

Gig Harbor City Council Meeting

**June 13, 2011
5:30 p.m.**



**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
Monday, June 13, 2011 – 5:30 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of April 11, 2011.
2. Correspondence / Proclamations: National Flag Day Proclamation.
3. Receive and File: a) Minutes of May 16, 2011 HBZ Workstudy Session; b) Eagle Scout Project Proposal – Wilkinson Farm Footbridge.
4. Liquor License Action: Special Occasion – GHP Historical Society;
5. Resolution No. 862 – Surplus Property.
6. Appointments to Planning Commission.
7. Wilkinson Farm Park Trail System Conceptual Design and Wetland Mitigation Plan Contract.
8. Acceptance of McCormick Creek Development Easement.
9. Grandview Forest Water Tanks Anchoring Project – Construction Bid Award and Construction Services Contracts.
10. 2011 Travel Demand Model Update - Consultant Services Contract.
11. Kitsap Jail Contract.
12. Fire Investigation Contract Renewal – Pierce County.
13. Interlocal Agreement for Fire Inspection Services – Pierce County Fire District 5.
14. Amendment to Donkey Creek / Austin Estuary Design Contract – MSA.
15. Safeway Redevelopment Inspection Services – Consultant Services Contract.
16. Shoreline Master Program Update Consultant Services Contract – Second Amendment.
17. Approval of Payment of Bills for June 13, 2011: Checks #67052 through #67190 in the amount of \$671,627.75.
18. Approval of Payroll for the month of May: Checks #6254 through #6260, checks #6273 through #6276, and direct deposits in the amount of \$308,277.67.

PRESENTATIONS:

1. National Flag Day Proclamation – Ken Roberts, John Paul Jones Chapter of The Sons of the American Revolution.

OLD BUSINESS:

1. Second Reading of Ordinance – Restaurant 1 Uses in Waterfront Millville.
2. Donkey Creek Daylighting Project Update.
3. HBZ Project List.

NEW BUSINESS:

1. Ordinance – Termination of Moratorium on Medical Marijuana Dispensaries.

STAFF REPORT:

PUBLIC COMMENT:

MAYOR'S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. Shorecrest Sewer Rate Public Meeting: Wed. June 15th at 5:30 p.m.
2. Operations Committee Meeting: Thu. June 16th at 3:00 p.m.

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

ADJOURN:

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – May 23, 2011

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

CALL TO ORDER: 5:31 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of May 9, 2011.
2. Liquor License Action: Renewals: Target, Puerto Vallarta Restaurant, Round Table Pizza, and Julep Nail Parlor.
3. Summer Sounds at Skansie Contracts.
4. Resolution No. 861 – Performing Art Center.
5. Interlocal Agreement to Use Civic Center for Voting Center.
6. Tree Removal at Wilkinson Farm Park – Contract Authorization.
7. Wastewater Treatment Plant Improvements Project – Amendment No. 5 for Warranty Owner’s Representative Services / Parametrix.
8. Acceptance of Deed for Harbor Hill Park Property.
9. Dedication of Right-of-Way Easement Agreements for Pt. Fosdick Square Redevelopment Offsite Improvements.
10. Quit Claim Deed for Right-of-Way – Harbor Pacific Properties, LLC.
11. 2011 Pavement Maintenance and Repairs Project – Consultant Services Contract.
12. Canterwood Sewer Manhole Rehabilitation Design and Limited Inspection Services.
13. Jerisich Dock Float Extension Agreement – Washington State Parks Dept.
14. Approval of Payment of Bills for May 23, 2011: Checks #66918 through #67051 in the amount of \$630,318.29.

MOTION: Move to adopt the Consent Agenda as presented.
Ekberg / Young – unanimously approved.

PRESENTATIONS:

Proposed South Sound 9-1-1 Agency. Kevin Phelps, Deputy Pierce County Executive, presented information on the effort to design and implement a county-wide radio communications network that will be state-of-the-art, fully redundant, cost effective, will accommodate growth and meet all state and federal requirements. The proposed agency would dissolve the existing Law Enforcement Support Agency (LESA) and would take over communications and dispatch for all participating police and fire agencies. Funding for the proposed agency would rely upon a 0.1% county-wide sales tax increase, the recently imposed 20-cent increase in the 911 tax on phones, and fees from the participating jurisdictions.

Rob Masko, Chief in Charge of Systems, discussed the benefit for agencies to be able to communicate in an emergency situation.

OLD BUSINESS:

1. Public Hearing – Donkey Creek Daylighting Project Options & Costs. City Administrator Rob Karlinsey presented the background information for this project and a brief description of the four options for consideration: 1) Pedestrian Bridge; 2) 10-ft Jack & Bore; 3) 22-ft Culvert; and 4) Pocket Park Day-lighting.

Mayor Hunter opened the public hearing at 6:00 p.m.

Frank Ruffo – 2767 Hollybluff Court. Mr. Ruffo, President of the Harbor History Museum, offered the museum's support on whatever the city chooses to do. He said that the option for a pocket park would benefit the museum but stressed that safety is a major issue. He said that a 10' sheet pile wall behind the Mid-way School is neither esthetically pleasing nor safe. He finalized by saying this is a beneficial project for the city and museum and they will work with the city for a project that makes sense for everyone.

Chuck Meacham – 9509 Wheeler Avenue. Mr. Meacham gave an overview of his work history. He said the priorities for this project are to improve fish habitat and provide an appealing and educational opportunity for citizens and the History Museum but none of the options achieve these objectives. He recommended doing what the budget will allow now, leaving it open for future improvements. He described his vision for the future improvements to the Donkey Creek Park area.

Jim Pasin – 3212 50th St. Ct. NW. Mr. Pasin spoke in support of the information provided by Mr. Meacham. He said that three of the options do not meet the community vision and that steel walls do not meet the definition of "restoration of the natural habitat." He talked about the work done by the Planning Commission on the Shoreline Management Plan and asked that the city follow that plan in this area. He strongly opposed moving forward with a lesser option just to save face and said the last thing the city needs is another park; the existing parks aren't well-maintained. He strongly recommended that the city put the project on hold rather than spending millions of dollars "just because."

Walt Smith – 19316 99th St. KPN, Vaughn, WA. Mr. Smith said he was asked to work with city staff to come up with an aesthetic, pleasing option for the portion adjacent to the museum that will be within budget. He said that by using alternative materials and expanding the creeks slope he feels that the goal can be met. He explained that expanding the slope would require additional easement from the museum; a possibility that will be discussed at the upcoming Board meeting. He also said that by eliminating the expensive and unsightly sheet piling, this project can be accomplished at a substantial cost savings and could become something the community can be proud of.

John Holmaas – 7602 Goodman Drive NW. Mr. Holmaas proposed a walking path around the top of the estuary utilizing the sheet piling to the north and geo cells on the slope. He said a pathway would allow the opportunity to see the ecostructure of the estuary.

Dave Morris – 260 E. Grapeview Point, Allyn. Mr. Morris spoke in favor of Option No. 4 explaining that a pocket park would enhance the Midway School project. He talked about dangerous sheet piling and the safety issue of a ten-foot drop behind the school. He said that as a taxpayer, he supports the option that stays within budget.

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich gave a history of Donkey Creek, stressing that it was never a salmon producing creek until the hatchery was built. He voiced support of Option 4, explaining that spending another million dollars on improvements to Austin is a waste because it's a slide area and would require acquisition of additional land. He asked if the utilities would remain intact with Option 4 and if so, this is a reason to choose this option. He pointed out that although funds came from the government, it's still taxpayer dollars.

Jennifer Kilmer – 7617 40th St. Ct. NW. Ms. Kilmer, representing the museum, reinforced that they are willing to work with the city on whatever option moves forward. She too voiced concern due to the drastic slope design and asked that public safety and aesthetics be taken into consideration. When asked about the possibility of closing North Harborview Drive and moving the intersection to Austin, she responded that this would be an improvement.

Mark Hoppen – 8133 Shirley Avenue. Mr. Hoppen spoke in favor of closing North Harborview Drive in order to increase pedestrian access between the park and museum. He also said that if the roadway is closed the other properties in that area will redevelop. He agreed that Austin Street is a problem that will have to be addressed, but recommended doing so as it would be a one-time opportunity to improve an area of town that has degraded over the years.

Mayor Hunter spoke in favor of Option Four citing the budget, ADA slope concerns, and impact on the Finholm District as some of the concerns.

Senior Engineer Emily Appleton and Chris Huber from Murray Smith and Associates addressed Council questions on alternatives to the sheet pile wall and improvements to Austin Street.

Councilmembers each commented on the direction this project has taken and how to proceed from here. A recommendation came forward for staff to “sharpen their pencils” on the cost to close North Harborview Drive and to have discussions with the history museums to address safety and aesthetic concerns by means of an expanded easement.

Mayor Hunter said that an amendment to the MSA Consultants Contract would be required to continue work on other options.

MOTION: Move to authorize an addendum to the MSA Consultants Contract; to direct staff to move forward with Option No. 4, to refine the cost of closing North Harborview Drive, to work with the History Museum and address the aesthetics of the estuary design, and to bring this information back at the June 13th meeting for consideration.
Ekberg / Young – unanimously approved.

Staff was asked to have the top four funding options for the closing of North Harborview Drive available at the June 13th meeting.

2. Second Reading of Ordinance – Interim DB Parking Provisions for Existing Buildings. Senior Planner Jennifer Kester presented the information for this ordinance and passed out written public comments.

Councilmembers discussed the intent and possible effects of the ordinance.

MOTION: Move to adopt Ordinance No. 1208 as presented.
Payne / Kadzik – six voted yes. Councilmember Franich voted no.

3. Second Reading of Ordinance – Restaurant Parking Requirements. Planning Director Tom Dolan presented the background for this ordinance and answered Council questions.

MOTION: Move to adopt Ordinance No. 1209 as presented.
Payne / Kadzik – six voted yes. Councilmember Franich voted no.

4. Second Reading of Ordinance – Graffiti Control. City Administrator Rob Karlinsey introduced the ordinance.

MOTION: Move to adopt Ordinance No. 1209 as presented.
Kadzik / Payne – unanimously approved.

5. Second Reading of Ordinance – Solicitation of Vehicle Occupants on Public Roadways. Rob Karlinsey introduced the ordinance.

Councilmembers offered their point of view on the ordinance.

MOTION: Move to adopt Ordinance No. 1210 as presented.
Payne / Kadzik – six voted yes. Councilmember Malich voted no.

The Mayor asked for a brief recess at 7:40 p.m. The meeting resumed at 7:46 p.m.

NEW BUSINESS:

1. Public Hearing and First Reading of Ordinance – Restaurant 1 Uses in Waterfront Millville. Tom Dolan presented the background for this ordinance that would allow beer and wine to be served and expand the hours of operation for restaurants in the Waterfront Millville zone.

Mayor Hunter opened the public hearing at 7:50 p.m.

John Moist – 3323 Harborview Drive. Mr. Moist, proponent for the ordinance, said he has received an enthusiast response and overwhelming support from residents for the changes; only a small fraction was opposed. He explained that the 1200 ft. limitation as and the provision that no grill or deep fryers are allowed would prevent any new restaurants in the zone. He spoke in support of small businesses saying that without the change, the Red Rooster probably won't make it. He encouraged approval.

Jami Radcliff – 3313 Harborview Drive. Ms. Radcliff, manager of the Red Rooster Restaurant, described the family-friendly atmosphere of her business, and said that adding beer and wine to the menu won't attract a rowdy crowd. She said that people often leave when they find out she doesn't serve alcohol. She pointed out that that El Pueblito, which is 280' from her door, is the same distance to the residences. She too said she received no opposition from the neighbors she canvassed. She responded to council questions by saying her current hours of operation are 7:00 a.m. to 4:00 p.m. and that there is a huge profit margin loss without these changes. She also said she could provide a number of jobs for young people if the change is made.

John English – 3313 Harborview Drive. Mr. English, part owner of the Red Rooster, stressed that the city should be progressive toward economic development. He cited three reasons the ordinance should pass: 1) profit margin would increase 35%; 2) the success of this business is predicated upon passage; and 3) it would provide jobs for college kids. He asked to give this business the opportunity to succeed. Because they are located only 280' from El Pueblito, he said the concern that the change would negatively affect the residents doesn't hold water.

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich spoke in opposition to the ordinance. He said no one came to his residence except Councilmember Franich. He explained that he owns property on Harborview Drive and this change would open a can of worms. He said that he owned a successful restaurant for five years without beer and wine because he served good food. He finalized by saying he talked to his neighbors and they are also opposed to the change.

Warren Zimmerman – 2717 Ryan Lane. Mr. Zimmerman spoke on behalf of the Chamber of Commerce and read a letter in support of the ordinance. He explained that the Chamber was a neighbor of the Red Rooster until recently; they came and talked to him about the difficulty of opening a restaurant with limited hours. He talked about his own experience at running a restaurant, stressing that hours do matter. He said that the

Chamber is in favor of improving the flow of traffic downtown and view this as an important element. He ended by saying that he watched Isamira and Poseidon's come and go largely because of the limitations of this zone.

Richard Gené – 4809 E. Maple Lane Circle NW. Mr. Gené explained that he was privileged to live all over the world during multiple careers. He said that this proposal is consistent with what he has seen in his travels, and said that these changes won't spoil the neighborhood, it would be a multiplier for jobs, and it will do good things for the waterfront. He then talked about his boating experience and the restaurants he's visited while in port. He talked about his involvement in community organizations adding that he wouldn't recommend something that wasn't appropriate.

Bob Winskill – 5445 Hidden Haven Lane. Mr. Winskill spoke in favor of the ordinance. He said that the Millville Waterfront Zone was adopted to prevent commercial development along that stretch, but that's not going to happen. He said that people along the waterfront are in favor of this, and it will be good for the community.

Carol Davis – 3312 Harborview Drive. Ms. Davis, owner of the house directly across from the Red Rooster, spoke in opposition of the ordinance saying these changes would definitely impact their life. She said that the lights from that driveway shine in their house, and the extended hours would create night traffic to an area that is very quiet after 7 p.m. She said the changes only benefit the restaurants, and allowing beer and wine sales will not help already decreasing property values. Ms. Davis said that the business owners knew about the zoning restrictions when they bought. She concluded by saying Waterfront Millville wasn't intended to be a commercial area.

Christy Fierro – 10117 124th Ave KPN. Ms. Fierro spoke in support of the ordinance. She expressed support of the Red Rooster as a casual family dining experience on the waterfront. She said the 7 p.m. closing time is too restrictive for summer-time and to allow family dinners because of her husband's commute from JBLM. She said she would like to be able to bring visitors and to enjoy a glass of wine at a restaurant that isn't restricted to 21 and over or fine dining. She talked about growing up in a riverfront town with similar struggles that are facing downtown Gig Harbor, and how these amendments will be a positive change.

John Skansie – 3211 East Bay Drive NW. Mr. Skansie spoke against the ordinance saying that he understands the concerns of both business owner and homeowner. He said the zoning code was written with residents in mind and that should be maintained. He agreed with the possibility of property devaluation. He suggested that the 1.2 million being considered for Donkey Creek be used for business enhancement to draw an anchor tenant at the old QFC site.

Jeff Carr – 8020 Dorotich Street. Mr. Carr explained that he lives a block from the Red Rooster and Suzanne's and spoke in support of the change. He said that the narrow crafting of the language will prevent anyone else opening a business, and Council should encourage the growth and development of businesses in downtown.

Susan Wood – 7221 Soundview Drive. Ms. Wood, who lives downtown, said this change would allow someone like her to go and have a sandwich and a cup of coffee or glass of wine, which would be great.

John Harkness – 3422 Harborview Drive. Mr. Harkness who lives across from Suzanne's and close to the Red Rooster, spoke in support of the ordinance. He said that he understands the intent of the code to protect residents, but sees nothing but positive impact from these changes. He explained that these small, appropriate, and locally owned businesses are why people come to visit and live here. He then said he doesn't anticipate any measurable traffic increase if the hours are extended to 9 p.m. He added that although the businesses knew the restrictions before opening, with this proposal they are asking the city to think of all the residents of Gig Harbor.

Debra Ross – 9023 Point Fosdick Drive. Ms. Ross, owner of the building that Suzanne's is located, spoke in favor of the ordinance. She said that staying open until 9 p.m. will not bring a rowdy bar crowd, and it would be an advantage to the downtown.

Jack Eddy – 7720 Insel Avenue. Mr. Eddy said that change can be good, explaining that when they moved here in 1977 you had to drive to Tacoma after 5 p.m. to get a hamburger because everything here was closed. He spoke in favor of the ordinance saying small businesses are the lifeblood of a small community. He referred to what happens to revenues when big box stores like Borders fold, and the positive tax-base that occurs from small businesses that provide 5-10 jobs year after year. He said the proposed changes will also allow these two small restaurants to survive in the winter.

There were no further comments and the public hearing closed at 7:25 p.m.

Councilmembers asked questions of staff and discussed the intent and possible effects of the proposed ordinance. This will return for a second reading at the next meeting.

2. First and Final Reading of Ordinance – 72nd Street Annexation. Planning Director Tom Dolan presented the background for this ordinance to finalize this annexation of approximately four acres. He explained that the ordinance, per code, can be adopted at this first reading.

MOTION: Move to adopt Ordinance No. 1212 as presented.
Payne / Kadzik – unanimously approved.

Mayor Hunter announced that the Eagle Scout presentation had been moved to the next meeting.

STAFF REPORT:

1. HBZ Project Evaluation Matrix. City Administrator Rob Karlinsey recommended another workshop on June 6th to evaluate how well the projects meet the intent of the Hospital Benefit Zone. He asked Council to submit their draft matrix the Wednesday before the worksession for inclusion.

2. Wheeler Avenue Asphalt Paving. Rob Karlinsey presented a request from a resident to pave the uncontested portion of Wheeler Street. He suggested that this be discussed in the 2012 pavement management program.

PUBLIC COMMENT: No one came forward to speak.

MAYOR'S REPORT / COUNCIL COMMENTS: There were no Mayor or Council comments.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Civic Center Closed Monday, May 30th for Memorial Day.
2. Harbor Hill Park Dedication Ceremony – June 8 at 3:00 p.m.

ADJOURN:

MOTION: Move to adjourn at 9:05 p.m.
Franich / Young – unanimously approved.

CD recorder utilized: Tracks 1002 – 1046

Charles L. Hunter, Mayor

Molly Towslee, City Clerk

PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, the Continental Congress of the United States, on June 14, 1777, adopted the first official flag of the United States; and

WHEREAS, the Congress of the United States on August 3, 1949, officially designated June 14 of each year as "National Flag Day"; and

WHEREAS, the Congress of the United States on June 20, 1965, adopted a Joint Resolution approved by the President, to recognize a pause for the Pledge of Allegiance as part of National Flag Day ceremonies and urged all Americans to participate; and

WHEREAS, The John Paul Jones Chapter, Washington State Society, Sons of the American Revolution reminds us of the importance of National Flag Day; and

WHEREAS, the City of Gig Harbor, has always been proud of our National Flag and what it symbolizes, knowing that it stands for the best that humankind has ever sought and achieved in the history of this world; and

NOW, THEREFORE, I, Charles Hunter, Mayor of the City of Gig Harbor, do proclaim June 14, 2011, as

NATIONAL FLAG DAY

and call upon all citizens of Gig Harbor to share actively in this commemoration and join in common declaration of faith represented in the words of the Pledge of Allegiance. In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 13thth day of June, 2011.

Mayor, City of Gig Harbor

Date



GIG HARBOR CITY COUNCIL HBZ Capital Project Plan Proposal MINUTES

DATE: May 16, 2011
TIME: 5:30 p.m.
LOCATION: Community Rooms A & B
SCRIBE: Molly Towslee, City Clerk
MEMBERS PRESENT: Mayor Hunter, Councilmembers Ekberg, Franich, Kadzik, Malich, Conan, and Young.
STAFF PRESENT: Rob Karlinsey, David Rodenbach, Barb Tilotta, Darrell Winans, Jeff Langhelm, Marco Malich, Steve Misiurak, and Emily Appleton.

INTRODUCTION

After roll call, Mayor Hunter turned the meeting over to City Administrator Rob Karlinsey.

Mr. Karlinsey presented the background for the Hospital Benefit Zone which allows the city to access up to \$2 million dollars a year of the incremental share of state sales tax. He recommended a conservative approach to allocation of these funds because it's a brand new tool and Gig Harbor is the only city in the state with access. He explained that the state recognizes the fact that Gig Harbor, although small, provides regional infrastructure within the city. He referred to RCWs adopting the HBZ, saying that the projects must meet the intent of the zone as defined in this chapter.

Mr. Karlinsey touched on few of the projects on the Mayor's top ten list, explaining how they meet the intent of the HBZ. He then referred to the proposed HBZ Capital Improvement Plan: 2012-2016 that was presented at the Retreat. He then explained that Councilmember Malich submitted additional projects that were added to the project list evaluation matrix for consideration. Mr. Karlinsey also explained the potential requirement that locally funded sewer projects used as HBZ match may have to leverage HBZ sewer projects (like for like).

Councilmembers and staff discussed the project list and recommendations.

- Donkey Creek Restoration and Transportation Improvements - find funds to also widen Austin Street and close North Harborview Section at Donkey Creek Park.
- Harborview Drive Pedestrian and Parking Improvements, Stinson to North Harborview – extend to Rosedale.
- How to quantify “brings in additional city revenue.”
- Lift Station No. 4.
 - Using latecomers funding as a match for the Lift Station #4 project.
 - Economic Development as a result of this project.
 - Possible LID
 - 400 potential hookups to help pay off debt.
 - Lack of development because there is no sewer.
 - Possibility of getting a commitment up front.

- Phasing the project moving some cost to 2013
- Shifting funds from 2012 into 2013 would free up money to fund Austin Street.
- Move Wheeler Street End Park higher on the priority list and complete in 2012.
 - Legal ownership of property in question; approx cost to clear legal title: \$40,000. Could budget that in 2012
- Allocate a larger amount to Annual Debt Service for the Wastewater System Improvements for ratepayer relief
- Set aside money each year for street repair in the HBZ for more predictability
- Harbor Hill Drive Extension: move it up higher on the list.
 - Set aside funds each year
 - Discuss lowering level of service at BB16 to avoid being forced to build the extension for 19 million (approx 6 million for property acquisition)
 - Get the State to acquire ownership of the BB16 Roundabout
 - Keep the extension in the CIP and have it become a developer project
 - Possible roadway at the north end of Sportsman Club
- Use HBZ funds for waterfront development
 - Economic Development purposes
 - Widen sidewalks on Harborview
 - Maritime Pier should be higher on the list
 - Downtown Parking Lot (or up by Beachbasket)
 - City already invests quite a bit on downtown parks and infrastructure
 - Question as to whether these improvements qualify for benefit to hospital zone
- Construct the smaller, more doable projects while keeping the larger projects on the list
- Take a conservative approach first couple of years
 - Spend HBZ funds on meaningful projects that meet the criteria
- Clarify whether the Cushman Trail Phase 4 is funded in the Regional Transportation 2040 Plan
- Come up with a formula for yearly set asides for roads and parks
- Impact of BB16 ramp metering and Sehmel Right Turn Lane at Burnham
 - Ramp metering improves LOS: small cost, big benefit
 - Low importance...shove out to 2016
 - Other ways to improve LOS
- Discussed using HBZ funds for PW Shop and Bulk Fuel Storage
 - Determine a percentage that affects the HBZ to lower the number
- Use HBZ funds to do overlays to free up that money for other projects
- Clarify cost of improvements on Burnham Bridge as a reconfiguration; not just restriping
- Harbor Hill Park
 - Solicit private sector help to pay?
 - Need design to come up with a construction cost
 - Will receive \$50,000 from OPG for conceptual design purposes
 - Assign to the Parks Commission and report back to Council
- Eliminate No. 16 – Borgen/Harbor Hill Intersection Widening. Will be done by developer as Harbor Village is built

Rob Karlinsey asked Councilmembers about ranking the list, explaining that he would like to plan for more than two years. Council and staff discussed re-evaluating the list each year and bonding for the matching funds.

David Rodenbach explained that the HBZ funds couldn't be used to back G&O Bonds. He added that the real concern is the matching funds; he isn't sure of the process that the Department of Revenue will use to approve the list of projects.

Rob then suggested a flexible list using the Cushman Trail as an example. He said that the project may receive State trails grant or a Federal Highway grant. If the money comes through the city may want to shift this project higher on the list.

After discussion it was determined that the prioritization of the list could wait until the State Capital Budget is finalized, but it needs to be done in time for the 2012 budget process and to possibly allow design work on Lift Station No. 4 this fall.

Council further discussed the Lift Station No. 4 project and sewer system improvements in general:

- Meet with property owners to discuss intent
- Unfairness of using funds to develop raw property and ignore other projects
- Need to leverage sewer money to match the HBZ funds; removing obstacles to development here will bring in money to help the large debt service
- The HBZ is an economic development bill
- Is it a disservice to ratepayers and/or should we subsidize the ratepayers
- Could contribute up to \$800,000 a year of HBZ funds towards debt service...would the state agree with that?

Cushman Trail: Councilmembers Ekberg and Conan both said they would like to see it moved up on the list.

Donkey Creek Daylighting:

- Comment needs to wait until the public comment at the May 23rd meeting
- If you close Harborview Drive - clarify whether you could use a lower grade separation to the History Museum.
- Scope: explore cost of closing Harborview Drive and making Austin a two-way street, but eliminate the pedestrian bridge.

Harborview Drive Pedestrian and Parking Improvements (Stinson to N. Harborview):

- Add Rosedale to Stinson as a separate item on the list.

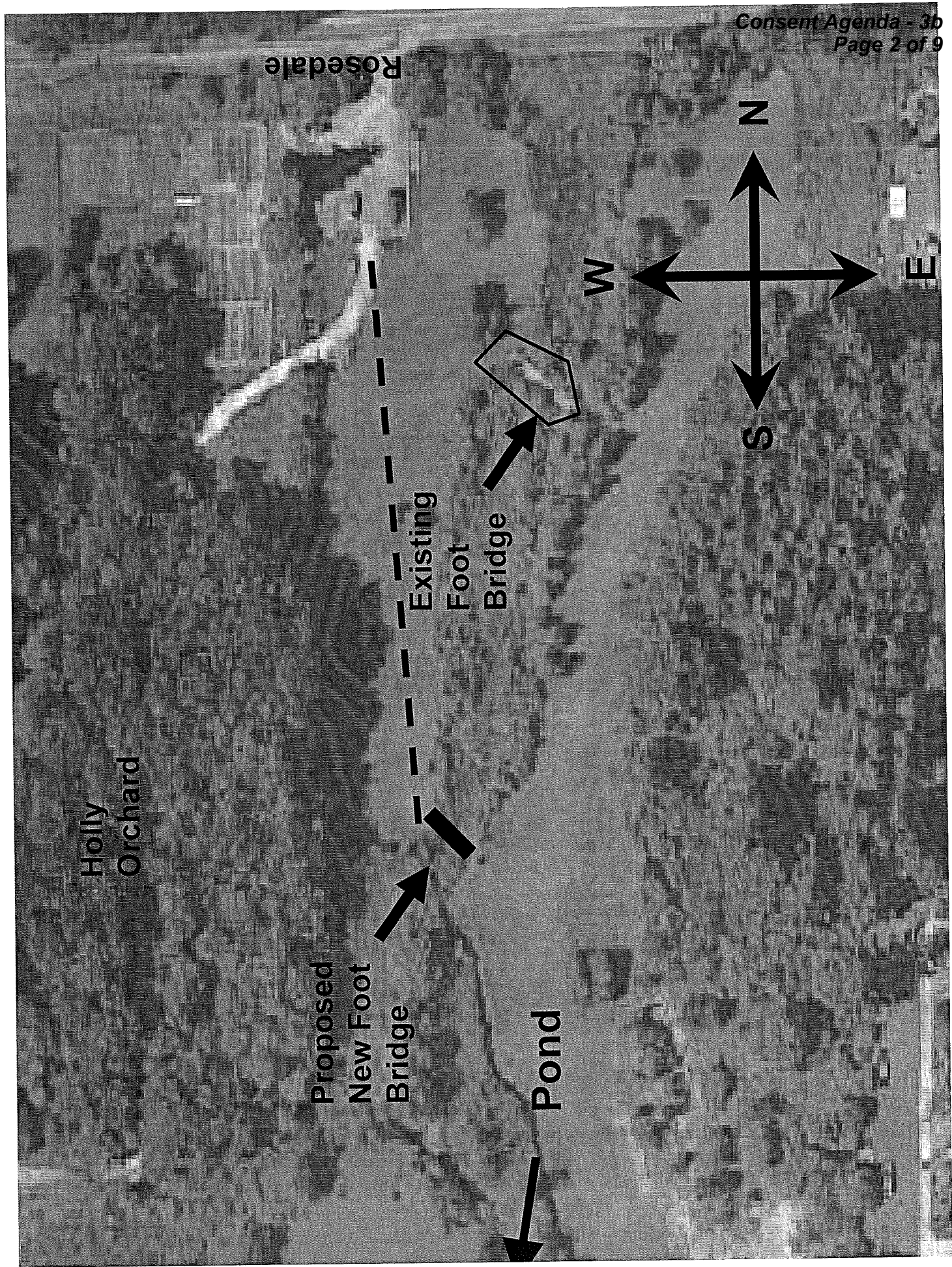
Rob suggested giving Councilmembers their own matrix to score after the May 23rd public meeting. Council appeared to concur with this recommendation.

There were no further comments; the worksession adjourned at 7:25 p.m.

