

Gig Harbor City Council Meeting

**July 14, 2008
6:00 p.m.**



**AGENDA FOR
GIG HARBOR CITY COUNCIL SPECIAL MEETING
July 14, 2008 - 6:00 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the a) Minutes of City Council Meeting of June 23, 2008; b) Special City Council Meeting of June 30, 2008; and c) Joint Meeting City Council / Design Review Board June, 16, 2008.
2. Council Committee Reports: Finance / Safety Committee Minutes June, 16, 2008;
3. Receive and File: a) Historic Preservation Grant Award b) Building and Fire Safety Dept. June Report.
4. Liquor License Applications: a) Maritime Inn; b) Qdoba Mexican Restaurant; c) 7 Seas; d) SIP *withdrawn*.
5. Resolution No.758 – Surplus Equipment.
6. North Well No. 9 and South Well No. 10 Project Contract – Carollo Engineers.
7. Appointment to Design Review Board.
8. Civic Center HVAC Compressor Replacement Contract.
9. Austin Estuary Park Master Plan Amendment to Contract – Grette and Associates.
10. Tides Tavern Lease.
11. Phase II Environmental Assessment – Pinney Parcel B.
12. Approval of Payment of Bills for July 14, 2008:
Checks #58139 through #58283 in the amount of \$517,526.07.
13. Approval of Payroll for the month of June:
Checks #5137 through #5165 in the amount of: \$355,154.92.

PRESENTATIONS: Crescent Valley Alliance – John McMillan.

OLD BUSINESS: None scheduled.

NEW BUSINESS:

1. First Reading of Ordinance – Water Utility Rate Increase.
2. First Reading of Ordinance – Sewer Utility Rate Increase.
3. First Reading of Ordinance – Stormwater Utility Rate Increase.
4. First Reading of Ordinance - Establish a Salary Commission.
5. First Reading of Ordinance – Temporary Sewage Storage Tanks.

STAFF REPORT: None scheduled.

MAYOR’S REPORT / COUNCIL COMMENTS:

PUBLIC COMMENT:

ANNOUNCEMENT OF OTHER MEETINGS:

1. GH North Traffic Options Committee – Wednesday, July 16th, at 9:00 a.m. in Community Rooms A & B.
2. Community Meeting with Norm Dicks – Monday, July 21st at 5:00 p.m. Civic Center Green.
3. Downtown Business Plan Advisory Committee – Tues. July 15th at 5:30 p.m.
4. Harborview / Judson Stakeholders – Tues. July 15th at 7:00 p.m.
5. Parks Commission Open House at Eddon Boatyard Brick House – Thurs., July 31st from 1 p.m. – 4 p.m.
6. Joint Workstudy Session with PenMet Parks: Monday, August 4th at 6:00 p.m. at PenMet Parks Facility.

ADJOURN TO EXECUTIVE SESSION: To discuss property acquisition per RCW 42.30.110(1)(c) and a personnel matter per RCW 42.30.140(4)(a).

ADJOURN:

GIG HARBOR CITY COUNCIL MEETING OF JUNE 23, 2008

PRESENT: Councilmembers Ekberg, Young, Franich, Conan, Malich, Payne, and Mayor Hunter. Councilmember Kadzik was absent.

CALL TO ORDER: 6:03 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of Jun. 9, 2008.
2. Receive and File: a) Building and Fire Safety Monthly Report b) Crescent Valley Alliance Award for Arbor Day.
3. Liquor License Renewals: The Keeping Room; Harbor Rock Café; Hunan Garden Restaurant; Kinza Teriyaki; Spiro's Bella Notte.
4. Concerts in the Park – Revised Contract.
5. Renewal of Peninsula Gateway Agreement.
6. Street Naming – Lydian Place Development.
7. Sanitary Sewer Facilities Easement and Maintenance Agreement for Ford Short Plat.
8. KLM Veteran's Memorial Park / 50th Street Improvements – Contract Amendment #1.
9. Kitsap Peninsula Clean Runoff Collaborative – Interlocal Agreement.
10. Phase I – First Western – Pinney Parcel B Property.
11. Public Works Maintenance Facility Architectural Services Contract.
12. Eddon Boat Restoration Contract – SHKS.
13. Quit Claim Deed – Norma McKenzie.
14. Parks, Recreation and Open Space Update Contract.
15. Amendment to the Agreement with the Gig Harbor Peninsula Historical Society.
16. Proclamation: CenturyTel Week.
17. Approval of Payment of Bills for June 23, 2008:
Checks #57973 through #58138 in the amount of \$1,686,042.19.

Councilmember Franich asked that item number 11, Public Works Maintenance Facility Architectural Services Contract, be moved to new business for discussion.

MOTION: Move to adopt the Consent Agenda with Item No. 11 moved to New Business.

Franich / Young – unanimously approved.

PRESENTATIONS:

1. Recognition of Chamber of Commerce, Knights of Columbus and Blessing of the Fleet Committee for the Maritime Gig and Blessing of the Fleet Events. Mayor Hunter asked Warren Zimmerman, Executive Director of the Chamber of Commerce to come forward and accept a plaque in appreciation for the work in organizing the Maritime Gig Festival. Mr. Zimmerman accepted the plaque on behalf of the membership of the

Chamber, Chamber Staff, and all the volunteers that made the festival such a huge success. He said that over 70 people were involved this year and thanked the Mayor and Council for recognizing their efforts.

Mayor Hunter then presented a second plaque to John Oldham and Jack Michel of the St. Nicholas Knights of Columbus in appreciation of the Blessing of the Fleet Ceremony. Mr. Oldham jokingly said it was a success because no one fell in. He said that they were please that there was such a good turnout for the event. Mr. Michel recognized John Moist, who was the driving force in getting the event put together.

Finally, John Moist and Lori Rice came forward to accept the recognition plaque for the Blessing of the Fleet, Classic Yacht Festival, and Taste of Gig Harbor events. Mr. Moist reinforced that this event couldn't happen without the volunteers. He recognized the Knights of Columbus, members of the committee and city staff who worked so hard to make this event successful.

2. Proclamation: CenturyTel Week. Mayor Hunter asked Clerk Molly Towslee to read the proclamation acknowledging the benefits that CenturyTel contributes to the community. He presented the document proclaiming the week of June 23rd as CenturyTel Week to Tim Grieger, General Manager, thanking him for all the events they sponsor and all the good they do for the community. Mr. Grieger thanked the Mayor and said it is a joy to be part of such a great community. He introduced the other CenturyTel representatives in the audience and gave a brief overview of some of the events in which they are involved before thanking the city for the recognition.

Mayor Hunter said that during the ribbon cutting ceremony for 56th and Olympic Drive, the city was awarded a plaque from the State Transportation Improvement Board for the project. David Stubchaer, Public Works Director, accepted the award on behalf of his staff.

OLD BUSINESS:

1. Third Reading of Ordinance – Nonconforming use and Structures Amendment (ZONE 08-001). Jennifer Kester, Senior Planner gave a quick summary of the purpose of the ordinance and highlighted responses to questions raised at the last meeting. She explained that staff still believes that the Square Foot Construction Cost Table is the most equitable method of determining 50% of replacement value. She gave an explanation of the table showing how other area jurisdictions address non-conforming structures and how it compares to this amendment. She said that Dick Bower, Building and Fire Safety Director is present to answer any questions regarding the cost table.

Councilmember Payne asked for clarification on fee increases and whether they should be codified. Mr. Bower described how construction fees are calculated and the information that increases are based upon. He said that the numbers may be undervalued as far as current construction.

Carol Morris said it would be a good idea to codify how the fees are increased to avoid challenges.

Councilmember Franich voiced concern that if the table is used to determine the 50% replacement value, then every house would be valued the same, which isn't realistic.

Mr. Bower says that the table was intended to be applied to new construction or remodel work, not to determine the value of a house. Ms. Kester clarified that the replacement value in the construction table wouldn't apply to "acts of nature destruction." This table applies to intentional remodels. Under today's code there is no standardized way to determine the 50% replacement value. It may be a negotiation process that takes quite a lot of staff time.

Mayor Hunter commented that using the table puts everything on the same level when determining the level of damage. He stressed that interior finishes are not part of the replacement cost.

Councilmember Franich said that he wants flexibility for the contractor's estimate described on page two and three. This concern was discussed further and it was determined that this language in no way affects the calculation of building permit fees. The use of the construction table in this instance will only be used to estimate the replacement value for the non-conforming structures.

Councilmember Malich asked if docks are covered. Staff responded that they fall under the miscellaneous section of the non-conformity code and are also addressed in the Shoreline Master Program. He then asked if there is a list of non-conforming structures in the city. Ms. Kester said that currently there is no list, but part of this ordinance puts a non-conforming permit process in place to begin tracking changes. She added that it would be easier to track non-conforming uses than structures due to code changes.

Councilmember Franich asked for further clarification on the table. Dick Bower responded that the amount includes cost of design, materials, equipment, and labor. He added that in the situation where someone is able to do the work with inexpensive labor, they are asked to give a realistic valuation using the current industry standard.

Councilmember Young requested that when the non-conforming structures inventory report begins to develop that any problem areas be brought to Council to review for possible code changes. Ms. Kester said that Council is provided yearly updates on Shoreline Permits and the same can be done for non-conforming uses. To do an inventory of structures would be very time consuming. Councilmember Young said that he is more interested in uses.

Councilmember Ekberg said that currently, if a non-conforming use structure is destroyed unintentionally 50% or more then the use cannot come back. The language in this ordinance page 3 Section C-2 will allow the non-conforming use to continue, which is a radical departure from the existing code. He said that he thinks a non-conforming

use should not be allowed to continue and agreed that the zoning code may need to be changed.

MOTION: Move to approve Ordinance No. 1132 as presented.
Payne / Malich – five voted in favor. Councilmember Ekberg voted no.

NEW BUSINESS:

1. Public Works Maintenance Facility Architectural Services Contract.

Councilmember Franich said he missed the budget meeting asked the projected cost of the building.

David Stubchaer, Public Works Director, said that it is his understanding that the estimate is around \$950,000. Due to growth, the current facility is inadequate and there has been discussion on a new structure for several years.

Mayor Hunter said that 10-15% of the construction cost is used as an estimate for design and engineering. Councilmember Young said that engineering a sewer system adds to this cost.

Councilmember Franich said that spending \$950,000 on a project of this type isn't a prudent use of the citizen's money.

Councilmember Ekberg pointed out that during the budget meetings the seriousness of the situation and inadequacy of the facility and septic system was discussed. It was determined to move forward with the planning stages of the facility. Mayor Hunter added that the current facility is fully depreciated; this is a 16,000 square foot replacement and expansion project to be constructed in phases.

Councilmember Malich asked if administrative staff was moving out to the new facility and Mayor Hunter responded by explaining that no, the administrative portion of the new facility is for paperwork and shift changes.

Councilmember Payne pointed out that this amount was approved in the budget. He then asked if his understanding is correct that the scope of work includes the preliminary through final design, including bid documents and construction drawings and participation through the construction phase. David Stubchaer responded that this is correct.

Councilmember Malich asked if the design is up to date as far as incorporating more green building concepts. Mr. Stubchaer said that it would have to meet the current Washington State Energy requirements, which are quite stringent. Mayor Hunter said that adding such amenities such as solar panels would add another 25% to the cost.

MOTION: Move to authorize the award and execution of the architectural services contract with Lawhead Architects for design services for the Public Works Maintenance Facility in an amount not to exceed One hundred forty-nine thousand, nine hundred and ninety-five dollars (\$149,995.00).
Ekberg / Payne – five voted in favor. Councilmember Franich voted no.

STAFF REPORT:

1. Gig Harbor Police Department – May Staff Report. Chief Davis announced a new segment in his reporting on actual crime incidents. This will give a snapshot throughout the year on the types of crimes that we are encountering. He suggested visiting the police webpage to check out the crime mapping services and also participating in a ride-along. Chief Davis reported on a recent incident of an underage drinking party. He discussed the zero-tolerance policy for underage drinking and described an upcoming “Party-Patrol with a Twist” program using information gathered by various methods to deal with underage drinking. The arrested youths and their parents will be provided with chemical counseling.

Councilmember Payne asked if there is an explanation for the declining crime numbers. Chief Davis responded that it’s a trend across the U.S. There has been an increase in the calls for service but the crime rate is decreasing.

Councilmember Franich asked for further information on the new program being implemented. He commented that he doesn’t encourage underage drinking or anyone drinking and driving, but he attended a few underage drinking problems while in high school and nothing came of it; the police showed up, took the beer and stopped the party. In this era of zero-tolerance and social engineering, kids at one of those parties may end up in the system; it goes on their record and has many more ramifications than in the past. He said it’s a fine line between discouraging and wanting a zero-tolerance policy.

PUBLIC COMMENT: No one signed up.

MAYOR’S REPORT / COUNCIL COMMENTS:

Mayor Hunter announced that the Olympic Drive and 56th Street Project is complete. Congressman Norm Dicks was present for the Grand Opening for Uptown. He mentioned that he was putting \$950,000 in a bill for the Daylighting of Donkey Creek.

Councilmember Payne said he was encouraged that the Congressman acknowledges the Gig Harbor community and is doing a good job of representing us in Washington.

Councilmember Young referenced the article in the newspaper regarding the Boys & Girls Club. He said that Rob Karlinsey and he had met with representatives from the Boys & Girls Club who agreed to drop the five-year limit on providing space and

acknowledged that it would be available for a Senior Center as long as the city wanted it. They did ask that after five years that the city participate in some maintenance costs. Councilmember Young asked if the City Attorney should be directed to continue working on the legal contract issues. Mayor Hunter suggested waiting until Rob returns next week to work on it.

Councilmember Franich said that he believes the intent was not for the city to give the Boys & Girls Club \$750,000 just for space; there was to be programming included.

Mayor Hunter said there needs to be reasonable expectations for the estimated costs before any money is dispersed. Councilmembers Payne and Malich agreed.

Councilmember Franich voiced appreciation for the new faucet in the men's room.

ANNOUNCEMENT OF OTHER MEETINGS:

Mayor Hunter announced that the meeting on June 30th was now a special meeting to discuss WSDOT agreements and a development agreement with Dale Pinney in addition to the workstudy session to discuss utility rates.

Mayor Hunter explained that the bid opening for the Canterwood Boulevard Project has been delayed until July 2nd to allow a better understanding of our position in regards to state permits. He said that because of the time sensitive nature for construction of the project, he suggested that on the 30th Council could review a boilerplate contract with a price range and authorize him to sign the contract after the bids come in on the 2nd. The final contract would come back at the July 14th Council Meeting for ratification.

David Stubchaer explained that by doing this we can try to assess the risk to reduce our exposure and to make a better decision.

Councilmembers asked the estimated budget for the project. Mayor Hunter said that it is estimated to cost approximately 4 to 4.5 million dollars. He said hopefully, it will be lower. Council agreed that the Mayor should bring this to the meeting on June 30th.

1. Special City Council Meeting: Mon. June 30th at 6:00 p.m.
2. GH North Traffic Options Committee – Wednesday, July 16th, at 9:00 a.m. in Community Rooms A & B.
3. City Council Retreat – July 11th at 8:00 a.m. in Community Rooms A & B.
4. Community Meeting with Congressman Norm Dicks – Monday, July 21st at 5:00 p.m. Civic Center Green.

EXECUTIVE SESSION: For the purpose of discussing property acquisition per RCW 42.30.110(1)(c).

MOTION: Move to adjourn to Executive Session at 8:24 p.m. for approximately thirty minutes for the purposes of discussing property acquisition per RCW 42.30.110(1)(c)
Malich / Young – unanimously approved.

MOTION: Move to return to regular session at 8:55 p.m.
Franich / Young – unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 8:55 p.m.
Franich / Young – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1- 25
Disk #2 Tracks 1-2

Charles Hunter, Mayor

Molly Towslee, City Clerk

**GIG HARBOR CITY COUNCIL SPECIAL MEETING
June 30, 2008 - 6:00 p.m.**

PRESENT: Councilmembers Young, Franich, Conan, Malich, Payne, Kadzik and Mayor Hunter. Councilmember Ekberg was absent.

CALL TO ORDER: 6:02 p.m.

PLEDGE OF ALLEGIANCE:

ADJOURN TO WORKSTUDY SESSION: Utility Rate Increase – Ashley Emery.

MOTION: Move to adjourn to the workstudy session to discuss utility rate increases.
Franich / Malich – unanimously approved.

Mayor Hunter introduced Ashley Emery, the city's utility rate consultant who presented the background information for proposed utility rate increases in 2009.

Council asked several questions about the study, and Mr. Emery illustrated how he arrived at the recommended numbers. There was extensive discussion how to keep the rates as low as possible while being fiscally responsible.

Councilmembers Franich and Malich voiced concern for low- and fixed-income residents. David Rodenbach explained that the city currently has an assistance program for senior citizens, but to date, no one has qualified. He offered to explore additional ways to help low-income residents.

Rob Karlinsey, City Administrator, recommended that it would be prudent to have the new rates adopted before the city issues revenue bonds for the Wastewater Treatment Plant and Outfall Expansion projects. He said the first readings would be schedule at the July 14th meeting.

MOTION: Move to go back to the Special Council Meeting at 7:37 p.m.
Kadzik / Payne – unanimously approved.

Councilmember Franich left the meeting at this time.

NEW BUSINESS:

1. Authorization for the Mayor to Sign a Contract for the Canterwood Drive Construction Project. David Stubchaer, Public Works Director, explained that the reason for this request is to expedite the process and so that Councilmember would not have to gather for another special meeting. He said that the contract with the final amount will be brought back at an upcoming regular meeting for Council to ratify.

MOTION: Move to authorize the Mayor to award and execute a ~~Contract~~ **Consent Agenda 1b** construction of the Canterwood Boulevard NW Roadway Improvements Project with the successful bidder at the bidders price provided that the bid price does not exceed five million six hundred thousand dollars and zero cents (\$5,600,000.00) and further move that this authorization is in effect for the next 90 days.
Payne / Conan –

Councilmember Malich asked if this would be contingent upon all the permits and other things are in place. Mayor Hunter said that yes, and there will be 45 days in which to award the bid.

Carol Morris said that if Council has questions about the procedure they could delay action on the motion until after Executive Session.

MOTION: Call for the question.
Payne / Young – unanimously adopted.

MAIN MOTION: Move to authorize the Mayor to award and execute a contract for construction of the Canterwood Boulevard NW Roadway Improvements Project with the successful bidder at the bidders price provided that the bid price does not exceed five million six hundred thousand dollars and zero cents (\$5,600,000.00) and further move that this authorization is in effect for the next 90 days.
Payne / Conan – unanimously approved.

STAFF REPORT:

1. WSDOT Interlocal Agreement – Construction Administration Agreement.
2. WSDOT Interlocal Agreement – General Maintenance Agreement.

David Stubchaer, Public Works Director, explained that these two agreements, both for the Canterwood Drive Construction Project, have been reviewed by staff and there are numerous issues that need to be addressed with the state before they come before Council for signature.

Carol Morris briefly described several of the issues that they will be working through such as no budgetary limitations and inconsistent indemnification language.

Rob Karlinsey added that the city does not have to go through the state for construction administration but it is the preferred option. Ms. Morris said that if the city chooses to contract for another construction manager, the state could oversee the work.

EXECUTIVE SESSION: For the purpose of discussing property acquisition per RCW 42.30.110(1)(c).

MOTION: Move to adjourn to Executive Session at 7:47 p.m. for approximately 45 minutes for the purposes of discussing property acquisition per RCW 42.30.110(1)(c).
Young / Kadzik – unanimously approved.

MOTION: Move to return to regular session at 8:30 p.m.
Malich / Conan – unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 8:30 p.m.
Payne / Conan – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1- 3
Disk #2 Tracks 1- 5

Charles Hunter, Mayor

Molly Towslee, City Clerk

**GIG HARBOR CITY COUNCIL / DESIGN REVIEW BOARD
JOINT WORKSESSION
June 16, 2008 6:00 pm – Community Rooms A & B**

PRESENT:

Mayor: Chuck Hunter, Councilmember's: Steve Ekberg, Paul Kadzik, Ken Malich, Tim Payne, Paul Conan, Jim Franich and Derek Young.

Design Review Board Members: Chairman Darrin Filand, Kae Paterson, Charles Carlson, John Jernejcic, Jim Pasin and Rick Gagliano. Absent - Jane Roth-Williams.

Staff: Tom Dolan, Jennifer Kester, Cindy Andrews

Mayor Hunter opened the meeting at 6:05 pm welcoming the members of the Design Review Board.

A. Introductions:

Introductions by Mayor Hunter, City Council, Design Review Board members and city staff.

B. Board Appointments:

Councilman Ekberg gave a brief history of the current appointment process for board members also discussing the proposed new policy. Board members discussed the new advertising policy, prior noticing for available positions, expanded description of responsibilities and the appointment of non-experienced citizens to the board. Staff was directed to send to the DRB members the current available position notice. DRB members are to suggest amendments to better describe the roles and responsibilities of DRB members.

C. Neighborhood Design Areas.

Mr. Gagliano provided a summary of the proposed neighborhood design area standards asking council for their input. Ms. Kester discussed incorporation of the proposed new standards. Board members explained the current application of design manual standards discussing the best way to incorporate the changes related to neighborhood design areas, adding sub chapters or creating small manuals for each sub area.

D. How Are The Design Requirements Working?

Mr. Gagliano asked council members for their input regarding recently constructed large projects. Board members discussed tree removal, tree ordinances, updates to the landscape code, crowding at single points of entries, pedestrian and vehicular movement within retail complexes and public works standards. The newest Westside and Gig Harbor North projects were reviewed. The Council asked the Planning and

Building Committee of the Council to review the Planning Commission's work program to determine if upcoming text amendments related to trees and landscaping was appropriately prioritized.

E. Industrial Building Requirements:

Mr. Pasin discussed the IBE requirements and his concern with the visibility requirement. He suggested the Council review an emergency amendment to remove the visibility requirements. The Council felt that the current work by the Planning Commission on the Bujacich Road/NW Industrial design area would resolve the issue.

F. Recent Westside Projects:

Mr. Gagliano noted that the item had been discussed and no further discussion would be necessary.

G. General Discussion:

Mr. Carlson discussed retaining walls, drive through establishments and bicycle paths. Mr. Gagliano discussed the Harborview / Judson Street improvements. Mayor Hunter responded discussing the importance of reasonable development and retaining tourism in the downtown area. Mr. Gagliano discussed the proposed improvements and was concerned the improvements would not meet design review requirements. Board members discussed the involvement of the Design Review Board suggesting that the consultant could bring some conceptual drawings to the board for their input. The Council agreed wanting the DRB to review the draft proposal from the consultants.

Adjourned at 7:43 pm

**CITY OF GIG HARBOR
COMMITTEE OUTLINE MINUTES**

Consent Agenda 2

City of Gig Harbor Finance and Safety Committee
(Council Committee Conan, Franich, and Young)

Date: June 16, 2008

Time: 4:00 p.m.

Location Executive Conf Room

Scribe: Jaci Auclair

Commission Members and Staff Present: Jim Franich, Derek Young, Paul Conan, Dave Rodenbach, Molly Towslee, Ian Ward and Jaci Auclair.

Absent:

Others Present: _____

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
OLD BUSINESS		
1. Passports	City Clerk Molly Towslee presented information requested by committee members at the last Finance Committee meeting; namely, the number of working hours that would be freed up by the elimination of passport processing services and how those hours would otherwise be spent. It is estimated that approximately 0.5 FTE could be re-directed to perform tasks currently done by our administrative intern when that internship is complete at year's end; and a multitude of other administrative tasks needed, but not currently performed, due to time constraints.	Committee members, recognizing the time-savings associated with eliminating this service and noting other passport agencies in the area that perform this service for the community, recommended passport processing services be phased out by the end of 2008. It was noted that the change should be well-advertised in advance of the phase-out. The issue will be brought before full council for consideration in the near future.

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
NEW BUSINESS		
<p>1. Drug & Alcohol Testing for CDLs.</p>	<p>Finance Director David Rodenbach introduced the proposed Drug and Alcohol Testing Policy for CDLs, and model policies and procedures were distributed for review. Mr. Rodenbach explained that random testing of CDLs is required by law and, therefore, not open to debate; however, consideration needs to be given to what policy should be adopted in the event of an employee violation: should the city institute a zero tolerance policy or make treatment options available for the employee?</p> <p>Current personnel policies were reviewed, but they relate only to the discovery of <i>actual</i> substance abuse during working hours and not the performance of <i>random</i> drug and alcohol testing required by law for CDLs. Adopting an official city policy and joining the AWC Drug & Alcohol Consortium would enable the city to comply with federal law, and would further ensure compliance with providing a drug-free workplace required by federal grant funding.</p> <p>A brief discussion followed on whether to implement a zero tolerance policy or offer treatment options for possible violators. Councilmembers Conan and Franich instructed Mr. Rodenbach to obtain input from the Employee Guild on this point.</p>	<p>Committee members will review the proposed Drug & Alcohol Testing Policy for CDLs and discussion will resume at the next Finance & Safety Committee meeting scheduled for September.</p> <p>Mr. Rodenbach will obtain input from the Employee Guild with regard to a zero tolerance versus treatment policy for violators.</p>

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
2. Grants Report.	An updated grants report, submitted by Lita Dawn Stanton, was reviewed briefly. New additions, including grants for the Eddon Boat Restoration Project, the Eddon Boat Park Site Development, and the Skansie Netshed, were noted in red.	None.
3. 2009 Budget Process & Schedule	<p>David Rodenbach presented the 2009 budget schedule and reviewed the upcoming process. He explained how departments were directed at the beginning of June to formulate their goals and objectives and review their performance measures. Early July will bring the opportunity to apply numbers to these objectives and to continue budget discussions. Mr. Rodenbach reminded the Finance Committee that councilmembers are invited at this time to present their requests for the 2009 budget if they have not done so already. A brief discussion followed on current and projected revenue.</p> <p>Committee members voiced some concern over the timing and method of the budget roll out in 2008, and expressed their desire to return to previous practices.</p>	Committee members will communicate their concerns regarding the 2009 budget roll out to the city administrator.
4. Council Salary Commission	Ian Ward presented a draft ordinance, requested by several councilmembers, establishing a Salary Commission charged with evaluating the city's elected officials'	The Finance Committee recommended bringing the ordinance before full council for consideration, supported by a list of other jurisdictions in the state currently

Next Meeting: June 16, 2008 at 4:00 p.m.

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
	<p>compensation. Mr. Ward explained that this is a very standard format which calls for a panel of five city residents, appointed by the Mayor, who meets every two years. Councilmember Franich urged committee members not to dismiss the idea of self-review, however, Councilmember Young likes the transparent nature of a commission review.</p>	<p>utilizing a salary commission.</p>
<p>5. Newsletter Policy</p>	<p>Ian Ward presented this draft ordinance, requested by Councilmember Young, for the purpose of providing formalized guidelines for the city's quarterly newsletter submittals, both in terms of content and established schedules for article submission.</p> <p>Councilmember Young explained his concern over including opinion-style articles and the appearance of using city funds to promote political positions, which is illegal. Councilmember Franich believes the newsletter should be a forum for learning about individual councilmembers and their views, as well as other happenings in the city.</p> <p>The question was also posed by Councilmembers Conan and Young as to why city councilmembers and the mayor are contributing writers at all. Some discussion followed noting the cost of producing the newsletter, the informational</p>	<p>Bring to full council for consideration.</p>

Consent Agenda 2

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
	value it lends to the community, and whether contributions should be optional and/or include articles written by staff members as well as elected officials.	
Meeting adjourned at 5:00 p.m.		

Next Meeting: June 16, 2008 at 4:00 p.m.



STATE OF WASHINGTON

DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

1063 S. Capitol Way, Suite 106 • Olympia, Washington 98501

Mailing Address: P.O. Box 48343 • Olympia, Washington 98504-8343

(360) 586-3065 • Fax (360) 586-3067 • Website www.dahp.wa.gov

June 10, 2008

Lita Dawn Stanton
Historic Preservation Coordinator
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Dear Lita Dawn,

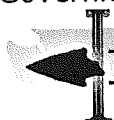
As you know, each year the Department of Archaeology and Historic Preservation is pleased to grant 10% of our annual Historic Preservation Fund allocation directly to Certified Local Governments. We have just completed the evaluation and review process for the grant applications received for FY 2009 and are happy to inform you that the City of Gig Harbor was fully funded \$15,000 for the completion of the HAER survey of 17 net sheds.

We will develop a Scope of Work for your approval in the next month and then move on to the contracting process. It is my hope that we will have a signed contract with you well before the October 1st grant start date. The grant period runs from October 1, 2008 to August 31, 2009. You may begin accumulating expenses as of October 1. If you have any questions, don't hesitate to call me at 360-586-3074 or if I'm not available, contact Loren Doolittle, Grants Administrator, at 360-586-3072.

Congratulations on your award! I look forward to working with you on this exciting project.

Sincerely,

Megan Duvall
Certified Local Government Coordinator



DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

Protect the Past, Shape the Future

City of Gig Harbor
Community Development Dept.
3510 Grandview St.
Gig Harbor, WA 98335

Memo

To: Mayor Hunter and City Council Members
From: Dick J. Bower, CBO – Building/Fire Safety Director
CC: Rob Karlinsey
Date: 6/5/2008
Re: Building and Fire Safety Report for the month of June 2008

The following report is being provided in an effort to keep you informed of the myriad activities of the building and fire safety department over the past month. If you have any questions please give me a call, e-mail or visit and I'll get you the answers.

Departmental Activities:

During the period building and fire safety staff took part in the following activities:

- Participated in MyBuildingPermit.com committee meetings.
- Participated in Western WA ICC Chapter Directors meeting.
- Attended code enforcement process meetings with Consultant and other development services staff.
- Participated in Quick View coordination meeting
- Conducted fire safety inspections for the Gig and Blessing of the Fleet festivals.
- Participated in 2 pre-application conferences and one intake meeting on proposed new projects.
- Coordinated and participated in monthly regional emergency management meeting.
- Participated in State Building Code Council residential fire sprinkler technical advisory group meetings.
- Reviewed and commented on 5 land use actions and 7 Comp. Plan amendments for Planning Dept.
- Reviewed and commented on 5 Public Works Engineering permits.
- Coordinated after action review on Mallards Landing project issues.
- Provided tech. expertise to Planning Dept. and Council on determining valuation of structures for non-conforming use ordinance.
- Participated in WABO teleconference on development of Statewide inspector apprenticeship program.
- Met with 9 current and past customers to discuss customer service improvements.
- Hosted WABO/WSAFM Annual Education Institute planning meeting.

New Permit Applications

New Commercial -	2
New Residential -	1 + 12 new base plans
Remodel / Tenant Improvement -	7
<u>Other (Includes plumbing, mechanical, fire system, fuel gas, etc.) -</u>	<u>52</u>
Total -	74

Total valuation - \$ 2,181,052.00
Fee revenues - \$ 45,066.00

Large Projects Reviewed and Awaiting Revisions:

Madison Shores Marina
Northwood Medical Office Building
Reikow Office Building

Major Plan Reviews Completed:

Shell for HNP Building
St. Anthony's MOB TI's (2)
Qdoba Mexican Grill
Panda Express

Permits Issued:

Commercial – 0
Residential - 1
Remodel/TI - 8
Other - 50

Total Issued - 59

Total Valuation - \$ 2,557,112.00
Fee Revenues - \$ 30,511.00

Permits-By-Appointment: 22

Inspections:

The following inspections were performed:
Periodic inspections - 246
Final Inspections - 64
Certificate of Occupancy - 30
Total - 371

Enforcement:

The following enforcement actions were taken:
Investigations - 3
Stop work orders issued -
Citations issued -
Civil NOV's issued -
Total - 3

Fire Inspection Referral /Refusal Follow-ups:

1

Business License Inspections:

Training:

- Attended workplace violence seminar
- Participated in Residential Fire Sprinkler system training
- Participated in WA Assn. of Permit Tech. training
- Presented case study on marina fire protection to National Fire Protection Assn. World Safety Conference and Expo.



NOTICE OF LIQUOR LICENSE APPLICATION

Consent Agenda 4a

RETURN TO:

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

JAA

TO: MOLLY TOWSLEE, CITY CLERK
RE: NEW APPLICATION

DATE: 6/17/08

UBI: 601-637-838-001-0001

License: 403597 - 1U County: 27
Tradename: MARITIME INN
Address: 3212 HARBORVIEW DR
GIG HARBOR WA 98335-2125

APPLICANTS:
MARITIME INN CORPORATION
MITTON, JOAN ELLA
1945-04-15
MITTON JOLIBOIS, JANNAE J
1973-04-21

Phone No.: 253-851-9134 JOAN MITTON

Privileges Applied For:
MOTEL

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

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

DATE

SIGNATURE OF MAYOR,CITY MANAGER,COUNTY COMMISSIONERS OR DESIGNEE



NOTICE OF LIQUOR LICENSE APPLICATION

Consent Agenda 4b

DRL

RETURN TO:

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

TO: MOLLY TOWSLEE, CITY CLERK
RE: NEW APPLICATION

DATE: 6/19/08

UBI: 602-090-676-001-0015

License: 403619 - 1U County: 27
Tradename: QDOBA MEXICAN GRILL
Loc Addr: 4726 BORGEN BLVD STE A
GIG HARBOR WA 98335
Mail Addr: 4865 WARD RD STE 500
WHEAT RIDGE CA 80033-1950
Phone No.: 800-222-5777 CINDY BLOCK

APPLICANTS:
ZRC OPERATIONS COMPANY, INC.
BEISLER, GARY JOSEPH
1956-08-27

Privileges Applied For:
BEER/WINE REST - BEER/WINE

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

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4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based.

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



NOTICE OF LIQUOR LICENSE APPLICATION

Consent Agenda 4c

RETURN TO:

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

TO: MOLLY TOWSLEE, CITY CLERK
RE: NEW APPLICATION

DATE: 6/27/08

UBI: 602-825-437-001-0001

License: 403646 - 6A County: 27
Tradename: 7 SEAS BREWING COMPANY
Loc Addr: 7512 STANICH LANE #E
GIG HARBOR WA 98335-5129
Mail Addr: 5806 41ST AVE CT NW
GIG HARBOR WA 98335-7106
Phone No.: 253-566-3698 P.A.T. FERGUSON CONSULTING

APPLICANTS:
7 SEAS BREWING LLC
GUTERSON, TRAVIS
1983-11-11
RUNION, MICHAEL A
1984-10-05

Privileges Applied For:
MICROBREWERY

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

- 1. Do you approve of applicant ?
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3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken?
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DATE

SIGNATURE OF MAYOR,CITY MANAGER,COUNTY COMMISSIONERS OR DESIGNEE



Washington State Liquor Control Board

July 03, 2008

GIG HARBOR WINE CELLAR'S LLC
C/O LANE SCELZI
PO BOX 1319
ISSAQUAH WA 98027-0052

RE: SIP
4793 POINT FOSDICK DR NE
GIG HARBOR WA 98335-2315
License No. 403430- 1U
UBI# 602 829 976 001 0001

Type of Liquor Application: NEW APPLICATION

Privilege applied for: BEER/WINE REST - BEER/WINE

Reason for Refund: WITHDRAWN

Fee submitted to Liquor Control Board.....\$	400.00
Fee Required for Liquor License.....\$	
Liquor License Application Processing Fee.....\$	75.00
Amount of Refund Due.....\$	325.00

cc: Molly Towslee-City Clerk
Bremerton Enforcement Office
Retail Services
File



Subject: Resolution – Surplus Equipment

Proposed Council Action:

Adopt Resolution No. 758 to Surplus a 1989 John Deere Tractor with Backhoe and a 9" Auger (3-point type)

Dept. Origin: Public Works-Operations

Prepared by: Marco Malich
Public Works Superintendent

For Agenda of: July 14, 2008

Exhibits: Resolution No. 758

Initial & Date

Concurred by Mayor:

CLH 6/30/08

Approved by City Administrator:

PK 7/1/08

Approved as to form by City Atty:

CAM 7/1/08

Approved by Finance Director:

PR 6/30/08

Approved by Department Head:

AD 6/27/08

Expenditure Required	\$0	Amount Budgeted	\$0	Appropriation Required	\$0
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INFORMATION / BACKGROUND

Staff requests authorization to surplus the following equipment: One 1989 John Deere Tractor with Backhoe, Serial #L02155A611789/Asset ID #2002, and one 9" Auger (3-point type). This resolution is required to surplus this equipment and send it to auction.

FISCAL CONSIDERATION

Proceeds from the auctioning of these items will go to the general fund.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Adopt Resolution No. 758 authorizing the surplus of a 1989 John Deere Tractor with Backhoe and a 9" Auger (3-point type)

RESOLUTION NO. 758

**A RESOLUTION OF THE CITY OF GIG HARBOR
DECLARING CITY EQUIPMENT SURPLUS AND ELIGIBLE
FOR SALE.**

WHEREAS, the Gig Harbor City Council has determined that city-owned equipment is surplus to the City's equipment needs and has been or is in need of being replaced with new equipment; and

WHEREAS, the City may declare such equipment surplus and eligible for sale;

NOW, THEREFORE, the City Council of the City of Gig Harbor hereby resolves as follows.

To declare as surplus:

	EQUIPMENT		SERIAL / Asset ID number	Mileage
1	1989 John Deere with Backhoe		L02155A611789	N/A
2	9" Auger (3-point type)		N/A	N/A
3				
4				

PASSED ON THIS 14th day of July, 2008.

APPROVED:

MAYOR CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 06/21/08
PASSED BY THE CITY COUNCIL: 07/14/08
RESOLUTION NO. 758



Subject: North Well (No. 9) and South Well (No. 10) Project Contract – Carollo Engineers

Proposed Council Action: Approve and execute a Consultant Services Contract with Carollo Engineers for an amount not-to-exceed two hundred ninety three thousand four hundred three dollars and zero cents (\$293,403.00).

Dept. Origin: Engineering Division

Prepared by: Jeff Langhelm, PE Senior Engineer *[Signature]*

For Agenda of: July 14, 2008

Exhibits: Consultant Services Contract

Initial & Date

Concurred by Mayor: *CLH 7/2/08*
Approved by City Administrator: *PK 7/2/08*
Approved as to form by City Atty: *Cam 7/2/08*
Approved by Finance Director: *DR 7/2/08*
Approved by Department Head: *RS 7/2/08*

Expenditure Required	\$293,403.00	Amount Budgeted	\$ 600,000.00	Appropriation Required	0
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INFORMATION / BACKGROUND

The City's available water supply is rapidly diminishing due to increased water use and water capacity reservations within the City of Gig Harbor's water service area. Currently, if the City's only high production well were taken out of service during the peak summer season, the remainder of the supply wells would likely not be able to meet the City's water demands. To augment the available water supply for current and future customers, the development of two new supply wells is proposed.

The proposed North Well (No. 9) would be a deep, high production well located adjacent to the City's Gig Harbor North Water Tank. Prior to supplying water to the City's water system Well No. 9 requires the acquisition of water rights, permitting, design, and construction. The work proposed under this contract provides for assistance with the acquisition of new water rights based on the City's August 2000 water rights application and preliminary design specifications for the well drilling.

The proposed South Well (No. 10) would be a shallow well located in Crescent Creek Park adjacent to the existing Well No. 2. Prior to supplying water to the City's water system, Well No. 10 also requires the acquisition of water rights, permitting, design, and construction. The work proposed under this contract provides for assistance with the acquisition of water rights based on the City's May 2008 water rights application, permitting, design, and construction of the well and related facilities.

The City sought professional services to assist with the water rights acquisition, permitting, design, and construction associated with the new wells. Upon reviewing and interviewing

qualified consultants, Carollo Engineers was selected as the most qualified to perform the work. Their selection was based on their understanding of the work, past City performance, extensive specialized well design experience and availability of qualified personnel.

FISCAL CONSIDERATION

These two projects were identified in the 2008 Water Capital Budget with \$100,000 allocated for the North Well (No. 9) and \$500,000.00 allocated for the South Well (No. 10). Adequate funds exist in the adopted 2008 budget to perform the work. The remaining budget will be applied to the Well No. 10 drilling activities, which will be performed through the public bidding process.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Move to: Approve and execute the Consultant Services Contract with Carollo Engineers in an amount not to exceed two hundred ninety three thousand four hundred three dollars and zero cents (\$293,403.00).

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
CAROLLO ENGINEERS**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Carollo Engineers, a corporation organized under the laws of the State of Washington located and doing business at 1218 Third Avenue, Suite 1600, Seattle, WA 98101 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in North Well (#9) and South Well (No. 10) Projects and desires that the Consultant perform design and engineering 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 June 2008, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work**, and are incorporated by this reference as if fully set forth herein.

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

TERMS

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed two hundred ninety three thousand four hundred three dollars and no cents (\$293,403.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit A – Scope of Work**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B – Schedule of Charges** or bill at rates in excess of the hourly rates shown in **Exhibit B – Fee Schedule**; 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 June 30, 2009; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

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

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

completion of the Scope of Work referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

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

VII. Indemnification

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

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

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

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

VIII. Insurance

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

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

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000. 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 or Director of Operations and the City shall determine the term or provision's true intent or meaning. The City Engineer or Director of Operations shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

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

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary.

Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:
Carollo Engineers
Attn: Lara Kammereck, P.E.
1218 Third Avenue, Suite 1600
Seattle, WA 98101
(206) 684-6532
FAX (206) 903-0419

City of Gig Harbor
ATTN: Stephen Misiurak, P.E.
City Engineer
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170
FAX (253) 853-7597

XVII. Assignment

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

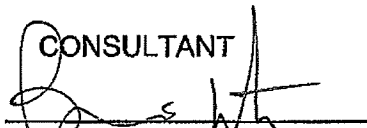
XVIII. Modification

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

XIX. Entire Agreement

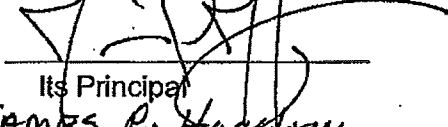
The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2008.

By: 
CONSULTANT
Its Principal
BRIAN R. MATSON

CITY OF GIG HARBOR

By: _____
Mayor

By: 
Its Principal
JAMES P. HAGSTROM

Notices to be sent to:
CONSULTANT:
Carollo Engineers
ATTN: Lara Kammereck, P.E.
1218 Third Avenue, Suite 1600
Seattle, WA 98101
(206) 684-6532
FAX (206) 903-0419

City of Gig Harbor
ATTN: Stephen Misiurak, P.E.
City Engineer
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170
FAX (253) 853-7597

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

1st Principal Signature:

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, 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: _____

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

My Commission expires: _____

2nd Principal Signature:

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, 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: _____

(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/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

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

My Commission expires: _____

EXHIBIT A - SCOPE OF WORK

PURPOSE

The purpose of this Scope of Work is to provide water rights assistance and a drilling specification for Well 9 (deep well), and siting, drilling, permitting, design, and construction for Well 10 (shallow well) to augment the City of Gig Harbor's water supply. Well 9 is proposed to be located off Borgen Boulevard near the new water tank; Well 10 is proposed to be near the existing Well 2.

The ENGINEER prepared the following scope of services based on its understanding of the project objectives and goals expressed during discussions with engineering staff at project meetings and with selection committee members during the project interview. Services performed will consist of eleven (11) main tasks:

- Task 1 - Research and Preparation for Meeting with Department of Ecology
- Task 2 - Well 9 Water Rights Assistance and Drilling Specification
- Task 3 - Well 10 Water Rights Assistance and Drilling
- Task 4 - 30 Percent Design of Well 10 Facilities
- Task 5 - 60 Percent Design of Well 10 Facilities
- Task 6 - 90 Percent Design of Well 10 Facilities
- Task 7 - Final Contract Documents for the Well 10 Facilities
- Task 8 - Bid Period and Construction Services
- Task 9 - Permitting and Regulatory Approval Assistance
- Task 10 - QA/QC
- Task 11 - Project Management

ENGINEER'S SERVICES

Tasks under this Task Order include:

1. Task 1 - Research and Preparation for Meeting with Department of Ecology

- a. Research: Conduct research for the regulatory meeting with Ecology on pending water rights in the Gig harbor area. This includes generating a "short list" of applications likely to be processed if the City pursues a cost-reimbursement project for Well 9. Team will work with the Water Rights attorney to review the City water rights current conditions in preparation for the meeting with Ecology. The team will obtain City and County GIS data, topography, City features, and water system map to develop project base maps for water supply planning efforts. Additionally, the future demand forecast and groundwater well water rights from the City's Comprehensive Water Plan will be evaluated. The supply needs for each service area will be compared to the supply sources to provide the City with future supply needs per service area.
- b. Water Right Application: In support of the Water Rights process, the Water Rights Attorney is recommending the City would be required to prepare and submit, in the course of the Ecology CR process, a new additive water right application. The team will

assist Tom Mortimer with the application, as needed. RNS will perform a preliminary assessment of the groundwater flow pattern of the subject aquifer, and thereby make a tentative determination of existing senior applications and/or surface streams that may be affected.

- c. Meeting with Ecology: Prepare and attend meeting with Ecology and provide follow-up recommendations or findings. Two meetings are assumed with the full water supply team.
- d. Technical Memorandum: A technical memorandum will be developed that summarizes the Ecology direction.

Task 1 Deliverables: Meeting minutes. Technical Memorandum summarizing the direction given by Ecology. Four (4) hard copies of the technical memoranda shall be provided to the City as well as electronic copies via email or on a CD.

2. Task 2 - Well 9 Water Rights Assistance and Drilling Specification

- a. Task 2 will be primarily performed by sub-consultant Robinson, Noble, and Saltbush (RNS) (see attached Appendix A for detailed RNS scope). The Engineer will assist RNS in performing Task 2.
- b. Engineer will provide and assist the City in property site acquisition, including site surveying and site inspections as requested by the City. The site survey will be performed by Prizm Surveying Inc. (Prizm) (see Appendix B for detailed Prizm scope) and will include both topographic features and property boundary.
- c. Engineer will develop drilling technical specifications suitable for a single public bidding for one pilot well that will be expandable into a suitable production well of approximately 1000 gpm capacity.

Task 2 Deliverables: Meeting minutes. Drilling specification. Drilling Report. Four (4) hard copies of the drilling specification shall be provided to the City as well as electronic copies via email or on a CD.

3. Task 3 – Well 10 Water Rights Assistance and Drilling

- a. Task 3 will be primarily performed by sub-consultant RNS. The Engineer will assist RNS in performing Task 3.
- b. Engineer will develop detailed technical specifications suitable for a single public bidding for the drilling and development of a shallow ground water well to approximately 125 feet in depth, with a 16" diameter exterior bore hole and with a 12" diameter finished water production casing and screen.
- c. Engineer will provide a site survey, including topographic and property boundary information. The site survey will be performed by Prizm and will include both topographic features and property boundary.

- d. Engineer will assist the City in providing precise placement for the drilling activity for the development of shallow well Number 10 on existing city property with a capacity of approximately 480-gpm.
- e. Attend team meeting to present results of findings.

Task 3 Deliverables: Meeting minutes. Site survey. Drilling specification. Drilling Report. Four (4) hard copies of each deliverable shall be provided to the City as well as electronic copies via email or on a CD.

4. Task 4 – 30 Percent Design of Well 10 Facilities

- a. Task 4 will be performed concurrent with Task 3.
- b. Based upon information provided from driller, Engineer will prepare a Drilling Report indicating approximate ground water encountered, quantity, and quality. Quality samples will be taken by the Engineer and the driller and submitted to appropriate testing laboratories. Primary MCL's and secondary MCL's will be tested at this time.
- c. Engineer will provide preliminary drawings, technical specifications table of contents, and a preliminary cost estimate as the 30 percent Deliverable based on the installation of suitable well pump and construction of a CMU building approximately 20 feet by 20 feet, containing basic electrical and instrumentation control and including bulk sodium hypochlorite injection system. After confirmation that the well produces the desired quality and quantity of water, the 30 percent Deliverable will be finalized.
- d. Attend 30 percent review meeting.

Task 4 Deliverables: Meeting minutes. Drilling report. 30 percent Deliverable, including preliminary drawings, specification table of contents, and preliminary cost estimate. Four (4) hard copies of the each deliverable shall be provided to the City as well as electronic copies via email or on a CD.

5. Task 5 – 60 Percent Design of Well 10 Facilities

- a. Engineer will provide 60 percent level drawings, draft technical specifications, and a 60 percent cost estimate as the 60 percent Deliverable.
- b. Engineer will incorporate review comments from the internal QA/QC and the City's 30 Percent Deliverable review.
- c. Attend 60 percent review meeting.

Task 5 Deliverables: Meeting minutes. 60 percent Deliverable, including preliminary drawings, draft specifications, and 60 percent level cost estimate. Four (4) hard copies of the each deliverable shall be provided to the City as well as electronic copies via email or on a CD.

6. Task 6 – 90 Percent Design of Well 10 Facilities

- a. Engineer will provide 90 percent level drawings, draft technical specifications, and a 90 percent level cost estimate as the 90 percent Deliverable.

- b. Engineer will incorporate review comments from the internal QA/QC, internal constructability review, and the City's 60 Percent Deliverable review.
- c. Attend 90 percent review meeting.

Task 6 Deliverables: Meeting minutes. 90 percent Deliverable, including preliminary drawings, draft specifications, and 90 percent level cost estimate. Four (4) hard copies of the each deliverable shall be provided to the City as well as electronic copies via email or on a CD.

7. Task 7 – Final Contract Documents for Well 10 Facilities

- a. Engineer will develop detailed technical specifications suitable for a single public bidding for the drilling and development of a shallow ground water well to approximately 125 feet in depth, with a 16" diameter exterior bore hole and with a 12" diameter finished water production casing and screen.
- b. Engineer will prepare plans and specifications suitable for permitting and a single public bidding including installation of suitable well pump and construction of a CMU building approximately 20 feet by 20 feet, containing basic electrical and instrumentation control and including bulk sodium hypochlorite injection system.
- c. Engineer will incorporate review comments from the internal QA/QC and the City's 90 Percent Deliverable review.

Task 7 Deliverables: Meeting minutes. Final Contract Documents Deliverable, including final contract drawings, final contract specifications, and Final Engineer's Estimate. Four (4) hard copies of the each deliverable shall be provided to the City as well as electronic copies, including AutoCAD files, via email or on a CD.

8. Task 8 – Bid Period and Construction Services

- a. Engineer will assist City with public bidding of the well pump installation and pump station plans, including attendance at the pre-bid meeting. Engineer will provide the following services: review and provide written recommendations on prospective bidder pre-qualification information and requests for approval, prepare responses to questions from prospective bidders pertaining to technical information in the contract documents, and prepare a written evaluation of bids received on the project.
- b. Engineer will assist the City by answering two (2) addenda during the bidding process and by attending the bid opening for the project.
- c. Engineer will assist the City in construction management services. Construction Services include office services only, and do not include the following: resident inspection by the Engineer and facility start-up services. The Engineer will provide an operation manual, submittal review (assumes 10 submittals), request for information (RFI) reviews (assumes 10 RFI responses), and miscellaneous construction services.
- d. Engineer will assist with project close out.

Task 8 Deliverables: Two (2) Operation Manuals, Pre-bid meeting minutes, two (2) addenda, review of ten (10) submittals, response to ten (10) requests for information.

9. Task 9 – Permitting and Regulatory Approval Assistance

- a. Engineer will prepare and submit a project report with plans and construction documents to DOH for review. Upon review, the Engineer will incorporate comments and finalize well development and design. No meetings with DOH are included in this task.
- b. The proposed Well 10 site is on the City Park Property. It is assumed the City will coordinate regulatory approval for the project, such as SEPA, land use and building permits. The Engineer will assist the City in obtaining regulatory approval by the City by providing site plans and figures for permit applications. The SEPA, permit applications, or attendance at permit meetings are not included in this task.
- c. Upon completion of the facility, the Engineer will submit a construction report for DOH that acknowledges the source has been properly developed and is ready for operation. No meetings with DOH are included in this task.

Task 9 Deliverables: Two (2) Project reports with plans and construction document to DOH, site plans and figures necessary for permits and one (1) final construction report for DOH.

10. Task 10 – Quality Assurance/Quality Control (QA/QC)

- a. Engineer will coordinate QA/QC reviews with internal senior level staff for each deliverable. Engineer will prepare a summary of the review comments to include with each deliverable.
- b. A constructability review will be performed by the Engineer as part of the 60 percent Deliverable

Task 10 Deliverables: Summary of review comments for the 30 percent, 60 percent, 90 percent, and constructability review.

11. Task 11 - Project Management

- a. Provide project management services for the duration of the project, including: coordination with sub-consultants, coordinate and attend monthly project meetings with the City and the contractor(s), and monthly invoicing. Also included are three meetings with the City Council and/or other agencies for coordination and discussion purposes.

Task 11 Deliverables: Twelve (12) Monthly Project Reports, Two (2) Project Management Plans, and minutes from progress meetings.



APPENDIX A

ROBINSON, NOBLE & SALT BUSH, INC. PROPOSED SCOPE OF WORK

Task 1: Research and Preparation for Meeting with Department of Ecology

Robinson, Noble & Saltbush (RNS) has provided and will continue to provide hydrogeologic consulting services to support the City of Gig Harbor (City) in processing a water rights application for Well 10. These activities are described in Task 1 of Exhibit A and include the following subtasks:

- a) Research
- b) Water Right Application
- c) Meeting with Ecology
- d) Technical Memorandum

Our activities and deliverables will be dictated by the team efforts described in Task 1, but may also require additional technical work in response to Department of Ecology (Ecology) requests. In this later case, we cannot estimate the additional time or effort that might be required, so the City should be aware that the budget or scope for this task may need to be changed accordingly.

Task 2: Well 9 Pre-Construction Planning

Robinson, Noble & Saltbush hydrogeologists will provide professional services for the Well 9 pre-construction planning as detailed in the following tasks.

Subtask A: Water Rights Support & Mitigation Planning

Gig Harbor has already submitted a primary/additive application for Well 9 (G2-29937A) that is proposed for development near the new North Tank site. Based on current knowledge and on comments from Ecology staff, the permitting of Well 9 could involve substantial mitigation issues and conditions, as well as the processing of four to ten senior pending applications.

This task will cover the various discussions and analyses necessary to support the processing of the water rights application. It is difficult to anticipate the level of investigation or effort that will be required because the cost-reimbursement contract has not been finalized and we do not yet know the full scope of the work Ecology and its consultant will perform. For the purposes of this scope, we have assumed the following activities will be accomplished:

- a) Provide assistance to the City and its attorney in completing the cost-reimbursement contracting. (This may be completed as part of Phase 1).
- b) Meet with Ecology and its consultant to discuss preliminary technical issues
- c) Expand or revise our previous regional hydrogeologic investigations to include or address technical issues
- d) Define any mitigation issues considered likely to result from the proposed Well 9 production
- e) Assist the City and the team in devising a suitable mitigation plan
- f) Provide technical findings and a proposed mitigation plan to Ecology's consultant

- g) Assist with final negotiations after Ecology's consultant has completed their draft report of examination

Two meetings with Ecology or its consultant are assumed above. Two additional meetings with the team and City to discuss technical items are also anticipated. (More meetings are possible but are not included in our cost/time estimate.) Note that the time and cost commitments for the above items have been estimated based on our current knowledge, but these may need to be revised if one or more items require more time than anticipated.

Subtask B: Project Design & Contracting

RNS will assist the City in arranging a site inspection by Tacoma-Pierce County Health Department (as part of DOH's source approval program and Ecology's well drilling standards). This inspection will require an application and fee, to be paid by the City, and will be completed prior to bringing a well rig to the site.

RNS will prepare well drilling technical specifications for inclusion into the City's standard general contract conditions. It is probable that the drilling process will be accomplished in two stages: test well drilling and conversion of a successful test well into a production well. The technical specifications will be subdivided into Schedules A and B. The City staff will supplement the RNS specifications, as necessary, for any site-related construction activities that may be required for access, surface restoration, etc. The complete document will be provided and advertised by the City according to its bidding procedures.

RNS and Carollo will assist the City as needed with Contractor selection. It is presumed that the City will contract directly with the drilling company. After a contractor has been selected, RNS will organize and lead a pre-construction meeting at the site between the Team, City representatives, and the Contractor to discuss site logistics and work schedules. RNS will also review Contractor invoices before they are submitted to the City for payment.

Subtask C: Project Management

This project management task includes up to two meetings with the City or team to discuss project progress or strategies. We will be responsive to the City and the team in coordinating our activities within established schedules.

Task 3: Construction of Well 10

Robinson, Noble & Saltbush hydrogeologists will provide professional services for the drilling of Well 10 as detailed in the following tasks.

Subtask A: Project Design & Contracting

RNS will assist the City in arranging a site inspection by Tacoma-Pierce County Health Department (as part of DOH's source approval program and Ecology's well drilling standards). This inspection will require an application and fee, to be paid by the City, and will be completed prior to bringing a well rig to the site.

RNS will prepare well drilling technical specifications for inclusion into the City's standard general contract conditions. The City staff will supplement the RNS specifications, as necessary, for any site-related construction activities that may be required for access, surface

restoration, etc. The complete document will be provided and advertised by the City according to its bidding procedures.

RNS and Carollo will assist the City as needed with Contractor selection. It is presumed that the City will contract directly with the drilling company. After a contractor has been selected, RNS will organize and lead a pre-construction meeting at the site between the Team, City representatives, and the Contractor to discuss site logistics and work schedules. RNS will also review Contractor invoices before they are submitted to the City for payment.

Subtask B: Well Drilling & Completion

The construction of the production well assumes the following conditions:

- a) City will perform a utility locate prior to drilling.
- b) City will provide necessary site preparation.
- c) The disposal of drilling spoils will be accomplished on-site.
- d) City will assist as necessary with arrangements for water disposal during test pumping, including possible direction of water into the storm water system. The selected Contractor will provide and install all necessary equipment or piping to escort discharged water to the designated area.
- e) The well will be constructed using cable-tool drilling methods.

A qualified RNS hydrogeologist will observe well construction and keep the City informed of Contractor progress. RNS staff will be on-site during all critical phases of construction, completion, and development, including collecting aquifer samples during drilling for sieve analysis in our soils laboratory and conducting a natural gamma log (or other geophysical testing as deemed necessary) of the well to assist with determination of well screen placement.

RNS will provide final well screen design to the City for approval before the Contractor is allowed to purchase completion materials. RNS staff will observe the installation and exposure of the well screen assembly by the Contractor and direct the development of the screen prior to determining when development is complete.

Subtask C: Well Testing and Analysis

Robinson & Noble personnel will provide and install automatic water level sensing and recording devices in the pumping well and available observation wells (Well 2) prior to conducting a 24-hour well test. The automatic data will be backed up by manual measurements at appropriate intervals. At the end of the 24-hour test, we will collect any required water quality samples for transport to a certified laboratory.

We will complete an analysis of the test to determine well performance and aquifer parameters. The analysis will provide for conclusions and recommendations for pump sizing and well operations. We will also include an initial assessment of wellfield performance and suggest how the City can operate the two wells in concert in order to optimize production.

We currently anticipate the need to provide an analysis defining the potential for saltwater intrusion at this location. While we currently regard the likelihood of saltwater intrusion as low, such an investigation is typical for new well construction along the shoreline. This step will be accomplished using an analytical modeling approach and the findings included in our project report.

Subtask D: Prepare Technical Report

Robinson & Noble's report will include all information and analysis requested in Ecology's preliminary permit, including a location map, lithologic and geophysical logs, well completion details, and graphic analysis of the well test along with all test data. Our report will provide calculations for aquifer parameters and our recommendation for long-term sustainable yield and a preliminary delineation of the wellhead protection area.

This report will also include hydrogeologic cross sections and analysis of potential impacts to surface water and other water rights in the area. Because of the proposed location within 200 feet of the shoreline, the well will also be evaluated for its potential to induce sea water into the aquifer.

Subtask E: Project Management

Robinson, Noble & Saltbush will coordinate field and project activities with the project team and the City as needed during the implementation of the task items. Two meetings with City staff are included to provide and discuss interim findings of the project, if needed.

Task 4: Additional Support

During the completion of Tasks 4 through 11 of Exhibit A, RNS may be requested to provide additional support services. While the potential amount of works is likely to be small, we anticipate the following:

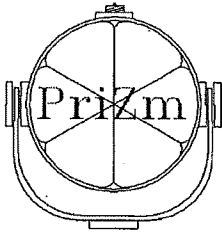
- a) Participation in up to two additional meetings with City staff not otherwise addressed above
- b) Assistance in providing technical documentation for Permitting and Regulatory Assistance (i.e. Task 9), if needed

Additional work requests could require time or effort beyond that assumed here, in which case we will request a change order to address a specific scope of activities.

Water rights support beyond that described above or Well 9 construction activities are not included in this task.

APPENDIX B
PRIZM SURVEYING, INC.
SCOPE OF WORK

Consent Agenda 6



PRIZM
SURVEYING INC.

P.O. Box 110700
Tacoma, WA 98411
Office: 253-404-0983
Fax: 253-404-0984
ablaisdell@prizmsurveying.com
gletzring@prizmsurveying.com
gzurn@prizmsurveying.com

Lara Kammereck
Carollo Engineers
1218 Third Avenue
Seattle, WA 98101

June 13, 2008

Re: Topographic Survey of Crescent Creek Park for future Water Facility Improvements

Prizm Surveying is pleased to provide this proposal for the Topographic survey of a portion of Crescent Creek Park, Parcel Number 022232-3018. It is understood that the final survey will be used for design of a new well site within the park.

Task 1 -Topographic Survey:

1. Perform office research of the Pierce County's and the Department of Natural Resources Records for relevant monumentation, Right of way and Control surveys in the vicinity of the subject parcel. Perform a random field traverse survey locating relevant monumentation and vertical control as recoverable through a diligent search. Vertical and horizontal project datum will be per Pierce County published data.
2. Run a control traverse in the vicinity of the site measuring horizontal monument positions and vertical benchmarks. A site benchmark will be set for future use.
3. Perform a topographic survey of the site and the adjacent roadway of Vernhardson Street. This will include: access ways, parking, edges of impervious surfaces, surface evidence of utilities, the location of the existing well facility, the water line of Crescent creek at the time of the survey, the centerline of the creek, park features and use areas, fences, walls, buildings and shelters, ground shots as necessary, top and toe of slopes and significant trees 6" and larger. The offsite road (Vernhardson) data will include channelization out to opposite side of the right of way. Prizm will contract with a utility locate service to identify any underground utilities in these areas prior to the survey, so that they may also be located and shown on the final map. Temporary benchmarks will be set at convenient locations for your future reference. **Note: The services of an underground utility locate company will be obtained to complete the mapping of the existing utilities. This service is considered a reimbursable expense and is not included in the estimated cost for Task 1 listed below. The cost for this service is estimated to be around \$350.**
4. Reduce field notes, plot data obtained from the fieldwork, and prepare an AutoCAD drawing of the above for design use at a convenient scale showing the data collected along with 1-foot interval contours. The final Map will be reviewed, checked and certified by a Professional Land Surveyor, and provided in electronic format and paper copies.

The estimated cost for Task 1 services is \$6,915

Task 2 - Boundary Survey:

1. Using public records from research completed under Task 1, determine the legal description of the subject parcel. Perform additional field work as necessary to measure the positions of the controlling monumentation for the legal description of the subject property. Using the measured data and record data obtained from research, calculate the parcel boundary.

Carollo Engineering
Crescent Creek
June 13, 2008

2. Field stake the property corners and line stakes as necessary setting either an iron bar with plastic cap at each angle point along the exterior of the parcel boundary or a wooden stake at designated intervals along property lines, as requested by the client.
3. Reduce field notes, plot data obtained from the fieldwork, and prepare an 18" X 24" Record of Survey map to be filed with the Pierce County Auditor, per state regulations. The current recording fee for this instrument is determined by Pierce County and is considered a reimbursable expense.

The estimated cost for Task 2 services is \$1,890

<u>Task Summary</u>	<u>Estimated Cost</u>
<u>Task 1 - Topographic Survey</u>	\$6,915
<u>Task 2 - Boundary Survey</u>	\$1,890
TOTAL COST ESTIMATE:	<u>\$8,805</u>

Prizm Surveying will send you an invoice each month for work in progress. In the event your invoices are not paid according to the terms of the contract, your project will not receive priority scheduling until payment arrangements are made. Prizm Surveying will require that; at the completion of the above described tasks, full payment for the task shall be collected prior to proceeding.

Specifically excluded from our described scope of services are geotechnical studies, wetland or traffic studies, landscaping, historical/preservation consulting or any engineering services. The Client will pay all costs of title reports, filing fees, and other governmental fees and assessments not specifically identified within this proposal.

All survey related data, field and/or office, as it relates to this project, is the property of Prizm Surveying, Inc and is not to be used, in whole or in part, for any project without written authorization of Prizm Surveying, Inc.

The costs outlined in this proposal are an estimate only, based on the circumstances presented by you and perceived by Prizm Surveying at the time of contract preparation. They are not a guarantee that the costs will not exceed the amount of this estimate. Prizm Surveying is hereby authorized to exceed the estimated costs by up to ten percent without prior written notice to the Client if circumstances encountered in the performance of Prizm's obligations result in an overrun.

The total estimated cost could vary depending on the time required to complete this project due to governmental or construction delay or if the project is put on hold at your request. If the completion of the services outlined in this document exceeds 4 months, this contract is subject to modification in accordance with Prizm's most current hourly rates.

Prizm Surveying will perform additional services beyond the basic scope of work upon your request. Revisions to work completed or in progress, requested by you or your agents through no fault of Prizm Surveying, will be considered extra services for which additional compensation is due. If you require a written proposal and authorization for additional services, this should be addressed at the time the work is requested.

Carollo Engineering
Crescent Creek
June 13, 2008

For additional information not referenced above, please refer to our general conditions located on the last page of this proposal or call our office. Any part of this proposal is negotiable pending your particular survey requirements. Should you desire additional services beyond the scope above our regular hourly rates are as follows:

- 2-man survey crew \$135 an hour
- Licensed Land Surveyor \$100 an hour
- Survey Technician \$85 an hour

We look forward to working with you, and if you have any questions or comments regarding this proposal, please call me at (253) 404-0983.

Sincerely,



Desirae Harpel, L.S.I.T.
Project Surveyor



Carollo Engineering
Crescent Creek
June 13, 2008

WORK AUTHORIZATION

DATE: June 13, 2008 JOB NAME/NUMBER: Crescent Creek

COMPANY OR OWNER (CLIENT): Carollo Engineers

PERSON AUTHORIZING WORK: Lara Kammereck

ADDRESS: 1218 Third Avenue, Suite 1600 Seattle, WA 98101

Phone: (206) 684-6532 Email ADDRESS: LKammereck@carollo.com

SITE ADDRESS: Crescent Creek Park - Gig Harbor, WA

WORK DESCRIPTION: Tasks 1 - 2

ESTIMATED PRICE OR HOURLY RATE: \$8,805.00

TERMS: 15 DAYS FROM DATE OF INVOICE

By signing this agreement, Client acknowledges that he/she/they has/have read and understand the terms and conditions set forth and that he/she/they is/are authorized to bind his/her/their principals hereto.

CLIENT ACCEPTANCE SIGNATURE:

Date

PRIZM SURVEYING, INC. ACCEPTANCE SIGNATURE:

Date

EXHIBIT B – SCHEDULE OF CHARGES

**EXHIBIT B- SCHEDULE OF CHARGES
CITY OF GIG HARBOR – SHALLOW AND NORTH DEEP WELL DESIGN AND CONSTRUCTION PROJECT**

TASK DESCRIPTION	Carollo Engineers		Robinson & Noble, Inc.		Prizm		TOTALS							
	Carollo Total Labor Hours	Total Carollo Labor Costs	Total R&N Hours	Total Robinson & Noble Inc. Labor Costs	Total Prizm Hours	Total Prizm Labor Costs	Total Labor Hours	Total Sub Labor	Carollo Other Direct Costs	Robinson & Noble, Inc. Other Direct Costs	Prizm Other Direct Costs	Sub-Consultant Mark up at 10%	Carollo PECE Costs	TOTAL COSTS
Hourly Billing Rates													\$0.00	
Task Descriptions														
Task 1: Research and Preparation for Meeting with Department of Ecology	83	\$13,521	131	\$ 15,848.00	0	\$ -	214	\$15,848	\$600	\$80	\$0	\$1,585	\$747	\$32,381
Task 2: Well 9 Water Rights Assistance and Drilling Specification	12	\$2,020	322	\$ 38,163.00	32	\$ 3,710	366	\$41,873	\$300	\$291	\$693	\$4,187	\$108	\$49,472
Task 3: Well 10 Water Rights Assistance and Drilling	20	\$3,780	273	\$ 28,250.00	32	\$ 3,710	325	\$31,960	\$300	\$1,435	\$692	\$3,196	\$180	\$41,543
Task 4: 30 Percent Design of Well 10 Facilities	92	\$12,692	57	\$ 6,806.00	0	\$ -	149	\$6,806	\$1,200	\$0	\$0	\$681	\$828	\$22,207
Task 5: 60 Percent Design of Well 10 Facilities	200	\$24,492	0	\$ -	0	\$ -	200	\$0	\$1,200	\$0	\$0	\$0	\$1,800	\$27,492
Task 6: 90 Percent Design of Well 10 Facilities	208	\$27,140	0	\$ -	0	\$ -	208	\$0	\$1,200	\$0	\$0	\$0	\$1,872	\$30,212
Task 7: Final Contract Documents for the Well 10 Facilities	138	\$19,572	0	\$ -	0	\$ -	138	\$0	\$1,200	\$0	\$0	\$0	\$1,242	\$22,014
Task 8: Bid Period and Construction Services	168	\$23,684	0	\$ -	0	\$ -	168	\$0	\$1,200	\$0	\$0	\$0	\$1,512	\$26,396
Task 9: Permitting and Regulatory Approval Assistance	46	\$5,946	0	\$ -	0	\$ -	46	\$0	\$0	\$0	\$0	\$0	\$414	\$6,360
Task 10: QA/QC	74	\$13,544	0	\$ -	0	\$ -	74	\$0	\$1,000	\$0	\$0	\$0	\$666	\$15,210
Task 11: Project Management	96	\$17,352	0	\$ -	0	\$ -	96	\$0	\$1,800	\$100	\$0	\$0	\$864	\$20,016
SUBTOTAL PERSONNEL HOURS AND TOTAL FEE	1,137	\$ 163,743	783	\$ 89,067	64	\$ 7,420	1,984	\$ 96,487	\$ 10,000	\$ 1,906	\$ 1,385	\$ 9,649	\$ 10,233	\$ 293,847
SUBTOTAL PERSONNEL FEE		\$163,743		\$89,067		\$7,420		\$96,487						

**CAROLLO ENGINEERS, PC
FEE SCHEDULE**

As of March 1, 2008

	<u>Hourly Rate</u>
Engineers/Scientists	
Assistant Professional	\$125.00
Professional	158.00
Project Professional	189.00
Lead Project Professional	205.00
Senior Professional	226.00
Senior Process Specialist	315.00
Technicians	
Technicians	95.00
Senior Technicians	137.00
Support Staff	
Document Processing / Clerical	81.00
Project Equipment Communication Expense (PECE) Per DL Hour	9.00
Other Direct Expenses	
Travel and Subsistence	at cost
Mileage	.585/mile*
Subconsultant	cost + 10%
Other Direct Cost	cost + 10%
Expert Witness	Rate x 2.0

* Updated June 2008 as a result of the IRS increases in the standard mileage rates for the final six months of 2008.

This fee schedule is subject to annual revisions due to labor adjustments.



Subject: APPOINTMENT TO DESIGN REVIEW BOARD

Proposed Council Action:

A motion to appoint David Fisher to serve the remaining three years of a vacant four-year term on the Design Review Board.

Dept. Origin: Administration

Prepared by: Boards/Commission Review Committee

For Agenda of: July 14, 2008

Exhibits: Letter of Interest

Initial & Date

Concurred by Mayor:

CLH 6/23/08

Approved by City Administrator:

PK 6/20/08

Approved as to form by City Atty: _____

Approved by Finance Director: _____

Approved by Department Head: _____

Expenditure Required	\$0	Amount Budgeted	\$0	Appropriation Required	\$0
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INFORMATION / BACKGROUND

Charles Carlson has requested that someone be appointed to serve the remainder of his term. An advertisement to find citizens interested in serving on the committee was placed and we received one application.

FISCAL CONSIDERATION

N/A

BOARD OR COMMITTEE RECOMMENDATION

The following recommendation came from the Board and Commission Candidate Review Committee.

RECOMMENDATION / MOTION

Move to: A motion to appoint David Fisher to serve the remaining three years of a vacant four-year term on the Design Review Board.



- Application for Appointment -
City of Gig Harbor
Design Review Board

Consent Agenda 7
RECEIVED
JUN - 5 2008
CITY OF GIG HARBOR

Name: David K. Fisher

Address: 7766 Beardsley Ave City: Gig Harbor State: WA

Telephone: Home: 253-851-7103
Other: 253-208-1606

Please attach a cover letter describing (a) your interest in serving on the Design Review Board (DRB), (b) your background and (c) the skills you wish to share in this capacity.

Under which of the following categories do you wish to be considered?

(check appropriate box(es))

- A licensed architect or professional building designer with demonstrated experience in urban or historic building design.
- A city resident with demonstrated interest and knowledge of urban design (there are currently no openings in this category);
- A member from the Gig Harbor planning commission.
- A member with a professional background relating to urban design, (e.g., a professional artist, civil engineer, planner, building contractor or professional designer) as determined by the city council;
- A member with demonstrated interest and knowledge of landscaping, horticulture, arboriculture or forestry;
- An individual with a background in identifying, evaluating and protecting historic resources, selected from among the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation or landscape architecture, or related disciplines.

Please describe your background in the categories you have selected above. (You may expand upon this in your cover letter if you need more room to write).

Please describe any background or skills you have in reading and interpreting site plans, elevation drawings, landscape plans, architectural details and other design details and specifications as may be depicted on plans. (You may expand upon this in your cover letter if need more room to write).

Signature: [Signature] Date: 6/3/08

June 3, 2008

City of Gig Harbor –DRB Application Cover Letter

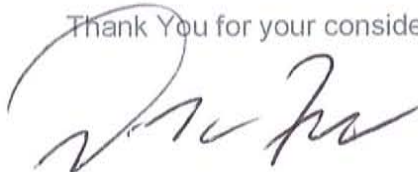
I have been a licensed architect in the State of Washington since 1987. Since 1984 I have designed hundreds of homes in and around Gig Harbor. One notable home I have completed recently is the Nixon Residence located in the Historic District at Ross and Dorotich. I designed all 32 homes in "Canterwoods Forest Village" which is a high density courtyard development with single level living for active adults. I have also designed numerous commercial buildings and projects in the city limits: Olympic Square Mixed use development with retail –office – townhouses, Park Plaza Professional Office building, 5801 Soundview Professional office building, Northwest Corporate Park at Rosedale and Skansie, and Tanglewood Restaurant.

I have worked with the Cities Development staff for over 20 years and have seen many changes in the management of growth. I was one of the first applicants to go before the Design Review Board when I presented Northwest Corporate Park over 10 years ago. I have an in depth knowledge of the Design Review Manual, Municipal Code and International Building Codes.

As a resident in the city limits of Gig Harbor I have a sincere interest in quality growth of the Gig Harbor area. Since February of this year I started my own Architectural Firm called Fisher Architects, which is independent of North Pacific Design. You can see my work on my new WEB site www.DKFisherArchitects.com

I consider the Design Review Manual a legal minimum standard that applicants either conform to or they present and offer the public a project design that is equal or better. I have been on the applicants 'side of the table' and I would like the opportunity to help on the public review 'side of the table'.

Thank You for your consideration!



David K. Fisher, AIA - Architect



Subject: Civic Center HVAC Compressor Replacement

Proposed Council Action: Authorize the award and execution of the Construction Services Contract with McKinstry Company for Replacement of the failing HVAC Compressor in the amount Nine Thousand One Hundred Forty Dollars and No Cents (\$9,140.00), plus sales tax.

Dept. Origin: Public Works

Prepared by: David Stubchaer
Public Works Director

For Agenda of: July 14, 2008

Exhibits: Construction Services Contract

	Initial & Date
Concurred by Mayor:	<i>CLH 7/9/08</i>
Approved by City Administrator:	<i>PSF 7/10/08</i>
Approved as to form by City Atty:	<i>CAM 7/9/08</i>
Approved by Finance Director:	<i>D2 7/8/08</i>
Approved by Department Head:	<i>DS 7/9/08</i>

Expenditure	Amount	Appropriation
Required \$9,140.00	Budgeted \$5,000.00	Required \$4,140.00

INFORMATION / BACKGROUND

The 2008 City Building Budget Objective No. 3, provides \$5,000 for the necessary repairs to the heating and air-conditioning system to make required modifications to provide more consistent temperature in the Community Development building. The compressor has been failing for some time and needs to be replaced for the comfort of the employees and visitors to the Civic Center.

In accordance with the City's Small Works Roster Process (Resolution No. 750), four potential contractors were contacted for price quotations. The following three contractors submitted a price quotation proposal:

- McKinstry Company \$ 9,140.00, plus sales tax
- PSF Mechanical, Inc. \$ 9,464.00, plus sales tax
- Merit Mechanical, Inc. \$10,582.00, plus sales tax

FISCAL CONSIDERATION

This work is above the budgeted amount of \$5,000 for the repair but falls under the \$35,000 City Buildings Repairs and Maintenance fund in the adopted 2008 Budget.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the award and execution of the Construction Services Contract with McKinstry Company for Replacement of the failing HVAC Compressor in the amount Nine Thousand One Hundred Forty Dollars and No Cents (\$9,140.00), plus sales tax.

**AGREEMENT FOR CONSTRUCTION SERVICES
BETWEEN GIG HARBOR AND
MCKINSTRY COMPANY**

THIS AGREEMENT, is made this ___ day of _____, by and between the City of Gig Harbor (hereinafter the "City"), and McKinstry Company, a Washington limited liability company, located and doing business at 2306 Pacific Avenue, Tacoma, WA 98402, (hereinafter "Contractor").

WHEREAS, the City desires to hire the Contractor to perform the work and agrees to perform such work under the terms set forth in this Agreement; and

WHEREAS, in the process of selection of the Contractor and award of this contract, the City has utilized the procedures in RCW 39.04.155(3);

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

I. Description of Work. The Contractor shall perform all work as described in the attached Exhibit A and incorporated herein by this reference, in a workman-like manner according to standard construction practices. The work shall generally include the furnishing of all materials and labor necessary for the Compressor Replacement and Head Pressure Control Installation for the HVAC System at the Civic Center Building. The Contractor shall not perform any additional services without the express permission of the City.

II. Payment.

A. The City shall pay the Contractor the total sum nine thousand one hundred forty dollars and no cents (\$9,140.00), plus sales tax, for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for these tasks, and shall not be exceeded without prior written authorization from the City in the form of a negotiated and executed change order.

B. After completion of the work, the City shall pay the full amount of an invoice within thirty (30) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Contractor 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 - owner relationship will be created by this Agreement. As the Contractor is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or subcontractor of the Contractor shall be, or shall be deemed to be the employee, agent, representative or subcontractor of the City. In the performance of the work, the Contractor 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 subcontractors of the Contractor. The Contractor will be solely and entirely responsible for its acts and for the acts of the Contractor's agents, employees, representatives and subcontractors 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 Contractor performs hereunder.

IV. Duration of Work. The City and the Contractor agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement by both parties. The Contractor shall perform all work required by the Agreement on or before August 29, 2008. The indemnification provisions of Section IX shall survive expiration of this Agreement.

V. Prevailing Wages. Wages paid by the Contractor shall be not less than the prevailing rate of wage in the same trade or occupation in Pierce County as determined by the industrial statistician of the State Department of Labor and Industries and effective as of the date of this contract.

Before any payment can be made, the Contractor and each subcontractor shall submit a "Statement of Intent to Pay Prevailing Wages" to the City, which has been approved by the State Department of Labor and Industries. Each voucher claim (invoice) submitted by the Contractor for payment of work shall have an "Affidavit of Wages Paid", which states that the prevailing wages have been paid in accordance with the pre-filed "Statement(s) of Intent to Pay Prevailing Wages".

VI. Waiver of Performance Bond and Retainage: Limited Public Works Process. As allowed in RCW 39.04.155(3) for limited public works projects, the City has waived the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW for the work described in Exhibit A.

VII. Termination.

A. Termination Upon City's Option. The City shall have the option to terminate this Agreement at any time. Termination shall be effective upon five (5) days written notice to the Contractor.

B. Termination for Cause. If the Contractor refuses or fails to complete the tasks described in Exhibit A, to complete such work by the deadline established in Section IV, or to complete such work in a manner satisfactory to the City, then the City may, by written notice to the Contractor, give notice of its intention to terminate this Agreement. On such notice, the Contractor shall have five (5) days to cure to the satisfaction of the City or its representative. If the Contractor fails to cure to the satisfaction of the City, the City shall send the Contractor a written termination letter which shall be effective upon deposit in the United States mail to the Contractor's address as stated below.

C. Excusable Delays. This Agreement shall not be terminated for the Contractor's inability to perform the work due to adverse weather conditions, holidays or mechanical failures which affect routine scheduling of work. The Contractor shall otherwise perform the work at appropriately spaced intervals on an as-needed basis.

D. Rights upon Termination. In the event of termination, the City shall only be responsible to pay for services satisfactorily performed by the Contractor to the effective date of termination, as described in a final invoice to the City.

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

IX. Indemnification. The Contractor shall indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, and shall pay for all costs, 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 Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

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 Contractor and the City, its officers, officials, employees, agents and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONTRACTOR'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.

X. Insurance.

A. The Contractor 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 Contractor's own work including the work of the Contractor's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Contractor 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

- C. The Contractor is responsible for the payment of any deductible or self-insured retention that is required by any of the Contractor's insurance. If the City is required to contribute to the deductible under any of the Contractor's insurance policies, the Contractor shall reimburse the City the full amount of the deductible.
- D. The City of Gig Harbor shall be named as an additional insured on the Contractor'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 Contractor's insurance policies.
- E. It is the intent of this contract for the Contractor's insurance to 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 in respect to the City. Additionally, the Contractor'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 Contractor 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 Contractor's coverage.

The Contractor shall procure and maintain for the duration of this Agreement, comprehensive general liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its employees, agents or subcontractors. The cost of such insurance shall be borne by the Contractor. The Contractor shall maintain limits on such insurance in the above specified amounts: The coverage shall contain no special limitations on the scope of protection afforded the City, its officials, officers, employees, agents, volunteers or representatives.

The Contractor agrees to provide the City with certificates of insurance evidencing the required coverage before the Contractor begins work under this Agreement. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. The City reserves the right to require complete, certified copies of all required insurance policies at all times.

XI. Entire Agreement. The written provisions and terms of this Agreement, together with all exhibits attached hereto, all bids specifications and bid documents 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.

XII. City's Right of Supervision. Even though the Contractor 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 Contractor 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 Contractor's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

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

XIV. Warranties. The Contractor hereby warrants that it is fully licensed, bonded and insured to do business in the State of Washington as a general contractor. The Contractor will warranty the labor and installation of materials for a one (1) year warranty period.

XV. 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 Contractor.

XVI. Assignment. Any assignment of this Agreement by the Contractor without the written consent of the City shall be void.

XVII. 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 as of the date of mailing by registered or 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.

XVIII. 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.

XIX. Resolution of Disputes. 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, and the City shall determine the term or provisions' true intent or meaning. The City 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 Contractor under any of the provisions of this Agreement which cannot be resolved by the City's determination in a reasonable time, or if the Contractor does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be with the 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 prevailing party shall be reimbursed by the other party for its costs, expenses, and reasonable attorney's fees incurred in any litigation arising out of the enforcement of this Agreement.

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

MCKINSTRY COMPANY

THE CITY OF GIG HARBOR

By: _____
Its _____

By: _____
Its Mayor

Notices should be sent to:

McKinstry Company
Attn: Tom S. Wingard
2306 Pacific Avenue
Tacoma, WA 98402
Phone: 253-572-9876

City of Gig Harbor
Attn: David Stubchaer
Public Works Director
3510 Grandview Street
Gig Harbor, WA 98335
Phone: 253-851-6170

Approved as to form:

By: _____
City Attorney

Attest:

By: _____
Molly M. Towslee, 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, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the _____ of McKinstry Company 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,
Residing at _____
My appointment expires: _____

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

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

DATED: _____

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

Exhibit A



June 24, 2008

George Williams
City of Gig Harbor
3510 Grandview
Gig Harbor WA. 98335

Re: Compressor Replacement and Head Pressure Control Installation
Location: 3510 Grandview, Addison A/C

George,

As you requested the following is a proposal to replace the compressor, compressor contactor, system drier cores and add fan cycling head pressure controls to the above mentioned system.

The valves should be able to isolate the compressor from the system so the only refrigerant to be recovered will come from the compressor, there should be only a small amount of new refrigerant needed to top off the system.

We were informed that there was no burn out of the compressor and acid is not present in the system; we will perform an acid test to confirm. Acid cleanup of the system is not included.

We are pleased to provide you with the following scope and cost for repairing the HVAC system for the above mentioned facility.

SCOPE

- Perform an acid test on system
- Provide and install new Copland compressor
- Provide and install new compressor contactor and system filter drier cores
- Provide and install up to 100lbs of R-22 if needed (will refund \$17 for each lb of refrigerant that is not used of the 100lbs)
- Provide and install fan cycling head pressure controls
- Verify proper system operation upon completion

Cost to perform above scope (tax not included)	\$9,140
---	----------------

This proposal excludes: deficiencies or failed parts found while performing scope, \$600 compressor core charge if not returnable, cut and patch, engineering, structural reviews, disconnects, overtime, permits, sales tax and any other work or materials not specified.

We appreciate the opportunity to be of service to your company and look forward to working with you on the project. Please do not hesitate to call or e-mail with any questions or for scheduling.

Regards,

Tom S. Wingard
McKinstry Co

2306 Pacific Ave - Tacoma, WA 98402 - (253) 572-9876
MCKIN**372NO



**Subject: Austin Estuary Park Master Plan
Contract Amendment**

Proposed Council Action: Authorize the award and execution of the Amendment to the Consultant Services Contract with Grette Associates, LLC for completion of the Austin Estuary Park Master Plan in the amount not to exceed Four Thousand Five Hundred Forty-Nine Dollars and Two Cents (\$4,549.02).

Dept. Origin: Public Works

Prepared by: David Stubchaer
Public Works Director

For Agenda of: July 14, 2008

Exhibits: Consultant Services Contract
Amendment #1

	Initial & Date
Concurred by Mayor:	<i>CLH 7/10/08</i>
Approved by City Administrator:	<i>RSK 7/10/08</i>
Approved as to form by City Atty:	<i>CAM 7/9/08</i>
Approved by Finance Director:	<i>DR 7/9/08</i>
Approved by Department Head:	<i>DS 7/9/08</i>

Expenditure	Amount	Appropriation
Required \$4,549.02	Budgeted \$50,000	Required 0

INFORMATION / BACKGROUND

The development of a master plan for Austin Estuary Park is identified in the 2008 budget. The park is primarily wetland with natural vegetation including invasive species. The plan will include identifying existing plants, designing a landscape utilizing native vegetation, maintaining views and educational opportunities. The original contract with Grette Associates in the amount of \$3,896 was to develop a conceptual landscape design for the park. More details to the plan are now required in order for it to be finalized for use in obtaining the Shoreline Substantial Development and Conditional Use permits require by the City.

FISCAL CONSIDERATION

This work is within the \$50,000 budget that was anticipated in the adopted 2008 Budget, identified under Parks Development Budget Objective No. 7.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the award and execution of the Amendment to the Consultant Services Contract with Grette Associates, LLC for completion of the Austin Estuary Park Master Plan in the amount not to exceed Four Thousand Five Hundred Forty-Nine Dollars and Two Cents (\$4,549.02).

**FIRST AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
GRETTE ASSOCIATES, LLC**

THIS FIRST AMENDMENT is made to the AGREEMENT, dated January 28, 2008, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Grette Associates, LLC, a corporation organized under the laws of the State of Washington, located and doing business at 2102 North 30th Street, Tacoma, WA 98403 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the Austin Estuary Park Conceptual Landscape Design 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 January 28, 2008, (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 Work**, 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 dated June 27, 2008 to the Amendment in the amount of Four Thousand Five Hundred Forty-Nine Dollars and Two Cents (\$4,549.02). 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. **Amendment to Duration of Work.** Section IV of the Agreement is amended to require the tasks described in **Exhibit A** to begin immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by December 31, 2008; provided however, that additional time shall be granted by the City for excusable days or extra work.

Section 4. **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 _____, 200__.

CONSULTANT

THE CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

Notices to be sent to:

CONSULTANT
Grette Associates, LLC
Attn: Matthew Boyle
Principal Biologist
2102 North 30th Street
Tacoma, WA 98403
253-573-9300

CITY
David Stubchaer, Public Works Director
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 xxxxxx)

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 Grette Associates, LLC 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 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



TO: Terri Reed
City of Gig Harbor
3510 Grandview
Gig Harbor, WA 98335

Date: 6/27/08
Project Number: 250.005
Project Name: Austin Estuary Park – Scope Addendum

Project Manager: Milke Laves

Phone 253.853.7615
Fax 253.858.6408

SENT VIA:

Mail
 Fax

Hand Delivered
 Email

DESCRIPTION OF WORK:

Task 200 – Austin Estuary Substantial Shoreline Development Permit

Grette Associates will assist the City of Gig Harbor in the preparation of a Shoreline Substantial Development Permit and design review submittal materials for proposed improvements to Austin Estuary Park. The City has provided Grette Associates with a Shoreline Substantial Development Checklist and Design Review Checklist with the following items identified as tasks for completion by Grette Associates:

Shoreline Substantial Development Checklist:

All projects: G1, Building Fire Code: 6, 7, 8

Shoreline Substantial Development Permit: A1, A2, A3, A4a, A4b, A5, A7, A8, A10, A12, A13

Landscape Plan: A, B, C, D, E

Design Review Checklist:

Design Review: A, B, C, E, F, L, N

A copy of the checklist is attached to this Scope of Work. Many of the Tasks identified above will require detailed information from and collaboration with the City of Gig Harbor. Grette Associates will work closely with City Staff in the development of these materials. If the Design Review Board requires substantial alterations to the initial proposed plan, additional budget may be required. An estimated budget for Task 200 is as follows:

Staff	Rate	Units	Total
Biologist I	\$82.00	50	\$4,100.00
Principal Biologist	\$150.00	2	\$300.00
Narrows Bridge Tolls (4 trips)	\$3.00	4	\$12.00
Mileage (4 trips)	\$0.585	120	\$70.02
Administrative	\$67.00	1	\$67.00
TOTAL TASK 200			\$4,549.02

2102 North 30th Street, Ste. A Tacoma, WA 98403 Ph: 253.573.9300 Fx: 253.573.9321
Page 1 of 2

Prepare in house

From Consultant

Shoreline Substantial Development Checklist

SDP

Checklist for All Projects
19.02.002

SDP Fee based on total cost
 $< 10,000 = \$1033.00$
 $> 10,000 \& < 100,000 = 2066.00$
 SEPA fee : 309.90

- A. A completed project application form.
- B. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property. *Signature on App. form will do.*
- C. A property and / or legal description of the site.
- D. The applicable fee. *Fees due for SDP, CUP, DRB & SEPA*
- E. Evidence for adequate water supply as required by RCW 19.27.097 or a copy of an application for city of Gig Harbor water concurrency determination, per GHMC 19.10.011 (A)
- F. Evidence of sewer availability or a copy of an application for city of Gig Harbor sewer concurrency determination, per GHMC 19.10.011 (A) *or statement from Eng. that sewer is not needed.*
- G. A completed transportation concurrency application and traffic report, per GHMC 19.10.011 (A)

In addition to requirements of GHMC 19.02.002 please provide:

- 1 5 complete sets of submittal materials including wetland reports and traffic reports. Plan sets are to be of the same size sheets collated and bound, (preferred size of 24" x 36"). Please provide 2 sets of reduced size 11"x17". Please tie sheets if needed to meet required scale.

If your project requires multiple permits, only 5 sets, plus 2 reduced sets, are required. Please combine the requirements of all permits into the bound sets

- 3 An environmental checklist when required ($\frac{1}{2}$ copies). *Required, only one copy needed.*

A building and fire code note sheet is required with all submittals which shall include the following information:

- 1 Intended IBC Type of construction for all buildings proposed in the project;
- 2 Proposed square footage of building. On multistory buildings specify square footage per floor
- 3 Intended IBC occupancy group for all buildings proposed in project. Where a project is proposed to be a mixed occupancy building, include mixed occupancy calculations demonstrating compliance with IBC Ch. 3;
- 4 Proposed fire protection systems. Fire protection systems proposed as an alternate to other fire resistance requirements or to reduce required fire flow should be indicated on the plans;
- 5 Water purveyor name
- 6 Proposed turning radii and emergency vehicle turnaround locations within required emergency vehicle access roads must be called out on the plans. *Determine w/ Dick if required, probably not since no buildings.*
- 7 Proposed fire hydrant locations must be called out on the site plan.

ADA accessible site features (parking, routes, etc.)

Shoreline Substantial Development Permit
4.07 SMP

The Administrator shall provide the necessary application forms for a shoreline substantial development, conditional use and variance permits. In addition to the information requested on the application the applicant shall provide, at a minimum, the following information:

- A. Site Plan drawn to scale and including
 - 1 Site boundary, extending from the street frontage (as applicable) to the outer harbor line, all state lease lands (existing and proposed), structures on adjacent properties from OHW to the outer harbor line, tide/land leases and ownerships, and harborline lease areas on adjacent properties.
 - 2 Property dimensions in vicinity of project
 - 3 Ordinary high water mark. ← *Survey Needed*
 - 4 Typical cross section or sections showing:
 - a. Existing ground elevation.
 - b. Proposed ground elevation.
 - c. Height of existing structures.
 - d. Height of proposed structures.
 - 5 Where appropriate, proposed land contours using five-foot intervals in water area and ten-foot intervals on areas landward of ordinary height water mark, if development involves grading, cutting, filling, or other alteration of land contours.
 - 6 Show dimensions and location of existing structures which will be maintained.
 - 7 Show dimensions and locations of proposed structures; parking and landscaping
 - 8 Identify source composition, and volume of fill material
 - 9 Identify composition and volume of any extracted materials, and identify proposed disposal area. *NONE*
 - 10 Location of proposed utilities, such as sewer, septic tanks and drain fields, water, gas and electricity and sewage pump-out facilities if being installed.
 - 11 If the development proposes septic tanks, they must comply with local and state health regulations
 - 12 Shoreline designation according to the Master Program. *Urban*
 - 13 Show which areas are shorelines and which are shorelines of state-wide significance.
- B. Vicinity Map.
 - 1 Indicate site location using natural points of reference (roads, state highways, prominent landmarks, etc.)
 - 2 If the development involves the removal of any soils by dredging or otherwise, identify the proposed disposal site is beyond the confines of the vicinity map, provide another vicinity map showing the precise location of the disposal site and its distance to the nearest city or town. *NONE*
 - 3 Give brief narrative description of the general nature of the improvements and land use within 1,000 feet in all directions from development site.

- C. Adjacent land owners.
- 1 Mailing labels of all property owners within 300 feet of the property where development is proposed (2 sets as provided by the Pierce County auditor's office). *"owner notify" - if you don't have County view access we can do this*

17.78.030 Landscape Plans

A plan of the proposed landscaping and screening shall be incorporated into plans submitted for site plan review or projects which require hearing examiner review. The plans shall be drawn to scale and contain the following, in addition to the significant vegetation plan and tree retention plan required by GHMC 17.98.040.

- A. Parking and vehicle use areas, driveways and walkways.
- B. Buildings or structures, existing and proposed
- C. All proposed new landscaping. Landscape plan shall include the location, species, diameter or size of materials using both botanical and common names. Drawings shall reflect the ultimate size of plant materials. Alternatively, a schematic landscape plan can be submitted showing planting zones. Each planting zone shall include typical shrub and groundcover species and typical size and spacing at planting. All landscape plans shall include the location, species, and diameter or size of all proposed trees.
- D. Schematic irrigation plan showing irrigation zones and proposed irrigation techniques within each zone or a xeriscape plan as set forth in GHMC 17.78.045(B).
- E. Identification of tree protection techniques.

This checklist is intended as a guide for applicants and is not a substitute for the applicable code sections

DRB Fee:

Design Review Checklist

Design Review

Checklist for All Projects 19.02.002

- A. A completed project application form. ** See notes on SDP List*
- B. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property.
- C. A property and / or legal description of the site.
- D. The applicable fee.

In addition to requirements of GHMC 19.02.002 please provide:

- 1 5 complete sets of submittal materials. Plan sets are to be of the same size sheets collated and bound, (preferred size of 24" x 36"). Please provide 2 sets of reduced size 11"x17". Please file sheets if needed to meet required scale. Please provide 10 copies of all submitted materials if project is receiving DRB review.
- 2 2 sets of mailing labels (if requesting DRB review) of property owners within 300 feet of subject property provided by the Pierce County auditor's office.

Design Review 17.98

An application for Design Review is considered complete upon submittal of the information as required under GHMC Section 17.98.040. This is in addition to the application requirements of GHMC 19.02.002

17.98.040

- A. **Site Layout Plan.** A plan, drawn to scale no smaller than one inch equals 30 feet showing location and size of all structures, critical areas, required buffer areas, required yards, landscape areas, open spaces, common areas or plazas, walkways, retaining wall locations, storm water retention facilities, and parking and vehicle maneuvering areas. *Site plan for SDP will probably cover all this.*
- B. **Significant Vegetation Plan.** A significant vegetation plan which accurately identifies the species, size and location of all significant vegetation within the property subject to the application. *Can be on main site plan*
- C. **Tree Retention Plan.** A landscape plan showing the species size and location of all significant natural vegetation to be retained on the property. *Can be on main site plan*
- D. **Preliminary Site Section Drawings.** Section drawings which illustrate existing and proposed grades. *No sig. changes proposed.*
- E. **Preliminary Grading Plan.** A topographic map of the property, delineating contours, existing and proposed, at no greater than five-foot intervals. The plan shall indicate all cuts, fills and retaining wall heights and include areas of disturbance necessary to construct all retaining walls, structures and impervious surfaces.
*↑ only need enough to know where Gravel & topsoil to go of approx. depth.
Can be part of main site plan.*

- F. Preliminary Utilities Plan. A utilities plan showing the location and type of any utilities proposed in critical areas, critical area buffers and natural vegetation retention areas. *if any*
- G. Paving Materials. A description of proposed pedestrian and vehicular paving materials; include proposed type (asphalt, concrete, pavers, etc), color, scoring and texture. *none*
- H. Elevation Drawings. Complete elevation drawings of all buildings showing dimensions and proposed materials including roofing, siding, windows, and trim. *none*
- I. Sign Plan. A sign plan showing the general location, type and size of signage on buildings. *none*
- J. Equipment Screening. A description of how all mechanical and utility equipment will be screened. *none*
- K. Color and Material Palette. A schematic color and material palette of the building's exterior siding, trim, cornice, windows, and roofing. If Design Review Board review is requested, material and color samples shall be provided. *none*
- L. Fencing. The location and description of any proposed fencing. *if any.*
- M. Light Fixtures. A cutsheet showing typical parking and building lighting which includes pole height and mounting height. If proposed fixtures are near critical areas or natural vegetation retention areas, shielding shall be shown. *none*
- N. Accessories. The location of all outdoor furniture, trash receptacles, and accessories. *show general locations on site plan.*
- O. Design Review Board review. A request for review by the Design Review Board shall include a written statement addressing the criteria for approval as set forth in GHMC 17.98.055 or GHMC 17.98.080, as applicable.

This checklist is intended as a guide for applicants and is not a substitute for the applicable code sections



Subject: Tides Tavern Tideland Lease

Proposed Council Action:

Authorize the Mayor to sign the Lease Agreement with Phillip Stanley for a term of twenty years with the understanding that the rent may be adjusted not to exceed three percent per annum each five years and all of the terms of the lease may be negotiated by the parties every ten years.

Dept. Origin: Administration

Prepared by: Rob Karlinsey

For Agenda of: July 14, 2008

Exhibits: Lease Agreement

Initial & Date

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

CKH 7/10/08
PK 7/10/08

Expenditure	Amount	Appropriation	
Required \$0	Budgeted \$0	Required	\$0

INFORMATION / BACKGROUND

The approved language discussed at the Council Meeting of June 9th have been incorporated into this lease agreement.

FISCAL CONSIDERATION

N/A

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign the Lease Agreement with Phillip Stanley for a term of twenty (20) years with the understanding that the rent may be adjusted not to exceed three percent (3%) per annum each five (5) years and all of the terms of the Lease may be negotiated by the parties every ten (10) years.

**CITY OF GIG HARBOR
AND
PHILIP T. STANLEY
LEASE AGREEMENT**

SECTION I – PARTIES TO THE LEASE AGREEMENT

The parties to this lease agreement are the City of Gig Harbor, a municipal corporation of the State of Washington, (hereinafter referred to as “Lessor” or “City”), and PHILIP T. STANLEY, 602 North C Street, Tacoma, WA 98403, (hereinafter referred to as “Lessee”).

SECTION II – PURPOSE

2.1. Purpose. The purpose of this Agreement is to lease a portion of the City’s tidelands as depicted on a survey marked Exhibit A attached (hereinafter the “Property”), to allow private and public access activities, so that the public may arrive by boat and patronize the Tides Tavern and other merchants and amenities of Gig Harbor, upon the terms and conditions set forth herein.

2.2. Legal Description. The Property is legally described on the document identified as Exhibit A attached hereto and made a part of hereof by reference. In executing this Lease, the City is relying on the surveys, diagrams and legal descriptions provided by the Lessee.

2.3. Inspection. The City makes no representation regarding the condition of the Property, improvements located on the Property, the suitability of the Property for Lessee’s permitted use, compliance with governmental laws and regulations, availability of utility rights, access to the Property or the existence of hazardous substances on the Property. Lessee has inspected the Property and accepts it “as is.”

SECTION III – THE USE

3.1. Permitted Use. Lessee shall use the Property for private access, limited public access activities, private storage and for no other purpose.

3.2. Restrictions on Use. Lessee shall not cause or permit any damage to natural resources on the Property. Lessee shall also not cause or permit any filling activity to occur on the Property. This prohibition includes any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter in or on the Property, except as approved in writing by the City.

The prohibitions in this Section against damage to natural resources, filling, deposition of any unapproved materials, and waste, shall also apply to protect any City or state-owned aquatic lands adjacent to the Property from any of Lessee's activities related to Lessee's occupation of the Property. All obligations imposed by this Section on Lessee to cure any violation of the prohibited activities in this Section shall also extend to City or state-owned aquatic lands adjacent to the Property when the violation arose from the Lessee's activities related to Lessee's occupation of the Property.

Lessee shall use the Premises only for the purposes and activities identified herein. The use of the Property by the Lessee shall not be of a religious or partisan political nature. Such use shall be made in a responsible and prudent manner continuously during the terms of the Lease. Lessee shall not use or permit the Property, or any part thereof, to be used for any purposes other than those set forth herein. Lessee shall neither permit on the Property any act or storage that may be prohibited under standard forms or fire insurance policies, nor use the Property for any such purpose.

Lessee shall not permit any waste, damage or injury to the Property, use the Property for anything that will increase the rate of insurance, maintain anything on the Property that may be hazardous to life or limb, permit any objectionable odor, permit anything to be done on the Property or use the Property in any way tend to create a public or private nuisance, or use or permit the Property to be used for lodging or sleeping purposes.

3.3. Conformance with Laws. The Lessee shall, at all times, keep current and comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes and other government rules and regulations regarding its use or occupancy of the Property.

3.4. Terms of Lease and Options to Renew. This Lease shall be for a term of twenty (20) years with the understanding that the rent may be adjusted not to exceed three percent (3%) per annum each five (5) years and all of the terms of the Lease may be negotiated by the parties every ten (10) years. If either party gives ninety (90) days' notice of their desire to renegotiate the terms of the Lease prior to the end of the first renewal (ten (10) years from inception), any term of the Lease may be subject to negotiation.

3.5. Hold Over. If the Lessee remains in possession of the Property after the Termination Date, the occupancy shall not be an extension or renewal of the Term. The occupancy shall be a month-to-month tenancy, on terms identical to the terms of this Lease, which may be terminated by either party on thirty (30) days' notice. The monthly rent during the holdover shall be the same rent which would be due if the Lease were still in effect and all adjustments in rent were made in accordance with its terms. If the City provides notice to vacate the Property in anticipation of the termination of this Lease or at any time after the Termination Date and Lessee fails to do so within the time

set forth in the notice, then the Lessee shall be a trespasser and shall owe the City all amounts due under RCW 79.01.760 and all other applicable law.

3.6. Lease Payments/Considerations. Lessee shall pay Lessor the amount of Fourteen Dollars (\$14.00) by the 20th day of January of each year for the lease of the Premises, without demand or billing. Payment is to be made to the City of Gig Harbor, Finance Director, 3510 Grandview Street, Gig Harbor, WA 98335.

3.7. Improvements. On the Commencement Date, the following improvements are located on the Property: a thirty-five square foot portion of the floating dock extending from the tidelands of the Department of Natural Resources onto the tidelands of the City of Gig Harbor. These improvements are not owned by the City and are maintained by the Lessee. So long as this Lease remains in effect, the Lessee shall retain ownership of all existing improvements identified in this paragraph (the "Lessee-Owned Improvements"). No Lessee-Owned improvements shall be placed on the Property without the City's written consent.

3.8. Services in Addition to Lessee Payment. The Lessee shall maintain all privately owned improvements on the Property in safe and clutter-free manner.

3.9. Signs. All signs or symbols currently placed by Lessee upon the Property are acceptable but any new signs or symbols placed by Lessee on part of the structures or Property shall be subject to Lessor's prior written approval. Lessor may demand the removal of signs which are not so approved, and Lessee's failure to comply with said request within forty-eight (48) hours after such demand will constitute a breach of this paragraph and will entitle Lessor to terminate this Lease or, in lieu thereof, to cause the sign to be removed and the building repaired at the sole expense of the Lessee. At the termination of this Lease, Lessee shall remove all signs placed by it upon the Property, and shall repair any damages caused by such removal. All signs must comply with applicable sign ordinances and be placed in accordance with required permits.

3.10. Alterations. Prior to any construction, alteration, replacement, removal or major repair of any improvements, the Lessee shall submit to the City plans and specifications which describe the proposed activity. Construction shall not commence until City has approved those plans and specifications in writing. The plans and specifications shall be deemed approved and the requirement for the City's written consent shall be treated as waived, unless the City notifies the Lessee otherwise within sixty (60) days. Upon completion of construction, the Lessee shall promptly provide the City with as-built plans and specifications. Lessee agrees to comply with all laws, ordinances, rules and regulations of any proper public authority in the construction of any improvements or repair, and to save the Lessor harmless from damage, loss or expense. After notice of termination of this Lease, and upon Lessor's request or Lessor's approval, the Lessee shall remove such improvements and restore the Property to its original condition not later than the termination date, at Lessee's sole cost and expense. Any improvements not so removed may be removed by the Lessor at Lessee's expense. If the Lessee-Owned improvements remain on the Property after the termination date without the

City's consent, they will become the property of the City, but the City may remove them and the Lessee shall pay the cost of removal and disposal upon the City's demand.

3.11. Inspection by Lessor. The Lessor may enter upon the Premises at any reasonable time during normal business hours or after hours with reasonable notice for the purpose of inspecting the same for compliance with the terms of this Lease.

3.12. Contractor's Bonds and Liens –

A. Lessee shall not suffer or permit any lien to be filed against the Premises or any part thereof or the Lessee's leasehold interest, by reason of work labor, services or materials performed or supplied to Lessee or anyone holding the Premises or any part thereof under the Lessee. If any such lien is filed against the Premises, Lessee shall hold the Lessor harmless from any loss by reason of the lien and shall cause the same to be discharged of record within thirty (30) days after the date of filing of same.

B. At the Lessor's option, Lessee shall require each contractor used by Lessee to perform any demolition or construction work in connection with any improvement, alteration, or addition to be made to the Premises, to secure and maintain, at no cost to the City, a contract or performance bond, payable to Lessee and the City, in the full amount of the contract, conditioned that all the provisions of the contract shall be faithfully performed by he contractor, or the surety if so required, and indemnifying the Lessee and the City against any direct or indirect damages that shall be suffered or claimed for injuries to persons or property during the carrying out of the work of the contract, and conditioned as required by law for the payment of all laborers, mechanics, subcontractors, and materialmen, and all persons who shall supply such persons or subcontractors with provisions and supplies for the carrying on of such work.

3.13. Indemnification and Waiver. Lessee agrees to defend, indemnify, and hold harmless the Lessor, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including costs and attorney's fees, arising out of or in connection with the performance of this Lease or Lessee's enjoyment of the Property, except for injuries or damages caused solely by the negligence of the Lessor, its officers, officials, employees and volunteers. In the event of liability for injuries or damages which are the result of the concurrent negligence of the Lessee and Lessor, each party shall be responsible only to the extent of their own negligence. Lessee agrees to defend, indemnify and hold harmless the Lessor, its officials, officers, employees and volunteers from any and all claims, injuries, damages, losses or suits, including costs and attorneys' fees, which are caused by or arise out of any condition of the Premises arising after execution of this Lease. Lessee further agrees that in the event that any conditions affect its quiet enjoyment of the Property to such a degree that the Lessee no longer wishes to occupy the Property, then the Lessor shall not be required to reimburse the Lessee for any amounts relating to the Lease term.

In addition to the above, Lessee shall provide a waiver of right of subrogation releasing and relieving the Lessor from responsibility and waiving the entire claim or right of recovery for any loss or damages to the Property, any of Lessee's improvements placed on the Property, any personal property located anywhere on the Property, or any other loss sustained by the Lessee, including earlier termination of this Lease by destruction of the Property through natural causes or reasons not the fault of Lessor, and whether any such loss is insured or not and irrespective of the cause of such loss.

Lessee's liability to the City for hazardous substances, and its obligation to defend and hold the City harmless for hazardous substances, shall be governed exclusively by Section 4.2. The provisions of this Indemnification Section shall survive the termination or expiration of this Lease Agreement.

3.14. Insurance.

At its own expense, the Lessee shall procure and maintain during the Term of this Lease, the insurance coverages and limits described in this Section. This insurance shall be issued by an insurance company or companies admitted and licensed by the Insurance Commissioner to do business in the State of Washington. Insurers must have a rating of B+ or better by "Best's Insurance Reports," or a comparable rating by another rating company acceptable to the City. If non-admitted or non-rated carriers are used, the policies must comply with chapter 48.15 RCW.

A. Types of Required Insurance.

1. Commercial General Liability Insurance. The Lessee shall procure and maintain Commercial General Liability Insurance and if applicable, Marina Operator's Legal Liability Insurance covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of the Lessee's operations. If necessary, commercial umbrella insurance covering claims for these risks shall be procured and maintained. Insurance must include liability coverage with limits not less than those specified below:

Description	
Each Occurrence	\$1,000,000
General Aggregate Limit	\$2,000,000

The City may impose changes in the limits of liability:

- (i) As a condition of approval of assignment or sublease of this Lease;
- (ii) Upon a material change in the condition of the Property or any improvements;
- (iii) Upon any breach of the Sections in this Lease relating to Hazardous Substances;
- (iv) Upon a change in the Permitted Use.

New or modified insurance coverage shall be in place within thirty (30) days after changes in the limits of liability are required by the City.

2. **Property Insurance.** The Lessee shall procure and maintain property insurance covering all real property located on or constituting a part of the Property in an amount equal to the replacement value of all improvements on the Property. Such insurance may have commercially reasonable deductibles.

3. **Builder's Risk Insurance.** As applicable, the Lessee shall procure and maintain builder's risk insurance in an amount reasonably satisfactory to the City during construction, replacement, or material alteration of the Property or improvements on the Property. Coverage shall be in place until such work is completed and evidence of completion is provided to the City.

B. **Terms of Insurance.** The policies required under Subsection A shall name the City of Gig Harbor as an additional insured. Furthermore, all policies of insurance described in this Section shall meet the following requirements:

1. Policies shall be written as primary policies not contributing with and not in excess of coverage that the City may carry;

2. Policies shall expressly provide that such insurance may not be canceled or nonrenewed with respect to the City except upon forty-five (45) days prior written notice from the insurance company to the City;

3. To the extent of the City's insurable interest, property coverage shall expressly provide that all proceeds shall be paid jointly to the City and the Lessee;

4. All liability policies must provide coverage on an occurrence basis; and

5. Liability policies shall not include exclusions for cross liability.

C. **Proof of Insurance.** The Lessee shall furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to the City accompanied by a checklist of coverages provided by the City, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements described in this Section, and, if requested, copies of policies to the City. The Certificate of Insurance shall reference the City of Gig Harbor and this lease. Receipt of such certificates or policies by the City does not constitute approval by the City of the terms of such policies. The Lessee acknowledges that the coverage requirements set forth herein are the minimum limits of insurance the Lessee must purchase to enter into this Lease Agreement. These limits may not be sufficient to cover all liability losses and related claim

settlement expenses. Purchase of these limits of coverage does not relieve the Lessee from liability for losses and settlement expenses greater than these amounts.

3.15. Condemnation. If during the Term of this Lease there shall be a condemnation or a taking of all or a portion of the Property and/or any improvements thereon under the power of eminent domain (either by judgment or settlement in lieu of judgment), the leasehold estate of the Lessee in the Property shall terminate as of the date of the taking. If this Lease is terminated, in whole or in part, all rentals and other charges payable by the Lessee to the City and attributable to the Property taken shall be paid by the Lessee up to the date of the taking. If Lessee has pre-paid rent, then Lessee shall be entitled to a refund of the pro rata share of the pre-paid rent attributable to the period after the date of taking.

3.16. Assumption of Risk. The placement and storage of personal property or other improvements on the Premises by Lessee shall be the responsibility, and at the sole risk of the Lessee.

3.17. Leasehold Taxes. Lessee shall pay promptly, and before they become delinquent, all taxes on this Lease, merchandise, personal property or improvements on the Premises, whether existing on the Property at the time of execution of this Lease or at any time during the term of this Lease. This includes leasehold excise taxes, assessments, governmental charges, of any kind whatsoever, applicable or attributable to the Property, Lessee's leasehold interest, the improvements or Lessee's use and enjoyment of the Property. Lessee may contest any tax or assessment at its sole cost and expense. At the request of the City, Lessee shall furnish reasonable protection in the form of a bond or other security, satisfactory to the City, against any loss or liability by reason of such contest.

3.18. Default and Remedies.

A. The Lessee shall be in default of this Lease upon the occurrence of any of the following:

1. Failure to pay annual rent or expenses when due;
2. Failure to comply with any law, regulation, policy or order of any lawful governmental authority;
3. Failure to comply with any other provision of this Lease;
4. Two or more defaults over a period of time, or a single serious default, that demonstrates a reasonable likelihood of future defaults in the absence of corrective action by the Lessee; or

5. Proceedings are commenced by or against the Lessee under any bankruptcy act or for the appointment of a trustee or receiver of the Lessee's property.

B. A default shall become an Event of Default if the Lessee fails to cure the default within thirty (30) days after the City provides the Lessee with written notice of default, which specifies the nature of the default.

C. Upon an Event of Default, the City may terminate this Lease and remove the Lessee by summary proceedings or otherwise. The City may also, without terminating this Lease, relet the Property on any terms and conditions as the City in its sole discretion may decide are appropriate. If the City elects to relet, rent received by it shall be applied: (i) to the payment of any indebtedness other than rent due from the Lessee to the City; (ii) to the payment of any cost of such reletting; (3) to the payment of the cost of any alterations and repairs to the Property; and (4) to the payment of rent and leasehold excise tax due and unpaid under this Lease. Any balance shall be held by the City and applied to the Lessee's future rent as it becomes due. The Lessee shall be responsible for any deficiency created by the reletting during any month and shall pay the deficiency monthly. The City's reentry or repossession of the Property under this subsection shall not be construed as an election to terminate this Lease or cause a forfeiture of rents or other charges to be paid during the balance of the Term, unless the City gives a written notice of termination to the Lessee or termination is decreed by legal proceedings. The City may, at any time after reletting, elect to terminate this Lease for the previous Event of Default.

3.19. Disclaimer of Quiet Enjoyment. This Lease is subject to all valid recorded interests of third parties, as well as the rights of the public under the Public Trust Doctrine or federal navigation servitude, and treaty rights of Indian Tribes. The City believes that its grant of this Lease is consistent with the Public Trust Doctrine and that none of the identified interests of third parties will materially and adversely affect the Lessee's right of possession and use of the Property as set forth herein, but makes no guaranty or warranty to that effect. The Lessee and City expressly agree that the Lessee shall be responsible for determining the extent of its right to possession and for defending its leasehold interest. Consequently, the City expressly disclaims and the Lessee expressly releases the City from any claim for breach of any implied covenant of quiet enjoyment with respect to the possession of the Property. This disclaimer includes, but is not limited to, interference arising from or in connection with access or other use rights of adjacent property owners or the public over the water surface or in or under the water column, including rights under the Public Trust Doctrine; rights held by Indian Tribes; and the general power and authority of the City and the United States with respect to aquatic lands, navigable waters, bedlands, tidelands and shorelands. In the event that the Lessee is evicted from the Property by reason of successful assertion of any of these rights, this Lease shall terminate as of the date of the eviction. In the event of a partial eviction, the Lessee's rent obligations shall abate as of the date of the

partial eviction, in direct proportion to the extent of the eviction, but in all other respects, this Lease shall remain in full force and effect.

3.20. Termination. In the event Lessee defaults in the performance of any of the terms, provisions, covenants and conditions to be kept, observed or performed by Lessee, and such default is not corrected within thirty (30) days after receipt of notice thereof from Lessor, or such shorter period as may be reasonable under the circumstances; or if Lessee shall abandon, desert, vacate or otherwise leave the Premises; then, in such event, Lessor, at its option, may terminate this Lease together with all of the estate, right, title or interest thereby granted to or vested in Lessee, by giving notice of such election at least twenty (20) days prior to the effective date thereof, and as of such effective date, this Lease and all of the estate, right, title and interest thereby granted to or vested in the Lessee shall then cease and terminate, and Lessor may re-enter the Premises using such force as may be required.

Lessor shall not be in breach of any obligation to perform under this Lease unless Lessor fails to perform an obligation within a reasonable time, which time shall not extend more than thirty (30) days after notice by the Lessee to Lessor specifying the particular obligation that Lessor has failed to perform; PROVIDED, HOWEVER, that if the Lessor is informed by the Lessee in advance that the nature of the remedial action requires more than thirty (30) days for performance, the Lessor agrees to the additional time and the Lessee performs within the additional time specifically granted by the City, then the Lessee shall not be in default.

If this Lease shall be terminated as herein provided, the Lessor may immediately or at any time thereafter reenter the Premises and remove any and all persons and property there from, by any suitable proceeding at law or otherwise, without liability therefore, and reenter the Premises, without such reentry diminishing Lessee's obligation to pay rental for the full term hereof, and Lessee agrees to pay Lessor any deficiency arising from reentry and reletting of the Premises at a lesser rental than provided herein. Lessor shall apply the proceedings of any reletting first to the payment of such reasonable expenses as Lessor may have incurred in recovering possession of the Premises, and removing persons and property there from, and in putting the same in good order or condition or preparing or altering the same for reletting, and all other expense incurred by Lessor for reletting the Premises; and then to Lessee's obligation to pay rental.

3.21. Notices. All notices required or desired to be given under this lease shall be personally served or given by mail. If mailed, they may be sent by certified mail to the following respective address:

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

To the Lessee: Philip T. Stanley
602 North C Street
Tacoma, Washington 98403

3.22. Assignment and/or Subletting. Lessee shall not, under any circumstances whatsoever, assign or sublet this Lease or any part of the Premises, unless the Lessee has obtained the Lessor's prior written agreement to such assignment or subletting. The Lessor's agreement to such assignment or subletting shall be at the Lessor's sole discretion. In determining whether to consent, the City may consider, among other items, the proposed transferee's financial condition, business reputation and experience, the nature of the proposed transferee's business, the then-current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a tenant of the Property. Each permitted transferee shall assume all obligations under this Lease, including the payment of rent. No assignment, sublet, or transfer shall release, discharge or otherwise affect the liability of the Lessee. If Lessee is a corporation, dissolution of the corporation or a transfer (by one or more transactions) of a majority of the voting stock of Lessee shall be deemed to be an assignment of this Lease. If the Lessee is a partnership, a dissolution of the partnership or a transfer (by one or more transactions) of the controlling interest in the Lessee shall be deemed an assignment of this Lease. The acceptance by the City of the payment of rent following assignment or transfer shall not constitute any assignment or transfer.

3.23. Terms of Subleases. All subleases shall be submitted to the City for approval and shall meet the following requirements:

- A. The sublease shall be consistent with and be subject to all the terms and conditions of this Lease;
- B. The sublease shall confirm that if the terms of the sublease conflict with the terms of this Lease, this Lease shall control;
- C. The term of the sublease (including any period of time covered by a renewal option) shall end before the Termination Date of the initial Term or any renewal term;
- D. The sublease shall terminate if this Lease terminates, whether upon expiration of the Term, failure to exercise an option to renew, cancellation by the City, surrender or for any other reason;
- E. The subtenant shall receive and acknowledge receipt of a copy of this Lease;
- F. The sublease shall prohibit prepayment to the Lessee by the subtenant of more than one month's rent;

G. The sublease shall identify the rental amount to be paid to the Lessee by the subtenant;

H. The sublease shall confirm that there is no privity of contract between the subtenant and the City;

I. The sublease shall require removal of the subtenant's improvements and trade fixtures upon termination of the sublease; and

J. The subtenant's permitted use shall be within the Permitted Use authorized by this Lease.

3.24. Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the parties, their heirs and assigns.

3.25. Employees and/or Agents. The employees or agents of the Lessee shall not be considered employees or agents of the Lessor.

3.26. Entire Agreement. This document contains the entire and integrated agreement of the parties and may not be modified except in writing signed and acknowledged by both parties.

3.27. Dispute Resolution, Legal Fees and Costs. Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Lease which cannot be resolved between the parties within a reasonable period of time, 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 party's expenses and reasonable attorney's fees.

In addition, the Lessee agrees to pay all of the Lessor's attorneys' fees and costs necessitated by the Lessee's failure to comply with any of the provisions of this Agreement, including but not limited to notices, legal fees and costs arising from third party actions against the Lessor arising from acts or omissions of the Lessee related to this Agreement. The rights and remedies of the City under this Lease are cumulative and in addition to all other rights and remedies afforded to the City by law or equity or otherwise.

3.28. Time is of the Essence. Time is of the essence as to each and every provision of this Lease.

3.29. Discrimination Prohibited. The Lessee agrees not to discriminate based upon race, color, religion, creed, national origin, sex, age, handicap, membership in a class (such as unmarried mothers or recipients of public assistance), in all activities relating to the Lessee's use of the Premises.

3.30. No Relationship. In no event shall the Lessor be construed or held to have become in any way or for any purpose a partner, associate, or joint venturer of Lessee or any party associated with Lessee in the conduct of Lessee's business or otherwise. This Lease does not make Lessee the agent or representative of the City for any purpose whatsoever.

3.31. Non-Waiver of Breach. The failure of either party to insist on 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.

3.32. Severability. If any section or provision of this Lease shall be held by a court of competent jurisdiction to be unenforceable, this Lease shall be construed as though such section or provision had not been included in it, and the remainder of the Lease shall be enforced as the expression of the parties' intentions. If any section or provision of this Lease is found to be subject to two constructions, one of which would render such section or provision invalid and one of which would render such section or provision valid, then the latter construction shall prevail.

3.33. Recordation. The City shall record this Lease at the Lessee's cost, with the Pierce County Auditor.

3.34. Modification. Any modification of this Lease must be in writing and signed by the parties. The City shall not be bound by any oral representations or statements.

SECTION IV - ENVIRONMENTAL LIABILITY/RISK ALLOCATION

4.1. Environmental Liability/Risk Allocation.

A. Definition. "Hazardous Substance" means any substance which now or in the future becomes regulated or defined under any federal, state or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination or cleanup, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.* and Washington's Model Toxic Control Act ("MTCA"), RCW 70.105D.010 *et seq.*

B. Use of Hazardous Substances. Lessee covenants and agrees that Hazardous Substances will not be used, stored, generated, processed, transported, handled, released or disposed of in, on, under or above the Property, except in accordance with applicable laws.

C. Current Conditions, Duty of Utmost Care and Duty to Investigate. The City makes no representation about the condition of the Property. Hazardous

Substances may exist in, on, under or above the Property. With regard to any Hazardous Substances that may exist in, on, under or above the Property, the City disclaims any and all responsibility to perform investigations, or to review any City records, documents or files, or to obtain or supply any information to the Lessee.

The Lessee shall use the utmost care with respect to both Hazardous Substances in, on under or above the Property, and any Hazardous Substances that come to be located in, on, under or above the Property during the term of this Agreement, along with the foreseeable acts or omissions of third parties affecting those Hazardous Substances, and the foreseeable consequences of those acts or omissions. The obligation to exercise utmost care under this subsection includes, but is not limited to:

1. Lessee shall not undertake any activities that will cause, contribute to or exacerbate contamination on the Property;

2. Lessee shall not undertake any activities that damage or interfere with the operation of remedial or restoration activities on the Property or undertake activities that result in human or environmental exposure to contaminated sediments on the Property;

3. Lessee shall not undertake any activities that result in the mechanical or chemical disturbance of on-site habitat mitigation;

4. If requested, the Lessee shall allow reasonable access to the Property by employees and authorized agents of the Environmental Protection Agency, the Washington State Department of Ecology, or other similar environmental agencies; and

5. If requested, the Lessee shall allow reasonable access to potentially liable or responsible parties who are the subject of an order or consent decree which requires access to the Property. The Lessee's obligation to provide access to potentially liable or responsible parties may be conditioned upon the negotiation of an access agreement with such parties, provided that such agreement shall not be unreasonably withheld.

It shall be the Lessee's obligation to gather sufficient information concerning the Property and the existence, scope and location of Hazardous Substances on the Property, or adjoining Property, that allows the Lessee to effectively meet its obligations under this lease.

D. Notification and Reporting. The Lessee shall immediately notify the City if the Lessee becomes aware of any of the following:

1. A release or threatened release of Hazardous Substances in, on, under or above the Property, any adjoining property, or any other property subject to use by the Lessee in conjunction with its use of the Property;
2. Any problem or liability related to, or derived from, the presence of any Hazardous Substance in, on, under or above the Property, any adjoining property subject to use by the Lessee in conjunction with its use of the Property;
3. Any actual or alleged violation of any federal, state or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances with respect to the Property, any adjoining property or any other property subject to use by the Lessee in conjunction with its use of the Property;
4. Any lien or action with respect to any of the foregoing; or
5. Any notification from the U.S. Environmental Protection Agency (EPA) or the Washington State Department of Ecology (DOE) that remediation or removal of Hazardous Substances is or may be required at the Property.

Upon request, the Lessee shall provide the City with copies of any and all reports, studies, or audits which pertain to environmental issues or concerns associated with the Property, and which were prepared for the Lessee and submitted to any federal, state or local authorities pursuant to any federal, state or local permit, license or law. These permits include, but are not limited to, any National Pollution Discharge and Elimination System Permit, any Army Corps of Engineers permit, any State Hydraulics permit, any State Water Quality certification, or any Substantial Development Permit.

4.2. Indemnification – Hazardous Substances.

A. The Lessee shall fully indemnify, defend and hold the City harmless from and against any and all claims, demands, damages, natural resource damages, response costs, remedial costs, clean-up costs, losses, liens, liabilities, penalties, fines, lawsuits, other proceedings, costs and expenses (including attorney's fees and disbursements), that arise out of or are in any way related to:

1. The use, storage, generation, processing, transportation, handling or disposal of any Hazardous Substance by the Lessee, its subtenants, contractors, agents, employees, guests, invitees or affiliates in, on, under or above the Property, any adjoining property, or any other property subject to use by the Lessee in conjunction with its use of the Property, during the Term of this Lease or during any time when the Lessee occupies or occupied the Property or any such other property;

2. The release or threatened release of any Hazardous Substance, or the exacerbation of any Hazardous Substance contamination, in, on, under or above the Property, any adjoining property, or any other property subject to use

by the Lessee in conjunction with its use of the Property, which release, threatened release, or exacerbation occurs or occurred during the Term of this Lease or during any time when the Lessee occupies or occupied the Property or any such other property, and as a result of:

(i) Any act or omission of the Lessee, its subtenants, contractors, agents, employees, guests, invitees or affiliates; or,

(ii) Any foreseeable act or omission of a third party unless the Lessee exercised the utmost care with respect to the foreseeable acts or omissions of the third party and the foreseeable consequences of those acts or omissions.

3. In addition to the indemnifications provided in this Section, the Lessee shall fully indemnify the City for any and all damages, liabilities, costs or expenses (including attorney's fees and disbursements) that arise out of or are in any way related to the Lessee's breach of the obligations of this Section. This obligation is not intended to duplicate the indemnity provided within this Section, and applies only to damages, liabilities, costs or expenses that are associated with a breach of this Section and which are not characterized as a release, threatened release, or exacerbation of Hazardous Substances. This Indemnification Section shall survive termination or expiration of this Lease Agreement.

4.3 Cleanup. If a release of Hazardous Substances occurs in, on, under or above the Property, or any other City-owned property, arising out of any action, inaction, or event described or referred to in Section 3.14 above, the Lessee shall, at its sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances. Cleanup actions shall include, without limitation, removal, containment and remedial actions and shall be performed in accordance with all applicable laws, rules, ordinances, and permits. The Lessee's obligation to undertake a cleanup under this Section 3.15 shall be limited to those instances where the Hazardous Substances exist in amounts that exceed the threshold limits of any applicable regulatory cleanup standards. The Lessee shall also be solely responsible for all cleanup, administrative and enforcement costs of governmental agencies, including natural resource damage claims, arising out of any action, inaction, or event described or referred to in Subsection 3.14 above. The Lessee may undertake a cleanup pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that: (1) any cleanup plans shall be submitted to the City for review and comment at least thirty (30) days prior to implementation (except in emergency situations), and the Lessee must not be in breach of this lease. Nothing in the operation of this provision shall be construed as an agreement by the City that the voluntary cleanup complies with any laws or with the provisions of this Lease.

4.4. Sampling by City, Reimbursement and Split Samples.

A. The City may conduct sampling, tests, audits, surveys or investigations ("Tests") of the Property at any time to determine the existence, scope or effects of Hazardous Substances on the Property, any adjoining property, any other property subject to use by Lessee in conjunction with its use of the Property, or any natural resources. If such tests, along with any other information, demonstrates the existence, release, or threatened release of Hazardous Substances arising out of any action, inaction, or event described to referred to in Section 3.14 or 3.15 above, the Lessee shall promptly reimburse the City for all costs associated with such tests.

B. The City's ability to seek reimbursement for any tests under this Section shall be conditioned on the City providing the Lessee with written notice of its intent to conduct any tests at least thirty (30) calendar days prior to undertaking such tests, unless such tests are performed in response to an emergency situation in which case the City shall only be required to give such notice as is reasonably practical.

C. The Lessee shall be entitled to obtain split samples of any test samples obtained by the City, but only if the Lessee provides the City with written notice requesting such samples within twenty (20) calendar days of the date the Lessee is deemed to have received notice of the City's intent to conduct any non-emergency tests. The additional cost, if any, of split samples shall be borne solely by the Lessee. Any additional costs incurred by the City by virtue of the Lessee's split sampling shall be reimbursed to the City within thirty (30) calendar days after a bill with documentation for such costs is sent to the Lessee.

D. Within thirty (30) calendar days of a written request (unless otherwise required pursuant to Subsection 4.4(B) above, either party to this Lease shall provide the other party with validated final data, quality assurance/ quality control information, chain of custody information, associated with any tests of the Property performed by or on behalf of the City or the Lessee. There is no obligation to provide any analytical summaries of expert opinion work product.

4.5. Reservation of Rights. The parties have agreed to allocate certain environmental risks, liabilities, and responsibilities by the terms of Sections 3.13, 3.14, 3.15 and 3.16. With respect to those environmental liabilities covered by the indemnification provisions of Section 3.14, the parties expressly reserve and do not waive or relinquish any rights, claims, immunities, causes of action, or defenses relating to the presence, release, or threatened release of Hazardous Substances in, on, under, or above the Property, any adjoining property, or any other property subject to use by the Lessee in conjunction with its use of the Property, that either party may have against the other under federal, state or local laws, including but not limited to, CERCLA, MTCA, and the common law. No right, claim, immunity or defense either party may have against third parties is affected by this Lease and the parties expressly reserve all

such rights, claims, immunities and defenses. The allocations of risks, liabilities and responsibilities set forth above do not release either party fro, or affect either party's liability for, claims or actions by federal, state, or local regulatory agencies concerning Hazardous Substances.

IN WITNESS WHEREOF, the parties hereto have executed this document as of the day and year below written.

DATED this _____ day of _____, 2008

LESSOR:

LESSEE:

CITY OF GIG HARBOR

By _____
CHARLES L. HUNTER, Mayor

PHILIP T. STANLEY

ATTEST:

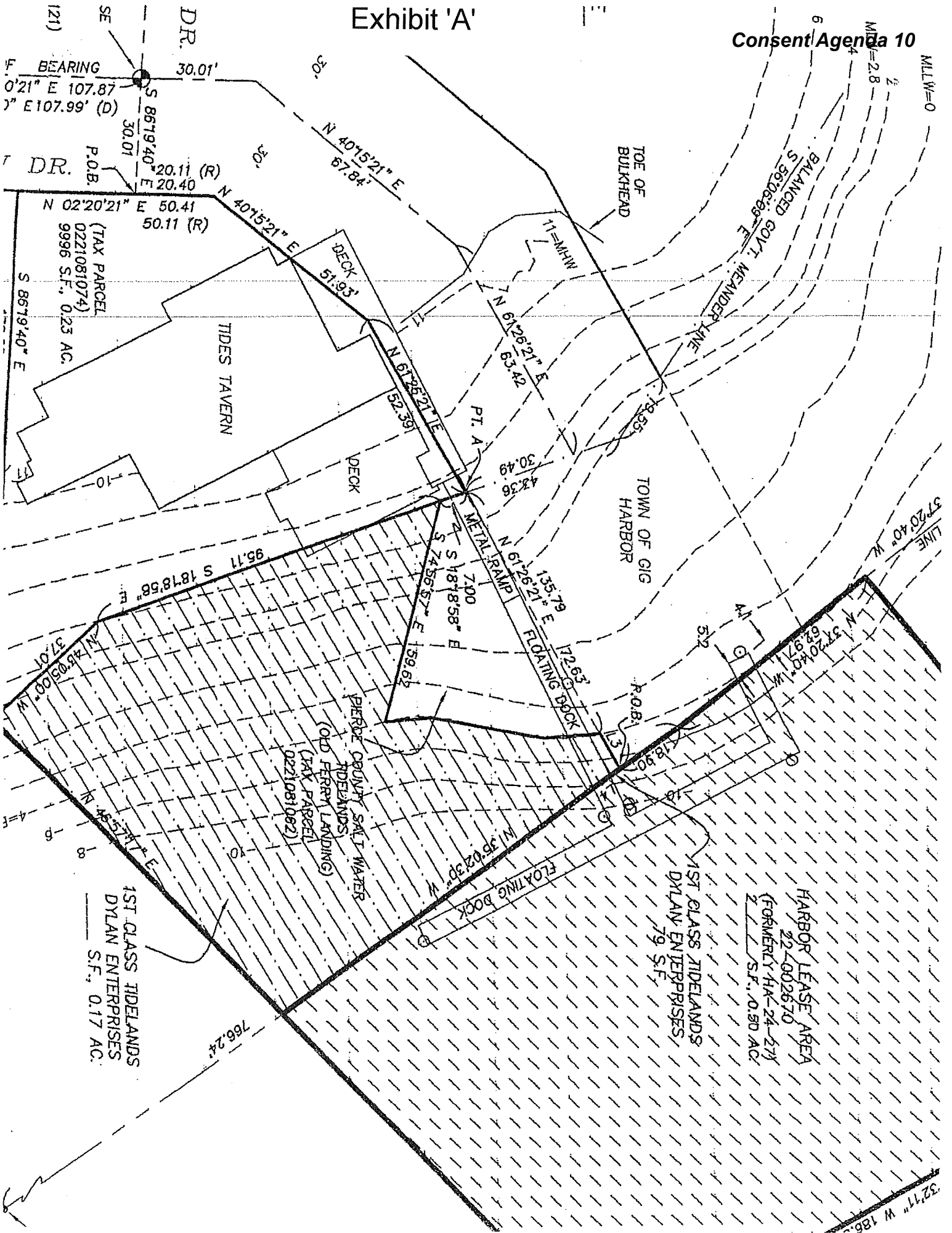
MOLLY M. TOWSLEE, City Clerk

APPROVED AS TO FORM:

CAROL A. MORRIS, City Attorney

Exhibit 'A'

Consent Agenda 10





Subject: Robinson, Noble & Saltbush Consultants Contract - Phase II Limited Subsurface Investigation on First Western - Pinney Parcel B property.

Proposed Council Action: Authorize the Mayor on behalf of Council to approve the Consultants Agreement for a Phase II Environmental Site Assessment of the First Western - Pinney Parcel B property.

Dept. Origin: Administration
Prepared by: Lita Dawn Stanton Special Projects
For Agenda of: July 14, 2008
Exhibits: Consultants Contract

Concurred by Mayor: [Signature] 7/10/08
Approved by City Administrator: [Signature] 7/10/08
Approved as to form by City Atty: [Signature] 7/9/08
Approved by Finance Director: [Signature] 7/9/08
Approved by Department Head: _____

Table with 5 columns: Expenditure, Amount, Budgeted, Appropriation, Required. Values include \$8,287.00, \$11 million, and -0-.

INFORMATION / BACKGROUND

As part of the review process prior to acquiring property that make up Parcel B, the City initiated a Phase II Limited Subsurface Environmental Site Assessment. Consultants for that work (Robinson, Noble & Saltbush) will review the parcels (see attached map). This acquisition will satisfy wetland mitigation requirements for the interim Borgen/Burnham/Canterwood/SR16 Interchange upgrades.

FISCAL CONSIDERATION

While not listed in the 2008 Budget, this will be charged to the Street Capital Fund and will become a part of the interim Interchange Project costs.

BOARD OR COMMITTEE RECOMMENDATION

none

RECOMMENDATION / MOTION

Move to: Authorize the Mayor on behalf of Council to approve the contract with Robinson, Noble & Saltbush for a Phase II Limited Subsurface Environmental Site Assessment on the parcels that make up First Western - Pinney Parcel B property not to exceed \$8,287.00

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
ROBINSON, NOBLE & SALTBUSH, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Robinson, Noble & Saltbush, Inc., a corporation organized under the laws of the State of Washington located and doing business at Tacoma, Washington (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in environmental services and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated July 2, 2008, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work**, and are incorporated by this reference as if fully set forth herein.

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

TERMS

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed four thousand five hundred dollars (\$8,287) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

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

III. Relationship of Parties

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

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by July 31, 2008; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

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

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

VI. Discrimination

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

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and reasonable attorneys' fees to the extent arising out of or in connection with the Consultant's performance of services under this Agreement. 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.

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 or Director of Operations and the City shall determine the term or provision's true intent or meaning. The City Engineer or Director of Operations shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

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

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary.

Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:
Robinson, Noble & Saltbush, Inc.
ATTN: John Hildenbrand
3011 S. Huson Street, Suite A
Tacoma, WA 98409
(253) 475-7711

City of Gig Harbor
ATTN: Lita Dawn Stanton
Special Projects
3510 Grandview Street
Gig Harbor, WA 98335
(253) 853-7609

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

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

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

CONSULTANT

CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

Notices to be sent to:
Robinson, Noble & Saltbush, Inc.
ATTN: John Hildenbrand
3011 S. Huson St., Suite A
Tacoma, WA 98409
(253) 475-7711

City of Gig Harbor
ATTN: Lita Dawn Stanton
Special Projects
3510 Grandview Street
Gig Harbor, WA 98335
(253) 853-7609

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

Dated: _____

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

My Commission expires: _____

July 2, 2008

EXHIBIT A

Ms. Lita Dawn Stanton
 City of Gig Harbor
 3510 Grandview Street
 Gig Harbor, WA 98335

Re: Pinney Property/Borgen Boulevard Property Phase II Limited Subsurface Investigation

Dear Ms. Stanton:

Robinson, Noble & Saltbush is pleased to present this proposal and cost estimate for completing a limited subsurface assessment to evaluate the presence or absence of impact to the noted property from the release of petroleum products from Conan Fuel in 1999.

In order to accomplish the objectives stated above, Robinson, Noble & Saltbush proposes to complete a series of up to three direct-push borings completed to a depth of approximately 15 feet below the ground surface, until groundwater is encountered, or refusal of drilling equipment, whichever comes first.

Groundwater and soil samples will be collected at the interface of groundwater from each boring and subjected to field screening. Selected samples will be collected for laboratory analysis. Laboratory analysis will be completed for gasoline-range organics and additives. Additional analysis for volatile organic compounds, lead, arsenic, cadmium, chromium, and mercury may be completed if warranted by the petroleum hydrocarbon results. Several additional soils samples will be collected at ground surface around the property, and analyzed for the same constituents.

Based on our understanding of the project and the conditions outlined in this scope, we estimate the cost of our services, as described above, to be \$8,287.00 as detailed below.

Robinson, Noble & Saltbush Consulting Services	\$3,457
Libby Environmental LLC-Lab Contractor (inc. RN&S 15%)	\$2,616
NW Probe –Drilling Contractor (inc. RN&S 15%)	\$1,955
Applied Professional Services, Inc. –Utility Locate Contractor	\$ 259
TOTAL	\$8,287.00

Robinson, Noble & Saltbush works on a time-and-expense basis according to the attached General Fee Schedule. The estimate will remain valid for 180 days from the date of this scope.

July 2, 2008

Page 2

As a cost-savings measure for our clients, each Robinson, Noble & Saltbush employee charges their time on a project according to the level of expertise required for a given task (i.e. employees may have more than one billing rate). This allows us to make use of our more experienced staff without unduly impacting project costs, but also means that our clients only pay for the level of expertise applied.

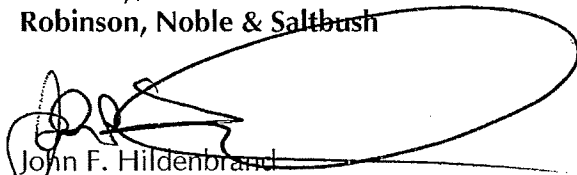
This project estimate does not include costs for any extra insurance, business licenses or fees, or applicable local taxes that might be necessary to complete the project. We will request that these additional costs be added to the above total estimate when they become known to us. Rental costs for our standard field equipment and any specialized equipment as detailed in this scope are included in the above estimate. Should additional equipment be deemed necessary or warranted in order to properly complete the project, we will submit a change in scope request with estimated costs based on the equipment rental schedule included in the General Fee Schedule.

The costs for project activities will be tracked closely and any foreseeable changes to the project cost will be discussed with you at the earliest opportunity. Authorization by Charles Hunter to begin work was given on June 27, 2008. Robinson, Noble & Saltbush will return the contract for services when received.

We hope this scope of work and cost estimate is adequate for your needs. Please contact us if we can provide additional information or modify the scope of work to better assist you. If at any time prior to or during this project you identifies a concern or problem with our work or progress that cannot be resolved by the assigned Robinson, Noble & Saltbush project manager, please contact Joseph Becker, our company President, and he will make every effort to resolve the issue to your satisfaction.

Sincerely,

Robinson, Noble & Saltbush

A handwritten signature in black ink, appearing to read "John F. Hildenbrand", is written over a large, hand-drawn oval scribble.

John F. Hildenbrand
Associate Environmental Scientist
Environmental Services Manager

attachments

Project Estimate

City of Gig Harbor
Borgen Blvd Phase 2
July 1, 2008

EXHIBIT B

Estimated Labor Costs

Task	Total Estimated Hours	Estimated Labor Cost
TASK 1: Planning and Mob	4.5	\$387.00
TASK 2: field activities	13.5	\$1,242.00
TASK 3: Report	14.0	\$1,279.00
TASK 4: Post report Consulting	2.5	\$340.00
TASK 5:	0.0	
TASK 6:	0.0	
TASK 7:	0.0	
TASK 8:	0.0	
Labor Totals	34.5	\$3,248.00

Estimated Direct Costs

General Office Supplies	--		\$50.00
Insurance Fees / Miscellaneous Costs	--		\$0.00
Travel Mileage	\$0.58	50	\$29.00
PID (per day)	\$75.00	1	\$75.00
PPE (per person per day)	\$50.00	1	\$50.00
Direct Cost Subtotal			\$204.00
Handling Fee			\$5.00
Total Direct Costs			\$209.00

Estimated Subcontracted Costs

NW Probe			\$1,700.00
Utility Locate	\$75.00	3	\$225.00
On-site Lab	\$1,875.00	1	\$1,875.00
lead	\$40.00	10	\$400.00
Subcontracted Costs Subtotal			\$4,200.00
Handling Fee			\$630.00
Total Subcontracted Costs			\$4,830.00

Total Estimated Project Costs \$8,287.00

See Attached Fee Schedule

CITY OF GIG HARBOR PLANNING DEPARTMENT

BOUNDARY LINE ADJUSTMENT
A REPRESENTATIVE OF THE NORTHWEST QUARTER OF SECTION 16,
TOWNSHIP 22 NORTH, RANGE 1 EAST, W.M. AND A PORTION OF THE NORTHWEST QUARTER
OF SECTION 16, TOWNSHIP 22 NORTH, RANGE 2 EAST, W.M.,
COUNTY OF KING COUNTY, WASHINGTON, WASHINGTON PARCEL NO. 2200071287,
ASSESSOR'S PARCEL NO. 6122281076, 6122281074, 6122281073 AND 6122281075

THE UNDERSIGNED AGREE THAT THE BOUNDARY LINE ADJUSTMENT
SET FORTH HEREIN IS MADE WITH THE FREE CONSENT AND IN
ACCORDANCE WITH THE DESIRES OF THE COVENANTS.
TRANSACTIONS COMMON COMPANIES OF WASH ASSOCIATES, LLC
BY
CAPITAL MANAGEMENT GROUP, INC., A WASHINGTON CORPORATION

PLANNING DIRECTOR _____ DATE _____

COUNTY ASSESSOR-TREASURER

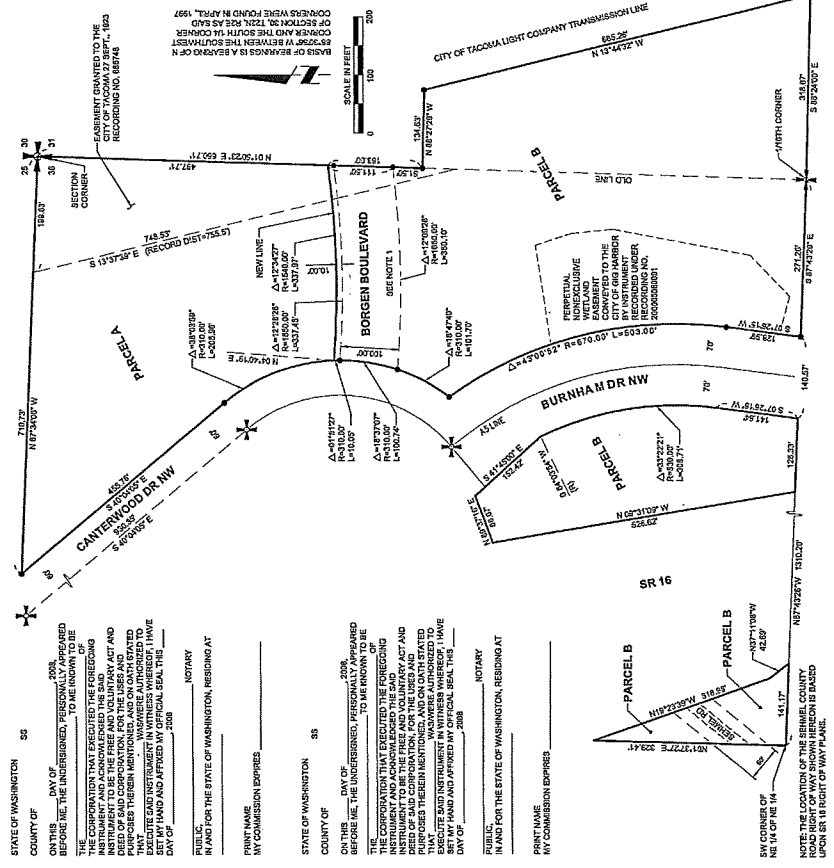
I HEREBY CERTIFY THAT ALL STATE AND COUNTY TAXES DUE HEREON HAVE BEEN PAID
AND THAT NO OTHER TAXES ARE DUE ON THIS PROPERTY ACCORDING TO THE RECORDS AND
RECORDS OF MY OFFICE. HAVE BEEN FULLY PAID.

DEPUTY ASSESSOR-TREASURER _____ DATE _____

AUDITOR'S CERTIFICATE

FIELD FOR RECORD THIS _____ DAY OF _____ 2008
AT THE REQUEST OF _____
UNDER AUDITORS FILE NO. _____

DEPUTY _____ COUNTY AUDITOR



STATE OF WASHINGTON CO
COUNTY OF KING
ON THIS _____ DAY OF _____ 2008,
I, _____, THE UNDERSIGNED, BEING FULLY OF AGE AND SOUND MIND,
TO ME UNKNOWN TO BE
THE CORPORATION THAT EXECUTED THE FOREGOING
INSTRUMENT AND ACKNOWLEDGED THE SAME
DEED OF SAID CORPORATION, FOR THE USES AND
PURPOSES THEREIN MENTIONED, AND ON OR AFTER
SAID DATE INSTRUMENT IN WITNESS WHEREOF, I HAVE
HEREBY SIGNED AND AFFIXED MY HAND AND SEAL, THIS _____
DAY OF _____ 2008.

NOTARY
PUBLIC,
IN AND FOR THE STATE OF WASHINGTON, RESIDING AT _____
PRINT NAME _____
MY COMMISSION EXPIRES _____

STATE OF WASHINGTON CO
COUNTY OF KING
ON THIS _____ DAY OF _____ 2008,
I, _____, THE UNDERSIGNED, BEING FULLY OF AGE AND SOUND MIND,
TO ME UNKNOWN TO BE
THE CORPORATION THAT EXECUTED THE FOREGOING
INSTRUMENT AND ACKNOWLEDGED THE SAME
DEED OF SAID CORPORATION, FOR THE USES AND
PURPOSES THEREIN MENTIONED, AND ON OR AFTER
SAID DATE INSTRUMENT IN WITNESS WHEREOF, I HAVE
HEREBY SIGNED AND AFFIXED MY HAND AND SEAL, THIS _____
DAY OF _____ 2008.

NOTARY
PUBLIC,
IN AND FOR THE STATE OF WASHINGTON, RESIDING AT _____
PRINT NAME _____
MY COMMISSION EXPIRES _____

SW CORNER OF
NE 1/4 OF NE 1/4
SECTION 16, TOWNSHIP 22 NORTH,
RANGE 2 EAST, W.M. SHOWN HEREON IS BASED
UPON SR 18 RIGHT OF WAY PLANS.



Table with columns for JOB NO., FIELD BOOK NO., DRAWN BY, CHECKED BY, SCALE, and SHEET INFO. Includes project details for Parcel B and contact information for David Boland.

CERTIFICATE NO. 1382

SHEET 1 OF 2



Business of the City Council
City of Gig Harbor, WA

New Business 1

Subject: First Reading - Ordinance Increasing Water Rates

Proposed Council Action: Adopt ordinance after second reading

Dept. Origin: Finance

Prepared by: David Rodenbach, Finance Director

For Agenda of: July 14, 2008

Exhibits: Ordinance

Initial & Date

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Handwritten initials and dates: CLH 7/10/08, RJK 7/10/08, LAM 7/9/08, DR 7/9/08

Table with 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required. Values are 0, 0, 0.

INFORMATION / BACKGROUND

This is the first reading of an ordinance increasing monthly water rates. This increase is recommended pursuant to a 2008 rate study performed by Peninsula Financial Consulting.

The proposed three percent (3%) rate increase is intended to cover increased operational costs due to inflation. This will ensure that adequate revenues are available to meet operating costs, replace aging infrastructure, construct new facilities, and maintain adequate cash reserves.

FISCAL CONSIDERATION

The proposed rate increase is expected to provide approximately \$73,000 in additional operating revenues for the water utility in 2009.

Currently, the City's average residential water bill for one month is \$22.29. With the proposed increase this rate would increase to \$22.96.

BOARD OR COMMITTEE RECOMMENDATION

The Finance and Operations Committees have seen this proposal and recommend presentation to the full council. In addition, this proposal was presented to City Council in a June 30 study session.

RECOMMENDATION / MOTION

Move to: Pass ordinance after second reading.

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, 2009.

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

WHEREAS, the 2008 rate study by Peninsula Financial Consulting supports 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:

Customer Class/Meter	Customer Base Charge (per meter/month)	Commodity Charge (per ccf)
Residential	\$11.34 11.04	\$1.48 1.44
Multi-residential		
5/8" & 3/4"	19.92 19.34	1.38 1.34
1"	27.41 26.61	1.38 1.34
1-1/2"	45.99 44.65	1.38 1.34
2"	68.38 66.39	1.38 1.34
3"	128.02 124.29	1.38 1.34
4"	\$195.17 189.49	\$1.38 1.34
Commercial/Schools		
5/8" & 3/4"	\$16.70 16.21	\$1.44 1.40
1"	22.05 21.41	1.44 1.40
1-1/2"	35.30 34.27	1.44 1.40
2"	51.25 49.76	1.44 1.40
3"	93.81 91.08	1.44 1.40
4"	\$141.71 137.58	\$1.44 1.40

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

13.04.020 Nonmetered residential uses.

New Business 1

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 \$33.64 ~~32.66~~ 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, 2009 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 28th day of July, 2008.

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:
Ordinance No.



Subject: First Reading – Ordinance Increasing Sewer Rates

Proposed Council Action: Adopt ordinance after second reading

Dept. Origin: Finance

Prepared by: David Rodenbach, Finance Director

For Agenda of: July 14, 2008

Exhibits: Ordinance

Initial & Date

Concurred by Mayor:

CLH 7/10/08

Approved by City Administrator:

RVK 7/10/08

Approved as to form by City Atty:

CAM 7/9/08

Approved by Finance Director:

DR 7/9/08

Approved by Department Head: _____

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INFORMATION / BACKGROUND

This is the first reading of an ordinance increasing monthly sewer service rates. This increase is recommended pursuant to a 2008 rate study performed by Peninsula Financial Consulting.

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.

FISCAL CONSIDERATION

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 \$40.71. With the proposed increase this rate would increase to \$46.82. This increase will provide approximately \$372,000 in additional operating revenues.

BOARD OR COMMITTEE RECOMMENDATION

The Finance and Operations Committees have seen this proposal and recommend presentation to the full council. In addition, this proposal was presented to City Council in a June 30 study session.

RECOMMENDATION / MOTION

Move to: Pass ordinance after second reading.

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, 2009.

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 2008 rate study by Peninsula Financial Consulting 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:

Customer Class	Customer Base Charge (per month)	Commodity Charge (per ccf)
Residential	<u>\$23.63</u> 20.55	<u>\$2.90</u> 2.52
Multi-Family Residential (per living unit)	<u>18.18</u> 15.84	<u>2.90</u> 2.52
Commercial/School	<u>55.15</u> 47.96	<u>5.12</u> 4.45
Dept. of Corrections	<u>\$7,286</u> 6,336	<u>\$2.90</u> 2.52

* * *

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:

Customer Class	Monthly Charge
Shore Crest System	\$ <u>7.31</u> 6.36 plus \$ <u>36.00</u> 31.30 /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	\$ <u>43.29</u> 37.64 /unit
Multifamily residential	<u>31.04</u> 26.99 /living unit
Commercial	\$ <u>106.29</u> 92.43 /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.

Customer Class	Customer Base Charge (per month) (per ccf)	Commodity Charge
Residential	\$ <u>7.31</u> 6.36 + \$ <u>16.32</u> 14.19 /unit	\$ <u>2.90</u> 2.52
Multi-Family Residential	\$ <u>7.31</u> 6.36 + \$ <u>10.87</u> 9.45 /unit	\$ <u>2.90</u> 2.52
Commercial	\$ <u>7.31</u> 6.36 + \$ <u>47.85</u> 41.64 /unit	\$ <u>5.12</u> 4.45

* * *

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, 2009 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 28th day of July, 2008.

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:
Ordinance No.:



Subject: First Reading – Ordinance Increasing Storm Drainage Rates

Proposed Council Action: Adopt ordinance after second reading

Dept. Origin: Finance

Prepared by: David Rodenbach, Finance Director

For Agenda of: July 14, 2008

Exhibits: Ordinance

Initial & Date

Concurred by Mayor:

Approved by City Administrator: PRK 7/10/08

Approved as to form by City Atty: CAM 7/9/08

Approved by Finance Director: DR 7/9/08

Approved by Department Head: _____

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INFORMATION / BACKGROUND

This is the first reading of an ordinance increasing monthly storm drainage fees. This increase is recommended pursuant to a 2008 rate study performed by Peninsula Financial Consulting.

The proposed three percent (3%) rate increase is intended to cover increased operational costs due to inflation.

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.

FISCAL CONSIDERATION

The monthly service charge is currently \$10.80 per month or \$129.60 per year. This ordinance will increase storm fees to \$11.12 per month or \$133.44 per year and will increase annual revenues by about \$53,000.

BOARD OR COMMITTEE RECOMMENDATION

The Finance and Operations Committees have seen this proposal and recommend presentation to the full council. In addition, this proposal was presented to City Council in a June 30 study session.

RECOMMENDATION / MOTION

Move to: Pass ordinance after second reading.

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, 2009.

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 2008 rate study by Peninsula Financial Consulting recommends this rate increase; and

WHEREAS, the proposed rate increase will ensure that adequate revenues are available to meet the 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 \$11.12 ~~40.80~~.
- 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 \$11.12 ~~40.80~~ 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, 2009 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 28th day of July, 2008.

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:
Ordinance No.



Subject: Salary Commission for Elected City Officials.

Proposed Council Action:

First Reading: Consider an ordinance that would establish a salary commission for Mayor and City Council compensation.

Dept. Origin: Administration

Prepared by: Rob Karlinsey

For Agenda of: July 14, 2008
Exhibits: Ordinance

Initial & Date

Concurred by Mayor:

Approved by City Administrator: PK 7/10/08

Approved as to form by City Atty:

Approved by Finance Director: DR 7/19/08

Approved by Department Head: _____

Expenditure	Amount	Appropriation
Required: TBD	Budgeted: TBD	Required: TBD

INFORMATION / BACKGROUND

Due to population growth combined with the City's increasing role as a regional service center and commercial hub, demands on the City's elected officials' time and involvement has increased dramatically. Various meetings, including special Council meetings, Council committee meetings, and other meetings have increased substantially in recent years. Mayor and Council salaries have not been adjusted in 10 years. Therefore, the City Administrator recommends that an independent salary commission be formed to evaluate Mayor and Council compensation. The salary commission will study Mayor and City Council salaries and determine whether and when compensation shall be adjusted.

Note that regarding section 2.23.080 of the proposed ordinance, staff is in the process of contacting MRSC to see if other cities consider this section to be effective, even if their city has decided not to be subject to initiative and referendum under RCW 35A.11.090.

FISCAL CONSIDERATION

The fiscal impact of this ordinance is not yet known. The salary commission may adjust salaries up or down.

BOARD OR COMMITTEE RECOMMENDATION

The Finance & Safety Committee reviewed an earlier, draft version of this ordinance at their June meeting.

RECOMMENDATION / MOTION

Move to: **First Reading.** Consider an ordinance that would establish an independent salary commission for Mayor and City Council compensation.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ESTABLISHING AN INDEPENDENT SALARY COMMISSION TO REVIEW THE SALARIES OF THE MAYOR AND CITY COUNCIL MEMBERS, PURSUANT TO RCW 35.21.015, DESCRIBING THE MANNER OF APPOINTMENT, MEMBERSHIP, QUALIFICATIONS, METHOD OF REMOVAL, PROCEDURE FOR ESTABLISHING SALARIES, AND CHANGING EXISTING CODE PROVISIONS RELATING TO THE ADJUSTMENT OF THE MAYOR AND COUNCILMEMBERS' SALARIES TO BE CONSISTENT THEREWITH, ADDING A NEW CHAPTER 2.23 TO THE GIG HARBOR MUNICIPAL CODE; AND AMENDING GHMC SECTION 2.40.010 AND 2.40.020.

WHEREAS, under RCW 35A.12.070 and chapter 2.40 GHMC, the Council may adjust the salaries of the councilmembers and the mayor; and

WHEREAS, RCW 35.21.015 was adopted in 2001 to expressly authorize cities to create independent salary commissions to set elected official's salaries; and

WHEREAS, pursuant to RCW 35.21.015, the action fixing the salary by a commission supersedes any other provision of state statute or city ordinance related to municipal budgets or to the fixing of salaries; and

WHEREAS, the City Council should adopt an ordinance consistent with RCW 35.21.015 and repeal any inconsistent sections of the Gig Harbor Municipal Code; and

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

Section 1. A new chapter 2.23 is hereby added to the Gig Harbor

Municipal Code, which shall read as follows:

**Chapter 2.23
Salary Commission**

2.23.010 Created.

There is hereby established a Gig Harbor independent salary commission hereinafter referred to as the "Salary Commission."

2.23.020 Purpose.

The purpose of the Salary Commission shall be to review and establish the salaries of the mayor and the councilmembers in accordance with state law and this chapter. "Salary" for the purpose of this ordinance includes wage and benefits.

2.23.030 Membership.

A. Number of members. The salary commission shall consist of five members appointed by the mayor and approved by the city council.

B. Compensation. The salary commission shall serve without compensation.

C. Terms. Each member of the salary commission shall serve a term of four years, except that the first five commission members shall be appointed for different terms, as follows: two members to serve for a period of two years, and three members to serve for a period of four years. All members of the salary commission shall serve until their successors are duly appointed by the mayor and approved by the city council.

D. Appointment. The mayor, with the approval of the city council, may appoint alternate independent salary commission members as the need arises. The city council shall annually appoint new members in March to fill the expiring terms on the independent salary commission.

E. Term Limit. No member may be appointed to more than two terms on the salary commission whether or not those terms are held consecutively.

F. Vacancy. If, for any reason, a vacancy occurs during the term of an independent salary commission member, the mayor shall appoint, with the approval of the city council, a new member to fill the unexpired term of that member.

G. Removal. The city council may remove an independent salary commission member at any time for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

2.23.040 Qualifications.

A. No person shall be appointed to serve as a member or alternate member of the salary commission unless that person is a citizen of the United States and a resident of the city.

B. No city officer, official, or employee of the city or any of their immediate family members may serve on the commission. "Immediate family

member,” as used in this section, means the parents, spouse, siblings, children, or dependent relatives of the officer, official, or employee, whether or not living in the household of the officer, official, or employee.

2.23.050 Operation.

A. The salary commission shall elect a chair from among its members. The salary commission establish and publish rules of procedure for the efficient and fair conduct of its business, consistent with state law and city ordinance.

B. The city administrator shall appoint appropriate staff to assist the independent salary commission in preparation of its reports and records as are necessary for the proper operation of the commission.

C. The salary commission shall keep a written record of its proceedings, which shall be a public record all in accordance with state law, and shall actively solicit public comment at all meetings which shall be subject to the Open Public Meetings Act pursuant to Chapter 42.30 RCW.

D. The salary commission shall meet at least once in 2008 and in each even year thereafter to consider whether or not to review and/or adjust existing salaries. The first meeting shall occur no later than April 30th, in any given year, except for the 2008 calendar year for which December 15th shall be the deadline.

E. The commission shall review and, if it so determines, amend and file its schedule of salaries with the city clerk no later than June 30th. If necessary, the commission will also meet upon any other call by the chair, the mayor or by the majority vote of the city council.

F. Three members shall constitute a quorum, and the votes of three members shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the independent salary commission.

2.23.060 Responsibilities. The independent salary commission shall have the following responsibilities:

A. To study the relationship of salaries to the duties of the mayor and the city councilmembers and to establish a salary by either increasing or decreasing the existing salary for each position by an affirmative vote of not less than three members;

B. To review and file its salary schedules not later than June 30th, and every even year thereafter;

C. To submit each salary schedule to the city clerk, who will publish the complete schedule two times, at least one week apart. The second

publication date will be the official filing date. The schedule will become effective 30 days after this date.

2.23.070 Effective date– Salaries.

A. Existing salaries for the mayor and councilmembers established by city ordinance and/or city budget shall remain in effect unless and until changed in accordance with the provisions of this chapter.

B. The commission's established or amended salary schedule will become effective in the amounts, at the times, and under the conditions established in the schedule. Once filed, the schedule shall be incorporated into the city budget without further action of the city council or salary commission. Salary increases established by the commission shall be effective as to the mayor and all city councilmembers regardless of their terms of office. Salary decreases established by the commission shall become effective as to incumbents at the commencement of their next subsequent terms of office. The terms and conditions of the commission's adopted salary schedule will remain in effect until amended under the terms and conditions of a new salary schedule filed in accordance with this chapter.

2.23.080 Salary schedule subject to referendum petition.

A. The commission's adopted salary schedule shall be subject to referendum petition by the people of the city in the same manner as a city ordinance upon filing of such petition with the city clerk within 30 days after the official filing date of the salary schedule. In the event of the filing of a valid referendum petition, the salary increase or decrease shall not go into effect until approved by vote of the people.

B. Referendum measures under this section shall be submitted to the voters of the city at the next following general or municipal election occurring 30 days or more after the petition is filed and shall be otherwise governed by the provisions of the State Constitution or other laws generally applicable to referendum measures. *[I have a call in to MRSC to see if other cities consider this section to be effective, even if their city has decided not to be subject to initiative and referendum under RCW 35A.11.090. I haven't heard back -- no one there at this time.]*

Section 2. Section 2.40.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

2.40.010 Mayor's salary. The Mayor's existing salary established as of August 1, 2008 shall remain in effect unless and until changed in accordance with the provisions of chapter 2.23 GHMC. ~~The mayor shall receive a salary of \$400.00 per month. Beginning the fiscal year of 1985 and each year thereafter, the mayor's salary shall be adjusted. The adjustment shall be based~~

~~on the average salary increase of all city employees and shall be expressed as a percentage.~~

Section 3. Section 2.40.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

2.40.020 Councilmember's salary. The Councilmembers' existing salaries established as of August 1, 2008 shall remain in effect unless and until changed in accordance with the provisions of chapter 2.23 GHMC.

~~A. A councilmember shall receive a salary as follows:~~

- ~~1. 1984, \$40.00 per month;~~
- ~~2. 1985, \$70.00 per month;~~
- ~~3. 1986, \$100.00 per month;~~
- ~~4. 1987, \$125.00 per month.~~

~~B. Beginning the fiscal year of 1988 and each year thereafter, a councilmember's salary shall be adjusted. Such adjustment shall be based on the average salary increase of all city employees and shall be expressed as a percentage.~~

Section 4. Severability. If any portion of this Ordinance or its application to any person or circumstances is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the remainder of the Ordinance or the application of the remainder to other persons or circumstances.

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.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this ____ day of _____, 200__.

CITY OF GIG HARBOR

CHUCK 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. _____



Subject: Temporary on-site sewage holding tanks.

Dept. Origin: Administration

Prepared by: Rob Karlinsey

Proposed Council Action:

For Agenda of: July 14, 2008

Exhibits: Ordinance

Initial & Date

First Reading: Consider an ordinance to allow temporary sewage holding tanks.

Concurred by Mayor:

Approved by City Administrator: ROK 7/14/08

Approved as to form by City Atty: _____

Approved by Finance Director: _____

Approved by Department Head: _____

Expenditure	Amount	Appropriation	
Required \$0	Budgeted \$0	Required	\$0

INFORMATION / BACKGROUND

As a result of what is being commonly referred to as the "de facto sewer moratorium," an alternative that would allow temporary sewage holding tanks is proposed in the attached ordinance. This proposal would allow developments to move forward through permitting and even construction during this temporary period of no sewer system capacity for new developments. Certain conditions and restrictions are included in the ordinance, such as requiring the development to connect to the sewer system as soon as sewer capacity becomes available (and penalties for not doing so), storage tank pumping requirements, etc.

FISCAL CONSIDERATION

Staff time would be required to permit and inspect any potential tanks that would get built, and corresponding fees would be adopted to offset these costs. Given that the completion of the waste water treatment plant expansion and resulting added capacity is less than two years away, it is doubtful that a significant number of these tanks will ever be installed.

BOARD OR COMMITTEE RECOMMENDATION

The Operations Committee did not recommend approval of Mr. Freeman's proposal but did recommend that it move forward for full Council discussion. At the April 28, 2008 City Council meeting, the City Council directed staff to draft and bring back a sewage holding tank for Council consideration.

RECOMMENDATION / MOTION

Move to: First Reading: Consider an ordinance to allow temporary sewage holding tanks.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO SEWAGE DISPOSAL, ALLOWING THE INSTALLATION AND USE OF TEMPORARY ON-SITE SEWAGE STORAGE TANKS AS A TEMPORARY SEWAGE DISPOSAL ALTERNATIVE FOR NEW CONSTRUCTION WHICH HAS BEEN DENIED A SEWER CONCURRENCY CERTIFICATE AFTER July 1, 2007 THROUGH May 31, 2010, ONLY FOR THE PERIOD DURING THE CITY CONSTRUCTION OF PHASE I OF THE NECESSARY IMPROVEMENTS TO THE WASTE WATER TREATMENT PLANT, ESTABLISHING A REQUIREMENT FOR PROPERTY OWNERS WITH SUCH SYSTEMS TO PHYSICALLY CONNECT TO THE CITY'S SEWER SYSTEM WITHIN 90 DAYS OF THE DATE THE CITY ANNOUNCES THAT SEWER CONCURRENCY IS AVAILABLE, REQUIRING THAT NOTICE BE RECORDED AGAINST THE PROPERTY TO INFORM SUBSEQUENT PURCHASERS OF THEIR OBLIGATIONS UNDER THIS ORDINANCE, AND ADDING A NEW SECTION 13.28.105 TO THE GIG HARBOR MUNICIPAL CODE; REPEALING SECTION 13.28.260.

WHEREAS, the City has adopted a concurrency ordinance for water, sewer and transportation; and

WHEREAS, the City's concurrency ordinance allows for the administrative denial of any application for a water, sewer or concurrency certificate, if there is no available capacity; and

WHEREAS, the City's engineering consultants, the Cosmopolitan Engineering Group Inc., issued a memo dated June 8, 2007, on the status of the City's Waste Water Treatment Plant, stating that the WWTP is at its maximum capacity for the maximum month and peak day flows; and

WHEREAS, a Technical Memorandum was prepared, submitted and approved by the Department of Ecology (DOE) on September 23, 2007, which summarized the current WWTP deficiencies and provided an outline of the necessary plant improvements; and

WHEREAS, the lack of capacity prevents the City from approving and reserving sewer concurrency certificates for certain comprehensive plan amendments, project permit applications or utility extension agreements; and

WHEREAS, the City is currently working on the necessary improvements to the WWTP that will provide more operational capacity; and

WHEREAS, completion of the improvements that will provide additional capacity is scheduled for early 2010, but the City cannot predict the exact date that additional capacity will be available; and

WHEREAS, the Tacoma-Pierce County Health Department allows for on-site sewage storage tanks in limited circumstances; and

WHEREAS, the City Council desires to establish a temporary sewage disposal alternative that will allow processing and approval of project permit applications, until May 31, 2010, unless earlier repealed, coinciding with the City's wastewater treatment plant expansion continues and until the City announces that sewer capacity is available; and

WHEREAS, in order for the City to ensure proper long-term utilization of its wastewater treatment system, developers must agree to not only install a temporary system at their cost, but then to abandon the temporary system and connect to the City's sewer system when the City announces that sewer capacity is available; and

WHEREAS, in order to ensure that developers and/or property owners actually abandon the temporary systems, an ordinance needs to be adopted that will require imposition of penalties on those who do not connect to the sewer system when sewer capacity becomes available; and

WHEREAS, because there is potential for abuse and non-compliance with on-site sewage tanks, maintenance and operations requirements, as well as associated penalties for non-compliance must be imposed under this ordinance; and

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

WHEREAS, the City Council held a public meeting and considered this Ordinance during its regular City Council meeting of _____ NOW, THEREFORE,

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

Section 1. Section 13.28.260 of the Gig Harbor Municipal Code is hereby repealed.

Section 2. A new Section 13.28.105 is hereby added) to the Gig Harbor Municipal Code, which shall read as follows:

13.28.105 Temporary On-Site Sewage Storage Tanks.

A. Temporary on-site sewage storage tanks limited to commercial use only. Owners of property zoned commercial may apply for a temporary on-site sewage storage tank under this Section, to be used only for commercial development.

B. Application for sewer concurrency required. In order to apply for a temporary on-site sewage storage tank under this chapter, the applicant must also have submitted a complete application for sewer concurrency under chapter 19.10 GHMC.

C. Complete application for temporary on-site sewage storage tanks. A complete application for a temporary on-site sewage storage tank consists of all of the following:

1. For all permit types: Sewer Hydraulics Report.
2. For all permit types: Preliminary Civil Plans in accordance with the Preliminary Civil Plan Checklist.
3. For Civil Plan Review: Civil Plans in accordance with the Civil Plan Checklist.
4. The applicant shall provide the City with a copy of an approved permit granted by the Pierce County Health Department for the temporary on-site sewage storage tank.

D. Issuance of a permit for a temporary on-site sewage storage tank shall be the responsibility of the Public Works Director.

E. Installation and operational requirements for temporary on-site sewage storage tanks.

1. The temporary tanks must be installed and operational prior to issuance of the Certificate of Occupancy for the building being served. The developer/property owner will pay all costs relating to the installation of a temporary, on-site sewage storage tank.

2. In addition to the installation of an approved temporary on-site sewage storage tank, the property owner must also install a dry sewer connection to the City's sewer main. This

sewer connection will be constructed to connect to the building and NOT to the tank(s). Final connection between the building and the dry sewer connection may only occur if a temporary valve is installed at the perimeter of the building to not allow sewer to flow to the City's sewer main. The valve would remain closed and a sewer test ball will be installed at the property line clean-out until such time the development receives sewer concurrency.

3. The developer must bond for, and/or record against the title to the property, notice to all subsequent owners of a beneficial interest in the property that the temporary sewage storage tank was installed pursuant to this ordinance, and that the owner of the property is required to have the tank decommissioned in a manner acceptable to the City and the Tacoma Pierce County Health Department after its use. This notice will also state that the installation of a temporary on-site sewage storage tank was optional on the part of the developer/property owner, and that the City will not incur any costs relating to installation or decommissioning. In addition, the notice will state that when sewer capacity becomes available, the property owner will be required to hook up to the City's sewer system and, at that time, the property owner will be required to pay the connection fee in effect at that time. Reference will be made to the penalties established in this ordinance for noncompliance.

4. The developer must comply with all Tacoma Pierce County Health Department regulations.

5. While the temporary sewage storage tank is operational, no discharge of the effluent may enter the City's sewer or stormwater system.

6. The tank shall be pumped at least once every two weeks. The property owner shall bond for the cost of pumping of the tank as such costs are determined by the City Engineer. In addition, the property owner shall record against the title to the property, the requirement to have the tank pumped out based on a schedule and NOT based on calls from an alarm.

7. The tank shall include working, external audible level alarms with a minimum of two levels (high level and extreme high level) as a back-up to the scheduled pumping.

8. The tank shall vent back to the building vents.

9. The tank shall have self-contained pumps for evacuating each tank to the transfer vehicle. Vacuum-type evacuation is prohibited.

10. A two-stage tank system is acceptable (one tank for solids and one tank to pump effluent from).

11. The tank shall include a locking mechanism that can only be opened by either the pumping company or the City.

12. The tank shall be installed, tested, and accepted prior to issuance of either temporary or permanent certificate of occupancy.

13. Tank pumping records shall be logged on site and be available to the City during normal business hours for inspection. These records shall include receipt from the sewer system receiving the effluent.

14. A backup battery shall be provided for the alarm system for emergency situations where electricity at the development has been lost. When pumping is required during periods of power loss, vacuum-powered transfer vehicles would be allowed.

F. Fees. The applicant shall pay the applicable permit, processing, review, monitoring, and inspection fees which will be adopted by a separate resolution.

G. Notice. The notice recorded against the property incorporating the requirements of this Ordinance shall be in a form approved by the City Attorney and include all of the information set forth in Section 13.28.115(E)(3), (6) and (H)(2) herein. This notice shall grant the City a right of entry onto the property in order to abate any problem relating to the temporary sewage tank, or to disconnect the temporary tank when the City provides notice to the property owner that sewage capacity is available to serve the property.

H. Penalties for Non-Compliance.

1. The property owner shall be required to pay the connection fee in place at the time the City notifies the property owner of the availability of sewer capacity, and to hook up to the City's sewer system. If the property owner fails to connect to the

City's sewer system within 90 days of the City's notice of sewer availability, the property owner shall be subject to a cumulative civil penalty in the amount of \$250 per day from the date of the notice until connection and payment of the fees. The penalty imposed by this section shall be collected by a civil action brought in the name of the City. The Public Works Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City attorney shall, with the assistance of the Public Works Director and all appropriate staff persons, take appropriate action to collect the penalty.

2. In addition to the imposition of penalties, the City may abate any problem relating to the temporary sewage tank or to disconnect the temporary sewage tank when sewage capacity is available, by entering the property, and billing the property owner for all related costs. The notice recorded against the property shall provide for the property owner's consent to the City's imposition of a lien against the property for the City's costs relating to such correction and/or abatement, if the property owner does not correct the problem.

3. Failure to pump the storage tanks according to the schedule established in this Section shall result in a \$250 fine for every day past the scheduled pumping date. If the storage tanks have not been pumped ten days after the deadlines established in the schedule, the City may hire a company to enter the property and pump the tank(s), and the City will bill the property owner for any associated costs.

1. Sewer Connection Fees. Nothing in this Section eliminates the requirement for property owners receiving permits for on-site sewage storage tanks under the provisions of this Section to pay sewer utility connection fees once the City provides notice that sewer capacity is available in the City's sewer system.

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

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

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this _____ day of _____, 2008.

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: