

Gig Harbor City Council Meeting

**March 11, 2013
5:30 p.m.**



**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
March 11, 2013**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

EXECUTIVE SESSION: For the purpose of discussing Guild Negotiations per RCW 42.30.140(4)(a)

CONSENT AGENDA:

1. Approval of City Council Minutes Feb. 25, 2013.
2. Liquor License Action: a) Assumption – Kelly’s Cafe and Espresso; b) Assumption – Albertson’s No. 406; c) Amended Application – Netshed No. 9.
3. Receive and File: a) GH Historic Waterfront Association Quarterly Progress Report – December 31, 2012;
4. Appointments to Parks Commission.
5. Resolution No. 922 – Amendments to Civic Center Facility Use Agreement.
6. Gig Harbor Police Guild Contract.
7. Skansie Netshed Moorage/Piling Replacement Project – Consultant Services Contract Amendment No. 1 - Sitts & Hill Engineers, Inc.
8. Eddon Boat Property - Long Term Monitoring Plan – Contract Amendment No. 1 - Anchor QEA, LLC.
9. Determination of the Preferred Harbor Hill Drive Extension Route and Park Improvements Project – Consultant Services Contract/David Evans and Associates.
10. WWTP U.V. Disinfection Alternatives Evaluation Project Consultant Services Contract - HDR Engineering, Inc.
11. Parks & Recreation Concerts on the Park Contracts.
12. Addendum to Interagency Agreement with Washington State Arts Commission.
13. Approval of Payment of Bills Mar. 11, 2013: Checks #71937 through #72040 in the amount of \$593,028.83.
14. Approval of Payroll for the month of February: Checks #6924 through #6936 and direct deposit transactions in the total amount of \$329,850.21.

PRESENTATIONS: Recognition of Lt. Bill Colberg’s 31 years of Service to the Gig Harbor Police Department.

OLD BUSINESS:

1. Second Reading of Ordinance No. 1259 Implementing FEMA Option #3 – Permit-by-Permit Demonstration of Compliance under the Endangered Species Act.

NEW BUSINESS:

1. Public Hearing and First Reading of Ordinance No. 1258 – Extension of Interim Regulations Adopting FEMA Option #3 Permit-by-Permit Demonstration of Compliance under the Endangered Species Act.
2. Public Hearing and First Reading of Ordinance – Extension of interim Regulations – Medical Cannabis Collective Gardens.
3. First Reading of Ordinance – Amendments to Fireworks Stand Permits.
4. Well No. 5 Motor Removal and Analysis Project – Small Works Contract Award.
5. Request to Add Additional Staff.

STAFF REPORT:

PUBLIC COMMENT:

MAYOR’S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. Finance / Safety Committee – Mon. Mar 18th CANCELLED
2. Operations Committee: Thu. Mar 21st at 3:00 p.m.
3. Boards and Candidate Review: Mon. Mar 25th CANCELLED

ADJOURN:

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – February 25, 2013

PRESENT: Councilmembers Ekberg, Young, Guernsey, Perrow, Malich, Payne, Kadzik, and Mayor Hunter.

CALL TO ORDER: 5:32 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of City Council Minutes Feb. 11, 2013.
2. Liquor License Action: a) Renewals: Costco, Water to Wine, Fraternal Order of Eagles GH 2809, Gig Harbor Chevron, Gig Harbor 76, Il Lucano, Tokyo Teriyaki, Gateway to India, Gig Harbor Liquor & Wine, and Tides Tavern; b) New application: Fullers Greenhouse.
3. Second Reading of Ordinance No. 1257 – Adopting State Statutes Relating to Marijuana.
4. Lift Station 3A Wet Well Electrical Work – Contract Award.
5. Tacoma Regional Convention and Visitor Bureau Contract.
6. Safeway Development – Traffic Impact Fee Credit Reimbursement Agreement.
7. Maritime Pier – Monitoring Well Samplings Project – Consultant Services Contract Amendment #1.
8. Approval of Payment of Bills Feb. 25, 2013: Checks #71931 through #71936 in the amount of \$6,407.46 for Budget Year 2012.
9. Approval of Payment of Bills Feb. 25, 2013: Checks #71830 through #71930 in the amount of \$279,834.12 for Budget Year 2013.
10. Approval of Payroll for month of February: Checks #71821 through #71829 and ACH Payments in the amount of \$261,375.03.

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

OLD BUSINESS: None.

NEW BUSINESS:

1. Gig Harbor Historic Waterfront Association Contract. Mayor Chuck Hunter presented this contract for city support of \$35,000 for 2013. He said there seems to be some confusion on who appoints Board representatives from the city and their voting capacity. He explained that he has requested that language be added to the contract that would limit the participation on the board by city council to one to avoid any appearance of a conflict of interest for funding requests.

Councilmember Kadzik said that the city attorney has informed him and Councilmember Guernsey that as GHHWA Board members, they would have to recuse themselves from voting on the agreement but they were free to enter into the discussion. He continued to address the addition of the language in paragraph 3-T. He voiced concern that the

city is taking an adversarial approach by trying to restrict council's extra- curricular activities and is singling out one organization. He talked about all the good done by the GHHWA and encouraged others to become involved in organizations.

Mayor Hunter talked about the difficulty in obtaining the year-end balance sheet from GHHWA and the need to be watchful of public dollars.

Through further clarification, Councilmember Payne was able to discern that the GHHWA has not agreed to the addition of the new language.

Councilmember Ekberg asked whether city representation on the board had been guaranteed in past contracts. Councilmember Guernsey responded that this is the first time anything had appeared in a contract, but the association bylaws provide for the City Administrator or a designee to serve on the board.

Mayor Hunter commented that council representation on other boards are as ex-officio; not voting members, and that this is the one organization that has requested on-going monetary support from the city.

Councilmember Malich said he doesn't understand how the number of councilmembers volunteering on a board could be restricted. City Attorney Angela Belbeck explained that it's a policy issue rather than a legal issue unless there were quorum concerns.

Councilmember Young spoke against prohibiting members from serving, but asked that consideration be given to the fact that the GHHWA is different because there isn't a clear deliverable for the city's contribution and there could be a perception of influence if too many councilmembers serve on the board.

MOTION: Move to approve the agreement, striking Section 3-T from the document.
Payne / Perrow –

Councilmember Ekberg said there are two issues: how many councilmembers should serve, and the effectiveness and value of the agreement, which is a budget time discussion. He agreed that there should be a representative from the city whether it be the City Administrator or designee, and said that the city shouldn't limit the number of members who want to join another body. He then added that too many councilmembers could possibly render them ineffective. He said he would like city representation on the board and made the following amendment to the motion.

AMENDMENT: Move to amend the motion so that rather than striking 3-T, amend it to read: "T. GHHWA Board membership shall include one representative designated by the City Administrator as an active member of the GHHWA Board."
Ekberg / Payne – unanimously approved.

MAIN MOTION : Move to approve the agreement with 3-T amended to read: “T. GHHWA Board membership shall include one representative designated by the City Administrator as an active member of the GHHWA Board.”

Ekberg / Payne – five voted yes. Councilmembers Guernsey and Kadzik abstained from the vote.

2. Public Hearing on Ordinance Implementing FEMA Option #3 – Permit-by-Permit Demonstration of Compliance under the Endangered Species Act. Senior Planner Peter Katich presented the background for this ordinance to implement regulations that apply to non-exempt development within FEMA established Special Flood Hazard Areas. Mr. Katich addressed questions about the three options explaining that option one is quite onerous, option two would utilize the updated Shoreline Master Program, and option three is based upon a permit by permit basis. He explained that because final approval of the SMP is still several months out, staff is recommending option three. He said that staff has been using option three on an interim basis since September 2011 and it has been effective.

Councilmember Perrow voiced concern that adopting option three with the requirement to provide a critical areas study in addition to the habitat assessment would be too burdensome for property owners. He asked why we wouldn't continue with the interim ordinance until the Shoreline Master Program is finalized.

Mr. Katich said that submitting the SMP plan to FEMA for review could open it to further amendments, jeopardize the plan's flexibility, and further delay the adoption process.

Councilmember Guernsey asked Mr. Katich whether the adoption of option three would help avoid FEMA from focusing on the updated SMP so that the process can continue to move forward, and whether this option would add a step to the existing process or implement a whole new process.

Mr. Katich responded that his concern is that FEMA review of the SMP may require us to have further regulations. He then answered the process question, saying that the FEMA flood hazard review would occur in conjunction with the already required critical area review.

Senior Planner Jennifer Kester suggested that if new information comes from FEMA we may choose to submit our finalized SMP for comment and then make a decision to amend the permanent regulations. She said she favors having the process formally codified now to eliminate the uncertainty in shoreline development.

Mr. Katich responded to Councilmember Malich's question regarding FEMA's designation of Gig Harbor's flood hazard area. Councilmember Young further clarified that these regulations are in response to a lawsuit filed against them that several jurisdictions that have been caught up in.

Mayor Hunter opened the public hearing at 6:17 p.m. No one came forward to speak and the hearing closed. This will return at the next meeting under Old Business.

Councilmember Young spoke in favor of adopting these regulations permanently, because continuing with an interim ordinance could have a chilling effect on development.

Councilmember Payne agreed, and then asked whether environmental consultants are in favor of this option and whether they would be willing to come and speak to that.

Ms. Kester said she is not sure they are in favor of this option, but they have integrated it into their process which has been working quite well. Mr. Katich added that the National Wildlife Organization that sued FEMA has sued again claiming that this approach is inadequate to protect the resource; so this may be back again.

3. Ancich Waterfront Park Visioning Process. Senior Planner Jennifer Kester presented the Mayor's proposal to gain public input and consensus for use of the Ancich Netshed Property. The proposal utilizes the Parks Commission to facilitate a visioning process that would include the public, key stakeholders, representation from the City Council, and both Operations and Planning staff. After the public process is completed, she said that a recommendation will come to the City Council to finalize. She asked for council direction.

Councilmembers shared their positions on moving forward now verses postponing the process, the impact on staff resources, delays in current land use issues, and Council participation in the visioning process.

Councilmembers Guernsey, Ekberg, Perrow, Payne, and Kadzik spoke in favor of the proposed process and getting a plan for the property in place sooner than later.

Councilmember Young suggested postponing the effort as there are more urgent needs, and a lack of funds to develop the park. Councilmember Malich said he wanted to postpone this in order to allow more public input saying he would be voting against the motion.

MOTION: Move to request the Parks Commission to initiate a visioning process for Ancich Waterfront Park utilizing the steps identified in the Council Bill.

Kadzik / Payne – six voted in favor. Malich voted against.

STAFF REPORT:

City Administrator Denny Richards announced the hiring of new Senior Planner Lindsey Sehmel, who previously worked as a Planner at Bremerton and Puyallup. He then announced that this is the last meeting that Tom Dolan would be attending, and that it has been a delight to get to know Tom. He wished him well on his pending retirement.

Tom Dolan complimented the Mayor and Councilmembers by saying that they are the legislative body that his past employer wanted but never had. He added that they have set the direction and passed the laws that make Gig Harbor such a great place; adding that the zoning laws are tough, but have resulted in something you don't see anywhere else. Mr. Dolan emphasized how much he appreciated working here, and said that knowing the Planning Department is in such good hands makes it easier.

The Mayor and City Councilmembers thanked Tom for a job well done, and wished him well.

Councilmember Kadzik handed out a picture of a scaled-back storage unit proposed by the Kayak Club for the Wounded Warrior program. They are proposing that this unit could be placed behind the restrooms at Jerisich Dock, and will be coming to ask permission in the near future. Councilmember Kadzik asked for favorable consideration of the proposal.

Councilmember Perrow thanked staff for choosing the dark green paint for the water tanks in Grandview Forest Park. He suggested that all future water tanks be painted the same color.

Councilmember Malich asked that the broken Council chairs either be repaired or replaced.

Councilmember Young gave an update on a Pierce Transit's Substitute Bill. He also said he testified on Senator Schleicher's bridge bill, saying we may have unlikely allies. The bill limits the reserve account and DOT is against that. He then invited Councilmembers to the upcoming Puget Sound Regional Council General Assembly and 2040 Visioning Awards Meeting on April 24th; he offered to carpool.

PUBLIC COMMENT: None.

MAYOR'S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. Boards & Candidate Review: Mon. Feb 25th at 4:30 p.m.
2. Downtown Planning / Visioning: Wed. Feb 27th at 4:00 p.m.
3. Planning / Building Committee: Mon. Mar 4th at 5:30 p.m.
4. Parks Commission: Wed. Mar 6th at 5:30 p.m.
5. Ribbon Cutting for 56th / Pt. Fosdick: Thu. Mar 7th at 10:30 a.m.
6. Operations Committee: Thur. Mar 21st at 3:00 p.m.

ADJOURN:

MOTION: Move to adjourn at 6:52 p.m.
Payne / Young – unanimously approved.

CD recorder utilized: Tracks 1002 – 1017

Steven K. Ekberg, Mayor Pro Tem

Molly Towslee, City Clerk



NOTICE OF LIQUOR LICENSE APPLICATION

HTB

RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov
DATE: 2/19/13

TO: MOLLY TOWSLEE, CITY CLERK

RE: ASSUMPTION
From G.T. ENTERPRISES LLC
DbA KELLY'S CAFE AND ESPRESSO

APPLICANTS:
GT ENDEAVORS, INC.
BAKER, EUGENE LEROY 1966-01-17
BAKER, TERESA ANN 1968-10-31

License: 400599 - 1U County: 27
UBI: 603-273-705-001-0001
Tradename: KELLY'S CAFE AND ESPRESSO
Address: 7806 PIONEER WAY
GIG HARBOR WA 98335-1133

Phone No.: 253-851-8697 TERESA BAKER

Privileges Applied For:
DIRECT SHIPMENT RECEIVER-IN WA ONLY
BEER/WINE REST - BEER/WINE
OFF PREMISES

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

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

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



NOTICE OF LIQUOR LICENSE APPLICATION

RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov
DATE: 2/28/13

TO: MOLLY TOWSLEE, CITY CLERK

RE: ASSUMPTION
From NEW ALBERTSON'S, INC.
Dba ALBERTSON'S NO. 406

License: 083474 - 1U County: 27
UBI: 603-268-500-001-0022
Tradename: ALBERTSON'S #406
Loc Addr: 11330 51ST AVE NW WA 98332-7890
GIG HARBOR
Mail Addr: PO BOX 20
DEPT 70428
BOISE ID 83726-0020
Phone No.: 208-395-6022 JULIE LOFTUS

Privileges Applied For:
GROCERY STORE - BEER/WINE
SPIRITS RETAILER
BEER AND WINE TASTING

APPLICANTS:

- ALBERTSONS LLC
HOWARD S. COHEN 12/06/1946
DONA ROBBINS-COHEN 09/03/1948
RONALD JEFFREY KRAVIT 04/14/1957
JODI A. KLEINICK 10/13/1968
LISA GRAY 09/19/1955
MILTON COOPER 03/15/1929
SHIRLEY COOPER 08/30/1930
DEAN ADLER 01/23/1957
SUSANNA EVE LACHS 07/20/1952
JAY SCHOTTENSTEIN 06/11/1954
JEAN R. SCHOTTENSTEIN 04/06/1956
ROBERT MILLER 04/12/1944
SHARON MILLER 01/24/1947

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- 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 wish to request an adjudicative hearing before final action is taken? YES NO
(See WAC 314-09-010 for information about this process)
4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based.

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



NOTICE OF LIQUOR LICENSE APPLICATION

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

TO: MOLLY TOWSLEE, CITY CLERK
RE: NEW APPLICATION

DATE: 3/04/13

AMENDED

UBI: 603-273-812-001-0002

License: 085944 - 1U County: 27
Tradename: NETSHED NO. 9
Loc Addr: 3313 HARBORVIEW DR
GIG HARBOR WA 98332-2126
Mail Addr: 3507 15TH AVENUE CT NW
GIG HARBOR WA 98335-1668
Phone No.: 925-683-8909 KATIE DOHERTY

APPLICANTS:
NETSHED, INC.
DOHERTY, CATHERINE L 1967-01-10
LYMAN, JILL M 1955-09-25
LYMAN, MICHAEL FRANCIS 1950-06-04
LYMAN, THADIUS MICHAEL 1972-08-19

Privileges Applied For:
DIRECT SHIPMENT RECEIVER-IN WA ONLY
BEER/WINE REST - BEER/WINE

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- 1. Do you approve of applicant ?
2. Do you approve of location ?
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DATE SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE

**Gig Harbor Historic Waterfront Association
Implementing the Main Street™ Approach
in the Gig Harbor Historic Waterfront District**

Progress Report

December 31, 2012

COMMITTEE UPDATES

Economic Development Committee

Status of Current Projects:

Available Properties

The committee has discussed the need to use the available property information to help attract new business. The information should be shared with the Chamber, The Economic Development Board, Real Estate Brokers, and others. Committee is discussing developing packets for prospective tenants that would include brochures on the community and information on available properties, pictures, etc. to help in attract tenants.

Cushman Connection Trail

Discussions regarding easements are ongoing.

Cash Mobs

Together with the Promotions Committee, the Economic Development Committee has now held three "Cash Mobs." The first, held at Wild Birds Unlimited, had 80 people visit the store during the cash mob hours and sales were in the four figures. The second, held at Animal Crackers, was a great success. According to the owner, Eric Minor, "It was our best Thursday ever and was more than double our usual Thursday." A third Cash Mob was held on October 27 at the Beach Basket, who was delighted with the turnout and the amount of exposure at no cost to the business. We will review holding monthly cash mobs after the first of the year.

Zip Code Survey

GHHWA has expanded the number of businesses participating in the zip code survey to better assess our primary, secondary and tertiary markets.

Community Branding Process

This process will involve all the GHHWA committees, volunteers, other community organizations, the City of Gig Harbor, property owners and more. For the GHHWA, it will help define the personality of our organization, our name, logo, theme, typeface, and colors. For the community, it will identify potential ways to promote all of Gig Harbor utilizing the same message.

Design Committee

Connie Schick Clock Project

The GHHWA Design Committee is currently addressing the need for a new location for the placement of Connie's Clock. An on-site visit to the Finholm district identified potential locations for the clock. When completed this project will be the result of a partnership among GHHWA, the City of Gig Harbor, and Rotary.

Map Reprint

Efforts are underway to update the GHHWA Waterfront map.

Storefront Studio Project

Design Committee Chair, David Fisher, attended a meeting put on by "Historic Tacoma" at which Jim Nicholls from the University of Washington School of Architecture made a presentation about their Storefront Studio program. Essentially, they send in a team of students/grad students into a community to review their existing buildings, streetscapes, etc. and with an end product of a published book filled with their ideas, recommendations, sketches, and photo-shopped images of what could be. This program has been going on for 10 years and they have worked in 17 communities. The Gig Harbor Waterfront District, in collaboration with GHHWA, has been selected for a summer 2013 storefront studio project.

Promotions Committee

Trick or Treat in the Harbor

Nearly all the waterfront merchants participated by handing out candy to our many trick-or-treaters. Additional activity was offered through involvement by:

- 1) Harbor Wild Watch ("Spooky Touch Tanks")
- 2) Rotary Club of Gig Harbor North (photos in the park)
- 3) Harbor Dance (Thriller flash mob performance)
- 4) Medic One and Fire District (trucks on site)

Attendance: 2,000-3,000 (estimate)
Expenses: \$320.00
Income: \$0.00 (no participation fee charged)

Cash Mob

(see Economic Development Committee above) Held Thursday, October 25 from 4-6pm at the Beach Basket. Owner, Kim Stokke, reported that sales were up and was delighted with the turn-out.

Girls Night Out

Date: Thursday, November 15
Volunteers: 12
Volunteer Hours: 162+

Attendees: 400+
Income from sponsorship: \$1,200.00
Income from merchant participation fees: \$530.00
Income from sale of goodie bags: \$3,938.00
Total Expense: \$3,575.81
Net: \$2,092.19 (to go toward waterfront district beautification projects)
Estimated district revenue for the day: \$20,000

Hark the Harbor

This community caroling event will took place on December 6. This event continues to grow each year. We had over 150 people participating, including a Girl Scout Troop that collected warm coats for charity.

Expenses: \$100 (payment to musician)
Volunteers: 6
Volunteer Hours: 12

Candlelight Christmas in the Harbor

Dates: 12/7/12 – 12/9/12
Income: \$135.00 (through merchant scavenger hunt participation fees)
Expenses: \$2,277.00
Volunteers: 5
Volunteer Hours: 84+
Hayride Attendees: 300+ (over 2 nights)

Primary Elements of Candlelight Christmas in the Harbor Event:

- Holiday Hayrides with Santa (Friday and Saturday)
 - Musicians in stores (Saturday and Sunday)
 - "Deck the Harbor" decorating Contest
 - "Where's Santa's Cookie Plate?" Scavenger Hunt (with \$500 shopping spree prize)
- This element was created to encourage more holiday shopping on the waterfront. Forty-eight businesses participated and there were over 800 entries for the shopping spree.

Organization Committee

Communications

GHHWA monthly newsletter is distributed monthly via Constant Contact.
Email Blasts are sent as needed to inform the readership of upcoming district activities.
GHHWA distributes the monthly Art Walk newsletter, promoting the Gig Harbor Gallery Association events (First Saturday Art Walk).
Facebook and Twitter updates are posted on a regular basis.

B&O Tax Credit

During 4th quarter 2012, three receptions were held to provide orientation to targeted businesses about the Main Street B&O Tax Credit Program. This effort, combined with diligent follow-up by members of the Organization Committee, resulted in \$95,150.00 being raised through this program.

Finances

A Preliminary Profit & Loss Statement and Balance Sheet for 10/01/2012 through 12/31/2012 are included in this report (Note: books for 2012 not closed out).

Training and Meetings

Trainings/Meetings attended by GHHWA staff, Board of Directors and Committees in 4th quarter 2012:

October 17-19, 2012 State Main Street Manager's Retreat/Union, WA

Meetings and training provided by GHHWA during 4th quarter 2012 for the Waterfront District include:

October 17, 2012 Monthly Waterfront District Roundtable Meeting



Business of the City Council
City of Gig Harbor, WA

Subject: Appointments to Parks Commission

Proposed Council Action:

A motion for the re-appointment of Kyle Rohrbaugh for three years and to appoint John Skansi to serve the remainder of a term ending March 31, 2014.

Dept. Origin: Administration
Prepared by: Boards/Commission Review Committee
For Agenda of: March 11, 2013

Exhibits:

	Initial & Date
Concurred by Mayor:	SE 3/7/13
Approved by City Administrator:	R 3/4/13
Approved as to form by City Atty:	_____
Approved by Finance Director:	OR 3/4/13
Approved by Department Head:	_____

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

Kyle Rohrbaugh submitted a letter asking to be re-appointed for his term that ends March 31, 2013.

After advertising for several months for the position vacated by Heidi Holmes, we received two applications: Janine Miller, currently serving on the Arts Commission who later withdrew her application. The second application was from John Skansi.

FISCAL CONSIDERATION

N/A

BOARD OR COMMITTEE RECOMMENDATION

The Boards and Candidate Review Committee concur with the re-appointment of Kyle Rohrbaugh to serve another three-year term. They interviewed Mr. Skansi and agreed to appoint him to the remainder of the vacated term ending March 31, 2014.

RECOMMENDATION / MOTION

Move to: A motion for the re-appointment of Kyle Rohrbaugh and the appointment of John Skansi to serve the remainder of a three-year terms ending March 31, 2014.



BOARDS AND COMMISSIONS CANDIDATE REVIEW COMMITTEE

DATE: February 25, 2013
TIME: 4:30 p.m.
LOCATION: Executive Conference Room
SCRIBE: Molly Towslee, City Clerk
PRESENT: Councilmembers Ekberg, Kadzik, and Malich.
Nick Tarabochia, Parks Commission Chair.

New Business:

1. Review Candidates for Park Commission

- Kyle Rohrbaugh – request for reappointment.
- John Skansi – request for appointment to vacated term
- Janine Miller – application withdrawn the afternoon of the meeting

John Skansi gave a brief overview of his background. He explained that he is a long-time, concerned resident of Gig Harbor who enjoys using the area parks. He said that serving on the Parks Commission is a way for him to become involved in the community, learn about city policy for acquisition, planning and running of the parks.

Nick Tarabochia asked Mr. Skansi about his involvement with athletics, which he said would be an asset to the commission. Mr. Skansi responded that he has coached flag football and taught speed training to high school age and younger students. He said he understands the issues of park scheduling for practice and events.

There was further discussion on how our parks are moving towards more use by organized sporting events.

When asked of his view of the city's waterfront parks, Mr. Skansi responded that there will always be land-use issues, and added that waterfront property is a huge draw for the public. He said Skansie Park has proven to be a good use of that waterfront property, mentioning the music events in the summertime.

There were no further questions, and Mr. Skansi was asked if he had any questions or comments. He said that he thinks the Parks Commission is a good way to become involved as he has always been interested in parks. He said he was away from Gig Harbor for a while, but as he has gotten older, he appreciates the heritage more. He said that teaching, working at Bates Technical, and working with a gardening company has been good experience that would serve him on the committee.

When the interviews concluded Councilmembers discussed the candidates and made a recommendation to forward to Council to re-appoint Kyle Rohrbaugh and appoint John Skansi to the vacant position ending March, 2014.

These recommendations for these reappointments and appointments will be forwarded to Council at the March 11, 2013 City Council meeting.

There were no further comments; the meeting adjourned at 5:05 p.m.



Business of the City Council
City of Gig Harbor, WA

Subject: Civic Center Use Rules

**Proposed Council Action: Adopt Resolution
No. 922 Amending the Facility Use
Regulations**

Dept. Origin: Administration

Prepared by: Laurelyn Brekke *LB*

**For Agenda of: March 11, 2013
Exhibits:**

Initial & Date

Concurred by Mayor: *CUT 2/26/13*
Approved by City Administrator: *R 2/24/13*
Approved as to form by City Atty: *email 2/25*
Approved by Finance Director: *[Signature] 2/26/13*
Approved by Department Head: *WY 2/25*

Expenditure	Amount	Appropriation
Required -0-	Budgeted	Required

INFORMATION / BACKGROUND

The central main floor of the City of Gig Harbor Civic Center requires use rules for elected and appointed bodies, staff members, and the public. The established rules and fees are typical of public access facilities in the local area, like fire stations and schools. The rules and fees satisfy Civic Center use issues that involve custodial care, supervision and safety, and facility rental.

FISCAL CONSIDERATION

None.

STAFF RECOMMENDATION

These use rules limit the frequency and scheduling of non-city governmental uses and prohibit uses by private, for-profit corporations or other private business. A small adjustment is recommended to facilitate non-city governmental agencies ability to reserve space further in advance. Staff recommends approval of the policy as amended.

RECOMMENDATION / MOTION

Move to: Adopt Resolution No. 922 amending the Facility Use Regulations

RESOLUTION NO. 922

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR,
WASHINGTON, AMENDING RESOLUTION NO. 633 TO MODIFY THE
RULE REGARDING ADVANCE SCHEDULING OF THE CENTRAL MAIN
FLOOR CIVIC CENTER ROOMS.**

WHEREAS, on September 23, 2002, the City of Gig Harbor City Council passed Resolution No. 597, which established the rules for the use of the Civic Center, including public use of the central main floor of the Civic Center; and

WHEREAS, on November 8, 2004, the City of Gig Harbor City Council passed Resolution No. 633, which amended Resolution No. 597, Section 5.C, Scheduling, of the "Public Use of City Civic Center Facilities;" and

WHEREAS, on October 3, 2011, the City of Gig Harbor entered into an agreement with Pierce County to provide a facility for the County's use as a voting facility for regular and special elections; and

WHEREAS, because there are non-city government agencies needing to reserve space further in advance in order to plan and provide proper public notice, the City Council desires to amend the rules to allow such advance reservation; now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Resolution No. 633, Section 5.C, Scheduling, of the "Public Use of City Civic Center Facilities," is amended to read as follows:

- C. **Scheduling:** Groups other than city staff or official city government bodies must schedule the central main floor Civic Center rooms at least two weeks in advance, and may only schedule as far in advance as the end of the following calendar month. Exception may be made for those non-city government agencies needing to have meeting space reserved further in advance to accommodate planning and proper public notice, and for those city-supported special events needing to have space reserved further in advance in order to prepare brochures, posters and other promotional materials needed for festivals, art shows, concerts etc. All fees must be paid at the time of scheduling to secure the reservation. Such fee payments are non-refundable within one week of the reserved date, in the event cancellation is requested. The Facilities Use Agreement, which includes guidelines for cleanup, setting up and taking down tables, must be signed at the time of scheduling. The person picking up the key will be required to sign the agreement and must be designated as

the supervisor who will be in direct charge of group activities. Televisions, VCRs, overhead projectors and easels may be reserved at no additional charge. These items should be requested at the time of scheduling, or they will be unavailable.

RESOLVED this 11th day of March, 2013.

APPROVED:

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 02/25/13
PASSED BY CITY COUNCIL: 03/11/13
RESOLUTION NO. 922



Business of the City Council
City of Gig Harbor, WA

Subject: Police Guild Contract

Proposed Council Action:

Authorize the Mayor to sign a contract for services with the Gig Harbor Police Guild for years 2013 through 2015.

Dept. Origin: Administration

Prepared by: Dennis Richards

For Agenda of: March 11, 2013

Exhibits: Proposed Contract
Initial & Date

Concurred by Mayor: [Signature] 3/7/13

Approved by City Administrator: [Signature] 3/4/13

Approved as to form by City Atty: [Signature]

Approved by Finance Director: [Signature] 3/4/13

Approved by Department Head: [Signature]

Table with 3 columns: Expenditure, Amount, Appropriation. Row 1: Required: \$36,000 in 2013, Budgeted: Will be absorbed in current budget, \$0

INFORMATION / BACKGROUND

After negotiations between the Gig Harbor Police Guild and the City a contract has been agreed to and ratified by the Police Guild on February 22, 2013. This agreement has come after several meetings between the Guild and Management. The salary increase is for 3% in 2013, 2% in 2014 and 0% in 2015. The Guild will be paying an additional 25% of medical costs for the first dependent which is new to that group.

FISCAL CONSIDERATION

The proposed contract amount is included in the 2013 adopted budget.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign a contract with Gig Harbor Police Guild for police services through 2015.

AGREEMENT
By and Between

City of Gig Harbor
and
Gig Harbor Police Officer's Guild
January 1, 2013 through December 31, 2015

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AGREEMENT
By and Between

City of Gig Harbor
and
Gig Harbor Police Officer's Guild
January 1, 2013 through December 31, 2015

This Agreement is made and entered into by and between the City of Gig Harbor, hereinafter referred to as the "Employer," and the Gig Harbor Police Officer's Guild, hereinafter referred to as the "Guild." The purpose of this Agreement is to set forth the entire understanding reached between the parties with respect to wages, hours of work and conditions of employment for employees of the Employer who are represented by the Guild as set forth in Article I herein.

This agreement contains all the terms and conditions agreed upon by the parties, and any and all rights concerned with the management and operation of the Department in accordance with its responsibilities and the powers and authority, which the Employer possesses, are exclusively that of the Employer unless expressly limited by this Agreement.

ARTICLE 1 - RECOGNITION

The Employer recognizes the Guild as the exclusive bargaining representative for employees employed by the Employer as certified by the state of Washington, Public Employees Relations Commission in Case No. 06055-E-85-01085, issued January 6, 1986. This Agreement shall include those employees working full time as fully commissioned uniformed personnel for the Employer, but shall not include the Police Chief, Police Lieutenant, and Police Services Specialist.

ARTICLE 2 - MEMBERSHIP

2.1 All employees covered by this Agreement shall become members of the Guild within thirty-one (31) days from the effective date of this Agreement or within thirty-one (31) days from the date of employment, whichever is later and shall remain members of the Guild in good standing as a condition of continued employment or, in lieu thereof, shall pay each month a fair share of the costs of collective bargaining to the extent allowed by law, PROVIDED, however, that an employee who objects to joining the Guild based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall pay an amount of money equivalent to regular Guild dues and initiation fees to a non-religious charity or to another charitable organization mutually agreed upon by employee and the Guild. For the purposes of this Section, membership in the Guild shall be deemed to have been maintained if the employee has not failed to tender their normal monthly dues and/or initiation fee, or in lieu thereof, the fair share costs of collective bargaining or an equivalent amount to a charitable organization.

2.2 The Employer agrees to deduct initiation fees and monthly dues uniformly required in the bargaining unit from employees who voluntarily execute a wage assignment authorization form. The Employer shall transmit such deduction to the Guild by check payable to its order. Upon issuance and transmission of such deduction the Employer's responsibility shall cease with respect to such deductions.

The Guild and each employee authorizing the assignment of wages for payment of Guild dues hereby undertake to indemnify and hold the Employer harmless from all claims, demands, suits, or other forms of liability that may arise against the Employer for or on account of any deduction made from wages of such employee.

2.3 The Employer shall notify the Guild in writing within twenty (20) calendar days of the hiring of a new employee. The notification shall provide the Guild with the name, home address, home phone number, starting pay step, and classification of the new employee.

2.4 Probationary Periods: Probationary periods upon promotion shall not exceed one year. Probationary periods upon initial hire shall not exceed one year beginning upon completion of the Basic Law Enforcement Academy (BLEA) and is not inclusive of time worked prior to or during BLEA. A probationary period shall be extended for the number of workdays equal to the number of workdays an employee was absent in excess of 10 workdays during the probationary period. During an employee's initial probationary period he/she may be discharged by the employer at will and such discharge shall not be subject to the grievance procedure. During a promotional probationary period an employee may be reverted to his/her former classification and such reversion shall not be subject to the grievance procedure.

ARTICLE 3 - NONDISCRIMINATION

3.1 The Employer and the Guild agree that the administration and application of this Agreement shall be consistent with applicable state and federal laws regarding nondiscrimination in employment.

3.2 No employee covered by this Agreement shall be discriminated against because of his/her membership or non-membership in the Guild, or activities on behalf of the Guild; provided, however, that such activity shall not be conducted during working hours nor be allowed to interfere with the Employer's operations.

ARTICLE 4 - HOURS OF WORK AND OVERTIME

4.1 The current normal work week consists of four (4) consecutive ten (10) hour days with three (3) consecutive days off. The City retains the right to adjust this schedule during an emergency or when in its discretion another schedule or schedules are required to provide orderly and efficient service. Non-emergency changes in the schedule or the work week set forth in Paragraph 4.1.1 shall be preceded by a minimum of thirty (30) day written notice to the Guild. Upon the Guild's request, the City will bargain with respect to the impacts of a schedule change and any other matter for which bargaining is by law required. Schedule changes or special work schedules for individuals may be carried out upon the mutual agreement of the City and the Guild; PROVIDED, HOWEVER, that nothing herein shall be interpreted to prohibit the employer from adjusting work schedules as required by law, including but not limited to meet the requirements of the WLAD, ADA and FMLA.

4.1.1 Hours of Work. Except for the provisions in this agreement to the contrary, the regular hours of each workday shall be consecutive. The Guild may agree to split shifts, thus dividing the shift into two (2) parts equal to the normal number of hours worked in a regular work day.

4.1.2 Work Period. The work period shall consist of a seven (7) consecutive day cycle which commenced on January 1, 2007 and repeating each consecutive seven (7) day period. Except as provided by this agreement, any Guild member who works in excess of forty (40) hours within that designated work period shall be compensated at one and one-half (1 ½) times the regular rate of pay for those hours exceeding forty (40). The seven (7) day periods shall be defined as 0600 hours on Monday of each week to 0559 hours the following Monday.

4.1.3 Monthly Work Schedules. A tentative monthly work schedule shall be posted at least seven (7) calendar days in advance of the beginning of the work period. Any effected employee must be notified at least twenty-four (24) hours in advance as long as the assigned vehicle program is in operation, otherwise the employee shall be notified ten (10) days in advance of schedule changes made after the establishment of a schedule, except in the case of an emergency. An emergency shall be defined as "a spontaneous or unplanned occurrence that could present a significant public hazard requiring additional staffing." If an employee is directed by a supervisor to work any hours other than those posted and the directive is given less than twenty four (24) hours in advance, those hours worked shall be compensated at one and-one half (1-1/2) times the employee's regular rate of pay. Examples of non-emergencies are scheduled occurrences such as training, court appearances and scheduled vacations.

4.1.4 Shift Trades. Subject to approval by the Sergeant, Lieutenant, or Police Chief, employees may voluntarily trade shifts. The employer will not incur any overtime liability as a result of a shift trade.

4.1.5 Day Off Trade. Subject to approval by the Sergeant, Lieutenant, or Police Chief, employees may voluntarily trade days off. The employer will not incur any overtime liability as a result of such trades.

4.1.6 Callout. A non-Guild member shall not be used to supplant Guild scheduled work or departmental overtime opportunities, unless the work is first offered to at least two (2) Guild members.

4.2 Overtime as used in this Agreement shall mean that time an employee works in excess of the Employee's regularly scheduled shift or forty (40) hours in a work period. Compensation for overtime shall be as provided in section 4.2.2. The use of vacation, holiday, sick leave and compensatory time shall, for the purposes of overtime calculation, constitute hours worked.

4.2.1 All overtime must be authorized in advance by the City Administrator, Chief of Police, or, as standard operating procedures dictate, except in cases of emergency.

4.2.2 Overtime shall be compensated at the rate of one and-one half (1-1/2) times the regular rate of pay. The Employer and the Guild agree that for the purpose of overtime compensation the regular rate of pay includes holiday, shift differential, college, detective incentive pay and on-call pay. This over time pay has been negotiated pursuant to the provisions of 29 CFR section 548.1 and 29 USC section 207(g)(3). 'Regular rate of pay' shall mean the regular rate of pay as determined in accordance with the Fair Labor Standards Act.

Call-outs, court appearances (relating to or arising out of the performance of police duties), and training meetings which are outside the employee's normal work day shall be compensated at one and-one half (1-1/2) times the employee's regular rate of pay and for a minimum of three (3)

hours, unless a call-out, court appearance (relating to or arising out of the performance of police duties), or training meeting is within three (3) hours of the start of a Guild member's shift, in which case the member will be compensated only for those hours worked. Also, if a call-out, court appearance, or training meeting concludes within three (3) hours after the end of a Guild member's shift, then the member will be compensated only for those hours worked. If a court appearance outside of the normal work shift to which an employee has been subpoenaed for is cancelled by notice to the employee after 3:00 PM the day before the court appearance, the employee shall be compensated for three (3) hours at the overtime rate.

Employees may choose to accrue equal compensatory time in lieu of payment for authorized overtime work up to a maximum balance of eighty (80) hours. Employees with accumulated compensatory time may use such time off by submitting the required in writing to their supervisor. The employer will approve request for compensatory time off provided that the employee gives seven (7) days notice of their intent to use said time off, except that compensatory time off will not be granted on Maritime Gig Day, or if the request will cause additional costs to the city, i.e. 10 hours or more of overtime, and during exigent circumstances. Once approved, a compensatory time request may not be cancelled except in case of emergency.

If an employee exceeds the maximum numbers of compensatory time hours of eighty (80) then additional hours accrued shall be converted to cash and deposited in the employee's VEBA account unless the employee elects cash payment.

4.3 For purposes of this Article, an employee will be deemed to have been "notified" of schedule changes or "offered" work if he/she has been called at the home or cellular phone number provided to the department. Speaking to the employee in person is not required, but a message must be left. An employee may leave up to two (2) home or cellular phone numbers where he/she can be reached. An employee who fails to respond to an offer of work within two (2) hours shall be deemed to have refused the work offer.

4.4 Employees called into work while on approved vacation or holiday off will be compensated at the appropriate overtime rate for hours worked and given credit for hours worked on their vacation/holiday time accounts.