**Wilkinson Farm Park Foot
Bridge #2 Proposal**

Eagle Scout Project

Ben Karlinsey, Troop 244



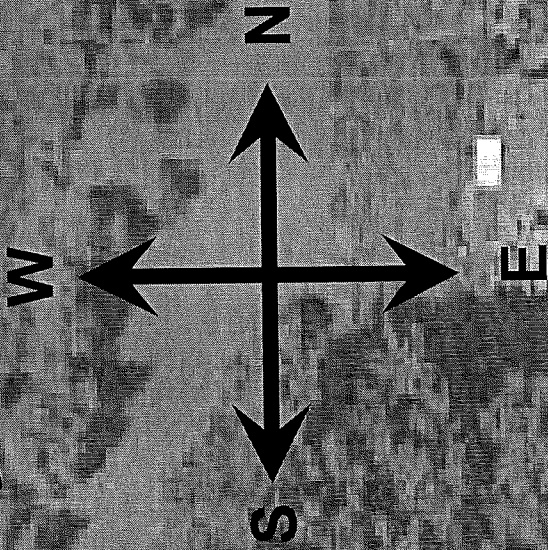
Rosedale

Holly Orchard

Proposed
New Foot
Bridge

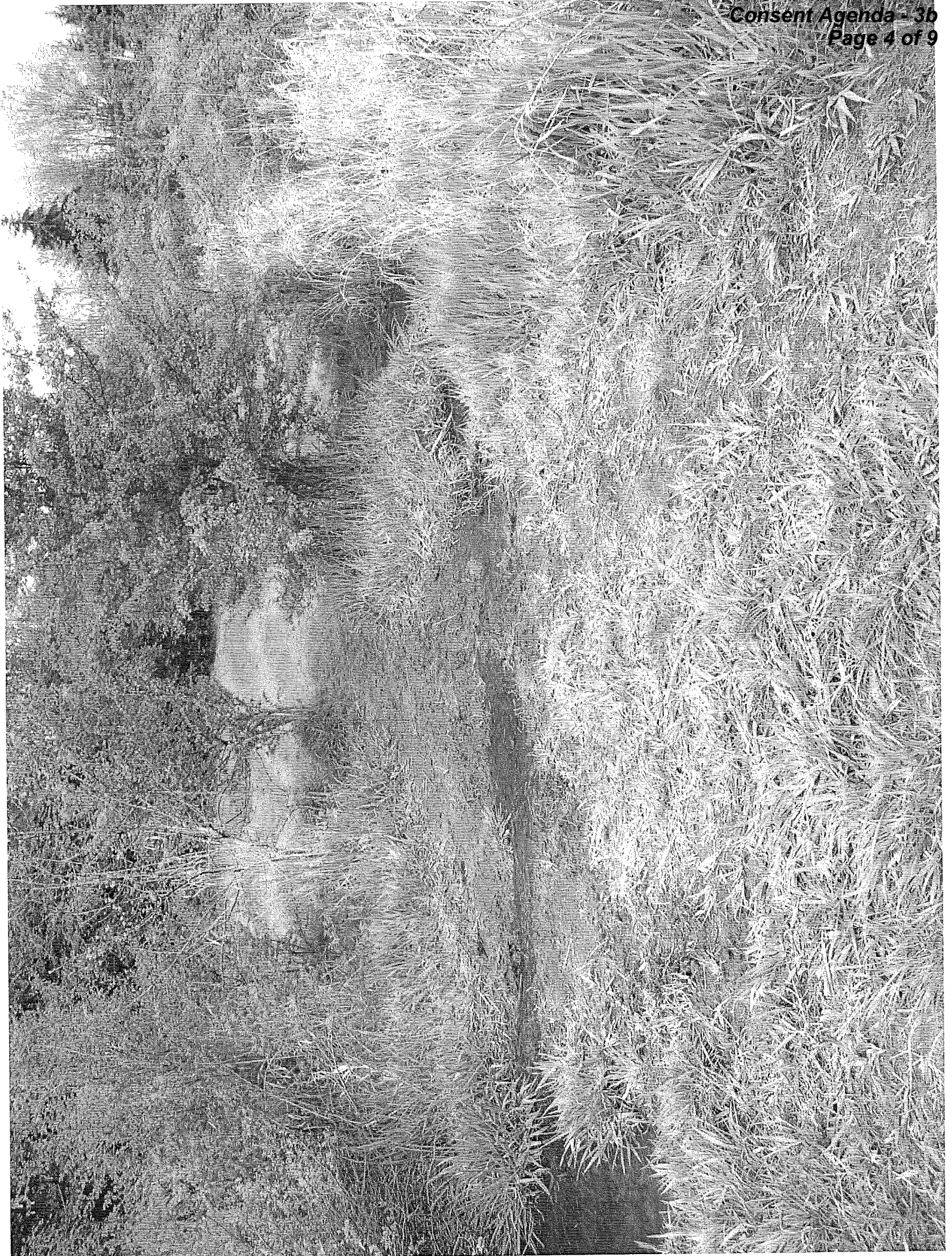
Existing
Foot
Bridge

Pond

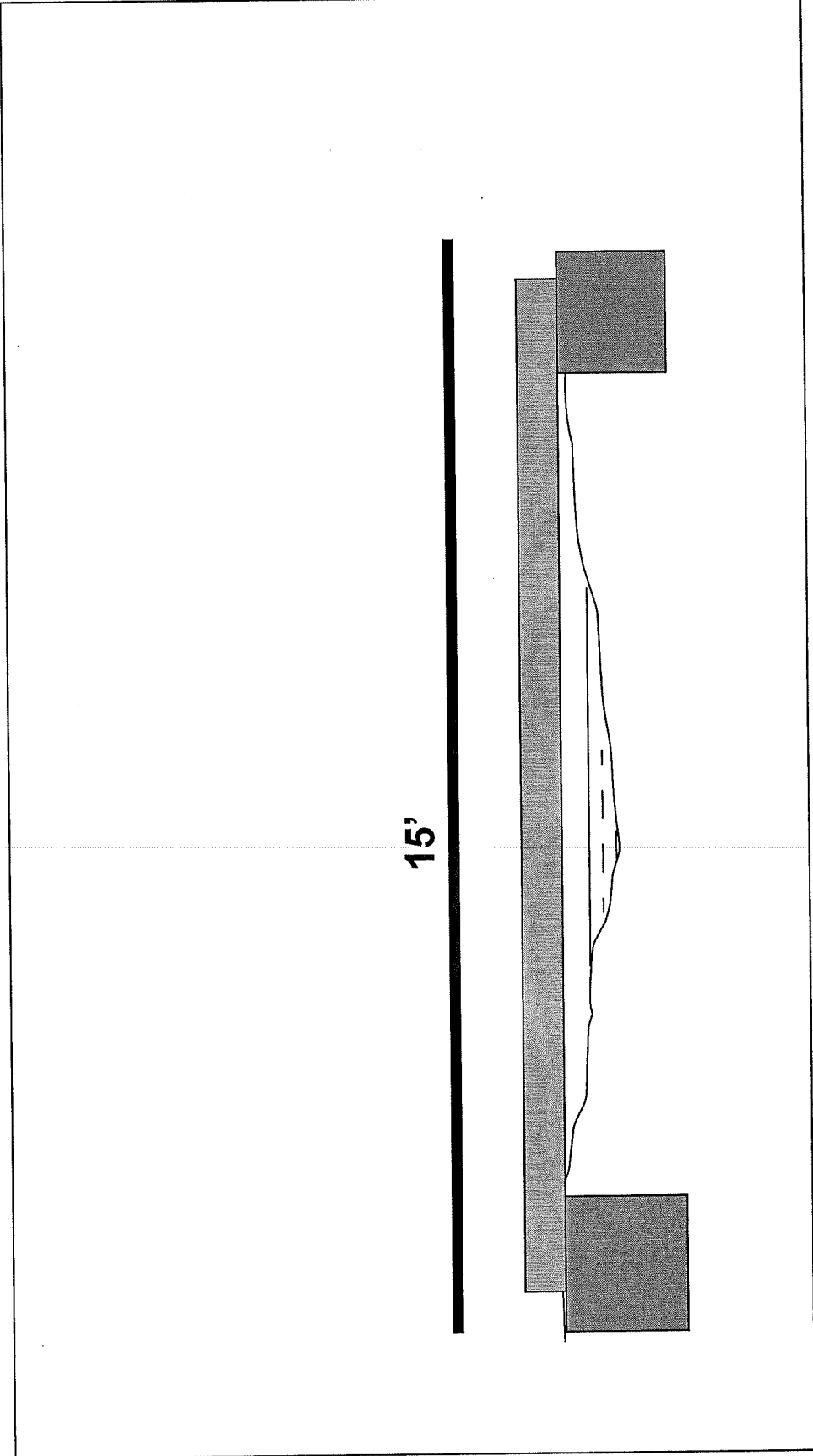


Present Condition



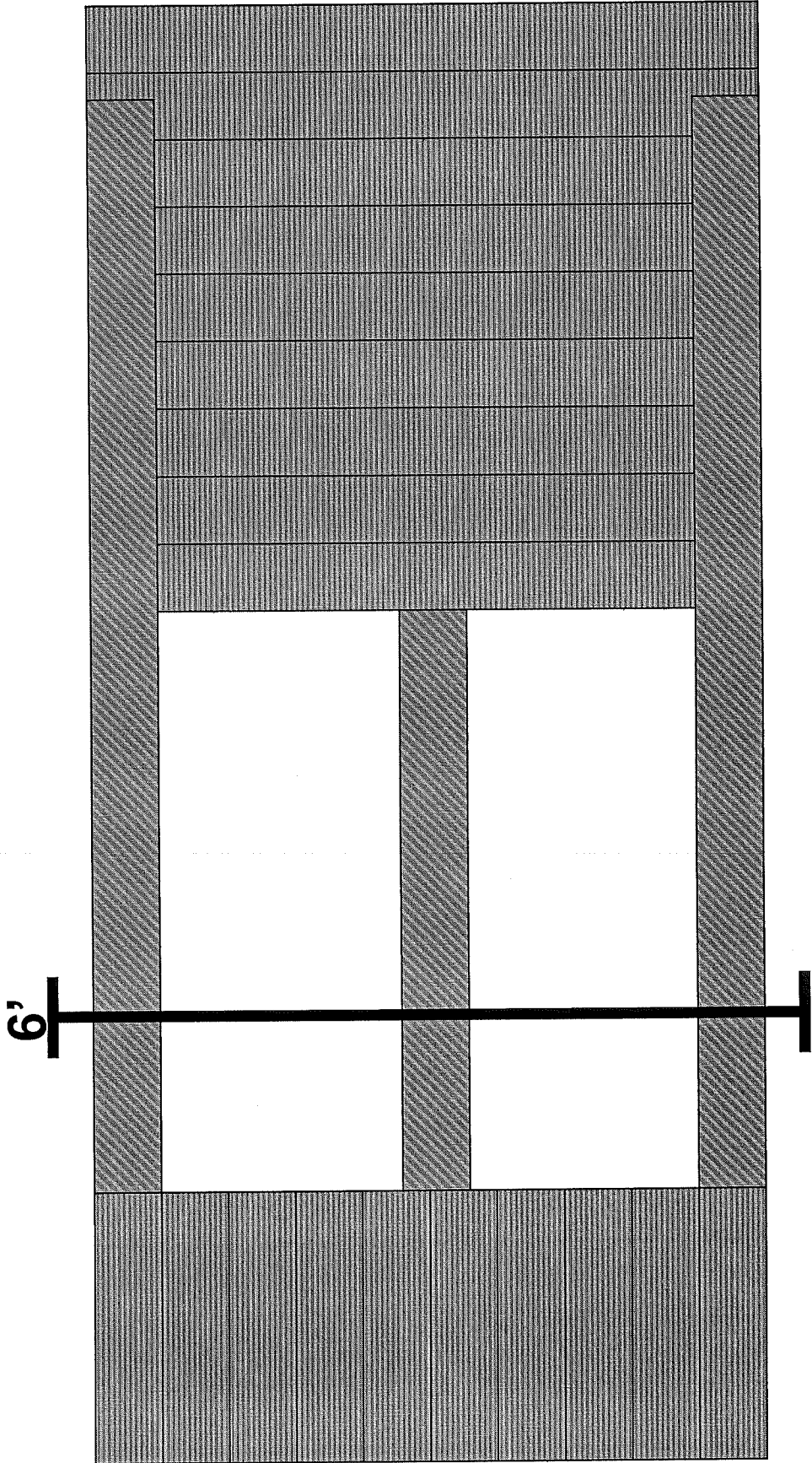


Bridge

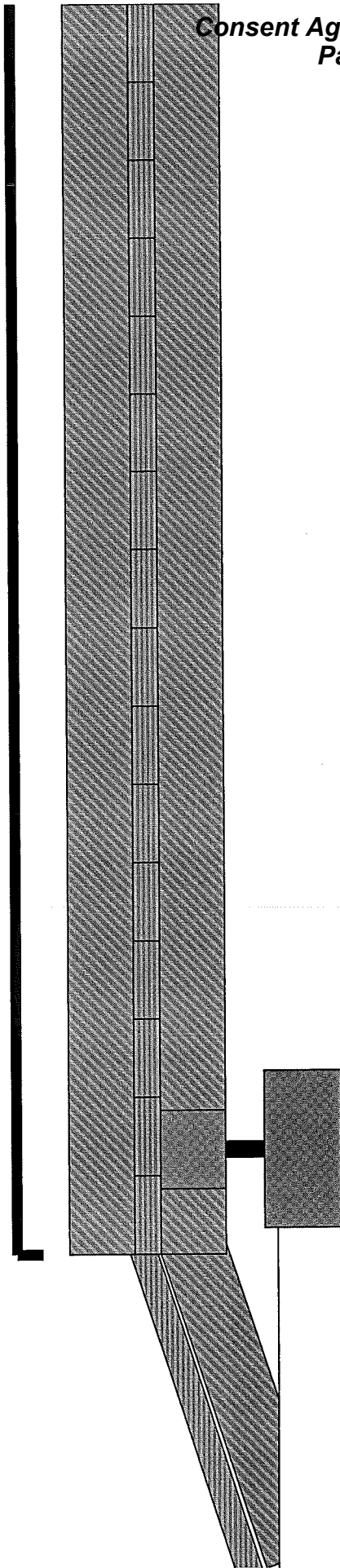


2" by 6"

6" by 6"



15'



Foot Bridge Benefits

- Lets people and pets cross the stream without walking through the mud
- Prevents erosion
- Lets people with disabilities cross easier

Schedule

- **Wetland Delineation** March 2011(done)
- **Meet With Planning and Building Officials** March 2011(done)
- **Meet With Mayor** March 2011(done)
- **Meet with City Parks Commission** April 6, 2011
- **Present Proposal to City Council's Operations Committee** April 21, 2011 (done)
- **Present Proposal to City Council** May 23, 2011
- **Fund Raise and Apply for Grants** April-June
- **Obtain Building Materials** June-July
- **Build Project. Set Work Party Dates** Late July

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

TO: MAYOR OF GIG HARBOR

June 2, 2011

SPECIAL OCCASION # 092365

GIG HARBOR PENINSULA HISTORICAL SOCIETY
4121 HARBORVIEW DR
GIG HARBOR WA 98335

DATE: AUGUST 6, 2011

TIME: NOON TO 6 PM

PLACE: HARBOR HISTORY MUSEUM PROPERTY (ENCLOSED AREA), 4121 HARBORVIEW DR. GIG HARBOR

CONTACT: SUE LOILAND 253-858-6722

SPECIAL OCCASION LICENSES

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

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

- 1. Do you approve of applicant? YES NO
2. Do you approve of location? YES NO
3. If you disapprove and the Board contemplates issuing a license, do you want a hearing before final action is taken? YES NO

Table with 2 columns: OPTIONAL CHECK LIST and EXPLANATION. Rows include LAW ENFORCEMENT, HEALTH & SANITATION, FIRE, BUILDING, ZONING, and OTHER.

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

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



Subject: Resolution – Surplus Equipment

Dept. Origin: Finance

Proposed Council Action:

Prepared by: Kay Johnson

Adopt Resolution No. 862 surplusung this City-owned equipment.

For Agenda of: June 13th, 2011
Exhibits:

Initial & Date

Concurred by Mayor:

CLH 5/31/11

Approved by City Administrator:

POK 5/31/11

Approved as to form by City Atty:

Approved by Finance Director:

OR 5/31/11

Approved by Department Head:

[Signature] 5.25.2011

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

INFORMATION / BACKGROUND

The city has a surplus of antiquated equipment which needs to be properly disposed. This surplus occurred due to the replacement of outdated equipment.

FISCAL CONSIDERATION

The surplus equipment will be sold to either a recycling center or charity organization to be refurbished and reused.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Adopt Resolution No. 862 surplusung this city-owned equipment.

RESOLUTION NO. 862

**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

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

To declare as surplus:

EQUIPMENT	Quantity	SERIAL / ASSET NUMBER	MODEL INFO.
		No Asset #'s or Serial #	
Dell Precision 650 Workstations	5	Asset# 00873 ST#3PT0511	Dell Precision 650
Dell Optiplex GX260		Asset# 01165 ST#BMXXF51	Optiplex GX260
Dell Precision 340		Asset# 00934 ST# CR2H321	Precision 340
Dell Precision 650		Asset# 01053 S# G5KYN21	Precision 650
Gateway Desktop		Asset# 00942 ST# 0026054173	ATXSTFMNTE4600

Monitors: ViewSonic Dell Flat Monitor	1 1	42w023300061 KR08G15247602214 A3DP	21 inch 1702 FP
Printers: 2 -HP Officejet Pro7780	2	S# MY789631HR Asset # 01656 S# my8417505t Asset # 01683	PRO 7780 PRO 7780
Miscellaneous equipment: Speaker Woofer Box Meridian Phone Dell docking station	1 1 1	n/a NT8B20 0406389040 Asset# 00339 n/a	n/a n/a

PASSED ON THIS 13th day of June, 2011.

APPROVED:

MAYOR CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 05/25/11
 PASSED BY THE CITY COUNCIL: 06/13/11
 RESOLUTION NO. 862



Subject: Appointment to the Planning Commission

Proposed Council Action:

Move to re-appoint Jim Pasin and Craig Baldwin and appoint Reid Ekberg to the vacant position; all to serve a four-year term ending June, 2015.

Dept. Origin: Administration

Prepared by: Mayor Chuck Hunter and the Board/Commission Review Committee

For Agenda of: June 13, 2011

Exhibits: Letters of Interest

Initial & Date

Concurred by Mayor:

ckh

Approved by City Administrator:

PKK

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

Three terms come due the end of June. We received letters from Jim Pasin and Craig Baldwin asking to be re-appointed. This leaves one open position.

Reid Ekberg submitted his letter of interest and application during the last appointment period and recently indicated his interest in being considered for the open position. No other applications were received during this advertisement period.

FISCAL CONSIDERATION

N/A

BOARD OR COMMITTEE RECOMMENDATION

The Committee has concurred with the re-appointments of Jim Pasin and Craig Baldwin. Councilmembers Kadzik and Franich recommended appointment of Reid Ekberg to the vacant position. Councilmember Ekberg abstained.

Mayor Hunter concurs with the recommendation of the Boards and Commission Candidate Review Committee.

RECOMMENDATION / MOTION

Move to: Re-appoint Jim Pasin and Craig Baldwin and appoint Reid Ekberg to the vacant position; all to serve a four-year term ending June, 2015.

JAMES A. PASIN
2710 39th Street
Gig Harbor, WA 98335
253-851-8988 FAX: 253-851-8052
Realityjap@aol.com

April 14, 2011

Mayor Charles L. Hunter
3510 Grandview Street
Gig Harbor, WA 98335

Mayor Hunter;

My term on the Planning Commission ends June 2011.

I would like to continue, thus respectfully request an appointment for another term.

Thank you for your favorable consideration on my request.

It is a pleasure to serve on the Planning Commission.

Sincerely,



James A. Pasin

CC:

Mr. Tom Dolan
Mr. Harris Atkins



WestSound Engineering, Inc.

217 Wilkins Drive S.W.
Port Orchard, Washington 98366-4741
(360) 876-3770 • Fax (360) 876-0439

Mayor Chuck Hunter
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

RE: Planning Commision

Dear Mayor Hunter,

I would like to be reappointed to the planning commission.
Please extend my appointment to the planning commission for another term.

Sincerely,

A handwritten signature in black ink, appearing to read 'Craig Baldwin', written over a horizontal line.

Craig T. Baldwin, P.E.

February 8th, 2011

Mayor Chuck Hunter
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

To The Honorable Mayor Chuck Hunter:

I am writing to volunteer to serve on the City of Gig Harbor's Planning Commission. I was born and raised here in Gig Harbor and have always called it my home. I moved away to attend the University of Washington and have lived in many diverse communities here and abroad. As I've traveled and grown I've come to realize just how special Gig Harbor is.

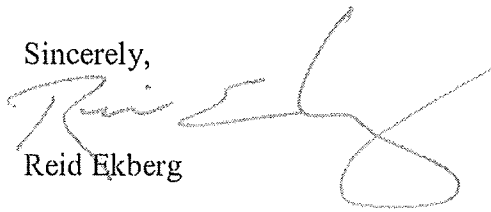
This past year I purchased my first home here and surprisingly the town has taken on an even different feeling. It is more than just the town where I grew up, it is now my community. My parents raised me to with a commitment to live with integrity and to demonstrate my values through my actions. They taught me the importance of service to your community by their examples.

I looked into the different commissions and diverse opportunities to get involved the community. I've spoken with current and former members of the Planning Commission and I believe it offers the best opportunity to serve my community. The Commission's work covers a broad spectrum of important details that may seem boring to some, but to me represent an opportunity to help guide Gig Harbor's development and protect its heritage and character.

I studied International Relations and currently work as an insurance broker in our family's business so I cannot tell you that I am well versed in the intricacies of urban planning and development. What I can tell you is Gig Harbor is, and has always been, my home and if given the opportunity, I look forward to serving my community with hard work and integrity.

Thank you for your consideration.

Sincerely,



Reid Ekberg

**Subject: Wetland Review Consultant
Contract – Wilkinson Park Trail System
Design**

**Proposed Council Action:
Approve and authorize the Mayor to sign a
Contract for Wilkinson Farm Trail System
Design with Grette Associates LLC in an
amount not to exceed \$8,200.60.**

Dept. Origin: Planning

Prepared by: Tom Dolan *TD*

For Agenda of: June 13, 2011

Exhibits: Contract

Initial & Date

Concurred by Mayor:

CLH 5/31/11

Approved by City Administrator:

RJK

Approved as to form by City Atty:

by e-mail

Approved by Finance Director:

DR 5/31/11

Approved by Department Head:

TD 5/26/11

Expenditure	Amount	Appropriation
Required \$8,200.60	Budgeted \$15,000	Required

INFORMATION / BACKGROUND

The purpose of this contract is to obtain a trail system and public access design for the Wilkinson Farm property. The Wilkinson Farm property is severely impacted by critical areas. Grette Associates LLC recently delineated the wetlands on the park site. The proposed trails and other public access facilities need to be designed in a manner consistent with the City's Critical Area Ordinance. Grette Associates LLC will also prepare a Mitigation and Monitoring Plan to offset impacts to the wetland buffer resulting from the construction of the trails and other public access facilities.

FISCAL CONSIDERATION

The City has budgeted \$15,000 for delineation and trail system plan at Wilkinson Farm. The delineation was completed under a previous contract (\$3,342.50).

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Approve contract in the amount of \$8,200.60 with Grette Associates LLC for preparation of a trail system and public access plan together with a mitigation and monitoring plan.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
GRETTE ASSOCIATES LLC**

THIS AGREEMENT is made 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 proposing to construct a trail system and public viewing platforms in Wilkinson Farm Park and desires that the Consultant perform the necessary following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated April 20, 2011, 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 Eight Thousand Two Hundred Dollars and Sixty Cents (\$8,200.60) 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 A** or bill at rates in excess of the hourly rates shown in **Exhibit A**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

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

III. Relationship of Parties

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

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by July 15, 2011; 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:
Grette Associates, LLC
ATTN: Matthew Boyle
Senior Biologist & Company Principal
2102 North 30th Street
Tacoma, WA 98403
(253) 573-9300

City of Gig Harbor
ATTN: Tom Dolan
Planning Director
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

XVII. Assignment

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

XVIII. Modification

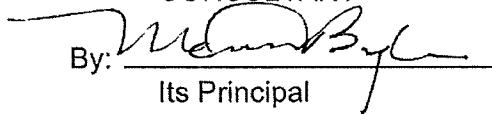
No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

XIX. Entire Agreement

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

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of MAY, 20 11.

CONSULTANT
By: 
Its Principal

CITY OF GIG HARBOR
By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



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

Date: April 20, 2011
Project #: 250.010

Project Name: Wilkinson Farm Park
Trail Design and
Mitigation Plan

Phone: (253) 853-7640
Fax:
E-Mail: reedt@cityofgigharbor.net

Project Manager: Scott Maharry
Client File No.:

SENT VIA:

- Mail
- Fax

- Hand Delivered
- Email

INTRODUCTION

The City of Gig Harbor (City) has requested Grette Associates assistance in designing a trail system and public access plan for the City's Wilkinson Farm Park. The trail system will utilize the existing trails within the park and will include additional trails to provide increased public access. In addition to the trails, two new public viewing platforms will be installed along the edges of the pond at the park. The City has also requested that Grette Associates prepare a Mitigation and Monitoring Plan to offset the potential impacts to the wetland buffer resulting from the construction of the trails and platform. The total estimated cost for this project is **\$8,200.60**.

DESCRIPTION OF WORK:

Task 100 – Wilkinson Farm Park Trail System Design

Grette Associates will design an initial layout of the trail system, including the locations of the two viewing platforms. This initial design will consist of aerial photographs overlain with a conceptual trail system and viewing platforms. These will be provided to the City for comment. It is assumed that one meeting between Grette Associate and City staff will occur to discuss the draft layout. Once the City's comments have been incorporated, a final trail system layout will be prepared.

This Task does not include engineering, surveying or architectural services.

Deliverables: Draft Trail System Layout for City review; Final Trail System Layout

An estimated budget for Task 100 is as follows:

Staff	Rate	Units	Total
Principal Biologist	\$155.00	6	\$930.00
Biologist 4	\$105.00	20	\$2,100.00
Biologist 1	\$83.00	16	\$1,328.00
Administrative	\$70.00	1	\$70.00
Mileage		21	\$12.60
TOTAL TASK 100			\$4,440.60

*Mileage will be calculated at the current Washington DOT or Federal rate plus applicable markup.

Task 200 – Mitigation and Monitoring Plan

Grette Associates will prepare a Mitigation and Monitoring Plan for the project that complies with the requirements of the current Gig Harbor Municipal Code. The Plan will address potential impacts to the functions of the wetland buffers present on the site, and will describe in detail how those impacts will be compensated for. The Plan will also describe the required monitoring activities to be conducted to ensure success of the mitigation actions.

Deliverables: Draft Mitigation and Monitoring Plan for City review; Final Mitigation and Monitoring Plan

An estimated budget for Task 200 is as follows:

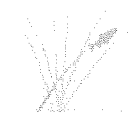
Staff	Rate	Units	Total
Principal Biologist	\$155.00	1	\$155.00
Biologist 4	\$105.00	6	\$630.00
Biologist 1	\$83.00	35	\$2,905.00
Administrative	\$70.00	1	\$70.00
TOTAL TASK 200			\$3,760.00

- TIME AND EXPENSE
- FIXED FEE
- RETAINER

Cost Estimate: **\$8,200.60**

Fee Amount:

Retainer Amount:





Subject: Grant of easement
Grantor – Northwest Conservation
Stewardship Fund
Grantee – City of Gig Harbor

Proposed Council Action: Approve the
Acceptance of the Quit Claim Deed

Dept. Origin: Planning Department

Prepared by: Cliff Johnson, Associate Planner ^{CS}

For Agenda of: June 13, 2011

Exhibits: Quit Claim Deed, Plat Map, Aerial Photo

Concurred by Mayor:	Initial & Date <u>CLH 4/7/11</u>
Approved by City Administrator:	<u>RSK</u>
Approved as to form by City Atty:	<u>by email 6-6-11</u>
Approved by Finance Director:	<u>DR 6-6-11</u>
Approved by Department Head:	<u>TD 6/6/11</u>

Expenditure	Amount	Appropriation
Required	Budgeted	Required
0	0	0

INFORMATION/BACKGROUND

On March 28, 2011 the City Council approved a resolution (Resolution No. 858) authorizing the City to enter into a development agreement with McCormick Creek LLC. This development agreement was a revision of a development agreement previously entered into between McCormick Creek LLC and the City of Gig Harbor on April 26, 2010. The revisions primarily dealt with the number of phases for final plat. The development agreement outlined specific benefits that McCormick Creek LLC would grant to the City in exchange for specific benefits the City would grant to McCormick Creek LLC. One of these specific items was that McCormick Creek would grant to the City a public use and conservation easement over two wetland tracts (Tracts I and J on the attached plat map) that are currently held under an easement by the Northwest Conservation Stewardship Fund (NCSF). NCSF has submitted a quit claim deed granting their interest in the tracts to the City of Gig Harbor. These wetland tracts are intended to be used for a portion of the Cushman Trail. The development agreement also specifies that upon recording of the McCormick Creek final plat, fee ownership of these wetland tracts will be dedicated to the City.

In July of 2010, with funds paid to the City by McCormick Creek LLC as part of the April 26, 2010 development agreement, the City had Robinson-Noble conduct a Phase 2 Environmental Study of the wetland tracts. The Phase 2 Environmental Assessment, found groundwater contamination on the northwestern most portion of one of the wetland tracts. No soil contamination was found, but the Phase 2 study could not conclude with certainty that none exists. After a review of the Phase 2 study and the location of the wetland tracts relative to the groundwater contamination, staff has determined that the probability for soil

contamination is extremely low within the areas specifically intended for construction of the Cushman Trail.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

The Planning and Building committee reviewed the development agreement, which included the requirement for the granting of the easement, at its regular meeting of March 7, 2011 and recommended approval.

RECOMMENDATION / MOTION

Move to: Accept the quit claim deed of the conservation easement affecting the two wetland tracts.

After Recording Return to
Northwest Conservation Stewardship Fund
Attn: Padraic Burke
P.O. Box 4054
Seattle, WA. 98194

SHORT LEGAL DESCRIPTION:
A portion of:
Township 22; Range 02; Section 31
All in Pierce County, Washington

**Quit Claim Deed of Conservation Easement Affecting Two Wetland Tracts
("I" and "J" of above referenced property)**

Northwest Conservation Stewardship Fund hereby Quit Claims to the City of Gig Harbor, its entire interest in the property described on Attachment "A"—Legal Description. Acknowledged and agreed to by Padraic Burke, President of the Northwest Conservation Stewardship Fund

Signature *Padraic Burke*

Notary Acknowledgment

STATE OF Washington)

) ss

COUNTY OF KING)

I certify that I know or have satisfactory evidence that Padraic Burke is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: April 11th 2011

(Seal or stamp)

Lisa M. Nelson

Notary Public in and for the State of

Washington, residing at Seatac

My appointment expires 12-02-2012



EXHIBIT "A"

THOSE PORTIONS OF GOVERNMENT LOTS 2 AND 3, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN IN THE CITY OF GIG HARBOR, PIERCE COUNTY, WASHINGTON, LYING WITHIN THE LIMITS OF THE FOLLOWING DESCRIBED TRACTS OF LAND:

TRACT I

COMMENCING AT THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 3; THENCE NORTH 88°16'16" WEST ALONG THE SOUTH LINE OF SAID LOT 3 A DISTANCE OF 83.30 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF GIG HARBOR-LONGBRANCH HIGHWAY (BURNHAM DRIVE NW); AND THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE NORTHEAST FROM WHICH THE RADIUS POINT BEARS NORTH 34°41'48" EAST A DISTANCE OF 686.20 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID NORTHEASTERLY LINE THROUGH A CENTRAL ANGLE OF 9°29'42" A DISTANCE OF 113.72 FEET TO INTERSECT THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE CITY OF TACOMA-LAKE CUSHMAN TRANSMISSION LINE; THENCE NORTH 13°41'08" WEST A DISTANCE OF 163.42 FEET ALONG LAST SAID NORTHEASTERLY LINE TO THE TRUE POINT OF BEGINNING AND THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE NORTH FROM WHICH THE RADIUS POINT BEARS NORTH 11°56'18" EAST A DISTANCE OF 110.00 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 41°33'34" A DISTANCE OF 79.79 FEET; THENCE NORTH 60°22'44" EAST A DISTANCE OF 19.09 FEET; THENCE NORTH 70°11'59" EAST A DISTANCE OF 34.21 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 110.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°22'56" A DISTANCE OF 21.85 FEET; THENCE NORTH 58°49'03" EAST A DISTANCE OF 42.12 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 110.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 9°30'10" A DISTANCE OF 18.24 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE NORTHWEST FROM WHICH THE RADIUS POINT BEARS NORTH 09°15'56" WEST A DISTANCE OF 110.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 69°00'24" A DISTANCE OF 132.48 FEET; THENCE NORTH 11°43'40" EAST A DISTANCE OF 73.68 FEET; THENCE SOUTH 87°32'14" EAST A DISTANCE OF 5.42 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 9°40'08" A DISTANCE OF 10.13 FEET; THENCE NORTH 82°47'38" EAST A DISTANCE OF 45.48 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 83°01'26" A DISTANCE OF 86.94 FEET; THENCE NORTH 00°13'48" WEST A DISTANCE OF 48.66 FEET; THENCE NORTH 19°59'13" EAST A DISTANCE OF 27.80 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 64°09'57" A DISTANCE OF 67.19 FEET; THENCE NORTH 44°10'44" WEST A DISTANCE OF 65.88 FEET; THENCE NORTH 13°26'53" WEST A DISTANCE OF 8.23 FEET; THENCE NORTH 80°14'45" WEST A DISTANCE OF 30.72 FEET; THENCE NORTH 36°08'10" EAST A DISTANCE OF 11.64 FEET; THENCE NORTH 76°16'11" EAST A DISTANCE OF 13.99 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 70°33'51" A DISTANCE OF 73.89 FEET; THENCE NORTH 05°42'20" EAST A DISTANCE OF 28.34 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 65°51'13" A DISTANCE OF 68.96 FEET; THENCE NORTH 60°08'53" WEST A DISTANCE OF 22.89 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 8°23'11" A DISTANCE OF 8.78 FEET TO THE SOUTH LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 31, EXCEPT THE SOUTH 900 FEET THEREOF; THENCE NORTH 88°16'16" WEST ALONG THE SOUTH LINE OF SAID SUBDIVISION A DISTANCE OF 119.47 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE NORTH 00°54'56" EAST ALONG THE WEST LINE OF SAID SUBDIVISION A DISTANCE OF 213.30 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTHWEST FROM WHICH THE RADIUS POINT BEARS SOUTH 15°39'53" WEST A DISTANCE OF 110.00 FEET; THENCE NORTHWESTERLY ALONG

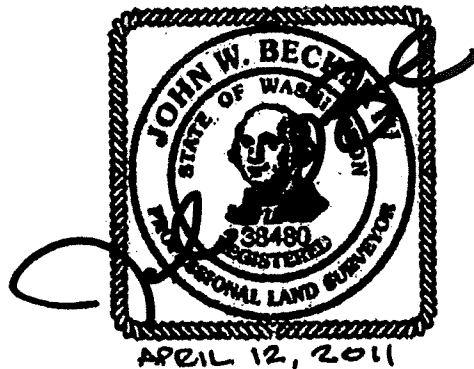
THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°53'16" A DISTANCE OF 51.62 FEET; THENCE SOUTH 78°46'37" WEST A DISTANCE OF 44.32 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTHWEST FROM WHICH THE RADIUS POINT BEARS SOUTH 33°57'52" WEST A DISTANCE OF 110.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 57°43'36" A DISTANCE OF 110.83 FEET; THENCE SOUTH 66°14'16" WEST A DISTANCE OF 88.81 FEET; THENCE NORTH 20°29'24" WEST A DISTANCE OF 2.94 FEET; THENCE NORTH 27°03'19" WEST A DISTANCE OF 19.24 FEET; THENCE NORTH 12°30'00" WEST A DISTANCE OF 25.92 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 110.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 9°01'44" A DISTANCE OF 17.33 FEET; THENCE NORTH 21°31'44" WEST A DISTANCE OF 14.09 FEET; THENCE NORTH 06°16'38" WEST A DISTANCE OF 65.85 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 110.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 37°38'36" A DISTANCE OF 72.27 FEET; THENCE NORTH 43°55'14" WEST A DISTANCE OF 22.74 FEET; THENCE NORTH 32°41'39" WEST A DISTANCE OF 45.83 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 110.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 70°59'29" A DISTANCE OF 136.29 FEET; THENCE SOUTH 76°18'52" WEST A DISTANCE OF 4.56 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE CITY OF TACOMA-LAKE CUSHMAN TRANSMISSION LINE; THENCE SOUTH 13°41'08" EAST ALONG SAID NORTHEASTERLY LINE A DISTANCE OF 1186.39 FEET TO THE POINT OF BEGINNING.

