

Gig Harbor City Council Meeting



July 12, 1999

AGENDA FOR GIG HARBOR CITY COUNCIL MEETING
July 12, 1999

CALL TO ORDER:

CONSENT AGENDA:

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

1. Approval of the Minutes of the June 28, 1999, City Council Meeting.
2. Correspondence / Proclamations:
 - a. Puget Sound Regional Council - Year 2000 Member Dues.
 - b. Letter to Mayor J.D. Fluckiger, Benton City.
 - c. Quote from Thea Foss's journal.
3. Approval of Payment of Bills for July 12, 1999:
In the amount of \$90,952.69.
4. Approval of Payroll for June, 1999:
Checks #18357 through #18508 in the amount of \$294,780.28.
5. Wieger Appraisal Company Contract - Property Appraisal Services.
6. Adolfson and Associates Contract - Wetlands Assessment.
7. SCA Engineering Contract - Wetlands Mapping / Hydrogeologic Assessment.
8. Halsan Frey Associates Contract - Land Use Analysis.
9. Shannon and Wilson Contract - Critical Area Assessment.

OLD BUSINESS:

1. Second Reading of Ordinance - Prohibition of Commercial Card Games.

NEW BUSINESS:

1. Purchase / Credit Card Resolution.

PUBLIC COMMENT/DISCUSSION:

COUNCIL COMMENTS:

STAFF REPORTS:

ANNOUNCEMENT OF OTHER MEETINGS:

EXECUTIVE SESSION: For the purpose of discussing pending litigation per RCW 42.30.110(I). Action will not be taken.

ADJOURN:

DRAFT

REGULAR GIG HARBOR CITY COUNCIL MEETING OF JUNE 28, 1999

PRESENT: Councilmembers Ekberg, Young, Platt, Owel, Dick, Picinich, and Mayor Wilbert. Councilmember Markovich was absent.

CALL TO ORDER: 7:01 p.m.

SPECIAL PRESENTATION: 1998 "Outstanding Wastewater Treatment Plant" award presentation.

Mayor Wilbert explained that the city was given an Outstanding Wastewater Treatment Plant award and introduced John Glynn, Department of Ecology Supervisor of Water Quality in the Northwest Region, who presented the award to Jerry Erb, Wastewater Treatment Plant Supervisor, and Wes Hill, Public Works Director.

Mr. Glenn explained that he had assumed regulation of the city's wastewater treatment facility about a year ago and that qualifying for this award shows how much effort has been put into improving the treatment process. He added that these awards are given to facilities that meet every condition in their waste discharge permit for an entire year, which is an outstanding achievement. He recognized Jerry and Wes for their extraordinary efforts and also congratulated the Councilmembers for supporting their efforts.

Wes Hill thanked Mr. Glynn and his staff for their assistance in working through some of the issues and helping them to reach their goals. He then thanked Jerry and his staff for their exemplary efforts with the new technology.

CONSENT AGENDA:

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

1. Approval of the Minutes of the June 14, 1999, City Council meeting.
2. Correspondence / Proclamations:
 Proclamation - Hire a Veteran Month.
3. Approval of Payment of Bills for June 28, 1999:
 Checks #22784 through #22883 in the amount of \$116,963.19.
4. Liquor License Renewals: Puerto Vallarta; Round Table Pizza.

MOTION: Move to approve the consent agenda as presented.
Picinich/Young - unanimously approved.

OLD BUSINESS:

1. Second Reading of Ordinance - Amending GHMC 2.12.080 - Elected Officials. Mark Hoppen presented this housekeeping ordinance to change the election of five Councilmembers to seven members.

MOTION: Move to adopt Ordinance No. 819.
Picinich/Ekberg - unanimously approved.

2. Adopt Findings and Facts for Gambling Moratorium. Carol Morris, Legal Counsel, explained that the ordinance being adopted this evening was the findings and facts and whereas clauses from the original ordinance describing the procedures that had been followed in order to adopt the moratorium. She said that by adopting this ordinance, the Council would satisfy the statute for moratoria. She added that an additional ordinance was included in the packet for a first reading that also addressed gambling. She recommended adopting this ordinance adopting the findings and facts in one reading, which would keep the moratorium in effect until the next council meeting, and would give Councilmembers two meetings in which to review the other ordinance.

MOTION: Move to adopt Ordinance No. 820.
Dick/Picinich -

After discussion regarding wording in the ordinance that may limit its provisions, the following amendment was made.

AMENDED MOTION: Move to strike the words "food and drink" wherever it appears in the ordinance.
Ekberg/Picinich - unanimously approved.

Carol Morris recommended adding language to allow this ordinance to be passed in one reading to keep the moratorium in place.

AMENDED MOTION: Move to amend the ordinance to add the language that it was adopted in one reading and by super-majority vote pursuant to *Chapter 1.08 of the Gig Harbor Municipal Code.*
Dick/Owel - unanimously approved.

MAIN MOTION: Move to adopt Ordinance No. 820 as amended.
Dick/Picinich - unanimously approved.

NEW BUSINESS:

1. Sellers Street Improvement Project - Contract Closure. Wes Hill explained that the Sellers Street project had been completed and asked Council's authorization to accept the project through execution of the Final Contract Voucher Certificate of Completion.

MOTION: Move we approve execution of the attached Final Contract Voucher Certificate in the amount of \$36,478.00.
Picinich/Owel - unanimously approved.

Councilmember Dick asked if a resolution accepting the project would be required to be noticed and passed at a separate time. Carol Morris said a separate motion at this time to

accept the project was adequate.