ARTICLE 5 - WAGE RATES

5.1 Effective January 1, 2013, the salary schedule shall be adjusted/increased 3% and a 2.7% cost of living increase to the salary schedule.

5.2 Effective January 1, 2014, members of the Guild shall receive a cost of living wage increase based on the annual increase of the June 2012 to June 2013 Seattle-Tacoma-Bremerton CPI-W with a minimum of 0% and maximum of 3%. The salary schedule shall also be increased by an additional 2% adjustment.

5.3 Effective January 1, 2015, members of the Guild shall receive a cost of living wage increase based on the annual increase of the June 2013 to June 2014 Seattle-Tacoma-Bremerton CPI-W with a minimum of 0% and a maximum of 3%.

5.4 Movement within each salary range shall be governed by the City's Performance Pay System and shall be as described in attachment B to this contract.

5.5 Mileage shall be paid as prescribed by City Ordinance Chapter 2.28.010.

5.6 When an officer is appointed to the position of acting sergeant for a period of not less than five (5) calendar days, he/she shall be compensated at the rate of five percent (5%) above the current salary for that period of time. If there is not a sergeant or lieutenant on a full shift, the most senior officer in charge will be designated for the shift that has at least 3 years of service with the City and shall be paid at five percent (5%) above the current salary for that shift.

5.7 Employees shall bid for shifts by seniority prior to the beginning of the calendar year. When an employee is assigned one of the shifts listed below, the employee is entitled to receive a shift differential for the entire ten (10) hour shift for the entire calendar year unless the employee voluntarily changes to a shift that does not pay shift differential pay. The shift differential shall equal five percent (5%) of the employee's base salary as defined on Attachment A to this agreement. The following shifts (shown by the start and end times in military time notation) are subject to the shift differential: 1400 to 2400; 1600 to 0200; 1800 to 0400; 2000 to 0600; and 2200 to 0800.)—Nothing herein shall be interpreted to prohibit the establishment of additional shifts by the mutual agreement of the parties and any new shift whose hours fall within the period from 1400 to 0800. For an employee to receive a shift differential premium, seventy-five percent (75%) of the employee's scheduled shifts must be shifts that are entitled to shift differential. The hours of work schedule can be modified by mutual agreement of the Guild and the Police Chief.

ARTICLE 6 - VACATIONS

Vacations with pay shall be granted annually to all full-time employees based upon the following schedule:

Earned working Months of Service	Hours per Month	Working Days Per Year Max.
0-12	6.67	10
13-24	7.33	11
25-36	8.33	12.5

After each succeeding year of service, .67 additional hours of vacation hours per month (eight (8) additional hours per year) shall be accumulated up to a maximum of two hundred forty (240) hours per year. Upon termination or retirement an employee can choose to receive accrued vacation in cash or have the cash value of the leave deposited into an employee's VEBA account.

ARTICLE 7 - HOLIDAYS

An employee shall be compensated for the twelve (12) holidays recognized by the Employer and as provided in RCW 1.16.050 as set forth in subsections 7.1 and 7.2.

7.1 Each employee shall receive two (2) paid holidays commonly referred to as "floating holidays" (City personnel rules). These shall be mandatory time off and shall be paid at the regular rate of pay, at ten (10) hours per holiday or such other hours as reflect the employee's

regularly scheduled shift. The scheduling of these shifts shall be by mutual agreement between the Employer and the Employee.

7.2 In lieu of the other ten (10) holidays, employees may choose to be paid an additional 8.33 hours pay per month based on the current full time base rate of pay for the position classification. Such pay shall be equivalent to one hundred (100) hours of pay on an annualized basis. In lieu of receipt of pay, employees can choose to have an equivalent number of hours placed in their sick leave, or vacation banks or VEBA account. An election to place leave in the vacation bank, or to alter an election, may be made twice a year, January 1st of July 1st, for the following six (6) month period.

ARTICLE 8- BENEFITS

8.1 The Employer shall pay one hundred percent (100%) of the monthly premium for the following benefit plans for the Guild employee ninety-five percent (95%) of the monthly premium for all dependents and up starting with the first insurance premium invoiced received following the execution of this agreement. The employer is authorized to deduct the five percent (5%) premium from the affected employee's paycheck, to be held in trust in accordance with RCW 49.52.010:

1. Medical. 2013-2015 – AWC PPO Medical Plan.
2. Dental. AWC Trust (Plan F - Washington Dental Service, with orthodontia coverage).
3. Vision. AWC Trust (Western Vision Service Plan).
4. Employee Assistance. AWC Trust Program
5. Physicals and Immunizations. The City will contribute \$400 per year to the employee's VEBA account for the employee to use to obtain a physical and/or immunizations if the employee so chooses. The results of any physical exam will be confidential between employee and physician. If the Guild opts for a dental plan other than the dental plan provided by the City to other City employees then the City will deduct the increased cost of the alternative plan from the \$400 VEBA contribution from the City. "Increased cost" shall mean the additional cost of the alternative plan over the cost of the dental plan provided to other City employees.

An employee may elect to opt out of health insurance coverage for the employee, spouse, and/or dependent(s). This decision shall be made in conjunction with the annual enrollment period. If an employee opts out of coverage for a spouse and/or dependent(s), the City will deposit an amount equal to fifty percent (50%) of the monthly premium saved to the employee's VEBA account. An election to opt out shall be made annually. In the event that the terms of the health insurance policy limit the number or percentage of employees who may opt out, the employer shall accept elections to opt out on a first come/first served basis.

8.2 Education reimbursement. Upon satisfactory completion of a job related educational course, when the employee who desires to take the course has prior written approval from the City Administrator, the city shall reimburse the employee for the educational course up to a City of Gig Harbor and Gig Harbor Police Officer's Guild

maximum rate of one hundred sixty (\$160.00) dollars per credit hour for undergraduate courses and two hundred fifty (\$250.00) dollars per credit hour for graduate courses. The city agrees to reimburse reasonable expenses for textbooks required for such course and will retain such textbooks in the department of the Chief.

8.3 Long Term Disability Insurance. For all LEOFF II Guild members, upon ratification of this Agreement, the City will dis-enroll the members from the City-sponsored long term disability plan. The amount of premium the City pays for each member will be paid directly to the Cigna Insurance through the Trustee Plan Services Corporation, through a post tax payroll deduction. At any time should the premium the city pays for other employees into the City-sponsored LTD plan increase, the Guild members shall immediately receive the increased amount. If the Cigna Plan becomes unavailable then employees shall revert back the City disability plan.

8.4 Voluntary Employees' Beneficiary Association (VEBA). The Voluntary Employees' Beneficiary Association (hereinafter VEBA) plan, under Section 501 (c) (9) of the Internal Revenue Code for each employee of the Association who is eligible for, and enrolls in, one of the City's Health Insurance Plans as described in subsection 1 of this Article. The employee shall make monthly contributions equal to one percent (1%) of the employee's base salary to said account as voted upon on an annual basis by the Guild in accordance with plan rules.

ARTICLE 9 - SICK LEAVE

9.1 Full-time employees hired after October 1, 1977, shall accrue sick leave at the rate of eight (8) hours per calendar month for each month compensated. Sick leave is accumulated to a maximum of one hundred and eighty (180) days. Sick leave may be used for time off with pay for bona fide cases of incapacitating illness, injury or disability or as provided by State or Federal law. Abuse of sick leave shall be grounds for suspension or dismissal.

9.2 A verifying statement from the employee's physician may be requested by the Employer, at its option, whenever an employee claims sick leave for three (3) days or longer. If absence extends beyond four (4) days, certification of such absence must be supported by a certificate from the employee's physician, if requested by the Chief of Police.

9.3 An employee who has taken no sick leave during any six (6) month period shall receive, as a bonus, one (1) annual day off or one (1) day's pay for each period during the term of this Agreement. It shall be the responsibility of the employee to notify the City of the employee's eligibility for the bonus day(s) within three weeks of the end of the period in which the six month period ends.

9.4 Upon separation of employment due to disability, or death, an employee, the employee's attorney in fact or personal representative may elect to receive 100% of accrued sick leave in cash or have the cash value of the leave deposited in the employee's VEBA account. Upon separation due to a LEOFF retirement or layoff, and in addition to the payout provided by the City's Personnel Policies, the employee may elect to receive 100% of the first 240 hours of sick leave in cash or have the cash value of the leave deposited in the employee's VEBA account and twenty-five percent (25%) of the remaining sick leave balance, if any in cash or in the employee's VEBA account. No additional payout over that generally provided for City

employees under the Personnel Policies shall be available to an employee who voluntarily resigns, is terminated for cause, or who resigns in lieu of termination.

9.5 Effective on the date of execution of this Agreement, employees' sick leave banks shall be capped at one thousand (1,000) hours.

ARTICLE 10 - RETIREMENT AND DISABILITY PLAN

The Employer shall participate in the state-wide system for pension, relief, disability and retirement for qualified employees as provided in RCW 41.44.050.

An employee who applies for worker's compensation benefits may use accrued sick, vacation and/or compensatory time to maintain salary pending receipt of worker's compensation benefits. An employee who has utilized leave for this purpose shall pay over time loss compensation to the City promptly upon receipt from L&I. To the extent that vacation, sick leave or compensatory time was utilized, the employee's leave banks shall be restored upon receipt of the payments.

ARTICLE 11 - COLLEGE PREMIUM PAY

An employee who holds a college degree from an accredited college or university shall receive a premium pay equal to two percent (2%) of his/her base salary for an associate degree, and three percent (3%) of his/her base salary for a bachelor degree.

ARTICLE 12 – STAND-BY PAY

If an employee is directed to "stand-by" for duty he shall receive fifty dollars (\$50.00) for the month in which the "stand-by" assignment was made. The compensation of fifty dollars (\$50.00) a month is a fixed rate regardless of the number of stand-by hours the employee is available to work within the month. An employee shall not be directed to work more than thirty (30) hours of standby duty within any month unless the Chief of Police declares it necessary for the public's safety. When an employee works in excess of thirty (30) hours stand-by duty within a month, he/she shall receive an additional fifty dollars (\$50.00) for that month. The method of scheduling personnel and the determination of period for stand-by assignments shall be directed by the Chief of Police. Stand-by is defined as the employee being available to respond to any call for City service during those hours and in such a manner as designated by the Police Chief.

ARTICLE 13 - FIELD TRAINING OFFICER, AND POLICE TRAINING OFFICER PAY, AND DETECTIVE PAY

13.1 Field Training Officer and Police Training Officer. At any time an employee is assigned to the position of Field Training Officer or Police Training Officer and is actively serving in a training capacity, he/she shall be compensated at a rate of pay three percent (3%) above the current salary during that time period. A member will be determined to be actively serving in a training capacity only when he/she is actively training a Phase 2 employee or Reserve Officer. Field Training Officer or Police Training Officer shall be paid for each hour or part of an hour in excess of 15 minutes in which the Guild member is actively serving in a training capacity.

13.2 Detective Incentive Pay. Effective upon execution of this agreement and in lieu of payments previously made under Article 12, Detective Incentive pay is established as provided below. At any time an employee is assigned to the position of Detective and is actively serving in that capacity, he/she shall be compensated at a rate of five percent (5%) above the current salary range. The incentive pay shall be applicable only to a regular assignment of eight (8) or more hours.

ARTICLE 14 – SENIORITY

14.1 Definitions. Seniority shall be defined as the length of continuous service with the Employer including the employee’s probationary period. Any bargaining unit employee promoted to a position outside of the bargaining unit shall not continue to accrue seniority for purposes of this Article. Approved leaves of absence will not interrupt continuous service for purposes of seniority. Periods of layoff will not count toward the computation of continuous service.

14.2 Seniority List. The Employer shall establish and provide to the Guild a seniority list which shall be brought up to date on an annual basis. The order of seniority shall be based on the hire or rehire date of employment, whichever is later. The Guild will have thirty (30) calendar days following receipt of the annual seniority list to protest the placement of any employee on the list. The term “rehire” for purposes of this Article means the rehire of an employee after separation from employment for any reason other than layoff or disability and the recall of any laid off or disabled employee at any time after the applicable period of recall set forth in Section 5 below.

14.3 Vacancies and Promotions. Seniority shall be given consideration along with the requirements of the Employer in filling job vacancies and promotions. Seniority shall apply when qualifications are equal and after any veteran’s preference has been applied.

14.3.1 Shift Bidding. Guild members shall bid for shifts by seniority on an annual basis. In the event of a shift opening due to hiring, firing, promotion, or discipline, or for any other reason, the opening will be filled by seniority based shift bidding on a case-by-case basis.

14.4 Layoffs. When the Employer decides to eliminate a job position or positions in a classification, the layoff of employees in the affected job position shall be determined strictly by the order of the seniority list by classification with the employee with the least seniority affected first. Employees who have previously held other classifications shall have the right to return to such classification if their seniority is greater than the other employees in such classification. Employees shall not accrue seniority while on layoff; seniority lists shall be adjusted accordingly.

14.5 Recall Rights. Laid off employees shall be recalled strictly on the basis of seniority to any previously held classification if a vacancy occurs. A laid-off employee who is not recalled within three (3) years shall lose recall rights.

14.6 Disability - Return and Accommodation. A disabled employee shall have the right to return to his or her prior position in accordance with the provisions of state or federal law.

14.6.1 In the event that a newly created or funded position becomes available and the position is sought by an individual on a layoff list and a disabled former employee, the individual with the most seniority shall be given preference in the hiring process.

14.6.2 In the event that a court of competent jurisdiction holds that seniority rights do not prevail over statutory disability rights, Paragraph 14.6.1 shall be void.

14.7 Loss of Seniority. An employee shall lose seniority and the right to return to work subject to the grievance procedure, for any of the following reasons:

14.7.1 Voluntary resignation;

14.7.2 Discharge for just cause;

14.7.3 Failure to report for work within five (5) working days after receipt of notice of recall from layoff unless mutually extended by the Employer and the Employee;

14.7.4 Exceeding a leave of absence (unless excused in writing);

14.7.5 Giving a false reason for obtaining a leave of absence;

14.7.6 Accepting employment while on leave of absence unless agreed to in writing by the Employer, with a copy of such writing to be sent to the Guild;

14.7.7 Exceeding laid off employee's recall rights.

14.8 Rehire. An individual who seeks to be rehired from a lay off or disability rehire list, shall meet all minimum qualifications for the position. An employee who has been terminated for three (3) or more months, shall successfully complete a background check, polygraph, psychological evaluation and any and all other processes and criteria applied to a new hire. "Successfully complete" means to meet those standards normally applied by the Chief of Police when exercising discretion to hire under the Civil Service rules of the City.

ARTICLE 15 - RIGHT OF ACCESS - GUILD REPRESENTATIVE

15.1 Duly authorized representatives of the Guild shall be permitted to enter upon the Employer's premises at reasonable times for the purpose of observing working conditions and transacting Guild business that cannot be transacted elsewhere; provided, however, that the Guild representative first secures approval from the designated Employer representative as to the time and place, and that no interference with the work of the employees or the proper operation of the Employer shall result.

15.2 The Guild agrees that Guild business conducted by Guild members, including the investigation of grievances, shall occur during nonworking hours (e.g., coffee breaks, lunch period and before and after shift). However, Guild representatives will be allowed to attend contract negotiations and other meetings between the Guild and the City (e.g., grievance hearings, labor/management meetings) during working hours subject to the emergent needs of the department.

15.3 The following guidelines for release time for guild activities will be the resource for the decision making by Gig Harbor Police Guild and departmental management when a guild official is participating in:

1. Joint Guild/management meetings during normal work hours;
2. Joint Guild/management meetings during non-work hours;
3. Grievance investigation or preparation activities;
4. Grievance meetings with management in one of the specified steps of the grievance procedure;
5. Guild meetings during work hours; or
6. Approved Guild sponsored training programs.

1. Participating in a joint Guild/management meeting during an employee's regular work shift.

Guild officers will be released from their regular work shift without loss of pay to attend joint Guild/management meetings. They will work within their departments prior to and following the meeting, allowing for normal travel time.

2. Participating in a joint Guild/management meeting during hours outside the employee's regular work shift.

When a joint meeting is scheduled during hours outside the regular hours of the work day of a participant for a Guild officer, the person shall either:

- a. receive the same amount of time to take off during that week, or
- b. have that workday adjusted to permit either a late arrival or early departure for the same amount of time.

The policy on change in work schedules will not apply in these cases.

3. Participating in disciplinary investigation or preparation activities.

If this release time is during the regular work shift of those involved, it will be with pay. If the time is during the hours outside the regular hours of the work day of a participant, the time is without pay.

4. Participating in grievance meetings with management in one of the specified steps of the grievance procedure.

Since grievance meetings are scheduled by management, the grievant and Guild official representing the grievant will be considered in pay status. If the meeting is during the hours outside the regular hours of the work day of either the grievant or the official, they will receive either an equivalent amount of paid time off to be taken that week or will have the starting or ending time for that workday adjusted an equivalent amount of time.

The policy on change in work schedules will not apply in these circumstances.

5. Participating in approved Guild-sponsored training programs.

If approved in advance by the administration, Guild officers will be allowed time away from work without loss of pay for up to 24 hours per Guild Officer to participate in Guild sponsored training programs that deal with enforcement of the contract (e.g. internal affairs, labor law etc). If such programs occur during non-schedule work days of a participant, the time shall be without pay for that participant.

These guidelines are not intended to replace or supersede any provisions concerning the payment of overtime by state or federal laws. The above mentioned provisions will not cause additional costs to the City.

ARTICLE 16 - EMPLOYEE RIGHTS

16.1 Discipline and discharge shall be only for just cause.

16.2 Just Cause. Disciplinary action shall be imposed upon an employee only for just cause.

16.2.1 Disciplinary actions. Disciplinary action shall include only the following:

- i. Written Reprimand
- ii. Suspension
- iii. Demotion
- iv. Discharge

Disciplinary action will normally be progressive in nature, but the level of discipline administered may depend upon the seriousness of the offense.

16.3 Guild and Employee Rights. The Guild shall have the right to process any disciplinary action as a grievance through the grievance procedure, except for a verbal reprimand or written reprimand, and except for employees serving an initial probationary period, or any extension of an initial probationary period. The suspect employee shall be entitled to Guild representation and/or legal representation at all meetings attended by the suspect employee where discipline is being considered for that suspect employee. All written reprimands will be removed from an employee's personnel file two (2) years after the date of the reprimand if the employee has not been subject to any additional discipline within the two (2) years. Any files maintained by the City will be destroyed in accordance with the State guidelines. A summary of all sustained Internal Investigation files will be retained in accordance with the Washington State Archivists retention schedule.

16.4 Notice and Opportunity to Respond. Upon reaching the conclusion that just cause exists to discipline an employee with a suspension without pay, demotion or discharge, the Chief of Police or designee shall provide the employee and the Guild with the following prior to the administration of discipline:

- a. An opportunity to view and/or copy of all materials a part of or related to the investigation upon which the allegation(s) or charge(s) are based;
- b. The directives, policies, procedures, work rules, regulations or other order of the City that allegedly was violated and how these were violated;
- c. What disciplinary action is being considered.

16.5 Employee's Response. The affected employee and the Guild shall have the opportunity to respond to the allegation(s) or charge(s) verbally or in writing, normally within forty-eight (48) hours of receiving the information and materials provided by the Employer in Section 16.4 above and to do so prior to the Pre-Disciplinary meeting, provided the Guild may request a reasonable extension of time to respond, which request will not be unreasonably denied by the Chief or designee.

16.6 Pre-Disciplinary Meeting. An opportunity to respond to the allegation(s) or charge(s) shall occur at a Pre-Disciplinary meeting conducted and presided over by the Chief of Police or designee, who shall have the authority to impose or to recommend the proposed disciplinary action. Reasonable advance notice of this meeting, its time and place shall be given the employee and the Guild. This meeting shall be informal. The employee shall be given reasonable opportunity to be heard, to respond to the allegation(s) or charge(s), and to have the responses considered prior to the imposition of discipline.

16.7 Employer's Decision. Within a reasonable time, but not beyond thirty (30) calendar days from the date of the Pre-Disciplinary meeting, the Chief of Police or designee shall issue a written decision imposing discipline, exonerating the employee or taking such other action deemed appropriate.

16.8 Investigative Interviews/Internal Affairs Investigations. The interview of a suspect employee concerning action(s) or inaction(s) which, if proved, could reasonably lead to a suspension without pay, demotion or discharge for that employee, shall be conducted under the following conditions and procedures:

- a. If an employee is considered a suspect, at a reasonable time in advance of the investigative interview, the suspect employee shall be informed in writing, with a copy to the Guild, of the nature of the investigation; the specific allegations related thereto; and the policies, procedures and/or laws that form the basis for the investigation; and shall be advised that an opportunity to consult with a Guild representative and/or legal representative will be afforded prior to the interview.
- b. The requirements of Section 16.8.a of this Section 16.8 shall not apply if the suspect employee is under investigation for violations that are punishable as felonies or misdemeanors under law.
- c. The suspect employee shall have the right to have a Guild representative present during any interview which may reasonably result in a suspension without pay, demotion or discharge of the suspect employee. The opportunity to have a Guild representative present at the interview or the opportunity to consult with a Guild representative shall not unreasonably delay the interview. However, if the interview begins with the consent of

the suspect employee in the absence of a Guild representative, but during the interview the suspect employee concludes that assistance is required by reason of increasing seriousness of the disciplinary problem, the suspect employee shall be allowed a reasonable time in which to obtain a Guild representative.

d. To the extent reasonably possible, all interviews under this Section shall take place at Police Department facilities.

e. The City may schedule the interview outside of the employee's regular working hours; however, in that event the appropriate overtime rate of payment shall be made to the employee. An employee on administrative leave with pay may be questioned between 8:00 AM and 5:00 PM, Monday through Friday, at the regular rate of pay.

f. The employee shall be required to answer any question concerning a non-criminal matter under investigation and shall be afforded all rights and privileges to which the employee is entitled under State or Federal laws.

g. The employee shall not be subject to coercion, nor shall interrogator(s) make promises of rewards or threats of harm as inducements to answer questions.

h. During an interview, the employee shall be entitled to such reasonable intermissions as the employee may request for personal physical necessities.

i. All interviews shall be limited in scope to activities, circumstances, events and conduct that pertain to the action(s) or inaction(s) of the employee that is the subject of the investigation. Nothing in this Section shall prohibit the Employer from questioning the employee about information that is developed during the course of the interview.

j. All internal affairs interviews shall be recorded, the Guild may record the any interview. A copy of the transcribed interview and copy of the recording shall be made available to the Guild and employee.

k. Interviews and Internal Affairs investigations shall be concluded without unreasonable delays.

l. The employee and the Guild shall be advised within a reasonable period of time, in writing, of the results of the investigation and what future action, if any, will be taken regarding the matter investigated.

m. Internal affairs investigations that could potentially lead to a significant property loss such as demotion, termination, or five day or more suspension shall be conducted by an outside police agency or neutral investigative agency. This Article is not intended to limit the Police Department's ability to conduct a fair and comprehensive investigation nor impose unreasonable time limits upon the conduct of such investigation.

16.9 When the City receives a request for public records under the Public Records Act, Chapter 42.56 RCW that relates to a Guild member or members, the City will provide timely notice of the request to each affected member and to the first available Guild member if the affected member or a Guild representative is not available. "Timely notice" shall mean personal notification (telephone call, voicemail, or electronic mail) to the member within 48 hours of the date of the request or five days prior to the scheduled date of release, whichever occurs first. A copy of the City's response to the requester shall be provided to the member and the Guild Representative.

ARTICLE 17 – MANAGEMENT RIGHTS

17.1 The Guild recognizes the prerogative of the Employer to operate and manage its affairs in all respects in accordance with its responsibilities, and the powers and authorities which the Employer possesses, except as specifically limited by this Agreement or by State law.

17.2 The Employer has the authority to adopt rules for the operation of the Department and conduct of its Employees provided the adoption of any rule complies with Washington State law regarding changes in working conditions and other mandatory subjects of bargaining.

17.3 The Employer has the right to schedule overtime work as required in a manner most advantageous to the Employer and consistent with the requirements of municipal employment and the public interest.

17.4 Every incidental duty connected with operations enumerated in job descriptions is not always specifically described, nevertheless, it is intended all such duties shall be performed by the Employee.

17.5 The Employer reserves the right to discipline, demote, or discharge for just cause. The Employer reserves the right to lay off for lack of work or funds, or the occurrence of conditions beyond the control of the Employer.

17.6 The Employer shall have the right to assign work and to determine the duties of Employees; to schedule hours of work; to determine the number of personnel to be assigned at any time and to direct and perform all other functions not limited by this Agreement.

ARTICLE 18 - NO STRIKES

18.1 It is recognized that the Employer is engaged in a public service requiring continuous operation, and it is agreed that recognition of such obligation of continuous service is imposed upon both the employee and the Guild. Neither the Guild nor its members, agents, representatives, employees or persons acting in concert with them, shall incite, encourage, or participate in any strike, walkout, slowdown, or other work stoppage of any nature whatsoever for any cause whatsoever. In the event of any strike, walkout, slowdown, or work stoppage or a threat thereof, the Guild and its officers will do everything within their power to end or avert the same.

18.2 Any employee authorizing, engaging in, encouraging, sanctioning, recognizing or assisting any strike, slowdown, picketing or other concerted interference, or who refuses to perform service duly assigned to him, shall be subject to immediate dismissal.

ARTICLE 19 - GRIEVANCE PROCEDURES

19.1 Grievance Defined. A grievance is defined as an alleged violation of express terms and conditions of this Agreement. Only one appeal and/or grievance may be maintained with respect to any individual disciplinary action. Written reprimands, and grievances involving performance evaluations shall only be processed through step 2 of the grievance procedure.

Time limits in the following steps may be extended only by mutual written consent of the parties hereto.

19.2 Step One - Police Chief. The grievance in the first instance will be presented to the Police Chief, in writing, within ten (10) working days of the alleged breach of the express terms and conditions of this Agreement. The Police Chief shall respond to the grievance in writing within ten (10) working days of receipt of the grievance. Every effort shall be made to settle the grievance at this Step One.

19.3 Step Two - Mayor. If the grievance is not resolved at Step One, then the grievance may be presented to the Mayor or his/her designee within ten (10) working days of receipt of the Chief's response. The grievance shall be presented to the Mayor or his/her designee in writing, setting forth detailed facts concerning the nature of the grievance, the contractual provisions allegedly violated, and the relief requested. Upon receipt of the written grievance, the Mayor or his/her designee shall, within ten (10) working days, meet with the grievant and/or the representative of the Guild in an attempt to resolve the grievance. Within ten (10) working days after such meeting, the Mayor or his/her designee shall send to the Guild a written answer stating the Employer's decision concerning the grievance.

19.4 Step Three - Arbitration. A grievance may be submitted within twenty (20) working days following the decision rendered in Step Two to arbitration for resolution. Should the parties be unable to agree upon an Arbitrator they shall request a list of names of eleven (11) Arbitrators with offices in Oregon or Washington from the Public Employment Relations Commission. The parties shall alternatively strike names until one name remains on the list. The remaining person shall be the arbitrator. The order of striking names shall be determined by coin toss. The decision of the Arbitrator shall be final and binding on both parties. The authority of the Arbitrator is limited to ruling on the correct interpretation or application of the Articles of this Agreement and shall not add to, take away from, alter, change or modify the terms of the Agreement.

Each party shall bear the cost of its own representation, legal fees and presentation of their case. The Arbitrator's fee and costs shall be paid by the losing party as determined by the Arbitrator.

ARTICLE 20 - PERSONNEL POLICIES

All employees of this bargaining unit, in addition to being governed by this Agreement, shall also be subject to the Personnel Policies published by the Employer and any subsequent personnel policies, rules and regulations that may be promulgated in the future, so long as they do not conflict with this Agreement. The parties agree to abide by collective bargaining laws with respect to policies, rules and regulations affecting or impacting mandatory subjects of bargaining. In case of any conflict, this Agreement shall be the controlling policy for the employees covered by this Agreement.

ARTICLE 21 – UNIFORMS AND EQUIPMENT

At the time of employment, the following uniform and equipment items shall be provided by the City. The City may withhold issuance of some of the equipment items while a member is assigned to Phase I of the Field Training Program (Academy). In such case, the remainder of the required equipment will be issued upon successful completion of Phase 1. After initial issue of clothing /equipment officers shall have available an annual \$600 a year clothing allowance upon

being removed from initial probationary status. Uniform items or equipment which require replacement through normal course of business will be replaced by the City, subject to availability of budgeted funds.

A. Uniform

1. 3 trousers
2. 3 shirts (short and/or long sleeve)
3. 1 pair shoes or boots
4. 1 all-season jacket
5. 1 tie
6. 1 rain coat
7. 2 jumpsuits
8. 1 duty cap
9. 2 badges and required name tags
10. Required WSCJTC clothing and equipment (Phase I employees only)

B. Equipment

1. 1 duty gun belt
2. 1 uniform pants belt
3. 1 holster
4. 1 department authorized duty weapon w/2 extra magazines.
5. 1 double handcuff case
6. 2 sets of handcuffs
7. 1 key holder
8. 1 baton & flashlight holder
9. 1 ASR canister and holder
10. 1 SL20 rechargeable flashlight or equivalent
11. 1 portable radio w/charger and holder
12. 1 bullet resistant vest
13. 1 expandable baton
14. 4 belt keepers
15. 1 glove holder
16. 1 taser holster
17. 1 patrol rifle and/or shotgun
18. 1 double magazine holder for handgun

The uniform shall meet the approval of the Police Chief and all purchases shall be through the departments established procedures. The employee agrees to maintain and keep in good condition and repair all parts of the uniform, and will have available for inspection on due notice his complete uniform.

The employer shall be responsible for laundering uniforms. Frequency of laundering uniforms shall be established by employer management policy. Uniform clothing damaged as a result of unforeseen circumstances in the line of duty shall be repaired or replaced by the employer. Equipment issued under this Article which is damaged through the gross negligence of the employee shall be replaced at the employee's cost.

The employer shall reimburse officers assigned as full time detective up to a maximum of \$600 per year for special job-related clothing purchases, provided such purchases must have approval by the Police Chief prior to purchase.

ARTICLE 22 - TRAINING

The City agrees to provide training to employees through the Washington State Criminal Justice Training Commission, their Satellite Training Programs, and other sources such as, but not limited to, the Pierce County Sheriff's Department, Tacoma Police Department and the Washington State Patrol Training Divisions. The City, in its sole discretion agrees to provide funding for such training as it determines is reasonable to increase the employee's knowledge, skills and abilities to perform the job. For such training, the City agrees to pay all fees and tuition, lodging and meals (if applicable) incurred by attending such training.

The Chief of Police or his/her designee within the Police Department shall approve or deny all training requests.

Employees who request voluntary training may be asked to adjust their work schedule to minimize payment of overtime. If an officer attends voluntary approved training on a regularly scheduled day off, and can take another day off within the same pay period, the time shall be considered an equal trade and no overtime or compensatory time shall result. If the day off cannot be taken within the same pay period, the training day shall be compensated at overtime rates (pay or compensatory time). The scheduling of the day off is subject to mutual agreement between the City and the officer with the object being to schedule the day off so no additional overtime expenditure is incurred.

The Department may alter an employee's regular days off schedule (but no more than twice per employee in a calendar year) to accommodate training, provided that the employee is given ten days' notice of the alteration. In the event that an employee's days off are rescheduled pursuant to this section, the employee will receive overtime pay or compensatory time at the overtime rate for all hours spent in training on their normal day off.

ARTICLE 23 - LIGHT DUTY

An injured employee will be provided a light-duty assignment when released to perform light duty by the employee's health care provider and when there are light duty assignments available in the Police Department, as reasonably determined by the Chief of Police. An on-the-job injury takes precedence for a light duty assignment over an off-duty injury.

ARTICLE 24 - OFF DUTY WORK

Requests by outside business or public entities desiring to employ police officers for special duty work by police officers, utilizing City equipment including cars, shall be administered through an off-duty work program. All work performed by employees under the off-duty work program shall be entirely voluntary. The Guild will maintain a roster of officers who wish to perform such work. The Guild, in consultation with the City, shall negotiate the rate of pay with the off-duty employer, including a fee for administrative expenses. Administrative expenses shall include any tax and payroll costs which are incurred as a result of the off-duty work, including but not limited to, assessments for the employer's portion of the LEOFF benefits and L & I City of Gig Harbor and Gig Harbor Police Officer's Guild
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payments. The administrative fee will not include any charge for the City's handling costs. Officers shall be paid only after receipt of funds from off-duty employers. Any officer employed in the off-duty program shall observe all normal departmental standards of conduct during such details and be subject to disciplinary action if he/she fails to do so. The Chief shall have the right to deny any off-duty work or proposed employer when such assignment could reasonably impair the image of the department, create an apparent conflict of interest, or otherwise negatively impact public confidence in the department. No officer who is on sick leave, disability leave or administrative leave shall be eligible for off-duty work assignments.

The parties shall work in good faith to establish a rate of pay which is competitive within the geographic area and which does not exclude officers from off-duty work opportunities. Off-duty employers shall execute a contract for services in a form approved by the City. The parties acknowledge that the contract may be executed after work has begun so long as the Chief has approved the assignment.

This provision has been entered into in light of the representation by the Guild that the pay for off-duty assignments may be included in the officer's LEOFF Plan II basic salary for the purpose of calculating retirement benefits. In the event that the Washington State Department of Retirement Systems, an administrative tribunal, or a court of competent jurisdiction shall hold that such off -duty work is not includable in the definition of basic pay under the LEOFF retirement system, the Guild shall indemnify and hold harmless the City of Gig Harbor, its officers, agents and employees for any and all costs, claim, damage or liability of any kind or nature, including, but not limited to legal and accounting costs, interest and the other costs associated with the application of such ruling or its application to Guild retirees or officers and the correction of retirement accounts or service credit, provided, however, that nothing herein shall require the Guild to indemnify the City from (1) the actual statutory employer's contribution as imposed by Chapter 41.26 RCW or (2) the costs associated with the correction of the retirement account or service credit of a supervisor who is not a Guild member.

ARTICLE 25 - SUBSTANCE ABUSE FREE WORK PLACE

25.1 Statement of Principle. The City of Gig Harbor and the Gig Harbor Police Guild, in keeping with the provisions of the Drug-Free Workplaces Act of 1988, are committed to providing and maintaining a substance abuse-free working environment for the safety, physical and mental health of all employees and the public whom we serve.

25.2 Any unlawful manufacture, distribution, dispensation, possession, use or working under the influence of an illegal drug or controlled substance in or on any City facility, vehicle or while on City business is strictly prohibited. Consumption of alcohol is prohibited for employees while on duty (including any breaks, lunches, etc.) or while in a designated "on-call" status or two (2) hours following an accident or incident (unless a breath alcohol test has already been performed). In addition, a violation of law by an officer relating to illegal drugs, controlled substances or alcohol may result in appropriate discipline.

25.3 The City has established a drug awareness program which includes, but is not limited to, the following confidential employee services:

- a. Drug counseling and rehabilitation available through the City's medical insurance plans.

- b. Employee Assistance Program (EAP) that may assist in counseling employees with substance/alcohol abuse problems.

25.4 Any employee found to be in violation of the City's Substance Abuse Free Workplace Policy or law may be subject to a requirement to participate satisfactorily in an abuse assistance or rehabilitation program approved for such purposes by a federal, state, local health, or appropriate agency approved by the City, and/or discipline up to and including termination.

25.5 Covered Classifications. All classifications within the Guild's bargaining unit are covered by this Article.

25.6 Drug or Alcohol Tests Required

25.6A Reasonable Suspicion. To be conducted when a supervisor becomes aware of specific indicators characteristic of prohibited drug (including alcohol) use or possession which may include:

- i. Direct observation of drug use or possession
- ii. Direct observation of the physical symptoms of being under the influence of a drug, such as motor functions or speech, abnormal conduct or erratic behavior which may or may not be preceded by:
 - a. An on-the-job accident resulting in an injury to the employee or others requiring medical attention beyond first aid and/or results in significant property damage to City or others' property.
 - b. An on-the-job unsafe practice that endangers the employee or others or risks significant property damage to the City or others' property.
 - c. An arrest for a drug-related offense.
 - d. Information that is provided by reliable and credible sources and has been independently corroborated.
 - e. Evidence that the employee tampered with a previous drug test.
 - f. The opinion of a medical/substance abuse/chemical dependency professional employed at the worksite that an employee is using an illegal controlled substance.

25.7 The supervisor will request another supervisor's (management and/or HR) opinion (both supervisors must agree) prior to requesting an employee to take a reasonable suspicion drug/alcohol test. At this time, the employee shall be informed of the right to Guild representation. This will not be construed as an opportunity for an employee to delay testing. Employees may not operate City motor vehicles or equipment after being notified that a reasonable suspicion test is warranted. Additionally, employees believed to be under the influence or impaired for any reason shall be transported to the testing site. Following the testing, the employee will be transported home via a local cab company, at the City's expense, or provided the opportunity to contact a non-duty-employee or non employee for a ride. The

employee will be informed that the law enforcement authorities shall be notified of his/her vehicle license number if the employee insists on driving. In no case will a supervisor or other on-duty employee transport the employee.

25.8 Testing shall take place as soon as practicable. An employee subject to such testing is expected to remain readily available to undergo the tests. However, this should not be construed to require the delay of necessary medical attention for injuries or to prohibit an employee from leaving the scene of an accident or incident if necessary to obtain assistance to respond to the accident or incident or to obtain emergency medical care. In all circumstances the employee will be transported to the testing site. An employee waiting to be tested will remain in paid status from the time of the accident/incident until testing is completed.

25.9 Employees who test negative will be transported back to the duty station and remain on paid status for the completion of the shift or if normal work hours are exceeded, until leaving the normal place of work. Employees whose tests are not immediately available will be transported from the test site to their residence via a local cab company at the City's expense. Employees, who leave the scene of an accident or incident inappropriately, will be considered to have refused to test and will be subject to discipline up to and including termination.

25.10 Refusal to Test. Refusing or failing to submit an adequate specimen for drug or alcohol testing or specimen tampering during specimen collection constitutes insubordination and will be treated as if the employee has tested positive. The employee will be evaluated by a Substance Abuse Professional (SAP) or Chemical Dependency Professional (CDP) and will be subject to discipline up to and including termination. Refusal to test includes:

- a. Refusal to take a drug or alcohol test;
- b. Tampering with or attempting to adulterate the specimen or collection procedure;
- c. Not reporting to the collection site in the time allotted;
- d. Leaving the scene of an accident or incident without a valid reason before testing;
or
- e. Providing false or inaccurate information.

25.11 Drug/Alcohol Testing Processes. Drug and alcohol testing shall be conducted in strict accordance with federal regulations to ensure accuracy, reliability, and confidentiality. Testing records and results will be released only to those authorized by the federal drug and alcohol testing rules to receive such information. The City will make every appropriate effort to protect the employee's privacy and dignity during the sample collection, testing and notification process.

25.12 Drug Testing. Specimen collection for drug testing will conform to the standards of 49CFR part 40 to maintain documented chain of custody and assure sample reliability. Drug test collections will be conducted at a qualified medical facility. The specific procedure used for testing is as follows:

- a. The collection site personnel will obtain the appropriate urine custody and control forms and inspect the collection room.

- b. The donor will be asked to present picture identification to the collection site person.
- c. The donor will check belongings and remove unnecessary outer garments.
- d. Donor will wash hands, take the collection cup and enter the privacy enclosure to collect at least forty-five (45) milliliters of specimen unobserved.
- e. The collector records the temperature of the specimen.
- f. The collector will split the specimen into two bottles.
- g. The collector will label and seal both bottles in front of the donor.
- h. The custody and control form will be completed, transferring custody from the donor through the collector to the laboratory courier.
- i. The split specimen will be placed in secure storage until shipped for analysis.