CONTAINING 403,644 SQUARE FEET, MORE OR LESS.

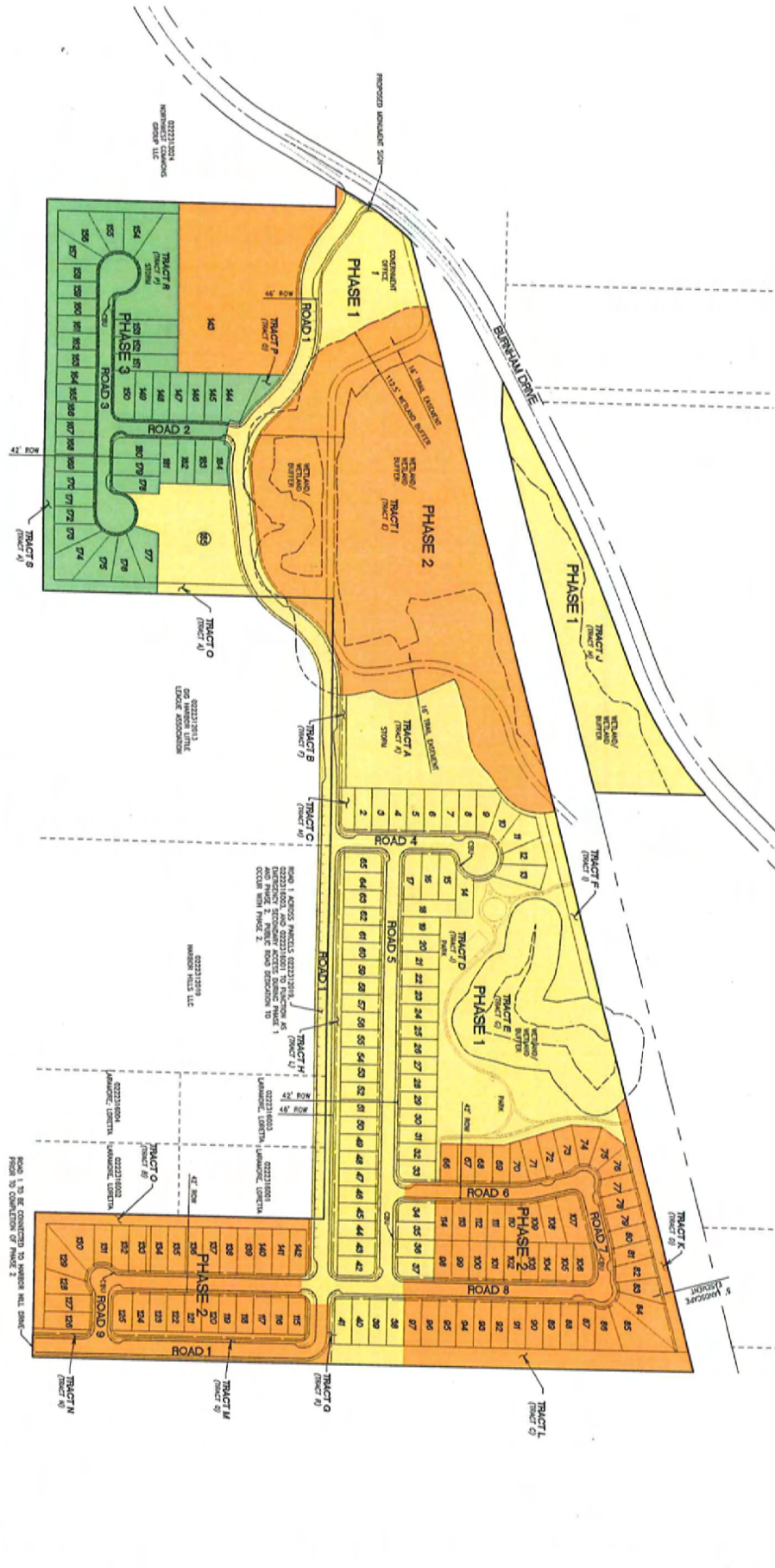
TRACT J

THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 31 LYING EASTERLY OF GIG HARBOR-LONGBRANCH HIGHWAY (BURNHAM DRIVE NW) AND WESTERLY OF THE CITY OF TACOMA-LAKE CUSHMAN TRANSMISSION LINE RIGHT-OF-WAY.

CONTAINING 70,777 SQUARE FEET, MORE OR LESS.



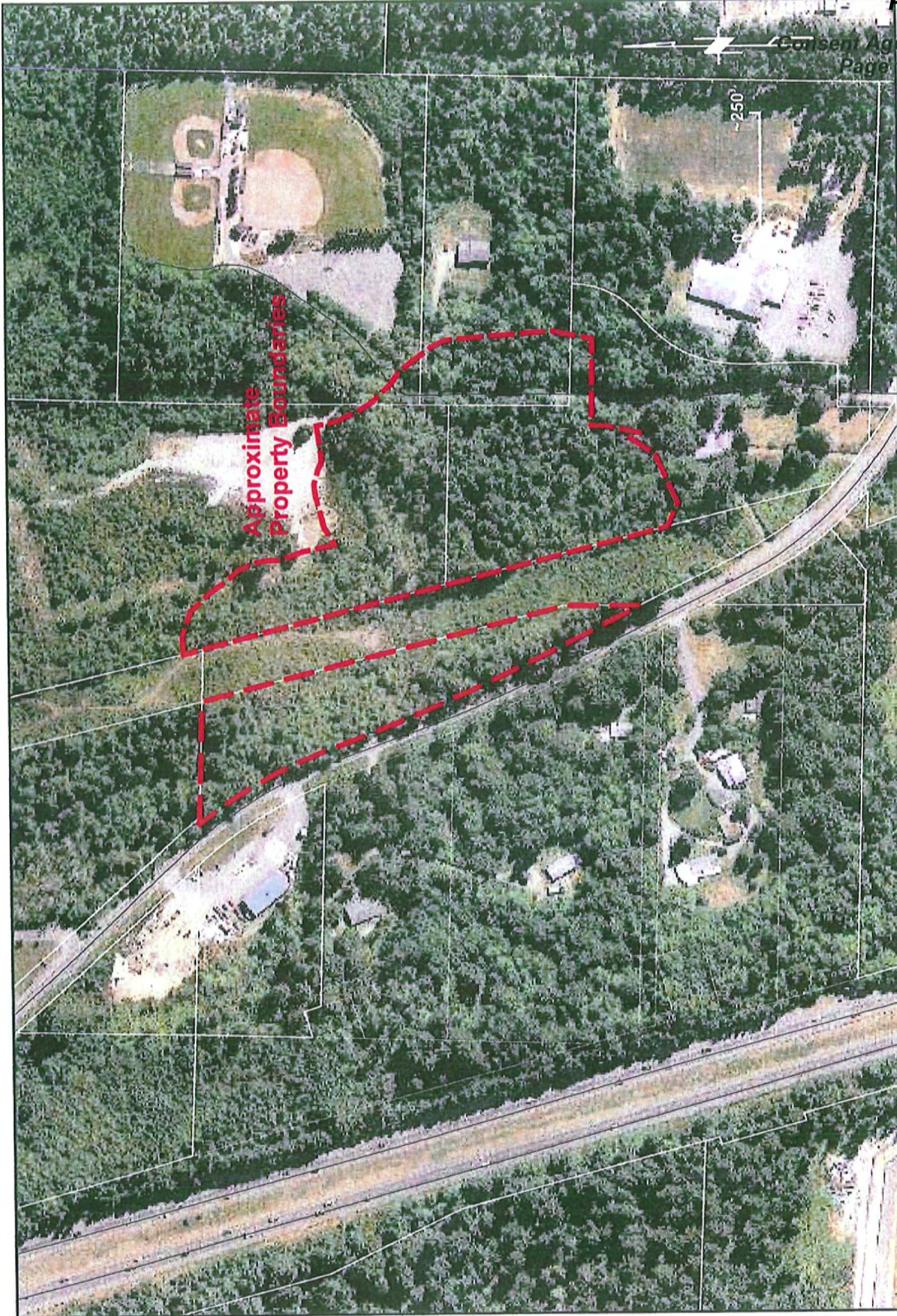
MCCORMICK CREEK PRELIMINARY PLAT/PRD
A PORTION OF THE W. 1/2 OF SECT. 21, T19P. 22 N, R0E 2 E, W14
CITY OF GIGA HARBOR, PENCE COUNTY, WASHINGTON



PHASE	ACRES	NET DEVELOPABLE AREA (SQ. FT.)	NET DEVELOPABLE AREA (ACRES)	PROPOSED LOTS	ROOMS	CHANGING ROOMS (BATHS)	AGENCIES
PHASE 1	941,377	131,282	96,218	64	422	422	PHASE 1, 4 AND 5 CONSTRUCTED, STORM FACILITY CONSTRUCTION.
PHASE 2	1,031,581	111,988	288,171	77	471	471	PHASE 2, 6, 7, AND 8 CONSTRUCTED.
PHASE 3	288,825	48,982	0	41	212	428	ROAD 2 AND 3 CONSTRUCTION, STORM FACILITY CONSTRUCTION.
TOTAL	2,261,783	292,252	124,389	182	1,105	1,321	PHASE 1, 4 AND 5 CONSTRUCTED, STORM FACILITY CONSTRUCTION.

EXISTING TRACT DESIGNATION	PROPOSED TRACT DESIGNATION
TRACT A	TRACT A
TRACT B	TRACT B
TRACT C	TRACT C
TRACT D	TRACT D
TRACT E	TRACT E
TRACT F	TRACT F
TRACT G	TRACT G
TRACT H	TRACT H
TRACT I	TRACT I
TRACT J	TRACT J
TRACT K	TRACT K
TRACT L	TRACT L
TRACT M	TRACT M
TRACT N	TRACT N
TRACT O	TRACT O
TRACT P	TRACT P
TRACT Q	TRACT Q

<p>Job Number 14830</p> <p>Sheet 1</p>	<p>BARGHAUSEN CONSULTING ENGINEERS</p> <p>18215 72ND AVENUE SOUTH KENT, WA 98032 (425) 251-6222 (425) 251-8782 FAX</p> <p>CIVIL ENGINEERING, LAND PLANNING, SURVEYING, ENVIRONMENTAL SERVICES</p>	<p>Designed <u>CMT</u> Drawn <u>CMT</u> Checked <u>CMT</u> Approved <u>CMH</u> Date <u>6/29/19</u></p> <p>Scale: Horizontal 1"=100' Vertical N/A</p>	<p>For McCORMICK CREEK LLC P.O. BOX 1800 ORTING, WA 98360 TOM STURGEON (253) 381-0101</p>	<p>Title: OVERALL PHASING PLAN</p> <p>MCCORMICK CREEK</p>
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Aerial Map

City of Gig Harbor: Plat near 10023 BurnhamDr/Ph1 ESA

Pierce County
T 21 N/R 02 E - 31
Scale 1" = 1000'

PM: RAB
May 2010
1326-020A

Note:
Image from
Tacoma.gov/ME
Website





Subject: Grandview Forest Water Tanks Anchoring Project – Public Works Contract Award and Construction Support Services

Proposed Council Action:

A. Award and authorize the Mayor to execute the Public Works Contract with Proexc, LLC, in an amount not-to-exceed \$119,608.56.

B. Approve and authorize the Mayor to execute a consultant services contract with Parametrix, Inc. for Construction Support Services in an amount not-to-exceed \$15,261.75.

Dept. Origin: Public Works/Engineering

Prepared by: Stephen Misiurak
City Engineer

For Agenda of: June 13, 2011

Exhibits: 2 Contracts: Public Works Contract and Construction Support Services

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Initial & Date

CLH 6/7/11

OK

per email

DR 6/8/11

6/11

CURRENT Expenditure Required	\$134,870.31	Amount Budgeted	\$125,000.00	Appropriation Required	\$0
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see Fiscal

INFORMATION/BACKGROUND

The 2011 budgeted Water Capital Objective No. 6 provides for the anchoring of the 250,000 gallon Grandview Forest water tank. This tank was originally constructed in the 1960's and was unanchored at its base at the original time of installation. During the regional 2001 Nisqually magnitude 6.8 earthquake, this tank shifted laterally from its foundation. On February 14, 2011, City Council approved a consultant services contract with Parametrix, Inc. in the amount of \$13,790.00 to provide structural engineering services for the preparation of technical bid documents for the installation of a perimeter ring wall anchoring system along with safety railing system improvements.

Due to the limited budget in 2011, the contract documents included a separate alternative bid schedule for the seismic anchoring of Tank B.

BID RESULTS

The Grandview Forest Water Tanks Anchoring Project was bid using the City's Small Works Roster process (Resolution No. 797). The Engineer's Opinion of Probable Cost for the base bid and alternative bid schedule A-1 is \$168,495.00. A total of 4 bids were received on May 26, 2011. Bid results from each bidder are summarized below showing a total bid amount and the alternative bid schedule for the seismic anchoring of Tank B.

BIDDER	BASE BID	ALTERNATIVE BID A-1 (Seismic Anchoring Tank B)	TOTAL BID AMOUNT
1. Proexc, LLC	\$91,240.00	\$19,100.00	\$ 119,608.56
2. Nordland Construction	\$99,040.00	\$29,500.00	\$ 139,337.36
3. Nordic Construction, Inc.	\$146,038.00	\$41,413.00	\$ 203,196.88
4. Beisley Inc.			Non-Responsive

FISCAL CONSIDERATION

Funding for this project is provided by Water Division Operating Objective No. 6 in the 2011 Budget. The project end of year interfund transfer from the water operating fund to the water capital fund will be reduced by the equivalent overage of \$23,660.31, and this was confirmed in discussions with Finance Director.

The table below summarizes the expenditures for construction of this work and does include previous design and permitting costs.

EXPENDITURE SUMMARY

Estimated Project Costs	Basic Contract
Previous Contract Structural Engineering Services & Preparation of Technical Bid Documents (Parametrix, Inc.)	\$13,790.00
Construction Contract (Proexc, LLC)	\$119,608.56
Construction Support Services (Parametrix, Inc.)	\$15,261.75
TOTAL ESTIMATED PROJECT COST	\$148,660.31

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Staff recommends approval of proposed City Council action A and B above.

GRANDVIEW FOREST WATER TANKS ANCHORING PROJECT
CWP-1105

PUBLIC WORKS CONTRACT

THIS AGREEMENT, made and entered into, this ____ day of _____, 2011, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and Proexc, LLC, organized under the laws of the State of Washington, located and doing business at P.O. Box 2803, Battle Ground, WA 98604 hereinafter called the "Contractor."

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Contract, the parties hereto covenant and agree as follows:

The Contractor shall do all of the work and furnish all of the labor, materials, tools, and equipment necessary for construction of new concrete foundations, tank hold-down seismic straps, and various safety improvements, all as more completely described in the Contract Documents entitled Grandview Forest Water Tanks Anchoring Project, CWP-1105, including the Standard General Conditions, Supplementary Conditions, and the Technical Specifications, and shall perform any changes in the work, all in full compliance with the Contract Documents entitled "Grandview Forest Water Tanks Anchoring Project CWP-1105," which are by this reference incorporated herein and made a part hereof; and agrees to accept payment for the same in accordance with the said Contract Documents, including the schedule of prices in the "Proposal," the sum of One Hundred Nineteen Thousand Six Hundred Eight Dollars and Fifty-six Cents. (\$119,608.56), subject to the provisions of the Contract Documents, the Standard General Conditions, Supplementary Conditions, and the Technical Specifications.

1. The Contractor shall commence work and contract time shall begin as noted in the Invitation to Bidders. All contract work shall be completed in the period noted in the Invitation to Bidders.
2. The Contractor agrees to pay the City, in accordance with paragraph SC-14.12 in the Supplementary Conditions, for liquidated damages incurred per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
3. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
4. The term "Contract Documents" shall mean and refer to the following: "Invitation to Bidders," "Bid Proposal," "Addenda" if any, "Standard General Conditions," "Supplementary Conditions," "Technical Specifications," "Drawings," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents.
5. The City agrees to pay the Contractor for materials furnished and work performed in the manner and at such times as set forth in the Contract Documents.
6. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, assigns, agents, subcontractors, and employees, does hereby agree to the full performance of all of the covenants herein contained upon the part of the Contractor.
7. It is further provided that no liability shall attach to the City by reason of entering into this Contract, except as expressly provided herein.

IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed the day and year first hereinabove written:

CITY of GIG HARBOR:

CONTRACTOR:

Charles L. Hunter, Mayor
City of Gig Harbor
Date:

Print Name: _____
Print Title: _____
Date:

ATTEST:

City Clerk
Date:

APPROVED FOR FORM:

City Attorney

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Parametrix, a corporation organized under the laws of the State of Washington, located and doing business at 2102 N. Pearl Street, Suite 106, Tacoma, Washington 98406 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the Grandview Forest Water Tanks Anchoring Project, CWP-1105 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 May 2011, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work**, and are incorporated by this reference as if fully set forth herein.

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

TERMS

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Fifteen Thousand Two Hundred Sixty-one Dollars and Seventy-five Cents (\$15,261.75) 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 – Estimated Costs**. 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 September 31, 2011; 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:

Parametrix, Inc.
ATTN: Shannon Thompson
2102 N. Pearl Street, Suite 106
Tacoma, Washington 98406
(360) 377-0014

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

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 201__.

CONSULTANT
By: 
Its Principal

CITY OF GIG HARBOR
By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A - SCOPE OF WORK

City of Gig Harbor Grandview Forest Water Tanks Structural and Safety Improvements

PHASE 03 – CONSTRUCTION SUPPORT

Task 01 – Project Management

Measurable Task Objectives

Parametrix (Consultant) will assist the City in monitoring the progress of the construction support work tasks, staff workloads, and milestones with the project schedule, and will make adjustments as necessary to keep the project on track.

Approach

Our approach to construction support for the Harbor Heights Tanks Structural and Safety Improvements will include the following:

- Attend construction meetings as requested by the City.
- Prepare detailed monthly progress reports and progress billings and submit to the City of Gig Harbor for approval and payment. Monitor the project budget.

Assumptions

The following assumptions are associated with this task:

- These additional Project construction support services will be required for the bidding period and construction, tentatively from May 2011 to September 2011.
- The City will provide onsite daily inspections and maintain all associated documentation.

Deliverables

The following deliverables are associated with this task:

- Project invoices and status reports.

Task 02 – Construction Support Services

Measurable Task Objectives

Parametrix will provide support to the City designated inspector during construction.

Approach

The following activities will be performed:

- Response to Requests for Information (RFIs).
- Review submittals and shop drawings.
- Review of nonconformance construction work as needed.
- Periodic site visits as needed.
- Structural site visits as specified in the observation plan submitted to the City of Gig Harbor Building Department.
- Complete a “punch list site walk” with City Inspector.
- Review and recommend acceptance of Contractor Pay Requests.
- Review, evaluate, and provide recommendations and estimates for City issued and Contractor requested change orders.
- Review Contractor-prepared redlined, as-built drawings. Incorporate redline drawings into record set in AutoCAD and submit to the City for review.

Assumptions

The following assumptions are associated with this task:

- Parametrix and the City will provide periodic construction observation, management, and administration for the project. Parametrix will verify that the Contractor is adequately maintaining as-built drawings.
- Parametrix will prepare and distribute meeting minutes for weekly progress meetings, if required.
- Parametrix will compile and track Contractor documentation.
- Parametrix will prepare the punch list and complete project closeout activities.
- The City will provide construction materials testing.

In order to quantify specific activities for determining the budget the following values have been assigned:

- Approximately 5 RFIs are anticipated.
- Approximately 12 submittals will be reviewed during the construction period.
- Approximately 2 Contractor-requested change orders will be reviewed.
- 2 reviews of nonconformance construction work may be required.
- 4 hours has been allocated for the punch list site walk.
- Three site visits are anticipated during construction (4 hours/each) for Engineering staff.

Some tasks will take longer than anticipated and some will take less. The values listed above reflect an overall level of effort. No specific account for each task will be measured or budget adjustments requested unless the overall level of effort is substantially more or less than anticipated.

Deliverables

The following deliverables are associated with this task:

1. Responses to RFIs.
2. Submittal and shop drawing reviews.
3. Nonconformance reports.
4. Recommendations to Change order requests.
5. Meeting Minutes.
6. Record drawings, Mylar and AutoCAD.

EXHIBIT B - FEE PROPOSAL
OWNERS PROJECT MANAGEMENT: Gig Harbor Harbor Heights Tanks Construction Services
Division Manager Project Coordinator CQA Observer Construction Manager / Administrative Staff
Project Manager Project Manager

Totals

Company	Parametrix	Parametrix	Parametrix	Parametrix	Parametrix	Parametrix	Parametrix	Parametrix	Parametrix
Staff	Jim Dugan	April Whittaker	Steve Wagner	Shannon Thompson	CAD				
Hours per week	5.00	6.00	6.00	6.00	2.00				
Total Hours	31.88	38.25	38.25	38.25	12.75				
	\$ 0.00	\$ 2,550.00	\$ 5,737.50	\$ 5,163.75	\$ 1,083.75	\$ 0.00	\$ 885	\$ 0	\$ 19.00
									121.13
									14,535.00
									726.75
									726.75
									15,261.75

Phase 3 Construction Management/Contract Administration
Duration in months (4.25 weeks per month) 1.5
Subtotal Labor \$ 14,535.00
SUBTOTAL PHASE 2 \$ 15,261.75

Phase II Total	\$ 15,261.75
Phase 3 Expenses Total	\$ 726.75
Phase 3 Total	\$ 15,261.75
Total Labor	\$ 14,535.00
Expense Allowance % of labor	\$ 726.75
Total of phase 3	\$ 15,261.75

Notes:

- Expenses are estimated at 5% of Labor but only actual expenses will be billed
- Mileage expenses are included within the estimated Expense Budget
- Proposed budget is for anticipated end date of 6 weeks after Notice to proceed

[Signature]

Division Manager

[Signature]

Project Manager



Subject: City-Wide Travel Demand Model Update, Annual Capacity Availability Report and On-Call Services for Concurrency Testing

Proposed Council Action: Approve and authorize the Mayor to execute a Consultant Services Contract with David Evans and Associates for an amount not-to-exceed \$49,900.00.

Dept. Origin: Public Works/Engineering

Prepared by: Stephen Misiurak, PE
City Engineer

For Agenda of: June 13, 2011

Exhibits: Consultant Services Contract

Concurred by Mayor:

Initial & Date

CLH 6/8/11

Approved by City Administrator:

RJK

Approved as to form by City Atty: *approval via email 6/7/11*

Approved by Finance Director:

FR 6/8/11

Approved by Department Head:

JL 6/8/11

Expenditure	\$24,900 (City)	Amount		Appropriation	
Required	\$25,000 (est. pass-through fees paid by developer)	Budgeted	\$25,000.00	Required	\$0

INFORMATION / BACKGROUND

This contract provides for the annual City-wide traffic demand model update. Deliverables to be performed under this scope of work provide for the traffic count data collection at key City intersections, updating the intersection turning movement vehicle counts, updating and calibrating the model so it is current and available for future transportation concurrency runs, pre-purchase two PTV e-learn online training course registrations for a total of 28 hours for City staff, evaluate tests for new developments as needed (on-call) and document each result with a Concurrency Evaluation Report, and provide the City with a complete 2011 Transportation Capacity Availability Report.

FISCAL CONSIDERATION

The 2011 Budget includes a line item "Transportation capacity availability report and traffic model" in the Street Division – Operating Objectives with \$25,000 shown as the adopted amount (Account No. 101-017-542-30-41-56). This amount is sufficient to fund the work necessary to update the traffic model and provide the report. The work related to Task 10 – On-Call Concurrency Testing for Proposed Developments, would be completed on an as-needed basis and funded through private development fee collection as a pass-through cost. The estimated contract amount includes \$24,900 for Task 1 through 9, funded by the Street Division and \$25,000 for Task 10, performed as needed and funded by fees as a pass-through cost.

Staff anticipates renewal in 2012.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Move to: Approve and authorize the Mayor to execute the Consultant Services Contract with David Evans & Associates, Inc. for the City-Wide Travel Demand Model Update, Annual Capacity Availability Report and On-Call Services for Concurrency Testing in the not-to-exceed amount of \$49,900.00 of which \$25,000 is funded as pass-through monies paid by the developer.

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and David Evans and Associates, Inc., a Corporation organized under the laws of the State of Washington located and doing business at 415 118th Ave. SE, Bellevue, Washington 98005 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in City-wide Travel Demand Model Update, Annual Capacity Availability Report and On-Call Services for Concurrency Testing 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 June 6, 2011, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

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

TERMS

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Forty-Nine Thousand Nine Hundred Dollars and No Cents (\$49,900.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A – Scope of Services**, 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 December 31, 2011; 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 Services 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:
David Evans and Associates, Inc.
ATTN: Victor Salemann, P.E.
415 118th Ave. SE
Bellevue, WA 98005
(425) 586-9761

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

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 201__.

CONSULTANT

CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY OF GIG HARBOR

**EXHIBIT A
SCOPE OF SERVICES**

FOR CITYWIDE TRAVEL DEMAND MODEL UPDATE

The City of Gig Harbor (City) has a calibrated 2010 citywide travel demand model and a citywide concurrency travel demand model, currently utilizing VISUM version 11.5, to perform transportation concurrency testing for private development and to determine impacted intersections within the City and Urban Growth Area. The City requires an update of the model, which includes recalibrating the base model utilizing 2011 traffic counts, updating the pipeline to include built projects in the calibrated base model, and adding any updates to the transportation network. An annual Capacity Availability Report shall be updated after completion of the model update.

The City contracted David Evans and Associates, Inc. (DEA) to provide an updated base model reflecting current conditions, an updated concurrency model reflecting future conditions, an annual capacity availability report, and on-call services to perform concurrency testing for proposed developments and other services as necessary. This scope of services will include the following tasks:

Task 1 – Project Management

This task provides for management and coordination activities that are necessary to complete the work program, in addition to technical tasks necessary for deliverable products. The activities shall include project administration, preparation of monthly invoices and progress reports, city-consultant coordination and meetings, and quality control and quality assurance.

Task 2 – Collect and Review Traffic Counts

This task will develop traffic count and other monitoring information to establish the new citywide base traffic condition. The new count data will be used to calibrate the 2010 model to 2011 base condition. DEA will:

- Review with City staff to identify the count locations for intersection turning movement counts in the PM peak hour and for arterial daily traffic counts on a 7-day period.
- Identify up to half of the 2010 intersection count locations or 20 intersections and 4 arterial locations for count data collection.
- Subcontract a traffic count company to collect traffic count in mid June 2011 before school summer break.
- Review the 2011 traffic count data and provide the City with specific recommendation for base model update if the 2011 counts are similar to (or lower than) the 2010 counts.

Task 3 – PM Peak Hour Base Model Network and Land Use Update

DEA will work with City staff to identify transportation network and land use changes that have occurred since the last model update. DEA will:

- Add new count data into the model
- Add all new roadways completed and opened to traffic since the last model update to the network.
- Remove or close all roads or intersections due to closures or restriction.
- Review all the completed and opened roadway improvements and determined if link capacities should be increased to reflect improved roadway capacity created by turn lanes, sidewalks, or safety improvements or should be reduced by traffic calming projects that have been implemented or should be eliminated due to any roadway closures.
- Review all completed and opened intersection improvements to determine if any node control type, node capacity, turn penalty, turn restriction, or delay functions require updates.
- Work with City staff to identify the previously approved developments that were built and generated traffic in 2011.
- Identify traffic analysis zone (TAZ) updates including boundary and land use changes since last model update in Gig Harbor or other jurisdictions or annexation areas.

Task 4 – PM Peak Hour Base Model Re-calibration

The model re-calibration will be conducted based on the 2010 travel demanding methodology developed by PTV, including the methodology for trip generation, trip distribution, and assignment steps. DEA will:

- Run the updated model and compare the assignment results to actual counts.
- Review significant differences between assignment results and actual counts and investigate the likely causes.
- Iteratively revise and refine the model coding or revise trip generation rate until the differences between model volumes and actual counts meet the calibration standard previously used in the last model update. Validation will match limits imposed by graphs on allowable screenline calibration errors and allowable link calibration errors in NCHRP 255 (pp 41, 49).
- Update model correction volumes.
- Confirm the methodology used for intersection volume post processing for intersection LOS calculations and make recommendations for improvements if necessary.

Task 5 – PM Peak Hour Concurrency Model Update

The PM peak hour concurrency model will be updated based on the PM peak hour re-calibrated base model plus any planned network improvements and approved pipeline developments. DEA will:

- Work with City staff to identify any approved pipeline developments, built, expired, modified or withdrawn concurrency project list, and planned network improvements or

planned network improvements removed since last model update. Prepare a list of clean pipeline developments and planned network improvements reflecting the changes made to the pipeline developments and planned network improvements.

- Carry base model re-calibration changes, including link, intersection, turn, zone, zone connector changes, and land use changes to the concurrency model.
- Carry base model correction volumes to concurrency model
- Update the concurrency model with a list of clean pipeline developments and planned network improvements.
- Run the concurrency model to obtain the updated link and intersection volumes.

Task 6 – Annual Transportation Capacity Availability Report Update

DEA will prepare the 2011 Annual Transportation Capacity Availability Report consistent with Gig Harbor Municipal Code after completion the updates of base model and concurrency model. DEA will:

- Evaluate and document 2011 LOS and Capacity.
- Evaluate and document LOS and capacity under the approved concurrency conditions.
- Identify areas of concern including LOS deficiencies, near LOS deficiencies or LOS inconsistencies.
- Prepare an updated annual transportation capacity availability report summarizing the modeling assumptions, methodology, findings, and LOS and capacity.

Task 7 – City Staff Training

DEA will pre-purchase two PTV e-learn online training course registration for a total of 28 professional development hours for City staff. In addition, DEA can provide on-call training or support for City staff by phone, video-conference, web-meeting, or in-person.

Task 8 - Olympic View Corridor and Interchange Area Assessment

DEA will evaluate the results of the 2011 Capacity Report for system deficiencies specifically related to the Olympic View corridor and interchange area. A list of near term and long term strategies to address current and anticipated problems in the corridor will be developed and summarized in a 2-5 page memo.

Task 9 - Impact Fee Credit Provisions

DEA will provide recommended language for amendments to the City's impact fee ordinance to all for credit for the value of land and improvements provided by development and funded by impact fees. DEA will submit sample ordinance language based upon similar City ordinances relating to GMA impact fees in Washington.

Task 10 – On-Call Concurrency Testing for Proposed Developments

DEA will maintain the citywide base model and concurrency model and perform concurrency evaluation tests for new development as needed and document each test results with a

Concurrency Evaluation Report. DEA will also defend the concurrency test results before developers, Hearing Examiners, City Councils, and Courts of law if requested.

For the budget estimate purpose, it is assumed the concurrency on-call test fees total \$25,000, which are equivalent to 10 on-call concurrency tests with PM peak hour trips ranging from 51 to 150 trips (10 tests in the next two years) requested by the City. However, the actual development size and fees of each concurrency test will be determined when the real development application is submitted to the City.

Task 11– Other Potential Services as Necessary (Optional)

DEA is prepared to provide additional on-call support services described as follows:

- Build a citywide SYNCHRO model for the purpose of easy operational analysis, straight forward output report and convenient signal timing optimization.
- Perform scenario analysis for the Transportation Improvement Plan (TIP) and assist with TIP development and update.
- Provide traffic analysis and simulation for arterial corridor, interchange, and intersection improvement.
- Support impact fees revision and land use scenarios/annexation area testing.
- Traffic calming testing
- Green house gas testing
- Participate in meetings and presentations as requested

Deliverables:

- Annual Transportation Capacity Availability Report
- Monthly invoice and progress report
- Complete set of all traffic counts
- Complete set of electronic files of each model update
- On-call Concurrency Evaluation Report
- Memo summarizing Olympic View corridor near term and long term strategies to address current and anticipated problems
- Recommendation for amendments to impact fee ordinance

Fee Basis

The cost of this scope shall not exceed 49,900 Dollars, of which approximately 25,000 Dollars will be assumed for on-call concurrency tests. The specific hours and budget are shown in Exhibit A: Labor Estimate and Budget.

CITY OF GIG HARBOR
CITYWIDE TRAFFIC MODEL UPDATE
EXHIBIT B
SCHEDULE OF RATES AND ESTIMATED HOURS

	Principal In Charge	Project Manager	Traffic Designer	Traffic Engineer	Graphics Designer	Accounting Admin	Task Costs	Task Sub- Costs	Task Sub- Expenses
DAVID EVANS AND ASSOCIATES, INC	QA/QC								
415 118th Ave SE	VLS	AMTE	AOW	MXLU	BEAM	MJRE/VLE			
bellevue, WA 98005									
Task 1 - Project Management									
Prepare and submit invoices and progress report		2				2			
Provide project management, administration, and coordination		4				2			
Provide supervision and QA/QC	4	1				5			
Task 1 Total	4	7				9	\$ 3,061.00	\$ 3,061.00	
Task 2- Collect and Review Traffic Counts									
Identify traffic count locations	0.5		2	2					
Review traffic count data	0.5		10	2					
Task 2 Total	1		12	4			\$ 2,021.00	\$ 2,021.00	
Task 3 - PM Peak Hour Base Model Network and Land Use Update									
Add new count data into the model				4					
Update roadway network				3					
Update intersections and turns				4					
Update zones and connectors				3					
Update land use changes				2					
Task 3 Total				16			\$ 2,160.00	\$ 2,160.00	
Task 4 - PM Peak Hour Base Model Re-calibration									
Check assignment results against actual counts				1					
Investigate the differences between model volumes and counts				3					
Iteratively revise and refine model coding to achieve acceptable calibration results				12					
Model volumes post processing				2					
Task 4 Total				18			\$ 2,430.00	\$ 2,430.00	
Task 5 - PM Peak Hour Concurrency Model Update									
Carry base model re-calibration changes to concurrency model				7					
Carry base model correction volumes to concurrency model				3					
Update concurrency pipeline developments				3					
Update planned improvements				3					
Task 5 Total				16			\$ 2,160.00	\$ 2,160.00	
Task 6 - Annual Transportation Capacity Availability Report Update									
Evaluate and Document 2011 LOS and Capacity				7					
Evaluate and document LOS and capacity under the approved concurrency conditions				7					
Identify LOS deficiencies and concerns	1			1					
Prepare an updated annual transportation capacity availability report	1	1	2	16	6				
Task 6 Total	2	1	2	31	6		\$ 5,652.00	\$ 5,652.00	
Task 7 - City Staff Training									
Pre-purchase two PTV e-learning online training courses (28 PDH) for City staff									
City staff training support				4					
Task 7 Total				4			\$ 540.00	\$ 540.00	
Task 9 - Olympic View Corridor and Interchange Area Assessment									
	6								
Task 9 Total	6						\$ 1,326.00	\$ 1,326.00	
Task 10 - Impact Fee Credit Provisions									
	2								
Task 10 Total	2						\$ 442.00	\$ 442.00	
Task 11 - On-Call Concurrency Testing for Proposed Developments									
Perform concurrency tests and provide evaluation report (Assumed 10 tests with 51-150 PM trips in next two years)	12	10	14	120	11	17			
Prepare Concurrency Evaluation Report									
Provide meeting or presentation support									
Task 11 Total	12	10	14	120	11	17	\$ 24,993.00	\$ 24,993.00	
Total Hours	27	18	28	209	17	26			
Rate	\$ 221.00	\$ 185.00	\$ 105.00	\$ 135.00	\$ 105.00	\$ 98.00			
Direct Labor	5,967.00	3,330.00	2,940.00	28,215.00	1,785.00	2,548.00	44,785.00		
SUBCONSULTANT SERVICES									
Traffic Counts for Task 2							\$ 4,000.00		
EXPENSES									
Reproduction, Postage, Express Delivery							\$ 115.00		
Mileage at \$.51 per mile in 2011							\$ 300.00		
Two e-learning online courses for Task 7							\$ 700.00		
TOTAL PROJECT COST							49,900.00		

K:\City Projects\Projects\008T Transp Capacity Avl Report & Travel Demand Model--Consultant Contracting Firm\1.2 Contract Scope\Citywide Traffic Model Update Budget 2011 Rev. 6.5.11.xls\Sheet1

Subject: Agreement amendment with Kitsap County establishing the base rate for housing and booking fees

Proposed Council Action:

Authorize the Mayor to execute an amendment renewing the Agreement for Incarceration with Kitsap County, substantially in the form attached.

Dept. Origin: Police Department

Prepared by: Chief Mike Davis 

For Agenda of: June 13, 2011

Exhibits: Agreement amendment with Kitsap County Jail

Initial & Date

Concurred by Mayor:

Approved by City Administrator: 

Approved as to form by City Atty: via email

Approved by Finance Director:  5/31/11

Approved by Department Head:  5/19/11

Expenditure	Amount	Appropriation
Required: see fiscal impacts below	Budgeted: \$100,000	Required: none

INFORMATION / BACKGROUND

The Gig Harbor Police Department wishes to approve an agreement amendment with Kitsap County Jail establishing the 2011 base rate for housing an inmate for a 24-hour period at eighty dollars and 80 cents (\$80.80). The agreement amendment also establishes the book and release fee at fifty dollars (\$50.00). The attached agreement will become an amendment to the original jail contract with Kitsap County that was approved in 2010.

The attached agreement amendment has been reviewed and approved via email by City Attorney Angela Belbeck

FISCAL IMPACTS

The fiscal impacts associated with the approval of this contact will be approximately \$7,000 taking into consideration what we paid the Kitsap County Jail in 2010 for services. The estimated costs of this agreement will be covered within our current jail budget of \$100,000.

RECOMMENDATION

Authorize the Mayor to execute an amendment renewing the Agreement for Incarceration with Kitsap County, substantially in the form attached.

**KITSAP COUNTY/CITY OF GIG HARBOR
AGREEMENT FOR INCARCERATION OF CITY PRISONERS**

THIS FIRST AMENDMENT is made to that certain Agreement for Incarceration of City Prisoners (the "Agreement") made and entered into on April 26, 2010, by and between KITSAP COUNTY, a municipal corporation, having its principal offices at 614 Division Street, Port Orchard, Washington, 98366 (the County) and the CITY OF GIG HARBOR (the Contract Agency), having its principal offices at 3510 Grandview Street, Gig Harbor, Washington 98335.

WHEREAS, the County is authorized by law to operate a jail for misdemeanants and felons and the Contract Agency is authorized by law to operate a jail for misdemeanants and felons;

WHEREAS, the Contract Agency has designated the County jail as a place of confinement for the incarceration of one or more prisoners lawfully committed to the Contract Agency's custody;

WHEREAS, the parties desire to update the fee and billing provision in the Agreement;

NOW, THEREFORE, for and in consideration of the conditions, covenants and agreements contained herein, the parties agree as follows:

SECTION 5 of the AGREEMENT is amended as follows:

5. DEFINITION OF A CONTRACT AGENCY PRISONER:

The term "CONTRACT AGENCY PRISONER" as used in this Agreement shall mean a person arrested by a CONTRACT AGENCY officer, and held and confined in the Kitsap County Sheriff's Office Jail, or otherwise held in detention as provided in this agreement pursuant to a violation of a CONTRACT AGENCY ordinance or a violation of a state law or ordinance which designates the crime for which the person is held to be a misdemeanor or gross misdemeanor. If a prisoner originally arrested for a felony offense is charged with a misdemeanor offense by the city, the city shall pay the established per diem rate retroactively to the time of booking. Similarly, a CONTRACT AGENCY prisoner that is charged with a felony at arraignment shall become the responsibility of the county, and per diem rates will be the responsibility of the county retroactively to the time of booking. A prisoner arrested for a warrant issued by another jurisdiction within Kitsap County or for charges initiated by a non-CONTRACT AGENCY officer, shall be the responsibility of the originating agency. Prisoners arrested by CONTRACT AGENCY officers for extraditable warrants issued by non-CONTRACT AGENCIES will be considered County Prisoners; however, these prisoners will be exempt from split billing as described in Section 6 (f) "Split Billing."

SECTION 6 of the AGREEMENT is amended as follows:

6. COMPENSATION FROM CONTRACT AGENCY:

(a) Base Rate for Housing. In return for the County's housing of a prisoner of the Contract Agency, the Contract Agency shall pay the County eighty dollars and eighty cents (\$80.80) in calendar year 2011 for every 24-hour period, or portion thereof greater than twelve (12) hours, that said prisoner is in the custody of the County commencing upon the adoption and signatures of the Contract Agency and the County. Such time period shall be measured from the time said prisoner is transferred to the custody of the County to the time when the Contract Agency resumes custody or the prisoner is released under competent authority. For purposes of this section, the Contract Agency prisoners are defined as all pre-conviction and post-conviction misdemeanants.

On January 1st of each year, the base rate for housing shall be increased by one hundred percent (100%) of the percentage increase set forth in the All Urban Consumers Index (CPI-U) (1982-1984=100) for the Seattle-Tacoma-Bremerton area, and as specified by the Bureau of Labor Statistics, United States Department of Labor. The COLA increase shall not be less than one percent (1%) or more than five percent (5%). The period from June 2010 to June 2011 will be used for the 2012 contract year.

(b) Determination of Case Status. The Prosecuting Attorney shall have the sole authority to determine which felony cases submitted by the Contract Agency shall be charged as felonies and which as gross misdemeanors/misdemeanors. The Contract Agency shall not be responsible for the base rate for housing on any cases charged as a felony by the Prosecutor. Nothing in this contract prevents the County from seeking reimbursement for felony medical costs prior to conviction as provided in RCW 70.48.130.

(c) Base Rate for Booking and Release. In return for the County providing a service to book and release a prisoner of the Contract Agency in order to have the arrest documented on the criminal history of the prisoner, the Contract Agency shall pay the County fifty (\$50) dollars in calendar year 2010. As long as the prisoner is not in the facility over 12 hours, this rate will be used.

(d) Other Costs. The Contract Agency shall also pay such other costs to the County or third parties as set forth herein, including but not limited to any medical costs required by Section 7.

(e) Billing. The County will bill the Contracting Agency on or about the 15th day of each month for all amounts due to the County under this Agreement for the services rendered in the prior calendar month. Such fees shall be due and payable by the Contract Agency to the County within 30 days after receipt of an itemized invoice.

(f) Split Billing. Whenever two or more Contract Agencies have holds pending before their local courts for an inmate incarcerated at the jail, daily bed rate will be split proportionally. Daily bed rates for prisoners being held on extraditable warrants issued by non-Contract Agencies outside of Kitsap County along with a Contract Agency charge will not be subject to split billing; billing will be the sole responsibility of the Contract Agency until the Contract Agency's charges have been satisfied.

EXCEPT AS EXPRESSLY MODIFIED BY THIS FIRST AMENDMENT, ALL TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT.

DATED this ____ day of _____, 20__

DATED this ____ day of _____, 20__

CITY OF GIG HARBOR

KITSAP COUNTY SHERIFF'S OFFICE

Chuck Hunter
Mayor

Ned Newlin
Chief of Corrections

ATTEST:

Molly Towslee
City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

DATED this ____ day of _____, 2011

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

CHARLOTTE GARRIDO, Chair

ROBERT GELDER, Commissioner

JOSH BROWN, Commissioner

ATTEST:

Dana Daniels,
Clerk of the Board

Subject: Fire Investigation Contract

Proposed Council Action:

Approve the contract with the Pierce County Fire Marshal's office for fire investigation assistance.

Dept. Origin: Building/Fire Safety

Prepared by: D. Bower

For Agenda of:

- Exhibits:**
- Previous contract dated 2005
 - Amendment agreement to '05 contract.

Initial & Date

Concurred by Mayor:

CLH 5/31/11

Approved by City Administrator:

POK

Approved as to form by City Atty:

by e-mail

Approved by Finance Director:

QR 5/31/11

Approved by Department Head:

DB 5/31/11

Expenditure Required	5,440.00	Amount Budgeted	5,440.00	Appropriation Required	0
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INFORMATION / BACKGROUND

As the local authority having jurisdiction for enforcement of the State Fire Code the City provides for investigation of fires and explosions occurring within the City limits. Because the City does not have adequate staff or funding to provide 24/7 coverage of the fire investigation function we have contracted with the Pierce Co. Fire Marshal's Office for fire investigation assistance. In recent years to control costs a policy has been put in place that instructs Gig Harbor Fire & Medic One to request response by the City fire marshal before requesting County assistance. The City fire marshal, if deemed necessary requests assistance from the County. If the City fire marshal can't be reached, GHFMO may then request County assistance directly.

FISCAL CONSIDERATION

The fee for the contract period is specified as \$1600.00 per fire, up from 1,459.62 in the previous contract. This is based on a rolling average of the cost of assistance over the previous period which equates to 3.4 fires per year resulting in an amount of \$5,440.00 for 2011. Under the rolling average method with the checks now in place for requesting County assistance the cost of this service should remain in check.

BOARD OR COMMITTEE RECOMMENDATION

Because this is a renewal of an existing interlocal agreement that reduces the cost of an essential city service no board or committee recommendation was requested.

RECOMMENDATION / MOTION

Move to: Approve the Interlocal Agreement for fire investigation services between the City of Gig Harbor and Pierce County as amended for the period January 1, 2011 through December 31, 2015.

**INTERLOCAL AGREEMENT FOR FIRE INVESTIGATION SERVICES
BETWEEN THE CITY OF GIG HARBOR AND PIERCE COUNTY**

THIS AGREEMENT is made and entered into by and between PIERCE COUNTY, a political subdivision of the State of Washington, (hereinafter referred to as "County") and the City of GIG HARBOR, a municipal corporation of the State of Washington, (hereinafter referred to as "City")

WHEREAS, RCW 48.48.060(1)(a) provides that the chief of a fire department has the responsibility for investigating the origin, cause, circumstances, and extent of loss of all fires within the city limits of the city; and

WHEREAS, RCW 48.48.060(1)(b) provides that the county fire marshal or other fire official so designated by the county legislative authority has the responsibility for investigating the origin, cause, circumstances, and extent of loss of all fires within the unincorporated areas of the county; and

WHEREAS, RCW 48.48.060(3) provides that cities, towns, and counties may enter into interlocal agreements to meet the responsibility required by RCW 48.48.060; and

WHEREAS, County and City believe it to be in the best interests of their citizens that County provide fire investigation services within the City jurisdiction in the event of a fire or explosion or related occurrence; NOW THEREFORE,

IT IS HEREBY AGREED AS FOLLOWS:

1. **Purpose.** It is the purpose of this agreement to provide an economical mechanism to provide for the determination of origin and cause of fires, explosions or related occurrences and to conduct such investigations in a competent manner and to pursue such fire investigations to a reasonable conclusion.
2. **Duration.** The duration of this agreement shall be that period commencing on the 1st day of January 2006 and terminating at midnight on the 31st day of December 2010, unless this agreement is sooner extended or terminated in accordance with the terms hereof.
3. **Definitions.** As used in this agreement, the following definitions will apply.
 - A. "Fire Investigation" means the process of determining the origin, cause, development and circumstances of a fire or explosion and following the facts to a reasonable conclusion.
 - B. "Fire Investigator" means a Deputy Fire Marshal of the Pierce County Fire Prevention Bureau fully trained and equipped to conduct competent, complete and accurate fire investigations.

C. **"On-Call"** means a Fire Investigator immediately available for response(or consultation) to a Fire Investigation or related incident 24 hours per day, 7 days per week, 365 days per year.

4. **Services.** County shall provide fire investigation services in a professional manner and fashion utilizing recognized techniques, practices and skills as associated with fire investigation throughout the United States. County shall perform all services as specified in Attachment "A".

5. **Records Management.** County shall prepare a report for each fire investigation conducted in City.

County shall provide copies of all complete fire investigation reports prepared by County to City. City shall be the custodian of such complete fire investigation reports pursuant to State law. County shall release no reports or information concerning any fire investigation performed for City without written authorization by City.

6. **Compensation.** City shall pay County upon execution of this agreement the sum of \$1,459.62 per fire investigation per year for all services rendered under the terms of this agreement. The number of Fire investigations are based on a rolling average of the past 5 year fire investigation response history within City. Payment is due and payable on January 31, 2006, and on the same schedule for subsequent years of the contract. Annual increases for subsequent years shall be based upon the growth in the previous years January to December Consumer Price Index for the Seattle urban area (as available), and the average number of fire investigation responses by County to City for the past five years, using a rolling average method of calculation, and/or based upon modifications in the annual work plan as agreed upon by the parties.

7. **Termination.** Either party may terminate this agreement upon ninety (90) days written notice to the other party. Notices and other communications shall be transmitted in writing by U.S. Mail, postage prepaid, addressed to the parties as follows:

If to Pierce County, to: Pierce County, DEM Director
2501 S 35th St
Tacoma, WA 98409

If to City of Gig Harbor: City of Gig Harbor
Attention: City Administrator
3195 Judson St.
Gig Harbor, Wa 98335

8. **Renewal.** This agreement may be renewed for agreed upon terms upon the mutual agreement of the parties as signified by a Memorandum of Renewal signed by the duly authorized representatives of each of the parties.

9. **Hold Harmless and Indemnification.** Each party shall defend, indemnify and hold harmless the other from liability or any claim, demand or suit arising because of said party's negligence or intentional acts. Each party shall promptly notify the other of any such claim.

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 City, its officers, officials, employees and agents, and County, its officers, officials, employees and agents, each party's liability hereunder shall be only to the extent of that party's negligence.

10. **General.** Neither party may assign or transfer this contract or any rights or obligations hereunder without the prior written consent of the other party. This contract constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, and understandings of any nature whatsoever. Any changes to this contract requested by either party may only be affected if mutually agreed upon in writing by duly authorized representatives of the party's hereto.

City is not undertaking to insure County Fire Investigators in the performance of this contract.

None of County's fire investigators shall be or shall be deemed to be an employee of City. In the performance of the work described in this Agreement, County fire investigators will direct and control the performance and details of the work. None of the benefits provided by City to its employees or officers, including, but not limited to, compensation, insurance, and unemployment insurance are available from City to County fire investigators. County shall be solely and entirely responsible for the acts of its fire investigators during the performance of this Agreement. County hereby warrants that it is self-insured or has obtained insurance to cover the fire investigators performing the work hereunder against claims for injuries to persons or damage to property that may arise from or in connection with the performance of this agreement. The fire investigators shall take all precautions necessary and shall be responsible for their own safety in the performance of the work hereunder and shall utilize all protection necessary for that purpose.

11. **Breach of Contract.** Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this contract shall not be construed as affecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto.

The nondefaulting party shall notify the defaulting party of any breach and provide an opportunity to cure the breach. If there is no correction within a reasonable period of time, the nondefaulting party may terminate the agreement.

12. In the event that either party is required to file a lawsuit to enforce the agreement, the prevailing party in the litigation will be reimbursed for its reasonable attorneys' fees and costs from the non-prevailing party.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be duly executed, such parties acting by their representatives being thereunto duly authorized.
Dated this 21 day of December, 2005.

PIERCE COUNTY

CITY OF GIG HARBOR

By [Signature] Date 2/1/06

By [Signature] Date 2/21/05

Wayne A. Wienholz
Fire Marshal

GRETCHEN A. WILBERT
Mayor (Please print name)

By [Signature] Date 2/1/06

Attest: [Signature] Date 12-27-05

Steve Bailey
Director of Emergency Management

By [Signature] Date _____
Carol A. Morris,
City Attorney

By [Signature] Date 2-3-06
Jill Guernsey, CAAG ASM
Prosecuting Attorney (as to form only)

By [Signature] Date 2/10/06
Patrick Kenney,
Executive Director of Administration

ATTACHMENT "A"

City of Gig Harbor

2006 – 2010 Fire Investigation Services Work Plan

- 1. Provide an On-Call Fire Investigator(s) available to respond to Fire Investigation incidents 24 hours per day, 365 days per year.**
- 2. Provide all necessary training, equipment and supplies required to respond to and conduct complete, quality Fire Investigations.**
- 3. Provide appropriate supervision of Fire Investigation Services program and assigned personnel.**
- 4. Provide necessary assistance to City law enforcement and prosecution personnel as it relates to Fire Investigations.**
- 5. Provide additional support and resources (staffing and material) as necessary to conduct complete, quality Fire Investigations.**
- 6. Provide copies of all reports completed by Fire Investigators related to Fire Investigations within City.**
- 7. Provide Expert testimony in court relative to Fire Investigations conducted in City.**
- 8. Provide training for City's fire department personnel in Fire Investigation and Arson recognition.**

AGREEMENT FOR FIRE INVESTIGATION SERVICES AMENDMENT

The "AGREEMENT FOR FIRE INVESTIGATION SERVICES" between the City of Gig Harbor and Pierce County signed for the years 2006 – 2010 is hereby amended to change the RCW reference, compensation and duration.

This Agreement continues in its entirety, except substituting the following:

WHEREAS, RCW 43.44.050(1)(a) provides that within a city the chief of a fire department has the responsibility for investigating the origin, cause, circumstances, and extent of loss of all fires within the city limits of the city; and

WHEREAS, RCW 43.44.050(1)(b) provides that within the unincorporated areas of the county, the county fire marshal or other fire official so designated by the county legislative authority has the responsibility for investigating the origin, cause, circumstances, and extent of loss of all fires within the unincorporated areas of the county; and

WHEREAS, RCW 43.44.050(3) provides that cities, towns, agencies, and counties may enter into interlocal agreements to meet the responsibility required by RCW 43.44.050;

and paragraph 2 as follows:

2. Duration: The duration of this agreement shall be that period commencing on the 1st day of January 2011 and terminating at midnight on the 31st day of December 2015, unless this agreement is sooner extended or terminated in accordance with the terms hereof.;

and paragraph 6 as follows:

6. Compensation. City shall pay County upon execution of this agreement the sum of \$1,600.00 per fire investigation for all services rendered under the terms of this agreement. The number of fire investigations is based on a rolling average of the past 5 year fire investigation response history within the City. The 2011 agreed upon number of fire investigations is 3.4. (\$1,600.00 X 3.4 = \$5,440.00 for 2011). Payment is due and payable on June 15, 2011, and on January 31 for subsequent years of the contract. Annual increases for subsequent years shall be based upon the growth in the previous year January to December Consumer Price Index for the Seattle urban area (as available), and the average number of fire investigation responses by County to City on behalf of the City for the past five years, using a rolling average method of calculation, and/or based upon modifications in the annual work plan as agreed upon by the parties.



Subject: Fire Inspection Interlocal Agreement

Proposed Council Action:

Authorize the Mayor to sign an interlocal agreement with Pierce County Fire District 5 for Fire Inspection Services

Dept. Origin: B&FS and Administration

Prepared by: Rob Karlinsey

For Agenda of: June 13, 2011

Exhibits: 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 6/7/11
RJK 6/7/11
ABB 6/7/11
DR 6/7/11

Expenditure Required	\$50,000	Amount Budgeted	\$0	Appropriation Required	\$50,000
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INFORMATION / BACKGROUND

For most of the last decade, Pierce County Fire District 5 has provided fire inspection services for the City of Gig Harbor. At the end of 2008 and in response to declining economic conditions, the City notified Pierce County Fire District 5 that the City would be cutting fire inspections from its 2009 budget. In response and because of the importance the District placed on this service, the District elected to continue providing fire inspections on a temporary basis and at no cost to the City. The District provided this service free of charge to the City through 2009 and then discontinued providing fire inspections in 2010. Since then, the City has been exploring ways to restore and pay for this service.

After exploring several options to restore fire inspections, the Mayor and staff are recommending that the City return to utilizing Fire District 5 as its fire inspection service provider. The key terms of the proposed interlocal agreement are as follows:

- Service Provided by the District: First "Program Year" will be from 8/1/11 through 12/31/12. The reason for the additional five months is to get the program started as soon as possible, and to provide additional flexibility for the first year. The District will have newly trained District personnel performing the work. The term of the agreement does not go beyond 2012.
- Annual Report: Due by the 1st day of February.
- Financial Considerations: \$50, 000. The first "program year" would be prorated over seventeen months (one year plus the additional five months). The City would compensate the

District \$14,705 in 2011 and \$35,295 in 2012. In 2008 (the last year the City paid for the service), the City paid the District \$63,976 for fire inspection services.

ALTERNATIVES CONSIDERED

City staff explored utilizing the Pierce County Fire Marshal's Office to perform the City's fire inspections. The proposed cost of these services was similar to District 5's proposed cost, but inspections under the County would be done less frequently—commercial occupancies would be inspected only once every three years. As a result, staff does not recommend pursuing this option.

As another option, the Employee Guild suggested that the City create a new part-time employee position to perform inspections. The arguments for doing so are as follows:

1. Creating an in-house position would result in greater efficiency and consistency in permitting and enforcement. Because City codes intertwine and overlap, an employee knowledgeable not just in fire code but also in building and planning codes would provide a more holistic, coordinated service when conducting fire inspections. The City employee would be more knowledgeable about City codes in general and would therefore have a less narrow view of codes, thus reducing the chance for error and/or omission.
2. If the part-time employee completed fire inspections early and had time left over in the day, that time could be utilized to assist with other City work, including plan review, building inspections, and other permitting activities.

Despite these valid arguments made by the Employee Guild, city administration believes that returning to Fire District 5 for fire inspections is in the overall best interests of the city, citizens, and the safety of firefighters. The nexus between fighting fires and fire inspections is strong—it makes sense that those who fight fires (i.e., Fire District personnel) also conduct the fire inspections. Firefighter safety should be improved because the firefighters will have a better knowledge of and familiarity with the buildings in which they will potentially be fighting fires. The fire inspections will be performed from the unique perspective of a firefighter, which city administration and the District Fire Chief believe is the most relevant perspective in this case.

Efficiency should also be improved because as they perform fire inspections, FD5 personnel can simultaneously conduct their pre-planning for fighting fires in commercial buildings. FD5 also has the fire inspections computer program already in place. This program contains the majority of the City's inspection history, providing for relatively seamless data storage and reporting procedures and eliminating the need for additional IT investment by the City to create a new program.

Contracting with FD5 also creates a much-needed communication link between the City and FD5, and FD5 also has offered to extend its service from 12 months to 17 months for the same price as the original 12-month proposal. Lastly, in future economic downturns, contracting out for fire inspections provides the City a potential option at its discretion to eliminate this service and associated costs before resorting to layoffs.

FISCAL CONSIDERATION

In 2010, the City increased the annual business license fee from \$20 to \$30 per year. This increase yields approximately \$20,000 per year, and the City can elect to apply these new funds to help restore fire inspections. In addition, other State-shared revenues that were anticipated to be cut in the 2011 budget were not reduced, and the City can utilize these unanticipated revenues for fire inspection restoration as well.

Because the cost for fire inspection services is not budgeted for 2011, the \$14,705 needed for 2011 would need to be included in the 2011 year-end budget amendment. The offsetting revenues (unanticipated State-shared revenues) would also be included in this budget amendment.

BOARD OR COMMITTEE RECOMMENDATION

The Finance & Safety Committee has discussed fire inspection options on more than one occasion. Utilizing Fire District 5 for fire inspection services was discussed at the City Council's April 22, 2011 retreat.

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign an interlocal agreement with Pierce County Fire District 5 for Fire Inspection Services

**INTERLOCAL AGREEMENT
FOR FIRE INSPECTION SERVICES
BETWEEN THE CITY OF GIG HARBOR
AND PIERCE COUNTY FIRE DISTRICT NO. 5**

THIS AGREEMENT is made and entered into by and between the City of Gig Harbor, Washington, a Washington municipal corporation (hereinafter the "City"), and Pierce County Fire Protection District No. 5, a Washington municipal corporation (hereinafter the "District").

WITNESSETH:

WHEREAS, the City has been annexed to the District, and the District provides fire protection to the City, pursuant to chapter 52.04 RCW; and

WHEREAS, the City and the District have the authority to contract for the provision of fire inspection services, pursuant to chapter 39.34 RCW and RCW 52.12.031(3); and

WHEREAS, in the District's performance of such Fire Inspection Services, the District is required to use the International Fire Code, as adopted by the City of Gig Harbor (pursuant to RCW 52.12.031(6)) and Gig Harbor Municipal Code Section 15.06.020 D; and

WHEREAS, both the City and the District have the authority to perform fire inspections, pursuant to IFC Sec. 106.2; and

WHEREAS, the District acknowledges that nothing in this Interlocal Agreement or Title 52 RCW grants code enforcement authority to the District (see, RCW 52.12.031(6)); and

WHEREAS, the City desires to contract with the District for the provision of fire inspection services within the City, for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of the International Fire Code, as adopted by the City, and of any other law or standard affecting fire safety; and

WHEREAS, the District desires to provide such fire inspection services for the consideration described herein;

NOW, THEREFORE, the parties hereto agree as follows:

Section 1. Purpose. The purpose of this Interlocal Agreement is to describe the terms and conditions under which the parties will cooperate in fire inspection services within the City of Gig Harbor.

Section 2. Services to be provided by District. The District agrees to provide the following services within the City of Gig Harbor:

A. Inspections.

1. Schedule. Qualified District personnel will inspect buildings and structures in the City, in accordance with the inspection schedule attached hereto as Exhibit A. The annual inspection program will begin August 1, 2011, provided that all scheduled inspections shall be completed by December 31, 2012.

2. Inspection Notices. The District shall be responsible for issuance of inspection notices to property owners and occupants.

3. Property Owner's Refusal to Allow Inspection. The District shall notify the City of any response it receives from a property owner/occupant refusing to permit the necessary inspection. The District shall take no action to attempt an inspection without permission of the City, if it receives any refusal from a property owner/occupant for a building/structure inspection.

4. Correction Notices. If the District discovers the presence of any condition which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of the International Fire Code, as adopted by the City, the District shall issue a Correction Notice. Such Correction Notice shall be provided to the property owner in writing within seven (7) days after the inspection. The District agrees to notify the City Fire Marshal in writing when timely compliance with such correction notices is not achieved. If any condition exists, which in the opinion of the District inspector, warrants immediate action to protect the public health and safety, the Emergency Correction Notice shall be provided to the property owner within 24 hours of the inspection. The District agrees to notify the City Fire Marshal within 24 hours of any inspection

warranting an emergency Correction Notice.

5. Noncompliance with Correction Notice. If violations are noted during the annual inspection, a correction notice shall be presented to the occupant/owner of the premise. At that time 30 days will be allowed to bring the premise into compliance. If after re-inspection, compliance is still not achieved, the District shall notify the City Fire Marshal in writing. After such notification by the District, the City shall be responsible for taking any further action to enforce the City's code.

6. The City will provide the District a copy of all preliminary and final utility and street improvement plans, subdivision plans, site plans and building plans of all new construction (except single family homes up to and including four unit dwellings) for review and comment by the District at least one week, (five working days) prior to the date required for comments. The District will forward comments to the City within one week or five working days after receipt of such plans.

Section 3. Annual Reports. The District shall provide the City with an annual report of all its activities under this Agreement, on or before the first day of February. This annual report shall include the following information:

- A. Name and position of inspector(s).
- B. Identification of all properties inspected.
- C. Identification of all Correction Notices issued;
- D. Identification of all Emergency Correction Notices issued;

Section 4. Financial Consideration(s). Due to City budget constraints, the District has agreed to provide the fire inspection program described in this agreement for compensation of only \$50,000.00 annually, provided that the first program "year" would be accomplished over the 17-month term of this agreement: August 1, 2011 through December 31, 2012. Such compensation shall be paid \$14,705.00 in 2011 and \$35,295.00 in 2012. This agreement will be revisited at that time to re-evaluate the City's ability to compensate the district for the inspection program. Should the City's financial situation remain constrained, the District and City may extend this agreement to a mutually agreeable date, or allow it to expire.

Section 5. Term.

A. **Expiration.** This Interlocal Agreement shall expire on December 31, 2012.

B. **Extension of Interlocal Agreement.** Prior to the end of the term, the parties will review and analyze the performance, cost effectiveness and efficiency of the District's provision of fire inspection services within the City and the City's financial situation, and the parties may agree to extend this Interlocal Agreement, under the same or different terms and conditions. This contract may be modified by either party with written agreement of the other party prior to the expiration of the term.

C. **Termination.** The parties may terminate this Interlocal Agreement for any reason, by providing the other party three (3) months prior written notice.

Section 6. Relationship of Parties. In contracting for the services described in this Interlocal Agreement, the District and City are deemed for all purposes to be acting within their governmental capacities. (RCW 52.12.031(3).) No agent, employee, representative, officer or official of the District shall be or shall be deemed to be the employee, agent, representative, official or officer of the City. None of the benefits the City provides to its employees, including, but not limited to, compensation, insurance and unemployment insurance are available from the City to the employees, agents, representatives, officers or officials of the District. The District will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives, officials and officers during the performance of this Agreement.