MOTION: Move that we authorize the Mayor to accept and execute final acceptance of this project.
Dick/Owel - unanimously approved.

2. Purchase Authorization - Water Main Materials. Wes Hill explained that one of the objectives of the 1999 Budget was to complete the waterline reconstruction on Judson Street and asked Council to authorize the purchase of the materials from the lowest bidder.

MOTION: Move to authorize the purchase of the water main materials from U.S. Filter for the amount of thirteen-thousand eight hundred ninety-eight dollars and sixty-three cents (\$13,898.63) including state sales tax.
Dick/Young - unanimously approved.

3. First Reading of Ordinance - Prohibition of Commercial Card Games. Mark Hoppen explained that the City of Auburn and City of Puyallup have already banned commercial stimulant card games in their jurisdictions and that this is a similar ordinance that had been passed by those cities. He explained that the only options in regards to these kinds of activities are to ban or not to ban, as there are no regulatory capacity other than that. He added that Council could choose to pass this in one reading, as the public had already been heard through the process leading to the adoption of findings and facts for the moratorium.

Linda Gair - 9301 No. Harborview Drive. Ms. Gair explained that in addition to being a resident she is a business owner in downtown Gig Harbor. She said that she is opposed to gambling entering into Gig Harbor, as it was the quickest way to trash our wonderful town. She urged Council to ban this activity.

Councilmember Picinich recommended that the ordinance be passed utilizing the procedure to pass it at its introduction. Councilmember Ekberg agreed on the issue of gambling, but said that because the moratorium was in place, he did not see the need to pass it in one reading. He said that the city had a procedure to follow that allowed for two readings of an ordinance.

Councilmember Owel said she felt it should be passed this evening as those who lag are in the position of becoming a safe haven for something that they may not want and that it is the responsible thing to do.

Councilmember Young pointed out that the cities who currently allow gambling specifically approved this activity as a tool to receive more tax dollars. He said that he had asked staff for statistics on possible tax revenue and increases in related crime that he had not received and therefore, wished to follow the city's policy of having a second reading for an ordinance to allow additional time to review this information.

Councilmember Owel spoke about the cap that had been placed on gambling taxes by the state and added that there are economic studies readily available. She said that the only favorable study she had found was commissioned by the American Gaming Association Lobby, which was totally dependent on who financed it. She said that various states had done independent studies, but that these studies have not shown that gambling has a productive influence in their state.

MOTION: Move to adopt this ordinance at its first reading.
Owel/Picinich -

Councilmember Ekberg asked to clarify that the ordinance itself was not being voted upon, only the ability to have it passed in one reading.

A roll call vote was requested by the Mayor, the results as follows:

Councilmember Ekberg - no; Councilmember Young - no;
Councilmember Platt - no; Councilmember Owel - yes; Councilmember Dick - yes; Councilmember Picinich - yes. The motion died and the ordinance will return for a second reading.

Councilmember Young said that he didn't realize that there was a notebook of information available through the City Administrator. He added that he didn't feel that the public was aware of the action being taken, and said that he would like the additional two weeks to gather information. He asked staff for real statistics on the possible tax revenues and related crime. Mark Hoppen explained that there were no substantive data that could be derived with respect to this county or even this state as far as he was able to ascertain. He added that although the tax revenues are public record, you can't accurately access the overall social cost of gambling on a jurisdiction to date and that there are national studies that have attempted to do so, which are very diverse.

Councilmember Young asked Chief Mitch Barker if he felt additional police man-hours would be associated with gambling. Chief Barker replied that he had checked with a number of Chiefs who came from jurisdictions with gambling, and none felt it caused a significant, directly related, crime impact. He stressed that these were non-tribal jurisdictions. He added that the concern that he did have is that once gambling is established, control would be lost to the Gambling Commission, who may expand what would be allowed. Mayor Wilbert talked briefly about gambling addiction and how it affects families.

Carol Morris offered to contact other cities that are currently involved in the moratorium and bring information to the next meeting. The first reading of this ordinance was closed.

4. Re-appointment of Members to the Planning Commission. Mayor Wilbert explained that terms for two members of the Planning Commission would end at the end of July. She introduced Mark Robinson, and added that he had sent a letter requesting to be appointed

to another six-year term. She thanked Mr. Robinson for his generous offer to serve. She then explained that the other member, Carol Davis, had just recently submitted a letter indicating that she felt that she could not accept the appointment for another term. Mayor Wilbert said she would be submitting a call for interested citizens to serve on the committee and would come back at a later date with a recommendation for appointment.

MOTION: Move to approve the re-appointment of Mark Robinson to the Planning Commission for another six-year term.
Platt/Young - unanimously approved.

PUBLIC COMMENT/DISCUSSION: None.

COUNCIL COMMENTS:

Councilmember Owel said that Steve Osguthorpe, Planning Associate, who was leaving for another position with Puyallup, has been an outstanding public servant. She added that he has exhibited a commitment to public service that sets a wonderful standard. She continued to say that she has been present when Steve has dealt with difficult situations and he has handled those situations without rancor and with total graciousness. She said that she appreciated his service to the community.

Councilmember Ekberg said that he had talked to quite a few of the business people on Kimball Drive which recently had the chip sealing done, and they are pleased with the results. He thanked Wes Hill.

STAFF REPORTS:

Impact Fees Ordinance - Scheduling of Public Hearings. Mark Hoppen explained that a time to bring this issue back to the public forum needed to be scheduled, and suggested the second meeting in September. It was agreed to begin on the 27th of September.

ANNOUNCEMENTS OF OTHER MEETINGS:

Finholm Viewclimb Ribbon Cutting Celebration - 12:00 noon on Saturday, July 10th. Mayor Wilbert said that the landscaping has been completed, compliments of Peninsula Gardens and the Rhododendron Society. She said that the city would assume maintenance of the area and gave an overview of the celebration plans.

EXECUTIVE SESSION: For the purpose of discussing property acquisition per RCW 42.30.110(b) and pending litigation per RCW 42.30.110(i). Action may be taken.

MOTION: Move to adjourn to Executive Session at 7:50 p.m. for approximately thirty minutes.
Picinich/Young – unanimously approved.

MOTION: Move to return to regular session at 8:20 p.m.
Ekberg/Picinich - unanimously approved.

ADJOURN:

MOTION: Move to adjourn at 8:21 p.m.
Owel/Young- unanimously approved.

Cassette recorder utilized.
Tape 534 Side A 007 - end.
Tape 534 Side B 000-331.

Mayor

City Clerk

Puget Sound Regional Council



RECEIVED
JUL 1 1999
CITY OF GIG HARBOR

July 1, 1999

The Honorable Gretchen Wilbert, Mayor
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335-1221

Dear Mayor Wilbert:

On May 27, 1999, the Executive Board of the Puget Sound Regional Council took action on the Fiscal Year 2000 dues for member jurisdictions. The Board's decision did not include an increase in the total dues. This action was consistent with the action taken by the General Assembly as part of adopting the FY 2000-2001 Budget (July 1, 1999 to June 30, 2001). ion costs.

The adopted FY 2000 portion of the budget of \$7.6 million includes revenues from state and federal grants and local funds. The state and federal grants account for 78 percent of the agency budget and the local funds cover 22 percent. Local funds come from service income (\$12,500), transit dues (\$389,880), and member dues (\$1,189,470).

Member dues come from three sources: cities and counties, statutory members, and associate members. Of the \$1,189,470 in dues for 2000, \$743,058 provides the matching requirement for the state and federal funds. The balance of the local dues, \$446,412, is allocated to the following three program areas: Regional Planning and Implementation, Data Services and Administrative Services.

The assessment for cities and counties is based on a formula that uses assessed value and population and allows jurisdictions with a population of 4,500 or less to be assessed \$450 or the formula-driven amount, whichever is less. The \$450 represents the costs associated with serving a member jurisdiction (e.g., agendas, newsletters, postage, etc.). For member cities and counties with a population greater than 4,500, one-half of each jurisdiction's assessment is based on its proportion of the total regional assessed value, and one-half is based on the jurisdiction's proportion of the total regional population.

The dues for Gig Harbor are \$2,217 for FY 2000; an invoice has been sent to your director of finance.

If you have any questions, please contact me at (206) 464-7524.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Gulbranson", written in a cursive style.

Mark Gulbranson
Director of Administrative Services

cc: Dave Rodenbach, Finance Director



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

June 21, 1999

J.D. Fluckiger, Mayor
Benton City
PO Box 70
Benton City, WA 99320

Re: Resolution 1999-9

Dear Mayor ~~Fluckiger~~:

Thank you for sending us a copy of your Resolution 1999-9 in support of the opposition to potential tolls to finance new roads and bridges throughout the State of Washington.

I will pass copies along to other interested parties. We need to send the message loud and clear, and do it often.

Thank you again.

Sincerely,

Gretchen A. Wilbert
Mayor, City of Gig Harbor

C: Gig Harbor City Councilmembers
Karen Biskey, Pierce County Councilmember

RECEIVED
JUL 6 - 1999
CITY OF GIG HARBOR

June 28, 1997

Dear Mayor:

I apologize for the delay in sending you this quote that I promised you. I tried to email you, but I didn't have your correct email. Since then this became buried at the bottom of the "To Do" list.

Here is the quote from Thea Foss's journal, dated January 19, 1907.

"The law imprinted in all men's hearts is to love one another. I will look at the whole world as my country and all men as my brothers. We are made for cooperation. Let us not love in word, but in deed and in truth."

This has been the perfect statement to write in all the graduate cards this June. It isn't politically correct by today's standard, but it says it well.

Thea was truly a remarkable woman; I wish I could have known her.

Sincerely,



Brynn Foss Rydell
17022 So. Vaughn Rd KPN
Vaughn, WA 98394
Email piscator@harbornet.com



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR
SUBJECT: CONSULTANT CONTRACTS FOR WILKINSON PROPERTY VALUATION HEARING
DATE: JULY 6, 1999

INFORMATION/BACKGROUND

Jeff Taraday from Ogden Murphy Wallace recommends that the City Council approve the attached contracts with the listed consultants for the upcoming valuation hearing on the Wilkinson property. Contracts in your packet include:

Wieger Appraisal Co.: property appraisal services
Adolfson and Associates: wetlands assessment
SCA Engineering: wetlands mapping; hydrogeologic assessment
Halson Frey Associates: land use analysis
Shannon and Wilson: critical area assessment

Placing these items on the Consent Agenda allows the contracts to be approved through one simple motion. Any contract, however, can be removed from the Consent Agenda for further discussion by any individual council member.

POLICY CONSIDERATIONS

These contracts are in "not to exceed" amounts. Jeff Taraday indicates that the services may or may not be fully utilized as determined by the city's legal counsel.

RECOMMENDATION

Legal staff recommends approval of these contracts as presented.

CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND

RECEIVED
JUN 21 1999
CITY OF GIG HARBOR

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Wieger Appraisal Co. organized under the laws of the State of Washington, located and doing business at 8701 49th St. W., Tacoma,, Washington 98467 (hereinafter the "Consultant").

RECITALS

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

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated June 15, 1999, 1999, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as Exhibit A – Scope of Services, and are incorporated by this reference as if fully set forth herein.

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

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Three Thousand Dollars (\$3,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in Exhibit B – Schedule of Rates and Estimated Hours. The Consultant shall not bill for Consultant's staff not identified or listed in Exhibit B or bill at rates in excess of the hourly rates shown in Exhibit B; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

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

III. Relationship of Parties

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

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement. The parties agree that the work described in Exhibit A shall be completed within 60 calendar days of the execution of this Agreement; provided however, that additional time shall be granted by the City for excusable delays or extra work.

V. Termination

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

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

VI. Discrimination

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

VII. Indemnification

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

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

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

INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

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

VIII. Insurance

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

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

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

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

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

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the 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 notification will be given to the City of Gig Harbor for any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195.

as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Public Works Director and the City shall determine the term or provision's true intent or meaning. The City 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.

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

XVI. Written Notice

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

CONSULTANT <u>Wieger Appraisal Co.</u>	Mark Hoppen
Project Manager <u>Gilbert R. Wieger, MAI</u>	City Administrator
Firm Name <u>Wieger Appraisal Co.</u>	City of Gig Harbor
Address <u>8709 45th Street West</u>	3105 Judson Street
City, State, Zip <u>Tacoma, WA 98467</u>	Gig Harbor, Washington 98335

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day
of _____, 19 _____.

By: *Albert R. Wiegner*
Its Principal

The City of Gig Harbor

By: _____
Mayor

Notices to be sent to:

CONSULTANT *Wiegner Appraisal Co.*
Project Manager *Albert R. Wiegner, MAI*
Firm Name *Wiegner Appraisal Co.*
Address *8701 49th Street West*
City, State, Zip *Tacoma, WA 98467*

Mark Hoppen
City Administrator
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

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EXHIBIT "A" SCOPE OF SERVICES

Summary of Scope of Services

- (1) Serve as a review appraiser and offer comments about all appraisals reviewed on this project.**
- (2) Serve as a "Real Estate Consultant" about any real estate matters including any trial preparation work on this project as requested.**

EXHIBIT "B" SCHEDULE OF RATES AND ESTIMATED HOURS

HOURLY RATES: \$75 PER HOUR

ESTIMATED HOURS: NOT TO EXCEED 40 HOURS

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Adolfson Assoc., Inc. organized under the laws of the State of Washington, located and doing business at 5309 Shilshole Ave. NW Seattle, Washington 98107 (hereinafter the "Consultant").

RECITALS

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

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated June 10th, 1999, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

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

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Five Thousand and Seventy Dollars (\$ 5,070.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein

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

III. Relationship of Parties

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

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement. The parties agree that the work described in Exhibit A shall be completed within 60 calendar days of the execution of this Agreement; provided however, that additional time shall be granted by the City for excusable delays or extra work.

V. Termination

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

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

VI. Discrimination

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

VII. Indemnification

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

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

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

INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

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

VIII. Insurance

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

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

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

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

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

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the 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 notification will be given to the City of Gig Harbor for any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195,

as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Public Works Director and the City shall determine the term or provision's true intent or meaning. The City 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.

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

XVI. Written Notice

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

CONSULTANT _____	Mark Hoppen
Project Manager <u>Andrew J. Castelle</u>	City Administrator
Firm Name <u>Adolfson Assoc., Inc.</u>	City of Gig Harbor
Address <u>5309 Shilshole Ave. NW</u>	3105 Judson Street
City, State, Zip <u>Seattle, WA 98107</u>	Gig Harbor, Washington 98335

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day
of _____, 19__.

By: 
Its Principal

The City of Gig Harbor

By: _____
Mayor

Notices to be sent to:

CONSULTANT _____
Project Manager Andrew J. Castelle
Firm Name Adolfson Assoc., Inc.
Address 5309 Shilshole Ave. NW
City, State, Zip Seattle WA 98107

Mark Hoppen
City Administrator
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

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EXHIBIT "A" & "B"



10 June 1999

Environmental Solutions

Mr. Mark Hoppen
City Administrator
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

RE: Wilkinson/Rodman Property

Dear Mr. Hoppen:

Adolfson Associates, Inc. is pleased to submit this proposal to assist the City with its study of wetlands issues associated with the above referenced property. We have based our proposal on our experience in conducting wetland studies on similar properties and on conversations I have had with Jeff Taraday of Ogden Murphy Wallace.

All work to be completed will be performed by Teresa Vanderburg (our Wetland Program Manager) and me. Both Teresa and I are Certified Professional Wetland Scientists (PWS); Teresa is primarily a botanist and I am a Certified Professional Soil Scientist (CPSS). We would be happy to furnish copies of our resumes if you'd like.

Our proposed Scope of Work consists of performing wetland delineations on the subject property. We will use methods contained in the *Washington State Wetlands Identification and Delineation Manual* for our delineation. Wetland boundaries will be identified in the field with sequentially-numbered colored flagging. We will also identify formal data points in the field with flagging. Note, however, that a professional survey of this flagging will be conducted by others. Following our receipt of a professional survey of the delineation flagging, we will prepare a technical memorandum that summarizes the findings of the field investigation. We are allowing for up to two field days for Teresa and me to complete the delineations. The technical memorandum should require an additional eight hours. In addition, our proposal includes six hours each for Teresa and me to confer with Mr. Taraday or other City team members, and for giving depositions regarding this matter.

Therefore, our Cost Estimate is based on 26 hours of Teresa's time (at \$79/hr), 26 hours of my time (at \$112/hr), and direct costs of about \$100. The resulting cost estimate is \$5,070.00, payable on a time-and-materials basis.

We are scheduled to conduct our field work next week (on Wednesday and Thursday, June 16th and 17th). While we would like to have a fully executed contract in our files prior to the completion of this work, all we need to maintain our schedule for next week is an authorization to proceed (written or verbal).

ADOLFSON ASSOCIATES, INC. 5309 Shiloh Avenue NW, Suite 200 Seattle, WA 98107

Tel 206 789 2666 Fax 206 789 9034 adolfs@adolfs.com

We very much appreciate the opportunity to prepare this proposal for you. If you have any questions, I can be reached at (206) 789-9658 or via email at acastelle@adolfson.com. Thank you.

Sincerely,

ADOLFSON ASSOCIATES, INC.



Andrew J. Castelle, PWS, CPSS
Director of Natural Sciences

cc: Jeff Taraday (via fax only)

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and SCA Engineering organized under the laws of the State of Washington, located and doing business at PO Box 3435, Lacey Washington 98509 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the design and acquisition of **Wilkinson Park Properties** and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated **June 15, 1999**, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A - Scope of Services**, and are incorporated by this reference as if fully set forth herein.

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

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed ten thousand dollars (\$10,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B - Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

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

III. Relationship of Parties

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

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed within 90 calendar days of the execution of this Agreement; provided however, that additional time shall be granted by the City for excusable delays or extra work.

V. Termination

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

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

VI. Discrimination

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

VII. Indemnification

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

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

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

INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

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

VIII. Insurance

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

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

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

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

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

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the 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 notification will be given to the City of Gig Harbor for any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195,

as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Public Works Director and the City shall determine the term or provision's true intent or meaning. The City 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.

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

XVI. Written Notice

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

CONSULTANT		Mark Hoppen
Project Manager	Kathleen Cassou	City Administrator
Firm Name	SCA Engineering	City of Gig Harbor
Address	PO Box 3485	3105 Judson Street
City, State, Zip	Lacey, WA 98509	Gig Harbor, Washington 98335

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 19__.

The City of Gig Harbor

By: *[Signature]*
Its Principal

By: _____
Mayor

Notices to be sent to:

CONSULTANT
Project Manager Kathleen Cassou
Firm Name SCA Engineering
Address PO Box 3485
City, State, Zip Lacey, WA 98509

Mark Hoppen
City Administrator
City of Gig Harbor
3105 Judson Street
Harbor, Washington 98335

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

\\GH_SRV1\VOL1\USERS\IPUBWORKS\WO\1999\Contracts & Agreements\Consultant\ServicesContract_1999A.doc

Exhibit A

Scope of Services

Task 1 Site Reconnaissance

Task 2 Survey Wetland Flagging and Check Boundaries

Task 3 Hydrologic analysis of Offsite Run-on and Underdrains

Task 4 Other Services as Needed

Tasks will be completed on a "time and materials" basis upon the oral request of the City Administrator. If tasks cannot be completed under the contract maximum budget, the consultant will stop work until the budget limit can be re-negotiated.



Exhibit B
Billing Rate Schedule
 Effective July 1998

677 Woodland Square Lp SE
 Lacey, WA 98503

P.O. Box 3485
 Lacey, WA 98509-3485

(360) 493-6002
 (888) 493-6002 Toll Free
 (360) 493-2476 Fax

<u>Classification</u>	<u>Hourly Rate (In dollars)</u>
Principal	115
Project Manager	85-100
Project Engineer	65-75
Design Engineer	55-60
Survey Manager	95
Sr. Land Surveyor	85
Land Surveyor	70
Transportation Planner	65-85
Land Use Planner	65-80
Planning Assistant	50
Construction Inspector	60
Engineering Tech II	60
Engineering Tech I	45-55
Survey Technician II	60
Survey Technician I	45-55
Admin/Marketing	50
Clerical	40
2-Man Survey Crew	105
3-Man Survey Crew	140
Court appearances and preparatory work	150 for principal/ senior staff

Direct project expenses and reproduction costs
 are billed at cost plus 15%

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
HALSAN FREY ASSOC., L.L.C.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and HALSAN FREY ASSOC., LLC organized under the laws of the State of Washington, located and doing business at 1075 BELLEVUE WAY NE STE 117, BELLEVUE, Washington 98004 (hereinafter the "Consultant").

RECITALS

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

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated JUNE 24, 1999, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

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

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed SIXTEEN HUNDRED DOLLARS (\$1600.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in

Exhibit B or bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

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

III. Relationship of Parties

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

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed within 110 calendar days of the execution of this Agreement; provided however, that additional time shall be granted by the City for excusable delays or extra work.

V. Termination

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

(JBT402951.DOC;1/00008 050044/050044)

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

VI. Discrimination

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

VII. Indemnification

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

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

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER

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

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

VIII. Insurance

[Provisions deleted.]

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

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

{JBT402951.DOC:1/00008.050044/050044}

4 of 7

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Public Works Director and the City shall determine the term or provision's true intent or meaning. The City 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.

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

(JBT402951.DOC:1/00008.050044/050044)

XVI. Written Notice

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

CONSULTANT _____	Mark Hoppen
Project Manager _____	City Administrator
Firm Name _____	City of Gig Harbor
Address _____	3105 Judson Street
City, State, Zip _____	Gig Harbor, Washington 98335

XVII. Assignment

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


XVIII. Modification

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

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 19____.

By: 
Its Principal **MEMBER**

The City of Gig Harbor
By: _____
Mayor

Notices to be sent to:

CONSULTANT CARL HALSAN
Project Manager CARL HALSAN
Firm Name HALSAN, EDEN ASSOC.
Address 1075 BELLEVUE WAY NE, STE 117
City, State, Zip BELLEUE, WA 98004

Mark Hoppen
City Administrator
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

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Exhibit "A"

Scope of Initial Work

The initial scope of work to be performed by Halsan Frey Associates, LLC will be limited to:

1. Consultation and coordination with the other specialists, consultants, attorneys and staff,
2. Review of appropriate City, State and Federal regulations, policies, and codes, and
3. Provide one deposition.

Exhibit "B"**Schedule of Rates and Estimated Hours**

Our Policy is to bill monthly for actual hours expended plus mileage and expenses. The billing rate is \$100.00 per hour for a principal's time, \$.35 per mile, and direct expenses such as phone, fax, postage, copies, maps, etc. No staff will we working on this project in this phase, only the principals Raymond Frey or Carl Halsan will be billing hours for this phase of the project.

For the first phase of work outlined in Exhibit "A", we estimate between 10 and 15 hours will be needed. Expenses will be additional, but should be minimal (less than \$100.00). Therefore, we estimate a total bill for this first phase will not exceed \$1,600.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
SHANNON & WILSON, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and SHANNON & WILSON, INC. organized under the laws of the State of Washington, located and doing business at SEATTLE, Washington 98103 (hereinafter the "Consultant").

RECITALS

W726/29/9;

WHEREAS, the City is presently engaged in the ^{*evaluation*} ~~design~~ of the Wilkinson property, and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated _____, 1999, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as Exhibit A - Scope of Services, and are incorporated by this reference as if fully set forth herein.

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

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Seven Thousand Dollars (\$ 7,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in Exhibit B - Schedule of Rates and Estimated Hours. The Consultant shall not bill for Consultant's staff not identified or listed in Exhibit B or bill at rates in excess of the hourly rates shown in Exhibit B; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

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

III. Relationship of Parties

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

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement. The parties agree that the work described in Exhibit A shall be completed within 60 calendar days of the execution of this Agreement; provided however, that additional time shall be granted by the City for excusable delays or extra work.

V. Termination

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

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

VI. Discrimination

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

VII. Indemnification

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

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

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

Not in 13 standing the above, the Consultant shall not be required to indemnify the City for any injuries, claims, damages, losses or suits for which the law provides the Consultant with immunity. W/ff 6/28/99

INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

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

VIII. Insurance

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

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

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

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

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

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the 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 notification will be given to the City of Gig Harbor for any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195,

as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Public Works Director and the City shall determine the term or provision's true intent or meaning. The City 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.

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

XVI. Written Notice

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

CONSULTANT _____	Mark Hoppen
Project Manager _____	City Administrator
Firm Name _____	City of Gig Harbor
Address _____	3105 Judson Street
City, State, Zip _____	Gig Harbor, Washington 98335

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 19____.

The City of Gig Harbor

By: William T. Logg
Its Principal

By: _____
Mayor

Notices to be sent to:

CONSULTANT SHANNON & WILSON, INC.
Project Manager William T. Logg
Firm Name _____
Address 400 N. 34th St., Suite 100
City, State, Zip Seattle, WA 98103

Mark Hoppen
City Administrator
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

EXHIBIT A
SCOPE OF SERVICES

1. Site visits between June 16 and 18, 1999.

2. ~~Providing information regarding~~ _____

EXHIBIT B

**SCHEDULE OF RATES AND
ESTMATED HOURS**

Principal \$137/hr
Deposition and Testimony ~~_____~~ \$1000-



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: SECOND READING OF ORDINANCE - PROHIBITION OF
COMMERCIAL CARD GAMES
DATE: JULY 7, 1999

INFORMATION/BACKGROUND

The City of Gig Harbor has approved a moratorium on development permits for social card game developments. The moratorium on development permits does not prevent the Washington State Gambling Commission from issuing permits in this jurisdiction. The Gambling Commission has reduced but not curtailed the issuance of permits at this time. Consequently, this ordinance is proposed in order to ban "social cards games as a commercial stimulant" within the city limits of Gig Harbor and to repeal the current moratorium.

POLICY CONSIDERATIONS

The City of Gig Harbor is limited in its authority to regulate gambling. It may: (1) tax certain gambling activities; (2) enact as local ordinances any of the state gambling statutes, the violation of which constitutes a misdemeanor or gross misdemeanor; and/or (3) prohibit any or all gambling activities for which licenses are required.

Under the statutory authority to prohibit gambling activities, at least 30 cities and one county have prohibited some type of gambling activity, and one of those cities has prohibited all gambling. Recently, both the City of Auburn and the City of Puyallup have banned commercial card game activities. Card rooms are the type of gambling activity most frequently prohibited by local governments. The statute that authorizes these local prohibitions, RCW 9.46.295, provides that cities and counties "may absolutely prohibit, but may not change the scope of license, of any or all of the gambling activities for which the license was issued." A city or county that prohibits any or all forms of gambling must notify the gambling commission in writing, so that the commission will not issue or renew a license, which is valid for one year, for the type of gambling prohibited with the that jurisdiction (WAC 230-04-55).

There are currently no known licensed card rooms within the jurisdictional limits of the City of Gig Harbor.

RECOMMENDATION

I recommend that the proposed ordinance, as presented or as amended, be approved by the City Council at this second reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, ADDING A CHAPTER 5.26 TO THE GIG
HARBOR MUNICIPAL CODE IN ORDER TO PROHIBIT
THE CONDUCT OR OPERATION OF SOCIAL CARD
GAMES AS A COMMERCIAL STIMULANT WITHIN THE
CITY LIMITS.

WHEREAS, the State Legislature and State Gambling Commission have recently expanded the ability of gambling licensees to conduct social card games as a commercial stimulant for the licensee's business, and

WHEREAS, the City Council is concerned about the proliferation of gambling establishments which, under the expanded authority granted by the State Legislature and State Gambling Commission, may now operate up to 15 tables of social card games per establishment, and

WHEREAS, the City Council has no authority to regulate the scope of any gambling license and so the only way that the Council may stop the proliferation of such establishments is by absolutely prohibiting the same under the authority granted by RCW 9.46.295, NOW, THEREFORE,

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

Section 1. Social Card Games as Commercial Stimulant Prohibited. Chapter 5.26 of the Gig Harbor Municipal Code is hereby amended to read as follows:

5.26.010 State Law Applicable. Any license issued under the authority of state law to engage in any legal activity shall be legal authority to engage in the gambling activities for which the license

was issued throughout the City, except that the City, in accordance with RCW 9.46.295, as the same now exists or may hereafter be amended, prohibits the following gambling activities within the City:

1. The conduct or operation of social card games as commercial stimulants.

Section 2. New Section. The moratorium established pursuant to Ordinance No. 816 is hereby repealed.

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

Section 4. Effective Date. This ordinance, being the exercise of a power specifically delegated to the City's legislative body, shall take effect five (5) days from publication as required by law.

PASSED by the Council of the City of Gig Harbor, this ___ day of June, 1999.

APPROVED:

MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
DATE PUBLISHED:
DATE EFFECTIVE:

SUMMARY OF ORDINANCE NO. _____

CITY OF GIG HARBOR, WASHINGTON

On _____, 1999, the City Council of the City of Gig Harbor passed Ordinance No. _____, which provides as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON,
ADDING A CHAPTER 5.26 TO THE GIG HARBOR MUNICIPAL
CODE IN ORDER TO PROHIBIT THE CONDUCT OR OPERATION
OF SOCIAL CARD GAMES AS A COMMERCIAL STIMULANT
WITHIN THE CITY LIMITS.**

The full text of this ordinance will be mailed without charge to anyone who submits a written request to the City Clerk of the City of Gig Harbor for a copy of the text.

APPROVED by the City Council at their meeting of _____, 1999.

Molly M. Towslee, City Clerk



City of Gig Harbor. The "Maritime City"

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH
SUBJECT: PURCHASE/CREDIT CARD RESOLUTION
DATE: JULY 6, 1999

BACKGROUND

Several years ago the state legislature authorized political subdivisions to use credit cards for official government purchases and acquisitions. Prior to this credit card use was limited to expenses related to official travel.

The legislative body for local governments that elect to use credit cards is required to adopt a system for:

1. The distribution of the credit cards;
2. The authorization and control of the use of credit card funds;
3. The credit limits available on the credit cards; and
4. Payment of the bills.

POLICY CONSIDERATIONS

The City currently does not have a formal policy governing credit card use. This resolution merely formalizes procedures that are already in practice.

FISCAL CONSIDERATIONS

The City currently has a Visa card account, with 4 cards and a \$2,500 limit. We also have charge cards with several vendors that will not accept purchase orders as a means to grant credit.

RECOMMENDATION

Staff recommends approval of the resolution.

RESOLUTION NO.

A RESOLUTION OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO PURCHASING AND CREDIT CARDS, ADOPTING A SYSTEM FOR THE ISSUANCE, USE AND CONTROL OF PURCHASING AND CREDIT CARDS BY CITY OFFICIALS, OFFICERS AND EMPLOYEES, AND DIRECTING THE FINANCE DEPARTMENT TO IMPLEMENT SUCH SYSTEM.

WHEREAS, local governments are authorized to allow officials and employees to use credit cards when appropriate, as long as a system is adopted for credit card distribution, authorization and control of credit card funds, setting limits on credit cards and payment of bills (RCW 43.09.2855); and

WHEREAS, the City Council finds the use of credit cards to be an appropriate and useful means of making payment for a variety of types of purchases, including emergency purchases, purchases of small items, one-time purchases from vendors and to pay for travel expenses; and

WHEREAS, the City Council finds that the use of credit cards is a customary and economical business practice to improve cash management, reduce costs, and increase efficiency;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, AS FOLLOWS:

Section 1. Definitions.

A. "Approving Director" means the department head or, in the case of the Finance Department, the Finance Director, who designates Cardholders and recommends Credit/Purchasing Card limits within his/her department.

B. "Cardholder" means the officer/official or employee issued a Credit/Purchasing Card. The Cardholder will sign an Agreement for the Credit/Purchasing Card, and will be financially responsible for all charges made on the Credit/Purchasing Card account. The Cardholder is responsible for the proper use and safety of the Credit/Purchasing Card after it is issued.

E. "Credit Card" means a card or device issued under an arrangement between the issuer and the cardholder allowing the cardholder the privilege of obtaining credit from the issuer. The Credit Card may only be used when making purchases on behalf of the City.

F. "Dispute" means a disagreement between the Cardholder and the Credit/Purchasing Card vendor or merchant regarding items appearing on the Cardholder's monthly statement.

G. "Purchasing Card" means a credit card established on behalf of a Cardholder. The Purchasing Card may only be used when making purchases on behalf of the City.

H. "Purchasing/Credit Card Administrator" means the Purchasing Coordinator (or a designee) in the Finance Department as appointed by the Finance Director. The Administrator will work with the Purchasing/Credit Card vendor to establish the program requirements, provide the primary contact for the City and monitor employee compliance. The Administrator shall be responsible for providing training and assistance to Cardholders and Approving Directors. The Administrator reports to the Finance Director.

Section 2. **Procedures.** The City Council hereby adopts the following system for the issuance, use and control of Purchase/Credit Cards by City officials, officers and employees.

A. **Implementation.** The Finance Director (or his/her designee) shall implement this system for the distribution, credit limits, payment of bills, authorization and control of cards, relating to the use of credit and purchasing cards by City officials, officers and employees.

B. **Eligibility.** All regular-status City employees and City officers/officials are eligible to receive a Purchasing/Credit card if authorized by their Approving Director and the Finance Director. Purchasing/Credit cards may be checked out by the Finance Department to those City officials/officers and employees who are authorized to obtain a card because their job responsibilities would be facilitated by the use of a Purchasing/Credit Card and such use would benefit the City. The act of obtaining a City Purchasing/Credit Card does not indicate pre-approval of expenses.

C. **Establishment of Card Limits.** The Finance Department shall set a credit limit on the Purchasing/Credit Card not to exceed \$5,000. No single purchase on the Purchasing/Credit Card shall exceed \$1,000 without prior approval of the City Administrator or the Finance Director.

D. Official/Officer and Employee Responsibility

1. Cardholders are accountable and responsible for the expenses charged on the card in their name.

2. Purchasing /Credit Cards are to be used for City business only and not personal use. An Agreement between the Cardholder and the City must be executed before the Card will be issued.

3. Purchasing/Credit Cards will not be used for personal expenses, cash advances, or tuition, the latter of which may be reimbursed through the City's Tuition Reimbursement Program. It may not be used as a substitute for professional service agreements, public works contracts and/or human services contracts.

4. The use of the Purchasing/Credit Card does not relieve the Cardholder from complying with other City and departmental policies and procedures. The Card is not intended to replace effective procurement planning which can result in quantity discounts, reduced number of trips and more efficient use of City resources.

5. The only person entitled to use the Purchasing/Credit Card is the person whose name appears on the face of the card. Cards should be treated with extreme care in the same manner as a personal credit card. The Cardholder will be responsible to report a lost or stolen card immediately to the Purchasing Card Administrator.

6. The Cardholder must retain all receipts and reconcile their Purchasing/Credit Card statement within the timelines set by the Purchasing Card Administrator. The statement must be reconciled and submitted to the Purchasing Card Administrator along with all receipts and a complete description of each product/service that was purchased if the information is not already on the receipt.

7. Merchandise returns and billing errors are the Cardholder's responsibility. The Cardholder is responsible for resolving all disputes directly with the Purchasing Card Vendor or the merchant. All charges must be paid on invoicing.

8. If the Cardholder will be absent from the City for an extended period of time (ie., vacation), the Cardholder is responsible for assigning and training an employee within his/her department to handle the account reconciliation responsibilities and meet established deadlines.

9. If the Card is used for the purpose of covering, authorized travel expenses, the Cardholder shall submit a fully itemized travel expense voucher within 15 days of returning from such travel. Any charges against the Purchasing/Credit Card not properly identified on the travel expense voucher or not allowed following an audit (as required by RCW 42.24.080) shall be paid by the Cardholder by check, U.S. currency or salary deduction.

E. City Procedure.

1. If, for any reason, disallowed charges are not repaid by the Cardholder before the statement is due, the City shall retain a prior lien against and a right to withhold any and all funds payable to the Cardholder up to the amount of the disallowed charges and interest at the same rate as charged by the Purchasing/Credit Card.

2. Finance charges will not be paid by the City. If the statement and receipts are not submitted to the Purchasing Card Administrator by the due date, the Purchasing/Credit Card limit will be set to zero until the information is received. Also, the City may revoke the Purchasing/Credit Card under subsection F herein.

3. Cardholders shall not use the Card if any disallowed charges are outstanding and shall surrender the Card upon demand of the Finance Director.

F. Card Revocation. The City shall have unlimited authority to revoke the use of any Purchasing/Credit Card, and upon delivery of a revocation order to the Purchasing/Credit Card company, shall not be liable for any costs. A Purchasing/Credit Card may be revoked by the Purchasing Card Administrator under any of the following circumstances:

1. If the Card is used in a manner inconsistent with City policy or this Resolution;

2. If the Cardholder transfers to another department;

3. If the Cardholder resigns or is otherwise terminated from the City;

4. If the monthly Purchasing/Credit Card is not properly reconciled or received by the Purchasing Administrator according to the established schedule;

5. If finance charges are incurred as a result of an officer/official or employee's failure to comply with Section D herein; or

6. If the card is lost or stolen.

Section 2. Effective Date. This resolution shall be effective immediately upon passage by the Gig Harbor City Council.

PASSED by the City Council of the City of Gig Harbor this ___ day of _____, 1999.

APPROVED:

MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

BY. _____
CITY CLERK, MOLLY TOWSLEE

APPROVED AS TO FORM:

BY. _____
CITY ATTORNEY, CAROL A. MORRIS

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
EFFECTIVE DATE: _____
RESOLUTION NO. _____