

Gig Harbor City Council Meeting

**September 25, 2006
7:00 p.m.**



**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
September 25, 2006 - 7:00 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.

1. Approval of the Minutes of the City Council Meeting of September 11, 2006.
2. Correspondence / Proclamations: Constitution Week
3. Olympic Drive / 56th Street Roadway Improvement Project – Right-of-Way and Easement Agreements.
4. Stormwater Facilities Maintenance Agreement and Restrictive Covenant – Little Boat North Inc.
5. Resolution 687 – Surplus Property.
6. Agreement between the City and Washington State Surplus Program.
7. Eddon Boat U.S. EPA Brownfields Grant Administration – Consultant Services Contract.
8. Liquor License Change of LLC Member: Half Time Sports.
9. Liquor License Assumption: Olympic Drive Mart.
10. Liquor License Renewals: Fred Meyer; Gig Harbor 76; Harvester Restaurant; QFC – Pt. Fosdick; and QFC – Judson Street.
11. Special Occasion Liquor License: Knights of Columbus.
12. Payment of Bills for September 25, 2006.
Checks #51483 through #51606 in the amount of \$428,316.08.

OLD BUSINESS:

1. Proposed Annexation – Hansen (ANX 06-1313).

NEW BUSINESS:

1. First Reading of Ordinance - Drug Paraphernalia.
2. First Reading of Ordinance – Harbor Hill Rezone (REZ 04-35).
3. Proposed Annexation - Burnham/Sehmel Annexation (ANX 05-1151).
4. Skansie Bros. Park Net Shed Piling and Support Analysis – Consultant Services Contract.
5. Administrative and Special Projects – Consultant Services Contract.

STAFF REPORT:

1. Laureen Lund, Market Director – New City Website.
2. John Vodopich, Community Development Director – City Initiated Annexation Methods.
3. John Vodopich, Community Development Director – Gig Harbor Peninsula Historical Society.

PUBLIC COMMENT:

COUNCIL COMMENTS / MAYOR'S REPORT:

ANNOUNCEMENT OF OTHER MEETINGS:

1. Gig Harbor North Traffic Options Committee Meeting – September 27th, 9:00 a.m. – Community Rooms A&B.
2. Operations and Public Projects Committee Meeting – September 28th, 4:00 p.m. – Engineering & Operations Conference Room.

EXECUTIVE SESSION: For the purpose of discussing pending litigation per RCW 42.30.110(1)(i).

ADJOURN:

GIG HARBOR CITY COUNCIL MEETING OF SEPTEMBER 11, 2006

PRESENT: Councilmembers Ekberg, Young, Franich, Conan, Dick, Payne, Kadzik and Mayor Hunter.

CALL TO ORDER: 6:30 p.m.

PLEDGE OF ALLEGIANCE:

EXECUTIVE SESSION: For the purpose of discussing labor negotiations per RCW 42.30.140(4)(b).

MOTION: Move to adjourn to Executive Session for approximately 30 minutes at 6:32 p.m. in order to discuss labor negotiations per RCW 42.30.140(4)(b).
Franich / Conan – unanimously approved.

MOTION: Move to return to regular session at 7:02 p.m.
Franich / Kadzik – unanimously approved.

CONSENT AGENDA:

These consent agenda items are considered routine and may be adopted with one motion as per Gig Harbor Ordinance No. 799.

1. Approval of the Minutes of the City Council Meeting of August 28, 2006.
2. Correspondence / Proclamations: Fall Prevention Week
3. Purchase Authorization – Automated Weirwasher System.
4. Payment of Bills for September 11, 2006.
Checks #51369 through #51482 in the amount of \$667,689.33.
5. Payment of payroll for the month of August:
Checks #4365 through #4419 and direct deposit entries in the amount of \$334,349.41.

MOTION: Move to approve the Consent Agenda as presented.
Franich / Young – unanimously approved.

OLD BUSINESS: None scheduled.

NEW BUSINESS:

1. Notice of Intention – Hansen Annexation (ANX 06-1313). John Vodopich, Community Development Director, presented the background information on this proposal to annex approximately 2.5 acres of property located at the corner of 46th Avenue NW and Forest Lane. He said that due to the small size of the annexation request, he is recommending that Council deny the notice of intent and suggest to the proponent that the annexation be resubmitted to include all of the property located north of 72nd Street in order to create a regular boundary.

Eva Jacobsen – 5808 Reid Drive. Ms. Jacobsen, planning consultant for the applicant Don Hansen, described the plan to create a small 7-8 block subdivision. She asked Council to consider allowing this small annexation. She said that they believe it futile to go back and talk to the other property owners as several of these parcels are already developed and the owners perceive no benefit or advantage to being annexed into the city. She further explained that Mr. Hansen will develop the property whether it is in the city or the county, as the zoning density is the same. In addition, he has the option of shadow-platting which means that they are not required to connect to city sewer. Annexing to the city is not mandatory, but it would make it a cleaner process. She requested the ability to go forward without the burden of asking adjacent property owners to join in, or if this is to be required, that the city takes the lead in the annexation process.

Councilmember Payne asked for clarification on the third benefit of allowing this annexation to move forward. Ms. Jacobsen responded that the developer would be contributing to another length of gravity sewer line for the city.

Councilmember Dick pointed out that taxes within the city are lower than in the County and if the property owners wanted to connect to city sewer, the rates would be lower if they annex. He said that these advantages should make it an easy sell to convince the other property owners to join in the proposed annexation. In addition, their property would be served by city police.

Ms. Jacobsen responded that there is a preconceived idea of higher taxes through other utilities such as telephone service, and there are no other benefits to annexing if a property isn't connected to city water or sewer. She said that this may be a misconception, but it would be better if the correct information comes from the city so that it doesn't appear to be developer driven.

Don Hansen – 12706 Burnham Drive. Mr. Hansen, the developer of the property, explained his vision for a quality subdivision. He said that they feel it would be to their advantage to develop under city regulations rather than county, and made an appeal for acceptance of the proposed annexation. He responded that he plans to begin developing the property in a year.

John Vodopich addressed questions from Council. He explained that the Boundary Review Board has criteria to try and prevent an irregular boundary. He said that during a recent annexation Mr. Wright was asked to pick up the other properties in question, and was unsuccessful. John then said that Pierce County commented that they want the entire stretch of Skansie included, and so the legal description was recrafted. A small stretch of road would still remain in the county.

Councilmembers further discussed the merits of attempting to include the rest of the properties in an annexation process.

MOTION: Move to direct staff to return to Council with a resolution to initiate an annexation petition for the entire portion of the unincorporated section of Pierce County within the Urban Growth Area north of 72nd and all properties west of Skansie.
Young / Ekberg – unanimously approved.

Councilmember Franich asked what the cost of this might be. Carol Morris said that she would come back with that information.

Councilmember Dick asked that the information on comparative taxes and police coverage be gathered as a tool to help people understand the benefit of annexing.

Ms. Morris said that there is another fairly new method to initiate an annexation through an interlocal agreement rather than the election process. She asked if Council would like more information at the next meeting on the advantages or disadvantages of both methods before initiating the election process. Councilmembers agreed that they would like more information.

MOTION: Move to table any action on the Notice of Intention for the Hansen Annexation until the next meeting to allow the review of the information to be submitted by Legal Counsel.
Ekberg / Payne – unanimously approved.

MOTION: Move to amend the previous motion to bring back a resolution to initiate an annexation petition to instead direct staff to bring back comparative information on the different methods to initiate an annexation.
Young / Ekberg – unanimously approved.

2. City Administrator Search - Consultant Services Contract. Mayor Hunter presented this contract to help facilitate the search for a qualified person for the position of City Administrator. He explained that he would like ten days before acting on the contract in which time he will work on the scope in order to keep expenses down.

Councilmembers discussed and voiced concern on the terms of payment in the contract. Carol Morris clarified that if the terms of the contract are modified, then the contract would have to come back to Council.

Mayor Hunter said that he would work with Prothman on the terms of the contract before bringing it back to Council.

STAFF REPORT:

1. Mike Davis, Chief of Police – August Stats. Chief Davis offered to answer any questions on the report. He encouraged Councilmembers and the Mayor to ride along with the officers some time.

2. John Vodopich, Community Development Director – Historical Society. John Vodopich reported on the price per square foot for the Donkey Creek Park property the city purchased in 1999. He said that using these numbers to estimate the purchase price for the 7300 s.f. triangle piece that the Historical Society want the city to purchase, would amount to \$71,660.00 based on the 1999 price. He then said that he had received one other quote for appraisal of the property for \$6000.00.

Councilmembers discussed the need for an appraisal on property that may be of little value if designated as open space. The difficulty is how to appraise the property in order to determine its value in order to prevent making a gift of public funds.

Carol Morris warned against setting the precedence of purchasing open space that is a requirement of development. She advised Council that in order for the city to contribute funds to the Historical Society Council needs to find a way to give the money to benefit the Historical Society and the citizens of Gig Harbor without it appearing to be a purchase of property that the city would be getting anyway.

Councilmembers then discussed the appropriate and legal means in which to participate with the Historical Society financially, whether it would be a contract in exchange for services or in some other form.

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich said that he questions whether the Historical Society can even sell a piece of property as there is an offer pending on the property.

Councilmember Ekberg clarified that the property in question is separate from what is being sold.

Mr. Bujacich then said that a museum would benefit the citizens and generations to come by sharing the history of Gig Harbor. He stressed that any money donated to the project is a worthwhile effort.

Councilmember Ekberg suggested that because this is time urgent, that we forego the appraisal, and that the Committee comes back together as soon as possible with Carol to develop a package to present for consideration. The other Councilmembers agreed to this suggestion.

Carol Morris then addressed the memo she passed out to Council in regards to appeals of land use decisions. She said she has proposed an alternative method of reconsideration and requested Councilmembers to consider the advantages and disadvantages before she does any additional work. She invited comments before the next meeting.

PUBLIC COMMENT:

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich asked why the construction fence is so far out on the city right of way at the old Stutz Property.

John Vodopich responded that they acquired a temporary encroachment permit associated with clean-up with the site.

Michael Perrow – PO Box 1266. Mr. Perrow presented information discussed at the last Parks Commission meeting in regards to the Skate Park. He voiced concern over the litter and the smoking. He said that the park is designed for the youth and smoking is incompatible with this use. He said that he and Jacquie Goodwill recommend banning smoking in the park. He continued to explain that the Parks Commission voted to ask Council to budget funding for cameras at the park as a deterrent to drug use and other negative behaviors. He said that the Commission also discussed closing the park on a temporary basis until behaviors improve. Other suggestions that came about are for the city crew to clean later in the day when there are more people at the park and to enlarge the playground to encourage more family use.

Councilmember Ekberg thanked Mr. Perrow for the input and agreed with some of the suggestions such as cleaning the park on a later schedule and looking into banning smoking in all city parks.

Mayor Hunter also thanked Mr. Perrow and told him that the city is working on solutions to these problems.

Eric England – 6625 Wagner Way. Mr. England, speaking on behalf of Horizon Bank, described a current Habitat for Humanity project. He said that Horizon Bank is going to commit funds to build a home across the Purdy Bridge for a needy family. He explained that Mayor Hunter has already committed to lend his expertise in constructing a couple of the walls on Saturday, October 2nd. He then extended an invitation to everyone to come and participate.

COUNCIL COMMENTS / MAYOR’S REPORT:

Councilmember Ekberg requested that in his conversation with WSDOT, that Councilmember Franich ask why it is going to take so long to reposition the misplaced lights on the Wollochet Interchange.

Councilmember Franich responded that Claudia Cornish has referred him to an engineer at WSDOT that he will be in contact with.

ANNOUNCEMENT OF OTHER MEETINGS:

Pierce County Council - September 12th - 5:30 p.m. - Council Chambers.

EXECUTIVE SESSION: For the purpose of discussing potential litigation per RCW 42.30.110(1)(i).

MOTION: Move to adjourn to Executive Session for approximately 30 minutes at 8:25 p.m. in order to discuss pending litigation per RCW 42.30.110(1)(i).
Franich / Conan – unanimously approved.

MOTION: Move to return to regular session at 8:40 p.m.
Kadzik / Conan – unanimously approved.

MOTION: Move to authorize the city attorney to file the appeal of the Madison Sores / Tangadoc Development to the Court of Appeals.
Franich / Kadzik – unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 8:41 p.m.
Dick / Conan – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1 - 29

Charles L. Hunter, Mayor

Molly M. Towslee, City Clerk

PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, the Constitution of the United States of America, the guardian of our liberties, is a product of reflection and choice, embodying the principles of limited government in a Republic dedicated to rule by law, not by men; and

WHEREAS, September 17, 2006 marks the two hundred nineteenth anniversary of the drafting of the Constitution of the United States of America by the 1787 Constitutional Convention; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate this grand occasion; and

WHEREAS, Public Law 915 guarantees the insuring of a proclamation each year by the President of this great country designating September 17 through 23 as Constitution Week,

NOW, THEREFORE, I, Charles L. Hunter, Mayor of the City of Gig Harbor, hereby declare the week of September 17 through September 23 as

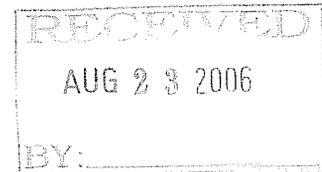
CONSTITUTION WEEK

and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 18th day of September, 2006.

Charles L. Hunter, Mayor

Date



PO Box 176
Gig Harbor WA 98335
253-851-6685
gigvision@hotmail.com
August 21, 2006

Mayor Chuck Hunter
3510 Grandview
Gig Harbor WA 98335
851-8136

Dear Mayor Hunter,

Last year the City of Gig Harbor joined with the Daughters of the American Revolution in celebrating Constitution Week designated on September 17th through the 23rd. My hope is that you will again honor the anniversary of the Constitution which was originally signed on September 17, 1787.

I spoke with you on the phone today regarding the Proclamation. I would like to be on the City Council agenda for the meeting on Monday, September 18th. You will be among countless Governors and Mayors across our nation that will honor this occasion.

Elizabeth Forey Chapter of the Daughters of the American Revolution appreciates your willingness to participate in our efforts to promote this historic event to the public. Please call me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Connie Worthen".

Connie Worthen, Regent
Elizabeth Forey Chapter, NSDAR



"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E., CITY ENGINEER
SUBJ: OLYMPIC DRIVE / 56TH STREET ROADWAY IMPROVEMENT
PROJECT (CSP-0133) - PERMANENT RIGHT-OF-WAY EASEMENT
AGREEMENT AND TEMPORARY CONSTRUCTION & SLOPE
EASEMENTS FOR UNION 76 GAS AND CONVENIENCE
DATE: SEPTEMBER 25, 2006

INTRODUCTION/BACKGROUND

As part of the ongoing process for the City's Olympic Drive / 56th Street Roadway Improvement Project (CSP-0133), agreements for a Permanent Right-of-Way and Temporary Construction & Slope Easement(s) are required from Parcel No. 0221177047, owned by Dev Shaunak, commonly known as the Union 76 Gas and Convenience located at 5505 38th Avenue NW. In order for the City to have access and the ability to construct this project, the subject easements have been granted by the owner for these purposes. The Permanent Right-of-Way Easement shall be 1,876 square feet. The easements shall commence on the date of execution of the agreements. The Temporary Slope Easement shall terminate on the date the roadway improvements are accepted by the City Council (see attached exhibits).

The City's standard easement agreements have been drafted and approved by City Attorney Carol Morris.

City Council approval of the easement agreements are requested.

FISCAL CONSIDERATIONS

No funds will be expended for the acquisition of the described easements.

RECOMMENDATION

I recommend that City Council approve these easement agreements as presented.

AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview Street
Gig Harbor, WA 98335

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

Agreement for Dedication of Permanent Right-of-Way Easement

Grantor(s) (Last name first, then first name and initials)

Shaunak Properties LLC

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Lot 4, Short Plat No. 9709020325

Assessor's Property Tax Parcel or Account Number: 0221177047

Reference Number(s) of Documents assigned or released: _____

**AGREEMENT FOR DEDICATION OF
PERMANENT RIGHT-OF-WAY EASEMENT
TO THE CITY OF GIG HARBOR**

THIS AGREEMENT is made this ____ day of _____, 2006, by and between the CITY OF GIG HARBOR, a Washington Municipal Corporation, (hereinafter the "City"), and SHAUNAK PROPERTIES LLC, a Washington Limited Liability Company, (hereinafter the "Owner"), whose mailing address is 6540 NE 196th Street, Kenmore WA 98028.

RECITALS

WHEREAS, the Owner is a holder of a fee or substantial beneficial interest in the real property commonly known as the UNION 76 GAS AND CONVENIENCE, located at 5505 - 38TH AVE NW, GIG HARBOR WA 98335, (Tax Parcel Number 0221177047) which is legally described in **Exhibit "A"**, (hereinafter the "Property") which is attached hereto and by this reference incorporated herein; and

WHEREAS, the Owner has agreed to dedicate certain right of way on, over, under and across the Property, which right of way is legally described in **Exhibit "B"** (the "PERMANENT RIGHT-OF-WAY EASEMENT") which is attached hereto and by this reference incorporated herein, to the City for a roadway and related improvements; and

WHEREAS, a map showing the location of the Permanent Right-of-Way Easement is attached hereto as **Exhibit "C"** and by this reference incorporated herein; and

WHEREAS, the City requires a Permanent Right of Way Easement for a sidewalk and in exchange for the Owner's dedication of the Right of Way, the Owner will obtain the benefits of the operation of the OLYMPIC DRIVE AND 56TH STREET Roadway Improvement Project (CSP - 0133); and

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, as well as other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Owner agree as follows:

TERMS

Section 1. Grant of Right of Way to the City.

A. Grant of Permanent Right-of-Way Easement. The Owner hereby conveys and grants to the City, its successors and assigns, a nonexclusive Permanent Right-of-Way Easement over, in, along, across, under and upon the North ten (10) feet and corner radius of the Owner's property as the easement is legally described in **Exhibit "B"** and as depicted in a map attached hereto and incorporated herein as **Exhibit "C"**.

The Grant of the Permanent Right-of-Way Easement shall also dedicate to the City, the nonexclusive right of ingress to and egress from the Right-of-Way Easement over the Owner's property, and for the reconstruction, operation, repair and maintenance of same. This Permanent Right-of-Way Easement shall commence on the date of execution of this Agreement. In the event the City Council has not awarded the Construction Project by December 31, 2008, the property shall be transferred back to current owner.

B. **Conditions.** This Permanent Right-of-Way Easement is subject to and conditioned upon the following terms and covenants, which all parties agree to faithfully perform:

1. The City shall bear all costs and expenses associated with the construction, improvement, maintenance, repair and operation of the roadway improvements. A cleanout shall be constructed on the North corner of the East property line.

2. The Owner shall not retain the right to use the surface or the area beneath the easement, and shall not use any portion of the right of way for any purpose inconsistent with use of the property as a public roadway. The Owner shall not construct any structures or plant any landscaping on or over the easement.

3. The City shall have all necessary access to the easement without prior notification to the Owners.

4. A Sanitary Sewer will be installed in the City's Right of Way along Olympic Drive NW by either the City or a private developer prior to or at the time the project is accepted by the City for ownership.

Section 2. The perpetual rights granted herein to the City shall continue in force until such time as the City, its successors or assigns, shall permanently abandon the same, and upon such removal or abandonment, all rights hereby granted shall terminate.

Section 3. This Agreement shall be recorded in the office of the Pierce County Auditor and shall run with the Properties. The burdens and benefits of the easements granted under this Agreement shall extend to, be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, legal representatives, successors assigns and beneficiaries.

Section 4. This Agreement shall be construed in accordance with the laws of the State of Washington, and jurisdiction of any litigation arising out of this Agreement shall be in Pierce County Superior Court. The prevailing party in any litigation brought to enforce the terms of this Agreement shall be entitled to its reasonable attorney's fees and costs.

Section 5. Other than the documents attached to this Agreement as exhibits, there are no other verbal or written agreements that modify this Easement Agreement, which contains the entire understanding of the parties on the subject.

Section 6. Any invalidity, in whole or in part, of any provision of this agreement shall not affect the validity of any other provision.

Section 7. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

ACCEPTANCE:

SHAUNAK PROPERTIES LLC

CITY OF GIG HARBOR

By:



Sukhdev Shaunak
Managing Member

By:

Mayor

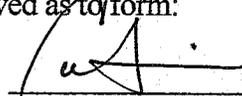
Attest:

By:

City Clerk

Approved as to form:

By:



City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Gig Harbor for the uses and purposes mentioned in this instrument.

DATED: _____

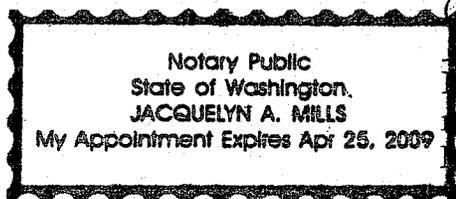
(Signature)

NOTARY PUBLIC, State of Washington,
residing at: _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Sukhdev Shaunak is the person who appeared before me, and said person acknowledged that he was authorized to execute the instrument and acknowledged it as the Managing Member of the Shaunak Properties LLC to be the free and voluntary act and deed of such party for the uses and purposes mentioned in this instrument.

DATED: Sept. 7, 2006



Jacquelyn A. Mills
(Signature)

Jacquelyn A. Mills
NOTARY PUBLIC, State of Washington,
residing at: Thurston County
My appointment expires: Apr. 25, 2009

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

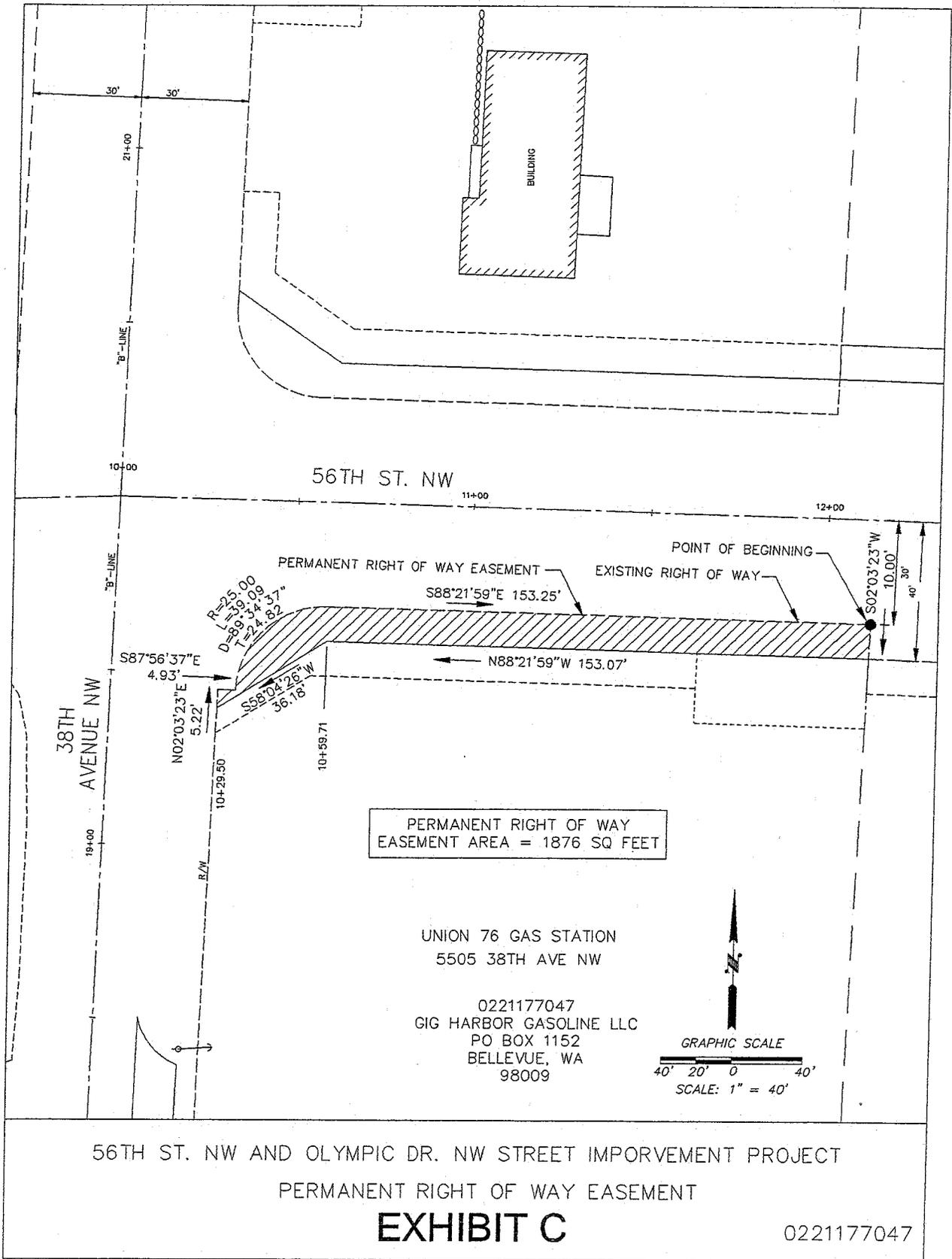
LOT 4, AS SHOWN ON SHORT PLAT NUMBER 9709020325, FILED WITH THE PEIRCE COUNTY AUDITOR, IN PIERCE COUNTY, WASHINGTON.

EXCEPT THAT PORTION CONVEYED TO PIERCE COUNTY BY INSTRUMENT RECORDED UNDER AUDITOR'S NUMBER 9312270620.

EXHIBIT B

PERMANENT RIGHT OF WAY EASEMENT DESCRIPTION

A PORTION OF PARCEL NO. 0221177047 THAT ABUTTS THE RIGHT OF WAY OF 56TH STREET NW AND DESCRIBED AS "PERMANENT RIGHT OF WAY EASEMENT", WHOSE NORTH EAST PROPERTY CORNER ALONG 56TH STREET NW BEING THE "POINT OF BEGINNING", THENCE S02°03'23"W A DISTANCE OF 10.00', THENCE N88°21'59"W A DISTANCE OF 153.07', THENCE S58°04'26"W A DISTANCE OF 36.18', THENCE N02°03'23"E A DISTANCE OF 5.22', THENCE S87°56'37"E A DISTANCE OF 4.93', THENCE ALONG A CURVE WHOSE RADIUS IS 25.00' AND WHOSE LENGTH IS 39.09' AND WHOSE ANGLE IS 89°34'37" AND WHOSE TANGENT IS 24.82', THENCE S88°21'59"E A DISTANCE OF 153.25' AND RETURNING TO THE "POINT OF BEGINNING"



**AGREEMENT FOR DEDICATION OF TEMPORARY
CONSTRUCTION AND SLOPE EASEMENTS
TO THE CITY OF GIG HARBOR**

THIS AGREEMENT is made this _____ day of _____, 2006, by and between the CITY OF GIG HARBOR, a Washington Municipal Corporation, (hereinafter the "City"), and SHAUNAK PROPERTIES LLC, a Washington Limited Liability Company, (hereinafter the "Owner"), whose mailing address is 6540 NE 196TH Street, Kenmore WA 98028.

RECITALS

WHEREAS, the Owner is a holder of a fee or substantial beneficial interest in the real property commonly known as the UNION 76 GAS AND CONVENIENCE, located at 5505 - 38TH AVE NW, GIG HARBOR WA 98335, (Tax Parcel Number 0221177047) which is legally described in **Exhibit "A"**, (hereinafter the "Property") which is attached hereto and by this reference incorporated herein; and

WHEREAS, the Owner has agreed to dedicate temporary slope and construction easements, which easements are legally described in **Exhibit "B"** (the "Temporary Slope and Temporary Construction Easements") which is attached hereto and by this reference incorporated herein, to the City for construction purposes associated with the Olympic Drive and 56th Street Roadway Improvement Project (CSP-0133); and

WHEREAS, the City requires a Temporary Slope Easement to tie into the roadway any improvements requiring a permanent slope, and the City requires the Temporary Construction over the property in order to tie the private driveway on the Property into the City's permanent Roadway (the Olympic Drive and 56th Street Roadway Project) so that the Property Owner will have access to the Roadway. In exchange for the Owner's dedication of the Temporary Slope and Construction Easements, the Owner will obtain the benefits associated with construction of the OLYMPIC DRIVE AND 56TH STREET Roadway Improvement Project (CSP -0133); and

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, as well as other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Owners agree as follows:

TERMS

Section 1. Grant of Temporary Easements to the City.

A. Grant.

1. TEMPORARY SLOPE EASEMENT. The Owner hereby grants a nonexclusive Temporary Slope Easement to tie into the roadway any improvements requiring a permanent slope, and the City requires the Temporary Construction over the property in order to tie the private driveway on the Property into the City's permanent Roadway construction of the

OLYMPIC DRIVE AND 56TH STREET Roadway Improvement Project across, along, in, upon, under and over the Owner's property as the easement is described in **Exhibit "B"** and as depicted in a map attached hereto and incorporated herein as **Exhibit "C"**.

The City shall, upon completion of any work within the Property covered by this Easement, restore the surface of the Easement and any private improvements disturbed or destroyed by the City during execution of the work, as nearly as practicable to the conditions described in the roadway improvement project's plans and specifications. These Temporary Slope and Construction Easements shall commence on the date of the City Council award of the Construction Project, and shall terminate on the date the roadway improvements are accepted by the City Council. In the event the City Council has not awarded the Construction Project by December 31, 2008, these Temporary Slope and Construction Easements shall terminate.

B. Conditions. The Temporary Easements described above are subject to and conditioned upon the following terms and covenants, which all parties agree to faithfully perform:

1. The City shall bear all costs and expenses associated with the construction, improvement, maintenance, repair and operation of the roadway improvements. This will include extending the asphalt wrap to the northerly edge of owner's 38th Street driveway.
2. The Owner shall not use any portion of the areas within the temporary easements for any purpose inconsistent with the City's construction of the Roadway during the term of this Agreement. The Owner shall not construct any structures or plant any landscaping on or over the temporary easements during the term of this Agreement.
3. The City shall have all necessary access to the temporary easements without prior notification to the Owner.
4. If determined necessary by the City Engineer, the City, at their expense, shall place a sign on the Property advising pedestrians of left-hand turning vehicles.
5. The City or the City's Contractor shall be responsible for any damages to property caused by the City or the City's Contractor as a result of the construction project.
6. As part of this construction project, there will be no barriers installed to prevent west bound traffic on 56th St NW from turning into Property.
7. During the construction project, no more than one-half of the driveways will be closed at any time.

Section 2. The rights granted herein to the City shall continue in force until such time as the City Council accepts the roadway improvements for public ownership and maintenance.

Section 3. This Agreement shall be construed in accordance with the laws of the State of Washington, and jurisdiction of any litigation arising out of this Agreement shall be in Pierce County Superior Court. The prevailing party in any litigation brought to enforce the terms of this Agreement shall be entitled to its reasonable attorney's fees and costs.

Section 4. Other than the documents attached to this Agreement as exhibits, there are no other verbal or written agreements that modify this Agreement, which contains the entire understanding of the parties on the subject.

Section 5. Any invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity of any other provision.

Section 6. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

ACCEPTANCE:

SHAUNAK PROPERTIES LLC

By:



Sukhdev Shaunak
Managing Member

CITY OF GIG HARBOR

By:

Mayor

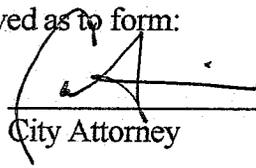
Attest:

By:

City Clerk

Approved as to form:

By:



City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Gig Harbor for the uses and purposes mentioned in this instrument.

DATED: _____

(Signature)

NOTARY PUBLIC, State of Washington,

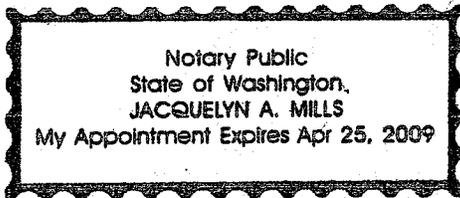
residing at: _____

My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Sukhdev Shaunak is the person who appeared before me, and said person acknowledged that he was authorized to execute the instrument and acknowledged it as Managing Member of the Shaunak Properties LLC to be the free and voluntary act and deed of such party for the uses and purposes mentioned in this instrument.

DATED: Sept. 7, 2006



Jacquelyn A. Mills
(Signature)

Jacquelyn A. Mills

NOTARY PUBLIC, State of Washington,

residing at: Thurston County

My appointment expires: Apr. 25, 2009

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

LOT 4, AS SHOWN ON SHORT PLAT NUMBER 9709020325, FILED WITH THE PEIRCE COUNTY AUDITOR, IN PIERCE COUNTY, WASHINGTON.

EXCEPT THAT PORTION CONVEYED TO PIERCE COUNTY BY INSTRUMENT RECORDED UNDER AUDITOR'S NUMBER 9312270620.

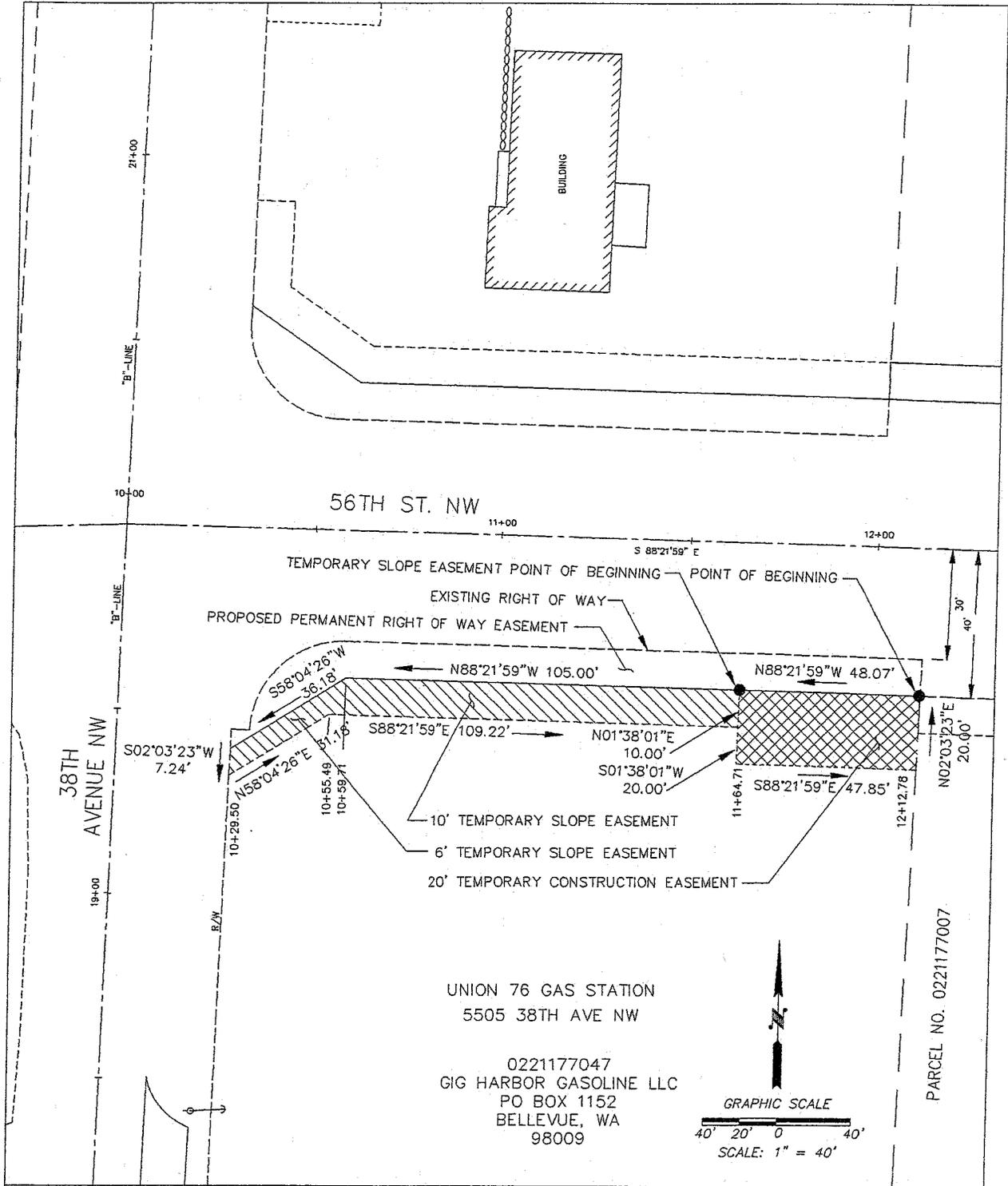
EXHIBIT B

TEMPORARY SLOPE EASEMENT DESCRIPTION

A PORTION OF ASSESSOR'S PARCEL NO. 0221177047 (EXHIBIT "A") DESCRIBED AS A "6.00' TEMPORARY SLOPE EASEMENT" AND A "10.00' TEMPORARY SLOPE EASEMENT", WHOSE NORTH EAST PROPERTY LINE INTERSECTS WITH THE NORTHWEST PROPERTY CORNER OF PARCEL NO. 0221177007 ALONG 56TH STREET NW BEING THE "POINT OF BEGINNING", THENCE N88°21'59"W A DISTANCE OF 48.07' TO THE "TEMPORARY SLOPE EASEMENT POINT OF BEGINNING", THENCE N88°21'59"W A DISTANCE OF 105.00', THENCE S58°04'26"W A DISTANCE OF 36.18', THENCE S02°03'23"W A DISTANCE OF 7.24', THENCE N58°04'26"E A DISTANCE OF 31.18', THENCE S88°21'59"E A DISTANCE OF 109.22', THENCE N01°38'01"E A DISTANCE OF 10.00' RETURNING TO THE "TEMPORARY SLOPE EASEMENT POINT OF BEGINNING".

TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION

A PORTION OF ASSESSOR'S PARCEL NO. 0221177047 (EXHIBIT "A") DESCRIBED AS A "20.00' TEMPORARY CONSTRUCTION EASEMENT", WHOSE NORTH EAST PROPERTY LINE INTERSECTS WITH THE NORTHWEST PROPERTY CORNER OF PARCEL NO. 0221177007 ALONG 56TH STREET NW BEING THE "POINT OF BEGINNING", THENCE N88°21'59"W A DISTANCE OF 48.07', THENCE S01°38'01"W A DISTANCE OF 20.00', THENCE S88°21'59"E A DISTANCE OF 47.85', THENCE N02°03'23"E A DISTANCE OF 20.00' AND RETURNING TO THE "POINT OF BEGINNING".



56TH ST. NW AND OLYMPIC DR. NW STREET IMPORVEMENT PROJECT
 TEMPORARY CONSTRUCTION AND SLOPE EASEMENTS

EXHIBIT C

0221177047



"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E., CITY ENGINEER
SUBJECT: STORMWATER FACILITIES MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANT - LITTLE BOAT NORTH INC.
DATE: SEPTEMBER 25, 2006

INTRODUCTION/BACKGROUND

The City has required private on-site storm water detention facilities to be constructed in conjunction with the Little Boat North project located at 11202 51st Avenue (Parcel No. 0222303010). As specified in the Gig Harbor Municipal Code, Section 14.20.530, a maintenance covenant is required for all privately maintained drainage facilities, as well as a requirement that the covenant be recorded with the property. This allows the City a nonexclusive right-of-entry onto those portions of the property immediately adjacent to the storm water facilities for the purpose of inspection of the facilities, and further requires that the property owner perform their own regular inspection and maintenance of the facilities at the property owner's expense.

The City's standard Storm Water Facilities Maintenance Agreement and Restrictive Covenant has been drafted and approved by Carol Morris, City Attorney.

Council approval of the agreement is requested.

FISCAL CONSIDERATIONS

No funds will be expended for the acquisition of the described agreement.

RECOMMENDATION

I recommend that the Council approve this agreement as presented.

AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview St.
Gig Harbor, WA 98335

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

STORM WATER FACILITIES MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANT

Grantor(s) (Last name first, then first name and initials)

Little Boat North Inc.

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Section 30 Township 22 Range 02 Quarter 33

Assessor's Property Tax Parcel or Account Number:

0222303010

Reference Number(s) of Documents assigned or released: _____

STORM WATER FACILITIES MAINTENANCE AGREEMENT AND RESTRICTIVE COVENANT

This Storm Water Facilities Maintenance Agreement and Restrictive Covenant is made this _____ day of _____, 200__, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Little Boat North Inc., a Washington Corporation organized under the laws of the State of Washington, located and doing business at 11202 51st Ave., Gig Harbor WA (hereinafter "Owner").

RECITALS

WHEREAS, Owner is the owner of fee title or a substantial beneficial interest in certain real property located in Gig Harbor, Washington, commonly described as Little Boat North Inc., located at 11202 51st Ave., Gig Harbor WA (hereinafter the "Property") and legally described in **Exhibit A**, which is attached hereto and incorporated herein by this reference; and

WHEREAS, in connection with the Owner's proposed development of the Property, the City has required and the Owner has agreed to construct a storm water collection and detention system; and

WHEREAS, such drainage system is described and shown on a construction drawing prepared by the engineering firm of ESM Consulting Engineers on Sept. 19, 2005 (hereinafter the "Drainage System Drawing"), for the Owner's Property, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference; and

WHEREAS, as a condition of project approval and/or as a condition of the City's utilization of the Owner's storm drainage system, the parties have entered into this Maintenance Agreement and Restrictive Covenant, in order to ensure that the drainage system will be constructed and maintained in accordance with the approved plans and the City's development standards;

NOW, THEREFORE, in consideration of the mutual agreements contained herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the City hereby agree as follows:

T E R M S

Section 1. Construction and Maintenance. Owner agrees to construct and maintain a drainage system on its Property, as shown on the Drainage System Drawing, **Exhibit B**. The drainage system shall be maintained and preserved by the Owner until such time as the City, its successors or assigns, agree that the system should be altered in some manner or eliminated.

Section 2. No Removal. No part of the drainage system shall be dismantled, revised, altered or removed, except as necessary for maintenance, repair or replacement.

Section 3. Access. The City shall have the right to ingress and egress over those portions of the Property described in **Exhibit A** in order to access the drainage system for inspection and to reasonably monitor the system for performance, operational flows or defects.

Section 4. Repairs, Failure of Owner to Maintain. If the City determines that maintenance or repair work is required to be performed on the system, the City Engineer or his/her designee shall give notice to the Owner of the noted deficiency. The Engineer shall also set a reasonable time in which the Owner shall perform such work. If the repair or maintenance required by the Engineer is not completed within the time set by the Engineer, the City may perform the required maintenance and/or repair. Written notice will be sent to the Owner, stating the City's intention to perform such repair or maintenance, and such work will not commence until at least 15 days after such notice is mailed, except in situations of emergency. If, within the sole discretion of the Engineer, there exists an imminent or present danger to the system, the City's facilities or the public health and safety, such 15 day period will be waived and maintenance and/or repair work will begin immediately.

Section 5. Cost of Repairs and/or Maintenance. The Owner shall assume all responsibility for the cost of any maintenance and for repairs to the drainage system. Such responsibility shall include reimbursement to the City within 30 days after the City mails an invoice to the Owner for any work performed by the City. Overdue payments will require payment of interest by the Owner at the current legal rate as liquidated damages.

Section 6. Notice to City of Repairs and/or Maintenance. The Owner is hereby required to obtain written approval from the City Engineer prior to filling, piping, cutting or removing vegetation (except in routine landscape maintenance) in open vegetated drainage facilities (such as swales, channels, ditches, ponds, etc.), or performing any alterations or modifications to the drainage system.

Section 7. Rights Subject to Permits and Approvals. The rights granted herein are subject to permits and approvals granted by the City affecting the Property subject to this Maintenance Agreement and Covenant.

Section 8. Terms Run with the Property. The terms of this Maintenance Agreement and Covenant are intended to be and shall constitute a covenant running with the Property and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

Section 9. Notice. All notices required or permitted hereunder shall be in writing and shall either be delivered in person or sent by certified U.S. Mail, return-receipt requested, and shall be deemed delivered on the sooner of actual receipt of three (3) days after deposit in the mail, postage prepaid, addressed to the City or the Owner at the addresses set forth below:

To the City:
City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

To the Owner:
The Dwelling Company
7525 SE 24th St., Suite 650
Mercer Island, WA 98040-2334

Section 10. Severability. Any invalidity, in whole or in part, of any provision of this Maintenance Agreement and Covenant shall not affect the validity of any other provision.

Section 11. Waiver. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

Section 12. Governing Law, Disputes. Jurisdiction of any dispute over this Maintenance Agreement and Covenant shall be solely with Pierce County Superior Court, Pierce County, Washington. This Maintenance Agreement and Covenant shall be interpreted under the laws of the State of Washington. The prevailing party in any litigation arising out of this Maintenance Agreement and Covenant shall be entitled to its reasonable attorneys' fees, costs, expenses and expert witness fees.

Section 13. Integration. This Maintenance Agreement and Covenant constitutes the entire agreement between the parties on this subject matter, and supersedes all prior discussions, negotiations, and all other agreements on the same subject matter, whether oral or written.

IN WITNESS WHEREOF, the parties have caused this Maintenance Agreement and Covenant to be executed this _____ day of _____, 200 ____.

THE CITY OF GIG HARBOR

By: _____
Its Mayor

OWNER

By:  _____

Print Name: ROBERT BALDWIN

Title: President & CEO

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF P I E R C E)

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

Notary Public in and for the
State of Washington,
Title: _____
My appointment expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF P I E R C E)

I certify that I know or have satisfactory evidence that ROBERT BALDWIN is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the PRESIDENT & CEO of LITTLE BOAT NORTH, INC., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 9/5/06



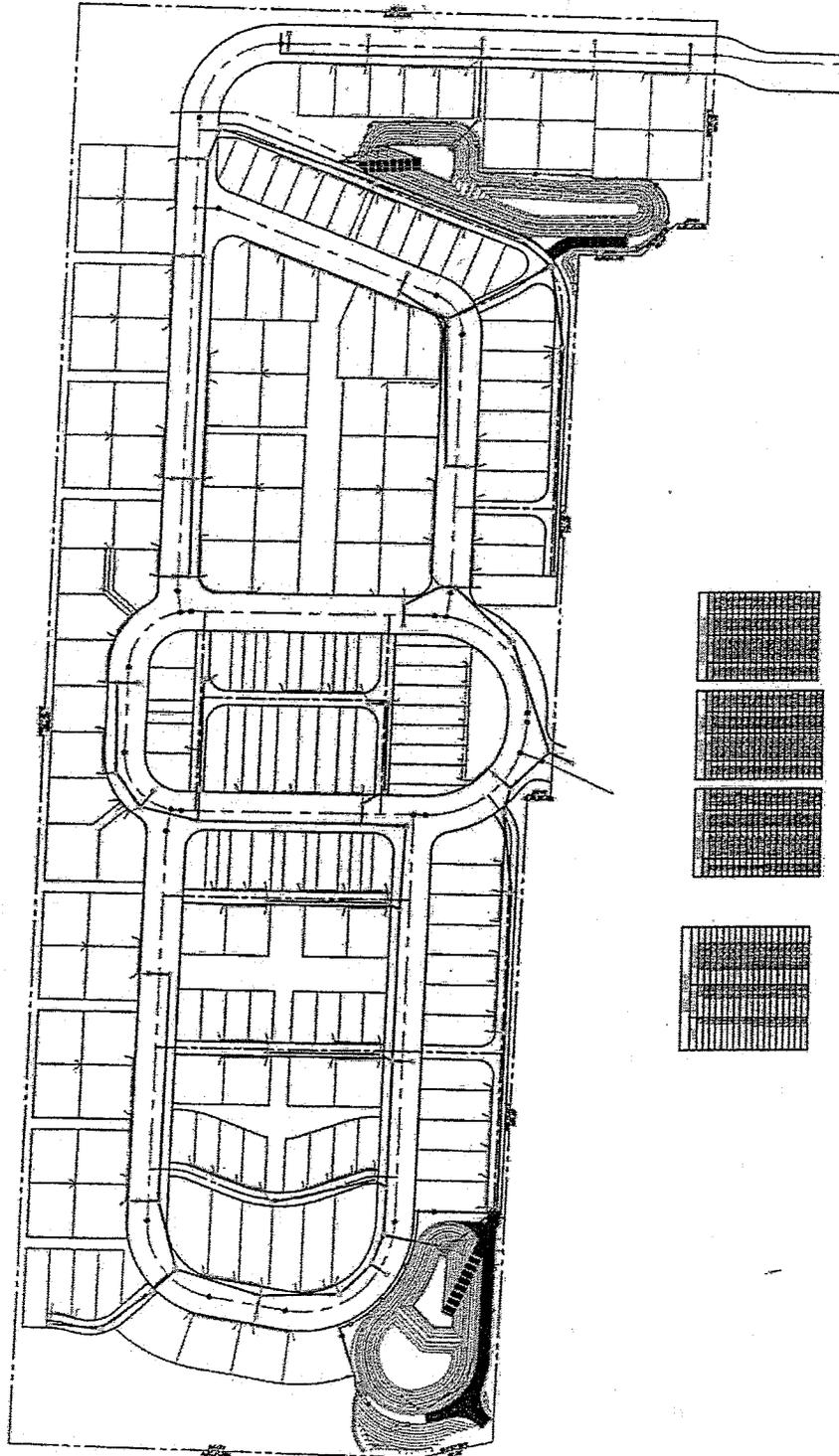
Jenkins K. Chan
Notary Public in and for the
State of Washington,
Title: JENKINS K. CHAN - NOTARY
My appointment expires: 07-09-09

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, ALSO REFFERED TO AS GOVERNMENT LOT 4, OF SECTION 30, AND THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, BOTH IN TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN IN PIERCE COUNTY, , WASHINGTON, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 30, THENCE ALONG THE SOUTH LINE OF SAID SECTION 30, SOUTH 88°30'56" EAST 209.00 FEET TO THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO THE CITY OF TACOMA BY DEED FILED UNDER RECORDING NO. 675229, THENCE ALONG THE NORTHEASTERLY MARGIN OF SAID TRACT, NORTH 12°27'34" WEST 720.04 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID MARGIN, NORTH 12°27'34" WEST 96.47 FEET TO THE WEST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE ALONG SAID WEST LINE 02°22'11" EAST 529.27 FEET TO THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, THENCE ALONG THE NORTH LINE OF SAID SUBDIVISION AND THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, SOUTH 88°34'37" EAST 1902.47 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE ALONG THE EAST LINE OF SAID SUBDIVISION, SOUTH 01°51'56" WEST 827.33 FEET; THENCE NORTH 88°32'19" WEST 269.12 FEET; THENCE NORTH 01°27'29" EAST 40.25 FEET; THENCE NORTH 42°37'52" WEST 62.44 FEET; THENCE NORTH 01°10'04" EAST 79.92 FEET; THENCE NORTH 88°14'24" WEST 716.65 FEET; THENCE NORTH 01°32'51" EAST 30.00 FEET; THENCE NORTH 88°14'24" WEST 852.25 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT B
DRAINAGE SYSTEM DRAWING





"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: DAVID BRERETON
DIRECTOR OF OPERATIONS
SUBJECT: DEPARTMENT OF GENERAL ADMINISTRATION
- SURPLUS PROPERTY AGREEMENT
DATE: SEPTEMBER 25, 2006

INTRODUCTION/BACKGROUND

Twice a year, the City staff reviews current equipment inventories and determines some equipment to be obsolete or surplus to the City's present or future needs. These items are presented to City Council and declared as surplus to be sold at public auction. The Department of General Administration has the facilities and personnel to sell the City's surplus equipment and vehicles at their surplus property yard in Auburn, Washington. In order for the City to continue utilizing the State of Washington surplus services, the City is required to renew its agreement with the Department of General Administration of the State of Washington.

POLICY CONSIDERATIONS

The Department of General Administration is authorized in accordance with RCW 43.19.1919 to sell surplus personal property for the purposes of selling City property, collecting payment from the buyer, and reimbursing the City for the proceeds of the sale(s) as described in the subject agreement.

FISCAL CONSIDERATIONS

Monies received from the sale of surplus items will be used to offset the costs for future vehicles and equipment.

RECOMMENDATION

I recommend that Council authorize the renewal and execution of the subject agreement as presented.

Agreement Between the City of Gig Harbor and Washington State Surplus Program for the Disposal of Surplus Property

WHEREAS, the Department of General Administration of the State of Washington is authorized by RCW 43.19.1919 to sell surplus personal property; and

WHEREAS, the City of Gig Harbor hereinafter referred to as City, is authorized to sell surplus personal property; and

WHEREAS, the Department of General Administration has the facilities and personnel to sell surplus personal property; and

WHEREAS, sales/auctions are regularly scheduled at the Surplus Programs yard, 2301 C Street SW, Auburn, WA 98001,

THEREFORE, it is agreed pursuant to the terms of RCW 39.34.080, that;

The State of Washington, Department of General Administration, Surplus Property, hereinafter referred to as the State, whose address is 2301 C Street SW, Auburn, WA 98001, agrees to sell, as agent for City of Gig Harbor, hereinafter referred to as City, whose address is 3510 Grandview Street, Gig Harbor, WA 98335, and phone number is 253-851-6170, vehicles, equipment and property that is declared surplus and turned over to the State for disposal.

A. Period of Agreement: July 1, 2005, until 30 day written notice of termination from either party. City agrees to update contact name, phone and e-mail information as necessary.

B. Agreement of the City: The City agrees that it will:

1. Provide a contact person to manage all issues related to disposal procedures and transactions: Name David Breerton, Phone number 253-851-6170.
2. Submit disposal forms SF267-A for all surplus property along with signed (released) vehicle and equipment titles.
3. Pay an additional charge of \$25 per vehicle for wash and vacuum services if required and actual costs for decal removal (estimated at \$25 per vehicle.)
4. Will contact the Surplus Programs at (253) 333-4900 (48 hours) prior to delivery of surplus.
5. Will not list or transport hazardous materials. Surplus Programs cannot receive or process hazardous materials.
6. Save and hold harmless the State of Washington, Department of General Administration, its officers, employees, and agents (including the auctioneers) from and against, any and all claims arising from the sale transaction, either before, during, or after the sale, including but not limited to, claims of governmental agencies concerning the vehicle, claims made by the buyer or others based on faulty, damaged, missing or otherwise unsatisfactory parts or components, and claims for damage to property or injury to persons resulting from use of the vehicle.

Agreement Between the City of Gig Harbor and Washington State Surplus Program for the Disposal of Surplus Property

C. Agreement of the State: The State agrees that it will:

- 1 Properly store and assume responsibility for the safekeeping of all vehicles, equipment and property at the Surplus Programs location.
- 2 Accomplish all direct equipment sales with other government or non-profit entities; to include receipt of payment (presale to priority customers).
- 3 Sell vehicles, equipment and property in a timely manner, collect payment from the buyer, and reimburse the City the proceeds of sale less authorized fees on a monthly basis.
- 4 Endeavor to obtain resale prices equal to the industry standard trade-in or quick sale equipment values by selling on-line or at public auction.
- 5 Take all necessary administrative actions to ensure that vehicle and equipment ownership is legally and fully transferred from the City to the buyer. Be responsible for resolving any ownership issues that may arise after unit sales.
- 6 Methods for selling will include, but not be limited to priority sales, public sale, auction, and on-line sales. All sales are publicly advertised via our website (www.ga.wa.gov/surplus). Priority sales are “first come first serve” (per property want list) and public sales are “open, competitive”.

D. Fees: The above duties will be performed by the State for the following fees:

1. 7.5% of sales price for each item with a minimum charge of \$150 and a maximum of \$900 per item.
2. \$25 for cleaning and vacuuming per unit, if required.
3. Actual cost for decal removal, if requested (\$25 per unit estimated.)

E. Termination: Either party may terminate this agreement with 30 days written notice.

For the State of Washington:

For the City of Gig Harbor:

Doug Coleman
State Surplus Programs

(date)

Charles L. Hunter, Mayor
e-mail: breretond@cityofgigharbor.net
Fed Tax No. _____

(date)



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E., CITY ENGINEER
SUBJECT: EDDON BOAT EPA BROWNFIELDS GRANT ADMINISTRATION
- CONSULTANT SERVICES CONTRACT
DATE: SEPTEMBER 25, 2006

INFORMATION/BACKGROUND

As part of the activities associated with the grant, consultant services are required to assist the City in the administration, reporting and communication required by the EPA under the cooperative agreement with the EPA Brownfields Program. Grant Solutions will complete all required reports; coordinate communications between the City and the EPA Manager; prepare reports to be signed by agents of the City; prepare and maintain copies of all supporting documents and records in the performance of the contract. The City Engineer and Consultants will oversee all aspects of this contract.

City staff has limited experience and available time to administer such a grant. The administration effort will require approximately 460 hours at an hourly rate of \$65.00. These costs fall within the approved EPA guidelines. During the remediation process, City staff and its consultants will focus on the larger task of site project management, remediation and coordination with Washington State Department of Ecology.

FISCAL CONSIDERATIONS

The scope of this work was anticipated during the grant request process with the expectation and understanding that these grant administration costs would be paid from the seller's remediation account.

RECOMMENDATION

I recommend that Council authorize the consultant services contract with Kathleen Barrantes of Grant Solutions in an amount not to exceed Twenty-nine Thousand Nine Hundred Dollars and Zero Cents (\$29,900.00).

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
GRANT-SOLUTIONS**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Grant-Solutions, a sole proprietorship registered with the State of Washington located and doing business at 17212 Lemolo Shore Drive, Poulsbo, Washington 98370 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the administration of an U.S. Environmental Protection Agency Brownfields Grant for the Eddon Boat property and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated July 17, 2006, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Twenty-nine Thousand Nine Hundred Dollars and Zero Cents (\$29,900.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit A**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit A** or bill at rates in excess of the hourly rates shown in **Exhibit A**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by the terms of the subject grant guidelines provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as

described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Professional Liability insurance with no less than \$1,000,000.

C. All policies and coverage's shall be on an occurrence made basis.

D. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

E. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

F. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

G. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work

hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Engineer or Director of Operations and the City shall determine the term or provision's true intent or meaning. The City Engineer or Director of Operations shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Engineer or Director of Operations determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:
Grant-Solutions
Kathleen Byrne-Barrantes
17212 Lemolo Shore Drive
Poulsbo, Washington 98370
(360) 697-5815

Stephen Misiurak, P.E.
City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

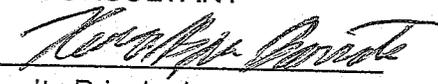
XVIII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 200__.

CONSULTANT
By: 
Its Principal

CITY OF GIG HARBOR
By: _____
Mayor

Notices to be sent to:
CONSULTANT:
Grant-Solutions
Kathleen Byrne-Barrantes
17212 Lemolo Shore Drive
Poulsbo, Washington 98370
(360) 697-5815

Stephen Misiurak, P.E.
City Engineer
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Kathleen Byrne-Barantes is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Sole proprietor of Grant Solutions to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 9-13-06

Molly M Towslee

Molly M. Towslee
(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing at:

Gig Harbor

My Commission expires: 12/2/07



Exhibit A

Grant-Solutions – Grants Management & Administrative Assistance

17212 Lemolo Shore Drive, Poulsbo, WA 98370 * 360-697-5815

July 17, 2006

EPA BROWNFIELDS CLEANUP PROJECT MANAGEMENT @ EDDON BOAT PARK

Grant-Solutions principal Kathleen Byrne-Barrantes is pleased to provide the following Scope of Services to the City of Gig Harbor for grant project management, coordination, filing reports, assisting with written reports, and other services as necessary to complete the remediation grant project under the cooperative agreement with the U.S. EPA Brownfields Program.

Tasks associated with the EPA Brownfields Grant Administration (See Table Below)

As a project management consultant, Grant-Solutions (Kathleen) would complete all reports; handle communications to and from the City to the EPA project manager, prepare reports to be reviewed and signed by agents of the City, prepare and keep copies of all records and supporting documents in the performance of this contract and be responsible for assuring that reports and other deliverables are made in a timely manner. All costs of performing this function will be borne by the City under contract using EPA grant funds. Kathleen will also assist the City in preparing the agreement, property profile forms, quarterly reports, other documents/files required, requesting and retrieving files necessary to process these reports and plans, drafting the reports and required forms in coordination with the City, their consultants, contractors, officials, and the EPA Project officer Susan Morales.

TASK	DESCRIPTION & Frequency	ESTIMATED HOURS	Cost @ \$65/hr	Cumulative Amount
1	Finalize Work Plans & Coordinate/Assist in Cooperative Agreement, etc. (1)	10	\$650	\$650
2	Public Involvement Plan (1) & Setup of Records (1)	24	\$1560	\$2210
3	Property Profile Forms (4)	24	\$1560	\$3770
4	Attendance at Public Meetings (2) and Project Planning Meetings with Staff and EPA (3)	20	\$1300	\$5070
5	Quarterly Reports (9)	216	\$14,040	\$19,110
6	MBE/WBE Reports (9)	36	\$2340	\$21,450
7	Financial Status Reports (3)	24	\$1560	\$23,010
8	Prepare Fact Sheets & Press Releases (3) and publish in Kitsap Business Journal (2)	30	\$1950	\$24,960
9	Assist Contractor and Staff with Final Cleanup Report (1)	36	\$2340	\$27,300
10	Final Closeout Reports and Requests for Reimbursement (4-6)	40	\$2600	TOTAL: \$29,900



NOTICE OF LIQUOR LICENSE APPLICATION

PK

RETURN TO:

WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov
DATE: 9/12/06

RECEIVED

SEP 13 2006

TO: MOLLY TOWSLEE, CITY CLERK
RE: CHANGE OF LLC MEMBER

CITY OF GIG HARBOR

UBI: 602-584-998-001-0001

License: 073240 - 1U County: 27
Tradename: HALF TIME SPORTS
Loc Addr: 5114 PT FOSDICK DR NW # J&K
GIG HARBOR WA 98335-1717
Mail Addr: 11824 70TH AVE NW
GIG HARBOR WA 98332-8503
Phone No: 253-853-1456 COREY HUGHES

APPLICANTS:
HALFTIME SPORTS, LLC
HUGHES, COREY D 1969-02-01
VANDEGRIFT, BERNICE 1958-06-16

Privileges Applied For:
SPIRITS/BR/WN REST LOUNGE -

As required by RCW 66.24.010(8), the Liquor Control Board is notifying you that the above has applied for a liquor license. You have 20 days from the date of this notice to give your input on this application. If we do not receive this notice back within 20 days, we will assume you have no objection to the issuance of the license. If you need additional time to respond, you must submit a written request for an extension of up to 20 days, with the reason(s) you need more time. If you need information on SSN, contact our CHRI Desk at (360) 664-1724.

- 1. Do you approve of applicant ?
2. Do you approve of location ?
3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken?
4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based.

DATE SIGNATURE OF MAYOR,CITY MANAGER,COUNTY COMMISSIONERS OR DESIGNEE

CR



NOTICE OF LIQUOR LICENSE APPLICATION

RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD
 License Division - 3000 Pacific, P.O. Box 43075
 Olympia, WA 98504-3075
 Customer Service: (360) 664-1600
 Fax: (360) 753-2710
 Website: www.liq.wa.gov
 DATE: 9/12/06

RECEIVED

SEP 13 2006

TO: MOLLY TOWSLEE, CITY CLERK

RE: ASSUMPTION
 From PARK, JOHN M
 PARK, WAN CHA
 Dba HARBOR ARCO AM/PM MART

CITY OF GIG HARBOR

APPLICANTS:
 OLYMPIC DRIVE MART, INC.
 SHALABI, HATEM
 1970-11-12

License: 080805 - 1U County: 27
 UBI: 602-604-161-001-0001
 Tradename: OLYMPIC DRIVE MART
 Address: 5119 OLYMPIC DR NW
 GIG HARBOR WA 98335-1704

Phone No.: 253-279-2321 HATEM SHALABI

Privileges Applied For:
 GROCERY STORE - BEER/WINE

As required by RCW 66.24.010(8), the Liquor Control Board is notifying you that the above has applied for a liquor license. You have 20 days from the date of this notice to give your input on this application. If we do not receive this notice back within 20 days, we will assume you have no objection to the issuance of the license. If you need additional time to respond, you must submit a written request for an extension of up to 20 days, with the reason(s) you need more time. If you need information on SSN, contact our CHRI Desk at (360) 664-1724.

- | | YES | NO |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|
| 1. Do you approve of applicant ? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you approve of location ? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken? | <input type="checkbox"/> | <input type="checkbox"/> |
| (See WAC 314-09-010 for information about this process) | | |
| 4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based. | | |

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

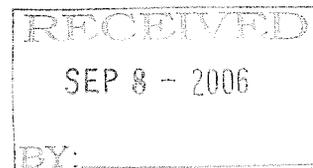
DATE: 9/05/06

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
(BY ZIP CODE) FOR EXPIRATION DATE OF 20061231

	LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1	FRED MEYER STORES, INC.	FRED MEYER #601 5500 OLYMPIC DR BLDG B GIG HARBOR	076448	GROCERY STORE - BEER/WINE
2	GIG HARBOR GAS & FOOD MART, IN	GIG HARBOR 76 5501 38TH AVE NW GIG HARBOR	081604	GROCERY STORE - BEER/WINE
3	HARVESTER GIG HARBOR, INC.	HARVESTER RESTAURANT 5601 SOUNDVIEW DR GIG HARBOR	366707	SPIRITS/BR/WN REST LOUNGE +
4	FRED MEYER STORES, INC.	QUALITY FOOD CENTER / QFC #864 5010 PT FOSDICK DR NW GIG HARBOR	070236	GROCERY STORE - BEER/WINE
5	FRED MEYER STORES, INC.	QUALITY FOOD CENTER / QFC #886 3110 JUDSON AVE GIG HARBOR	362719	GROCERY STORE - BEER/WINE

RECEIVED
SEP 11 2006
BY:

WASHINGTON STATE LIQUOR CONTROL BOARD-License Services
3000 Pacific Ave SE - P O Box 43075
Olympia WA 98504-3075



TO: MAYOR OF GIG HARBOR

September 6, 2006

SPECIAL OCCASION # 090826

KNIGHTS OF COLUMBUS
3510 ROSEDALE ST
GIG HARBOR WA 98335

DATE: OCTOBER 29, 2006

TIME: 12PM TO 7PM

PLACE: ST. NICHOLAS PARISH HALL - 3510 ROSEDALE ST, GIG HARBOR

CONTACT: LARRY ROEMMICH - 253-851-6345

SPECIAL OCCASION LICENSES

- * License to sell beer on a specified date for consumption at specific place.
- * License to sell wine on a specific date for consumption at a specific place.
- * Beer/Wine in unopened bottle or package in limited quantity for off premises consumption.
- * Spirituous liquor by the individual glass for consumption at a specific place.

If return of this notice is not received in this office within 20 days from the above date, we will assume you have no objection to the issuance of the license. If additional time is required please advise.

1. Do you approve of applicant? YES__ NO__
2. Do you approve of location? YES__ NO__
3. If you disapprove and the Board contemplates issuing a license, do you want a hearing before final action is taken? YES__ NO__

OPTIONAL CHECK LIST

EXPLANATION

LAW ENFORCEMENT	_____	YES__ NO__
HEALTH & SANITATION	_____	YES__ NO__
FIRE, BUILDING, ZONING	_____	YES__ NO__
OTHER:	_____	YES__ NO__

If you have indicated disapproval of the applicant, location or both, please submit a statement of all facts upon which such objections are based.

DATE SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PROPOSED ANNEXATION - HANSEN (ANX 06-1313)
DATE: SEPTEMBER 25, 2006

INFORMATION/BACKGROUND

The City has received a complete Notice of Intention to Commence Annexation Proceedings from Don Hansen for a proposal to annex approximately 2.5 acres of property located at the corner of 46th Avenue NW and Forest Lane adjacent to the existing City limits and within the City's Urban Growth Area (UGA).

Property owners of more than the required ten percent (10%) of the acreage for which annexation is sought signed this request. The pre-annexation zoning for the area is Single-Family Residential (R-1).

Pursuant to the process for annexations by code cities in Pierce County, a copy of the proposed legal description was sent to the Clerk of the Boundary Review Board for review and comment. Pierce County has approved the legal description and map as presented.

Additionally, this request was distributed to the City Administrator, Chief of Police, Director of Operations, City Engineer, Building Official/Fire Marshal, Planning, Finance Director, and Pierce County Fire District #5 for review and comment.

The Council is required to meet with the initiating parties to determine the following:

1. Whether the City Council will accept, reject, or geographically modify the proposed annexation;
2. Whether the City Council will require the simultaneous adoption of the zoning for the proposed area in substantial compliance with the proposed Comprehensive Plan as adopted by City of Gig Harbor Ordinance No. 981; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed.

This annexation was initially heard at the September 11, 2006 Council meeting and was tabled to the September 25, 2006 meeting. Notice of the September 11, 2006 meeting

was posted on the City website and was mailed to property owners of record within the area proposed for annexation as well as those within three hundred feet (300') on August 24, 2006.

If accepted, the process will then move forward with the circulation of a formal petition for annexation. The petition must be signed by either by the owners of a majority of the acreage and a majority of the registered voters residing in the area considered for annexation; or by property owners of sixty percent (60%) of the assessed value of the area proposed for annexation.

POLICY CONSIDERATIONS

The City of Gig Harbor Building Official/Fire Marshal reviewed the proposal and had the following comments:

1. The annexation will bring additional land under our review for future building permitting. This has the potential to increase our workload for plan reviews, permitting and inspections.
2. Fire flow in the area is unknown at this point. If the parcels in this annexation will be served by the City water system, adequate fire flow should be available upon completion of the Gig Harbor North water tank. If serviced by other water service purveyors, the City fire flow requirements will apply however, it's unknown what the water availability is. Additional fire hydrants and main improvements will likely be required as part of development of the properties.

Given these comments, the Building Official/Fire Marshal does not see any compelling reason to object to this annexation.

Planning has noted that wetlands do not appear to exist on the parcel.

The City of Gig Harbor Finance Director noted that there would be no significant financial impacts from this proposed annexation.

The Chief of Police has commented that no additional resources will be required as a result of this annexation.

Engineering has made the following comments:

Transportation

Any development proposed within the proposed annexation area would need to provide

mitigation for the impacts from additional traffic generated. The parcel owner shall provide a transportation Concurrency Reservation Certificate (CRC) application in accordance with City requirements and pay all applicable traffic impact fees at the time of development of the parcel.

Water

The proposed parcel for annexation is currently shown to be served by Washington Water Company. Therefore, annexation of this parcel would have no affect on the City's water system.

Sanitary Sewer

The proposed annexation area is currently shown in the City's 2002 Wastewater Comprehensive Plan as being served by the City of Gig Harbor's sanitary sewer and wastewater treatment system. Any development proposed shall submit a sewer CRC application in accordance with City requirements and pay all applicable connection fees.

The Comprehensive Plan indicates the parcel is included in the C-5 collection system expansion, which is not yet constructed. This Comprehensive Plan indicates the estimated construction costs for the entire sanitary sewer basin C-5 improvements are \$5,636,000 (in year 2000 dollars). However, a majority of the C-5 basin improvements are proposed to be constructed by private developers within the next few years.

All costs for connection fees and construction of the necessary extensions of the existing sewer system, including those noted in the Comprehensive Plan for the parcels within the C-5 basin and possible latecomers fees, shall be borne by parcel owners and not the City.

Each parcel that connects to the City's sanitary sewer system shall be required to pay the appropriate connection and revolving service fees. These fees, as reviewed by the City Council, should be adequate to pay for the necessary maintenance and operation of the sanitary sewer system extended to the parcels.

Stormwater

Any redevelopment proposed for this parcel would be required to meet the requirements of the City's Stormwater Design Manual. This includes all stormwater features necessary for improvements within the City's right-of-way. All costs for design and construction of these stormwater features shall be borne by the developers and not the City. All costs for operations and maintenance of stormwater features outside of the City's right-of-way shall also be borne by the developers.

Each parcel that is annexed shall be required to pay the appropriate stormwater fee.

These fees, as reviewed by the City Council, should be adequate to pay for the necessary maintenance and operation of the City's stormwater system created by the parcels.

The Boundary Review Board is guided by RCW 36.93.180 in making decisions on proposed annexations and is directed to attempt to achieve stated objectives. These objectives, listed below, are worthy of consideration by the Council in determining the appropriateness of this annexation. Staff has evaluated the proposal in light of these criteria and has provided comments following each of the criteria.

RCW 36.93.180

Objectives of boundary review board.

The decisions of the boundary review board shall attempt to achieve the following objectives:

(1) Preservation of natural neighborhoods and communities;

Comment: The proposed annexation area consists of one vacant parcel of land.

(2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;

Comment: The proposed annexation area is bounded by 46th Avenue NW to the east and the existing City limits to the north.

(3) Creation and preservation of logical service areas;

Comment: The proposed annexation would not alter any service area boundaries.

(4) Prevention of abnormally irregular boundaries;

Comment: The proposed annexation would create an abnormally irregular boundary.

(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;

Comment: Not applicable with regards to this proposed annexation.

(6) Dissolution of inactive special purpose districts;

Comment: The proposed annexation would not dissolve an inactive special purpose districts

(7) Adjustment of impractical boundaries;

Comment: Not applicable with regards to this proposed annexation, the area proposed for annexation is entirely within the City's Urban Growth Boundary.

(8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character; and

Comment: The proposed annexation is of an unincorporated area with a lot size of approximately 2.5 acres. The area consists of a vacant parcel and is within the City's Urban Growth Boundary which is planned for urban levels of development.

(9) 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.

Comment: The proposed annexation does not involve designated agricultural or rural lands.

FISCAL CONSIDERATIONS

The Finance Director has noted that financial impacts from this proposed annexation would not be significant to the City. At the September 11, 2006 meeting, Council requested tax rate information regarding this annexation. The Finance Director has provided the following information:

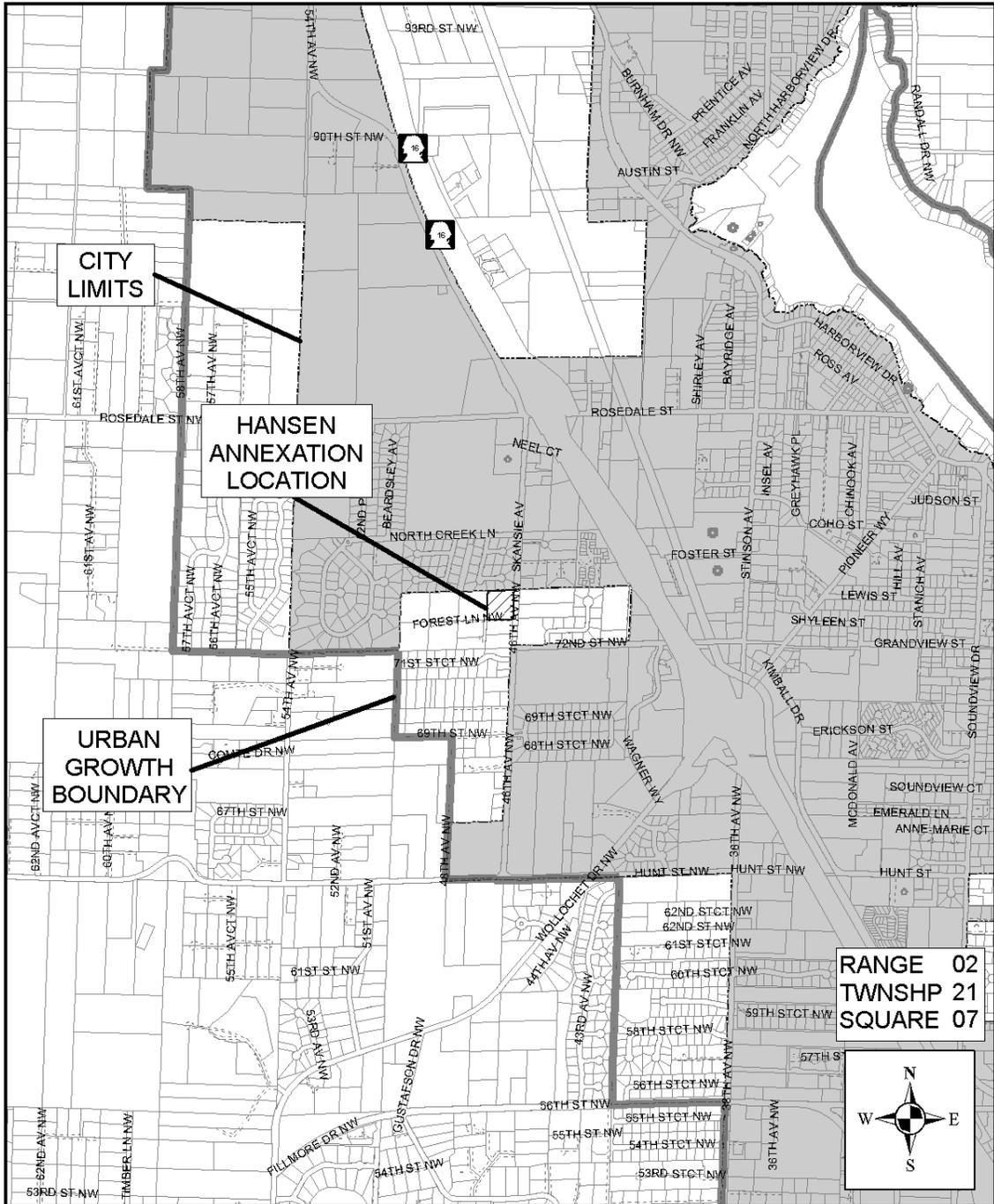
Taxing District	2006 Hansen	
	Hansen City (annexed)	County (not Annexed)
State	2.6388	2.6388
Pierce County	1.3835	1.3835
City of Gig Harbor	1.4618	0.0000
EMS	0.2804	0.2804
School	2.9524	2.9524
Port	0.1857	0.1857
Rural Library	0.4008	0.4008
Fire	1.2672	1.2672
Road	0.0000	1.8127
Metro Park	0.0000	0.3065
Total	10.5706	11.2280

RECOMMENDATION

If the Council moves to approve this annexation request, I recommend the following:

Council acceptance of the Notice of Intent to Commence Annexation and further authorization of the circulation of a petition to annex the subject property with the following conditions:

1. The City shall require that the property owner(s) assume all of the existing indebtedness of the area being annexed; and
2. The City will require the simultaneous adoption of a Single-Family Residential (R-1) zoning for the proposed annexation area in substantial compliance with the Comprehensive Plan as adopted by City of Gig Harbor Ordinance No. 981.



**HANSEN ANNEXATION (ANX 06-1313)
VICINITY MAP**

ANX 06-1313

City of Gig Harbor
Mr. John Vodopich, Community Development Director
3510 Grandview Street
Gig Harbor, WA 98335

RECEIVED
CITY OF GIG HARBOR

MAY 26 2006

COMMUNITY
DEVELOPMENT

May 26, 2006

RE: Proposed Annexation of Hansen Property

Dear Mr. Vodopich,

Please accept the enclosed Notice of Intention to Commence Annexation Proceedings for the property located at 7320 46th Ave. NW Gig Harbor. The property is approximately 2.5 acres located on the corner of 46th Ave and Forest Lane. It is adjacent to the City Limits and within the Urban Growth Area.

If you have any questions or concerns, please do not hesitate to contact:

Eva Jacobson, consultant
Still Water Planning, Inc.
P.O. Box 2314
253/851-2243

Sincerely,

Don Hansen

**NOTICE OF INTENTION TO COMMENCE ANNEXATION
PROCEEDINGS**

The Honorable Mayor and City Council
City of Gig Harbor
3510 Grandview Street
Gig Harbor WA, 98335

Dear Mayor and City Council:

The undersigned, who are the owners of not less than ten percent (10%) of the acreage for which annexation is sought, hereby advise the City Council of the City of Gig Harbor that it is the desire of the undersigned owners of the following area to commence annexation proceedings:

The property herein referred to is legally described on Exhibit "A" attached hereto and is geographically depicted on a Pierce County Assessor's parcel map on Exhibit "B" further attached hereto.

It is requested that the City Council of the City of Gig Harbor set a date, not later than sixty (60) days after the filing of this request, for a meeting with the undersigned to determine:

1. Whether the City Council will accept, reject, or geographically modify the proposed annexation;
2. Whether the City Council will require the simultaneous adoption of the zoning for the proposed area in substantial compliance with the proposed Comprehensive Plan as adopted by City of Gig Harbor Ordinance No. 981; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed.

This page is one of a group of pages containing identical text material and is intended by the signers of the Notice of Intention of Commence Annexation Proceedings to be presented and considered as one Notice of Intention of Commence Annexation Proceedings and may be filed with other pages containing additional signatures which cumulatively may be considered as a single Notice of Intention of Commence Annexation Proceedings.

Exhibit "A"

LEGAL DESCRIPTION

Hansen Property Annexation (ANX 06-1313)

(PER STATUTORY WARRANTY DEED AF#200509090786)

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE
SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 7,
TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN.

AND INCLUDING THE EAST HALF OF 46TH AVENUE NW (A.K.A. MCDOUGALL
COUNTY ROAD) ABUTTING SAID PARCEL

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.



Police Department

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: CHIEF OF POLICE MIKE DAVIS
SUBJECT: FIRST READING OF ORDINANCE-DRUG PARAPHERNALIA
DATE: SEPTEMBER 25, 2006

INFORMATION/BACKGROUND

The use of illegal controlled substances creates serious physical and psychological damage to users and their families. The sale of drug paraphernalia can perpetuate the use of illegal drugs. Several businesses in the city currently sell drug paraphernalia claiming the items are used to smoke legal substances such as tobacco. Currently, our city does not have any legislation available to control this practice. The police department wishes to adopt a new Chapter 9.38-Drug Paraphernalia aimed at prohibiting the delivery, sale or manufacture of drug paraphernalia.

This ordinance has been reviewed and approved by City Attorney Carol Morris.

FISCAL IMPACTS

The adoption of this Drug Paraphernalia ordinance will cause no additional costs for the city of Gig Harbor.

RECOMMENDATION

I recommend that Council approve the Drug Paraphernalia ordinance at the second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO DRUG PARAPHERNALIA, DEFINING DRUG PARAPHERNALIA, THE FACTORS TO BE CONSIDERED BY A COURT WHEN DETERMINING WHETHER AN OBJECT SATISFIES THE DEFINITION OF DRUG PARAPHERNALIA, DESCRIBING ILLEGAL CONDUCT RELATING TO THE DELIVERY, SALE, POSSESSION OR MANUFACTURE OF DRUG PARAPHERNALIA, AND ESTABLISHING REMEDIES / PENALTIES FOR VIOLATIONS; ADOPTING A NEW CHAPTER 9.38 TO THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the illegal use of controlled substances creates serious physical and psychological damage to users and their families; and

WHEREAS, the City of Gig Harbor expends considerable resources dealing with the secondary impacts of the illegal use of controlled substances, including costs to clean up methamphetamine labs and the cost for police, courts, and corrections associated with illegal drug use; and

WHEREAS, the Gig Harbor City Council believes that the continued proliferation and sale of drug paraphernalia symbolizes a public tolerance for illegal use of controlled substances; and

WHEREAS, the Council believes that reducing the availability of drug paraphernalia will discourage the use of illegal controlled substances in the City; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of _____ 2006; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. A new chapter 9.38 is hereby added to the Gig Harbor Municipal Code, entitled "Drug Paraphernalia," which shall read as follows:

**CHAPTER 9.56
DRUG PARAPHERNALIA**

SECTIONS:

- 9.38.010 Definitions.**
- 9.38.020 Illegal Conduct.**
- 9.38.030 Remedies.**

9.38.010. Definitions. As used in this Chapter, the following terms shall have the following meanings:

- A. “Business” means any location, whether indoors or outdoors, at which merchandise is offered for sale.
- B. “Controlled substance” means those controlled substances set forth in the Revised Code of Washington (chapter 69.50 RCW) or the United States Code (at 21 USC Section 801-971) as such now exist or may hereafter be amended.
- C. “Display” means to show to a patron or to place in a manner so as to be available for viewing or inspection by a patron.
- D. “Distribute” means to transfer ownership or a possessory interest to another whether for consideration, as a gratuity or gift, for consignment, or otherwise.
- E. “Drug paraphernalia” means any of the following:
 - 1. Any item, whether useful for non-drug-related purposes or not, which is displayed, grouped with other items, advertised or promoted in a manner to reasonably suggest its usefulness in the growing, harvesting, processing, manufacturing, preserving, inhaling, injecting, or ingesting of marijuana, hashish, cocaine, methamphetamine, or any controlled substance.
 - 2. Any item, whether useful for non-drug-related purposes or not, which is designed, decorated, adorned, packaged or displayed in a manner to reasonably suggest its usefulness in the growing, harvesting, processing, inhaling, injecting, or ingesting of marijuana, hashish, cocaine, methamphetamine, or any controlled substance.
 - 3. Any item defined by any statute of the State of Washington as drug paraphernalia (chapter 69.50 RCW) or by any statute of the United States Code (at USC Sections 801-971) as drug paraphernalia.
 - 4. The term “drug paraphernalia” includes, without limitation, all equipment, products, and materials of any kind, whether useful for non-drug-related purposes or not, which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. Drug paraphernalia includes, but is not limited to, objects used, intended for use,

or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Kits used, intended for use, or primarily designed for use in the planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance or unlawful drug can be derived.

b. Kits used, intended for use, or primarily designed for use in the manufacturing, compounding, converting, producing, processing or preparing of unlawful drugs or controlled substances.

c. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is an unlawful drug or controlled substance.

d. Testing equipment used, intended for use, or designed for use in weighing or measuring unlawful drugs or controlled substances.

f. Diluents and adulterants, such as quinine hydrochloride, mannitol/mannite, dextrose and lactose used, intended for use, or designed for use in cutting or thinning unlawful drugs or controlled substances.

g. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana or other controlled substance.

h. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding unlawful drugs or a controlled substance.

i. Capsules, balloons, containers, spoons and mixing devices used, intended for use or designed for use in compounding unlawful drugs or a controlled substance.

j. Containers and other objects used, intended for use, or designed for use in storing or concealing unlawful drugs.

k. Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting unlawful drugs or controlled substances.

l. The phrase “designed primarily for” in Subsection 9.38.010(4) means a device which has been fabricated, constructed, altered, adjusted or marked especially for use in the smoking, ingestion, or consumption of marijuana, hashish, hashish oil, cocaine, or any other “controlled substance” and is peculiarly adapted to such purposes by virtue of a distinctive feature or combination of features associated with drug paraphernalia, notwithstanding the fact that it might also be possible to use such device for some other purpose. Such drug paraphernalia includes, but is not limited to, the following items or devices:

(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) Water pipes;

(3) Carburetion tubes and devices;

(4) Smoking and carburetion masks;

(5) Roach clips – meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; whether the device is known as a “roach clip” or otherwise;

(6) Miniature cocaine spoons, cocaine vials, or any spoon used, intended for use or primarily designed for ingestion of a controlled substance;

(7) Chamber pipes;

(8) Carburetor pipes;

(9) Electric pipes;

(10) Air driven pipes;

(11) Chillums;

(12) Bongs;

(13) Ice pipes or chillers;

(14) Wired cigarette papers;

(15) Cocaine freebase kits;

(16) A device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke that would otherwise be possible, whether the device is known as a “bong” or otherwise;

(17) A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a “buzz bomb” or otherwise;

(18) A canister, container, or other device with a tube, nozzle, or other similar arrangement attached thereto so constructed as to permit the forcing of smoke accumulated therein into the user’s lungs, under pressure, whether the device is known as a “power hitter” or otherwise;

(19) A straw or tube for ingestion of a controlled substance through the nose or mouth; and

(20) a smokable pipe constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested.

m. In determining whether an object is “drug paraphernalia,” a court, hearing officer or other authority, may consider the following, in addition to the foregoing and all other logically relevant factors:

(1) Statement by an owner or by anyone in control of the object concerning its use;

(2) Proximity of the object to controlled substances;

(3) Existence of any residue of controlled substances on the object;

(4) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver to persons whom he or she knows, or reasonably should know, intend to use the object to facilitate a violation of the laws of the State of Washington or the United States relating to controlled substances;

(5) Descriptive materials or instructions, written or oral, accompanying the object, which explain or depict its use;

(6) National and local advertising concerning its use;

- (7) The manner in which the object is displayed for sale, including its proximity to other objects falling within the definition of drug paraphernalia;
- (8) The existence and scope of legitimate uses for the object in the community;
- (9) Expert testimony concerning its use, including testimony from law enforcement personnel regarding their knowledge and experience concerning its use.

F. "Manufacture" means to fabricate, make, produce, create, assemble, modify, adapt, or turn out.

G. "Patron" means a person who enters a business for the purpose of purchasing, or viewing as a shopper, merchandise offered for sale at the business;

H. "Person" means a natural person or any firm, partnership, association, corporation or cooperative association.

9.38.020. Illegal Conduct.

A. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

B. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication, any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of drug paraphernalia.

C. It is unlawful for any person to sell, give, or permit to be sold or given, to any person, any drug paraphernalia in any form.

9.38.030. Remedies.

A. Any person who violates any provision of subsections A or B or C of GHMC Section 9.38.020, commits a class 1 civil infraction under chapter 7.80 RCW and shall be punished accordingly, pursuant to GHMC Section 1.16.010, chapter 7.80 RCW and the infraction rules for courts of limited jurisdiction. It shall be no defense to a prosecution for an infraction issued under this subsection that the person acted or was believed by the defendant to act, as agent or representative of another; PROVIDED that nothing in this section prohibits legal distribution of injection syringe equipment through public health and community-based HIV prevention programs.

B. Any person 18 years of age or over who violates GHMC Section 9.38.020 by delivering drug paraphernalia to a person under 18 years of age who is at least three years his junior shall be guilty of a gross misdemeanor. Upon conviction, said person shall be punished according to GHMC Section 1.16.010.

C. Any person who violates GHMC Sections (A) or (B) and has previously been found to have committed an infraction under either of those sections within the most recent twenty-four month period shall be guilty of committing a misdemeanor. Upon conviction, said person shall be punished according to GHMC Section 1.16.010.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Ordinance.

Section 3. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this ____ day of _____, 2006.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 09/18/06
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: JENNIFER KESTER, SENIOR PLANNER
SUBJECT: FIRST READING OF ORDINANCE – HARBOR HILL REZONE
(REZ 04-35)
DATE: SEPTEMBER 25, 2006

INTRODUCTION/BACKGROUND

Olympic Property Group, LLC. requested a site-specific rezone of a 23.44 acre parcel at the southwest corner of Borgen Boulevard Harbor Hill drive, commonly referred to as the Costco site. The rezone request is from Planned Community Development Business Park District (PCD-BP) to Planned Community Development Commercial district (PCD-C). This site is situated in the Gig Harbor North area, which was annexed into the City in 1997. At annexation, the land use designation for the site was Planned Community Development Business Park (PCD-BP). In 2003, Olympic Property Group received an amendment to the City's Comprehensive Plan Land Use Map, changing the subject parcel from a PCD-BP land use to a Planned Community Development Commercial (PCD-C) land use. This amendment included a Mitigated Determination of Nonsignificance which required numerous off-site transportation improvements; these improvements have been completed and accepted by the City. This amendment also included the requirement that "Any rezone application for property in the PCD district to commercial shall be accompanied by a site-specific development application for the development of the property." As such, the site plan review application for Harbor Hill/Costco was reviewed concurrently with the site-specific rezone application.

The City issued a Mitigated Determination of Nonsignificance (MDNS) on June 14, 2006. The appeal period ended on July 12, 2006. No appeals were filed and the MDNS is final. The Hearing Examiner (HE) held a public hearing on the site-specific rezone application on July 19, 2006. The HE approved the application on August 1, 2006. The appeal period for this decision expired on August 25, 2006. Rezones are required to be adopted by ordinance to effectuate an official zoning map change; this matter will return to you for second reading at your next meeting.

POLICY CONSIDERATIONS

The City of Gig Harbor Comprehensive Plan Land Use Map designates the site as Planned Community Development Commercial (PCD-C). PCD-C zoning is the only zoning which can implement the PCD-C land use designation.

FISCAL IMPACTS

There are no adverse fiscal impacts associated with this rezone.

RECOMMENDATION

This is a first reading only and requires no action.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REZONING 23.44 ACRES FROM PCD-BP (PLANNED COMMUNITY DEVELOPMENT BUSINESS PARK) ZONING DISTRICT TO A PCD-C (PLANNED COMMUNITY DEVELOPMENT COMMERCIAL) ZONING DISTRICT, LOCATED AT THE SOUTHWEST CORNER OF BORGEN BOULEVARD AND HARBOR HILL DRIVE, ASSESSOR'S PARCEL NUMBER 0222312039.

WHEREAS, Olympic Property Group, LLC. requested a rezone for the parcel located at the southwest corner of Borgen Boulevard and Harbor Hill Drive in Gig Harbor, Washington, Assessor's parcel number 0222312039; and

WHEREAS, the land use designation in the Comprehensive Plan of the subject parcel is PCD-C (Planned Community Development Commercial), which was changed from PCD-BP (Planned Community development Business Park) as part of the 2003 Comprehensive Plan amendments; and

WHEREAS, RCW 36.70A.130(1)(b) requires consistency between comprehensive plans and development regulations; and

WHEREAS, the existing Planned Community Development Commercial (PCD-C) comprehensive plan land use designation anticipates Planned Community Development Commercial development; and

WHEREAS, Olympic Property Group, LLC. requested that the property be rezoned from PCD-BP (Planned Community Development Business Park) to PCD-C (Planned Community Development Commercial), which allows commercial development; and

WHEREAS, a SEPA threshold determination of Mitigated Nonsignificance (MDNS) for the proposed rezone was issued on June 14, 2006; and

WHEREAS, the SEPA threshold decision was not appealed; and

WHEREAS, the proposed rezone is a Type III action as defined in GHMC 19.01.003(B) for site-specific rezones; and

WHEREAS, A final decision for a Type III application shall be rendered by the Hearing Examiner as per GHMC 19.01.003(A); and

WHEREAS, a public hearing on the proposed rezone was held before the Hearing Examiner on July 19, 2006, at which time the Hearing Examiner heard public testimony on the rezone; and

WHEREAS, the Hearing Examiner approved the proposed rezone in his decision dated August 1, 2006; and

WHEREAS, the appeal period expired on August 25, 2006; and

WHEREAS, rezones must be adopted by ordinance as per GHMC 17.100.070 under the provisions of Chapter 1.08 GHMC; and

WHEREAS, the City Community Development Director forwarded the site-specific rezone proposal to the Washington State Department of Community Development on November 30, 2005 pursuant to RCW 36.70A.106; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading on _____; and

WHEREAS, the Gig Harbor City Council voted to _____ this Ordinance during the second reading on _____; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. The real property located at the southwest corner of Borgen Boulevard and Harbor Hill Drive, Assessor Parcel #0222312039 and as shown on attached Exhibit "A", and legally described as follows:

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST, W.M., PIERCE COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION; THENCE ALONG THE NORTH LINE OF SAID SECTION SOUTH 88° 29'18" EAST 1250.66 FEET TO THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION AND THE POINT OF BEGINNING;

THENCE ALONG SAID WEST LINE SOUTH 01°19'55" WEST 1324.26 FEET TO THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER;
THENCE ALONG SAID SOUTH LINE SOUTH 88°22'24" EAST 467.71 FEET;
THENCE NORTH 17°17'40" EAST 188.05 FEET;
THENCE SOUTH 88°22'24" EAST 83.15 FEET;
THENCE NORTH 14°26'00" EAST 429.62 FEET;
THENCE NORTH 65°18'14" EAST 159.94 FEET;
THENCE SOUTH 34°41'01" EAST 325.45 FEET;
THENCE SOUTH 88°22'24" EAST 177.38 FEET TO THE BEGINNING OF A NON- TANGENT CURVE CONCAVE TO THE SOUTHWEST FROM WHENCE ITS CENTER BEARS SOUTH 64°21'12" WEST 766.00 FEET DISTANT;
THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE 74.29 FEET THROUGH A CENTRAL ANGLE OF 05°33'24";
THENCE NORTH 31°12'13" WEST 53.37 FEET;
THENCE NORTH 36°55'06" WEST 84.93 FEET;
THENCE NORTH 32°50'36" WEST 32.29 FEET;
THENCE NORTH 33°57'52" WEST 76.44 FEET;
THENCE NORTH 59°53'46" WEST 109.69 FEET;
THENCE NORTH 02°56'32" WEST 57.26 FEET;
THENCE NORTH 38°14'16" EAST 57.28 FEET;
THENCE NORTH 02°20'30" EAST 22.82 FEET;
THENCE NORTH 13°05'56" WEST 41.50 FEET;
THENCE NORTH 07°38'01" WEST 50.07 FEET;
THENCE NORTH 08°43'23" WEST 67.99 FEET;
THENCE NORTH 04°58'36" WEST 67.99 FEET;
THENCE NORTH 03°06'12" WEST 75.10 FEET;
THENCE NORTH 02°58'43" WEST 63.37 FEET;
THENCE NORTH 13°52'23" WEST 42.72 FEET;
THENCE NORTH 50°39'12" WEST 39.82 FEET TO THE SOUTHERLY RIGHT-OF-WAY MARGIN OF BORGEN BOULEVARD;
THENCE NORTH 01°30'42" EAST 47.30 FEET TO THE NORTH LINE OF SAID SECTION;
THENCE ALONG SAID NORTH LINE NORTH 88°29'18" WEST 875.87 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION LYING WITHIN BORGEN BOULEVARD RIGHT OF WAY;

is hereby rezoned from PCD-BP (Planned Community Development Business Park) to PCD-C (Planned Community Development Commercial).

Section 2. The Community Development Director is hereby instructed to effectuate the necessary changes to the Official Zoning Map of the City in accordance with the zoning established by this section.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this ___ day of _____, 2006.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: _____



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PROPOSED ANNEXATION - BURNHAM/SEHMEL (ANX 05-1151)
DATE: SEPTEMBER 25, 2006

INFORMATION/BACKGROUND

The City has received a complete Notice of Intention to Commence Annexation Proceedings from a number of property owners for a proposal to annex approximately 90 acres of property located at the in the vicinity of Sehmel Drive NW and Burnham Drive NW, west of the existing City limits, and within the City's Urban Growth Area (UGA).

Property owners of more than the required ten percent (10%) of the acreage for which annexation is sought signed this request. The pre-annexation zoning for the area is Public Institutional (PI), Residential and Business (RB-1 & RB-2), General Business (B-2), Employment District (ED), and Single-Family Residential (R-1).

Pursuant to the process for annexations by code cities in Pierce County, a copy of the proposed legal description and map was sent to the Clerk of the Boundary Review Board for review and comment. Pierce County has approved the legal description and map as presented.

Additionally, this request was distributed to the Chief of Police, Director of Operations, City Engineer, Building Official/Fire Marshal, Planning, Finance Director, and Pierce County Fire District #5 for review and comment.

The Council is required to meet with the initiating parties to determine the following:

1. Whether the City Council will accept, reject, or geographically modify the proposed annexation;
2. Whether the City Council will require the simultaneous adoption of the zoning for the proposed area in substantial compliance with the proposed Comprehensive Plan as adopted by City of Gig Harbor Ordinance No. 981; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed.

Notice of the September 25, 2006 meeting was posted on the City website on September 6, 2006 and was mailed to property owners of record within the area proposed for annexation as well as those within three hundred feet (300') on September 7, 2006.

If accepted, the process will then move forward with the circulation of a formal petition for annexation. The petition must be signed by either by the owners of a majority of the acreage and a majority of the registered voters residing in the area considered for annexation; or by property owners of sixty percent (60%) of the assessed value of the area proposed for annexation.

POLICY CONSIDERATIONS

The City of Gig Harbor Building Official/Fire Marshal reviewed the proposal and had the following comments:

1. The annexation will bring additional land under our review for future building permitting. This has the potential to increase our workload for plan reviews, permitting and inspections. The Building and Fire Safety Division has limited personnel and an ever increasing workload such that concurrent development of this annexation with anticipated development within the existing City limits may have a negative impact on the Division's level of service (i.e. extended review time and inspection delays) unless additional resources are provided.
2. Fire hydrant locations and fire flow in the area are unknown at this point. A windshield survey of the Sehmel/Burnham area found that hydrants are sparsely scattered and do not appear to comply with City hydrant spacing requirements. Additional hydrants will be required to facilitate future construction in the annexation area. There is a good chance that the existing mains may not provide fire flows that comply with current City requirements, however, inadequate fire flow may be mitigated by construction and fire protection features for new construction.
3. Landslide and flood hazard areas are unknown in the annexation area. Future construction must comply with requirements for flood plain development and development on potentially unstable slopes. Geotechnical engineering reports may be required prior to approval of building permits.

Given the nature of the hazards, the possibilities for mitigation, and the City's capabilities I don't think that any of the challenges identified above would be cause to object to the annexation.

Planning has noted that wetlands do appear to exist in the area and that a wetland

analysis report will be required (GHMC 18.08.090). A portion of the area proposed for annexation is located on an extension of an existing enhancement corridor and should be designated as such (GHMC 17.99.150). The eastern border of the proposed annexation fronts SR-16 which is an enhancement corridor.

The City of Gig Harbor Finance Director noted that there would be no significant financial impacts from this proposed annexation.

The Chief of Police has commented that the annexation would increase the patrol area for the Department and may, depending upon the ultimate population of the area may create a need for an additional patrol officer.

The Director of Operations noted that a portion of the area is within the City's water service area, the remainder is served by Washington Water. The nearest connection to City water service is at the intersection of Sehmel Drive and Bujacich Road. City sanitary sewer service is located in the area north of 112th Street NW. Future sewer service collection system improvements are identified in the Sewer Comprehensive Plan Basin C3. The roadway surfacing in this area is a chip seal of asphalt pavement and is in fair condition. The stormwater drainage system is primarily an open ditch.

Engineering has made the following comments:

Transportation

The proposed 90-acre annexation area is located west of SR-16 and bordered at the south by the Washington Correction Center for Women and at the north at the 11600 block of Burnham Drive. This annexation includes the west roundabout of Burnham Drive and SR-16. This roundabout and the east roundabout have been noted by the City of Gig Harbor 2005 Comprehensive Plan Update FEIS as failing intersections. The FEIS provides for limited transportation improvements in the area of the intersections to mitigate for the failing intersections. However, no timeline for completion of these improvements has been established. Therefore, to receive transportation concurrency, developments (other than individual single-family residences) proposed within the annexation area that send vehicles through these intersections would need to recommend and construct improvements to mitigate the impacts from additional traffic through these intersections.

Multiple capital improvement projects are listed in the FEIS as possible mitigation for these failing intersections. Proposed developments within the annexation area may be required to design and construct one of these mitigations or provide an alternative mitigation to design and construct that is acceptable to the City. All costs for design and construction of all necessary transportation mitigations shall be borne by the developers and not the City.

Realization of the limited improvements noted in the FEIS would be short-term. The long-term interchange project has not yet been identified. Therefore, currently there is no project for which to contribute mitigation funds to for the potential development in the proposed annexation area. As a result, development projects within the proposed annexation area would likely not receive transportation concurrency, and therefore, not receive recommendation for project approval.

Additionally, each development, including single-family residences, shall be required to pay the appropriate traffic impact fees in accordance with Chapter 19.12 of the Gig Harbor Municipal Code.

Water

The proposed 90-acre annexation area is currently shown to be served by Washington Water Company (approximately 75% of the area) and the City of Gig Harbor (approximately 25% of the area). Currently the City's water system does not extend to this area. Existing buildings within the City's water service area receive their water from private wells. The nearest connections to the City's water system include a 16" water main at the intersection of Bujacich Road and 54th Avenue and a 16" water main at the roundabout at Burnham Drive, Borgen Boulevard, Canterwood Boulevard, and SR-16.

Once annexed, the developers of parcels within the annexation area may request extensions of the City's water main. These extensions must be extended through and to the extents of the parcels being developed, and must be located within City right of way or in an easement granted to the City.

Latecomers' agreements are an option for funding water main extensions. All costs for latecomer's fees and for construction of the necessary extensions of the existing water main shall be borne by the developers and not the City.

Each development and/or parcel that connects to the City's water system shall be required to receive water concurrency and pay the appropriate connection fee, latecomer's fee (if applicable), and revolving service fee. The connection and service fees, as reviewed by the City Council, should be adequate to pay for the necessary maintenance and operation of the water system extended to the parcels.

Sanitary Sewer

The proposed 90-acre annexation area is currently shown to be served by the City of Gig Harbor's sanitary sewer and wastewater treatment system. The 2002 Wastewater Comprehensive Plan indicates the parcels in the annexation area are included in either the C-3 collection system expansion or within the existing sanitary sewer collection area of the ULID #3 improvements. The Wastewater Comprehensive Plan indicates the

estimated construction costs for the necessary sanitary sewer basin C-3 improvements is \$1,083,000 (in year 2000 dollars). However, a small portion of these improvements have been installed.

Those parcels connecting to the existing sanitary sewer main located within ULID #3 would be required to extend sanitary sewer to the proposed development. All costs for construction of the necessary extensions of the existing sewer main, including those noted in the Wastewater Comprehensive Plan for the parcels within basin C-3, shall be borne by the developers and not the City.

Each development and/or parcel that connects to the City's sanitary sewer system shall be required to receive sewer concurrency and pay the appropriate connection fee and revolving service fee. These fees, as reviewed by the City Council, should be adequate to pay for the necessary maintenance and operation of the sanitary sewer system extended to the parcels.

Stormwater

In accordance with the City's Stormwater Design Manual, each development proposed for this annexation area would be required to design and construct stormwater quantity and quality control features. This includes all stormwater features necessary for improvements within the City's right of way. All costs for design and construction of these stormwater features shall be borne by the developers and not the City. All costs for operations and maintenance of stormwater features outside of the City's right of way shall also be borne by the developers.

Each parcel that is annexed in the City's limits shall be required to pay the appropriate stormwater fee. These fees, as reviewed by the City Council, should be adequate to pay for the necessary maintenance and operation of the City's stormwater system located within the City's right of way created by the parcels.

The Boundary Review Board is guided by RCW 36.93.180 in making decisions on proposed annexations and is directed to attempt to achieve stated objectives. These objectives, listed below, are worthy of consideration by the Council in determining the appropriateness of this annexation. Staff has evaluated the proposal in light of this criterion and has provided comments following each of the criteria listed below.

RCW 36.93.180

Objectives of boundary review board.

The decisions of the boundary review board shall attempt to achieve the following objectives:

- (1) Preservation of natural neighborhoods and communities;

Comment: The proposed annexation area consists of developed (residential and non-residential) and vacant parcels of land.

(2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;

Comment: The proposed annexation area is bounded by Highway 16 and the existing City limits to the east.

(3) Creation and preservation of logical service areas;

Comment: The proposed annexation would not alter any service area boundaries.

(4) Prevention of abnormally irregular boundaries;

Comment: The proposed annexation would create an abnormally irregular boundary.

(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;

Comment: Not applicable with regards to this proposed annexation.

(6) Dissolution of inactive special purpose districts;

Comment: The proposed annexation would not dissolve any inactive special purpose districts.

(7) Adjustment of impractical boundaries;

Comment: Not applicable with regards to this proposed annexation, the area proposed for annexation is entirely within the City's Urban Growth Boundary.

(8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character; and

Comment: The proposed annexation is of an unincorporated area with lot sizes ranging from 0.08 to 40.0 acres in size. The area consists of developed (residential and non-residential) and vacant parcels of land and is entirely within the City's Urban Growth Boundary which is planned for urban levels of development.

(9) 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.

Comment: The proposed annexation does not involve designated agricultural or rural lands.

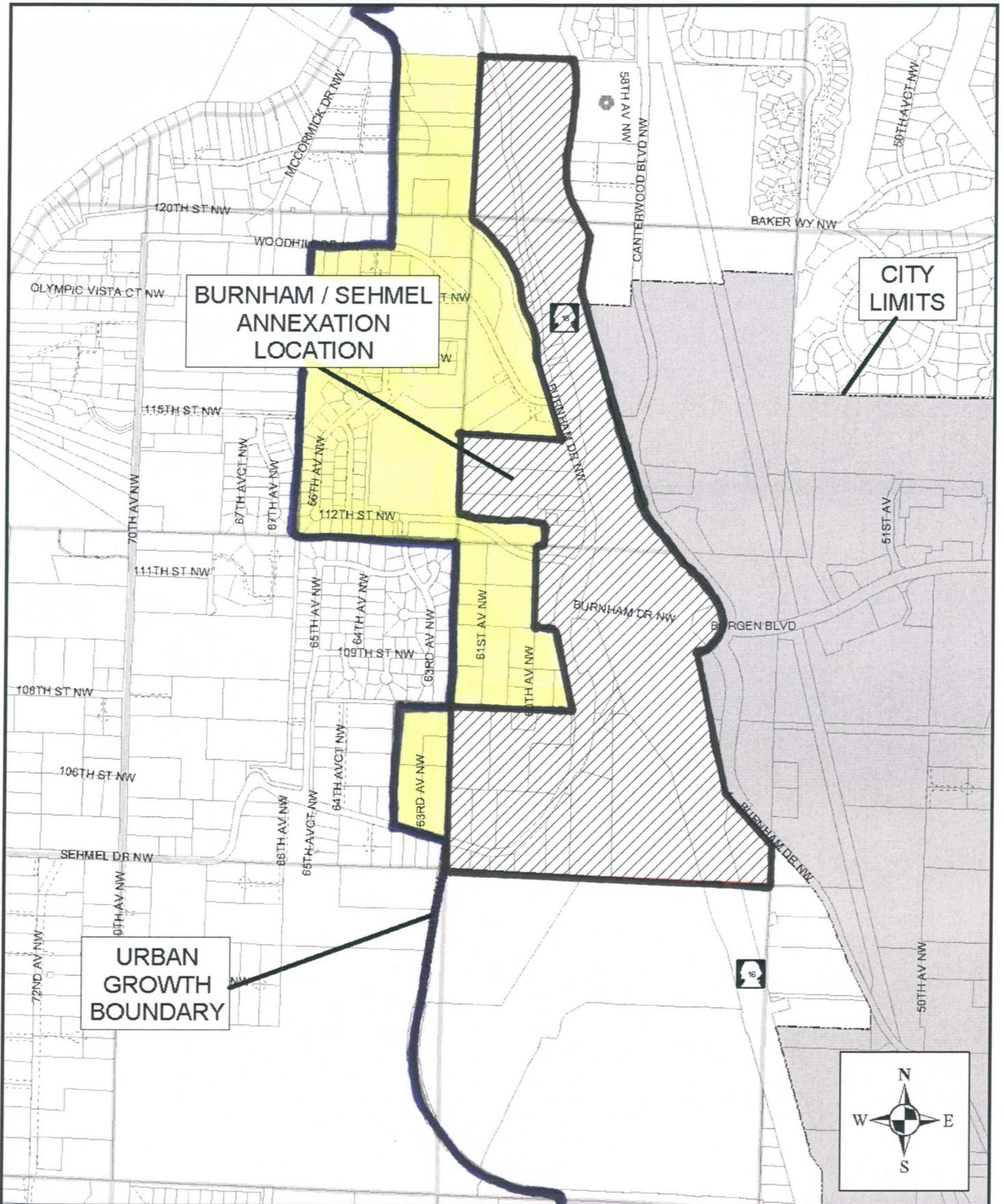
FISCAL CONSIDERATIONS

The City of Gig Harbor Finance Director noted that there would be no significant financial impacts from this proposed annexation.

RECOMMENDATION

The proposed annexation encompasses a large area which at its closest is within approximately four hundred (400') of the Urban Growth Boundary. The Council should consider the proximity of the Urban Growth Boundary as it relates to the boundaries of this proposed annexation.

I recommend that the Council deny the Notice of Intention to Commence Annexation Proceedings and suggest to the proponent that the annexation be resubmitted with a proposed annexation area extending out to the Urban Growth Boundary located to the west.



**BURNHAM / SEHMEL ANNEXATION (ANX - 1151)
VICINITY MAP**

Barbara Magnuson
5801 108th St NW
Gig Harbor, WA 98332
(253) 307-4505 cell
(253) 857-8700 fax

RECEIVED

NOV 01 2005

CITY OF GIG HARBOR
OPERATIONS & ENGINEERING

September 16, 2005

To Whom it May Concern:

Please find enclosed a proposal of annexation for property within the UGA area of Gig Harbor along Burnham/Schmel Drive into the City of Gig Harbor.

It has come to my attention that you presently own property in this area. I am obtaining signatures of the property owners in the UGA areas and intend to submit this before October ~~15~~₃₀ 2005.

The annexation process will take 4 months to accomplish once submitted and will significantly increase property values, development ease, reduce sewer costs by 30%, and possibly reduce wetland setbacks. Please sign and return the enclosed form to me at

Barbara Magnuson
5801 108th St NW
Gig Harbor, WA 98332

If you have further questions, please contact me at (253) 307-4505. Thank you.

Sincerely,

Barbara Magnuson

**NOTICE OF INTENTION TO COMMENCE ANNEXATION
PROCEEDINGS**

The Honorable Mayor and City Council
City of Gig Harbor
3510 Grandview Street
Gig Harbor WA, 98335

Dear Mayor and City Council:

The undersigned, who are the owners of not less than ten percent (10%) of the acreage for which annexation is sought, hereby advise the City Council of the City of Gig Harbor that it is the desire of the undersigned owners of the following area to commence annexation proceedings:

The property herein referred to is legally described on Exhibit "A" attached hereto and is geographically depicted on a Pierce County Assessor's parcel map on Exhibit "B" further attached hereto.

It is requested that the City Council of the City of Gig Harbor set a date, not later than sixty (60) days after the filing of this request, for a meeting with the undersigned to determine:

1. Whether the City Council will accept, reject, or geographically modify the proposed annexation;
2. Whether the City Council will require the simultaneous adoption of the zoning for the proposed area in substantial compliance with the proposed Comprehensive Plan as adopted by City of Gig Harbor Ordinance No. 981; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed.

This page is one of a group of pages containing identical text material and is intended by the signers of the Notice of Intention of Commence Annexation Proceedings to be presented and considered as one Notice of Intention of Commence Annexation Proceedings and may be filed with other pages containing additional signatures which cumulatively may be considered as a single Notice of Intention of Commence Annexation Proceedings.

NOTE - Property Owner Signatures on File

Exhibit "A"

LEGAL DESCRIPTION

Burnham/Sehmel Annexation (ANX 05-1152)

Those portions of the Northeast Quarter of Section 36 Township 22 North Range 1 East, the Southeast Quarter and the Northeast Quarter of Section 25 Township 22 North Range 1 East of the Willamette Meridian, in Pierce County, Washington, described as follows:

Commencing at the Southeast corner of the Northeast Quarter of Section 36 Township 22 North Range 1 East of the Willamette Meridian;

Thence North along the East line of said Northeast Quarter to the Northeast corner of said Subdivision;

Thence West along the North line of said Subdivision to the Easterly margin of State Highway 16;

Thence Northerly along the Easterly margin of said Highway to its intersection with the North line of the South One Half of the Northeast Quarter of Section 25 Township 22 North Range 1 East of the Willamette Meridian;

Thence West along said North line to the Northwest corner of said Subdivision;

Thence South along the West line of said Subdivision being the North South centerline of Section 25 Township 22 North Range 1 East Willamette Meridian to the center of section of said subdivision;

Thence continuing South along said North South centerline of said subdivision to its intersection with the Southerly margin of A. M. Burnham County Road;

Thence Southeasterly along the Southerly margin of said county to the Southeast corner of lot 6 as shown on Survey by Thornton Land Surveying Inc recorded January 12 1977 under No. 1582, records of Pierce County, Washington;

Thence West along the South line of said lot 6 to the West line of the Southeast Quarter of Section 25 Township 22 North Range 1 East Willamette Meridian;

Thence South to the Northerly margin of 112th street NW;

Thence Southeasterly along said margin to the North line of a tract of land conveyed to Walter H Smith and Norma Smith, husband and wife recorded under recording number 9111190133;

Thence East along the North line of said tract to the Northeast corner thereof;

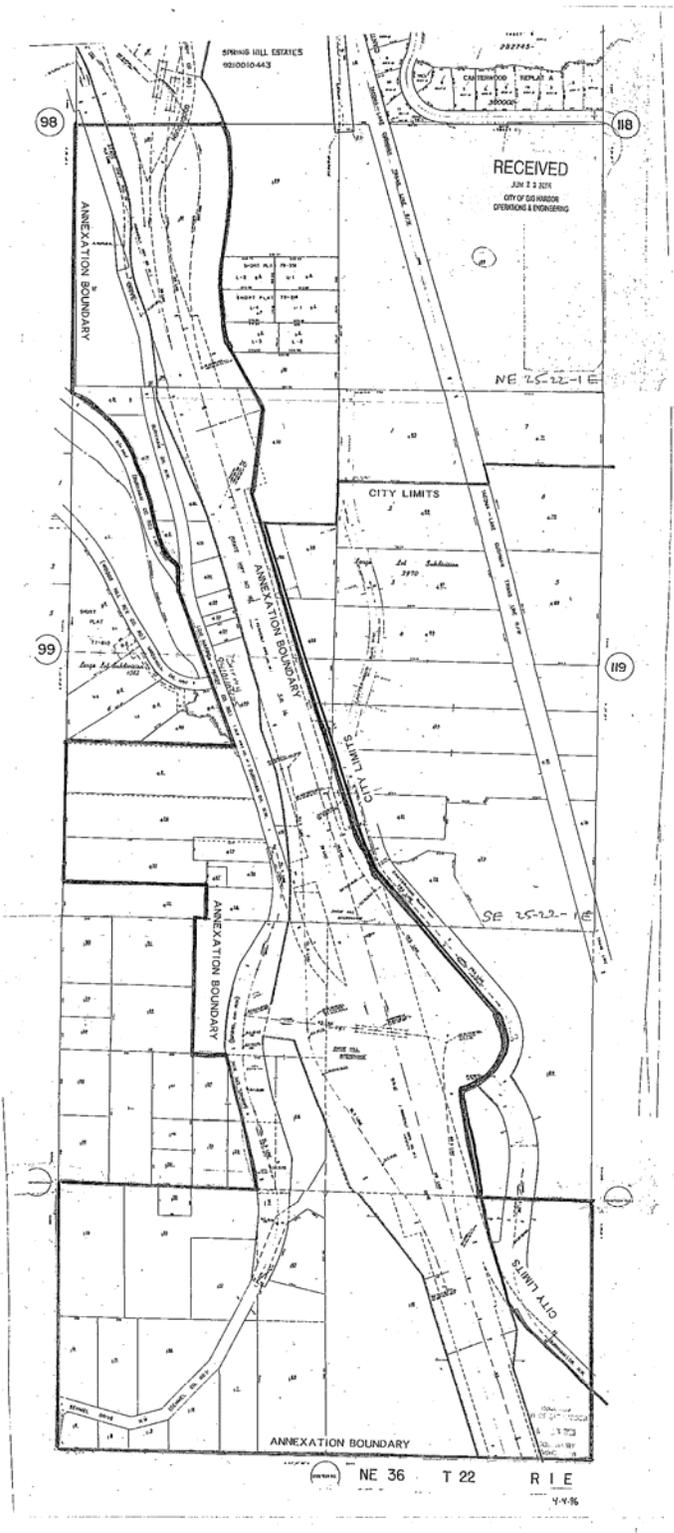
Thence South along the East line of said tract to the Southeast corner thereof, being a point on the North line of the Northeast Quarter of Section 36 Township 22 North Range 1 East Willamette Meridian;

Thence West along the North line of said subdivision to the Northwest corner of the

Northeast Quarter of the Northwest Quarter of the Northeast Quarter of said subdivision;
Thence South along the West line of said subdivision to the Southwest corner thereof;
Thence East along the South line of said subdivision to the Westerly margin of Sehmel Drive NW;
Thence Southeasterly along said margin to its intersection with the North line of the South Half of the Northeast Quarter of said Section 36;
Thence West along the North line of said subdivision to the Northwest corner of said South Half;
Thence South along the West line of said South Half to the Southwest corner of the Northeast Quarter of Section 36 Township 22 North Range 1 East, Willamette Meridian;
Thence East along the South line of said subdivision to the point of beginning

Except those portions previously annexed to the City of Gig Harbor by Ordinance No. 746 dated January 27 1997

EXHIBIT "B"
ANNEXATION PARCEL MAP
Burnham/Sehmel Annexation (ANX 05-1152)



HALSAN FREY, L.L.C.
REAL ESTATE AND CONSULTING SERVICES

September 20, 2006

Mr. John Vodopich
Community Development Director
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

RECEIVED
CITY OF GIG HARBOR

SEP 20 2006

COMMUNITY
DEVELOPMENT

RE: ANNEXATION 05-1151

Dear Mr. Vodopich:

On behalf of the Great Day Group LLC, we are requesting that their real property be included in the pending annexation action to be decided by the City Council on Monday September 25th, 2006. The property to be annexed totals nearly eight (8) acres and consists of four parcels.

The triangle shaped property is bounded on the south and west by Purdy Drive/SR-302, on the south and east by SR-16, and on the north by Goodnough Drive NW. It appears from the map included with the public meeting notice that the proposed annexation boundaries stop just south of the subject property. We are requesting that the Council expand those boundaries to include the four (4) parcels owned by The Great Day Group LLC.

The four (4) parcels were created by a short plat recorded in 1993 and are legally described as:

- Lot 1 of Short Plat 93-12-07-0562
- Lot 2 of Short Plat 93-12-07-0562
- Lot 3 of Short Plat 93-12-07-0562
- Lot 4 of Short Plat 93-12-07-0562

The entire property is the subject of an approved Site Plan approved by the County and the City several years ago. In addition, the property is subject to a no-protest annexation agreement with the City entered into by the previous property owner as part of a Utility Extension Agreement which allows the property to be served by City sewers.

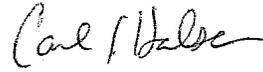
The property is designated Commercial/Business by the City's Comprehensive Plan and zoned B-2 by the City's pre-annexation Zoning Maps. We request that these designations go forward as the annexation goes forward and remain unchanged. If you have any questions are need any further information, please call me directly at 307-1922 or email me carl@halsanfrey.com.

PO BOX 1447 * GIG HARBOR, WA * 98335
OFFICE: (253) 858-8820 FAX: (253) 858-9816
EMAIL: carl@halsanfrey.com

September 20, 2006

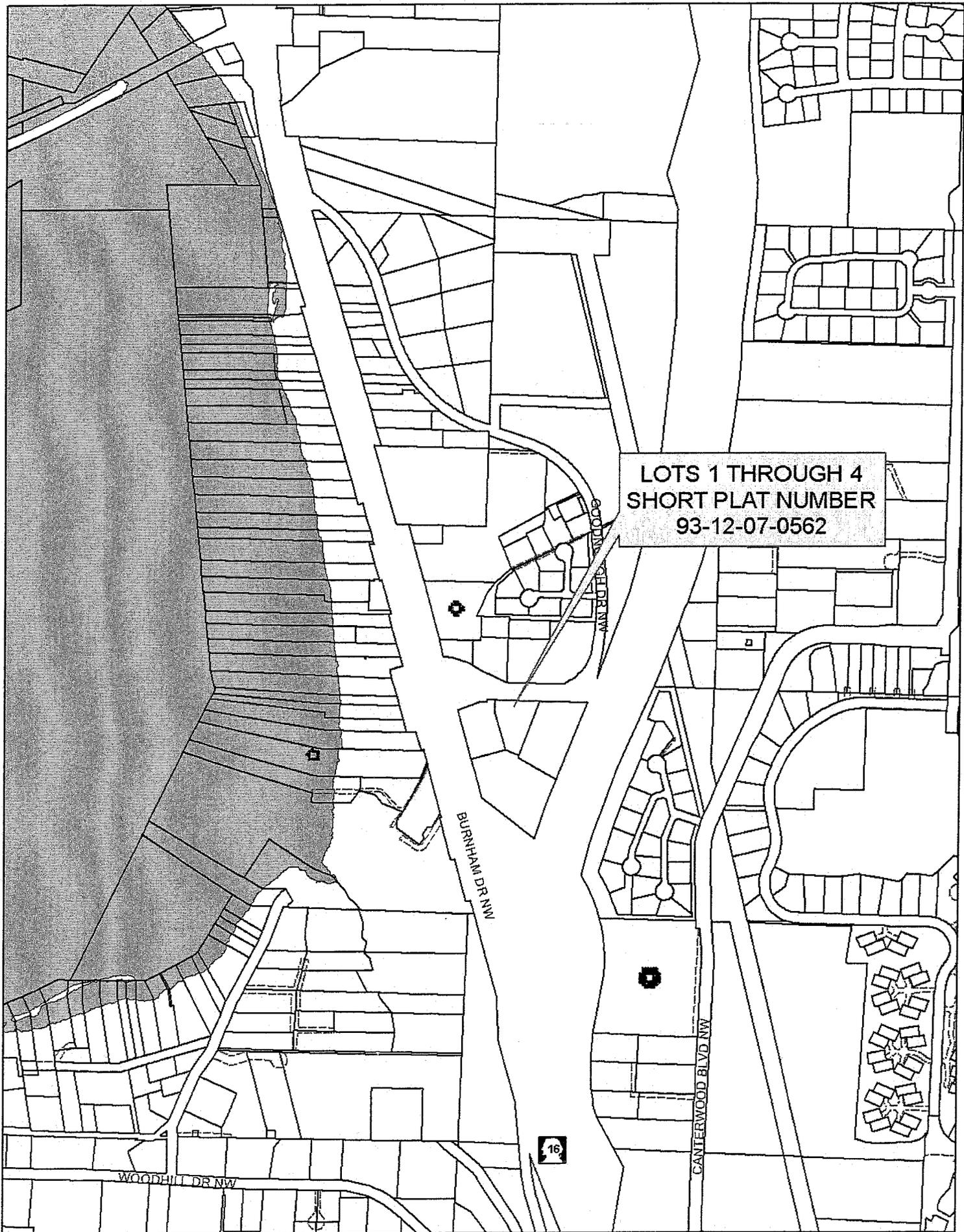
Thanks in advance for your consideration of this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carl E. Halsan".

Carl E. Halsan
Member

c: Great Day Group, LLC



LOTS 1 THROUGH 4
SHORT PLAT NUMBER
93-12-07-0562

BURHAM DR NW

WOODHILL DR NW

CANTERWOOD BLVD NW

16



"THE MARITIME CITY"

COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: DAVID BRERETON, DIRECTOR OF OPERATIONS
SUBJECT: SKANSIE BROTHERS PARK NET SHED PILING AND SUPPORT ANALYSIS - CONSULTANT SERVICES CONTRACT
DATE: SEPTEMBER 25, 2006

INTRODUCTION/BACKGROUND

The City of Gig Harbor inspected the pilings and structure supports of the Skansie Brothers Net Shed and found 28 of the 66 pilings needs repair or replacement. Several horizontal structural supports throughout the floor section need to be replaced. A Marine contractor was contacted and reviewed the pilings and support beams and recommended hiring a consultant that specializes in historic marine structures to do an engineered structural survey of the piles and support structure to determine the extent of the repairs and replacement of the pilings and supports. This report will develop solution concepts, construction cost estimates and permit requirements.

After reviewing the Consultant Services Roster, the City contacted the engineering firm of kpff Consulting Engineers and requested quotations to provide the above services. Upon review of the provided price quotations and proposal, the engineering firm of kpff Consulting Engineers was selected to perform the work. Selection was based on their understanding of the project and extensive marine survey experience.

POLICY CONSIDERATIONS

kpff Consulting Engineers is able to meet all of the City's standard insurance provisions for professional services contracts.

FISCAL CONSIDERATIONS

This project was not anticipated in the adopted 2006 Budget. However sufficient funds are available under professional services in the 2006 Park Operating budget

RECOMMENDATION

I recommend that the Council authorize the execution of the Consultant Services Contract with kpff Consulting Engineers for the piling and support analysis work in the amount not to exceed Fifteen Thousand Dollars and no cents (\$15,000.00).

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
kpff Consulting Engineers**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and kpff Consulting Engineers, a corporation organized under the laws of the State of Washington, located and doing business at 1601 Fifth Avenue, Suite 1600, Seattle, Washington 98101 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the Piling and Support Structures Replacement Analysis of the Skansie Net Shed and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated August 8, 2006, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in

Exhibit B; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by October 24, 2006; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not, by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE

THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000.

C. All policies and coverage's shall be on an occurrence made basis.

D. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

E. The City of Gig Harbor shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

F. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy

will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

G. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Engineer or Director of Operations and the City shall determine the term or provision's true intent or meaning. The City Engineer or Director of Operations shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Engineer or Director of Operations determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:
Andrew Bennett, P.E.
kpff Consulting Engineers
1601 Fifth Avenue, Suite 1600
Seattle, Washington 98101
(206) 622-5822

David Brereton
Director of Operations
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the

I certify that I know or have satisfactory evidence that Franks, Peter is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath, stated that (he/she) was authorized to execute the instrument and acknowledged it as the Principal of KPF Consulting Engineers to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: September 11, 2006

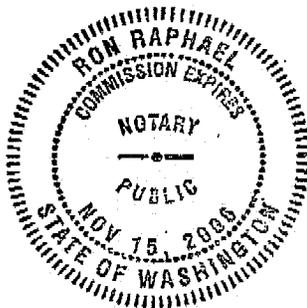
[Signature]
Ron Raphael

(print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at:

King County

My Commission expires: Nov 15, 2006



STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

**EXHIBIT A
SCOPE OF SERVICES**

RECEIVED
AUG 15 2006
CITY OF GIG HARBOR
OPERATIONS & ENGINEERING

August 8, 2006

Mr. Dave Brereton
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Subject: Skansie Net Shed Piling and Support Structure Replacement Analysis

Dear Mr Brereton:

Thank you for giving KPFF the chance to participate in the preservation of the historic Skansie Net Shed. The need to replace or repair the piles and support structures without affecting the shed itself presents a unique design problem that we look forward to solving with you. We propose the scope of work below to select a design solution. We will work closely with you and other City staff throughout the process to ensure the final recommendation will be acceptable.

1. Detailed site survey: Our project manager and another experienced engineer will perform a careful survey of the existing piles and support structure to determine the extent of the need for additional structural support. During the site visit, concept ideas will be developed and shared with City staff.
2. Concept development: We will develop solution concepts that are technically feasible and analyze the schedule, and aesthetic impacts of each solution along with the associated permit requirements.
3. Preliminary cost estimates: We will develop a preliminary construction cost estimate for each concept that will include materials, labor, and mobilization.
4. Concept sketches: We will produce sketches of each concept that illustrates the associated approach and primary design elements.
5. Summary report: We will prepare a summary report that will include the deliverables from the above tasks along with a definition of the design requirements and identification of the preferred concept for design and construction.

In addition to the above tasks, we will develop a detailed estimate of the engineering cost to produce a package of plans, specifications, and estimates suitable for soliciting construction bids. The total cost for this scope work will be \$15,000, which includes all labor and expenses. We should be able to deliver the summary report within four weeks.

Mr. Dave Brereton
August 11, 2006
Page 2

The Skansie Net Shed can be the cornerstone of a high-value civic amenity for residents and visitors alike. We would like to work with you and the City to make the current vision into reality. If you have any questions or need additional information, please call me at (206) 926-0544. We look forward to hearing from you soon.

Sincerely,



Andrew K. Bennett, PE
Project Manager

AKB:tij

65400

**EXHIBIT B
BILLING RATES**



**KPEF CONSULTING ENGINEERS
FEE SCHEDULE FOR
PROFESSIONAL ENGINEERING SERVICES**

Personnel Charges

<i>Name</i>	<i>Classification</i>	<i>Rate</i>
Frank Petrie	Principal	\$145/hour
Bill Cichanski	Senior Project Manager	\$140/hour
Andy Bennett	Project Manager	\$135/hour
Scott Kuebler	Senior Professional Engineer	\$130/hour
Joe Schlechten	Senior Technical Specialist	\$135/hour
Joe Letizio	Design Engineer	\$90/hour
Jennifer Van Rickley	Design Engineer	\$90/hour
David Mumma	CAD Technician	\$78/hour
Kerensa Stoll	Project Coordinator	\$94/hour
Abby May	Project Coordinator	\$44/hour
Tania Jurado	Word Processing	\$61/hour
Jim Soper	Word Processing	\$55/hour
Denny Sternstein	Graphics	\$79/hour
Carolyn Jowett	Administration	\$55/hour
Bonnie McDonald	Administration	\$49/hour

Effective July 1, 2006



ADMINISTRATION

TO: CITY COUNCILMEMBERS
FROM: MAYOR HUNTER
SUBJECT: ADMINISTRATIVE AND SPECIAL PROJECTS – CONSULTANT SERVICES CONTRACT
DATE: SEPTEMBER 25, 2006

INFORMATION/BACKGROUND

Lita Dawn Stanton has been employed by the City of Gig Harbor on a part-time basis, and is nearing the end of the 1040 hours maximum offered by the City. The job consisted of projects that the full-time staff did not have the time to undertake. These projects include helping facilitating the review of the Community Development Department and the electronic permitting system, and acting as the CLG officer and writing three grants, two of which were successful. The grants were for the Eddon Boat Restoration (\$500,000)*, the Westside Park (\$300,000)*, and \$8,900 for a Historic Structures Report for Wilkinson Barn. These projects have been successful but need monitoring to facilitate design and construction that meets the intent of the grants.

Continuing or new projects include:

1. *Latimore Community Development Department Review and Assessment*
 - a. Coordinating Interlocking and Latimore recommendations to facilitate implementation of project within budget constraints.
 - b.
2. *Interlocking Software Permitting System.*
 - a. Coordinating Latimore and Interlocking training sessions.
 - b. Provides applications support and facilitates system conversion activities.
 - c. Provides vendor and user inter-communication.
 - d. In-house development of "Gig Harbor Users Manual"
3. *Certified Local Government (CLG) Historic Registry nominations and evaluation.*
 - a. Provides support and coordination between Planning, DRB, and Council to build a Historic Structures Registry.

Deliverables:

1. Interlocking and Latimore coordination and training including a Gig Harbor Users Manual.
2. Certified Local Government nomination packages.

Note:

We are at a critical stage in the Interlocking software/electronic permitting. Dawn has been responsible for liaison between the interlocking and staff, facilitating the scheduling of training and data entry testing. She will develop a user manual tailored to our specific use.

FISCAL CONSIDERATION

The contract amount not to exceed \$15,000 with an hourly rate of \$24.00. The Community Development has budget capacity available to fund this contract.

RECOMMENDATION

That City Council authorizes the Mayor to sign this consultant services Contract with Lita Dawn Stanton at the rate of \$24 per hour in an amount not to exceed Fifteen Thousand Dollars and no cents (\$15,000.00).

* Dependent on grant funding from the Washington State Legislature.

**THE CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
LITA DAWN STANTON**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Lita Dawn Stanton, as an individual, residing at 111 Raft Island, Gig Harbor, Washington 98335 (hereinafter the "Consultant").

RECITALS

WHEREAS, the Mayor is presently engaged in the day to day operations of the City and desires that The Consultant perform administrative assistance support to the Mayor; and

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Services dated September 21, 2006, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work

The Consultant shall perform all work as described in **Exhibit A**.

II. Payment

A. The City shall pay the Consultant an amount based on an hourly rate of \$24.00, with the total amount not to exceed Fifteen Thousand Dollars and No Cents (\$15,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant shall not bill at rates in excess of the hourly rate shown in **Exhibit A**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit bi-monthly invoices to the City after such services have been performed. The City shall pay the full amount bi-monthly. If the City objects to all or any portion of any invoice billing, it shall so notify The Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the time identified on

the timecard not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the Consultant. The Consultant will be solely and entirely responsible for her acts during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and The Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by December 29, 2006.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VII. Insurance

None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the Consultant. The Consultant will be solely and entirely responsible for her acts and is not covered by the City's insurance during the performance of this Agreement.

VIII. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

VIII. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to her own business. If such information is publicly available or is already in the Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

X. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XI. The Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for her safety in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIII. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

XIV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor and the City shall determine the term or provision's true intent or meaning. The Mayor shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the prevailing parties' expenses and reasonable attorney's fees.

XV. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

Lita Dawn Stanton
111 Raft Island
Gig Harbor, Washington 98335
(253) 265-6358

Mayor Charles L. Hunter
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

XVI. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVII. Modification

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XVIII. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibit attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in the Exhibit

to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 200__.

CONSULTANT

CITY OF GIG HARBOR

By: _____
Lita Dawn Stanton

By: _____
Mayor

Notices to be sent to:
Lita Dawn Stanton
111 Raft Island
Gig Harbor, Washington
(253) 265-6358

Charles L. Hunter
Mayor
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Lita Dawn Stanton is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing
at: _____
My Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Charles L. Hunter is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing at:

My Commission expires: _____

Exhibit A
Fee Schedule & Scope of Services
ADMINISTRATIVE & SPECIAL PROJECTS

Fee Schedule: Pay rate of \$24 per hour in an amount not to exceed Fifteen Thousand Dollars and no cents (\$15,000.00).

Scope of Services:

1. *Interlocking Software Permitting System.*
 - a. Coordinate Interlocking and Latimore recommendations to facilitate implementation of project within budget constraints.
 - b. Coordinate Latimore and Interlocking training sessions.
 - c. Provide applications support and facilitates system conversion activities.
 - d. Provide vendor and user inter-communication.
 - e. In-house development of "Gig Harbor Users Manual"

2. *Certified Local Government (CLG) Historic Registry nominations and evaluation.*
 - a. Provide support and coordination between Planning, DRB, and Council to build a Historic Structures Registry.

Deliverables:

1. Interlocking and Latimore coordination and training. Develop a Gig Harbor Users Manual – To be completed by the end of November - \$7,000.00

2. Certified Local Government nomination packages. Ongoing - \$8,000.00.



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: STAFF REPORT - CITY INITIATED ANNEXATION METHODS
DATE: SEPTEMBER 25, 2006

At the September 11, 2006 Council meeting, staff was asked to provide information on the election and interlocal methods of annexation. The enclosed information was taken from the Municipal Research and Services Center (MRSC) Annexation Handbook.

MRSC PUBLICATIONS › Annexation Handbook Publication

Annexation Handbook

Revised November 2004 - Report No. 19

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II. Election Method, Initiated by Resolution

The annexation of contiguous, unincorporated territory may also be initiated by city council resolution. With the exception of the first few steps, the procedure is identical to that for the election method of annexation initiated by the 20 percent petition.

A. Contents of Resolution (RCW 35.13.015)

The city council may initiate an election on an annexation proposal by enacting a resolution that:

1. Provides that the council has determined that the best interests and general welfare of the city would be served by the annexation;
2. Describes the boundaries of the area to be annexed;
3. States the number of voters in the area as nearly as possible;

4. Petitions for an election on the annexation question among the qualified voters in the area; and
5. States that the city will pay the cost of the annexation election.

A formal public hearing by the city council is optional.

B. Contents of Resolution - Optional (RCW 35.13.015)

The council must also decide whether any of the following optional provisions will be included in the resolution, to be effective if the annexation is approved by the voters:

1. That all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of the annexing city to pay for all or any portion of the then outstanding indebtedness of the annexing city that was approved by the voters, contracted, or incurred prior to or existing at the date of annexation.
2. If the city council has completed and filed a proposed comprehensive plan for the area proposed to be annexed pursuant to RCW 35.13.177 - .178, the resolution may provide that the plan will be simultaneously adopted at the time of annexation.
3. A community municipal corporation may also be simultaneously created upon annexation, if the resolution calls for its creation and the election of community councilmembers as provided in RCW 35.14.010 - .060. See Chapter Five, Section IV. This proposition may be submitted as part of the annexation proposition, or separately.

C. Filing of Resolution with County Governing Body and Review Board (RCW 35.13.015)

A certified copy of the resolution is to be filed with the county governing body of the county in which the territory is located. Notice of the proposed annexation must be given to the boundary review board if one has been established in the county. Otherwise, the ad hoc annexation review board is to be convened by the mayor. RCW 35.13.171. Review procedures are outlined in Chapter Eight.

The county governing body is not required to conduct a public hearing prior to the election. AGO 61-62 No. 90.

D. Limitation on Consideration of Conflicting Petitions or Resolutions (RCW 35.13.050)

After the filing of an annexation resolution with the county and pending its final disposition, no other annexation petition or resolution or incorporation petition that includes any of the same territory included in the council resolution may be acted upon by any public official or body. However, the resolution may be withdrawn or another resolution may be substituted for it by a majority of the city council.

E. Effect of Competing City Incorporation Proposal (RCW 35.02.155)

1. Annexation Resolution Adopted Within 90 Days of Filing of Incorporation Petition with County

In this circumstance, when the city incorporation petition and the annexation resolution include any of the same territory, the annexation will still go to a vote and the city can annex the territory involved, which would then be removed from the incorporation proposal.

2. Annexation Resolution Adopted More than 90 Days after Filing of Incorporation Petition with County

In this circumstance, again where the two proposals contain some of the same territory, the annexation effort may not proceed to an election and be approved by the voters unless the boundary review board modifies the proposed incorporation to remove the territory that is proposed for annexation, the boundary review board rejects the incorporation and the proposal is for a city of less than 7500 population, or the voters reject the proposed incorporation. In counties where there is no boundary review board, the proposal, if legally sufficient, will go to the voters, who must reject it before the annexation can proceed.

F. Election on Annexation, Notice of Annexation, Etc.

For information on elections, notice, date of annexation, notice of annexation, etc., see discussion in Sections I.K. through O. of this chapter.

VIII. Alternative Unincorporated Island-Interlocal Method of Annexation

The 2003 legislature adopted SHB 1755 (Chapter 299, Laws of 2003), creating an alternative method of annexing islands of unincorporated territory through the use of interlocal agreements. However, this "island-interlocal" method of annexation is only available to cities and towns located in counties that are subject to the "buildable lands" review and evaluation program (RCW 36.70A.215) under the Growth Management Act (GMA). RCW 35.13.470(1). These counties are Clark, King, Kitsap, Pierce, Snohomish, and Thurston.

Unlike the other method of annexing unincorporated "islands" of territory, which is available to all cities and requires the proposed annexation area to have at least 80 percent of its boundaries contiguous to a single city (see RCW 35.13.182), the proposed annexation area under the "island-interlocal" method need have only 60 percent of its boundaries contiguous to a city or to more than one city. As with all annexations in counties subject to the GMA, the proposed annexation area must be within an urban growth area (UGA). RCW 35.13.470(1).

A. Initiation by Resolution/Negotiation (RCW 35.13.470(1), RCW 35.13.480(1)(c))

The process is begun by the legislative body of a qualifying city or county (see above) adopting a resolution "commencing negotiations" for an interlocal agreement with the county or a city, as the case may be, for annexation of territory described in the agreement that is within the city's UGA and that has at least 60 percent of its boundaries contiguous to the annexing city or the annexing city and one or more other cities.

After a resolution is adopted, the county and city are to negotiate and try to reach an agreement regarding the annexation. RCW 35.13.480(1)(c) establishes a 180-day negotiation period, which begins with the date of the passage of the county resolution. The legislative body for either the county or city may, however, pass a resolution extending the negotiation period for one or more six-month periods if a public hearing is held and findings of fact are made prior to each extension. If the 180-day negotiation period expires, the county may initiate an annexation process with another city contiguous to the unincorporated island, as described in C below.

B. Agreement/Hearing (RCW 35.13.470(3))

Before executing the agreement, which must describe the boundaries of the territory to be annexed, the legislative bodies of the county and city must each hold a public hearing, which may be a joint hearing.

C. Alternate Procedure if County and City Do Not Reach Agreement (RCW 35.13.480)

The county may initiate the annexation process with another city, or more than one city, that has boundaries contiguous to the unincorporated island if:

1. the county initiated the annexation process by resolution, as above; and
2. the affected city rejected the proposed annexation or declined to enter into an agreement; or
3. 180 days have passed since the county adopted the resolution and no agreement has been reached and neither the county or the city have, after a public hearing, passed a resolution extending the negotiation period.

The process then goes on exactly as in the original process above, although in this case it is only the county that, by resolution, can initiate the process.

Under this alternate process, a city may annex territory that is within another city's urban growth area or within an "urban service area" or "potential annexation area" (authorized by RCW 36.70A.110) designated for another city. Some counties have previously designated such areas within urban growth areas that border more than one city. If the territory proposed for annexation under this alternate process has been designated as part of an "urban service area" or "potential annexation area" for a specific city (i.e., not the annexing city under this alternate process) or if it lies within another city's urban growth area, or if the urban growth area territory proposed for annexation has been designated in a written agreement between the county and a specific city for annexation

to that city, the city that the county negotiates with under this alternate process may still annex that territory as long as that designation receives "full consideration" before the process is initiated. RCW 35.13.470(2). What exactly may be necessary to satisfy this "full consideration" requirement remains to be seen.

Also, under this alternate process, a county may reach agreement with more than one city to annex the same unincorporated island, thereby throwing to the voters in that territory the choice of which city, if any, to annex to. The ballot for this election is to provide voters with the choice of whether or not to annex to a city and, for those voters wanting to annex, the choice of which city to annex to. If a majority of voters choose annexation, the area will be annexed to the city receiving the most votes among those voting in favor of annexation. The rules governing this election are otherwise those for an annexation by the election method. See Chapter Six, Section I.K. The county bears the cost of this election.

D. Public Notice of Agreement/Hearing (RCW 35.13.470(3))

The county and city must, either separately or jointly, publish the text of the agreement at least once a week for two weeks before the date of the hearing(s) in one or more newspapers of general circulation in the area proposed for annexation. Presumably, these publications should also provide notice of the public hearing(s).

E. Ordinance Providing for Annexation/Effective Date (RCW 35.13.470(4))

Following the public hearing(s) and adoption of the agreement between the county and city legislative bodies providing for the annexation of the unincorporated island, the city council adopts an ordinance annexing the territory as described in the agreement.

The ordinance may provide:

1. that the property owners in the annexed area will assume their share of the city's outstanding indebtedness, and/or
2. that a specific proposed zoning regulation is adopted for the area.

The ordinance must set the date that the annexation is effective, but that date must be 45 days or more following the date of ordinance adoption to accommodate a referendum procedure. The annexation will become effective upon that date, unless a sufficient referendum petition is filed under the procedure described below.

F. Notice of Annexation (RCW 35.13.470(4))

The city council must publish notice of the effective date of the annexation at least once a week for two weeks after passage of the ordinance in one or more newspapers of general circulation in the area to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements.

For information on the notice that should be given to the county and to the state once an annexation has been approved, see discussion set out in Section I.O of this chapter.

G. Boundary Review Board Review

A notice of intent to annex must be filed with the boundary review board, if one has been established in the county and has not been disbanded pursuant to RCW 36.93.230. See Chapter 8, Section II.

H. Referendum Procedure (RCW 35.21.480(5))

The annexation ordinance is subject to a referendum election if, within 45 days of adoption of the ordinance, a sufficient referendum petition is filed with the city council. A referendum petition is sufficient if it is signed by registered voters representing not less than 15 percent of the number of votes cast at the last state general election in the area to be annexed. If a sufficient petition is filed, an election on the annexation is to be held at a general election if it is within 90 days of the filing of the petition or at a special election that is 45 to 90 days after filing of the petition. The election is held only within the area subject to annexation and is decided by majority vote.

I. Notice of Annexation

For information on the notice that should be given to the county and to the state regarding an annexation, see discussion in Section I.O of this chapter.



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
CAROL A. MORRIS, CITY ATTORNEY
SUBJECT: STAFF REPORT - GIG HARBOR PENINSULA HISTORICAL
SOCIETY
DATE: SEPTEMBER 25, 2006

INFORMATION/BACKGROUND

At the September 11, 2006 City Council meeting, the Council discussed the appropriate and legal means in which to participate with the Historical Society financially. The matter was referred to the Operations and Public Projects Committee (Ekberg, Franich, & Payne) for consideration. The Committee met with the City Attorney, Community Development Director, and Finance Director on September 13th and the City Attorney was directed to prepare a draft agreement between the City and the Historical Society. After preparation, the draft was sent to the Historical Society, with the caveat that the draft agreement had not yet been shown to the entire Council. On September 19th, the Committee, Community Development Director, City Attorney and Finance Director met with representatives of the Historical Society to discuss the terms of the draft agreement. After this meeting, the City Attorney amended the agreement again.

Attached to this Staff Report is the latest version of this draft agreement. Additionally, a summary of the September 19th meeting has been prepared by Jennifer Kilmer, Executive Director of the Historical Society. Staff has noted (bold) in the body of her letter where changes have been made to the agreement following the meeting.

RECOMMENDATION

It is the understanding of the City representatives that participated in the meeting with the Society representatives that the Society needs to know whether or not the City is interested in approving an agreement of this type (and committing to a monetary amount to be inserted in the appropriate blanks) by mid to late October, 2006. The Society has suggested that the Council could agree to provide the monetary amount without approving an agreement of this type. The City Attorney recommends that if the Council is willing to provide funding for the activities set forth in the agreement, that such funding be committed only through an agreement, and not in a resolution/ordinance with general terms.

DRAFT – September 21, 2006

**AGREEMENT BETWEEN THE CITY OF GIG HARBOR
AND THE GIG HARBOR HISTORICAL SOCIETY**

THIS AGREEMENT is made and entered into as of the ___ day of 2006, by and between the City of Gig Harbor, a Washington municipal corporation, hereinafter referred to as the “City,” and the Gig Harbor Historical Society, a nonprofit corporation organized under the laws of the State of Washington and located at _____, hereinafter referred to as the “Society.”

RECITALS

WHEREAS, the City has the authority to exercise its powers relating to the acquisition, development, improvement and operation of museums and the preservation of historical materials under RCW 35A.27.010 and RCW 35.21.020, and to expend municipal funds thereon; and

WHEREAS, the Society is the owner of certain property (referred to as the Gig Harbor Historical Museum Site, or the Museum Site), upon which the Society plans to construct a Historical Museum, which is located at the corner of North Harborview Drive and Harborview Drive in Gig Harbor, Washington; and

WHEREAS, the property has historical significance because it is commonly known as the “birthplace” of the area now known as Gig Harbor; and

WHEREAS, the Society has been organized as a nonprofit corporation for the purpose of creating and operating a Historical Museum; and

WHEREAS, both parties desire that the Gig Harbor Historical Museum be constructed, managed and operated as a place for public education and entertainment in accordance with the terms and conditions of this Agreement, to the end that the Historical Museum will serve as an educational, cultural and economic stimulant to the community and the people of the City of Gig Harbor and its environs, and will partially relieve the City of the financial burden and expense of managing and operating the Historical Museum; and

WHEREAS, the Society is uniquely and favorably constituted and situated to supply the necessary expertise and management skills for the purpose of constructing, operating and managing the proposed Historical Museum; and

WHEREAS, the City has limited expertise, experience, and staff with which to operate and manage the Historical Museum; and

WHEREAS, the Society, through volunteer citizen involvement, has the capacity to provide a rich and varied citizen involvement to promote the use of the Historical Museum in a

manner consistent with the citizen demands for a Historical Museum; and

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WHEREAS, it is the purpose of the City and the Society to assure the most efficient and economical operation of the Historical Museum consistent with the needs of the community; and

WHEREAS, in consideration of the mutual undertakings and promises contained herein and the benefits to be realized by each party, and in further consideration of the benefit to the general public by the enhancement of the historical, economic and cultural climate of the City and its environs to be realized by the performance of this Agreement, and as a direct benefit to the City, the parties hereto agree as follows:

TERMS

Section 1. The Property. This Agreement relates to the property legally described in Exhibit A, which is attached hereto and incorporated herein by this reference. The street address is _____, Gig Harbor, Washington, (hereinafter the “Property”). The Property is legally described in Exhibit A, attached hereto and by this reference incorporated herein.

1.1 **Museum Property.** The Society plans to construct the Gig Harbor Historical Museum on the portion of the property identified as _____, (the “Museum Property”) as shown on Exhibit __, attached hereto and by this reference incorporated herein.

1.2 **Donkey Creek Restoration.** The City intends to restore the area within Donkey Creek, as shown on Exhibit __, (the “Donkey Creek Property”), attached hereto and by this reference incorporated herein. The restoration shall include, but not be limited to “daylighting” of Donkey Creek, _____. The Society agrees to allow the City to enter the Donkey Creek Property, and to perform such restoration work **in the area shown as the “conservation easement,” which is more specifically described in subsection 1.3 of this Agreement. The Society shall allow the City to perform such work** without cost, all as provided in Section 6 of this Agreement. The City shall design, obtain all necessary permits, construct and maintain the restoration work at its sole cost. The Society acknowledges that the City does not yet have the necessary funding to perform such restoration work, and the City Council shall have the discretion to determine when and if such funds are available. If the City determines that funding for this project is not available, the City shall have no obligation to perform under this Subsection 1.2. The Society shall use its best efforts to support the City’s fundraising efforts for this project.

1.3 **Conservation Easement.** The City’s codes require that in order for the Society to construct the Museum, the Society must set aside a portion of the Property as “open space.” This “open space” portion of the Property has been generally described in Exhibit __, attached hereto and by this reference incorporated herein. The Society agrees to dedicate this property to the City as part of a conservation easement **upon execution of this Agreement.** The terms of **the**

Conservation Easement which are set forth in Section 6 herein.

1.4 Donkey Creek Park Addition. The Society owns fee title or has a substantial beneficial interest in the real property located at _____, Gig Harbor, Washington,
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which is legally described in Exhibit __, attached hereto and by this reference incorporated herein. The City desires to purchase this property from the Society and to operate and maintain it as part of the existing Donkey Creek Park. The Society agrees to ~~sell the property to the City, under mutually agreeable terms established in a separate Purchase and Sale Agreement.~~ convey the property to the City by warranty deed on January 1, 2008, if the Society has met its goal as described in Section 3.2. (Has anyone done an environmental assessment on the property? We don't purchase property without this being performed first.)

Section 2. Society's Construction of the Gig Harbor Historical Museum.

2.1 Premises. The Society plans to construct the Gig Harbor Historical Museum on the Property identified in Exhibit __.

2.2 The Society plans to collect the necessary funds from varied public and private donors for construction of the Historical Museum and to break ground on construction on or before December 31, 2007. Once collected, the Society shall use the funds to construct the Gig Harbor Historical Museum.

Section 3. City's Contribution of Funds for Construction of Museum.

3.1 The City shall commit a contribution of _____ (\$_____) over an eight year period, beginning on January 1, 2008, to be used by the Society for construction of the Historical Museum. The parties acknowledge that the Society will be required to collect additional funds from other sponsors in order to construct the Museum, which is expected to cost _____.

3.2 The Society will use its best efforts to collect the necessary additional funds on or before December 31, 2007. If the Society reaches its goal and collects the necessary additional funds, then the City shall provide the first installment toward the above contribution to the Society, on or before January 1, 2008.

3.3 The City's payments to the Society will be scheduled as follows, as long as the Society continues to operate the Historical Museum for eight years after January 1, 2008:

<u>DATE</u>	<u>AMOUNT</u>
January 1, 2009	\$_____

January 1, 2010 \$ _____

January 1, 2011 \$ _____

January 1, 2012 \$ _____

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January 1, 2013 \$ _____

January 1, 2014 \$ _____

January 1, 2015 \$ _____

3.4 If the Historical Society ceases operation of the Historical Museum for any reason, including but not limited to, bankruptcy, assignment of the Society's interest to creditors or any other third party, between the following dates, then the parties agree to the following:

January 1, 2008 and December 31, 2009: the City shall be entitled to keep the Donkey Creek Park Property identified in Section 1.4 and shown on Exhibit __, and the payments made by the City shall be considered just compensation for the Donkey Creek Property.

January 1, 2010 and _____: the City shall be entitled to keep the Donkey Creek Conservation Easement identified in Section 1.3 and as shown on Exhibit __, and the payments made by the City shall be considered just compensation for the Conservation Easement.

January 1, 20__ and _____: the Society or its successors and assigns shall return the City's payment of \$_____ in full, and this Agreement shall terminate. The City shall have no obligation to make any other payments to the Society or its successors and/or assigns after termination.

3.5 If the Society does not reach its goal to collect the necessary additional funds before **December 31, 2007**, then the City shall not be obligated to provide ~~any~~ ~~its~~ contribution to the Society and this Agreement shall terminate. The City shall have no obligation to make any other payments to the Society or its successors and/or assigns under this Agreement after termination, **PROVIDED THAT:** the parties hereby agree that the just compensation to be paid by the City for the Donkey Creek Property under the circumstances described in this Section 3.5 shall be \$_____, and the City agrees to pay this amount to the Society, its successors or assigns within ____ days after December 31, 2007.

3.6 If the Society does not reach its goal to collect the necessary additional funds before December 31, 2007, or if the Society begins construction or completes construction of the Historical Museum, and then voluntarily or involuntarily ceases or abandons the operation and maintenance of the Historical Museum, then the Society, or its successors and/or assigns shall

immediately notify the City. The City will then have the exclusive option to purchase the Museum Property, and all improvements and appurtenances thereon, at fair market value, to be established by an MIA appraiser. The parties shall agree on the MIA appraiser to perform the appraisal.

3.7 The funds received by the Society from the City shall be used solely for the construction of the Museum. The Society shall maintain books and records as are customarily and necessarily kept for the management of the construction funds, according to generally
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accepted accounting practices. Financial reports shall be prepared quarterly and shall be provided to the City Finance Director. The Society's books of account shall be reviewed annually by an independent Certified Public Accountant, and the results of such review shall be provided to the City Finance Director within one hundred twenty (120) days of the close of each fiscal year. The Society agrees that all of its books and records of every kind, without limitation, pertaining to the construction of the Museum shall, upon reasonable notice, be open and available for inspection by the City Administrator or Finance Director and such other officers and personnel of the City designated by the City Administrator. The City Administrator and his/her designees shall have the right to enter upon and inspect the Property and books and records held by the Society at any reasonable time during normal business hours.

Section 4. Society's Ownership and Operation and Maintenance of the Gig Harbor Historical Museum.

4.1 Once constructed, the Society shall own, operate and maintain the Gig Harbor Historical Museum. The Society shall, consistent with the terms of this Agreement, assume sole and exclusive responsibility for the costs associated with the ownership and operation and maintenance of the Museum, which shall include the cost of acquisition of any and all equipment, furniture, exhibits, supplies, utilities and personnel.

4.2 The Society shall allow public use of the Museum subject to reasonable charges for use and admission. The Society shall make the Museum, all events, exhibitions, shows, etc. available and open to the public on a fair and equal, and nondiscriminatory basis, and further agrees and promises that it will not, on the grounds of race, color, national origin, religion, sex, age or physical handicap, discriminate against any person or group of persons in any manner prohibited by local, state or federal laws and regulations.

4.3 The Society shall manage and operate and maintain the Historical Museum and shall use the office and other spaces for its uses in performing under the terms of this Agreement. The Society may generally promote the Museum through any means of advertising designed to attract visitors, and shall schedule and book exhibits, events and exhibitions to occur at the Museum.

4.4 The Society agrees to provide public parking on the Museum Property that is

clearly designated “public parking.” This public parking shall be a minimum of ten stalls in the improved parking lot for the Museum. The public parking shall be available to the public during regular Museum hours.

4.4 The Society agrees to collect and pay to the City all admission taxes on tickets to Museum events as required by applicable City laws as they now exist or as they may be amended in the future.

Section 5. **Society is an Independent Contractor.** The Society shall be considered an independent contractor in the operation of the Museum, and this Agreement shall not be **DRAFT – September 21, 2006**

construed as creating any form of partnership between the City and the Society. The Society shall be solely and entirely responsible for its acts and for the acts of its officers, employees, agents, contractors and consultants. In the construction of the Historical Museum, the Society has the ability to control and direct the performance and details of the work, the City being interested only in the construction of the Museum.

Section 6. **Donkey Creek Restoration and Conservation Easement.** The Society shall grant easements to the City for the Donkey Creek Restoration as well as a Conservation Easement for the open space area, on or before _____, which dedications shall appear in separate documents, and be recorded by the City against the Property. The easements shall include the following terms:

6.1 With regard to the Donkey Creek Restoration area, the Society shall grant to the City a perpetual, nonexclusive **conservation** easement for the construction, enhancement, installation, maintenance, repair, replacement and use of the restorations generally described in Exhibit __, attached hereto and incorporated herein by this reference. The restorations shall not extend beyond the area shown in Exhibit __. The Society shall grant to the City a temporary, nonexclusive construction and maintenance easement, across, in, through, under and upon that portion of the Property shown in Exhibit __, attached hereto and incorporated herein by this reference, for the purpose of design, construction, inspection and maintenance of the restoration improvements, including egress and ingress, delivery of construction materials, and operation of construction equipment. The temporary easement shall terminate three (3) years after completion of the Donkey Creek restoration work, or upon the City Council’s acceptance of the restoration work, whichever occurs first.

6.2 ~~With regard to the open space area,~~ The Society agrees to grant to the City a conservation easement for the “open space” area. The conservation easement shall be in accordance with the requirements of RCW 64.04.130, and shall be substantially in the form required by law for the conveyance of any land or other real property. The agreement shall provide that the property shall remain in ~~its natural state~~ **the condition existing after installation of all improvements and landscaping shown on a landscape plan approved by the City for the Museum development.** The Society and the City may agree on the installation of improvements

to provide public access, such as walkways, _____, etc.

6.3 The Society agrees to provide egress only on the open space area from the Museum Property, as allowed by the Planning Department and applicable City code. This egress shall be limited to a width sufficient to provide egress for one lane of traffic. The City encourages the Society to consider ecologically-friendly paving materials for this purpose.

Section 7. **Insurance.** The Society shall purchase and maintain, at its own cost, insurance in an Owners, Landlords and Tenants policy on the Museum building, which shall include, but not be limited to, any and all fire, casualty and extended coverage insurance on the Historical Museum building and its contents in such form and amount as _____.

[STEVE?]

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7.1 The Society shall also obtain a Comprehensive General Liability insurance policy written on an _____ basis with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations/breach form property damage; explosion, collapse and underground (XCU) and employer's liability.

7.2 Any payment of any deductible or self-insured retention shall be the sole responsibility of the Society. The City shall be named as an additional insured on the Commercial General Liability insurance policy, as respects work performed by or on behalf of the Society, and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The City reserves the right to receive a certified copy of all the required insurance policies.

7.3 The Society's Commercial General Liability insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. The Society's insurance shall be primary insurance as respects the City. Such policies shall also provide that the City will be given not less than thirty (30) days advance notice of any termination or material change to the policy.

Section 8. **Termination.**

8.1 If the Society does not obtain the necessary funds for construction of the Museum building on or before the deadline established in Section 3 herein, then the **Agreement shall terminate as provided herein.** ~~City may terminate this Agreement.~~ If the City terminates this Agreement, it shall have no responsibility to perform any of its obligations **other than** as identified herein. Termination shall be effective immediately upon the Society's receipt of the City's written notice of termination or such date stated in the City's notice, whichever is later.

~~8.2— Either party may terminate this Agreement after the deadline established in Section 3 and the Society’s performance of its obligations described in Section 6 herein. Termination shall be effective upon either party’s receipt of written notice of termination or such date stated in the termination notice, whichever is later.~~

8.3— Such notice of termination may be delivered to either party in person or by certified mail.

Section 9. **Indemnification.**

The City shall defend, indemnify and hold the Society, its officers, officials, employees and agents harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney’s fees, arising out of or in connection with the City’s negligent performance of this Agreement, except for injuries and damages caused by the sole negligence of the Society.

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The Society shall defend, indemnify and hold the City, its officers, officials, employees and agents harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney’s fees, arising out of or in connection with the Society’s negligent performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine liability for damages arising out of bodily injury to persons or damages to property cause by or resulting from the concurrent negligence of the Society (and its officers, officials, employees and agents) and the City (and its officers, officials, employees and agents), then each party’s liability hereunder shall only be to the extent of each party’s liability.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES EACH PARTY’S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

The provisions of this Section shall survive the expiration or termination of this Agreement.

Section 10. **Non-waiver of Breach.** The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements or options and the same shall be and remain in full force and effect.

Section 11. Resolution of Disputes and Governing Law.

11.1 Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Administrator, who shall determine the provision's true intent and meaning. The City Administrator shall also decide all questions which may arise between the parties relative to the actual services provided or the sufficiency of the performance hereunder.

11.2 If any dispute arises between the City and the Society under any of the provisions of this Agreement which cannot be resolved by the City Administrator's determination in a reasonable time, or if the Society does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the prevailing party's reasonable expenses and attorneys' fees.

Section 12. Written Notice. All communications regarding this Agreement shall be **DRAFT – September 21, 2006**

sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective upon the date of mailing by certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing:

City of Gig Harbor
Administrator
3150 Grandview Street
Gig Harbor, WA 98335

Historical Society
Director
4218 Harborview Drive
Gig Harbor, WA 98335

Section 13. Assignment. Any assignment of this Agreement by the Society without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

Section 14. Modification. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Society.

Section 15. Entire Agreement. The written provisions and terms of this Agreement,

together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should anything contained in any of the Exhibits conflict with the provisions of this Agreement, then this Agreement shall prevail.

Section 16. **Severability.** Should a court of competent jurisdiction determine that any phrase, sentence or provision of this Agreement is invalid or unconstitutional, it shall not affect the validity or constitutionality of any other provision.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed this ___ day of _____, 2006.

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THE CITY OF GIG HARBOR

HISTORICAL SOCIETY

By _____

By _____

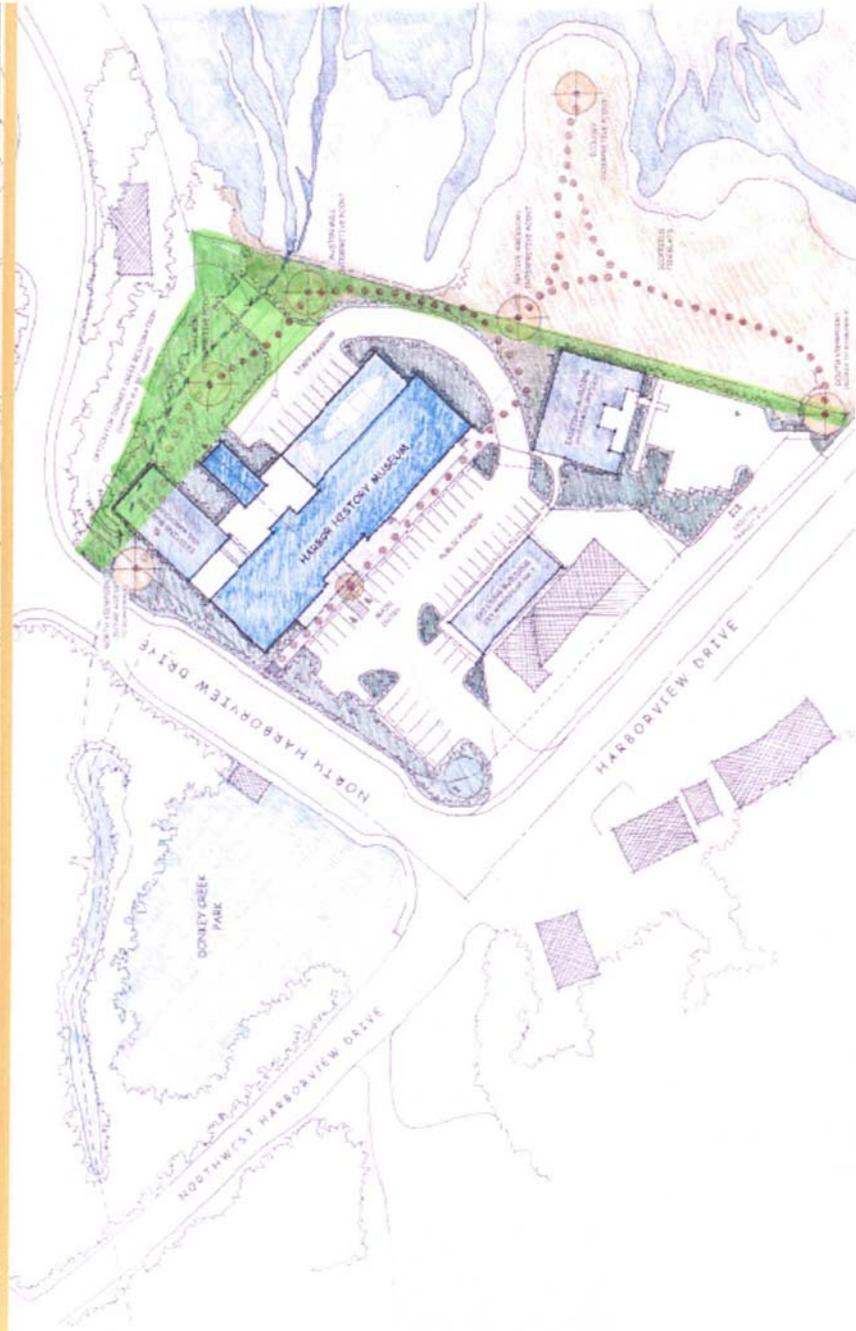
Attest:

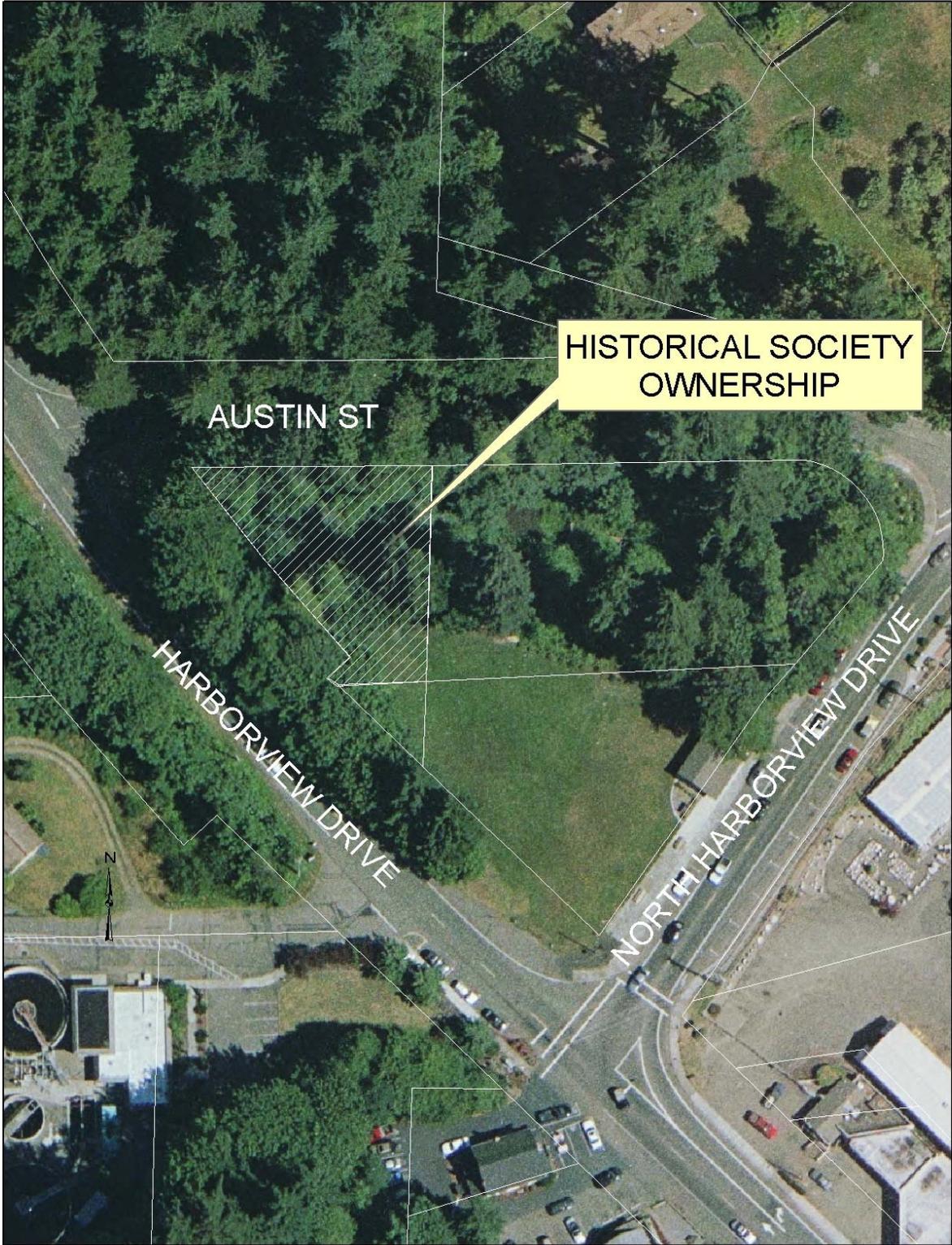
By _____
City Clerk

Approved as to form:

By _____
City Attorney

Fulfilling a Community Plan





September 20, 2006

John Vodopich
Director, Community Development
City of Gig Harbor
3510 Grandview
Gig Harbor, WA 98335

Dear Mr. Vodopich:

Thank you for leading the meeting between the Historical Society, City Council operations committee, city attorney, and yourself on September 19, 2006. We appreciated the opportunity to review the draft City-Society cooperative agreement and provide comments. We are excited about the possibility of partnering with the City of Gig Harbor for the benefit of our town's citizens.

The following is our record of what was discussed in the meeting that we have requested be addressed in a revised agreement:

1. The agreement is somewhat unclear with regard to the question of who will provide maintenance of the easement area both before and after restoration of Donkey Creek. It is now our understanding (based on the meeting) that the City will provide maintenance of the easement areas before and after restoration of Donkey Creek. Please update the agreement to reflect this.

NOTE: The City will maintain the restoration work once completed (Section 1.2)

2. We would like to have the agreement explicitly state that the museum will have full use of and access to the easement area until a restoration plan and funding are in place for the daylighting of Donkey Creek and/or walkways are installed. In addition, we would like the Means Ornamental warehouse to remain intact on the easement area and available for full museum use up until a restoration plan and funding are secured for the creek restoration.

NOTE: Section 6.2 references the landscape plan for this area that will be part of the over project approval.

3. The agreement refers to "open space," but does not provide further clarification. We suggest that Walt Smith's CAD drawing be used as an exhibit to the agreement to define the open space under consideration.

NOTE: An exhibit will need to be included which better defines the boundaries and dimensions of the "open space"

4. Section 6.2 refers to the property's "natural state." We discussed changing this to refer to an approved landscaping plan for that area.

NOTE: Section 6.2 has been revised accordingly

5. The agreement does not include our offer to provide shared parking for the use of visitors to Scoffield Estuary Park. Please note this in the agreement.

NOTE: Section 4.4 addresses shared parking

6. The agreement does not discuss the creation of an ingress/egress road for the museum along the boundary line between the GPHS property and the Scoffield parcel. We would like to request that wording be added to provide for the placement of this road, subject to the City's normal permitting and approval processes. We understand that there is a possibility this will need to be used for egress only, but request that both ingress and egress remain on the table until further study of the site needs and size limitations of that corridor.

NOTE: Section 6.3 addresses an egress only road across the Scoffield property

7. We are supportive of adding a section providing right of first refusal to the City for purchase of the GPHS property at market rates should the Society abandon its plans for that location. We require that the proposed easements be extinguished/removed at GPHS request prior to the property being offered for sale.

NOTE: Section 3.6 addresses the City's option to purchase the property. At the time of the last meeting, the City representatives were unsure of the request in the last sentence above. This remains to be discussed by the Council. This language should be discussed by the Council. If the City were to agree to the Society's request in the last sentence in Number 7 above, the Council should not agree to add such language in the agreement.

8. We discussed the possibility of acquiring grant funds in the future that could be allocated toward purchase of the easements through the museum property after the fact. Carol Morris requested that we provide language to that effect. We suggest the following:
 - i. "The Society and City shall use their best efforts to secure funding for the restoration of Donkey Creek and creation of walking paths through the conservation easement area described in exhibit 1. Subject to the specific terms of any grants received, an effort will be made to provide additional compensation up to \$500,000 to the Society for their capital project."

NOTE: Not included in the revised agreement

9. The agreement in its current form does not include provisions for ongoing operational support of the Harbor History Museum. We would like the Council to consider including operational support as part of this agreement, or commit to operating support in this agreement, to be further defined in a separate operating agreement between the City and the Society.

NOTE: Not included in the revised agreement

10. With regard to section 4.2, we discussed that the Society cannot make all events open to the public, as we will host private events within the facility from time to time. Striking the word “all” from the 2nd sentence should alleviate this concern.

Note: Section 4.2 has been revised accordingly

Please let me know if you have any questions or would like to discuss the above issues further. We have not had our legal council review this document, and will likely have additional minor changes to suggest upon legal review of the next draft. We look forward to receiving a revised agreement. Thank you for your continued efforts to negotiate a cooperative agreement between the City and the Society.

Sincerely,

Jennifer Kilmer
Executive Director