Section 7. Discrimination. In the hiring of employees for the performance of work under this Interlocal Agreement or any subcontract hereunder, the District, or any person acting on behalf of the District, shall not, by reason of race, religion, color, sex, marital status, sexual orientation, 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.

Section 8. Indemnification. The District 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 or damages caused by the sole negligence of the City. In the event of liability

for negligence for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the District and the City, its officers, officials, employees, agents and volunteers, the District's liability hereunder shall only be to the extent of the District's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Industrial Insurance, Title 51 RCW, or any other applicable insurance available to District employees, including, but not limited to LEOFF, chapter 41.26 RCW or PERS, chapter 41.40 RCW, solely for the purposes of this indemnification. The parties further acknowledge that they have mutually negotiated this waiver. The District's waiver of immunity under the provisions of this section does not include, or extend to, any claims by the District's employees made directly against the District.

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

Section 9. Insurance.

A. The District shall procure and maintain for the duration of this Interlocal Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the District's provision of fire inspection services, including the work of the District's employees, agents, officials and officers.

B. Before beginning work under this Interlocal Agreement, the District 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 \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$3,000,000 aggregate.

C. The District is responsible for the payment of any deductible or self-insured retention that is required by any of the District's insurance policies.

D. The City of Gig Harbor shall be named as an additional insured on the District'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 described in subsection B of this section. The City reserves the right to receive a certified and complete copy of the District's insurance policies.

E. It is the intent of this Interlocal Agreement for the District'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 with respect to the City. Additionally, the District'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 District shall request from its 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 thirty (30) days in advance of any cancellation, suspension, or material change in the District's coverage.

Section 10. Ownership and Use of Records. Original documents, inspection reports, correction notices, emergency correction notices and other reports developed under this Interlocal Agreement shall belong to and become the property of the District. The City shall have the right to inspect the District's records at all reasonable times, after providing the District with at least five (5) days advance notice. Copies of the documents shall be timely provided to the City as provided in this Interlocal Agreement, or if such documents are not specifically mentioned in this Interlocal Agreement, at the City's cost for such copies. City agrees to provide similar access to existing historical records on all existing occupancies to show previous agreements or violations, and otherwise assist District in performing the inspection services.

Section 11. District's Agreement to Provide Services Consistent with Law. The District agrees to comply with all federal, state and local codes and ordinances that are now effective or become applicable to the performance of the fire inspection services described in this Interlocal Agreement. The District acknowledges that it is required by law to use the International Fire Code, as adopted by the City of Gig Harbor (chapter 15.12 GHMC), pursuant to RCW 52.12.031(6).

Section 12. Inspections Performed at District's Own Risk. The District shall take all precautions necessary and shall be responsible for the safety of its employees, agents, officers and officials in the performance of the work described in this Interlocal

Agreement, and shall utilize all protection necessary for that purpose. All inspections shall be performed at the District's own risk.

Section 13. Non-Waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements or options, and the same shall be and remain in full force and effect.

Section 14. Venue and Attorneys' Fees. Jurisdiction of any litigation brought by either party to enforce the terms of this Interlocal Agreement shall be in Pierce County Superior Court, Pierce County Washington or the U.S. District Court for the Western District of Washington. This Interlocal 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 Interlocal Agreement shall pay the other party's expenses and reasonable attorneys' and expert witness fees.

Section 15. Written Notice. All communications regarding this Interlocal Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified in writing 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 addresses listed on the signature page.

Section 16. Assignment and Modification. Any assignment of this Interlocal Agreement by the District without the written consent of the City shall be void. If the City shall give its consent to any assignment, this section shall continue in full force and effect and no further assignment shall be made without the City's consent. No waiver, alteration or modification of any of the provisions of this Interlocal Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the District.

Section 17. Entire Agreement. The written provisions and terms of this Interlocal Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer, official or employee 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 Interlocal Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Interlocal Agreement and any Exhibits attached hereto.

Section 18. Severability. If any section, sentence, clause or phrase of this Interlocal Agreement 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, sentence, cause or phrase of this Interlocal Agreement.

Section 19. Effective Date. This Interlocal Agreement shall not be effective until signed by the duly authorized representative of the governing body of the parties and all of the following events occur:

- A. Filing of the Interlocal Agreement with the Pierce County Auditor or listing it by subject on either party's web site; and
- B. Filing of the Interlocal Agreement with the Gig Harbor City Clerk.
- C. Filing of the Interlocal Agreement with the District Secretary.

IN WITNESS WHEREOF, the parties have executed this Interlocal Agreement on the date below written:

THE CITY OF GIG HARBOR

**PIERCE COUNTY FIRE
PROTECTION DISTRICT NO. 5**

By _____
Charles Hunter, Mayor DATE

Chairman DATE

Commissioner DATE

Commissioner DATE

Commissioner DATE

Commissioner DATE

Notice shall be sent to:

The City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335

Pierce County Fire District No. 5
10222 Bujacich Rd. NW
Gig Harbor, WA 98332-8540

Attn: City Administrator

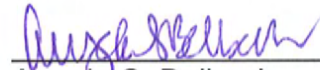
Attn: Fire Chief

ATTEST:

Molly Towslee
City Clerk

District Secretary

APPROVED AS TO FORM:



Angela S. Belbeck
City Attorney

Joseph F. Quinn
Fire District Attorney

EXHIBIT "A"

Inspection Schedule

In accordance with this contract and under the authority of Gig Harbor Municipal Code, Title 15 Buildings and Construction, the Fire District will perform annual fire safety inspections on all buildings and occupancies except residential structures of less than 4 dwelling units (R-3 dwelling units) and their non-commercial accessory structures.

Exception: Any Group A or B Occupancy having, upon inspection, no noted fire code violations for a period of three years will be allowed a one year grace period prior to its next fire code inspection. They will be sent a letter expressing the District's and City's gratitude for providing a fire safe occupancy and will be placed in the next years regular rotation for inspections. Inspections for that occupancy will be scheduled on a biannual basis thereafter provided no fire code violations are noted during scheduled inspections and the occupancy does not suffer a fire incident.

Exception: City owned buildings and facilities. Such buildings and facilities will be inspected on an annual basis by the City fire marshal.



Subject: (CPP 0914) Donkey Creek / Austin Estuary Restoration and Transportation Improvements Project - Consultant Services Contract Amendment

Proposed Council Action: Authorize the Mayor to execute a Consultant Services Contract Amendment with Murray, Smith & Associates, Inc. in the amount of \$23,638.00 for a total amount not-to-exceed \$208,004.00.

Dept. Origin: Public Works/Engineering

Prepared by: Emily Appleton, P.E. Senior Engineer

For Agenda of: June 13, 2011

Exhibits: Consultant Contract

Concurred by Mayor: Initial & Date [Signature] 6/9/11
Approved by City Administrator: [Signature]
Approved as to form by City Atty: [Signature] 6/9/11
Approved by Finance Director: [Signature] 6/9/11
Approved by Department Head: [Signature] 6/9/11

Table with 4 columns: Expenditure Required (\$23,638.00), Amount Budgeted (\$2,886,000.00), Appropriation Required (\$0)

INFORMATION / BACKGROUND

At the regularly scheduled May 23, 2011 City Council meeting, Council verbally authorized MSA to proceed with the additional design and estimating work associated with the Donkey Creek / Austin Estuary Project. This contract amendment provides for this additional design and estimating work and is summarized in the attached scope of work.

FISCAL CONSIDERATION

Sufficient funds are available within the STORM parks capital fund to fund this expenditure.

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION / MOTION

Authorize the Mayor to execute a Consultant Services Contract Amendment with Murray, Smith and Associates, Inc. in the amount of \$23,638.00 for a total amount not to exceed \$208,004.00.

EXHIBIT "A"
CITY OF GIG HARBOR
DONKEY CREEK AND AUSTIN ESTUARY RESTORATION AND
TRANSPORTATION PROJECT
PHASE 1 ENGINEERING SERVICES AMENDMENT
SCOPE OF WORK

The proposed scope of services presented below presents proposed work tasks to complete the additional work items requested by City Council at the May 23, 2011 meeting. Specific tasks are presented below.

Task 1 – Conservation Easement Design Alternatives. Work under this task includes coordinating and meeting with City staff and Harbor History Museum staff to determine and review stream restoration alternatives that possibly reduce or minimize the extents of the proposed sheet pile retaining wall systems currently proposed for slope stability and stream width maximization. MSA will meet with City and Museum staff to discuss the design constraints and alternatives for stream restoration work within the City’s existing or expanded conservation easement. MSA will expand the preliminary conceptual design sketch provided by the museum and develop an updated preliminary design plan and elevation view as well as associated quantity tabulations and engineer’s opinion of probable construction costs. These construction cost estimates will be integrated into the overall project costs for comparison to available funding sources. The anticipated budget for this task is \$7,186 with a resource commitment of 65 hours.

Task 2 – Roadway Improvements. Under this task the improvements to Austin Street and Harborview Drive will be updated and refined. The preliminary design of the right-turn lane on Harborview Drive and Austin Street stabilization improvements will be refined and an updated, and opinion of probable construction costs will be developed. Under this task, limits of the roadway, sidewalk, curb and gutter, bike lanes and other related roadway design features will be better defined. This work will be completed in close coordination with City staff. The anticipated budget for this task is \$6,360, with a resource commitment of 60 hours.

Task 3 – Council Meetings and Public Involvement. Work under this task includes the preparation of materials and presentations to members of the public and City Council. Work completed as part of this task will be performed on an as needed basis. For purposes of budgeting, it is assumed that up to three meetings will be required. The anticipated budget for this task is \$6,182, with a resource commitment of 40 hours.

Task 4 – Management Reserve Fund. Work under this task includes additional work as requested by the City Engineer related to this project. Any work under this task requires prior authorization from the City Engineer. The anticipated budget for this task is \$3,911 with a resource commitment of 27 hours.

This work is proposed to start immediately and be accomplished using the negotiated hourly rates established under MSA current agreement for engineering services with the work being

completed on a time and expense basis with the budget amounts listed above as not to exceed amounts.

Deliverables

1. Revised Conservation Easement site plan
2. Conservation Easement design elevation/cross section
3. Revised Engineer's Opinion of Probable Construction Cost for Conservation Easement work
4. Road improvements site plan
5. Revised Engineer's Opinion of Probable Construction Cost for road improvement work
6. Presentation materials for City Council meetings and public meetings.

Donkey Creek and Austin Estuary Restoration and Roads Project
City of Gig Harbor, Washington
PHASE 1 AMENDMENT - PROPOSED FEE ESTIMATE
Exhibit E

TASK	ESTIMATED FEES											
	Principal \$62.30 CHU/TJP	Engineer VI \$38.46 MGM	Engr. I \$21.64 JH	Tech. \$29.33 SW	Clerical \$21.63 DAB	Total Hours	Direct Labor	Overhead 194.1%	Profit 12.0%	Total Labor Fees	Expenses	Total
Task 1 - Conservation Easement Design Alternatives												
1.1 - Coordinate with Museum Staff	4	4				8	\$ 403	\$ 782	\$ 142	\$ 1,328	\$ 50	\$ 1,378
1.2 - Prepare Design Alternative Plans and Quantities	4	12	24	6	1	47	\$ 1,428	\$ 2,771	\$ 504	\$ 4,703	\$ 50	\$ 4,753
1.3 - Updated cost estimates for Easement		6	4			10	\$ 317	\$ 616	\$ 112	\$ 1,045	\$ 10	\$ 1,055
<i>Task 1 Subtotal</i>	8	22	28	6	1	65	\$ 2,148	\$ 4,169	\$ 758	\$ 7,076	\$ 110	\$ 7,186
Task 2 - Roadway Improvements												
2.1 - Refine Austin Street and Harborview Drive Improvements	4	12	24	4		44	\$ 1,347	\$ 2,615	\$ 476	\$ 4,438	\$ 50	\$ 4,488
2.2 - Update Construction Cost Estimates	2	8	4		2	16	\$ 562	\$ 1,091	\$ 198	\$ 1,852	\$ 20	\$ 1,872
<i>Task 2 Subtotal</i>	6	20	28	4	2	60	\$ 1,910	\$ 3,706	\$ 674	\$ 6,290	\$ 70	\$ 6,360
Task 3 - Council Meetings and Public Involvement												
3.1 - City Council Meetings	16	16		4	4	40	\$ 1,816	\$ 3,525	\$ 641	\$ 5,982	\$ 200	\$ 6,182
<i>Task 3 Subtotal</i>	16	16	0	4	4	40	\$ 1,816	\$ 3,525	\$ 641	\$ 5,982	\$ 200	\$ 6,182
Task 4 - Management Reserve Fund												
4.1 - City Directed Tasks	8	12		2	5	27	\$ 1,127	\$ 2,187	\$ 398	\$ 3,711	\$ 200	\$ 3,911
<i>Task 4 Subtotal</i>	8	12	0	2	5	27	\$ 1,127	\$ 2,187	\$ 398	\$ 3,711	\$ 200	\$ 3,911
TOTAL - ALL TASKS	38	70	56	16	12	192	\$ 7,000	\$ 13,588	\$ 2,471	\$ 23,058	\$ 580	\$ 23,638



Subject: Safeway Redevelopment Inspection
Services - Consultant Services Contract
Parametrix, Inc.

Proposed Council Action: Approve and
authorize the Mayor to execute a Consultant
Services Contract with Parametrix, Inc. in the
not-to-exceed amount of \$58,905.00

Dept. Origin: Public Works/Engineering

Prepared by: Stephen Misiurak
City Engineer

For Agenda of: June 13, 2011

Exhibits: Consultant Services Contract

Concurred by Mayor: Initial & Date
Approved by City Administrator:
Approved as to form by City Atty:
Approved by Finance Director:
Approved by Department Head:

Table with 3 columns: Expenditure Required, Amount Budgeted, Appropriation Required. Values include 'see Fiscal Consideration below' and '\$0'.

INFORMATION / BACKGROUND

In order to facilitate the construction schedule of the new Safeway development located off of Point Fosdick Drive, the developer has proposed a round the clock work schedule in which the offsite utility and roadway improvements will be constructed during the overnight hours.

FISCAL CONSIDERATION

Private development monies will fund this Consultant Services Contract. This is a "pass-through" expense that will be paid by applicant.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Approve and authorize the Mayor to execute the Consultant Services Contract with Parametrix, Inc. in the not-to-exceed amount of \$58,905.00.

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Parametrix, a corporation organized under the laws of the State of Washington, located and doing business at 2102 N. Pearl Street, Suite 106, Tacoma, Washington 98406 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the private project development and inspection services for the Safeway redevelopment project 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 June 7, 2011, 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 Fifty-eight Thousand Nine Hundred Five Dollars and Zero Cents (\$58,905.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B – Estimated Costs**. 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 September 30, 2011; 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:

Parametrix, Inc.
ATTN: Shannon Thompson
2102 N. Pearl Street, Suite 106
Tacoma, Washington 98406
(360) 377-0014

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

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 201__.

CONSULTANT

CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

SCOPE OF WORK

City of Gig Harbor

Construction Observation

PHASE 01 – CONSTRUCTION PROJECT MANAGEMENT

Task 01 – Oversight

In conjunction with the City, Parametrix will provide general oversight, support and assistance to our on-site Construction Observer.

Task 02 – Construction Observation Services

In conjunction with the City, Parametrix will observe the contractor's work for conformance with City standards.

- Parametrix will act as a liaison between the contractor and the City.
- Attend on pre-construction meeting.
- Maintain inspector's daily reports (IDRs) summarizing the contractor's work, working or non-working days, equipment used for the day, discussions with contractor personnel, safety issues, traffic control issues and other pertinent information and data regarding the construction of the project.
- Provide on-site observations of the contractor's work for conformance or non-conformance with City standards.
- Monitor compliance with the approved traffic control plan.
- Monitor compliance with the contractor's spill prevention, control and countermeasure plan.
- Monitor compliance with the TESC plan.
- At physical completion of the off-site work, assist the City with preparing a final punch list of items to be satisfactorily completed by the contractor.

Assumptions

City will provide IDR forms to be completed. All project documentation will be handled by the City.

Deliverables

Inspector Daily Reports

EXHIBIT B

Point Fosdick Safeway Construction Management Services FEE PROPOSAL: Gig Harbor

Division Manager Project Coordinator CQA Observer Project Manager Administrative Staff Engineering Support Totals

Company Staff
 Parametrix Jim Dugan April Whittaker Terry Campbell Shannon Thompson TBD NA
 Parametrix Parametrix Parametrix Parametrix

Task 1 Construction Project Management	Hours per week	\$179	\$75	\$105	\$135	\$50		
Duration in months (4.25 weeks per month)	3							
Hours per week	2.0	2.0	2.0	2.0	2.0	2.0	2.0	4.00
Total hours	0.00	25.50	0.00	0.00	25.50	0.00	0.00	51.00
SUBTOTALS Task 1		\$ -	\$ 1,912.50	\$ -	\$ 3,442.50	\$ -	\$ -	\$ 5,355.00
							Expenses	
								\$ -
								\$ -
Task 1 Total								\$ 5,355.00

Task 2 Construction Observation Services	Hours per week	\$179	\$75	\$105	\$135	\$50		
Duration in months (4.25 weeks per month)	3							
Hours per week	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00
Total hours	0.00	0.00	510.00	510.00	0.00	0.00	0.00	510.00
SUBTOTALS Task 2		\$ -	\$ -	\$ 63,650.00	\$ -	\$ -	\$ -	\$ 63,650.00
							Expenses	
								\$ -
								\$ -
Phase II Total								\$ 63,650.00

Expense Allowance % of labor	\$ -
Total Labor	\$ 58,905.00
Total all Tasks	\$ 58,905.00

- Notes:
1. Expenses are estimated at 5% of Labor but only actual expenses will be billed
 2. Mileage expenses are included within the estimated Expense Budget

[Signature]
Division Manager

[Signature]
Project Manager



**Subject: Shoreline Master Program Update
Consultant Services Contract -
Second Amendment**

**Proposed Council Action:
Approve contract amendment with ESA
Associates, Inc. (formerly ESA Adolfson)**

Dept. Origin: Planning

Prepared by: Tom Dolan

For Agenda of: June 13, 2011

Exhibits: Contract

Initial & Date

Concurred by Mayor:

CLH 6/13/11

Approved by City Administrator:

P&K

Approved as to form by City Atty:

per email dated 6.10.11

Approved by Finance Director:

Approved by Department Head:

OK from Tom Dolan

Expenditure		Amount		Appropriation	
Required	\$9,000	Budgeted	\$9,000	Required	0

INFORMATION / BACKGROUND

In May of 2008 the City entered into a consultant contract with ESA Adolfson for consulting services associated with the State mandated update to the City's Shoreline Master Program. That contract was for a maximum of \$86,592 with funding provided by the city's General Fund. \$47,000 of that budget allocation was expended when in August, 2009, the city received a grant of \$93,000 from the Washington State Department of Ecology (Ecology) to complete the master program update. Receipt of the grant funding required the preparation of a first amendment to the original contract with ESA.

The city has recently been selected by Ecology for an additional \$9,000 to assist in the update of master program. The funding must be spent by the end of the state's current biennium on June 30, 2011. The additional funding will allow the city to expand the update effort through the preparation of information handouts to assist the public in understanding the requirements of the updated shoreline master program.

FISCAL CONSIDERATION

As previously identified, the additional State grant funding approved by the Department of Ecology (\$9,000) will fund the entire amount of this amended contract. No additional City monies will be necessary.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Approve the Second Amendment to the contract with ESA for consulting services associated with the State mandated update to the City of Gig Harbor's Shoreline Master Program.

**SECOND AMENDMENT
TO
CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
ESA ASSOCIATES, INC.**

THIS SECOND AMENDMENT to that certain Consultant Services Contract dated May 13, 2008 (the "Agreement"), is entered into by and between the CITY OF GIG HARBOR, a Washington municipal corporation (hereinafter the "City"), and ESA ASSOCIATES, Inc. (formerly ESA ADOLFSON, INC.), a corporation organized under the laws of the State of Washington, located and doing business at 5309 Shilshole Avenue NW, Seattle, Washington (hereinafter the "Consultant").

WHEREAS, the City engaged Consultant to perform services in connection with the City's Shoreline Master Program update; and

WHEREAS, the City received additional grant funding from the Washington State Department of Ecology and desires that Consultant provide additional consultant services in connection with the Shoreline Master Program update; and

WHEREAS, the parties desire to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant to incorporate additional services, to increase the amount of compensation accordingly, and to increase the duration of the Agreement;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

Section 1. Amendment to Scope of Work. Section I of the Agreement is amended to require the Consultant to perform all additional work described in **Exhibit A**, attached to this Amendment and incorporated herein.

Section 2. Amendment to Compensation. Section II(A) of the Agreement is amended to require the City to pay compensation to the Consultant for all work under the Agreement in the amount not to exceed Nine Thousand Dollars (\$9,000), as set forth on **Exhibit B**, attached hereto and incorporated herein.

Section 3. Duration of Work. Section IV of the Agreement is amended to agree that all work will be performed in accordance with **Exhibit A** immediately upon execution of this Agreement and the parties agree that all work described in **Exhibit A** shall be completed by June 30, 2011.

EXCEPT AS EXPRESSLY MODIFIED BY THIS SECOND AMENDMENT, ALL TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2011.

ESA ASSOCIATES, Inc.

THE CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A**City of Gig Harbor Shoreline Master Program Update****SCOPE OF SERVICES****Contract Amendment 2****ESA**

Project Title: City of Gig Harbor Shoreline Master Program Update

Description: This scope of services describes additional services and a cost estimate to assist the City in preparing informational handouts to help the public understand the new SMP requirements.

Scope of Services

While the hours within the tasks identified on Exhibit B (Schedule of Rates and Cost Estimate) may fluctuate, ESA's level of effort will be limited to the budget specified in the contract, unless otherwise amended by the City.

YEAR 2 (JULY 2010-JUNE 2011)**Phase 5: Local SMP Adoption Process****Task 5.8 Public Involvement**

Prepare informational handouts to help the public understand new SMP requirements and to encourage restoration of shoreline properties. Handouts to be prepared include: SMP requirements for nonconforming residential and commercial development, shoreline permit process, vegetation plantings, soft-shore armoring, shoreline environment designations, frequently asked questions, and purpose of restoration plan.

Assumptions:

- a) ESA staff will spend approximately 90 hours on this task.
- b) ESA will revise the handouts in response to one consolidated set of comments by City staff.

Deliverables: Seven draft and seven final informational handouts (electronic format)

Due Date: June 30, 2011

EXHIBIT B

Schedule of Rates and Cost Estimate

ESA

Schedule of Rates

Job Classification	Hourly Billing Range		
Principal Scientist/Planner/Engineer	\$ 167.50	to	\$ 279.00
Senior Project Manager	\$ 123.00	to	\$ 204.50
Project Manager	\$ 104.50	to	\$ 167.50
Senior Engineer	\$ 126.50	to	\$ 193.50
Project Engineer	\$ 100.50	to	\$ 149.00
Staff Engineer	\$ 78.50	to	\$ 123.00
Landscape Architect	\$ 119.00	to	\$ 156.50
Senior Scientist	\$ 100.50	to	\$ 141.50
Project Scientist	\$ 71.00	to	\$ 119.00
Staff Scientist	\$ 56.00	to	\$ 89.50
Senior Planner	\$ 104.50	to	\$ 152.50
Project Planner	\$ 78.50	to	\$ 123.00
Staff Planner	\$ 59.50	to	\$ 104.50
Technical Editor	\$ 82.00	to	\$ 115.50
Senior Graphics/GIS Specialist	\$ 74.50	to	\$ 160.00
Graphics/GIS Specialist	\$ 59.50	to	\$ 130.50
Sr. Project Administrator	\$ 78.50	to	\$ 119.00
Project Administrator	\$ 59.50	to	\$ 93.00
Office/Project Assistant	\$ 56.00	to	\$ 78.50

Cost Estimate

Phase / Task	Year 2 10-11
Phase 5 Local SMP Adoption Process	
5.8 Public Involvement	\$9,000
Total	\$9,000



Subject: Second Reading of Ordinance - Restaurant 1 Uses in Waterfront Millville.

Proposed Council Action: Adopt ordinance or deny application at this second reading.

Dept. Origin: Planning

Prepared by: Jennifer Kester
Senior Planner *JK*

For Agenda of: May 23, 2011

Exhibits: Draft Ordinance, Application Materials, Written Public Comment

Initial & Date

Concurred by Mayor: *CLH 6/8/11*
Approved by City Administrator: *ROK*
Approved as to form by City Atty: *BI EMAIL*
Approved by Finance Director: *N/A*
Approved by Department Head: *TD 6/7/11*

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

At public hearing:

At the May 23rd public hearing on the application, Fifteen (15) people testified on the application. Twelve (12) were in favor of the amendment and three (3) were against the amendment. The City also received several comments via email and a petition against the amendment. All written comments are included in the Council packet.

Prior to public hearing:

On February 25, 2011, Stan and Judith Stearns, with John Moist as their agent, submitted an application for a zoning code text amendment to allow the sales of beer and wine (no hard liquor) in Restaurant 1 uses in the WM zone provided the restaurant does not exceed 1,200 square feet in size. Furthermore, they requested that the evening hours of operation of Restaurant 1 uses in the WM district be extended two hours until 9:00PM. Their complete application is enclosed. In support of the request, they provided the following statements:

"In order that restaurants currently operating under Restaurant 1 (R1) conditions in WM may take full advantage of their amenities and location to help create a profitable business model and for the benefit of the community"

"With the loss of the downtown QFC and the unlikely prospect of a replacement grocery store, restaurants in the district will be in greater demand for transient boaters. A restaurant remaining open through the dinner hour and serving beer and wine will serve the boating community well. We cannot afford to lose the transient boaters to Gig Harbor."

More often than not these boaters make the difference between a good business day and a poor business day for many of the shops in the historic downtown.” Page 2 of 29

The applicant also submitted a petition with over 600 signatures expressing support for this amendment. The planning staff made no attempt to validate any of the signatures.

In order to provide adequate public notice of the proposed change, staff sent notice of this hearing to over 250 property owners in the WM district and neighboring residential areas as well as all known Restaurant 1 business owners in the view basin. A press release was also issued on May 12, 2011, which went to the news media, local organizations and was posted on social networking sites.

COMMITTEE DISCUSSION AND RECOMMENDATION

The Planning and Building Committee reviewed the proposed application and draft language at their March 7th and April 4th, 2011 meetings. The Planning and Building Committee recommended that the allowance for beer and wine service in establishments which do not exceed 1,200 square feet be granted to all Restaurant 1 uses rather than only those in the WM district. The applicant was agreeable to that change and the current ordinance reflects that direction.

At their April 4th meeting, the committee recommended that the draft language be considered directly by the City Council. In addition, the Committee recommended retaining the requirement that Restaurant 1 uses obtain a conditional use permit in the WM District.

STAFF ANALYSIS

The proposed definition change would affect all zones which allow Restaurant 1 uses. In addition, the proposed changes will affect not only existing businesses, but new businesses locating in existing buildings and new development of vacant or underdeveloped properties.

The following zones allow only Restaurant 1 uses (no Restaurant 2 or 3 levels) and they would be most affected by this amendment: RB-1, RB-2, B-1 and WM. Restaurant 1 uses in the RB-2 and B-1 zones are permitted outright, so if this amendment is adopted, existing Restaurant 1 uses could serve beer and wine immediately provided they meet the size limitation. For the RB-1 and WM zone which conditionally permit Restaurant 1 uses, the ability for an existing Restaurant 1 use to serve beer and wine without amending their CUP will depend on the specific conditions of the CUP permit. The RB-1 regulations further limit the size of Restaurant 1 uses in RB-1 to 800 square feet.

The proposed hours of operation change would affect both existing and new Restaurant 1 uses in the WM only.

POLICY CONSIDERATIONS

Zoning text amendments are addressed in Chapter 17.100 of the Gig Harbor Municipal Code. There are no criteria for approval of a zoning text amendment, but the Council should generally consider whether the proposed amendment furthers the public health, safety and welfare, and whether the proposed amendment is consistent with the Gig Harbor Municipal Code, the Comprehensive Plan and the Growth Management Act (chapter 36.70A RCW). The applicable land use policies and codes are as follows:

A. Gig Harbor Comprehensive Plan:

Goal 2.2.3.e Waterfront Land Use Designation

Provides for a variety of mixed uses along the waterfront which are allowed under the City of Gig Harbor Shoreline Master Program and as more particularly defined under the zoning code. Generally, the lower intensity waterfront areas would favor residential and marinas while the more intense use waterfront areas would provide for higher density residential and commercial/retail uses.

Goal 3.9.3.a View Basin Neighborhood Design Area

The view basin is the City's heritage. It was within the view basin that the Gig Harbor fishing village was born. Today the view basin is a vibrant mix of retail, restaurant, residential, maritime and community activities contained within the historic neighborhoods of the City. Pedestrian walkways link the historic areas of Finholm, Waterfront Millville, Downtown and Borgen's Corner which serve as neighborhood centers for the surrounding mixture of contemporary and historic homes.

B. Gig Harbor Municipal Code:

17.04.702 Restaurant 1.

"Restaurant 1" means an establishment that serves food and nonalcoholic beverages and operates without a grill or deep-fat fryer.

17.04.703 Restaurant 2.

"Restaurant 2" means an establishment that prepares and serves food and nonalcoholic beverages.

17.04.704 Restaurant 3.

"Restaurant 3" means an establishment that prepares and serves food and alcoholic beverages.

17.48.010 WM District Intent.

It is the intent of this district to provide a wide range of uses and activities on the shoreline of Gig Harbor located within the area between Rosedale Street and Stinson Avenue. This district serves primarily as a medium intensity, mixed use waterfront district with an emphasis on medium-density residential, marine-dependent and marine-related uses. Uses which enhance the historic fishing village atmosphere and which are harmonious with surrounding residential areas are encouraged.

FISCAL CONSIDERATION

None.

SEPA DETERMINATION

The SEPA Responsible Official issued a Determination of Nonsignificance (DNS) for the proposed interim ordinance on May 4th, 2011.

RECOMMENDATION / MOTION

Adopt ordinance or deny application at this second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO RESTAURANT 1 USES; AMENDING THE DEFINITION OF RESTAURANT 1 USES TO ALLOW BEER AND WINE SALES IN ESTABLISHMENTS THAT DO NOT EXCEED 1,200 SQUARE FEET IN SIZE; EXTENDING THE HOURS OF OPERATION OF RESTAURANT 1 USES IN THE WATERFRONT MILLVILLE DISTRICT TWO HOURS UNTIL 9:00PM; AMENDING SECTIONS 17.04.702 AND 17.48.035 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City currently has three levels of restaurant uses: Level 1, the lowest level use most similar to a deli or coffee shop, through Level 3, the highest level use most similar to a full service sit down restaurant; and

WHEREAS, Restaurant 1 uses are the only types of restaurants allowed in the City's mixed use zoning districts: RB-1, RB-2, B-1 and WM; and

WHEREAS, the current definition of Restaurant 1 uses in the Gig Harbor Municipal Code does not allow for the service of alcoholic beverages in order to reduce the impact to surrounding residents in mixed use zones; and

WHEREAS, furthermore, Restaurant 1 uses are limited in the Waterfront Millville (WM) district to the operating hours of 7:00AM to 7:00PM. Restaurant 1 is the only level of restaurant allowed in the WM district; and

WHEREAS, the City desires to allow the service of beer and wine in Restaurant 1 uses to provide more opportunities to business owners to help with business retention; and

WHEREAS recognizing the increased impacts to residents that alcohol-serving restaurants have in mixed use neighborhoods, the City desires to mitigate that impact by prohibiting hard alcohol service and limiting the size of Restaurant 1 uses which serve beer and wine to 1,200 square feet; and

WHEREAS, the City also desires to extend the evening hours of operation of Restaurant 1 uses in the WM district by two hours to 9:00PM to allow for service through the dinner hour, helping with business retention and vitality; and

WHEREAS, the proposed development regulations amendments were forwarded to the Washington State Department of Commerce on April 11, 2011, pursuant to RCW 36.70A.106, and was granted expedited review on May 3, 2011; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on May 4, 2011; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on May 23, 2011; and

WHEREAS, on _____, the City Council held a second reading during a regular City Council meeting; Now, therefore,

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

Section 1. Section 17.04.702 in the Definitions chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.04.702 Restaurant 1.

"Restaurant 1" means an establishment that serves food and nonalcoholic beverages and operates without a grill or deep-fat fryer. Beer and wine may be served in a Restaurant 1 establishment provided the Restaurant 1 use does not exceed 1,200 square feet in size.

Section 2. Section 17.48.035 in the Waterfront Millville (WM) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.48.035 Hours of operation.

A. The following uses shall be limited to operating between the hours of 7:00 a.m. to 7:00 p.m., daily:

1. ~~A.~~ Sales, level 1;
- B. Restaurant 1;
2. ~~C.~~ Boat construction;
3. ~~D.~~ Clubs.

B. Restaurant 1 uses shall be limited to operating between the hours of 7:00 a.m. to 9:00 p.m., daily.

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

Section 4. Effective Date. This Ordinance 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 _____, 2011.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:

**CITY OF GIG HARBOR
 APPLICATION**

CITY USE ONLY

- Zoning Code Text Amendment
 Area-Wide Zoning Map Amendment

Date Received: 2/25/11
 By: JK
 Receipt # _____ By: _____

Name of project / proposal: WATERFRONT MILLEVILLE RESTAURANT
 DESIGNATION CHANGE
 RED ROOSTER CAFE

Applicant:
STANLEY STEARNS
(Name)
JUDITH STEARNS 253
3323 HARBORVIEW DR 851-1793
Street Address Phone
GIG HARBOR, WA 98332
City & State Zip

Property Location (for map amendment):
 Address: 3313 HARBORVIEW DR ST 101
 Section: 05 Township: 21 Range: 02
 Assessor's Tax Parcel Number: 5970000020

Owner:
SAME
(Name)
 Street Address _____ Phone _____
 City & State _____ Zip _____

Full Legal Description (attach separate sheet if too long)
TAX AREA CODE 015
SECTION 05, TOWNSHIP 21,
RANGE 02, QUARTER 24,
WF MILLEVILLE
THIS PARCEL CONTAINS 2
BUILDINGS AT 3311 AND 3313
HARBORVIEW DRIVE GW, WA.
 Acreage or Parcel Size 24,033 SQ FEET

I/(We):
JOHN MOIST, AGENT
(Name)
AGENT - [Signature] 2-7-2011
Signature Date
OWNER - [Signature] 2-25-11
Signature Date

- Utilities:
- Water Supply (Name of Utility if applicable)
 - a. Existing: CITY OF GIG HARBOR
 - b. Proposed: _____
 - Sewage Disposal: (Name of Utility if applicable)
 - a. Existing: CITY OF GIG HARBOR
 - b. Proposed: _____
 - ACCESS: (name of road or street from which access is or will be gained.)

I do hereby affirm and certify, under penalty of perjury, that I am one (or more) of the owners or owner under contract of the herein described property and that the foregoing statements and answers are in all respects true and correct on my information and belief as to those matters, I believe it to be true.

For Map Amendments:
 Current Zoning District: _____ Requested Zoning District: _____

Existing land use: Describe (or illustrate separately) existing land use, including location of all existing structures and setbacks (in feet) from property lines.

RECEIVED
 CITY OF GIG HARBOR
 FEB 25 2011
 COMMUNITY
 DEVELOPMENT



3323 Harborview Drive Gig Harbor, WA 98332
(253) 851-1793

RECEIVED
CITY OF GIG HARBOR
FEB 25 2011
COMMUNITY
DEVELOPMENT

February 25, 2011

City of Gig Harbor Planning Department
3510 Grandview Street
Gig Harbor, WA 98335

Attn: Mrs. Jennifer Kester, Senior Planner

Dear Mrs. Kester,

Pursuant to Gig Harbor Municipal Code Title 17, Zoning; Sub-section 17.48, Waterfront Millville (WM) a request for a Zoning Code Text Amendment is hereby submitted.

In order that restaurants currently operating under Restaurant 1 (R1) conditions in WM may take full advantage of their amenities and location to help create a profitable business model and for the benefit of the community, we do hereby request the following:

1. Increase current business hours from 7am until 7pm, to 7am until 9pm.
2. Serve beer and wine and no hard liquor.
3. The restaurants will not exceed 1,200 square feet in area.
4. Also request that, consistent with R1 uses in WM, petitioner will not be required to apply for a new Conditional Use Permit (CUP) in order to utilize these new provisions if adopted.

With the loss of the downtown QFC and the unlikely prospect of a replacement grocery store, restaurants in the district will be in greater demand for transient boaters. A restaurant remaining open through the dinner hour and serving beer and wine will serve the boating community well. We cannot afford to lose the transient boaters to Gig Harbor. More often than not these boaters make the difference between a good business day and a poor business day for many of the shops in the historic downtown.

Should you have questions please contact our Agent, John Moist at 851-1793 or 255-5050.

Very truly yours,

Judith Stearns
Property owner

Attached: Permit fee check: \$3,975.00

SEPA - 11-0001

Old Business - 1

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CITY OF GIG HARBOR

Page 9 of 29

FEB 25 2011

COMMUNITY
DEVELOPMENT

ENVIRONMENTAL CHECKLIST
WAC 197-11-960

A. BACKGROUND

1. Name of proposed project: **Waterfront Millville (WM) Restaurant Designation Change**
2. Applicant:
Stanley and Judy Stearns
3323 Harborview Drive Gig Harbor, WA 98332
253-851-1793
3. Representative:
John Moist
3323 Harborview Drive Gig Harbor, WA 98332
253-851-1793/253-255-5050
4. Date prepared: **February 15, 2011**
5. Agency requesting checklist: **City of Gig Harbor Planning Department**
6. Proposed timing: **As soon as possible.**
7. Plans for future expansion, additions, or activity related to this proposal: **No plans.**
8. Any environmental information that has been prepared or will be prepared related to this proposal. **Only this document.**
9. Are applications pending for government approval of other proposals directly affecting the property covered by this proposal? **No.**
10. List any government approvals or permits that will be needed for this proposal. **None**
11. Description of proposal:
 - a. **Currently the Red Rooster Café operates as a Restaurant 1 under the GHMC 17.48.035**
 - b. **The purpose of this proposal is to enhance the business plan for the Red Rooster Café making use of the amenities the location has to offer the community by:**
 - i. **Increase the business hours from 7am until 7pm, to 7am until 9pm.**
 - ii. **Serve beer and wine and no hard liquor.**
 - iii. **The restaurants will not exceed 1,200 square feet in size.**
 - iv. **Also request that consistent with R1 uses in WM, petitioner will not be required to apply for a new Conditional Use Permit in order to utilize these new provisions if adopted.**
12. Location of proposal:
 - a. **The Red Rooster Café is located at 3313 Harborview Drive Suite 101 Gig Harbor WA. 98332. Section 05, Township 21, Range 02, Parcel No. 5970000020**
 - b. **This site is located in an over the water historic net shed which has been remodeled to accommodate a "Restaurant 1" facility operating under CUP 10-0002 issued June 17, 2010.**
 - c. **It is located in the Waterfront Millville district.**
 - d. **The property to the immediate South is a private residence owned by Mrs. Pete Whittier located at 3309 Harborview Drive Gig Harbor, WA 98332, Section 05, Township 21N, Range 2E, Parcel No. 5970000010.**
 - e. **The property to the immediate North, Stanich Dock, is a privately owned boat marina, Arabella's Landing Marina owned by Stanley and Judith Stearns, Applicant in this document.**

B. ENVIRONMENTAL ELEMENTS

1. Earth:

- a. General description of site: **Flat over water.**
- b. Steepest slope: **A 90 degree concrete sea wall serves link to the shoreline. 97 percent of the building is over water.**
- c. Types of material found on the site: **50 percent of the shoreline is concrete and 50 percent is landscaped soil.**
- d. Any unstable soils in the area? **None.**
- e. Proposed filling or grading: **This proposal does not require any construction.**
- f. Could erosion occur as a result of clearing or construction? **This proposal does not require any construction.**
- g. Percent of site covered with impervious surfaces after construction. **This proposal does not require any construction.**
- h. Proposed measure to reduce or control erosion: **This proposal does not require any construction.**

2. Air:

- a. Types of emissions to the air would result for proposal? **None.**
- b. Any off-site sources of emissions that would affect proposal? **None.**
- c. Proposed measures to reduce or eliminate emissions? **None required.**

3. Water:

- a. Surface:
 - (1) Is there any surface water in the immediate area? **Yes, Gig Harbor Bay**
 - (2) Will the project require any work over or adjacent to the water? **No work is required for the fulfillment of this proposal.**
 - (3) Estimate the amount of fill or dredge material required. **No material required.**
 - (4) Proposal requires surface water withdrawal or diversions? **N/A**
 - (5) Does proposal lie within a 100 year floodplain? **Yes**
 - (6) Discharge of waste materials to surface waters. **None.**
- b. Ground:
 - (1) Will ground water be withdrawn, or water discharged to ground water? **No.**
 - (2) Describe waste material that will be discharged into ground from septic tanks. **None.**
- c. Water Runoff (including storm water)
 - (1) Describe source of runoff. **Rain water runoff to the bay**
 - (2) Could waste material enter ground or surface waters? **No.**
- c. Proposed measures to reduce or control surface, ground and runoff water impact. **This proposal will not affect surface, ground and runoff water.**

4. Plants:

- a. Type of vegetation found on site: **Decorative landscape plant materials.**
- b. Type of vegetation removes? **None.**
- c. Threatened or endangered species? **None.**
- d. Proposed Landscaping? **None.**

5. Animals:

- a. Any birds, animals observed on or near site? **Heron, eagle, gulls, crows, ducks, otters, seals, raccoons, salmon, crabs, starfish.**

12. Recreation:

- a. Recreational opportunities in immediate vicinity? **Boating, kayaking**
- b. Would project displace any recreational activities? **No, enhance them.**
- c. Proposed measures to reduce impact on recreation. **None.**

13. Historic and Cultural Preservation:

- a. Any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on site. **The net shed is of significant historic significance to local community.**
- b. Describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on site. **Just the building itself. It was determined that there is no archaeological significance by Puyallup Indian Tribe in 2008.**
- c. Proposed measures to reduce or control impact. **Ensure building is kept in good condition structurally and aesthetically.**

14. Transportation:

- a. I.D. public streets serving site and show access. **Harborview Drive is the access street to the site.**
- b. Is site currently served by public transit? **Not directly, however there are bus stops one block to the north and to the south of the site.**
- c. How many parking places does the site have? **Six parking spaces in a lot and 1 handicapped space**
- d. Will project use water, rail or air transportation. **As the site is located on Gig Harbor Bay and adjacent to a marina, boats can tie up while the boater enjoys lunch.**
- e. How many vehicular trips would be generated by the project. **In the summer time approximately 10, winter 5.**
- f. Proposed measures to reduce or control transportation impacts. **None**

15. Public Services:

- a. Would project result in an increased need for public services. **No.**
- b. Proposed measures to control need for public services. **N/A**

16. Utilities:

- a. Utilities currently available: **Electricity, water, refuse disposal, telephone, sewer 800 gallon holding tank and lift station.**
- b. Describe utilities proposed for project. **Electricity provided by peninsula Light Company.**

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decisions.

Signature:  _____ Date submitted: 2-25-2011


D. SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS:

- 1. How would the proposal be likely to increase discharge to water; emissions to air, production, storage, or release of toxic or hazardous substances; or production of noise?
N/A
 - a. Proposed measures to avoid or reduce such increases: **N/A**

2. How would the proposal be likely to affect plants, animals, fish or marine life? **It will not affect plants, animals, fish or marine life.**
3. How would proposal deplete energy or natural resources? **It would not.**
4. How would proposal be likely to use affect environmentally sensitive areas or areas designated for government protection. **It would not affect environmentally sensitive areas or areas designated for government protection.**
5. How would proposal affect land and shoreline use? **No more than the CUP permits.**
6. How would proposal be likely to increase demands on transportation or public services and utilities. **To minimal to measure.**
7. Identify whether proposal may conflict with local state or federal laws or requirements for protection of the environment. **None.**

E. SIGNATURE

The above answers are true and complete t the best of my knowledge. I understand that the lead agency is relay on they to make its decisions.

Signature:  Date submitted: 2-25-2011



RECEIVED
CITY OF GIG HARBOR
MAR 03 2011
COMMUNITY
DEVELOPMENT

3323 Harborview Drive Gig Harbor, WA 98332
(253) 851-1793

March 1, 2011.

City of Gig Harbor Planning Department
3510 Grandview Street
Gig Harbor, WA 98335

Attn: Mrs. Jennifer Kester, Senior Planner

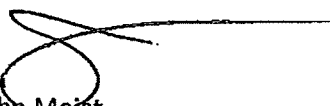
Dear Mrs. Kester,

This letter is in regard to our Zoning Code Text Amendment Application which Gig Harbor Marina filed on February 25 to allow Restaurant 1 establishments in Waterfront Millville (WF) to remain open until 9pm and serve beer and wine. Additionally, our application restricts the maximum square footage for such an establishment to 1,200 square feet.

We have collected over 600 signatures in support of this change with a cross section of local residents and visitors along with 29 signatures of Millville residents, from which there were only very positive comments. And to quote Tomi Kent Smith's Letter to the Editor; Peninsula Gateway, February 23, 2011, (referring to the restrictions placed on restaurants in Millville) *"Those restrictions were enacted in the 1980s when Millville had numerous young children who lived in the immediate area and public safety was an issue. Has the residency makeup of Millville changed? I believe everyone in the community, property owners, business owners and residents alike, are willing to work together to make Gig Harbor a success."* Miss Smith lives directly across the street from Susanne's Bakery and Delicatessen. We have not heard a single negative comment about the requested changes.

Should you have any questions, please contact me at 253-851-1793 or 253-255-5050 at your convenience.

Very truly yours,

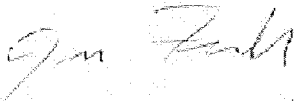

John Meist,
Agent and General Manager

Encl: Petitions, Original Copies

**Hours of Operation in Millville
and
Sale of Beer and Wine in WM**

I have personally collected these signatures. They represent a majority of RESIDENTS in the WM and Millville Neighborhood. As an important historic section of the town, it is our responsibility to maintain the quality and the residential character of the neighborhood. These changes will negatively impact the area.

Thank you for considering this petition and the individuals that signed it.



Councilman Jim Franich

PETITION TO PRESERVE THE MILLVILLE NEIGHBORHOOD

We the undersigned are opposed to extending the hours of operation beyond 7pm in the Millville District

PRINT NAME	ADDRESS	SIGNATURE	DATE
George Bujacich	3619 Ross Ave		4/4/11
Cindy Bujacich	6013 Reid Drive		4/4/11
Jack P Bujacich	6013 Reid Drive		4-3-11
Ty Cline	3526 Ross Ave		4/4/11
MARLYN BROWN	3505 Ross Ave		4/4/11
Deanne Stuebrook	3405 Ross Ave		4/4/11
William Stuebrook	3405 Ross Ave		4/4/11
Sheila A. Stuebrook DuTricht	3323 Ross Ave		4/4/11
Deb Hardy	3312 Harborview Dr.		4/4/11
Rick Duden	3316 Harborview Dr		4/4/11
Teff Nasin	3422 Harborview Dr		4/4/11
Nick Papkewicz	3734 Harborview Dr		4/4/11

PETITION TO PRESERVE THE MILLVILLE NEIGHBORHOOD

We the undersigned are opposed to extending the hours of operation beyond 7pm in the Millville District

PRINT NAME	ADDRESS	SIGNATURE	DATE
BETH JANE DEVERINA	8191 DEERHILL LN	<i>Beth Jane Deverina</i>	4/13/11
Glen F. Hutchinson	8191 DeFenice Ln	<i>Glen F. Hutchinson</i>	4/13/11
JIM FRACUCCI	3702 HANCOCK DR	<i>Jim Fracucci</i>	
Shay Tyro ^{FOR ROSS}	85702 Grand Ave NW	<i>Shay Tyro</i>	4/3/11
D. Sennard	3310 Harborview Dr.	<i>D. Sennard</i>	4/3/11
TOMI KENT SMITH	3414 Harborview Dr	<i>Tomi Kent Smith</i>	4/4/11
JOHN SKANSI	3211 BAKER DEWEY	<i>John Skansi</i>	5-12-11
Jane Moore	3525 Ross Ave 6H	<i>Jane Moore</i>	5-12-11
ERSIE ALLEN	3603 WALTON	<i>Ersie Allen</i>	5/12/11
Dick Allen	3603 ROSS AVE	<i>Dick Allen</i>	5/12/11
TRK Bojaid	3657 ROSS AVE	<i>TRK Bojaid</i>	5/12/11
Patricia Bugeard	3607 ROSS AVE C	<i>Patricia Bugeard</i>	5/12/11

PETITION TO PRESERVE THE MILLVILLE NEIGHBORHOOD

We the undersigned are opposed to extending the hours of operation beyond 7pm in the Millville District

PRINT NAME	ADDRESS	SIGNATURE	DATE
Dennis Moore	3525 Ross Ave 619 Harbor 68332	<i>Dennis Moore</i>	4/17/11
Carolee Doyle	3523 Harborview Dr 619 Harbor 68332	<i>Carolee Doyle</i>	4/15/11
Mallory Sleeper	3524 Harborview Dr	<i>Mallory Sleeper</i>	5/15/11
Natalie Seeger	3520 Harborview Dr	<i>Natalie Seeger</i>	5-25-11
Ken Asplund	3615 Harborview Dr 619 Harbor 68332	<i>Ken Asplund</i>	5-20-11
Diane Asplund	3615 Harborview Dr. 619 Harbor 68332	<i>Diane Asplund</i>	5-17-11
Mark Tombarovich	3021 Shirley Ave 619 Harbor 68332	<i>Mark Tombarovich</i>	5-20-11
Nick Jerkovich	3710 Harborview Dr	<i>Nick Jerkovich</i>	5-20-11

PETITION TO PRESERVE THE MILLVILLE NEIGHBORHOOD

We the undersigned are opposed to the sale of beer and wine
in the Millville District

PRINT NAME	ADDRESS	SIGNATURE	DATE
George Bujarski	3619 Ave B.H.	George Bujarski	4/4/11
Mary PLANN	3505 Ross Ave	Mary PLANN	4/4/11
Jeanne Stuebelbrock	3405 Ross Ave	Jeanne Stuebelbrock	4/4/11
William O Stuebelbrock	3405 Ross Ave	William O Stuebelbrock	4/4/11
STEPH A. BUSHERCH	3323 Ross Ave	Steph A. Buserch	4/4/11
Deb Hardy	3312 Harborview Dr.	Deb Hardy	4/4/11
Dick Olivier	3314 Thornbarnes Dr.	Dick Olivier	4/4/11
Jeff Nasin	3422 Hudson Ave	Jeff Nasin	4/4/11
Nick Jankovich	3710 Harborview Dr.	Nick Jankovich	5/20/11

PETITION TO PRESERVE THE MILLVILLE NEIGHBORHOOD

We the undersigned are opposed to the sale of beer and wine
in the Millville District

PRINT NAME	ADDRESS	SIGNATURE	DATE
Blenn F. Hutchinson	8191 Defiance Ln.	Blenn F. Hutchinson	4/13/11
JIM FAALICH	3702 HARBAR VIEW DR	Jim Faalich	4-4-11
Tom Kent Smith	3414 Harborville Dr	Tom Kent Smith	4-4-11
JOHN SKANSI	3211 EASTBAY AVE NW	John Skansi	5-2-11
Jane Moore	3525 Ross Ave 64	Jane Moore	5-10-11
Dick Allen	3603 Ross Ave,	Richard B. Allen	5/12/11
ESLIE ALLEN Steve Allen	3603 Ross Ave.	Steve Allen	5/12/11
Paul D. Bugeaud	3607 Ross Ave.	Paul Bugeaud	5/14/11
PATRICIA R BUGEAUD	3607 Ross Ave	Patricia R Bugeaud	5/12/11

PETITION TO PRESERVE THE MILLVILLE NEIGHBORHOOD

We the undersigned are opposed to the sale of beer and wine
in the Millville District

PRINT NAME	ADDRESS	SIGNATURE	DATE
Dennis Moore	3525 Ross Ave E. S. Harker 98332	<i>[Signature]</i>	4/17/11
Lucy Delle	3533 Harborview Dr. E. S. Harker 98332	<i>[Signature]</i>	4/15/11
Nick Serkovich	3710 Harborview Dr. E. S. Harker 98332	<i>[Signature]</i>	4/20/11
Ken Asplund	3615 Harborview Dr. E. S. Harker 98332	<i>[Signature]</i>	5-20-11
Diane Asplund	3615 Harborview Dr. GH	<i>[Signature]</i>	5-17-11
Nick Terebentia	8021 Spindel Ave GH 98332	<i>[Signature]</i>	5-20-11

PO Box 621
Gig Harbor, Washington
May 17, 2011

Jenn Kester
City of Gig Harbor
Gig Harbor, Washington 98335

Dear Jenn,

I have been apprised that the liquor license for the Red Rooster Café has been denied based on current zoning. However, I understand that there is a proposed ordinance to extend the hours of operation and allow liquor sales in Millville.

As a long time resident of Millville, I oppose both of these requests. The current zoning code is designed to protect residents of the R-1 district across the street from the Red Rooster from the noise, traffic, and lights of a business that would be open until 9 p.m. Such a proposed change to the zoning code would irreparably harm the residential nature of the neighborhood and interfere with residents' right to quiet enjoyment of their property.

As the zoning code now stands, we are only 150' away from the downtown business district which allows sale of beer and wine and karaoke until midnight. Occasionally we have heard revelers from that business pass in front of our house after midnight. This is not a major problem to have one late-night eatery in close proximity. But if the zoning allowed more such establishments in the area on either side of the Red Rooster, this would definitely interfere with quiet enjoyment of a residential area in the evenings.

This proposed change is too intense to allow across the street from a residential neighborhood. I urge you to not allow extended hours of operation or liquor sales in Millville.

Thank you for your thoughtful consideration of this request.

Sincerely,



Carol Davis

Hunter, Chuck

From: Tomi Kent Smith [TOMIKENT@MSN.COM]
Sent: Wednesday, May 18, 2011 4:34 PM
To: Young, Derek; Malich, Ken; Conan, Paul; paynet@cityofgigharbor.net; Franich, Jim; Ekberg, Steve; Kadzik, Paul; Hunter, Chuck
Cc: arabellas
Subject: Restaurant 1 Definition and Hours of Operation in Waterfront Millville (PL-ZONE-11-0001)

I wish to clarify my position on the ordinance before Council on May 23, 2011 regarding the change to allow beer and wine sales in restaurants in Millville as well as remaining opening until P.M.

Personally my preference would be to retain the current restaurant definition and hours of operation (no alcohol and 7 PM closing) because I live directly across the street from one businesses and 1/2 block from the other mainly affected by the change. As a result I did sign a petition against the change. I also mentioned that I was agreeable to the lifting of the restriction on alcohol if the hours of operation remained at P.M.

However, in retrospect I believe that I have to look at the big picture and to be as objective as I was in my Letter to the Editor of the Gateway published on February 23, 2011.

In that letter which was a response to a Guest Column written by John Moist I stated "**...Businesses in Millville or other areas of downtown that find the current restrictions stifling need to make an appointment with the Mayor and City Council to discuss their concerns. These business/property owners, after they complete their due diligence, should be prepared to show current demographics of their area; the specific restriction of their concern can be changed by amendment to the business code....**" I have given John Moist permission to present a copy of said letter to the Council during this hearing.

As a result, since the businesses affected by the change are **following the procedure I recommended** in my letter, I believe that I should take a position of neutrality in this matter and therefore **have my signature stricken** from the petition.

Thank you.

Ms. Tomi Kent Smith
3414 Harborview Drive
Gig Harbor, WA 98332

May 23, 2011

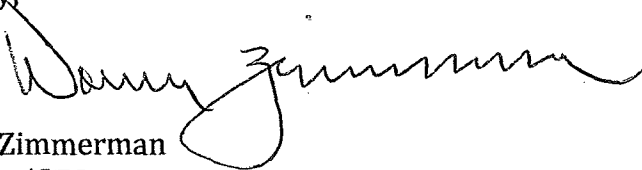
Mayor Hunter and Members of City Council
3510 Grandview St.
Gig Harbor, WA 98335

Re: Restaurant Definition 1 and Hours of Operation in Waterfront Millvill (PL-Zone-11-001)

Dear Mayor Hunter and City Council Members:

The Gig Harbor Chamber of Commerce Board is in support of the proposed amendment of the definition of Restaurant 1 uses to allow beer and wine sales in establishments less than 1,200 square feet in size. We also support the proposal of extending the evening hours of operation of Restaurant 1 uses in the Waterfront Millville District two additional hours to 9:00pm.

Sincerely,



Warren Zimmerman
President/CEO
Gig Harbor Chamber of Commerce

Towslee, Molly

From: Karlinsey, Rob
Sent: Monday, May 23, 2011 1:51 PM
To: 'Ken Asplund'
Cc: Towslee, Molly
Subject: RE: Extended hours in Millville

Mr. Asplund – Thank you for your input. I will ask the City Clerk to distribute hard copies of your email to the City Council tonight. --Rob

From: Ken Asplund [<mailto:asplundspd@yahoo.com>]
Sent: Monday, May 23, 2011 11:55 AM
To: Karlinsey, Rob
Subject: Extended hours in Millville

Mr. Karlinsey,

It has been brought to our attention that there is a vote tonite to extend hours of operation and approving the sale of beer and wine in the Millville district. We are residents in this area, and are strongly opposed to this change. This is a residential area and we feel this change could be detrimental to our way of life. Any questions I can be reached at (253)222-6090.

Thank You

Regards,
Ken & Diane Asplund
3615 Harborview Dr
Gig Harbor Wa 98332

From: Hunter, Chuck
Sent: Monday, May 23, 2011 8:44 AM
To: Towslee, Molly
Subject: FW: Liquor & Hours Change in Millville

FYI

From: Linda Dishman [<mailto:disharoni@hotmail.com>]
Sent: Sunday, May 22, 2011 4:24 PM
To: Young, Derek; Malich, Ken; Conan, Paul; paynet@cityofgigharbor.net; Ekberg, Steve; Kadzik, Paul; Franich, Jim; Hunter, Chuck
Subject: Liquor & Hours Change in Millville

Bruce and I are opposed to allowing liquor or longer hours in Millville businesses.

Bruce and Linda Dishman
3404 Hasborview Drive
Gig Harbor WA 98332

From: Hunter, Chuck
Sent: Monday, May 23, 2011 9:04 AM
To: Towslee, Molly
Subject: FW: Millville liquor licenses

Molly

Could you pass this on to the council.

Thanks

Chuck

From: joseph davis [<mailto:zyzza2000@comcast.net>]
Sent: Friday, May 20, 2011 9:54 PM
To: Hunter, Chuck; Hunter, Chuck
Subject: Millville liquor licenses

Dear Mayor Hunter;

How can you save a city by selling beer and wine? The idea that selling beer and wine in Millville and extending hours of operation in an attempt to save a few failing small businesses is ridiculous. Changing the ordinance to allow such sales will negatively impact the residential neighborhood across the street from Waterfront Millville, but will do nothing to attract more tourists and business to the city. The added traffic, noise, and headlights coming up to Harborview Drive from the Red Rooster shine directly into our house. This is not a good idea to allow such intense activity in a residential neighborhood. The zoning code is designed to lessen the impact of business operations on R-1 zones. This proposed ordinance is absolutely not a good idea. Please do not allow this proposed change.

Sincerely,
Joe Davis
3312 Harborview Drive
253-381-8281

How can you save a city by selling beer and wine? The idea that selling beer and wine in Millville and extending hours of operation in an attempt to save a few failing small businesses is ridiculous. Changing the ordinance to allow such sales will negatively impact the residential neighborhood across the street from Waterfront Millville, but will do nothing to attract more tourists and business to the city. The added traffic, noise, and headlights coming up to Harborview Drive from the Red Rooster shine directly into our house. This is not a good idea to allow such intense activity in a residential neighborhood. The zoning code is designed to lessen the impact of business operations on R-1 zones. This proposed ordinance is absolutely not a good idea. Please do not allow this proposed change.

Kester, Jennifer

From: Towslee, Molly
Sent: Tuesday, May 31, 2011 9:34 AM
To: Kester, Jennifer; Dolan, Tom
Subject: FW: Millville

Jenn,

Will you please include these comments in the packet for the second reading of the ordinance?

Thanks,
Molly

From: Jackie O [mailto:jackiegigharbor@gmail.com]
Sent: Saturday, May 28, 2011 5:40 PM
To: Towslee, Molly
Subject: Re: Millville

3316 Harborview Dr
Gig Harbor, WA 98332

5/28/2011

(253) 851-9191

To Mayor Chuck Hunter and members of the Gig Harbor City Council:

My husband and I are current residents and homeowners in the Millville district of downtown Gig Harbor. We would like to add our full support for a beer and wine zoning amendment along with the extended hours to 9pm in the WM district.

We feel that this new amendment would be a financial and social enhancement for our downtown Millville area and not in any way a detriment to us the residents and homeowners of this historical district.

Yours Sincerely,

Jackie and Rick Olivier



Subject: Donkey Creek Restoration and Roadway Improvements Project Update

Proposed Council Action:

EITHER

Authorize staff to proceed with design of the Donkey Creek Restoration and Road Improvements project to include **Austin Street in a one-way configuration**

OR

Authorize staff to proceed with design of the Donkey Creek Restoration and Road Improvements project to include **Austin Street in a two-way configuration**

Dept. Origin: Administration
Public Works/Engineering

Prepared by: Rob Karlinsey, City Administrator
Emily Appleton, Senior Engineer

For Agenda of: June 13, 2011

Exhibits:

- 1 - Donkey Creek Funding Options memo (June 2, 2011)
- 2 - Plan and Profile
- 3 - Cross Sections
- 4 - 1-Way Austin (Site Plan)
- 5 - 2-Way Austin (Site Plan)
- 6 - Parking Lot & Plaza Layout

Concurred by Mayor: CLH 6/13/11
Approved by City Administrator: RJK
Approved as to form by City Atty: _____
Approved by Finance Director: 6/13/11
Approved by Department Head: _____

Initial & Date

Expenditure	Amount	Appropriation
Required See below	Budgeted \$2,886,000	Required See below

INFORMATION / BACKGROUND

On May 23, 2011, staff presented various Donkey Creek project concept alternatives for Council consideration and held a public hearing to solicit comments regarding each alternative. Council requested that additional information be provided, consisting of the following:

1. **Information regarding funding options for the project.** Please see the attached memorandum dated June 2, 2011.
2. **Refine the daylighting design and update the associated probable construction costs.** Staff met with the Harbor History Museum and received preliminary approval to increase the width of the City's Conservation Easement area by approximately 10 feet. This additional width provides space for aesthetic refinements that include shorter walls and sloped embankments that can be enhanced with woody debris and slope rugosity. A concept plan, profile and typical cross-sections are attached. Last week's discussions with Fish and Wildlife suggested that the culvert width requirement may end up being less than 22 feet. This would further reduce the wall heights and associated costs.
3. **Further develop the roadway improvements and refine the associated probable construction costs.** The roadway improvements were clarified and the following options have been considered:

a. ONE-WAY AUSTIN:

- i. Curb, gutter and sidewalk along a portion of one side and no additional illumination.
- ii. Curb, gutter and sidewalk along both sides of Austin and around the entire perimeter of the park, additional illumination at the intersections and along the sidewalk for pedestrians.

b. TWO-WAY AUSTIN:

- i. Curb, gutter and sidewalk along one side and no additional illumination. This option includes closing N. Harborview Drive and reconfiguring it into a parking lot and plaza area.
- ii. Curb gutter and sidewalk along both sides of Austin and around the entire perimeter of the park, additional illumination at the intersections and along the sidewalk for pedestrians. This option includes closing N. Harborview Drive and reconfiguring it into a parking lot and plaza area.

The width of these roadway improvements (and thus the estimated costs) could be reduced by removing the curbs and gutters, sidewalks, and bike lane. The reduced widths are not part of the recommended project because they are not consistent with the City's road improvement standards.

Additionally, conceptual alternative alignments for the roadway improvements were considered, including shifting Harborview Drive toward the Wastewater Treatment Plant. It is possible to shift the alignment of Harborview Drive to potentially reduce tree impacts on the park side, however, there would be potential tree and creek shading impacts on the other side of Harborview Drive as well as a long fill retaining wall. These refinements will be considered as the project develops and the full impact is defined.

Updated probable construction costs are shown in the table on the last page of this memo. A summary of some of the changes are listed below.

Estimated Cost Reductions:

- 2:1 sloped sides vs. sheet pile walls
- Quantity refinements
- Sales tax on road construction
- Reduced culvert length (due to increased conservation easement area)

Estimated Cost Increases:

- Additional curb, gutter, sidewalk and lighting
- Addition of restoration area embankment enhancements
- Restoration refinements (seeding and topsoil after construction.)
- Decorative railing
- Retaining walls along Austin Street and Harborview Drive

Once a decision on the project direction has been made, the funding agencies will be apprised of the final concept and the contracts amended to incorporate the approved design. Because either of the options presented are in keeping with the intent of the approved funding applications, staff anticipates this will be a smooth process.

FISCAL CONSIDERATION

See Table, next page.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Move to:

EITHER Authorize staff to proceed with design of the Donkey Creek Restoration and Road Improvements project to include **Austin Street in a one-way** configuration.

OR Authorize staff to proceed with design of the Donkey Creek Restoration and Road Improvements project to include **Austin Street in a two-way** configuration.

Donkey Creek Daylighting - Austin Estuary Restoration
 Summary of Estimated Costs for Various Options
 June 13, 2011 Council

Project Budget: \$ 2,886,000 with currently available funding

No.	Element	Estimated Costs			
		Pocket Park over Arch Culvert & One Ways	Close N.Harborview with 2-way Austin**	Pocket Park PLUS close N.Harborview with 2-way Austin	Pocket Park over Arch Culvert & One Ways
		as presented 5-23-11	no additional illumination	curb, gutter, sidewalk along portion of one side of Austin	c&g, s/w both sides of Austin & around park perimeter intersection and pedestrian illumination included
		Leave existing culvert under N.Harborview, Install 22' wide arch culvert with pocket park	Add stabilize/reconstruct Austin and I/S work, pkg lot, ped cnxn, landscaping	Leave existing culvert under N.Harborview, Install 22' wide arch culvert with pocket park	Add stabilize/reconstruct Austin and I/S work, pkg lot, ped cnxn, landscaping
1	Creek Crossing/Park over Arch Culvert	\$ 980,000	\$ -	\$ 980,000	\$ 670,000
2	Daylighting	\$ 460,000	\$ -	\$ 460,000	\$ 595,000
3	Roadway *	\$ 245,000	\$ 660,000	\$ 905,000	\$ 305,000
3a	Parking Lot and Plaza	n/a	\$ 90,000	\$ 90,000	n/a
4	Estuary Park Improvements	\$ 245,000	\$ -	\$ 245,000	\$ 200,000
	Subtotal	\$ 1,930,000	\$ 750,000	\$ 2,680,000	\$ 1,770,000
	Contingency (15% - 25% due to risk)	\$ 290,000	\$ 188,000	\$ 478,000	\$ 266,000
	Sales Tax at 8.4%	\$ 186,000	\$ 79,000	\$ 265,000	\$ 145,000
	Subtotal Contingency and Sales Tax	\$ 476,000	\$ 267,000	\$ 743,000	\$ 411,000
	Subtotal Construction Estimate	\$ 2,406,000	\$ 1,017,000	\$ 3,423,000	\$ 2,181,000
	Reimbursible Engineering, Construction Management and Special Inspection	\$ 477,000	\$ 100,000	\$ 577,000	\$ 477,000
	TOTALS ***	\$ 2,883,000	\$ 1,117,000	\$ 4,000,000	\$ 2,658,000
	Net funds over (under) \$2.886 million	\$ (3,000)	n/a	\$ 1,114,000	\$ (228,000)
					n/a
					\$ 594,000

* Updated estimates include significantly more curb, gutter, sidewalk, intersection and pedestrian illumination

** For this added component, contingency was increased to 25% due to increased risks.

*** Does not include potential additional costs for upstream culvert permit conditions or property acquisition

1. Donkey Creek Funding Options Memo (6-2-11) Page 5 of 19



'THE MARITIME CITY'

ADMINISTRATION

Date: June 2, 2011

To: City Council

From: Mayor Hunter and City Administrator Karlinsey

Subject: Donkey Creek Funding Options

The City Council has requested that staff explore funding options to supplement the Donkey Creek Daylighting & Traffic Improvements Project. Additional potential funding sources are described below.

Hospital Benefit Zone. The Donkey Creek project is located within the Hospital Benefit Zone (HBZ), which has been activated starting on July 1, 2011. Up to \$2 million per year of the State share of the incremental sales tax growth within the zone can be applied to City capital projects within the zone. City Administration does not recommend the HBZ as a Donkey Creek funding option given other infrastructure needs that we believe are more appropriate for the zone. See prior meeting materials on HBZ project criteria, etc.

Unrestricted Reserves. The City currently has balances in the following unrestricted reserve funds:

Civic Center Debt Reserve	\$3,700,000
Equipment Replacement Reserve	\$50,000
Strategic Reserve	\$280,000

Given the continued tentative state of the regional, national, and global economies, we recommend that the City continue to build, not draw down, its reserve funds. While we are recommending a short-term loan from the Civic Center Debt Reserve Fund for the Bujacich lift station, we do not believe depleting this fund is prudent at this time.

Stormwater Capital. In the Stormwater budget, approximately \$200,000 - \$300,000 per year is available for capital projects. All or a portion of this amount could be utilized as debt service on a revenue bond. Assuming a 10-year bond at today's interest rates, a \$300,000 annual debt service payment would leverage approximately \$2.5 million in capital. In diverting all or a portion of the stormwater capital funds for Donkey Creek, the City would need to weigh either 1) the opportunity cost of not constructing other planned stormwater projects (see attached list from the City's Capital Facilities Element of the Comprehensive Plan) or 2) the possibility of

further raising stormwater rates to fund the planned projects (each 10% stormwater rate increase raises approximately \$70,000 per year). The current residential stormwater fee is \$141.48 per year.

We also need to consider the regulatory pressures that are on municipal stormwater systems. Page two of the AWC's *2011 State of the Cities* reports that "Stormwater systems . . . are being held to higher standards and many cities lack sufficient funds to meet new permit requirements." We are being told that increased stormwater requirements and output standards will be coming in future years, and the City should plan and forecast accordingly.

Capital Project Cancelation and/or Postponement. There are several budgeted but unencumbered capital projects, the funding for which could be reallocated to the Donkey Creek project:

Stanich Avenue & Sidewalk	\$150,000
PW Shop Sewer	\$50,000
50 th Street Gap Permitting	\$15,000
Eddon Boat Park Beach Design & Permitting	\$22,500
Skansie House Interior Repair	\$35,000

City administration does not recommend eliminating or postponing the Stanich Avenue safety improvements—this project is needed for increased pedestrian and vehicle safety for this busy part of the downtown. In addition, we do not recommend delay or cancelation of the Eddon Boat Park Beach project and Skansie House interior repair—for quite some time, both of these projects have been priorities of the community and will bring both parks closer to a finished state. The \$50,000 PW shop sewer project, on the other hand, can be included in the future Bujacich lift station project, assuming HBZ funding. Given the interim paving at the 50th Gap scheduled for later this summer, the \$15,000 budgeted for permitting the permanent gap design can be delayed.

Grant Funds. In 2006/2007, the City began applying for Grants for the Scofield (aka Austin) Estuary and Donkey Creek Park sites. The City was awarded an RCO State Grant to fund improvements at Austin Estuary and two federal earmarks (HUD and F&W) for restoration and transportation improvements at Donkey Creek.

Since 2006 and on more than one cycle-year, we have applied for and been denied funds from the following:

- Washington State Salmon Recovery Funding Board (SRFB - IAC)
- Russell Foundation Environmental Sustainability – Great Peninsula Conservancy
- Puget Sound Nearshore (ESRP)
- Pierce County Salmon Community Salmon Fund
- State Community Salmon Fund

- National Fish and Wildlife Foundation
- Puget Sound Watershed Management Assistance Program (EPA)
- Coastal Counties Restoration Initiative
- FEMA
- Kitsap Watershed Council
- Coastal and Marine Habitat – NOAA.

Over the years, feedback from agencies, biologists, consultants and committees suggest that the lack of meaningful biological findings and monitoring studies that rank Donkey Creek low on the list of competitive “fish-producing streams” remains unchanged. It is believed that the City will continue to rank poorly in the future. In addition, the number of physical constraints that exist upstream all the way to 96th street, make Donkey Creek either ineligible or a poorly scoring project for local and state restoration funds. Based on government spending reductions and the highly competitive nature of this type of grant, new sources for future Donkey Creek dollars are unlikely and probably limited to appropriation-type awards.

Other Funding Sources. Due to timing and other issues, this memo does not explore additional funding options such as a voter-approved bond or tax and fee increases. These alternatives can be explored if the City Council so requests.

Project No.	Project	Projected Year	Cost	Plan	Primary Funding Sources
26	Critical Area Enhancement	2012-2016	\$100,000	6 year	Local, Volunteers, Grants
27	Wheeler Pocket Park	2010-2012	\$70,000	6 year	Local
	Park Total		\$18,250,000 to \$21,040,000		

* The Donkey Creek/Austin Estuary Restoration and Roads Project benefits Stormwater, Parks and Transportation projects. The City has included portions of this project in each of these project lists; the total project amount is \$2,560,000.

Stormwater System-Projects

Project No.	Project	Projected Year	Cost	Plan	Primary Funding Source
1	Update storm facilities mapping (\$50,000/yr)	Annually	\$300,000	6-year	Connection Fees/Utility Rates
2	Garr Creek Tributary Channel (38 th St)/WWTP Erosion Study	2010-2011	\$50,000	6-year	Connection Fees/Utility Rates
3	38 th /Quail Run Ave Storm Culverts	2014	\$208,200	6-year	Connection Fees/Utility Rates
4	Donkey Creek/Austin Estuary Restoration and Roads Project* Daylighting	2011	\$1,236,000	6-year	State/Federal Salmon Recovery Grants/Earmarks/Local
5	Donkey Creek Culvert under Harborview Drive	2013	\$546,400	6-year	State/Federal Salmon Recovery Grants/Earmarks
6	Annual Storm Culvert Replacement Program (\$50,000/yr)	2009-2014	\$300,000	6-year	Connection Fees/Utility Rates
7	50 th Street Box Culvert	2012	\$371,300	6-year	Connection Fees/Utility Rates
8	Quail Run Water Quality System Improvements	2011-14	\$15,000	6-year	Connection Fees/Utility Rates
9	Annual NPDES Implementation Expenses	2009-2014	\$100,000	6-year	Connection Fees/Utility Rates /State Grant
10	Aquifer Re-charge - Spadoni Gravel Pit and adjacent property north of 96 th street between SR-16 and Burnham Drive.	2011	\$1,700,000	6-year	State/Federal Transportation Funding/Grant
11	Burnham Drive/96 th Street Culvert Replacement	2014	\$56,300	6-year	Connection Fees/Utility Rates
12	Borgen Boulevard/Peacock Hill Avenue Culvert Replacement	2014	\$36,600	6-year	Connection Fees/Utility Rates
13	102 nd Street Court Culvert Replacement	--	\$20,000	6-year	Private Development
14	Burnham Drive/Harborview Drive Rock Spall Pad Construction	--	\$15,000	6-year	Private Development

Project No.	Project	Projected Year	Cost	Plan	Primary Funding Source
15	101 st Street Court Detention Pond Reconstruction	--	\$25,000	6-year	Private Development
16	101 st Street Court Culvert Replacement	--	\$20,000	6-year	Private Development
17	Stormwater Comprehensive Plan Update	2014	\$112,600	6-year	Connection Fees/Utility Rates
Stormwater Total			\$5,112,400		

Notes:

- Costs shown above are estimates and do not include such items as permitting costs, sales tax, right-of-way acquisition, utility relocations, trench dewatering, traffic control or other unforeseen complications.
- Private Development funding indicates the full cost for the project shall be borne by property owner(s) or developer(s).
- * The Donkey Creek/Austin Estuary Restoration and Roads Project benefits Stormwater, Parks and Transportation projects. The City has included portions of this project in each of these project lists; the total project amount is \$2,560,000.

Transportation Improvement Projects

Project No.	Project Name	Projected Start Year	Estimated Cost	Plan	Funding Source
1	SR-16/Borgen/Canterwood Hospital Mitigation Improvements	2009	\$11,000,000	6-Year	State/Local
2	50th St Ct NW Improvements	2009	\$1,600,000	6-Year	State/Local
3	Harbor Hill and Borgen Intersection Improvements	2013	\$704,000	6-Year	Developer/Local
4	Rosedale and Stinson Intersection Improvements	2013	\$275,000	6-Year	Local
5	38 th Ave Improvements Phase 1	2010	\$9,790,000	6-Year	State/Local
6	Harbor Hill Drive Extension	2014	\$5,500,000	6-Year	Developer/Local
7	Burnham Dr Phase 1	2014	\$11,360,000	6-Year	State/Local/Developer
8	Burnham Dr/Harbor Hill Drive Intersection Improvements	2011	\$2,200,000	6-Year	Developer/Local
9	Soundview and Hunt Intersection Improvements	2012	\$660,000	6-Year	Developer/Local
10	Olympic/Pt. Fosdick Intersection Improvements	2010	\$440,000	6-Year	Developer/Local
11	Wollochet Dr Improvements	2013	\$660,000	6-Year	Developer/Local
12	Harborview/N Harborview Intersection Improvements	2010	\$1,650,000	6-Year	Local
13	SR 16/Olympic Drive	2012	\$825,000	6-Year	Developer/State/Local
14	Rosedale St/Skansie Ave Intersection Improvements	2011	\$275,000	6-Year	Local
15	38th Ave Improvements Phase 2	2009	\$5,280,000	6-Year	State/Local
16	Skansie Ave Improvements	2010	\$9,460,000	6-Year	Local
17	Rosedale St Improvements	2010	\$3,740,000	6-Year	State/Local
18	Olympic/Hollycroft Intersection Improvements	2013	\$26,000	6-Year	Local

FIGURE A-1
Creek
Plan & Profile
DRAFT

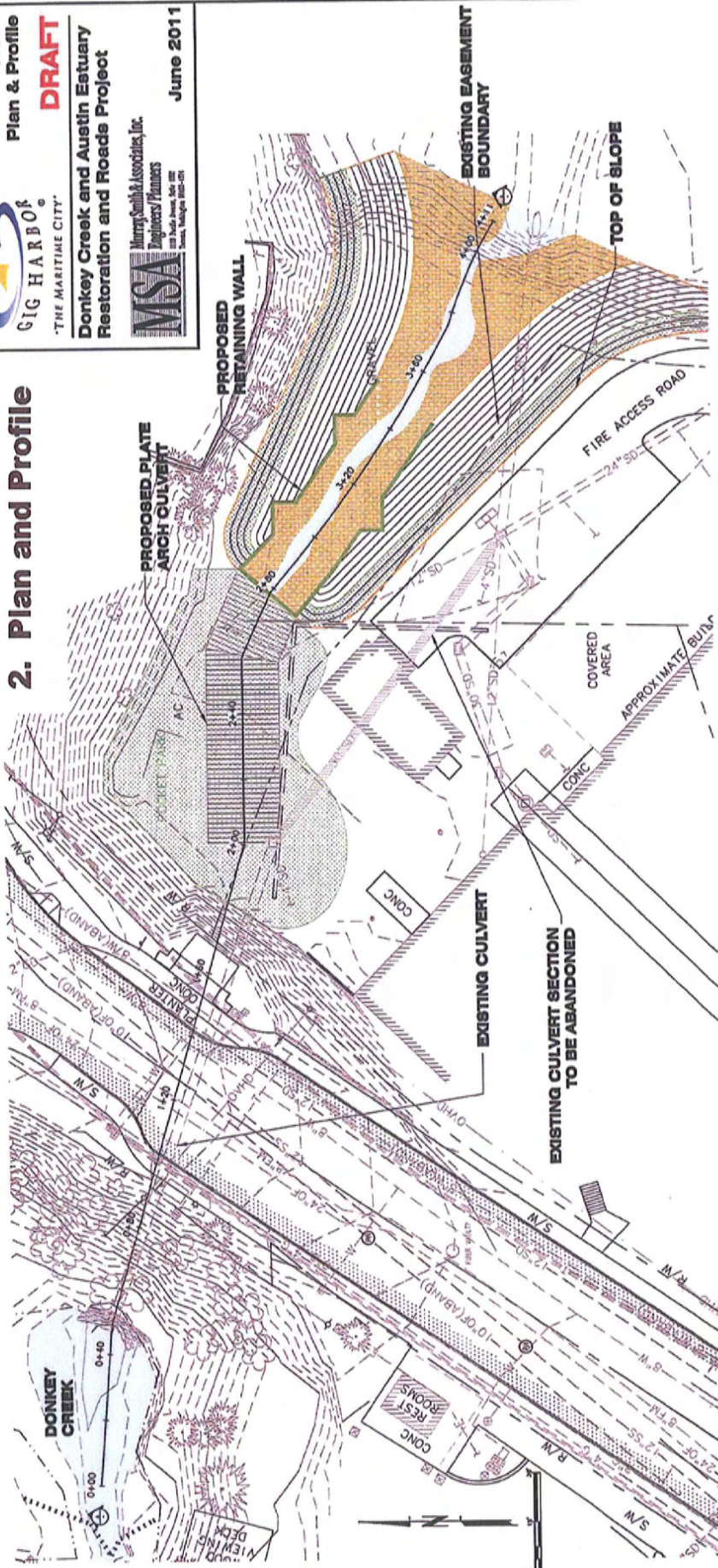
Donkey Creek and Austin Estuary
Restoration and Roads Project

SIG HARBOUR
"THE MARITIME CITY"

MSA
Murray Smith & Associates, Inc.
Engineers/Planners
201 South Jones Ave. Ste. 100
Brentwood, TN 37027-1001

June 2011

2. Plan and Profile



PLAN VIEW
1" = 15'

EXISTING GROUND SURFACE
NORTH HARBORVIEW DR.



PROFILE VIEW
1" = 15'

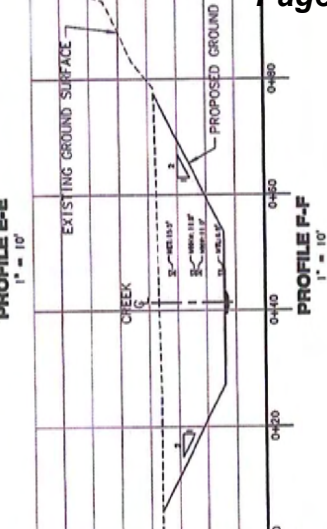
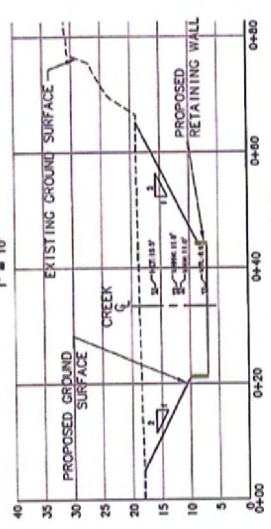
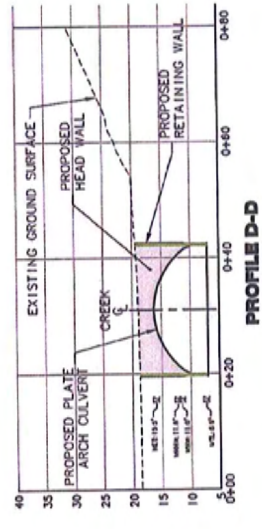
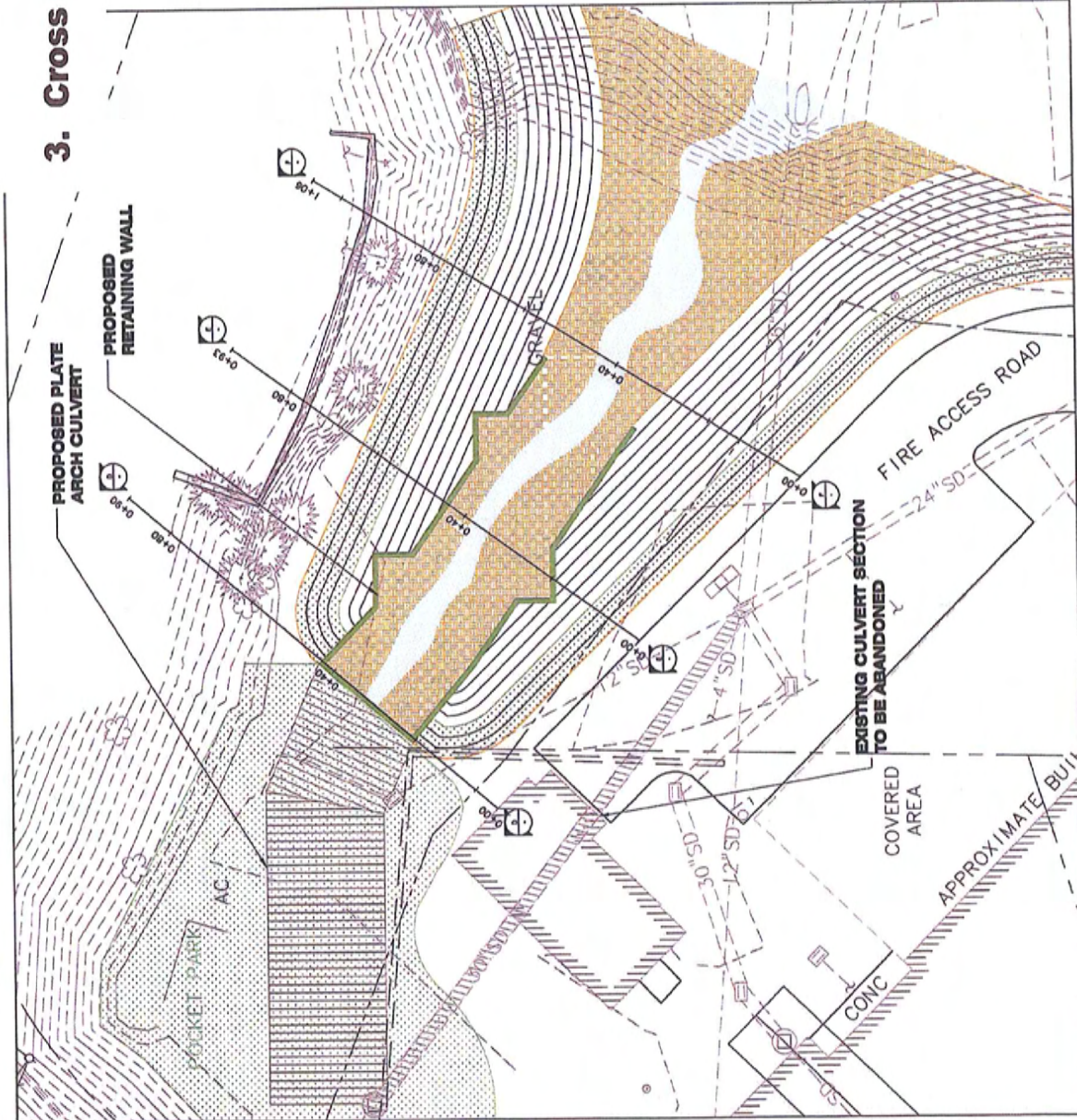
NOTE:
1. THESE LEVELS NOT SHOWN ARE AS FOLLOWS:
MEAN LOW WATER : 2.8'
MEAN LOWER LOW WATER : 0.0'
EXTREME LOW WATER : -4.5'



100 Park Avenue, 2nd Floor
 Fort Lauderdale, FL 33304
 Phone: 754.546.1000
 Fax: 754.546.1001

NOTES:
 HET: HIGH ESTIMATED TIDE
 MHHW: MEAN HIGHER HIGH WATER
 MHW: MEAN HIGH WATER
 MTL: MEAN TIDE LEVEL

3. Cross Sections

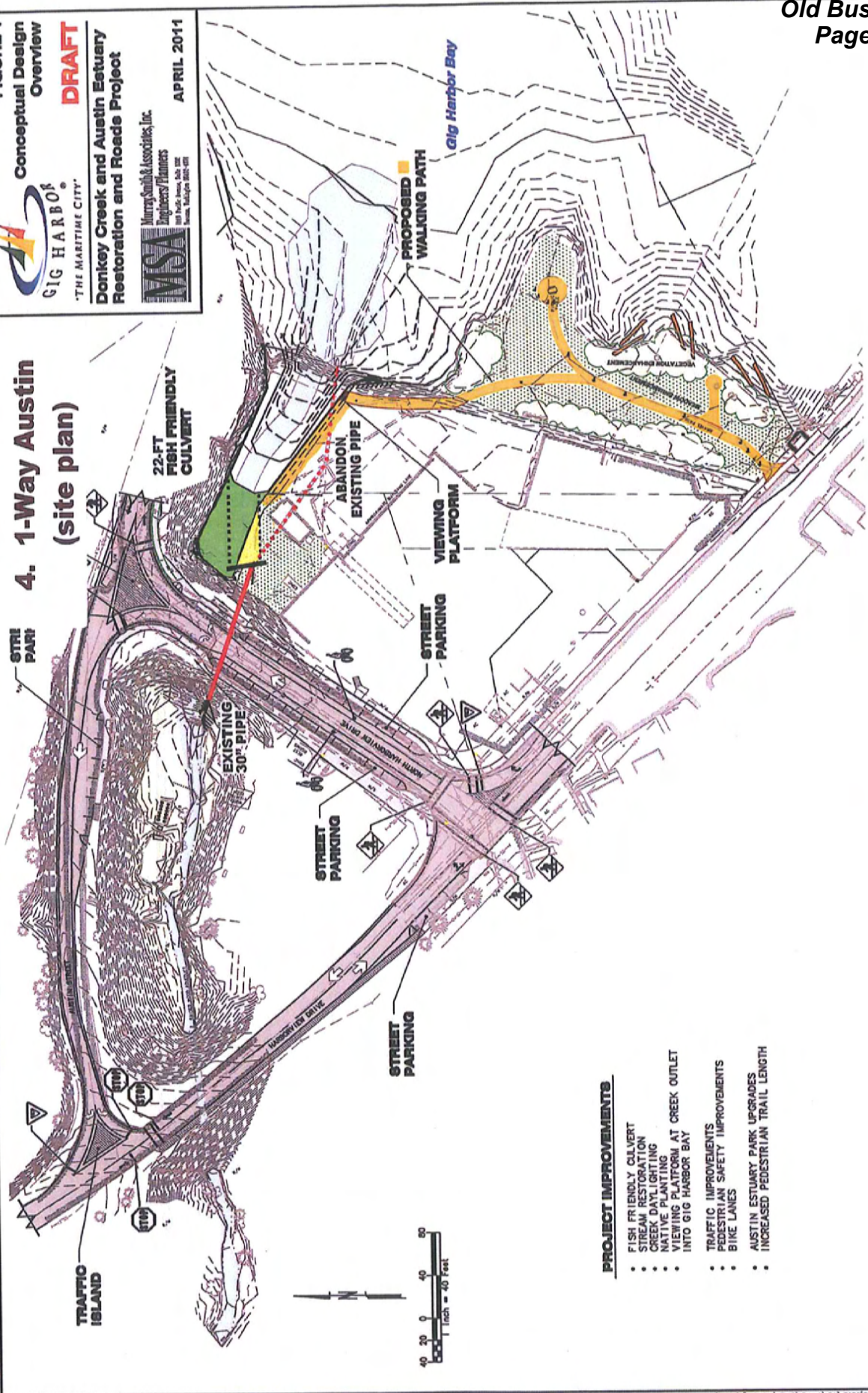


PLAN VIEW
 1" = 10'

H:\VT_Projects\1105125\CD\Working\A\H\10-1175-202-WA--Rev-6.dwg FIGURE-3 6/6/2011 11:26 AM JMH 18.16 (LMS Tech)

FIGURE 1
Conceptual Design
Overview
DRAFT
Donkey Creek and Austin Estuary
Restoration and Roads Project
Murray Smith & Associates, Inc.
Engineers/Planners
10100 Katy Road, Suite 200
Houston, Texas 77054
APRIL 2011

**4. 1-Way Austin
(site plan)**



- PROJECT IMPROVEMENTS**
- FISH FRIENDLY CULVERT
 - STREAM RESTORATION
 - CREEK DAYLIGHTING
 - NATIVE PLANTING
 - VIEWING PLATFORM AT CREEK OUTLET INTO GIG HARBOR BAY
 - TRAFFIC IMPROVEMENTS
 - PEDESTRIAN SAFETY IMPROVEMENTS
 - BIKE LANES
 - AUSTIN ESTUARY PARK UPGRADES
 - INCREASED PEDESTRIAN TRAIL LENGTH



H:\CVT_Projects\10\1175\CAD\Working\AK\10-1175-202-MA_Overview-Figures-Figures-Rev1.dwg FIGURE-1 1/28/2011 11:28 AM MCM 18.1s (LMS Tech)

FIGURE 6
Element 3 - Road Configuration 1
DRAFT

GIG HARBOR
"THE MARITIME CITY"

Donkey Creek and Austin Estuary Restoration and Roads Project

MSA
Murray Squire Associates, Inc.
Engineering Planners
200 Park Avenue, Suite 200
Fort Lauderdale, FL 33301

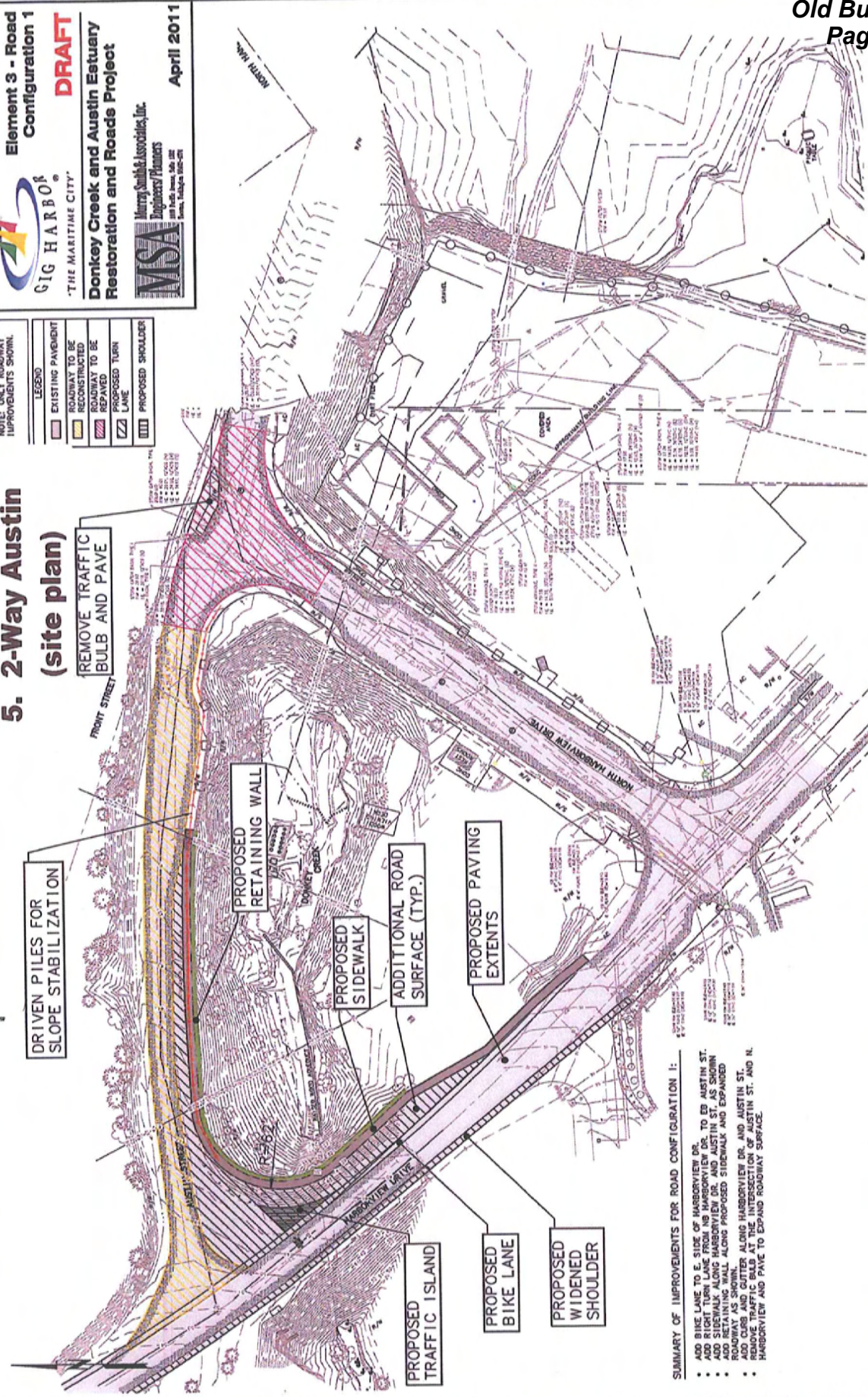
April 2011

NOTE: ONLY ROADWAY IMPROVEMENTS SHOWN.

LEGEND

[Pattern]	EXISTING PAVEMENT
[Pattern]	ROADWAY TO BE RECONSTRUCTED
[Pattern]	ROADWAY TO BE REPAVED
[Pattern]	PROPOSED TURN LANE
[Pattern]	PROPOSED SHOULDER

5. 2-Way Austin (site plan)



- SUMMARY OF IMPROVEMENTS FOR ROAD CONFIGURATION 1:**
- ADD BIKE LANE TO E. SIDE OF HARBORVIEW DR.
 - ADD RIGHT TURN LANE FROM NB HARBORVIEW DR. TO EB AUSTIN ST.
 - ADD SIDEWALK ALONG HARBORVIEW DR. FROM EB AUSTIN ST. AS SHOWN.
 - ADD SIDEWALK ALONG HARBORVIEW DR. FROM EB AUSTIN ST. AS SHOWN.
 - ADD CURB AND GUTTER ALONG HARBORVIEW DR. FROM AUSTIN ST.
 - REMOVE TRAFFIC BULB AT INTERSECTION OF HARBORVIEW DR. AND N. HARBORVIEW AND PAVE TO EXPAND ROADWAY SURFACE.

PLAN
SCALE: 1"=80'

FIGURE 1
Conceptual Design
Overview
DRAFT

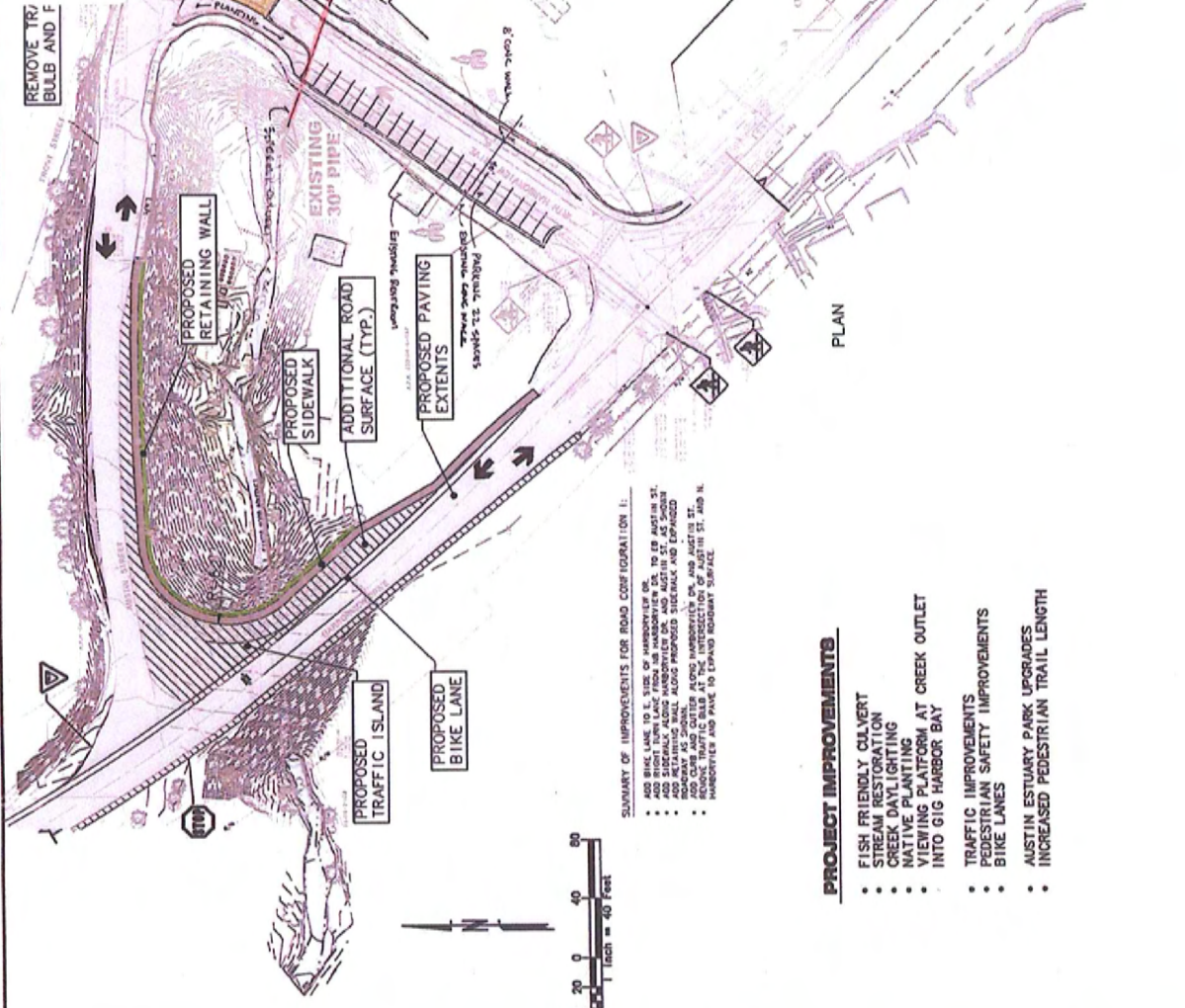
GIG HARBOR
THE MARITIME CITY

**Donkey Creek and Austin Estuary
Restoration and Roads Project**

MSA
Murray Smith & Associates, Inc.
Engineers/Planners
100 Park Ave., 3rd Fl.
New York, New York 10022

APRIL 2011

6. Parking Lot & Plaza Layout



SUMMARY OF IMPROVEMENTS FOR ROAD CONFIGURATION 1:

- ADD BIKE LANE TO E. SIDE OF HARBORVIEW DR. TO 100 AUSTIN ST.
- ADD SIDEWALK ALONG HARBORVIEW DR. FROM 100 AUSTIN ST. TO 100 HARBORVIEW DR.
- ADD SIDEWALK ALONG HARBORVIEW DR. AND AUSTIN ST. AS SHOWN.
- ADD RETAINING WALL ALONG PROPOSED SIDEWALK AND EXPANDED SIDEWALK.
- ADD CURB AND GUTTER ALONG HARBORVIEW DR. AND AUSTIN ST.
- ADD CURB AND GUTTER ALONG HARBORVIEW DR. AND AUSTIN ST. AND N. HARBORVIEW DR. TO EXPAND ROADWAY SURFACE.

PROJECT IMPROVEMENTS

- FISH FRIENDLY CULVERT
- STREAM RESTORATION
- CREEK DAYLIGHTING
- NATIVE PLANTING
- VIEWING PLATFORM AT CREEK OUTLET INTO GIG HARBOR BAY
- TRAFFIC IMPROVEMENTS
- PEDESTRIAN SAFETY IMPROVEMENTS
- BIKE LANES
- AUSTIN ESTUARY PARK UPGRADES
- INCREASED PEDESTRIAN TRAIL LENGTH



1-Way AUSTIN and N HARBORVIEW with POCKET PARK

Estimate as presented on 5-23-11

REFINED ESTIMATES and
ADD CURB - GUTTER - SIDEWALK (no lighting)
on South Side of Austin Street Only

ADD CURB - GUTTER - SIDEWALK
and LIGHTING on
ALL sides of the Park plus
North Side of Austin Street

#1 Park over Arch Culvert	\$ 980,000
#2 Daylighting	460,000
#3 Roadways	245,000
#3a Parking Lot and Plaza	n/a
#4 Estuary Improvements	245,000
Contingency	290,000
Sales Tax	186,000
SUBTOTAL	2,406,000
Admin and Engineering	477,000
TOTAL	\$ 2,883,000

#1 Park over Arch Culvert	\$ 670,000 **
#2 Daylighting	595,000
#3 Roadways	230,000
#3a Parking Lot and Plaza	n/a
#4 Estuary Improvements	200,000
Contingency	254,000
Sales Tax	144,000
SUBTOTAL	2,093,000
Admin and Engineering	477,000
TOTAL	\$ 2,570,000

EXISTING FUNDS 2,886,000

OVER / UNDER \$ 3,000

EXISTING FUNDS 2,886,000

OVER / UNDER \$ 316,000

** Reduced Sheet Pile Wall quantities
(10-ft added to easement area)

2-WAY AUSTIN and POCKET PARK (close N Harborview)

Estimate as presented on 5-23-11

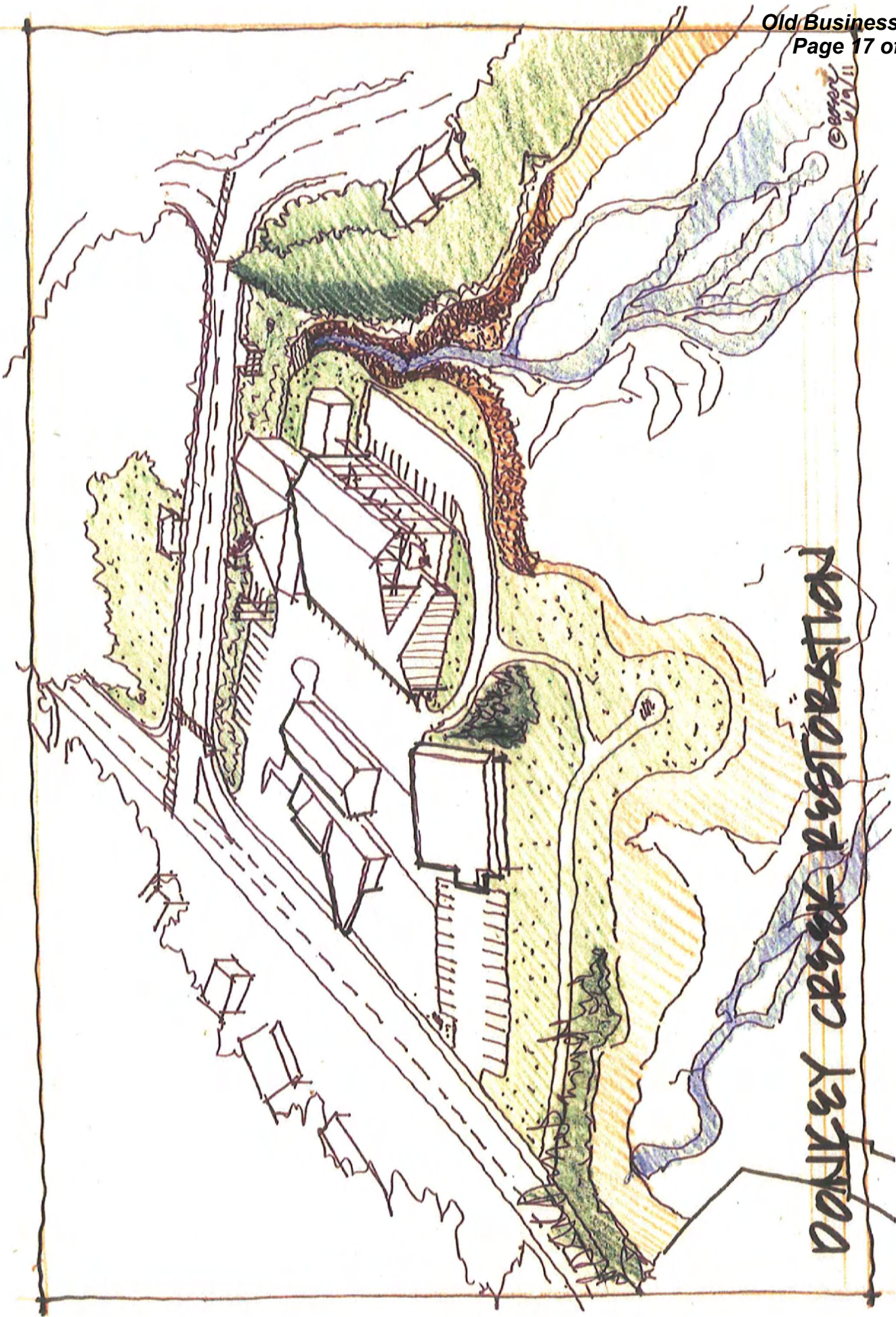
REFINED ESTIMATES and
ADD CURB - GUTTER - SIDEWALK (no lighting)
on South Side of Austin Street Only

ADD CURB - GUTTER - SIDEWALK
and LIGHTING on
ALL sides of the Park plus
North Side of Austin Street

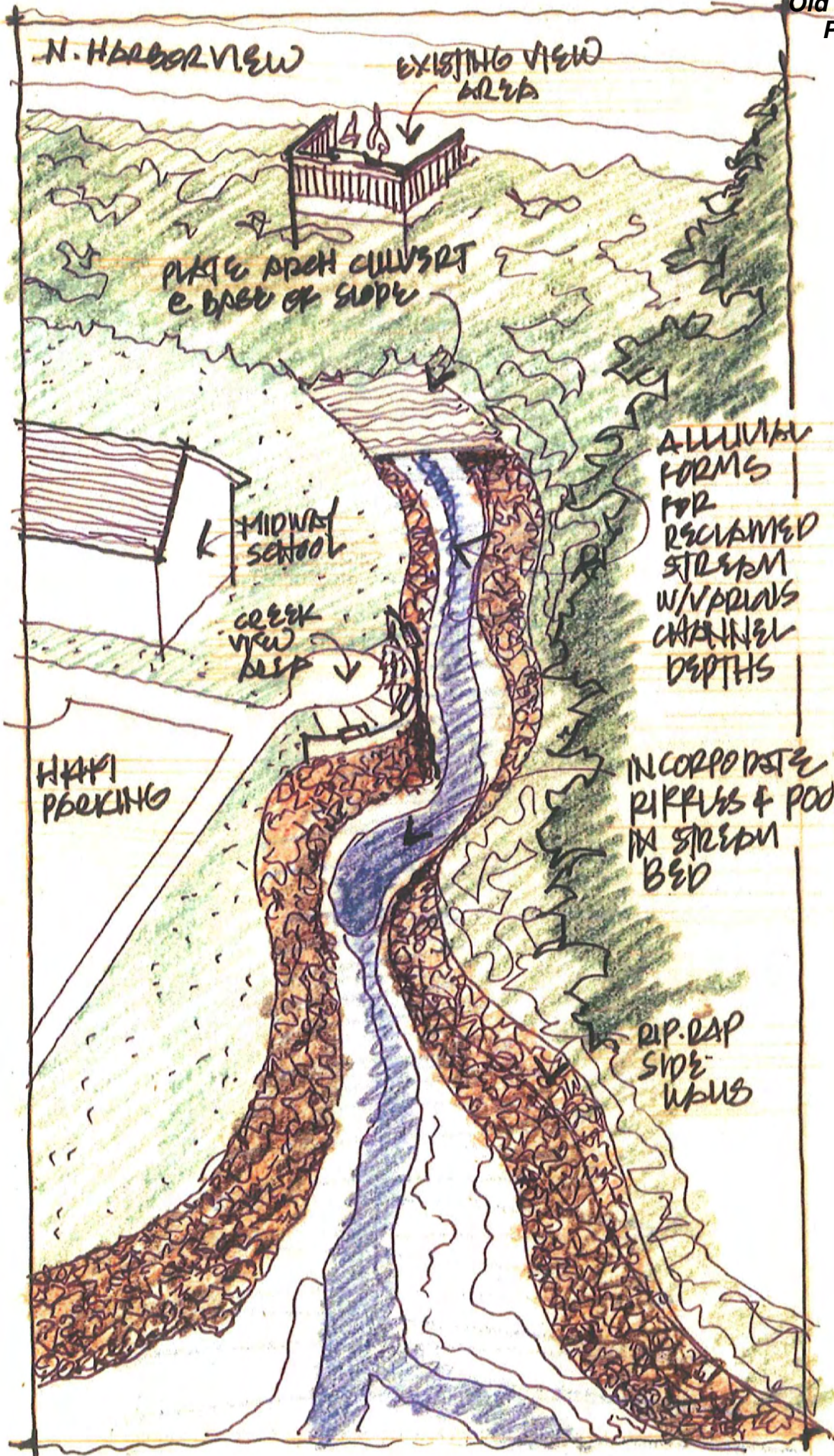
#1 Park over Arch Culvert	\$ 980,000	#1 Park over Arch Culvert	\$ 670,000 **
#2 Daylighting	460,000	#2 Daylighting	595,000
#3 Roadways	905,000	#3 Roadways	710,000
#3a Parking Lot and Plaza	90,000	#3a Parking Lot and Plaza	82,000
#4 Estuary Improvements	245,000	#4 Estuary Improvements	200,000
Contingency	478,000	Contingency	395,000
Sales Tax	265,000	Sales Tax	163,000
			12,000
			1,000
SUBTOTAL	3,423,000	SUBTOTAL	2,815,000
Admin and Engineering	577,000	Admin and Engineering	577,000
TOTAL	\$ 4,000,000	TOTAL	\$ 3,392,000
			88,000
EXISTING FUNDS	2,886,000	EXISTING FUNDS	2,886,000
OVER / UNDER	\$ 1,114,000	OVER / UNDER	\$ 506,000
			\$ 594,000

** Reduced Sheet Pile Wall quantities
(10-ft added to easement area)

1/19/11
Petersen



VALLEY CREEK RESTORATION



N. HARBOUR VIEW

EXISTING VIEW AREA

PLATE ARCH CULVERT
E. BASE OF SLOPE

MIDWAY SCHOOL

CREEK VIEW AREA

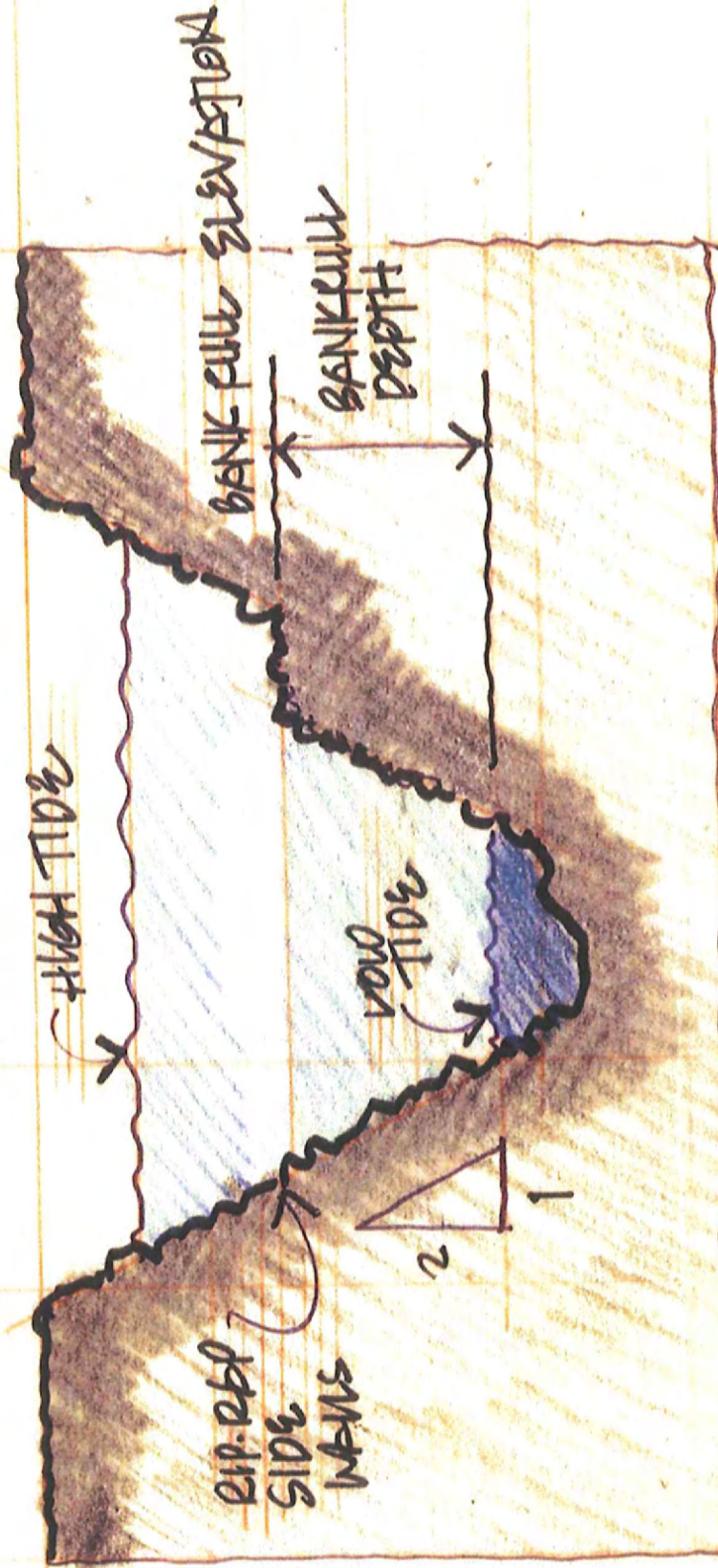
HAPPY PARKING

ALLUVIAL FORMS
FOR RECLAIMED
STREAM
W/VARIOUS
CHANNEL
DEPTHS

INCORPORATE
RIPPLES & POOLS
IN STREAM
BED

RIP-RAP
SIDE
WALKS

DEPRESSIBLE FLOODPLAIN



TYPICAL CROSS-SECTION

Towslee, Molly

From: Steve Lynn [Steve@WatertoWineShop.com]
Sent: Monday, June 13, 2011 12:35 PM
To: Hunter, Chuck; paynet@cityofgigharbor.net; Kadzik, Paul; Ekberg, Steve; Conan, Paul; Franich, Jim; Malich, Ken; Young, Derek
Cc: Karlinsey, Rob; 'Gary Glein'; executivedirector@ghhwa.org; Towslee, Molly; 'Frank Ruffo'; 'Jennifer Kilmer'
Subject: Austin Options

Dear Mayor Hunter and Council members,

We have a great diversity of ideas and priorities and tonight we are discussing the development of a unique asset for the community, a park.

Both of the two designs provide the citizens and visitors a beautiful new experience. They both also address egress and ingress to the HHM by moving the three way stop sign to Austin. They both enhance the Austin Estuary Park.

One aspect not addressed in either proposal is the impact on established traffic patterns and the construction impact on business in the area. I did not see any funding for assessing the impact. Nor did I see in either proposal anything regarding improving signage, which is already needed.

We have had both a water main and sewer treatment plant expansion that has disrupted traffic for over 2 years on and off already. These are required projects with no discretion in doing them. There is discretion in this park proposal. While not an engineer, I would anticipate significantly less disruption to traffic with the One Way Proposal versus the Two Way Proposal.

When more funding is required for a project, like infrastructure, it is bonded or financed. Today we are looking at a \$1MM difference between two proposals where we have already gotten grants to cover the largest portion of the costs without a matching funds requirement. But as I understand it, we are looking for that additional \$1MM through our general fund and/or hospital zone tax revenue.

For me, I would prefer the City retain the \$1MM that might allow the city to enhance its contingency fund for say purchasing more property, some that we may not even know about today.

Either project design is a big asset for Gig Harbor; it is my preference we do less to disrupt businesses.

Respectfully,

Steven Lynn

Owner Morso 9014 Peacock Hill Ave (facing N. Harborview)

Owner Water to Wine 9014 Peacock Hill Ave (facing N. Harborview)

**HBA Project List Evaluation
June 6 Workshop Preliminary Results**

Old Business - 3

Notes from Council Workstudy Session 6-6-11

PROJECTS		Estimated Cost	In 5 year plan?	
TRANSPORTATION PROJECTS		yes		
1	Rosedale Sidewalk	\$ 450,000	yes	
2	Burnham Drive Overlay	\$ 345,000	yes	
3	Peacock Hill Road Overlay	\$ 200,000	yes	
4	Annual Road Maintenance in HBZ		yes	Added during 6-6-11 meeting - start in 2013
5	Cushman Trail Phase 3 (96th to Borgen)	\$ 2,300,000	no	Revisit if funding is obtained
6	Cushman Trail Phase 4-a (Borgen to St. Anthony's Hospital)	\$ 400,000	no	
7	Cushman Trail Phase 4-b (Borgen to Purdy)	\$ 2,000,000	no	
8	BB16 Large Roundabout Gap Metering	\$ 190,000	no	Revisit as counts get closer to threshold
9	Sehmel Ave - Right Turn Lane at Burnham / SR16	\$ 210,000	no	
10	Burnham Dr Bridge - (SR16) Restriping to 4-lanes (add to other proj)	\$ 400,000	no	Make 9 and 10 one project
11	Pedestrian Bridge at BB16	\$ 17,730,000	no	
12	Burnham Drive Widening	\$ 9,700,000	yes	Engineering only
13	Skansie / Rosedale Intersection Improvements (Turn-lane)	\$ 275,000	yes	
14	Vernhardsen St Improvements (storm, roadway, bicycle & peds)	\$ 3,650,000	no	
15	Harborview Dr Ped & Pkg Improvements (Stinson to N.Harborview)	\$ 1,500,000	no	Explore scope revision
16	Harborview Dr Ped & Pkg Improvements (Rosedale to Stinson)	\$ 950,000	yes	
17	Harbor Hill Drive Extension	\$ 19,000,000	yes	Preliminary engineering only
18	Stinson / Rosedale Intersection Imp (turn lanes to WB Rosedale)	\$ 280,000	yes	
19	Twavelkax Trail Construction & Trailhead	\$ 500,000	no	
20	Millville Sidewalks (included in # 15 above)	n/a	no	Dorotich from Rosedale to Harborview
21	Donkey Creek Project - Two-lane Austin & Close N. Harborview	\$ 1,117,000	yes	Pending refined cost estimates
22	Downtown Parking Lot (no location identified)	Unknown	no	
		\$ 61,197,000		
PARKS				
1	GH North - 7acre Park Development	\$ 1,950,000	no	Wait for Parks Commission recommendation
2	Wheeler Street-End Pocket Park	\$ 80,000	no	Wait for results of legal work
3	Crescent Creek Park Play Structure	\$ 200,000	no	General fund
4	Rohwer Property - Park Development	\$ 500,000	no	Consider a visioning sooner than 5-6 years
5	Masonic Building - Property Acquisition (PROS plan, p.49)	\$ 350,000	no	
6	Donkey Creek Corridor (Conservation Acquisitions - PROS , pg 48)	\$ 1,500,000	no	
7	Maritime Pier	\$ 390,000	no	Grant funding obtained
8	Bogue Park - Visitors Pier	Unknown	no	
SEWER				
1	Bujacich Lift Station - (17A) and Force Main	\$ 2,150,000	yes	Outreach to current holders of scrc's to help fund
2	Wastewater System Imp - Annual Debt Service Assistance	\$ 300,000	no	
3	Woodhill Lift Station - No. 12 Upgrade	\$ 1,600,000	no	Verify cost estimate, revisit after investigation re: Canterwood
4	WWTP Phase 2 Expansion	\$ 600,000	yes	Engineering only - revisit when completed
		\$ 4,650,000		
WATER		yes		
1	GH North Well - No. 9 Construction	\$ 4,000,000	no	True cost, how far behind is the City's application, other info
OTHER				
1	PW Shop Facility Bulk Fuel Storage	\$ 27,000	no	General fund - operating
2	PW Shop Facility Expansion	\$ 400,000	no	

Proposed Hospital Benefit Zone Capital Improvement Plan: 2012-2016

Proposed Sources

	2012	2013	2014	2015	2016	Total
1 HBZ State Sales Tax Credit	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$10,000,000
2 Interfund Loan	\$1,322,000					\$1,322,000
Total Proposed Sources	\$3,322,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$11,322,000

Proposed Uses

<i>Projects</i>	2012	2013	2014	2015	2016	Total
1 Rosedale Sidewalk TIB Grant Match	\$450,000					\$450,000
2 Burnham Overlay (N. Harborview to Borgen/SR16)	\$345,000					\$345,000
3 Peacock Overlay (N. Harborview to 101st St.)	\$200,000					\$200,000
4 Chip Seals & Overlays in the HBZ		\$250,000	\$250,000	\$250,000	\$250,000	\$1,000,000
5 Bujacich Lift Station and Force Main	\$1,505,000	\$645,000				\$2,150,000
6 Burnham Drive Widening (Engineering Only)			\$200,000	\$300,000	\$300,000	\$800,000
7 Skansie/Rosedale Turn Lane					\$275,000	\$275,000
8 Harborview Dr. Ped & Parking (Rosedale to Stinson)			\$100,000	\$850,000		\$950,000
9 Harbor Hill Drive Extension (Engineering Only)				\$580,000	\$1,100,000	\$1,680,000
10 Stinson/Rosedale Turn Lanes			\$280,000			\$280,000
11 Austin St. Widening & N. Harborview Closure	\$822,000					\$822,000
12 WWTP Phase II Expansion (Engineering Only)		\$600,000				\$600,000
Subtotal Projects	\$3,322,000	\$1,495,000	\$830,000	\$1,980,000	\$1,925,000	\$9,552,000
<i>Debt Service</i>						
1 Principle Payment on Interfund Loan		\$505,000	\$817,000			\$1,322,000
2 Interest Payment on Interfund Loan	\$52,880	\$52,880	\$32,680			\$138,440
Subtotal Debt Service	\$52,880	\$557,880	\$849,680	\$0	\$0	\$1,460,440
Total Proposed Uses	\$3,374,880	\$2,052,880	\$1,679,680	\$1,980,000	\$1,925,000	\$11,012,440

Local Match Sources

	2008-2012	2013	2014	2015	2016	Total
1 BB16 Local Sources	\$8,900,000					\$8,900,000
2 Harbor Hill Park Land Dedication	\$2,500,000					\$2,500,000
3 Harborview & Stinson Watermain Replacement (in the zone)	\$1,283,000					\$1,283,000
4 Developer SEPA Improvements & Road Dedications	\$250,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$4,250,000
5 Lift Station 12 (Woodhill) Upgrade			\$3,000,000			\$3,000,000
6 Gig Harbor North Well #9 Construction					\$2,400,000	\$2,400,000
7 Wastewater System Improvements	\$9,500,000		\$5,000,000			\$14,500,000
Total	\$22,433,000	\$1,000,000	\$9,000,000	\$1,000,000	\$3,400,000	\$36,833,000



Subject: Termination of Moratorium
on Medical Marijuana Dispensaries

Dept. Origin: Administration

Prepared by: Molly Towslee, City Clerk *MT*

Proposed Council Action:

For Agenda of: June 13, 2011

Adopt the attached Ordinance Terminating
The Moratorium on Medical Marijuana
Dispensaries

Exhibits: Ordinance

Initial & Date

Concurred by Mayor: CLH 4/8/11

Approved by City Administrator: RSK

Approved as to form by City Atty: VIA EMAIL

Approved by Finance Director: _____

Approved by Department Head: _____

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

INFORMATION / BACKGROUND

On April 25th, Council adopted Ordinance 1206 adopting an immediate emergency six-month moratorium on the establishment of medical marijuana dispensaries. The intent was to allow the City time to consider zoning regulations for marijuana or cannabis dispensaries, processing facilities, and production facilities while waiting on final action by the legislature.

On April 29, 2011, Governor Gregoire vetoed portions of ESSSB 5073. The bill as adopted does not provide any authorization for medical cannabis or marijuana dispensers to operate legally. Therefore, the moratorium on the establishment of medical marijuana dispensaries is no longer necessary.

City Attorney Angela Belbeck has drafted the attached ordinance terminating the moratorium. Staff is recommending the ordinance be adopted at this reading in order to negate the need for the public hearing scheduled for June 13th.

FISCAL CONSIDERATION

N/A

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Adopt the attached Ordinance at this first reading.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, RELATING TO LAND USE AND ZONING;
TERMINATING AN EMERGENCY MORATORIUM RELATING
TO MEDICAL MARIJUANA OR CANNABIS DISPENSARIES,
PRODUCTION FACILITIES, AND PROCESSING FACILITIES
AS ADOPTED IN ORDINANCE NO. 1206.**

WHEREAS, April 25, 2011, the City Council passed Ordinance No. 1206, imposing an immediate moratorium on the acceptance of any development permit applications for, and prohibiting the location and establishment of, any medical marijuana or cannabis dispensary, production facility or processing facility within the Gig Harbor city limits; and

WHEREAS, Ordinance No. 1206 detailed the problems and uncertainties relating to medical marijuana or cannabis dispensaries, processing facilities and production facilities which caused the City Council to make a determination that the City should consider the adoption of new development regulations regarding medical marijuana or cannabis dispensaries, processing facilities and production facilities; and

WHEREAS, the purpose of the emergency moratorium was to allow the City time to consider and develop zoning regulations for medical marijuana or cannabis dispensaries, processing facilities, and production facilities given uncertainties under the current law and potential new legislation on the subject; and

WHEREAS, the Washington State Legislature considered a bill (ESSSB 5073) that would legalize by authorizing the licensing of medical marijuana or cannabis dispensaries, production facilities, and processing facilities; and

WHEREAS, on April 29, 2011, Governor Gregoire vetoed the portions of ESSSB 5073 that would have provided the legal basis for legalizing and licensing medical marijuana or cannabis dispensaries, processing facilities and production facilities; and

WHEREAS, ESSSB 5073 also contained a provision requiring that a designated provider of medical cannabis may not serve as a designated provider to a different qualifying patient until 15 days have elapsed from the date the last qualifying patient designated that person to serve as a provider, and that provision was approved by Governor Gregoire; and

WHEREAS, the veto of portions of ESSSB 5073 relating to dispensaries, processing facilities and production facilities, and the imposition of the 15-day period for designated providers to provide to a new patient removes the immediate need for development regulations relating to the subject, and thus the City Council desires to terminate the moratorium imposed by Ordinance No. 1206; Now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Moratorium Terminated. The City Council hereby terminates the moratorium imposed by Ordinance No. 1206.

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

Section 3. Effective Date. This ordinance shall take effect and be in full force and effect five 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 13th day of June, 2011.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

FILED WITH THE CITY CLERK: 06/08/11
PASSED BY THE CITY COUNCIL: 06/13/11
PUBLISHED: 06/22/11
EFFECTIVE DATE: 06/27/11
ORDINANCE NO: