acquisition in the Clear Zone (CZ).

This study evaluates the revenues and costs associated with annexation, estimates the cost of a Clear Zone acquisition program, and describes the financial feasibility and risks associated with such an endeavor. The overall goal of this effort is to provide decision makers at the City with sufficient information to establish the feasibility of the proposed annexation and land acquisition program.

Three annexation areas in the City's Potential Annexation Area (PAA) are assessed in this study. These areas include the urban cantonment areas of the following military installations:

- Fort Lewis
- McChord Air Force Base (AFB)
- Camp Murray

## **REPORT SCOPE AND ORGANIZATION**

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In addition to this introductory chapter which provides background and purpose, there are three analytic chapters to this report:

**Chapter II: Annexation Feasibility.** This chapter seeks to summarize the potential revenues that could become available to the City through the annexation of Fort Lewis, McChord AFB, and Camp Murray. This analysis seeks to answer the following question:

*How much net revenue could be raised through the annexation of military bases for real property purchase in the McChord Clear Zone?*

**Chapter III: Clear Zone Property Acquisition Feasibility Analysis.** To fully assess the feasibility of using net revenue from annexation for a Clear Zone encroachment program, the potential costs of such a program need to be well understood. This portion of the report assesses the current and future costs of acquiring and managing properties in the CZ. It also looks at the extent to which there may be alternatives to fee simple property acquisition that would reduce the total cost to the City and explores external sources of funding, such as state and federal grants that would also reduce the local costs of a potential CZ program.

**Chapter IV: Financial Feasibility Analysis of Annexation-Funded Property Acquisition Program.** This chapter evaluates the feasibility of the property acquisition program, comparing the upfront and ongoing costs of a Clear Zone protection program with the estimated net revenue stream from annexation.

**Chapter V: Implementations and Approaches.** This chapter discusses implementation options and approaches for the annexation of the military bases within the City's PAA, as well as the program of Clear Zone property acquisition. Consideration is given to policy issues related to this strategy and next steps are proposed.

## **BACKGROUND AND PURPOSE OF THE ANALYSIS**

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Lakewood's neighboring military bases are a significant part of the City and Pierce County economies and have a major impact on the State of Washington. According to a 2004 study conducted for the Office of Financial Management (OFM), Fort Lewis and McChord AFB contribute \$2.2 billion annually in net direct impacts to the Pierce County economy. The bases provide employment for more than 34,000 uniformed and civilian personnel accounting for more than \$1.8 billion in payroll.<sup>1</sup> [endnotes in this document provide source information only]

Concerns over potential encroachment of development near and within the McChord AFB Clear Zone have increased during the past few years and were particularly pronounced during the last round of review by the Base Realignment and Closure (BRAC) Commission, which occurred in 2005.

The City of Lakewood seeks to ensure the continued presence of the military in the region by leading the way in protecting these critical regional assets. The City is exploring potential acquisition of the Clear Zone properties from the private property owners. The City has identified the annexation of the areas that constitute the military bases within Lakewood's Urban Growth Areas (UGA) as a potential source of funding for the purchase.

## Base Realignment and Closure Commission

The Base Realignment and Closure (BRAC) Commission is defined by the Department of Defense (DoD) as a congressionally authorized means of reorganizing DoD's base structure to more efficiently and effectively support military forces, increase operational readiness, and facilitate new ways of doing business.<sup>2</sup> In essence, the BRAC process is used to trim excess "fat" from the military system, aimed at making it more efficient and less redundant. During the last few rounds of BRAC – in 1988, 1991, 1993, 1999, and 2005 – recommendations were made to close or realign a number of major and minor military installations across the United States.

There are many criteria that are considered in the evaluation process. The principal criterion for assessing a base is its military value: "its ability to contribute to future mission capabilities and operational readiness (American Forces Press Service)." Other considerations include the base's economic impact on communities, the extent and timing of cost savings, and environmental impact. In the BRAC process, bases prepare internal assessments of their operations, land, personnel, and facilities and the Commission then evaluates installations on base-by-base basis.

According to DoD's Office of Economic Adjustment of the Department of Defense, urban encroachment near military facilities can compromise the utility and effectiveness of the installation and its mission. This concern was highlighted during the 2005 BRAC process in which the encroachment issue was a key factor in placing Naval Air Station (NAS) Oceana in Virginia on the base closure list. Even though the Commonwealth of Virginia and the municipal governments of Virginia Beach and Chesapeake, Virginia, satisfied five of the six criteria prescribed by the BRAC Commission for certification, the actions taken did not satisfy the criterion to:

*"enact state and local legislation and ordinances [sic] to establish a program to condemn and purchase all the incompatible use property located within the Accident Potential Zone I areas for Naval Air Station Oceana, as depicted in the 1999 AICUZ pamphlet published by the US [sic] Navy..."<sup>3</sup>*

As a result, NAS Oceana remains on the closure list. The seriousness of the issue is summarized in the following quote from the BRAC Commission Report:

*"The intent of the Commission is to ensure that the State of Virginia and the municipal governments of Virginia Beach and Chesapeake take immediate and positive steps to halt the encroaching developments that are pending before them now and in the future, and also to roll back the encroachment that has already occurred in the Accident Potential Zones (APZ) around NAS Oceana and NALF Fentress, particularly in the APZ-1 areas."<sup>4</sup>*

## **Future Merger of Fort Lewis and McChord AFB**

Among other recommendations, the 2005 BRAC process recommended to realign McChord AFB by relocating the installation's management functions to Fort Lewis, establishing Joint Base Lewis-McChord. The proximity of the two bases was the primary reason cited for this recommendation. As these installations share a common boundary, there is an opportunity to reduce duplication of efforts and generate savings by combining management personnel and achieving economies of scale. Most services at McChord's medical clinic would be relocated to nearby Madigan Army Hospital at Fort Lewis. Currently, it is not clear when the merger will take place and what effect it may have on the installations and the surrounding communities.

## **The Issue: Urban Encroachment in McChord's Clear Zone**

The Clear Zone in question is the area north of McChord AFB, which is 3,000 feet wide and extends 3,000 feet beyond the end of the runway. This area is in the direct flight path of military aircraft and has the highest accident potential. To the DoD, the only land use within the Clear Zone that is deemed compatible is agriculture (except livestock). In effect, for best safety measures, the Clear Zone should remain vacant, without any type of development.

Currently, most of the land in the McChord Clear Zone is owned by the federal government; however, approximately 24 properties in the McChord Clear Zone are privately owned and are either vacant land or developed with light industrial and storage facilities. All of the uses other than vacant land are incompatible with the Clear Zone designation.

As mentioned above, urban encroachment near military facilities can compromise the utility and effectiveness of the installation and its mission, and serve as a reason for base closure. For several years, the City of Lakewood has urged the federal and state government to acquire the property in McChord's Clear Zone to protect it from encroachment, without success.

## **Lakewood's Proposed Solution**

Without question, the military installations of Fort Lewis, McChord AFB, and Camp Murray play an important role in the Puget Sound economy. Lakewood wants to ensure the continued presence of the military in the region by protecting these critical regional assets. While Fort Lewis and McChord AFB were spared from closure in the BRAC Commission's final recommendations, the City of Lakewood remains committed to securing the future of the bases:

*"The military is an integral part of our community and Lakewood wants to ensure the continued presence of the military in our region. We are very proud of our relationships with the bases and want to do what we can to protect these critical regional assets."<sup>5</sup>*

A potential solution is for the City of Lakewood to acquire the properties in the Clear Zone and eliminate incompatible uses. The City has identified the potential revenue stream that might be generated by the annexation of the areas on the military bases that are within Lakewood's Urban Growth Areas as a potential source of funding for the purchase. For the City, the sole purpose of considering an annexation of these military areas is to generate the revenues needed to fund a property acquisition program in the Clear Zone.

## **ADDITIONAL POSSIBLE SOLUTIONS**

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The focus of this study is on the feasibility of a particular solution to the encroachment challenges threatening the sustainability of McChord AFB: the acquisition of Clear Zone properties by the City of Lakewood funded through the City's annexation of the military bases in its PAA. Alternative approaches may exist, several of which are described briefly below. The feasibility assessment of these options lies outside the scope of this study.

### **Federal Appropriations for Clear Zone Acquisition**

McChord Air Force Base is not the only base threatened with closure due to encroachment issues, and the City of Lakewood and other Pierce County communities are not the only municipalities wrestling with how to address such issues. The bases' Congressional delegation is seeking a solution for this issue, as are the representatives of other communities elsewhere in the country and it is possible that a specific federal appropriation may be designed to address base encroachment issues.

It is also possible that McChord AFB may use its capital appropriations to address the Clear Zone encroachment issue. The base may be reluctant to act in such a manner, however, perhaps not wanting to draw attention to the issue.

Such solutions seem appropriate in that they represent a federal solution to a challenge faced by a federal military installation. They are also clearly attractive from the City of Lakewood's perspective in that they would relieve the City of the burden of action. If the financial means were made available, the federal government has clear authority to condemn land necessary for public purposes under 28 USC 1358.

### **Potential City, County, and/or State Partnerships**

The City of Lakewood is clearly not the only beneficiary of the continued operations of Pierce County's military bases, both in terms of economic impacts of base operations and with regard to the military strategic value of the bases. Section 8.04.170 of the Revised Code of Washington (RCW) allows for condemnation of property for military purposes, requiring action by the

Governor to initiate the process. The City and/or Pierce County might partner with the State in such an endeavor. Under such an approach, annexation of the bases as studied in this report might serve to finance participation by the City of Lakewood.

### **Considerations Related to Additional Possible Solutions**

While the additional possible solutions to encroachment at McChord AFB discussed above are attractive in that they may they relieve the City of Lakewood of some or all of the uncertainty and risk associated with the proposed strategy of annexation and Clear Zone property acquisition, it is important to note that these are solutions that the City can do little to advance beyond continued lobbying and advocacy. The City-initiated, annexation-funded approach described in the remainder of this document is an alternative that presents a more immediate opportunity to address the long-standing encroachment issue on McChord Air Force Base.

## II. ANNEXATION ANALYSIS

### STUDY AREA CHARACTERISTICS

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#### Description of Potential Annexation Area

The City of Lakewood's PAA consists of the urban cantonment areas of Fort Lewis and McChord AFB (soon to become Joint Base Lewis-McChord), and Camp Murray, a Washington State Military Department installation. As evident from **Exhibit 1**, the PAA is currently located within the City's designated urban growth boundary and is generally located to the east-southeast of the City's current limits.

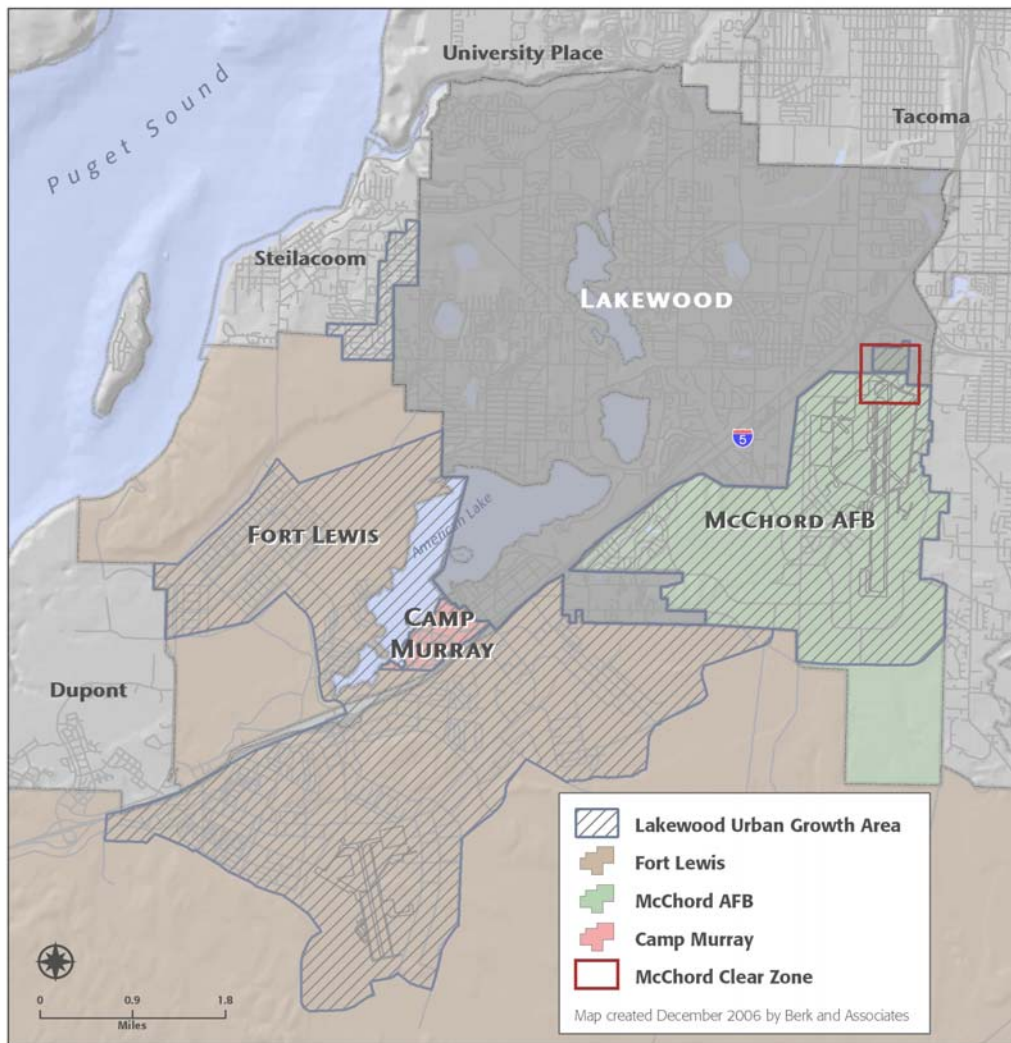
The total PAA is approximately 12,300 acres, with 3,750 acres attributable to McChord AFB, 8,340 acres attributable to Fort Lewis, and 210 acres attributable to Camp Murray. All population and land uses within these areas are related to military uses.

As the City borders Fort Lewis, McChord, and Camp Murray, it has very close ties to these installations. Lakewood houses some of the off-base population and serves as a shopping and service center for base employees. In addition, many military retirees live in the City so that they can take advantage of on-base services such as overseas travel or access to commissaries.

**Fort Lewis.** At more than 86,000 acres in size, Fort Lewis is one of the largest and most modern military reservations in the United States. According to the Fort Lewis website, it has more than 25,000 soldiers and civilian workers, while supporting 120,000(+) retirees and more than 29,000 family members living both on and off post. There currently are approximately 3,800 housing units on Fort Lewis, all of them privatized, and plans for another 240 units to be built within the next several years. With more than \$1 billion in payroll, Fort Lewis is the largest employer in Pierce County and is ranked as the fourth largest employer in Washington State.

## Exhibit 1

### Lakewood's Potential Annexation Area



Source: Lakewood and Pierce County GIS data, Berk & Associates, 2007

Fort Lewis has been home of I Corps since 1981, which has the Pacific Rim as its primary focus. The principal Fort Lewis maneuver units are the 1st Brigade, 25th Infantry Division and the 3d Brigade, 2nd Infantry Division. In addition, Fort Lewis is also home to the 593d Corps Support Group, the 555th Engineer Group, the 1st Military Police (MP) Brigade (Provisional), the I Corps Noncommissioned Officer (NCO) Academy, Headquarters, Fourth Reserve Officers' Training Corps (ROTC) Region, the 1st Personnel Support Group, 1st Special Forces Group (Airborne), 2d Battalion (Ranger), 75th Infantry, and Headquarters, 5th Army (West).

Fort Lewis is home to Madigan Army Medical Center, providing general medical center care, inpatient and outpatient services, veterinary care, and environmental health services for members of the Armed Forces, retired

personnel, and their family members. Madigan is a Level 2 Trauma Center and is part of the Tacoma Trauma Trust serving South King County, Pierce, and Thurston Counties, as well as Southwest Washington. There are approximately 130 inpatient visits per day, with a bed capacity of 202, while outpatient clinic visits per year number more than 800,000.

**McChord AFB.** McChord AFB is primarily an airlift base, flying large transport aircraft that are used in international U.S. military operations. McChord is home to a wide variety of units and missions, including the 62nd Airlift Wing, as well as its Reserve partner, the 446th Airlift Wing. Together, the two wings fly 50 C-17 Globemaster IIIs to provide combat airlift. McChord also hosts an Air National Guard unit; the 22nd Special Tactics Squadron; the 361st Recruiting Squadron; and a number of other units. The base’s responsibilities range from supplying humanitarian airlift relief to victims of disasters to airdropping troops into hostile areas.

More than 10,000 Air Force active duty, reserve, and civilian employees are on the McChord payroll. There are about 980 housing units at McChord AFB, all of them owned and operated by the military. McChord projects approximately 430 privatized units within the next five years.

**Camp Murray.** Camp Murray serves as headquarters for the Washington State Military Department, as well as the Washington Army and Air National Guard. Camp Murray is home to the Washington State Emergency Operations Center, which aids local emergency responders by coordinating search and rescue operations, wildfire mobilization, environmental responses, and other emergencies. The Center accommodates 70+ staff persons during day-to-day operations and 225 during a catastrophic emergency.

**Current and Future Population**

Population estimates for the military installations were generated through GIS analysis of OFM Small Area Estimates data.<sup>6</sup> **Exhibit 2** presents the figures for “resident population” (equivalent to night-time population), which include all persons usually residing in an area including military personnel and their dependents.

**Exhibit 2**

**Estimated Night-Time Population of Fort Lewis, McChord AFB, and Camp Murray**

<b>Military Installation</b>	<b>Census 2000</b>	<b>Estimated 2004</b>	<b>Estimated 2005</b>
Ft. Lewis	19,370	19,333	18,786
McChord	4,100	4,016	3,947
Camp Murray	0	0	0
<b>Total</b>	<b>23,470</b>	<b>23,349</b>	<b>22,733</b>

Source: OFM Small Area Estimates and Berk & Associates, 2007

In total, in 2005, the three focus areas included in this analysis were home to approximately 22,700 residents. In its forecast zone-level analysis, the Puget Sound Regional Council forecasts virtually no growth for the Fort Lewis/McChord area. In fact, the agency forecasts a very slight decrease in population (about 0.1% from 2010 through 2040). In addition, there was no detectable growth pattern since 2000. Considering these factors, we estimate that the future population of the bases will remain around current levels.

Should the Air Force housing privatization contract go ahead by 2010 (see discussion under Property Taxes beginning on page 12), McChord estimates that only 430 of the current 980 housing units will be re-built, potentially decreasing the resident population by over 50%.

### Utility Providers

As shown in **Exhibit 3**, Fort Lewis, McChord AFB, and Camp Murray have similar utility providers, except for electricity. Tacoma Public Utilities (TPU) provides power to Fort Lewis and McChord AFB, while Puget Sound Energy (PSE) provides electricity to Camp Murray.

#### Exhibit 3

#### Major Utility Providers on Fort Lewis, McChord AFB, and Camp Murray

Utility	Fort Lewis	McChord AFB	Camp Murray
Electric	Tacoma Public Utilities (TPU)	Tacoma Public Utilities (TPU)	Puget Sound Energy (PSE)
Gas	Puget Sound Energy (PSE)	Puget Sound Energy (PSE)	Puget Sound Energy (PSE)
Garbage	LeMay Enterprises	LeMay Enterprises	LeMay Enterprises
Cable	Comcast, others	Comcast, others	Comcast, others
Telephone	Qwest, others	Qwest, others	Qwest, others
Water	Fort Lewis	McChord AFB	Fort Lewis
Sewer	Fort Lewis	Fort Lewis	Fort Lewis
SWM	Fort Lewis	Fort Lewis	Fort Lewis

Source: Interviews with Fort Lewis, McChord AFB and Camp Murray representatives, 2006

### IMPACTS ON CITY REVENUES

This chapter presents estimated potential revenues that could become available to Lakewood from annexation of Fort Lewis, McChord AFB, and Camp Murray, as well as explanation of assumptions and methodology. In particular, this section addresses property taxes, utility taxes and franchise fees, sales taxes, state-shared revenues, and other potential sources of revenues.

For each, we provide explanatory text, a summary of impacts on City revenues, and a summary of impacts to the bases and other parties.

Considering that in many cases we have had access to limited information, we present the results in four categories, grouped by the different levels of reliability of the estimate. Later in the report, **Exhibit 6** details the potential revenues that Lakewood may receive in 2007, as well as 20-year net present value of this potential revenue stream.

## Key Assumptions

There are several important points about the current analysis that should be highlighted:

- **Imperfect Information.** While we have conducted extensive research on various types of revenue that might be available to Lakewood via annexation of the military installations in question, in many cases we have had limited access to information. Considering these data shortcomings, we have tried to be very conservative in our estimates, erring on the side of discounting projected revenues.

For example, due to a lack of conclusive data regarding the amount of military spending on construction and service contracts that would be subject to state sales tax, we have discounted our estimates by 90% to approximate the subsequent taxable retail sales.

- **Assumption of General Fund Discretion.** Some estimated revenue sources have stipulations on their use imposed by Washington State statutes. For example, revenues from the Criminal Justice Sales Tax can only be used for the purpose of crime prevention and control, while state-shared gas tax revenues are slated for road maintenance.

We realize that under these provisions, these funds cannot be used directly for Clear Zone property purchase. However, since these funds are currently contributed to uses that are supported by other General Fund tax revenues (Police and Street Maintenance), we have assumed that these revenue streams will free up an equivalent amount of the City's unrestricted General Fund revenues for the Clear Zone property acquisition program. This would require a clear and dedicated City policy to make ensure that the funds are transferred appropriately.

The revenue generated from utility taxes imposed on garbage is to be used for public safety and transportation needs of the City per City ordinance. As this is a City policy, which could be revisited by the City Council at any time, we assume that the potential new revenues from this source could be made available for Clear Zone property acquisition.

## Property Taxes

### Background on Privatized Housing

The Military Housing Privatization Initiative (MHPI) was designed to replace unsafe and dilapidated family housing by privatizing traditionally government-owned military housing. Under traditional military housing programs, the federal government pays a builder for construction directly, owns all the buildings and equipment, and manages the units. Under MHPI, however, the United States leases the land to developers who build and manage the housing units, with the ownership of the privatized units subsequently held by the private developer. Military tenants provide an income stream to the developers by paying rent from their Basic Allowance for Housing.

Of the total Potential Annexation Area, currently only Fort Lewis has privatized housing:

- Currently there are approximately 3,800 housing units on Fort Lewis, all of them privatized, with plans for another 240 units to be built within the next several years.
- There are about 980 housing units at McChord AFB, all of them owned and operated by the military. McChord projects approximately 430 privatized units within the next five years in place of old 980 units, once the Air Force awards the competitively bid contracts to the developers.
- There is no current or projected housing at Camp Murray.

### Property Tax Implications

Real property (land) on federal reservations, as well as personal property, is exempt from property tax per RCW 84.36.010. However, the personal property tax may apply to the personal property of "civilian" businesses located on federal reservations.

The question of local property taxation of privatized military housing is quite complex. The legislative jurisdiction of the base, which can be exclusively federal, concurrent state and federal, partial, or proprietary, has a bearing on whether state tax law applies to a housing project and subsequently, whether the developer will be subject to property taxes. It is important to determine the type of the legislative jurisdiction in the study area, as it governs which law would apply – federal or state. The ownership of lands by the federal government within a state does not create areas of federal jurisdiction; jurisdiction must be determined by reviewing historical documents.

The various possible categories of jurisdiction are briefly explained here:

- **Exclusive Federal Legislative Jurisdiction** – the federal government possesses all of the authority of the state, so the state cannot exercise any authority, except for civil or criminal process in the area for activities which

occurred outside the area. This jurisdiction category gives the federal government the sole authority to legislate.

- **Concurrent Legislative Jurisdiction** – the federal government and the state can concurrently exercise the same authority. In the event of a conflict between state and federal law, the latter would prevail under the Constitution’s Supremacy Clause.
- **Partial Legislative Jurisdiction** – in addition to civil or criminal process authority as in areas of exclusive jurisdiction, the state reserved the right to exercise other authority, e.g. property taxation.
- **Proprietary Legislative Jurisdiction** - the United States has no special privilege, i.e. it has none of the state's legislative authority. Under this form of jurisdiction, the federal government only maintains immunity and supremacy for inherently governmental functions.

According to the 1999 Army Corps of Engineers Report on City of Lakewood Expansion of Urban Growth Area and Planned Annexation of Fort Lewis (from hereafter referred to as the 1999 Army Corps of Engineers Report), the United States has exclusive jurisdiction over Fort Lewis. In interviews, McChord AFB staff stated that most of the base is exclusive federal jurisdiction with some areas of concurrent jurisdiction. There are no proprietary jurisdiction areas within the McChord boundaries. Given that Fort Lewis is under exclusive federal jurisdiction, it is possible that property taxes may not be collectable from privatized housing there. It is less clear with McChord AFB, which merits further research into which areas of the base fall under concurrent jurisdiction.

Despite this jurisdictional distinction, there is enough legal ambiguity in the application of local taxes to federal enclaves, with no definitive directive in the federal or state laws prohibiting the taxation of privatized housing on federal lands, that the Pierce County Assessor’s Office is currently researching the legality of property tax collection. The County does not presently collect property tax revenues from privatized housing developments located on Fort Lewis. If the decision to tax is made, it is possible that the housing developers may pursue tax appeals or even litigation.

Kitsap County, home of the Naval Submarine Base Bangor, recently put the privatized housing from the naval base on its tax rolls. The real property is taxed as “personal property”, and the appraised value is estimated by capitalizing the net operating income from the property according to the Reported Income approach. Should the Pierce County Assessor choose to include the Fort Lewis housing on its tax rolls, it is conceivable that the same assessment procedure would be followed. However, this case is somewhat different from Pierce County as the jurisdiction on the Naval Submarine Base Bangor is concurrent state and federal.

In short, it is uncertain whether Pierce County will attempt to start taxing private developers on exclusively federal military land, and if so, it is not clear the County will be successful. If this does happen and the land is

subsequently annexed to Lakewood, the City could potentially collect approximately \$500,000 in property taxes from Fort Lewis and McChord in 2010.

### **Impact on the Installations**

If property taxes are imposed on base privatized housing, these costs will almost certainly be passed along to the installations. It is likely that the developers would try to pass through the property taxes to the tenants in the form of higher rents. Alternatively, they may try to recover the funds by attempting to find cost savings elsewhere.

If the County began collecting property taxes on the privatized housing, subsequent annexation by the City of Lakewood would, however, decrease the cost impact to the bases given the City's lower levy rate. In unincorporated areas, the County collects taxes for the maintenance of County roads, among other components of the total levy rate. The County road levy is currently \$1.8127 per \$1,000 Assessed Value (AV). With annexation, this levy would be eliminated and the City of Lakewood's regular levy rate of \$1.2754 per \$1,000 AV would apply, resulting in savings for the owners of privatized housing, and therefore a savings to the bases. The general County levy would remain unchanged.

### **Summary of Potential Property Tax Revenues for Lakewood**

Using the assessment approach now being used by Kitsap County, we estimate the 2007 potential property tax revenues from Fort Lewis to be approximately \$460,000. This revenue would increase to about \$470,000 by 2010 due to revaluation and construction of 240 new units. Should McChord privatize its housing by 2010, the property tax revenues would be approximately \$50,000 at that time.

## **Utility Taxes and Franchise Fees**

### **Background**

The City of Lakewood currently collects the following utility taxes and franchise fees:

- The City levies a 6% tax on revenues that are generated in the City from the sale of telephone services (including cell phone services), cable television, garbage, and storm drainage services. There is a 5% utility tax on the provision of electricity and natural gas.
- The City also collects franchise fees on cable (5% on Click!) and garbage (4% for use of city rights of way). We estimate that Lakewood would not receive franchise fee revenue from cable, as Comcast appears to be sole cable provider operating on the bases. The garbage franchise fee issue is more uncertain and is described in more detail later in this chapter.

- The City has an electricity franchise agreement with Tacoma, which obligates Tacoma to pay Lakewood 6% of gross electric revenues collected from Lakewood customers. See more discussion on this topic later in this section.

**Exhibit 3** on page 10 identifies the current utility providers serving the military areas.

### **Key Assumptions**

For the purposes of this analysis, cable revenue estimates are based on utility consumption per capita, while telephone and garbage revenue estimates are tied to both population and employment. All of McChord AFB's gas and power consumption and 99% of Fort Lewis's consumption are within the annexation area boundary. Utility usage is estimated by evaluating usage by the bases' residential population and by using the number of active duty officers and civilians to approximate total office employment. Population figures are taken from Office of Financial Management population estimates. Revenues are adjusted by inflation annually. For electricity and gas, we have obtained 2005 annual gross revenues from the utility providers and used this data to project potential utility tax revenue for the City of Lakewood under annexation.

**Electricity.** Tacoma Public Utilities currently provides power to a portion of City of Lakewood; however, the City does not impose electric utility tax on this service as the City of Tacoma already levies 6% on all of TPU's gross revenues. Instead, Tacoma and Lakewood signed a 20-year franchise agreement in 1997, which grants TPU an electricity franchise and obligates Tacoma to pay Lakewood 6% of the gross electric revenues it collects from Lakewood customers. This analysis assumes that this franchise agreement would stay in place should Lakewood annex the military cantonment areas and Tacoma would continue to pay Lakewood 6% of gross revenues for all Lakewood customers, including the bases. There are several important notes regarding these electric franchise fee payments:

- The analysis assumes that the City's existing franchise agreement with TPU would apply to the new annexation areas; however, this would likely be subject to negotiations between Tacoma and Lakewood. The analysis also assumes that collection of these franchise fees would pose no additional burden on Fort Lewis and McChord AFB.
- Another uncertain factor is pending litigation involving the City of Seattle. The lawsuit seeks to invalidate Seattle City Light's franchise payments to some suburban cities in exchange for those cities agreeing to remain City Light customers. The case is currently in the State Supreme court and is expected to be heard within the year. The outcome of this lawsuit may have implications for TPU and Lakewood. If Seattle loses, it may put TPU's franchise payments to Lakewood in jeopardy and another agreement may have to be negotiated. It is impossible to predict the outcome of a new

agreement, which may range from no payments to Lakewood to the current 6%.

**Solid Waste.** Currently, the City of Lakewood has a franchise agreement with a single solid waste service provider, which it charges a 4% franchise fee in consideration for the use of the City's rights of way. Because of their independent solid waste management status, Fort Lewis and McChord contract for waste collection services outside the standard Washington Utilities and Transportation Commission framework. Likewise they contract for disposal outside the Pierce County contract.

According to RCW 35A.14.900, the annexed territory would need to contract with the same solid waste hauler as the City, but there is a grace period of seven years or the length of time remaining in the term of the current contract, whichever is shorter, to do that. It is not clear, however, whether the federal government is subject to this regulation and it would likely be a matter of negotiation between the City and the military bases. The payment of a franchise fee or any other fee in lieu could also be a matter of negotiation. To be conservative, the analysis assumes that the City would not receive an increase in its franchise fee revenue with annexation.

It is also possible that under a more formal arrangement with the City of Lakewood and the Pierce County waste disposal system, Fort Lewis's and McChord's waste collection and disposal fees could rise.

**Surface Water Management.** Surface Water Management (SWM) for all of the bases is provided by Fort Lewis, which is tax exempt by virtue of being a federal entity.

### **Summary of Potential Utility Tax and Franchise Fee Revenues for Lakewood**

We estimate the total 2007 utility tax and franchise fee revenues from Fort Lewis at \$1.3 million, of which approximately \$530,000 would be from the electricity franchise fee. From McChord AFB, utility revenues would total approximately \$270,000, of which \$217,000 would be from the electricity franchise fee. Finally, approximately \$33,000 could be collected from Camp Murray's utility providers.

### **Impact on the Installations**

The utility taxes and franchise fees discussed above are imposed on the utility providers that serve the military bases, and as such, would be passed through to the installations, resulting in an increase in the military's cost of doing business. The City's utility taxes on cable, telephone, and garbage would represent a new cost to the military installations. We assume in this analysis that the burden of electric franchise payments would be borne by TPU and not by Fort Lewis and McChord AFB.

## Sales Taxes

### Background

Retail sales tax is calculated as a percentage of the sale price of tangible personal property and many services purchased by consumers. Groceries and medical prescriptions are excluded from the sales tax. Beyond its application to tangible personal property, sales tax is also applied to items such as telephone service; the installation, repair, or cleaning of tangible personal property; and to the construction or improvement of new or existing buildings, including the labor and services provided throughout the process.

Of the 8.8% sales tax currently collected by the Washington State Department of Revenue (DOR), a 1% "local" share of the tax accrues to local jurisdictions. In unincorporated areas, including the bases, the full 1% of the local tax accrues today to Pierce County (with the exception a small portion that is retained by DOR to cover collection and distribution costs). If a transaction occurs within an incorporated area, the city receives 85% of the 1% local tax and the County receives the remaining 15%.

**Fort Lewis and McChord AFB.** According to interviews with DOR, on federal reservations, the Buck Act (4 USC Sections 105-110), exempts from state taxes (except taxes on motor fuel) all officers' clubs, commissaries, and base exchanges including related morale, welfare, and recreation facilities. Therefore, Washington sales/use taxes do not apply to the receipts of these exempt "businesses," to purchases by the exempt "businesses," and to the sales by the exempt "businesses" to persons authorized to purchase at the exempt "businesses." However, those taxes all apply as appropriate to non-exempt "civilian" businesses operating on the federal reservation, including sales/use taxes on purchases by resident and nonresident military personnel.

**Camp Murray.** Camp Murray is home to the Washington National Guard, which unlike its federal counterparts, is an instrumentality of the State of Washington and is subject to Washington taxes. Unlike Fort Lewis and McChord AFB, the National Guard pays retail sales tax when it purchases equipment, office supplies, and other items. The sales of National Guard post exchanges to the members are also fully taxable. Like civilian businesses operating on federal reservations, civilian businesses operating on the State military reservation are subject to all Washington taxes.

We estimated the retail sales tax revenue from several different categories, including private vendors, construction, contracted services, and sales sourced to residents. These are described separately below.

### Private Vendors

Sales from private vendors located on federal reservations are subject to state and local sales tax. There are several private businesses on Fort Lewis and McChord, including thrift shops, fast food operations, automotive parts and repairs, and others. Our revenue assumptions for this category are based on

actual DOR taxable retail sales data describing local sales tax collections from firms located within the study area. This is the most certain sales tax information we have been able to research, as it represents the actual sales tax collections for specific businesses. However, this data does not include those firms whose point-of-sales would be associated with the point of delivery of their product or service, such as contracted services, construction firms, and delivered goods. Sales tax revenues from such sources are estimated separately in **Exhibit 6**.

### **Construction**

The United States government frequently contracts with private vendors for construction, installation, and/or improvements to its real property. While it is prohibited to directly impose a tax on the federal government, according to DOR, a government contractor is the consumer of property incorporated in, installed in, or attached to a federal construction job. The contractor must therefore pay sales or use tax on all materials that become a physical part of its project. Subcontractor charges to prime contractors on government contracting jobs are not subject to sales tax.

We estimated the annual average taxable value of construction activity in each of the study areas:

- We were not able to obtain the actual annual average value of construction activity for Fort Lewis. During 2004 BRAC process, all military installations presented facts and figures to the BRAC Commission. Among the documents presented by Fort Lewis to the BRAC Commission was a presentation that outlined Fort Lewis's previous 5-year military construction spending as well as its projected construction spending for the next five years. By triangulating between these sources, we estimated the base's annual average construction value to be approximately \$90 million.
- McChord AFB provided us with an annual average construction amount of \$34 million based on the last five years.
- Camp Murray provided an annual average construction figure of approximately \$2.8 million, mostly representing the repair and maintenance of existing facilities.

Considering that these estimates of construction activity are uncertain and indefinite, and because it is not possible to accurately identify the amount of this activity that would represent the taxable portion of construction contracts, we have discounted these annual average construction amounts by 50% to estimate the subsequent taxable retail sales.

### **Contracted Services**

Contracted services refer to contracts for janitorial, food service, repair and maintenance, and other functions. Similar to construction, contracts with the federal government are tax exempt, but as contractors are considered consumers of the property and supplies purchased to provide the service, they are subject to appropriate taxes.

We obtained the annual average service contract amounts from Fort Lewis, McChord AFB, and Camp Murray. As with construction contracts, it is difficult to determine what portion of these contracts would represent the amounts spent on taxable retail activities, such as tool rentals or purchase of supplies or consumables. We therefore discounted the annual average contracted services amounts by 90% for Fort Lewis and McChord AFB and 50% for Camp Murray to estimate the subsequent taxable retail sales. The discount rate is lower for Camp Murray as it is a state instrumentality and is directly subject to sales taxes.

### **Sourced to Residents**

This category represents the estimates of taxable retail sales for delivered goods or residential services that are subject to sales tax. For example, if a resident makes a purchase from Amazon.com, the tax on that purchase would accrue to the jurisdiction where the delivery is made. Also, telephone services are taxed and sourced according to the location of the resident. We estimate that a base resident would spend about \$800 per year on such goods and services, a typical level of spending for an average Washington resident. This source of funding will likely increase in the future, once sales tax streamlining goes into effect. The new sourcing rules would mean that purchases that are delivered to the bases would be taxed at the delivery point, while now they are taxed either at purchase point or warehouse location. In addition, more online retailers will likely comply with the rules, charging state and local sales taxes on goods ordered online from the bases.

### **Summary of Potential Sales Tax Revenues for Lakewood**

With a 50% discount on the value of contracted services and construction, the combined potential annexation areas could generate approximately \$1.4 million of sales tax revenue for the City in 2007. Most of this revenue would come from Fort Lewis at \$1.1 million. It is important to emphasize that only about \$140,000 of this total (or 10%) would come from the private vendors – the most reliable source of taxable retail information that we have. The rest is a rough estimate and the real amount could be much lower or higher.

### **Impact on the Installations**

There would be no sales tax-related impact to the military installations as the total percentage of sales and use tax would not change. Pierce County currently receives the full 1% of local tax, of which 85% would go to Lakewood after annexation.

## State-Shared Revenues

### Background

State-shared revenue projections are based on estimates of statewide per capita distributions of the liquor tax, liquor profits, gas taxes, and criminal justice revenues as reported by the Municipal Research and Services Center (MRSC). **Exhibit 4** shows the per capita distribution of state-shared revenues for 2006 and 2007.

**Exhibit 4**  
**Per-Resident Distributions of State-Shared Revenues**

State-Shared Revenue	2006	2007 (Est.)
Gas Tax (unrestricted)	\$23.46	\$24.95
Liquor Excise Taxes	\$4.15	\$4.27
Liquor Profits	\$6.80	\$7.44
Criminal Justice Revenues - General	\$0.97	\$0.98
<b>Total</b>	<b>\$35.38</b>	<b>\$37.64</b>

Source: MRSC and Berk & Associates, 2007

### Summary of Potential State-Shared Revenues for Lakewood

Based on the projected population for the bases, the total state-shared revenues that would be collected by Lakewood are estimated at approximately \$860,000 in 2007.

## Sales Taxes – Criminal Justice

### Background

The Criminal Justice Sales Tax is a 0.1% sales tax levy to support criminal justice expenditures. The distribution of the amount collected for this purpose is done on basis of population as last determined by OFM.

### Summary of Potential Criminal Justice Sales Tax Revenues for Lakewood

Estimates of criminal justice sales taxes used in this analysis assume a distribution of \$20 per resident in 2006, with future distributions growing at the annual inflation rate thereafter. The total potential revenues to Lakewood based on bases' population could total approximately \$500,000 in 2007.

## Additional Fees and Taxes

The following fees and taxes were researched and determined to not constitute potential revenue sources for the City with annexation:

- In our interviews, Pierce County indicated that the County does not regulate the military installations in terms of zoning or permitting activities, but rather regularly coordinates with them on planning and development activities in the immediate vicinity of the bases. Considering that and our

other research, we have determined that with annexation the City would similarly not perform new or redevelopment planning or development review, and hence, it would not collect planning and building permit fees.

- Likewise, Lakewood would not process business license applications from the contractors on the base and so would not collect business license fees.
- According to Bremerton MOU, the City may assess amusement, admission and gambling taxes upon vendors doing business within the Naval Shipyard. In an interview, a representative from Fort Lewis stated that there are indeed some establishments on base that charge admission, such as a bowling alley and theaters, but to the best of his knowledge, they are all run by Army Morale, Welfare, and Recreation (MWR).

MWR is an Army network of support and leisure services designed to enhance the quality of life for soldiers and their families. Since MWR is supported by the federal government, Lakewood would not be able to impose admission taxes on its activities. Fort Lewis indicated that there are no amusement or gambling establishments on the base. McChord AFB and Camp Murray representatives also indicated that there are no amusement devices, gambling establishments or other establishments that charge admissions on their respective installations.

- Lakewood does not impose Business and Occupation Taxes.
- Surface water management is performed by Fort Lewis, so the City would not have the authority to charge surface water management fees.

## **COST IMPLICATIONS**

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There may be cost implications associated with the annexation of the bases by the City of Lakewood. Some local services clearly would not change with annexation, including schools, regional transit, health services, and regional parks. Other cost implications, including operating expenses and capital and enterprise funds are evaluated below.

### **Operating Expenses**

We have identified that there would be no or minimal operating expenses associated with the City's annexation of the military installations. As the federal bases most typically provide their own services, this analysis assumes that with annexation, Lakewood would not take over the provision of many of the services traditionally supplied by a municipality.

**Building and Construction Permits.** Pierce County indicated that they currently perform the review and approval of building and construction-related applications, as well as shoreline permit review, for Camp Murray. However, there has not been much activity in the recent years, so these costs have been

minimal. We project that Lakewood would similarly incur only very minor costs from Camp Murray application reviews.

**Police Services.** While Fort Lewis and McChord AFB provide their own police services, Camp Murray is currently served by Pierce County Sheriff's Office. The Sheriff's Office indicated that there is no dedicated patrol service to Camp Murray, but they are call responsive to that area when calls come in. Some of those calls are likely handled by military police from adjacent federal areas. Overall, there is very little call for police services at Camp Murray, and consequently the cost of this service provision is minimal. The Lakewood Police Department indicated that there should be no challenge in handling the Camp Murray service load within current staffing levels.

If the arrest is for a violation of federal law, Fort Lewis and McChord police typically use the federal facility and not the jail. On the other hand, if a violation is for a state case such as a misdemeanor or felony, then the booking would be into the Pierce County Jail. It is difficult to determine how many bookings there are from Fort Lewis and McChord; however, it would be reasonable to assume that there would be minimal cost to the City.

**Fire/EMT Services.** Fort Lewis and McChord AFB provide their own fire and EMT response, while Camp Murray is served by the Fort Lewis Fire Department.

**Animal Control.** According to interviews with base representatives, all three installations in question provide their own animal control.

**Road Maintenance.** According to an article in 1961 Military Law Review, the responsibility possessed by the state and county over roads within a military reservation which is annexed by a city will be transferred to that city by the act of annexation, even though the ownership of the roadways may not be affected.<sup>7</sup> However, the maintenance and repair of streets will depend on which entity holds jurisdiction over these roads, which may be very difficult to determine. The mere fact that the United States has exclusive jurisdiction over a reservation (see discussion under Property Tax section), does not always mean that the federal government also has exclusive jurisdiction over the roads. It is difficult to determine whether Lakewood would be responsible for road maintenance on all or some roads within the bases, and may require further research into jurisdiction of these streets. Pierce County currently does not provide road maintenance on the bases, except for the easement roadways. This analysis assumes that Lakewood would not incur costs for road maintenance on the military bases.

**Road Easements.** Pierce County staff indicated that Fort Lewis granted easement rights for some roads to the County for public travel. The following agreements document these easements: April 6, 1998 MOU to Clarify 1988 Easement and May 25, 1988 Department of the Army Easement for Road or Street on Fort Lewis Military Reservation, Washington (Correction Easement).

The MOU defines County responsibilities, such as the roadway surface maintenance, striping, signing, and signal maintenance.

The roads referred to in the easement have various names, but most of them are outside of the cantonment areas of the bases, and therefore, out of the PAA. However, there are some that may potentially be within the PAA, such as portions of Steilacoom-DuPont Road and Nottingham Road, but planning or engineering departments should more carefully review the easements to more appropriately determine where these roadways fall. In addition, it is not clear whether this responsibility would shift to Lakewood if they were to annex the area. This analysis assumes that this shift does not occur.

### **Capital and Enterprise Funds**

A Lakewood annexation of the military bases should not have any direct impact on the water and sewer utility assuming that there is no change to these services. In terms of sewer, both McChord and Fort Lewis currently are serviced through DOD at the Tatsolo Point Waste Water Treatment Plant. In the early 1990s, Pierce County conducted an evaluation of the Fort Lewis's sewer system to determine whether it would be worthwhile to submit a bid to operate it, but decided against pursuing the opportunity.

According to Pierce County staff, the County owns a sewer line from DuPont to Chambers Creek Regional Wastewater Treatment Plant that runs through Fort Lewis property. The County currently does not have any water system facilities within the bases. Pierce County Public Works indicated that they would like to retain ownership of the sewer line within the PAA. The County might have to obtain a franchise for use of City rights of way once the transition occurs.

Fort Lewis provides storm water control services for all of the bases and so they are exempt from SWM fees. Pierce County Public Works staff identified a potential expense of \$8,000 to \$10,000 annually for maintenance of the SWM outlet to American Lake on Fort Lewis. However, since SWM operates as a utility within the City, with its own source of funding, this expense is assumed to have no impact on the General Fund.

### **ESTIMATED NET FISCAL IMPACT: RANGE OF RELIABLE ESTIMATES**

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As there is no cost impact of annexation estimated for General Fund activities, all potential revenues resulting from annexation are assumed to be available for CZ property acquisition. **Exhibit 5** provides a summary of the potential revenue from Fort Lewis, McChord AFB, and Camp Murray, assuming annexation to the City of Lakewood. The revenue estimate of \$4.1 million is based on a hypothetical scenario in which these areas would be part of the City starting in January 2007.

## Exhibit 5

**Total Estimated Potential Revenues from Annexation of Fort Lewis, McChord AFB, and Camp Murray, 2007**

<b>REVENUES</b>	<b>2007</b>
<b>State-shared revenues</b>	\$856,000
<b>Criminal Justice Sales Tax</b>	\$351,000
<b>Sales Taxes</b>	\$965,000
<i>Contracted service</i>	121,000
<i>Construction</i>	547,000
<i>Vendors</i>	139,000
<i>Sourced to Residents</i>	158,000
<b>Utility Taxes/Franchise Fees</b>	\$1,469,000
<b>Utility Taxes</b>	
<b>Electric - PSE</b>	25,000
<b>Gas</b>	625,000
<b>Garbage</b>	16,000
<b>Cable</b>	15,000
<b>Phone</b>	37,000
<b>Franchise Fees</b>	
<b>Electric - TPU</b>	751,000
<b>Property Tax revenues</b>	\$457,000
<b>Total</b>	<b>\$4,098,000</b>

Source: Municipal Research & Services Center and Berk & Associates, 2007

Considering the imperfect information used in developing this analysis, we view the reliability of these revenue estimates in two dimensions. The estimates could vary by (1) certainty of collecting the revenue from a particular source upon annexation, and (2) the quality of the information that was available to generate a dollar value for the revenue stream. Hence, to better assist decision-makers in evaluating these estimated revenues, we have grouped the estimates into four categories:

- **Definite source of revenue + more reliable information base** – most certain and more reliably estimated revenue streams
- **Definite source of revenue + less reliable information** – City will get some revenue but estimate is less certain (the analysis accounts for this by heavily discounting these potential revenue sources)
- **Tentative source of revenue + more reliable information base** – estimate of revenue is reasonably reliable, however there is some uncertainty that the City will actually be able to collect these revenues
- **Tentative source of revenue + less reliable information** – least likely and reliable source of revenue

**Exhibit 6** below splits the estimated revenues into these four categories. This Exhibit is similar to **Exhibit 5**, where the total revenues for 2007 are the same, but instead of simple grouping by revenue source, this Exhibit also totals the revenues by the different levels of reliability of the estimate.

**Exhibit 6**  
**Potential Revenues from Annexation by Reliability of Estimate**

Potential Revenue Source by Accuracy of Estimate	Total for 2007	Net Present Value of 2007-26 *	Percent of Total Revenues
<b>Definite source of revenue + more reliable information base</b>	<b>\$1,996,000</b>	<b>\$27,910,000</b>	<b>48.0%</b>
Criminal Justice Sales Tax	\$351,000	\$4,760,000	8.2%
State-shared revenues	\$856,000	\$11,580,000	19.9%
Sales Tax <i>Private Vendors</i>	\$139,000	\$2,040,000	3.5%
Utility Taxes	\$650,000	\$9,530,000	16.4%
<i>Gas</i>	<i>625,000</i>	<i>9,160,000</i>	<i>15.7%</i>
<i>Electricity - PSE</i>	<i>25,000</i>	<i>370,000</i>	<i>0.6%</i>
<b>Definite source of revenue + less reliable information</b>	<b>\$894,000</b>	<b>\$13,040,000</b>	<b>22.4%</b>
Utility Taxes/Franchise Fees	\$68,000	\$950,000	1.6%
<i>Garbage</i>	<i>16,000</i>	<i>220,000</i>	<i>0.4%</i>
<i>Cable</i>	<i>15,000</i>	<i>210,000</i>	<i>0.4%</i>
<i>Phone</i>	<i>37,000</i>	<i>520,000</i>	<i>0.9%</i>
Sales Tax	\$826,000	\$12,090,000	20.8%
<i>Contracted service</i>	<i>121,000</i>	<i>1,770,000</i>	<i>3.0%</i>
<i>Construction</i>	<i>547,000</i>	<i>8,010,000</i>	<i>13.8%</i>
<i>Sourced to Residents</i>	<i>158,000</i>	<i>2,310,000</i>	<i>4.0%</i>
<b>Tentative source of revenue + more reliable information base</b>	<b>\$751,000</b>	<b>\$11,000,000</b>	<b>18.9%</b>
Utility Taxes	\$751,000	\$11,000,000	18.9%
<i>Electricity - TPU</i>			
<b>Tentative source of revenue + less reliable information</b>	<b>\$457,000</b>	<b>\$6,210,000</b>	<b>10.7%</b>
Property Taxes	\$457,000	\$6,210,000	10.7%
<b>TOTAL REVENUES</b>	<b>\$4,098,000</b>	<b>\$58,160,000</b>	<b>100.0%</b>

\* At 6% discount rate - cost of capital

Note: Operating costs associated with annexation areas are estimated to be minimal. These costs are not reflected in the table above.

## Findings

1. The Net Present Value (NPV) of all annexation-generated operating revenues over the next 20 years is approximately \$58.1 million (at 6% discount rate), assuming appropriate escalation of the revenue stream.
  - o The 6% discount rate reflects the approximate cost of capital for a public agency such as the City of Lakewood. As a result, the total revenues over the next 20 years could conceptually support a maximum bond value \$58.1 million if all revenues were dedicated to debt service.
2. \$27.9 million, or 48%, of the total NPV of all annexation-generated revenue is based on the most reliable data and definite sources of revenue.
3. The remaining estimated revenues are derived from categories that could vary based on imperfect information about either the underlying tax base or uncertainty about whether the tax would actually apply
4. The least reliable estimate (in both accuracy and being the possible available source), property taxes, comprises only \$6.2 million of NPV, or 10.7%

It is also important to point out that most of the estimated revenues (\$48.4 million of 20-year NPV or 83%) would come from the annexation of Fort Lewis. McChord AFB represents \$9.1 million of NPV or 16%, and annexation of Camp Murray would bring \$700,000, or 1%.

Of these City revenues, we estimate that only utility taxes and franchise fees (except for the TPU electricity franchise fee) represent new potential costs to the installations. These sources represent approximately 18% of the \$58.1 million NPV over the next 20 years. The rest of the revenues that Lakewood could collect does not signify new costs to Fort Lewis, McChord, or Camp Murray.

## SUMMARY OF IMPACTS TO BASES AND OTHER JURISDICTIONS

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We have estimated that Lakewood may be able to collect up to \$4.1 million in revenues in 2007 from annexing Fort Lewis, McChord AFB, and Camp Murray. This section will describe the estimated sources of these funds and the total potential impacts for the military installations, as well as other jurisdictions.

### Summary of Impacts to Bases

We estimate that approximately 17% or \$700,000 of the \$4.1 million would come from utility taxes and utility franchise fees. The utility taxes and franchise fees are imposed on the utility providers that serve the military bases, and as

such, would have an impact on the military's cost of doing business. The City's utility taxes on cable, telephone, and garbage would represent new costs to the installations.

Beyond the \$700,000 in utility taxes, there could be an impact on Fort Lewis and McChord AFB in terms of solid waste collection. As mentioned in the Utility Taxes and Franchise Fees section of this report, the military installations may eventually need to contract with the same solid waste disposal provider as Lakewood, which may cause the cost of garbage collection to increase. The City's garbage franchise fee may also apply.

### **Impacts to Other Jurisdictions**

Of the \$4.1 million in new City funds, approximately 82% would be shifted away from sources other than military bases themselves, namely from the State, Pierce County, and to a smaller degree, from other cities. In considering these impacts to other jurisdictions, it is important to keep in mind, however, that in the event that CZ encroachment issues were to threaten the long-term viability of any or all of Pierce County's military facilities, there would be a significant economic and fiscal cost to all local jurisdictions. It could be argued, that the loss of these revenues by other jurisdictions are in fact contributions to CZ property purchase, or in other words, investments designed to protect an existing economic engine that contributes tax revenues and employment opportunities for local jurisdictions and the State of Washington.

#### **Pierce County**

As demonstrated in **Exhibit 7**, Pierce County could bear an approximately \$2.1 million revenue impact in 2007. As with total potential revenues for Lakewood, we have separated impact to Pierce County by reliability of revenue estimates.

## Exhibit 7

### Net Impact on Pierce County of Fort Lewis, McChord AFB and Camp Murray Annexations by Lakewood

Potential Revenue Source by Accuracy of Estimate	Total for 2007	Percent of Total Revenues
<b>Definite source of revenue + relatively accurate and reliable information base</b>	<b>\$598,000</b>	<b>28.8%</b>
Criminal Justice Sales Tax	\$351,000	16.9%
State-shared revenues	\$108,000	5.2%
Sales Tax <i>Private Vendors</i>	139,000	6.7%
<b>Definite source of revenue + less reliable information</b>	<b>\$826,000</b>	<b>39.8%</b>
Cable Franchise Fees	0	0.0%
Sales Tax	\$826,000	39.8%
<i>Contracted service</i>	121,000	5.8%
<i>Construction</i>	547,000	26.4%
<i>Sourced to Residents</i>	158,000	7.6%
<b>Tentative source of revenue + less reliable information</b>	<b>\$650,000</b>	<b>31.3%</b>
Property Taxes	\$650,000	31.3%
<b>TOTAL REVENUE IMPACT</b>	<b>\$2,074,000</b>	<b>100.0%</b>

### Findings

1. Approximately \$600,000 is based on the most reliable data and definite sources of revenue, which include criminal justice sales tax, state-shared revenues, and sales tax revenues from private vendors
2. About \$826,000 would be derived from categories that could be more uncertain in magnitude due to imperfect information about the underlying tax base, such as cable franchise fees and sales taxes on contracted services, construction, and sourced to residents
3. The property tax impact estimate of \$650,000 is listed as the least reliable estimate both in terms of accuracy and reliability; it would only be lost to Pierce County if the County first began collecting property taxes from the privatized housing on military installations

**Criminal Justice Sales Tax.** This is an optional county tax for criminal justice purposes. These revenues are allocated with the first 10% going to the county, and the remaining 90% allocated between the county and cities within the county based on population.

**State-Shared Revenues.** Liquor excise taxes, profits of the Washington State Liquor Control Board, and gas tax revenues are distributed based on complex formulas that include the ratio of unincorporated population in the county

divided by the total unincorporated population in the state. Criminal justice assistance is a function of the total population in the county (among other non-related factors), and would not be affected by annexation.

**Sales Tax.** Of the 8.8% sales tax currently collected, a 1% “local” share of the tax accrues to local jurisdictions. In the unincorporated areas, including the bases, the full 1% local tax accrues today to Pierce County; however, if Lakewood were to annex Fort Lewis, McChord AFB, and Camp Murray, the City would receive 85% of the 1% local tax and the County would receive the remaining 15%.

**Cable Franchise Fee.** Counties may levy franchise fees on cable television operators within unincorporated areas, which are typically limited to offsetting the actual costs of administering the franchise. Pierce County currently charges 5% of gross revenues. However, according to Pierce County, Fort Lewis, and McChord AFB provide their own franchise agreements and are not subject to the County’s fees.

**Property Taxes.** In unincorporated areas, Pierce County collects property taxes from regular property tax levy with revenues going towards general County operations, and the County road levy, revenues from which must be dedicated to roads maintenance, and construction. In incorporated areas, the County road levy is substituted by the city regular levy. As mentioned above, Pierce County does not currently collect property taxes from privatized housing on military installations. However, if the County were to start collecting property taxes and Lakewood subsequently annexed the installations, the County’s road maintenance levy would be substituted by Lakewood’s regular city levy. The County would still be entitled to its regular county levy.

### **Other Jurisdictions**

**Other Cities.** As state-shared revenues (liquor excise taxes, profits of the WSLCB, gas tax revenues, and criminal justice assistance) are distributed to Washington cities based on population, there would be some impact on the other cities in the State. Cities as a group receive a fixed percentage of each of these sources, and the funds are then allocated to individual jurisdictions on a per capita basis. In its 1998 annexation attempt, Lakewood estimated an approximately \$57,000 annual impact to Tacoma; an approximately \$10,000 annual impact to Puyallup and University Place; and annual impacts of less than \$5,000 to other cities in Pierce County. This data is somewhat outdated, but we believe that present impact would not be significantly different.

**School Districts.** According to the 2004 study by OFM entitled “Economic Impacts of the Military Bases in Washington,” school districts in Pierce County receive \$11 million annually in impact aid for schooling of the dependents of military personnel.

The impact aid for each military dependent is significantly higher for students who live in military-owned housing located on military installations, while a smaller amount is paid for each student whose family lives in housing in the

local communities (because the housing is subject to local property taxes). If Pierce County decided to pursue property tax collection from privatized housing on military installations, this will likely have a bearing on the amount of the federal impact aid for the County's school districts. This, in turn may have an impact on the overall revenues of the school districts.

It is difficult to estimate the magnitude of this impact and beyond the scope of this study. It is important to point out, however, that annexation of the military installations by Lakewood would not by itself have any impact on property taxes on the bases: it is the decision of the Pierce County Assessor's Office whether to start taxing private developers on exclusively federal military land. And if so, it is not clear the County will be successful in pursuing this source of revenue.

## III. PROPERTY ACQUISITION FEASIBILITY ANALYSIS

### **CLEAR ZONE DESCRIPTION**

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The Clear Zone is the area most impacted by air traffic from McChord AFB, as it is in the direct flight path of military aircraft. The CZ is 3,000 feet wide (1,500 feet to either side of runway centerline) and extends 3,000 feet beyond the end of the runway. Given takeoffs and runway approaches, this area has the highest accident potential. The Air Force further identifies two Accident Potential Zones (APZs) with larger boundaries, but does not require as stringent land use standards as for the CZ.

Currently, approximately 24 properties covering 50 acres in the McChord Clear Zone are privately owned and are either vacant land or developed with light industrial and storage facilities as illustrated in **Exhibit 8**. All of the uses other than vacant land are incompatible with the Clear Zone designation.

The 1998 Air Installation Compatible Use Zone (AICUZ) Study for McChord AFB outlines land use guidelines for Clear Zone and APZs. The only land use within the Clear Zone that is deemed compatible is agriculture (though not livestock grazing), which effectively means that the DoD would frown upon any uses other than vacant land and crop fields.



## PROPERTY ACQUISITION ANALYSIS

As a part of this study, GVA Kidder Matthews (GVAKM) performed a property acquisition analysis to provide a project funding estimate. This limited analysis built upon a 2005 analysis by GPA Valuation and was based upon exterior-only inspections. The full copy of GVAKM report can be found in **Appendix A**.

### Clear Zone Properties

The portion of the Clear Zone that is in private ownership is approximately 50 acres in size. However, as some parcels are intersected by the CZ boundary and others are outside the boundary but part of the same property as parcels within the CZ, a total of 24 properties, consisting of about 76 acres, are considered in assessing costs of a CZ program. These properties contain approximately 650,000 sf of buildings, mostly warehouses and storage facilities, with some office space. A few of the buildings (approximately 280,000 sf) have been built in the past couple of years.

### Cost Analysis of Property Acquisitions

Based on exterior inspections of the properties in question and an assessment of regional market conditions, GVAKM estimates total base acquisition costs for all properties in the CZ at approximately \$49 million in 2007 dollars. In addition to the base acquisition costs estimated, GVAKM considered other costs, including appraisal fees, appraisal review fees, acquisition negotiation fees, acquisition title and escrow fees, property management service costs, relocation service costs, relocation payments, and condemnation and incidental costs. GVAKM estimated these additional costs to range from \$2.3 million to \$3.7 million. Demolition costs would add additional \$2.3 million. Thus, as can be seen in **Exhibit 9**, the total potential costs of acquiring all properties in fee simple could be in the **\$53.6 to \$55.0 million** range.

#### Exhibit 9

#### GVA Kidder Matthews Acquisition Estimate of Properties in McChord AFB Clear Zone

Potential Acquisition Costs	BASE COST ESTIMATE		
	Range of Estimate		
	Low	Medium	High
Base Acquisition Cost Estimate	\$49,000,000	\$49,000,000	\$49,000,000
Total Other Costs	2,300,000	3,000,000	3,700,000
Demolition Costs	2,300,000	2,300,000	2,300,000
<b>Total Estimated All Costs</b>	<b>\$53,600,000</b>	<b>\$54,300,000</b>	<b>\$55,000,000</b>

Source: GVAKM, 2007

The 2005 GPA Valuation report estimated the value of the CZ properties at about \$28 million, including land value, appraisal and escrow costs, relocation costs, and other costs. The difference between the GVAKM estimate and the 2005 GPA valuation estimate is attributed to several factors, including changes in market conditions; properties unimproved in the original analysis, now substantially improved with new structures; and, additional properties added to the overall analysis due to “larger parcel” issues not recognized in the original report. Application of the “larger parcel” concept requires the acquisition of additional parcels outside the CZ because of their close relationship with CZ parcels. For this concept to apply, the parcels must have unity of ownership, contiguity, and use. For more detail, refer to *Larger Parcel: Concept and Issues* chapter in the GVAKM report contained in **Appendix A**.

### **Alternatives to Full Property Acquisition**

In addition to full fee simple property acquisition, GVAKM identifies possible partial acquisition scenarios that may be a viable strategy to minimize costs in some cases, where the identified properties being considered for acquisition lie fully or partially within the CZ. The costs of acquisition might be significantly reduced while potentially meeting the objectives of the CZ program by any of the following options:

- Acquisition of development rights
- Acquisition of an easement
- Placing a use, development, or other restriction on all or part of a property

GVAKM describes two partial acquisition scenarios. In Alternative 1, the four properties that lie predominantly outside of the CZ, with only a small portion of their total site area or operations lying within the CZ, can be subject to partial acquisition. These properties include Property H (Frank Miles Concrete Batch Plant), Property L (MKEarth), Property U (Tucci Asphalt Plant), and Property X (Ferrill Family Auto Wrecking Yard). (For detailed parcel information, refer to the GVAKM report contained in **Appendix A**.)

It may be possible to allow the current operations and use of these properties to continue without full acquisition of the entire property, which could significantly reduce the potential costs of the acquisition program. Other costs associated with acquisition would also be reduced to some degree. The estimated base acquisition costs for the other properties would remain unchanged as in the original acquisition scenario.

**Exhibit 10** compares the total base acquisition cost estimate with Alternative 1. This scenario could result in a net reduction in the total estimated base acquisition costs of approximately \$8.5 million, or about 16%.

**Exhibit 10****Comparison of GVAKM Base Acquisition Cost Estimate to Partial Acquisition Scenario (Alternative 1)**

<b>Potential Acquisition Costs</b>	<b>Base Cost Estimate</b>	<b>Alternative 1</b>	<b>Difference</b>
Base Acquisition Cost Estimate	\$49,000,000	\$41,100,000	\$7,900,000
Total Other Costs	3,000,000	2,600,000	400,000
Demolition Costs	2,300,000	2,150,000	150,000
<b>Total Estimated All Costs</b>	<b>\$54,300,000</b>	<b>\$45,850,000</b>	<b>\$8,450,000</b>

Source: GVAKM, 2007

GVAKM considers a second Alternative in which partial acquisition scenarios are based on impacts to value that might range anywhere from 25% to 50% of the full fee simple acquisition cost basis (except for Properties H, L, U and X). Under this alternative, potential acquisition costs range from as low as \$10.8 million up to perhaps \$24.5 million, versus about \$49.0 million in a full fee simple acquisition scenario. However, this Alternative assumes continuation of all existing uses, which may not be amenable to McChord or provide the desired result in terms of the BRAC objectives. GVAKM also warns that these partial acquisition scenarios are usually fairly complex and can present unexpected costs.

**Implications of Property Acquisition by the City****Revenue Impacts on the City**

In addition to property acquisition costs, it is important to understand other implications of the potential transfer of the CZ properties into City ownership. **Exhibit 11** demonstrates the estimated revenues that the City is currently collecting from the properties in the CZ, which total approximately \$95,000 in 2007. Some of these revenues may be lost to the City should the acquisition be completed, but the overall impact would be minimal.

**Exhibit 11****2007 Estimated Revenue from Clear Zone Properties**

<b>REVENUES</b>	<b>2007</b>
Property Taxes	\$54,000
Sales Taxes - Vendors	\$39,000
Utility Taxes/Franchise Fees	\$700
Business License Fees	\$1,100
<b>Total</b>	<b>\$94,800</b>

Source: Berk &amp; Associates, 2007

**Property Taxes.** At about \$54,000, the largest revenue stream collected from CZ parcels is property taxes. With acquisition by the City, Lakewood would no longer receive property taxes from these parcels.

However, because of Initiative 747 (I-747), the City's acquisition of these properties might not have an actual effect on local property tax revenues. I-747 dictates that local property tax levies in Washington State are generally limited to a one percent annual increase (plus the resulting levy rate multiplied by the value of new construction that occurred within the jurisdiction in the most recent year). For cities like Lakewood, this means that in years when the value of existing properties increases by more than one percent, the City's levy rate must be reduced by an amount sufficient to ensure that the total levy amount for existing property increases by no more than one percent.

Under these circumstances, a reduction in the City's assessed value from public acquisition of the CZ properties would likely not impact revenue structure. Because the City's tax base has been reduced through public acquisitions, the City's levy rate would be allowed to be higher than it would have been in the absence of the acquisition. The higher levy rate would generate more property tax revenues, so the City would still receive its legally-constrained property tax. In effect, this "lost" revenue would be made up by spreading the difference over the City entire tax bases. In any case, the lost property value from the City's tax bases represents a small fraction of the total.

**Sales Taxes.** There are about 20 businesses operating in the CZ, some of which generated slightly over \$4 million in taxable retail sales in 2005. These sales translated into approximately \$40,000 in retail sales taxes for the City of Lakewood. Should the City purchase the CZ property, it would likely try to do anything possible to relocate these businesses to other locations in Lakewood, in which case the sale tax revenues would not be lost. However, in the worst case scenario the City would lose approximately \$40,000 annually, less than one percent of its total retail sales tax revenues.

**Utility Taxes/Franchise Fees.** Similar to sales taxes, should the businesses leave the area, there would be an impact on the revenues from utility taxes and franchise fees. This impact would be small though, likely under \$1,000 annually.

**Business License Fees.** In the worst case scenario, if CZ businesses choose to relocate to another area outside the City of Lakewood limits, the City might lose approximately \$1,100 annually in business license revenues.

### **Service Demand Costs for Potentially Acquired Properties**

In the event of CZ property acquisition, Lakewood would likely negotiate with the military on preferred property land use. Considering that the only land use within the CZ that DoD deems compatible is agriculture (excluding the grazing of livestock), the City may potentially demolish the buildings and maintain the area as an open space.

There would likely be some minimal ongoing costs of land management. Although we estimate these costs to be minimal, the City might consider negotiating with McChord AFB to provide area security and property maintenance. Based on average figures from cities in the Puget Sound Region, we estimate that passive parks and open space maintenance is approximately \$70 per acre per year. This would result in costs of \$3,500 to \$5,000 annually for maintenance of CZ parcels, depending on whether all the involved parcels were cleared or strictly the ones within the CZ boundary.

Lakewood Police already serves the area, since it is within the current City boundaries, so we do not anticipate additional security costs associated with the open space.

## IV. FINANCIAL FEASIBILITY ANALYSIS OF ANNEXATION-FUNDED PROPERTY ACQUISITION PROGRAM

### ASSESSMENT OF FINANCIAL FEASIBILITY

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To determine the feasibility of the property acquisition program, it is necessary to compare the estimate of the revenue stream from annexation with the upfront and ongoing costs of a Clear Zone protection program. One of the major questions this study is trying to answer is:

*Since the stated objective for annexation is to fund a property acquisition program, how might public acquisition of private properties in the Clear Zone affect the City's fiscal position?*

The matrix in **Exhibit 12** demonstrates the potential feasibility of pursuing the strategy of using annexation to fund CZ property acquisition, considering different levels of revenue reliability and two acquisition scenarios. The two acquisition scenarios are from **Exhibit 10**: a full fee simple base estimate and Alternative 1, in which some properties are partially purchased and others are acquired at 100%.

The revenue column in this table totals the net present value of 20-year revenue stream by the different levels of reliability of the estimate, as in **Exhibit 6**. These revenues figures are additive from top to bottom: \$27.9 million is the most conservative estimate, including only the most certain revenue streams, while a more optimistic estimate, including revenue streams that are both uncertain and based on imperfect information, totals \$58.2 million.

## Exhibit 12

### Feasibility of Property Acquisition Matrix

Revenue Categories by Levels of Estimate Reliability	Potential Annexation Revenues (20-yr NPV)	GVAKM Acquisition Estimates	
		Base Estimate <b>\$54,300,000</b>	Alternative 1 <b>\$45,850,000</b>
Definite source of revenue + more reliable information base	<b>\$27,910,000</b>	(\$26,390,000)	(\$17,940,000)
<i>Above PLUS</i>			
Definite source of revenue + less reliable information base	<b>\$40,950,000</b>	(\$13,350,000)	(\$4,900,000)
<i>Above PLUS</i>			
Tentative source of revenue + more reliable information base	<b>\$51,950,000</b>	(\$2,350,000)	\$6,100,000
<i>Above PLUS</i>			
Tentative source of revenue + less reliable information base	<b>\$58,160,000</b>	\$3,860,000	\$12,310,000

Estimated ongoing maintenance costs associated with acquired Clear Zone properties are estimated to be minimal. These costs are not reflected in the table above.

Grey cells reflect the difference between potential revenues from annexation and estimated Clear Zone acquisition

Source: Berk & Associates, 2007

The results in the matrix describe the range of possible outcomes:

- If the City elects to follow the most conservative estimates, it could pursue issuance of a 20-year bond for approximately \$28 million; however, this would likely not be enough to cover the costs of acquisition in either the full fee simple or partial purchase (Alternative 1) scenarios.
- If the City is optimistic about the revenues and costs of acquisition, it is possible that the 20-year bond for \$50 million to \$58 million could cover the purchase of CZ properties, albeit with a thin margin.

**Uncertainties.** Given the uncertainties identified in this study's assessment of revenue streams resulting from annexation of the bases, as well as the approximate nature of the cost estimate for CZ property acquisition, the City is not left with a clear and simple conclusion: the decision to implement this strategy is a difficult decision and needs to be weighed with caution. The figures used in the analysis are estimates and any particular number in this analysis, such as the amount of sales tax expected to be generated from the bases, will almost certainly differ from the actual revenue stream realized should annexation occur. However, while any individual figure may be imprecise, we believe the overall findings reflect the best knowledge available about the fiscal feasibility of proposed annexation and CZ property acquisition program.

Any potential gap in funding may be bridged by external financial support, but exactly how much can be contributed to this cause is difficult to determine.

Federal and state grants exist to address such issues, and local partnerships can offer the benefit of support and shared risk, especially considering that many local jurisdictions currently benefit from the military presence in Pierce County. These funding options are assessed below.

**Risks.** In addition to uncertainties inherent in the revenue and costs estimates employed by this study, the proposed annexation and Clear Zone program carry specific financial risks to the City.

If the City of Lakewood funds Clear Zone acquisition by issuing bonds secured with anticipated revenues from the annexation of the bases, the City is shouldering the risk that, should the anticipated revenues be less than projected, the City will be required to use General Fund dollars to serve its debt.

Furthermore, while the proposed Clear Zone acquisition program might help insulate McChord from closure under BRAC, it would not ensure that McChord or Fort Lewis would never be closed for some other reason, perhaps including further realignment and consolidation with another facility. Should such a turn of events come to pass within the lifetime of the debt service, the City may find itself responsible for debt payments without access to the offsetting revenue stream associated with annexation. The potential revenue streams to the City from the redevelopment or reuse of the base properties is not predictable, and so the City should consider the risk that, under the very worst scenario, the City may have to shoulder maintenance of the debt service substantially or entirely from its General Fund.

## **ASSESSMENT OF EXTERNAL FUNDING OPTIONS**

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In addition to alternative acquisition strategies rather than fee simple property acquisition, another potential opportunity to reduce the City of Lakewood's cost for a CZ property acquisition program is to draw on funding sources external to the City. In particular, there also may be opportunities to attract federal or state appropriations or grants. There may also be opportunities for local partnerships between the City of Lakewood and other jurisdictions that enjoy economic and fiscal benefits from the continued operations of Pierce County's military bases.

### **Potential Federal Sources**

Several potential federal fund sources exist that should be pursued to offset local risks and costs associated with the proposed Clear Zone program.

**Federal Capital Appropriations.** Title 10, Section 2684a of the U.S. Code states that "The Secretary of Defense or the Secretary of a military department may enter into an agreement with an eligible entity described in subsection (b) to address the use or development of real property in the vicinity of a military installation." Further, "funds authorized to be appropriated for

operation and maintenance of the Army, Navy, Marine Corps, Air Force, or Defense-wide activities may be used to enter into agreements under this section.”

According to City sources, McChord staff report that the base has, in the past, attempted to get funding to buy out at least some of the CZ. The use of appropriated capital funds by the military to solve the encroachment issues at McChord AFB would be an appropriate and desirable use of funds from a City perspective and should be encouraged through the City’s lobbying efforts and Congressional delegation.

### **Other Federal Initiatives**

The bases’ Congressional delegation continues to seek a federal solution to encroachment at McChord AFB. The possible application of new and existing federal fund sources will surely be pursued by the delegation, as was done with the REPI program, described below.

The creation of a specific federal appropriation designed to address base encroachment issues would be welcomed not only by McChord, the City of Lakewood, and other military-connected communities in Pierce County, but by communities across the country that are facing these same issues.

### **Federal Readiness and Environmental Protection Initiative**

Established in 2004, REPI is part of DoD’s larger Sustainable Ranges Initiative. The REPI program has a dual focus addressing both encroachment on military bases and the environmentally sound treatment of base conservation buffers: “The Department has developed a program of Compatible Land Use Partnering that promotes the twin imperatives of military test and training readiness and sound conservation of stewardship through collaboration with multiple stakeholders.”<sup>8</sup>

The REPI program was created in response to Title 10, Section 2684a of the U.S. Code, which authorizes the military to partner with state and local governments and with conservation organizations to encourage compatible land use and to preserve natural resources surrounding military installations.<sup>9</sup> This dual focus is further reflected in the following program aims, listed in a REPI Fact Sheet<sup>10</sup>:

- Foster partnerships with new allies
- Preserve test and training space
- Provide funding to assist military installations in working with state and local governments or non-governmental organizations (NGOs)
- Acquire conservation easements from willing sellers
- Preserve high-value habitat

In its review of the National Defense Authorization Act for Fiscal Year 2007, the House Committee on Armed Services recommended that funding for REPI be increased from \$20 million to \$50 million. Encouraged by efforts of the bases' Congressional delegation, the Committee also mentioned its hope that encroachment at McChord AFB, as well as several other specifically named bases, would be addressed: "The committee also encourages the other services to explore the utilization of this authority at installations such as Whiteman Air Force Base, McChord Air Force Base, Fairchild Air Force Base, and Naval Air Station Whidbey."

McChord AFB submitted a Fiscal Year 2007 application for REPI funding to address encroachment issues by purchasing 53 developed, privately held acres in the North CZ. The funding application was made in partnership with Pierce County's Economic Development Division and with the collaboration of City of Lakewood staff.

The request for \$3 million in REPI funding stated that "The purchase of non Air Force owned lands within the McChord AFB north clear zone would be for the purpose of preventing and limiting development or use of the property that would be incompatible with the mission of McChord AFB." The amount requested was described as sufficient to purchase air navigation easements.

In December 2006, the City received informal notification from McChord that the base's FY07 REPI request was not funded.

## **Potential State Sources**

### **State Military Communities Infrastructure Projects**

Section 107 of the Washington State's 2006 Supplemental Capital Budget contained a provision for \$5 million in funding for "grants to counties and cities for the purchase of development easements to restrict the use of accident potential zones and clear zones." With \$481,000 of the appropriation designated for improvements to a military department site on Fairchild AFB, OFM was directed to "establish a competitive process for selecting projects to receive the grants."

As of the writing of this report, one award has been issued by the program, with \$800,000 going to the City of Oak Harbor. The Governor's budget (Proposed 2007-09 and 2007 Supplemental Capital Appropriations Bill) seeks a reappropriation to continue the program when the biennium closes. At this point there does not appear to be any supplemental funding to augment the original \$5 million.

The term of the grants expires June 30, 2007, and all costs must be incurred during this performance period. Furthermore, the following conditions were established for use of the funds:

- The county or city must be subject to and in compliance with RCW 36.70A.530 [related to land development planning under the Growth Management Act (GMA)];
- The grants may not be used to remove encroachments into these zones allowed by county or city zoning or permitting actions;
- The county or city must have an encroachment prevention plan preventing future encroachment into these zones; and
- The grant provided by the state must not exceed one-third of the project cost with funds from local and federal sources providing the balance of the funds.

Pierce County and the City of Lakewood submitted a joint application, requesting \$1,625,000 to “acquire development rights to five undeveloped parcels of land totaling 6.9 acres located within the established Clear Zone associated with McChord AFBs’ air operations, which are McChord’s own top priority acquisitions in terms of preventing CZ encroachment.”

Given the above requirement that funds be applied towards the purchase of development easements, the application largely targeted undeveloped parcels, with the intention of preventing the future creation of incompatible uses. One of five targeted parcels contains a light manufacturing facility, half of which is located in the Clear Zone; the purchase of development rights would prohibit further development on the parcel.

Military communities infrastructure project grants must be met by a two-thirds local match, meaning that the application for \$1,625,000 in grant funding would require \$3,250,000 in other “match” funding provided by the County and the City. Pierce County adopted 2007 budget contains \$250,000 for “the purchase of clear zone property off the McChord runway.” The \$70,000 invested by the City of Lakewood in this feasibility study is also counted in the match. It was hoped that the remaining amount required as a local match would be covered by McChord’s request for \$3 million in REPI funding.

With McChord’s FY07 REPI application denied (see page 42), the remaining local match (\$250,000 from the County and \$70,000 from the City) would support a military communities infrastructure project grant of only \$480,000. With the City’s \$70,000 already dedicated to the costs this feasibility study, \$410,000 would remain to put towards the acquisition of development rights. With legal services, negotiations with property owners, and other costs, even less would be available for the acquisition of development rights. The City and County are currently discussing whether pursuit of this funding is worthwhile.

### **Potential State Sales and Use Tax Credit**

**Background.** In March 2006, Washington State legislature passed a bill authorizing a local sales and use tax credit to assist cities with negative revenue impacts resulting from annexations. A city with a population less than 400,000, located in a county with a population greater than 600,000, that

annexes an area with a population of over 10,000 between July 1, 2007 and January 1, 2010 may receive a sales and use tax credit. The revenue from such a credit comes from the State sales tax, so it will not be an additional tax to a consumer. The intent of this legislation is to encourage local jurisdiction to annex areas within their urban growth areas, in particular, where the operating expenses required to serve them exceed the revenues generated in these areas, thereby creating a net deficit.

These are key elements of the State sales tax credit program for annexations:

- **Net Deficit Related to the Provision of Municipal Services.** The tax credit may only apply to a net deficit associated with an annexation. The city must show that the projected cost to provide services to the annexation area exceeds the projected revenue from the annexation area. Costs that are eligible for the State sales tax credit are those related to providing, maintaining, and operating municipal services for the annexation area.
- **Ten Year Limit.** The State sales tax credit must only be commenced at the beginning of a fiscal year and must continue for no more than ten years from the date it started to apply.
- **The Maximum Tax Rate.**
  - 0.1 percent for each annexation area with a population over 10,000
  - 0.2 percent for an annexation area over 20,000
- **State Sales Tax Credit Can Not Exceed Deficit.** The revenues from the State sales tax credit may not exceed the difference of that which the city deems necessary to provide services for the annexation area and the general revenue received from the annexation. If the sales tax credit revenue exceeds that which is needed to provide services, the tax credit must be suspended for the remainder of the fiscal year.

**Applicability to Lakewood.** Since Lakewood is located in a county with more than 600,000 people and the annexation area has more than 10,000 residents, the City could theoretically qualify for this sales and use tax credit. However, as mentioned above, the revenues from the sales tax credit must be applied to a net deficit associated with annexation and may not exceed the difference between costs and revenues from the potential annexation areas. While the statute is clear that this revenue may be used to cover operating deficits, it is much less clear the degree to which capital needs might be included.

Since Lakewood could potentially generate significant revenues while incurring minimal costs from annexation of military installations, the key question is whether or not the acquisition of the CZ properties could be considered a cost associated with annexation. It seems unlikely that these costs would be considered eligible for the State sales tax credit, as they are capital expenditures not related to the annexation area but to an area elsewhere that

is already located within the current City limits. These costs have nothing to do with providing, maintaining, and operating municipal services for the annexation area as was intended by the legislation.

### **Local Partnerships**

As described on page 40, the proposed program to address encroachment issues on McChord Air Force Base carries specific financial risks for the City. However, the City of Lakewood is not the only beneficiary of the ongoing operations of Pierce County's military bases. As noted earlier in this report, it is estimated that the bases contribute \$2.2 billion annually in net direct impacts to the Pierce County economy. It is reasonable to assert that the risks associated with a CZ acquisition program should be shared among those who benefit from the military's continued presence.

As described above, Pierce County has set aside \$250,000 in its adopted 2007 budget for land acquisition in the CZ. In addition to the County, other Pierce County cities and economic development agencies such as the Tacoma-Pierce County Chamber, the Pierce County Economic Development Board, and the Port of Tacoma might be approached with a request that they contribute to a regional solution to address McChord encroachment. Such a solution would require a lead actor to advance acquisition as the City of Lakewood is exploring. Contributions by additional partners would serve to reduce the City's costs and risk exposure.

### **Continued Lobbying Efforts**

The City's 2007 legislative priorities include a continued focus on securing additional state and federal funding for addressing encroachment on McChord AFB. With regard to the State's military communities infrastructure grants program, the focus should be both upon continued funding in subsequent years, as the \$5 million contained in the 2006 Supplemental Capital Budget was a one-time funding provision, and a loosening of restrictions, allowing for the fee simple acquisition of property and a decreased local match.

This lobbying effort should be maintained, with the City and regional partners communicating the value of the continued presence of the base and the City of Lakewood's interest and willingness to take proactive and innovative steps to address the issue, evidenced by this study, done at the City's request and with City resources, to study the feasibility of using base annexation to fund a CZ acquisition program.

## V. IMPLEMENTATION OPTIONS AND APPROACHES

This chapter discusses implementation options and approaches for the annexation of the military bases within the City's PAA as well as the program of Clear Zone property acquisition. Consideration is given to policy issues related to this strategy and next steps are proposed.

### **ASSESSMENT OF ANNEXATION APPROACHES**

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This section evaluates annexation approaches that might apply to annexation of the bases and make recommendations about which method is most appropriate should annexation be implemented. We discuss the role of the Pierce County BRB, identify the methods for annexation available in Washington State, evaluate each, and recommend the most appropriate annexation methods for the City of Lakewood to consider with regard to each of the three bases in question.

In Lakewood, and other Washington cities and counties subject to the Growth Management Act, annexation may only occur with an Urban Growth Area per RCW 35A.14.005. Under this code:

1. A city may only annex areas contiguous to its borders
2. Only territory within the UGA may be annexed by a city; rural areas cannot be annexed
3. If territory is claimed by one city as part of its PAA, that territory may not be annexed by a different city

### **Pierce County Boundary Review Board**

The Washington State legislature created BRBs in 1967 in part to "...provide a method of guiding and controlling the growth of municipalities..."(RCW 36.93.010). The Board is a quasi-judicial, administrative body empowered to make decisions on such issues as incorporations, annexations, and extensions

of utilities by cities, towns, and special purpose districts. It can approve, deny, or modify a proposal. Its decisions may be appealed to the Pierce County Superior Court.

State law specifically defines the purpose, authority, makeup, terms, fees, and procedures of the BRB in RCW 36.93. Although counties are mandated by State statute to fund the Board, the Board functions independently and does not represent county interests to the exclusion of the interests of other parties involved in the process.

The five members of the Pierce County BRB are residents of Pierce County and serve for four-year terms. Two members are appointed by the Governor, one by the mayors of the cities and towns in Pierce County, one by the Pierce County Executive, and one by the Board itself, chosen from nominees designated by special purpose districts.

### **Objectives of the Boundary Review Board**

Per RCW 36.93.180, the decisions of the BRB shall attempt to achieve the following objectives:

- (1) Preservation of natural neighborhoods and communities;
- (2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;
- (3) Creation and preservation of logical service areas;
- (4) Prevention of abnormally irregular boundaries;
- (5) Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas;
- (6) Dissolution of inactive special purpose districts; and
- (7) Adjustment of impractical boundaries.

### **Considerations of the Board**

In reaching a decision on a proposal or an alternative, according to RCW 36.93.170, the Board shall consider, but not be limited to, the following factors:

1. Population and territory; population density; land area and land uses; comprehensive plans and zoning, as adopted under chapter 35.63, 35A.63, or 36.70 RCW; comprehensive plans and development regulations adopted under 36.70A; applicable service agreements entered into under 36.115 or 39.34; applicable interlocal annexation agreements between a county and its cities; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence and preservation of prime agricultural soils and

productive agricultural uses; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities

2. Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources, probable future needs for such services and controls; probable effect of proposal or alternative on cost and adequacy of services and controls in area and adjacent area; the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units
3. The effect of the proposal or alternative on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county
4. Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character
5. Protection of agricultural and rural lands which are designated for long term productive agricultural and resource use by a comprehensive plan adopted by the county legislative authority

### **Board Review Process**

In most annexation methods (excluding the Interlocal Agreement Method and the Annexation for Municipal Purposes), there is a point in the process at which the annexation proposal is submitted to the BRB. After ensuring the proposal is technically complete, the BRB circulates a Notice of Intent (NOI) and staff analysis of that document to other affected governments such as the city, adjacent cities, water, and sewer providers.

Affected parties, including the applicant, citizens via a petition, affected jurisdictions, or the County Council, may invoke jurisdiction of the BRB, requesting it to formally approve, reject, or modify an annexation proposal. A public hearing is held at which the BRB takes testimony from all interested parties. The BRB then issues an opinion approving, rejecting, or modifying the proposed annexation. The BRB decision may be appealed to Pierce County Superior Court.

### **Methods of Annexation in Code Cities**

Within Washington State law, there are seven methods of annexation available to code cities:

- Election Method
- Direct Petition Method
- Alternative Direct Petition Method

- Small Unincorporated Islands Method
- Interlocal Agreement Method
- Annexation for Municipal Purposes
- Annexation of Federally Owned Areas

Because the proposed annexation is of federal and state lands, and not unincorporated local territory, only two of these methods – Direct Petition and Federally Owned Areas – provide viable options for the City of Lakewood. Consequently, while we summarize only briefly each of the above methods in **Exhibit 13**, we focus our attention on the Direct Petition Method and Annexation of Federally Owned Areas in this section.

### **Recommended Annexation Approaches**

Our following findings and recommendations are based upon the above research and independent interviews with the MRSC of Washington’s legal consultant and the Chief Clerk of the Pierce County BRB.

The City of Lakewood is analyzing three potential annexation areas: Fort Lewis, McChord AFB, and Camp Murray. The appropriate method for annexation for federal bases differs from that for Camp Murray, a State installation:

- Within Washington State there is only one annexation method – Annexation of Federally Owned Areas – that can be applied to annex federally owned lands, including both Fort Lewis and McChord AFB.
- Annexation of State-owned lands, such as Camp Murray, is guided by two annexation methods: Election (initiated by city council) and Direct Petition. Because Camp Murray has a single large land owner (the State) and relatively few residents/voters, we recommend the Direct Petition Method, which can be initiated by the State (rather than by voters).

Annexation of Federally Owned Areas and the Direct Petition Method are subject to review by the BRB.

## Exhibit 13

### Summary of Annexation Methods

Method and Authorizing RCW	Description
<p><b>Election Method</b> (RCW 35A.14.015)</p>	<ul style="list-style-type: none"> <li>• Residents may file a petition (signed by not less than 10% of the number of voters in the area to be annexed who voted in the last general election) with the city asking for an annexation election, OR the annexation of contiguous, unincorporated territory may be initiated by city council resolution. The 10% requirement is applicable in code cities; in other types of cities and towns, the petition threshold is 20%.</li> <li>• Annexation is approved by a simple majority vote; the city may reject annexation even if election vote is favorable.</li> </ul>
<p><b>Direct Petition Method</b> (RCW 35A.14.120)</p>	<p>The following points describe requirements for annexation to code cities; non-code city requirements differ.</p> <ul style="list-style-type: none"> <li>• Annexation is initiated by filing two separate petitions with the city. The first petition is signed by owners of property representing not less than 10% of the assessed value of the property in the area proposed to be annexed. This filing notifies the city of the residents’ intent to commence annexation proceedings.</li> <li>• The legislative body then accepts, rejects, or geographically modifies the proposed annexation. A second petition must then be signed by the owners of properties representing not less than 60% of the assessed valuation of the area proposed to be annexed.</li> <li>• The legislative body of the city or town then holds a public hearing and rejects or accepts the petition.</li> </ul>
<p><b>Alternative Direct Petition Method</b> (RCW 35A.14.420)</p>	<ul style="list-style-type: none"> <li>• Annexation is initiated by securing signatures of both landowners and registered voters. The community initiators (owners of not less than 10% of the land area or not less than 10% of the area’s residents) must notify the city council of their intention to commence annexation.</li> <li>• The city sets a meeting with the initiating parties to determine whether the city will accept, reject, or modify the proposed annexation.</li> <li>• A second petition, in a form approved by the city, is then prepared and must be signed by at least 50% of the registered voters in the area and the owners of at least 50% of the acreage of the area.</li> <li>• The city holds a public hearing and makes a decision on annexation (it may reject the annexation, despite having a valid petition).</li> </ul>
<p><b>Small Unincorporated Islands Method</b> (RCW 35A.14.295)</p>	<ul style="list-style-type: none"> <li>• Applicable to areas less than 100 acres in size where (1) at least 80% of the area boundaries are contiguous to the city or town; or (2) of any size and having at least 80% of the boundaries contiguous to a code city if the area existed before June 30, 1994; is within the same county and urban growth area designated under RCW 36.70A.110; and the city was planning under the Growth Management Act as of June 30, 1994.</li> <li>• A public hearing must be held, after which the city passes an annexation ordinance. The annexation is subject to resident referendum (i.e., can be overturned) if a petition signed by a number of residents of the area equal to at least 10% of the area residents voting in the last general election is filed with the city within 45 days of the date the city ordinance is adopted.</li> <li>• If such a petition is filed, an election on the issue is held and the annexation must be approved by not less than 50% of those persons in the area voting on the matter.</li> </ul>

<b>Method and Authorizing RCW</b>	<b>Description</b>
<b>Interlocal Agreement Method</b> (RCW 35A.14.460)	<ul style="list-style-type: none"> <li>• Applicable to annexation of territory within the city's urban growth area and that has at least 60% of its boundaries contiguous to the annexing city or the annexing city and one or more other cities.</li> <li>• Following a public hearing(s) and approval of the annexation agreement by the city and county, the city council adopts an ordinance annexing the territory.</li> <li>• If, during a 45-day waiting period, a petition is filed with the city signed by not less than at least 15% of the registered voters of the area, then an election on the question must be held; annexation is approved by simple majority vote.</li> </ul>
<b>Annexation for Municipal Purposes</b> (RCW 35A.14.300)	<ul style="list-style-type: none"> <li>• Legislative bodies of code cities may by a majority vote annex territory outside the limits of such city whether contiguous or noncontiguous for any municipal purpose when such territory is owned by the city.</li> <li>• Review by the Boundary Review Board or by the County Annexation Review Boar for code cities is not necessary if the property being annexed for municipal purpose is contiguous to the city.</li> </ul>
<b>Annexation of Federally Owned Areas</b> (RCW 35A.14.310)	<ul style="list-style-type: none"> <li>• Applicable to unincorporated areas contiguous to the city, which are owned by the federal government.</li> <li>• Completed by adopting an ordinance providing for the annexation and which ordinance either acknowledges an agreement of the annexation by the government of the United States, or accepts a gift, grant, or lease from the government of the United States of the right to occupy, control, improve it or sublet it for commercial, manufacturing, or industrial purposes.</li> </ul>

Source: Berk & Associates and RCW, 2007

**Recommended Process for Fort Lewis and McChord Air Force Base: Annexation of Federally Owned Areas**

The U.S. DoD, the Department of the Air Force, the Department of the Army, and the State all have regulations or laws that provide them guiding authority on real property acquisition or annexation. U.S. DoD Directive 4165.6 on Real Property Acquisition, Management, and Disposal guides DoD to remain “neutral relative to annexation by a municipality or political subdivision in accordance with State law, unless the Secretary of the Military Department concerned determines that such action would not be in the best interest of the Federal Government, or it is opposed by another local jurisdiction.”

A July 31, 1998 internal memo related to a prior annexation effort by the City of Lakewood, stated that an Air Force instruction provides the following guidance in this area: “A municipality annexes land under general or special laws to expand municipal boundaries. Ownership of land does not change and the powers and immunities of the base commander under federal law are not affected.”

The same memo states that Army regulation 405-20 gives authority to the Army Corps of Engineers to apply state law to determine how federal land can be annexed. In Washington State, RCW 35 is the applicable law. More

specifically, RCW 35A.14.310 concerns the Annexation of Federally Owned Areas:

*A code city may annex an unincorporated area contiguous to the city that is owned by the federal government by adopting an ordinance providing for the annexation and which ordinance either acknowledges an agreement of the annexation by the government of the United States, or accepts a gift, grant, or lease from the government of the United States of the right to occupy, control, improve it or sublet it for commercial, manufacturing, or industrial purposes: PROVIDED, That this right of annexation shall not apply to any territory more than four miles from the corporate limits existing before such annexation. Whenever a code city proposes to annex territory under this section, the city shall provide written notice of the proposed annexation to the legislative authority of the county within which such territory is located. The notice shall be provided at least thirty days before the city proposes to adopt the annexation ordinance. The city shall not adopt the annexation ordinance, and the annexation shall not occur under this section, if within twenty-five days of receipt of the notice, the county legislative authority adopts a resolution opposing the annexation, which resolution makes a finding that the proposed annexation will have an adverse fiscal impact on the county or road district.*

In a June 30, 1998 Attorney General's opinion written to State Senator Shirley Winsley (28<sup>th</sup> District) by James K. Pharris (then Senior Assistant Attorney General) summarizes:

*...the following requirements and conditions must be met to annex federal areas:*

- 1. adoption of an appropriate city ordinance;*
- 2. Some form of agreement or consent by the United States government;*
- 3. Annexation only of territory less than four miles from current city boundaries; and*
- 4. Consent (or at least non-objection) of the county in which the land is located.*

This opinion is reproduced in **Appendix B**.

Annexation of federally owned areas is not unprecedented in Washington State. In 1985, the City of Bremerton annexed the Puget Sound Naval Shipyard. This annexation followed the same Annexation of Federally Owned Areas that we recommend to the City of Lakewood as described below. See **Appendices C, D, E, and F** for additional notes related to Bremerton's annexation of the Shipyard.

**Process Requirements.** RCW 35A.14.310 defines Annexation of Federally Owned Areas. The following hypothetical process description was drawn from an interview with the Chief Clerk of the Pierce County BRB and the MRSC's Annexation Handbook, Revised November 2004 - Report No. 19.

1. The City of Lakewood and the federally owned areas (Fort Lewis and McChord AFB) develop an agreement, including at a minimum property description, property assessment, and tax agreements
2. The City provides written notice at least 30 days prior to the proposed adoption of the annexation ordinance to the legislative authority of Pierce County
3. The annexation initiators file a NOI with the BRB within 180 days of when the annexation is proposed
4. After ensuring the proposal is technically complete, the BRB circulates a NOI and staff analysis of that document to other affected governments such as the city, adjacent cities, water, and sewer providers
5. A public hearing is held at which the BRB takes testimony from all interested parties
6. The Board may assume jurisdiction over the annexation if, within 45 days of filing the NOI, a request for review is made by:
  - a. The City of Lakewood, Pierce County, or any other affected governmental unit; or
  - b. Petition of registered voters or property owners
7. If jurisdiction is invoked within 45 days, the BRB initiates the public hearing process; if jurisdiction is not invoked within 45 days, the proposed annexation is deemed approved
8. The Board must act within 120 days of the review request, unless the Board and the annexation initiators agree to an extension; if no decision is made within 120 days and no extension is granted, the proposal is deemed approved
9. The BRB decision may be appealed to Pierce County Superior Court
10. Lakewood passes an ordinance acknowledging the annexation agreement

### **Recommended Process for Camp Murray: Direct Petition Method**

As stated earlier in this section, annexation of State-owned lands, such as Camp Murray, is guided by two annexation methods: Election (initiated by city council) and Direct Petition. Because Camp Murray has a single large land owner (the State) and relatively few residents/voters, we recommend the Direct Petition Method, which can be initiated by the State (rather than by voters).

RCW 35A.14.120-150 defines the Direct Petition Method for annexation. The following hypothetical process description was drawn from an interview with the Chief Clerk of the Pierce County BRB, and the MRSC's Annexation Handbook, Revised November 2004 - Report No. 19.

1. The State (as owner of not less than 10% of the value of the property proposed to be annexed – Camp Murray – as defined by RCW 35A.14.120) initiates annexation by signing and delivering an annexation petition to the City Council
2. After being notified of the proposed annexation, the City Council sets a date (within 60 days after the filing of the notice) for a meeting with the initiating parties to determine:
  - a. Whether the City will accept, reject, or geographically modify the proposed annexation
  - b. Whether it will require the simultaneous adoption of a comprehensive plan, if such a plan has been prepared and filed as provided for in RCW 35.13.177 and 35.13.178
  - c. Whether it will require the assumption of all or any portion of existing City indebtedness by the area to be annexed

The decision of the Council whether to accept the proposed annexation is entirely within the Council's discretion. By accepting the proposed annexation, the Council is not committing itself to ultimately annexing the territory proposed when a sufficient petition is presented to it. The decision to accept merely allows the annexation to go forward procedurally. If the Council rejects the proposed annexation, the initiating parties have no right of appeal.

3. If the City Council accepts the initial annexation proposal, the initiating parties may draft and circulate a petition for signatures. The petition must:
  - a. Be in writing and be addressed to the City Council
  - b. Describe the property according to government legal subdivisions or legal plats
  - c. Be accompanied by a plat that outlines the boundaries of the property sought to be annexed
  - d. If the City Council is requiring the assumption of all or any portion of city or town indebtedness and/or the adoption of a comprehensive plan for the area to be annexed, state those facts, with a quotation from the meeting minutes where the Council imposed such requirements
  - e. Be signed by the owners of not less than 75% in value, according to the assessed valuation for general taxation, of the property for which annexation is petitioned

- f. Comply with the rules for petitions in RCW 35.21.005
  - g. Be filed with the City Council
4. The Council then may consider (it is not required to) fixing a date for a public hearing, and providing notice of the hearing by:
    - a. Publishing notice in one issue of a newspaper of general circulation in the City
    - b. Posting notice in three public places within the territory proposed for annexation. The notice must specify the time and place of hearing, and it must invite interested persons to appear and voice approval or disapproval of the annexation. The petition signers are responsible for the expenses of notice publication and posting as defined by RCW 35.13.140. Of course, as a practical matter (particularly where there are a lot of signers), the initiating parties would presumably pay for this notice.
  5. The annexation initiators file a NOI with the Boundary Review Board within 180 days of when the annexation is proposed
  6. After ensuring the proposal is technically complete, the BRB circulates the NOI and staff analysis of that document to other affected governments such as the City, adjacent cities, water, and sewer providers
  7. A public hearing is held at which the BRB takes testimony from all interested parties
  8. The Board may assume jurisdiction over the annexation if, within 45 days of filing the NOI, a request for review is made by:
    - a. The city to which the annexation is proposed, the county within which the annexation is proposed, or any other affected governmental unit; or
    - b. Petition of registered voters or property owners
  9. If jurisdiction is invoked within 45 days, the BRB initiates the public hearing process; if jurisdiction is not invoked within 45 days, the proposed annexation is deemed approved
  10. The Board must act within 120 days of the review request, unless the board and the annexation initiators agree to an extension. If no decision is made within 120 days and no extension is granted, the proposal is deemed approved
  11. The BRB decision may be appealed to Pierce County Superior Court

## **CLEAR ZONE PROGRAM IMPLEMENTATION**

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The acquisition of properties in the CZ involves a complex, multi-step process, made more complicated by the number of owners of the 24 properties in question.

The following steps and considerations would be required as part of the Clear Zone program, some of which may need to be taken concurrently:

**Development of a Detailed CZ Property Acquisition Plan.** While this study explores the financial feasibility and high-level implementation considerations of an annexation-funded CZ program, greater planning will be required before the plan can be put into action. Further exploration of property-specific options to reduce CZ program costs will be necessary. In addition, a phased approach to CZ property purchases may be desirable.

**Appraisals for Each Property.** The cost assessment performed by GVAKM provides an initial baseline estimate of possible costs that might be incurred to acquire the properties in question. Implementing a CZ acquisition program would require a full appraisal for each property compliant with Uniform Standards of Professional Appraisal Practice. In addition, personal property appraisals may be required for the acquisition of furniture, fixtures and equipment such as the concrete and asphalt batch plant machinery for the Miles and Tucci properties.

**Appraisal Reviews.** Property owners may wish to have City-sponsored appraisals reviewed by their own appraisers.

**Negotiations.** Once appraisals are conducted, City attorneys, staff, and/or retained professionals will need to prepare offers and enter into negotiations with individual property owners.

**Eminent Domain Proceedings.** Some landowners may be expected to contest the attempted purchase of their lands, either resisting the sale entirely or contesting the value placed upon their property through the appraisal process. For the CZ program to be successful, the City would likely have to enter into eminent domain proceedings to acquire these properties. Additional condemnation appraisals may be required for these properties. The cost estimates used in this analysis include an allowance of up to \$2 million to cover condemnation (and other incidental costs). As described on pages 5 and 5, the City may pursue partnerships with the County or the State if condemnation is required in order to share the burden of condemnation with other beneficiaries of the continued operations of Pierce County's military bases.

**Relocation of Existing Users.** The City may wish to engage a relocation cost expert to assist with estimating and implementation of a relocation program for businesses that currently operate within the CZ. Challenges will include establishing relocation allowances agreeable to businesses and the City, as well as finding suitable relocation destinations that are ideally within the City

limits. The cost estimates used in this analysis are designed to provide an order of magnitude understanding of these costs.

**Purchase Process.** When negotiations are concluded, the actual purchase of properties may proceed.

**Demolition and Ongoing Maintenance.** The City will need to determine whether existing structures within the CZ are to be maintained or demolished once properties are purchased, both to address encroachment concerns and to minimize ongoing costs of property security and maintenance.

**Ongoing Communication to Community.** Throughout the property acquisition process, the City will want to communicate frequently with the community to keep not only affected property owners but also the military, state and federal policymakers, and community at large abreast of the City's progress. The cost assessment performed by GVAKM included aggregated cost assumptions for each of the steps described above, including provisions for more complicated proceedings such as condemnation.

## **POLICY CONSIDERATIONS**

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Given the strategic value of the Pierce County military installations, there are significant policy reasons why it is important to consider proceeding with a CZ protection program (with or without an annexation element). In the event that CZ encroachment issues were to threaten the long-term viability of any or all of the Pierce County military facilities, there would be a significant economic and fiscal cost to all local jurisdictions. Lakewood and other local jurisdictions would benefit in the long run from partnering to protect the revenue streams and employment that the bases contribute.

**Effects of Clear Zone Property Acquisition.** Policy consideration should also be given to the CZ properties: how would the property acquisition program affect land and business owners, as well as their employees and the families of these employees? The best scenario would be to relocate existing businesses to other locations in Lakewood, but some may choose to relocate outside City limits.

**Possible Eminent Domain Proceedings.** In addition, some landowners may not be amenable to selling their properties to the City through a CZ program, while others may contest the price the City is willing to pay for their properties. In such cases, the City may have no other option than enter into eminent domain proceedings to acquire these properties. While allowances for the greater costs associated with condemnation costs are made in the property acquisition estimates used in this study (see **Appendix A**), condemnation would also present the City with greater legal challenges, as well as the public relations complexities inherent with condemnation efforts.

**Consideration of Long-Term Handling of Annexation Revenues.** Another question relates to continuing revenue streams associated with

annexation once Lakewood has paid down its debt related to CZ property acquisition. It may be possible to reduce the utility tax rate for on-base utilities or to fund other improvements or services which would benefit the military installations with any excess revenues over City expenses.

## **PROGRAM IMPLEMENTATION AND NEXT STEPS**

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### **Implementation Steps**

**Preferred Option.** If the annexation-funded Clear Zone acquisition program explored in this report is pursued, the preferred option for the City would be to annex the military installations and evaluate the incoming revenue stream, as well as associated service costs (if any), to determine the actual net revenue of annexation impact prior to making property acquisitions in the CZ. During this assessment period, the City could plan its approach to CZ property purchases and understand how much debt it could support without subsidizing the acquisitions.

However, the military installations may want a firm commitment from the City in terms of CZ property acquisition before consenting to annexation, so the City may not have the luxury of seeing the actual revenue impact before issuing debt and so may ultimately end up subsidizing the purchase if revenues are less than expected.

**Memorandum of Understanding.** As described in the description of recommended annexation approaches, annexation of the military bases will require agreement by both the federal government and Pierce County. Given that annexation would have financial impacts to both the bases and the Pierce County and that action taken by either party to could block annexation, it would clearly be in the City's interest to establish an MOU outlining agreement to annexation. This agreement should include assumptions about revenues, agreement on which entities will be responsible for service provision following annexation, and other financial and legal considerations.

As described on page 51, the DoD is directed to remain "neutral relative to annexation." As shown by the case of Bremerton, this position of neutrality need not prohibit the government from either entering into an MOU or from consenting to annexation. Prior to annexation, the City and the Puget Sound Naval Shipyard entered into a MOU in 1985 (reproduced in **Appendix E**). A lack of opposition to the proposed annexation was later communicated as consent by the Under Secretary of the Navy (as shown in **Appendix F**).

**Next Steps.** It would take some time for Lakewood to annex the military installations and establish a CZ acquisition program. We have devised the steps below to help with this implementation process. Some of these steps may need to be taken concurrently.

1. Allocate resources in terms of staff time; the City would need to dedicate some personnel time to this task
2. Establish a MOU with Pierce County and the federal government as discussed above
3. Start discussions with McChord AFB to identify preferences for timing of CZ acquisition
4. Get certified appraisals for the CZ properties and begin the negotiations with property owners
5. Begin conversations with Fort Lewis, McChord AFB, and Camp Murray regarding annexation; commence the annexation process (described in detail in Assessment of Annexation Approaches chapter of this report)
6. Research appropriate debt instruments
7. Forge solid local partnerships and apply for relevant state and federal grants
8. Conduct ongoing communication and public outreach designed to clarify the aims of the annexation and property acquisition program

### **Timing and Phasing Options**

The encroachment issue at McChord is long-standing. Clearly an expeditious solution is desirable to enhance the security of the base.

From a cost perspective, a near-term solution is also desirable. The cost estimates performed by GVAKM for this study note that the estimated costs have “essentially doubled” since the 2005 GPA Valuation study. This increase is attributed in part to the consideration of additional properties not considered in the original analysis, due to application of the “larger parcel” concept. The GVAKM study also notes that changes have occurred in market conditions, increasing the baseline value of the properties, and new building improvements have been made as well. It can be assumed that the costs associated with a CZ acquisition program will continue to increase over time.

In terms of revenue generation, there seems to be no advantage to partial or phased annexations, as Fort Lewis is estimated to generate more than 80% of revenues. Annexation of Camp Murray would contribute approximately \$700,000, or 1% of 20-year net present value, so it may not be advantageous to annex this State facility at all from a purely financial point of view. However, as Camp Murray borders Lakewood on one side and is surrounded by Fort Lewis on the others, this annexation would almost certainly need to happen if Fort Lewis is annexed to avoid the creation of unincorporated islands, something the boundary review boards normally seek to avoid when reviewing annexation initiatives.

A phased approach to CZ property purchase may be possible, but will require discussions with McChord AFB to prioritize the properties and identify preferences for timing of acquisition. Debt could then be issued in stages, depending on the plan.

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**Source Notes:**

<sup>1</sup> Economic Impacts of the Military Bases in Washington, 2004, WA Office of Financial Management (<http://www.ofm.wa.gov/economy/military/pierce.pdf>)

<sup>2</sup> BRAC website (<http://www.dod.mil/brac/faqs001.html>)

<sup>3</sup> Department of Defense Inspector General's Report on the 2005 Defense Base Closure and Realignment Commission's Report Recommendation #193 Regarding Naval Air Station Oceana, Virginia (<http://www.dodig.mil/Audit/reports/FY06/06-091.pdf>)

<sup>4</sup> 2005 Defense Base Closure and Realignment (BRAC) Commission Report.

<sup>5</sup> City of Lakewood military liaison, City Councilmember Doug Richardson as quoted in The Suburban Times, April 4, 2006  
[http://www.thesubtimes.com/2006/04/lakewood\\_will\\_s.html](http://www.thesubtimes.com/2006/04/lakewood_will_s.html))

<sup>6</sup> Office of Financial Management Small Area Estimate Program  
(<http://www.ofm.wa.gov/pop/smallarea/>)

<sup>7</sup> Army Military Law Review, January 1961  
([http://www.loc.gov/rr/frd/Military\\_Law/Military\\_Law\\_Review/pdf-files/275C63%7E1.pdf](http://www.loc.gov/rr/frd/Military_Law/Military_Law_Review/pdf-files/275C63%7E1.pdf))

<sup>8</sup> Fiscal Year 2006 Office of the Deputy Under Secretary of Defense Installations and Environment Fiscal Year 2006 Posture Statement  
([http://www.acq.osd.mil/ie/ie\\_library.htm](http://www.acq.osd.mil/ie/ie_library.htm))

<sup>9</sup> Working with Land Trusts: A Guide for Military Installations and Land Trusts, Land Trust Alliance ([https://www.denix.osd.mil/denix/Public/Library/Sustain/Ranges/SH-Guidebooks/LTA\\_092706-final.pdf](https://www.denix.osd.mil/denix/Public/Library/Sustain/Ranges/SH-Guidebooks/LTA_092706-final.pdf))

<sup>10</sup> U.S. Defense Department Environmental Network & Information eXchange (DENIX)  
(<https://www.denix.osd.mil/denix/Public/Library/Sustain/Ranges/REPI-FACT-SHEET.doc>)