25.13 The integrity of the testing process is ensured through a variety of methods. The collection site is secured when not in use, access to the site is restricted during specimen collection, water sources are controlled to discourage specimen adulteration, trained site collection personnel carefully follow prescribed procedures, specimens are labeled and sealed in front of the donor, custody and control forms are used, specimens are left in locked storage, and the laboratories used for analysis must meet strict standards to be certified by the Substance Abuse and Mental Health Services Administration (SAMHSA).

25.14 The initial drug screen shall use the Immunoassay (EMIT) process and the confirmatory test will be by gas chromatography/mass spectrometry. The drug testing results will be reviewed and positive tests interpreted by the MRO. The following tests and positive test levels shall be used:

	Initial	Confirmation
Marijuana and metabolites	50 ng/ml	15 ng/ml
Cocaine and metabolites	300 ng/ml	150 ng/ml
Amphetamines and metabolites	1000 ng/ml	500 ng/ml
Opiates	2000 ng/ml	2000 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml

25.15 Alcohol Testing. The alcohol test will be performed using an Evidential Breath Testing (EBT) device that is approved by the National Highway Traffic Safety Administration (NHTSA) and administered by a trained Breath Alcohol Technician (BAT). The alcohol testing process will consist of the following steps:

- a. Upon arrival, the employee will be shown to the testing site. The site will afford the employee privacy during the process.
- b. The employee will provide picture identification to the BAT for inspection.

- c. The BAT will explain the test process and will, with the employee, complete the Alcohol Testing Form.
- d. The BAT will open a sealed disposable mouthpiece in view of the employee and attach it to the EBT device for a screening test.
- e. The employee will blow forcefully into the mouthpiece and be shown the result.
- f. Before the confirmatory test is conducted, the BAT shall conduct an airblank test which must read 0.00 to proceed.
- g. The result of the confirmatory test is considered to be the final result.

25.16 The integrity of the alcohol testing process is ensured through the external calibration checks required on the EBT device, the security of the testing site and EBT device, and the strict testing procedures required to produce a valid test.

25.17 Positive Test Results.

- a. An employee who tested positive for alcohol or fails to pass a drug test will be removed from the performance of his/her job, placed on administrative leave and required to be evaluated by a substance abuse professional. An employee may substitute any available vacation, floating holiday or comp time for the non-pay status.
- b. An employee who tests positive for illegal drugs or controlled substances will be removed from the performance of his/her job, placed on administrative leave and required to be evaluated by a Substance Abuse Professional (SAP) or Chemical Dependency Professional (CDP).
- c. An employee who tests positive for drugs shall have the right to challenge the accuracy of the test results. The employee may request that the original sample be analyzed again. Such request must be made within 72 hours of when the City made the employee aware of the original test results.

25.18 Pay Status.

- a. If an employee is removed from his/her job prior to or during an investigation, they shall be on administrative leave pending outcome of the investigation and/or disciplinary action. Employees shall be advised of their right to Guild representation during any investigatory interview or meeting which could reasonably be expected to lead to disciplinary action.
- b. Employees who have satisfied any disciplinary action and who are in a recognized treatment program for a drug or alcohol problem may use available sick leave, floating holiday, accrued vacation or comp time for counseling and treatment.

25.19 Employee Rights and Responsibilities.

- a. The City will keep confidential all testing results.

- b. If at any point the results of the testing procedures specified in the Drug & Alcohol Testing Processes section of this is negative, all further testing shall be discontinued. The employee will be provided a copy of the results, and all other copies of the results (including the original) will be maintained by the City Clerk.
- c. An employee, who voluntarily seeks assistance concerning a drug or alcohol problem, prior to reasonable suspicion, shall not be disciplined by the employer and will be immediately referred to the City's EAP. Employees may use available sick leave, floating holiday, accrued vacation or comp time for counseling and treatment. An employee may also be required to undergo a "fit for duty" test prior to return to work.
- d. An employee not designated "on-call" and requested to report to work shall inform their supervisor of any inability to work due to the consumption of alcohol or drugs which may impair the employee's ability to safely perform his/her job. Under this Section, an employee will not be subject to discipline for advising the employee's supervisor of his/her inability to work.
- e. All employees who must use a prescription drug that causes or results in adverse side effects (e.g., drowsiness or impaired reflexes or reaction time) shall inform their supervisor that they are taking such medication according to the advice of a physician. Such employees are responsible for informing their supervisor of the possible effects of the drug and their performance and expected duration of its use. If the prescription drug use could cause productivity or safety problems, a supervisor may grant the employee sick leave or temporarily assign the employee different duties, if available.
- f. Employees are required, in compliance with this Substance Abuse Free Workplace Policy, to notify the City of any criminal statute conviction for a substance abuse or alcohol-related violation occurring in the workplace no later than five (5) working days after such conviction.

25.20 All Guild and non-represented police officers will receive a copy of this Section, informational materials about the effects of controlled substances/alcohol in the workplace and rehabilitation services available.

25.21 Record Retention. The drug and alcohol records will be maintained by the City Clerk in a secure location with controlled access, in accordance with HIPAA guidelines. The following records shall be maintained for at least five (5) years:

- a. Records of verified positive alcohol test results.
- b. Records of verified positive drug test results.
- c. Documentation of refusal to take a required alcohol/drug tests.
- d. Drug and Alcohol related evaluations and referrals.

The City may provide copies of these records to other employers when former City employees have applied for employment with those employers and have written and signed a release form authorizing the City to release such information.

25.22 Laws & Regulations. Should the federal or state government requirements change, the parties agree to negotiate the impact of the change on mandatory subjects of bargaining.

ARTICLE 26 - SAVING CLAUSE

If any article or section of this Agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction, the balance of this Agreement shall continue in full force and effect. The article and section held invalid shall be modified as required by law or the tribunal of competent jurisdiction, or shall be re-negotiated for the purpose of adequate replacement. If such negotiations shall not result in mutually satisfactory agreement, the parties agree to be bound by the position of a tribunal of competent jurisdiction, or a tribunal agreed to by the parties.

ARTICLE 27 - COMPLETE AGREEMENT

The parties acknowledge that during the negotiations which resulted in this Agreement, each had an unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after the exercises of that right and opportunity are set forth in this Agreement.

Therefore, the parties for the life of this Agreement voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement.

ARTICLE 28 - TERM OF AGREEMENT

This Agreement is effective January 1, 2013, and shall continue in full force and effect to and including December 31, 2015.

Notice to negotiate a new agreement shall be given within ninety (90) days prior to the expiration date.

IN WITNESS WHEREOF, we attached our signatures this _____ of _____ 2013.

CITY OF GIG HARBOR

GIG HARBOR POLICE OFFICER'S GUILD

By: _____
Charles Hunter, Mayor

By: _____
Dan Welch, President

ATTEST:

Molly Towslee, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Dennis Richards

Date

Sean Lemoine

Date

ATTACHMENT "A"

2013 POLICE PERSONNEL SALARY RANGES

	Monthly Minimum	Monthly Maximum
Police Sergeant	\$6809	\$7792
Police Officer	\$4956	\$6195

ATTACHMENT "B"

PERSONNEL SALARIES

MERIT/BONUS PAY

1. Employees who have satisfactorily completed a six-month employment probationary period shall be eligible for a performance pay increase from 0% to 5% and a one-year employment probationary period shall be eligible for a performance pay increase from 0% to 8%.
2. Employees who have yet to reach the top of their salary range shall be eligible for performance pay increases of 0% to 8% each year. Such performance pay increases shall be added to their base rate of pay to compute the employee's new salary. Performance pay increases shall be approved by the City Administrator. Once an employee has reached the top of his/her salary range, the employee shall be eligible for merit bonus compensation up to 5% of the employee's annual base salary. Such merit/bonus pay increase shall not be added to the employee's base pay. This merit bonus pay is separate, non-cumulative compensation and must be earned through exemplary performance each evaluation period.
3. Employees shall be eligible for merit/bonus pay salary increases in accordance with the provisions set forth below:
 - 3.1. Merit/bonus pay increases shall be within the city's budget in an appropriate fund within each department's budget.
 - 3.2. The amount of the merit/bonus pay salary increase for each employee shall be based solely on performance.
 - 3.3. Merit/bonus pay salary increases shall be granted by the City Administrator and confirmed by the Mayor.



**Business of the City Council
City of Gig Harbor, WA**

Subject: Skansie Net Shed Structural Improvements – Consultant Services Contract Amendment #1 Sitts & Hill Engineers, Inc.

Proposed Council Action: Approve and authorize the Mayor to execute Amendment #1, Consultant Services Contract with Sitts & Hill Engineers, Inc. in an amount not exceed \$10,098.00 for Skansie Net Shed Piling Replacement Design Project.

Dept. Origin: Public Works/Engineering

Prepared by: Marcos McGraw
Project Engineer

MMG

For Agenda of: March 11, 2013

Exhibits: Consultant Services Contract Amendment #1 Scope and Fee

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Public Works Director:

Approved by City Engineer:

Initial & Date
[Signature] 3/7/13
R 3/6/13
 via email 3/5
[Signature] 3/7/13
[Signature] 3/6/13
[Signature] 3/6/13

Expenditure Required	\$ 10,098.00	Amount Budgeted	\$ 175,000.00	Appropriation Required	\$0
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INFORMATION/BACKGROUND

In October 2011 the city awarded a contract to Quigg Brothers, Inc. for structural repairs to the Skansie Net Shed. Due to limited funding not all of the structural repairs were performed. The consultant services provided under this amendment include engineering services consisting of updates to the construction bid documents and construction phase support services. Advertisement for construction bids and construction activities relative to completion of improvements to the Skansie Net Shed will occur at a later date. This second phase of improvements outlined by the updated construction bid documents and to be provided under a separate construction contract will consist of the following:

- Selective demolition of north end of pier deck and tide rack
- Removal and replacement of 18 piles under north end of pier
- Reconstruction of tide rack
- Restoration of pier deck as needed

FISCAL CONSIDERATION

The city's 2013 budget provides funding for this project from the following revenue sources:

Fund 109 Objective 11 Skansie Net Shed Rehabilitation	\$ 175,000
Anticipated 2013 Expenses:	
Sitts & Hill Engineers, Inc. Contract Amendment No. 1	\$ (10,098)
<i>future project construction – Public Works Contract</i>	\$ (164,902)
Remaining 2013 Budget =	\$ 0

Note: Expenses in *italics* are estimated.

BOARD OR COMMITTEE RECOMMENDATION

The condition of the Net Shed was discussed at an Operations & Public Projects Committee meeting in 2006.

RECOMMENDATION/MOTION

Approve and authorize the Mayor to execute an Amendment #1 Consultant Services Contract with Sitts & Hill Engineers, Inc. in an amount not exceed \$10,098.00 for Skansie Net Shed Piling Replacement Design Project.

**FIRST AMENDMENT
TO
CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
SITTS & HILL ENGINEERS, INC.**

THIS FIRST AMENDMENT is made to that certain Consultant Services Contract dated January 31, 2011 (the "Agreement"), by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Sitts & Hill Engineers, Inc., a corporation organized under the laws of the State of Washington (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently contracting with the Consultant for Skansie Net Shed Piling Replacement Project;

WHEREAS, the City desires to extend consultation services with the Consultant in connection with the aforementioned services; and

WHEREAS, section 18 of the Agreement requires the parties to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant and to amend the amount of compensation paid by the City;

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

Section 1. Scope of Work. Section 1 of the Agreement is amended to add the work as shown in **Exhibit A – Scope of Work**, attached to this Amendment and incorporated herein.

Section 2. Compensation. Section 2(A) of the Agreement is amended to increase compensation to the Consultant for the work to be performed as described in **Exhibit A** in an amount not to exceed Ten Thousand Ninety Eight Dollars and No Cents Dollars (\$10,098.00), as shown in **Exhibit B**, attached to this Amendment and incorporated herein.

Section 3. Duration of Work. Section 4 of the Agreement is amended to extend the duration of this Agreement to March 1, 2014.

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

IN WITNESS WHEREOF, the parties have executed this First Amendment on this _____ day of _____, 20__.

CONSULTANT

CITY OF GIG HARBOR

By: 
Its Principal

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

SITTS & HILL ENGINEERS, INC.

Professional Engineers and Planners
4815 Center Street, Tacoma, WA 98409
Telephone (253) 474-9449
Fax(253)474-0153

ROBERT J. DAHMEN, P.E.
BRENT K. LESLIE, P.E.
ROBERT N. ERB, P.L.S.
KATHY A. HARGRAVE, P.E.
LARRY G. LINDELL, P.E.

February 25th, 2013

CITY OF GIG HARBOR
3510 Grandview Street
Gig Harbor, Washington 98335

TO: Mr. Steve Misiurak, P.E.

SUBJECT: *PROPOSAL FOR ENGINEERING SERVICES FOR UPDATING DESIGN PACKAGE FOR COMPLETING RENOVATION OF THE FLOOR AND PILE SYSTEM AT SKANSIE NET SHED LOCATED IN GIG HARBOR, WASHINGTON*

Dear Mr. Misiurak:

Sitts & Hill Engineers is pleased to present this proposal for engineering services for updating our original structural package to complete the phased renovation of the Skansie Net Shed piles and floor support system in Gig Harbor, Washington. Sitts & Hill Engineers originally completed the phased structural package for this project and construction was completed on a portion of the originally phased project. We are committed to providing the Project Team with the high level of responsiveness and service necessary to make this a cost effective and successful project.

This proposal includes our Project Description, Scope of Engineering Services, Exclusions and a summary of estimated Professional Services Fees.

PROJECT DESCRIPTION

Sitts & Hill Engineers proposes to provide the engineering services associated with updating the original package to complete the upgraded at the above referenced project. The original package has already been completed.

The project was designed to the 2009 International Building Code IBC with State and local amendments and any additional requirements will also be designed to this standard.

ASSUMPTIONS

We have made the following assumptions in the calculation of estimated engineering services fees:

1. Site access points will be off Harborview Drive.
2. SEPA and JARPA applications have already been completed and permitted. Any additional permitting services will be provided by City personnel.
3. Sitts & Hill Engineers Staff is not anticipating public input meeting as this is a completion of a phased project.

The City of Gig Harbor
February 19th, 2013
Page 2 of 3

BASIC SCOPE OF ENGINEERING SERVICES

Sitts & Hill Engineers understands the Scope of engineering services to be defined as follows. If additional items are required or excluded, please contact our office so that adjustments can be made to the proposed fees.

1. Meetings with the design team.
2. CAD drafting on AutoCAD, sufficient for a permit submittal.
3. Specifications and General Notes. City of Gig Harbor will provide division zero and one specifications. Sitts and Hill will work with City of Gig Harbor to update the existing specification package as required.
4. One set of formal progress for City of Gig Harbor review and coordination.
5. Stamped structural calculations sufficient for a submittal to the Building Department, if required.
6. We have not included permitting services in this proposal. We have included one building permit submittal package if required.
7. Limited bidding and Construction Support Services including special piling inspection(s).

EXCLUSIONS - BASIC SCOPE OF ENGINEERING SERVICES

The following are a list of Additional Services that may be performed under a separate contract if necessary.

1. Our Scope of work will **not** include structural design for fences, site retaining walls or site structures.
2. Site Survey data collection or base map preparation.
3. Construction substitutions may be considered as an Additional Service.
4. Approved changes requested by the contractor, owner or design build subcontractors will be billed on a Time and Material basis.
5. Permitting services **not** specifically included in the Scope of Work.
6. Permit agency fees.

ENGINEERING FEES

Basic engineering services are "Time and Materials" basis and will be billed monthly. Please note that several of the General Tasks are associated with a building permit submittal and may not be required. Construction Support Services are on an "As Requested Basis" and will also be billed on a Time and Materials basis to help with budgetary considerations.

The City of Gig Harbor
February 19th, 2013
Page 3 of 3

Proposed Fee Schedule

Repair and Maintenance of Pile and Floor Framing	\$6,993.00
System Permit Submittal Package	
Limited Bidding and Construction Support Services	\$3,105.00

Total of all Estimated Services \$10,098.00

We are prepared to begin work upon receipt of Authorization to Proceed. To assure clarity in matters of our mutual responsibilities, we incorporate our Standard General Conditions and Chargeout Rates, copies of which are attached. These documents, together with this proposal, shall form the basis of our contract for the work. This proposal is valid for a period of 120 days.

We appreciate this opportunity to submit this proposal. If you have any questions, please don't hesitate to contact our office.

Sincerely,

SITTS & HILL ENGINEERS, INC.



Larry G. Lindell, P.E.
Principal

Authorization Signature

Date

Printed Name / Title

**ENGINEERING SERVICES ESTIMATE
PREPARED FOR
Gig Harbor
Skansie Net Shed, Gig Harbor, Washington**

FILE: 2013-01-08 Net Shed.xls
DATE: 08 February 2013
ESTIMATE BY: L LINDELL

SITTS & HILL ENGINEERS, INC.
4815 CENTER STREET
TACOMA, WA. 98409
TEL. (253) 474-9449
FAX. (253) 474-0153

PROJECT: Skansie Net Shed Upgrades, Gig Harbor, WA

DESCRIPTION	DESIGN COSTS	
<p>DESIGN SERVICES -</p> <p>CONSTRUCTION DOCUMENTS</p> <p>GENERAL PROJECT TASKS</p> <p>CONSTRUCTION PHASE SUPPORT AND PROJECT COMPLETION</p>	<p align="right">\$4,662</p> <p align="right">\$2,331</p> <p align="right">\$3,105</p>	
<p>NOTES:</p>	<p align="right">GRAND TOTAL OF COSTS =</p>	<p align="right">\$10,098</p>



Subject: Eddon Boat Property – Long Term Monitoring Plan Implementation (Year 5)
-- Consultant Services Contract Amendment #1/ Anchor QEA

Proposed Council Action:

Move to: Approve and authorize the Mayor to execute Amendment #1 to the Contract with Anchor QEA for the Eddon Boat– Long Term Monitoring Plan (Year 5) for the amount not-to-exceed \$6,222.00.

Dept. Origin: Public Works/Engineering

Prepared by: Stephen Misiurak, P.E.
City Engineer

For Agenda of: March 11, 2013

Exhibits: Amendment #1 to Consultant Services Contract with Exhibit A–Scope of Work and Exhibit B–Estimated Cost and Fee

	Initial & Date
Concurred by Mayor:	<i>SR</i> 3/7/13
Approved by City Administrator:	<i>R</i> 3/4/13
Approved as to form by City Atty:	approv. vid AB 2/28/13
Approved by Finance Director:	<i>SR</i> 3/4/13
Approved by Public Works Director:	<i>JH</i> 3/4/13
Approved by City Engineer:	<i>SM</i> 3/4/13

Expenditure Required	\$6,222.00	Amount Budgeted	\$7,500.00	Appropriation Required	\$0
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INFORMATION / BACKGROUND

This consultant services contract is for the Long Term Monitoring Plan (LTMP) implementation at the Eddon Boat Property. Five years of monitoring are required by the Department of Ecology (DOE) per the Cleanup Action Plan. This contract provides for the fifth and last year of monitoring that was mandated by the Department of Ecology. The work to be performed includes a visual inspection, photographs, documentation, technical memo production time, senior review and submittal to the Department of Ecology for review, comment and approval.

FISCAL CONSIDERATION

This work is a budgeted item contained in the Parks Development, Objective No. 6.

Parks Development Budget	\$7,500.00
Anticipated 2013 Expenses:	
Anchor QEA Consultant Services Contract Amendment #1 for Year 5 of the Long Term Monitoring Plan for Eddon Boat	(\$6,222.00)
Remaining 2013 Budget =	\$1,278.00

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION / MOTION

Move to: Approve and authorize the Mayor to execute Amendment #1 to the Contract with Anchor QEA for Eddon Boat–Long Term Monitoring Plan (Year 5) for the amount not to exceed Six Thousand Two Hundred Twenty-two Dollars and No Cents (\$6,222.00).

**FIRST AMENDMENT
TO
CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
ANCHOR QEA**

THIS FIRST AMENDMENT is made to that certain Consultant Services Contract dated March 12, 2012 (the "Agreement"), by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Anchor QEA, a corporation organized under the laws of the State of Washington (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently contracting with the Consultant for Eddon Boat Property Long Term Monitoring Plan Year 5 of 5;

WHEREAS, the City desires to extend consultation services with the Consultant in connection with the aforementioned services; and

WHEREAS, section 18 of the Agreement requires the parties to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant and to amend the amount of compensation paid by the City;

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

Section 1. Scope of Work. Section 1 of the Agreement is amended to add the work as shown in **Exhibit A – Scope of Work**, attached to this Amendment and incorporated herein.

Section 2. Compensation. Section 2(A) of the Agreement is amended to increase compensation to the Consultant for the work to be performed as described in **Exhibit A** in an amount not to exceed Six Thousand Two Hundred Twenty-two Dollars and No Cents (\$6,222.00), as shown in **Exhibit B**, attached to this Amendment and incorporated herein.

Section 3. Duration of Work. Section 4 of the Agreement is amended to extend the duration of this Agreement to March 1, 2014.

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

IN WITNESS WHEREOF, the parties have executed this First Amendment on this _____ day of _____, 20__.

CONSULTANT

CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



Exhibit A- Scope of Work

720 Olive Way, Suite 1900
Seattle, Washington 98101
Phone 206.287.9130
Fax 206.287.9131

February 13, 2013

Mr. Stephen Misiurak
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Re: Long-Term Monitoring Plan Implementation for the Eddon Boatyard Property
Amendment #1 to Year 4 Monitoring: Scope of Work and Cost Estimate for Year 5
Activities

Anchor QEA Project Number: 040289-02.07

Dear Mr. Misiurak:

The purpose of this letter is to provide the City of Gig Harbor (City) with Anchor QEA's scope of work and cost estimate for the Washington State Department of Ecology (Ecology) approved Long-Term Monitoring Plan (LTMP) implementation at the Eddon Boatyard Property. Five years of monitoring are required per the Cleanup Action Plan (CAP), and Year's 1 through 4 have been completed. This work will be conducted under an Amendment to the Year 4 activities. Table 1 provides a summary and cost for this work.

A visual inspection will be performed. The scope of this task includes:

- Site visit for cap visual inspection
- Photographs
- Documentation
- Technical memo production time
- Senior review

Exhibit A – Scope of Work

Mr. Stephen Misiurak
February 13, 2013

Pending the results of visual inspections several corrective actions may be necessary. These costs are not included in this scope of work so if these or other supplemental actions are necessary, additional costs will be negotiated with the City. Possible contingency measures include:

- Write response plan to Ecology
- Take hand cores to determine if cap has eroded
- Take additional samples
- Conduct Bioassay studies
- Evaluate institutional controls
- Add additional material to cap/repair cap
- Conduct source control evaluation

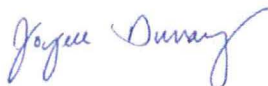
If contingency measures are not necessary, upon completion of Year 5 monitoring activities, Anchor QEA will request a No Further Action (NFA) from Ecology on behalf of the City. This request will be incorporated into the Year 5 LTMP Memorandum. The scope of this task may include additional correspondence and/or a meeting with Ecology.

Table 1

Event	Cost
Year 1- Visual Inspections/Tech Memo (2009)	Completed
Year 2- Visual Inspections/Tech Memo (2010)	Completed
Year 3- Sampling Event (2011)	Completed
Year 4- Visual Inspections/Tech Memo (2012)	Completed
Year 5- Visual Inspections/Tech Memo/NFA (2013)	6,222
Totals:	\$6,222

Please feel free to request a phone conference to discuss the assumptions behind the estimated costs. Or contact me directly at (206) 903.3320 or jdunay@anchorqea.com.

Sincerely,



Joy Dunay
Senior Scientist
Anchor QEA, LLC

Attachments: Cost Estimate Summary

Exhibit B-Estimated Costs & Fees

ANCHOR QEA, LLC.
 2013 PROJECT COST ESTIMATING FORM
 Proposal/Project Name:
 02/13/13

City of Gig Harbor
 Eddon Boatyard Year 4 Monitoring Amendment #1: Year 5 Monitoring

Number: 040289-02.07
 Prepared: Joy Dunay

Task 1 Visual Observations and Memo
 Task 2 No Further Action Request
 Task 3
 Task 4
 Task 5

Task 6
 Task 7
 Task 8
 Task 9
 Task 10

Labor Categories	Billing Rate	Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Total Hours	Total Dollars
Principal CM/Engr/LA/Plan/Scientist	\$ 219	1	2	0	0	0	0	0	0	0	0	3	\$ 657
Sr Managing Analyst/CM/Engr/LA/Plan/Scientist	\$ 199	0	0	0	0	0	0	0	0	0	0	0	\$ -
Managing Analyst/CM/Engr/LA/Plan/Scientist	\$ 180	0	0	0	0	0	0	0	0	0	0	0	\$ -
Senior Analyst/CM/Engr/LA/Plan/Scientist	\$ 160	12	8	0	0	0	0	0	0	0	0	20	\$ 3,200
Staff 3 Analyst/CM/Engr/LA/Plan/Scientist	\$ 145	0	0	0	0	0	0	0	0	0	0	0	\$ -
Staff 2 Analyst/CM/Engr/LA/Plan/Scientist	\$ 130	8	0	0	0	0	0	0	0	0	0	8	\$ 1,040
Staff 1 Analyst/CM/Engr/LA/Plan/Scientist	\$ 110	0	0	0	0	0	0	0	0	0	0	0	\$ -
Senior CAD Designer	\$ 115	5	0	0	0	0	0	0	0	0	0	5	\$ 575
CAD Designer	\$ 98	0	0	0	0	0	0	0	0	0	0	0	\$ -
Project Coordinator/Technical Editor	\$ 98	5	0	0	0	0	0	0	0	0	0	5	\$ 490
Project Coordinator (Admin)	\$ 92	0	0	0	0	0	0	0	0	0	0	0	\$ -
Technician	\$ 92	0	0	0	0	0	0	0	0	0	0	0	\$ -
National Expert Consultant	\$ 361	0	0	0	0	0	0	0	0	0	0	0	\$ -
Total Hours		31	10	0	0	0	0	0	0	0	0	41	
Total Labor		\$ 4,244	\$ 1,718	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 5,962
Average Hourly Rate	\$ 145												
Subconsultants													
List subconsultants here		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
List subconsultants here		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Total Cost		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Markup	10.0%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Reimbursables													
CAD/Computer (\$/hr)	\$10.00	\$ 50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 50
Mileage (\$/mile)	\$0.565	\$ 68	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 68
Copies (\$/copy)	\$0.10	\$ 10	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 10
Anchor boat (\$/day)	\$300	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Faxes (\$/fax)	\$1.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Outside Expenses													
Vehicle Rental		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Repro/Plotting		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Mail/Fedex/Courier		\$ 75	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 75
Travel		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Hotel/Per Diem		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Miscellaneous		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ -
Total Cost		\$ 203	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 203
Markup	10.0%	\$ 8	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 8
Field Equipment and Supplies Summary													
		\$ 45	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 45
Markup	10.0%	\$ 5	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 5
TOTAL COSTS		\$ 4,504	\$ 1,718	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 6,222

of 5



**Business of the City Council
City of Gig Harbor, WA**

Subject: Determination of the Preferred Harbor Hill Drive Extension Route and Park Improvement Project Design - Consultant Services Contract

Dept. Origin: Public Works/Engineering

Proposed Council Action: Approve and authorize the Mayor to execute a Consultant Services Contract with David Evans and Associates for design related to the Harbor Hill Extension Route and Park Improvement Project in an amount not exceed Five Hundred Eighty-One Thousand Nine Hundred Ten Dollars and Zero Cents (\$581,400.00).

Prepared by: Stephen Misiurak, P.E.
City Engineer

For Agenda of: March 11, 2013

Exhibits: WSDOT Local Agency Standard Consultant Agreement

	Initial & Date
Concurred by Mayor:	SE 3/7/13
Approved by City Administrator:	R 3/7/13
Approved as to form by City Atty:	via email 2-26
Approved by Finance Director:	DE 3/4/13
Approved by Public Works Director:	D/O 3/4/13
Approved by City Engineer:	R 3/4/13

Expenditure Required	\$ 581,400.00	Amount Budgeted	\$ 600,00.00.00	Appropriation Required	\$0
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INFORMATION/BACKGROUND

In October 2012 the City of Gig Harbor Engineering Department solicited proposals from qualified engineering firms, with a RFQ, to provide an alternative analysis and identify the most preferred roadway alignment along with providing development options and selection of the most preferred option for the City's Harbor Hill Park. The City received four Statements of Qualifications and from those four chose David Evans and Associates, Inc. as the most qualified consultant for this project.

FISCAL CONSIDERATION

In 2012 the Street Capital Fund allocated dollars to begin preliminary design work. The 2013 Street Capital Fund allocated \$325,000 for design of this project under Objective #2. In addition this project will include the use of Hospital Benefit Zone revenue and a carryover of \$275,000 that went unused for total 2013 Budget availability of \$600,000.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION/MOTION

Approve and authorize the Mayor to execute the WSDOT Local Agency Standard Consultant Agreement with David Evans and Associates, Inc. for design for the Harbor Hill Drive Extension Route and Park Improvement Project not to exceed the amount of Five Hundred Eighty-One Thousand Nine Hundred Ten Dollars and Zero Cents (\$581,400.00).

Local Agency Standard Consultant Agreement	Consultant/Address/Telephone David Evans and Associates, Inc. 3700 Pacific Highway East Fife, WA 98424 (253) 922-9780	
<input checked="" type="checkbox"/> Architectural/Engineering Agreement <input type="checkbox"/> Personal Services Agreement		
Agreement Number		
Federal Aid Number	Project Title And Work Description Harbor Hill Drive Extension	
Agreement Type (Choose one) <input type="checkbox"/> Lump Sum Lump Sum Amount \$ _____ <input checked="" type="checkbox"/> Cost Plus Fixed Fee Overhead Progress Payment Rate <u>175.34</u> % Overhead Cost Method <input type="checkbox"/> Actual Cost <input type="checkbox"/> Actual Cost Not To Exceed _____ % <input checked="" type="checkbox"/> Fixed Overhead Rate <u>175.34</u> % Fixed Fee \$ <u>36,103.13</u> <input type="checkbox"/> Specific Rates Of Pay <input type="checkbox"/> Negotiated Hourly Rate <input type="checkbox"/> Provisional Hourly Rate <input type="checkbox"/> Cost Per Unit of Work	DBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No _____ % Federal ID Number or Social Security Number <u>93-066-1195</u> Do you require a 1099 for IRS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Completion Date <u>March 1, 2014</u>	
	Total Amount Authorized \$ <u>528,550.00</u> Management Reserve Fund \$ <u>52,850.00</u> Maximum Amount Payable \$ <u>581,400.00</u>	

Index of Exhibits (Check all that apply):

- | | |
|---|--|
| <input checked="" type="checkbox"/> Exhibit A-1 Scope of Work | <input type="checkbox"/> Exhibit G-2 Fee-Sub Specific Rates |
| <input type="checkbox"/> Exhibit A-2 Task Order Agreement | <input checked="" type="checkbox"/> Exhibit G-3 Sub Overhead Cost |
| <input type="checkbox"/> Exhibit B-1 DBE Utilization Certification | <input checked="" type="checkbox"/> Exhibit H Title VI Assurances |
| <input type="checkbox"/> Exhibit C Electronic Exchange of Data | <input checked="" type="checkbox"/> Exhibit I Payment Upon Termination of Agreement |
| <input type="checkbox"/> Exhibit D-1 Payment - Lump Sum | <input checked="" type="checkbox"/> Exhibit J Alleged Consultant Design Error Procedures |
| <input checked="" type="checkbox"/> Exhibit D-2 Payment - Cost Plus | <input checked="" type="checkbox"/> Exhibit K Consultant Claim Procedures |
| <input type="checkbox"/> Exhibit D-3 Payment - Hourly Rate | <input type="checkbox"/> Exhibit L Liability Insurance Increase |
| <input type="checkbox"/> Exhibit D-4 Payment - Provisional | <input checked="" type="checkbox"/> Exhibit M-1a Consultant Certification |
| <input checked="" type="checkbox"/> Exhibit E-1 Fee - Lump/Fixed/Unit | <input checked="" type="checkbox"/> Exhibit M-1b Agency Official Certification |
| <input type="checkbox"/> Exhibit E-2 Fee - Specific Rates | <input checked="" type="checkbox"/> Exhibit M-2 Certification - Primary |
| <input checked="" type="checkbox"/> Exhibit F Overhead Cost | <input checked="" type="checkbox"/> Exhibit M-3 Lobbying Certification |
| <input checked="" type="checkbox"/> Exhibit G Subcontracted Work | <input checked="" type="checkbox"/> Exhibit M-4 Pricing Data Certification |
| <input checked="" type="checkbox"/> Exhibit G-1 Subconsultant Fee | <input checked="" type="checkbox"/> App. 31.910 Supplemental Signature Page |

THIS AGREEMENT, made and entered into this _____ day of _____, _____,
between the Local Agency of _____ City of Gig Harbor _____, Washington, hereinafter called the "AGENCY",
and the above organization hereinafter called the "CONSULTANT".

WITNESSETH THAT:

WHEREAS, the AGENCY desires to accomplish the above referenced project, and

WHEREAS, the AGENCY does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the PROJECT; and

WHEREAS, the CONSULTANT represents that he/she is in compliance with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish Consulting services to the AGENCY,

NOW THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I General Description of Work

The work under this AGREEMENT shall consist of the above described work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor, and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

II Scope of Work

The Scope of Work and projected level of effort required for this PROJECT is detailed in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT.

III General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress and presentation meetings with the AGENCY and/or such Federal, State, Community, City or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

The CONSULTANT, and each SUBCONSULTANT, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT, and each SUBCONSULTANT, shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT that may result in the termination of this AGREEMENT.

Participation for Disadvantaged Business Enterprises (DBE), if required, per 49 CFR Part 26, or participation of Minority Business Enterprises (MBE), and Women Business Enterprises (WBE), shall be shown on the heading of this AGREEMENT. If D/M/WBE firms are utilized, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made a part of this AGREEMENT. If the Prime CONSULTANT is a DBE firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY'S "DBE Program Participation Plan". The mandatory DBE participation goals of the AGREEMENT are those established by the WSDOT'S Highway and Local Programs Project Development Engineer in consultation with the AGENCY.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for this PROJECT, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

IV Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY.

All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD or governmental actions or other conditions beyond the control of the CONSULTANT. A prior supplemental agreement issued by the AGENCY is required to extend the established completion time.

V Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided in Exhibit "D" attached hereto, and by reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A post audit may be performed on this AGREEMENT. The need for a post audit will be determined by the State Auditor, WSDOT External Audit Office and/or at the request of the AGENCY'S PROJECT Manager.

VI Sub-Contracting

The AGENCY permits sub-contracts for those items of work as shown in Exhibit "G" attached hereto and by this reference made part of this AGREEMENT.

Compensation for this sub-consultant work shall be based on the cost factors shown on Exhibit "G."

The work of the sub-consultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the sub-consultant shall be substantiated in the same manner as outlined in Section V. All sub-contracts shall contain all applicable provisions of this AGREEMENT.

With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. No permission for sub-contracting shall create, between the AGENCY and sub-contractor, any contract or any other relationship. A DBE certified sub-consultant is required to perform a minimum amount of their sub-contracted agreement that is established by the WSDOT Highways and Local Programs Project Development Engineer in consultation with the AGENCY.

VII Employment

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a

third party as a consequence of any act or omission on the part of the CONSULTANT'S employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the United States Department of Transportation, or the STATE, or the AGENCY, except regularly retired employees, without written consent of the public employer of such person.

VIII Nondiscrimination

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following laws and regulations:

Title VI of the Civil Rights Act of 1964
(42 USC Chapter 21 Subchapter V Section 2000d through 2000d-4a)

Federal-aid Highway Act of 1973
(23 USC Chapter 3 Section 324)

Rehabilitation Act of 1973
(29 USC Chapter 16 Subchapter V Section 794)

Age Discrimination Act of 1975
(42 USC Chapter 76 Section 6101 et seq.)

Civil Rights Restoration Act of 1987
(Public Law 100-259)

American with Disabilities Act of 1990
(42 USC Chapter 126 Section 12101 et. seq.)

49 CFR Part 21

23 CFR Part 200

RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "H" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "H" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT as shown in Exhibit "I" for the type of AGREEMENT used.

No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the Notice to Terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In such an event, the amount to be paid shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the work performed at the time of termination.

Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth above.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT'S failure to perform is without the CONSULTANT'S or it's employee's default or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

In the event of the death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the PROJECT, or dissolution of the partnership, termination of the corporation, or disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of this AGREEMENT, if requested to do so by the AGENCY. This subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the AGENCY, if the AGENCY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the AGENCY'S concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X Changes of Work

The CONSULTANT shall make such changes and revisions in the complete work of this AGREEMENT as necessary to correct errors appearing therein, when required to do so by the AGENCY, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under Section XIV.

XI Disputes

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the AGENCY shall be referred for determination to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided, however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to de novo judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J", and disputes concerning claims will be conducted under the procedures found in Exhibit "K".

XII Venue, Applicable Law, and Personal Jurisdiction

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action shall be initiated in the Superior court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the Superior court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior court of the State of Washington, situated in the county in which the AGENCY is located.

XIII Legal Relations

The CONSULTANT shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this AGREEMENT. This contract shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall indemnify and hold the AGENCY and the STATE and its officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the CONSULTANT'S negligence or breach of any of its obligations under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify the AGENCY or the STATE against and hold harmless the AGENCY or the STATE from claims, demands or suits based solely upon the conduct of the AGENCY or the STATE, their agents, officers and employees; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT'S agents or employees, and (b) the AGENCY or the STATE, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence (2) the costs to the AGENCY or the STATE of defending such claims and suits shall be valid and enforceable only to the extent of the CONSULTANT'S negligence or the negligence of the CONSULTANT'S agents or employees.

The CONSULTANT'S relation to the AGENCY shall be at all times as an independent contractor.

The CONSULTANT shall comply with all applicable sections of the applicable Ethics laws, including RCW 42.23, which is the Code of Ethics for regulating contract interest by municipal officers. The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT'S own employees against the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW.

Unless otherwise specified in the AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the PROJECT. Subject to the processing of a new sole source, or an acceptable supplemental agreement, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of the AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability and property damage insurance in an aggregate amount not less than two million dollars (\$2,000,000) for bodily injury, including death and property damage. The per occurrence amount shall not exceed one million dollars (\$1,000,000).
- C. Vehicle liability insurance for any automobile used in an amount not less than a one million dollar (\$1,000,000) combined single limit.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance secured by the CONSULTANT, the AGENCY will be named on all policies as an additional insured. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by the AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to the AGENCY.

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT'S professional liability to the AGENCY shall be limited to the amount payable under this AGREEMENT or one million (\$1,000,000) dollars, whichever is the greater, unless modified by Exhibit "L". In no case shall the CONSULTANT'S professional liability to third parties be limited in any way.

The AGENCY will pay no progress payments under Section V until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY and the STATE may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIV Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the AGENCY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment", hereafter referred to as "CLAIM", under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of the AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A) and (B) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XV Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XVI Federal and State Review

The Federal Highway Administration and the Washington State Department of Transportation shall have the right to participate in the review or examination of the work in progress.

XVII Certification of the Consultant and the Agency

Attached hereto as Exhibit "M-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "M-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "M-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "M-4" Certificate of Current Cost or Pricing Data. Exhibit "M-3" is required only in AGREEMENTS over \$100,000 and Exhibit "M-4" is required only in AGREEMENTS over \$500,000.

XVIII Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

XIX Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

By SEE SUPPLEMENTAL SIGNATURE PAGE By SEE SUPPLEMENTAL SIGNATURE PAGE

Consultant David Evans and Associates, Inc. Agency City of Gig Harbor

Supplemental Signature Page for Standard Consultant Agreement	Consultant/Address/Telephone David Evans and Associates, Inc. 3700 Pacific Highway East Fife, WA 98424 (253) 922-9780
Agreement Number	Project Title And Work Description Harbor Hill Drive Extension
Federal Aid Number	
Local Agency City of Gig Harbor	

THIS AGREEMENT, made and entered into this _____ day of _____, _____, between the Local Agency of _____ City of Gig Harbor _____, Washington, hereinafter called the "AGENCY", and the above organization hereinafter called the "CONSULTANT".

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year first above written.

CONSULTANT

LOCAL AGENCY

By Alan M. Zebold

By _____

Consultant David Evans and Associates, Inc.

Agency City of Gig Harbor

By Marc Fudert

By _____

Consultant David Evans and Associates, Inc.

Agency City of Gig Harbor

By _____

Agency City of Gig Harbor

By _____

Agency City of Gig Harbor

**Exhibit A-1
Scope of Work**

Project No. _____

See attached Scope of Work _____

Documents To Be Furnished By The Consultant

See attached Scope of Work _____

CITY OF GIG HARBOR

EXHIBIT A---SCOPE OF SERVICES for ALTERNATIVE ANALYSIS, DETERMINATION OF PREFERRED ALTERNATIVE FOR HARBOR HILL DRIVE EXTENSION ROUTE AND PARK IMPROVEMENT PROJECT

This Scope of Services is for David Evans and Associates, Inc. (DEA) to assist the City of Gig Harbor (CITY) with the alternative analysis and determination of a preferred alternative for the extension of Harbor Hill Drive from its southerly terminus to Burnham Drive as well as assisting the CITY with master planning and conceptual design for the Harbor Hill Park.

The project will involve a roadway alternative analysis process and a public outreach process to arrive at a preferred alternative roadway alignment, development of the preferred alternative to a 30% design level and a park master planning and conceptual design process.

GENERAL ASSUMPTIONS

This Scope of Services is based on the following assumptions:

1. The budget for the Scope of Services is based on a project schedule of nine (9) months.
2. DEA and the CITY will hold one hour long progress and coordination meetings every two weeks for the project duration.
3. There will be two separate stakeholder committee processes (roadway and park) running concurrently.
4. Each of the Stakeholder meetings will be two hours long.
5. The Park design charette will be six hours long.
6. Public Open House will be three hours long.
7. City Council and Parks Commission briefings will be up to one hour long.
8. Any soil samples collected will be returned to the project site after testing. Off-site disposal of contaminated soil samples is not included in this scope of services. All soil samples collected will be retained by the consultant for a minimum of 12 months.
9. Evaluate up to six (6) roadway alignments.
10. Consider up to eight (8) separate tax parcels per alignment. The CITY will obtain Right of Entry permits from those property owners. DEA will make one telephone contact per property owner to obtain property owner concerns and related pertinent property information. Property owner visits are not included in this scope of services but will be provided as Extra Work if requested by the CITY.
11. Property cost per square foot values will be obtained from adjusted county assessed land values and available comparable land sales if available.

12. Significant damages to remainder properties, such as loss of developable area impacts, may require consultation with a qualified appraiser. Appraiser costs are not included in this scope of services.
13. Title Reports will not be required for this scope of services.
14. Environmental field work is limited to one (8-hour) day for one person.
15. Environmental field work is limited to the corridor for the preferred alignment, assumed to be approximately 2,000 feet long and 70 feet wide. Critical areas outside the preferred alignment will not be delineated, except for areas of cut and fill slopes.
16. The environmental memorandum is limited to documentation of existing conditions and will not assess impacts of the preferred alignment.
17. No more than one unrecorded archaeological site or one unrecorded historic site will be identified within the project area. Evaluation of more than one site will be provided as Extra Work.
18. No more than ten (10) shovel test probes for cultural resources investigations will be excavated. If extensive archaeological deposits are encountered or if additional shovel test probes are warranted within the project area they will be provided as Extra Work.
19. The preferred alignment site is underlain at shallow depth (i.e., less than 6 feet) by undisturbed dense glacial deposits. If during field investigations it is determined that a significant thickness (i.e. greater than 6 feet) of disturbed soil or loose fill or post-glacial unconsolidated soil exists, then our test pit investigation will need to be augmented with one or more deep borings. Such work is not included in this scope of services and will be provided as Extra Work.
20. All services will be provided based on the standard of care consistent with similar professionals providing similar services under similar conditions.
21. DEA will utilize to the greatest extent possible all previously completed environmental reports and studies prepared for the final design and permitting for the SR 16/ Borgen/, Burnham Roadway Improvement project.

TASK 1 - PROJECT MANAGEMENT

For this project task, DEA will:

1. Attend up to 20 one-hour long project meetings as requested by the CITY that will be held approximately every two weeks to discuss project issues, obtain project decisions from the CITY, or jointly develop project criteria for the development of the project;
2. Prepare and submit monthly invoices to the CITY and perform project administrative duties to coordinate and document work performed. The invoices will be broken into subsections that follow the tasks identified in this Scope of Services and will show the hours of work used for each task for the billing period and the individuals who worked on the project. The invoices will show mileage, postage, reprographic, and other expenses associated with the project;
3. Prepare weekly earned value report with graph showing earned costs incurred to date versus original budget;
4. Provide project management, administration, and supervision for the project to coordinate, document, and progress the work in conformance with the scope, schedule and budget;

5. Provide internal QA/QC review throughout the project.

Task Deliverables:

Meeting summaries.
Monthly invoices.
Weekly earned value report with graph.

TASK 2 – STAKEHOLDER COMMITTEE

For this project task DEA will:

1. Attend one two-hour meeting with the City, at a location, date and time to be established by the CITY, to develop the public outreach process and establish the stakeholder committee(s);
2. Prepare draft stakeholder notification letters for review and processing by the CITY.

Task Deliverables:

Draft stakeholder notification letters.

TASK 3 – ROADWAY ALTERNATIVE ANALYSIS

For this project task DEA will:

1. Review existing plans, studies and reports provided by the CITY. Collect and review existing environmental data for the project area (maps, GIS data, and studies and reports) from the CITY and other state and federal agencies.
2. Work with the CITY to design the stakeholder kickoff meeting. Prepare presentation materials for the meeting. Schedule, organize and facilitate the meeting with the intent of developing roadway alignment alternatives and developing the screening criteria. Prepare meeting summary and distribute to attendees.
3. Prepare up to six (6) roadway alternatives layouts. Development of additional alternatives requested by the CITY will be compensated as extra work as defined in this scope of services. This will include field review of each alignment for critical areas, geotechnical, and alignment issues, pending property owner permission to access private parcels. Existing Pierce County topographic information will be used to develop alignment profiles. Accuracy of the alignment profiles will be constrained by the accuracy of existing topographic information. Any survey work requested by the CITY will be compensated as extra work as defined in this scope of services.

- a. Develop planning level construction costs for each alternative.
- b. Create alternative screening matrix.
4. Work with the CITY to design the stakeholder 2nd meeting. Prepare presentation materials for the meeting. Schedule, organize and facilitate the meeting with the intent of evaluating roadway alignment alternatives using the screening matrix. Prepare meeting summary and distribute to attendees.
5. Revise roadway alternatives layouts one time for each alignment based on stakeholder input.
6. Work with the CITY to design the final stakeholder meeting. Prepare presentation materials for the meeting. Schedule, organize and facilitate the meeting with the intent of selecting the preferred roadway alignment. Prepare meeting summary and distribute to attendees.
7. An alternative analysis workshop will be held with the City and select members of the stakeholder group to evaluate and identify the criteria which will be utilized in arriving at the most preferred alternative.

Task Deliverables:

Meeting presentation materials
Meeting summaries
Preliminary roadway alternatives layouts
Planning level cost estimates
Screening matrix
Revised roadway alternatives layouts

TASK 4-PARK PLANNING PROCESS

For this project task, DEA will:

1. Review existing plans, studies and reports provided by the CITY. Collect and review existing environmental data for the park parcel (maps, GIS data, and studies and reports) from the CITY and other state and federal agencies, as appropriate.
2. Field visit to the park parcel to identify critical areas, vegetation to be preserved and opportunities to incorporate topography into park designs. Existing Pierce County topographic information will be used to develop park alternatives. Accuracy of the alternatives topography will be constrained by the accuracy of existing topographic information. Any survey work requested by the CITY will be compensated as extra work as defined in this scope of services.
3. Work with the CITY to design the stakeholder kickoff meeting. Prepare presentation materials for the meeting. Schedule, organize and facilitate the meeting as a park planning/design charette. Prepare meeting summary and distribute to attendees.

4. Develop up to three (3) alternative park uses. Development of additional alternatives requested by the CITY will be compensated as extra work as defined in this scope of services.
5. Work with the CITY to design the stakeholder 2nd meeting. Prepare presentation materials for the meeting. Schedule, organize and facilitate the meeting with the intent of reviewing park alternatives and receiving feedback from the stakeholders. Prepare meeting summary and distribute to attendees.
6. Revise park alternatives one time for each alternative based on stakeholder input.
7. Work with the CITY to design the final stakeholder meeting. Prepare presentation materials for the meeting. Schedule, organize and facilitate the meeting with the intent of selecting the preferred park alternative. Prepare meeting summary and distribute to attendees.

Task Deliverables:

Meeting presentation materials

Meeting summaries

Preliminary park alternatives

Revised park alternatives

Technical memo describing alternatives and providing cost estimates – sufficient detail for federal and or state grant applications

TASK 5–PUBLIC OUTREACH/COUNCIL REVIEW

For this project task, DEA will:

1. Work with the CITY to develop an update package for the Public Works Committee. Prepare presentation materials for distribution to the Committee. Assist the CITY in presenting the roadway and park alternatives to the Committee. Prepare a summary of Committee comments for review by the CITY.
2. Work with the CITY to develop a City Council update package. Prepare presentation materials for distribution to the Council. Assist the CITY in presenting the roadway and park alternatives to the Council. Prepare a summary of Council comments for review by the CITY.
3. Work with the CITY to design a public open house. Prepare presentation materials for the open house. Schedule, organize and facilitate the open house with the intent of soliciting public comments on the roadway and park alternatives. Consolidate public comments into a summary document.
4. Work with the CITY to develop a Parks Commission update package. Prepare presentation materials for distribution to the Commission. Assist the CITY in presenting the park alternatives to the Commission. Prepare a summary of Commission comments for review by the CITY.

5. Work with the CITY to develop a City Council preferred alternative approval package. Prepare presentation materials for distribution to the Council. Assist the CITY in presenting the roadway and park preferred alternatives to the Council.

Task Deliverables:

City Council update package
City Council approval package
Public Works Committee package
Parks Commission update package
Summary of Council comments
Summary of Commission comments
Open House presentation materials
Consolidated public comments

TASK 6-DESIGN DOCUMENTATION

For this project task, DEA will provide the following work for the preferred roadway alternative:

1. Prepare a Roadway Design Report which will establish basic design criteria that will be used for the development of the project plans. The Design Report will be a written document that will address pertinent geometric and project criteria. The report will follow the format established by WSDOT in their Design Manual and the LAG manual.
2. Prepare a Drainage Report. The Drainage Report will meet the requirements of the Gig Harbor Stormwater Design Manual.
3. Prepare a Geotechnical Report. This work will require collection and analysis of soil samples, pending property owner permission to access private parcels. The report will include recommendations about pavement section, wall design parameters and foundation design parameters. HWA will observe excavation of eight to ten test pits along the preferred alignment to investigate the subsurface soil and ground water conditions. During subsurface explorations, HWA field personnel will collect soil samples at selected depths for soil classification and laboratory testing purposes. HWA will also perform dynamic cone penetrometer (DCP) testing in selected test pits to supplement information needed for pavement design. This scope of work does not include any land clearing or permitting required for exploration work. If such work is necessary it will be performed as Extra Work.
4. Prepare AGI light level outputs to establish streetlight layout.
5. Prepare a Phase I environmental site assessment for the preferred alignment to identify potential hazardous materials. HWA will evaluate the Sportsman Club site for obvious evidence of contamination (petroleum or hazardous materials).

We propose the following scope of work, in general accordance with ASTM standard E-1527-05:

1. Conduct Environmental Data Review
2. Perform Site Examination
3. Interview Owners/Operators, and/or past owners/operators or neighboring property occupants (if necessary to achieve reporting objectives)
4. Prepare Environmental Site Assessment Report
6. Submit design documents to the CITY for review and comment.
7. Make one revision of the design documents per City comments.

Task Deliverables:

Design Report
Drainage Report
Geotechnical Report
AGI light level outputs
Phase I environmental site assessment

TASK 7---30% DESIGN

For this project task, DEA will provide the following work for the preferred roadway alternative:

8. Survey a 200-foot swath centered along the preferred alignment and develop a base map showing 1-foot contours and major physical features. Additional survey work will be completed at the intersection of the preferred alignment with Burnham Drive. Additional survey work will be completed to collect information regarding adjacent delineated wetlands and other critical topographic features. Existing parcel and right-of-way lines will be shown as per Assessor-Treasurers maps for properties within the project limits.
9. Develop preliminary roadway horizontal and vertical alignment.
10. Conduct preliminary environmental assessments. This work will include delineation of critical areas (streams and wetlands) within the preferred alignment. Prepare an environmental memorandum summarizing the results of the data collection and field surveys, including an itemized list of environmental permits and approvals needed for the preferred alignment. A separate technical memorandum will be prepared summarizing the results of the cultural and historic resource investigation.
11. Identify right-of-way issues for the preferred alignment. Prepare a technical memorandum identifying right-of-way issues and outlining the right-of-way access process.
12. Refine the roadway horizontal and vertical alignment based on the environmental and right-of-way assessments and CITY input.

13. Develop and analyze alternative intersection treatments for the intersection at Burnham Drive. Work with the CITY to select the preferred intersection treatment.
14. Prepare 30% design plans for the preferred alignment, including the following sheets:
 - a. Plan and profile
 - b. Intersection control
 - c. Drainage design
 - d. Channelization/signing design
 - e. Illumination design
 - f. Utility design
 - g. Landscape design
15. Develop right-of-way plans.
16. Prepare a 30% cost estimate for the preferred alignment, inclusive of all estimated design, permitting, construction, environmental and right of way procurement cost estimates.
17. Submit 30% plans to the CITY for review and comment.
18. Make one revision of the 30% plans per City comments.

Task Deliverables:

Survey basemap
Preliminary roadway alignment and profile
Environmental memorandum
Cultural resources assessment
Right-of-way memorandum
Revised roadway alignment and profile
Intersection alternatives
30% plans
Right-of-way plans
30% cost estimate

EXTRA WORK

DEA has the resources available to perform additional services in connection with the project at the request of the CITY. Extra work will be provided on a time and materials basis with the same overhead and fee rates as the original scope of work items. No extra work will begin until directed by the CITY and a budget supplement is executed.

SUBCONSULTANT SERVICES

DEA will enter into subconsultant contracts, once each subconsultant is approved by the CITY, with the following firms for the purpose of performing tasks required for this scope of services.

HWA GeoSciences, Inc. – Geotechnical services
EnviroIssues – Public outreach services
Universal Field Services, Inc. – Right-of-way services
Cultural Resource Consultants, Inc. – Cultural resource services

EXCLUSIONS

The following work tasks are not included in this Scope of Work, but may be added by the City on future phases:

1. Reports, data or information such as noise studies, air pollution data, or similar information.
2. Preparation or development of an environmental checklist, NPDES or other permits, or other environmental or permitting work.
3. Preparation of plans beyond 30%.
4. Preparation of specifications or other contract documents.
5. Project Funding Estimate (PFE) document for right-of-way.
6. Right-of-way appraisals.
7. Title reports.
8. Property legal descriptions.
9. Negotiations with property owners.

SERVICES PROVIDED BY THE CITY

The CITY will:

- Obtain permission to access onto private properties for project purposes.
- Provide all available plans, studies reports, or other pertinent documents to DEA.
- Provide current design standards and criteria in published form and in electronic format if needed by DEA.
- Provide all standards details needed for the project in electronic format compatible with AutoCAD 2012.
- Provide current storm drainage standards and criteria in published form and in electronic format if needed by DEA.
- Provide DEA with applicable utility permit and franchise information as needed to facilitate this project.

REIMBURSABLES

- Fees payable to various agencies for copies of legal documents obtained during the research phase of the project.
- Fees for reprographics, postage, and express mailing.
- Mileage.
- Bridge tolls.
- Utility locating services.

PROJECT COMPLETION

Work on this project shall begin upon receipt of Notice to Proceed and shall be complete no later than March 1, 2014 unless DEA encounters delays beyond its reasonable control.

The result of the work completed for this Scope of Work will become the basis for final design, permitting, and preparation of construction documents to be used at a future time when full project funding has been procured.

Harbor Hill Drive Extension Project Org Chart

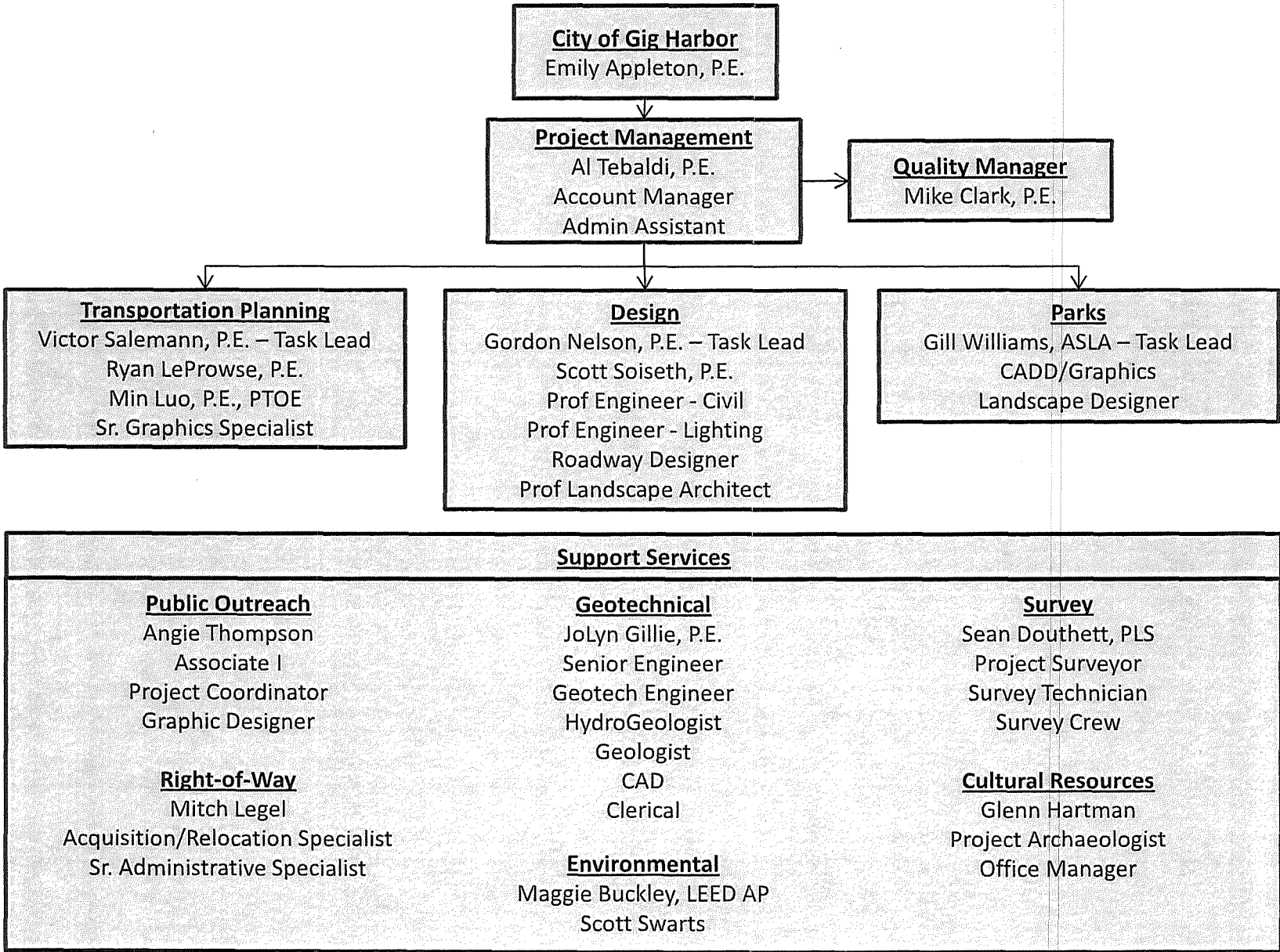


Exhibit D-2 Payment (Cost Plus a Fixed Fee)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work." The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, overhead, direct non-salary costs, and fixed fee.

1. Direct Salary Costs: The Direct Salary Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.
2. Overhead Costs: Overhead Costs are those costs other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the rate shown in the heading of this AGREEMENT under "Overhead Progress Payment Rate." Total overhead payment shall be based on the method shown in the heading of the AGREEMENT. The two options are explained as follows:
 - a. Fixed Rate: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT for overhead at the percentage rate shown. This rate shall not change during the life of the AGREEMENT.
 - b. Actual Cost: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT the actual overhead costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.

A summary of the CONSULTANTS cost estimate and the overhead computation is shown in Exhibit "E" attached hereto and by this reference made part of this AGREEMENT. When an Actual Cost method is used, the CONSULTANT (prime and all sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an overhead schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the overhead rate for billing purposes. It shall be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's overhead cost to reflect the actual rate.

Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed overhead costs until such time as the required information is received and an overhead rate for billing purposes is approved.

The AGENCY, STATE and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual overhead rate, if they so desire.

3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and sub-consultant costs.
 - a. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Cost
 - b. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable wh the PROJECT.
 - c. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
 - d. All above charges must be necessary for the services provided under this AGREEMENT.
4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in the heading of this AGREEMENT under Fixed Fee. This amount does not include any additional Fixed Fee, which could be authorized from the Management Reserve Fund. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."
5. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed

the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."6. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.

- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the calculated overhead and fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct Salary, Direct Non-Salary, and allowable Overhead Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed salary costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
- C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

- D. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, STATE and the United States, for a period of three (3) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

Exhibit E-1
Consultant Fee Determination - Summary Sheet
(Lump Sum, Cost Plus Fixed Fee, Cost Per Unit of Work)

Project: Harbor Hill Drive Extension

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	<u>Cost</u>
Principal in Charge	40	X	\$ 83.00		\$ 3,320.00
Project Manager	355	X	\$ 62.00		\$ 22,010.00
Transportation Planner	68	X	\$ 73.25		\$ 4,981.00
Senior Engineer	104	X	\$ 46.50		\$ 4,836.00
Prof Engineer - Modeling	80	X	\$ 44.00		\$ 3,520.00
Park Planner	138	X	\$ 45.00		\$ 6,210.00
CAD Specialist	142	X	\$ 28.25		\$ 4,011.50
Park Landscaper	88	X	\$ 37.00		\$ 3,256.00
Project Engineer	496	X	\$ 50.00		\$ 24,800.00
Sr. Prof Engineer	72	X	\$ 60.50		\$ 4,356.00
Prof Engineer - Civil	392	X	\$ 38.50		\$ 15,092.00
Prof Engineer - Lighting	52	X	\$ 44.50		\$ 2,314.00
Civil Designer	348	X	\$ 33.00		\$ 11,484.00
Survey Manager	52	X	\$ 62.00		\$ 3,224.00
Project Surveyor	160	X	\$ 41.25		\$ 6,600.00
Survey Tech	125	X	\$ 26.50		\$ 3,312.50
Survey Crew	160	X	\$ 62.00		\$ 9,920.00
Landscape Architect	20	X	\$ 43.50		\$ 870.00
Environmental Planner	60	X	\$ 35.25		\$ 2,115.00
Senior Scientist	66	X	\$ 40.50		\$ 2,673.00
Sr. Graphics Specialist	6	X	\$ 33.75		\$ 202.50
Account Manager	12	X	\$ 33.75		\$ 405.00
Admin Assistant	196	X	\$ 25.00		\$ 4,900.00
Total DSC =					\$ 144,412.50

Overhead (OH Cost -- including Salary Additives):

OH Rate x DSC of 175.34 % x \$ 144,412.50 \$ 253,212.88

Fixed Fee (FF):

FF Rate x DSC of 25 % x \$ 144,412.50 \$ 36,103.13

Reimbursables:

Reproduction, Printing, Postage, Express Delivery \$ 2,401.50
Mileage at \$.565 per mile plus tolls @ \$4.00 \$ 2,200.00
Utility locates \$ 2,000.00

Subconsultant Costs (See Exhibit G):

\$ 88,220.00

Grand Total

\$ 528,550.00

Prepared By: Al Tebaldi

Date: 3/1/13

Exhibit F
DEA Overhead



Washington State
Department of Transportation
Paula J. Hammond, P.E.
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300

360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

June 18, 2012

Mr. Ron Gasper, CFO
David Evans & Associates, Inc.
2100 SW River Parkway
Portland, OR 97201-8009

RE: David Evans & Associates, Inc. Overhead Schedule
Fiscal Year End October 29, 2011

Dear Mr. Gasper:

The Oregon Department of Transportation (ODOT) has concluded their Cognizant Audit of David Evans & Associates, Inc. (DEA). ODOT is the Cognizant State for DEA. ODOT accepted the audit performed by CPA Firm Grant Thornton, LLP. We were provided with their letter and a copy of the audit report.

Based on the cognizant state's audit and acceptance of the DEA rate, we are issuing this letter of review establishing DEA's overhead rate for the fiscal year ending October 29, 2011, at 175.34% of direct labor. Included within this rate is a Facilities Capital Cost of Money factor of 0.63% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.


Please check with the WSDOT Consultant Services Office (HQ) and/or the WSDOT Area Consultant Liaison to determine when this reviewed rate will be applicable to your WSDOT agreement (s).

Also, remember that when you provide next year's overhead schedule to our office, you will also need to submit **either** your internally prepared *Compensation Analysis* for our review, or use the *National Compensation Matrix* (NCM) format to prepare your alternate analysis and we will review that. The NCM is a tool that establishes compensation amounts presumed reasonable for certain executive positions. The *Compensation Analysis* and NCM are described further in the AASHTO Audit Guide, Chapter 7. We will need your *Compensation Analysis*, or alternative analysis based on use of the NCM, in order to complete our review of your overhead schedule.

Mr. Gasper
June 18, 2012
Page 2

If you, or any representative of DEA, have any questions, please contact Martha Roach, Jeri Sivertson, or Steve McKerney at (360) 705-7003.

Sincerely,



Martha S. Roach
Agreement Compliance Audit Manager

MR:ds
Enclosure

cc: Steve McKerney, Director of Internal Audit
Larry Schofield, MS 47323
File

Exhibit G
Subcontracted Work

The AGENCY permits subcontracts for the following portions of the work of this AGREEMENT:

See attached _____



HWA GEOSCIENCES INC.

Geotechnical & Pavement Engineering · Hydrogeology · Geoenvironmental · Inspection & Testing

January 22, 2013
HWA Proposal No. P7072

David Evans and Associates, Inc.
3700 Pacific Highway East, Suite 311
Tacoma, Washington 98424

Attention: Alan Tebaldi, PE

Subject: **PROPOSED SCOPE OF GEOTECHNICAL/ENVIRONMENTAL SERVICES**
Harbor Hill Drive Extension Project
Gig Harbor, Washington

Dear Al:

As requested, HWA GeoSciences Inc. (HWA) prepared this proposed scope of geotechnical engineering design support and environmental assessment services for the above project. We appreciate and thank you for the opportunity to provide services to David Evans and Associates on this project.

PROJECT UNDERSTANDING

The City of Gig Harbor plans to extend Harbor Hill Drive southward to Burnham Drive NE from its current termination location. The extension will likely cross the adjacent Sportsman Club property. The project includes evaluating up to six alternative alignments for the proposed extension. After selection of a preferred alternative, design will proceed to 30 percent including preparation of roadway, grading, and wall types, as needed. Constructability considerations, as well as projected construction costs, will also be provided.

PROPOSED SCOPE OF WORK

Based on your request for a proposal, as detailed in your e-mail on January 14, 2013, we propose the following scope of work and cost estimate for this project. The task numbers are based on those provided in your *Exhibit A – Scope of Services*, as they relate to geotechnical and environmental aspects of this project.

Task 1 – Project Management

- **Project Management** - Provide project management of the geotechnical and environmental tasks, and prepare monthly invoices over the course of the project. The project management cost is taken to be about 10% of the total labor cost.

21312 30th Drive SE
Suite 110
Bothell, WA 98021.7010

Tel: 425.774.0106

Fax: 425.774.2714

www.hwageo.com

January 22, 2013
HWA Proposal No. P7072

Tasks 3.2 and 3.4 – Stakeholder Meetings

- **Attend Stakeholder Meetings** – HWA will attend up to two stakeholder meetings to address any questions that may arise relating to geotechnical or contaminated soil aspects of the project. We assume each meeting will be about two hours long with one hour of travel within Pierce County.

Task 3.3 – Prepare Up to Six Roadway Layouts

- **Review Existing Geologic and Geotechnical Site Information** - HWA will review existing site information including geologic and Critical Areas maps, as well as any existing geotechnical exploration information for up to six different proposed alignments.
- **Review Existing Information Regarding Potentially Contaminated Soils** – HWA will review existing information regarding the potentially contaminated soils at the Sportsman Club site.
- **Participate in Field Reconnaissance** – HWA will participate in a field review, and perform a site reconnaissance for up to six proposed alignments. Our site reconnaissance will include evaluation of the existing slope stability. We assume two full days for a geotechnical engineer and one full day for a geologist.
- **Prepare a Letter Report** – HWA will prepare a letter report summarizing our findings from the site reconnaissance and review of existing information.
- **Correspondence Relating to Screening of Alignments** – HWA will correspond with the design team by phone and/or e-mail regarding our recommendations as they relate to screening of the proposed alignments.

Tasks 5.1 and 5.2 – Council Update Meetings

- **Attend Council Update Meetings** - HWA will attend up to two council update meetings to address any questions that may arise relating to geotechnical or contaminated soil aspects of the project. We assume each meeting will be about one hour long with one hour of travel within Pierce County.

Task 6 – Design Documentation

- **Perform a Phase I Environmental Site Assessment (ESA)** – HWA will evaluate the Sportsman Club site for obvious evidence of contamination (petroleum or hazardous materials). We propose the following scope of work, in general accordance with ASTM standard E-1527-05:
 - Conduct Environmental Data Review
 - Perform Site Examination

January 22, 2013
HWA Proposal No. P7072

- Interview Owners/Operators, and/or past owners/operators or neighboring property occupants (if necessary to achieve reporting objectives)
- Prepare Environmental Site Assessment Report

The entire ESA scope, based on the ASTM standard E-1527-05, is provided in Attachment 1.

- **Conduct Subsurface Explorations** – HWA will observe excavation of eight to ten test pits along the preferred alignment to investigate the subsurface soil and ground water conditions. During subsurface explorations, HWA field personnel will collect soil samples at selected depths for soil classification and laboratory testing purposes. We assume that all site access, utility locates, clearing and any permitting required for exploration work will be by others, at no additional cost to HWA. We have included the cost of an excavator and operator. Alternatively, the test pits could be dug and backfilled by City personnel. We will also perform dynamic cone penetrometer (DCP) testing in selected test pits to supplement information needed for pavement design.

This scope assumes the site is underlain at shallow depth (i.e., less than 6 feet) by undisturbed dense glacial deposits. If during the field investigation it is determined that a significant thickness (i.e. greater than 6 feet) of disturbed soil or loose fill or post-glacial unconsolidated soil exists, then our test pit investigation will need to be augmented with one or more deep borings. Such work would be considered an additional out of scope expense.

Soil disturbance at each test pit location should be anticipated. Test pits will be backfilled with the excavator bucket and some subsidence of test pit backfill should be anticipated.

HWA could incorporate a Phase II ESA for the Sportsman Club in the geotechnical exploration program, which ultimately reduces the cost of performing the Phase II ESA. Scoping for the Phase II ESA is best determined based on the results of the Phase I, but might include soil sampling and analysis in conjunction with the geotechnical explorations. The Phase II ESA is not included in this proposal and would be considered an additional out of scope expense.

- **Prepare Test Pit Logs and Assign Laboratory Testing** – HWA will prepare summary test pit logs and perform laboratory testing to evaluate relevant physical properties of the site soils. Laboratory testing would include moisture content, grain-size distribution, Atterberg Limits, California Bearing Ratio (CBR), and moisture-density (Modified Proctor) tests.
- **Perform Engineering Analyses** – HWA will evaluate data derived from the subsurface investigation and laboratory-testing program, and perform relevant engineering analyses. This will include:

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- Evaluation of slope stability,
 - Recommendations for illumination pole foundations,
 - Recommendations for retaining walls, including bearing capacities and lateral earth pressures, and
 - Recommendations for roadway cuts or embankments, as needed.
-
- **Pavement Design** – HWA will develop recommendations for pavement design based on traffic volumes provided by the City or Client. The AASHTO 1993 method of pavement design will be used.
 - **Prepare a Draft Geotechnical Engineering Report** – Our geotechnical engineering report will contain the results of the geotechnical engineering investigation, including description of surface and subsurface conditions; a site plan showing exploration locations and other pertinent features; summary test pit logs; and laboratory test results. The report will provide geotechnical recommendations for wall design and construction the proposed retaining walls, structural backfill, illumination pole foundations, and pavement design and recommendations.
 - **Prepare a Final Geotechnical Engineering Report** - We will finalize our geotechnical report once we receive any review comments from DEA and the City of Gig Harbor.

Task 7 – 30 Percent Design

- **Design Support** – HWA will review the preferred roadway profile and correspond with the design team by phone and/or e-mail regarding our recommendations as they relate to location, design and constructability of proposed wall(s), slope stability, and/or roadway embankments.

COST ESTIMATE

Based on our understanding of the project and our current knowledge of site conditions, we propose to provide the above services on a time and expense basis using the rates indicated on the attached spreadsheet. We are proposing to perform this work for an estimated cost not to exceed \$37,928. However, if during the evaluation unexpected conditions are revealed, or you request analyses and evaluations which require a level of effort beyond this work scope and budget, we will contact you immediately to discuss any necessary modifications to our scope of services and/or budget estimate.

ASSUMPTIONS/LIMITATIONS

- All labor hours and expense items are estimated, and may be increased or decreased within the limits of the budget at the discretion of HWA's project manager. The HWA project manager may also transfer funds allocated for direct costs to professional/technical hours or vice versa, to satisfy project requirements.

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- HWA will keep all soil samples collected during the course of these investigations until 30 days after issuance of our final report. Prior to disposal, we will contact you. You may direct us to dispose of the samples, store the samples for a monthly charge, or to deliver the samples to you for a charge. If you request, HWA will store the samples for a flat rate of \$100 per month. HWA can also deliver the samples to the owner for a maximum charge of \$100. We will notify you of the monthly rate for storage prior to disposal or in-house storage. Our proposed project costs do not include the cost of sample storage.
- Soil samples collected from the Sportsman Club site may be contaminated, requiring special handling in HWA's laboratory, and disposal in a licensed off site facility, or return to the site of origin. This proposal assumes all soil samples will be returned to the site after analysis.



We appreciate the opportunity to provide this proposal for geotechnical engineering services. If you have any questions regarding this proposal, or require additional services, please contact the undersigned at your convenience.

Sincerely,

HWA GEOSCIENCES INC.

A handwritten signature in cursive script that reads "JoLyn Gillie".

JoLyn Gillie, P.E.
Geotechnical Engineer

Encl. Project Cost Estimate

Attachment 1 – Phase I ESA – Complete Scope

ATTACHMENT 1

Proposed Scope of Services Phase I Environmental Site Assessment

The primary objective of the Phase I ESA is to evaluate the subject site for obvious evidence of contamination (petroleum or hazardous materials). To accomplish the above-stated objectives, we propose the following scope of work, in general accordance with ASTM standard E-1527-05:

- Conduct Environmental Data Review
- Perform Site Examination
- Interview Owners/Operators, and/or past owners/operators or neighboring property occupants (if necessary to achieve reporting objectives)
- Prepare Environmental Site Assessment Report

The Phase I ESA will be performed by HWA staff who, to the best of our professional knowledge and belief, meet the definition of Environmental professional as defined in §312.10 of 40 CFR 312. These staff have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property.

User-Provided Information

Please note compliance with the ASTM E-1527-05 standard includes information that must be provided by you, the user, which are summarized below. HWA will list any omissions in this information as data gaps in the report.

- Any specialized knowledge or experience of user or prospective property owner of the subject property or surrounding areas that is material to RECs in connection with the subject property must be documented or taken into account during the inquiries. If this information is not provided to us, we will list it as a data gap in the report, along with an opinion as to its significance.
- The ASTM E-1527-05 standard requires you to consider whether any significant difference between the purchase price and the fair market value (if property were uncontaminated) is due to RECs. This information need not be included in the report. If this information is not provided to us, we will list it as a data gap in the report, along with an opinion as to its significance.

The ASTM E-1527-05 standard requires the user or prospective property owner to search for any records of environmental cleanup liens or activity and use limitations (such as engineering and institutional controls) on the subject property recorded under federal, state, local or tribal laws. HWA will subcontract Environmental Data Resources (EDR) to provide this information.

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Attachment A to this proposal includes a questionnaire for the user or prospective property owner to complete and submit to the environmental professional (HWA), as required per ASTM 1527-05. As stated in the ASTM questionnaire *"failure to provide this information could result in a determination that "all appropriate inquiry" is not complete."* In order to achieve the schedule proposed herein, HWA requests the completion of this questionnaire within three days of execution of a contract and notice to proceed.

Additional information on the questionnaire that we request prior to beginning our Phase I ESA but that may not be required to seek liability protection under CERCLA, includes:

- Subject property address, legal description, tax parcel number, etc.
- Subject property owner and operator contact and access information
- Reason for conducting the Phase I ESA. If none is given, we will assume it is to seek landowner liability protection under CERCLA, and we will state so in the report.
- Type of property
- Type of transaction (e.g., sale, purchase, exchange, etc.)
- Whether any parties to the property transaction have specific requirements of the scope of the Phase I ESA
- Identification of all parties who may rely on the Phase I ESA report
- Any previous existing environmental data, e.g. other Phase I or II ESA's or other relevant reports, documents, correspondence, etc.

ENVIRONMENTAL DATA REVIEW

HWA will begin the data review with an evaluation of available site characterization data. This includes historical information on the property, environmental and regulatory information, hydrogeological data, and information on chemical and hazardous wastes which may have been stored or generated on site. More specifically, this records search will focus on the identification of any record of the presence of hazardous substances, underground storage tanks (USTs), or hazardous substance spills. HWA will subcontract a database search firm to review federal, state, and local agency databases. A chain-of-title report is not included in this proposal. HWA will provide a cost estimate for this service upon request. HWA will examine the following available records:

General and Historical

HWA will review readily-available historical information back to first developed use of the property. Historical sources will include, but not be limited to, the following:

- Site maps and plot plans
- Historical and current aerial photos
- Historical fire insurance maps, if coverage is available

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Environmental / Regulatory

HWA will review federal, state, and tribal environmental database information for the subject property and surrounding vicinity. Database listings will include, but not be limited to, the following:

- National Priority List (NPL, Superfund sites)
- Resource Conservation and Recovery Act (RCRA) treatment, storage and disposal (TSD) sites
- Washington State Department of Ecology (Ecology) Confirmed And Suspected Contaminated Sites Report
- Comprehensive Environmental Response Compensation and Liability Information System list (CERCLIS)
- Ecology Leaking UST list
- Landfills/solid waste disposal sites
- Ecology Registered UST list
- RCRA Generators & Transporters
- Emergency Response Notification System (ERNS) list

Geological/Hydrogeological

- Types of soils underlying the site as determined from available geotechnical reports, inspections, soil boring logs, etc.
- General direction of ground water gradient

Chemical and Hazardous Waste

- Description of production processes and chemicals used or stored on the property
- Reports of analysis of identified waste streams
- Information on discharge points and water resources
- Description of uncontrolled releases, spills, or permit excursions

SITE EXAMINATION

Following the review of available data, the project team will perform a site reconnaissance of the property. The project team will inspect the site to evaluate potential sources of contamination such as: chemicals and containers, fill dirt, pits, lagoons, above ground or underground storage tanks and pipes, stained soil, construction debris and refuse, transformers, etc. HWA will also evaluate properties adjacent to the site for potential contamination of the site from runoff of surface water, erosion, spill overflow or dumping. We will document observed potential problems with photographs for evaluation purposes.

This scope of work does not include any specific testing or analysis to determine the presence or absence of any chemical, physical, radiological, or biological hazard or condition, including, but not limited to: underground storage tanks, wetlands, endangered species issues, asbestos containing materials, lead-based paint, lead in drinking water, radon, metals, petroleum hydrocarbons, volatile organics, pesticides, or PCBs.

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OWNER / OPERATOR INTERVIEWS

The project team may interview current and past owners, tenants and site personnel to obtain information on site material management and operations. Items that may be discussed include:

- Current site use
- Past site history
- Material and waste handling practices
- Past spill incidents
- Physical characteristics of the site
- Use of surrounding properties

REPORT PREPARATION

HWA will evaluate the information gathered and assessed in the Phase I Assessment with regards to the overall environmental quality of the subject site within the context of appropriate regulatory constraints. The report will clearly state the investigator's opinion, based on the limited information gathered and professional experience. Possible outcomes and conclusions of the assessment include:

- No recognized environmental conditions identified; completion of the assessment sufficient for property transfer, insurance, refinancing, etc.
- Some recognized environmental conditions requiring limited surficial sampling and analysis; recommend expanded Phase I assessment.
- Significant recognized environmental conditions requiring sampling and analysis; recommend Phase II assessment.

If project data indicates that additional work at the site is warranted, we will provide specific recommendations for a Phase II Assessment. This will include rationale for recommended sampling and analyses.

**City of Gig Harbor
Harbor Hill Drive Extension Route and Park Improvement – CSP - 1214
Right of Way Support**

Task 3.3 – Develop Planning Level Cost Estimates and Create Alternative Screening Matrix

- Assist the team in developing right-of-way costs for 6 alternatives based on preliminary plans and property acquisition square footage calculations provided by DEA.
- Provide estimated cost per square foot; estimate cost-to-cure to mitigate damages; business / residential / personal property only move expenses; and related issues.

Assumptions:

- 1) Attend team kick off meeting – DEA Office
- 2) Up to six (6) alignments will be created for ROW related evaluations
- 3) Consider up to eight (8) separate tax parcels per alignment
- 4) Property owners will not be contacted under this task
- 5) Three (3) separate field trips may be necessary to confirm ROW related impacts
- 6) Property cost per square foot values will be obtained from adjusted county assessed land values and available comparable land sales if available.
- 7) Cost to Cure estimates to mitigate acquisition damages such as septic system replacement, walls, drainage improvements to be provided by DEA or others.
- 8) Title Reports not provided
- 9) Excludes Park Planning evaluation

Task 7.4 – Identify Right-of-Way Issues for the Preferred Alignment

- Obtain Right of Entry permits as needed for investigational geotechnical, environmental studies, land survey requirements, etc.
- UFS will assist the team in identifying right-of-way acquisition impacts and related issues for the preferred alignment and advise the team on possible cost mitigating strategies during 30% design.

Assumptions:

- 1) Obtain a total of eight (8) Right of Entry Permits from the same property owners identified in Task 3.3 above.
- 2) As directed by DEA, inquire and follow-up by telephone with those property owners identified in item 1 above to discuss and obtain property owner concerns and related pertinent property information.
- 3) Provide written property owner concerns to DEA.
- 4) Title Reports not provided.
- 5) Excludes Park Planning evaluation

1-18-13

Task 7.8 – Develop Right-of-Way Plans

- Review Right of Way Plan for the preferred alignment and provide suggested revisions to support the minimal WSDOT LAG Manual and Plan Preparation guidelines and requirements. Particular items shown on Right of Way Plans are considered very useful for the project Appraiser, Acquisition and Relocation Specialist.

Assumptions:

- 1) Plan reviews will be completed in-house (Universal office)
- 2) Field trips for assessment or clarifications are not anticipated
- 3) Title Reports not provided
- 4) Excludes Park Planning evaluation

Task 7.9 – 30% Cost Estimate

- Coordinate with the team to refine the cost estimate developed during Task 3.3 for the preferred alignment.
- Build on the work completed in Task 7.8 identifying key issues, potential mitigation measures, and estimated costs related to property acquisition for DEA's technical memorandum.
- Complete a refined estimate similar to a True Cost Estimate as defined in WSDOT's LAG Manual Section 25 – Right of Way Procedures.
- Develop a Preliminary Right of Way Acquisition Schedule.

Assumptions:

- 1) Property cost per square foot values will be obtained from adjusted county assessed land values and available comparable land sales if available.
- 2) Cost to Cure estimates to mitigate acquisition damages such as septic system replacement, walls, drainage improvements to be provided by DEA or others.
- 3) Significant damages to remainder properties, such as loss of developable area impacts, may require consultation with a qualified appraiser.
- 4) Title Reports not provided.

City of Gig Harbor

EnviroIssues Scope of Services for

ALTERNATIVE ANALYSIS, DETERMINATION OF PREFERRED ALTERNATIVE FOR HARBOR HILL DRIVE
EXTENSION ROUTE AND PARK IMPROVEMENT PROJECT

EnviroIssues
Scope of Work

Assumptions

- Project will last nine (9) months
- Stakeholder committee processes (roadway and park) will run concurrently
- Stakeholder committee meetings will be two hours each
- Park charrette will be six hours
- Public open house will be three hours
- Postage, mail house, and printing costs will be paid by the City

Task 1: Project Management

For this task, EnviroIssues will:

- Prepare and submit monthly invoices and perform team coordination and project administrative duties as required

Deliverables

- Monthly invoices

Task 2: Stakeholder Committee

For this task, EnviroIssues will:

- Attend the two-hour meeting with the City to develop outreach process and identify stakeholder committee members
- Draft stakeholder member notification letters for review and distribution by the City

Deliverables

- Outreach plan
- Stakeholder member notification letters

Task 3: Roadway Alternative Analysis

For this task, EnviroIssues will:

- Develop one (1) stakeholder committee work plan and strategy for the roadway alternative analysis
- Develop three (3) stakeholder meeting agendas, including meeting format and exercises
- Attend one (1) one-hour planning meeting prior to each stakeholder committee meeting (total of three meetings)
- Review and edit presentation materials for each stakeholder committee meeting and any other meeting materials for distribution (initial presentation will be prepared by technical team)
- Attend, facilitate and summarize three (3) two-hour stakeholder committee meetings

Deliverables

- Stakeholder committee work plan (1)
- Stakeholder meeting agendas (3)
- Compiled stakeholder committee meeting materials (3 sets)
- Stakeholder committee meeting summaries (3)

Task 4: Park Planning Process

For this task, EnviroIssues will:

- Develop one (1) stakeholder committee work plan and strategy for the park planning process
- Develop three (3) stakeholder meeting agendas, including meeting format and exercises
- Attend one (1) one-hour planning meeting prior to each stakeholder committee meeting (total of three meetings)
- Review and edit presentation materials for each stakeholder committee meeting and any other meeting materials for distribution
- Attend, facilitate and summarize three (3) stakeholder committee meetings, one (1) six-hour charrette and two (2) two-hour meetings

Deliverables

- Stakeholder committee work plan (1)
- Stakeholder meeting agendas (3)
- Compiled stakeholder committee meeting materials (3 sets)
- Stakeholder committee meeting summaries (3)

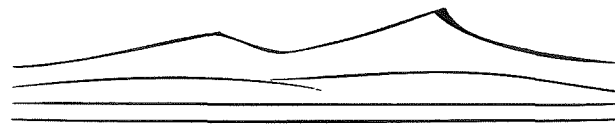
Task 5: Public Outreach/Council Review

For this task, EnviroIssues will:

- Support development of briefing materials (up to 2 sets)
- Attend one (1) one-hour planning meeting prior to the public open house
- Coordinate logistics for the open house, including venue details, supplies, and refreshments
- Develop open house notification postcard to mail to the community
- Develop presentation materials for open house, including up to eight (8) display boards and one PowerPoint presentation (assumes graphics and maps provided by technical team)
- Attend, facilitate and summarize one (1) three-hour public open house, including transcribing any comments received

Deliverables

- Briefing materials (2 sets)
- Notification postcard (1)
- Open house materials, including agenda, comment form, nametags, sign-in sheet, directional signs
- Display boards (8)
- PowerPoint presentation
- Public open house summary (1)



Cultural Resource Consultants, Inc.

Project Scope and Fee Agreement

Client Information

Company	Phone	Fax	website
David Evans and Associates Inc.	425 586-9792	0	
Mailing Address	City	State	Zip
415 - 118th Ave SE	Bellevue	WA	98005

Project Manager Information

Name	Direct Line	Cell	Email
Maggie Buckley	425 586-9792		Mmbr@deainc.com

Project Information

Project Title	Client Project Number	CRC Project Number		
Harbor Hills Alternative Analysis		1301G		
Project Location	City			
Off Highway 16 and south of Borgen Blvd, near Burnham Drive and Harbor Hill Drive	Gig Harbor			
Section	Township	Range	County	Total Project Area
0	0	0	Pierce	0

Project Schedule

Anticipated Completion Date:

Proposal 2013

CRC anticipates completion of field investigation within 45 days of this signed contract. A final report will be submitted within 30 days of fieldwork completion.

Project Description

David Evans and Associates, Inc., on behalf of the City of Gig Harbor, is requesting CRC assistance on the Harbor Hills Alternative Analysis, specifically tasks to include:

- Task 3 (Roadway Alternative Analysis) – conduct a desktop review of existing cultural information; contribute to the development of screening criteria for the roadway alignments; conduct a 2-day field review of the 6 alignments; assign a cultural “sensitivity” to each of the 6 alignments. No specific deliverable required for you on this piece, just support the alternatives analysis process.
- Task 4 (Park Planning Process) – conduct a desktop review of existing cultural information; conduct a field review of the park property; identify any specific areas of cultural sensitivity on the property. No specific deliverable required for you on this piece, just support the alternatives analysis process.
- Task 7 (30% Design) – after the preferred roadway alignment has been selected, prepare a cultural resources assessment. Assume for scoping purposes that the preferred alignment is 2,000 feet long and 70 feet wide. The City will be applying for funds to construct the project, so there is not currently a federal trigger to comply with Section 106.

Project Assumptions

- * This scope and budget is based upon information provided on 15 January 2013. Any changes may require a change in budget to accommodate updating project information not received prior to the start of this project.
- * This scope assumes that no more than one unrecorded archaeological site or one unrecorded historic site will be identified within the project area. It would be necessary to adjust the budget if additional sites are found. This budget was prepared with the assumption that no more than ten (10) shovel test probes would be excavated. If extensive archaeological deposits are encountered or if additional shovel test probes are warranted within the project area it may be necessary to modify this agreement to accommodate additional investigations for purposes of site identification.
- * This scope assumes that no meetings with clients and/or stakeholders will be required.
- * This scope assumes that project proponents can provide immediate Right Of Entry to CRC so the project may be completed within the stated project schedule.
- * If human remains are found within the project area, all CRC field investigations will cease immediately, proper authorities will be notified and CRC will not resume field investigations until applicable state laws are addressed.
- * CRC assumes our report will be submitted to DAHP (cover page provided; however, the client should include their own cover letter requesting review) within 15 days of receipt of said report for review. CRC cannot be held liable for reports prepared but not submitted to DAHP in a timely manner. Additional fees may apply for additional services required as part of DAHP’s review process for reports submitted after 15 days of receipt.
- * Due to recent changes in Washington State Law (RCW 19.122), this budget assumes the client will provide utility locator services prior to CRC field investigations.

Project Deliverables

CRC will provide the following project components as part of this Alternative Analysis and the cultural resources assessment. (Task numbers refer to DEA project tasks)

Task 3 - (Roadway Alternative Analysis)

CRC Hours Budget: 19

A CRC Project Archaeologist will conduct a desktop review of existing cultural information; contribute to the development of screening criteria for the roadway alignments; conduct a 2-day field review of the 6 alignments; and assign a cultural "sensitivity" to each of the 6 alignments.

Task 4 - (Park Planning Process)

CRC Hours Budget: 18

A CRC Project Archaeologist will conduct a desktop review of existing cultural information; conduct a field review of the park property; and identify any specific areas of cultural sensitivity on the property.

Task 7 - (30% Design)

CRC Hours Budget: 26

A CRC Project Archaeologist will conduct a cultural resources assessment of the defined project area after the preferred roadway alignment has been selected. Assumption for scoping purposes is that the preferred alignment will be 2,000 feet long and 70 feet wide. CRC will provide the following tasks as part of this cultural resources assessment.

*** Background Research**

CRC will utilize Task 3 and Task 4 research and conduct a search of site files recorded at Washington Department of Archaeology and Historic Preservation (DAHP); review of relevant correspondence between the project proponent, stakeholders and DAHP; and, review of pertinent environmental, archaeological, ethnographic and historical information appropriate to the project area.

*** Tribal Contact**

CRC will contact the cultural resources staff of tribes that may have an interest in the project area.

*** Field Identification**

CRC will provide a field investigation of the project location for identification of archaeological and historical resources and, if necessary, excavation of shovel test probes or other exploratory excavations in environments that might contain buried archaeological deposits. Field methods will be consistent with DAHP guidelines.

*** Documentation of Findings**

CRC will document and record archaeological and historic sites within the project area, including preparation of Washington State archaeological and/or historic site(s) forms. Documentation will be consistent with DAHP standards.

*** Cultural Resources Assessment Report**

CRC will prepare a technical memo describing background research, field methods, results of investigations, inadvertent discovery plan and management recommendations. The report will provide supporting documentation of findings, including maps and photographs, and will conform to DAHP reporting standards. Report and support materials will be provided electronically and on a CD. Print copies will be provided upon request.

* No cultural resources study can wholly eliminate uncertainty regarding the potential for prehistoric sites, historic properties or traditional cultural properties to be associated with a project. The information we will present within our reports is based on our years of experience and professional opinions derived from the analysis and interpretation of the documents, records, literature, and information we are able to identify and use within our report, and during our field investigation and observations to be conducted in the process of preparing our technical report. The conclusions and recommendations we present will apply to the project conditions existing at the time of our study and those reasonably foreseeable.

Project Fee

Please Note: The time frame and fee for services quote is valid for 60 days.

The fee for services described above is anticipated to be less than \$ **4,670.00**

The cost for this project is based upon information we have received to date.

Payment for work completed is typically due upon receipt of invoice and/or report. Will you require any additional documentation prior to processing the invoice for work completed on this project?

- Subconsultant Agreement
- Certificate of Insurance
- W-9 Information

David Evans and Associates Inc.

Maggie Buckley
415 - 118th Ave SE
Bellevue, WA 98005

Cultural Resource Consultants, Inc.

Glenn Hartmann
PO Box 10668
Bainbridge Island, WA 98110

Name/Title:

Glenn D. Hartmann,

President/Principal Investigator

Date: _____

Date: _____

Exhibit G-1
Subconsultants' Fee

Exhibit G-1
Subconsultant Fee Determination - Summary Sheet
(Mandatory when Subconsultants are utilized)

Project: HARBOR HILL DRIVE EXTENSION PROJECT

Sub Consultant: HWA GeoSciences

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	<u>Cost</u>
<u>Principal</u>	<u>14</u>	X	<u>72.00</u>		\$ <u>1,008.00</u>
<u>Senior Engr</u>	<u>26</u>	X	<u>45.67</u>		<u>1,187.42</u>
<u>Geotech Engr</u>	<u>108</u>	X	<u>38.94</u>		<u>4,205.52</u>
<u>Hydro Geol</u>	<u>46</u>	X	<u>34.62</u>		<u>1,592.52</u>
<u>Geologist</u>	<u>32</u>	X	<u>31.39</u>		<u>1,004.48</u>
<u>CAD</u>	<u>10</u>	X	<u>22.07</u>		<u>220.70</u>
<u>Clerical</u>	<u>4</u>	X	<u>20.82</u>		<u>83.28</u>
		X			
		X			
Total DSC =					\$ <u>9,301.92</u>

Overhead (OH Cost -- including Salary Additives):

OH Rate x DSC of 188.32 % x \$ 9,301.92 = 17,517.40

Fixed Fee (FF):

FF Rate x DSC of 30 % x \$ 9,301.92 = 2,790.58

Reimbursables:

Itemized - See HWA Project Cost Est. = 4,316

SubConsultant Total

= 2,200

Grand Total

= 36,126

Prepared By: JOLYN GILLIE

Date: 2/14/2013

**Exhibit G-1
Subconsultant Fee Determination - Summary Sheet
(Mandatory when Subconsultants are utilized)**

Project: Harbor Hill Drive Extension Route and Park Improvement

Sub Consultant: Universal Field Services, Inc.

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>	<u>Rate</u>	<u>=</u>	<u>Cost</u>
<u>Project Oversight</u>	<u>68</u> x	<u>50.24</u>	<u>\$</u>	<u>3,416</u>
<u>Acquisition/Relocation Specialist</u>	<u>106</u> x	<u>37.00</u>	<u>\$</u>	<u>3,922</u>
<u>Sr. Administrative Specialist</u>	<u>22</u> x	<u>29.00</u>	<u>\$</u>	<u>638</u>
Total DSC				<u>7,976</u>

Overhead (OH Cost – Including Salary Additives):

OH Rate x DSC of 73.41% x \$ 7,976 5,855

Fixed Fee (FF):

FF Rate x DSC of 28.00% x \$ 7,976 2,233

Reimbursables:

Mileage: 1725 \$0.565 / mile 975

Miscellaneous 150

Subconsultant Total: N/A 0

Grand Total 17,189

Prepared By: Mitch Legel

Date: February 14, 2013

**Exhibit G-2
Subconsultant Fee Determination - Summary Sheet
(Specific Rates of Pay)
Fee Schedule**

Universal Field Services, Inc.				
Discipline or Job Title	Hourly Rate	Overhead @ <u>73.41</u> %	Profit @ <u>28.00</u> %	Rate Per Hour
Project Oversight	\$50.24	\$36.88	\$14.07	\$101.19
Acquisition/Relocation Specialist	\$37.00	\$27.16	\$10.36	\$74.52
Sr Administrative Specialist	\$29.00	\$21.29	\$8.12	\$58.41

Exhibit G-1
Subconsultant Fee Determination - Summary Sheet
(Mandatory when Subconsultants are utilized)

Project: Harbor Hill Drive

Sub Consultant: Enviro Issues

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	<u>Cost</u>
<u>Associate III</u>	<u>97</u>	X	<u>45.00</u>	\$	<u>4,365</u>
<u>Associate I</u>	<u>82</u>	X	<u>29.00</u>		<u>2,378</u>
<u>Project Coordinator</u>	<u>135</u>	X	<u>22.00</u>		<u>2,970</u>
<u>Graphic Designer</u>	<u>37</u>	X	<u>22.00</u>		<u>814</u>
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____

Total DSC = \$ 10,527

Overhead (OH Cost -- including Salary Additives):

OH Rate x DSC of 152.82 % x \$ 10,527 = 16,087

Fixed Fee (FF):

FF Rate x DSC of 30 % x \$ 10,527 = 3,158

Reimbursables:

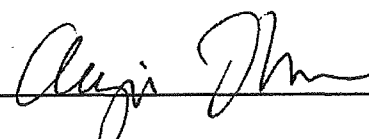
Itemized = 463

SubConsultant Total

= 30,235

Grand Total

= _____

Prepared By: 

Date: 2/15/2013

Cultural Resource Consultants, Inc.
Subconsultant Fee Determination - Summary Sheet

Project: Harbor Hills Alternative Analysis
CRC #: 1301G - David Evans and Associates

Direct Labor Cost

<u>Classifications</u>	<u>Labor Hours</u>	x	<u>Rate</u>	=	<u>Cost</u>
Principal Investigator	4.0		\$ 62.02	\$	248.08
Project Archaeologist I	0.0		\$ 34.27	\$	-
Project Archaeologist II	56.0		\$ 30.47	\$	1,706.32
Project Archaeologist III	0.0		\$ 29.92	\$	-
Field Archaeologist I	0.0		\$ 24.00	\$	-
Field Archaeologist II	0.0		\$ 21.00	\$	-
Field Archaeologist III	0.0		\$ 18.49	\$	-
Historic Architect	0.0		\$ 43.52	\$	-
Project Historian	0.0		\$ 31.55	\$	-
Office Manager	3.0		\$ 31.01	\$	93.03
Office Assistant	0.0		\$ 18.50	\$	-
	63.0			\$	2,047.43
Overhead (OH Cost - - including Salary Additives):					
OH Rate x DLC of:	95%	%x\$	\$ 2,047.43	\$	1,945.06
Fixed Fee (FF):					
FF Rate x DLC of:	20%	%x\$	\$ 2,047.43	\$	409.49
Reimbursables:					
Photo & Graphic Supplies				\$	50.00
Lodging:				\$	-
Per Diem:				\$	-
Mileage:				\$	218.03
				\$	268.03
Grand Total:				\$	4,670.00

Prepared by: Teresa Peterson, Office Manager
DOT Form 140-089 EF Exhibit G-1

Date: 1-Mar-13

Exhibit G-3
Subconsultants' Overhead

RECEIVED

JUL 21 2011



Washington State
Department of Transportation
Paula J. Hammond, P.E.
Secretary of Transportation

HWA GeoSciences Inc.

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300

360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

July 19, 2011

Arnie Sugar, President
HWA GeoSciences, Inc.
21312 30th Drive SE, Suite 110
Bothell, WA 98021-7010

Re: HWA GeoSciences, Inc. Overhead Schedule
Fiscal Year End December 31, 2009

Dear Mr. Sugar:

On July 19, 2011, as a WSDOT representative, Nicole Mitchell, Audit Specialist, completed a desk review of your proposed FYE December 31, 2009, Overhead Schedule. Nicole also reviewed the documentation provided by HWA GeoSciences, Inc. during this review process.

The reviewed data included, but was not limited to; the schedule of the indirect cost rate, a description of the company, basis of accounting and description of HWA GeoSciences' accounting system and the basis of indirect costs.

Based on our work, we are issuing this letter of review establishing HWA GeoSciences' overhead rate for the fiscal year ending December 31, 2009, at 188.32% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

Please check with the WSDOT Consultant Services Office (HQ) and/or the WSDOT Area Consultant Liaison to determine when this reviewed rate will be applicable to your WSDOT agreement(s).

If you or any representatives of HWA GeoSciences have any questions, please contact Martha Roach, Jeri Sivertson, or Steve McKerney at (360)705-7003.

Sincerely,

A handwritten signature in cursive script that reads "Martha Roach".

Martha S. Roach
Agreement Compliance Audit Manager

MR:ds
Enclosures

cc: Steve McKerney, Director of Internal Audit
Jeri Sivertson, Assistant Director of Internal Audit
Larry Schofield, MS 47323
File

HWA GeoSciences, Inc.
Overhead Schedule
Fiscal Year December 31, 2009

Description	GL Amount	HWA Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
Direct Labor Base	<u>\$1,206,001</u>	(13,281)	\$61,994	F,P	<u>\$1,254,714</u>	100.00%
Overhead Costs						
Indirect Salaries	\$204,036	(32,231)	(\$61,994)	F, H,P	\$109,811	8.75%
Indirect Labor - Admin	710,766	(2,760)		J	708,006	56.43%
Payroll Taxes	181,650				181,650	14.48%
Group Insurance	204,851				204,851	16.33%
Workers Compensation	7,409				7,409	0.59%
Bonus	165,143				165,143	13.16%
401(k) Plan Employer Contribution	72,437				72,437	5.77%
Vacation, Holiday & Sick	283,542		(10,227)	Q	273,315	21.78%
Other Employee Benefits	2,446				2,446	0.19%
Office Rent	185,145				185,145	14.76%
Other Rentals	7,656				7,656	0.61%
Depreciation	56,256				56,256	4.48%
Repairs & Maintenance	11,709				11,709	0.93%
Computer Expense	12,205				12,205	0.97%
Office Supplies	17,806				17,806	1.42%
Lab/Field Supplies	22,332				22,332	1.78%
Reproduction & Printing	21,293				21,293	1.70%
Travel & Related Expense	23,321				23,321	1.86%
Vehicle Repair	12,930				12,930	1.03%
Communication Expense	41,756				41,756	3.33%
Postage/Shipping/Delivery	5,411				5,411	0.43%
Professional Dues	16,875				16,875	1.34%
Professional Meetings	14,780	(2,312)		O	12,468	0.99%
Subscriptions/Books/Pubs	5,682				5,682	0.45%
Legal & Accounting Expense	43,427	(25,676)		I	17,751	1.41%
Insurance Expense	58,264				58,264	4.64%
Professional Expense	40,709				40,709	3.24%
Recruiting Expense	575				575	0.05%
Training & Education Expense	22,359				22,359	1.78%
Taxes Other than F.I.T.	66,395				66,395	5.29%
Recovery Credits	(28,466)			N	(28,466)	-2.27%
Advertising/Marketing	24,020	(24,020)		A	0	0.00%
Interest Expense	2,545	(2,545)		B	0	0.00%
Staff Meetings	8,742	(8,742)		G	0	0.00%
Employee Expenses	14,778	(11,297)		K, L	3,481	0.28%
Contributions	1,024	(1,024)		C	0	0.00%
Meetings/Meals/Entertainment	14,936	(14,936)		D	0	0.00%
Other Miscellaneous Expense	7,524	(3,600)		M	3,924	0.31%
Provision for FIT	(74,934)	74,934		E	0	0.00%
Total Overhead Costs	<u>\$2,489,335</u>	<u>(\$54,209)</u>	<u>(\$72,221)</u>		<u>\$2,362,905</u>	<u>188.32%</u>
Overhead Rate	206.41%	204.17%			<u>188.32%</u>	

HWA GeoSciences, Inc.
Overhead Schedule
Fiscal Year December 31, 2009

Description	GL Amount	HWA Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
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*HWA GeoSciences, Inc. - Reviewed & Accepted 7-19-11 MR
Overhead Rate still subject to WSDOT Audit*

References:

HWA Overhead Schedule compiled by Joan Kinney, Controller.

HWA Adjustments:

- A Advertising and public relations unallowable per 48 CFR 31.205-1(a).
- B Interest expense unallowable per 48 CFR 31.205-20.
- C Contributions unallowable per 48 CFR 31.205-8.
- D Entertainment unallowable per 48 CFR 31.205-14.
- E Federal income taxes unallowable per 48 CFR 31.205.
- F Overtime premium unallowable per 48 CFR 22.103-1 & 48 CFR 22.103-4(g). Out of direct labor \$13,281.48 and out of indirect labor \$10,333.77.
- G Staff Meetings unallowable per 48 CFR 31.205-14
- H Marketing labor and lunches unallowable per 48 CFR 31.205-1(f). Out of indirect labor \$21,897.
- I Litigation unallowable per 48 CFR 31.205-47(f)(5).
- J Indirect Labor - Admin contains \$2,760 in credits for uncompensated overtime for principals.
- K Employee gifts unallowable per 48 CFR 31.205-13(b). Disallowed gifts total \$5,486.
- L Holiday party costs unallowable over \$25 per employee. Allowable (\$25 x 33 ee's = \$825)
Total cost \$6,661, unallowable cost (\$6,661 - \$850) = \$5,811.
- M Miscellaneous expenses recorded in "unallowable" account during the year.
- N Recovery Credits include Hayre McElroy, a construction inspection services consultant
- O Meals/Lodging costs are deducted in excess of Federal reimbursement rate, unallowable cost of \$2,312

WSDOT Adjustments:

- P Adjustment for Uncompensated Overtime per 48 CFR 37.115 & DCAA 5-910, 5-910.2 and 6-410. *Per HWA's uncompensated overtime worksheet, we adjusted for uncomp. in the amount of \$61,994.05.*
- Q Fringe Benefits associated with marketing labor costs already removed unallowable per 48 CFR 31.205-1(f) & AASHTO Audit Guide, Ch. 8.

**Universal Field Services
Exhibit G-3
Breakdown of Subconsultants Overhead Cost**

Account Title	\$ Beginning Total	% of Direct Labor
Direct Labor	56,041.19	100.00%
Overhead Expenses:		
FICA	5,584.04	9.96%
Unemployment	76.13	0.14%
Health/Accident Insurance	4,921.70	8.78%
Medical Aid & Industrial Insurance	1,545.50	2.76%
Holiday/Vacation/Sick Leave	8,794.82	15.69%
Commission/Bonus/Pension	869.07	1.55%
Total Fringe Benefits	21,791.26	38.88%
General Overhead:		
State B&O Taxes	0.00	0.00%
Insurance	0.00	0.00%
Administration & Time Not Assignable	10,184.10	18.17%
Printing, Stationery & Supplies	0.00	0.00%
Professional Services	0.00	0.00%
Travel Not Assignable	1,771.38	3.16%
Telephone & Telegraph Not Assignable	524.01	0.94%
Fees, Dues & Professional Meetings	679.49	1.21%
Utilities & Maintenance	145.58	0.26%
Professional Development	412.49	0.74%
Rent	4,802.58	8.57%
Equipment Support	0.00	0.00%
Office, Miscellaneous & Postage	826.59	1.47%
Total General Overhead	19,346.22	34.52%
Total Overhead (General + Fringe)	41,137.48	73.41%
Overhead Rate (Total Overhead / Direct Labor)		73.41%

DOT Form 140-089 EF Exhibit G-3



Washington State
Department of Transportation
Paula J. Hammond, P.E.
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300

360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

October 22, 2012

Amy Grotefendt, President/CEO
Enviroissues, Inc.
101 Stewart Street, Ste. 1200
Seattle, WA 98101-1060

Re: Enviroissues, Inc. Overhead Schedule
Fiscal Year End December 31, 2011

Dear Ms. Grotefendt:

We have completed a desk review of your overhead schedule for the above referenced fiscal year. Our review included the documentation provided by Enviroissues, Inc.

The reviewed data included, but was not limited to; the schedule of the indirect cost rate, a description of the company, basis of accounting and description of Enviroissues, Inc. accounting system and the basis of indirect costs.

Based on our work, we are issuing this letter of review establishing Enviroissues, Inc. overhead rate for the fiscal year ending December 31, 2011, at 152.82% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

Please check with the WSDOT Consultant Services Office (HQ) and/or the WSDOT Area Consultant Liaison to determine when this reviewed rate will be applicable to your WSDOT agreement(s).

Also, when you provide next year's overhead schedule to our office or to your CPA firm, please submit **either** your internally prepared *Compensation Analysis*, or the *National Compensation Matrix* (NCM) worksheet.

If you, or any representatives of Enviroissues, Inc., have any questions, please contact Martha Roach, Jeri Sivertson, or Steve McKerney at (360)705-7003.

Sincerely,

A handwritten signature in cursive script that reads "Martha Roach".

Martha S. Roach
Agreement Compliance Audit Manager

MR:ds
Enclosures

cc: Steve McKerney, Director of Internal Audit
Jeri Sivertson, Assistant Director of Internal Audit
Larry Schofield, MS 47323 Page 59 of 74
File

EnviroIssues
Overhead Schedule
December 31, 2011

Description	Accepted Amount	%
Direct Labor Base	<u>\$3,848,714</u>	
Fringe Benefits & Taxes		
FICA & Medicare Tax	\$437,663	11.37%
FUTA Tax	5,433	0.14%
SUI Tax	57,086	1.48%
L & I Tax	19,579	0.51%
Insurance - Medical	521,286	13.54%
Insurance - Emp. Life & Disability	14,722	0.38%
Insurance - Life (Principals)	0	0.00%
Employee Morale	0	0.00%
Employee Bus Passes	46,213	1.20%
Paid Time Off (vacation)	431,151	11.20%
Holiday Pay	216,134	5.62%
401(k) Match	156,136	4.06%
401(k) Admin Expenses	6,500	0.17%
401(k) Employer Profit Sharing	435,394	11.31%
Bonuses	713,948	18.55%
Total Fringe Benefits & Taxes	<u>\$3,061,245</u>	<u>79.54%</u>
General Overhead		
Wages Overhead	\$961,126	24.97%
Wages Bid & Proposal	127,515	3.31%
Wages - Direct Selling	89,868	2.34%
Wages - Marketing	0	0.00%
Temp. Clerical Support	0	0.00%
Professional Development	2,109	0.05%
Relocation Expense	0	0.00%
Rent	759,235	19.73%
Off Site Storage	2,643	0.07%
Utilities - Non-Phone	1,479	0.04%
Maint/Repairs -Non-Computer	3,731	0.10%
Depreciation Expense	83,527	2.17%
Amortization Expense	0	0.00%
Auto Lease	8,724	0.23%
Auto License	730	0.02%
Auto Maint. & Repairs	11,967	0.31%
Insurance - Auto	10,003	0.26%
Gas - Auto	10,094	0.26%
Meetings	9,699	0.25%
Airfare	7,059	0.18%
Car Rental	2,165	0.06%

EnviroIssues
Overhead Schedule
December 31, 2011

Description	Accepted Amount	%
Lodging	8,825	0.23%
Meals - Travel	1,496	0.04%
Mileage	2,959	0.08%
Parking	25,300	0.66%
Taxi / Ferry / Train / Tolls	1,826	0.05%
Advertising (incl. Employment Ads)	1,274	0.03%
Meals - Business	0	0.00%
Registrations	24,659	0.64%
Trade Dues	14,495	0.38%
GSA Industrial Funding Fee	0	0.00%
Delivery	875	0.02%
Postage	5,391	0.14%
Telephone	53,671	1.39%
Computer Maintenance	36,755	0.95%
OnLine Services	41,205	1.07%
Accounting Fees	15,360	0.40%
Bank Charges (Process Fees)	1,379	0.04%
Business License Expense	7,926	0.21%
Contributions	0	0.00%
Copying / Printing	13,392	0.35%
Equipment Lease	61,006	1.59%
Insurance - Business	49,164	1.28%
Interest Expense & Loan Fees	0	0.00%
Legal Expense	25,668	0.67%
Office Supplies	74,076	1.92%
Other Professional Services	2,730	0.07%
Publications & Subscriptions	1,573	0.04%
Taxes - City: Seattle/Tacoma	41,807	1.09%
Taxes - Personal Property	3,793	0.10%
Taxes - State B&O	179,588	4.67%
Taxes - Use & Local	449	0.01%
Taxes - State Income	21,094	0.55%
Miscellaneous	1,318	0.03%
Total General Overhead	\$2,810,728	73.03%
Total Overhead & Benefits	\$5,871,973	152.57%
Overhead Rate (Less FCC)	152.57%	
Facilities Cost of Capital	\$9,806	0.25%
	\$5,881,779	
Overhead Rate (Includes FCC)	152.82%	

Cultural Resource Consultants, Inc.
Overhead Cost Schedule
2011 YTD

Direct Labor Base	\$	636,102	
Overhead Costs			% of Labor
Auto and Travel	\$	1,118	0.18%
Field Vehicles/Equipment	\$	29,365	4.62%
Bank Service Charges	\$	751	0.12%
Business Licenses	\$	398	0.06%
Business Taxes	\$	32,350	5.09%
Communications & Telephone	\$	6,930	1.09%
Computer Expenses	\$	559	0.09%
Consultant Services	\$	-	0.00%
Depreciation Expense	\$	-	0.00%
Employee Health Insurance	\$	76,523	12.03%
Employee Recognition & Morale	\$	185	0.03%
Fees, Dues, Meetings, Etc.	\$	130	0.02%
Insurance			
Auto	\$	4,770	0.75%
Boat	\$	1,850	0.29%
General	\$	6,365	1.00%
Life/Disability	\$	6,181	0.97%
Professional	\$	1,574	0.25%
Library, Lab & Field Supplies	\$	154	0.02%
Unreimbursed Project Expenses	\$	154	0.02%
Office Equipment	\$	1,246	0.20%
Office Maintenance	\$	100	0.02%
Office Supplies	\$	6,983	1.10%
Payroll Taxes	\$	109,084	17.15%
Pension - 401(K)	\$	21,461	3.37%
Postage & Delivery	\$	1,636	0.26%
Principal's Salaries	\$	58,023	9.12%
Professional Develop/Training	\$	20	0.00%
Professional Services	\$	250	0.04%
Professional Tax Prep	\$	250	0.04%
Rent	\$	20,318	3.19%
Sick Leave	\$	7,083	1.11%
Subscriptions/Publications	\$	125	0.02%
Unemployment Taxes	\$	9,360	1.47%
Vacation Leave	\$	24,817	3.90%
Wages, Administrative	\$	34,510	5.43%
Wages, Bonus	\$	87,580	13.77%
Wages, Clerical Salaries	\$	14,464	2.27%
Wages, Holidays	\$	20,054	3.15%
Worker's Comp	\$	18,512	2.91%
Total Overhead Costs	\$	605,233	95.15%

Exhibit H Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AGENCY, STATE or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, STATE or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT'S non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of the AGREEMENT, in whole or in part

6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the AGENCY, STATE or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY and the STATE enter into such litigation to protect the interests of the AGENCY and the STATE and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Exhibit I
Payment Upon Termination of Agreement
By the Agency Other Than for
Fault of the Consultant

(Refer to Agreement, Section IX)

Lump Sum Contracts

A final payment shall be made to the CONSULTANT which when added to any payments previously made shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the PROJECT. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

Cost Plus Fixed Fee Contracts

A final payment shall be made to the CONSULTANT which when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination is to the total work required for the Project. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

Specific Rates of Pay Contracts

A final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT plus any direct nonsalary costs incurred at the time of termination of this AGREEMENT.

Cost Per Unit of Work Contracts

A final payment shall be made to the CONSULTANT for actual units of work completed at the time of termination of this AGREEMENT.

Exhibit J

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 – Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Highways and Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 - Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 – Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 – Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide H&LP, through the Region

Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.

- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Step 5 – Forward Documents to Highways and Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Highways and Local Programs Engineer to H&LP for their review and consultation with the FHWA. H&LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, H&LP will request assistance from the Attorney General's Office for legal interpretation. H&LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. H&LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit K Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 – Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 – Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Highways and Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Highways and Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 – Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 – Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Highways and Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 – Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim (s) and rationale utilized for the decision.

Step 6 – Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Exhibit M-1(a)
Certification Of Consultant

Project No. _____

Local Agency _____

I hereby certify that I am an Associate and duly authorized representative of the firm of David Evans and Associates, Inc. whose address is 3700 Pacific Highway East, Fife, WA 98424 and that neither I nor the above firm I here represent has:

- (a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure the AGREEMENT;
- (b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- (c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

3/11/13
Date

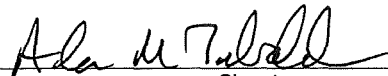

Signature

Exhibit M-1(b)
Certification Of Agency Official

I hereby certify that I am the AGENCY Official of the Local Agency of City of Gig Harbor, Washington, and that the consulting firm or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

Exhibit M-2
Certification Regarding Debarment, Suspension, and Other Responsibility
Matters-Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (I) (B). of this certification; and
 - D. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Consultant (Firm): David Evans and Associates, Inc.

3/1/13
(Date)


(Signature) President or Authorized Official of Consultant

Exhibit M-3
Certification Regarding The Restrictions
of The use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

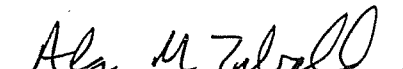
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Consultant (Firm): David Evans and Associates, Inc.

3/1/3

(Date)



(Signature) President or Authorized Official of Consultant

**Exhibit M-4
Certificate of Current Cost or Pricing Data**

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of HARBOR HILL DRIVE EXTENSION * are accurate, complete, and current as of 3/1/13 **. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm David Evans and Associates, Inc.
Name David Evans and Associates, Inc. Alan M. Zedler
Title ASSOCIATE
Date of Execution*** 3/1/13

- * Identify the proposal, quotation, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., RFP No.).
- ** Insert the day, month, and year when price negotiations were concluded and price agreement was reached.
- *** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.



**Business of the City Council
City of Gig Harbor, WA**

Subject: WWTP UV Disinfection Alternatives Evaluation Project Consultant Services Contract – HDR Engineering, Inc.

Proposed Council Action: Approve and authorize the Mayor to execute a Consultant Services Contract with HDR Engineering, Inc. for an amount not to exceed \$10,000.

Dept. Origin: Public Works

Prepared by: Darrell Winans *DW*
WWTP Plant Supervisor

For Agenda of: March 11, 2013

Exhibits: Consultant Services Contract, Scope of Services, and Schedule of Charges

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Public Works Director:

Approved by City Engineer:

Initial &
Date

[Handwritten signatures and dates]
3/7/13
3/6/13
via email 3/5
3/2/13
3/6/13
3/6/13

Expenditure Required	\$ 9,949.00	Amount Budgeted	\$600,000	Appropriation Required	\$0
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INFORMATION/BACKGROUND

An integral component of the WWTP facility expansion will be the addition of ultra violet (UV) disinfection process, which will eliminate the current sodium hypochlorite process. The contract provides for the analysis of available UV disinfection systems and will, in concert with city staff, recommend the preferred UV disinfection process that will be incorporated into the treatment plant expansion.

FISCAL CONSIDERATION

This project falls within the Wastewater Treatment Plant Expansion Phase 2 budget item #5 in the 2013 Wastewater Division Capital Narrative of Objectives.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION/MOTION

Approve and authorize the Mayor to execute a Consultant Services Contract with HDR Engineering, Inc., for UV disinfection alternatives evaluation in an amount not to exceed \$10,000.

**PROFESSIONAL SERVICES CONTRACT
(Architects, Engineers, Land Surveyors, Landscape Architects)
BETWEEN THE CITY OF GIG HARBOR AND
HDR ENGINEERING, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and HDR Engineering, Inc., a corporation organized under the laws of the State of Washington (the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in UV Disinfection Alternatives Evaluation at the Wastewater Treatment Plant and desires that the Consultant perform services necessary to provide the following consultation services; and

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work 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

1. Retention of Consultant - Scope of Work. The City hereby retains the Consultant to provide professional services as defined in this Agreement and as necessary to accomplish the scope of work attached hereto as **Exhibit A** and incorporated herein by this reference as if set forth in full. The Consultant shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this Agreement.

2. Payment.

A. The City shall pay the Consultant an amount based on lump sum, not to exceed Ten Thousand Dollars and No Cents (\$10,000.00) for the services described in Section 1 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. 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 17 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.

3. **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 subconsultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or subconsultant 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 subconsultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and subconsultants 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.

4. **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 March 1, 2014; provided however, that additional time shall be granted by the City for excusable days or extra work.

5. **Termination.** The City reserves the right to terminate this Agreement at any time upon ten (10) days written notice to the Consultant. Any such notice shall be given to the address specified above. In the event that this Agreement is terminated by the City other than for fault on the part of the Consultant, a final payment shall be made to the Consultant for all services performed. No payment shall be made for any work completed after ten (10) days following receipt by the Consultant of the notice to terminate. In the event that services of the Consultant are terminated by the City for fault on part of the Consultant, the amount to be paid shall be determined by the City with consideration given to the actual cost incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the City at the time of termination, the cost of the City of employing another firm to complete the work required, and the time which may be required to do so.

6. **Non-Discrimination.** The Consultant agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman,
{ASB983048.DOC;1\00008.900000\ }

because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The Consultant understands that if it violates this provision, this Agreement may be terminated by the City and that the Consultant may be barred from performing any services for the City now or in the future.

7. Indemnification.

A. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney's fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

B. 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 or 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 Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

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

8. 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, subconsultants or subcontractors.

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 per occurrence. All policies and coverages shall be by an 'A' rated

company licensed to conduct business in the State of Washington. If such coverage is written on a claims made form, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City of Gig Harbor.

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 upon request.

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.

9. Ownership and Use of Work Product. Any and all documents, drawings, reports, and other work product produced by the Consultant under this Agreement shall become the property of the City upon payment of the Consultant's fees and charges therefore. The City shall have the complete right to use and re-use such work product in any manner deemed appropriate by the City, provided, that use on any project other than that for which the work product is prepared shall be at the City's risk unless such use is agreed to by the Consultant.

10. **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.

11. **Records.** The Consultant shall keep all records related to this Agreement for a period of three years following completion of the work for which the Consultant is retained. The Consultant shall permit any authorized representative of the City, and any person authorized by the City for audit purposes, to inspect such records at all reasonable times during regular business hours of the Consultant. Upon request, the Consultant will provide the City with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the Consultant, but the Consultant may charge the City for copies requested for any other purpose.

12. **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 subconsultants 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.

13. **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.

14. **Resolution of Disputes and Governing Law.**

A. 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 Public Works Director and the City shall determine the term or provision's true intent or meaning. The City Engineer or Public Works Director 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.

B. 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 Public Works Director 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

prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.

15. **Written Notice.** All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth below. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

CONSULTANT:
HDR Engineering, Inc.
ATTN:
Patrick Roe
4717 97th St NW
Gig Harbor, WA 98332

City of Gig Harbor
ATTN: Darrell Winans
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

16. **Subcontracting or Assignment.** The Consultant may not assign or subcontract any portion of the services to be provided under this Agreement without the express written consent of the City. If applicable, any subconsultants approved by the City at the outset of this Agreement are named on **Exhibit C** attached hereto and incorporated herein by this reference as if set forth in full.

17. **Entire Agreement.** This Agreement represents the entire integrated agreement between the City and the Consultant, superseding all prior negotiations, representations or agreements, written or oral. This Agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 20____.

CONSULTANT

CITY OF GIG HARBOR

By: *W. J. Glumbach*
Its: *Senior Vice President*

By: _____
Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

SCOPE OF SERVICES

Project Objectives

The evaluation needs to accomplish the following objectives:

1. Evaluate UV disinfection options.
2. Develop opinions of probable costs for capital and O&M.
3. Develop non-cost criteria ratings.
4. Document City staff's decision making process for selecting the preferred alternative.

Task 1 – UV Disinfection Alternatives Evaluation

Objective

Evaluate UV equipment systems applicable for the Gig Harbor Wastewater Treatment Plant WWTP. City staff will take the lead in identifying UV vendor/supplier alternatives to be evaluated, provide input to the decision making criteria and weighting process, assess feedback and recommendations from HDR, and make the final selection of the City's preferred alternative.

Consultant Services

1. Conduct an initial workshop session to define options to be evaluated in this assessment, and to confirm sizing criteria.
2. Prepare a UV Evaluation Alternatives technical memorandum, including:
 - A. Provide a basic description of the major manufacturers' systems with advantages and disadvantages of each.
 - B. For each alternative provide planning level opinions of probable capital, operational, and life-cycle costs.
 - C. Identify potential non-economic factors (decision criteria and weighting factors) with input from City staff.
 - D. Alternatives will be evaluated using capital and operational costs, and non-economic factors (to be identified).
3. Conduct a second evaluation summary workshop with HDR and City staff to review and refine the draft tech memo's evaluation findings, and to confirm City staff's preferred alternative.

Client Responsibilities

1. Collect UV transmittance data and provide to consultant.
2. Select up to four alternatives to be evaluated, and provide all applicable background reports and data requested by HDR, preferably in electronic format.
3. Assist with identification of non-economic criteria and weighting factors desired for alternatives evaluation.
4. Review draft tech memo.

5. Participate in workshop to select City's preferred alternative.

Assumptions

1. No sample collection or analysis will be performed by Consultant.
2. Projected flows from previous reports will be used.
3. Four UV systems will be evaluated as directed by the City. The four options will be identified in the first workshop.
4. Opinions of probable costs will be conceptual only as defined by the Association for the Advancement of Cost Engineering International (AACEI).
5. One evaluation summary workshop will be held in HDR's Gig Harbor office, estimated to be 2 hours in duration.

Deliverables

1. Draft (5-10 pages) technical memorandum in PDF format.
2. Workshop presentation slides.
3. Final (5-10 pages) technical memorandum in PDF format.

Task 2 – Project Management

Objective

The purpose of this task is to monitor, control, and adjust scope, schedule, and budget as well as provide monthly status reporting, accounting, and invoicing.

Consultant Services

1. Prepare a project management plan outlining team organization, schedule, communications, to respond to the general and specific needs of the project.
2. Prepare monthly status reports describing the following: services completed during the month, services planned for the next month, needs for additional information, scope/schedule/budget issues, a schedule update, and a financial summary.
3. Prepare monthly invoices formatted in accordance with contract terms.

Client Responsibilities

1. Promptly process and pay consultant invoices.

Assumptions

1. The project duration will be 60 days.
2. Invoices and backup will be HDR standard invoice format.

Deliverables

1. Scope of services and budget (emailed MS Word files and three hard copies)
2. Monthly reports and invoices (one copy with invoice)
3. Monthly project schedule updates

4. Meeting agenda and meeting notes (emailed MS Word files)

Fee Estimate for Professional Services

The estimated fee to complete the professional services identified in this Scope of Services is offered on a **lump sum basis not-to-exceed \$10,000**. A breakdown of personnel, rates, and hours is shown in Appendix A.

Schedule

Key milestone dates are:

Notice to Proceed:	March 12, 2013
First Workshop:	March 19, 2013
Second Workshop:	April 9, 2013
Submit Draft Memorandum	April 16, 2013
Project Complete	May 10, 2013

Client: City of Gig Harbor
 Project Name: UV Disinfection Alternatives Evaluation

Prepared by: Patrick Roe
 Created: 2/25/2013
 Controller Review by:
 Review by:

Description	Anticipated Staff Hourly Rate Billing Code Total Hours for Task	Hourly Rate *	TOTAL HOURS/	Senior Engineer	Project Engineer	Project Principal	Senior UV Engineer	Project Assistant	Project Controller	
			2013 Rates	Pat Roe	Greg Moen	Tim Hume	Jane Leng	Al Wyemura	Guðrun Young	
			DOLLARS	\$71.82	\$53.86	\$65.00	\$60.00	\$27.09	\$37.10	
				\$233	\$176	\$212	\$196	\$91	\$123	
Task 1 - UV Disinfection Alternatives Evaluation			41 hours							
Engineering and cost estimating			27	3			24			
Technical memorandum and workshop			14	2			12	0		
Review deliverables			1	1						
Subtotal HDR Labor Hours			42	6	0	0	36	0	0	0
Task 2 - Project Management			4 hours							
Project Initiation, Invoicing, and Processing; management reviews	2 Invoices		4	2					2	
Project Closeout									1	
Subtotal HDR Labor Hours			5	2	0	0	0	0	3	0
HDR Labor Costs										
HDR Direct Labor Costs			\$2,846	\$575	\$0	\$0	\$2,160	\$0	\$111	\$0
HDR Escalated Labor Costs	0.00%		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
HDR Allocated Overhead	1.85		\$5,265	\$1,063	\$0	\$0	\$3,996	\$0	\$206	\$0
HDR Profit as % of Total Labor, Escalated Labor and Allocated OH	12%		\$973	\$196	\$0	\$0	\$739	\$0	\$38	\$0
Total Labor Costs, Allocated Overhead Costs and Fees			\$9,258							
HDR Direct Expenses										
HDR Outside Expenses (see attached for breakdown)			\$ 691							
Technology Charge @	\$3.70 per hr									
HDR Subconsultant Admin (Apply to subtotal shown below)	10.0%		\$0							
Total Direct Expenses			\$691							
Total Subconsultant Expenses and/or Other Services			\$0							
Total Anticipated Contract Amount			\$9,949							

page 10 of 11

Client: City of Gig Harbor
Project Name: UV Disinfection Alternatives Evaluation

Prepared by: Greg Moen
Created: 9/18/2012
Revised:
Reviewed by:

HDR Outside Expenses					
Personal Vehicle	2 trips	100 miles per trip	\$0.555 per mile	\$	111.00
Printing/Postage				\$	50.00
Hotels	nights				\$0.00
Airport Parking	2 days		\$15.00 estimate		\$30.00
Flight from Sacramento	2 flight		\$250.00 estimate	\$	500.00
Total HDR Direct Expenses				\$	691.00

2012 Mileage Rate = .555 cents per mile

Business of the City Council
City of Gig Harbor, WA

Subject: Parks & Recreation Concerts on the Park (Summer Sounds at Skansie)

Dept. Origin: Administration - Marketing

Prepared by: Laureen Lund
Marketing Director

For Agenda of: March 11, 2013

Exhibits: Contracts

Proposed Council Action: Authorize the award and execution of three contracts for the 2013 Summer Sounds Concert Series at Skansie Brothers Park, for a total of

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Initial & Date

SL 3/7/13

R 3/5/13

SP 3/5/13

SL

Expenditure	Amount	Appropriation
Required \$ 6,100	Budgeted \$ 22,000	Required 0

INFORMATION / BACKGROUND

Attached are two contracts for the 2013 Summer Sounds at Skansie Concert Series.

25-July	Steve Stefanowicz	\$ 800.00
9-July	The New Blues Brothers	\$ 800.00
25 Jun-20 Aug	Pacific Stage and Sound	\$ 4,500.00

FISCAL CONSIDERATION

Corporate contributions collected (\$22,000) will also cover staff expenses at the events to include Police, Public Works and Marketing overtime. Also covered in corporate contributions are printing and publicity. The expense is within the \$22,000 that was anticipated in the adopted 2013 budget, identified under the Parks Operating Fund, Objective No. 4.

BOARD OR COMMITTEE RECOMMENDATION

Recommend that the Council authorize and accept the contracts.

RECOMMENDATION / MOTION

Move to: Authorize the award and execution of two contracts for the 2013 Summer Sounds Concert Series at Skansie Brothers Park, for a total of six thousand one-hundred dollars (\$6,100.00).

**CONTRACT FOR SUMMER CONCERT SERIES
CONTRACTOR AGREEMENT WITH GIG HARBOR**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and PACIFIC STAGE, INC., a Washington corporation, whose address is 404 Puget Street NE, Olympia, 98506 (hereinafter the "Contractor").

RECITALS

WHEREAS, the City wishes to engage the Contractor to provide sound services, as part of the Gig Harbor 2013 Summer Concert Series; and

WHEREAS, the Contractor agrees to provide such services under the terms and conditions set forth in this Contract; and

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

I. Services and Date of Performance.

The City desires to hold an outdoor, family concert series on: June 25th, July 2nd, July 9th, July 16th, July 23rd, July 30th, August 6th, August 13th, August 20th, with an expected audience of 300-2500 persons. The concerts will take place regardless of the weather, rain or shine.

The Contractor agrees to provide sound services at the above listed concerts. Between the hours of 6:30 p.m. to 8:00 p.m, with set up anytime after 3pm.

The concert will take place at Skansie Brothers Park, a City-owned public park, located at 3207 Harborview Drive in Gig Harbor. The Contractor will be instructed where they should set up their equipment on the park property.

II. Payment

The City shall pay the Contractor Five Hundred Dollars and no cents (\$500.00) for each performance, which shall be paid to Pacific Stage, Inc. by mail to the address set forth at the end of this contract, following each specified performance listed in section I. Services and Date of Performance. In order to facilitate payment the City requests that the Contractor submit separate invoices for each performance to City 30 days prior to concert date(s).

III. Relationship of Parties

The Contractor will be solely and entirely responsible for his acts and for the acts of his agents, employees, representatives and sub-consultants in fulfilling this Contract. None of the benefits provided to City employees are available to the Contractors or his employees, agents and sub-consultants. The Contractor shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of this Contract.

III. General Provisions.

Any assignment of this Contract by the Contractor without the written consent of the City shall be void. 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. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Contract.

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2013.

THE CITY OF GIG HARBOR

By:



Dave Sederberg, President
Pacific Stage, Inc.
PO Box 1606
Olympia, WA 98507
360-556-2541

By:

Mayor

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

**CONTRACT FOR SUMMER CONCERT SERIES
PERFORMER AGREEMENT WITH GIG HARBOR**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Kenny Elhard, doing business as The New Blues Brothers Band whose address is 1911 SW Campus DR #459, Federal Way , WA 98023 (hereinafter the "Performer").

RECITALS

WHEREAS, the City wishes to engage the Performer to provide musical services, as part of the Gig Harbor 2013 Summer Concert Series; and

WHEREAS, the Performer agrees to perform such musical services under the terms and conditions set forth in this Contract; and

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

I. Services and Date of Performance.

The City desires to hold an outdoor, family concert on Tuesday, July 9th, 2013, with an expected audience of 800-1000 persons. The concert will take place regardless of the weather, rain or shine.

The Performer agrees to provide musical services at the concert for the City on Tuesday, July 9th, 2013, between the hours of 6:30 p.m. to 8:00 p.m. Sound will be provided by Pacific Stage, Inc. under separate contract with the City. The Performer may begin set up for the concert at 4:00 p.m. on Tuesday, July 9th, 2013. The Performer's dress should be casual and reflect the weather. The City will provide water for the Performer.

The concert will take place at Skansie Brothers Park, a City-owned public park, located at 3207 Harborview Drive in Gig Harbor. The Performers will be instructed where they should set up their equipment on the park property.

II. Payment

The City shall pay the Performer eight hundred dollars and no cents (\$800.00), which shall be paid to Perry Acker Band by mail to the address set forth at the end of this contract, following the performance on Tuesday, July 9th, 2013. In order to facilitate payment the City requests that the Performer submit an invoice to the City 30 days prior to concert date.

III. Relationship of Parties

The Performer will be solely and entirely responsible for his acts and for the acts of his agents, employees, representatives and sub-consultants in fulfilling this Contract. None of the benefits provided to City employees are available to the Performers or his employees, agents and sub-consultants. The Performer shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of this Contract.

III. General Provisions.

Any assignment of this Contract by the Performer without the written consent of the City shall be void. 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. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Contract.

The Performer is responsible for licensing of any copyrighted music.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of Feb, 2013.

THE CITY OF GIG HARBOR

By:



Ken Elhard
1911 SW Campus DR #459
Federal Way, WA 98023
253.219.4140

By:

Mayor

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

**CONTRACT FOR SUMMER CONCERT SERIES
PERFORMER AGREEMENT WITH GIG HARBOR**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Steve Stefanowicz, whose address is 8421 57th St. W., University Place, WA 98467 (hereinafter the "Performer").

RECITALS

WHEREAS, the City wishes to engage the Performer to provide musical services, as part of the Gig Harbor 2013 Summer Concert Series; and

WHEREAS, the Performer agrees to perform such musical services under the terms and conditions set forth in this Contract; and

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

I. Services and Date of Performance.

The City desires to hold an outdoor, family concert on Tuesday, July 30th, 2013, with an expected audience of 300 - 600 persons. The concert will take place regardless of the weather, rain or shine.

The Performer agrees to provide musical services at the concert for the City on Tuesday, July 30th, 2013, between the hours of 6:30 p.m. to 8:00 p.m. Sound will be provided by Pacific Stage, Inc. under separate contract with the City. The Performer may begin set up for the concert at 4:00 p.m. on Tuesday, July 30th, 2013. The Performer's dress should be casual and reflect the weather. The City will provide water for the Performer.

The concert will take place at Skansie Brothers Park, a City-owned public park, located at 3207 Harborview Drive in Gig Harbor. The Performers will be instructed where they should set up their equipment on the park property.

II. Payment

The City shall pay the Performer eight hundred dollars and no cents (\$800.00), which shall be paid to Steve Stefanowitz on Tuesday, July 30th, 2013, immediately following the performance. In order to facilitate payment the City requests that the Performer submit an invoice to the City 30 days prior to concert date.

III. Relationship of Parties

The Performer will be solely and entirely responsible for his acts and for the acts of his agents, employees, representatives and sub-consultants in fulfilling this Contract. None of the benefits provided to City employees are available to the Performers or his employees, agents and sub-consultants. The Performer shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of this Contract.

III. General Provisions.

Any assignment of this Contract by the Performer without the written consent of the City shall be void. 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. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Contract.

The Performer is responsible for licensing of any copyrighted music.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 6th day of February, 2013.

THE CITY OF GIG HARBOR

By: _____

SS

Steve Stefanowitz Stefanowicz
8421 57th St. W.
University Place, WA 98467
253-222-0241

By: _____

Mayor

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk



Subject: Interagency Agreement
ADDENDUM with the Washington State Arts
Commission (WSAC) for Public Art.

Dept. Origin: Administration
Prepared by: Lita Dawn Stanton Special Projects
For Agenda of: March 11, 2013
Exhibits: Addendum (Exhibit A)
Plan Sheets (Exhibit B)
Scope of Work (Exhibit C)

Proposed Council Action: Approve and
authorize the Mayor to execute the Interagency
Agreement ADDENDUM with the WSAC for
Public Art

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 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required. Values include \$ n/a, \$ 150,000**, and \$ -0-.

INFORMATION / BACKGROUND

The Washington State Arts Commission manages the "percent-for-art" program for the State. The Womens Correction Center in Purdy constructed a Health Facility that generated \$44,000 to be invested in a public art project. The City of Gig Harbor is the recipient of the grant.

As part of the process, the WSAC facilitated a committee of local representatives to choose a location, artist, and general theme for the work. Verena Schwippert was chosen to create and install 3 granite sculptures that have been incorporated into the uplands portion of the Eddon Boat Beach Restoration project that begins in March/April. The work will be located within an ADA accessible viewing area in the southeast corner of the Park (see site plan attached).

FISCAL CONSIDERATION

The cost to construct the plinth and finish materials are included as part of the Eddon Boat Upland Restoration Project budget** under Parks Objective 12 of the 2013 Budget.

BOARD OR COMMITTEE RECOMMENDATION

The Gig Harbor Arts Commission supports the placement of Public Art.

RECOMMENDATION / MOTION

Move to: Approve and authorize the Interagency Agreement ADDENDUM with the Washington State Arts Commission for a Public Art placement.

WASHINGTON STATE ARTS COMMISSION
ART IN PUBLIC PLACES PROGRAM
RCW 43.17

ADDENDUM # 1 TO CONTRACT
No. WSAC2011.013

The Contract between the WASHINGTON STATE ARTS COMMISSION and:

Schwippert, Verena
hereinafter called the "ARTIST", residing at:
245 W 4th St
Arlington, WA 98223

For: City of Gig Harbor, AGENCY, is hereby amended as follows:

Section II SCOPE OF WORK, paragraph (B) - Other Obligations is amended to add: The AGENCY will pour concrete footings for ARTWORK, in accordance with stamped, structural engineering.

The AGENCY will provide and install crushed gravel around base of ARTWORK, in accordance with relevant Americans with Disabilities Act (ADA) requirements.

The AGENCY will obtain necessary permits as they relate to the installation and siting of the ARTWORK.

Each and every other provision of the original CONTRACT and any amendments thereto shall remain in full force and effect.

Schwippert, Verena

Washington State Arts Commission

BY _____
PRINT _____
TITLE _____
DATE _____

BY _____
TITLE Executive Director
DATE _____

Concurred with by:

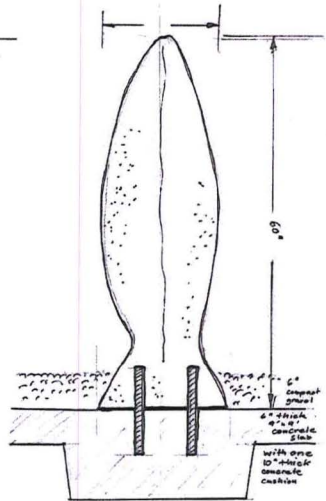
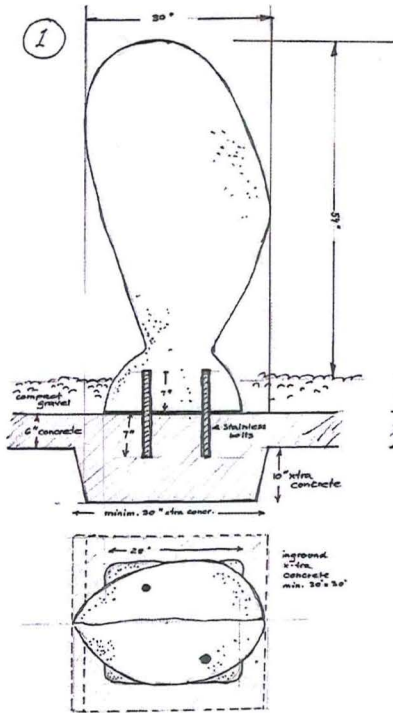
AGENCY

BY _____
PRINT _____
TITLE _____
DATE _____

Approved as to form
Original Signature on File
Assistant Attorney General
Date: October 10, 1996

EXHIBIT B

Gig Harbor Sculpture at Eddon Boat Park



Gig Harbor

1 of 3 granite Sculptures,
this Standing Mussel stands
ca. 5' above ground-gravel.

Anchoring: Foot of granite 'Mussel' is
epoxied to concrete and
additionally fastened with
two stainless steel bolts
sticking up into granite 7"
and some bolt sticking down
into concrete 7". Each bolt
has length of 14" and is
coated with epoxy.

below the standing Mussel
there will be an additional
thickness of concrete of
10", approximate size of
30" x 20".

The concrete with its one
fortification of 10" thickness
will be professionally
installed by the City of
Gig Harbor.

Order dimension of
concrete slab is 9' x 9'.

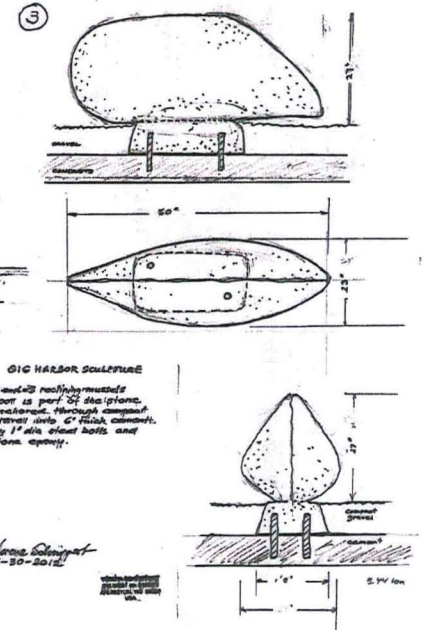
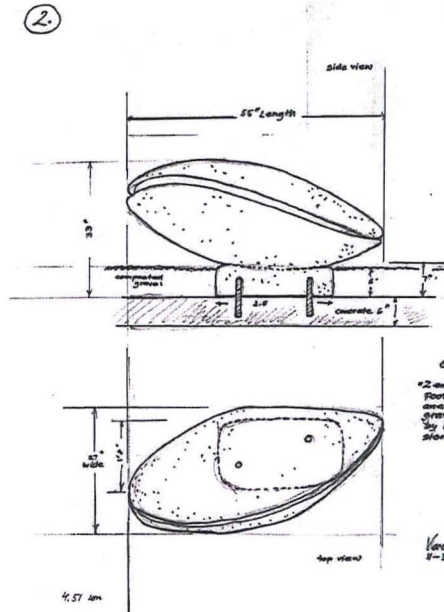
minimum 30" x 20" concrete

Professional epoxy
"Hans & Thomas"
ARABOND 822 HG
Epoxy

Approved drawing for fabricating
Jan - 22 - 2015
Vance Seligson

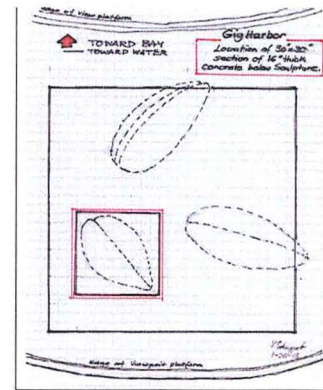
VERITAS BUILDING
MARKET SERVICES
ARLINGTON, VA 22204
USA

Granite Sculptures by others



GIG HARBOR SCULPTURE
"2 and 3 real life mussels"
Foot is part of the stone,
anchored through compact
gravel into 6" thick concrete
by 1" dia steel bolts and
stone epoxy.

Vance Seligson
1-30-2015



BID SET



ENGINEERING DIVISION
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170



REV	DATE	BY	APPD	DESCRIPTION

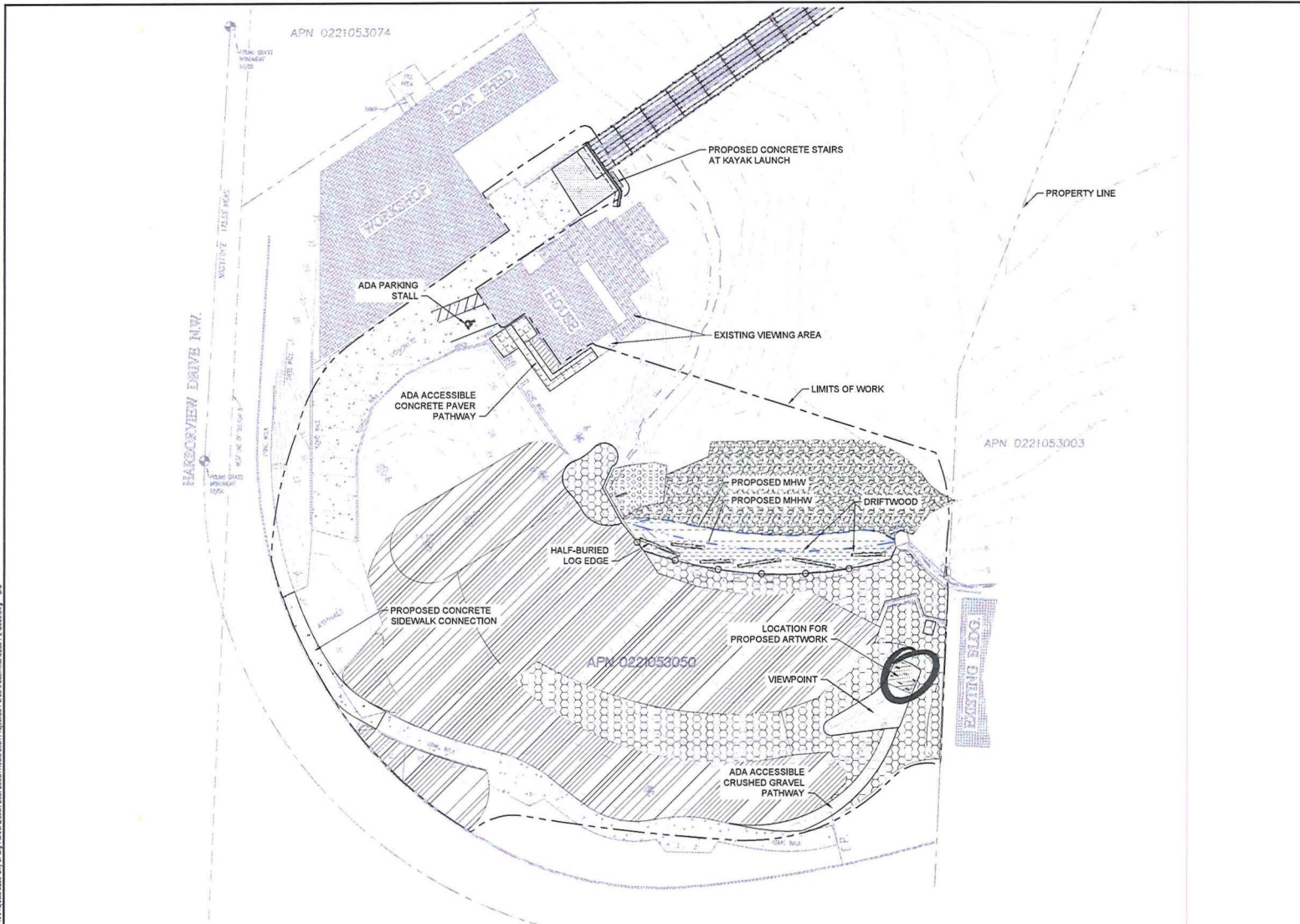
DESIGNED BY: H. LEHTINEN, ENG
DRAWN BY: H. LEHTINEN, ENG
APPROVED BY: NTS
SCALE: NTS
DATE: JAN 24, 2013

CONCRETE PLINTH DETAILS
(for ARTWORK AT EDDON BOAT PARK)

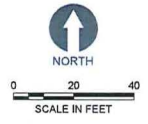
X - 1

SHEET NO 15 of 15

EXHIBIT B



- LEGEND:
- EXISTING MHHW (11.89-FT)
 - EXISTING MHW (11.01-FT)
 - PROPOSED MHHW (11.89-FT)
 - PROPOSED MHW (11.01-FT)
 - EXISTING MAJOR CONTOUR
 - EXISTING MINOR CONTOUR
 - PROPOSED CONTOUR
 - PROPERTY LINE
 - PROPERTY LINE
 - EXISTING OUTFALL (IE 8.11-FT)
 - EXISTING CONCRETE
 - EXISTING TREE
 - LIMITS OF WORK
 - PROPOSED CRUSHED GRAVEL
 - PROPOSED LOCATION FOR ART WORK
 - PROPOSED BEACH GRAVEL
 - PROPOSED SAND
 - PROPOSED ROUNDED ROCK
 - AMEND EXISTING SOIL
 - PROPOSED JUTE FABRIC AND TOPSOIL
 - PROPOSED CONCRETE
 - PROPOSED CONCRETE PAVERS
 - PROPOSED CONCRETE STAIRS
 - PROPOSED HALF BURIED LOG EDGE
 - PROPOSED DRIFTWOOD



- NOTES:
1. DRAWING PREPARED FROM SURVEY BY PRIZM SURVEYORS. PIER DRAWING COMPLETED BY SITTS AND HILL ENGINEERS, 2010.
 2. HORIZONTAL DATUM: WASHINGTON STATE PLANE SOUTH ZONE, NAD 83 FEET.
 3. VERTICAL DATUM: MLLW, CITY MONUMENT #55

**30% DRAFT DESIGN
NOT FOR CONSTRUCTION**



GIG HARBOR
"THE MARITIME CITY"

ENGINEERING DIVISION
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

REVISIONS				
REV	DATE	BY	APPD	DESCRIPTION

DESIGNED BY: SPOONER
 DRAWN BY: SPOONER
 CHECKED BY: SMALL
 APPROVED BY: SMALL
 SCALE: AS SHOWN
 DATE: MAY 2012

EDDON BOAT UPLAND IMPROVEMENTS

CONSTRUCTION MATERIALS PLAN

C-3

SHEET NO. 6 OF 6

K:\Projects\0221053074-City of Gig Harbor\EGIS\Boat Eddon Restoration\Project\307\Permit\307\0221053074-C003.dwg
May 22, 2012 10:11am
C:\

Verena Schwippert / City of Gig Harbor – Eddon Boat

Scope of Work

The ARTWORK, “Mussels”, consists of three separate elements that evoke mussels, two reclining and one standing. The vertical, standing element is approximately 5 feet high; the two horizontal, reclining elements are approximately 2½ feet high. (If oriented in the same direction, the dimensions for all three are roughly the same: 5 x 2½ x 2½ feet.) The projected weights are between 4,100 and 4,500 lbs each; with a total weight of the ARTWORK 13,175 lbs, about 6.6 tons.

All three elements will be carved from light colored granite. The outside finish will be mainly 'bush chisel' surface, smooth but not shiny. Some areas will be polished to highlight the stone and the characteristics of mussels. The two reclining/recumbent elements can be used for seating and are carved with human interaction in mind.

The ARTIST states: “The concept for this sculpture arose from the proximity of the water, of Puget Sound, plus the efforts invested in the entire project to restore and conserve the health of the bay and its beach. The three granite elements are not meant to portray mussels precisely, but are more or less abstracted derivation from the form and shape of mussels.”

The ARTIST’s proposal was approved by the local Art Selection Committee on June 21, 2011, with minor revisions approved on November 28, 2012 via email and phone. All proposal materials are on file with COMMISSION. ARTIST will fabricate and install as per stamped engineering.

Location

On a viewing pathway, near the southeast corner of the City of Gig Harbor’s Eddon Boat Park.

Other Obligations

The AGENCY will pour concrete footings for ARTWORK, in accordance with stamped, structural engineering.

The AGENCY will provide and install crushed gravel around base of ARTWORK, in accordance with relevant Americans with Disabilities Act (ADA) requirements.

The AGENCY will obtain necessary permits as they relate to the installation and siting of the ARTWORK.

February 14, 2013



**Business of the City Council
City of Gig Harbor, WA**

Subject: Second Reading of Ordinance for Ordinance Implementing FEMA Option #3 - Permit-by-Permit Demonstration of Compliance under the Endangered Species Act

Dept. Origin: Planning Department/Legal

Prepared by: *PK* Peter Katich, Sr. Planner
Angela Belbeck, City Attorney

Proposed Council Action: Conduct Second Reading & Adopt Ordinance

For Agenda of: March 11, 2013

Exhibits: Proposed Ordinance

Concurred by Mayor:

Initial & Date
SE 3/7/13

Approved by City Administrator:

R 3/4/13

Approved as to form by City Atty:

see e-mail dated 3.4.13

Approved by Finance Director:

N/A

Approved by Department Head:

JK

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

On September 24, 2012, the City Council with a majority of plus one vote of the whole Council passed an interim ordinance at first reading (Ordinance No. 1248). The interim ordinance established development regulations that apply to all non-exempt development within FEMA established Special Flood Hazard Areas and within all areas 200 feet landward of Special Flood Hazard Areas. The development regulations require the preparation of a Habitat Assessment or letter from the National Marine Fisheries Service (NMFS) or FEMA that establishes compliance with the requirements of the Endangered Species Act relative to listed threatened and endangered species and associated habitat areas.

In regard to the background associated with the interim ordinance, in *National Wildlife Federation and Public Employees for Environmental Responsibility v. FEMA, et al.*, 345 F. Supp. 2d 1151 (2004), the U.S. District Court for the Western District of Washington ruled that FEMA must undergo formal consultation under Section 7 of the Endangered Species Act ("ESA") because the implementation of the National Flood Insurance Program ("NFIP") may affect listed species found in the Puget Sound Region. As a result of the consultation, National Marine Fisheries Service ("NMFS") issued a Biological Opinion on September 22, 2008, documenting the adverse effects of FEMA's NFIP on listed species found in the Puget Sound Region, which includes Puget Sound Chinook Salmon, Puget Sound Steelhead and Southern Resident Killer Whales. The Biological Opinion can be viewed at:

https://pcts.nmfs.noaa.gov/pls/pcts-pub/pcts_upload.summary_list_biop?p_id=29082.

The Biological Opinion has generated numerous questions in implementing its requirements, and staff has attended workshops heavily attended by many of the 122 jurisdictions affected in the State of Washington. John Graves from FEMA's Mitigation Division sent a letter dated

September 21, 2011 (received September 23, 2011) acknowledging receipt of the City's Option 2 submittal package, acknowledging that the City is defaulting to Option 3, and included a "Frequently Asked Question" memo regarding Option 3 implementation.

In order to maintain eligibility in the NFIP, participants must demonstrate compliance with the Biological Opinion by choosing one of three options provided by FEMA: Option 1 - adopt the FEMA-developed ESA compliant model ordinance; Option 2 - meet FEMA checklist for ESA compliance with current regulations; or Option 3 - permit by permit demonstration of ESA compliance. The model ordinance under Option 1 is drafted for communities with rivers and does not work with the City's developed shoreline. The City originally requested review by FEMA for Option 2 but that option would not become effective until the City completes the update of its Shoreline Master Program in 2013. If a jurisdiction does not implement Options 1 or 2, the default is to Option 3. This requires the City to maintain documentation from the applicant obtained from a habitat assessment or Section 7 consultation with NMFS that demonstrates compliance with the ESA.

Interim Ordinances No's. 1223 and 1234 adopted by the city on September 26, 2011 and March 12, 2012, respectively, implemented FEMA's Option 3 to address the requirements of the NMFS Biological Opinion over the past year as the city has continued to move forward on the update of the master program. Interim Ordinance No. 1234 was to expire on September 26, 2012 and was replaced by Ordinance No. 1248, which is substantively the same as those regulations originally adopted under Ordinance No. 1223 and 1234. Ordinance No. 1248 will expire on March 23, 2013.

At its meeting of December 17, 2012, the City Council passed Resolution No. 921 which authorized staff to submit the city's draft Shoreline Master Program to the Department of Ecology for its review. Ecology received the city's Shoreline Master Program submittal package on January 14, 2013 and deemed the submittal complete on February 7, 2013. Ecology's formal review process is approximately 180 days in length followed by a 60-day appeal process with any appeal of the master program decided by the State Growth Management Hearings Board.

Due to this lengthy and somewhat uncertain time period, and the success of the Option 3 approach over the past year and a half, staff proposed the adoption of the FEMA Option 3 approach on a permanent basis at the public hearing and First Reading of Ordinance conducted for the proposal at the City Council meeting on February 25, 2013.

During the Council's deliberations on the ordinance at First Reading, concern was expressed that staff had prematurely abandoned its efforts to use FEMA's Option #2 approach using the city's current regulations and the city's updated Shoreline Master Program, and that such an approach could still have merit. Based on Council's comments, staff has added two "whereas clauses" in the proposed revised ordinance that addresses the option of the City submitting its regulatory approach to FEMA once the Shoreline Master Program has been adopted and is effective.

Staff proposes the adoption of the permanent ordinance as revised.

FISCAL CONSIDERATION

None.

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION/MOTION

Conduct Second Reading and Adopt Ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO DEVELOPMENT IN AREAS OF SPECIAL FLOOD HAZARD AND WITHIN 200 FEET LANDWARD OF AREAS OF SPECIAL FLOOD HAZARD; MAKING FINDINGS OF FACT; AMENDING CHAPTER 18.10 OF THE GIG HARBOR MUNICIPAL CODE TO REQUIRE A HABITAT ASSESSMENT OR LETTER FROM NMFS OR FEMA ESTABLISHING COMPLIANCE WITH THE ENDANGERED SPECIES ACT; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in *National Wildlife Federation and Public Employees for Environmental Responsibility v. Federal Emergency Management Agency, et al.*, 345 F. Supp. 2d 1151 (2004), the United States District Court for the Western District of Washington ruled that the Federal Emergency Management Agency ("FEMA") must undergo formal consultation under Section 7 of the Endangered Species Act ("ESA") because the implementation of the National Flood Insurance Program ("NFIP") may affect listed species found in the Puget Sound Region; and

WHEREAS, as a result of the consultation, National Marine Fisheries Service ("NMFS") issued a Biological Opinion on September 22, 2008, that documented the adverse effects of FEMA's NFIP on listed species found in the Puget Sound Region, which includes Puget Sound Chinook Salmon, Puget Sound Steelhead and Southern Resident Killer Whales; and

WHEREAS, cities that participate in the NFIP must demonstrate compliance with the Biological Opinion by choosing one of three options provided by FEMA: Option #1 - adopt the FEMA-developed ESA compliant model ordinance; Option #2 - meet FEMA checklist for ESA compliance with current regulations; or Option #3 - permit by permit demonstration of ESA compliance; and

WHEREAS, the City originally pursued review by FEMA for Option #2 but that option could not become effective until the City completes the update of its Shoreline Master Program, so the City adopted Option #3 on an interim basis under Ordinance No. 1223, as extended by Ordinance No. 1234, then on September 24, 2012 re-adopted the provisions on an interim basis under Ordinance No. 1248 for a period of six months, which may be further extended by separate ordinance until this Ordinance goes into effect; and

WHEREAS, permanent adoption of Option #3 would require the City to maintain documentation from the applicant obtained from a habitat assessment or Section 7 consultation with NMFS, that demonstrates compliance with the ESA. This

documentation would be maintained by the City with the applicable permit file and available for FEMA review upon request; and

WHEREAS, pursuant to RCW 36.70A.106(3), the proposed regulations were forwarded to the Department of Commerce on September 17, 2012 and review was granted on September 18, 2012; and

WHEREAS, the City's SEPA Responsible Official issued a determination of non-significance for this ordinance on February 13, 2013; and

WHEREAS, on February 25, 2013, the Gig Harbor City Council held a public hearing and first reading of this ordinance; and

WHEREAS, on February 27, 2013, the Washington State Department of Ecology provided comment on this ordinance, requesting the City to submit the ordinance to the Department of Ecology for final approval in accordance with RCW 86.16.041; and

WHEREAS, the Gig Harbor City Council has determined that adoption of Option #3 is in the best interests of the public health, safety and welfare;

WHEREAS, the Gig Harbor City Council has expressed its continuing interest in pursuing Option #2 at such point that the city's Shoreline Master Program is approved by the Department of Ecology and becomes effective; and

WHEREAS, the Planning Director will reexamine the city's potential for utilizing the Option #2 approach once the Department of Ecology approves the City's Shoreline Master Program and it becomes effective;

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

Section 1. Findings. The recitals set forth above are hereby adopted as the Gig Harbor City Council's findings in support of the development regulations established by this ordinance.

Section 2. Section 18.10.040 – Definitions – Amended. Section 18.10.040 of the Gig Harbor Municipal Code is hereby amended to incorporate the following definitions in alphabetical order, with subsection designations and internal references amended accordingly:

“Biological Opinion” means that certain opinion issued by the National Marine Fisheries Service on September 22, 2008, recommending changes to the implementation of the National Flood Insurance Program in order to meet the requirements of the Endangered Species Act in the Puget Sound watershed.

“Biologist, qualified” means a person who possesses a bachelor’s degree from an accredited college in biology, a branch of biology, limnology, biometrics, oceanography, forestry or natural resource management, with experience preparing reports for the relevant type of habitat.

“Endangered Species Act” or “ESA” means 16 U.S.C. 1531 *et seq.*, as amended.

“Habitat Assessment Report” means a report prepared by a qualified biologist that assesses the proposed development and identifies potential impacts, required mitigation, and whether or not the development adversely affects water quality, water quantity, flood volumes, flood velocities, spawning substrate and/or floodplain refugia for listed salmonids under the requirements of the Endangered Species Act.

“Likely to Adversely Affect” or “LAA” means the effects of the development will result in short- or long-term adverse effects on listed species or designated habitat area.

“May Affect, Not Likely to Adversely Affect” or “NLAA” means the effects to the listed species or designated critical habitat are insignificant and/or discountable.

“No Effect” or “NE” means the development has no effect whatsoever to the listed species or designated critical habitat.

“Riparian Buffer Zone” includes all parcels located within 200 feet landward from the +9 elevation (NGVD 1929 datum).

Section 3. Section 18.10.050 – Amended. Subsection A of section 18.10.050 of the Gig Harbor Municipal Code is amended as follows:

18.10.050 General Provisions.

A. Lands to Which this Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Gig Harbor. Section 18.10.100 also applies to areas that include Riparian Buffer Zone within the jurisdiction of the city of Gig Harbor.

Section 4. New Section 18.10.100 – Compliance with Endangered Species Act – Added. A new section 18.10.100 is added to the Gig Harbor Municipal Code to read as follows:

18.10.100 Compliance with Endangered Species Act.

A. No development permits may be issued on any parcel partially or fully within the Area of Special Flood Hazard or Riparian Buffer Zone unless the Planning Director or designee, after review of a Habitat Assessment Report provided by applicant, has determined the development meets the standards of NE or NLAA, or the applicant submits a letter from the National Marine Fisheries Service or the Federal Emergency Management Agency stating that the development complies with the requirements under the Biological Opinion and the ESA.

B. The Planning Director or designee shall review the Habitat Assessment Report to determine whether the development meets the standard of NE, NLAA or LAA. If the Planning Director or designee determines that the development is LAA, then the City may not issue the development permit unless the development is redesigned to a point where the assessment is NLAA or NE. If a development cannot be redesigned to meet the standard of NLAA or NE, the development may only be permitted if the applicant submits a letter from National Marine Fisheries Service or the Federal Emergency Management Agency demonstrating concurrence through a consultation under Section 7 or 4(d) of the ESA or issuance of an incidental take permit under Section 10 of the ESA. The Habitat Assessment Report and/or concurrence letter from National Marine Fisheries Service or the Federal Emergency Management Agency shall be retained in the permit file.

Section 5. New Section 18.10.110 – Exemptions – Added. A new section 18.10.110 is hereby added to the Gig Harbor Municipal Code to read as follows:

18.10.110 Exemptions. The following development is exempt from the requirement for Habitat Assessment review and concurrence letter set forth in Section 18.10.100:

- A. Repair or remodel of an existing building in its existing footprint, including buildings damaged by fire or other casualties;
- B. Removal of noxious weeds;
- C. Replacement of non-native vegetation with native vegetation;
- D. Lawn and garden maintenance;
- E. Removal of hazard trees;
- F. Normal maintenance of public utilities and facilities; and
- G. Restoration or enhancement of floodplains, riparian areas and streams that meet federal and state standards.

Section 6. Code Reviser's Note. The Code Reviser is hereby requested to remove the note preceding the provisions of chapter 18.10 of the Gig Harbor Municipal Code.

Section 7. Repeal; Savings. Ordinance No. 1248, and any ordinance extending the provisions of Ordinance No. 1248, are hereby repealed, but shall remain in force and effect until the effective date of this ordinance.

Section 8. 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 9. Effective Date. Pursuant to RCW 86.16.041(1), this ordinance shall take effect 30 days from filing with the Department of Ecology, unless the department of Ecology disapproves the ordinance within that 30-day period.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this 11th day of March, 2013.

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:
FILED WITH DEPARTMENT OF ECOLOGY:
EFFECTIVE DATE:
ORDINANCE NO:



Business of the City Council
City of Gig Harbor, WA

Subject: Public Hearing and First Reading - Extension of Interim Regulations adopting FEMA Option #3 - Permit-by-Permit Demonstration of Compliance under the Endangered Species Act

Dept. Origin: Planning Department/Legal

Prepared by: PK Peter Katich, Sr. Planner
Angela Belbeck, City Attorney

Proposed Council Action: Hold Public Hearing and adopt ordinance as presented on First Reading with a majority plus one vote in favor.

For Agenda of: March 11, 2013

Exhibits: Draft ordinance; Ordinance No. 1248

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Initial & Date
see 3/7/13
2 3/4/13
see e-mail dated 3.4.13
N/A
PK

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

In order to maintain eligibility in the National Flood Insurance Program through FEMA, participants must demonstrate compliance with a Biological Opinion issued by the National Marine Fisheries Service ("NMFS") by choosing one of three options provided by FEMA: Option #1 - adopt the FEMA-developed Endangered Species Act ("ESA") compliant model ordinance; Option #2 - meet FEMA checklist for ESA compliance with current regulations; or Option #3 - permit by permit demonstration of ESA compliance.

On September 26, 2011, the City Council approved Ordinance No. 1223 adopting Option #3 as an interim regulation for FEMA compliance, then adopted Ordinance No. 1234 extending the interim regulations until September 26, 2012. Due to an issue with timing, the City adopted new interim regulations under Ordinance No. 1248, which expire on March 23, 2013. On February 25, 2013, the City Council held a public hearing and first reading on an ordinance adopting Option 3 as a permanent regulation. Two days later, the Department of Ecology informed the City that pursuant to RCW 86.16.041(1), the ordinance cannot take effect until 30 days from filing with the Department of Ecology. Note the Department of Ecology can also disapprove of the proposed permanent regulations in that 30-day period. In order to ensure uninterrupted compliance with FEMA requirements, the City must extend the interim provisions of Ordinance No. 1248. In order to maintain continuity of regulation, the attached draft ordinance will require adoption on first reading with a majority plus one vote of the Council.

FISCAL CONSIDERATION

None.

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION/MOTION

Adopt on first reading Ordinance No. _____, extending the interim regulations adopted under Ordinance No. 1248. (Requires a vote of the majority plus one in favor.)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS AND WITHIN 200 FEET LANDWARD OF SPECIAL FLOOD HAZARD AREAS; EXTENDING INTERIM REGULATIONS REQUIRING A HABITAT ASSESSMENT OR LETTER FROM NMFS OR FEMA ESTABLISHING COMPLIANCE WITH THE ENDANGERED SPECIES ACT; ESTABLISHING A WORK PLAN; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in *National Wildlife Federation and Public Employees for Environmental Responsibility v. Federal Emergency Management Agency, et al.*, 345 F. Supp. 2d 1151 (2004), the United States District Court for the Western District of Washington ruled that the Federal Emergency Management Agency ("FEMA") must undergo formal consultation under Section 7 of the Endangered Species Act ("ESA") because the implementation of the National Flood Insurance Program ("NFIP") may affect listed species found in the Puget Sound Region; and

WHEREAS, as a result of the consultation, National Marine Fisheries Service ("NMFS") issued a Biological Opinion on September 22, 2008, that documented the adverse effects of FEMA's NFIP on listed species found in the Puget Sound Region, which includes Puget Sound Chinook Salmon, Puget Sound Steelhead and Southern Resident Killer Whales; and

WHEREAS, cities that participate in the NFIP must demonstrate compliance with the Biological Opinion by choosing one of three options provided by FEMA: Option #1 - adopt the FEMA-developed ESA compliant model ordinance; Option #2 - meet FEMA checklist for ESA compliance with current regulations; or Option #3 - permit by permit demonstration of ESA compliance; and

WHEREAS, the City originally pursued review by FEMA for Option #2 but that option cannot become effective until the City completes the update of its Shoreline Master Program, and the Planning Director has since recommended that the City adopt permanent regulations under Option #3; and

WHEREAS, in anticipation of the requirements for Option #2 being met, on September 26, 2011, the City Council adopted Ordinance No. 1223 which adopted interim regulations for a period of six months implementing Option #3 while the City awaited meeting the requirements for Option #2. Ordinance No. 1223 was extended another six months under Ordinance No. 1234; and

WHEREAS, the interim regulations adopted under Ordinance No. 1223 as extended under Ordinance No. 1234 were set to expire on September 26, 2012 and due to the approaching expiration of Ordinance No. 1234, on September 24, 2012, the Gig Harbor City Council adopted Ordinance No. 1248 adopting new interim regulations on an emergency basis in order to preserve the public health, safety, and welfare and to avoid vesting of development applications that are contrary to the provisions of this ordinance; and

WHEREAS, since the adoption of Ordinance No. 1248 the City has held a first reading and public hearing on an ordinance adopting permanent regulations under Option #3, but

because the permanent regulations cannot be effective until review by the Department of Ecology, and the interim provisions under Ordinance No. 1248 are set to expire on March 23, 2013, the City Council deems it to be in the public interest to extend the interim regulations to maintain compliance with FEMA requirements while awaiting the Department of Ecology's approval for permanent codification of regulations; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to extend interim regulations for a period of six months after a public hearing and adoption of findings justifying the same; and

WHEREAS, the City Council held a public hearing on March 11, 2013 to take public testimony relating to this ordinance;

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

Section 1. Purpose. The purpose of this ordinance is to extend the interim regulations set forth in Ordinance No. 1248 for a period of six months.

Section 2. Findings in Support of Extending Interim Regulations. In addition to the findings previously made as set forth in Ordinance No. 1248, the Gig Harbor City Council makes the following additional findings:

1. The City Council adopts the recitals set forth above in support of extending the interim regulations originally adopted under Ordinance No. 1248.

2. [Other, if any.]

Section 3. Extension of Interim Regulations. The interim regulations adopted under Ordinance No. 1248 shall remain in effect for an additional period of six months, and shall automatically expire at that time unless the same are extended as provided in RCW 36.70A.390 and RCW 35A.63.220 prior to expiration, or unless the same are repealed or superseded by permanent regulations prior to expiration.

Section 4. Work Plan. The City is presently in the process of adopting permanent regulations, having held a public hearing and first reading on the proposed permanent regulations on February 25, 2013. Once adopted by the City Council, pursuant to RCW 86.16.041, such permanent regulations cannot take effect until 30 days of filing with the Department of Ecology. The City anticipates such filing to take place in March, 2013, with approval of permanent regulations in April of 2013. In the event the Department of Ecology does not approve the City's proposed regulations, additional time will be needed to address the Department of Ecology concerns, but the City anticipates revisions, if required, can be completed within the six-month extension period for Ordinance No. 1248.

Section 5. Copy to Commerce Department. Pursuant to RCW 36.70A.106(3), the City Clerk is directed to send a copy of this ordinance to the State Department of Commerce for its files within ten (10) days after adoption of this ordinance.

Section 6. 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 7. 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 11th day of March, 2013.

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:



Business of the City Council
City of Gig Harbor, WA

Subject: Public Hearing and First Reading - Extension of Interim Regulations re: Medical Cannabis Collective Gardens

Dept. Origin: Planning/Legal

Prepared by: Jennifer Kester/Angela Belbeck *JK*

Proposed Council Action: Hold public hearing, consider ordinance on first reading and bring back for adoption at second reading.

For Agenda of: March 11, 2013

Exhibits: Draft ordinance, ORD 1218 and ORD 1222, Planning Commission Recommendation

Initial & Date

Concurred by Mayor: *JK 3/7/13*

Approved by City Administrator: *R 3/5/13*

Approved as to form by City Atty: *email 3/5/13*

Approved by Finance Director: *N/A*

Approved by Department Head: *JK 3/5/13*

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

Enclosed for your review is an ordinance that would extend the interim regulations for medical cannabis collective gardens an additional six months. The interim regulations presently allow collective gardens in the Employment District as a conditional use, subject to separation and other health and safety requirements. The interim regulations will remain in effect until April 11, 2013 unless the interim regulations are extended or new regulations are adopted. No known gardens have been established since Ordinance No. 1218 became effective.

On July 11, 2011, the City Council approved Ordinance No. 1218 establishing interim regulations for medical cannabis collective gardens. On July 25, 2011, the City Council held a public hearing on the regulations and adopted Ordinance No. 1222, making additional findings of fact and amending Ordinance No. 1218. Due in large part to uncertainties in the law, the City has extended the interim regulations by way of Ordinance Nos. 1236 and 1247. Ordinance No. 1247 directed the Planning Commission to review the regulations and any changes in the law and provide a recommendation to the council. After considering the regulations and pending legislation and litigation as discussed in the section below, the Planning Commission recommended extending the interim regulations again. See attached recommendation.

Two major events have taken place since the adoption of Ordinance No. 1247: the passage of Initiative 502 and a decision from the King County Superior Court (currently on appeal) upholding a ban on collective gardens adopted by the City of Kent.

Initiative 502, approved by voters last November, decriminalized certain use, production, processing and possession of marijuana for adult recreational purposes. It also established the framework for administration and licensing through the Washington State Liquor Control Board.

The state anticipates issuance of processing and retailer licenses which will become effective on December 1, 2013. Before the initiative was approved, it was unclear how it may affect the regulation of collective gardens. As it turns out, the regulation of collective gardens is wholly separate from regulation under Initiative 502, and the provisions of chapter 69.51A RCW (Medical cannabis) control.

The second major event involved a challenge to the City of Kent's ban on collective gardens, adopted in June of 2012. In *Cannabis Action Coalition v. City of Kent*, the King County Superior Court upheld the City of Kent's ordinance. The Court determined that the city had the authority to prohibit collective gardens through its general zoning powers and RCW 69.51A.140, which expressly permits the city to enact zoning controls in relation to medical cannabis uses. While no appellate precedent has been established, the Kent decision affirmed a city's ability to prohibit collective gardens under zoning and police powers. One of the plaintiffs in that case, however, appealed the decision directly to the state Supreme Court. While the state Supreme Court has not yet accepted the matter on direct review, the commissioner of the Supreme Court issued a temporary stay of the superior court decision, in effect temporarily lifting the ban. It may be another month before we learn whether the Supreme Court will take this appeal directly, or whether they will send it down to the Court of Appeals. Either way, it will probably be at least a year before we have precedent. Note the legislature is considering changes to the provisions relating to medical cannabis collective gardens under Substitute Senate Bill 5528, but this bill does not affect RCW 69.51A.140, the section relating to local government authority and under appeal in the *City of Kent* matter.

FISCAL CONSIDERATION: None.

BOARD OR COMMITTEE RECOMMENDATION: On February 21, 2013, the Planning Commission recommended that the interim regulations be extended.

RECOMMENDATION/MOTION: Hold public hearing, consider ordinance on first reading and bring back for adoption at second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING; EXTENDING INTERIM ZONING CODE AMENDMENTS RELATING TO MEDICAL CANNABIS COLLECTIVE GARDENS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Initiative Measure No. 692, approved by the voters of Washington State on November 30, 1998 and now codified as chapter 69.51A RCW, created an affirmative defense for “qualifying patients” to the charge of possession of marijuana (cannabis); and

WHEREAS, in 2011 the Washington State Legislature considered a bill (E2SSB 5073) that would have authorized the licensing of medical cannabis dispensaries, production facilities, and processing facilities; and

WHEREAS, on April 29, 2011, Governor Gregoire vetoed the portions of E2SSB 5073 that would have provided the basis under state law for legalizing and licensing medical cannabis dispensaries, processing facilities and production facilities, thereby making these activities illegal; and

WHEREAS, in order to provide qualifying patients with access to an adequate, safe, consistent and secure source of medical quality cannabis, E2SSB 5073 also contained a provision, now codified as RCW 69.51A.085, authorizing “collective gardens” which would authorize qualifying patients the ability to produce, grow, process, transport and deliver cannabis for medical use, and that provision was approved by Governor Gregoire, effective on July 22, 2011; and

WHEREAS, E2SSB 5073, as approved and now codified at RCW 69.51A.140 authorized cities to adopt and enforce zoning requirements regarding production and processing of medical cannabis; and

WHEREAS, as authorized under RCW 35A.63.220 and RCW 36.70A.390, the Gig Harbor City Council approved Ordinance No. 1218 on July 11, 2011 adopting interim regulations for Medical Cannabis Collective Gardens that were effective and in full force immediately for a period of nine months, as amended by Ordinance No. 1222 approved after a public hearing on July 25, 2011; and

WHEREAS, the federal Controlled Substances Act and state laws regarding marijuana and cannabis are contradictory and those contradictions are unresolved so there are uncertainties in the area of local regulation of medical cannabis operations; and

WHEREAS, federal law enforcement actions against medical cannabis operations in the State of Washington and a 2011 decision from the California Court of Appeal (*Pack v. City of Long Beach*, 199 Cal.App.4th 1070 (October 4, 2011), petition for state supreme court review granted, 268 P.3d 1063, but dismissed in August of 2012 because the appeal was withdrawn) that a city's ordinance establishing a permit system for medical marijuana is preempted by the federal Controlled Substances Act further illustrate the uncertainty local governments must deal with; and

WHEREAS, as authorized under RCW 35A.63.220 and RCW 36.70A.390, after a public hearing, the Gig Harbor City Council approved Ordinance 1236 on March 26, 2012 extending the interim regulations for a period of six months and adopting findings justifying the same; and

WHEREAS, the Planning Commission considered the interim regulations in April and May of 2012 and held a public hearing on May 3rd, 2012; and

WHEREAS, the Planning Commission recommended that the interim regulations be extended until after the November 2012 general election when Washington voters will consider Initiative 502. The initiative would decriminalize the licensed production, processing and possession of marijuana by Washington adults. The State Liquor Control Board would be authorized to administer the licensing program and develop rules and regulations; and

WHEREAS, the City was concerned that the Employment District along Bujacich Drive may not be the appropriate permanent location for medical cannabis collective gardens within the city given the intent of the zone to enhance the city's economic base by providing suitable areas to support the employment needs of the community. Medical cannabis collective gardens, by definition, are not businesses; and

WHEREAS, as authorized under RCW 35A.63.220 and RCW 36.70A.390, after a public hearing, the Gig Harbor City Council approved Ordinance 1247 on September 24, 2012 extending the interim regulations for a period of six months and adopting findings justifying the same; and

WHEREAS, Ordinance 1247 called for the Planning Commission to review the interim regulations in the fall of 2012 and winter of 2013, to consider recommendations of the city attorney in response to changes in law, and to make a recommendation on whether the regulations, or some modification thereof, should be permanently adopted; and

WHEREAS, in November 2012, Washington voters approved Initiative 502; however, the regulation of collective gardens is wholly separate from regulation under Initiative 502; and

WHEREAS, the matter of *Cannabis Action Coalition v. City of Kent* has been directly appealed to the Washington State Supreme Court (if direct appeal is not

accepted, the appeal would be heard by the state Court of Appeals) after the King County Superior Court determined the City of Kent had the authority to prohibit collective gardens in its jurisdiction, and an appellate decision would provide much-needed precedent on the issue; and

WHEREAS, during the 2013 session, the Washington State Legislature is considering SB 5528 which could also provide clarity on the state regulations on collective gardens; and

WHEREAS, on February 21, 2013, the Planning Commission considered the existing interim regulations and the events that have taken place since the adoption of Ordinance 1247 and recommended that the interim regulations be extended; and

WHEREAS, it is premature to set permanent regulations for medical cannabis collective gardens given the pending *City of Kent* appeal and state legislation; and

WHEREAS, the City Council deems it to be in the public interest to extend the interim zoning regulations but to not codify permanent regulations due to the uncertainties; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City to extend interim regulations for a period of six months after a public hearing and adoption of findings justifying the same; and

WHEREAS, the Gig Harbor City Council held a public hearing on _____, 2013, to take public testimony relating to this ordinance; and

WHEREAS, nothing in this Ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law;

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

Section 1. Purpose. The purpose of this ordinance is to extend the interim regulations set forth in Ordinance No. 1218 as further amended by Ordinance No. 1222 and extended under Ordinances No. 1236 and No. 1247, for a period of six months.

Section 2. Findings in Support of Extending Interim Regulations. In addition to the findings previously made as set forth in Ordinance No. 1218, Ordinance No. 1222, and Ordinance No. 1236, and Ordinance No. 1247, the Gig Harbor City Council makes the following additional findings:

1. The City Council adopts the recitals set forth above in support of extending the interim regulations originally adopted under Ordinance No. 1218 and as amended by Ordinance No. 1222 and as extended under Ordinances No. 1236 and No. 1247.

Section 3. Extension of Interim Zoning Regulations. The duration of the interim zoning regulations shall remain in effect for an additional period of six months, and shall automatically expire at that time unless the same are extended as provided in RCW 36.70A.390 and RCW 35A.63.220 prior to that date, or unless the same are repealed or superseded by permanent regulations prior to that date.

Section 4. Planning Commission Work Plan. The City of Gig Harbor Planning Commission is hereby directed to conduct another review the interim regulations in the summer of 2013, to consider any recommendations of the city attorney in response to changes in law, and to make a recommendation on whether the regulations, or some modification thereof, should be permanently adopted. The Gig Harbor Planning Commission is directed to complete its review, to conduct such public hearings as may be necessary or desirable, and to forward its recommendation to the Gig Harbor City Council by August 22, 2013.

Section 5. Transmittal to Department. Pursuant to RCW 36.70A.106, this Ordinance shall be transmitted to the Washington State Department of Commerce.

Section 6. 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 7. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 8. Effective Date. This Ordinance shall be published and shall take effect and be in full force five (5) days after the date of publication.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ____ day of _____, 2013.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

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

ORDINANCE NO. 1218

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING; ADOPTING INTERIM ZONING CODE AMENDMENTS RELATING TO MEDICAL CANNABIS COLLECTIVE GARDENS; AMENDING SECTION 17.14.020 GHMC; SETTING A PUBLIC HEARING FOR JULY 25, 2011, IN ORDER TO TAKE PUBLIC TESTIMONY REGARDING THE INTERIM ZONING CODE AMENDMENTS; ADOPTING A PLANNING COMMISSION WORK PLAN; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Initiative Measure No. 692, approved by the voters of Washington State on November 30, 1998 and now codified as chapter 69.51A RCW, created an affirmative defense for “qualifying patients” to the charge of possession of marijuana (cannabis); and

WHEREAS, this year the Washington State Legislature considered a bill (E2SSB 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 E2SSB 5073 that would have provided the legal basis for legalizing and licensing medical marijuana or cannabis dispensaries, processing facilities and production facilities; and

WHEREAS, E2SSB 5073 also contained a provision authorizing “collective gardens” which would authorize qualifying patients the ability to produce, grow, transport and deliver cannabis for medical use, and that provision was approved by Governor Gregoire and becomes effective on July 22, 2011; and

WHEREAS, E2SSB 5073, as approved further authorized cities to adopt and enforce zoning requirements regarding production and processing of medical cannabis; and

WHEREAS, as part of the process for the adoption of zoning regulations, the land use impacts of collective gardens must be identified; and

WHEREAS, because the land use impacts of growing medical marijuana have been experienced in other jurisdictions, the City of Gig Harbor may look to the experiences of other jurisdictions in drafting zoning regulations for collective gardens; and

WHEREAS, many jurisdictions around the country that have approved medical marijuana uses have experienced numerous land use impacts, such as:

- conversion of residential uses into marijuana cultivation and processing facilities, removing valuable housing stock in a community;
- degrading neighborhood aesthetics due to shuttered up homes, offensive odors; increased night-time traffic; parking issues; loitering from potential purchasers looking to buy from a collective member;
- environmental damages from chemicals being discharged into surrounding and off-site soil and storm and sanitary sewer systems;

- serious risk of fire hazard due to overloaded service connections used to operate grow lights and fans;
- improper ventilation leading to high levels of moisture and mold;
- illegal structural modifications; and
- criminal issues such as home invasions, burglaries and cannabis facilities, theft and property damage; and

WHEREAS, unless interim zoning regulations are imposed, collective gardens may be established within the City of Gig Harbor while the City lacks the necessary tools to ensure that the location is appropriate and that the secondary impacts of such facilities are minimized and mitigated; and

WHEREAS, the City Council deems it to be in the public interest to establish interim zoning regulations related to medical cannabis collective gardens until the City can consider all of the land use impacts of collective gardens, draft regulations, hold hearings and adopt new regulations on the subject in light of the new legislation; and

WHEREAS, the City Council may adopt interim zoning regulations effective for up to one year if a work plan is developed for related studies, necessitating such longer period (RCW 35A.63.220, RCW 36.70A.390); and

WHEREAS, nothing in this Ordinance is intended nor shall be construed to authorize or approve of any violation of federal or state law; Now, therefore,

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

Section 1. Purpose. The purpose of this interim zoning ordinance is to enact minimum zoning regulations relating to collective gardens, which both allow collective gardens as a use (under the limitations herein) and also provides notice to those intending to operate and participate in collective gardens that the City is considering additional and more comprehensive zoning regulations on the subject.

Section 2. Preliminary Findings. The recitals set forth above are hereby adopted as the Gig Harbor City Council's preliminary findings in support of the interim zoning regulations imposed by this ordinance. The Gig Harbor City Council may, in its discretion, adopt additional findings after conclusion of the public hearing referenced in Section 7 below.

Section 3. Definitions. The definitions set forth in RCW 69.51A.010 are incorporated herein by this reference. In addition, the following definitions shall apply:

A. "Marijuana" or "cannabis" means all parts of the plant *Cannabis*, whether growing or not;

B. "Medical marijuana or cannabis collective garden" or "collective garden" means A garden in an enclosed, permanent structure, where qualifying patients engage in the production, processing, and delivery of cannabis for medical use as set forth in chapter 69.51A RCW and subject to the limitations therein and in this ordinance.

C. "Usable cannabis" means dried flowers of the *Cannabis* plant having a tetrahydrocannabinol (THC) concentration greater than three-tenths of one percent per weight or volume. Useable cannabis excludes stems, stalks, leaves, seeds and roots. For purposes of this subsection, "dried" means containing less than fifteen percent moisture content by weight.

D. "Youth oriented facility" means facilities owned or operated by non-profit organizations for the purpose of providing recreational and/or educational opportunities for youth including but not limited to Boys & Girls Clubs, YMCAs, YWCAs, little league baseball and other youth sports associations.

Section 4. Interim Zoning Regulations.

A. Zoning Districts. Medical marijuana or cannabis collective gardens shall be allowed as a conditional use in the following zoning districts and no others: ED.

B. Separation Requirements. No collective garden shall be permitted within 500 feet from any existing collective garden, residential zoning district, public park, community center, elementary or secondary school (public and private), commercial child care business or youth oriented facility. The measurement shall be taken in a straight line from property boundary to property boundary.

C. Additional Requirements. A collective garden must be in a permanent structure designed to comply with the City Building Code and constructed under a building permit from the City regardless of the size or configuration of the structure. Outdoor collective gardens are prohibited. No production, processing or delivery of cannabis may be visible to the public. A collective garden must meet all requirements under E2SSB 5073, including but not limited to limitations on number of members, number of plants, amount of usable cannabis on site, maintenance of each member's valid documentation of qualifying patient status.

D. Applications. In addition to the application requirements for a conditional use set forth in GHMC 17.64.015, an application for a collective garden shall include the following information:

- i. Site plan;
- ii. Floor plan;
- iii. Number of cannabis plants to be grown;
- iv. Electrical and ventilation plans;
- v. Contact person;
- vi. Proof of property ownership or permission from property owner;
- vii. Proof the person signing the application is a qualifying patient;
- viii. Vicinity map showing all collective gardens, public parks, community centers, elementary or secondary schools, commercial child care businesses, youth oriented facilities and boundaries of residential zoning districts within 500feet of the parcel proposed for the collective garden; and
- vix. A survey performed by a surveyor licensed by the State of Washington to show the distance to any and all collective gardens, public parks, community centers, elementary or secondary schools, commercial child care businesses, youth oriented facilities and boundaries of residential zoning districts if the proposed collective garden appears to be within 750 feet of any such use.

Section 5. Amendment to Land Use Matrix. Chapter 17.14.020 of the Gig Harbor Municipal Code shall be amended to include a notation that medical marijuana or cannabis collective gardens may be permitted subject to the interim regulations set forth in this ordinance.

Section 6. Duration of Interim Zoning Regulations. The interim zoning regulations adopted by this Ordinance shall commence on the date of adoption of this ordinance. The interim zoning amendments adopted by this ordinance shall remain in effect for a period of nine months, and shall automatically expire at that time unless the same are extended as provided in RCW 36.70A.390 and RCW 35A.63.220 prior to that date, or unless the same are repealed or superseded by permanent amendments prior to that date.

Section 7. Public Hearing. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the City Council shall hold a public hearing on this interim zoning ordinance within sixty (60) days of its adoption. The Council shall hold this hearing on July 25, 2011, at 5:30 p.m. or as soon thereafter as the business of the City Council shall permit. The City Council may adopt additional findings justifying the interim zoning regulations after the close of the hearing or during the next City Council meeting immediately following.

Section 8. Planning Commission Work Plan. The City of Gig Harbor Planning Commission is hereby directed to review the interim amendments in the winter of 2012 and to make a recommendation on whether said amendments, or some modification thereof, should be permanently adopted. The Gig Harbor Planning Commission is directed to complete its review, to conduct such public hearings as may be necessary or desirable, and to forward its recommendation to the Gig Harbor City Council by the end of February, 2012.

Section 9. Transmittal to Department. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

Section 10. 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 11. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council. Without immediate adoption of interim regulations for medical cannabis collective gardens, collective gardens could locate and operate in the City without restriction, eventually leading to the establishment or operation of such use in locations or conditions that might later be restricted or prohibited in the zoning regulations eventually adopted by the City. The interim zoning regulations must be imposed as an emergency measure to protect the public health, safety and welfare.

Section 12. Publication. This ordinance shall be published by an approved summary consisting of the title.

Section 13. Effective Date. This ordinance shall take effect and be in full force immediately upon passage by a majority vote plus one of the whole membership of the Council.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this 11th day of July, 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: 07/11/11
PASSED BY THE CITY COUNCIL: 07/11/11
PUBLISHED: 07/20/11
EFFECTIVE DATE: 07/11/11
ORDINANCE NO: 1218

ORDINANCE NO. 1222

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING; MAKING ADDITIONAL FINDINGS IN SUPPORT OF THE ADOPTION OF INTERIM ZONING REGULATIONS RELATING TO MEDICAL CANNABIS COLLECTIVE GARDENS UNDER ORDINANCE NO. 1218; AMENDING SECTION 3(B) OF ORDINANCE NO. 1218 TO EXPAND THE DEFINITION OF COLLECTIVE GARDEN; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on July 11, 2011, the City Council adopted Ordinance No. 1218, establishing immediate interim regulations relating to medical cannabis collective gardens; and

WHEREAS, pursuant to RCW 36.70A.390 and RCW 35A.63.220, a city may adopt interim zoning regulations as long as the city council holds a public hearing on the interim zoning regulations within 60 days of its adoption; and

WHEREAS, the City Council held the public hearing on the interim zoning regulations adopted under Ordinance No. 1218 on July 25, 2011; and

WHEREAS, after considering input from City staff and the public testimony received at the public hearing, the City Council has determined that the interim regulations should be modified; Now, therefore,

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

Section 1. Additional Findings. In support of the interim zoning regulations established by Ordinance No. 1218, and in addition to the findings previously made as set forth in Ordinance No. 1218, the Gig Harbor City Council makes the following additional findings:

1. The City Council has considered the studies and data on file in the City Clerk's office relating to the land use and other secondary impacts associated with medical marijuana and further takes notice of and specifically relies upon the data and studies.

2. The City Council has determined that revising the definition of "medical marijuana or cannabis collective garden" and "collective garden" will encompass all forms of collective gardens that may be authorized under chapter 69.51A RCW.

3. Other: _____

Section 2. Amendment of Ordinance No. 1218

1. Section 3(B) of Ordinance No. 1218 is hereby amended to read as follows:

B. "Medical cannabis collective garden" or "collective garden" means any place, area or garden where qualifying patients engage in the production, processing, and delivery of cannabis for medical use as set forth in chapter 69.51A RCW and subject to the limitations therein and in this ordinance.

2. A new paragraph is added to Section 3 of Ordinance No. 1218 to read as follows:

In addition to the above definitions and as necessary to interpret or apply this ordinance, the City hereby adopts those definitions set forth in chapter 69.51A RCW, as the same now exist or as it may hereafter be amended. In the event chapter 69.51A RCW is amended to include definitions for any of the terms set forth above, the definitions set forth above shall be deemed automatically amended to conform to such amendments.

Section 3. Transmittal to Department. Pursuant to RCW 36.70A.106, this ordinance shall be transmitted to the Washington State Department of Commerce.

Section 4. 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.

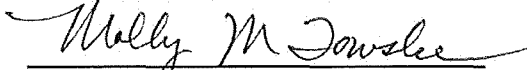
Section 5. Effective Date. This ordinance shall take effect and be in full force and effect five days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this 25th day of July, 2011.

CITY OF GIG HARBOR

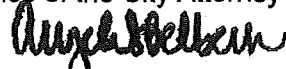

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:


Molly M. Towslee, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney


Angela S. Belbeck

FILED WITH THE CITY CLERK: 07/21/11
PASSED BY THE CITY COUNCIL: 07/25/11
PUBLISHED: 08/03/11
EFFECTIVE DATE: 08/08/11
ORDINANCE NO: 1222



COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF RECOMMENDATION

CITY OF GIG HARBOR PLANNING COMMISSION PL-ZONE-12-0006

TO: Mayor Hunter and Members of the Council
FROM: Harris Atkins, Chair, Planning Commission
RE: PL-ZONE-12-0006 Medical Cannabis Collective Gardens

Application:

On July 11, 2011, the City Council passed an interim ordinance regulating medical cannabis collective gardens (ORD 1218). On July 25, 2011, the City Council passed an ordinance adding findings of fact and amending the interim collective garden regulations (ORD 1222). On March 26, 2012, the City Council extended the interim ordinance six months (ORD 1236). The interim ordinance now expires in October 2012. The interim ordinance directed the Planning Commission to review the interim regulations, to consider recommendations of the city attorney in response to changes in law, and to make a recommendation on whether the regulations or some modification thereof should be permanently adopted.

Planning Commission Review:

The Planning Commission held work-study sessions on April 5th, May 3rd and May 17th, 2012. A public hearing was held on May 3rd, 2012. Public notice was provided in the Gateway, on the City's webpage and was mailed to those parties which had signed up to receive notice of the Planning Commission's hearing. No persons testified at the hearing. After much deliberation, at the May 17th work-study session, the Planning Commission recommended that the interim regulations be extended until after this fall's initiative vote on cannabis.

Findings of Fact:

The Planning Commission makes the following findings of fact in relation to their recommendation to extend the interim regulations:

1. In November 2012, Washington voters will consider Initiative 502. The initiative would decriminalize the licensed production, processing and possession of marijuana by Washington adults. The State Liquor Control Board would be authorized to administer the licensing program and develop rules and regulations.
2. The Planning Commission believes it is premature to set permanent regulations for medical cannabis collective gardens given the potential changes in the law if Initiative 502 passes.

3. The Planning Commission is concerned that the Employment District along Bujacich Drive may not be the appropriate permanent location for medical cannabis collective gardens within the city given the intent of the zone to to enhance the city's economic base by providing suitable areas to support the employment needs of the community. Medical cannabis collective gardens, by definition, are not businesses.
4. The Planning Commission believes that extending the interim regulations is the best course of action in that the City will continue to regulate collective gardens, but allows time to see the results of the fall election and allows for continued exploration of the appropriate location for marijuana related establishments in the City.

Harris Atkins, Chair
Planning Commission



Date 6/7/2012

CURRENT INTERIM REGULATIONS FOR MEDICAL CANNABIS COLLECTIVE GARDENS
(From ORD 1218 and as amended by ORD 1222)

Interim Definitions. The definitions set forth in RCW 69.51A.010 are incorporated herein by this reference. In addition, the following definitions shall apply:

A. "Marijuana" or "cannabis" means all parts of the plant *Cannabis*, whether growing or not;

B. "Medical cannabis collective garden" or "collective garden" means any place, area or garden where qualifying patients engage in the production, processing, and delivery of cannabis for medical use as set forth in chapter 69.51A RCW and subject to the limitations therein and in this ordinance.

C. "Usable cannabis" means dried flowers of the *Cannabis* plant having a tetrahydrocannabinol (THC) concentration greater than three-tenths of one percent per weight or volume. Useable cannabis excludes stems, stalks, leaves, seeds and roots. For purposes of this subsection, "dried" means containing less than fifteen percent moisture content by weight.

D. "Youth oriented facility" means facilities owned or operated by non-profit organizations for the purpose of providing recreational and/or educational opportunities for youth including but not limited to Boys & Girls Clubs, YMCAs, YWCAs, little league baseball and other youth sports associations.

In addition to the above definitions and as necessary to interpret or apply this ordinance, the City hereby adopts those definitions set forth in chapter 69.51A RCW, as the same now exist or as it may hereafter be amended. In the event chapter 69.51A RCW is amended to include definitions for any of the terms set forth above, the definitions set forth above shall be deemed automatically amended to conform to such amendments.

Interim Zoning Regulations.

A. Zoning Districts. Medical marijuana or cannabis collective gardens shall be allowed as a conditional use in the following zoning districts and no others: ED.

B. Separation Requirements. No collective garden shall be permitted within 500 feet from any existing collective garden, residential zoning district, public park, community center, elementary or secondary school (public and private), commercial child care business or youth oriented facility. The measurement shall be taken in a straight line from property boundary to property boundary.

C. Additional Requirements. A collective garden must be in a permanent structure designed to comply with the City Building Code and constructed under a building permit from the City regardless of the size or configuration of the structure. Outdoor collective gardens are prohibited. No production, processing or delivery of cannabis may be visible to the public. A collective garden must meet all requirements under E2SSB 5073, including but not limited to limitations on number of members, number of plants, amount of usable cannabis on site, maintenance of each member's valid documentation of qualifying patient status.

D. Applications. In addition to the application requirements for a conditional use set forth in GHMC 17.64.015, an application for a collective garden shall include the following information:

- i. Site plan;
- ii. Floor plan;
- iii. Number of cannabis plants to be grown;
- iv. Electrical and ventilation plans;
- v. Contact person;
- vi. Proof of property ownership or permission from property owner;
- vii. Proof the person signing the application is a qualifying patient;
- viii. Vicinity map showing all collective gardens, public parks, community centers, elementary or secondary schools, commercial child care businesses, youth oriented facilities and boundaries of residential zoning districts within 500feet of the parcel proposed for the collective garden; and
- vix. A survey performed by a surveyor licensed by the State of Washington to show the distance to any and all collective gardens, public parks, community centers, elementary or secondary schools, commercial child care businesses, youth oriented facilities and boundaries of residential zoning districts if the proposed collective garden appears to be within 750 feet of any such use.



Business of the City Council
City of Gig Harbor, WA

Subject: Ordinance Amending GHMC Chapter 8.20 relating to Fireworks

Dept. Origin: Administration

Prepared by: Laurelyn Brekke

Proposed Council Action:

For Agenda of: March 11, 2013

Consider the Ordinance and move forward for adoption at second reading.

Exhibits: Draft Ordinance

Initial & Date

Concurred by Mayor:

JZ 3/7/13

Approved by City Administrator:

R 3/6/13

Approved as to form by City Atty:

by email 3/6

Approved by Finance Director:

[Signature] 3/2/13

Approved by Department Head:

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

INFORMATION / BACKGROUND

Ordinance No. 1255 approved by City Council on January 28, 2013, repealed GHMC Chapter 5.16 Temporary Businesses. A temporary business license was an integral piece of the temporary fireworks stand permit's terms and conditions. Contact was made with three other cities, one of whom shares a fireworks provider. After review of municipal codes relating to fireworks in Marysville, Port Orchard, and Sequim, it seemed prudent to review our entire code relating to fireworks and update as necessary.

The words license and licensee have been changed to permit and permittee; reflecting the trend for licenses to be issued by the state and permits issued by local jurisdiction.

Compliance with the amended GHMC Chapter 5.01 Business Licensing is included as well as specific reference to payment of the permit fee allowed by RCW 70.77.555.

Insurance coverage has not been updated since 1983 and the amounts listed in this draft are industry standard as indicated on certificates of insurance provided by 2012 fireworks providers.

The existing code allows applications to be submitted April 15 - July 4. The July 4th date does not allow sufficient time for processing the application and performing timely inspections. The recommended time frame for submitting applications is April 15 – June 1 of the year for which the permit is sought.

The Washington State Fireworks License is now issued by the Washington State Patrol. City inspection of temporary fireworks stands are completed by the Building Official/Fire Marshal or designee.

FISCAL CONSIDERATION

No change.

STAFF RECOMMENDATION

Building Official/Fire Marshal concurs with the proposed amendments.

RECOMMENDATION / MOTION

Move to: Adopt the Ordinance at second reading.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF GIG HARBOR, WASHINGTON, RELATING TO
FIREWORKS; AMENDING CHAPTER 8.20 OF THE GIG
HARBOR MUNICIPAL CODE.**

WHEREAS, on March 14, 1983, the City of Gig Harbor City Council passed Ordinance No. 418, which adopted provisions for regulating the sale and use of fireworks; and

WHEREAS, on January 28, 2013, the Gig Harbor City Council passed Ordinance No. 1255, which amended Chapter 5.01 of the Gig Harbor Municipal Code relating to Business Licensing and Exemptions, and repealed Chapter 5.16--Temporary Businesses; and

WHEREAS, as amended Chapter 5.01 GHMC requires all businesses to obtain a city business license; and

WHEREAS, the repealed temporary business license for fireworks sales will be replaced by a temporary fireworks stand permit fee as provided by RCW 70.77.555; and

WHEREAS, the City of Gig Harbor desires to better develop its guidelines for the regulation and permitting of temporary fireworks stands, providing sufficient time for permit application processing, ensuring insurance requirements consistent with industry standard, and reflecting current departmental supervision of terms and conditions;

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

Section 1. Chapter 8.20 GHMC – Amended. Chapter 8.20 of the Gig Harbor Municipal Code is hereby revised as follows:

**Chapter 8.20
FIREWORKS**

Sections:

- 8.20.010 Intent.
- 8.20.020 Applicability.
- 8.20.030 Compliance with licensing provisions.
- 8.20.040 ~~License Permit~~– Application.
- 8.20.050 License ~~Permit~~ – Use requirements.
- 8.20.060 License ~~Permit~~ – Maximum number.
- 8.20.070 License ~~Permit~~ – Terms and conditions.

- 8.20.080 License Permit – Granting limitations.
- 8.20.090 Temporary stands – Standards and conditions.
- 8.20.100 Temporary stands – Safe and sane fireworks only.
- 8.20.110 Time limit – Sale of fireworks.
- 8.20.120 Time limit – Use of fireworks.
- 8.20.130 Unlawful acts.
- 8.20.140 Enforcement.
- 8.20.150 Violation – Penalty.

8.20.010 Intent.

This chapter is intended to implement Chapter 228, Laws of 1961 of the state of Washington, and shall be construed in connection with said law and any and all rules or regulations issued pursuant thereto.

8.20.020 Applicability.

The provisions of this chapter shall apply to the sale of all safe and sane fireworks, as defined by Chapter 228, Laws of 1961 of the state of Washington, except as to the sales of “toy caps” and “sparklers.”

8.20.030 Compliance with licensing provisions.

It is unlawful for any person, firm or corporation to engage in the retail sale of or to sell any fireworks within the city limits of Gig Harbor without first obtaining a city business license and complying with the provisions of Chapter 5.16 GHMC. Chapter 5.01. GHMC.

8.20.040 License Permit – Application.

Applications for ~~temporary business licenses~~ temporary fireworks stand permit must be accompanied by the permit fee and pursuant to this chapter may be filed and will be accepted by the city only during the period between April 15th and ~~July 4th~~ June 1st of the year for which the license permit is sought.

8.20.050 License Permit – Use requirements.

A license permit granted pursuant to this chapter shall entitle the ~~licensee~~ permittee to maintain only one retail outlet. All ~~licenses~~ permits issued pursuant hereto shall be used only by the designated ~~licensee~~ permittee and shall be nontransferable. Any transfer or purported transfer of such a license permit shall be deemed a violation of this chapter.

8.20.060 License Permit – Maximum number.

The maximum number of ~~licenses~~ permits issued by the city in any year shall not exceed one for every 500 people or fraction thereof residing in the corporate limits of Gig Harbor.

8.20.070 License Permit – Terms and conditions.

A ~~temporary business license~~ temporary fireworks stand permit for the sale of fireworks shall be issued only upon the following terms and conditions:

A. The applicant shall have a valid and subsisting Washington State Fireworks License ~~license~~ issued by the ~~state of Washington~~ Washington State Patrol authorizing the holder thereof to engage in the fireworks business.

B. The applicant shall own or have the right to possess a temporary fireworks stand complying with the standards hereinafter set forth for temporary fireworks stands.

C. The applicant shall procure and maintain a policy or policies of public liability and property damage insurance in a company or companies approved by the city of Gig Harbor in the following amounts: ~~Not less than \$300,000 bodily injuries to a person or persons in any one accident or occurrence; and \$100,000 property damage.~~ \$1,000,000 Commercial General Liability (each occurrence); \$50,000 Damage to premises; \$1,000,000 Personal & Adv Injury; \$2,000,000 General Aggregate; \$2,000,000 Products – Comp/OP AGG.

D. The ~~licensee's~~ permittee's location or place of business shall be only in those areas or zones within the city wherein commercial activities are authorized under the applicable zoning laws of the city of Gig Harbor; provided, that the sale of safe and sane fireworks shall not be deemed an enlargement of an existing nonconforming use; and provided, further, that no fireworks shall be sold in any residential area where a commercial enterprise does not exist.

E. The applicant shall file with the city a cash deposit in an amount not less than \$100.00, conditioned upon the prompt removal of the temporary stand and the cleaning up of all debris from the site of the temporary stand. The deposit shall be returned to the applicant after he removes the temporary stand and cleans up all debris to the satisfaction of the ~~public works director~~ Building Official/Fire Marshal. If he fails to do so, the cash deposit and all property not removed shall be forfeited to the city. In no event shall the applicant be entitled to the return of the cash deposit if he has failed to remove the temporary stand and clean up all debris by the tenth day of July of each year.

8.20.080 License Permit – Granting limitations.

In the event there are more applications for ~~licenses~~ permits than there are ~~licenses~~ permits available, ~~licenses~~ permits shall be granted in the following manner:

A. Any person, firm or corporation having been issued a ~~license~~ permit and exercised its rights under that ~~license~~ permit for the year prior to the making of the application shall be entitled to renew said ~~license~~ permit.

B. Any ~~licenses~~ permits remaining shall be granted to those first applying there for, who meet all the necessary qualifications and requirements.

8.20.090 Temporary stands – Standards and conditions.

The temporary stands of all licensees permit holders shall conform to the following minimum standards and conditions:

A. Temporary fireworks stands need not comply with all provisions of the International Building Code; provided, however, that all such stands shall be erected under the supervision of the building inspector or his duly authorized representative, who shall require all stands to be constructed in a safe manner, insuring the safety of attendants and patrons. In the event any temporary stand is wired for electricity, then the wiring shall conform to the Electrical Code of the state of Washington.

B. No temporary fireworks stand shall be located within 20 feet of any other building or structure, nor within 50 feet of any gasoline station, oil storage tank or premises where flammable liquids are kept or stored.

C. Each temporary fireworks stand must have at least two exits, which shall be unobstructed at all times.

D. Each temporary fireworks stand shall have, in a readily accessible place, ~~a fire extinguisher duly approved in advance by the fire chief of Fire Protection District No. 5 or his duly authorized representative.~~ two approved, pressurized two and one-half gallon water-type fire extinguishers.

E. All weeds, grass and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area a distance of not less than 20 feet, measured from the exterior walls on each side of said temporary fireworks stand.

F. No smoking shall be permitted in or near a temporary fireworks stand and the same shall be posted with proper “No Smoking” signs.

G. Each temporary fireworks stand shall have an adult in attendance at all times. No child or children under the age of 18 years shall be allowed inside the employee area of any temporary fireworks stand.

H. All unsold stock and accompanying litter shall be removed from said temporary fireworks stand by 12:00 noon on July 6th of each year.

8.20.100 Temporary stands – Safe and sane fireworks only.

All safe and sane fireworks except “toy caps” and “sparklers” shall be sold only from temporary stands.

8.20.110 Time limit – Sale of fireworks.

No licensee permittee shall sell at retail or offer for sale any fireworks authorized to be sold herein within the city limits of Gig Harbor except from 12:00 noon on June 28th to 12:00 noon on July 5th of any year.

8.20.120 Time limit – Use of fireworks.

No person shall use or explode any fireworks within the corporate limits of Gig Harbor except from 12:00 noon on June 28th to 12:00 noon on July 5th of any year; provided that this prohibition shall not apply to duly

authorized public displays where the same are authorized pursuant to the laws of the state of Washington.

8.20.130 Unlawful acts.

It is unlawful for any person to sell, possess, use or explode any dangerous fireworks within the city limits of Gig Harbor. Any item of fireworks which does not bear a "Safe and Sane" registration or classification of the State Fire Marshal in conformity with Chapter 228, Laws of 1961 of the state of Washington, shall be deemed dangerous and is prohibited by this chapter.

8.20.140 Enforcement.

The chief of police or his duly authorized representative is designated as the enforcing officer of this chapter. In addition to all the grounds for revocation of ~~licenses~~ permits set forth in the general provisions of this chapter, any failure or refusal on the part of ~~licensee~~ permittee to obey any rule, regulation or request of the chief of police concerning the sale of fireworks shall be grounds for the revocation of a ~~fireworks license~~ temporary fireworks stand permit.

8.20.150 Violation – Penalty.

Violation of any portion of this chapter is an infraction and subject to a penalty of \$1,000 as provided in GHMC 1.16.010D.

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 _____, 2013.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela Belbeck, City Attorney

FILED WITH THE CITY CLERK: 03/06/13
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:



**Business of the City Council
City of Gig Harbor, WA**

Subject: Well No. 5 Motor Removal and Analysis Project – Small Public Works Contract Award

Dept. Origin: Public Works

Proposed Council Action: Award and authorize the Mayor to execute a Small Public Works Contract with Pump Tech, Inc., in an amount not exceed \$4,112.15 for the award of the Well No. 5 Motor Removal and Analysis Project and authorize the Public Works Director to approve additional expenditures up to \$800 to cover any cost increases that may result from contract change orders.

Prepared by: Jeff Langhelm, PE *AL*

For Agenda of: March 11, 2013

Exhibits: Public Works Contract

Initial &
Date

Concurred by Mayor:

Approved by City Administrator: *[Signature]* 3/11/13

Approved as to form by City Atty: APP'D VIA *[Signature]* 3/11/13

Approved by Finance Director: *[Signature]* 3/11/13

Approved by Department Head: *[Signature]* 3/11/13

Expenditure Required	\$4,912.15	Amount Budgeted	\$0	Appropriation Required	See Fiscal Consideration
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INFORMATION/BACKGROUND

On February 28, 2013 the City became aware of an electrical fault in the motor and/or wiring for Well No. 5. Well No. 5 is located adjacent to Well No. 6 near Skansie Avenue and has a pump and motor assembly approximately 450 feet below ground surface.

This well provides about 520 gallons per minute, which is approximately 20% of the water system's available pumping capacity. Fortunately, due to the low water usage during this time of year, other wells have been able to keep up with the current demand.

This proposed small public works contract provides for the removal of the pump and motor assembly and the analysis of the motor and wiring to diagnose the electrical fault. An additional contract will be proposed at a future council meeting that encompasses the recommended repair to the motor based on the analysis provided by this contract work.

BID RESULTS

This project was bid using the City's Small Public Works bidding process. The initial estimate of work was \$8,000. A total of three bid proposals were received by the City on March 8, 2013. Bid results from each bidder are summarized below.

No.	Bidder	Bid Amount
1	Pump Tech	\$4,112.15
2	Tacoma Pump and Drilling	\$8,951.25
3	Grundfos	\$11,229.75

FISCAL CONSIDERATION

The 2013 Water Division Operations Fund has no direct funds allocated for emergencies such as this. However, sufficient funds are available in reserve to fund this contract work. A summary of the anticipated work are summarized below.

Anticipated 2013 Work	Amount
Pump Tech Small Public Works Contract	\$ (4,112.15)
Change Order Authority	\$ (800.00)
<i>Motor Repair Contract</i>	\$ <i>unknown</i>

Note: Anticipated work in *italics* are estimated.

BOARD OR COMMITTEE RECOMMENDATION

This topic has not been previously presented to any board or committee due to its urgent nature.

RECOMMENDATION/MOTION

Award and authorize the Mayor to execute a Small Public Works Contract with Pump Tech, Inc., in an amount not exceed \$4,112.15 for the award of the Well No. 5 Motor Removal and Analysis Project and authorize the Public Works Director to approve additional expenditures up to \$800 to cover any cost increases that may result from contract change orders.

CITY OF GIG HARBOR
SMALL PUBLIC WORKS CONTRACT

WELL No. 5 MOTOR REMOVAL AND ANALYSIS PROJECT (CWP-1317)

THIS CONTRACT is made and entered into this _____ day of _____, 2013, by and between the City of Gig Harbor, Washington (the "City"), and PumpTech Inc., a Washington Corporation (the "Contractor").

FOR AND IN CONSIDERATION of the mutual benefits and conditions hereinafter contained, the parties hereto agree as follows:

1. Scope of Work.

The Contractor agrees to furnish all material, labor, tools, equipment, apparatus, etc. necessary to perform and complete in a workmanlike manner the work set forth in the Invitation to Bidders attached hereto as Exhibit A and incorporated herein by reference.

2. Time of Contract Execution, Performance and Completion.

This Contract shall be executed by the Contractor within 48 hours of the time of Contract Award by the City.

The Contractor shall provide to the City all necessary insurance and prevailing wage information required by this Contract within 48 hours of the time of Contract Award by the City.

The work to be performed under this Contract shall commence within 72 hours of the Contractor receiving the Notice to Proceed from the City.

All work performed under this Contract shall be completed within 168 hours of the Contractor receiving the Notice to Proceed from the City.

3. Payments.

The Contractor agrees to perform all work called for in Exhibit A at the rate set forth in the Bid Proposal attached hereto as Exhibit B. Said sum shall constitute full compensation for all labor, materials, tools, appliances, etc. required to perform the required services. Total compensation shall not exceed Four Thousand, One Hundred Twelve Dollars and Fifteen Cents (\$4,112.15) including 8.5% Washington State Sales Tax.

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4. Retainage.

Pursuant to RCW 60.28.011, five percent (5%) of all monies earned by the Contractor shall be retained by the City for the purposes mentioned in said statute. The Contractor elects to have these monies (check one):

_____ Retained in a fund by the City until sixty (60) days following the final acceptance of said improvement or work as completed;

_____ Deposited by the City in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: Provided, that interest on such account shall be paid to the Contractor; or

_____ Placed in escrow with a bank or trust company by the City until sixty (60) days following the final acceptance of said improvement or work as completed. When the monies reserved are to be placed in escrow, the City shall issue a check representing the sum of the monies reserved payable to the bank or trust company and the Contractor jointly. Such check shall be converted into bonds and securities chosen by the Contractor and approved by the City and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the Contractor as the said interest accrues.

5. Performance and Payment Bond - 50% Letter.

A. The Contractor shall execute and deliver to the City a bond, on forms supplied or approved by the City, with an approved surety company as surety, in the sum of the full amount of the Contract plus the applicable Washington State Sales Tax, in compliance with RCW 39.08.010 through 39.08.060 and any amendments thereto. The surety on any such bond shall be a surety company duly authorized to transact surety business under the laws of the State of Washington. In lieu of such a bond, the Contractor may provide a letter of credit in the same sum and subject to the same conditions, in a form approved by the City Attorney.

B. If the amount of this Contract is Thirty-five Thousand Dollars (\$35,000) or less, the Contractor may, at its option, in lieu of the bond specified in subparagraph A, have the City retain fifty percent (50%) of the contract amount for a period of thirty (30) days after the date of completion of services, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later.

6. Warranty/Maintenance Bond.

The Contractor will warranty the labor and installation of materials for a two-year warranty period and shall furnish a maintenance bond in an amount and form approved

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by the City in order to guarantee that the work specified in Exhibit A and completed by Contractor will remain free from defects in workmanship and materials for a period of two years after completion of construction.

7. Indemnity.

A. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney's 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.

B. 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 Contractor and the City, its officers, officials, employees or volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

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

8. Insurance.

A. The Contractor shall secure and maintain in force throughout the duration of this Contract, business auto coverage for any auto no less than a \$1,000,000 each accident limit.

B. The Contractor shall secure and maintain in force throughout the duration of this Contract, comprehensive general liability insurance with a minimum coverage of not less than a limit of \$1,000,000 per occurrence, \$2,000,000 annual aggregate for bodily injury, including death, and property damage. The insurance will be written on an occurrence basis, by an 'A' rated company licensed to conduct business in the State of Washington. The general liability policy shall name the City as an additional insured and shall include a provision prohibiting cancellation, changes and reductions of coverage under said policy except upon thirty (30) days prior written notice to the City. Certificates of coverage as required by this Section shall be delivered to the City with the signed Contract. Under this Agreement, the Contractor'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 commercial general liability policy must provide cross-

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liability coverage as could be achieved under a standard ISO separation of insured's clause.

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

D. In addition, the Contractor shall secure and maintain workers' compensation insurance pursuant to the laws of the State of Washington.

9. Prevailing Wage.

A. The prevailing rate of wage to be paid to all workmen, laborers, or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of Chapter 39.12 RCW, as amended, and the rules and regulations of the Department of Labor and Industries. The rules and regulations of the Department of Labor and Industries and the schedule of prevailing wage rates for the locality or localities where this Contract will be performed as determined by the Industrial Statistician of the Department of Labor and Industries, are attached hereto and by reference made a part of this Contract as though fully set forth herein.

B. On or before the date of commencement of the work, the Contractor shall file a statement under oath with the City and with the Director of Labor and Industries certifying the rate of hourly wage paid and to be paid each classification of laborers, workmen, or mechanics employed upon the work by the Contractor or any Subcontractor, which shall not be less than the prevailing rate of wage. Such statement and any subsequent statement shall be filed in accordance with the practices and procedures required by the Department of Labor and Industries.

10. Termination.

A. Termination for Contractor's Default. If the Contractor refuses or fails to make adequate progress of the work, or to prosecute the work or any separable part thereof with such diligence that will insure its completion within the time specified in this Contract, or defaults under any provision or breaches any provision of this Contract, the City may serve notice upon the Contractor and its surety of the City's intention to terminate by default the right of the Contractor to perform the Contract, and unless within ten (10) days after the serving of such notice, the Contractor shall satisfactorily arrange to cure its failure to perform and notify the City of the corrections to be made, the right of the Contractor to proceed with the work shall terminate. In the event of any such termination, the City shall serve notice thereof upon the Surety and the Contractor, provided, however, that if the Surety does not commence performance thereof within twenty (20) days from the date of the mailing to such Surety of the notice of termination, the City may take over the work and prosecute the same to completion by Contract or otherwise for the account and at the

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expense of the Contractor. In the case of termination for default, the Contractor shall not be entitled to receive any further payment until the work is finished.

B. Termination by City for Convenience. The performance of work under this Contract may be terminated by the City in accordance with this paragraph in whole or in part, whenever the City shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance or work under the Contract is terminated, and the date upon which such termination becomes effective. The Contractor shall stop work on the project upon the date set forth in the Notice of Termination and shall take such actions as may be necessary, or as the City may direct, for the protection and preservation of the work. After receipt of a Notice of Termination, the Contractor shall submit to the City its termination claim, in the form and with the certification prescribed by the City. Such claim shall be submitted promptly but in no event later than 3 months from the effective date of the termination. Upon approval by the City, the termination claim shall be paid.

C. Termination by Contractor. If the work should be stopped under an order of any court, or other public authority, for a period of thirty (30) days, through no act or fault of the Contractor or of anyone employed by him, then the Contractor may, upon seven (7) days written notice to the City, terminate this Contract and recover from the City payment for all work executed and any proven loss sustained. Should the City fail to pay to the Contractor, within the payment period provided for in this Contract, any sum due and owing, then the Contractor may, upon seven (7) days written notice to the City, stop the work or terminate this Contract.

11. Compliance with Laws. The Contractor shall at all times comply with all applicable state and local laws, rules, ordinances and regulations.

12. Nondiscrimination. Except to the extent permitted by a bona fide occupational qualification, the Contractor agrees that the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

13. Independent Contractor. No agent, employee or representative of the Contractor shall be deemed to be an agent, employee or representative of the City for any purpose. Contractor shall be solely responsible for all acts of its agents, employees, representatives and subcontractors during the performance of this contract.

14. Relationship of Parties. The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Contractor is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or subcontractor of

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the Contractor shall be or shall be deemed to be the employee, agent, representative or subcontractor of the City. In the performance of the work, the Contractor is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or subcontractors of the Contractor. The Contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and subcontractors during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Contractor performs

15. Legal Action. In the event that either party shall bring suit to enforce any provision of this Contract or to seek redress for any breach, the prevailing party in such suit shall be entitled to recover its costs, including reasonable attorneys' fees.

16. Entire Agreement. This Contract, together with all attachments, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations and agreements, whether written or oral. This Contract may be amended only by written change order, properly signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first written above.

CITY OF GIG HARBOR

CONTRACTOR

MAYOR CHARLES L. HUNTER
Date: _____

By: _____
Title: _____
Date: _____

ATTEST/AUTHENTICATED:

MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:
Office of the City Attorney

EXHIBIT A - INVITATION TO BIDDERS

CITY OF GIG HARBOR
WELL No. 5 MOTOR REMOVAL AND ANALYSIS PROJECT (CWP-1317)

The City of Gig Harbor's Well No. 5 is a water supply production well that uses a soft starter to operate the motor in the well. This soft starter has been tripping the main breaker. Using a megger, the City has found the ohms to ground to be 1 meg.

The City of Gig Harbor requests sealed bid proposals for construction services for the Well No. 5 Motor Removal and Analysis Project (CWP-1317). The work to be completed under the contract generally includes removal and protection of the pump and motor assembly and analysis of the motor and wiring to determine the cause of the tripping of the main breaker. The pump and motor assembly consists of the following components:

- Approximately 420 feet of 6 inch black steel pipe with threaded couplers every 20 or 21 feet.
- Byron Jackson 10MQL 16 Stage Pump
- Byron Jackson 100 HP Type H submersible motor, 480 volt
- Two check-valve assemblies
- 4/0 AWG flat cable

This pump and motor assembly will be removed with water in the piping.

The successful contractor shall work with City Operations Staff to protect the surrounding existing well control and electrical equipment from water damage. The successful contractor shall be responsible for acquiring all necessary permits, accessing the well, and placement and constructing a temporary storage rack for the pipe removed from the well.

Telephone inquiries regarding the Project may be directed to Jeff Langhelm, P.E., at the City of Gig Harbor at (253) 853-7630 or LanghelmJ@cityofgigharbor.net.

The Contract Documents shall consist of the City's Small Works Contract (Contract), this Invitation to Bidders (Exhibit A of the Contract), the attached Bid Proposal (Exhibit B of the Contract), and the attached Site Layout and Site Photographs. All work shall be consistent with the City of Gig Harbor Public Works Standards.

Sealed bid proposals will be received by Nancy Nayer at the City of Gig Harbor only by means of email (NayerN@cityofgigharbor.net) or delivered to the City of Gig Harbor, 3510 Grandview Street, Gig Harbor, Washington, 98335, **no later than 4:00 p.m., Friday, March 8, 2013**. Bid proposals received after the time fixed for opening will not be considered. Email "sent" times and postmarks will not be accepted.

The City of Gig Harbor reserves the right to reject any or all bids and to waive minor irregularities in the bidding process. The City of Gig Harbor reserves the right to award this contract to the lowest responsive, responsible bidder based on the Bid Proposal. In determining the lowest responsive responsible bidder, consideration will be given to the criteria listed in RCW 39.04.

***** END OF EXHIBIT A *****

EXHIBIT B - BID PROPOSAL

WELL No. 5 MOTOR REMOVAL AND ANALYSIS PROJECT (CWP-1317)

A. Acknowledgement

The undersigned bidder declares that he has read the Contract Documents, understands the conditions of the City's , has examined the site, and has determined for itself all situations affecting the work herein bid upon.

And, bidder proposes and agrees, if this proposal is accepted, to provide at bidder's own expense, all labor, machinery, tools, materials, etc. including all work incidental to, or described or implied as incidental to such items, according to the Contract Documents, and that the bidder will complete the work within the time stated, and further, the bidder will accept in full payment for the unit prices(s) indicated for the Work as set forth in the Contract Documents.


The work under this Contract shall be fully completed within the times specified in the Contract Documents.

NOTE: Show unit prices in figures only. Any bid proposal with an incomplete bid item shall be considered non-responsive.

B. Bid Schedule

BID ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE
1	Mobilization and demobilization	1	L.S.	\$ 650.00	\$ 650.00
2	Pump and Motor Assembly Removal	1	L.S.	\$ 2,850.00	\$ 2,850.00
3	Motor and Wiring Analysis	1	L.S.	\$ 290.00	\$ 290.00
SUB-TOTAL					\$ 3,790.00
SALES TAX @ 8.5 %					\$ 322.15
BID TOTAL					\$ 4,112.15

C. PROPOSAL SIGNATURE:

Bidder Signature:  _____

Printed Bidder Name: Doug W. Davidson

Company Name: Pumptech, Inc.

Address: 12020 SE 32nd Street

Suite 2

Bellevue, WA 98005

Phone: 425-644-8501

Fax: 425-562-9213

Email: pumptech@pumptechnw.com

D. Measurement and Payment

1. "Mobilization and Demobilization" This lump sum item includes all compensation for all incidental costs to perform the work described in accordance with the Contract Documents but not included in the other bid items.
2. "Pump and Motor Assembly Removal" This lump sum item includes all compensation to remove the pump and motor assembly described in the Contract Documents.
3. "Motor and Wiring Analysis" This lump sum item includes all compensation for an analysis to identify the source of the well's electrical malfunction described in the Invitation to Bidders and reporting the analysis to the City.

*** END OF EXHIBIT B ***



Business of the City Council
City of Gig Harbor, WA

Subject: Additional full time position within the Building Department.

Dept. Origin: Administration

Prepared by: Dennis Richards

Proposed Council Action:

For Agenda of: March 11, 2013

Authorize the Mayor to begin a process to hire a full time building inspector.

Exhibits: Proposed Contract

Initial & Date

Concurred by Mayor: DR 3/7/13

Approved by City Administrator: R 3/4/13

Approved as to form by City Atty: _____

Approved by Finance Director: DR 3/4/13

Approved by Department Head: _____

Expenditure	Amount	Appropriation
Required: \$100,000	Budgeted \$0	Required: \$66,400 for remainder of 2013

INFORMATION / BACKGROUND:

At the beginning of the year the Building Department began the process of hiring a temporary building inspector to assist with the fast growing needs of that department. A search of other jurisdictions, advertisements for this position, and working with an employment agency has not produced a qualified temporary inspector for the City. It is evident that in order to meet the needs of the Building Department we should pursue hiring a full time inspector.

The City Building Department started this year stronger than last year's record-setting numbers for permitting and inspection requests. If the current trend continues it is anticipated that inspections will reach 7,000 by year's end. We have received twenty-five permits for new homes compared to seven permits during the same period last year. Revenues over this same time period are up forty-five percent over last year.

Currently there are two inspectors, one of which is the Building Official who is doing what was once the work of five inspectors. To date staff has kept up with the work load, but the sheer volume has caused the load to become more and more challenging. We are approaching the vacation season and the fear is that without an additional full time inspector in that department inspections will not be completed in a timely manner.

Revenues from permits and fees have provided sufficient income to justify hiring a full time building inspector.

FISCAL CONSIDERATION

This position, including benefits, is in the \$100,000 per year range.

BOARD OR COMMITTEE RECOMMENDATION

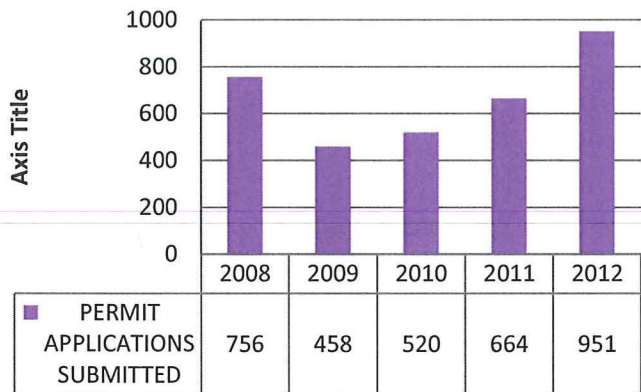
N/A

RECOMMENDATION / MOTION

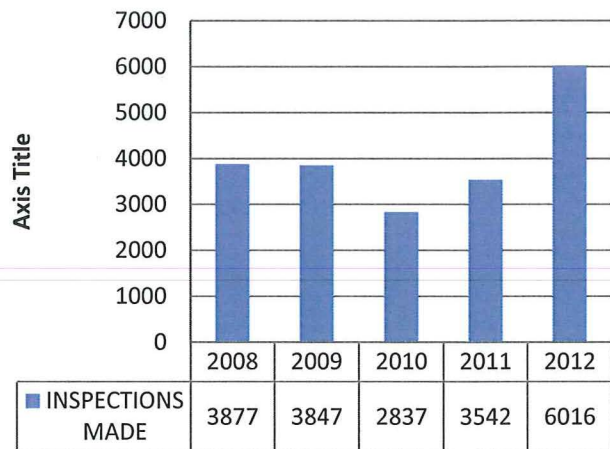
Move to: Authorize the Mayor to request the City Administrator and Human Resources Analyst begin a search for a full time Building Inspector.

Building & Fire Stats at a Glance

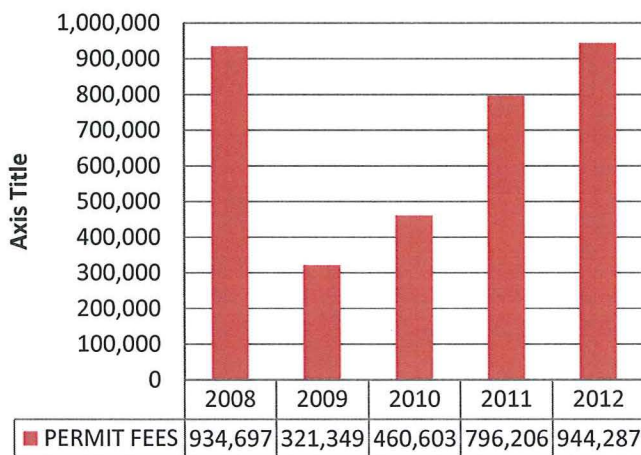
PERMIT APPLICATIONS SUBMITTED



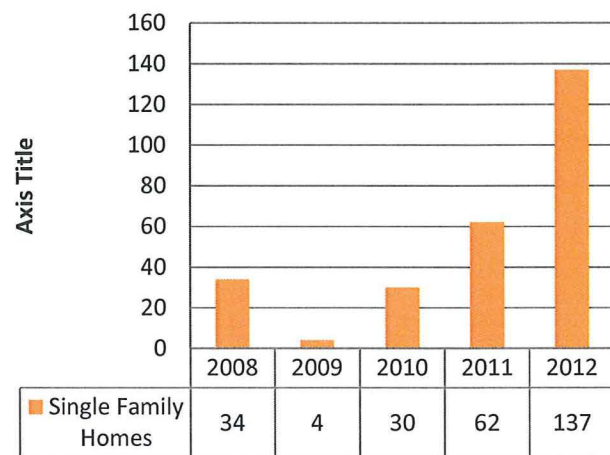
INSPECTIONS MADE



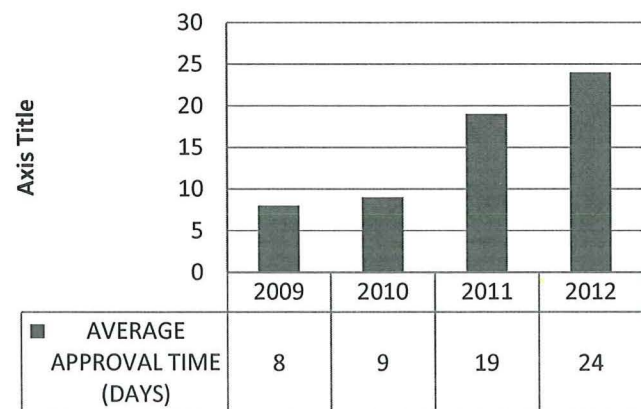
PERMIT FEES



Single Family Homes



AVERAGE APPROVAL TIME (DAYS)



PLAN REVIEW & INSPECTION STAFF

