

# **Gig Harbor City Council Meeting**

**November 27, 2006  
7:00 p.m.**



**AMENDED AGENDA FOR**  
**GIG HARBOR CITY COUNCIL MEETING**  
**November 27, 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 City Council Meeting of November 13, 2006 and Special City Council Meeting of November 16, 2006.
2. Sanitary Sewer Facilities Easement and Maintenance Agreement – Olympic Mixed Use.
3. Appointment to the Planning Commission – Jeanne Derebey.
4. Purchase Authorization – Street Sweeper.
5. Skansie Tank Repainting – Contract Authorization for Materials Testing Services.
6. Eddon Boat Property – 2007 EPA Brownfields Grant Application Assistance – Contract Amendment.
7. Liquor License Renewals: The Harbor Kitchen; Terracciano's; and Half Time Sports.
8. Approval of Payment of Bills for November 27, 2006:  
Checks #52028 through #52138 in the amount of \$361,462.65.

**OLD BUSINESS:**

1. Public Hearing and Second Reading of Ordinance - 2007 Proposed Budget.
2. Ratification – Gig Harbor Peninsula Historical Society Agreement.

**NEW BUSINESS:**

1. First Reading of Ordinance – Increasing Water Rates.
2. First Reading of Ordinance – Increasing Sewer Rates.
3. First Reading of Ordinance – Increasing Storm Drainage Rates.
4. Public Hearing and First Reading of Ordinance – Traffic Impact Fees Update.
5. Resolution for Public Hearing – Milton Avenue Street Vacation Request – Drolshagen.
6. Shore Acres Water System Report.

**STAFF REPORT:**

1. Steve Misiurak, City Engineer - Eddon Boat 2007 EPA Brownfields Draft Grant Application.

**PUBLIC COMMENT:**

**COUNCIL COMMENTS / MAYOR'S REPORT:**

**ANNOUNCEMENT OF OTHER MEETINGS:**

Gig Harbor North Task Force Meeting for Dec. 13<sup>th</sup> at 9:00 a.m. in Comm Rms A&B

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

**ADJOURN:**

## GIG HARBOR CITY COUNCIL MEETING OF NOVEMBER 13, 2006

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

**CALL TO ORDER:** 6:33 p.m.

**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 6:34 p.m. in order to discuss labor negotiations per RCW 42.30.140(4)(b). Franich / Ekberg – unanimously approved.

**MOTION:** Move to return to regular session at 7:03 p.m. Franich / Conan – unanimously approved.

### **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 City Council Meeting of October 23, and Special City Council Meeting of October 30, 2006.
2. Correspondence / Proclamations: 1) Letter from DBWRA 2) Declaration of Emergency.
3. Resolution No. 690 – Wheeler Avenue Street Vacation – Barta.
4. Resolution No. 691– Rust Street Vacation – Beck.
5. Holiday Treelighting Contract Authorization.
6. Sanitary Sewer Facilities Easement and Maintenance Agreement – Harbor Crossing - Little Boat North Inc.
7. Stormwater Facilities Maintenance Agreement and Restrictive Covenant – Olympic Mixed Use Development – Olympic Drive Land LLC.
8. Stormwater Facilities Maintenance Agreement and Restrictive Covenant – Wilhelmson Short Plat – R-Anderson LLC.
9. Purchase Authorization – Dissolved Oxygen Analyzer.
10. Liquor License Application: Hot Iron Grill
11. Approval of Payment of Bills for November 13, 2006:  
Checks #51861 through #52027 in the amount of \$377,442.99.
12. Approval of Payroll for the month of October:  
Checks #4458 through #4488 and direct deposit entries in the amount of \$262,561.64.

Councilmember Franich asked that items number three and four be moved to New Business.

**MOTION:** Move to approve the Consent Agenda as amended. Ekberg / Franich – unanimously approved.

**OLD BUSINESS:**

1. Second Reading of Ordinance - 2006 Property Tax Levy. David Rodenbach, Finance Director, presented this ordinance that sets the 2006 Property Tax Levy for collection in 2006.

**MOTION:** Move that the city forego collecting the 1% property tax levy for this year.  
Franich / Conan –

Councilmember Young asked how much this would remove from the budget. David Rodenbach responded that it would be approximately \$15,000.00.

Councilmember Franich spoke in favor of removing the levy as a show of good faith in these times of escalating property taxes. He said the projected revenues are up and \$15,000 will not cause the city to be unable to build a project.

Councilmember Conan agreed that this is more of a good faith effort. The \$15,000 wouldn't make a huge impact, even though we could obviously use it. It also won't make a huge impact in the average taxpayer's pocketbook, but it's a gesture of good faith that we don't always have to collect everything that we need.

Councilmember Ekberg said that the \$15,000 may be symbolic, but doesn't necessarily do anything about the property tax issues. He said that this not something that he can support.

Councilmember Kadzik said that this amounts to one cent per thousand per household, and although symbolic, it is futile. He said that he would not support this motion.

Councilmember Dick said that he also will not support this motion. He voiced his concern that the city would be unable to accumulate enough for the repair and construction of roads. He said that the property tax rate is probably way too low and it doesn't make sense to say we don't have enough money to develop our roads, but then to say we need to make a gesture.

Councilmember Franich said that during the recent budget process, money got spent on things like flower baskets and Christmas lights, and that this money could have gone toward road projects. He also mentioned the proposed split in paying the Marketing Director's salary from the 90/10 split to one where the city pays 25% of the salary for duties that are not tourism related. He said that denying the levy increase is more than just a gesture.

**RESTATED MOTION:** Move that the city forego collecting the 1% property tax levy.  
Franich / Conan – a roll call vote was taken.

Ekberg – no; Young – yes; Franich – yes; Conan – yes; Dick – no; Payne – yes; Kadzik – no.

The motion to amend the ordinance passed four to three.

**MOTION:** Move to adopt Ordinance No. 1058 as amended to forgo the 1% property tax increase.  
Young / Conan - unanimously approved.

2. Second Reading of Ordinance – Relating to Annexation and Zoning – McCormick Ridge LLC (ANX 04-04). John Vodopich, Community Development Director, explained that this ordinance annexes approximately 38 acres located west of Canterwood Boulevard and establishes zoning.

**MOTION:** Move to adopt Ordinance No. 1059.  
Ekberg / Payne - unanimously approved.

3. Second Reading of Ordinance – Changing the Meeting Time of the Regular City Council Meetings. John Vodopich presented this ordinance that would change the regular meeting time of Council Meetings from 7 p.m. to 6 p.m.

Councilmember Franich mentioned that the main concern is to not hinder public input. He said that the majority of the citizens come to the meetings rarely, and when they do, it is for a specific reason. He said that he doesn't believe this will be a hardship on allowing public participation.

**MOTION:** Move to adopt Ordinance No. 1060.  
Franich / Ekberg -

Councilmember Young mentioned the benefit to staff and the meetings ending earlier, but for the working person, it may create a hardship and he doesn't want to further discourage people from attending the meetings.

Councilmember Payne said that he shared many of the same concerns, however, since it can be reversed, he would be willing to give it a try.

**RESTATED MOTION:** Move to adopt Ordinance No. 1060.  
Franich / Ekberg – five voted in favor. Councilmembers Young and Dick voted no.

**NEW BUSINESS:**

1. Public Hearing - Resolution for Harbor Hill Development Application (postponed from last meeting.) Mayor Hunter said that the purpose of the hearing is for the City Council to consider the pertinent facts, applicable law and to make a final decision on the application of the Harbor Hill LLC for a Development Agreement for the development of the residual parcels at the Costco shopping center in the Gig Harbor North Area.

Mayor Hunter opened the public hearing at 7:16 p.m. and asked cooperation in the following procedure, which he read into the record.

“Everyone present will be given an opportunity to be heard. The City Clerk will make a tape recording of the proceedings. Therefore, when you address the Council, begin by stating your name and address. Speak slowly and clearly. Only one person will be allowed to speak at a time.

The Appearance of Fairness Doctrine requires that this hearing be fair, in form, substance and appearance. The hearing must not only be fair, it also must appear to be fair. Therefore, I would like to ask whether any member of this decision making body has engaged in communication with opponents or proponents regarding this issue outside of the public hearing process? “

Councilmember Payne responded that he had contact with the Project Manager, John Chadwell, and on 9-27, he met with Mr. Chadwell to discuss the Harbor Hill Project in general, and to discuss the specifics of the Development Agreement and Cash Set-Aside. He said that in addition, he had a telephone conversation with Mr. Chadwell on the 29<sup>th</sup>, with similar discussion on the Cash Set-Aside Agreement.

Councilmember Ekberg said that he also had a meeting in his office with John Chadwell and John Rose near the end of September. They disclosed that their application had already been ruled upon by the Hearing Examiner and continued to discuss their concerns over the lengthy time it was taking to get a Development Agreement. He said that he had one follow-up conversation with Mr. Chadwell a few days later.

Carol Morris, City Attorney, asked Councilmembers Payne and Ekberg if these contacts would prevent them from acting impartially on the application. Both responded no.

Mayor Hunter then asked if any member of the Council would obtain any financial benefit or suffer a financial loss as a result of the outcome of this hearing. No one responded to the query.

Mayor Hunter asked if any member of the Council believes that he cannot hear and consider this application in a fair and objective manner. Again, there was no response.

Mayor Hunter then asked if anyone in the audience objects to his participation or to any other Councilmember’s participation as a decision maker in this hearing. No one came forward to respond.

John Vodopich presented the staff report. He explained that this had been postponed from the October 23<sup>rd</sup> meeting in order for the City Attorney to respond to comments from the applicant’s attorney. He said that Carol Morris has prepared a response to the most recent submittal, which is included in the agenda packet.

Carol Morris gave an overview of her memo to Council regarding the Harbor Hill draft Development Agreement. Ms. Morris recommended that Council vote to approve the Development Agreement with her suggested changes, after the Cash Set-Aside is

executed and deposited in a financial institution to show record that the security has been posted before the Development Agreement is signed. She further recommended that Council not adopt the agreement with \$150,000.00 as security, adding that Council should set the amount as high as possible to ensure that this doesn't become "the cost of doing business in Gig Harbor" for complying with this particular code.

Ms. Morris continued to overview her comments on the Development Agreement, and in particular, the language added by the Developer to Section 10, page 6 "The Security Deposit shall represent the entire liability of the Developer and the Landowner for any default under Section 9 of this Agreement." She stressed that this should be removed, as the city must have the ability to enforce the agreement in court and to impose penalties under the zoning code.

Ms. Morris concluded by saying that these changes need to be made, and an amended version could be brought back if Council agrees. Otherwise, Council could approve the agreement conditioned upon the Cash Set-aside being executed and posted first.

John Rose – President of Olympic Property Group – 19245 10<sup>th</sup> Ave. NE, Poulsbo, WA 98370. Mr. Rose said that for the record, there has been no sale and that they could supply a current title report, per the recommendation by Carol Morris. He passed out an exhibit illustrating the site plan allowed by the Design Manual, and the alternative design that places the Costco Store to the back of the property. He gave the background for the need for a Development Agreement. He said that they are focusing on two issues; the substance of the agreement, and the process that it took to get to this point.

Mr. Rose commented that it has taken five months to get to this point. He said that due to scarce resources, most time and attention should be focused on the biggest areas of risk. He said that the big risk here is the desire to put Costco in the back, asking if this is risk enough to be worth five months time. He said that the Design Review process, although not fun, was good. The DRB pushed the OPG Design Team to come up with a superior plan. He added that some of the suggestions made by the DRB, such as the timing issues, are beyond their authority, but, by in large, he feels that they received fair treatment. The site plan really got worked over, and the city was well served by the process.

Mr. Rose continued to explain that the issue before Council is a simple issue about the condition for an incentive for the developer to complete the project. Even though this is beyond the DRB's authority, in the interest of give and take, they will agree to it. He then said that what they have been "wrangling" over are not legal issues, but policy issues. He said that his Project Manager will describe the project and then their attorney will go over the agreement. He said that he hopes that we can get somewhere tonight, as this has taken a long time.

John Chadwell – Olympic Property Group – 4423 Pt. Fosdick Drive. Mr. Chadwell gave an overview of the proposal to place Costco at the back of the property and the smaller, retail buildings at the frontage. He said that the Design Review Board proposed that the

first two buildings be completed within twelve months of the Costco foundation and the remaining three within two years. Staff asked that they not clear any of the pad areas until the Development Agreement was approved which they agreed to do. Another recommendation has come forward to leave the trees until ready to build. They agree with this with one caveat. He said that they agreed with the DRB to the timing with the agreement in place for some sort of damages to be paid and in exchange for this, they would like to be allowed to clear and grade the whole area all at one time once the building permits are pulled for the first building. It would be too complicated to try and build just one at a time. Mr. Chadwell concluded by explaining that they have proposed an extended timeline of six-months in order to accommodate the separate clearing and grading of the site.

Marko de Sa e Silva – Attorney, Davis Wright Tremain – 1051 Fourth Ave #2600, Seattle, 98101. Mr. de Sa e Silva gave an overview of the recommendations from staff that had been incorporated into the Hearing Examiner's Decision of August 1, 2006. He then went over the differences in the form of Development Agreement that he proposed as opposed to that of the city attorney. He stressed that the most significant difference is if the developer defaults in performance and forfeits the security deposit to the city, then the city has no further remedies. The reason that they included this language is because the Hearing Examiner advised them to do so in the form of "liquidated damages." Another difference is a graduated schedule for penalties. He said that they are asking that the penalties do not begin to accrue until after a 30-day cure period and they would like the graduated schedule of liquidated damages. The third difference is the timing of the Cash Set-Aside. He proposes that the Development Agreement be signed before his client places the security deposit in the bank. He voiced concern with placing \$150,000 in the bank without any control over it. He said that he is at least asking for a deadline for the Development Agreement to be executed if the security deposit must be deposited first.

Mr. de Sa e Silva handed out red-lined versions of the Development Agreement and Cash Set-Aside showing changes they made since the October 2<sup>nd</sup> version. He then went through the changes.

Councilmember Young asked if the proposed language in Section 10 means that the city cannot enforce compliance of the city code and terms of the agreement. Mr. de Sa e Silva responded "no." He said that the Hearing Examiner asked for liquidated damages, which meant a certain penalty if the developer does not comply with the schedule. Given the amount, it is their belief that this is more than sufficient for a superior design.

Councilmember Young asked if the city cannot enforce the code or design, then what would stop the developer from paying the \$150,000 and then not performing.

Jon Rose responded that this doesn't stop the city from enforcing the rest of the things such as changing out materials, or not following the height ordinance. The city can still enforce all those things.



Mr. de Sa e Silva clarified that this is only with respect to the timing of construction on the residual parcels. If the developer fails to meet the deadlines, \$150,000 is paid to the city.

Councilmember Young stressed that the city cannot, under any circumstances, forfeit the ability to enforce specific performance. You must still meet all terms of the city code.

Councilmember Dick said that the problem is if the developer forfeits the security deposit and then doesn't build to the "superior plan," then the city is left holding the bag under this analysis. This proposed agreement doesn't specify that it only relates to the timing of construction.

Mr. de Sa e Silva said again that they asked for liquidated damages because that's what the Hearing Examiner said in his decision, and that he understands that Council may negotiate something different. He then responded to the comment by the city attorney that \$150,000 is too low. He said that they feel it is too high for such a superior design, and there is no fairness in the developer paying this amount for being 28 days late. He suggested giving the city all of its remedies to compel specific performance with a *fair penalty* if the deadline is missed. He stressed that a fair amount would be enough to create an incentive, adding that \$150,000 is excessive.

Councilmember Ekberg responded that it is only a superior design as long as the buildings are built as designed. The city has to look at whether they get built at all. Mr. de Sa e Silva said he thinks it fair if the city wants to reserve the broad range of remedies to make sure this gets built, but with a fair penalty for missing the completion date. He proceeded to go through the rest of the revisions to the Development Agreement and the Cash Set Aside.

Mr. de Sa e Silva urged Council not to delay a decision on this, offering to allow the Council to continue with the other agenda items while he made amendments to the document to be brought back later in the meeting.

Councilmember Young voiced concern with the comment that \$150,000 is unfair. He said that he has no comparative, and asked for an estimated market value of the property in order to determine what would be a fair number to be a sufficient incentive. He said that if the money to be gained by delaying construction outweighs the amount of the security deposit, then it becomes the "price of doing business."

Mr. de Sa e Silva said that the focus should be on the relationship of the amount of the deposit and the harm that the city would suffer if this deadline is not met. Councilmember Young stressed that this amount is to force compliance and in order to do so, there has to be significant enough pain.

Mr. de Sa e Silva said that if the amount wasn't significant pain, they would not have made this big an issue of it, and would not have risked their credibility over this fundamental issue which they feel is out of proportion to the harm caused. He said that

in his mind, somewhere between \$25,000 and \$50,000 would be sufficient to cause pain if the city retains its other rights.

Councilmember Young then asked to incorporate language for future owners to understand that this is for liquidated damages, but they still have to comply with all city codes. Carol Morris, City Attorney, said that number 11 of her memo proposes this language.

Councilmember Dick said that one easy remedy is that the Cash Set-Aside Agreement and Development Agreement be signed at the same time. He voiced concern that the liquidated damages language is so narrowly written that it implies that the city would have no further remedy other than the \$150,000. He said that he understands that this isn't the intent and past dealings have been fine, but another owner may have a different agenda. He suggested adding language that gives the city appropriate remedy. He added that he views the \$150,000 as security for doing these things, not liquidated damages. He said that the language that the city attorney has suggested is appropriate.

Mr. de Sa e Silva agreed to the idea that both parties sign at the same time. He also said that the concept that the sum of money is security for performance and available for the city to draw on for attorney's fees and civil penalties is reasonable.

Councilmember Young suggested finishing up the public hearing and going on with the rest of the agenda and coming back to this at the end of the meeting.

Mayor Hunter invited comments from the public. He said that in fairness to all in attendance, each person will be given an opportunity to address the Council for an initial period not to exceed three minutes. If more time is needed, it will be made available after everyone has had a chance to speak.

Jeff Hogan – 5129 Buena Vista Drive, Edgewood, Washington. Mr. Hogan explained that he is potential purchaser of the residual parcels and has been involved for the past three years. He said that the Development Agreement is a result of not wanting the trees cut until the buildings are ready to go. Now a timeline of 30 months to have all the buildings constructed has been added, he said. He stressed that it would be hard to do them all at the same time. Mr. Hogan then said that the buildings have already been approved and won't change in look without going back to the Hearing Examiner. He asked if there is a flood and they cannot finish within the deadline if they forfeit the \$150,000. He suggested that we shouldn't focus on the penalty but the final product, which has already been decided. He said that staff has okayed the plans, and now the attorneys are negotiating numbers, with the city attorney saying that the amount isn't enough. He asked Council to consider that the attorney doesn't normally set the fees.

Carol Morris responded to the comment about the flooding, that she told the developer's attorney that they could come to Council and ask for an amendment to the deadline and Council would be reasonable if there was an Act of God or other circumstances beyond

their control. She then addressed the other comments made by the developer's attorney.

Ms. Morris explained that the Hearing Examiner has no authority to amend the city code. There is an existing procedure in place for development agreements for phased developments, in a form to be approved by the city attorney. She said that the Hearing Examiner assumes that the city will use a form with standard contract language requiring code conformance, with penalties to be assessed as set forth in the zoning code. She stressed that this language was in every version of the agreement that was sent to the developer's attorney. Ms. Morris then said that the Hearing Examiner did not suggest a graduated penalty provision. She addressed the execution of the Cash Set Aside, explaining that she has no problem with the Mayor signing the Development Agreement as long as there is assurance that the money is deposited in a financial institution, adding that a provision that the Development Agreement is signed so many days after the money is deposited is fine.

Mayor Hunter closed the public hearing at 8:29 p.m., adding that Council reserves the right to re-open the hearing at a later time.

2. Public Hearing and Resolution – Hansen Annexation ANX 16-1313. John Vodopich presented the background information on this resolution accepting the annexation petition for the Hansen Annexation.

Mayor Hunter opened the public hearing at 8:30 p.m.

Eva Jacobsen – 5808 Reid Drive. Ms. Jacobsen urged Council to approve this annexation. She explained that the legal description has been modified to include the entire portion of Skansie Avenue contained in the proposed annexation.

There were no further public comments and the public hearing closed.

**MOTION:** Move to adopt Resolution No. 692 accepting the Hansen Annexation. Payne / Young – unanimously approved.

3. Tideland Easement – Peter Stanley. John Vodopich gave a brief background on this request for a tideland easement for a period of 20 years. He said that the map illustrates that portion of Soundview Drive extends out into the water to the inner harbor line. The portion of the Tide's Tavern deck and storage shed is 440 square feet and the Floating Dock that encroaches over city-owned tidelands is estimated to be 34 square feet. He explained that the city attorney has proposed a lease agreement with a fee rather than an easement. The current lease rate paid by Mr. Stanley for his other tidelands is \$.46 per square foot. He recommended that the City Attorney draft a lease agreement to be brought back for ratification.

Councilmember Dick said that an important provision in the old agreement is that it has a one-year termination clause. He then said that \$.46 has zero relationship to the fair value of that dock and we shouldn't give public use for less than fair value.

John Vodopich said that DNR uses a complicated formula based on the assessed value of the upland property.

**MOTION:** Move to direct the City Attorney to negotiate a lease with Mr. Stanley and bring it back at the next possible meeting.  
Young / Ekberg – unanimously approved.

4. “Road Map” for Interchange Improvements on SR-16 – Contract Amendment. Steve Misiurak, City Engineer, presented this contract amendment for the interchange improvements on SR-16. The Department of Transportation has requested additional information and work products associated with the effort to get the single-point urban interchange. He explained that the expenditure is funded by FHS, OPG and the city.

Councilmember Franich voiced concern with the vague language in the contract. Councilmember Payne agreed, and suggested that the contractor clarify the language.

**MOTION:** Move to approve the consultant services contract with David Evans and Associates, Inc., for the “Road Map” for interchange improvements on SR-16 in the amount not-to-exceed Twenty-one Thousand Eight Hundred Fifty-three Dollars (\$21,853.00).  
Ekberg / Payne – unanimously approved.

5. Burnham/Borgen/SR-16 Corridor Improvement Project – Contract Authorization for Professional Engineering Services. Steve Misiurak presented the background information for this contract to design the roadway improvements identified in the 2005 Final Supplemental Environmental Impact Statement. He said that this is funded by Franciscan Health Systems. He explained that we are using the WSDOT Standard Consultant Agreement rather than the city's in anticipation of federal grant funding.

Councilmember Payne asked if Mr. Kuenkle, Franciscan's Project Manager, had an opportunity to review the materials. Mr. Misiurak responded that FHS representatives attend the workshop to go over the work items and they were in agreement.

Councilmember Franich said that this is a prime example of bureaucracy gone totally crazy when you have to spend 1.5 million and you don't get an inch of pavement laid. He said that he wishes somebody could come up with an answer on how to get some of these regulations changed so that this money could be used a lot more effectively than paying a consultant.

**MOTION:** Move to approve the consultant services contract with David Evans and Associates, Inc. for professional services associated with the design and permitting for the corridor improvements in the amount not-

to-exceed One Million, Five Hundred Twelve Thousand, One Hundred Sixty Dollars, and Seventy-six Cents (\$1,512,160.76).  
Young / Conan – unanimously approved.

6. Resolution No. 690 – Wheeler Avenue Street Vacation – Barta. Councilmember Franich said that even though these resolutions are just setting dates for public hearings for these street vacations, as a matter of practice in the past, we haven't had resolutions on the consent agenda and that is why he requested taking them off.

Clerk Towslee responded that when something routine that doesn't require discussion such as setting a hearing date, staff places it on the consent agenda in order to save time.

Councilmember Dick said that he doesn't feel it is appropriate to set a public hearing date because this property cannot be considered for vacation because it is a street end and touches water. If the property owner establishes that this has never been open to the public, it is a separate issue, but not one in which the city has discretion. The state has taken away this discretion.

Councilmember Young said that although he doesn't disagree, it wouldn't hurt to have a public hearing and bring up these issues at that time. Carol Morris recommended that Council follow the code and process the vacation.

**MOTION:** Move to adopt Resolution No. 690 setting a public hearing date for the Wheeler Avenue street vacation.  
Ekberg / Young – six voted in favor. Councilmember Dick voted no.

7. Resolution No. 691– Rust Street Vacation – Beck. No discussion on this agenda item.

**MOTION:** Move to adopt Resolution No. 691 setting a public hearing date for the Rust Street vacation.  
Young / Ekberg – six voted in favor. Councilmember Dick voted no.

John Vodopich clarified that the public notice would be amended to reflect the 6:00 p.m. starting time for the Council Meetings just adopted.

Councilmember Young then recommended that the new meeting time become effective after the first of the year.

**MOTION:** Move to reconsider Ordinance 1060.  
Franich / Payne – unanimously approved.

**MOTION:** Move to amend the effective date of Ordinance 1060 so that it becomes effective on January 1, 2007.

Franich / Conan – five voted in favor. Councilmembers Young and Dick voted no.

6. Public Hearing and First Reading of Ordinance – 2007 Proposed Budget. David Rodenbach, Finance Director, gave an overview of the highlights of the 2007 Budget.

Mayor Hunter opened the public hearing at 9:00 p.m.

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich said that he has a hard time understanding the Council wanting to give back \$15,000 in property tax levy dollars when we are trying to build a hospital and the road system when the county, the state, and everyone else is scraping the bottom of the pot. It is a minor amount to the taxpayers, but this money could pay for consulting fees or other needs for the overall, and it is hard to go a meeting and ask the county and state for money to build these roads. He finalized by saying that you may look good in the newspaper, but to him, you look bad.

There were no further comments and the public hearing closed at 9:03 p.m.

Councilmember Young recommended adding an additional \$25,000 to the base rate for the lobbyist to capture federal dollars for our road projects and gave the background for his reasoning. Councilmember Conan clarified that \$25,000 had already been added to the draft budget after the budget worksessions.

Councilmember Franich brought up the Mayor's need for administrative help. During the worksessions, a vote was made to remove the proposed position that passed 4 to 3. He said that he thinks it is important and said that there has been talk that this position would not be filled until the City Administrator is hired and some time, possibly 30 days, is allowed for him or her to analyze the situation to determine whether the position will be filled. He said that he would like to identify this as a goal or objective in the 2007 Budget in order to be able to provide funding.

Councilmember Ekberg said that we could do a budget amendment or Councilmember Franich could propose language for an amendment at the second reading. He then said that he too had amendments to consider at the second reading. One is to add another full-time police officer half-way through the year to focus on traffic enforcement. The other consideration is in regards to the increase the salary range on the Tourism / Marketing Director to be par with the Director of Operations, Fire Marshal, City Engineer and Planning Director. He said that a range move of 38% is too high for that position, and considers it to be more in line with the City Clerk or City Planner Range.

Councilmember Young responded to Councilmember Franich. He explained that the budget is a policy document rather than a financial instrument. The objectives and goals are instructions to staff. If you are going to add an objective to hire a position then come back with a budget amendment, you are instructing staff to do so. He said unless Council wants to add the position to the budget, this may not be the right tool.

Councilmember Franich said that he thinks that the position should be budgeted and filled. He is taking this approach because that seems to be a way that the other Councilmembers can “get their arms around,” adding that he will work out the language. He then addressed the comments by Councilmember Ekberg. He said that the Marketing Director’s salary has been funded with 90% coming from the Hotel/Motel Tax and 10% coming from the General Fund. This budget proposes a 75/25 split. He said that he had received the memo from Lauren Lund that supports the argument for the switch, but he thinks we should keep with the 90/10 split and ask ourselves if someone we are paying this amount of money should be planning parties or doing other minor things that can be done by an Administrative Assistant.

Councilmember Dick responded to this by saying that if a position is added back into the budget, the job description needs to be shared with the Employee Guild to give them an opportunity to comment.

Councilmember Franich said he would speak to Scott Snyder, City Personnel Attorney, to remedy this concern.

Clerk Towslee referenced a memo she sent to Council requesting an amendment to the webpage updates for the Gig Harbor Arts Commission. Councilmembers supported the recommendation to change the wording as proposed.

There were no further comments and Mayor Hunter said that this would be back for a second reading at the next meeting.

**STAFF REPORT:**

1. Davis, Chief of Police – October Report. Chief Davis asked if Council had any questions on the report.

Councilmember Payne commented his appreciation at seeing more calls to the Skatepark. He said it is good to have tighter monitoring of the area.

**PUBLIC COMMENT:**

Scott Wagner PO Box 492, Gig Harbor. Mr. Wagner gave a presentation on the efforts made by the Shoreacres Water System in an effort to have the city take over the system. He said that after all had been done and all the money had been spent, he received a letter of decision from John Vodopich that said that the city would not accept the system. He said that he is looking for an explanation for why the system is being rejected and would like a decision that they would be able to complete the task. Mr. Wagner pointed out that there was a water operating objective in the 2006 Budget to negotiate an equitable transfer of the Shoreacres Water System to the city water utility because Council thought it was in the city’s interest to take over the system. He described the system, including all the things that have been done to date to bring it up to city standards.

Councilmember Young commented that he participated in the discussions. He said that there is no authority for the Council Operations Committee to act on behalf of the city, but that they should make recommendations to the Council. In this case, it was an oversight that the letter of denial was sent. He suggested that the information be compiled by both Mr. Wagner and staff and brought back to the full Council for consideration at the next meeting. Councilmember Franich, who also serves on the Operations Committee, talked about some of the issues that were discussed such as bringing some of the other things up to city standards. He agreed that bringing it back to Council would be the best approach.

Mr. Wagner said that no other major water company would be asked to contact their members to ask if they agreed to an LID to install sidewalks, sewers, and other infrastructure. They would only deal with the water infrastructure. He stressed that he is representing a water system and cannot negotiate LIDs.

Councilmember Ekberg apologized that the response that Mr. Wagner received wasn't as detailed as he would have liked. He said that he too was on the committee, and economically, it just didn't look viable to the city to accept the system. However, the rest of the council did not have an opportunity to review the information and apologized for that. He then said that he is sorry that Scott is no longer on the Planning Commission and thanked him for his past service.

Mr. Wagner asked for clarification on the next step. Councilmember Young suggested a report from staff and information from the Shoreacres Water System to be given to Council to review.

Councilmember Ekberg clarified that if Council concurs that it merits further discussion, then it will come back as an agenda item. If they concur with the Community Development Committee, then it probably won't be an agenda item.

John Vodopich asked Mr. Wagner to submit any materials by next Tuesday due to the holiday schedule or it will slip to the December 11<sup>th</sup> meeting.

Councilmember Kadzik asked about timing issues. Mr. Wagner responded that he plans to resign from the Board and wants to quickly get to the point that he can do so. The other Councilmembers thanked Scott for his service on the Planning Commission.

Jack Bujacich - 3607 Ross Avenue. Mr. Bujacich gave the history of the Shoreacres Water System. He said that they installed a metered system and bought water from the city. Part of the agreement was to revert the first 660 feet of line back to the city. When the uplands were developed and the city wanted to hook and extend this line, the Shoreacres Water Company wouldn't allow it. Rather than a court battle, the developers ran a parallel line down Soundview. Shoreacres was getting water at a lower rate than city residents, but chose to drill their own well, rather than pay an



increase in fees. They were unsuccessful and had to pay the additional city fees. The answer to the problem is a petition to annex to the city.

Mike Shipman – 6516 27<sup>th</sup> Ave. NW. Mr. Shipman, a homeowner and voter in the Shoreacres Water System, presented comparative information on what they pay for water. He said that the issue of water is critical and why Scott and the other homeowners are frustrated. He asked that the city take some responsibility to help them, which is all that they are asking. He then said that half the people on the system are in city limits, and voters.

Councilmember Young explained that when you run a water system as a municipality, it is run as a business separate from the general tax base. He said that it is inappropriate to mix funds. The difficulty for the Shoreacres Water System is that not everyone lives in the city, and so all non-residents pay 50% more. One avenue that has been pursued is annexation so that the roads and other infrastructure can also be addressed. He said he sympathizes and would like to keep pursuing it, but there are obstacles that are not simple to solve.

**COUNCIL COMMENTS / MAYOR’S REPORT:** None.

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Gig Harbor North Traffic Options Committee Meeting, November 15<sup>th</sup> at 9:00 a.m. in Community Room B.
2. Operations and Public projects Committee Meeting, November 16<sup>th</sup> at 3:00 p.m. in the Operations/Engineering Conference Room.

Carol Morris said that she has made handwritten changes to the Harbor Hill Development Agreement and Cash Set Aside Agreement, and said that she could make copies to distribute for discussion. Councilmember Ekberg asked for a brief recess.

A recess was called at 9:42 p.m. At this time, Councilmember Franich left the meeting.

The meeting reconvened at 10:00 p.m.

Marko de Sa e Silva asked to reopen the Public Hearing as he said that he would like to present a revised version of both agreements that addresses the concerns raised during the public hearing.

Councilmember Young suggested going through the agreement without the public hearing. Mr. de Sa e Silva passed out his version.

Carol Morris said that she hasn’t seen what he is passing out, and the changes may not have been made to the version in the packet. Councilmembers agreed to go through the agreements, using the city attorney’s version as the base, and discuss the amendments.

Ms. Morris suggested going through her amended version, then after that, Mr. de Sa e Silva could make additional comments.

Ms. Morris then gave an overview of the changes that she made to the document, beginning with the Cash Set Aside. She stressed that the Cash Set Aside isn't signed by the Mayor, and this is the form that she is going to approve, suggesting that no further changes be made.

Councilmembers discussed the concern of when to sign the Development Agreement and deposit the Cash Set Aside. Councilmembers decided that both documents should be signed while the money is being deposited to address concerns on both sides. Carol Morris and Mr. de Sa e Silva both agreed that this is acceptable.

Ms. Morris then moved on to the amendments to the Development Agreement. She said she added language requiring a title report to clarify that they still own the property prior to execution.

Jennifer Kester, Senior Planner, addressed a comment by Mr. de Sa e Silva on Section 9, Subsection A, that the last phrase had been changed to allow parcels to be cleared when the first building permit is pulled. She said she wanted to clarify that this is a substantive change. Councilmember Kadzik responded that Mr. de Sa e Silva explained the reasoning.

Ms. Morris continued with her amendments to section 10 to allow the agreements to be signed at the same time at the bank. She asked if Council wished to leave the security amount at \$150,000. After discussion, it was agreed to leave it as is and Ms. Morris continued with her amendments.

Mr. de Sa e Silva said that they accept the changes to Sections 11. He addressed Section 10, saying that their redraft would allow the City all remedies allowed by law, and the security deposit for the city to use for attorney's fees and other damages. He said that they left the amount at \$150,000, but still struggle with the fairness issue. He said that they deleted the schedule of fines. He asked that we only take the part of it that is fair.

Councilmember Dick said the city would have to do a fact-finding and litigation process to actually determine damages. He added that perhaps the pay-out schedule does have merit.

Carol Morris interjected that there is a misunderstanding. She read the changes she made to Section 11, and clarified that the city would be asking for specific performance, and to enforce the city's codes and / or to obtain penalties and costs as provided in the code. She said that those penalties are \$50 a day and there is nothing there that says the city is going after Harbor Hill for damages.

Mr. de Sa e Silva responded that the city has the right to sue for damages unless the agreement says differently. Ms. Morris said that if this is the issue, then there is no reason we couldn't add language to say that we wouldn't be suing for damages, because the security deposit is that damage. He then asked what kind of fact finding was done to come up with the amount. Councilmember Dick said that you make your best estimate as to what the delays would cost.

Mr. de Sa e Silva asked if language could be added to clarify what Ms. Morris has stated.

Councilmember Ekberg said that his concern is that the property is cleared and then nothing gets built. Mr. de Sa e Silva said that the city has the right to typical remedies and then has added another \$150,000 if you are 28 days late. He said that he doesn't understand this high amount. He said that he has heard from a few of the Councilmembers and asked if anyone else feel otherwise about this amount.

Councilmember Young said that he cannot do any fact finding without knowing the fair market value of the property. Mr. de Sa e Silva responded that the two concepts are unrelated, but the value is significantly less than ten million dollars. He stressed that this should not govern a decision.

John Vodopich interjected that the city could tie the performance to the issuance of the Certificate of Occupancy of the primary structure. This was done with the Target / Albertson's / Home Depot developments. All the Hearing Examiner said was a "binding commitment."

Mr. de Sa e Silva said that would be unfair as Costco is not part of their development, and that isn't what the Hearing Examiner asked for. Ms. Morris stressed that the Hearing Examiner had no jurisdiction over the development agreement. Mr. de Sa e Silva said that the City Council is the highest authority, adding that the Hearing Examiner works for the council. He said that they are trying to be faithful to what was asked for.

Councilmember Young asked for clarification on the problem with Section 11. Carol Morris explained that the language is there to state the existing authority. The reason for a development agreement is because they are not complying with the code due to the phasing aspect. She said she doesn't have a problem adding language that the city wouldn't sue for damages, because we can still get penalties per the code and specific performance. This isn't a question of what is fair, because the city has to enforce the code.

Mr. de Sa e Silva asked for an amendment to Section 11 in which the city would waive the right to make a claim for money damages, which the city attorney agreed to. The other issue is in Section 10, and he asked that the \$150,000 be viewed as a security deposit in which the city could take fees rather than a completely forfeited amount. He

asked the city attorney to clarify her revised version for what would happen in the event that the developer defaults.

Ms. Morris said that the security deposit in the cash set aside would be forfeited and then the city could sue to specifically enforce the agreement and because non-compliance would be a violation of the city zoning code, penalties would begin to accrue from the date of non-compliance until they comply. They would have to pay that amount over and above the security deposit. She warned about setting precedent for future phased development and other agreements that allow developers to use cash set asides.

Mr. de Sa e Silva said the fundamental difference in their version, is that the security deposit isn't forfeited, but becomes a bank account for the city to draw upon.

Councilmember Kadzik clarified that the developer want the money to pay expenses and the city wants it to be a penalty. Councilmember Dick said that it isn't supposed to be a penalty but is intended to be an estimate of damages, which doesn't have to be precise if difficult to compute. He said the estimate of liquidated damages for delay makes some sense because neither party has to expect a lawsuit to figure it out. This works better if it is clear that these are estimates of what the damage the city will suffer from the delay.

Mr. de Sa e Silva said he will assume that no City Councilmember supports their alternative. Councilmember Young said that he could not agree to it tonight and would need a more elaborate explanation as to why it makes more sense.

Mr. de Sa e Silva said that they are going to drop that request and offer support for the city attorney's version with the one change discussed in Section 11 clarifying that the city doesn't pursue money damages for default except for collection of the security deposit.

Carol Morris offered language to page 7, Subsection B, add "The city shall not have the ability to sue for money damages for delay under this agreement in excess of the security deposit in this cash set aside." In the next sentence cross out "in addition" and add "however, the city may institute legal proceedings..." She asked if this was acceptable.

Mr. de Sa e Silva said that this is acceptable to Harbor Hill. He then asked to have the agreement approved tonight.

Councilmembers responded that they want to see the agreement in final form before adoption, and would be willing to hold a special meeting in order to approve the agreements. A meeting was scheduled for Wednesday, December 13<sup>th</sup> at 5:30 p.m.

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

Carol Morris explained that she was going to present an update on pending litigation, but it wasn't necessary. No Executive Session was held.

**ADJOURN:**

**MOTION:** Move to adjourn at 10:45 p.m.  
Conan / Payne – unanimously approved.

CD recorder utilized:  
Disk # 1 Tracks 1 – 27  
Disk # 2 Tracks 1 – 30  
Disk # 3 Tracks 1 - 19

---

Charles L. Hunter, Mayor

---

Molly M. Towslee, City Clerk

## **SPECIAL GIG HARBOR CITY COUNCIL MEETING OF NOVEMBER 16, 2006**

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

**CALL TO ORDER:** 5:35 p.m.

**PLEDGE OF ALLEGIANCE:**

**OLD BUSINESS:**

1. Harbor Hill Development Agreement.

Mayor Hunter asked if any Councilmembers wished to reveal any ex parte oral or written communications on this matter, or to disclose any potential appearance of fairness issues, or if any member of the audience had any appearance of fairness challenges to any of the Councilmembers or Mayor.

Councilmember Ekberg responded that none since the last meeting. There was no other response to this query.

Mayor Hunter asked if any member of the Council would receive financial or any other benefit as a result of this hearing. There was no response.

Mayor Hunter then asked if anyone in the audience thought that a member of the Council could not make a fair or objective ruling on this agenda item. No one responded, and Mayor Hunter asked Carol Morris, City Attorney, to present.

Ms. Morris explained that one proposed change had been made to make the Development Agreement implicitly clear. The change is a new subsection E to read "In the event that any or all of the trees are cut before the developer had obtained a building permit for the construction of building (a, b, c, d, or e) within the residual parcels, the city shall be entitled to the entire security deposit in the cash set aside."

Ms. Morris then said that there is adequate language in Section 11 to protect the city from anything that may arise.

John Chadwell – OPG. Mr. Chadwell said that he hadn't seen the amendment.

Ms. Morris handed him one and said that she sent the changes to Mr. de Sa e Silva this afternoon. His previous comment was that the agreement in the packet was acceptable, but he wanted to make changes to the Cash Set Aside. They are working on that together. She said that the set aside is not before Council tonight, as the form of this agreement is approved by the city attorney and signed by staff. She added that she had not heard back from Mr. de Sa e Silva regarding this latest amendment to the Development Agreement.

Mr. Chadwell said that he doesn't mind the agreement being explicit, but asked for clarification on clearing trees for the utility lines. Ms. Morris said that no changes had been made to Section 9A of the agreement.

**MOTION:** Move to authorize the Mayor to sign the Harbor Hill Development Agreement and Cash Set-Aside Agreement as presented.  
Young / Kadzik – unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 5:43 p.m.  
Ekberg / Conan – unanimously approved.

CD recorder utilized:  
Disk #1 Tracks 1 – 6

---

Charles L. Hunter, Mayor

---

Molly M. Towslee, City Clerk





*"THE MARITIME CITY"*

**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: STEPHEN MISIURAK, P.E., CITY ENGINEER**  
**SUBJECT: SANITARY SEWER FACILITIES EASEMENT AND MAINTENANCE**  
**AGREEMENT – OLYMPIC MIXED USE DEVELOPMENT**  
**DATE: NOVEMBER 27, 2006**

**INTRODUCTION/BACKGROUND**

As a condition of project approval, the Olympic Mixed Use Development located in the 5200 block of Olympic Drive owned by Olympic Drive Land LLC is required to enter into a Sanitary Sewer Facilities Easement and Maintenance Agreement. This will ensure that the sanitary sewer system will be constructed, operated and maintained in accordance with all applicable rules and regulations. The sanitary sewer system is located on private property and will be privately owned. The city will not be responsible for the operation and maintenance of this system. This agreement allows the city a nonexclusive right-of-entry onto those portions of the property in order to access the sanitary sewer system for inspection and monitoring of the system.

The city's standard Sanitary Sewer Facilities Easement and Maintenance Agreement has been drafted and approved by Carol Morris, City Attorney. This agreement will be recorded with the property.

**FISCAL CONSIDERATIONS**

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

**RECOMMENDATION**

Staff recommends that City 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):**

Sanitary Sewer Facilities Easement and Maintenance Agreement

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

Olympic Drive Land, 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)**

See Attached Exhibit A

**Assessor's Property Tax Parcel or Account Number:** 0221177046

**Reference Number(s) of Documents assigned or released:** \_\_\_\_\_

**SANITARY SEWER FACILITIES EASEMENT  
AND MAINTENANCE AGREEMENT**

This Sanitary Sewer Facilities Easement and Maintenance Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Olympic Drive Land, LLC, ~~residing at a Washington limited liability company~~, mailing address 2727 Hollycroft Street, Ste. 410, Gig Harbor, WA 98335 (hereinafter the "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 Olympic Mixed Use Development (street address) 5200 Block Olympic Dr. Gig Harbor (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 constructed a private sanitary sewer system on the Property; and

WHEREAS, such sanitary sewer system is described and shown on a construction drawing(s) prepared by the engineering firm of North Pacific Design Inc., dated Oct. 20, 2006 (hereinafter the "Plans"), 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 due to the nature of the development, the sanitary sewer system on the Property is private, and will not be the responsibility of and/or owned, operated and maintained by the City; and

WHEREAS, the private sanitary sewer will eventually be connected to the City's sanitary sewer system and the City desires an easement to definitively establish the permissible location of the City's access on the Property described in **Exhibit A**, for the purposes described in this Agreement; and

WHEREAS, as a result of said private ownership and responsibility for operation and maintenance, including repair, rehabilitation, replacement, alterations and/or modifications, the parties have entered in to this Easement and Maintenance Agreement, in order to ensure that the sanitary sewer system will be constructed, operated and maintained in accordance with the approved Plans and all applicable rules and regulations;

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:

**TERMS**

**Section 1. Affected Property.** The real property subject to this Agreement is legally described in **Exhibit A**.

## TERMS

Section 1. Affected Property. The real property subject to this Agreement is legally described in Exhibit A.

Section 2. Definitions. As used in this instrument:

A. The word "plat" refers to the REAL PROPERTY AS DESCRIBED IN EXHIBIT A and any other plat or plats, including short plats, covering all real property which may hereafter be made subject to the provisions of this instrument by a written instrument signed by the Owner, its successors and assigns, in accordance with this Agreement.

B. The word "lot" refers to a lot shown on any plat defined herein, but shall not include any parcel designated as a "tract" on a plat. "Lot" shall include any parcel of land that is separately subjected to this instrument without having been subdivided into two or more parcels by a plat recorded subsequent to the recording of this instrument.

C. The word "Owner" or "Owners" refers to the entity, whether an individual, corporation, joint venture or partnership which is an owner in fee simple or of a substantial beneficial interest (except for mineral estate) in all or any portion of the property in the Plat or the Property. A "substantial beneficial interest" shall include both legal and equitable interests in the Property.

D. The words "Owners' Association" refer to a nonprofit corporation which may be formed for the purpose of operating and maintaining the facilities described in Exhibit B on the Property, which may be independently conveyed by the Owner or its successors and assigns to an Owners' Association, and to which the Owners' Association may provide other services in order to benefit the owners of property within the plat or the Property.

Section 3. Maintenance Obligations. The Owner, its successors, assigns and/or owners of an after-acquired interest in the Property, hereby covenant and agree that they are jointly and severally responsible for the installation, operation, perpetual maintenance, of a sanitary sewer system on the Property, as shown on the Plans attached hereto as Exhibit B. The sanitary sewer system shall be operated, maintained and preserved by the Owner in accordance with the Plans and all applicable ordinances, codes, rules and regulations. The sanitary sewer system shall be preserved in conformance with the Plans until such time as all parties to this Agreement, including the City, agree in writing that the sanitary sewer system should be altered in some manner or eliminated. In the event the sanitary sewer system is eliminated as provided hereinabove, the Owner shall be relieved of operation and maintenance responsibilities. No such elimination of the sanitary sewer system will be allowed prior to the Community Development Director's written approval.

Section 4. Notice to City. The Owner shall obtain written approval from the Director prior to performing any alterations or modifications to the sanitary sewer system located on the Property described in Exhibit A. No part of the sanitary sewer system shall be dismantled, revised, altered or removed, except as provided hereinabove, and except as necessary for

maintenance, including repair, rehabilitation, replacement, alterations, and/or other modifications.

Section 5. Easement for Access. The Owner hereby grants and conveys to the City a perpetual, non-exclusive easement, under, over, along, through and in the Property, as such Easement is legally described in Exhibit C, attached hereto and incorporated herein by this reference. This Easement is granted to the City for the purpose of providing the City with ingress and egress in order to access the sanitary sewer system on the Property for inspection, and to reasonably monitor the system for performance, operational flows, defects, and/or conformance with applicable rules and regulations. In addition, the City may use this Easement to exercise its rights as described in Section 8 herein.

Section 6. Assignment to an Owners' Association. In the event that an Owners' Association is formed under a Declaration of Covenants, Conditions and Restrictions which includes all of the Property in Exhibit A, the Owner may assign responsibility for installation and perpetual maintenance of the sanitary sewer system to such Owners' Association for so long as the Owners' Association remains in existence and upon the conditions that the Owners' Association assumes all of the obligations, liabilities, covenants and agreements of the Owner under this Agreement. Such assignment of the Owner's obligations shall be in a duly executed instrument in recordable form, and for so long as such assignment remains effective, the Owner shall have no further responsibility or liability under this Agreement.

Section 7. Conveyances. In the event the Owner shall convey its substantial beneficial or fee interest in any property in the Plat, any lot, or the Property, the conveying Owner shall be free from all liabilities respecting the performance of the restrictions, covenants and conditions in this Agreement; PROVIDED, HOWEVER, that the conveying Owner shall remain liable for any acts or omissions during such Owner's period of ownership of such Property.

Section 8. Rights of the City of Gig Harbor.

A. Execution of this Agreement shall not affect the City of Gig Harbor's present or future interest or use of any public or private sanitary sewer system. If the City determines that maintenance is required for the sanitary sewer system, and/or there is/are illegal connection(s) to or discharges into the sanitary sewer system, the Community Development Director or his/her designee shall give notice to the Owner(s) of the specific maintenance and/or changes required, and the basis for said required maintenance and/or changes. The Director shall also set a reasonable time in which the Owner(s) shall perform such work. If the maintenance required by the Director is not completed within the time set by the Director, the City may perform the required maintenance. Written notice will be sent to the Owner(s), stating the City's intention to perform such maintenance, and such work will not commence until at least five (5) days after such notice is mailed, except in situations of emergency. If, at the sole discretion of the Director, there exists an imminent or present danger to the sanitary sewer system, the City's facilities or the public health and safety, such five (5) day period will be waived, and the necessary maintenance will begin immediately.

B. In order to assure the proper maintenance of the Owner's sanitary sewer system, and to ensure there will be no damage to the City's sanitary sewer system, the City of Gig

Harbor shall have the right as provided below, but not the obligation, to maintain the system, if the Owner(s) fail to do so, and such failure continues for more than five (5)-days after written notice of the failure is sent to the responsible parties. However, no notice shall be required in the event that the City of Gig Harbor determines that an emergency situation exists in which damage to person or property may result if the situation is not remedied prior to the time required for notice.

C. If the City provides notice in writing, but the Owner or Owners' Association fails or refuses to perform any maintenance or operational duties as requested by the City, the City's employees, officials, agents or representatives may enter the Property and undertake the necessary maintenance, repair or operational duties to the City's satisfaction. The City's ability to enforce this provision is subject further to the City's right to impose materialmen's and/or laborer's liens and to foreclose upon any and all properties owned by the Owner(s).

D. If the City exercises its rights under this Section, then the Owner(s) or Owners' Association shall reimburse the City on demand for all reasonable and necessary expenses incurred incident thereto. In addition, the City is hereby given the right, power and authority acting in the name of the Owner's Association to exercise and enforce on behalf of the Association and at the Association's cost, the assessment of dues and charges for such costs and to enforce the Association's lien right for any assessments, dues and charges as herein specified. The City shall also be permitted to collect the costs of administration and enforcement through the lien attachment and collection process as is permitted under chapter 35.67 RCW, or any other applicable law.

E. In addition to or in lieu of the remedies listed in this Section, if the Owners or Owner's Association, after the written notice described in Section 8A above, fails or refuses to perform the necessary maintenance, repair, replacement or modifications, the City may enjoin, abate or remedy such breach or continuation of such breach by appropriate proceedings, and may bring an action against the violator for penalties under the Gig Harbor Municipal Code.

Section 9. Indemnification of City. The Owner(s) agree to defend, indemnify and hold harmless the City of Gig Harbor, its officials, officers, employees and agents, for any and all claims, demands, actions, injuries, losses, damages, costs or liabilities of any kind or amount whatsoever, whether known or unknown, foreseen or unforeseen, fixed or contingent, liquidated or unliquidated, arising from an alleged defect in the design of the sanitary sewer system as installed by the Owner(s), or arising by reason of any omission or performance under this Agreement by the Owner(s), its successors and assigns, and/or Owners' Association, of any of the obligations hereunder.

Section 10. 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 Easement and Maintenance Agreement.

Section 11. Terms Run with the Property. The promises, conditions, covenants and restrictions contained herein shall constitute a covenant or equitable servitude, the burden and benefit of which shall run with the land and bind successive owners with equitable or legal interests in the Property. Accordingly, by its acceptance of a deed or other instrument vesting a

substantial beneficial interest in all or any lot, or other portion of the Property or the Plat in such Owner, each Owner shall covenant to be bound by all the obligations incumbent upon an Owner as set forth herein, and shall be entitled to all rights and benefits accruing to an Owner hereunder. This Agreement shall be recorded in the Pierce County Assessor's Office, and shall serve as notice to holders of after-acquired interests in the Property.

Section 12. Notice. All notices require 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 on 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 Declarant:

OLYMPIC DRIVE LAND, LLC  
2727 HOLLYCROFT ST., SUITE 410  
GIG HARBOR, WA. 98335

Section 13. Severability. Any invalidity, in whole or in part, of any provision of this Easement and Maintenance Agreement shall not affect the validity of any other provision.

Section 14. 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 15. Governing Law, Disputes. Jurisdiction of any dispute over this Easement and Maintenance Agreement shall be solely with Pierce county Superior Court, Pierce County, Washington. This Easement and Maintenance Agreement shall be interpreted under the laws of the State of Washington. The prevailing party in any litigation arising out of this Easement and Maintenance Agreement shall be entitled to its reasonable attorneys' fees, costs, expenses and expert witness fees.

Section 16. Integration. This Easement and Maintenance Agreement 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 Easement and Maintenance Agreement be executed this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**THE CITY OF GIG HARBOR**

**OWNER**


OLYMPIC DRIVE LAND, LLC

By: \_\_\_\_\_  
Its Mayor

By: \_\_\_\_\_  
Its MANAGING MEMBER

Print Name: GORDON RUSH

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney  
ATTEST:

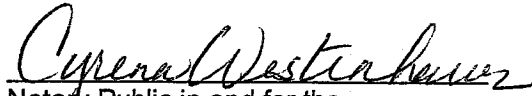
\_\_\_\_\_  
City Clerk

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that GORDON RUSH 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 MANAGING MEMBER of OLYMPIC DRIVE LAND, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 11/2/06



  
Notary Public in and for the  
State of Washington,  
Title: NOTARY PUBLIC  
My appointment expires: 7/17/2010



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

I certify that I know or have satisfactory evidence that \_\_\_\_\_ 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 \_\_\_\_\_, of \_\_\_\_\_, 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: \_\_\_\_\_

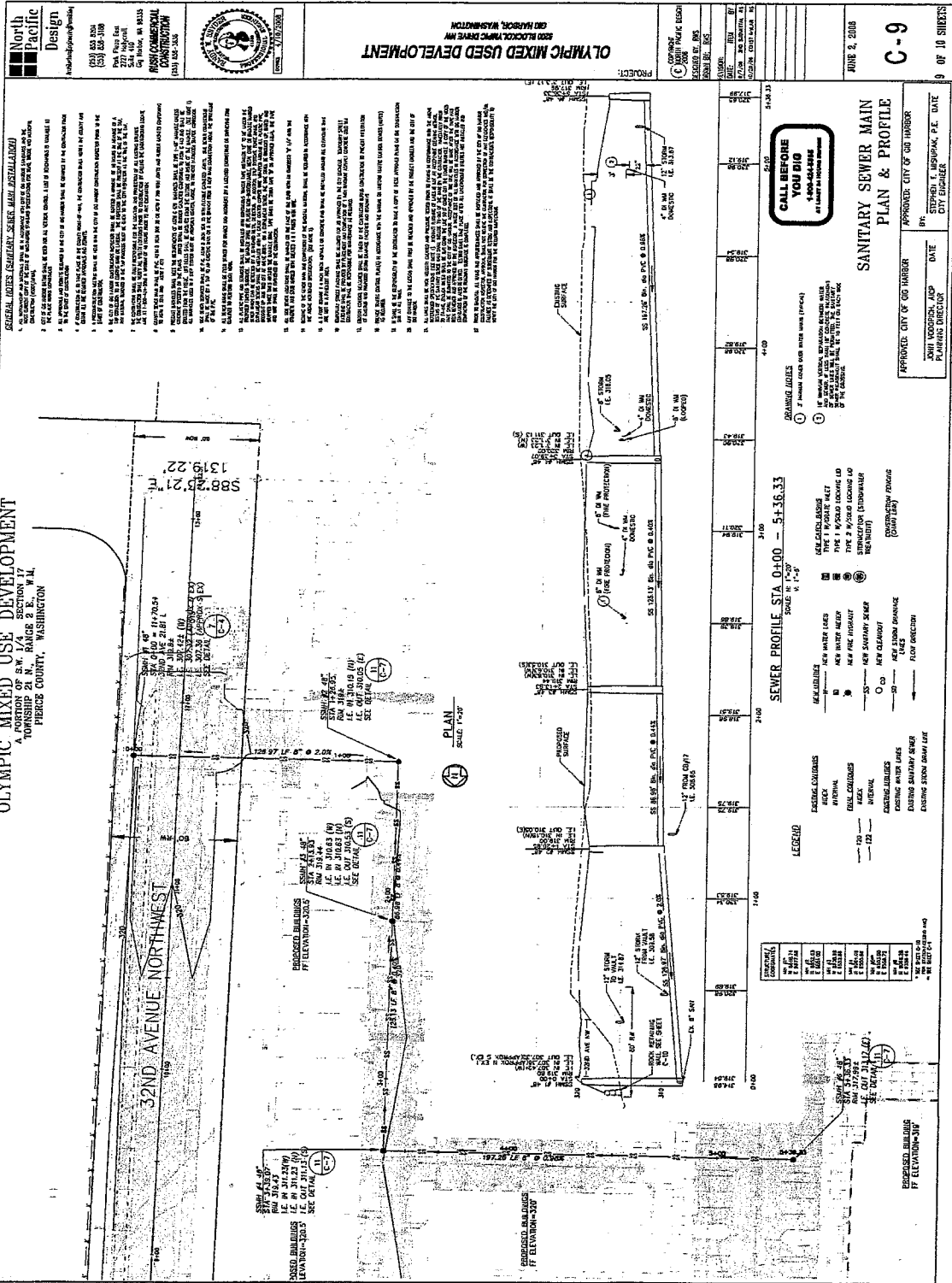
**EXHIBIT A**  
**LEGAL DESCRIPTION**

LOT 4 OF BOUNDARY ADJUSTMENT RECORDED UNDER RECORDING NUMBER 20010418594, IN PIERCE COUNTY, WASHINGTON, EXCEPT THEREFROM THAT PORTION LYING NORTH AND WEST OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT W OF SAID SHORT PLAT: THENCE NORTH 88°45'45" WEST, ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 321.18 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED LINE:

THENCE SOUTH 01°18'58" WEST A DISTANCE OF 30.00 FEET; THENCE NORTH 88°45'15" WEST A DISTANCE OF 78.56 FEET TO THE EASTERLY RIGHT OF WAY MARGIN OF OLYMPIC DRIVE NW AND THE TERMINUS OF THE HEREIN DESCRIBED LINE.

**EXHIBIT B**





## **ADMINISTRATION**

**TO: CITY COUNCILMEMBERS**  
**FROM: MAYOR CHUCK HUNTER**  
**SUBJECT: APPOINTMENT TO THE PLANNING COMMISSION**  
**DATE: NOVEMBER 27, 2006**

### **INTRODUCTION / BACKGROUND**

Scott Wagner submitted a letter of resignation from the Planning Commission. After advertising, applications from Jeanne Derebey and Al Takacs were received. Mr. Takacs lives outside the city's Urban Growth Area.

The Boards / Commission Candidate Review Committee spoke in favor of appointing Jeanne Derebey to complete the remainder of the term.

### **RECOMMENDATION**

A motion to appoint Jeanne Derebey to the Planning Commission term ending June, 2011.



"THE MARITIME CITY"

**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: DAVID BRERETON, DIRECTOR OF OPERATIONS**  
**SUBJECT: PURCHASE AUTHORIZATION – STREET SWEEPER**  
**DATE: NOVEMBER 27, 2006**

**INTRODUCTION/BACKGROUND**

An identified objective in the 2006 City of Gig Harbor Budget is the purchase of a street sweeper to replace the existing sweeper due to the existing high maintenance costs.

Price quotations for a street sweeper were obtained following the process outlined in RCW 35.23.352 for the purchase of equipment. The price quotations are summarized below:

<u>Vendors</u>	<u>Total</u> (Including Sales Tax)
Owen Equipment	\$111,099.80
Clyde\West	\$112,862.33

The bid from Owen Equipment did not meet the specifications advertised for the Street Sweeper and therefore was rejected. The bid from Clyde\West for a Tymco Regenerative Air Sweeper Model 435 meets all the specifications in the amount of \$112,862.33, including Washington state sales tax.

**ISSUES/FISCAL IMPACT**

The street sweeper is within the budgeted allocation of \$150,000, as identified under Street, Water, Sewer Storm and Park Capital Outlay.

**RECOMMENDATION**

I recommend that Council authorize the purchase of the Street Sweeper from Clyde\West for their price quotation proposal of One Hundred Twelve Thousand Eight Hundred Sixty-two Dollars and Thirty-three Cents (\$112,862.33), including Washington state sales tax.



"THE MARITIME CITY"

**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: STEPHEN MISIURAK, P.E.** *Jan*  
**CITY ENGINEER**  
**SUBJECT: SKANSIE TANK REPAINTING PROJECT**  
**CONTRACT AUTHORIZATION - MATERIALS TESTING SERVICES**  
**DATE: NOVEMBER 27, 2006**

**INTRODUCTION/BACKGROUND**

A 2006 budgeted objective includes the repainting of our Skansie Tank exterior. On October 9, 2006, Council approved a contract with T. Bailey, Inc. in the amount of \$76,465.00. In conjunction with the Safety Upgrade/Painting contract, we also need to retain the services of a materials testing laboratory.

After reviewing the Consultant Services Roster, the City contacted the testing laboratory firm of Krazan and Associates, Inc. and requested a scope and fee to provide the above services. Krazan and Associates was chosen based on their extensive understanding of geotechnical engineering, their willingness to accommodate a tight schedule and their excellent work on past projects with the City.

The scope includes dry film thickness coating measurements of existing surface and during the recoating process.

**POLICY CONSIDERATIONS**

Krazan and Associates, Inc. are able to meet all of the City's standard insurance provisions for professional services contracts.

**FISCAL CONSIDERATIONS**

The contract amount for the entire project is within the 2006 budgeted Water Operating fund Objective No. 4 amount of \$100,000.

**RECOMMENDATION**

I recommend that the Council authorize the execution of the Consultant Services Contract with Krazan and Associates, Inc. for materials testing services work in the amount not to exceed Four Thousand Four Hundred Ninety-Three Dollars and Eighty-One Cents (\$4,493.81).

**CONSULTANT SERVICES CONTRACT  
BETWEEN THE CITY OF GIG HARBOR AND  
KRAZAN AND ASSOCIATES, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Krazan and Associates, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 20714 State Hwy. 305 NE, Suite 3C, Poulsbo, Washington 98370 (hereinafter the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in the construction of the Skansie Tank Repainting Project and desires that the Consultant perform testing and inspection 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 November 14, 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 Fee Schedule**, 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 Four thousand four hundred ninety-three dollars and eighty-one cents (\$4,493.81) 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 February 28, 2007; 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 and Cost 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. All policies and coverage's shall be on a claims made basis.

C. 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.

D. 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.

E. 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.

F. 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 and the City shall determine the term or provision's true intent or meaning. The City Engineer 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'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 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  
Jeffrey Bowers  
Branch Manager  
20714 State Hwy. 305 NE, Suite 3C  
Poulsbo, Washington 98370  
(360) 598-2126

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.

akt IN WITNESS WHEREOF, the parties have executed this Agreement on this day of November, 2006.

CONSULTANT  
By: Jeffrey Bowers  
Its Principal

CITY OF GIG HARBOR  
By: \_\_\_\_\_  
Mayor

Notices to be sent to:  
CONSULTANT  
Jeffrey M. Bowers  
Branch Manager  
20714 State Hwy. 305 NE, Suite 3C  
Poulsbo, Washington 98370  
(360) 598-2126

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:

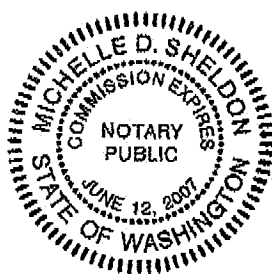
---

City Clerk

STATE OF WASHINGTON )  
COUNTY OF Kitsap ) ss.

I certify that I know or have satisfactory evidence that Jeff Bowers 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 Construction Serv. Manager of Krazan & Associates Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 11-21-06  
Michelle Sheldon  
Michelle Sheldon



(print or type name)  
NOTARY PUBLIC in and for the  
State of Washington, residing at:  
3640 SE Rocket Lane  
Port Orchard, WA 98367  
My Commission expires: 6-12-07

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 Work and Fee Schedule

November 14, 2006

KA Proposal No.:

P06-256P

*Client:* Mr. Steve Misiurak  
**CITY OF GIG HARBOR**  
3510 Grandview St.  
Gig Harbor, WA 98335

*Telephone:* 253-851-6170  
*Fax:* 253-858-7597

*Project:* **Skansie Tank**  
**Gig Harbor, WA**

Dear Mr. Misiurak

Krazan & Associates, Inc. is pleased to submit this proposal for **construction materials testing and special inspection services** in support of the above referenced project. We look forward to joining your construction team.

We understand the project will require soils compaction and related testing and inspection services.

We propose to provide the required services on a time and materials basis in accordance with the Anticipated Budget and General Terms and Conditions attached. We are available immediately to begin providing services as needed.

Again, thank you for the opportunity to submit this proposal. Should questions arise relating to this proposal or other services available in support of your projects please do not hesitate to contact me at 360-598-2126.

Respectfully submitted,  
**KRAZAN & ASSOCIATES, INC.**

Jennifer Doyle  
Business Development Coordinator

Jeffrey Bowers  
Poulsbo Branch Manager

## Exhibit A Scope of Work and Fee Schedule

KA Proposal No.: P06-256P

### ANTICIPATED SERVICES

DESCRIPTION	UNIT	RATES		AMOUNT
Steel Tank Substrate Inspection	20	\$65.00	hr.	\$1,300.00
Coating Thickness Inspection	26	\$65.00	hr.	\$1,690.00
Dry Film Thickness Gauge	9	\$65.00	ea.	\$585.00
Senior Environmental Geologist		\$85.00	hr.	\$0.00
Project Management	7	\$65.00	hr.	\$455.00
Report Prep./Processing	2	\$40.00	hr.	\$80.00
Mileage	862.5	\$0.445	hr.	\$383.81
VOC Analysis		\$250.00	ea.	\$0.00
Total Coliform		\$55.00	ea.	\$0.00
<b>TOTAL ESTIMATED PROJECT BUDGET:</b>				<b>\$4,493.81</b>

**NOTES:** This cost estimate is based on the scope of work and assumptions outlined in our proposal number P06-256P dated 11/14/06 which are inclusive, by reference. A four-hour minimum portal-to-portal charge applies to each inspection. Costs for construction testing and inspection services are highly dependent on contractors schedule; weather, overlapping of work and other factors. Therefore, the quantities listed in our cost estimate should be considered approximate. Krazan & Associates, Inc. does not control the work, staffing, or production rate. Therefore the estimate provided above does not imply a lump sum fee, not-to-exceed fee or guaranteed maximum price. Regular time charges are Monday through Friday, from 7 a.m. to 3:30 p.m. Other arrangements available upon pre-approval. Time and a half charges will be rendered on weekdays for services extending beyond regular time. Saturday services are available at time and a half charges. Services rendered on Holidays, Sundays, in excess of 8 hours on Saturday, or in excess of 12 hours on weekdays, will be charged at double the normal rate. This cost estimate does not include overtime, retests, or change in the condition or schedule. The standard turn around time for proctor/sieve analyses will be (3) business days from the time the soil sample is delivered to our lab. This offer terminates ninety calendar days from the date of the issue, unless otherwise stated and agreed.



## COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: STEPHEN MISIURAK, P.E., CITY ENGINEER**  
**SUBJECT: EDDON BOAT PROPERTY – 2007 EPA BROWNFIELDS GRANT**  
**APPLICATION ASSISTANCE – AMENDMENT TO CONSULTANT**  
**SERVICES CONTRACT**  
**DATE: NOVEMBER 27, 2006**

### INFORMATION/BACKGROUND

In fall of 2006, the city applied for an Environmental Protection Agency (EPA) Brownfields Grant for the 3805 and 3711 Harborview Drive parcels at the Eddon Boat property. The city was awarded a \$200,000 grant for the 3805 parcel only. The city was encouraged to reapply for the 3711 Harborview Drive parcel through the 2007 EPA Brownfields Grant program. As part of the Purchase and Sale Agreement with the Harbor Cove Group for clean-up and remediation of the site, the city is required to apply for applicable grant funding.

The city executed a contract with Grant-Solutions (Kathleen Byrne-Barrantes) on September 25, 2006 in the amount of \$29,900.00 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 has an excellent proven track record and the city would like to utilize Ms. Byrne's expertise and assistance to apply for an additional \$200,000 through the 2007 EPA Brownfields Grant program for the 3711 parcel.

### FISCAL CONSIDERATIONS

The scope of this work was anticipated during the grant request process. The Harbor Cove Group concurs and understands that these grant administration costs would be paid from the seller's remediation account.

### RECOMMENDATION

I recommend that Council authorize an amendment to the consultant services contract with Kathleen Barrantes of Grant-Solutions in an amount not to exceed Three Thousand Dollars (\$3,000.00).

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

THIS AMENDMENT is made to the AGREEMENT, dated September 25, 2006, 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 172121 Lemolo Shore Drive, Poulsbo, Washington 98370 (hereinafter the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in preparing appropriate grant applications for the Eddon Boatyard property and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agreed to perform the services, and the parties executed an Agreement on September 25, 2006 (hereinafter the "Agreement"); and

WHEREAS, the existing Agreement requires the parties to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant, or to exceed the amount of compensation paid by the City;

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

**Section 1. Amendment to Scope of Work.** Section I of the Agreement is amended to require the Consultant to perform all work described in **Exhibit A – Scope of Services**, attached to this Amendment, which Exhibit is incorporated herein as if fully set forth.

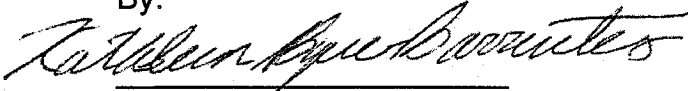
**Section 2. Amendment to Compensation.** Section II(A) of the Agreement is amended to require the City to pay compensation to the Consultant for the work described in **Exhibit A** to the Amendment in the amount of Three thousand dollars and zero cents (\$3,000.00). This Amendment shall not modify any other of the remaining terms and conditions in Section II, which shall be in effect and fully enforceable.

**Section 3. Effectiveness of all Remaining Terms of Agreement.** All of the remaining terms and conditions of the Agreement between the parties shall be in effect and be fully enforceable by the parties. The Agreement shall be incorporated herein as if fully set forth, and become a part of the documents constituting the contract between the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

THE CITY OF GIG HARBOR

By:



\_\_\_\_\_  
Its Principal

By:

\_\_\_\_\_  
Mayor

Notices to be sent to:

CONSULTANT  
Grant – Solutions  
Attn: 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                    )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
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: \_\_\_\_\_

November 21, 2006

**Grant - Solutions**  
**Scope and Fee – Exhibit A**  
**Proposal for EPA Brownfields Clean-up Grant Application**

**1. Background & Description:**

The City of Gig Harbor (City) received an award from the U. S. Environmental Protection Agency (EPA) for a Brownfields Hazardous Substance Clean-up grant for the *Eddon Boat Park Restoration* on a 0.95 acre site located at 3805 Harborview Drive.

The City contracted with Grant-Solutions (Kathleen Byrne-Barrantes) for service as a grant project administrator for the remediation grant under the cooperative agreement. The City will perform all of the landowner's obligations under the remediation grant. As administrator of said grant contract, Grant-Solutions would complete all reports; handle communications to and from the EPA project manager, and other tasks assigned or otherwise necessary in the management of the grant.

**2. Proposal to apply for the EPA Brownfields Grant Due on December 8 2006:**

Grant-Solutions will prepare a grant application and all associated documents. Under the proposed plan, Grant-Solutions will assist the City in preparing the aforementioned application, property maps, press releases, draft letters, and other documents or files required in the preparation of this grant application package. This work would include but not be limited to requesting and retrieving files; plans, reports, photographic images and other graphics, in coordination with the City, their consultants, contractors, and officials.

**3. Assumptions:**

- Grant-Solutions will coordinate preparation of the application package to submit to EPA.
- Grant-Solutions will seek input from the City's consultants and provide for review by City staff prior to submission to EPA according to the schedule established in the press release.
- Grant-Solutions shall provide for the City a written list of all information reasonably necessary to submit the application.
- The City agrees to use its best efforts to provide Grant-Solutions requested materials within five (5) working days of the request, or by a time mutually agreed upon by both.
- "Provision of information" or "provision of requested materials" shall include, but are not limited to, the reasonable provision of complete and accurate disclosure of financial, programmatic or other information Grant-Solutions requests to complete required reports, plans, or other documents required by the EPA.
- Grant-Solutions will attend meetings as necessary to complete this scope of work.
- The final forms, documents, and other materials will be prepared by Grant-Solutions and provided to the City for final review, signatures, and package to two addresses of the EPA according to application instructions.
- Grant-Solutions will maintain availability as necessary before the deadline of December 7 and for at least 10 days after submission and for several days once EPA Region 10's review



process begins until completion and confirmation that application passed the threshold criteria.

- Grant-Solutions shall retain the right to use telecommunications and telecommuting tools and instruments to complete tasks under this Agreement.

4. Compensation, Costs, and Method of Payment:

A. Payment Schedule:

1. Grant contract related work on behalf of the City, and approved by the City, will be paid as outlined below.
2. The cost for preparing the Brownfields \$200,000 grant application is \$2,500.
3. Costs for additional attendance at public meetings for conference calls, subsequent follow-up communications with state and federal agencies, and preparation of related notifications not associated directly with the grant application preparation and subsequent 10-day window submission window will be billed at \$70 per hour not to exceed \$500, as provided with supporting documentation.

B. Costs and Expenses:

1. Grant-Solutions will draft and email the grant application and supporting documents to the City for delivery.
2. All copying, mailing and other materials, as requested from funding agency, associated with this application will be paid by the City.
3. Grant-Solutions shall be responsible for all other costs and expenses associated with activities undertaken pursuant to this Agreement. Such cost includes, but are not limited to communication costs, all professional fees, all licenses, office overhead and any other costs of doing business.

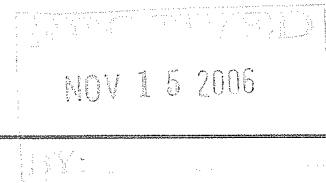
**C091080-2 WASHINGTON STATE LIQUOR CONTROL BOARD DATE:11/03/06**  
**LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR**  
**(BY ZIP CODE) FOR EXPIRATION DATE OF 20070228**

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1 DREYLING, CHERRI LYNN	THE HARBOR KITCHEN 8809 N HARBORVIEW DR GIG HARBOR WA 98332 2168	083974	BEER/WINE REST - BEER/WINE
2 TERRACCIANO, MASSIMO TERRACCIANO, CINDY LOUISE	TERRACCIANO'S 3119 JUDSON ST GIG HARBOR WA 98335 1221	085087	SPIRITS/BR/WN REST SERVICE BAR
3 HALFTIME SPORTS, LLC	HALF TIME SPORTS 5114 PT FOSDICK DR NW # J&K GIG HARBOR WA 98335 1717	073240	SPIRITS/BR/WN REST LOUNGE -

CITY PD  
 NOV 15 2006



# Washington State Liquor Control Board



## Notice to Local Authorities Regarding Procedure for Objecting to Liquor License Renewal

The attached list of liquor-licensed premises in your jurisdiction will expire in approximately 90 days. The procedure for objecting to a license renewal is as follows:

- Fax or mail a letter detailing the reason(s) for your objection. **This letter must be received at least 30 days before the liquor license expires.**
- When your objection is received, our licensing staff will prepare a report for review by the Board. This report will include your letter of objection, a report from the Liquor Control Agent who covers the licensed premises, and a record of any past liquor violations. The board will then decide to either renew the liquor license, or to proceed with non-renewal.
- If the Board decides not to renew a license, we will notify the licensee in writing, stating the reason for this decision. The non-renewal of a liquor license may be contested under the provision of the Administrative Procedure Act (as provided by RCW 66.08.150 and RCW 35.05). Accordingly, the licensee may request a hearing before an administrative law judge. If a hearing is requested, you will be notified and required to present evidence at the hearing to support your recommendation. The Administrative Law Judge will consider the evidence, and issue an Initial Order for the Board's review. The Board has final authority to renew the liquor license, and will subsequently enter a Final Order announcing its decision.
- If the Board decides to renew the license over your objection, you may also request a hearing, following the aforementioned procedure.
- You or the licensee may appeal the Final Order of the Board to the superior court for judicial review (under RCW 34.05).
- During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the liquor license until a final decision is made.

Please call (360) 664-1600 if you have any questions on this process. Thank you.

Sincerely,

Lorraine Lee, Director  
Licensing and Regulation

Attachment

LIQ 869-50-2/06 3000 Pacific Ave. SE, Olympia, WA 98504-3098 • (360) 664-1600 • [www.liq.wa.gov](http://www.liq.wa.gov)



**TO: MAYOR HUNTER AND CITY COUNCIL /**  
**FROM: DAVID RODENBACH, FINANCE DIRECTOR DR**  
**SUBJECT: SECOND READING - 2007 BUDGET ORDINANCE**  
**DATE: NOVEMBER 27, 2006**

### **BACKGROUND**

The total city budget, which includes all funds, is \$35,678,225. This is a \$14,546 decrease from the first reading due to the reduction in the property tax levy. Total budgeted revenues for 2007 are \$26.4 million while budgeted beginning fund balances total \$9.3 million. Total budgeted expenditures for 2007 are \$29.2 million and budgeted ending fund balances total \$6.5 million.

The 2007 budgeted revenues and expenditures are 54% and 50% greater than in 2006.

The General Fund accounts for 32 percent of total expenditures, while Special Revenue (Street, Drug Investigation, Hotel - Motel, Public Art Capital Projects, Park Development, Civic Center Debt Reserve, Property Acquisition, General Government Capital Improvement, Impact Fee Trust and Lighthouse Maintenance) and Enterprise Funds are 44 percent and 20 percent of total expenditures. General government debt service funds are 4 percent of 2007 budgeted expenditures.

This budget adds the following full-time positions:

- A Finance Technician - to be hired January 1
- An Engineering Technician - to be hired January 1
- A temporary Construction Inspector to be used as needed throughout the year

Changes to the budget document resulting from the study session are attached to this memo.

### **RECOMMENDATION**

I recommend adoption of the 2007 budget ordinance.



## ADMINISTRATION

**TO: CITY COUNCILMEMBERS**  
**FROM: COUNCILMEMBERS STEVEN EKBERG AND JIM FRANICH**  
**SUBJECT: 2007 PROPOSED BUDGET AMENDMENTS**  
**DATE: NOVEMBER 27, 2006**

During the second reading of the Ordinance, these amendments are being proposed for consideration.

### Councilmember Ekberg

- 1) To add another full-time police officer half-way through the year to support traffic enforcement.
- 2) To amend the salary range for the Marketing Director position to \$4,596 - \$5,745.

### Councilmember Franich

- 1) To add the Community Development Assistant Position back in.
- 2) To amend the Marketing Director's salary percentage split to 90% Tourism and 10% Administration.

### DESCRIPTION OF FUNCTION

General government expenditures that are not associated with a specific department are accounted for in the non-departmental department. Transfers of general government resources to other funds represent the largest portion of these expenditures. Also included are payments for property and liability insurance and the annual audit.

### NARRATIVE OF OBJECTIVES

1. **Legislative** - The county auditor's office charges the city for voter registration and election services. **Estimated cost is \$25,000.**
2. **Financial** - The annual audit performed by the state auditor's office. **Estimated cost is \$20,000.** Citywide insurance. **Estimated cost is \$230,000.** Miscellaneous claims not covered by insurance. **Estimated cost is \$10,000**
3. **Employee benefits** - Payments for LEOFF I disability costs, workers' compensation and unemployment benefits for former employees. **Estimated cost is \$77,000.**
4. **General government - Pierce County** - emergency management fees. **Estimated cost is \$30,000.**
5. **Volunteer center.** Provide support (utilities, janitorial, information systems) for the volunteer center housed in the Bogue Building. **Estimated cost is \$11,145.**
6. **Operating transfers out** - **\$860,000** will be transferred to Fund 208 for LTGO bond debt service; **\$600,000** will be transferred to the Civic Center Debt Reserve Fund, fund 110, **\$150,000** will be transferred to the Street Operating Fund, fund 101 and **\$35,000** will be transferred to the Public Art Capital Project Fund, fund 108.

**2007  
STAFF ADJUSTMENTS**

<i>Request to add position</i>	<i>Classification</i>	<b>Community Development Assistant</b>
	<i>Salary</i>	<b>\$3,295 - \$4,119</b>
	<i>Hire Date</i>	<b>January 1, 2007</b>

~~The Community Development Assistant will work on projects as directed by the Mayor and under the supervision of the Community Development Director and the Planning Director. This position will work on grant applications and project management of grant funds, CLG/historic structures program, research and analysis for Planning and special projects.~~

~~This position will expire at the conclusion of the Mayor's term in office and is funded entirely through Administration/Finance.~~

<i>Request to reclassify position</i>	<i>Classification</i>	<b>Marketing Director</b>
	<i>Salary</i>	<b>\$5,735 - \$7,169</b>
	<i>Hire Date</i>	<b>January 1, 2007</b>

Reclassify the existing marketing director position to reflect the supervisory status it is, in line with other similar positions in the City of Gig Harbor. This position directs all of the cities tourism and non-tourism related functions to do with the media and public relations, advertising, logo development and brand awareness for the community. The position is responsible for two staff members and oversees the visitor information center, the lodging tax advisory committee, the distribution and development of the lodging tax fund and serves as the liaison between all other similar regional and state positions. The position includes work with community groups and organizations with an effort to create economic development programs for business success in the City of Gig Harbor. The position works directly with other City of Gig Harbor department supervisors on events and activities and media related items including parks, planning, police, operations, finance, technical and court and is a member of the Gig Harbor Supervisory Employee Guild.

The position will be funded as follows: Administration/Finance - 25%, Hotel/Motel - 75%

2007  
NARRATIVE OF OBJECTIVES

Administration

1. **Prepare 2007 city budget.** Prepare and submit to the City Council for adoption the 2007 City of Gig Harbor Budget. **December.**
2. **Update personnel handbook.** Update the City of Gig Harbor personnel manual and distribute one copy per employee. **February.**
3. **Improve emergency readiness.** Continue to work with Pierce County Department of Emergency Management, Pierce County Fire Protection District Number 5 and PEP-C in their neighborhood training efforts. Develop the model initiated in the several city neighborhoods for all neighborhoods within the city limits. Neighborhood training efforts will be coordinated throughout the city to assure cohesiveness and follow-through. **\$20,000 - September.**
4. **Fund participation with the Economic Development Board (EDB) for Tacoma/Pierce County.** Provide funding for participation with the EDB in order to aggressively and proactively target high-wage businesses that could locate in appropriate city commercial and light industrial planning areas within the urban growth area. Target businesses would be relatively light users of water and sewer. **\$20,000 - January.**
5. **Continue guidance to the interlocal agency recreation program.** Assist PenMet Park District Executive Marc Connelly, so that PenMet Parks and the City of Gig Harbor can develop recreational programs on the Gig Harbor Peninsula for Gig Harbor residents. **\$25,000 - December.**
6. **Town-around shuttle system.** Determine feasibility and cost for an economic town-around shuttle system. **December.**
7. **Retain a city lobbyist.** Continue to retain Tim Schelburg to represent the city's policy interests as necessary. Expand this program to a year-round basis at the state level (\$25,000) and initiate lobbying services at the Federal level (\$75,000) (~~(\$50,000)~~). **\$100,000 \$75,000 - December.**



2007 - 2012  
NARRATIVE OF GOALS

ADMINISTRATION

1. **Expand the use of new and emerging technologies.** Explore, implement and refine new criminal justice technologies and best practices aimed at improving the operations of the department. **2007 - 2012.**
2. **Continually audit our organizational structure and management practices.** Evaluate ways our department can implement new and innovative planning and management techniques. Develop an updated 5-year strategic plan. **2007 - 2012.**
3. **Continually explore opportunities in which to partnership with other regional law enforcement agencies.** Sharing resources and expertise with other local agencies will continue to be a high priority. Opportunities to participate in regional training consortiums will insure that our staff will receive the most cost effective and up-to-date training. **2007 - 2012.**
4. **Seek grants and other outside funding options.** Research and secure funding sources outside normal city revenue sources to support police department initiatives. **2007 - 2012.**
5. **Continually evaluate the information we gather.** Continue to assess and implement other modules available from our records management system provider. Look at ways we can analyze and disseminate the data within our records management system using crime analysis methodology. Using this type of information will enable the department to implement a more effective and efficient response plan resulting in increased crime prevention and successful closure of cases by arrest. **2007 - 2012.**

OPERATIONS

1. **Assigned vehicle program.** Transition into an assigned patrol vehicle program where each officer is assigned his/her own patrol vehicle. The time has come for Gig Harbor to realize the researched and supported benefits of an Officer Assigned Vehicle Program (OAVP). The additional cost and budgetary impact required to start an OAVP is partially offset by reduced maintenance and repair expenses and increased police service benefits, primarily by increasing the time officers are on patrol. The most important benefit is the improved ability to keep the officers we currently have employed and to effectively recruit the best candidates available. The transition to an OAVP will be accomplished over a three-year program utilizing the following purchase plans:

- **Year 1: Purchase six patrol vehicles.** The estimated cost to purchase six fully-equipped Ford Crown Victoria patrol vehicles with all the necessary equipment including a Mobile Data Computer (MDC) is approximately \$220,800. The city expects to finance this purchase over a five year period with annual payments of \$55,000. **\$220,800 - May 2007.**
  - **Year 2: Purchase three patrol vehicles.** The estimated cost to purchase three fully-equipped Ford Crown Victoria patrol vehicles with all the necessary equipment including a Mobile Data Computer (MDC) is approximately \$110,400. The city expects to finance this purchase over a five year period with annual payments of \$26,000. **\$110,400 - May 2008.**
  - **Year 3: Purchase one patrol vehicle.** The estimated cost to purchase one fully-equipped Ford Crown Victoria patrol vehicle with all the necessary equipment including a Mobile Data Computer (MDC) is approximately \$36,800. The city expects to finance this purchase over a five year period with annual payments of \$9,000. **\$36,800 - May 2009.**
2. **Continued expansion of our Traffic Safety Program.** Expand our traffic safety initiatives, through a balanced approach utilizing both public education and enforcement. This goal is aimed at reducing traffic accidents. **2007 - 2012.**
  3. **Initiate a coordinated drug education and enforcement program.** Drug abuse and drug-related crime contribute to increasing crime patterns. We will work to develop a multi-faceted approach aimed at reducing the risks associated with drug abuse utilizing education and enforcement. **2007 - 2012.**
  4. **Increase our community-based policing efforts.** We will continually look for new and emerging opportunities to partner with our community and implement a problem-oriented policing philosophy into the culture of the police department. Our goal is to prevent crimes from occurring by educating the citizens we police on crime prevention techniques. **2007 - 2012.**
  5. **Improve the communications between the police department and the community.** Develop and utilize various media services that more effectively and efficiently communicate our mission and purpose to the community. **2007 - 2012.**
  6. **Develop, implement and coordinate a training program that enhances departmental capabilities, professionally develops personnel and limits departmental exposure to liability.** Establish specialized and voluntary training guidelines and requirements for the department and then electronically track participation and compliance with the guidelines to insure accountability. **2007 - 2012.**
  7. **Provide appropriate personal and technical equipment for all members of the department.** Research and acquire equipment that increases the effectiveness of department personnel and improves the level of safety within the work environment. **2007 - 2012.**

County communities by providing victims of domestic violence with a one-stop opportunity to obtain a wide array of services and support from social service and governmental agencies. Victims of domestic violence from Gig Harbor will have access to these very important resources. **Estimated cost is \$2,000 - January.**

## OPERATIONS

1. **Assigned vehicle program.** Transition into an assigned patrol vehicle program where each officer is assigned his/her own patrol vehicle. The time has come for Gig Harbor to realize the researched and supported benefits of an Officer Assigned Vehicle Program (OAVP). The additional cost and budgetary impact required to start an OAVP is partially offset by reduced maintenance and repair expenses and increased police service benefits, primarily by increasing the time officers are on patrol. The most important benefit is the improved ability to keep the officers we currently have employed and to effectively recruit the best candidates available. The transition to an OAVP will be accomplished over a three-year program utilizing the following purchase plans:
  - **Year 1: Purchase six patrol vehicles.** The estimated cost to purchase six fully-equipped Ford Crown Victoria patrol vehicles with all the necessary equipment including a Mobile Data Computer (MDC) is approximately \$220,800. The city expects to finance this purchase over a five year period with annual payments of \$55,000. **\$220,800 - May 2007.**
2. **Expand our Reserve unit.** Aggressively recruit additional reserves in order to increase our staffing level to five reserves (addition of two). **June.**
3. **Develop a comprehensive community policing program.** In addition to police support responsibilities, our Community Service Officer (CSO) will implement and integrate a multi-faceted community outreach program. Current patrol officers will receive additional training in problem solving and community relations. **December.**

Programs will include:

  - Citizen's Academy (March)
  - National Night Out (August)
  - Neighborhood Watch
  - Business Watch
  - School outreach programs
  - Merging emergency preparedness and crime prevention programs
4. **Expand our traffic safety program.** Creatively expand our traffic safety program based on a balance between education and aggressive enforcement. **December.**

2007  
CAPITAL OUTLAY

Administration:

1. **Purchase one laptop computer for our Community Service Officer.** Our Community Service Officer (CSO) conducts numerous public presentations utilizing Power Point software. We would like to purchase a laptop and docking station capable of running presentation software. Our CSO's current computer would be transferred to the Lieutenant to replace a desktop computer over 5 years old. **Estimated cost \$3,200.**
2. **Replace the records HP color laser printer.** Our current printer is six years old and experiencing increased maintenance costs. **Estimated cost is \$4,500.**

Operations:

1. **Purchase six patrol vehicles.** The estimated cost to purchase six fully-equipped Ford Crown Victoria patrol vehicles with all the necessary equipment including a Mobile Data Computer (MDC) is approximately \$220,800. The city expects to finance this purchase over a five year period with annual payments of \$55,000. Estimated cost is \$220,800.
2. **Replace our last CF-28 Mobile Data Computer with an upgraded "Tough Book" CF-29.** We need to upgrade our last CF-28 computer to a CF-29 due to the limitations of the CF28's to process officer requests effectively and handle upgraded software. **Estimated cost is \$4,800.**
3. **Purchase a computer to serve as a dedicated server for our in-car digital video system.** This computer will collect, retrieve and archive digital video images collected with our in-car digital video system through a wireless connection. **Estimate cost is \$2,500.**
4. **Netmotion encryption software for state interface/national criminal queries.** State requires all National queries to have encryption software or support will end. **Estimated cost \$1,100.**
5. **Install a radio system to allow the monitoring of the police radio from inside the police station.** There are several areas within the police station that do not reliably receive and transmit radio transmissions via portable radios. **Estimated cost is \$6,200.**
6. **Install a video camera monitoring system in the booking room.** Our booking room is an area where officers book prisoners and process DUI's. This is an area where our officers are unarmed and alone with prisoners. Officer safety and risk management will be greatly enhanced by having these interactions video taped. **Estimated cost is \$5,000.**

11. YMCA capital contribution. Provide first of two \$125,000 annual contributions toward the construction of the YMCA Aquatics Complex. **2008 - 2009.**
12. Gig Harbor Peninsula Historical Society. In consideration of the benefit to the general public by the enhancement of the historical, economic and cultural climate the City will provide funding to the Gig Harbor Peninsula Historical Society in the amount of \$400,000 over a five year period beginning on January 1, 2008. Annual contributions of \$80,000 will be subject to the Agreement entered into on October 30, 2006. **2008 - 2012.**

Project grants can include concerts, theatre productions, visual art exhibits, art festivals, or a broad range of arts-related services. **\$25,000 - December.**

12. **Develop a the City of Gig Harbor Arts Commission (GHAC) website webpage.** Presently, reference to GHAC may be found on the City's website; however, the data is limited. By GHAC having its own website further development of the city webpage and/or on the new marketing website will enable it to provide information not only about the commission and the grant program but also other arts commissions and funding sources. It will further enable GHAC to capture and track data on grant funding and the grant recipients plus provide links to other sources. **\$1,500 - December.**
13. **Westside Park improvements.** Regrade and hydroseed and continue to work with local community service organizations in assisting with the development of passive recreational features. **\$50,000 - October.**
14. **Eddon Boat remediation permitting.** Permit for the environmental cleanup. **\$150,000 - August.**
15. **Eddon Boat remediation cleanup.** Procure a contractor and begin the environmental cleanup and perform project oversight. **\$550,000 - December.**
16. **Eddon Boat Park design and construction.** Complete the upland Eddon Boat portion of the Outdoor Park Design. Perform upland grading and shape site and paths. Finish site with seeding, gravel paths, and temporary irrigation. **\$150,000 - December.**
17. **Dock and marine railway.** Design and permit a dock and marine railway at Eddon Boat. **\$25,000 - December.**
18. **Improvements to Eddon Boat structures.** Begin the design improvements to Eddon Boat structures. Construction will be entirely funded with a \$500,000 grant in 2008. **\$75,000 - December.**
19. **Eddon Boat.** Remove/replace roof, paint and repair wood trim as necessary, repair or remove chimney at roof, remove/replace porch roof on north and south end, remove screen fences, remove/replace deck and rail suitable for public use, perform minor exterior grading, construct walks to allow access to new deck and do some minor yard and tree maintenance. and paint the house **\$50,000 - October.**
20. **Concerts on the park.** Provide weekly concerts at Skansie Brothers Park during the summer months (\$7,000 of this budget comes from corporate community support). **\$13,000 - June through September.**

9. **Greyhawk and Stinson streetlights.** Purchase and install architectural streetlights along Greyhawk and Stinson Avenue between Foster Street and Grandview Street. **\$40,000 - September.**
10. **Pavement markings.** Install and repaint pavement markings on city streets. **\$40,000 - June.**
11. **Stinson Avenue pedestrian improvements.** Construct phase IV of the 3,600 lf of new curb, gutter, sidewalks on the east side of Stinson Avenue between Grandview Street and Harborview Drive. **\$35,000 - September.**
12. **Burnham Drive streetlights.** Purchase and install architectural streetlights along Burnham Street between Franklin Avenue and Prentice Street. **\$25,000 - December.**
13. **Burnham Drive pedestrian improvements.** Construct 600 linear feet of new curb, gutter, sidewalks on the west side of Burnham Drive between Franklin and Prentice. **\$10,000 - September.**
14. **Vernhardson Street crosswalk lighting system.** Design, purchase, and install in-pavement pedestrian crosswalk lighting system at a location identified by the City Engineer. Including concrete stamped crosswalk. **\$17,000 - October.**
15. **Pioneer and Grandview crosswalk lighting system.** Design, purchase, and install in-pavement pedestrian crosswalk lighting system at a location identified by the City Engineer. Including concrete stamped crosswalk. **\$17,000 - July.**
16. **45<sup>th</sup> Avenue and Briarwood pedestrian improvements.** Construct curb, gutter and sidewalk along 45<sup>th</sup> Avenue and Briarwood as funds are available. ~~Construct curb and gutter along the street and sidewalk along the south side with planter strip. This will complete the work started in 2006.~~ **\$150,000 \$300,000 - December.**
- ~~17. **45th Avenue pedestrian improvement.** Construct curb, gutter, and sidewalk along a portion of 45th Avenue. **\$100,000 - October.**~~
18. **Skansie Avenue pedestrian improvement project.** Construct approximately 700 feet of curb, gutter and sidewalk between the remaining unconnected portion of sidewalk adjacent to Chapel Hill Church. Contingent upon State TIB funding in the amount of \$86,500 is required to perform this project. **\$173,000 - December.**
19. **Westside Park/50<sup>th</sup> Street Improvements.** Construct half of the street improvements. **\$200,000 - December.**

20. **Survey on-call services.** In conjunction with Pierce County Public Works provide various survey monumentation preservation and survey services to the city. **\$10,000 - December.**
  
21. **Downtown parking.** Develop additional parking in the Harborview corridor.  
**\$30,000 - December.**



**CITY OF GIG HARBOR  
ORDINANCE NO.**

**AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF GIG  
HARBOR, WASHINGTON, FOR THE 2007 FISCAL YEAR.**

---

**WHEREAS**, the Mayor of the City of Gig Harbor, Washington completed and placed on file with the city clerk a proposed budget and estimate of the amount of the monies required to meet the public expenses, bond retirement and interest, reserve funds and expenses of government of said city for the 2007 fiscal year, and a notice was published that the Gig Harbor City Council would meet on November 13 and November 27, 2006 at 7:00 p.m., in the Council Chambers in the Civic Center for the purpose of making and adopting a budget for 2007 and giving taxpayers an opportunity to be heard on the budget; and

**WHEREAS**, the said city council did meet at the established time and place and did consider the matter of the 2007 proposed budget; and

**WHEREAS**, the 2007 proposed budget does not exceed the lawful limit of taxation allowed by law to be levied on the property within the City of Gig Harbor for the purposes set forth in the budget, and the estimated expenditures set forth in the budget being all necessary to carry on the government of Gig Harbor for 2007 and being sufficient to meet the various needs of Gig Harbor during 2007.

**NOW, THEREFORE**, the City Council of the City of Gig Harbor **DO**  
**ORDAIN** as follows:

Section 1. The budget for the City of Gig Harbor, Washington, for the year 2007 is hereby adopted in its final form and content.

Section 2. Estimated resources, including beginning fund balances, for each separate fund of the City of Gig Harbor, and aggregate total for all funds combined, for the year 2007 are set forth in summary form below, and are hereby appropriated for expenditure during the year 2007 as set forth below:

**2007 BUDGET APPROPRIATIONS**

<u>FUND / DEPARTMENT</u>		<u>AMOUNT</u>
001	GENERAL GOVERNMENT	
	01 NON-DEPARTMENTAL	\$2,215,725
	02 LEGISLATIVE	35,600
	03 MUNICIPAL COURT	574,850
	04 ADMINISTRATIVE/FINANCIAL	1,083,100
	06 POLICE	2,543,740
	14 COMMUNITY DEVELOPMENT	1,605,160
	15 PARKS AND RECREATION	2,119,270
	16 BUILDING	341,500
	19 ENDING FUND BALANCE	<u>1,039,801</u> 1,043,438
001	TOTAL GENERAL FUND	<u>11,558,746</u> 11,562,383
101	STREET FUND	<u>8,427,865</u> 8,438,774
105	DRUG INVESTIGATION FUND	3,979
107	HOTEL-MOTEL FUND	435,192
108	PUBLIC ART CAPITAL PROJECTS	75,454
109	PARK DEVELOPMENT FUND	30,680
110	CIVIC CENTER DEBT RESERVE	3,732,375
208	LTGO BOND REDEMPTION	866,881
209	2000 NOTE REDEMPTION	292,273
210	LID 99-1 GUARANTY	87,468
211	UTGO BOND REDEMPTION	305,289
301	CAPITAL DEVELOPMENT FUND	699,272
305	GENERAL GOVT. CAPITAL IMPROVEMENT	644,165
309	IMPACT FEE TRUST	779,898
401	WATER OPERATING	1,096,337
402	SEWER OPERATING	2,335,478
407	UTILITY RESERVE	190,376
408	UTILITY BOND REDEMPTION FUND	329,059
410	SEWER CAPITAL CONSTRUCTION	2,432,881
411	STORM SEWER OPERATING	678,537
420	WATER CAPITAL ASSETS	173,447
605	LIGHTHOUSE MAINTENANCE TRUST	1,826
607	EDDON BOAT REMEDIATION TRUST	<u>500,747</u>
	TOTAL ALL FUNDS	<u>\$35,678,225</u> 35,692,774

Section 3. Attachment "A" is adopted as the 2007 personnel salary schedule.

Section 4. The city clerk is directed to transmit a certified copy of the 2007 budget hereby adopted to the Division of Municipal Corporations in the Office of the State Auditor and to the Association of Washington Cities.

Section 5. This ordinance shall be in force and take effect five (5) days after its publication according to law.

**PASSED** by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this 27th day of November, 2006.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Molly Towslee, City Clerk

Filed with city clerk:  
Passed by the city council:  
Date published:  
Date effective:

## ATTACHMENT "A"

POSITION	2007 RANGE	
	Minimum	Maximum
City Administrator	\$ 8,595	\$ 10,744
Chief of Police	6,714	8,393
Community Development Director	6,592	8,240
Finance Director	6,481	8,101
Police Lieutenant	5,806	7,258
City Engineer	5,735	7,169
Director of Operations	5,735	7,169
Fire Marshal/Building Official	5,735	7,169
Information Systems Manager	5,735	7,169
Planning Director	5,735	7,169
Tourism Marketing Director	5,735	7,169
Senior Engineer	4,759	6,805
Wastewater Treatment Plant Supervisor	4,965	6,206
Court Administrator	4,913	6,141
Police Sergeant	4,901	6,126
City Clerk	4,807	6,009
Senior Planner	4,786	5,983
Assistant Building Official/Fire Marshall	4,728	5,910
Public Works Supervisor	4,728	5,910
Accountant	4,664	5,830
Field Supervisor	4,463	5,579
Construction Inspector	4,083	5,104
Planning / Building Inspector	4,083	5,104
Associate Planner	4,045	5,056
Payroll/Benefits Administrator	4,038	5,048
Wastewater Treatment Plant Operator	3,897	4,871
Police Officer	3,846	4,808
Mechanic	3,812	4,765
Engineering Technician	3,749	4,686
Information System Assistant	3,672	4,590
Maintenance Worker	3,645	4,556
Assistant City Clerk	3,584	4,480
Assistant Planner	3,529	4,411
Community Services Officer	3,426	4,283
Finance Technician	3,414	4,268
Community Development Assistant	3,295	4,119
Administrative Assistant	3,028	3,785
Police Services Specialist	2,979	3,724
Court Clerk	2,939	3,674
Custodian	2,927	3,659
Laborer	2,927	3,659
Mechanic Assistant	2,927	3,659
Administrative Receptionist	2,563	3,204
Community Development Clerk	\$ 2,563	\$ 3,204



**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: RATIFICATION - GIG HARBOR PENINSULA HISTORICAL**  
**SOCIETY AGREEMENT**  
**DATE: NOVEMBER 27, 2006**

**INFORMATION/BACKGROUND**

At the October 30, 2006 City Council Special Meeting, a draft agreement with the Gig Harbor Peninsula Historical Society was approved.

The agreement has been finalized and signed by the Historical Society.

**RECOMMENDATION**

I recommended that the Council move to ratify the agreement with the Gig Harbor Peninsula Historical Society and further authorize the Mayor to sign the agreement as presented.

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

THIS AGREEMENT is made and entered into as of the 30<sup>th</sup> day of October, 2006, by and between **THE CITY OF GIG HARBOR**, a Washington municipal corporation, hereinafter referred to as the "City," and the **GIG HARBOR PENINSULA HISTORICAL SOCIETY**, a nonprofit corporation organized under the laws of the State of Washington and located at 4218 Harborview Drive, Gig Harbor, Washington, 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

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.      **Overall Plan.**

1.1      Construction of Museum. The Society plans to construct the Gig Harbor Historical Museum on the portion of the property identified as 4021 and 4121 Harborview Drive, Gig Harbor, Washington, (the "Museum Property") legally described in Exhibit A, attached hereto and by this reference incorporated herein. It is expected that this will consist of one or more buildings having a total of 14,500 square feet (the "Museum").

1.2      Donkey Creek Restoration. The City intends to restore the area near Donkey Creek, as shown on Exhibit B, (the "Restoration Area"), attached hereto and by this reference incorporated herein. The restoration shall include, but not be limited to "daylighting" of Donkey Creek. As part of the purchase of the Conservation Easement described below, the Society will allow the City to enter the Museum Property to perform such restoration work in the area shown as the Restoration Area. The Society will not charge the City for the City's right to perform such work. The City shall design, obtain all necessary permits, construct and maintain the restoration work at its sole cost for as long as the City holds the Conservation Easement. 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 the restoration described 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 parties will develop a Conservation Easement over the property identified as the Conservation Easement Area on Exhibit B hereto. The Conservation Easement Area will include the Restoration Area and the Open Space as depicted on Exhibit B. The Conservation Easement will, among other things, describe the restrictions and permissible uses within the Conservation Easement Area. The Conservation Easement will be developed pursuant to Section 6 hereof, and conveyed by the Society to the City as described in Section 3 herein.

1.4      Purchase of Donkey Creek Park Property. The Society owns fee title to the real property located at 4219 North Harborview Drive, Gig Harbor, Washington, which is legally described in Exhibit C, attached hereto and by this reference incorporated herein (herein, the "Donkey Creek Park Property"). 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 terms of sale are set forth in Section 3 hereof.

**Section 2. Funding of Construction of the Museum.**

2.1 In order to construct the Museum, the Society will need a construction loan sufficient to pay for the costs of such construction. The Society agrees to diligently seek a construction loan to finance the construction work.

2.2 To obtain construction financing, the Society believes it will need donations or pledges of donations (including the amounts to be paid by the City as set forth herein) of Nine Million Five Hundred and Eighty Thousand Dollars (\$9,580,000.00) (the "Pledge Goal").

**Section 3. City's Funding Contribution to Museum.**

3.1 The City agrees to commit funding to the Society in a total amount of Four Hundred Thousand Dollars (\$400,000.00), over a five (5) year period, beginning on January 1, 2008 to be used by the Society for construction of the Historical Museum, as well as consideration for the Society's conveyance of the Conservation Easement and sale of the Donkey Creek Property.

3.2 The Society will use its best efforts to collect the necessary additional funds to meet its Pledge Goal (described in Section 2 above) on or before December 31, 2008. If the Society reaches its goal and collects the necessary funds, then the City shall provide the second installment of the funding contribution to the Society, on or before January 1, 2009. If the Society does not reach its goal to collect the necessary additional funds before December 31, 2008, then the City must first notify the Society that it is declaring a breach; the Society will then have sixty (60) days to establish to the reasonable satisfaction of the City that it will be able to raise the balance of the Pledge Goal within six months from the notice of breach. If the Society still has not cured the breach after this sixty (60) day period, then the City shall not be obligated to provide any contribution to the Society and this Agreement shall terminate. The City shall have no obligation under this Agreement in the event of such termination to the Society, its successors or assigns.

3.3 The City's contributions to the Society, and the schedule for conveyance of the Conservation Easement and sale of the Donkey Creek Property, shall occur under the following timetable, subject to the conditions set forth in this Section 3:

<u>DATE</u>	<u>AMOUNT</u>	<u>CONVEYANCE/SALE</u>
1-1-08	\$80,000.00	Donkey Creek Property
1-1-09	\$80,000.00	Conservation Easement
12-31-10	\$80,000.00	



12-31-11	\$80,000.00
12-31-12	\$80,000.00

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

3.4.1 January 1, 2008 and December 31, 2008: The City shall be entitled to keep the Donkey Creek Property, and the contribution made by the City by that date shall be considered just compensation for the Donkey Creek property.

3.4.2 January 1, 2009 and December 31, 2009: The City shall be entitled to keep the Conservation Easement and the contribution made by the City by that date shall be considered just compensation for the Conservation Easement.

3.4.3 January 1, 2010 and December 30, 2010: The City shall not make the contribution due on December 31, 2010 or any future contributions.

3.4.4 January 1, 2011 and December 30, 2011: The City shall not make the contribution due on December 31, 2011 or any future contributions.

3.4.5 January 1, 2012 and December 30, 2012: The City shall not make the contribution due on December 31, 2012.

3.5 If the Society does not reach its goal to collect the necessary additional funds before December 31, 2008, or the Society begins construction or completes construction of the Museum, and then voluntarily or involuntarily ceases or abandons the operation of the Museum, (except for temporary closures consistent with the operation of such a museum) and if the Society does not cure that default within sixty (60) days notice from the City, then the Society, 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 a MIA appraiser.

**Section 4. Purchase of Donkey Creek Park Property and Conservation Easement.**

4.1 Subject to satisfying the Conditions set forth in this Agreement and to the other conditions set forth in the Purchase and Sale Agreement to be developed pursuant to the subsections below, the City agrees to purchase and the Society agrees to sell the Donkey Creek Park Property to the City for Eighty Thousand Dollars and no cents (\$80,000.00); and to grant the Conservation Easement to the City for Eighty Thousand Dollars and no cents (\$80,000.00). The Purchase price will be paid, without interest, as set forth in Section 3 above.

4.2 Attached to this Agreement as Exhibit D (**NEED FROM CAROL**) is a standard form purchase and sale agreement and standard easement that the City currently uses for property purchases. This form, or a substantially similar form will be used as the purchase and

sale agreement and easement agreement. The parties will promptly negotiate the terms of the Purchase Agreement for the Property and an Easement Agreement for the easement, all consistent with the terms of this Agreement. If the parties fail to reach agreement within ninety (90) days after mutual execution of this Agreement, then this Agreement can be terminated by either party with notice to the other and, upon such termination, neither party will have any obligations to the other hereunder.

4.3 The following "Conditions" must be satisfied or waived by both of the parties within the times set forth below as a condition to the completion of this Agreement, including the sale of the Donkey Creek Park Property and execution of the Conservation Easement.

4.3.1 Execution of a Purchase and Sale Agreement on or before December 31, 2007.

4.3.2 Agreement on the terms of a Conservation Easement on or before December 31, 2007.

4.3.3 Approval of the City's inspection of the Donkey Creek Park Property and of any title exceptions with respect to the Donkey Creek Park Property, on or before December 31, 2007

4.3.4 Commitment from a lender that it will lend the Society an amount sufficient to pay for the cost of construction, on terms and conditions reasonably acceptable to the Society and the City on or before January 1, 2008.

4.4 At closing of the sale of the Donkey Creek Park Property, the Society will convey the Donkey Creek Park Property to the City by Warranty Deed, subject only to exceptions to title approved by City pursuant to the terms of the Purchase Agreement.

4.5 The Conservation Easement will create a perpetual, nonexclusive conservation easement for the construction, enhancement, installation, maintenance, repair, replacement and use of the restorations generally described in Exhibit D, attached hereto and incorporated herein by this reference. The restorations shall not extend beyond the Restoration Area shown in Exhibit B. The Conservation Easement will include a temporary easement over the Museum Property 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 six (6) months after completion of the Donkey Creek restoration work or upon the City Council's acceptance of the restoration work, whichever first occurs.

4.6 The Conservation Easement will also create an easement over the "Open Space" area depicted on Exhibit B hereto. The easement on this Open Space is to be a conservation easement in accordance with the requirements of RCW 64.04.130. The agreement shall provide that the Open Space will remain in the condition existing after installation of all improvements and landscaping shown on a landscape plan approved by the City for the Museum development.

The Conservation Easement will permit construction of improvements to provide public access, such as walkways and driveways.

4.7 The Society will be allowed to construct a roadway and/or walkway over the Open Space and Conservation Easement Area, as well as the property adjoining these areas owned by the City to provide ingress and/or egress from Harborview Drive. This will be allowed only to the extent permitted by the Community Development Department.

4.8 Environmental Liability. Both the Purchase and Sale Agreement for the Donkey Creek Property and the Conservation Easement will contain provisions whereby the Society will indemnify and hold the City harmless for any existing contamination of the Conservation Easement area by hazardous substances. More detailed provisions relating to indemnification appear in the City's standard form agreement, attached hereto as Exhibit D.

### **Section 5. City's Option to Purchase Museum Property.**

5.1 If (a) the Society does not reach its goal of obtaining donations and pledges equal to the Pledge Goal by December 31, 2008 and does not cure this default within the times permitted as set forth above, or (b) the Society voluntarily or involuntarily ceases or abandons construction of the Museum or operation of the Museum (except for temporary closures consistent with the operation of such a museum), and does not cure that default within sixty (60) days notice from the City, then the Society, or its successors and/or assigns shall immediately notify the City (a "Notifying Event"). Upon such a Notifying Event, the City will have an option to purchase the Museum Property for its then fair market value pursuant to the provisions of this section. If the City does not exercise its option within the time set forth herein, then the option will automatically terminate.

5.2 The City's option shall be preserved by recording this Agreement against the Museum Property, and all owners of an after-acquired interest in the Museum Property shall acquire their interest subject and subordinate to the City's rights hereunder.

5.3 Upon a Notifying Event, then the City will, within six (6) months, notify the Society that it wishes to exercise its Option and will notify the Society as to the price it believes represents the fair market value of the Museum Property. The Society will then have sixty (60) days to determine whether it agrees to the value proposed by the City. If the parties agree, then the Society will sell the Museum Property to the City for that price within thirty (30) days thereafter.

5.4 If the parties do not agree upon the fair market value within said sixty days, then each party will name an MAI real estate appraiser having at least five (5) years of experience to give its opinion as to the fair market value of the Museum Property. The purchase price will then be the average values given by the two appraisers; provided, however, in the event that the valuations given by the two appraisers are more than ten percent (10%) apart, then the purchase price shall be determined by a third real estate appraiser named by the first two. Each party will be responsible for the fees of the appraiser nominated by that party and the cost of the third appraiser, if hired, will be shared equally by the parties.

5.5 As used herein, the fair market value will be the value which a willing buyer would pay to a willing seller for the Museum Property and all improvements and fixtures located thereon, but would exclude, for purposes of valuation, the restrictions contained in the Conservation Easement. The resulting fair market value will then be reduced by amounts previously paid by the City during the years 2010 to 2012.

5.6 The parties shall follow the purchase and sale procedures set forth in Section 4 above for use of the form Purchase and Sale Agreement, and negotiation of terms. The purchase price shall be paid in cash as closing.

5.7 Title to the Property shall be conveyed by a Statutory Warranty Deed free and clear of all encumbrances or defects. Rights reserved in federal patents or state deed, building or use restrictions general to the area, encumbrances or defects that currently exist and the Conservation Easement, and easements not inconsistent with use of the Property for its intended purpose shall not be considered encumbrances or defects.

5.8 Closing shall occur at a title insurance company selected by the City within thirty (30) days after the purchase price has been determined as set forth herein.

5.9 Real estate taxes for the year of closing, if any, shall be pro-rated as of the date of closing. The escrow fees shall be paid one-half by each of the parties. The City will pay the cost of any title insurance policy it wishes to order. The City will pay for any recording fees.

5.10 This option is for the sole benefit of the City and may not be assigned by the City.

#### **Section 6. Grant Applications.**

The City may submit applications for grants that can fund, in part, improvements to the Museum Property, including construction of the Museum. The Society agrees to cooperate with the City in seeking such grants. If such grants are awarded, the City agrees to use such funds for the purposes they were designated, including for the Museum Property, to the extent it can do so without having to provide matching funding.

#### **Section 7. Society's Use of City's Contributions, Ownership, Operation and Maintenance of the Gig Harbor Historical Museum.**

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

7.2 The Society shall allow public use of the Museum subject to reasonable charges for use and admission. The Society shall make the Museum events, exhibitions, shows, etc. available without discriminating against persons on the grounds of race, color, national origin, religion, sex, age or physical handicap, or otherwise discriminating against any person or group

of persons in any manner prohibited by applicable local, state or federal laws and regulations. This provision does not prohibit the Society from holding private showings or having events for private parties.

7.3 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.

7.4 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.

7.5 The funds received by the Society from the City shall be used solely for the cost of construction of the Museum, payment of the construction loan, or other project expenses. The Society shall maintain books and records as are customarily and necessarily kept for the management of the construction funds, according to generally accepted accounting practices. Financial reports shall be prepared quarterly and shall be provided to the City Finance Director upon request. 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 two hundred (200) 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; provided however, the names, addresses and other personal information concerning donors to the Society may be kept confidential by the Society. 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 8. 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 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 9. Insurance.**

The Society shall purchase and maintain, at its own cost, insurance on the Museum buildings, which shall include, but not be limited to, any and all fire, casualty and extended coverage insurance on the Museum buildings in such form and amount as will cover replacement costs.

9.1 The Society shall also obtain a Comprehensive General Liability insurance policy written on an occurrence 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/broach form property damage and employer's liability.

9.2 Any payment of any deductible or self-insured retention shall be the sole responsibility of the Society. If available without additional cost, 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.

9.3 If available without additional cost, 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 with respect to negligent acts of the Society. 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 10. Indemnification.

10.1 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 acts or omissions on any of the property described herein, except for injuries and damages caused by the sole negligence of the Society.

10.2 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 acts or omissions on any of the property described herein, except for injuries and damages caused by the sole negligence of the City.

10.3 Should a court of competent jurisdiction determine liability for damages arising out of bodily injury to persons or damages to property were caused by or resulted 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 11. 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 12. Resolution of Disputes and Governing Law.**

12.1 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 what it believes to be the provision's true intent and meaning. The decision of the Administrator is not binding on the Society.

12.2 If any dispute arises between the City and the Society under any of the provisions of this Agreement which cannot be resolved in a reasonable time, or if the Society does not agree with the City's decision on the disputed matter, then the parties may agree to submit the dispute for mediation at Judicial Arbitration and Mediation Services, Inc. ("JAMS") in Tacoma, Washington, or the parties may mutually agree on a mediator. To that end, no civil action with respect to any dispute, claim or controversy arising out of or relating to this Agreement may be commenced until the matter has been submitted for mediation. Either party may commence mediation by providing to the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with one another in selecting a mediator, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither party may commence a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session, or 45 days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire. The provisions of this Section may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorney's fees, to be paid by the party against whom enforcement is ordered.

12.3 If the dispute is not resolved through mediation as provided above, then jurisdiction of any resulting litigation shall be in Pierce County Superior Court, Pierce County, Washington.

12.4 This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

12.5 The non-prevailing party in any action brought to enforce this Agreement shall pay the prevailing party's reasonable expenses and attorneys' fees.

**Section 13. Written Notice.**

All communications regarding this Agreement shall be 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  
City Administrator  
3150 Grandview Street  
Gig Harbor, WA 98335

Gig Harbor Peninsula Historical Society  
Director  
PO Box 744  
Gig Harbor, WA 98335

**Section 14. Covenants Running with the Land.**

The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the Museum Property and the benefits and burdens shall bind and inure to the benefit of the parties. The Developer, Landowner and every purchaser, assignee or transferee of an interest in the Museum Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Museum Property. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of the Society contained in this Agreement, as such duties and obligations pertain to it.

**Section 15. 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 16. 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 17. 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 18. 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.

**THE CITY OF GIG HARBOR**, a  
Washington municipal corporation

By: \_\_\_\_\_

Its: Mayor

**GIG HARBOR PENINSULA  
HISTORICAL SOCIETY**, a nonprofit  
corporation

By: *Halter H Smith*

Its: President

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 Walter H. Smith 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 President of the Gig Harbor Peninsula Historical Society, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 11/20/06

Denise L. Housman

DENISE L. HOUSMAN

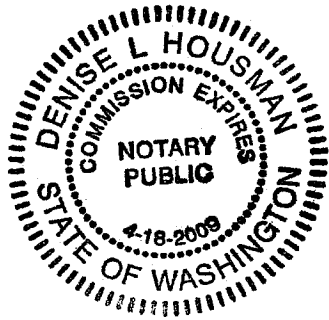
(print or type name)

NOTARY PUBLIC in and for the

State of Washington, residing at:

Gig Harbor, WA 98345

My Commission expires: 4-18-09



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 Museum Property

### LEGAL DESCRIPTION:

#### Parcel A:

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

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

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

#### Parcel B:

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

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

#### Parcel C:

Commencing at the Northwest corner of Government Lot 2, Sec. 6, Twp. 21 North, Range 2 East of W.M.; thence North 87°08'12" East along the North line of said lot 417 feet to the true point of beginning of this description; thence continuing North 87°08'12" East along the North line of said lot 138.59 feet; thence South 0°38' East 20.13 feet to an angle point in the government meander line; thence South 15°05'25" West 475 feet, more or less, along the government meander line and along the segment of said meander line extended to the Northerly right of way line of State Highway No. 14; thence Northwesterly following said right of way line to a point North 87°08'12" East 367 feet from the West line of said lot; thence North parallel to said West line of lot 225 feet, more or less, to center of creek, being the creek referred to in contract between J. M. Galbraith Company and Ervin S. Craig and wife, recorded November 25, 1959 under Recording No. 1873550, records of said County; thence North 74°30' East (approximate course) 51.88 feet along center of creek to a point North 87°08'12" East 417 feet from the West line of said lot; thence North parallel to said West line of lot 130 feet to the point of beginning.

And including any second class tidelands lying within the boundaries above described.

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

Beginning at the Northwest corner of Government Lot 2, Section 6, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington (said N.W. corner being Town of Gig Harbor unrecorded Monument #112 - stamped #112 and 1/16); thence along said lot line, North 87°08'12" East 470.00 feet to the true point of beginning; thence continuing along said lot line, North 87°08'12" East 84.79 feet; thence South 0°06'55" West 19.88 feet to Angle Point of Balanced Meridian Line; thence along said Meander Line South 15°05'43" West 6.85 feet; thence South 85°22'39" West 39.25 feet; thence North 65°49'05" West 27.85 feet; thence Northwesterly to the true point of beginning.

Parcel D:

Beginning at the Northwest corner of Lot 2, Section 6, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington; thence running North 85°08' East on the North line of said lot, 417 feet; thence South parallel to West line of said lot 405.15 feet to the Northeastery line of former State Highway No. 14, now Harborview Avenue West; thence North 45°41'20" West on said Northeastery line 68.70 feet to the true point of beginning; thence North 54.84 feet; thence South 46°01' West 39.89 feet, more or less, to the Northeastery line of said Harborview Avenue West; thence South 46°41'20" East 39.50 feet to the true point of beginning.

Parcel E:

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

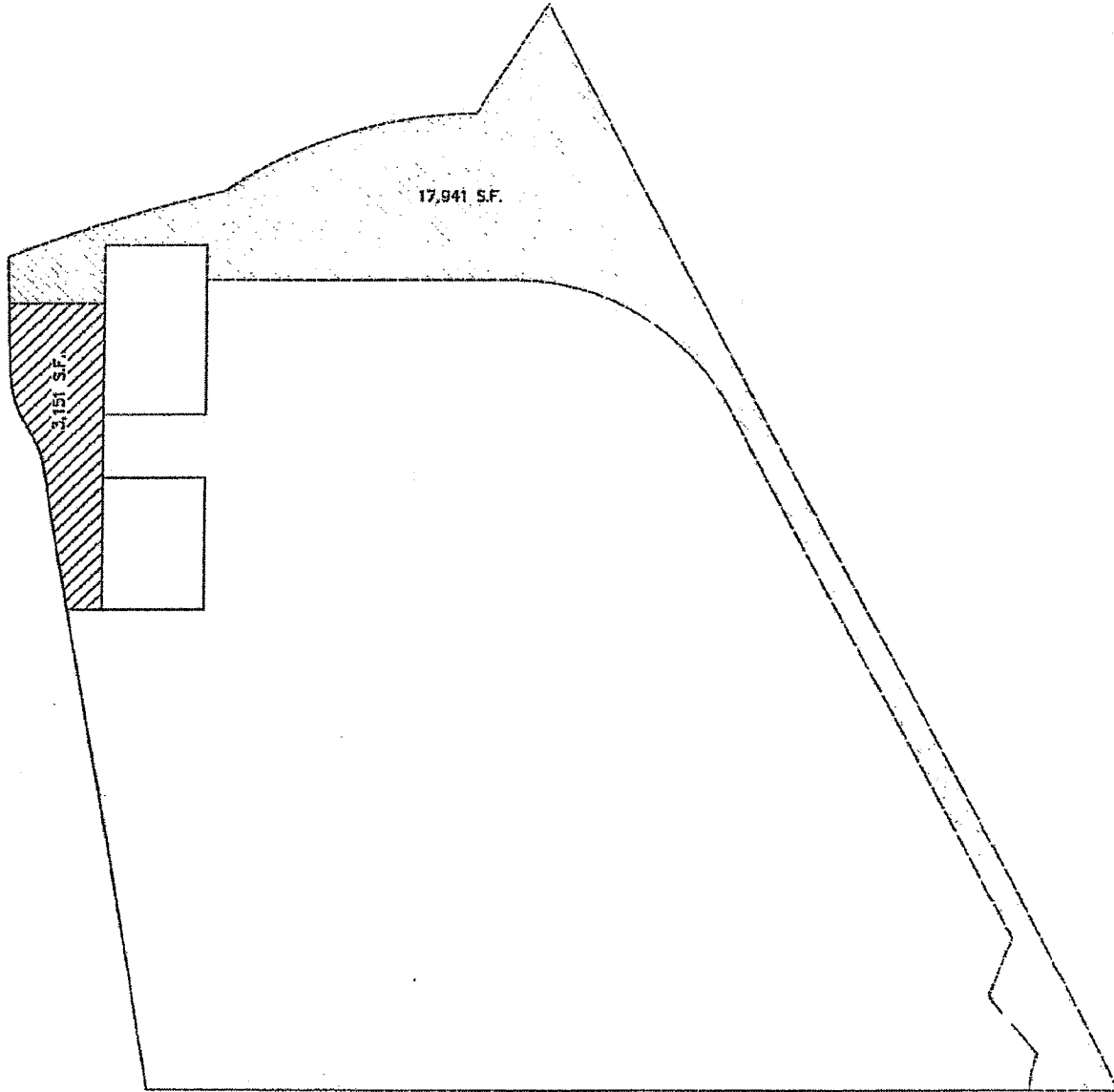
Beginning at the Northwest corner of Government Lot 2, Section 6, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington; thence along West line of said Lot 2, South 0°20'26" East 504.42 feet; thence parallel to the North line of said Lot 2, North 87°08'12" East 417.00 feet; thence North 47°24'30" West 68.29 feet to a point on the center line of Harborview Avenue West (a monumented street in the Town of Gig Harbor, Wash.); thence North 0°20'26" West 68.29 feet to the Northeastery line of said Harborview Avenue West; thence continuing North 0°20'25" West 115.60 feet to the true point of beginning of above said property partition line; thence along property partition line North 46°59'56" West to Northwesterly line of said property described in said deed recorded under Recording No. 1670316.

Parcel F:

Beginning at the Northwest corner of Government Lot 2, Section 6, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington (said Northwest corner being Town of Gig Harbor, unrecorded Monument #112-stamped #112 and 1/16); thence North 87°08'12" East along the North line of Lot 2, 309.23 feet to true point of beginning on Southerly right of way line of Harborview Avenue North; thence, on lot line, North 87°08'12" East 161.57 feet; thence North 69°37'35" West 30.48 feet; thence North 75°08'18" West 27.96 feet; thence North 64°35' West 68.71 feet to the Southerly right of way line of Harborview Avenue North; thence on said right of way line Southwesterly to true point of beginning, the above being portion of Lot 7, Block 1, Extension of the City of Gig Harbor, Pierce County, Washington, according to Plat recorded in Volume 6 of Plats at Page 74, in Pierce County, Washington.

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

# Exhibit B Restoration Area



## Exhibit C Donkey Creek Property

Real property in the County of Pierce, State of Washington, described as follows:

That portion of the following described property lying South of Austin Street:

Beginning at a point 633 feet South of the Northeast corner of the Southwest Quarter of the Northeast Quarter of Section 6, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington;  
thence West parallel with the North line of said Subdivision, 115 feet; thence North 200 feet;  
thence West parallel with the North line of Subdivision, 300 feet, more or less, to the Easterly boundary line of the State Road No. 14;  
thence Southeasterly along said Easterly boundary line of said State Road, 800 feet, more or less, to a point where boundary line intersects the East line of said Southwest Quarter of the Northeast Quarter;  
thence North along the East line of said Southwest Quarter of the Northeast Quarter to the point of beginning.

APN: 0221061060

## Exhibit D

### PURCHASE AND SALE AGREEMENT

THIS AGREEMENT hereinafter the "Agreement"), is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "Purchaser" or "City") and \_\_\_\_\_, a \_\_\_\_\_ organized under the State of \_\_\_\_\_, (hereinafter the "Seller");

WHEREAS, Seller is the owner of that certain real property located at \_\_\_\_\_, in Gig Harbor, Washington, more particularly described in Exhibit A, attached hereto and made a part hereof by this reference (the "Property"); and

WHEREAS, the Seller desires to sell the property upon the terms and conditions set forth herein; and

NOW, THEREFORE, for and in consideration of Ten Dollars and no cents (\$10.00), the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

**1. Purchase and Sale of the Property, Purchase Price and Manner of Payment for the Property.** Upon the terms and conditions hereinafter set forth, Seller agrees to sell and Purchaser agrees to purchase the Property described in Exhibit A, together with all improvements, appurtenances, rights, licenses, privileges, easements and all of Seller's right, title and interest in and to any street or road abutting the Property, if any.

The total purchase price for the Property (the "Purchase Price") shall be \_\_\_\_\_ Dollars and No Cents (\$ \_\_\_\_\_ 00.00). The Purchaser shall not be required to pay an earnest money unless and until the City Council makes a decision to proceed with the purchase, as provided in Section 6 herein. If all of the applicable contingencies in Section 6 have been satisfied, the Purchaser shall make an earnest money deposit of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_ .00) into escrow. The remaining balance shall be due on Closing. Any prorations as determined in Section 5 herein shall be reflected in the amount paid to the Seller at Closing.

**2. Closing of Property.**

2.1 Closing Date for Property. The Closing Date for the purchase and sale of the Property shall be held no later than \_\_\_\_\_ 200\_, in the office of the Escrow Agent. In the event that this sale cannot be closed by the date provided herein due to the unavailability of either party, the Escrow Agent, or financing institution to sign any necessary document, or to deposit any necessary money, because of the interruption of



available transport, strikes, fire, flood, or extreme weather, governmental relations, incapacitating illness, acts of God, or other similar occurrences, the Closing Date shall be extended seven (7) days beyond cessation of such condition, but in no event more than fourteen (14) days beyond the Closing as provided herein without the written agreement of the parties. The Purchaser and the Seller may agree in writing to extend the Closing Date at any time.

2.2 **Deliveries at Closing.** At Closing, Seller shall convey to Purchaser good and marketable fee simple title to the Property and all improvements thereon, by statutory warranty deed (the "Deed"), duly executed and in recordable form and insurable as such by Chicago Title Company, Tacoma, Washington, on an ALTA form B Owner's form of title insurance policy, or if Purchaser so desires and pays any additional premium, an ALTA Extended Policy (the "Title Policy"). Title to the Property shall be conveyed by Seller to Purchaser free of all liens, leases and encumbrances other than the Permitted Exceptions, as defined in Section 9 hereof: Seller shall deliver to Purchaser at Closing the following documents (all of which shall be duly executed and acknowledged where required and, unless otherwise agreed, deposited with the Escrow Agent): (a) the Deed; (b) the Title Policy, or the irrevocable commitment of the title insurer in writing to Purchaser to deliver same in a form satisfactory to Purchaser; (c) such other documents, if any, as maybe reasonably requested by the Purchaser to enable the Purchaser to consummate and close the transactions contemplated by this Agreement pursuant to the terms and provisions and subject to the limitations hereof.

3. **Possession and Use.** Possession of the Property shall be delivered by Seller to Purchaser at the Closing.

4. **Closing Costs Relating to the Property.** Title insurance premiums, loan fees and all other costs or expenses of escrow shall be paid as follows: (a) the full cost of securing the title insurance policy for Purchaser referred to herein shall be paid by the Sellers; (b) the cost of recording the Deed to Purchaser shall be paid by the Sellers; (c) the escrow fee will be paid ½ by the Seller and ½ by the Purchaser; (d) all other expenses shall be paid by the Purchaser. Encumbrances to be discharged by Seller to provide clear title or to correct any condition noted on a hazardous materials inspection report for the Property shall not be expenses of escrow.

5. **Prorations.** The following items shall be prorated between Purchaser and Seller as of midnight the day immediately preceding the Closing Date; such prorations favoring Purchaser shall be credited against the Purchase Price payable by Purchaser at Closing and such prorations favoring Seller shall be payable by Purchaser at Closing in addition to the cash portion of the Purchase Price payable by Purchaser at Closing:

5.1 Any applicable city, state and county ad valorem taxes for the calendar year of Closing based on the ad valorem tax bill for the Property, if then available, for such year, or if not, then on the basis of the ad valorem tax bill for

the Property for the immediately preceding year. Taxes for all years prior to the calendar year of Closing shall be paid by Seller at or prior to Closing;

5.2 Utility charges, including water, telephone, cable television, garbage, storm drainage, sewer, electricity and gas, and maintenance charges, if any, for sewers. In conjunction with such prorations, Purchaser will notify, or cause to be notified, all utilities servicing the Property of the change of ownership and direct that all future billings be made to Seller (as Lessee under the Lease to be executed at the time of Closing) at the address of the Property, with no interruption of service. Purchaser shall use its best efforts to procure final meter readings for all utilities as of the Closing Date and to have such bills rendered directly to Seller. Any utility deposits previously paid by Seller shall remain the property of Seller, and to the extent necessary for Seller to receive such payments, Purchaser shall pay over such amounts to Seller at Closing and take assignment of such deposits;

5.3 Said prorations shall be based on the actual number of days in each month and twelve (12) months in each calendar year. Any post closing adjustment due either party shall be promptly made;

5.4 The parties shall reasonably agree on a final prorations schedule prior to Closing and shall deliver the same to Escrow Agent. Based in part on the prorations statement, Escrow Agent shall deliver to each party at the Closing a closing statement containing a summary of all funds, expenses and prorations passing through escrow.

6. **Conditions Precedent to Purchaser's Obligation to Close.**

6.1 Purchaser's obligation to acquire the Property shall be conditioned upon the satisfaction, or waiver by Purchaser of the following conditions: (a) approval of this Agreement by the Gig Harbor City Council; (b) inspection by the City for Hazardous Substances, receipt and approval by the Gig Harbor City Council of all environmental and Hazardous Substances reports from the City's Consultant; (c) the City Council's approval of an appraisal commissioned and paid for as provided herein; (d) after the City Council's receipt and approval of the Hazardous Substances report and the appraisal, the City Council's discretionary decision to proceed with the sale for the Purchase Price set forth in Section 1 herein; (e) completion by Seller of all deliveries required of Seller prior to the Property Closing; (f) that there has been no breach by Seller of any of the warranties and/or covenants of this Agreement; and (g) a review of the solvency of Seller under paragraph 8.2.3.

6.2 Once the appraisal and Hazardous Substances Report is received by the Purchaser, the City Council shall consider whether this Agreement should be amended as to the Purchase Price. If the City Council does not choose to

amend the Agreement as to the purchase price and desires to proceed with the purchase, the Purchaser shall immediately notify the Seller and the parties shall proceed to Closing. If the City Council chooses to amend the purchase price, the Purchaser shall notify the Seller. If the Seller is unwilling to amend the purchase price as proposed by the Purchaser, then this Agreement shall terminate, and neither party shall have any further obligation to the other party. If the Seller is willing to amend the purchase price as proposed by the Purchaser, then the Seller shall notify the Purchaser, and the parties shall proceed to Closing.

6.3 If the City Council, in its sole discretion, determines that the contingencies in 6.1 have not been met, the Purchaser shall notify Seller that this Agreement is terminated, and neither party shall have any further obligation hereunder.

## 7. **Seller's Covenants.**

7.1 **Right of Inspection.** At all times prior to Closing, Seller shall (a) permit Purchaser and such persons as Purchaser may designate to undertake such investigations and inspections of the Property (including, without limitation, physical invasive testing) as Purchaser may in good faith require to inform itself of the condition or operation of the Property and (b) provide Purchaser with complete access to Seller's files, books and records relating to the ownership and operation of the Property, including, without limitation, contracts, permits and licenses, zoning information, during regular business hours upon reasonable advance notice. Seller agrees to cooperate in connection with the foregoing and agrees that Purchaser, its agents, employees, representatives or contractors shall be provided promptly upon request such information as shall be reasonably necessary to examine the Property and the condition thereof:

7.2 **Encumbrances.** At no time prior to Closing shall Seller encumber the Property or any portion thereof with encumbrances, liens or other claims or rights (except such as may exist as of the date hereof) unless (a) such encumbrances are necessary and unavoidable, in the reasonable business judgment of Seller, for the conduct of Seller's use of the Property (which in no case shall include mortgages, deeds of trust or other voluntary security interests), (b) Seller discloses the same to Purchaser in writing and (c) Seller covenants to remove (and does remove) the same prior to Closing. Seller agrees to provide Purchaser evidence of lien releases in connection with any liens on the Property prior to the Closing Date.

7.3 **Material Changes.** Seller shall: (a) promptly notify Purchaser of the occurrence of any fact, circumstance, condition or event that would cause any of the representations made by Seller in this Agreement no longer to be true or accurate and (b) deliver to Purchaser any notices of violation of law received by Seller prior to Closing.

7.4 Additional Improvements. Seller shall not enter into any agreements regarding additional improvements to be made to the Property following the Effective Date and prior to Closing, without the prior approval from Purchaser.

7.5 Compliance with Applicable Law. Seller agrees that it will not permit or cause, as a result of any intentional or unintentional act or omission on the Seller's part, or on the part of any agent of the Seller, or any third party, any release or further release of Hazardous Substances on the Property.

8. **Seller's Environmental Indemnify, Representations and Warranties.**  
Seller hereby represents and warrants to Purchaser as follows:

8.1 Title to Property. Seller owns fee simple title to the Property, free and clear of all restrictions, liens, easements, mortgages, covenants, exceptions and restrictions of any kind, Uniform Commercial Code financing statements, security interests, and other encumbrances, except for the Permitted Exceptions (as described in Section 9).

8.2 Hazardous Substances on the Property.

8.2.1. Definitions. (a) "Hazardous Substances" means any hazardous, toxic or dangerous substance, waste or materials that are regulated under any federal, state or local law pertaining to environmental protection, contamination remediation or liability. The term includes, without limitation, (i) any substances designated a "Hazardous Substance" under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 *et seq.*), the Model Toxics Control Act (Chapter 70.105D RCW), the Hazardous Waste Management Act (Chapter 70.105 RCW), and regulations promulgated there under, as these statutes and regulations shall be amended from time to time, and (ii) any substances that, after being released into the environment and upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or indirectly by ingestion through the food chain, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer and/or genetic abnormalities in humans, plants or animals. For the purposes of this definition, the term "Hazardous Substances" includes, but is not limited to, petroleum chemicals, asbestos-containing material and lead paint. (b) "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to, air, soils, surface water and ground water.

8.2.2. Hold Harmless, Defense and Indemnity. From and after the date of Closing, the Seller shall, to the maximum extent permitted under law, indemnify, defend, and hold the Purchaser, its officers, officials, employees, agents and assigns, harmless from and against any and all suits, actions, causes of action, legal or administrative proceedings, claims, demands, fines, punitive damages, losses, costs, liabilities and expenses, including attorney's fees, in any way arising out of or connected with the known or unknown physical or environmental condition of the Property (including, without limitation, any contamination in, on, under or adjacent to the Property by any Hazardous or Toxic substance or material), or any federal, state or local law, ordinance, rule or regulation applicable thereto, including, without limitation, the Model Toxics Act (ch. 70.105D RCW) and the Comprehensive Environmental Response, Compensation and Liability Act. The foregoing shall include all conditions existing or arising prior to, on or after the date of Closing, and all conditions and Hazardous Substances or toxic substances or materials at, under, released or emanating from the Property. It is the express intent of the parties that after the date of Closing, the Purchaser shall have no liability whatsoever for any environmental conditions at the Property, including, without limitation, those portions of the Property that are submerged as of the date of Closing, and that the Seller shall retain such liability. Notwithstanding the foregoing, the indemnification, defense, and hold harmless granted to Purchaser herein shall not apply to any physical or environmental condition caused by the Purchaser after the date of Closing.

8.2.3 Proof of Financial Solvency. At the time of Closing the Sellers shall provide proof of financial solvency and capability to provide a reliable indemnification, defense, and hold harmless, as required by this Agreement to Purchaser's sole satisfaction.

8.2.4. Violations. Seller has not received any notice of and is not aware of any actual or alleged violation with respect to the Property of any federal, state or local statute, ordinance, rule, regulation or other law pertaining to Hazardous Substances and no action or proceeding is pending before or appealable from any court, quasi-judicial or administrative agency relating to Hazardous Substances emanating from, cause by or affecting the Property.

8.2.5. Underground Storage Tanks. To the best of Seller's knowledge, warrants that the Property contains no underground storage tanks for the storage of fuel oil, gasoline, and/or other petroleum products, Hazardous Substances, or byproducts.

8.2.6. No Assessments. No assessments have been made against the Property that are unpaid, whether or not they have become liens.

8.2.7. Boundary Lines of Property. To the best of Seller's knowledge, the improvements on the Property are located entirely within the boundary lines of the Property, and to the best of Seller's knowledge there are no disputes concerning the location of the lines and corners of the Property.

8.2.8 Litigation. Seller has no actual knowledge of any, and there is no actual or pending litigation or proceeding by any organization, person, individual or governmental agency against Seller with respect to the Properties or against the Properties. There are no outstanding claims on Seller's insurance policies, which relate to the Property. Seller has not received any notice of any claim of noncompliance with any laws, from any governmental body or any agency, or subdivision thereof bearing on the construction of the Improvements, the landscaping or the operation, ownership or use of the Property.

8.2.9 Authorization. Seller has the full right and authority to enter into this Agreement and consummate the sale, transfers and assignments contemplated herein; and each of the persons signing this Agreement and any other document or instrument contemplated hereby on behalf of Seller is authorized to do so. All of the documents executed by Seller which are to be delivered to Purchaser at Closing are and at the time of Closing will be duly authorized, executed, and delivered by Seller, are and at the time of Closing will be legal, valid, and binding obligations of Seller enforceable against Seller in accordance with their respective terms.

8.2.10 Liens. All expenses in connection with the construction of the Property and any reconstruction and repair of the Property have been fully paid, such that there is no possibility of any mechanics' or materialmen's liens being asserted or filed in the future against the Property in respect of activities undertaken prior to Closing.

8.2.11 Defects. Seller has not failed to disclose in full any physical defect or condition of disrepair whether concealed or visible, with respect to the Property of which Seller has knowledge.

8.2.12 True and Accurate Representations. No representation or warranty of Seller included in this Agreement contains or at Closing will contain an untrue statement of material fact, or omits or at Closing will omit to state a material fact necessary to make the statements and facts contained therein not misleading. If any event or circumstance occurs which renders any of Seller's representations or warranties herein untrue

or inaccurate in any material respect, then Seller shall notify Purchaser of the event or circumstance when Seller becomes aware of it.

Seller will refrain from taking any action, which would cause any of the foregoing representations and warranties to become incorrect or untrue at anytime prior to the date of Closing. At the Closing, Seller shall reaffirm and restate such representations and warranties, subject to disclosure of any changes in facts or circumstances, which may have occurred since the date hereof. Such restated representations and warranties shall survive the Closing. If any change in any foregoing representation is a material change, and Seller does not elect to cure all such material changes prior to Closing then notwithstanding anything herein to the contrary, Purchaser, at its sole option, may either (a) close and consummate the acquisition of the Property pursuant to this Agreement, reserving any and all necessary action to specifically enforce Seller's obligations hereunder; or (b) terminate this Agreement by written notice to Seller, and neither of the parties hereto shall have any rights or obligations hereunder whatsoever, except such rights or obligations that, by the express terms hereof, survive any termination of the Agreement.

8.2.12 Payment of Real Estate Agent's Commission. The Seller shall be responsible to pay any commissions or fees due and owing to any Real Estate Agent. The Purchaser shall not be responsible to pay any commissions or fees to any Real Estate Agent, either the listing or selling broker.

## 9. Title Examination and Objections.

9.1. Title Review. Seller shall cause \_\_\_\_\_ Title Company (the "Title Company") to furnish to Purchaser, at Purchaser's expense, a title insurance commitment, on an ALTA approved form for the Property (the "Title Report"), to be delivered to Purchaser on or before \_\_\_\_\_ 200\_, which shall be at least 30 days prior to closing. Purchaser shall have fifteen (15) days after receipt of such Title Report to conduct an examination of Seller's title to the Property and to give written notice to Seller of any title matters, which affect title to the Property and which are unacceptable to Purchaser (the "Title Objections"). If Purchaser fails to object to any matter which is of record as of the date hereof prior to the expiration of such fifteen (15) day period, then, except with respect to any security instrument or lien affecting the Property, Purchaser shall be deemed to have waived its right to object to any such matter and all of such matters shall be deemed a permitted title exception for purposes of this Agreement (collectively, with those matters described in this Section, the "Permitted Exceptions").

9.1.1 Upon receipt from the Purchaser of a written notice of any Title Objection, together with a copy thereof the Seller shall, within fifteen (15) days of receiving such notice, provide written notice to Purchaser that Seller (a) will satisfy or correct, at Seller's expense, such Title Objection, or (b) refuses to satisfy or correct, in full or in part, such Title Objection, stating with particularity which part of any Title Objection will not be satisfied. The above notwithstanding, Seller may not refuse to satisfy security interests, liens or other monetary encumbrances affecting the Properties. As to those Title Objections which Seller agrees to satisfy or cure, or is required to satisfy or cure, Seller shall, on or before the Closing Date, (i) satisfy, at Seller's expense, security interests, liens or other monetary encumbrances affecting the Property (and all of Seller's obligations under or relating to each of the foregoing), and (b) satisfy or correct, at Seller's expense, all other Title Objections affecting the Property.

9.2 Failure to Cure. In the event that Seller fails to satisfy or cure any Title Objection of which it is notified, whether or not Seller has provided timely written notice that it refuses to satisfy or correct such objections, then on or before the Closing Date, the Purchaser shall by written notice to the Seller elect one of the following:

9.2.1 To accept Seller's interest in the Property subject to such Title Objections, in which event such Title Objections shall become part of the Permitted Exceptions, and to close the transaction contemplated hereby in accordance with the terms of this Agreement, provided that in the event any such Title Objections results from a breach by Seller of the covenants contained herein, a monetary charge or lien, or from a Title Objection other than a monetary charge or lien for which Seller has not given timely notice of its refusal to satisfy or correct, (a) such acceptance by Purchaser of Seller's interest in the Property shall be without prejudice to Purchaser thereafter seeking monetary damages from Seller for any such matter which Seller shall have failed to so correct, and (b) if such Title Objection is a monetary charge or lien which can be satisfied or cured by the payment of a liquidated sum of money, Purchaser may cause such Title Objection to be so cured or satisfied by paying the same out of the Purchase Price to be paid; or

9.2.2 To terminate this Agreement in accordance with the provisions herein; provided however, that if the Purchaser elects to terminate this Agreement because of the existence of any Title Objection which results from a breach by Seller of its covenants herein, or any other Title Objection which Seller is required to satisfy or correct, Purchaser's cancellation shall be without prejudice to any other rights of the Purchaser herein.



9.3 Removal of Liens. Notwithstanding anything to the contrary herein contained, Seller covenants and agrees that at or prior to Closing Seller shall (a) pay in full and cause to be cancelled all loan security documents which encumber the Property as of the date hereof and as of the Closing Date, and (b) pay in full and cause to be cancelled and discharged or otherwise bond and discharge as liens against the Properties all mechanics' and contractors' liens which encumber the Property as of the date hereof or which maybe filed against the Property after the date hereof and on or prior to the Closing Date. In the event Seller fails to cause such liens and encumbrances to be paid and canceled at or prior to Closing, Purchaser shall be entitled to pay such amount to the holder thereof as may be required to pay and cancel same, and to credit against the Purchase Price the amount so paid.

9.4 Notwithstanding any language to the contrary in this Agreement, Purchaser may not object to the following title matters, which shall be considered "Permitted Exceptions": (a) real property taxes or assessments due after Closing; (b) easements consistent with Purchaser's intended use of the Property, (c) reserved oil and/or mineral rights; (d) rights reserved in federal patents or state deeds; and (e) governmental building and land use regulations, codes, ordinances and statutes.

## 10. Default.

10.1 By Seller. In the event of a default by Seller, Purchaser shall, in addition to any other remedy Purchaser may have, including Specific Performance, be entitled to immediately cancel this Agreement and receive a refund of its earnest money deposit and interest, provided, however, Purchaser may, at its option, waive any default by Seller and proceed with the purchase of the Property.

10.2 By Purchaser. In the event of any default by Purchaser, prior to the close of escrow and after all applicable contingencies as described in Section 6 have been satisfied, Seller's sole remedy shall be to terminate the escrow and Purchaser's right to purchase the Property and receive the earnest money deposited by Purchaser hereunder and interest thereon as liquidated damages.

10.3 General. If a party (the "Defaulting Party") fails or refuses to perform its obligations under this Agreement or if the sale and purchase of the Property contemplated by this Agreement is not consummated on account of the Defaulting Party's default hereunder, then Escrow Agent shall (after receiving notice from the non-Defaulting Party and then giving the Defaulting Party ten (10) days' prior written notice) refund any monies deposited by the non-defaulting party, and return any documents deposited with the Escrow Agent by the non-Defaulting Party, on demand, without prejudice to any other legal rights or

remedies of the non-Defaulting Party hereunder. In the event Seller is the Defaulting Party hereunder, Purchaser shall have, in addition to any right or remedy provided hereunder, the right to seek specific performance of this Agreement, or other equitable remedies against Seller in the event that Seller wrongfully fails or refuses to perform any covenant or agreement of Seller hereunder.

11. **Condemnation or Destruction.**

11.1 **Condemnation.** Seller hereby represents and warrants that Seller has no knowledge of any action or proceeding pending or instituted for condemnation or other taking of all or any part of the Property by friendly acquisition or statutory proceeding by any governmental entity. Seller agrees to give Purchaser immediate written notice of such actions or proceedings that may result in the taking of all or a portion of the Property. If, prior to Closing, all or any part of the Properties is subject to a bona fide threat or is taken by eminent domain or condemnation, or sale in lieu thereof, then Purchaser, by notice to Seller given within twenty (20) calendar days of Purchaser's receiving actual notice of such threat, condemnation or taking by any governmental entity other than the City of Gig Harbor, Washington, may elect to terminate this Agreement. In the event Purchaser continues or is obligated to continue this Agreement, Seller shall at Closing assign to Purchaser its entire right, title and interest in and to any condemnation award. During the term of this Agreement, Seller shall not stipulate or otherwise agree to any condemnation award without the prior written consent of Purchaser.

11.2 **Damage or Destruction.** Prior to Closing the risk of loss of or damages to the Property by reason of any insured or uninsured casualty shall be borne by Seller.

11.3 **Termination.** If this Agreement is terminated, neither party hereto shall have any further rights or obligations under this Agreement whatsoever, except for such rights and obligations that, by the express terms hereof, survive any termination of the Agreement.

12. **Indemnification.**

12.1 **Seller's Indemnification.** In addition to the indemnity provided in Section 8.2.2 herein, Seller shall indemnify and defend Purchaser including its elected officials, officers, managers, employees and agents) and hold it harmless from and against any material claim, loss, liability and expense, including attorneys' fees and court costs (collectively "Claims") incurred by Purchaser on account of (a) claims by persons or entities other than Purchaser arising out of or in connection with the ownership, operation of maintenance of the Property by

Seller, or any fact, circumstance or event which occurred prior to the Closing Date, including the release, threatened release or existence of Hazardous Substances on the Property; and (b) claims resulting from or arising directly or indirectly, in whole or in part, out of the breach of any representation, warranty, covenant or agreement of Seller contained in this Agreement. Notwithstanding any language to the contrary in this Agreement, Seller agrees to indemnify, defend and hold Purchaser harmless from and against any and all claims, liabilities, losses, penalties, remediation costs and expenses (including attorneys' and consultants' fees and costs) that Purchaser may incur, or have asserted against it as a result of Seller's breach of the warranties in this Agreement. At Purchaser's option, Seller shall promptly undertake any remediation required as a result of such breach at Seller's expense.

12.2 Purchaser's Indemnity. Purchaser shall indemnify and defend Seller (including its officers, officials, employees and agents) and hold it harmless from and against any material claim, loss, liability and expense, including reasonable attorneys' fees and court costs (collectively, "Claims") incurred by Seller on account of Claims resulting from or arising directly or indirectly, in whole or in part, out of the breach of any representation, warranty, covenant or agreement of Purchaser contained in this Agreement. This shall not affect Seller's obligations per the provisions of Section 8.2.2 herein.

13. Assignment. Neither party shall be entitled to assign its right, title and interest herein to any third party without the written consent of the other party to this Agreement. Any approved assignee shall expressly assume all of the assigning party's duties, obligations, and liabilities hereunder but shall not release the assigning party from its liability under this Agreement.

14. Facsimile or E-Mail Transmission. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of the original.

15. Notices. All notices, demands, and any and all other communications which may be or are required to be given to or made by either party to the other in connection with this Agreement shall be in writing and shall be deemed to have been properly given if delivered by hand, sent by fax, sent by registered or certified mail, return receipt requested, or sent by recognized overnight courier service to the addresses set out below or at such other addresses as specified by written notice and delivered in accordance herewith. Any such notice, request or other communication shall be considered given or delivered, as the case maybe, on the date of hand, fax or courier delivery or on the date of deposit in the U.S. Mail as provided above. However, the time period within which a response to any notice or request must be given, if any, shall commence to run from the date of actual receipt of such notice, request, or other communication by the addressee thereof.

**SELLER:**

**PURCHASER:** The City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335  
Attn: City Administrator  
Phone (253) 851-8136  
Fax: (253) 851-8563

With a copy to: Carol A. Morris, City Attorney  
Law Office of Carol A. Morris, P.C.  
P.O. Box 948  
Seabeck, WA 98380-0948  
Phone: (360) 830-0328  
Fax: (360) 830-0355

16. Miscellaneous.

16.1 Governing Law and Construction. This Agreement shall be construed and interpreted under the laws of the State of Washington. The titles of sections and subsections herein have been inserted as a matter of convenience or reference only, and shall not control or affect the meaning or construction of any of the terms or provisions herein. All references herein to the singular shall include the plural, and vice versa.

16.2 Counterparts. This Agreement maybe executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

16.3 Rights, Powers and Privileges. Except as expressly provided under the terms of this Agreement, all rights, powers and privileges conferred hereunder upon the parties shall be cumulative but not restrictive of those given by law.

16.4 Waiver. No failure of either party to exercise any power given either party hereunder or to insist upon strict compliance by either party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

16.5 Time. Time is of the essence in complying with the terms, conditions and agreements of this Agreement.

16.6 Entire Agreement. This Agreement contains the entire Agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force and effect.

16.7 Survival. Each of the covenants, agreements, representations and warranties herein shall survive the Closing and shall not merge at Closing with any deed, bill of sale or other document of transfer.

16.8 Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors and assigns.

16.9 Time Periods. If the Time period by which any right, option or election provided under this Agreement must be exercised or by which any acts or payments required hereunder must be performed or paid, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday, then such time period shall be automatically extended to the close of business on the next regularly scheduled business day.

16.10 Severability. If a court of competent jurisdiction invalidates a portion of this Agreement, such invalidity shall not affect the remainder.

16.11 Modifications. Any amendment to this Agreement shall not be binding upon any of the parties to this Agreement unless such amendment is in writing duly executed by each of the parties affected thereby.

16.12 Attorneys' Fees. If Purchaser or Seller institute suit concerning this Agreement, the prevailing party or parties is/are entitled to court costs and reasonable attorneys' fees. The venue of any suit shall be in Pierce County, Washington.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective duly authorized representatives on the dates indicated below, to be effective as of the date and year first above written.

**PURCHASER:**

CITY OF GIG HARBOR

By: \_\_\_\_\_  
Its Mayor

**SELLER:**

By: \_\_\_\_\_  
Its \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Clerk, Molly Towslee

APPROVED AS TO FORM

OFFICE OF THE CITY ATTORNEY

\_\_\_\_\_  
Carol A. Morris

STATE OF WASHINGTON )

) ss.

COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ 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 of the \_\_\_\_\_ 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: \_\_\_\_\_

STATE OF WASHINGTON )

) ss.

COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ 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 of the \_\_\_\_\_ 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**  
**LEGAL DESCRIPTION**



**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: DAVID RODENBACH, FINANCE DIRECTOR** DR  
**SUBJECT: FIRST READING OF ORDINANCE INCREASING MONTHLY WATER RATES**  
**DATE: NOVEMBER 27, 2006**

### **INTRODUCTION**

This is the first reading of an ordinance increasing monthly water rates. This is the second in a series of increases recommended in a rate study conducted by Gray and Osborne, Inc. in 2003.

### **BACKGROUND**

The proposed rate increase will ensure that adequate revenues are available to meet operating costs, replace aging infrastructure, construct new facilities, and maintain adequate cash reserves.

### **FINANCIAL**

The proposed rate increase will provide approximately \$39,000 in additional operating revenues for the water utility in 2007.

Currently, the City's average residential water bill for one month is \$22.03. With the proposed increase this rate would increase to \$23.13.

### **RECOMMENDATION**

We recommend adoption of this ordinance after a second reading.

CITY OF GIG HARBOR  
ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON  
INCREASING THE MONTHLY WATER SERVICE RATE TO BE PAID TO  
THE CITY FOR THE PROVISION OF WATER SERVICES; AMENDING GIG  
HARBOR CODE SECTIONS 13.04.010 AND 13.04.020, TO BE EFFECTIVE  
BEGINNING JANUARY 1, 2007.

---

**WHEREAS**, it is necessary to raise water service rates and charges to meet the increasing cost of providing water services;

**WHEREAS**, the 2003 rate study by Gray & Osborne recommends these rate increases;

**NOW, THEREFORE**, the City Council of the City of Gig Harbor, Washington, **DO ORDAIN AS FOLLOWS:**

Section 1. Section 13.04.010 of the Gig Harbor Municipal Code is hereby amended as follows:

**13.04.010    Water Rates.**

The monthly water service rates shall be set at the following amounts:

<b>Customer Class/Meter</b>	<b>Customer Base Charge (per meter/month)</b>	<b>Commodity Charge (per ccf)</b>
Residential	<u>\$10.01</u> 9.53	<u>\$1.31</u> 1.25
Multi-residential		
5/8" & 3/4"	<u>17.58</u> 16.74	<u>1.22</u> 1.16
1"	<u>24.19</u> 23.04	<u>1.22</u> 1.16
1-1/2"	<u>40.59</u> 38.66	<u>1.22</u> 1.16
2"	<u>60.35</u> 57.48	<u>1.22</u> 1.16
3"	<u>112.99</u> 107.61	<u>1.22</u> 1.16
4"	<u>\$172.26</u> 164.06	<u>\$1.22</u> 1.16
Commercial/Schools		
5/8" & 3/4"	<u>\$14.74</u> 14.04	<u>\$1.27</u> 1.21
1"	<u>19.46</u> 18.53	<u>1.27</u> 1.21
1-1/2"	<u>31.15</u> 29.67	<u>1.27</u> 1.21
2"	<u>45.24</u> 43.09	<u>1.27</u> 1.21
3"	<u>82.80</u> 78.86	<u>1.27</u> 1.21
4"	<u>\$125.07</u> 119.11	<u>\$1.27</u> 1.21

Section 2. Section 13.04.020 of the Gig Harbor Municipal Code is hereby amended as

follows:

**13.04.020 Nonmetered residential uses.**

Until a water meter has been installed to measure water consumed by a residential unit or a multiple-residential building, the water service charge applicable to such unmetered unit shall be \$29.69 ~~28.28~~ per month per unit.

Section 3. 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 4. This ordinance shall be in full force and take effect January 1, 2007 which shall be at least five (5) days after its publication of an approved summary consisting of the title.

**PASSED** by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this \_\_\_th day of December, 2006.

APPROVED:

\_\_\_\_\_  
Charles L. Hunter, Mayor

ATTEST:

\_\_\_\_\_  
Molly Towslee, City Clerk

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By: \_\_\_\_\_  
Carol A. Morris

Filed with city clerk:  
Passed by city council:  
Date published:  
Date effective:

**SUMMARY OF ORDINANCE NO. \_\_\_\_  
of the City of Gig Harbor, Washington**

On December \_\_, 2006, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. \_\_\_\_, the summary of text of which is as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON  
CHANGING THE MONTHLY WATER SERVICE RATE TO BE PAID TO  
THE CITY BY OWNERS OF PROPERTY WITHIN THE CITY FOR THE  
PROVISION OF WATER SERVICES; AMENDING GIG HARBOR CODE  
SECTIONS 13.04.010 AND 13.04.020, TO BE EFFECTIVE BEGINNING  
JANUARY 1, 2007.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR:

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

APPROVED by the City Council at their regular meeting of December \_\_, 2006.

BY: \_\_\_\_\_

MOLLY M. TOWSLEE, CITY CLERK



**TO: MAYOR HUNTER AND CITY COUNCIL ✓**  
**FROM: DAVID RODENBACH, FINANCE DIRECTOR *DR***  
**SUBJECT: FIRST READING OF ORDINANCE INCREASING SEWER RATES**  
**DATE: NOVEMBER 27, 2006**

### **INTRODUCTION**

This is the first reading of an ordinance increasing monthly sewer service rates. This is the second in a series of increases recommended in a rate study conducted by Gray and Osborne, Inc. in 2003.

### **BACKGROUND**

The proposed rate increase will ensure that adequate revenues are available to meet operating costs, replace aging infrastructure, construct new facilities, and maintain adequate cash reserves.

### **FINANCIAL**

The proposed rate increase will allow the sewer utility to cover operating expenses, pay debt service and maintain a sufficient working capital balance.

Currently, the City's average residential sewer bill for one month is \$31.11. With the proposed increase this rate would increase to \$34.22. This increase will provide approximately \$160,000 in additional operating revenues.

### **RECOMMENDATION**

We recommend adoption of this ordinance after a second reading.

**CITY OF GIG HARBOR  
ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON  
INCREASING THE MONTHLY SEWER SERVICE RATE TO BE PAID FOR  
THE PROVISION OF SEWER SERVICES; AND AMENDING GIG HARBOR  
CODE SECTIONS 13.32.010, 13.32.015, 13.32.020, AND 13.32.025 TO BE  
EFFECTIVE BEGINNING JANUARY 1, 2007.**

---

**WHEREAS**, it is necessary to raise sewer service rates and charges to meet the increasing cost of providing sewage collection and treatment services; and

**WHEREAS**, the 2003 rate study by Gray & Osborne recommends these rate increases;

**NOW, THEREFORE**, the City Council of the City of Gig Harbor, Washington, **DO ORDAIN AS FOLLOWS:**

**Section 1.** Section 13.32.010 of the Gig Harbor Municipal Code is hereby amended as follows:

**13.32.10 Sewer Rates.**

**A.** The monthly sewer service rate shall be set at the following amounts:

<b>Customer Class</b>	<b>Customer Base Charge (per month)</b>	<b>Commodity Charge (per ccf)</b>
Residential	<del>\$18.68</del> 16.98	<del>\$2.29</del> 2.08
Multi-Family Residential (per living unit)	<del>14.37</del> 13.06	<del>2.29</del> 2.08
Commercial/School	<del>43.60</del> 39.64	<del>4.05</del> 3.68
Dept. of Corrections	<del>\$5,760</del> 5,236.35	<del>\$2.29</del> 2.08

\* \* \*

**Section 2.** Section 13.32.015 of the Gig Harbor Municipal Code is hereby amended as follows:

**13.32.015 Sewer Rates – Community Systems.** The monthly sewer service rates for community systems shall be set at the following amounts:

<u>Customer Class</u>	<u>Monthly Charge</u>
Shore Crest System	\$ <del>5.78</del> <del>5.25</del> plus \$ <del>28.45</del> <del>25.86</del> /living unit

**Section 3.** Section 13.32.020 of the Gig Harbor Municipal Code is hereby amended as follows:

**13.32.20 Non-metered uses.** Until a water meter has been installed to measure water flow by a residential unit, multi-residential building, or commercial facility, the sewer service charge for each unmetered unit/facility shall be as follows:

<u>Nonmetered Customer Class</u>	<u>Monthly Charge</u>
Residential	\$ <del>34.22</del> <del>31.11</del> /unit
Multifamily residential	<del>24.54</del> <del>22.31</del> /living unit
Commercial	\$ <del>84.03</del> <del>76.39</del> /billing unit

**Section 4.** Section 13.32.025 of the Gig Harbor Municipal Code is hereby amended as follows:

**13.32.025 Sewer Rates – Community systems using flow meters.**

<u>Customer Class</u>	<u>Customer Base Charge (per month) (per ccf)</u>	<u>Commodity Charge</u>
Residential	\$ <del>5.78</del> <del>5.25</del> + \$ <del>12.90</del> <del>11.73</del> /unit	\$ <del>2.29</del> <del>2.08</del>
Multi-Family Residential	\$ <del>5.78</del> <del>5.25</del> + \$ <del>8.59</del> <del>7.81</del> /unit	\$ <del>2.29</del> <del>2.08</del>
Commercial	\$ <del>5.78</del> <del>5.25</del> + \$ <del>37.83</del> <del>34.39</del> /unit	\$ <del>4.05</del> <del>3.68</del>

\* \* \*

**Section 5. 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 6.** This ordinance shall be in full force and take effect January 1, 2007 which shall be at least five (5) days after its publication of an approved summary consisting of the title.



**PASSED** by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this \_\_\_th day of December, 2006.

APPROVED:

\_\_\_\_\_  
Charles L Hunter, Mayor

ATTEST:

\_\_\_\_\_  
Molly Towslee  
City Clerk

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By: \_\_\_\_\_  
Carol A. Morris

Filed with city clerk:  
Passed by city council:  
Date published:  
Date effective:

**SUMMARY OF ORDINANCE NO.  
of the City of Gig Harbor, Washington**

On December \_\_, 2006, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. \_\_\_\_ the summary of text of which is as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON INCREASING THE MONTHLY SEWER SERVICE RATE TO BE PAID TO THE CITY BY OWNERS OF PROPERTY WITHIN THE CITY FOR THE PROVISION OF SEWER SERVICES; AND AMENDING GIG HARBOR CODE SECTIONS 13.32.010, 13.32.015, 13.32.020, AND 13.32.025 TO BE EFFECTIVE BEGINNING JANUARY 1, 2007.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR:

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

APPROVED by the City Council at their regular meeting of December \_\_, 2006.

BY: \_\_\_\_\_

MOLLY M. TOWSLEE, CITY CLERK



**TO: MAYOR HUNTER AND CITY COUNCIL ✓**  
**FROM: DAVID RODENBACH, FINANCE DIRECTOR *DR***  
**SUBJECT: FIRST READING OF ORDINANCE INCREASING STORM DRAINAGE RATES**  
**DATE: NOVEMBER 27, 2006**

### **INTRODUCTION**

This is the first reading of an ordinance increasing monthly storm drainage fees.

### **BACKGROUND**

It is necessary to increase the storm drainage fees to reflect the increased costs of constructing and maintaining the City's storm drainage system.

The proposed rate increase will ensure that adequate revenues are available to meet the new National Pollutant Discharge and Elimination System (NPDES) Citywide Phase 2 program and permitting requirements, operating costs, replace aging infrastructure, construct new facilities, and maintain adequate cash reserves.

### **FINANCIAL**

The monthly service charge is currently \$7.20 per month or \$86.40 per year. This ordinance will increase storm fees to \$8.64 per month or \$103.68 per year.

### **RECOMMENDATION**

Staff recommends adoption of this ordinance.

CITY OF GIG HARBOR  
ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON INCREASING THE MONTHLY STORM DRAINAGE RATE TO BE PAID TO THE CITY BY OWNERS OF PROPERTY WITHIN THE CITY FOR THE PROVISION OF STORM DRAINAGE SERVICES, AMENDING GIG HARBOR CODE SECTION 14.10.050, TO BE EFFECTIVE BEGINNING JANUARY 1, 2007.**

**WHEREAS**, it is necessary to increase the storm drainage service rates and charges to reflect the increased costs of providing those services and to maintain a viable storm drainage system; and

**WHEREAS**, the proposed rate increase will ensure that adequate revenues are available to meet the new National Pollutant Discharge and Elimination System (NPDES) Citywide Phase 2 program and permitting requirements,

**NOW, THEREFORE**, the City Council of the City of Gig Harbor, Washington, **ORDAINS** as follows:

Section 1. Section 14.10.050 of the Gig Harbor Municipal Code is hereby amended to read as follows:

**14.10.050 Service charge rates.** In accordance with the basis for a rate structure set forth in GHMC 14.10.020 and 14.10.030, there is levied upon all developed real property within the boundaries of the utility the following service charges which shall be collected from the owners of such properties:

- A. For all detached single-family residences and mobile homes (one equivalent billing unit), the monthly service charge shall be ~~\$8.64~~ 7.20.
- B. Those developed properties that are riparian to the harbor or Puget Sound from which storm and surface waters flow directly into the harbor or Puget Sound, without the aid of any watercourse or natural or artificial drainage facilities, and all developed properties with city-approved detention facilities will be billed at one equivalent billing unit.
- C. Duplexes shall be charged at 1.5 equivalent billing units for the two units.
- D. For all other developed property within the boundaries of the utility, except as set forth in GHMC 14.10.060, the monthly service charge shall be ~~\$8.64~~ 7.20 multiplied by the number of equivalent billing units determined by the utility to be contained in such parcel pursuant to GHMC 14.10.030.

Section 2. This ordinance shall be in full force and take effect January 1, 2007 which shall be at least five (5) days after its publication of an approved summary consisting of the title.

Section 3. 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.

**PASSED** by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this \_\_\_\_ day of December, 2006.

APPROVED:

\_\_\_\_\_  
Charles L Hunter, Mayor

ATTEST:

\_\_\_\_\_  
Molly Towslee  
City Clerk

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By: \_\_\_\_\_  
Carol A. Morris

Filed with city clerk:  
Passed by city council:  
Date published:

Date effective:



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: STEPHEN MISIURAK, P.E., CITY ENGINEER**  
**SUBJECT: PUBLIC HEARING & FIRST READING OF ORDINANCE**  
**- TRAFFIC IMPACT FEE UPDATE**  
**DATE: NOVEMBER 27, 2006**

**INFORMATION/BACKGROUND**

Attached for your consideration is a first reading of an ordinance updating the city's traffic impact fee schedule, (GHMC 19.12).

City staff, in conjunction with David Evans and Associates, Inc. (DEA), completed a city-wide traffic analysis and Capacity Availability Report. The recommendation is to raise the traffic impact fee rate to ~~\$3,043~~ \$3,171 per vehicle trip charge. The equivalent PM trip fee is \$1,080; the current fee of \$108.22 was adopted by the city in 1999. Exhibits A-1 through A-3 reflect the recommended impact fee schedule to be adopted. The methodology used was similar to the City of Olympia's recent impact fee update.

**FISCAL IMPACTS**

The current impact fee fund balance of \$600,000 is inadequate to fund the local portion of the necessary growth projects. The impact fee balance will be exhausted late next year as it will be expensed as part of the Olympic/56<sup>th</sup> Improvement Project.

**RECOMMENDATION**

I recommend that the City Council approve the ordinance as presented at the second reading.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO TRANSPORTATION IMPACT FEES, AMENDING THE FORMULA USED BY THE CITY TO CALCULATE TRANSPORTATION IMPACT FEES, ADOPTING A NEW PROJECT LIST AS REQUIRED BY GHMC SECTION 19.12.120 FOR THE CALCULATION OF TRANSPORTATION IMPACT FEES AND ESTABLISHING A NEW SCHEDULE OF TRANSPORTATION IMPACT FEES FOR USE BEGINNING ON JANUARY 1, 2007; AMENDING APPENDICES A AND B TO ORDINANCES No. 828 AND 962.**

---

WHEREAS, the City has adopted a transportation impact fee program (chapter 19.12 of the Gig Harbor Municipal Code); and

WHEREAS, the City's code requires that the project list for transportation projects be updated on a regular basis (GHMC Section 19.12.120); and

WHEREAS, as a result of recent court decisions, the City has also decided to update its transportation impact fee formula (*Drebick v. Olympia*); and

WHEREAS, an update to the City's impact fee formula and project list results in the calculation of a new transportation impact fee schedule (which is attached as an appendix to the previous City ordinance); and

WHEREAS, the City's SEPA Responsible Official issued a threshold determination of non significance for this Ordinance on November 8, 2006; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of December 11<sup>th</sup> 2006, Now, Therefore,

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

Section 1. The Project List attached hereto as Appendix A-1 is hereby adopted as the City Transportation Impact Fee Project List, which is a list of projects on the City's 6-year Road Plan and the City's Comprehensive Plan, Transportation Element, which are growth-related and that should be funded with forecast public moneys and the impact fees already paid. This Project List shall supersede the previous transportation Project List, and all such previously-adopted transportation Project Lists are repealed.



Section 2. The formula attached hereto as Appendix A-2 is hereby adopted as the City's Transportation Impact Fee Formula, which incorporates the requirements of RCW 82.02.050 through 82.02.090 and all other applicable provisions of chapter 19.12 GHMC. All previously-adopted transportation impact fee formulas are hereby repealed.

Section 3. The schedule of transportation impact fees attached hereto as Appendix A-3 is hereby adopted as the City's Transportation Impact Fee Schedule, which has been calculated according to the City's Transportation Impact Fee Formula and incorporating the City's Transportation Impact Fee Project List. This Transportation Impact Fee Schedule shall supersede the previous transportation impact fee schedule, and all such previously-adopted transportation impact fee schedules are repealed.

Section 4. 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 5. 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. The City shall collect transportation impact fees according to the schedule set forth in Appendix A-3 beginning on January 1, 2007.

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: \_\_\_\_\_

**EXHIBIT A-1  
Per Trip Fee Calculation**

Map No.	Project/Street	From / To	Capacity Improvements	A1			A2		A3	B	
				Total Estimated Cost	All Funds Appropriated to Project	Existing Impact Fee Fund Balance Allocated	Total Remaining Funds Needed (Impact Fee + Grants)B=A1-(A2+A3)				
1	Borgen / SR16 / Canterwood	Interim Improvements	Increase intersection capacity at Borgen Roundabout, minor widening on	\$8,000,000	\$8,000,000	\$0	\$0	\$0	\$0	\$0	
2	Olympic Drive / 56th Street	38th Ave to Point Fosdick Drive	Major widening, 5 lanes, bike lanes, sidewalks	\$6,042,000	\$1,185,000	\$650,000	\$4,207,000				
3	56th Street / Pt. Fosdick Dr.	Olympic Drive to Olympic Drive	Minor widening, 3 lanes, bike lanes, sidewalks	\$2,640,000	\$0	\$0	\$2,640,000				
4	38th Avenue Phase 1	City Limits to 56th Street	Minor widening, 3 lanes, bike lanes, sidewalk 1 side	\$11,215,200	\$0	\$0	\$11,215,200				
5	Grandview Street Phase 2	Pioneer Ave to Stinson Ave	Minor widening, bike lanes, sidewalk 1 side	\$518,400	\$0	\$0	\$518,400				
6	Grandview Street Phase 3	McDonald Ave to Soundview Drive	Minor widening, bike lanes, sidewalks	\$880,800	\$0	\$0	\$880,800				
7	38th Avenue Phase 2	56th St to Hunt St	Minor widening, bike lanes, sidewalk 1 side	\$7,488,000	\$0	\$0	\$7,488,000				
8	50th Court	Olympic Drive to 38th Street	New Roadway	\$960,000	\$200,000	\$0	\$760,000				
9	Olympic / Hollycroft	Intersection	Increase intersection capacity - single lane roundabout	\$540,000	\$0	\$0	\$540,000				
10	Rosedale Street Phase 2	City Limits to SR 16	Minor widening, left-turn pockets, bike lanes	\$1,022,400	\$0	\$0	\$1,022,400				
11	Rosedale Street Phase 3	SR 16 to Shirley Ave	Minor Widening, LT pockets, 1 bike lane, 1 sidewalk	\$801,600	\$0	\$0	\$801,600				
12	Hunt St Phase 1	Skansie Ave to Olympic	Minor widening, 3 lanes, bike lanes, sidewalks	\$6,912,000	\$0	\$0	\$6,912,000				
13	Wollochet Drive	Hunt St to SR16	Major Widening	\$8,670,000	\$0	\$50,000	\$8,620,000				
14	Hunt / Skansie	Intersection	Intersection Capacity Signal at roundabout	\$1,728,000	\$0	\$0	\$1,728,000				

**EXHIBIT A-1  
Per Trip Fee Calculation**

15	Burnham Drive Phase 1	Harborview Dr to Franklin Dr	Major Widening	\$716,400	\$0	\$0	\$716,400
16	Burnham Drive Phase 2	Franklin Ave to N-S Connector	Major Widening	\$4,075,200	\$0	\$0	\$4,075,200
17	Burnham Drive Phase 3	N-S Connector to Borgen Blvd	Minor Widening	\$6,451,200	\$0	\$0	\$6,451,200
<b>Totals</b>				<b>\$68,661,200</b>	<b>\$9,385,000</b>	<b>\$700,000</b>	<b>\$58,576,200</b>

Capacity Projects \$58,576,200

Net Growth Costs \$58,576,200

Outside City Growth 11%  
 Outside City Growth Share \$6,443,382 Required from other Grants/Outside City Growth Mitigation  
 City Growth Share \$52,132,818

State and Grant Funds Anticipate \$4,904,324  
Grants- Assumes 20% success rate, Deducted Grants for TIPS #2,15,24&PC Growth

Funds Required for City Growth \$47,228,494  
 Current Impact Fee Funds \$0  
 Net City Growth Costs \$47,228,494

Adjustment for Reserve Capacity 53.6% Capacity Remaining after 2012 in % (Eligible for future reimbursement)  
 Cost Reduction for Reserve Capa \$25,314,473 City Funds Required for Growth Projects

Net Growth Cost for 2007- 2012 \$21,914,021 6 yr Growth Share is 37%

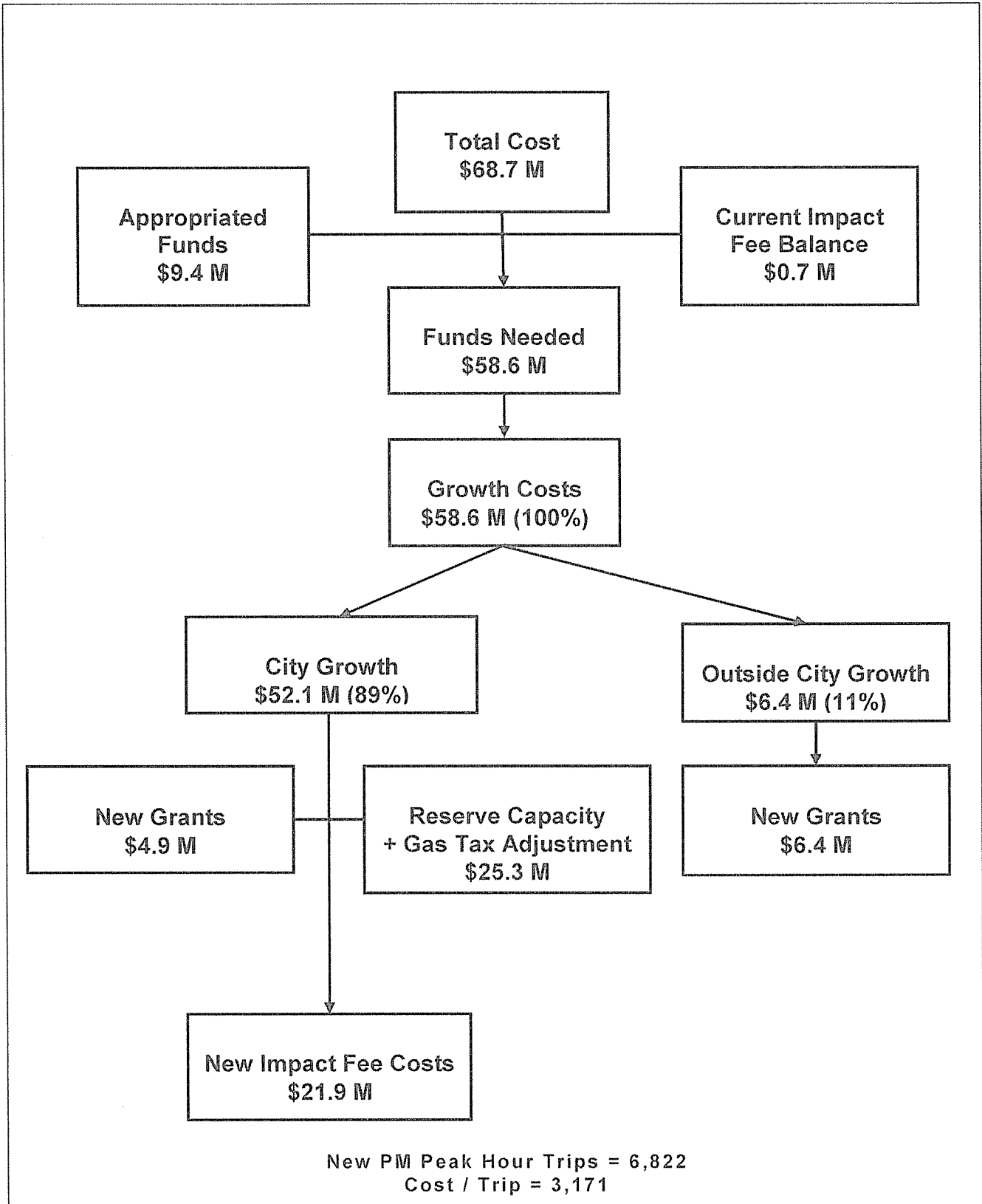
2007-2012 Growth Trips Expectec 6,822 Modeled New Peak Hour Trips

Cost Per Trip \$3,212

Adjustment for Gas Tax \$41

\$3,171

**Exhibit A-2**  
**Impact Fee Cost Allocation (2007 – 2012)**  
**Formula**



**EXHIBIT A-3  
Transportation Impact Fee Rate Worksheet**

City of Gig Harbor		Base Impact Fee Per Trip : \$ 3,171			Impact Fee per Development Unit <sup>5</sup>	
Land Use Group	ITE Code <sup>1</sup>	ITE Land Use Category <sup>1</sup>	ITE Trip Rate <sup>2</sup>	% Pass by trips <sup>3</sup>	Net New Trips per Development Unit	
Dwelling	210	Single Family House	1.01	0%	1,010	\$ 3,203 per DU
Dwelling	220	Apartment	0.62	0%	0,620	\$ 1,966 per DU
Dwelling	231	Low-Rise Condo / Townhouse	0.78	0%	0,780	\$ 2,473 per DU
Dwelling	240	Mobile Home	0.56	0%	0,560	\$ 1,776 per DU
Dwelling - Group	251	Sr. Housing Detached	0.26	0%	0,260	\$ 824 per DU
Dwelling - Group	252	Sr. Housing Attached	0.11	0%	0,110	\$ 349 per DU
Dwelling - Group	253	Congregate Care Facility	0.18	0%	0,180	\$ 571 per DU
Dwelling - Group	254	Assisted Living (limited data)	0.22	0%	0,220	\$ 698 per Bed
Dwelling - Group	620	Nursing Home	0.22	0%	0,220	\$ 698 per Bed
Education	520	Public Elementary School	1.19	0%	1,190	\$ 3,77 per Sq. Ft.
Education	522	Public Middle School	1.19	0%	1,190	\$ 3,77 per Sq. Ft.
Education	530	Public High School	0.97	0%	0,970	\$ 3,08 per Sq. Ft.
Education	534	Private School K-8 (limited data)	3.40	0%	3,400	\$ 10,78 per Sq. Ft.
Education	536	Private School K-12 (limited data)	2.75	0%	2,750	\$ 8,72 per Sq. Ft.
Industrial	110	Light Industrial	0.98	0%	0,980	\$ 3,11 per Sq. Ft.
Industrial	130	Industrial Park	0.86	0%	0,860	\$ 2,73 per Sq. Ft.
Industrial	140	Manufacturing	0.74	0%	0,740	\$ 2,35 per Sq. Ft.
Medical	610	Hospital	1.18	0%	1,180	\$ 3,74 per Sq. Ft.
Medical	630	Clinic (limited data)	5.18	0%	5,180	\$ 16,42 per Sq. Ft.
Medical	720	Medical/Dental Office	3.72	0%	3,720	\$ 11,80 per Sq. Ft.
Office	710	General Office	1.49	0%	1,490	\$ 4,72 per Sq. Ft.
Office	715	Single Tenant Office	1.73	0%	1,730	\$ 5,49 per Sq. Ft.
Office	750	Office Park	1.50	0%	1,500	\$ 4,76 per Sq. Ft.
Park and Ride	090	Park and Ride with Bus Service	0.75	0%	0,750	\$ 2,378 per Space
Recreation	420	Marina (limited data)	0.19	25%	0,143	\$ 452 per Slip
Recreation	430	Golf Course	0.30	25%	0,225	\$ 713 per Acre
Recreation	441	Live Theater (limited data)	1.00	25%	0,750	\$ 2,38 per Sq. Ft.
Recreation	491	Racquet Club	0.64	25%	0,482	\$ 1,53 per Sq. Ft.
Recreation	492	Health Fitness Club	4.05	25%	3,038	\$ 9,63 per Sq. Ft.
Recreation	495	Recreational Community Center	1.64	25%	1,230	\$ 3,90 per Sq. Ft.
Retail - Automotive	853	Convenience Market w/Gas Pumps	19.22	66%	6,535	\$ 20,721 per VSP
Retail - Automotive	941	Quick Lube	5.19	42%	3,010	\$ 9,545 per VSP
Retail - Automotive	944	Gas Station	13.86	42%	8,039	\$ 25,489 per VSP
Retail - Automotive	945	Gas Station w/Convenience Market	13.38	56%	5,887	\$ 18,667 per VSP

**EXHIBIT A-3  
Transportation Impact Fee Rate Worksheet**

	946	947	445	814	815	850	854	862	863	867	813	820	861	590	816	848	849	851	880	881	896	911	912	931	932	933	934	936	942	151	310	320	560	560	565	732			
Retail - Automotive	Gas Station w/Conv. Market & Car Wash	Self Serve Car Wash	Multiplex Movie Theater	Specialty Retail Center	Free Standing Discount Store	Supermarket	Discount Supermarket	Home Improvement Super Store	Electronics Super Store	Office Supply Superstore	Free Standing Discount Superstore	Shopping Center < 1 Million Sq Ft	Discount Club	Library	Hardware/Paint Store	Tire Store	Tire Superstore	Convenience Market	Pharmacy/Drug Store	Pharmacy/Drug Store w/Drive-up	Video Rental Store	Walk in Bank (limited data)	Drive-in Bank	Quality Restaurant	High Turnover Restaurant	Fast Food	Fast Food w/Drive up	Drinking Place	AutoCare	Mini Warehouse	Hotel	Motel	Church over 20,000 Sq. Ft.	Church under 20,000 Sq. Ft.	Day Care Center	US Post Office			
Retail - Automotive	13.33	5.54	5.22	2.71	5.06	10.45	8.90	2.45	4.50	3.40	3.87	3.75	4.24	7.09	4.84	4.15	2.11	52.41	8.42	8.62	13.60	33.15	45.74	7.49	10.92	26.15	34.64	11.34	3.38	0.26	0.59	0.94	0.66	0.66	13.18	25.00			
	42%	42%	34%	34%	17%	36%	9%	48%	40%	48%	34%	34%	34%	0%	43%	28%	28%	24%	49%	49%	49%	47%	47%	44%	43%	49%	49%	44%	28%	0%	0%	0%	0%	0%	75%	47%			
	7.731	3.213	3.445	1.789	4.200	6.688	8.099	1.274	2.700	1.768	2.554	2.475	2.798	7.090	2.759	2.988	1.519	39.832	4.294	4.396	6.936	17.570	24.242	4.194	6.224	13.337	17.666	6.350	2.434	0.260	0.590	0.940	0.660	0.660	3.295	13.250			
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
	24,515	10,188	10.92	5.67	13.32	21.21	25.68	4.04	8.56	5.61	8.10	7.85	8.87	22.48	8.75	9.47	4.82	126.30	13.62	13.94	21.99	55.71	76.87	13.30	19.74	42.29	56.02	20.14	7.72	0.82	1.87	2.98	2.09	2.09	1.00	42.01			
	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per	per
	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.	Sq. Ft.

<sup>1</sup> Institute of Transportation Engineers, Trip Generation (7th Edition).

<sup>2</sup> Trip generation rate per development unit, for PM Peak Hour of the adjacent street traffic (4-6 pm). Note: Sq. Ft. rate expressed per 1,000 SF.

<sup>3</sup> Average Pass-by Rates, per Trip Generation Handbook: an ITE Recommended Practice, March, 2001

<sup>4</sup> Average Trip Length Relative to Single Family Trip

<sup>5</sup> DU = dwelling unit, Sq. Ft. = Square Feet, VSP = vehicle servicing position



"THE MARITIME CITY"

**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: RESOLUTION FOR PUBLIC HEARING**  
**MILTON AVENUE STREET VACATION REQUEST - DROLSHAGEN**  
**DATE: NOVEMBER 27, 2006**

**INTRODUCTION/BACKGROUND**

The city received a letter on September 26, 2006 from Mr. Jeffery L. Drolshagen, owner of the abutting property, petitioning the city to vacate a portion of Milton Avenue in accordance with GHMC 12.14.002C.

Specifically, the request is for the vacation of a portion of Milton Avenue right-of-way located between North Harborview Dr. and Artena Lane abutting the northwest property frontage of Lots 15,16 and 17 of parcel number 2260000391.

As defined in 12.14 GHMC, a resolution must be passed by the City Council setting a time and date for a public hearing on the proposed street vacation.

**FISCAL CONSIDERATIONS**

The processing fee has been paid in accordance with GHMC 12.14.004.

**RECOMMENDATIONS**

I recommend that Council pass the resolution setting Monday, January 8, 2007 at 6:00 P.M. as the date for the public hearing on the proposed street vacation of Milton Avenue.



**RESOLUTION NO. xxx**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, TO INITIATE THE PROCEDURE FOR THE VACATION OF A PORTION OF MILTON AVENUE LYING NORTH OF NORTH HARBORVIEW DRIVE AND SELLERS STREET.**

---

WHEREAS, Mr. and Mrs. Jeffrey Drolshagen, husband and wife desire to initiate the procedure for the vacation of the portion of Milton Avenue, originally created in the plat called Extension to the City of Gig Harbor, recorded in 1891 in Volume 5 of Plats at Page 68 in Pierce County, Washington.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Gig Harbor, Washington:

Section 1. A public hearing upon said street vacation shall be held in the council chambers of Gig Harbor City Hall on Monday, January 8th, 2007, at 6:00 p.m., at which hearing all persons interested in said street vacation are invited to appear.

Section 2. The City Clerk is directed to post notices of the hearing in three public places and on the street to be vacated and to mail notices to all owners of any property abutting the portion of street to be vacated, pursuant to RCW 35.79.020.

PASSED this \_\_\_\_th day of November, 2006.

\_\_\_\_\_  
Charles L. Hunter, Mayor

ATTEST:

\_\_\_\_\_  
Molly M. Towslee, City Clerk

FROM THE DESK OF  
*JEFFREY L. DROLSHAGEN*  
5205 47<sup>TH</sup> Avenue NW  
Gig Harbor, Washington 98335

26 September 2006

Mr. John P. Vodopich AICP  
Director of Planning and Building Services  
3510 Grandview Street  
Gig Harbor, Washington 98335

**RE: Vacation of a portion of Milton Drive**

Dear Mr. Vodopich,

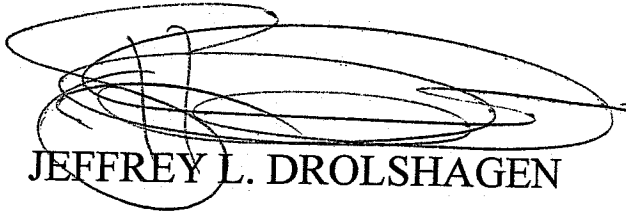
This letter serves as an official request to vacate a 78 foot long strip of Milton Drive right-of-way abutting my property at 9212 N. Harborview in the City of Gig Harbor. This right-of-way along with my property were created from the plat called "Extension to the City of Gig Harbor" record in 1891 in volume 5 of plats at page 68 in Pierce County, Washington. This portion of Milton Drive (Columbia Street) abutting my property at parcel number 2260000391 has never been used as a street.

Under the City of Gig Harbor's Municipal Code 12.14.018.C, which sites the "vacation of streets and alleys subject to 1889-90 Laws of Washington, Chapter 19, Section 32 (Non-user statute)," that portion of Milton Drive right-of-way abutting my parcel has adversely become mine legally since this right-of-way was never used for its original purpose.

In light of this information, I request that portion of Milton Drive abutting my property be vacated. Please see, attached drawing depicting that portion of the subject property of Milton Drive right-of-way in relation to my parcel. Also attached is the proposed legal description. The City's administrative pre-hearing fee described in GHMC 12.14.004(A) has been paid.

Thanking you for your assistance,

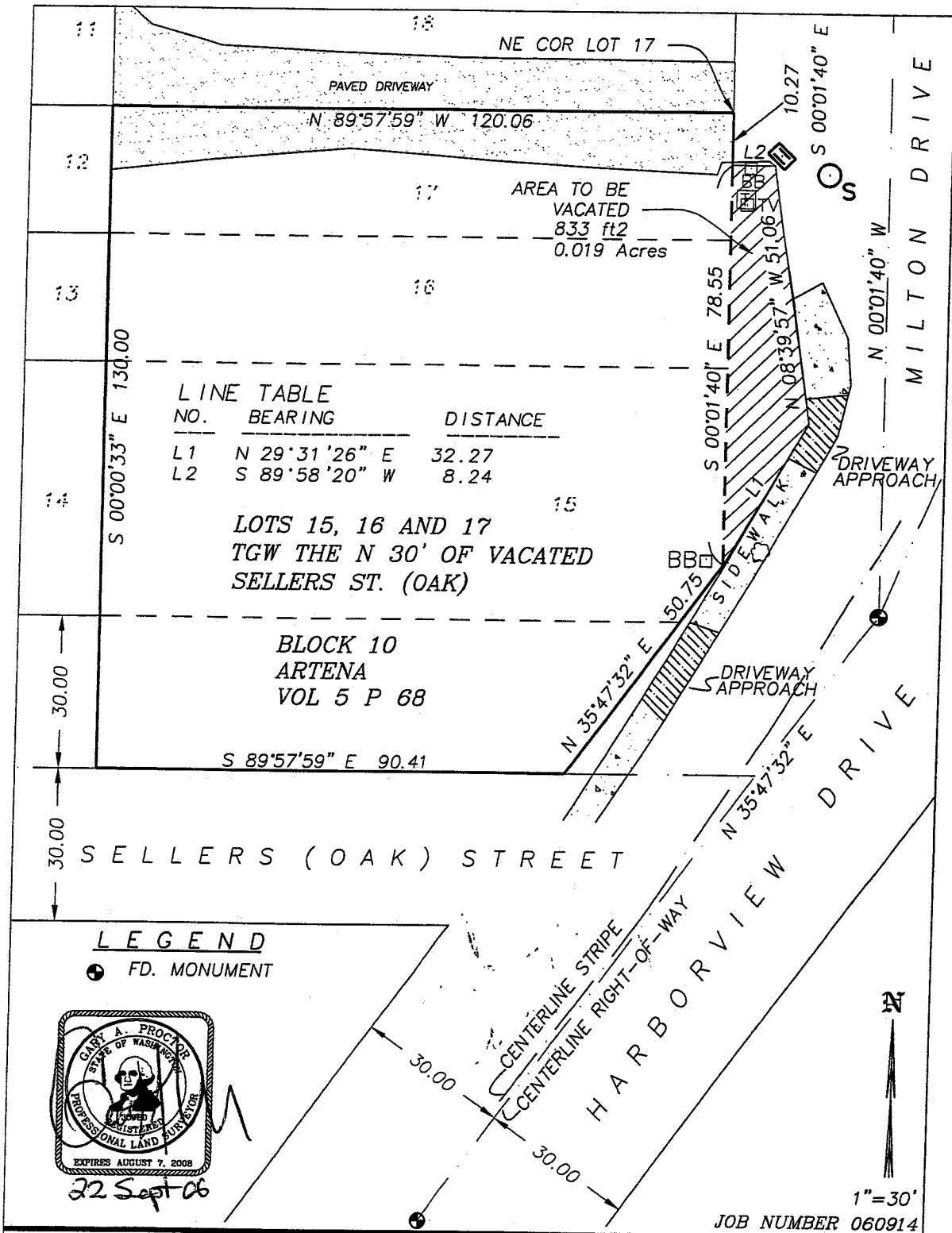
Respectfully,



JEFFREY L. DROLSHAGEN

2 attachments

CC: Mr. David Brereton, Director of Operations



**Thornton**  
Land Surveying, Inc.  
P.O. BOX 249  
GIG HARBOR, WASHINGTON 98335  
TELEPHONE (253) 858-8106 / FAX 858-7466

**MILTON ST. VACATION**  
FOR AND REQUESTED BY  
**JEFF DROLSHAGEN**  
IN A PORTION OF THE NW1/4 OF THE NW1/4 OF  
SECTION 5, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M.  
PIERCE COUNTY, WASHINGTON

PROPOSED  
LEGAL DESCRIPTION

RIGHT-OF-WAY THAT WILL ATTACH TO DROLSHAGEN ADJOINER  
FOLLOWING VACATION OF A PORTION OF MILTON DRIVE, GIG HARBOR,  
WASHINGTON

THAT PORTION OF THE WEST HALF OF MILTON DRIVE AS DEPICTED ON  
THE PLAT OF ARTENA, ACCORDING TO THE PLAT THEREOF RECORDED IN  
VOLUME 5 OF PLATS AT PAGE 68, RECORDES OF PIERCE COUNTY,  
WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 17, BLOCK 10 OF  
SAID PLAT; THENCE ALONG THE WEST LINE OF SAID MILTON DRIVE,  
BEING THE EAST LINE OF SAID LOT 17, SOUTH 00°01'40 EAST 10.27 FEET TO  
THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST LINE  
SOUTH 00°01'40 EAST 78.55 FEET TO THE NORTHWESTERLY MARGIN OF  
HARBORVIEW DRIVE; THENCE NORTH 29°31'26" EAST 32.27 FEET; THENCE  
NORTH 08°39'57 WEST 51.06 FEET; THENCE SOUTH 89°58'20" WEST 8.24 FEET  
TO THE POINT OF BEGINNING.

SITUATE IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF  
SECTION 5, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN PIERCE COUNTY,  
WASHINGTON.



22-Sept 2006



COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: SHORE ACRES WATER SYSTEM**  
**DATE: NOVEMBER 27, 2006**

**INFORMATION/BACKGROUND**

The 2006 Annual Budget included the following Water Operating Objective related to the Shore Acres Water System:

**3. Shore Acres Water System assumption.** Negotiate an equitable transition of the Shore Acres Water System to the city water utility. Transition of the system would be predicated on prior capital upgrades undertaken by Shore Acres. **June.**

City Staff and members of the Council Operations and Public Projects Committee (Ekberg, Franich, and Payne) met with representatives of the Shore Acres Water Company on several occasions throughout the year. During the year, testing and investigation of the system occurred (as outlined in the September 7, 2006 letter from the Shore Acres Water Company).

The following materials have been included in this packet for reference purposes:

- E-mail dated October 9, 2006 from Scott Wagner responding to the letter of no interest;
- Letter dated September 29, 2006 to Scott Wagner stating that the City is not interested in pursuing the take over of the Shore Acres Water System;
- Excerpt from the minutes of the September 28, 2006 City of Gig Harbor Operations and Public Projects Committee meeting;
- Memo dated September 28, 2006 to the Operations and Public Projects Committee from Mayor Hunter regarding the Shore Acres proposal;
- Letter dated September 7, 2006 from the Shore Acres Water Company outlining their proposal for the City taking over the water system;
- Notes from Greg Foote, City of Gig Harbor Field Supervisor regarding the May 2006 pothole testing that the City conducted; and
- A hydraulic analysis report of the Shore Acres Water System prepared by the Montgomery Water Group, Inc. dated March 7, 2006.

**RECOMMENDATION**

The Operations and Public Projects Committee has recommended not pursuing the options for the transition of the Shore Acres Water System to the City as presented.

**From:** Scott Wagner [mailto:swagner@bdlanddevelopment.com]  
**Sent:** Monday, October 09, 2006 6:25 PM  
**To:** Vodopich, John; Misiurak, Steve; Brereton, Dave  
**Cc:** tryan@bdlanddevelopment.com  
**Subject:** FW: Shore Acres Water Company

John,

Can you please see that the Mayor and the Council get a copy of this email. I would like the opportunity to address those who have made the decision to stop working with the Shore Acres Water Company.

Thanks, Scott

Major Hunter,

It is our understanding, via John Vodopich, that the 2006 Annual Budget for the City of Gig Harbor states, under Water Operating Objective #3, that it is the objective of the City to "negotiate an equitable transition of the Shore Acres Water System to the city water utility. Transition of the system will be predicated on prior capital upgrades undertaken by Shore Acres".

It was under this operating objective that Shore Acres had numerous meetings with the City over a two year period and spent over \$30,000.00 to have the Shore Acres system tested, modeled, pot holed, photographed, and engineered. With this stated objective in mind, Shore Acres, with the City's assistance, thoroughly reviewed it's system upgrade needs and determined that \$500,000.00 was needed to bring the system up to a standard that would meet all of the City's requirements and preferences. As you know, all of this work was done on the belief that the City, based on the objective above, was interested in negotiating an equitable transition of the system.

It is still our hope that the City wishes to follow through with this budget objective and that we can reach an agreement.

Below, please see additional discussion points:

Comment - The City would like to annex the area. Answer - Annexation and dedicating the Shore Acres Water Company are two independent issues. Both can happen independent of the other, so it is not necessary to tie the two together.

Comment - The Shore Acres water system is an unknown commodity. Answer - The Shore Acres Water Company spent in excess of \$30,000 to define the condition of the system and to engineer all of the fixes necessary to bring it up to City standards so that it would be in great condition to transfer, and so there would be no unknowns. I would be happy to go over the wish list given to us by Public Works, all of which were completed in preparation of a transfer.

Comment – The City can't afford to take the system. Answer – The City might not be able to afford not to take the system. What do you think will happen in the event of a major failure of the system? It is my belief that the City, as the sole provider of water and the jurisdiction that includes the area in its GMA planning, will have to take over the system in an emergency. In the event that something like this happens, the City may get to take it over without the \$500,000 in improvements that we are proposing being done.

Comment – It is not cost effective to take over the Shore Acres Water Company.  
Answer – If the City doesn't take over the system, I anticipate that the Water Company will go to arbitration to work out issues with the current contract. One primary issue is the cost of water. It is our belief that the City currently charges the same amount for water to other customers outside of the City limit, while giving those customers full service including meter reading and repair service. Shore Acres will request a wholesale water rate or to get the same level of service. At a minimum, the City will expend legal fees going through this process.

We have worked hard and gone a long way to see this task completed. I think it should be thought through a bit further. I don't think the current decision benefits the City or the residents of Shore Acres. I am also concerned that those making the decision have not been given a clear picture of what was promised or what happened at the many meetings over the past two years. I would hate to see a decision made based on only selected parts of the story.

Thanks for listening,

*Scott Wagner*  
6507 27th Ave NW  
Gig Harbor, WA 98335  
253.858.9795 office  
253.858.9785 fax

This email message may contain confidential and privileged information. Any unauthorized use is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.





COMMUNITY DEVELOPMENT DEPARTMENT

September 29, 2006

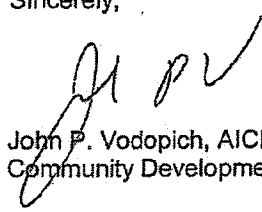
Shore Acres Water Company  
ATTN: Scott Wagner, President  
3110 Judson Street, PMB #232  
Gig Harbor, WA 98335

Dear Mr. Wagner:

The City Council Operations and Public Projects Committee has reviewed the proposals outlined in your September 7, 2006 correspondence regarding the Shore Acres Water Company. At this time, the City is not interested in pursuing the options as presented. I would like to thank you and the other representatives of the Shore Acres Water Company for your efforts in these discussions.

Please feel free to contact me if you have any questions regarding this matter. I can be contacted by telephone at (253) 851-6170 or by E-mail at [vodopichj@cityofgigharbor.net](mailto:vodopichj@cityofgigharbor.net).

Sincerely,



John P. Vodopich, AICP  
Community Development Director

c: Mayor Hunter  
City Council Members

**Excerpt from the Minutes of the**  
*City of Gig Harbor Operations and Public Projects Committee*  
**Meeting of September 28, 2006**  
**4:00 P.M.**

**PRESENT:** Councilmembers Ekberg, Franich, Payne, Community Development Director John Vodopich, City Engineer Steve Misiurak, Director of Operations Dave Brereton, Associate Engineer Emily Appleton, Associate Engineer Jeff Langhelm, HDR Consultant Kevin Dragon, and Assistant City Clerk Maureen Whitaker took minutes of the proceedings.

**OLD BUSINESS**

**1. Shore Acres Water System:** John gave an overview of the meetings held with Shore Acres Water regarding their request that the city take over their water system. Shore Acres Water President Scott Wagner provided the city in September 2005 with 2 proposals. Their first proposal was to make the system improvements which are estimated at \$517,000; the city would then takeover the system improvements and they have an undeveloped 2 ½ acres parks parcel that they would offer to sell to a developer for \$950,000 in order to fund the improvements. Their second proposal would be that they would make the improvements, the city would take it over and the city would purchase the park property for \$950,000 by entering into a purchase and sale agreement where the property would be financed over time. John stated that Mayor Hunter asked Finance Director Dave Rodenbach to look at the financial feasibility of these proposals. Dave R. commented that Shore Acres is outside city limits which includes a 1.5 surcharge. If they were annexed, the city would loose annually approximately \$20,000 in income. Dave R. said that from a financial aspect it isn't a very plausible solution to take over the Shore Acres Water System. Scott Wagner is ending his tenure on the board at the end of year. John stated that he had gone out there with city staff and the vactor truck and did a series of 6 potholes to look at the condition of the pipe. John stated that it was an objective in this year's budget to continue the discussions with them. The council committee agreed that they were not interested in pursuing either of these proposals at this time. John would follow up with a letter.



September 28, 2006

TO: Operations and Public Projects

FROM: Chuck Hunter Mayor

RE: Shore Acres Water Company Proposal

Gentlemen,

I asked Dave Rodenbach to review the financial aspects of the proposal to purchase the Shore Acres Water Company based on the proposal you are reviewing today.

He indicates that this proposal does not, "pencil out" as we already sell water at one and one half times the rate since the area is outside the City Limits. We would not bring in enough or additional, revenues to pay off any type of financing and if they annexed, the city would lose approximately \$20,000.00 per year in income.

In addition, even with their proposed upgrades prior to turn over, we would have to provide maintenance on an older system with multiple unknowns.

The land available would be an asset to our inventory of park property, but we are not in a financial position to purchase the property at this time.

Chuck

# Shore Acres Water Company

3110 Judson St. PMB #232 Gig Harbor, WA 98335

September 7, 2006

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

RE: Proposed Scenarios for the Takeover of the Shore Acres Water System by the City

Dear Mr. Vodopich:

After meeting with the City and talking with the Board of Shore Acres, I would like to offer the following ideas on how we believe the City can go about taking over the Shore Acres system.

However, before doing that I'd like to express the Boards strong desire to do everything we can to make this transfer possible. To date we have spent over \$30,000 testing and improving the system in anticipation of the City taking it over. We have also worked with the City to determine all the improvements that would be required to bring the system up to date. We believe strongly that there is no better time for the City to take the system over and we believe the following scenarios show that we are willing and prepared to do what we can in order to make this a reality. We hope that one of these scenarios meets with the City approval and that a plan for moving forward can be agreed upon as soon as possible.

#### Scenario 1:

- SAWC makes system improvements estimated at \$517,000.
- City agrees to take over system when improvements are completed.
- SAWC sells Park Property (2.5 acres) to a developer for \$950,000 and uses proceeds to fund improvements.

#### Scenario 2:

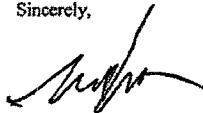
- SAWC makes all system improvements estimated at \$517,000.
- City agrees to take over system when improvements are completed
- City agrees to purchase Park Property for future "City Park Inventory" for \$950k.
- SAWC enters into a Land Sale Contract with the City. The City puts \$370,000 down and the balance of \$580,000 is amortized over 30 years at 5% with a annual payment of \$37,730 and a balloon payment in 5 years. The down payment along with SAWC reserves would free up enough money for SAWC to do the \$517k in improvements.

**Annexation-** In our meeting earlier this week the topic of annexing the Shore Acres area came up. As I stated in the meeting, I believe that the following would make annexing difficult at this time and would significantly hinder, if not completely derail the takeover of the water system by the City.

1. The process of getting in excess of 220 property owners to agree to anything.
2. Building height restrictions that will be imposed.

As I explained in our meeting earlier last week, there are numerous reason for wanting to move this forward as soon as possible. Therefore, hearing back from the City in a timely fashion would be greatly appreciated. Please call me at if you have any questions 253-858-9795. I look forward to hearing from you.

Sincerely,



Scott Wagner  
President  
Shore Acres Water Company

RECEIVED  
CITY OF GIG HARBOR

SEP 11 2006

COMMUNITY  
DEVELOPMENT

## SHORE ACRES ACTIVITY

February to August 2006

- **Leak Detection Report and Analysis - \$2,100**
  - In February of 2006 Hughes Supply, Inc conducted a service-to-service test, making contact with all available valves, hydrants and services, of the entire Shore Acres system (approximately 2.18 miles).
  - A total of four small meter leaks were pinpointed. Additionally, one consumer side leak was noted.
  - All leaks were subsequently repaired. - **\$4,500**
  - All areas surveyed were found to be in good condition with regards to leakage. The leaks that were found were all small in nature and related to service lines, near meters.
- **Meter Testing and Replacement - \$4,000**
  - As of March 2006 all meters were tested and replace if needed.
  - 34 meters were replaced.
- **Hydraulic Analysis - \$7,300**
  - In March of 2006 a Hydraulic Analysis was done by the Montgomery Water Group to determine the upgrades that would be needed to enable the system to meet DOH regulations and the City of Gig Harbor's requirements. The report sited four upgrades that were necessary.
    - Removal of both 4-inch city meters.
    - Replacement of pipe along 61<sup>st</sup> NW (Line 14) and Point View Place (Line 18).
    - Estimated costs of improvements \$185k
- **Water System Plan Review and Connection Request - \$8000**
  - In March of 2006 an initial SWSMP was submitted to DOH requesting 130 new connections. SAWC valued its system at the time at \$260k. This did not include the park property.
  - A request for additional information was received by SAWC in May from DOE and in June from DOH.
  - A response was sent to the DOE and DOH on August 7<sup>th</sup>.
  - Additional information was sent to DOH on August 15<sup>th</sup>.
  - SAWC is now waiting for a response from DOH
- **Utility Easements Line 20 - \$1000**
  - In April of 2006 a title search was done on one of the properties that is served by line 20 and no easements related to the water line or SAWC could be found.
- **Certificate of Ground Water Right - \$500**
  - In April 2006 it was determined that SAWC had possibly retain a water rights certificate for 20 GPM and 17 acre feet. An argument could be made that SAWC continued to use the right by providing continuous service to its customers even though the water is being withdrawn from the city's source.
  - The value of this certificate, if perfected, is between \$42,500 and \$68,000.
- **Pothole Testing - \$500**
  - In May of 2006 potholes were dug by the City on lines 1, 19 & 7 to determine the condition of the pipe in the SAWC service area. No leaks were found. Pipes looked to be in good condition considering age.

## SHORE ACRES ACTIVITY

February to August 2006

- **System Improvement Plan & Budget - \$1600**
  - In June of 2006, during a meeting with the City, a list of improvements was compiled. This list outlined the improvements the City wanted done before possibly taking over the system. Pape and Sons Inc. submitted a proposal for completing the list. The total cost is estimated at \$517k. A detailed map has been highlighted showing all possible improvements to be included.
- **Appraisal Report - \$1100**
  - In July of 2006 an Appraisal Report was done by Rob Sternquist of Trueman Appraisal Company, on SAWC's 2.5 acre property located at 6300 Reid Drive NW.
  - Based on this report, the highest and best use is for a residential development. According to the Gig Harbor Planning Department, the site is situated in an area classified R-1, Single Family District. This land use classification allows for an outright single family development density of four dwelling units per acre. All public utilities are available and a development density of ten lots is felt to be probable.
  - Based on the analysis undertaken, it is the appraisers' opinion that the property's "as is" market value range as of July 28, 2006 is \$925k to \$975k.
- **Meeting with City**
  - In August of 2006 a meeting was set up with Mayor Chuck Hunter and his staff to determine the next step regarding the possibility of the City taking over the Shore Acres services area.
  - Scott Wagner, President of SAWC, review SAWC activities to date and outlined possible ways the City and SAWC could move forward and the critical need to do so at this time.
  - Since February SAWC has spent over \$30k in an effort to get the system ready for the City to take it over.
  - At this meeting SAWC was told to summarize there suggested scenarios for the city taking over the system in writing and submit to the City for further discussion.
- **Proposal Letter to City**
  - In September, after approval from the Shore Acres Board, a letter briefly outline different options was sent to the City along with this activity summary.

Shore Acres water system

1) 63<sup>rd</sup> St NW & Reid Rd

Found 6in AC pipe at the hydrant. Pipe surface is slightly slimy. Dirt/asphalt backfill  
On top of pipe. Installed 1968  
2 valves at that intersection missing and possibly paved over

2) 63<sup>rd</sup> St NW & Reid Rd

12ft east of valve next to stop sign found 6in AC pipe. Surface good condition. 4ft to  
top of pipe. 3-4in of concrete fill 6in above the pipe in this area.

3) 2811 Reid Rd

Found the 6in AC next to the mailbox. 2ft from fog line. Surface of the pipe in good  
condition. Installed 1953

4) 5822 Reid Rd

Found 2in galvanized main. Rusted very badly needs replacement soon. No valve to  
isolate from 6in main or how or where it ties in. No meter setters. Shutoff valves to turn  
meters off located on the 2in main, so to turn off a meter you have to dig down to the  
main to a hand gate or a corp. Very old meters at this location. Map shows this main  
feeding 5816 & 5810 but it may not. 2in main appears to cross the street instead of  
running in the direction of the meters at those addresses. Map is best guess in this area.  
Installed 1943

5) Items to consider

A) Our water is highly aggressive to AC pipe. The AC pipe has been in this system for 33  
to 53 years. This pipe probably needs replacement. See Lab/Cor report.

B) Old galvanized lines dating to 1943. Need to be replaced

C) Old meters.

D) No setters or shutoffs at some meters.

E) Lines running through private property with no access for repairs/replacement.

Example: line #5, #20, #14, ect. See map. Some of these have been broken numerous  
times because they can't be located accurately without physically digging them up. Doing  
routine locates will be time consuming and tough.

F) Water system valves that are not located and accessible for service / emergencies.

6) Might want to consider adding another meter of appropriate size at the bottom of  
Hollycroft and changing the 2 4in meters to 6in meters and let them keep the system if  
that works for the engineers.





**MONTGOMERY**  
WATER GROUP, INC.

**DRAFT**  
**MEMORANDUM**

---

**To:** Steve Misiurak, P.E.  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

**Date:** March 7, 2006

**From:** David Rice, P.E.  
Robert Montgomery, P.E.

**Project #:** 1035.01

**RE:** Hydraulic Analysis – Shore Acres Water System

---

This memorandum has been prepared to summarize the hydraulic analysis that was completed to evaluate the ability of the Shore Acres Water System to provide domestic and fire flows under existing and buildout conditions. It is our understanding that the owners of the Shore Acres Water System have requested this analysis as part of an effort to determine the potential for increasing the number of connections approved for the system by the Department of Health (DOH). Approval of additional connections will require that the Shore Acres Water System demonstrate that water supply is available from the City of Gig Harbor to meet the demand generated by the additional connections and that the distribution system has the capacity to deliver the water to existing and future customers in accordance with Washington State Department of Health (DOH) guidelines. This analysis primarily addresses the hydraulic capacity of the distribution system and is not intended to demonstrate the availability of water supply from the City of Gig Harbor Water System.

#### **Water System Management Scenarios**

The water system is currently supplied from the City of Gig Harbor Water System through two 4-inch meters on Soundview Drive at 61<sup>st</sup> Street NW and 64<sup>th</sup> Street NW. The owners of the Shore Acres Water System have requested that this analysis address two potential management scenarios:

- The first scenario would involve upgrading the system to meet the City of Gig Harbor standards and expectations so that the management and ownership of the system could be turned over to the City of Gig Harbor. The Shore Acres Water System would be incorporated into the City of Gig Harbor Water System. This analysis identifies water system upgrades that would be needed to enable the system to meet DOH regulations and the

811 Kirkland Ave., Suite 200  
P.O. Box 2517  
Kirkland, WA 98083-2517

PHONE: (425) 827-3243  
FAX: (425) 827-3609

[www.mwater.com](http://www.mwater.com) \\mwsrver\company\1000\1035 city of gig harbor\shore acres analysis\reports\shore acres ff analysis.draft.doc



City of Gig Harbor's requirements.

- If an agreement cannot be reached with the City of Gig Harbor, the owners of the Shore Acres Water System will continue to work with a Satellite Management Agency (SMA) to operate and maintain the water distribution system. Peninsula Light Company (PLC) is currently the SMA for the Shore Acres Water System. As part of the effort to increase the number of approved connections, PLC is preparing a *Small Water System Management Plan* (SWSMP) for the Shore Acres Water System. This analysis will be incorporated into that plan. Those upgrades needed to ensure that current DOH regulations and Pierce County fire flow requirements can be met are identified in this report.

The primary difference between the two scenarios related to the hydraulic capacity of the distribution system is that the City of Gig Harbor requires that a 1500 gpm fire flow be available for a duration of 2 hours at residential hydrants. That exceeds the current level of fire flow required for Shore Acres, as determined by the Pierce County Fire Code. The Pierce County Fire Code currently requires that a minimum fire flow of 750 gpm be available for a duration of 45 minutes at residential hydrants.

Under either scenario, the DOH minimum pressure requirements will apply, as follows:

- A minimum residual pressure of 20 psi has to be maintained at all customer services while providing fire flow during maximum daily demand (MDD) conditions.
- A minimum residual pressure of 30 psi has to be maintained at all customer services under normal conditions, including peak hourly demand (PHD) conditions.

#### **Description of Facilities**

The Shore Acres Water System consists of distribution piping, hydrants, valves, meters, and other fittings and appurtenances. The system does not include any water storage or pumping facilities. The system is fed from the City of Gig Harbor Water System through two 4-inch meters at 61<sup>st</sup> Street NW and 64<sup>th</sup> Street NW near Soundview Drive.

The distribution system is looped in 61<sup>st</sup> Street NW, 28<sup>th</sup> Ave. NW, 57<sup>th</sup> Street Ct. NW, Reid Drive NW, and 64<sup>th</sup> Street NW. Dead end mains branch from the looped piping to serve properties located along cul-de-sacs and along the outer edges of the Shore Acres area. The distribution piping is mostly small diameter (2-inch, 4-inch and 6-inch) pipe installed in the 1960s and 1970s. However, 8-inch PVC piping was added with new hydrants in 1992 to increase the fire flow capacity along 28<sup>th</sup> Ave NW and 57<sup>th</sup> Street Ct. NW. An additional 8-inch line was also recently added to a new cul-de-sac north of Reid Drive NW that connects the piping in 28<sup>th</sup> Avenue NW and Reid Drive NW.



City of Gig Harbor Water System facilities within the vicinity of the Shore Acres Water System include the 500,000-gallon Shurgard Tank (Overflow Elevation=450 feet), which is fed by the 625-gpm Well No. 3. Both are located just west of Shore Acres on the west side of Soundview Drive. Water is distributed to the system through 10-inch and 8-inch mains in Soundview Drive.

#### Water Demands and Connections

As part of the Shore Acres Small Water System Management Plan, PLC has prepared an estimate of current and projected connections and associated water demand. Those numbers have been included in Form 14 of the plan, and are summarized below in Table 1.

Table 1  
Water Demand Projections

Year	ERUs	ADD <sup>1</sup>		MDD <sup>1</sup>		PHD <sup>1</sup> (gpm)
		(gpd/ERU)	(gpd)	(gpd/ERU)	(gpd)	
10/04-9/05 <sup>2</sup>	211	N/A	47,015	N/A	141,159	241
2010	261	215	56,115	645	168,345	284
2015	311	215	66,865	645	200,595	325
Buildout	357	215	76,755	645	230,265	362

Notes:

- 1) ADD=Average Daily Demand, MDD=Maximum Daily Demand, PHD=Peak Hourly Demand.
- 2) Data for 10/04-9/05 based on meter readings. Projections based on WSDOH Design Manual.

The hydraulic analysis included simulations of both existing and buildout demand conditions. Existing demands were applied to the hydraulic model based on metered water use from October 2004 through September 2005, adjusted for unaccounted-for-water. The buildout demands were estimated based on a projected ADD of 215 gpd/ERU and an MDD of 645 gpd/ERU, applied to a total of 357 equivalent residential units (ERUs).

The hydraulic analysis was completed by adding the piping network for the Shore Acres Water System to the existing model of the Gig Harbor Water System. For recent analyses done for the Gig Harbor Water System, simulations of existing conditions were based on 2004 water system demands. Source production meter records indicate that 2004 was the year with the highest water usage to date. Production records indicate that in 2004, the ADD for the Gig Harbor System was approximately 573 gpm, and the MDD was approximately 1261 gpm. As part of this analysis of existing conditions, the overall demand on the Gig Harbor Water System (including Shore Acres) was adjusted to conservatively reflect 2006 demand conditions. The ADD was increased to 614 gpm and the MDD was increased to 1350 gpm. Most of the



additional demand was applied to the Gig Harbor North area.

Peaking factors were applied to estimate MDD and PHD. The peaking factors used for the Gig Harbor Water System in general were  $MDD=2.2 \times ADD$  and  $PHD=1.7 \times MDD$ , as described in the *Gig Harbor Water System Plan* (Gray and Osborne, 2001). Unique peaking factors were used to simulate MDD and PHD within the Shore Acres Water System area, to reflect the demands estimated as part of the *Shore Acres SWSMP*. The peaking factors used for the Shore Acres Water System were  $MDD=3 \times ADD$ ,  $PHD=2.45 \times MDD$  (existing) and  $PHD=2.26 \times MDD$  (buildout).

### **Hydraulic Analysis**

Hydraulic analysis of the development was completed using the WaterCAD model of the Gig Harbor Water System. The model was originally prepared as part of the *Gig Harbor Water System Plan* (Gray and Osborne, 2001). Nodes and pipes were added to the existing model to simulate the Shore Acres piping network based on a water system facilities inventory drawing provided by the owner of the Shore Acres Water System. A copy of that drawing is included as Figure 1. The nodes and pipes added to the model are shown in Figure 2.

### **Calibration**

This analysis included both steady state and extended period simulations. Once the piping network was input and demands were applied to each node, two calibration simulations were developed to test the general accuracy of the model against hydrant test flow data. The hydrant test data used is included in Appendix A. Model demands were adjusted in an effort to mimic the demand conditions when the hydrant tests were performed. A flow equal to the flow generated by the hydrant test was then applied to the model node during the middle of the 24-hour extended period simulation and the resulting pressures were reviewed to determine the general accuracy of the model. The model results calibrated relatively well (within 5 psi) of the residual pressures recorded with the hydrant test results.

### **Existing Conditions Analysis**

An extended period simulation was used to model the existing system under current MDD demand conditions. Demand patterns were applied to the model to simulate the fluctuation in demand during the day of maximum demand. A general pattern was developed for previous analyses of the Gig Harbor Water System to reflect the peaking factors used in estimating demand for the *Gig Harbor Water System Plan* (Gray and Osborne, 2001). Demand patterns were also developed for Shore Acres to represent the existing and projected peaking patterns that were used to estimate demand for the Shore Acres Water System as part of the *Shore Acres SWSMP*. The demand patterns are shown in Figures 3A-3C. The patterns used are typical of



small water systems in Western Washington, with a small peak in the morning and a more pronounced peak around 6:00 PM. The patterns may not reflect the actual water use pattern for customers within the Gig Harbor and Shore Acres systems. Additional analysis of production and usage data would be needed to develop more representative demand patterns for Gig Harbor and Shore Acres.

The results indicate that the normal operating pressures exceed the 30-psi minimum service pressure required by DOH at all customer services. Both static pressures and pressures under peak demand conditions exceed 80 psi throughout most of the distribution system. As a result, installation of individual pressure reducing valves should be required on the customer's side of the service meter to protect building plumbing on all services below an elevation of 265 feet. Pressures simulated at key points within the system under existing demand conditions are shown in Table 2 and in Appendix B.

**Table 2**  
**Modeled Pressures: Shore Acres Water System – Existing Conditions**

Node	Location	Elev.	Max. Static Pressure/HGL	PHD Pressure/HGL
SA-15	27 <sup>th</sup> Ave NW - Hydrant SE 126	146 feet	131 psi/450 feet	127 psi/439 feet
SA-46	57 <sup>th</sup> St NW - Hydrant SE 127	180 feet	117 psi/450 feet	112 psi/438 feet
SA-41	N of 28 <sup>th</sup> Ave NW - Hydrant SE 042	310 feet	61 psi/450 feet	56 psi/439 feet
SA-24	61 <sup>st</sup> St NW – Hydrant SE 041	226 feet	97 psi/450 feet	92 psi/439 feet

Both steady state and extended period simulations were created to estimate the fire flow available from hydrants in the existing system. The fire flow alternative available with steady state simulations in WaterCAD allows the user to determine the flow available from specified nodes in the network under specified residual pressure conditions. The fire flow alternative was applied to steady state analysis with MDD demand conditions to determine the flow available while maintaining a residual pressure of 20 psi at each node in the system. The steady state analysis assumed that the Shurgard Tank level would be at a minimum elevation of 420 feet during the fire flow. The results of the steady state fire flow analysis are included with the model results in Appendix B. It should be noted that only those nodes located near existing fire hydrants were tested for fire flow capacity.

Extended period simulations were created to verify fire flow availability and estimate the impact on tank levels in the nearby Shurgard Tank and pumping from Well No. 3. The extend period simulations were created by adding a fire flow for a duration of 2 hours on the selected node



during the middle of the 24-hour simulation of MDD demand conditions. The fire flow was adjusted to determine the amount of flow that could be provided while maintaining a minimum pressure of 20 psi at all other nodes within the Shore Acres system. The results of these simulations are shown in Table 3. Figures showing the resulting pressures at the specified node and the impact on tank levels are also presented in Appendix B.

It should be noted that DOH requires that a 20-psi minimum residual pressure be maintained at all customer services within the system during fire flow under MDD conditions. In most cases the fire flow available is not limited by the residual pressure at the node that represents the hydrant. It is usually limited by the residual pressure at another point in the system, such as the highest or most remote point in the system.

**Table 3**  
**Fire Flow Capacity: Shore Acres Water System – Existing Conditions**

<b>Node</b>	<b>Location</b>	<b>Elev.</b>	<b>Fire Flow Available</b>	<b>Pressure at Node</b>
SA-15	27 <sup>th</sup> Ave NW - Hydrant SE 126	146 feet	1,150 gpm	60 psi
SA-46	57 <sup>th</sup> St NW - Hydrant SE 127	180 feet	755 gpm	20 psi
SA-41	N of 28 <sup>th</sup> Ave NW - Hydrant SE 042	310 feet	750 gpm	20 psi
SA-24	61 <sup>st</sup> St NW – Hydrant SE 041	226 feet	1,000 gpm	54 psi

In general the analysis indicated that the existing system has the capacity to provide adequate pressures during normal demand conditions. However, the existing system does not have the capacity to provide the fire flow (1,500 gpm) required by the City of Gig Harbor at all hydrants within the Shore Acres system. The capacity of the system in providing the minimum fire flows required by Pierce County (750 gpm) is marginal, particularly at the most remote hydrant (SE 127) and at the highest hydrant (SE 042). The deficiency in fire flow capacity is a result of the following:

- The service meters are too small to transmit fire flows in excess of 750 gpm. In addition, the service meters restrict flow because of minor pressure losses that occur as water passes through the meter. For example, pressure loss through a typical 4-inch compound meter manufactured by Badger industries is approximately 7.5 psi at 400 gpm and 11 psi at 800 gpm. The minor loss was simulated in the model by applying a minor loss coefficient to the segment of pipe representing the meter.
- The 4-inch main in 61<sup>st</sup> Street Ct NW is too small to transmit fire flows. For example, when the available fire flow of 1,000 gpm was simulated at hydrant SE 041, at the corner of 61<sup>st</sup>



Street NW and 28<sup>th</sup> Avenue NW, velocities in the 4-inch main exceeded 11 feet per second and pressure loss in the pipe was 27 psi (63 feet).

- The 4-inch main in 57 Street NW that leads to hydrant SE 127 is too small to transmit fire flows. For example, when the available fire flow of 755 gpm was simulated at that hydrant, velocities in the 4-inch main exceeded 19 feet per second and pressure loss in the pipe was 65 psi (149 feet).
- The 6-inch main from 28<sup>th</sup> Avenue NW to hydrant SE 042 is too small to transmit a 1500-gpm fire flow. When the available fire flow of 750 gpm was simulated at hydrant SE 042, velocities in the 6-inch main exceeded 8 feet per second and pressure loss in the pipe was 7 psi (16 feet). The losses increase as fire flow increases. Because the hydrant is the highest hydrant in the system, the size of this pipe needs to be upgraded to minimize pressure loss.

#### **Buildout Conditions Analysis**

Extended period simulations were created to size the improvements needed to meet the City of Gig Harbor Fire Flow requirements under buildout conditions. These improvements modeled were primarily intended to correct the existing deficiencies listed previously and to provide capacity for fire flow through buildout demand conditions. The extended period simulations were created by adding a fire flow of 1,500-gpm for a duration of 2 hours on the selected node during the middle of the 24-hour simulation of MDD demand conditions. The undersized facilities were then upgraded as follows:

- The 4-inch meter at 64<sup>th</sup> Street NW was replaced with 6-inch pipe.
- The 4-inch meter and main in 61<sup>st</sup> Street NW were replaced with 8-inch pipe from the meter to the existing 8-inch pipe in 28<sup>th</sup> Avenue NW.
- The 4-inch pipe in 57<sup>th</sup> Street NW was replaced with 6-inch pipe to hydrant SE 127.
- The 6-inch pipe north of 28<sup>th</sup> Avenue NW was replaced with 8-inch pipe from the existing 8-inch pipe in 28<sup>th</sup> Avenue NW to the hydrant.

The results of these simulations are shown in Table 4. Figures showing the resulting pressures at the specified node and the impact on tank levels are also presented in Appendix B. It should be noted that because this analysis is specific to the Shore Acres system, domestic demands were only adjusted to reflect buildout conditions within the Shore Acres system. Analysis and projection of buildout demands for the rest of the Gig Harbor Water System was not done as part of this study. Instead, it was assumed that pressures at the connection to the Gig Harbor Water System in Soundview Drive would be maintained. This assumption is reasonable for this



analysis because the deficiencies are largely related to fire flows and not domestic demands. Modest increases in domestic demand in other parts of the Gig Harbor Water System are not expected to have significant impact on fire flow capacity within the Shore Acres system. It is assumed that additional analysis will be done during the next update of the Gig Harbor Water System Plan to project demand to determine increases in domestic demand on the rest of the water system.

**Table 4**  
**Fire Flow Capacity: Shore Acres Improved Water System – Buildout Conditions**

Node	Location	Elev.	Fire Flow Modeled	Pressure at Node
SA-15	27 <sup>th</sup> Ave NW - Hydrant SE 126	146 feet	1,500 gpm	55 psi
SA-46	57 <sup>th</sup> St NW - Hydrant SE 127	180 feet	1,500 gpm	43 psi
SA-41	N of 28 <sup>th</sup> Ave NW - Hydrant SE 042	310 feet	1,500 gpm	26 psi
SA-24	61 <sup>st</sup> St NW – Hydrant SE 041	226 feet	1,500 gpm	76 psi

An extended period simulation was also created to estimate the impact of the improvements and buildout demands on system pressures under normal demand conditions. The results indicate that the increase to buildout demand, coupled with the replacement of undersized facilities, will have little impact on normal operating pressures within the Shore Acres Water System. The 30-psi minimum service pressure required by DOH will still be available at all customer services, and both static pressures and pressures under peak demand conditions will still exceed 80 psi throughout most of the distribution system. Pressures simulated at key points within the system under existing demand conditions are shown in Table 5 and in Appendix B.

**Table 5**  
**Modeled Pressures: Shore Acres Improved Water System – Buildout Conditions**

Node	Location	Elev.	Max. Static Pressure/HGL	PHD Pressure/HGL
SA-15	27 <sup>th</sup> Ave NW - Hydrant SE 126	146 feet	131 psi/450 feet	127 psi/439 feet
SA-46	57 <sup>th</sup> St NW - Hydrant SE 127	180 feet	117 psi/450 feet	112 psi/438 feet
SA-41	N of 28 <sup>th</sup> Ave NW - Hydrant SE 042	310 feet	61 psi/450 feet	55 psi/438 feet
SA-24	61 <sup>st</sup> St NW – Hydrant SE 041	226 feet	97 psi/450 feet	92 psi/439 feet

Additional analysis was done to determine which of the improvements modeled would be needed if management and ownership of the system was not transferred to the City of Gig Harbor Water



System. Extended period simulations were created to determine which improvements would be needed to ensure that a minimum fire flow of 750-gpm could be delivered under buildout conditions. The results of that analysis are also included in Appendix B. The results indicate that the following upgrades would be needed to enable the system to continue to deliver a fire flow of 750 gpm under buildout MDD conditions.

- The 4-inch main in 61<sup>st</sup> Street NW would need to be replaced with a minimum 6-inch pipe all the way to the existing 8-inch pipe in 28<sup>th</sup> Avenue NW.
- The 4-inch pipe in 57<sup>th</sup> Street NW would need to be replaced with a minimum 6-inch pipe to hydrant SE 127.

#### Recommendations and Cost Estimates

Table 6 includes a list of upgrades that are recommended if the management and ownership of the Shore Acres Water System is turned over to the City of Gig Harbor Water System. The recommended upgrades are also shown in Figure 4A. Although the hydraulic analysis indicates that 6-inch pipe may provide adequate capacity, it is recommended that 8-inch pipe be used for all water main replacements upstream of fire hydrants. The recommended upgrades are intended to increase the hydraulic capacity of the system so that the City's required 1,500-gpm fire flow can be provided during MDD conditions through buildout of Shore Acres. The total estimated cost of these upgrades is approximately \$153,800.

Table 7 includes a list of upgrades that are recommended if Shore Acres Water System continues to manage and operate the system through a satellite management agency, such as Peninsula Light Company. The recommended upgrades are also shown in Figure 4B. Although the hydraulic analysis indicates that 6-inch pipe may provide adequate capacity, it is recommended that 8-inch pipe be used for all water main replacements upstream of fire hydrants. These upgrades are intended to increase the hydraulic capacity of the system so that the minimum residential fire flow required by the Pierce County Fire Code (750-gpm) can be provided during MDD conditions through buildout of Shore Acres. The total estimated cost of these upgrades is approximately \$99,540.

The estimated costs for each project include replacement of piping, valves, fittings and other appurtenances. The costs may vary depending on the materials used. The costs may be reduced if the Satellite Management Agency, Peninsula Light Company, does the installation rather than a local contractor.

Additional upgrades may be needed to replace aging facilities, as identified in the *Small Water System Management Plan*. In general, water mains that are replaced because of age or condition should be minimum 8-inch diameter pipe, if the main is located upstream of a fire hydrant.





Replacement piping, valves, and other appurtenances should also be installed to accommodate the range of flows and pressures identified in this analysis.

**Table 6**  
**Recommended Shore Acres Water System Upgrades**  
**(To Meet City of Gig Harbor Fire Flow Requirements (1500 gpm) Through Buildout)**

RECOMMENDATION	QTY	UNIT	UNIT COST	COST
Replace 4-inch meter at 64 <sup>th</sup> Street NW with 8-inch PVC pipe	1	EA	\$800	\$800
Replace 4-inch meter at 61 <sup>st</sup> Street NW with 8-inch PVC pipe	1	EA	\$800	\$800
Replace 4-inch pipe in 61 <sup>st</sup> Street NW with 8-inch PVC pipe, from the meter to the existing 8-inch pipe at 28 <sup>th</sup> Ave NW	690	LF	\$55	\$37,950
Replace 4-inch pipe in 57 <sup>th</sup> Street NW with 8-inch PVC pipe, from Reid Dr. NW to Hydrant SE 127	590	LF	\$55	\$32,450
Replace 6-inch pipe north of 28th Ave NW with 8-inch PVC pipe, from the existing 8-inch pipe at 28th Ave NW to Hydrant SE 042	420	LF	\$55	\$23,100
<b>SUBTOTAL</b>				<b>\$95,100</b>
<i>Mobilization, Bonds, Insurance (10%)</i>				<i>\$9,500</i>
<i>Contingency (20%)</i>				<i>\$19,000</i>
<b>SUBTOTAL</b>				<b>\$123,600</b>
<i>Engineering and Administration (15%)</i>				<i>\$18,500</i>
<i>Taxes (8.4%)</i>				<i>\$10,400</i>
<b>TOTAL</b>				<b>\$152,500</b>

**NOTES:**

1) Unit costs for pipe include valves and other appurtenances that will need to be replaced with the pipe.





## **COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR HUNTER AND CITY COUNCIL**  
**FROM: STEPHEN MISIURAK, P.E., CITY ENGINEER**  
**SUBJECT: STAFF REPORT – EDDON BOAT 2007 EPA BROWNFIELDS DRAFT GRANT APPLICATION**  
**DATE: NOVEMBER 27, 2006**

### **INFORMATION/BACKGROUND**

The city is currently applying for additional grant funding through the U.S. Environmental Protection Agency (EPA) Brownfields Grant program in the amount of \$200,000. The grant will help fund portions of the site cleanup on the parcel located at 3711 Harborview Drive, should it be required. A copy of the draft application is included. The EPA Brownfields Grant program was created to help communities redevelop, reuse or expand land that because of contamination might otherwise be unusable.

Earlier this year, the city applied through the EPA Brownfields Grant program for funding for the 3711 and 3805 parcels at Eddon Boat. Funding was awarded in the amount of \$200,000 for the 3805 parcel only. The city was encouraged to apply for 2007 grant funding for the 3711 parcel. Grant funds will also be used to support community involvement activities. The city will ensure that community concerns are considered in cleanup planning and execution and that the public is kept informed of project progress and results.

A grant application requirement is to hold a public meeting to gather public input. A public meeting has been scheduled for Monday, December 4, 2006 at 6:00 p.m. in Community Rooms A&B. The purpose of this meeting is to discuss any comments received and take questions/comments from the public pertaining specifically to the proposed grant application. The public comment period ends at 3:00 p.m. on Tuesday, December 5<sup>th</sup>. The deadline for the grant application is Friday, December 8<sup>th</sup>.

December 6, 2006

To: EPA Region 10, Office of  
Brownfields Cleanup and Redevelopment  
Attn: Susan Morales,  
1200 Sixth Avenue (ECL-112)  
Seattle, WA 98101

Environmental Management Support, Inc.  
Attn: Mr. Don West  
8601 Georgia Avenue, Suite 500  
Silver Spring, MD 20910  
Phone 301-589-5318

Dear grants coordinators,

The City of Gig Harbor has enclosed the cleanup grant application for the below referenced proposal herewith.

**APPLICANT IDENTIFICATION**

**City of Gig Harbor**, 3510 Grandview Street, Gig Harbor, WA 98335  
**Chief executive officer of municipal operations:** Chuck Hunter, Mayor  
PHONE: (253) 851-8136 FAX: (253) 851-8563 EMAIL: [hunterc@cityofgigharbor.net](mailto:hunterc@cityofgigharbor.net)

**2. Funding Request**

- a. Grant type:** Clean-up
- b. Amount Requested:** \$200,000
- c. Contamination:** Hazardous substance

**3. Location:** *Eddon Boat Park Restoration Site* located 3711 HARBORVIEW DR Section 05 Township 21 Range 02 Quarter 33, consisting of a 1.91 acre lot, in the City of Gig Harbor, Pierce County, Washington. A site location map is included as **Attachment A**.

**4. Project Contact:** **Stephen T. Misiurak**, City Engineer, City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335 Tel: (253) 851-6170, email [MisiurakS@cityofgigharbor.net](mailto:MisiurakS@cityofgigharbor.net) **and:** **Lewis (Bud) Whitaker**, Project Manager, 3510 Grandview Street, Gig Harbor, WA 98335 (253) 381-8013, [WhitakerL@cityofgigharbor.net](mailto:WhitakerL@cityofgigharbor.net)

**5. Date submitted:** December 6, 2006

**6. Project Period:** July 15 2007 – June 15, 2010.

**7. Population:** The population of Gig Harbor is approximately 6,500.

**8. Other:** No federal designation.

**9. Cooperative partners:** None.

The *Eddon Boathouse* site consists of 2 parcels and associated tidelands located at 3805 and 3711 Harborview Drive. Earlier this year, the City received an EPA Brownfields Grant award for \$200,000 for the 3805 parcel and is currently working through a cooperative agreement with the EPA. The Washington State Department of Natural Resources (DNR) has also expressed interest in partnering with the City and will contribute funds towards the disposal of creosote treated pilings and wood located at Eddon Boat Park. This request would complete the cleanup of the adjacent parcel located at 3711 and does not include the work being funded under the aforementioned programs.

Historic use was a boathouse and boats have been built on the site since the 1920s. The proposed site re-development into a city park would honor the town's boat building heritage while contributing to economic development opportunities for the retail shops and restaurants in

the area. Making a town attractive for tourists usually takes work on many dimensions. For Gig Harbor, one of those dimensions heralds back to its days of farming, fishing and boat building.

The site enjoys panoramic views with unrestricted access to the harbor and proximity to other amenities, eating establishments, and recreation. These unique attributes and virtual lack of public access elsewhere in the area make this an important acquisition and environmental cleanup opportunity. The vision expressed by this plan would create a new public access to beautiful Gig Harbor that will open up vistas and recreational use such as launching small watercrafts.

Under private ownership, these properties were proposed for a housing development by the Harbor Cove Group. In November 2004 the voters approved a Land Acquisition and Development General Obligation Bond of \$3.5 million and the City completed purchase of the property in March 2005. Prior to opening the *Eddon Boat Park* the City wants to resolve all environmental issues associated with the sites. Investigations of the site indicate that remediation of some soils and sediments will be required and initial evaluations indicate that remedial actions will likely include excavation of contaminated soil hotspots and thin-layer capping of marine sediments.

It is important to maximize the opportunities to improve water quality, recover shoreline, recycle abandoned/idle industrial land, remediate contaminated sites, restore habitat, enhance public awareness, and leverage funding sources by coordinating with multiple projects.

The City of Gig Harbor looks forward to joining the Environmental Protection Agency in this exciting opportunity.

Sincerely,

Chuck Hunter, Mayor  
City of Gig Harbor

City of Gig Harbor – 3711 Eddon Boat Park Restoration Project

Proposal for EPA Brownfields Clean-Up Grant

**THRESHOLD CRITERIA FOR CLEANUP GRANT APPLICATION**

**THRESHOLD CRITERIA**

**A. Applicant Eligibility:** The City of Gig Harbor is a non-charter, code city governed under Title 35A of the Revised Code of Washington. The City of Gig Harbor purchased the property in March of 2005 and holds a fee simple title to the properties. The approximately 1.91 acre property is an eligible brownfields site under the hazardous substances section.

**B. Community Notification:** The project was publicly announced on November 24 through a press release emailed to interested parties, placed on the City website on November 27, given to local media (See Attachment B press release) and numerous local civic and community groups were contacted. An article in the local Gig Harbor Gateway newspaper followed on November 25 and a public comment period, allowing the public a chance to review and comment on this EPA grant application was held from November 25 until December 5, 2006. On December 1 an article appeared in the multi-county regional *Kitsap Peninsula Business Journal* and informative flyers were posted at public gathering places including the City offices. The draft application was presented to the Gig Harbor City Council on November 27 and hard copies of the application were made available for viewing at the City Hall Community Development Department. A final public meeting to discuss the application was held on December 4, 2006.

**C. Letter from the State or Tribal Environmental Authority:** A letter from the Washington State Department of Ecology is included in Attachment C.

**D. Site Eligibility and Property Ownership Eligibility:**

**D.1.a. Name of the site:** Eddon Boatyard Park

**D.1.b. Addresses of site:** 3711 HARBORVIEW DR, Gig Harbor, WA

**D.1 c. Site's hazardous substance contamination:** The site was formerly used as a boatyard. A completed Phase 2 Environmental Site Assessment (ESA) and additional follow-up testing have identified soil, sediment and groundwater contamination associated with former boatyard uses. Site hazardous substances include heavy metals (arsenic, copper, lead and mercury), organotin compounds, PAH compounds and non-TSCA polychlorinated biphenyls (PCBs). Some co-mingled petroleum contamination is also present at the site in limited areas (*see contamination site map in Attachment D*).

**D.1 d. Operational History and current uses:** The site's historical use was as a boat works facility.

**D.2 a. Listing:** The property is not listed or proposed for listing on the NPL site.

**D.2 b. Orders:** The site is not subject to unilateral administrative orders, court orders, consent, or decrees issued to or entered into by parties under CERCLA.

**D.2 c.** The site is not subject to the jurisdiction, custody, or control of the U.S. government.

**D.3 Known or anticipated enforcement actions:** To the best of the applicant's knowledge, there is no known, ongoing, or anticipated environmental enforcement actions related to the site under CERCLA or federal regulations. Cleanup of the site is being conducted by the City of Gig Harbor under the State of Washington's Voluntary Cleanup Program (VCP).

**D.4. How the site became contaminated:** Contamination at the site is attributable to historic boatyard operations between the 1940s and early 1980s. Site maps included in ATTACHMENT D shows the property location and land overlay investigated for hazardous substances.

**D.5. A Phase I and Phase 2 ESA** have been completed. Saltbush Environmental Services

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

completed a Phase 1 assessment in August 1999 and Krazan & Associates completed the Phase 2 on July 21, 2003. Additional Phase 2 assessment activities were conducted by the City in February of 2005. These assessments are complete.

**D.5.a. Additional assessment:** Phase 1 & Phase 2 assessment activities are complete. Future site activities are focused on the final planning, design, permitting and implementation of site cleanup and Brownfield redevelopment activities. Additional data collection will be conducted as part of future design, permitting and implementation activities.

**D.5.b. Estimated Phase 2 cost, D.5.c. Source of Phase 2 funds:** Not applicable.

**D.5.d. Schedule:** Previous Phase 1 and Phase 2 assessment activities are complete.

**D.6. Known or anticipated enforcement actions:** To the best of the applicant's knowledge, there is no known, ongoing, or anticipated environmental enforcement actions related to the site. Cleanup of the site is being conducted by the City under Washington's VCP.

**D.7. City Not Liable Under CERCLA Section 107:** The City acquired the site in 2005 as a Bonafide Prospective Purchaser and to the best of applicant's knowledge; the City is not potentially liable for contamination under CERCLA Section 107.

**D.8.a. Ownership of site:** The City of Gig Harbor purchased the property in March of 2005 under a Purchase Agreement and Amendment (**Attachment H**).

**D.8.b. Contamination Occurred:** Site contamination occurred prior to the purchase of the property by the City of Gig Harbor, during the period of industrial historical boatyard activity (1940s to the early 1980s). The City has no information indicating that it caused or contributed to any release of the hazardous substances at the site.

**D.8.c. A Phase I and Phase 2 ESA** has been completed. Saltbush Environmental Services completed a Phase 1 assessment in August 1999 and Krazan & Associates recently completed the Phase 2 on July 21, 2003. Phase 2 was done on behalf of Mr. Barry Margolese of the Harbor Cove Group from whom the property was purchased from. The City conducted additional Phase 2 Assessment activities in February of 2005, performed by Anchor Environmental LLC on behalf of the City, and consulted with the Washington's Department of Ecology prior to purchase of the site.

**D.8.d. Site uses** in the future will be as parks and historic building preservation under city ownership.

**D.8.e Potential liability of any other parties:** The applicant is a Bonafide Prospective Purchaser of the property and is not a potentially liable party under CERCLA. The City is not aware of any affiliations with any other person who is potentially liable under CERCLA. No other CERCLA liable parties have been identified to date under judgments, enforcement actions, suits or claims. Certain costs associated with the cleanup and redevelopment of the site are funded by an escrow established by Harbor Cove Group who owned the site for a two-year period prior to purchase of the site by the City. Relevant portions of the Purchase and Sale agreement are attached in Exhibit E. Harbor Cove Group also likely qualifies as a Bonafide Prospective Purchaser under CERCLA.

**D.8.f. Reasonable steps to prevent/stop release:** The historic activities that produced the site contamination are no longer being conducted. The City conducted appropriate inquiry into site conditions prior to purchase. The City is not aware of any continuing releases or threatened future releases. The City has initiated the process to conduct cleanup of the site to limit exposure to previously-released hazardous substances and comply with state requirements. Access to the

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

site will be limited pending completion of site.

**D.8.g.** The site does not currently have any recorded land use restrictions or institutional controls. The City of Gig Harbor will take reasonable steps with respect to hazardous substances on the property, consistent with future site cleanup requirements to be developed in coordination with Washington’s Department of Ecology. The City will comply with all information requests or administrative subpoenas, and will provide all legally required notices and will comply with CERCLA information requests.

**E. Cleanup Authority and Oversight Structure:**

The City has an established working relationship with the residents, local businesses, and current property owners at these sites so site access will not be a problem. The City has requested the cleanup assistance of the Washington State Department of Ecology under Washington’s Voluntary Cleanup Program. The City will comply with competitive procurement requirements to acquire technical and contractual services to plan, design, and carry out cleanup actions under a notice of grant award and commitment of cleanup funds from EPA.

**F. Cost Share:** The 20% cost share will be met by the applicant via an escrow account established by Harbor Cove Group to fund matching opportunities for grants and via City personnel engineering services associated with the design and performance of the site cleanup and redevelopment action consistent with EPA Brownfields grant requirements.

**RANKING CRITERIA**

**A. Cleanup Grant Proposal Budget**

**Only those tasks & activities funded with EPA funds and/or Cost share**

<b>Budget Categories</b>	<b>Task 1 - Project Management</b>	<b>Task 2 - Public Involvement</b>	<b>Task 3 - Cleanup Planning</b>	<b>Task 4 - Cleanup Performance and Completion</b>	<b>Total</b>
<b>1. Personnel</b>	<b>5,000</b>	<b>4,000</b>	<b>7,500</b>	<b>10,000</b>	<b>\$26,500</b>
<b>2. Travel</b>	<b>300</b>				<b>\$300</b>
<b>3. City Consultant</b>	<b>3,000</b>	<b>4,000</b>	<b>1,000</b>	<b>24,000</b>	<b>\$32,000</b>
<b>4. Construction Contract</b>			<b>3,000</b>	<b>206,000</b>	<b>\$209,000</b>
<b>5. Consultant</b>	<b>2,780</b>	<b>3,000</b>			<b>\$5,780</b>
<b>6. Supplies</b>	<b>50</b>	<b>250</b>	<b>125</b>	<b>100</b>	<b>\$525</b>
<b>Total Charges</b>	<b>\$ 11,130</b>	<b>\$ 11,250</b>	<b>\$ 11,625</b>	<b>\$ 240,100</b>	<b>\$ 274,105</b>
<b>7. Cost Share</b>	<b>11,130</b>	<b>11,250</b>	<b>11,625</b>	<b>40,100</b>	<b>\$74,105</b>
<b>EPA Grant</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>200,000</b>	<b>\$200,000</b>

**Budget Narrative**

**1. Personnel Costs** – City Engineer – 180 hours @ \$125/hr. = \$22,500

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

Administrative Assistant – 128 hours @ \$45/hr. = \$5760

2. **Travel** – Includes costs to attend Brownfields workshops and training
3. **City Consultant** - Calculated at 400 hours at \$80/hour = \$32,000  
For project management, planning, reporting, property management, and other services.  
Selected by the City.

4. **Contractual** section for Task 3 & 4 includes costs for remedial planning and remedial actions to include: cultural resource technicians (approx. \$500), **Department of Ecology Voluntary Clean up Program (VCP)** regulatory coordination and oversight (\$2500), , and contractor costs to complete clean-up plans, develop project permits and design documents, and to conduct cleanup actions and associated monitoring activities.

5. **Consultant** section of Task 1 includes meeting with staff, drafting and writing work plans, coordinating, etc. 43 hours @ \$65/hr

**Consultant** section of Task 2 represents funding to keep the community informed of site clean-up activities such as: assist community with understanding the results of analyses, clean-up action and planning, and public involvement tasks as needed. 46 hours @ \$65/hr

6. Supplies include Printing, postage, and materials.

7. **Cost share** includes such items as City engineering services associated with the design and performance of the cleanup action, in-kind volunteer services, supplies, donations, development funds, disposal tipping fees, and providing backfill.

**NOTE:** Cleanups will also comply with all applicable state laws and crosscutting federal requirements, including MBE/WBE and the Davis-Bacon Act. All procurements will be performed in accordance with 40 CFR 31.36.

---

**B. Community Need**

**B1. Target Community:**

The *Eddon Boatyard* project consists of 2 parcels and associated tidelands located at 3805 and 3711 Harborview Drive (the subject of this proposal). Historic use was a boatyard and boats have been built on the site since the 1920s. Under private ownership, these properties were proposed for a housing development by the Harbor Cove Group. In November 2004 the voters approved a Land Acquisition and Development General Obligation Bond of \$3.5 million and the City completed purchase of the property in March 2005.

Early industry was primarily lumber, boat building and the loggers that frequented the town. Many visitors first view Gig Harbor from the water and its calm inlet, attractive vistas and historic charm draws visitors from all over the region. The racial makeup is 82% White, 4% African American, 3.7% Asian, 1.5% Native American, 5% of the population are Hispanic or Latino of any race. Persons living below the poverty level in this downtown area is up to 12.9% (see Census map **Attachment E**). While that is above the regional average, persons in outlying communities (20-30% below the poverty level in parts of Pierce and Kitsap Counties) will benefit from creation of a public water access and parks venue in the City's downtown core.

The Puget Sound area is also dealing with loss of critical habitat for the Puget Sound Chinook salmon listed as threatened in 1999 and the Puget Sound Orcas (Killer Whales) listed as endangered in 2005 under the federal Endangered Species Act. Since the listing, Puget Sound shorelines have been declared critical habitat for these and several other endangered species that feed and forage on their journey to natal rivers and streams throughout the region.



**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

Many shoreline property owners are now retiring and finding their property values have not kept up with inflation. Limited shoreline properties may have increased in value while there is an unmet and growing need for public water access for the current and immediate future population who can not afford to live on the water or keep boats at a marina.

**B2. How Targeted Community Benefits:**

The site enjoys panoramic views with unrestricted access to the harbor and proximity to other amenities, eating establishments, and recreation. These unique attributes and virtual lack of public access elsewhere in the area make this an important park acquisition and environmental cleanup opportunity. The future vision for the Park is to preserve a portion of the City's historic waterfront and boat building history in downtown Gig Harbor.

The community will benefit from this grant by the development of environmentally friendly economic opportunities, options for water access, enhancement of transportation, and protection of our environment on the *Eddon Boatyard* site.

The common vision voiced by the community is to remain consistent with an overall strategic plan of a vibrant, urban center with rural character that respects the history and unique qualities of this area. This site is a prime location for this use and was selected based on accessibility to services such as transportation, land area, natural features, and community support.

This vision would be implemented at the *Eddon Boatyard Park* through a three part phased approach. Phase 1 would include addressing the environmental contamination at the site through this clean-up, development of community recreational and green spaces such as a walkway, and outdoor seating areas for the residents. In addition to the redevelopment of the site, the entire community is engaged in projects that would restore, enhance, and revitalize the area. This concept would include development of common links between the downtown business, historic sites, and community centers through pedestrian-friendly view corridors while taking advantage of bus access, ferries, and livability of the neighborhood development. The community will profit from environmentally friendly economic opportunities, while providing options for affordable recreation opportunities with transportation for low-income seniors and the community-at-large.

**B3. Characterization of the impact of the brownfields on target community:**

The impact of this brownfields site in the community is multi-faceted, as oftentimes, these abandoned or under used properties are in strategic locations to downtown or mixed-use centers. Site cleanup is a critical step in the redevelopment to remove the environmental stigma and perceived risk before you can encourage investments in affordable housing construction.

The City's urban area has a history of brownfields that have been a deterrent to development. The property does not have a viable responsible party to address the environmental concerns and as long as the contamination at this site is not addressed the attempts for economic and community revitalization will remain challenged.

**C. Sustainable Reuse of Brownfields/Development Potential**

See ATTACHMENT F for conceptual designs relative to criteria in the following questions.

**C1. Prevents pollution, reduces resource consumption and uses GREEN BUILDING strategy:**

- Recycling viable properties using existing infrastructure will directly and indirectly reduce resource consumption, protect open space from development and prevent sprawl. As part of this project and associated projects, The City is expanding green space through comprehensive plans that incorporate sustainable systems and reduce stormwater runoff.

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

- The planned redevelopment project will follow the guidelines of the *Voluntary Low Impact Development* standards stormwater management strategies under adoption by the County.
- In addition, the planned native landscaping will provide clear benefits to water conservation, lower use of herbicides and pesticides, and overall reductions in pollution and resource consumption. The community plan encourages public access; however, such access would prevent impact to the installation of plants and open space and encourage use of paths (see conceptual design plan in **Attachment F**).

**C2. Promotion of economic benefits (expanded tax base, investments, and job creation):**

- These neighboring areas include a high number of persons over the age of 65 who require more access to services due to age, health, social, and economic needs. This cleanup project takes the first step in its rehabilitation that will improve the overall socioeconomic condition of this population sector.
- The project is an important component of the socioeconomic development of this entire community that will attract new businesses and in turn create jobs that will provide economic stimulation of the neighboring areas within the County.
- The site has been underutilized for several years. By returning the *Eddon Boatworks* site to a more intensive use, the payoff would be increased construction-related work, business support, and resulting job opportunities for nearby Pierce County residents.
- The vision incorporated into these plans will also broaden the prospects for the citizens and future generations of this community by providing much needed parks and water access in close proximity to essential support services and employment opportunities.

**C3. Promotes a vibrant community through mixed use, density, transportation, & walkability:**

- After cleanup of the site, the first step in redevelopment can begin. Land use planning and low-impact-development alternatives for the target area will promote regeneration, social inclusion, and a more sustainable pattern of development.
- This site offers an opportunity to take an integrated approach, using low impact construction and providing both walking and public transportation access.
- This mixed use development will improve access to transportation, walking path linkage to city center and parks, and encourage new businesses. This site was selected because of transportation services, recreation opportunities, land area, and community support.
- Proposed plans promote safe and convenient links between proposed parks, jobs, and facilities through non-motorized walkways to and from shopping and restaurants.
- The City, economic, and community groups are working towards revitalization of the area including sustainable development. This vision will improve the residents' quality of life while preserving the natural beauty of the area.

**C4. Reuse of existing infrastructure including roads, utilities, centers, and bus services:**

- Proposed site re-development, after cleanup, will emphasize natural landscaping, water access, and economic development compatible with the community's goals and plans for downtown enhancement and improvement. The plan will reuse existing infrastructure. However, during rehabilitation and demolition, some structures will be removed.
- No usable buildings or infrastructure remains on the property itself. However, access to roads, power, water, and sewer are all present within the site. The existing utility infrastructure will be extended to service the site. The City's existing water utility district and wastewater treatment plant have capacity to handle the additional load the redevelopment of

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

the site would require. Hard surfaces whenever possible will be resurfaced and remain on the property. Green space will be encouraged and are incorporated into plans for the park.

- The development plans promote safe and convenient links between housing, jobs, and existing resources, services, facilities, and other amenities through multi-use, non-motorized walkways downtown, buses, and proximity to accessible transportation.

**C5. Prevents future brownfields through communication and preventing land abandonment:**

- The City and Community leaders continue to promote land reuse incentives and prevention of land abandonment. The City and neighboring communities have focused planning efforts on habitat protection, historic preservation, and community revitalization.
- Adoption of comprehensive plans, compatible with the Growth Management Act (GMA), will increase urban densities, prioritize industrial redevelopment, and prevent future brownfields within designated industrial and urban growth areas. The City encourages redevelopment while preserving undeveloped open spaces for parks.
- The City supports the efforts of the State of Washington Department of Trade and Economic Development. The activities proposed are priorities in adopted comprehensive plans and will seek to educate and provide a model to prevent future brownfields.

**C6. Commitment to using GREEN BUILDING and Energy Efficient Building standards:**

- This proposal embraces environmentally sound development and using Resource Efficient materials in the development of a market-based, environmentally friendly program.
- This project will implement alternatives and build safe, quality facilities while preserving the environment. The proposed construction will utilize recycled materials, providing structures that are more energy efficient, improved indoor air quality, and promote sustainable practices. This provides environmental and economic benefits for the consumer.

**D. Creation and Preservation of Greenspace/Open Space and Nonprofit Purpose**

- Through cleanup of contaminates and low impact development of the site, picnic tables and walking paths will offer both a beautiful view of the landscape and provide non-motorized, pollution-free access to the natural beauty of our harbor (see **Attachment F**).
- Several community and environmental groups are currently working to preserve and restore an environment that supports an array of fish, birds, and mammals. The Russell Family Foundation is one of these and they are known in the region for their commitment.
- The location and size of the site provides an exceptional opportunity for re-development towards a park like setting capitalizing on natural vegetative barriers (see **Attachment F**).
- Landscape designs will emphasize the use of native plants that are 'water-wise' (reduced water usage), low maintenance; grow hearty without the use of pesticides, while creating habitat for birds and other animals in an urban environment.
- City leaders and active non-profit community groups are working together to set goals for provision of services to residents here.

**E. Community Involvement**

**E1. Plans for involving target community:**

The City recognizes the benefits provided by education and outreach activities. The community has already provided extensive input for the *Eddon Boatyard Park Development*. The redevelopment plans discussed throughout this application were developed with significant input

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

from the community during community meetings held with the Council prior to acquisition (see KBJ article **Attachments B**).

The project was featured in news releases and websites. A public comment period, allowing the public a chance to review and comment on this grant application was held from November 25 – December 12, 2005. The project was publicly announced through a press release emailed to interested parties, placed on the City website, given to local media and emailed to numerous local civic and community groups, as well as state legislators.

The project was publicly announced on November 24 through a press release emailed to interested parties, placed on the City website on November 27, given to local media (See **Attachment B** press release) and numerous local civic and community groups were contacted. An article in the local Gig Harbor Gateway newspaper followed on November 25 and a public comment period, allowing the public a chance to review and comment on this EPA grant application was held from November 25 until December 5, 2006. On December 1 an article appeared in the multi-county regional *Kitsap Peninsula Business Journal* and informative flyers were posted at public gathering places including the City offices. The draft application was presented to the Gig Harbor City Council on November 27 and hard copies of the application were made available for viewing at the City Hall Community Development Department. A final public meeting to discuss the application was held on December 4, 2006.

The City, as the property owner, will continue to involve and request input from the community, the City's Department of Community Development, local businesses and citizens during the cleanup and subsequent phased redevelopment process. The City will also keep the community informed and involved in the cleanup process by providing updates to the City Council.

Since the property site is a potentially culturally sensitive area, a firm will be selected to provide cultural resources overview that would determine whether the site has a low probability for significant hunter-fisher-gatherer or historic period archaeological resources due to previous disturbances in the project area. The public will be involved, notified, and allowed a public comment period before implementation of remedial actions as required by state statute.

**E2. Efforts to develop partnerships:** Collaboration between a wide array of groups, organizations, City, County, federal and State government, and residents has been very positive and encouraging. The supporters have embraced the goal for redevelopment, sustainable economic growth, environmental benefits, and quality of life for citizens. With strong local support from the *Kitsap Business Journal* (the voice of small business in this area), and non-profit community-based organizations – *Friends of Eddon Boat, Depts of Ecology, Fish and Wildlife, and Natural Resources*, the success of this project is greatly increased.

**E3. Specific plans for communicating progress including indigenous languages:** Project information will be distributed through City Council, committees, and community meetings, announcements in the *Kitsap Business Journal* (see **Attachment G**) placement of informative brochures at public gathering places including the community center, Post Office, and Library. Upon request or identified need, information will be provided in Chinese, Japanese, Spanish or First Nation Tribes to reach target groups. The City would also elicit assistance from community resources to resolve other anticipated communication barriers (e.g. sight or hearing, etc.).

**E4. Included below is a list of organizations supporting this project:**

**Local government agencies:**

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

---

State Representative Derek Kilmer STATE Capitol: (360) 786-7802, kilmer.derek@leg.wa.gov

---

Wash. Dept. of Fish & Wildlife, Area Habitat Biologist Doris Small, 360-895-4756

---

**Business & Non-profit economic development & business groups:**

---

Kitsap Business Journal, Editor & Publisher Lary Coppola, 360-876-7900 or cell #360-731-2222  
biznews@wetapple.com (also running for State Senator (D) for this 26<sup>th</sup> Legislative District)

---

**Non-profit, community-based organization:**

---

*Friends of Eddon Boat*, John McMillan, (253) 858-1985, 9816 Jacobsen, Gig Harbor, WA 98332

---

**F. Reduction of Threats to Human Health and the Environment**

---

**F1. How funds will be used to identify and reduce threats to human health:** This project will remove sources of surface and subsurface contamination so that risks of exposure from groundwater sources and fumes or direct contact with materials are eliminated. Precautions will be taken to do this necessary removal/demolition, haul and dispose of contaminants using the best management practices available ensuring minimal to no risk to the environment. The grant funding will be used to perform site cleanup activities. These activities will have minimal impacts to the environment during implementation.

Exposure to these hazardous substances has well documented pathways and potential risks to human health (including carcinogens, pulmonary pathologies, and fetal abnormalities) and routes could include dermal, ingestion and inhalation. The City is working closely with the Tacoma-Pierce County Health Department (PCHD) and state Department of Health (DOH) and will develop site specific safety plans taking into consideration potentially sensitive populations (e.g. children, pregnant women, infirm, language barriers, etc). The site will be controlled to avoid traffic problems, prevent risk of unauthorized use or entrance while activities are taking place, and will include appropriate signage. Particular attention will be focused on ensuring that construction is mitigated on site with no effect on adjacent properties or air emissions.

Redevelopment of the site will have “no effect” on listed species as long as heavy construction equipment is not used on site during the period in which wintering bald eagles might be present in the area. This period is from November 1 through March 31.

**F2. State Regulatory Authority & local Health District:** Site clean-up activities will be sub-contracted to environmental contractors working with Washington State Department of Ecology’s (DOE) Voluntary Clean-up Program (VCP) and remedial actions will be under the *Model Toxics Control Act* (MTCA) under Ecology’s jurisdictional authority as defined in WAC 173-340. The applicant has and will continue to work with the DOE, DOH, and PCHD to ensure that human health and the environment is protected during the testing, remedial actions and redevelopment process. The applicant will also ensure that no listed or proposed species will be adversely affected by clean up and subsequent redevelopment of the site.

**F3. Proposed Cleanup Plan:** The estimated cost of cleanup is \$ 274,105.

- Clean-up plans are being coordinated with the Washington State *Voluntary Cleanup Program* (VCP) project manager for concurrence that the Plans can be expected to meet State cleanup requirements.
- Tasks would include project management, reporting, property management, meeting with staff, drafting and writing work plans, coordinating, etc. The City will keep the community

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

informed of site clean-up activities such as: assist community with understanding the results of analyses, clean-up action and planning, and other public involvement tasks as needed. See Section A. **Budget** for recipient personnel and City consultants cost estimates.

- Contractors will be procured for cultural resource technicians, oversight and grant funding will also be used to perform confirmation sampling, remove and dispose of hazardous substances, contaminated soil, and to eliminate the waste from possible contact with the groundwater sources.
- Cleanup planning costs will include cultural resource technicians (approx. \$300), *Department of Ecology Voluntary Clean up Program* (VCP) oversight (\$2500), Work Plan, SQAPP (preferred by EPA, combines QAPP with SAP), and HASP (\$8,000). It is anticipated that clean-ups will include costs for the removal of contaminated soils on site, Transportation of contaminated soils by Dump Truck, Excavation oversight; Soil Samples for disposal purposes (includes soil sampling personnel, laboratory costs). Contaminated soils encountered would be disposed of at a permitted, off-site facility, Soil samples for confirmation that site is clean (includes sampling personnel, lab costs), Backfill and compaction testing, QA/QC oversight and review, and Brownfields Cleanup Report. See **BUDGET & Narrative p. 5** for cost details.
- Removal of hazardous substances and contaminated soils must precede construction to prevent potential discharge into groundwater sources, prevent air emissions, and remove impacts to immediate environment.

**F4. Proposed cleanup plan will be protective of human health and the environment:** The cleanup plan will be protective of human health and the environment because it will comply with all applicable state cleanup standards. A site-specific Sampling and Quality Assurance Plan (SQAP) and Site Health and Safety Plan (SHSP) will be prepared and approved by EPA before the clean up. The City will also task the contractor to prepare and follow an OSHA-compliant Health and Safety Plan. Adherence to safety and health precautions outlined in approved plans will be protective of human health and the environment as well as ensure compliance with all applicable state and federal laws. The *Washington State Department of Ecology* will provide technical assistance and administrative review throughout the process. Cleanup and remedial actions will be under the *Model Toxics Control Act* (MTCA) under Ecology's jurisdictional authority as defined in WAC 173-340. They will provide regulatory oversight and have been working with the project team to this point. The City will also continue to work closely with the local *Pierce County Health Department* at all phases of the project.

**F5. Engineering controls and plans for long-term monitoring:** Engineering controls for stormwater management were installed on adjacent properties and use of low-impact development strategies such as rain gardens and vegetation will be employed. These designs have built-in efficiencies to handle runoff from this site and are low maintenance. Best management practices will ensure protection of the environment and there is no need for other engineering controls anticipated for this project because full source removal is planned.

---

**G. Leveraging of Additional Resources:**

---

**G1. Financial needs for each stage of the project:**

Estimated costs associated with cleanup and planning activities included the in-kind and volunteer efforts of supporters. Projected costs for clean-up activities are detailed under Section A. Budget.

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

This development will also involve the development planning and construction of non-motorized multiple use paths, picnic tables, and greenways through community participation, private donations, and volunteers providing in-kind services. See conceptual plans **ATTACHMENT F**.

Discussions for development are currently underway with multiple groups including the *Friends of Eddon Boat* and local citizens. Costs associated with subsequent phases will be determined by final redevelopment selection at a future date. The applications under state parks grants, open space, and real estate excise tax will leverage this Brownfields cleanup grant investment by a projected \$3 million dollars in parks development monies and escrow account set up by the previous owner to be used as cost share.

**G2. Identify the funds committed:** The following funds have been committed to meet assessment, planning for remediation/cleanup and redevelopment needs:

- The 20% cost share will be met by the applicant and the escrow account (see Section A Budget) and only apply to eligible project costs to include force labor and in-kind match for property and project management, oversight of contractual and secretarial services, and public information activities (\$24,025).
- The City staff time will be used to manage grant activities and ensure the successful completion of the project.
- The Kitsap Peninsula Business Journal will provide publicity, public information on cleanup activities, and promotional in-kind services valued at \$3000.

**G3. All other funding sources:** Permanent financing for the property redevelopment will be a mix of private, local, state and federal funds.

---

**H. Ability to Manage Grants:**

**H1. Ability to manage grant and provide due diligent oversight:** The City Engineer and the City's Project Manager have expertise in managing the grants that the agencies receive including federal, state, and local grants. The City regularly manages contracts with contractors, consultants, and services. The City will initiate a competitive bid procurement process and employ other internal policies already in place to select qualified technical and contractual services for the proposed project. The City's financial department staff has ample expertise in administering the grants that the agency receive including federal, state and local grants. The City has well established financial, managerial, and administrative resources to manage this grant if awarded.

**H2. History of managing federal funds:** The City has received federal money over the past 20+ years for a variety of projects and programs including Transportation grants and federal pass-through funding. Throughout that time, there have not been any adverse audit findings from an OMB Circular A-133 audit nor has the City been required to comply with any special "high risk" terms/conditions under agency regulations implementing OMB Circular A-102.

**H3.** The City is a current recipient of an EPA Brownfields grants.

**H4.** The City is currently working through a cooperative agreement.

**H5.** The City has met all conditions of the current EPA cooperative agreement.

**Thank you for the time you have committed to reviewing this proposal for funding. We hope to have an opportunity to partner with the EPA Brownfields team.**

---

**PLEASE SEE THE FOLLOWING ATTACHMENTS:**

**Attachment A – Site Location Map**

**Attachments B – Community Notification & News Article**

**Attachment C – Washington Department of Ecology Letter**

**Attachment D – Sites w/ Soil Contamination Map**

**Attachment E – Census 2000 Data**

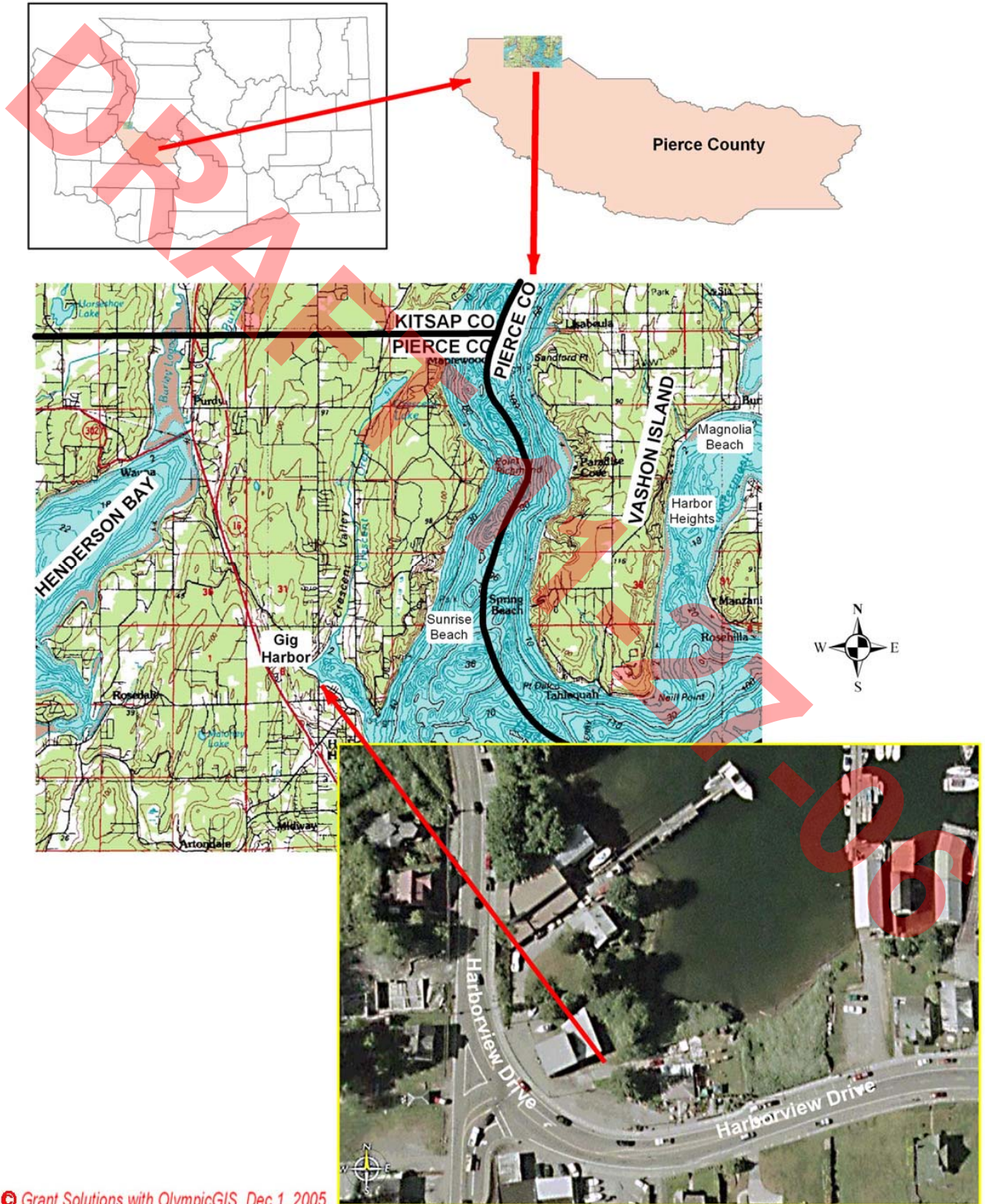
**Attachments F – Conceptual Design for Redevelopment**

**Attachment G – Letter of Support: Kitsap Business Journal**

**Attachment H – Purchase and Sales Agreement**



# Project Area & Vicinity Map



**ATTACHMENT B**

**For Immediate Release:** November 20, 2006

**Contact:** Lewis (Bud) Whitaker Tel: (253) 381-8013, email [whitakerL@cityofgigharbor.net](mailto:whitakerL@cityofgigharbor.net) or Stephen T. Misiurak, City Engineer, (253) 851-6170, email [misiuraks@cityofgigharbor.net](mailto:misiuraks@cityofgigharbor.net)  
City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335

**City of Gig Harbor seeks comments on Federal Grant until December 5**

**(Gig Harbor)** – Brownfields are properties where expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a contaminant, pollutant or hazardous substance. The U.S. Environmental Protection Agency (EPA) Brownfields Grant program was created to help communities redevelop, reuse or expand land that because of contamination might otherwise be unusable.

The *Eddon Boathouse* site consists of 2 parcels and associated tidelands located at 3805 and 3711 Harborview Drive. Historic use was a boathouse and boats have been built on the site since the 1920s. The proposed site re-development into a city park would honor the town's boat building heritage while contributing to economic development opportunities for the retail shops and restaurants in the area. Making a town attractive for tourists usually takes work on many dimensions. For Gig Harbor, one of those dimensions heralds back to its days of farming, fishing and boat building.

The site enjoys panoramic views with unrestricted access to the harbor and proximity to other amenities, eating establishments, and recreation. These unique attributes and virtual lack of public access elsewhere in the area make this an important acquisition and environmental cleanup opportunity. The vision expressed by this plan would create a new public access to beautiful Gig Harbor that will open up vistas and recreational use such as launching small watercrafts.

Under private ownership, these properties were proposed for a housing development by the Harbor Cove Group. In November 2004 the voters approved a Land Acquisition and Development General Obligation Bond of \$3.5 million and the City completed purchase of the property in March 2005.

Earlier this year, the City received an EPA Brownfields Grant award for \$200,000 for the 3805 parcel and is currently working through a cooperative agreement with the EPA. Grant funds will also be used to support community involvement activities. The City will ensure that community concerns are considered in cleanup planning and execution, and that the public is kept informed of project progress and results.

The Washington State Department of Natural Resources (DNR) has also expressed interest in partnering with the City and will contribute funds towards the disposal of creosote treated pilings and wood located at Eddon Boat Park.

"It is important to maximize the opportunities to improve water quality, recover shoreline, recycle abandoned/idle industrial land, remediate contaminated sites, restore habitat, enhance public awareness, and leverage funding sources by coordinating with multiple projects." Monica Durkin, Natural Resources Specialist for the DNR said in a letter provided to the City on October 30, 2006.

In July 2006, as part of Governor Gregoire's Puget Sound Initiative—a long-term public and private partnership to clean up and protect the Sound—DNR was granted \$2 million from

**City of Gig Harbor - Eddon Boat Park Restoration Project**  
*Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006*

the state's toxics control account to expand its current program to remove creosote treated pilings and debris throughout the entire Puget Sound.

Mayor Chuck Hunter, who was a part of the citizens group advocating the acquisition of the property prior to his election, is pleased with the recent developments and opportunities to leverage funding with state and federal assistance.

"This is a tremendous piece of property in an extremely strategic location downtown. There is enormous educational value in putting a property back to productive use after being dormant for nearly a decade." Hunter said. "The potential for more active public use and tourism on the waterfront will help downtown businesses."

The City is currently applying for an additional grant to help fund portions of the site cleanup on the parcel located at 3711. If the grant application is successful, up to \$200,000 in grant funds would be used to clean up any contaminated soils and sediments on the adjacent property.

"This reuse leads to sustainable growth while preserving 'green spaces' and could help fill a void for public water access in Gig Harbor," said Kathleen Byrne-Barrantes, grants consultant for the previous successful application and working with the City on the current proposal. Byrne-Barrantes also solicited the assistance of the DNR through their creosote removal program.

The draft application will be presented to the Gig Harbor City Council on November 27, 2006. A draft application will also be available at the Community Development Department and comments are invited until 3 p.m., Tuesday, December 5, 2006. Please contact **Maureen Whitaker**, Assistant City Clerk, City of Gig Harbor, 3510 Grandview Street, Tel.: (253) 851-6170, email [whitakerm@cityofgigharbor.net](mailto:whitakerm@cityofgigharbor.net) to review the application during regular business hours. The public may direct any other inquiries concerning this project to **Lewis (Bud) Whitaker**, Tel: (253) 381-8013, email [whitakerL@cityofgigharbor.net](mailto:whitakerL@cityofgigharbor.net) or **Stephen T. Misiurak**, City Engineer, Tel: (253) 851-6170, email: [misiuraks@cityofgigharbor.net](mailto:misiuraks@cityofgigharbor.net).

A future public meeting will be announced through the City's website: [www.cityofgigharbor.net/html/notices.html](http://www.cityofgigharbor.net/html/notices.html) to discuss the comments received and take questions from the public to be held at the Gig Harbor Civic Center located in City Hall at 3510 Grandview Street.

Once the public comment period ends on Tuesday December 5, the City will review all comments received and incorporate suggested changes into the grant proposal as appropriate or provide response to affected parties. If there are no significant changes, the EPA Brownfields Grant Proposal is considered final and the application will be submitted. EPA is expected to announce the grant awardees in April 2007.

The screenshot shows the homepage of the Kitsap Peninsula Business Journal. At the top, the journal's name is displayed in large, bold letters. Below the name is a navigation menu with links for 'Headlines', 'Names & Faces', 'Real Estate Database', 'Opinion/Editorial', 'Behind The Wheel', 'Special Report', and 'Financial'. A 'Kitsap Links' section is also visible. The main content area features an article titled 'Gig Harbor development honors town's boat building heritage' by Rodika Tollefson, dated 9-3-2005. The article discusses the town's efforts to preserve its boat building heritage and the challenges of funding infrastructure projects. A large red watermark 'EPA' is overlaid on the page.

# Kitsap Peninsula Business Journal

The Voice Of Kitsap Business

[CONTACT US!](#)

## The Art of Fine Home Building

Your home is an important investment  
Invest in a proven quality builder

Eagle Crest Construction Inc.

### Headlines

[Names & Faces](#)  
[Real Estate Database](#)  
[Opinion/Editorial](#)  
[Behind The Wheel](#)  
[Special Report](#)  
[Financial](#)

### Kitsap Links

[Advertising Information](#)  
[Subscription Information](#)  
[Email The Editor](#)  
[Send A Press Release](#)  
[Editorial Calendar](#)

### StockWatch

[Search Articles](#)  
(By [FreeFind](#))

## Gig Harbor development honors town's boat building heritage

9-3-2005  
By Rodika Tollefson

Making a town attractive for tourists usually takes work on many dimensions. For Gig Harbor, one of those dimensions heralds back to its days of farming, fishing and boat building.

"Instead of competing with the Kirklands and Lake Unions... or other tourist attractions, we're defining ourselves by who Gig Harbor already is," says Lita Dawn Stanton, an artist who grew up in Gig Harbor in a family of fishermen.

Last year, Stanton and a small group of likeminded Gig Harbor residents rallied the community to preserve one of those elements that define Gig Harbor, a boatyard where the world-famous Thunderbird boat was once built. As the property went up for sale, and a developer intended to build a private home on the waterfront parcel, the group went into action.

"Everybody in the community really understood the significance (of the property). It was truly a grass-roots movement," Stanton said. "The community said, 'Stop, we like (Gig Harbor) the way it is.' Eddon Boatworks took on part of that poster child appeal of a distinct heritage."

After getting the city council on board with the idea of buying the property for a park, and financing it with a bond, the group calling itself Friends of Eddon Boatworks had to convince the rest of the residents to vote for it.

Following the approval of the bond by voters, the city purchased the Eddon Boatworks property for a future waterfront park, and has hired an environmental consultant to develop a cleanup plan. The park's estimated opening is June 2007.

"The thing that was the most amazing, in that economic climate, from Thurston to Kitsap counties, almost all park levies and quite a few fire district levies failed. This bond passed," said Gig Harbor City Administrator Mark Hoppen.

Hoppen grew up on that property, where his father, Ed Hoppen, built the revolutionary Thunderbird boat out of plywood, along with many other boats. The people's desire to save the building was "beyond my wildest expectations," he said.

At a time when funding roads and infrastructure becomes a priority for jurisdictions, financing open spaces is a challenge. Nonetheless, the city has purchased several historic properties in the last few years, and has added about 55 acres of open space in the last decade. Buying Eddon Boatworks, in Hoppen's view, adds another layer to preserving the heritage.

Earlier this year, Friends of Eddon Boatworks received one of two special awards by the Washington State Office of Archaeology and Historic Preservation. In accepting the award on behalf of the group, Hoppen's brother, Guy Hoppen, was said to have joked that his father would have questioned whether the purchase was a practical decision but that he would have been proud of the community for taking that step.

**ATTACHMENT C**

**A letter was requested from Ecology's Olympia office on 11-27-2006 from Dan Koroma at 360-407-7187. We also sent information on the property as requested by Mr. Koroma. It is our understanding that Ecology is processing the letter and will forward to the EPA Region 10 contact when completed.**

**DRAFT 11-27-06**

ATTACHMENT D

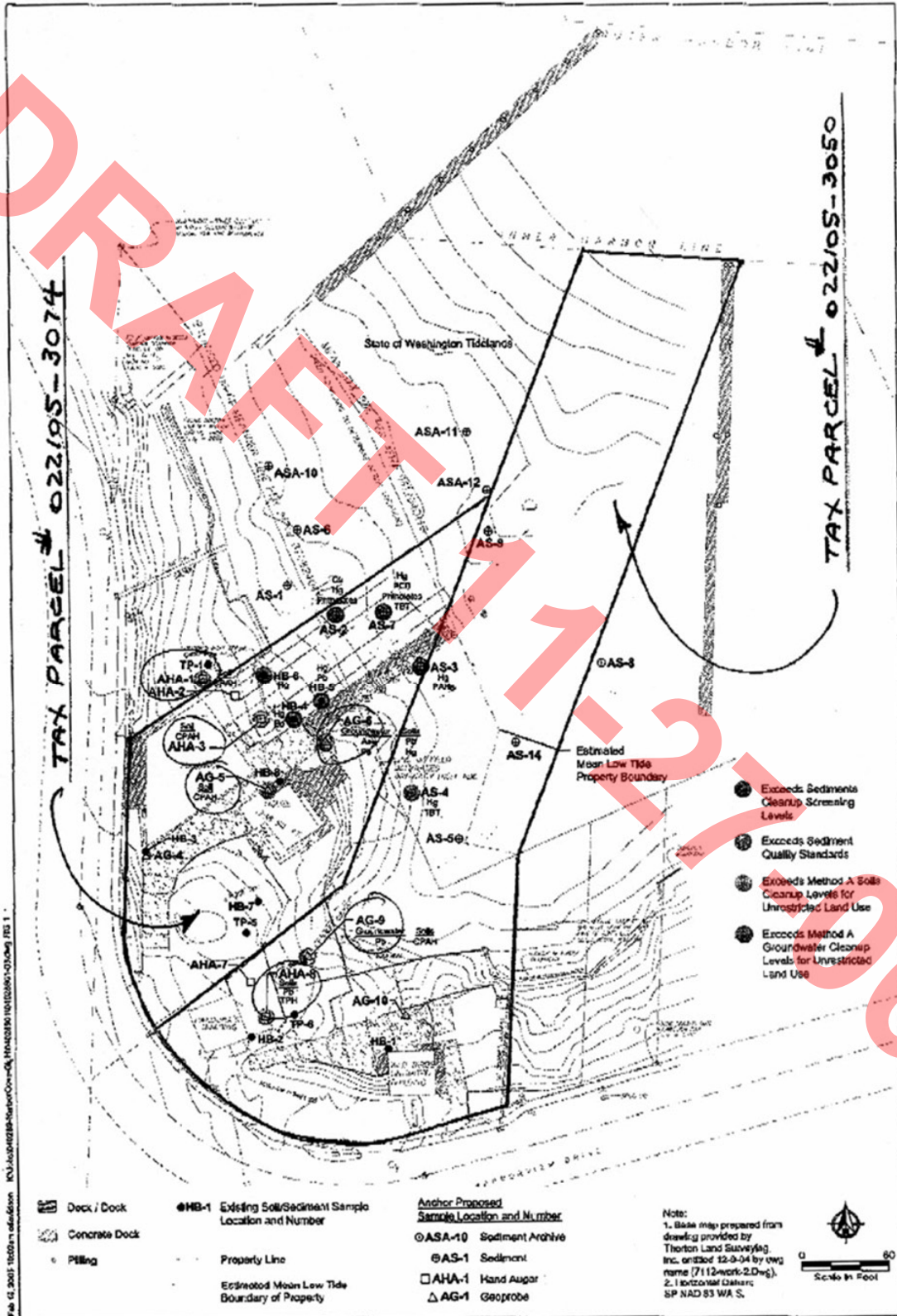


Figure 1  
 Sampling Results Above Washington State Remedial Criteria  
 Eddon Property



## ATTACHMENT E

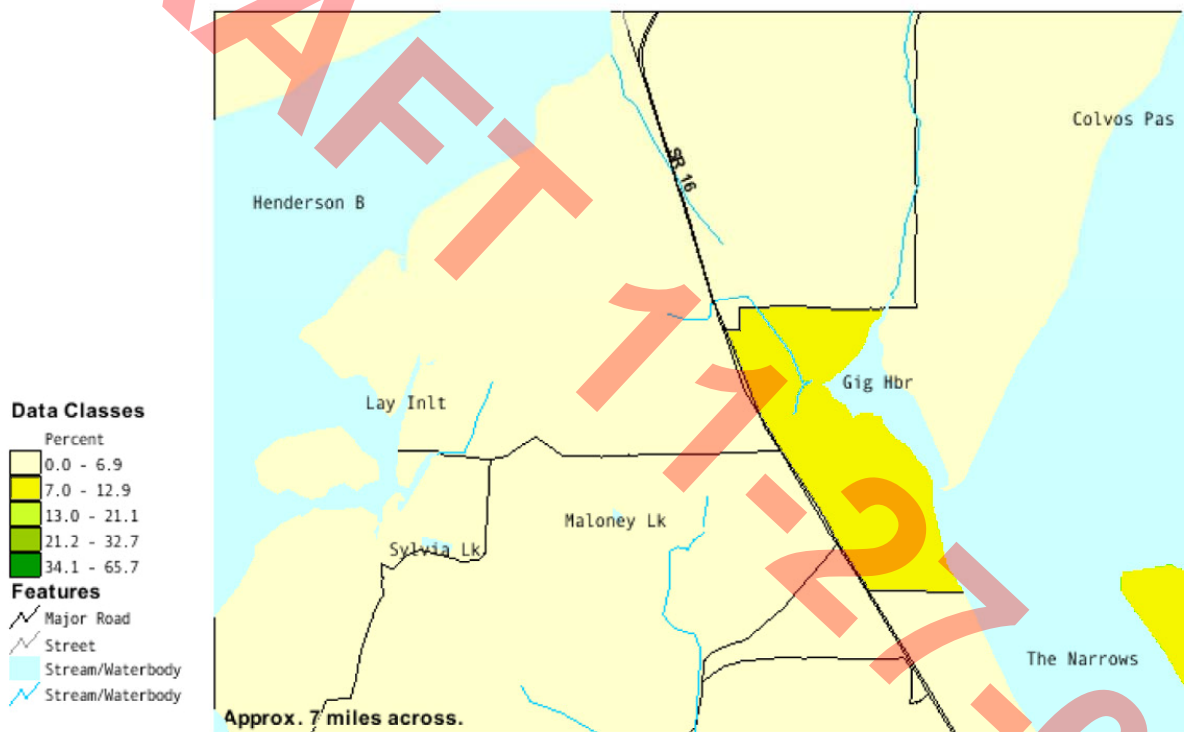
### Washington by Census Tract

TM-P067. Percent of Persons Below the Poverty Level in 1999: 2000 

Universe: Total population

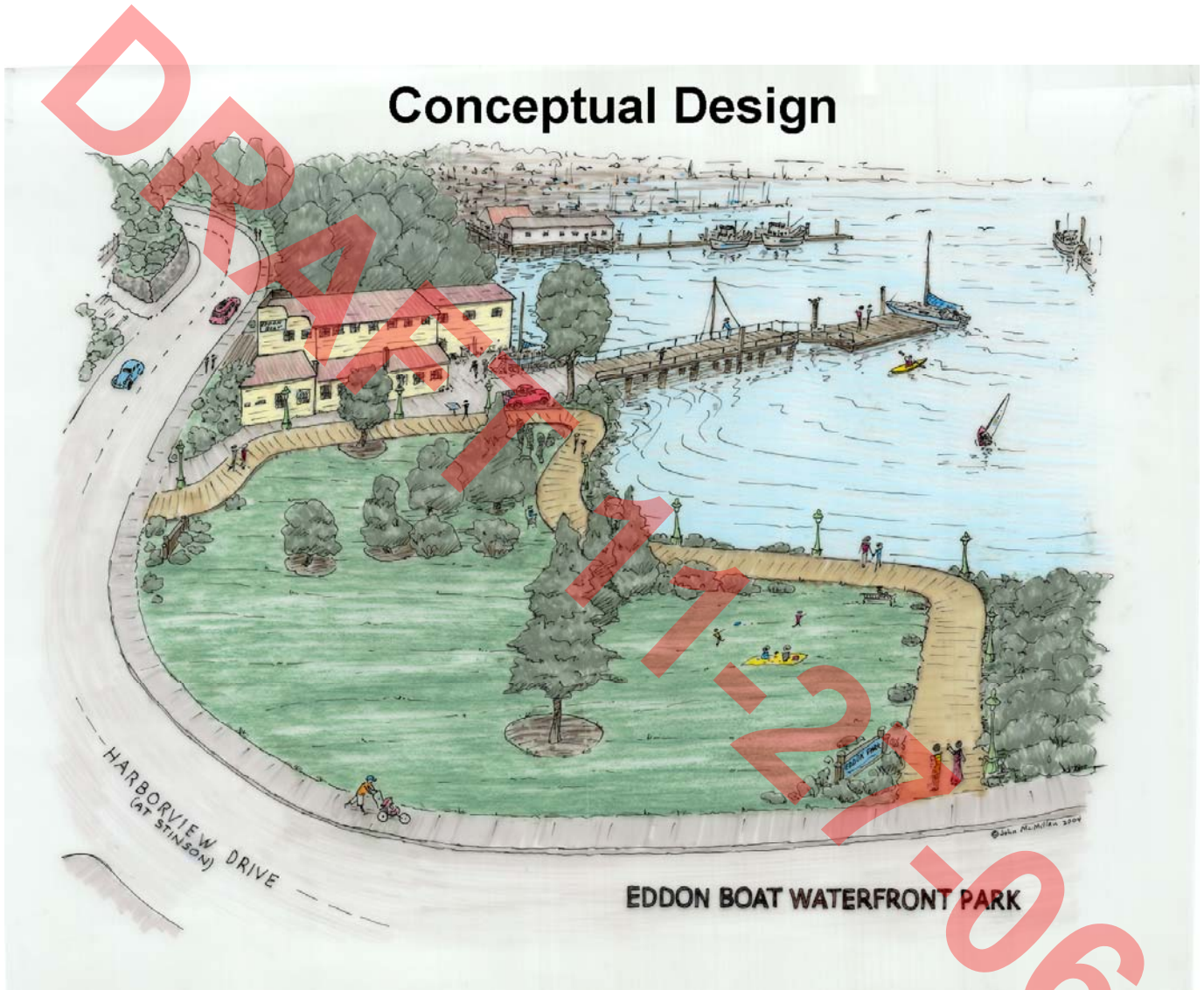
Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data

NOTE: Data based on a sample except in P3, P4, H3, and H4. For information on confidentiality protection, sampling error, nonsampling error, definitions, and count corrections see <http://factfinder.census.gov/home/en/datanotes/expsf3.htm>.



Source: U.S. Census Bureau, Census 2000 Summary File 3, Matrix P87.

ATTACHMENT F





**City of Gig Harbor - Eddon Boat Park Restoration Project**  
Application for EPA Brownfields Cleanup Grant FY2007 - December 6, 2006

**ATTACHMENT G**

**KITSAP BUSINESS JOURNAL** .COM Wet Apple Publishing • 321 Tremont Street • Port Orchard, WA 98366-3764  
Phone: (360) 876-7900 • 1-800-733-7990 • fax (360) 895-2495 • e-mail: biznews@wetapple.com • Internet: www.wetapple.com

December 10, 2005

TO: U.S. ENVIRONMENTAL PROTECTION AGENCY-Brownfields Grants

RE: *Eddon Boat Park Restoration Project*

Dear Ladies and Gentlemen,

The *Kitsap Peninsula Business Journal* is pleased to support the proposed Brownfields Clean up & Redevelopment Project by the City of Gig Harbor.

The proposed site re-development into a city park would honor the town's boat building heritage while contributing to economic development opportunities for the retail shops and restaurants in the area. Making a town attractive for tourists usually takes work on many dimensions. For Gig Harbor, one of those dimensions heralds back to its days of farming, fishing and boat building. The vision expressed by this plan would also create a new public access to beautiful Gig Harbor that will open up vistas and recreational use such as launching small watercrafts. There is limited water access elsewhere in the harbor and this park would provide opportunities for the low-income residents in neighboring communities to enjoy a piece of Gig Harbor that hasn't already been privately developed while learning about its rich history.

This project is an important step in addressing the environmental concerns at the site so that development can go forward. The "*Friends of Eddon Boatworks*" has been an enormous source of community support and this journal has followed their progress. Earlier this year, Friends of Eddon Boatworks received one of two special awards by the Washington State Office of Archaeology and Historic Preservation. At a time when funding roads and infrastructure becomes a priority for jurisdictions, financing open spaces and parks for the region is a challenge.

We are encouraged to see this kind of community-based approach. The proposed *Eddon Boatworks Park* will serve to remove existing barriers to recreational and historic experiences for disadvantaged groups.

Thank you for your efforts; the *Kitsap Peninsula Business Journal* looks forward to your success.

Sincerely,

  
Lary F. Coppola

Editor and Publisher  
The Kitsap Peninsula Business Journal  
*The Voice of Kitsap Business since 1988*