

Gig Harbor City Council Meeting

**March 28, 2005
7:00 p.m.**



"THE MARITIME CITY"

**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
March 28, 2005 - 7:00 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

PUBLIC HEARING: Regulating Landscaping and Building Sizes in Select Districts in the Height Restriction Area Prior to Lifting the Building Size Moratorium.

CONSENT AGENDA:

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

1. Approval of the Minutes of City Council Meeting of March 14, 2005.
2. Correspondence / Proclamations: a) Records Management Month.
3. Public Relations Consultant Contract.
4. Resolution No. 643 - Ratification of Purchase and Sale Agreement for the Eddon Boatyard property.
5. Wastewater Comprehensive Plan Population Update – Consultant Services Contract.
6. Pump Station 2A Project – Consultant Services Contract.
7. Approval of Payment of Bills for March 28, 2005:
Checks #46630 through #46754 in the amount of \$3,903,390.77.

OLD BUSINESS:

1. Second Reading of Ordinance – Adopting a Historic Preservation Ordinance.
2. Second Reading of Ordinance – Amending Chapter 2.21 to Establish a Local Review Board for Historic Preservation Purposes.

NEW BUSINESS:

1. First Reading of Ordinance – Regulating Landscaping and Building Sizes in Select Districts in the Height Restriction Area Prior to Lifting the Building Size Moratorium.
2. First Reading of Ordinance – Amending the City's Procedures for Charging Private Applicants for the Costs Associated with EIS Preparation.
3. First Reading of Ordinance – Amending the Public Works Standards for Private Streets.
4. Wastewater Treatment Plant Roof Repair – Contract Authorization.

STAFF REPORT:

PUBLIC COMMENT:

COUNCIL COMMENTS / MAYOR'S REPORT:

1. Request to Host Middle School Exchange Students.
2. Appointment to Puget Sound Regional Council.

ANNOUNCEMENT OF OTHER MEETINGS:

EXECUTIVE SESSION: For the purpose of discussing property acquisition per RCW 42.30.110(1)(b) and pending litigation per RCW 42.30.100(1)(i).

ADJOURN:

✓

GIG HARBOR CITY COUNCIL MEETING OF MARCH 14, 2005

PRESENT: Councilmembers Ekberg, Young, Franich, Conan, Dick, Picinich, Ruffo and Mayor Wilbert.

CALL TO ORDER: 7:04 p.m.

PLEDGE OF ALLEGIANCE

SWEARING IN CEREMONY:

Mayor Wilbert read a brief biography for Kenneth Watkins. She then performed the ceremony to swear him in as a Gig Harbor Reserve Officer.

MOTION: Move to amend the Agenda to hold the Public Hearings before adjourning to Executive Session.
Picinich / Ruffo – unanimously approved.

Steve Osguthorpe, Planning Manager, explained that there was a recent article in the Gateway inviting the public to attend the March 14th Council meeting, incorrectly stating that this would be the First Reading of the Ordinance regarding text amendments creating a waterfront view basin to protect views. He apologized for the misinformation explaining that the first reading and public hearing would occur at the March 28th meeting. He invited anyone in attendance for this subject to meet with him in the Community Rooms during the Executive Session for a question/answer session.

PUBLIC HEARINGS:

1. Adopting a Historic Preservation Ordinance.
2. Amending Chapter 2.21 to Establish a Local Review Board for Historic Preservation Purposes.

Mayor Wilbert opened the combined public hearing on these two items at 7:09 p.m. Steve Osguthorpe explained that the first ordinance is an effort to encourage historic preservation in the city by establishing procedures. The second ordinance would set the criteria to establish a local review board responsible for carrying out the objective of historic preservation. When both are in place, the city may then be eligible for Certified Local Government status and would qualify for grants and other resources.

Jeanne Derebey – 9221 Peacock Hill Avenue. Ms. Derebey spoke in favor of the draft ordinances. She recommended changing the term for the Design Review Board to four years with a two-consecutive term limit. A member would have to step down for four years before serving again. This would allow the city to use some of the other local talent. She then suggested that residency in the city be considered for members of the board.

Rosanne Sachson – 3502 Harborview Drive. Ms. Sachson voiced her appreciation for the ordinances. She recommended giving priority to city residents for those who serve

on any boards or commissions. She handed out an article regarding historic preservation in Los Angeles from the *Getty Newsletter*. She said that the Getty Conservation Institute has put together a comprehensive historic resource survey project that the city may be interested in using as a resource. She then asked that Councilmembers take a look at the line of trees from the Harbor Peddler to the water. She explained that this is an example of how vegetation needs to be addressed when protecting the view corridor.

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

CONSENT AGENDA:

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

1. Approval of the Minutes of City Council Meeting of February 28, 2005.
2. Appointments to Gig Harbor Planning Commission.
3. Burnham Drive Sewer Replacement Project – Topographic Survey Services Contract Authorization.
4. Resolution No. 642 Setting a Public Hearing Date – Prentice Avenue Street Vacation Request – Savlov.
5. Electrical Repairs to Lift Station No. 7 Contract Authorization.
6. Skansie Avenue Pedestrian Improvement Project Consultant Authorization.
7. Liquor License Application: Marketplace Grille.
8. Liquor License Renewals: Gig Harbor Farmers Market Assoc.; The Green Turtle; The Rose of Gig Harbor.
9. Approval of Payment of Bills for March 14, 2005:
Checks #46467 through #46629 in the amount of \$440,642.93.
10. Approval of Payroll for the month of February:
Checks #3637 through #3676 and direct deposit entries in the amount of \$241,526.35.

MOTION: Move to amend the Agenda and to approve the Consent Agenda before adjourning to Executive Session.
Picinich / Ruffo – unanimously approved.

EXECUTIVE SESSION: For the purpose of discussing property acquisition per RCW 42.30.110(1)(b) and pending litigation per RCW 42.30.100(1)(i).

MOTION: Move to adjourn to Executive Session at 7:25 p.m. for approximately thirty minutes to discuss property acquisition per RCW 42.30.110(1)(b) and pending litigation per RCW 42.30.100(1)(i).
Picinich / Ruffo - unanimously approved.

MOTION: Move to return to regular session at 8:05 p.m.
Picinich / Young – unanimously approved.

MOTION: Move to adjourn back to Executive Session at 7:23 p.m. for another thirty minutes to discuss property acquisition per RCW 42.30.110(1)(b) and pending litigation per RCW 42.30.100(1)(i). Picinich / Conan - unanimously approved.

MOTION: Move to return to regular session at 8:23 p.m. Picinich / Franich – unanimously approved.

MOTION: Move to authorize the Mayor to sign the amendment to the Purchase and Sale Agreement which authorizes the purchase of the proposed property known as Eddon Boatworks for a price of 3.75 million. The amendment to the agreement will close on March 17th. The reason for the price of 3.75 million is because the city received an appraisal that values the property at that amount. Ruffo / Ekberg – unanimously approved.

MOTION: Move to authorize staff to include the Purchase and Sale Agreement and signed amendment in a Council packet for ratification at the next Council meeting. Ruffo / Ekberg – unanimously approved.

MOTION: Move to authorize John Vodopich to sign a waiver of retroactivity for any grant funding that might be available. Ruffo / Ekberg – unanimously approved.

OLD BUSINESS: None scheduled.

NEW BUSINESS:

1. First Reading of Ordinance – Adopting a Historic Preservation Ordinance. Mr. Osguthorpe said that he didn't have any more information to add and offered to answer questions.

Councilmember Franich commented that he is glad to see this come before Council. He stressed that this is going to be initiated by property owners, and that it will not be used to form historic districts. No one will be forced to join.

2. First Reading of Ordinance – Amending Chapter 2.21 to Establish a Local Review Board for Historic Preservation Purposes. Mr. Osguthorpe explained that this is a separate ordinance that would require consideration at the second reading.

Councilmember Young responded to Ms. Derebey's comments. He said that her recommendations cover many of the issues that the Design Review Process Committee discussed. He agreed that preference should be given to professionals that live in the city. He said that the focus of the group is to be a more technical body, and if residency is required, it may limit the applicants with expertise. He continued to explain that what is being created is essentially a new board, and that someone with a historic

preservation specialty may not want to be a full-time Design Review Board member due to the broad scope of the duties. This also may limit the pool of applicants.

Councilmember Dick said that he was pleased that the Design Review Board and the Planning Commission has had an opportunity to review the recommendation from the committee and to forward their comments to Council. He said that he was also pleased that this is moving forward, as Lita Dawn Stanton brought this recommendation to Council quite some time ago. He thanked everyone who had a part in bringing this forward.

3. Utility Extension Capacity Agreement – Thornton. John Vodopich, Community Development Director, presented the background for this request for city water to a lot in the Rushmore Development.

MOTION: Move to approve the Utility Extension Agreement with Margaret Thornton as proposed.
Ruffo / Picinich – unanimously approved.

STAFF REPORTS:

1. Community Development – Stinson Avenue Pedestrian Improvement Project – Phase II. No verbal report given.

2. GHPD – February Report. No verbal report given. Councilmember Ekberg thanked Chief Davis for the thorough reports.

COUNCIL COMMENTS / MAYOR'S REPORT:

Mayor Wilbert recognized Jim Pasin, who was appointed to serve on the Planning Commission.

Councilmember Picinich thanked Chief Davis for everything that the department has done. He specifically noted that they have followed up on several of his calls.

PUBLIC COMMENT: None.

ADJOURN:

MOTION: Move to adjourn at 8:37 p.m.
Picinich / Ruffo – unanimously approved.

CD recorder utilized:
Disc #1 Tracks 1 – 16.

Gretchen A. Wilbert, Mayor

Molly Towslee, City Clerk

PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, the management of records and information is critical to every business, organization and government agency in facing the complexities of competition, customer service and globalization; and

WHEREAS, technologies for storing information are expanding the amounts of information that can be acquired, with increased longevity; and

WHEREAS, the need to use information to create value and plan strategically is a driving force in today's world; and

WHEREAS, control of records and information is necessary for reduction of risk and liability as well as for compliance with global standards; and

WHEREAS, the citizens of the City of Gig Harbor should recognize the important service performed by records and information professionals.

NOW, THEREFORE, I, Gretchen Wilbert, Mayor of the City of Gig Harbor, do hereby declare April, 2005 as,

NATIONAL RECORDS AND INFORMATION MANAGEMENT MONTH

in the City of Gig Harbor, and I encourage all citizens to recognize this event.

Gretchen A. Wilbert, Mayor

Date



Puget Sound Chapter - ARMA International

P.O. Box 1842 • Tacoma, Washington 98401-1842

Gretchen Wilbert, Mayor
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335

APR 13 2005

Re: Records and Information Management Month 2005

Dear Mayor Wilbert,

The month of April is recognized as Records and Information Management Month (RIMM). A celebration appreciating the importance of records and information management began in 1995 by ARMA International, the Association of Information Management Professionals, a professional, not-for-profit organization whose primary purpose is education in the field of records and information management.

ARMA has 140 chapters in the U.S., Canada and 34 nations around the world. Whether or not you have employees who are members of ARMA International, all companies, government agencies and organizations are encouraged to participate in Records and Information Management Month.

As a member of the Puget Sound Chapter of ARMA Board of Directors, I would like to request a proclamation from your office. Your participation in RIMM is very important not only to us, but also to the entire Records and Information Management Profession. We will be celebrating RIMM at our next chapter meeting on **April 13, 2005** and we would like to invite you to join us.

I have attached a sample proclamation to assist you in recognizing this profession. If you would like any additional information on Records and Information Management Month or would be interested in attending our celebration, please feel free to contact me. I am looking forward to being able to include your proclamation on our list of participants. In the event you or a representative from your office is unable to attend, please forward the proclamation **no later than April 08, 2005** to address listed above.

Sincerely,

A handwritten signature in cursive script that reads "K. Coffel".

Kimberlee Coffel
Puget Sound Chapter Director
(253) 924-3432





"THE MARITIME CITY"

ADMINISTRATION

TO: MAYOR WILBERT AND CITY COUNCILMEMBERS
FROM: LAUREN LUND *LL*
SUBJECT: PUBLIC RELATIONS CONSULTANT
DATE: MARCH 28 2005

INTRODUCTION/BACKGROUND

The previous Public Relations Contractor has moved out of state due to a family situation. I interviewed three public relations firms to replace her: Envision Marketing out of Renton; Gruman & Nicoll out of Bellevue; and Zahorsky & Associates Brand Communications out of Olympia. I would like to hire Carol Zahorsky of Zahorsky & Associates.

FISCAL CONSIDERATION

This item is already approved in the 2005 Marketing Budget from Lodging Tax dollars and will not exceed the budgeted amount of \$15,000.

RECOMMENDATION

I recommend that the Council authorize and accept the contract for Zahorsky & Associates Brand Communications

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
Carol Zahorsky DBA Zahorsky & Associates Brand Communications**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Carol Zahorsky, a public relations contractor, whose address is: 14735 McIntosh Lane SE, Tenino WA 98589, (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the formation of a tourism public relations campaign and desires that the Consultant perform services necessary to assist in the development of the campaign by contacting travel writers to write about Gig Harbor, revise existing and create press materials, write press releases and related public relations services.

WHEREAS, the Consultant agrees to perform services more specifically described in Exhibit A, Scope of Service, dated February 25, 2005, which is attached hereto as Exhibit A, and is 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 hourly rate of \$130.00, not to exceed \$1,300 per month or \$13,000.00 for the duration of this agreement for the services described in Exhibit A 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.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, as described in this Agreement. The City shall pay the full amount of an invoice within thirty (30) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the 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 and be completed by December 31, 2005.

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 Scope of Services. 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. Such notice may be delivered to the Consultant in person or by certified mail.

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 sub-contractors, 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 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 performance of the work hereunder by the Consultant, its agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide a Certificate of Insurance evidencing:

1. Automobile Liability insurance with limits no less than \$1,000,000 combined single limit per accident for bodily injury and property damage; and Can this be for \$200,000 per

person combined? I'm needing to have a new umbrella policy written to extend to the \$1M requested.

2. Commercial General Liability insurance written on an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations/broad form property damage; explosion, collapse and underground (XCU) if applicable; and employer's liability; and

C. Any payment of deductible or self-insured retention shall be the sole responsibility of the Consultant. The City shall be named as an additional insured on the Commercial General Liability insurance policy, as respects work performed by or on behalf of the Consultant and a copy of the endorsement naming the City as additional insured shall be attached to the Certificate of Insurance. The City reserves the right to receive a certified copy of all the required insurance policies.

D. The Consultant's Commercial General Liability insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability. The Consultant's insurance shall be primary insurance as respects the City. The City shall be given thirty (30) days prior written notice by certified mail, return receipt requested, of any cancellation, suspension or material change in 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 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 Administrator and the City shall determine the term or provision's true intent or meaning. The City Administrator shall also decide all questions which may arise between the parties relative to the actual services provided or 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 Administrator'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. 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 in this Agreement or such other address as may be hereafter specified in writing.

City of Gig Harbor
Attn: Mark Hoppen
3510 Grandview Street
Gig Harbor, WA 98335

Carol Zahorsky
14735 McIntosh Lane SE
Tenino, WA 98589

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.

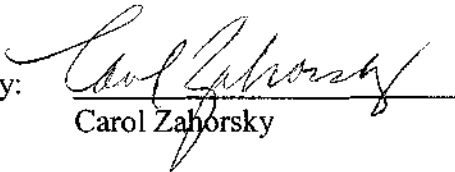
XIX. Entire Agreement

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 11th day of March, 2005.

THE CITY OF GIG HARBOR

By: 
Carol Zahorsky

By: _____
Mayor

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk

Exhibit A

SCOPE OF SERVICES

Gig Harbor Public Relations

1. Carol Zahorsky (The Consultant) will meet on a regular, agreed upon basis with the City of Gig Harbor Marketing Director to develop and implement and track a measurable public relations campaign for 2005.
2. The Consultant will develop a list of potential travel writers as well as a list of publication placements based on discussions with the City of Gig Harbor Marketing Director during March 2005. The Consultant will invite travel writers to write about Gig Harbor throughout 2005, based on the goals set with the Marketing Director at the first of the year.
3. The Consultant will work with the Marketing Director in March 2005 to develop potential itineraries for the travel writers to participate in when visiting Gig Harbor
4. The Consultant will update the current Gig Harbor Press Kit including the following materials; fact sheet, history and traditions information, attractions and activities information, and accommodations information early in 2005.
5. The Consultant will write and distribute a minimum of five (5) press releases to a qualified media list with information about the upcoming activities in Gig Harbor or information that groups Gig Harbor's visitor assets to reinforce the City's tourism brand as directed by the Marketing Director. Each month by the 15th the Marketing Director will provide the Consultant information for the any press release slated to be drafted that month.
6. The Consultant will secure at least 9 travel writers to visit Gig Harbor during 2005. The 9 travel writers will be verified by Consultant as legitimate writers with a proven track record of published articles in the target publications identified by the Marketing Director. Target publications will include Sunset, Better Homes and Gardens, Coastal Living, National Geographic Traveler, Budget Travel, USA Today, Alaska Air, Horizon Air, Westways, Via, Journey, food and wine publications and newspapers in the following markets – Seattle, Spokane, Vancouver, Portland/Vancouver, WA, Olympia, San Francisco and New York, and other agreed upon target publications. Working with the Marketing Director specific press visits will be developed and writers secured to participate with a guarantee of a total of 9 media visits from March 2005 to December 2005.
7. The Consultant will provide monthly reports regarding work completed, contacts made and successes achieved based on goals set by the Marketing Director at the beginning of the year. Additionally the Consultant will provide tear sheets of editorial achieved each

month. All of these will be provided with the monthly invoice prior to payment.

NOTE: It should be noted that media visits in 2005 may or may not translate into media coverage in 2005. Also, publications that have recently featured Gig Harbor are not as likely to feature Gig Harbor unless there are major changes in the tourism product (i.e. the opening of a 5-star resort).

EXHIBIT B
CHARGES FOR SERVICES

In Exchange for the Services above

Carol Zahorsky will be paid by the City of Gig Harbor \$130.00 an hour for the services described in Exhibit A Scope of Services, up to a maximum amount of \$1300.00 per month, not to exceed \$13,000.

Carol Zahorsky will submit monthly invoices for processing by the City of Gig Harbor for the services performed.

The fee structure presented above includes all incidental expenses except postage and mailing supplies such as envelopes and letterhead which will be provided by the City of Gig Harbor, based on a per project basis and with prior arrangement with the Marketing Director and from the Marketing office postage and supply budget. No additional invoices from the Consultant will be accepted for expenses.

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COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: RESOLUTION RATIFYING PURCHASE AND SALE AGREEMENTS
FOR EDDON BOATYARD
DATE: MARCH 28, 2005

INFORMATION/BACKGROUND

The City entered into a Purchase and Sale Agreement with the Harbor Cove Group for property located at 3711, 3801, 3803, and 3805 Harborview Drive on January 11, 2005. The City Council took action to authorize the execution of the agreement at the January 10, 2005 City Council meeting. An amendment to the agreement was subsequently approved at the March 14, 2005 City Council meeting.

The City Attorney is recommending that the Council adopt a formal resolution ratifying these actions. A draft resolution has been prepared by the City Attorney for Council consideration.

FISCAL CONSIDERATIONS

None.

RECOMMENDATION

I recommend approval of the resolution as presented.

RESOLUTION NO. 643

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RATIFYING THE CITY COUNCIL'S AUTHORIZATION FOR THE MAYOR TO SIGN THE PURCHASE AND SALE AGREEMENT AND AMENDMENT TO THE PURCHASE AND SALE AGREEMENT FOR THE PROPERTY COMMONLY KNOWN AS THE EDDON BOAT PROPERTY.

WHEREAS, on January 10, 2005, the City Council authorized the Mayor to sign the Purchase and Sale Agreement for the purchase of the Eddon Boat Property (which is attached hereto as Exhibit A-1); and

WHEREAS, on January 11, 2005, the Mayor signed the Purchase and Sale Agreement (Exhibit A-1); and

WHEREAS, on March 14, 2005, the City Council authorized the Mayor to sign the Amendment to the Purchase and Sale Agreement for the Eddon Boat Property (which is attached hereto as Exhibit B-1); and

WHEREAS, on March 14, 2005, the Mayor signed the Amendment to the Purchase and Sale Agreement (Exhibit B-1); and

WHEREAS, closing of the sale of the Eddon Boat Property occurred on March 17, 2005;
Now, Therefore,

BE IT HEREBY RESOLVED BY THE GIG HARBOR CITY COUNCIL AS FOLLOWS:

The Gig Harbor City Council hereby ratifies their previous authorizations (as set forth in the "whereas" sections above) for the Mayor to sign the Purchase and Sale Agreement

(Exhibit A-1) and the Amended Purchase and Sale Agreement (Exhibit B-1) for the Eddon Boat Property.

PASSED THIS 28th day of March, 2005.

MAYOR GRETCHEN WILBERT

ATTEST:

Molly Towslee, City Clerk

APPROVED AS TO FORM:

Carol A. Morris, City Attorney

Exhibit A-1

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT, (hereinafter the "Agreement,") is entered into this 11th day of January, 2005, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "Purchaser") and Eileen Tellefson and Marsan, LLC, tenants in common, d/b/a Harbor Cove Group, whose address is 108 South Jackson, Seattle, Washington, 98104 (hereinafter collectively called the "Seller");

WHEREAS, Seller is the owner of that certain real property, including tidelands, with improvements consisting of a Tudor-style house, concrete block building, and marine-oriented outbuilding, located at 3711, 3801, 3803 and 3805 Harborview Drive, in Gig Harbor, Washington, more particularly described in Exhibit A, attached hereto and made a part hereof by this reference (which exhibit may be amended if necessary to reflect the proper legal description) (the "Property"); and

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

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. Purchase and Sale of the Property. Upon the terms and conditions hereinafter set forth, Seller agrees to sell and Purchaser agrees to purchase the Property, including tidelands, described in Exhibit A, together with:

- a. All rights, licenses, privileges, easements, rights-of-way (herein referred to collectively as the "Rights");
- b. The marine-oriented outbuilding, the Tudor-style house building and the concrete block building and all other improvements and appurtenances, subject to Seller's right to demolish certain structures as set forth in Section 8.4 below;
- c. All of Seller's right, title and interest in and to any street or road abutting the Property, if any.

2. Purchase Price and Manner of Payment for the Property.

2.1 **Purchase Price.** The total purchase price for the Property (the "Purchase Price") shall be Three Million Two Hundred Fifty Thousand Dollars and No Cents (\$3,250,000.00), payable at Closing, which includes the earnest money paid to the Escrow Agent after execution of this Agreement by both parties; provided, however, that (i) if the transaction contemplated by this Agreement does not close on or before February 15, 2005, the amount of the Purchase Price shall increase by One Hundred Thousand Dollars and No Cents (\$100,000), and (ii) if the transaction contemplated by this Agreement does not close on or before March 15, 2005, the amount of the Purchase Price shall increase by an additional One Hundred Thousand Dollars and No Cents (\$100,000). The earnest money shall be Fifty Thousand Dollars and No Cents (\$50,000.00) which shall be paid to and held by Escrow Agent until Closing or earlier termination of this Agreement, or as otherwise provided herein.

2.2 **Prorations.** Any prorations as determined in Section 6 herein shall be reflected in the amount paid to the Seller at Closing.

2.3 **Closing Date for Property.** The parties will close the purchase and sale of the Property ("Closing") on or before February 15, 2005, in the office of Fidelity National Title Insurance, 2727 Holycroft Street, Suite 460, Gig Harbor, Washington (the "Escrow Agent" or "Title Company"). Purchaser shall have the right to extend the date of Closing to and including April 15, 2005 conditioned upon the increases in the Purchase Price as set forth in Section 2.1 above. This Agreement shall terminate if the Closing does not occur on or before April 15, 2005. The Seller agrees to maintain the Property and its improvements in their present condition, normal wear and tear excepted and except as permitted pursuant to Section 8.4 below, until Purchaser is entitled to Possession at Closing. In the event that this sale cannot be closed by the date provided herein (including any permitted extensions) due to the unavailability of either party, the Escrow Agent, or financing institution to sign any necessary document, or to deposit any necessary money, because of the interruption of available transport, strikes, fire, flood, or extreme weather, governmental relations, incapacitating illness, acts of God, or other similar occurrences, the Closing Date shall be extended seven (7) days beyond cessation of such condition, but in no event more than fourteen (14) days beyond the Closing as provided herein without the written agreement of the parties.

3. **Deliveries at Closing of Property.** At Closing, Seller shall convey to Purchaser good and marketable fee simple title to the Property and all improvements thereon, by statutory warranty deed (the "Deed"), duly executed and in recordable form and insurable as such by the Title Company, on an ALTA form B Owner's form of title insurance policy, or if Purchaser so desires and pays any additional premium, an ALTA Extended Policy (the "Title Policy"). Title to the Property shall be conveyed by Seller to Purchaser free of all liens, leases and encumbrances other than the Permitted Exceptions, as defined in Section 10 hereof. Seller shall deliver to Purchaser at Closing, the following documents (all of which shall be duly executed and acknowledged where required and,

unless otherwise agreed, deposited with the Escrow Agent): (a) the Deed; (b) the Title Policy, or the irrevocable commitment of the title insurer in writing to Purchaser to deliver same in a form satisfactory to Purchaser; (c) such other documents, if any, as may be reasonably requested by the Purchaser to enable the Purchaser to consummate and close the transactions contemplated by this Agreement pursuant to the terms and provisions and subject to the limitations hereof. The parties shall execute a real estate excise tax affidavit showing that the Property was acquired for a public use under threat of condemnation.

4. **Possession.** Possession of the Property shall be delivered by Seller to Purchaser at the Closing.

5. **Closing Costs Relating to the Property.** Title insurance premiums, loan fees and all other costs or expenses of escrow shall be paid as follows: (a) the full cost of securing the title insurance policy for Purchaser referred to herein shall be paid by Seller, provided that Purchaser shall be responsible for all costs associated with any ALTA extended coverage; (b) the cost of recording the Deed to Purchaser shall be paid by Purchaser; (c) all other expenses of escrow and recording fees shall be shared equally by Seller and Purchaser. Encumbrances to be discharged by Seller to provide clear title for the Property shall not be expenses of escrow.

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

6.1 Any applicable City, state and county ad valorem taxes for the calendar year of Closing based on the ad valorem tax bill for the Property, if then available, for such year, or if not, then on the basis of the ad valorem tax bill for the Property for the immediately preceding year. Taxes for all years prior to the calendar year of Closing shall be paid by Seller at or prior to Closing;

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

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

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

7. Conditions Precedent to Parties' Obligation to Close.

7.1 Purchaser. Purchaser's obligation to acquire the Property shall be conditioned upon the satisfaction, or waiver by Purchaser of the following conditions: (a) approval of this Agreement by the Gig Harbor City Council; (b) inspection by the Purchaser of the Property for Hazardous Substances as more fully described below; (c) receipt and approval by the Gig Harbor City Council of the Environmental Reports (as defined below), as necessary, from the Purchaser's Consultant; (d) completion by Seller of all deliveries required of Seller prior to the Closing; (e) that there has been no breach by Seller of any of the warranties and/or covenants of this Agreement; (f) approval by the voters of a bond measure for the purchase of the Property in an amount equal to or greater than the Purchase Price for the Property, and (g) receipt of an MAI appraisal for the Property. The Gig Harbor City Council (on behalf of Purchaser) shall make the decision whether the conditions (a) through (g) in this Section have been satisfied, which shall lie in the City Council's sole and absolute discretion.

Seller acknowledges that there has been a release of Hazardous Substances (as defined in Section 9.2) on the Property and that a Geotechnical Engineering-Phase II Environmental Investigation Report conducted by Krazan & Associates dated July 21, 2003 on both the upland and tideland portions of the Property has been submitted to the Purchaser. Seller agrees that the Purchaser has the option to perform additional inspections and testing at, on, under, and adjacent to the Property and receive reports from the Purchaser's own Consultant on the nature and extent of the contamination of the Property, the estimated cost of an action to clean up the Hazardous Substances from the Property, and such other matters as the Purchaser deems reasonable and necessary ("Environmental Reports"). Upon receipt of any final Environmental Reports, Purchaser shall provide to Seller copies of such final reports. Upon receipt and consideration of the Environmental Reports, the Purchaser may wish to renegotiate the terms of this Agreement, as an alternative to termination of the Agreement for the City Council's failure to approve, or otherwise based upon the matters set forth in, the Environmental Reports from the Purchaser's Consultant. The Seller shall not be obligated to renegotiate the terms of this Agreement. If the Purchaser finds that any of the conditions in Section 7.1(a) through (g) have not been satisfied in its sole and absolute discretion at any time prior to the date of Closing (including any extensions), the Agreement shall terminate

without consequences to either party, except that Escrow Agent shall return the earnest money to Purchaser, as provided in Section 11.4 herein.

7.2 Conditions Subsequent to Closing. Because the boathouse (marine-oriented outbuilding) on the Property purchased by the Purchaser under this Agreement is in poor aesthetic condition, the Purchaser agrees to paint the exterior of the structure within four (4) months after Closing. The Purchaser further agrees to use its reasonable best efforts to remove garbage and other litter on the surface of the Property within six (6) months after Closing. The Purchaser shall have no obligation to perform any activity described in this Section 7.2 if Closing does not occur.

8. Seller's Covenants.

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

8.2 Encumbrances. At no time prior to Closing shall Seller encumber the Property or any portion thereof with encumbrances, liens or other claims or rights (except such as may exist as of the date hereof).

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

8.4 Additional Improvements. Seller shall not enter into any agreements regarding, or take any other action with respect to, construction of additional improvements or demolition of any existing structures at the Property following the Effective Date and prior to Closing, without the prior approval from Purchaser, which shall be granted or withheld in Purchaser's sole and absolute discretion; provided, however, that Seller may lawfully – at its sole expense, risk, and responsibility – demolish the Wild Bird and Pandora's Box buildings.

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

9. Seller's Representations and Warranties. Seller hereby represents and warrants to Purchaser as follows:

9.1 Title to Property. Seller owns fee simple title to the Property, free and clear of all restrictions, liens, easements, mortgages, covenants, exceptions and restrictions of any kind, Uniform Commercial Code financing statements, security interests, and other encumbrances, except for the Permitted Exceptions (as described in Section 10).

9.2. Hazardous Substances on the Property.

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

9.2.2 Hazardous Substances. Seller acknowledges that there has been a release or disposal of Hazardous Substances on the Property, and that Hazardous Substances have been stored, generated or disposed of on the Property. Seller warrants that it has informed the Washington State Department of Ecology of the presence of Hazardous Substances on the Property and has enrolled the Property in the Voluntary Cleanup Program.

9.2.3 Violations. Other than the existence of the Hazardous Substances on the Property, Seller has not received any notice of, and is not aware of, any actual or alleged violation with respect to the Property of any federal, state or local statute, ordinance, rule, regulation or other

law. Seller warrants that no action or proceeding is pending before or appealable from any court, quasi-judicial or administrative agency relating to the Hazardous Substances emanating from, caused by or affecting the Property, except any action or proceeding arising from or relating to informing the Washington State Department of Ecology of the presence of Hazardous Substances on the Property and enrollment in the Voluntary Cleanup Program relating to such substances.

9.2.4 Underground Storage Tanks. Seller represents that, to the best of its knowledge, the Property contains no underground storage tanks for the storage of fuel oil, gasoline, and/or other petroleum products or by-products, other than that stated in the Krazen report referenced herein.

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

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

9.2.7 Litigation. Seller has no actual knowledge of any, and there is no actual or pending litigation or proceeding by any organization, person, individual or governmental agency against Seller with respect to the Property or against the Property other than any appeal that may be filed relating to the permit application submitted to the City of Gig Harbor for the Property. There are no outstanding claims on Seller's insurance policies, which relate to the Property other than any appeal that may be filed relating to the permit application submitted to the City of Gig Harbor for the Property. Seller has not received any notice of any claim of noncompliance with any laws, from any governmental body or any agency, or subdivision thereof bearing on the construction of the improvements, the landscaping or the operation, ownership or use of the Property other than any appeal that may be filed relating to the permit application submitted to the City of Gig Harbor for the Property and communication with the Washington State Department of Ecology and the City of Gig Harbor relating to the presence of Hazardous Substances on the Property.

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

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

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

9.2.11 True and Accurate Representations. No representation or warranty of Seller contained in this Agreement contains or at Closing will contain an untrue statement of material fact, or omits or at Closing will omit to state a material fact necessary to make the statements and facts contained therein not misleading. If any event or circumstance occurs which renders any of Seller's representations or warranties herein untrue or inaccurate in any material respect, then Seller shall notify Purchaser of the event or circumstance when Seller becomes aware of it.

9.2.12 No Action. Seller will refrain from taking any action which would cause any of the foregoing representations and warranties to become incorrect or untrue at any time prior to the date of Closing. At the Closing, Seller shall reaffirm and restate such representations and warranties, subject to disclosure of any changes in facts or circumstances, which may have occurred since the date hereof. Such restated representations and warranties shall survive the Closing. If any change in any foregoing representation is a material change not caused in whole or in part by Seller or persons under the control or direction of Seller, and Seller does not elect to cure all such material changes prior to Closing, then notwithstanding anything herein to the contrary, Purchaser, at its sole option, may either (a) close and consummate the acquisition of the Property pursuant to this Agreement, reserving any and all necessary action to specifically enforce Seller's obligations hereunder; or (b) terminate this Agreement by written notice to Seller, and neither of the parties hereto shall have any rights or obligations hereunder whatsoever, except such rights or obligations that, by the express terms hereof, survive any termination of the Agreement.

10. Title Examination and Objections.

10.1 Title Review. Seller shall cause the Title Company to furnish to Purchaser, at Seller's expense, a title insurance commitment, on an ALTA approved form for the Property (the "Title Report"); provided, however, that Purchaser shall be responsible for the additional cost of any ALTA extended coverage policy. Purchaser shall have fifteen (15) days after receipt of such Title Report to conduct an examination of Seller's title to the Property and to give written notice to Seller of any title matters, which affect title to the Property and which are unacceptable to Purchaser (the "Title Objections"). If Purchaser fails to object to any matter which is of record as of the date hereof prior to the expiration of such fifteen (15) day period, then, except with respect to any security instrument or lien affecting the Property, Purchaser shall be deemed to have waived its right to object to any

such matter and all of such matters shall be deemed a permitted title exception for purposes of this Agreement (collectively, with those matters described in Section 10.4, the "Permitted Exceptions").

10.1.1 Upon receipt from the Purchaser of a written notice of any Title Objection, together with a copy thereof, the Seller shall, within fifteen (15) days of receiving such notice, provide written notice to Purchaser that Seller (a) will satisfy or correct, at Seller's expense, such Title Objection, or (b) refuses to satisfy or correct, in full or in part, such Title Objection, stating with particularity which part of any Title Objection will not be satisfied. The above notwithstanding, Seller may not refuse to satisfy security interests, liens or other monetary encumbrances affecting the Properties, including, but not limited to, the Deed of Trust recorded February 17, 2003 naming The Peninsula Group as beneficiary. As to those Title Objections which Seller agrees to satisfy or cure, or is required to satisfy or cure, Seller shall, on or before the Closing Date, (i) satisfy, at Seller's expense, security interests, liens or other monetary encumbrances affecting the Property (and all of Seller's obligations under or relating to each of the foregoing), and (b) satisfy or correct, at Seller's expense, all other Title Objections affecting the Property.

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

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

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

10.3 Removal of Liens. Notwithstanding anything to the contrary herein contained, Seller covenants and agrees that at or prior to Closing, Seller shall (a) pay in full and cause to be cancelled

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

10.4 Section 11.1 notwithstanding, Purchaser may not object to the following title matters, which shall be considered "Permitted Exceptions": (a) real property taxes or assessments due after Closing; (b) easements consistent with Purchaser's intended use of the Property (which determination shall be made in Purchaser's sole and absolute discretion); (c) reserved oil and/or mineral rights; (d) rights reserved in federal patents or state deeds; and (e) governmental building and land use regulations, codes, ordinances and statutes.

11. Default and Termination.

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

11.2 By Purchaser. In the event of any default by Purchaser that is not remedied prior to Closing, Seller's sole and exclusive remedy shall be to terminate the escrow and Purchaser's right to purchase the Property and be paid by Escrow Agent that portion of the earnest money deposited by Purchaser hereunder and interest thereon which, collectively, do not exceed five percent (5%) of the Purchase Price as liquidated damages.

11.3 General. If a party (the "Defaulting Party") fails or refuses to perform its obligations under this Agreement or if the sale and purchase of the Property contemplated by this Agreement is not consummated on account of the Defaulting Party's default hereunder, then Escrow Agent shall (after receiving notice from the non-Defaulting Party and then giving the Defaulting Party ten (10) days' prior written notice) refund any monies deposited by the non-defaulting party, and return any documents deposited with the Escrow Agent by the non-Defaulting Party, on demand, without prejudice to any other legal rights or remedies of the non-Defaulting Party hereunder. In the event Seller is the Defaulting Party hereunder, Purchaser shall have, in addition to any right or remedy provided hereunder, the right to seek specific performance of this Agreement, or other equitable remedies against Seller in the event that Seller wrongfully fails or refuses to perform any covenant or agreement of Seller hereunder.

11.4 Termination. If this Agreement is terminated, under Section 7 herein or otherwise, neither party hereto shall have any further rights or obligations under this Agreement whatsoever, except for such rights and obligations that, by the express terms hereof, inure to the benefit of either party upon the default of the other party or survive any termination of the Agreement prior to Closing. The Escrow Agent shall return the earnest money to the Purchaser upon termination by either party, except as provided for in Section 11.2 above.

12. Condemnation or Destruction.

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

12.2 Damage or Destruction. Prior to Closing, the risk of loss of or damage to the Property by reason of any insured or uninsured casualty shall be borne by Seller.

13. Indemnification; Remediation.

13.1 Seller's Indemnification. Seller shall indemnify and defend Purchaser (including its elected officials, officers, managers, employees and agents) and hold it harmless from and against any claim, loss, liability and expense, including attorneys' fees and court costs (collectively "Claims") incurred by Purchaser on account of (a) Claims by persons or entities other than Purchaser arising out of or in connection with the ownership, operation or maintenance of the Property by the Seller, or any fact, circumstance or event which occurred prior to the Closing Date, excluding remediation obligations within the Property boundaries based upon the release or existence of Hazardous Substances on the Property on or before the date of Closing; and (b) Claims resulting from or arising directly or indirectly, out of the breach of any representation, warranty, covenant or agreement of Seller contained in this Agreement to the extent caused by such breach.

13.2 **Purchaser's Indemnity.** Purchaser shall indemnify and defend Seller (including its officers, officials, employees and agents) and hold it harmless from and against any Claims incurred by Seller on account of Claims resulting from or arising directly or indirectly out of the breach of any representation, warranty, covenant or agreement of Purchaser contained in this Agreement to the extent caused by such breach.

13.3 **Purchaser's Remediation Obligations.** The Purchaser agrees that, after Closing, it will assume the obligation to take such actions as Purchaser deems reasonable and necessary to remediate contamination within the Property boundaries consistent with the intended use of the Property and as required by applicable law, including the Washington State Model Toxics Control Act. The remediation will be conducted under the direction and supervision of a qualified environmental consultant. Purchaser will not seek to recover costs of responding to or remediating contamination within the Property boundaries existing as of the date of Closing from Seller or the Peninsula Group, a Washington Partnership, from whom Seller purchased the Property.

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

15. **Representations Regarding Brokers.** Seller and Purchaser each represent and warrant to the other that neither has employed, retained or consulted any broker, agent or finder in carrying on the negotiations in connection with this Agreement or the purchase and sale referred to herein.

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

SELLER: Harbor Cove Group
c/o Barry Margolese
108 S. Jackson, #300
Seattle, WA 98104

PURCHASER: The City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
Attn: John Vodopich, Community Development Director
Phone (253) 851-6170
Fax: (253) 853-7597

With a copy to: Carol A. Morris, City Attorney
Law Office of Carol A. Morris, P.C.
P.O. Box 948
Seabeck, WA 98380
Phone: (360) 830-0328
Fax: (360) 850-1099

17. Miscellaneous.

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

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

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

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

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

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

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

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

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

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

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

17.12 Attorneys' Fees. If Purchaser or Seller institute suit concerning this Agreement, the prevailing party or parties is/are entitled to court costs and reasonable attorneys' fees. The venue of any suit shall be in Pierce County, Washington or the U.S. District Court for the Western District of Washington sitting in Tacoma, Washington.

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

[Signature page follows]

PURCHASER: CITY OF GIG HARBOR

By: Gretchen Wilbert
Gretchen Wilbert, Mayor

SELLER: Eileen Tellefson and MarSan LLC, Tenants in Common

Eileen Tellefson
Eileen Tellefson, as her separate estate

MarSan LLC

By: Sandra Schaumburg
Sandra Schaumburg, Member

By: Marcia Johnson
Marcia Johnson, Member

ATTEST:

Molly M. Towslee
City Clerk, Molly Towslee

APPROVED AS TO FORM
SALTER JOYCE ZIKER, PLLC

Barry G. Ziker, Special Counsel

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Eileen Tellefson is the person who appeared before me, and said person acknowledged that she executed the within and forgoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

Dated: 1/12/05



Jan Smith
Jan Smith
(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing
at: Sumner, WA
My Commission expires: 11/21/05

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Sandra Schaumburg is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as a member of MarSan LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 1/12/05

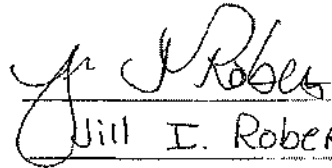


Jan Smith
Jan Smith
(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing
at: Sumner, WA
My Commission expires: 11/21/05

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Marcia Johnson is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as a member of MarSan LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 1-14-05



Jill I. Roberts

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

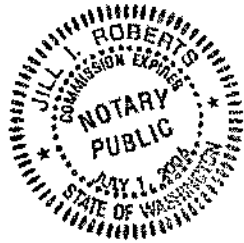


EXHIBIT 'A'

DESCRIPTION:

PARCEL A:

Beginning at an intersection with the North Boundary Line of the 60 foot right-of-way of the Burnham-Hunt County Road, and a line which is North 1 degrees 13 minutes East, being parallel to the Section line common to Section 5 and 6, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington, and East therefrom 212.37 feet, measured at right angle thereto;

Thence on a line North 1 degrees 13 minutes East, 209 feet, more or less, to the intersection with the Government meander line on the South side of Gig Harbor;

Thence South and East, following said Government meander line to its intersection with a line which is South 1 degrees 13 minutes West and parallel to the aforesaid section line common to Section 5 and 6, Township 21 North, Range 2 East of the W.M., and East therefrom 267.37 feet, measured at right angle thereto;

Thence South 1 degrees 13 minutes West on said line 163 feet, more or less, to its

intersection with the North Boundary Line of the aforesaid Burnham-Hunt County Road;

Thence West and South 79 feet, more or less, along the North Boundary line of said County Road to the point of beginning.

Also the following described Tidelands of the Second Class, being adjacent to and abutting upon the aforescribed upland property:

Beginning at the intersection of the West Boundary Line of the aforescribed upland property and the said Government Meander Line, which point is East 212.37 feet from the section line common to Section 5 and 6, Township 21 North, Range 2 East of the W.M., and measured at right angle thereto;

Thence on a line North 19 degrees 49 minutes East over Tidelands of the Second Class to an intersection with the Irregular line, indicated by the extreme low tide;

Thence South and East following said Irregular line of extreme low tide, to intersect a line which bears North 19 degrees 49 minutes East from the Northeast corner of the above described tract of upland;

Thence on said parallel line South 19 degrees 49 minutes West to its intersection with the aforesaid Government meander line;

Thence West and North along the said Government meander line to the place of beginning.

Legal Continued:

Legal Continued:

Beginning at the stone monument which is at the intersection of the section line common to Section 5 and 6, Township 21 North, Range 2 East of the W.M., with its Government meander line on the South side of Gig Harbor, Pierce County, Washington;

Thence South 1 degrees 13 minutes West on the said section line common to Section 5 and 6 aforesaid, 572.82 feet;

Thence on a line North 50 degrees 55 minutes East 58 feet, more or less, to an intersection with the East Boundary Line of the right-of-way of the 60 foot Burnham-Hunt County Road, the true point of beginning;

Thence continuing on the said line, which is North 50 degrees 55 minutes East to the point 220.55 feet, measured from its intersection with the aforesaid section line common to said Section 5 and 6;

Thence on a line North 19 degrees 49 minutes East 79 feet, more or less, to its intersection with the Government meander line of Gig Harbor;

Thence on the said Government meander line South 25 degrees East 42 feet, more or less, to an intersection with a line which is South 1 degrees 13 minutes West, which line is parallel to the aforesaid section line common to Sections 5 and 6, and the East 212.37 feet, measured at right angles thereto;

Thence South 1 degrees 13 minutes West on said line, 209 feet, more or less, to its intersection with the North boundary of the aforesaid Burnham-Hunt County Road;

Thence on a curve to the right, following the North boundary line of said Burnham-Hunt County Road, 193 feet, more or less, to the point of beginning.

Also the following described Tidelands of the Second Class being adjacent and abutting upon the aforesaid upland property:

Beginning at the stone monument which is at the intersection of the section line common to Section 5 and 6, Township 21 North, Range 2 East of the W.M., and the Government meander line on the South side of Gig Harbor, Pierce County, Washington.

Thence South 1 degrees 13 minutes West on said section line common to Section 5 and 6, aforesaid, 572.82 feet;

Thence on a line North 50 degrees 55 minutes East 220.55 feet;

Thence on a line North 19 degrees 49 minutes East 79 feet, more or less, to its intersection with the aforesaid Government meander line, the true place of beginning;

Thence continuing on said line North 19 degrees 49 minutes East over the Tidelands of the Second Class, to an intersection with an irregular line indicated by the extreme low tide;

Thence South and East following the irregular line of the extreme low tide to intersect a line which bears North 19 degrees 49 minutes East from the Northeast corner of the above described tract of upland;

Thence on said parallel line South 19 degrees 49 minutes West to its intersection with the aforesaid Government meander line North 25 degrees West 42 feet, more or less, to the point of beginning.

Legal Continued:

Legal Continued:

PARCEL B:

All that part of Lot 7, Section 5, Township 21 North, Range 2 East of the W.M., in Pierce County, Washington, described as follows:

Beginning at a stone monument at the Northwest corner of said Lot 7;
Thence running South 1 degrees 13 minutes West along West line of said Lot, 351.47 feet to true point of beginning;
Thence continuing South 1 degrees 13 minutes West on said West line 221.35 feet to tract conveyed to John Dowar Lumber Company by Deed recorded in Book 521 of Deeds at Page 170, under Auditor's File No. 987817;
Thence North 50 degrees 55 minutes East 220.55 feet;
Thence North 19 degrees 49 minutes East 79 feet, more or less, to Government meander line of said Lot 7;
Thence on said Government meander line North 25 degrees West 125.5 feet, more or less, to a point North 54 degrees 48 minutes East of the true point of beginning;
Thence South 54 degrees 48 minutes West 174.98 feet, more or less, to the true point of beginning.

Together with tidelands of the second class abutting thereon, lying within the prolongation of the side lines of the above described tract and extending to line of mean low tide.

And together with all tidelands of the second class lying between the line of mean low tide and extreme low tide, lying in front thereof.

Except State Highway No. 14.

And except any portion lying South of said Highway.

Situate in the City of Gig Harbor, County of Pierce, State of Washington.

ABBREVIATED LEGAL:

5-21-2E, ARB 305-0

5-21-8E, ARB 307-4

Exhibit B-1

AMENDMENT TO PURCHASE AND SALE AGREEMENT

This Amendment to Purchase and Sale Agreement ("Amendment") is entered into this ____ day of March, 2005, and amends that certain Purchase and Sale Agreement entered into on January 11, 2005 ("Agreement") by and between the City of Gig Harbor, a Washington municipal corporation ("Purchaser") and Eileen Tellefson and Marsan, LLC, tenants in common, d/b/a Harbor Cove Group, whose address is 108 South Jackson, Suite 300, Seattle, Washington, 98104 ("Seller"). Capitalized terms used in this Amendment and not defined herein shall have the meaning ascribed to them in the Agreement.

WHEREAS, Purchaser has undertaken environmental due diligence as contemplated by the Agreement, and such due diligence has confirmed that Hazardous Substances are present at and under the Property; and

WHEREAS, Purchaser and Seller wish to resolve liability for additional investigation and remedial action associated with such Hazardous Substances on the terms and conditions set forth below;

NOW THEREFORE, for the consideration set forth in the Agreement, the sum of Ten Dollars (\$10.00), and for other good and valuable consideration, the parties agree as follows:

1. Purchase Price. Section 2.1 of the Agreement is deleted in its entirety and replaced with the following provision:

2.1 Purchase Price. The total purchase price for the Property (the "Purchase Price") shall be Three Million Seven Hundred Fifty Thousand Dollars and No Cents (\$3,750,000.00), payable at Closing, which includes the earnest money paid to the Escrow Agent after execution of this Agreement by both parties. The earnest money shall be Fifty Thousand Dollars and No Cents (\$50,000.00) which shall be paid to and held by Escrow Agent until Closing or earlier termination of this Agreement, or as otherwise provided herein.

2. Closing Date. Closing will occur on or before March 19, 2005, without any increase of the Purchase Price (as amended by Section 1 above) as originally contemplated by the Agreement. Notwithstanding the foregoing, Purchaser agrees to use its reasonable best efforts to close the purchase and sale transaction as soon as practicable after executing this Amendment and securing all necessary Gig Harbor City Council and other lawfully required approvals.

3. Investigation and Remediation of Property.

3.1 As more particularly set forth in this Amendment, the parties have agreed that a portion of the Purchase Price will be paid into a special interest-bearing escrow account ("Remediation Account") that will be used exclusively for costs associated with

further investigation and cleanup of the Property.

3.2 After Closing, Purchaser and Seller will notify the State of Washington Department of Ecology ("Ecology") that title to the Property has been transferred to Purchaser, and that Purchaser, in cooperation with Seller, intends to pursue the prompt investigation and cleanup of the Property. Investigation, cleanup, reporting and monitoring will be coordinated with Ecology through the Voluntary Cleanup Program ("VCP") and diligently pursued until a no further action letter ("NFA") from Ecology is obtained for the Property, including soil, groundwater and sediments. Purchaser agrees that the NFA may be conditioned upon reasonable restrictions to permit an efficient and cost effective remediation, recognizing the contemplated use as a boatyard and public park, and for related historical, cultural, educational, and recreational purposes. Such restrictions may be recorded in the form of a restrictive covenant on the Property and, if applicable, may include but are not necessarily limited to: (i) notice that Remedial Action (as defined below) has been conducted on the Property and residual contamination remains in place; (ii) restricting the use of the Property to a public park, with the exception of that portion of the Property operated as a boatyard, which portion may be limited to use as a boatyard or like facility including use of the marine railway; (iii) prohibiting any activity on the Property that may result in the release or exposure to the environment of the contamination that was contained as part of the remedial action, or create a new exposure pathway, or otherwise interfere with the integrity of the Remedial Action, and (iv) restrictions on the use of groundwater to exclude any beneficial use as drinking water. Remedial Action at the Property shall be conducted so as to allow the reconstruction of the dock and marine railway in the event the dock and/or marine railway is partially or completely demolished in connection with such Remedial Action. Notwithstanding the foregoing, Seller shall not be responsible for any costs required to bring boatyard operations into compliance with best management practices or other regulatory requirements that do not constitute Remedial Action. Seller and Purchaser agree to use their reasonable best efforts to secure the NFA determination as soon as practicable.

3.3 Purchaser will retain a principal environmental consultant for all investigation, remediation and related activities at the Property. The Parties shall meet and confer in good faith to discuss the selection of such principal environmental consultant for a period not to exceed thirty (30) days from the date of Closing. Purchaser shall make the final selection of the principal consultant and all other consultants in its discretion. Seller acknowledges that (i) Purchaser is a municipal corporation subject to laws and regulations relating to hiring of contractors to perform services on behalf of Purchaser, (ii) retention of certain consultants or contractors may be subject to such laws and regulations, and (iii) the City shall have the final decision and right to retain any qualified consultant or contractor as required by such statutes or regulations.

3.4 The parties will cooperate in all phases of investigating and remediating the Property. Purchaser will take the lead in all negotiations with Ecology and will make the final decisions in its discretion (subject to the objective of securing an NFA as contemplated by Section 3.2 above) with regard to the content of all submittals to

Ecology; provided, however, that Seller will have the right to review and comment on all draft investigation and remediation plans, reports, and other submittals to Ecology, and shall have the right to participate in all meetings and telephone conferences with Ecology.

4. Remediation Account.

4.1 The parties agree that at the Closing, the sum of Seven Hundred Fifty Thousand and No Dollars (\$750,000) out of the Purchase Price shall be placed in a special escrow account ("Remediation Account") to be administered by Escrow Agent or other person agreed to by the parties ("Remediation Account Administrator") and to be used exclusively for the payment of Response Costs. "Response Costs" shall include fees, costs, and expenses incurred in connection with the development, approval, implementation, and reporting of any Remedial Action (which, for the purposes of this Amendment, is as defined in RCW 70.105D.020(21) and including applicable Sediment Management Standards) with respect to soil, sediments, and groundwater at and under the Property, all as designed to meet the objective of securing an NFA as described in Section 3.2 above. Attorneys' fees incurred by either party shall be paid for by such party and shall not be considered Response Costs or be paid out of the Remediation Account.

4.2 The fees charged by the Remediation Account Administrator shall be paid out of the Remediation Fund; provided, however, that Purchaser will not charge a fee in the event the parties agree that an employee of Purchaser shall act as the Remediation Account Administrator. If a third party is used as the Remediation Account Administrator, the parties will agree upon escrow instructions or a like document that provides guidance and protection to the Remediation Account Administrator.

4.3 Any consultant or contractor retained in connection with Remedial Action shall submit a scope of work prior to commencement of any work, which scope of work shall be finally approved by the City in its discretion (subject to the objective of securing an NFA as contemplated by Section 3.2 above). Seller shall have the right to review and comment on the scope of work, but may object to the scope of work only to the extent that it is inconsistent with the objective of securing an NFA determination for the Property as set forth in Section 3.2 above or inconsistent with input from Ecology on work necessary to secure such NFA.

4.4 Upon receipt of invoices from any consultant or contractor retained in connection with Remedial Action, Purchaser will deliver a copy to Seller and to the Remediation Account Administrator with instructions to pay such invoice 10 days after delivery, if Seller does not object to such payment in writing or e-mail received by the Remediation Account Administrator within the 10 day period. The only ground for objection shall be that the work invoiced was not in accordance with the scope of work approved in accordance with section 4.3 herein. In the event of such objection, the parties will meet and confer, and use their reasonable best efforts to negotiate with the applicable consultant to reduce the charges that are the subject of Seller's objection; provided, however, that Purchaser shall have the final authority to pay the invoice and

resolve the objection with respect to such consultant in its discretion.

4.5 In the event that funds remain in the Remediation Account after payment of all Response Costs necessary to secure the NFA for the Property, the Remediation Account Administrator shall pay to Seller all principal and interest remaining in the Remediation Account.

5. Alternative Funding Source. Purchaser will use its reasonable best efforts and cooperate with Seller to obtain grants and state and federal funding for Remedial Actions at the Property ("Alternative Funding"). Seller is actively investigating and pursuing opportunities for Alternative Funding. If Seller identifies such opportunities, Purchaser will initiate preparation of applications for Alternative Funding and Purchaser shall take such additional steps as may be lawful, reasonable, and necessary to apply for and obtain said Alternative Funding. Purchaser will deposit the grant funds actually received in the Remediation Account (or other account with like purpose if such funds must be segregated) to be applied to payment of Response Costs so long as such funds can lawfully be used for such purpose. Failure to secure such funding will not constitute a breach or default under this Amendment or the Agreement.

6. Additional Response Costs. If Response Costs exceed the funds available in the Remediation Account and any additional funding secured by Purchaser (as described in Section 5 above), then the Seller agrees that it will be responsible for all Response Costs in excess of such amounts until an NFA as contemplated by Section 3.2 above is issued by Ecology. Within fourteen (14) days of the date the balance in the Remediation Account becomes less than One Hundred Fifty Thousand Dollars (\$150,000), the parties will meet and confer regarding the likely costs to complete Remedial Action necessary to obtain the NFA, and if additional funds in excess of the Remediation Account balance are likely necessary to complete such Remedial Action, Sellers agree to place the estimated funding requirements in the Remediation Account. The parties further agree to meet and confer, and Sellers agree to provide additional funding as contemplated by the preceding sentence, if at any time thereafter it appears reasonably likely that the funds in the Remediation Account will be exhausted prior to obtaining the NFA. Seller's failure to provide funding as required by this Section 6 within thirty (30) days of written notice from Purchaser is a material breach of the Agreement. Each of the Sellers is jointly and severally liable for such additional Response Costs beyond the amounts available through the Remediation Account and additional funding, if any, secured by Purchaser. Each of the Sellers agrees to retain sufficient liquid assets to fund reasonably anticipated Response Costs in excess of the amounts available through the Remediation Account.

7. Effect of Amendment. Except to the extent expressly amended by this Amendment, the terms of the Agreement shall remain in full force and effect. Notwithstanding the foregoing, in the event of a conflict between any provision of the Agreement and this Amendment, the provisions of this Amendment shall control.

8. Survival. The terms of this Amendment shall survive the Closing and

continue to be binding upon the parties after the closing date.

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

[Remainder of this page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to Purchase and Sale Agreement to be executed by their respective duly authorized representatives, to be effective as of the date and year first above written.

PURCHASER: CITY OF GIG HARBOR

By: Gretchen Wilbert
Gretchen Wilbert, Mayor

SELLER: Eileen Tellefson and MarSan LLC, Tenants in Common

Eileen Tellefson
Eileen Tellefson, as her separate estate

MarSan LLC

By: Sandra Schaumburg
Sandra Schaumburg, Member

By: _____
Marcia Johnson, Member

ATTEST:

Molly M. Towslee
City Clerk, Molly Towslee

APPROVED AS TO FORM
SALTER JOYCE ZIKER, PLLC

Barry G. Ziker, Special Counsel



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E.
CITY ENGINEER
SUBJECT: WASTEWATER COMPREHENSIVE PLAN POPULATION UPDATE
CONTRACT AUTHORIZATION
DATE: MARCH 28, 2005

INFORMATION/BACKGROUND

A 2005 Sewer Operating Budget Objective provides funding to update the current wastewater comprehensive plan.

In February 2002 the City completed an update of the original 1994 Sewer Comprehensive Plan. While the 2002 update was informative and further detailed the City's sewer system including future capital needs it was based off of insufficient or conflicting levels of population and land use data as well as future forecasts. Many of the assumptions used in the 2002 update have proven to be overly conservative or in error which has led to inaccurate conclusions made in the various comprehensive plans. Since that time the City has further developed and revised various planning tools such as land use plans, zoning, and projected development areas using GIS and other databases. In addition the City has seen changes in development growth and subsequent population. This portion of the comprehensive plan update will revisit the population trends and initial data and forecast new more accurate data based off of updated and reliable data. This project will also allow the City to verify current land use data together with zoning within the City and UGA and incorporate any changes that have taken place since the 2002 plan.

Since population and land use data are the building blocks for all comprehensive plans and since this data determines use, this phase of the project is critical. A key task in this effort is the identification of trigger events that may change the initial growth assumptions used to project the growth in specific areas of the City and may in-turn affect needed capital facility improvements. The development of population growth projections based off of land use information that can be verified and amended easily will provide the City the ability to revise estimates as changes occur within different areas of the City. This project will provide the trust to continue to use the data as the foundation to the comprehensive plans. As we move forward with the future stages of comprehensive plan updates the data established in this effort will be thoroughly grounded in reliable and accurate data. This project will be performed under the oversight of Mr. Timothy Hume, P.E. of HDR Engineering, Inc.

Staff prepared and issued a Statement of Qualifications (SOQ) for this project in December 2004. The SOQ was sent to consultants with expertise in this area. The

submission deadline was December 10, 2004. A total of five proposals were received.

The members of the review panel (Councilmember Dick, City Engineer, Associate Engineer, and Community Development Director) met in January to review the SOQ's. After a review of all the submittals, the panel unanimously selected HDR Engineering, Inc. as the most qualified to perform the task.

The standard consultant services contract is being utilized for this project.

FISCAL CONSIDERATIONS

This work was anticipated in the adopted 2005 Budget and is within the 2005 Sewer Operating Fund allocation of \$100,000.00, Objective No. 19.

RECOMMENDATION

I recommend that Council approve a consultant services contract with HDR Engineering, Inc. for the population plan update portion of the Wastewater Comprehensive Plan Update in an amount not to exceed Thirty-one Thousand Five Hundred Forty-seven dollars and Thirty-nine cents (\$31,547.39).

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and HDR Engineering, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 626 Columbia Street NW, Suite 2A, Olympia, Washington 98501 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the update of the Wastewater Comprehensive Plan 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 February 17, 2005 including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work and Cost**, and are incorporated by this reference as if fully set forth herein.

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

TERMS

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Thirty-one thousand five hundred forty-seven dollars and thirty-nine cents (\$31,547.39) 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** The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

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

III. Relationship of Parties

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

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by July 31, 2005; provided however, that additional time shall be granted by the City for excusable days or extra work.

V. Termination

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

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

VI. Discrimination

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

VII. Indemnification

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

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

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

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

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

VIII. Insurance

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

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

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

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

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

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Engineer and the City shall determine the term or provision's true intent or meaning. The City Engineer shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

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

XVI. Written Notice

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

CONSULTANT
David R. Skinner, P.E.
HDR Engineering, Inc.
626 Columbia Street NW, Suite 2A
Olympia, Washington 98501
(360) 352-5090

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

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

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

CONSULTANT

By: W. E. Smith
Its Principal

CITY OF GIG HARBOR

By: _____
Mayor

Notices to be sent to:
CONSULTANT
David R. Skinner, P.E.
HDR Engineering, Inc.
626 Columbia Street NW, Suite 2A
Olympia, Washington 98501
(360) 352-5090

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

APPROVED AS TO FORM:

City Attorney

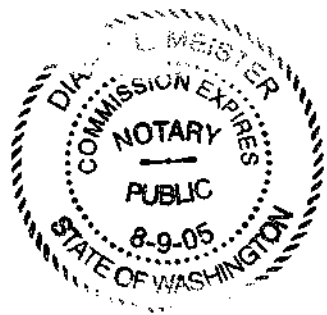
ATTEST:

City Clerk

STATE OF WASHINGTON)
COUNTY OF King) ss.

I certify that I know or have satisfactory evidence that Wade E Hathhorn is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the Vice President of ADE Engineering Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: March 9, 2005



Diane L Meister
Diane L Meister
(print or type name)

NOTARY PUBLIC in and for the State of Washington, residing at: Auburn, WA

My Commission expires: 08/09/05

**EXHIBIT A
SCOPE OF SERVICES**

**Wastewater Comprehensive Plan Update
Phase I – Population Projections**

I. INTRODUCTION

The City of Gig Harbor has retained HDR to prepare an updated 20-year forecast of population growth related to wastewater collection and treatment. This information will be used as an input to the City's planned update of the 2002 Wastewater Comprehensive Plan.

In February 2002, the City completed an update of their 1994 Wastewater Comprehensive Plan. The 2002 update was informative and useful, in that it further detailed the City's sewer system, including future capital needs. However, the population and land use data developed for the plan does not appear to match observed conditions within the City. Since that time the City has further developed and revised various planning tools such as the City's Comprehensive Plan, zoning, and projected development areas.

This project will involve assembly of existing data and forecasts of population and expected changes in land use. This information will be assembled as a 20-year forecast of growth within the City and its Urban Growth Area (UGA). The forecast will be designed to be flexible and adaptable for wastewater system planning purposes over the coming years. Existing data will be reviewed and verified for accuracy and relevance to the sewer system.

While the primary purpose is to support an update of the Wastewater Comprehensive Plan, the City also recognizes there is value in using the updated forecast in planning for other utility services and transportation needs. Therefore, HDR will explore opportunities to develop the forecast in a format that serves the City's other utility and transportation planning needs.

II. DETAILED SCOPE OF SERVICES

The work will be accomplished as Phase 1 - Population Projections. Work on subsequent phases may be authorized by supplement to this AGREEMENT, after negotiation of scope and budget. Work is expected to start in March 2005, and be completed by July 2005.

A. Phase 1 – Population Projections

Task 1. Project Management/CONSULTANT Coordination

1.1 Project Reporting/Project Management

Purpose: Administer the project and coordinate with the CITY to facilitate efficient progress and timely completion. Estimate assumes project duration of four months.

Approach:

- Prepare and submit a brief monthly status report outlining the work completed during that month, project status, and an outline of issues to be resolved.
- Attend up to 1 monthly meeting with the CITY to discuss project related technical issues. Prepare meeting notes for the monthly meeting documenting status, schedule, and invoicing.

Task 2. Data Assembly and Review

Task 2 has been divided into three subtasks as described below.

2.1 Gather and Review Available Data

Purpose: Define how data will be used in structuring updated population forecast.

Approach:

- Meet with City planning and engineering staff to identify key parameters for the population forecast and to identify available sources of population and land use data and forecasts.
- Review 2004 City Comprehensive Plan, 2002 Wastewater Comprehensive Plan, and buildable lands analysis conducted recently by City planning staff.
- Obtain GIS coverages from City pertinent to analysis, including: UGA boundaries, City Limits, topography, zoning, wastewater collection basins and collection/conveyance system, water pressure zones, and transportation zones as applicable.
- Prepare GIS overlays that compare spatial breakdowns for wastewater basins, water pressure zones, and transportation zones. Assess whether a common spatial framework can be applied to the forecast to achieve multiple planning objectives beyond the Wastewater Comprehensive Plan.
- Provide a list of additional data desired from City. Review data provided and incorporate in analysis of population growth and land use changes.
- Request additional data from Pierce County and/or Puget Sound Regional Council, if applicable.
- Assess alternatives for spatial breakdown of population forecast. Compare alternatives in terms of supporting wastewater comprehensive plan, water comprehensive plan, transportation plan, and/or other City plans.
- In consultation with City staff, identify "trigger" events that would stimulate development in the City as a whole, or in certain areas where sewer service is, or will be, provided. Include assessment of the completion of the Tacoma Narrows Bridge project as one trigger event.
- Prepare a technical memorandum describing available data, indicating how it will be used to construct the population forecast, and defining one or more options for structuring the forecast in terms of geographic areas within the City and UGA. In the event data sources differ substantially, identify these differences so City staff can provide direction on resolution of these differences. Include in this memorandum proposed approaches that will enable the City to periodically update the forecast in response to new information or changing conditions.
- Meet with City planning and engineering staff to discuss technical memorandum and receive direction on preparation of forecast.

Assumptions:

Data requested will be readily available in the time frame established for this project.

City Input:

Provide data requested in a timely fashion. Assist in developing assumptions that will be used in the population forecasting model. Based on local knowledge, provide direction to resolve differences that may exist among various data sources. Identify key limitations on growth and development that affect certain zones within the City and UGA. Meet with HDR staff as indicated. Review deliverable and provide feedback to support overall project objectives.

Deliverable:

Technical memorandum as described above.

2.2 Scoping Effort for Extending Buildable Lands Forecast to UGA Outside City Limits

Purpose: Determine the benefits to the City of a more detailed basis for assessing growth trends within UGA outside City limits comparable to similar information already available within City limits. This task consists of a scoping effort only, to assess the need for this activity, determine what data is available to support this task, determine the estimated fee for performing the work, and develop an appropriate methodology.

Approach:

- Meet with City planning staff to review methodology applied for buildable lands forecast already completed within City Limits.
- Contact Pierce County to determine nature and extent of data available to support similar analysis for UGA area outside City limits. Prepare initial data request for submittal to Pierce County.
- Prepare a brief technical memorandum describing methodology to be applied to the area outside City limits and within the UGA.
- Meet with City staff again to review proposed methodology and determine whether to proceed with full effort of carrying out the analysis, which would be conducted as Task 2.3.

Assumptions;

The purpose of this task is solely to meet the objectives of this population forecast, and is not intended to serve other purposes.

City Input:

Provide analysis carried out previously within City limits. Contact Pierce County to encourage provision of County data in a timely fashion. Meet with HDR staff up to two times to discuss available data and methodology. Make the determination to authorize extra work and budget to proceed with Task 2.3, which will carry out the buildable lands forecast to the UGA outside city limits, or to proceed to the Task 3 Population Forecast by including only the data developed in Task 2.1

Deliverable:

Technical Memorandum as described above.

2.3 Carry Out Buildable Lands Forecast to UGA Outside City Limits, If Requested

Purpose: Prepare a more detailed basis for assessing growth trends within UGA outside City limits, comparable to similar information already available within City limits.

Approach:

- If the scoping effort in Task 2.2 indicates a high value of this activity to the City, then the work tasks defined will be carried out and included in the population forecast. A written authorization for extra work and budget will be used to perform this work.
- If the scoping effort in Task 2.2 does not indicate a high value of this activity to the City, then the population forecast in Task 3 will include only the data developed in Task 2.1.

Assumptions;

To be determined as a result of Task 2.2.

City Input:

To be determined as a result of Task 2.2.

Deliverable:

To be determined as a result of Task 2.2.

Task 3. Prepare Population Forecast

Purpose: Prepare population forecast in a format suitable for updating the City's comprehensive wastewater plan. The resulting model should be designed to be readily updated from time to time as the City acquires new data or changes key assumptions in response to actual development patterns over time.

Approach:

- Based on the data assembled in Task 2, and the forecasting methodology and structure described in the Task 2 deliverables, prepare a population forecast in a format suitable for supporting the City's wastewater comprehensive plan. Structure the forecasting model input fields to be readily updated if new data becomes available or if key assumptions change.
- Hold an interactive workshop with City staff (2 to 4 hours) to present a preliminary version of the model and discuss its capabilities. Prepare maps, tables and handouts in support of workshop. Facilitate discussions to integrate the combined knowledge of City planning and engineering staff toward achieving project objectives.
- Document feedback received at the workshop;
- Following workshop, refine the population forecast model for delivery as a draft product, for review by City staff. Meet with City staff to receive additional feedback.
- Based on feedback from City, prepare final model for delivery.
- The CONSULTANT will conduct an internal quality assurance program prior to the final submittal of the population forecast. This task will supplement the continuous quality assurance program by conducting a detailed review of the forecast for consistency and appropriateness for the City's needs.

Assumptions:

Existing demographic data and forecasts, and land use information available to the City, Pierce County, Puget Sound Regional Council and/or Washington State Office of Financial Management will serve as the basis of the forecast. The forecast will not be generated using a new econometric model or new data. It will be constructed by assembling data and forecasts available from these sources. Simple estimation techniques will be used to adjust the forecast to be consistent with "on-the-ground" information provided by City staff.

City Input:

Engineering and planning staff attend interactive workshop and provide feedback based on local knowledge and recent City experience. Identify additional information or revised assumptions that may be needed to achieve project objectives. Review draft technical memorandum and provide comments.

Deliverables:

Digital files in Excel containing the forecasting model in a format that can be updated in the future by City staff. Numerical data will be provided in tabular format, with supporting graphics. Technical Memorandum presenting the updated population forecast, and documenting data sources, assumptions and methodology used in constructing the forecast.

III. EXTRA WORK

All work not described under Section II above, will be considered Extra Work. The following tasks are possible Extra Work items, which may be performed under a supplement to this Agreement:

1. Task 2.3: Carry Out Buildable Land Forecast to UGA Outside City Limits
2. Development of Wastewater Comprehensive Plan Update

Client: City of Gig Harbor
 Project Name: Wastewater Comprehensive Plan Update
 Phase Name: Phase 1: Population Projections

Prepared by: A. Graham
 T. Hume
 Date: 3/1/2005
 Checked by: D. Skinner
 Date: 3/2/2005

WORK CODE	Task.Subtask	TOTALS HOURS/DOLLARS	Senior PM \$49.50	Senior Engineer \$40.93	Senior Planner \$49.06	Planner \$92.32	Project Planner \$28.66	CADD/GIS \$30.64	Word Processor \$16.32	Project Controller \$22.00
PHASE 1 - POPULATION PROJECTIONS										
	Task 1 - Project Management/CONSULTANT Coordination									
	1.1 Project Reporting/Project Management	40 \$1,437.12	4 \$198.00	24 \$975.12						12 \$264.00
	Task 2 - Data Assembly and Review									
	2.1 Gather and Review Available Data	104 \$3,263.84			18 \$784.96	20 \$646.40	40 \$1,146.40	16 \$490.24	12 \$195.84	
	2.2 Scoping Effort to Extend Buildable Lands Forecast to UGA	46 \$1,527.96			8 \$392.48	24 \$775.68	8 \$171.96	4 \$122.56	4 \$65.28	
	2.3 Carry Out Buildable Lands Forecast, If Requested <i>The scope and fee for this task to be determined in Task 2.2</i>									
	Task 3 - Prepare Population Forecast									
	Prepare Population Forecast	118 \$3,836.72	2 \$99.00	4 \$162.52	24 \$1,177.44		64 \$1,834.24	12 \$367.68	12 \$195.84	
	TOTALS	308 \$10,065.64	6 \$297.00	28 \$1,137.64	48 \$2,354.88	44 \$1,422.08	110 \$3,152.60	32 \$980.48	28 \$456.96	12 \$264.00

			OUTSIDE REIMBURSABLES		SUBCONSULTANTS	
Direct Salary		\$10,065.64	Per Diem		1)	
Overhead @ 172.74%		\$17,387.39	Lodging		2)	
			Mileage/pers. Vehicle (\$0.405/mile)	\$300.00	3)	
Subtotal		\$27,453.03	Travel		4)	
			Meals		5)	
Fee @ 12.00 %		\$3,294.36	Supplies		6)	
Outside Reimbursables		\$800.00	Reproduction	\$300.00	7)	
Subconsultants			Telephone	\$100.00	8)	
			Postage/Delivery	\$100.00	9)	
TOTAL =		\$31,547.39	Other		10)	
			Markup for Reimb. =			Markup =
				Total = \$900.00		Total =



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E. *San*
CITY ENGINEER
SUBJECT: PUMP STATION 2A PROJECT
- CONSULTANT SERVICES CONTRACT
DATE: MARCH 28, 2005

INTRODUCTION/BACKGROUND

A budgeted objective for 2005 includes the construction of the replacement pump station and association air relief vessel on North Harborview Drive. Construction of this project is tentatively scheduled for July 2005. With the high volume of private development construction projects and capital construction projects this year, additional inspection services are needed.

In January 2004, Lewis Whitaker was hired by the city as a temporary construction inspector to assist in the finalization of the plans and specifications and inspection services for Pump Station 2A project. Mr. Whitaker provided many design and construction cost-saving recommendations and is most familiarized with the project from a construction management and inspection standpoint. While a temporary employee, Mr. Whitaker developed a Management Information System (MIS) - a key project management tool, and provided detailed construction management and inspection for the Skansie Pedestrian Improvement Project, Well No. 6 Sandpack, WWTP Fine Screen Filter and Pump Station 2A Wet Well projects, as well as assisted in the inspection of private development projects.

Mr. Whitaker has an extensive and diverse background in construction. He worked for the City of University Place as a contracted Public Works Inspector when they incorporated as a new city. He has extensive background in roads, bridges and underground utilities. Mr. Whitaker has a background in environmental remediation and hazardous waste management. He is currently principal and owner of Inspectus Inc., an inspection and consulting business.

Inspectus, Inc. is listed on the city's consultant services roster and has provided exemplary work while as a temporary employee.

POLICY CONSIDERATIONS

Mr. Whitaker does not carry the Commercial General Liability and Professional Liability coverage required in our standard Consultant Services Contracts, and carries \$350,000 rather than the standard \$1,000,000 automobile liability coverage. I recommend that these requirements be waived since no design work is involved. City Attorney Carol Morris has reviewed and approved this contract.

FISCAL CONSIDERATIONS

This project was anticipated in the adopted 2005 Budget and is within the Sewer Operating budgeted allocation of \$850,000, objective #2 and \$150,000, objective #10 for a combined project total of \$1,000,000. The Engineer's Estimate for the project is \$998,725.98. Inspectus Inc.'s contract is within this budgeted amount.

RECOMMENDATION

I recommend that the Council authorize the execution of the Consultant Services Contract with Inspectus, Inc. for construction management and inspection services in the amount not to exceed Fifty-four Thousand Nine Hundred Thirty-four dollars and Ninety-eight (\$54,934.98).

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Inspectus, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 3505 View Place North NW, Gig Harbor, Washington 98332, whose mailing address is PO Box 401, Gig Harbor, Washington 98335 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the final design and bidding for Pump Station 2A and desires that the Consultant perform services necessary to provide project management and inspection services; and

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated March 2, 2005, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

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

TERMS

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Fifty-four thousand Nine hundred Thirty-four dollars and Ninety-eight cents (\$54,934.98) 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**. 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 at the same time physical completion of Pump Station 2A Project occurs; provided however, that additional time shall be granted by the City for extra work.

V. Termination

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

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as

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

VI. Discrimination

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

VII. Indemnification

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

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

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

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

VIII. Insurance

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

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

1. Business auto coverage for any auto no less than a \$350,000 each accident limit, and

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

E. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

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

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Engineer and the City shall determine the term or provision's true intent or meaning. The City Engineer shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Engineer's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be 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 prevailing 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
Lewis Whitaker, Principal
Inspectus, Inc.
PO Box 401
Gig Harbor, Washington 98335
(253) 851-5770

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

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph

shall continue in full force and effect and no further assignment shall be made without the City's consent.

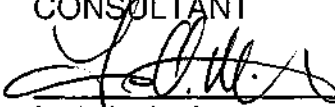
XVIII. Modification

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

XIX. Entire Agreement

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

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

CONSULTANT
By: 
Its Principal

CITY OF GIG HARBOR
By: _____
Mayor

Notices to be sent to:
CONSULTANT
Lewis Whitaker, Principal
Inspectus, Inc.
PO Box 401
Gig Harbor, Washington 98335
(253) 851-5770

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

APPROVED AS TO FORM:

City Attorney

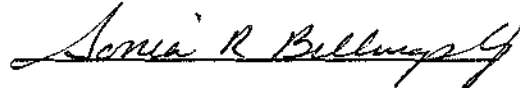
ATTEST:

City Clerk

STATE OF WASHINGTON)
) SS.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that ^{LEWIS} BUD WHITAKER is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the PRESIDENT of INSPECTUS, INC. Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 3/23/05



SONIA R BILLINGSLEY
(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing at:

PIERCE COUNTY

My Commission expires: 11/9/05

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

Dated: _____

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

My Commission expires:___

Exhibit A

March 23, 2005

Detailed Scope of Services / Construction Management and Project Inspection for PS2A

Task 1. Project Management/CONSULTANT Coordination

1.1 Project Reporting/Project Management

Purpose: Assist in the administration of the project and coordinate with the City to facilitate efficient progress and timely completion of the project. Provide onsite inspection services for the construction of the Pump Station 2A project to ensure materials and workmanship are in compliance with the plans and specifications.

Approach:

- Review design consultants plans and specifications for content accuracy.
- Confer with the City Engineer and City Staff regarding value engineering and design criteria.
- Develop a conceptual Project schedule and Management Information System for tracking and documentation of all aspects of the project.
- Assist City Staff at Bid Phase and Project Award Phase.
- Prepare and submit a brief monthly status report outlining the work completed during that month, project status and an outline of any issues to be resolved.
- Attend weekly project meeting with City Staff to discuss related technical issues. Prepare meeting notes for the monthly meeting documenting status, schedule and invoicing.
- Provide an Inspector experienced in all areas of the work involved in the construction of the Pump Station 2A Project.
- On City provided forms, provide a Daily Progress Report, including a daily diary and a quantity of the contract items completed each working day for the City's review and use.
- In the event that conditions require changes in the contract plans or specifications, provide possible corrective alternatives for the City's consideration and final decision.
- Provide the City with a daily overview of the construction activities during the term of the Pump Station 2A contract.
- Provide a detailed monthly invoice for the City Engineers review and approval.

It is anticipated that inspection will be required if critical work is being performed. This may require overtime. Overtime will not be used without prior approval from the City Engineer.

It is understood that the City of Gig Harbor will provide clerical staff assistance for this project.

The City of Gig Harbor will provide reimbursement for vehicle use on a mileage traveled basis.

Note: Information from the Attached **Schedule of Rates and Estimated Hours Worksheet** dated March 2, 2005 will be used as a basis for payment for services rendered.

Exhibit B
Schedule of Rates and Estimated Hours
March 2, 2005

Rates are based on prior John Tevis Inspection Contract with City of Gig Harbor for year 2000 with known CPI added to each consecutive year.

Based on Previous John Tevis Contract/ \$26.00 Per. Hr. w/ CPI increase added per yr.

Yr. 2001 \$26.00 x 3.6% CPI= 26.94

Yr. 2002 \$26.94 x 1.8% CPI= 27.42

Yr. 2003 \$27.42 x 1.2% CPI= 27.74

Yr. 2004 \$27.74 x 1.6% CPI= 28.19

Yr. 2005 \$28.19 x 1.6% CPI= 28.64 **NOTE: CPI estimated for 2005 (actual unavailable at this time)**

Note: Anticipated PS2A Project Management/Inspection Schedule March 7, 2005 through Feb. 6, 2006

Anticipated Pre-Construction Project Management dates: March 7, 2005 – June 3, 2005 (17 weeks)

Anticipated Project Management and Inspection dates: June 3, 2004 – February 7, 2006 (35 weeks)

Anticipated Project Field Work to start July 5, 2005 with completion on or about February 6, 2006

Anticipated vacation from June 13- July 1, 2005

Services	Estimated Hours	Total Hours/Mileage	Total
Project Management (pre-construction)	24 hrs. per. wk./17.00 wks	408 hrs. @ \$28.64	\$11,685.12
Project Management/Inspection (during construction)	40 hrs. per. wk./35.00 wks	1400 hrs. @ \$28.64	\$40,096.00
Inspector Overtime (Prior Approval By City of Gig Harbor)	20 days @ 2 hrs. per. day	40 hrs. @ \$42.96	\$1,718.40
Billing Preparation	1 hr. per. mo./13 mos.	13hrs. @ \$28.64	\$372.32
Mileage	15 miles per. day x 175 days	2625 miles @ \$.405	\$1,063.13
TOTAL:		1860 hrs. 2625 miles	\$54,934.98
*Not to exceed unless working days/hours are extended by contract amendment			

The above estimate is based on Project management and Project Inspection services required to complete the Pump Station 2A Project.

Notes:

- 1. Personal vehicle will be utilized with appropriate insurance coverage/ please advise.**



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEVE OSGUTHORPE, AICP *S.O.*
PLANNING MANAGER
SUBJECT: SECOND READING OF ORDINANCE ADOPTING A HISTORIC PRESERVATION ORDINANCE
DATE: MARCH 28, 2005

INFORMATION/BACKGROUND

Attached for the Council's review is a draft ordinance adopting a new chapter containing standards pertaining to historic preservation. The purpose of the standards is to encourage historic preservation in the city through the establishment of procedures for identifying and nominating historic properties for placement on a local register, for reviewing proposed changes to historic properties that owners have voluntarily placed on the local register, and for encouraging retention of historic properties through a special tax incentive called "special valuation." This would require establishment of a Local Review Board, which would be responsible for carrying out the above objectives. Once established, the city may then be eligible for Certified Local Government (CLG) status, which is official recognition by the State that the city qualifies for all grants, resources and help that are available from and administered to the State through the Department of the Interior.

The Local Review Board administers the various provisions of historic preservation and special valuation. In conjunction with the proposed historic preservation ordinance, therefore, is a separate ordinance amending Chapter 2.21 designating the DRB as the Local Review Board (LRB). The ordinance amending Chapter 2.21 is more fully addressed separately.

The proposed historic preservation ordinance has been reviewed by the Design Review Board. The DRB voted unanimously to forward a positive recommendation to the Planning Commission and City Council.

The Planning Commission held a public hearing on this ordinance on March 3, 2005. There was no public opposition to the proposed ordinance. After the hearing, the Planning Commission suggested a few minor changes for clarification purposes then voted unanimously to forward a positive recommendation to the City Council. The Planning Commission's recommended changes were incorporated into a draft ordinance that was presented to the Council on March 14, 2005 for a first reading and public hearing. There was no public opposition expressed at the Council's public hearing. A number of individuals commented in favor of the proposed ordinance.

POLICY CONSIDERATIONS

Comprehensive Plan: The Design Element of the City of Gig Harbor's Comprehensive Plan has several goals and policies related to historic preservation. The proposed historic preservation ordinance is consistent with, and furthers the goals of, these goals and policies.

Gig Harbor Municipal Code: Chapter 2.21 defines the role of the Design Review Board and also member responsibilities and qualifications.

ENVIRONMENTAL REVIEW

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) on this proposal on January 28, 2005. The comment deadline on the DNS was February 18, 2005. The DNS is now final.

FISCAL IMPACTS

There are no adverse fiscal impacts associated with this proposal.

RECOMMENDATION

The staff recommends approval of the ordinance as presented.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO HISTORIC PRESERVATION, ADDING A NEW CHAPTER 17.97 TO THE GIG HARBOR MUNICIPAL CODE ESTABLISHING PROCEDURES FOR THE VOLUNTARY DESIGNATION OF PROPERTIES TO THE CITY REGISTER OF HISTORIC PROPERTIES; DESCRIBING THE CRITERIA FOR DETERMINING DESIGNATION IN THE CITY'S REGISTER; EXPLAINING THE EFFECT OF SUCH DESIGNATION, INCLUDING THE PROPERTY'S ELIGIBILITY FOR SPECIAL TAX VALUATION; DESCRIBING THE PROCESS FOR MAINTENANCE AND MONITORING OF SUCH PROPERTIES; DELEGATING THE AUTHORITY FOR IMPLEMENTATION TO THE DESIGN REVIEW BOARD; AUTHORIZING THE DESIGN REVIEW BOARD TO ENTER INTO AGREEMENTS WITH PROPERTY OWNERS TO REQUIRE COMPLIANCE WITH RCW 84.26.050(2); ADDING DEFINITIONS AND AN APPEAL PROCESS FOR DECISION MAKING

WHEREAS, the historical structures, sites and districts in the City of Gig Harbor are an integral part of the heritage, education, economic base and visual quality of the City; and

WHEREAS, the recognition, enhancement, perpetuation and continued use of the City's historic resources will promote civic pride and the prosperity and general welfare of the City's inhabitants, and

WHEREAS, the City of Gig Harbor wishes to encourage preservation of its historic resources; and

WHEREAS, Chapter 84.26 of the Revised Code of Washington (RCW) declares that it is in the public interest of the people of the state of Washington to encourage maintenance, improvement, and preservation of privately owned historic landmarks, and to achieve this end provides for a local review board with duties to include determining that properties are eligible historic properties and entering into a maintenance covenant with the owner for the duration of the special valuation; and

WHEREAS, the purpose of this ordinance is therefore to provide for the identification, enhancement, perpetuation and use of historic resources within the City of Gig Harbor in order to:

1. Safeguard the heritage of the City as represented by those sites, buildings, districts structures and objects which reflect significant elements of the City's history.
2. Strengthen the economic vitality of the City of Gig Harbor by promoting the stabilization and improvement of property values in historic areas, and by maintaining those structures that contribute to the City's visual quality and identity.
3. Foster civic and neighborhood pride in the beauty and accomplishments of the past, and a sense of identify based on the City's history.
4. Protect and enhance the City's ability to attract tourists and visitors, thereby stimulating the local economy.
5. Assist, encourage and provide incentives to private owners for preservation, restoration, redevelopment and use of outstanding historic buildings, districts, structures, objects and sites.
6. Promote and facilitate the early identification and resolution of conflicts between the preservation of historic resources and alternative land uses.
7. Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment; and
8. Assure the safety of residents and visitors in buildings of historic significance.

WHEREAS, the City SEPA Responsible Official issued a _____ on _____ for this Ordinance; and

WHEREAS, on _____, a copy of this Ordinance was sent to the Washington State Department of Community Trade and Development; and

WHEREAS, on _____, the Planning Commission held a public hearing on this Ordinance and _____:

WHEREAS, on _____, the City Council considered the Planning Commission's recommendation at a regular City Council meeting; Now, Therefore,

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

Section 1. A new chapter 17.97 is hereby added to Gig Harbor Municipal Code, which shall read as follows:

**Chapter 17.97
Historic Preservation**

17.97.010 Purpose. The purpose of this chapter is to provide for the identification, evaluation, designation and protection of designated historic and prehistoric resources within the boundaries of the City of Gig Harbor, and preserve and rehabilitate eligible historic properties within the City for future generations through special valuation, a property tax incentive, as provided in chapter 84.26 RCW, in order to:

A. Safeguard the heritage of the City as represented by those buildings, objects, sites and structures which reflect significant elements of the City's history;

B. Foster civic and neighborhood pride in the beauty and accomplishments of the past, and a sense of identity based on the City's history;

C. Stabilize or improve the aesthetic and economic vitality and values of such sites, improvements and objects;

D. Assist, encourage, and provide incentives to private owners for voluntary preservation, restoration, redevelopment and use of outstanding historic buildings, districts, objects, sites and structures;

E. Promote and facilitate the early identification and resolution of conflicts between preservation of historic resources and alternative land uses; and

F. Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

17.97.020 Definitions. The following words and terms when used in this chapter shall mean as follows, unless a different meaning clearly appears from the context:

A. "Historic Inventory" or "Inventory" means the comprehensive inventory of historic and prehistoric resources within the boundaries of the City of Gig Harbor.

B. "Design Review Board" or "DRB" is the board established to carry out the provisions of this Chapter as created by Chapter 2.21, GHMC.

C. "Register of Historic Places," "Local Register," or "Register," means the listing of locally designated properties provided for in Section 17.97.040.

D. "Actual Cost of Rehabilitation" means costs incurred within twenty-four months prior to the date of a special valuation application and directly resulting from one or more of the following: (1) improvements to an existing building located on or within the perimeters of the original structure; or (2) improvements outside of but directly attached to the original structure which are necessary to make the building fully useable but shall not include rentable/habitable floor-space attributable to new construction; or (3) architectural and engineering services attributable to the design of the improvements; or (4) all costs defined as "qualified rehabilitation expenditures" for purposes of the federal historic preservation investment tax credit.

E. "Building" is a structure constructed by human beings. This includes both residential and nonresidential buildings, main and accessory buildings.

F. "Certificate of Appropriateness" means the document indicating that the DRB has reviewed the proposed changes to a local register property and certified the changes as not adversely affecting the historic characteristics of the property which contribute to its designation.

G. "Certified Local Government" or "CLG" means the designation reflecting that the local government has been jointly certified by the State Historic Preservation Officer and the National Park Service as having established its own historic preservation commission and a program meeting Federal and State standards.

H. "Class of properties eligible to apply for Special Valuation" means all properties within the City of Gig Harbor listed on the National Register of Historic Places which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in chapter 84.26 RCW, until the City becomes a Certified Local Government. Once a CLG, the class of properties eligible to apply for Special Valuation in the City means City historic properties listed on the City's Register of Historic Places or properties certified as contributing to a City Historic Register or Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in chapter 84.26 RCW.

I. "Cost" means the actual cost of rehabilitation, which cost shall be at least twenty-five percent of the assessed valuation of the historic property, exclusive of the assessed value attributable to the land, prior to rehabilitation.

J. "Emergency Repair" means work necessary to prevent destruction or dilapidation to real property or structural appurtenances thereto immediately threatened or damaged by fire, flood, earthquake or other disaster.

K. "Historic Property" means real property, together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is listed in a local register of a Certified Local Government or the National Register of Historic Places.

L. "Incentives" are such rights or privileges or combination thereof which the City or other local, state or federal body or agency, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner(s) of Register properties. Examples of economic incentives include but are not limited to, tax relief, transfer of development rights, façade easements, preferential leasing policies, beneficial placement of public improvements or amenities.

M. "Local Review Board" used in chapter 84.26 RCW and chapter 254-20 WAC for the special valuation of historic properties means the Design Review Board created by Chapter 2.21, GHMC.

N. "National Register of Historic Places" means the national listing of properties significant to our cultural history because of their documented importance to our history, architectural history, engineering, or cultural heritage.

O. "Object" means a thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

P. "Ordinary Repair and Maintenance" means work for which a permit issued by the City is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real property or structure appurtenance therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

Q. "Owner" of property is the fee simple owner of record as exists on the records of the Pierce County Assessor.

R. "Significance" or "significant" used in the context of historic significance means the following: a property with local, state or national significance is one which helps in the understanding of the history or prehistory of the local area, state or nation (whichever is applicable) by illuminating the local, statewide, or nationwide impact of the events or persons associated with the property, or its architectural type or style in information potential. The local area can include the City of Gig Harbor, Pierce County or Puget Sound, Washington, or a modest geographic or cultural area, such as a neighborhood. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.

S. "Site" is a place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupation or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may be the location of ruined or now non-extant building or structure of the location itself possesses historic, cultural or archaeological significance.

T. "Special Valuation for Historic Properties" or "Special Valuation" or "Special Property Tax Valuation" means the local option program which when implemented makes available to property owners a special tax valuation for rehabilitation of historic properties under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of the rehabilitation (chapter 84.26 RCW).

U. "State Register of Historic Places" means the state listing of properties significant to the community, state, or nation, but which may or may not meet the criteria of the National Register.

V. "Structure" is a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it is often an engineering project.

W. "Waiver of a Certificate of Appropriateness" or "Waiver" means the document indicating that the DRB has reviewed the proposed whole or demolition of a local register property and failing to find alternatives to demolition has issued a waiver of a Certificate of Appropriateness which allows the building or zoning official to issue a permit for demolition.

X. "Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties" or "State Advisory's Council's Standards" means the rehabilitation and maintenance standards used by the City Design Review Board as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.

17.97.040. Register of Historic Places.

A. Criteria for Determining Designation in the Register. Any building, structure, or site may be designated for inclusion in the City of Gig Harbor Historic Preservation Register if it is significantly associated with the history, architecture, archaeology, engineering, or cultural heritage of the community, if it has integrity; is at least 50 years old, or is of lesser age and has exceptional importance; and if it falls in at least one of the following categories:

1. Is associated with events that have made a significant contribution to the broad patterns of national, state or local history;
2. Embodies the distinctive architectural characteristics of a type, period, style, or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction.
3. Is an outstanding work of a designer, builder, or architect who has made a substantial contribution to the art.
4. Exemplifies or reflects special elements of the City's cultural, special, economic, political, aesthetic, engineering, or architectural history;
5. Is associated with the lives of persons significant in national, state or local history;
6. Has yielded or may be likely to yield important archaeological information related to history or prehistory;
7. Is a building or structure removed from its original location but which is significant primarily for architectural value, or which is the only surviving structure significantly associated with a historic person or event;
8. Is a birthplace or grave of a historical figure of outstanding importance and is the only surviving structure or site associated with that person;
9. Is a cemetery which derives its primary significance from age, from distinctive design features, or from association with historic events, or cultural patterns;
10. Is a reconstructed building that has been executed in an historically accurate manner on the original site;
11. Is a creative and unique example of folk architecture and design created by persons not formally trained in the architectural or design professions, and which does not fit into formal architectural or historical categories.

B. Process for Designating Properties to the City Register of Historical Properties.

1. Property owners may nominate a building, structure, site, or object for inclusion in the City Register of Historical Properties. Members of the DRB or the DRB as a whole may generate nominations and may sponsor nominations submitted by members of the public. In its designation recommendation, the DRB shall consider the City's historic property Inventory and the City Comprehensive Plan, and shall recommend inclusion on the Register only if the owner is willing to have his/her property included on the Register.

2. In the case of individual properties, the designation shall include the tax parcel number, a full legal description of the property, references and all features – interior and exterior – and outbuildings that contribute to its designation.

3. The DRB shall consider the merits of the nomination, according to the criteria in Section 17.97.040(A) at a public meeting. Notice shall be provided to the public and the owner(s) of the property, and the authors of the nomination, as provided in Chapter 17.98.050(B)(5)(a). If the DRB finds that the nominated property is eligible for the City's Register of Historical Properties, the DRB shall make recommendation to the City Council that the property be listed in the register with the owner's consent. The City Council shall make a final determination according to the criteria in Section 17.97.040(A). The property owners and the authors of the nomination, if different, shall be notified of the listing.

4. Properties listed in the City's Register of Historical Properties shall be recorded on official zoning records with an "HR" (for Historic Register) designation. This designation shall not change or modify the underlying zone classification.

C. Removal of Properties from the Register. In the event that any property is no longer deemed appropriate for designation to the City's Register of Historical Properties, the DRB may initiate removal from such designation by the same procedure as provided for in establishing the designation, Section 17.97.040(B). The City Council makes the final decision on a proposed removal of property from the City's Register of Historical Properties. A property may be removed from the City's Register of Historical Properties without the owner's consent, and the City Council shall remove the property from the City's Register if the owner requests removal.

D. Effects of Listing on the Register.

1. Listing on the City Historical Register is an honorary designation denoting significant association with the historic, archaeological, engineering, or cultural heritage of the community. Properties are listed individually.

2. Prior to the commencement of any work on a register property, excluding ordinary repair and maintenance and emergency measures defined in Section 17.97.020(K), the owner must request and receive a Certificate of Appropriateness from the DRB for the proposed work. Violation of this rule shall be grounds for the DRB to review the property for removal from the register.

3. Prior to whole or partial demolition of a register property, the owner must request and receive a waiver of a Certificate of Appropriateness.

4. Once the City is certified as a Certificated Local Government (CLG), all properties on the City Historical Register may be eligible for Special Tax Valuation on their rehabilitation (Section 17.97.020(U)).

17.97.050. Review of Changes to Properties Listed on the City's Register of Historic Places.

A. Review Required. No person shall change the use, construct any new building or structure, or reconstruct, alter, restore, remodel, repair, move, or demolish any existing property on the City Historical Register without review by the DRB and without receipt of a Certificate of Appropriateness, or in the case of demolition, a waiver, as a result of the review.

B. Exemptions. Ordinary repair and maintenance – which includes painting – or emergency measures defined in Section 17.97.020(K), do not require a Certificate of Appropriateness.

C. Review Process.

1. Application for Review and Issuance of a Certificate of Appropriateness or Waiver.

A complete application for a Certificate of Appropriateness or waiver shall include the following:

- a. A completed application on a form provided by the Community Development Department;
- b. A written description of the existing use of the registered structure and the proposed use of the registered structure.
- c. Comprehensive exterior photographs showing all exterior facades of the registered structures, and close-up photographs of all existing architectural detailing and characteristics of the structure (e.g., siding, trim, turnings, braces,

window design). If available, historic photos that show the structure's original or earlier design and detailing.

d. Comprehensive interior photographs showing room layouts and architectural features and details, (e.g., door and trim design, wall finishes and textures, arches, niches, stair details, window design, wall panels, ceiling panels, and fixtures). Interior photographs are necessary only for special valuation applications.

d. A written description of the proposed changes to the registered structure, including:

i. Information on building materials proposed for removal and/or replacement, and stated reasons for removal or replacement as opposed to repair and retention;

ii. Changes to door and window design (fenestration);

iii. Changes to siding, trim and architectural detailing.

iii. Changes to the existing massing or form of the building, including additions, demolitions, roof modifications, and enclosure of porches, decks, etc..

e. Elevation drawings, minimum ¼ inch scale, depicting the structure with all proposed changes (except demolitions);

f. A written description of proposed cleaning, refinishing or resurfacing techniques, explaining how retained historic materials will be protected and preserved.

g. A description of existing exterior building colors, original building colors (if known) and proposed building colors.

h. A statement explaining how the applicant believes the proposed changes meet the criteria for approval outlined in Section 17.95.050(C)(3), GHMC.

i. A written waiver acknowledging that the application will not be processed under GHMC Title 19.

2. Review of permits to work on a property listed on the Register of Historical Properties. The community development director or designee shall report any application for a permit to work on a designated City Register property to the DRB. If the activity is not exempt from review, the staff shall notify the applicant of the review requirements. The City shall not issue any permit for work on a designated City Register property until a Certificate of Appropriateness or a waiver is received from the DRB, but shall work with the DRB in providing information on required building and fire code requirements.

3. DRB Review. All applications for a certificate of appropriateness or a waiver shall be forwarded to the DRB for review and final decision. The DRB shall hold a public meeting on the application and review the proposed work according to the criteria listed in GHMC Section 17.95.050(C)(4). The DRB shall issue a written decision within 30 days after the public meeting on the application. The DRB's processing of an application is exempt from project permit processing in GHMC Title 19, with the exception of the appeal provisions of Chapter 19.06 GHMC.

The DRB's decision shall be in writing and shall state the findings of fact and conclusions relied upon for the decision. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the Certificate of Appropriateness. If the owner agrees to the DRB's decision and all conditions pertaining to the decision, a Certificate of Appropriateness shall be granted by the DRB, and the City may issue permits for the proposed work. If the owner does not agree with the DRB's decision, then permits may be issued only if the structure is removed from the City's Historic Register under the provisions of Section 17.97.040(C). Issuance of any permit pursuant to this chapter shall not provide an exemption from compliance with any other applicable code or ordinance including, but not limited to, fire, plumbing, and mechanical codes.

4. Criteria for Certificate of Appropriateness Approval. The following standards for rehabilitation and maintenance of historic properties (based upon the Washington State Advisory Council standards for rehabilitation and maintenance of historic properties in WAC 254-20-100) shall be the basis for the DRB's decision on a Certificate of Appropriateness:

a. Rehabilitation.

i. Every reasonable effort shall be made to provide a compatible use for an historic property which requires minimal alteration of the building, structure, or site and its environment, or to use an historic property for its originally intended purpose.

ii. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

iii. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

iv. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

v. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.

vi. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

vii. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

viii. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

ix. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or neighborhood, and when such design is consistent with all other applicable design and development regulations.

x. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

b. Maintenance.

i. Buildings and structures shall not be allowed to deteriorate beyond the point where routine maintenance and repair will return them to good condition.

ii. Buildings shall be kept in a safe and habitable condition at all times. Structural defects and hazards shall be corrected. Any condition which constitutes a fire hazard shall be eliminated.

iii. Buildings shall be protected against ongoing water damage due to defective roofing, flashing, glazing, caulking, or other causes. Moisture condensation resulting from inadequate heat or ventilation shall be eliminated if present at levels sufficient to promote rot or decay of building materials.

iv. Deteriorated exterior architectural features and any broken or missing doors and windows shall be repaired or replaced.

v. Painted exterior surfaces shall be maintained and repainted as necessary to prevent a deteriorated appearance or damage to the substrate. Exterior masonry surfaces shall be tuck pointed where required to maintain the mortar in sound condition. Finished tuck pointing shall match the original mortar joint in hardness and appearance.

5. Demolition. A waiver of the Certificate of Appropriateness is required before a permit may be issued to allow whole or partial demolition of a designated City historic property. The owner or his/her agent shall apply to the DRB for a review of the proposed demolition and request a waiver. The waiver shall be placed on the DRB's meeting agenda, and the DRB and applicant shall discuss and consider alternatives to demolition. Additional meetings on the waiver may be held up to 45 calendar days after the initial meeting of the DRB on the waiver, unless either party requests an extension and the owner agrees in writing to the extension beyond the 45 days. If no request for an extension is made and no alternative to demolition has been agreed to, the DRB shall issue the waiver from the Certificate of Appropriateness. When issuing a waiver, the DRB may request the owner to mitigate the loss of the City Historic Register property by means determined by the DRB. Mitigation may include, but not be

limited to: retention of site improvements, structural accessories, materials or design motifs that could be incorporated into new site development; documentation of the historic property, which may include an Historic American Building Survey (HABS); historic plaques or monuments placed on the site to provide information of the site and importance of the historic structure. Any conditions recommended by the DRB may be voluntarily complied with by the applicant. After the property is demolished, the DRB shall initiate removal of the property from the register.

6. Appeal of Approval or Denial of a Waiver of a Certificate of Appropriateness. The DRB's decision regarding a waiver of a Certificate of Appropriateness may be appealed to the City Council within ten working days under the provisions of Chapter 19.06 GHMC. The appeal must state the grounds upon which the appeal is based.

17.97.060. Review and Monitoring of Properties for Special Property Tax Valuation. Special valuation for historic properties makes available to property owners a special tax valuation for rehabilitation of historic properties under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of the rehabilitation (chapter 84.26 RCW).

A. Eligible Properties for Special Property Tax Valuation. The class of historic property eligible to apply for Special Valuation in the City means all properties listed on the National Register of Historic Places or certified as contributing to a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in chapter 84.26 RCW, until the City becomes a Certified Local Government (CLG). Once a CLG, the class of property eligible to apply for Special Valuation in the City means all properties listed in the City Register which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in chapter 84.26 RCW.

B. Application for Special Property Tax Valuation. Application for special valuation is made at the Pierce County Assessor's office. The Assessor then forwards applications to the City for review and a decision by the local review board (DRB).

C. Contents of a complete application. A complete application for Special Valuation shall consist of the following documentation:

1. All information required by the Pierce County Assessor's office for a complete application.

2. A legal description of the historic property;

3. Comprehensive exterior and interior photographs of the historic property before and after rehabilitation;

4. Architectural plans or other legible drawings depicting the completed rehabilitation work, and

5. A notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed and documentation of both to be made available to the DRB upon request.

D. Time Frame for Processing Applications for Special Property Tax Valuation.

1. Applications for special property tax valuation forwarded to the City by the Pierce County Assessor shall be reviewed by the DRB before December 31 of the calendar year in which the application is made, provided the application is submitted in time to be reviewed by the DRB before the end of the calendar year.

2 DRB decisions regarding the applications shall be filed with the assessor within ten calendar days of issuance.

E. Application Review Procedures. Applications for special property tax valuation shall be processed as follow:

1. The assessor forwards the application to the City Community Development Department, which determines if the application is complete.

2. The DRB reviews the application(s) and determines if the properties meet the criteria set forth in Section 17.97.060(C)(1) of this chapter.

a. If the DRB finds the properties meet the criteria for approval, then, on behalf of the City, it enters into a Historic Preservation Special Valuation Agreement set forth Section 17.97.060(D) of this chapter with the owner. Upon execution of the agreement between the owner and DRB, the DRB approves the application(s).

b. If the DRB determines the properties do not meet all the criteria, then it shall deny the application(s).

3. The DRB provides its decisions in writing and states the facts upon which the approvals or denials are based. The Community Development Department then files copies of the decision with the Pierce County Assessor.

4. For approved applications, the Community Development Department:

a. Forwards copies of the agreements, applications and supporting documentation (as required by WAC 254-20-090(4) and identified in Section 17.97.060(C)(2) of this chapter), to the Pierce County Assessor.

b. Notifies the state review board that the properties have been approved for special valuation.

5. For approved applications, the DRB:
 - a. Monitors the properties for continued compliance with the terms of the special valuation agreement with the property owner.
 - b. Determines whether or not properties are disqualified from special valuation either because of
 - i. The owner's failure to comply with the terms of the agreement or
 - ii. Because of a loss of historic value resulting from physical changes to the building or site.
6. For disqualified properties, in the event that the DRB concludes that a property is no longer qualified for special valuation, the DRB shall notify the owner, assessor and state review board in writing and state the fact supporting its findings.

F. Property Review Criteria. In its review the DRB shall determine if the properties meet all the following criteria:

1. The property is historic property;
2. The property is included within a class of historic property determined eligible for Special Valuation by the City under Section 17.97.040 of this chapter;
3. The property has been rehabilitated at a cost which meets the definition set forth in RCW 84.26.020(2) (and identified in Section 17.97.020(1) of this chapter) within twenty-four months prior to the date of application; and
4. The property has not been altered in any way which adversely affects those elements which qualify it as historically significant as determined by applying the Standards for the Rehabilitation and Maintenance of Historic Properties listed in Section 17.97.050(C)(4) of this chapter.
5. Rehabilitation work done after the property was placed on the national or local register of historic structures and within the past 24 months received or is eligible to receive a Certificate of Appropriateness as required in Section 17.97.050 of this chapter.
6. Rehabilitation and Maintenance Criteria. The Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties in WAC 254-20-100 shall be used by the DRB as minimum requirements for determining whether or not a historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.

G. Agreement. The following historic preservation special valuation agreement shall be used by the DRB as the agreement necessary to comply with the requirements of RCW 84.26.050(2).

This Historic Preservation Agreement is entered into on this ____ day of _____ 20__ by and between _____ (hereinafter referred to as APPLICANT) and the Design Review Board (DRB) (hereinafter referred to as LOCAL REVIEW BOARD).

WHEREAS APPLICANT is the owner of record of the historic property commonly known as _____, located at _____, State of Washington, as more fully described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter referred to as PROPERTY); and

WHEREAS APPLICANT has requested special valuation of the PROPERTY pursuant to chapter 84.26. RCW; and

WHEREAS the LOCAL REVIEW BOARD has determined that the property has been substantially rehabilitated within the two year period preceding the date of application and the actual cost of said rehabilitation equals or exceeds twenty-five percent of the assessed valuation of the PROPERTY prior to the improvements; and

WHEREAS the LOCAL REVIEW BOARD has verified that the PROPERTY is historic property that falls within a class of property determined eligible for special valuation by local ordinance or administrative rule; and

WHEREAS the LOCAL REVIEW BOARD finds that the rehabilitation work has not altered the PROPERTY in any way which adversely affects those elements which qualify it as historically significant;

NOW THEREFORE, in recognition of the foregoing, the APPLICANT enters into this AGREEMENT with the LOCAL REVIEW BOARD and agrees to adhere to the following terms and conditions for the ten-year period of the special valuation classification:

1. APPLICANT agrees to comply with the Washington State Advisory Council's Standards for the Maintenance and Rehabilitation of Historic Property as set forth in Exhibit B, which is attached hereto and by this reference incorporated herein.
2. APPLICANT agrees the property shall not be altered without the prior written consent of the LOCAL REVIEW BOARD signed by a duly authorized representative thereof. No construction, alteration or remodeling or any other action shall be undertaken or permitted to be undertaken which would affect the historic character of the PROPERTY which classifies it as eligible for special valuation, or which would affect the appearance of the PROPERTY as depicted in the photographs attached hereto and incorporated herein by this reference as Exhibits ____ through _____, or which would adversely affect the structural soundness of the PROPERTY; provided, however, that the reconstruction, repair, repainting, or refinishing of presently existing parts or elements of the PROPERTY subject to this Agreement, damage to which has resulted from casualty loss, deterioration or wear and tear, shall be permitted without the prior approval of the LOCAL REVIEW BOARD, provided that such reconstruction, repair, repainting, or refinishing is performed in a

manner which will not alter the appearance of those elements of the PROPERTY subject to this AGREEMENT as they are as of this date. Exterior changes which shall require the consent of the LOCAL REVIEW BOARD shall include, but not be limited to, any substantial structural change or any change in design, color or materials.

3. APPLICANT agrees the PROPERTY shall not be demolished without prior written consent of the local review board.
4. APPLICANT agrees to make historic aspects of the PROPERTY accessible to the public one day each year if the PROPERTY is not visible from a public right of way.
5. APPLICANT agrees to monitor the PROPERTY for its continued qualification for special valuation and notify the Pierce County Assessor within 30 days if the PROPERTY becomes disqualified because of
 - a. a loss of historic integrity,
 - b. sale or transfer to new ownership exempt from taxation, or
 - c. sale or transfer to new ownership which does not intend to agree to the terms of this Agreement nor file a notice of compliance form with the Pierce County Assessor.
6. The APPLICANT and LOCAL REVIEW BOARD both agree that there shall be no changes in standards of maintenance, public access, alteration, or report requirements, or any other provision of this Agreement, during the period of the classification without the approval of all parties to this Agreement.

Term of the Agreement. This Agreement shall take effect immediately upon signature and remain in effect until the property is no longer eligible for special valuation either through disqualification under RCW 84.26.080 or upon expiration of the ten-year period of special valuation commencing January 1, 20____, and ending December 31, 20____.

Hold Harmless. The APPLICANT or its successors or assigns shall hold the State and the LOCAL REVIEW BOARD harmless from any and all liability and claims which may be asserted against the State and the LOCAL REVIEW BOARD as result of this Historic Preservation Special Valuation Agreement or the participation by the APPLICANT in the Special Valuation Program.

Governing Law. The terms of this Agreement shall be construed in accordance with the laws of the State of Washington.

H. Enforcement. As the sole remedy for the applicant's breach of the historic preservation special valuation agreement the Local Review Board may notify the Pierce County Assessor to inform the assessor that the property has become disqualified and removed from the city's historic inventory.

I. Appeals. Any decision of the DRB acting on an application for special property tax valuation, or any disqualifications of historic properties eligible for special valuation, may be appealed to the County Board of Equalization.

17.97.070. Summary of Historic Preservation Applications and Procedures.

Historic Preservation Applications					
	Inclusion on Local Register	Removal from Local Register	Certificate of Appropriateness	Waiver of Certificate of Appropriateness	Special Property Tax Valuation
Initiated or requested by:	Owner or DRB	Owner or DRB	Owner	Owner	Owner
Recommendation by:	DRB	DRB	N/A	N/A	N/A
Decision by:	City Council	City Council	DRB	DRB	DRB, as specified in special valuation agreement
Required for:	Honorary Designation and/or special tax valuation	Properties that are no longer properly preserved	Alteration of property listed on local historic register	Demolition of structure listed on local historic register	Reduced assessed valuation for 10-year period
Application submitted to:	Community Development Dept.	Community Development Dept.	Community Development Dept.	Community Development Dept.	Pierce County Assessor
Owner Consent Required:	Yes	No	N/A	N/A	Yes
Appeal	No	No	Yes. To Council as per 17.97.050(C)(6)	Yes. To Council as per 17.97.050(C)(6)	Yes. To County Board of Equalization

Section 4. 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 5. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of a summary, consisting of the title.

PASSED by the Gig Harbor City Council and the Mayor of the City of Gig Harbor
this ____th day of _____, 2005.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

By: _____
CAROL A. MORRIS, CITY ATTORNEY

FIRST READING:
DATE PASSED:
DATE OF PUBLICATION:
EFFECTIVE DATE:

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

On _____, 2005, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. _____, the summary of text of which is as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO HISTORIC PRESERVATION, ESTABLISHING PROCEDURES FOR THE VOLUNTARY DESIGNATION OF PROPERTIES TO THE CITY REGISTER OF HISTORIC PROPERTIES; DESCRIBING THE CRITERIA FOR DETERMINING DESIGNATION IN THE CITY'S REGISTER; EXPLAINING THE EFFECT OF SUCH DESIGNATION, WHICH INCLUDES THE PROPERTY'S ELIGIBILITY FOR SPECIAL TAX VALUATION; DESCRIBING THE PROCESS FOR MAINTENANCE AND MONITORING OF SUCH PROPERTIES; DELEGATING THE AUTHORITY FOR IMPLEMENTATION TO THE DESIGN REVIEW BOARD; AUTHORIZING THE DESIGN REVIEW BOARD TO ENTER INTO AGREEMENTS WITH PROPERTY OWNERS TO REQUIRE COMPLIANCE WITH RCW 84.26.050(2); ADDING DEFINITIONS AND AN APPEAL PROCESS FOR THE DECISIONS OF THE BOARD; ADDING A NEW CHAPTER 17.97 TO THE GIG HARBOR MUNICIPAL CODE.

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

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

APPROVED by the City Council at their regular meeting _____, 2005.

BY: _____
MOLLY M. TOWSLEE, CITY CLERK



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEVE OSGUTHORPE, AICP *S.O.*
PLANNING MANAGER
SUBJECT: SECOND READING OF ORDINANCE AMENDING CHAPTER
2.21 TO ESTABLISH LOCAL REVIEW BOARD FOR HISTORIC
PRESERVATION PURPOSES
DATE: MARCH 28, 2005

INFORMATION/BACKGROUND

Attached for the Council's review is a draft ordinance amending GHMC Chapter 2.21 designating the Design Review Board (DRB) as the Local Review Board (LRB). The Local Review Board administers the various provisions of historic preservation and special tax valuation under the Certified Local Government (CLG) program. The staff believes it makes sense to have the DRB serve in this capacity because the review of historic structures is largely (though certainly not entirely) a matter of design, and it would be relatively easy for the DRB to assume LRB responsibilities. This would, of course, require an expanded level of expertise on the Board, so the ordinance amending Chapter 2.21 would increase DRB membership and expand the list of membership qualifications (e.g., disciplines of architecture, history, architectural history, historic archaeology, cultural anthropology, curation, and conservation).

The proposed ordinance pertaining to Chapter 2.21 has been reviewed by the Design Review Procedures Committee (DRPC) as recently appointed by the City Council. The DRPC forwarded a positive recommendation on the proposed amendments.

The Planning Commission held a public hearing on the ordinance on March 3, 2005. There was no public opposition to the proposed ordinance. After the hearing, the Planning Commission unanimously agreed that the DRB member terms should be extended from the existing 2-year terms to 4-year terms. Subject to this change, the Planning Commission voted to forward a recommendation for approval. The Planning Commission's recommended changes were incorporated into a draft ordinance that was presented to the Council on March 14, 2005 for first reading and public hearing. There was no public opposition expressed at the Council's public hearing. However, two members of the public commented on citizenship requirements for DRB members and also term limits of DRB members.

POLICY CONSIDERATIONS

Comprehensive Plan: The Design Element of the City of Gig Harbor's Comprehensive Plan has several goals and policies related to historic

preservation. The proposed historic preservation ordinance is consistent with, and furthers the goals of, these goals and policies.

Gig Harbor Municipal Code: Chapter 2.21 defines the role of the Design Review Board and also member responsibilities and qualifications.

ENVIRONMENTAL REVIEW

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) on this proposal on January 28, 2005. The comment deadline on the DNS was February 18, 2005. The DNS is now final.

FISCAL IMPACTS

There are no adverse fiscal impacts associated with this proposal.

RECOMMENDATION

The staff recommends approval of the ordinance as presented.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE DUTIES OF THE DESIGN REVIEW BOARD AND EXPANDING AND REDEFINING THE DESIGN REVIEW BOARD'S ROLE AND QUALIFICATIONS TO SERVE AS THE LOCAL REVIEW BOARD FOR PURPOSES OF HISTORIC PRESERVATION AND AS REQUIRED FOR CERTIFIED LOCAL GOVERNMENT STATUS; AMENDING GHMC SECTION 2.21.010 TO INCREASE DRB MEMBERSHIP TO SEVEN MEMBERS; AMENDING GHMC SECTION 2.21.020 TO REDEFINE THE DRB'S QUALIFICATIONS AND TO EXTEND DRB MEMBER TERMS FROM TWO YEARS TO FOUR YEARS; AMENDING GHMC SECTION 2.21.030 AND SECTION 2.21.040 TO EMPHASIZE HISTORIC PRESERVATION IN THE DRB'S DEFINED RESPONSIBILITIES; AMENDING GHMC SECTION 2.21.050 TO CLARIFY THE DRB'S ROLE AS A RECOMMENDING BODY RATHER THAN A DECISION MAKING BODY

WHEREAS, the historical structures, sites and districts in the City of Gig Harbor are an integral part of the heritage, education, economic base and visual quality of the City; and

WHEREAS, the recognition, enhancement, perpetuation and continued use of the City's historic resources will promote civic pride and the prosperity and general welfare of the City's inhabitants, and

WHEREAS, the City of Gig Harbor has adopted Ordinance No. ____ for purposes of establishing a historic preservation program in the City of Gig Harbor and to become eligible for certified local government (CLG) status; and

WHEREAS, the Certified Local Government (CLG) program administered by the Department of the Interior through the State of Washington and the historic preservation ordinance No. ____ adopted by the City of Gig Harbor requires a local review board (LRB) to carry out the duties of the CLG and historic preservation objectives; and

WHEREAS, the City's existing Design Review Board serves some of the same purposes as a local review board and could easily serve the duties of the local review

board with expanded membership and an expanded list of qualifications to serve on the Design Review Board; and

WHEREAS, the City SEPA Responsible Official issued a Determination of Non-significance (DNS) on January 28, 2005 for this Ordinance; and

WHEREAS, on January 28, 2005, a copy of this Ordinance was sent to the Washington State Department of Community Trade and Development; and

WHEREAS, on March 3, 2005, the Planning Commission held a public hearing on this Ordinance and recommended approval to the City Council:

WHEREAS, on March 14, 2005, the City Council considered the Planning Commission's recommendation at a regular City Council meeting; Now, Therefore,

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

Section 1. Section 2.21.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

2.21.010 Creation of design review board.

A design review board (also referred to as DRB) is hereby created. The design review board shall consist of five seven members, ~~one of whom shall be a member of the planning commission.~~ The design review board shall interpret, review and implement design review as provided by the city's adopted design manual in GHMC Chapter 17.99, and also promote an awareness of the City's history and preservation of the City's historic buildings (Ord. 736 § 1, 1996).

Section 2. Section 2.21.020 of the Gig Harbor Municipal Code is hereby amended to read as follows:

2.21.020 Terms, and qualifications and appointment of members.

A. Members of the design review board shall serve terms of ~~two~~ four years. The terms shall be staggered. Terms expire on July 1st but members of the design review board shall continue to serve until their successors are appointed and qualified. ~~The member appointed from the planning commission shall serve a term of two years, but a vacancy shall occur in the event the person ceases to be a member of the planning commission.~~ The city council shall appoint a new DRB member to fill vacancies that might arise and such appointments shall be to the end of the vacating member's term.

B. ~~The city council shall choose design~~ Design review board members shall have with qualifications, skills or demonstrated interest in one or more of the following six categories: urban design or historic preservation and must be able to demonstrate the ability to read and interpret site plans, elevation drawings, landscape plans, architectural details and other design

details and specifications as may be depicted on plans. Members shall be selected by the Council from at least 4 four of the following categories:

1. A licensed architect or professional building designer with demonstrated experience in urban or historic building design. (At least one member shall be selected from this category);
2. A member living in the city resident with demonstrated interest and knowledge of urban design (no more than one member shall be selected from this category);
3. A member from the Gig Harbor planning commission. (No more than one member shall be selected from this category);
4. A member with a professional background relating to urban design, (e.g., a professional artist, ~~an~~ civil engineer, a planner, a building contractor or professional designer) as determined by the city council;
5. A member with demonstrated interest and knowledge of landscaping, horticulture, arboriculture or forestry;
6. One or more members recommended by or associated with one of the following groups: the Gig Harbor Chamber of Commerce; the Peninsula Historical Society; a local neighborhood or homeowner's association. (Ord. 736 § 1, 1996).
6. An individual with a background in identifying, evaluating and protecting historic resources, selected from among the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation or landscape architecture, or related disciplines. (At least two members should be selected from this category) Members in this categories may participate in all applications reviewed by the DRB pursuant to Chapter 17.99 GHMC (Design Manual), but shall participate in applications received pursuant to Chapter 17.97 GHMC (Historic Preservation).

The DRB action that would otherwise be valid shall not be rendered invalid by the temporary vacancy of one or all of the required categorical positions, as long as there is a quorum, unless DRB action is related to meeting Certified Local Government (CLG) responsibilities cited in the Certification Agreement between the City and the State Historic Preservation Officer on behalf of the Mayor, and the State Historic Preservation Officer on behalf of the State.

C. Application for Design Review Board Appointment. Individuals wishing to serve, or to be reappointed to serve, on the Design Review Board shall submit a letter of interest to the City Clerk. The letter of interest shall state which category of Section 2.21.020(B) the individual wishes to serve under, and shall cite personal experience or credentials in that category. The City Council shall consider which individual has the most direct experience in that category and give weight in their decision to experience over general interest.

Section 3. Section 2.21.030 of the Gig Harbor Municipal Code is hereby amended to read as follows:

2.21.030 Purposes.

The purposes of the design review board are:

- A. ~~To assure that outdoor projects and exterior improvements subject to design review conform to the city's design manual;~~ To implement procedures related to the City's Design Manual as described in Chapter 17.98, GHMC.

- B. To protect and enhance Gig Harbor's small town characteristics by assuring that decisions on design reflect the intent of the city's design manual and the design element of the city's comprehensive plan;
- C. To make suggestions on design alternatives which meet the needs of the property or business owner and which are consistent with and meet the intent of the city's design policies;
- D. To make recommendations to the planning commission and city council on policies and ordinances that may affect the city's design and visual character. (Ord. 736 § 1, 1996).
- E. To identify and actively encourage the conservation of the City of Gig Harbor's historic resources by initiating and maintaining a register of historic places and reviewing proposed changes to register properties;
- F. To raise community awareness of the City of Gig harbor's history and historic resources;
- G. To serve as the City's primary resource in matters of historic preservation.
- H. To serve as the City's local review board as defined in WAC 254-20-030(8) and Chapter 17.97 GHMC.

Section 4. Section 2.21.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

2.21.040 Additional powers and duties.

In addition to the powers set forth in GHMC 2.21.030, the design review board shall:

- ~~A. Determine if outdoor project designs subject to design review are in compliance with the general requirements of the design manual and shall approve, approve with conditions, or disapprove proposed designs. The design review board shall state specific reasons for disapproval so that the applicant has an opportunity to address those concerns;~~
- ~~B. A. Recommend to the planning commission for adoption standards to be used by the city or design review board in reviewing outdoor proposals within city limits or its areas of contractual jurisdiction;~~
- ~~C. B. Recommend to the city council the purchase of interests in property for purposes of preserving the city's visual characteristics or implementing the provisions of the city's design manual or the design element of the city's comprehensive plan;~~
- ~~D. C. Advise the city council on possible incentives to preserve historic structures within the city's historic district;~~
- ~~E. D. Recommend to the planning commission and the city council zoning boundary changes which are consistent with the city's design manual and the design element of the city's comprehensive plan;~~
- ~~F. E. Recommend to the planning commission and the city council changes to the Gig Harbor Municipal Code and public works standards which reinforce the purpose of the city's design manual and the design element of the city's comprehensive plan;~~
- ~~G. F. Provide advice and guidance on request of the property owner or occupant on the restoration, alteration, decoration, landscaping, or maintenance of any structure or site within the city's jurisdiction.~~
- G. To carry out all activities related to historic preservation as anticipated under the Certified Local Government (CLG) program as provided in Chapter 17.97 GHMC. In carrying out these responsibilities, the DRB shall engage in the following:
 1. Conduct and maintain a comprehensive inventory of historic resources within the boundaries of the City of Gig Harbor and known as the City of Gig Harbor Historic Inventory, and publicize and periodically update inventory results.

2. Initiate and maintain the City of Gig Harbor's Register of Historic Places. This official register shall be compiled of buildings, structures, sites, and objects identified by the DRB as having historic significance worthy of recognition and protection by the City and encouragement of efforts by owners to maintain, rehabilitate, and preserve properties.
3. Review nominations to the City of Gig Harbor's Register of Historic Places according to adopted criteria.
4. Review proposals to construct, change, alter, modify, remodel, move, demolish, or significantly affect properties or districts on the register as provided in Section 17.97.050.
5. Participate in, promote and conduct public information, educational and interpretive programs pertaining to historic resources.
6. Establish liaison support, communication and cooperation with federal, state and other local government entities which will further historic preservation objectives, including public education, within the Gig Harbor area.
7. Review and comment to the Gig Harbor City Council on land use, housing and redevelopment, municipal improvement and other types of planning and programs undertaken by any agency of the City of Gig Harbor, Pierce County, other neighboring communities, the state and federal governments, as they relate to historic resources of the City of Gig Harbor.
8. Advise the Gig Harbor City Council on matters pertaining to local history and historic preservation.
9. Provide information to the public on methods of maintaining and rehabilitating historic properties. This may take the form of pamphlets, newsletters, workshops, or similar activities.
10. Officially recognize excellence in the rehabilitation of historic buildings, structures, sites and districts, and new construction in historic areas; and encourage appropriate measures for such recognition.
11. Be informed about and provide information to the public and City elected officials on incentives for preservation of historic resources including legislation, regulations and codes that encourage the use and adaptive reuse of historic properties.
12. Review nominations to the State and National Registers of Historic Places.
13. Investigate and report to the Gig Harbor City Council on the use of various federal, state, local or private funding sources available to promote historic resource preservation in the City.
14. Serve as the local review board for Special Valuation as defined in WAC 254-20-030(12) and;
 - a. Make determination concerning the eligibility of historic properties for special valuation;
 - b. Verify that the improvements are consistent with the Washington State Advisory Council's Standards for Rehabilitation and Maintenance;
 - c. Enter into agreements with property owners for the duration of the special valuation period as required under WAC 254-20-070(2) and as specified under GHMC Chapter 17.97;
 - d. Approve or deny applications for special valuation;
 - e. Monitor the property for continued compliance with the agreement and statutory eligibility requirements during the 10 year special valuation period; and
 - f. Adopt bylaw as and/or administrative rules and comply with all other local review board responsibilities identified in Chapter 84.26 RCW.

(Ord. 736 § 1, 1996).

Section 5. Section 2.21.050 of the Gig Harbor Municipal Code is hereby amended to read as follows:

2.21.050 Limitations.

The design review board may ~~approve~~ recommend approval, ~~conditionally approve conditional approval or disapprove disapproval of~~ project designs or design variances pursuant to the standards in ~~the city's design manual~~ in Chapter 17.99 (Design Manual) and Chapter 17.98 GHMC. The DRB shall have no authority to make final decisions on site plans, or to waive, increase or decrease any other code requirements. Site plans shall be reviewed as provided in GHMC Title 19.
(Ord. 736 § 1, 1996).

Section 6. 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 7. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of a summary, consisting of the title.

PASSED by the Gig Harbor City Council and the Mayor of the City of Gig Harbor
this ___th day of _____, 2005.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

By: _____
CAROL A. MORRIS, CITY ATTORNEY

FIRST READING:
DATE PASSED:
DATE OF PUBLICATION:
EFFECTIVE DATE:

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

On _____, 2005, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. _____, the summary of text of which is as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE DUTIES OF THE DESIGN REVIEW BOARD AND EXPANDING AND REDEFINING THE DESIGN REVIEW BOARD'S ROLE AND QUALIFICATIONS TO SERVE AS THE LOCAL REVIEW BOARD FOR PURPOSES OF HISTORIC PRESERVATION AND AS REQUIRED FOR CERTIFIED LOCAL GOVERNMENT STATUS.

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

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

APPROVED by the City Council at their regular meeting _____, 2005.

BY: _____
MOLLY M. TOWSLEE, CITY CLERK



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEVE OSGUTHORPE, AICP *S.O.*
PLANNING MANAGER
SUBJECT: FIRST READING OF ORDINANCE REGULATING
LANDSCAPING AND BUILDING SIZES IN SELECT DISTRICTS
IN THE HEIGHT RESTRICTION AREA PRIOR TO LIFTING THE
BUILDING SIZE MORATORIUM
DATE: MARCH 28, 2005

INFORMATION/BACKGROUND

On January 10, 2005, the City Council adopted an ordinance extending the Building Size Moratorium in the height restriction area for an additional 90 days. The ordinance defined a time frame for developing standards that would be adopted prior to the Moratorium expiration date. The time frame specified that the Council would adopt text amendments by April 11, 2005, which is one day prior to the expiration date of the moratorium. The Council has therefore initiated text amendments that would establish waterfront view corridors along Harborview Drive and North Harborview Drive for purposes of protecting views from these public streets, and also for preserving the scale of development in the districts within or abutting the waterfront view corridor. The Council's proposed amendments would:

1. Impose a limited footprint size of 2,000 square feet per structure while allowing all structures (residential and nonresidential) to utilize the basic structure unit dimensions otherwise reserved for single family homes in the historic district;
2. Impose a floor area ratio (FAR) maximum to the entire site;
3. Impose a progressive side yard setback requirement that would get increasingly larger approaching the water's edge. (The purpose of the progressive setback would be to mitigate the impacts that excessively deep structure have on view corridors between structures. Deep structures result in a narrow view angle beyond the structure. A progressive setback would require structures to step in as they step back);
4. Require a 20-foot separation between multiple non-residential or multi-family structures on a single lot with an unobstructed road-to-water view corridor between structures. (This would avoid the loss of view corridors that occurs when structures are otherwise staggered or off-set from each other);
5. Impose limitations on fence heights and hedges in the view corridors;

6. Impose limitations on vegetation types located in side yard setbacks for purposes of preserving viewing opportunities from the street.

In addition to the waterfront view corridor standards, the Council's proposal would impose a 6,500 square-foot limit in the DB (downtown business) district and also in the B-2 and C-1 districts abutting Harborview and North Harborview Drives within the height restriction area (i.e., Finholm Market and Beach Basket areas). The Council expected that these might be later amended, pending the results of the charette process budgeted for 2005.

The purpose of this proposal is to adopt standards that address some of more immediate concerns expressed by the public during the recent public meetings on the building size study conducted by Perteet Engineering. The Council wanted to have something in place prior to the lifting of the moratorium, but they did not intend for this proposal to be a substitute for the building size charette that has been budgeted for 2005. The charette would allow a more comprehensive look at issues beyond those addressed in the Council's current proposal and would also provide opportunity to revisit standards that may be adopted under this current proposal.

The Council recognized that their proposal would require careful review and may require changes to the specified setbacks, footprint size limits and FAR limits. The Council requested the input of both the Design Review Board (DRB) and Planning Commission on this proposal. Accordingly, these groups met in joint work sessions on both February 10, 2005 and February 17, 2005 to discuss the proposal and to develop a recommendation. The Planning Commission and DRB (the joint committee) agreed to recommend the following changes to the proposal:

1. Elimination of proposed progressive side yard setbacks.

The joint committee determined that this was too restrictive and that existing side yard setback requirements were sufficient.

2. Elimination of proposed floor area ratio (FAR) maximum per lot.

3. Elimination of proposed unobstructed view corridors between structures.

It was determined that this may be difficult to apply as worded, but the joint committee did not wish to pursue rewording the proposal because they believed that existing side yard setback requirements were sufficient.

4. Elimination of proposed fence and hedge heights in the defined waterfront view corridor.

The joint committee determined that the existing limitations on fences in front yards were sufficient and that additional fence height should be allowed beyond the front yard setback.

5. Elimination of proposed prohibition of trees in the side yards of parcels within defined waterfront view corridor.

The joint committee determined that this would be too difficult to regulate.

6. Elimination of proposed height limits for shrub and bushes in defined waterfront view corridor.

The joint committee determined that this would be too difficult to regulate.

7. In lieu of the blanket footprint size limitation across the entire proposed waterfront view corridor, impose the following building size limitations by zoning district and by area:

a. Waterfront Millville (WM) and Waterfront Residential (WR) – Retain the same footprint limitation as proposed by the City Council, but allow, as an alternative, a 3,500 square foot total building size limitation without a specified footprint size limitation. Require a 20-foot separation between all buildings.

b. Waterfront Commercial (WC) abutting the DB district – Impose a 3,000 square-foot footprint limitation with no specified total building size limitation and with a 20-foot separation required between buildings.

c. Waterfront Commercial (WC) in the Finholm market area on North Harborview Drive – Impose a 3,000 square-foot footprint limitation with no specified total building size limitation, with no separation required between structures, and allowing a 6-foot opening in the firewall that separates each structure, provided that each structure includes an outside entrance.

d. Waterfront Commercial (WC) in the Murphy's landing area on Harborview Drive – Impose a 6,000 square-foot building size limitation with a 20-foot separation required between structures.

8. In the DB (downtown business) district, impose a 6,000 square foot maximum structure size with an allowed 6-foot opening in firewalls separating structures, provided that each structure has an outside entrance along the building front.

9. In the B-2 (General Business) district in the Finholm area on North Harborview Drive, impose a 6,000 square-foot maximum structure size with an allowed 6-foot opening in firewalls separating structures, provided that each structure has an outside entrance along the building front.

10. Retain existing standards in the C-1 district located at the intersection of Harborview Drive and North Harborview Drive.

In recognition of the concerns expressed by representatives of the Gig Harbor Historical Society, the joint committee determined that changes to building size limitations for this area (currently 65,000 square feet) should be deferred, pending a more comprehensive analysis during the charette process budgeted for 2005.

In addition to the above recommended changes to the City Council's proposal, the joint committee recommended amendments to the City's non-conforming structure standards to allow existing structures that exceed footprint or building size limits to be rebuilt in the event the structures are ever destroyed. However, this recommendation is outside the scope of the current proposal and would have to be processed as a new application.

The joint committee's recommendations were forwarded for public hearing by the Planning Commission, which was held on March 3, 2005. After considering

public testimony, the Planning Commission formulated a final recommendation to the City Council. As part of their recommendation, and in response to public input, the Planning Commission concurred with the recommendation of the joint committee but determined that vegetation restrictions were important to the protection of views and that the building size limit in the C-1 zone should be reduced by approximately half (35,000 square feet) in order to be closer in line with the smaller building size limitations imposed elsewhere near the shoreline.

A draft ordinance incorporating the Planning Commission's recommendation is attached for the Council's consideration. The Council will note that the ordinance includes Council findings in support of the joint committee's recommendations on various building sizes and limitations according to zone. These are draft findings, which the Council will want to carefully review to see if you agree. The findings reflect, to the degree that the staff was able to recall, the discussion and reasoning of the joint committee pertaining to the various building size limits.

POLICY CONSIDERATIONS

A. Comprehensive Plan: The City of Gig Harbor's Comprehensive Plan has the stated objectives to:

Develop guidelines which promote compatible development within designated areas. (Objective 3.13.2)

Consider standards which encourage building forms consistent with historic designs, (e.g., massing, roof styles and scale), (Objective 3.14.2)

Define and retain "small town" characteristics of historic business districts. (Objective 3.15.1); and

Control vegetation to preserve significant views (Goal 3.18).

B. Gig Harbor Municipal Code: Chapter 17.99 was recently added to the Gig Harbor Municipal Code to incorporate the city's design manual into the Municipal Code. The Design Manual chapter specifies setbacks and height limits for all structures in areas encompassed by the proposed amendments, and also includes standards on building massing and design.

ENVIRONMENTAL REVIEW

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) on this proposal on January 27, 2005. The comment deadline on the DNS was February 17, 2005. The DNS is now final, but the public may comment on the DNS at the public hearing.

PUBLIC NOTICE & INPUT

Legal notice of the scheduled public hearing before the Planning Commission was published in the Peninsula Gateway on February 2, 2005, and notice of both the proposed changes and the environmental determination was sent to State agencies on January 27, 2005. Legal notice of the City Council's public hearing was published in the Peninsula Gateway on March 16, 2005. As of the date of this report, no written public comments have been received on this proposal.

STAFF ANALYSIS

The staff finds that the proposed amendments are generally consistent with adopted goals, policies and objectives in the city's comprehensive plan. The proposed footprint and building size limitations are based upon standards adopted in the city's Design Manual, which were based upon identified historic forms in the height restriction area. The staff should review the findings and determine if they accurately reflect the development patterns in the defined area. The staff recommends that the Council consider whether there are adequate findings to support the Planning Commission's recommendation to reduce the building size limit in the C-1 district to 35,000 square feet. There was not much discussion on this by the Planning Commission except to determine that the 65,000 square feet is out of scale with the historic development patterns in this area and that the proposed 35,000 square feet is approximately half of what is currently allowed.

FISCAL IMPACTS

There are no adverse fiscal impacts associated with this proposal.

RECOMMENDATION

This is first reading of the ordinance. The staff recommends that the City Council conduct the public hearing and will be recommending adoption at the second reading, which is scheduled for April 11, 2005.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING NEAR THE SHORELINE IN THE CITY'S HEIGHT RESTRICTION AREA, ADDING A NEW SECTION 17.04.877 TO THE GIG HARBOR MUNICIPAL CODE (GHMC) DEFINING A WATERFRONT VIEW CORRIDOR FOR PURPOSES OF PROTECTING VIEWS FROM SPECIFIED PUBLIC RIGHTS OF WAY; ADOPTING A NEW SECTION 17.78.095 GHMC TO ESTABLISH LANDSCAPING STANDARDS IN THE WATERFRONT VIEW CORRIDOR; ADOPTING A NEW SECTION 17.04.408 GHMC DEFINING HEDGES; ADOPTING A NEW SECTION 17.31.075 GHMC ESTABLISHING BUILDING SIZE LIMITS IN THE DB DISTRICT; AMENDING GHMC SECTION 17.36.055 ESTABLISHING BUILDING SIZE LIMITS IN THE B-2 DISTRICTS LOCATED IN THE HEIGHT RESTRICTION AREA; AMENDING GHMC SECTION 17.40.055 TO REDUCE THE MAXIMUM BUILDING SIZE IN THE C-1 DISTRICT LOCATED IN THE HEIGHT RESTRICTION AREA; AMENDING GHMC SECTION 17.48.040 TO PROVIDE A SPACING REQUIREMENT BETWEEN STRUCTURES AND ELIMINATE REFERENCE TO GROSS FLOOR AREA LIMITS IN THE WM DISTRICT; ADDING A NEW SECTION 17.48.045 TO THE GIG HARBOR MUNICIPAL CODE TO REDEFINE BUILDING SIZE LIMITS IN THE WM DISTRICT; AMENDING GHMC SECTION 17.50.045 ESTABLISHING MAXIMUM BUILDING SIZE LIMITS IN THE WC DISTRICTS.

WHEREAS, a large portion of the City of Gig Harbor is characterized by views of Gig Harbor bay and the small scale buildings that reflect the historic development of the harbor basin.

WHEREAS, the City of Gig Harbor's Comprehensive Plan has the stated goal to "Preserve the character of those sites or districts which reflect the style of Gig Harbor's historical development" (Goal 3.13); and

WHEREAS, the City of Gig Harbor's Comprehensive Plan has the stated objectives to:

Develop guidelines which promote compatible development within designated areas. (Objective 3.13.2)

Consider standards which encourage building forms consistent with historic designs, (e.g., massing, roof styles and scale," (Objective 3.14.2)

Define and retain "small town" characteristics of historic business districts. (Objective 3.15.1); and

WHEREAS, the City of Gig Harbor's Comprehensive Plan has the stated goal to "Control vegetation to preserve significant views" (Goal 3.18); and

WHEREAS, the City of Gig Harbor has received numerous complaints from the public regarding large buildings recently built in the height restriction area, which have been found by many members of the public to be out of scale and character with the historic development patterns in the height restriction area; and

WHEREAS, in response to the public outcry over large buildings and view impacts in the height restriction area, the City proceeded as follows:

1. The City hired a consultant – Perteet Engineering – to explore the economic impacts of limiting building sizes throughout the City;
3. Perteet Engineering conducted public meetings and interviewed stakeholders to solicit input on the building size issue in order to formulate draft findings pertaining to limiting building sizes;
4. Perteet Engineering conducted public hearings on proposed code amendments pertaining to building size limitations;
5. The public comments at the public meetings and hearings addressed other concerns in addition to building size, including view protection and vegetation control;
6. On July 12, 2004, the Gig Harbor City Council passed Ordinance No. 965, imposing an immediate moratorium on the acceptance of applications for new development or certain types of re-development within the height restriction area as shown on the official height restriction map;
7. On September 13, 2004, the City Council passed Ordinance No. 968, which adopted findings and conclusions supporting the continued maintenance of the moratorium;
8. On November 8, 2004, the Gig Harbor City Council adopted ordinance 974 amending the City's Design Manual to, in part, (a) impose additional height limits on non-residential structures within the historic district portion of the view basin, (b) limit the use of tall vegetation in addressing buffering issues in the view basin, and (c) eliminate the allowance for additional height on primary structures in the view basin;
9. The City Council directed the Community Development Committee to discuss remaining and outstanding issues raised by the public at the public meetings and hearings and to draft recommendations for the full-council's consideration;
10. An outline of the Community Development Committee's proposed text amendments was presented to the City Council on January 10, 2004;

11. The City Council determined that additional time was needed to both allow planning commission and public review of the proposed text amendments and also to allow a 60-day review of the amendments by State agencies pursuant to RCW 36.70A.106;

12. The City Council passed ordinance No. 986 on January 10, 2005 extending the moratorium for an additional 90 days to allow time to proceed with the recommendations of the Community Development Committee, which the Council forwarded as a Council-initiated text amendment;

13. The City Council held a public hearing on the moratorium extension on February 14, 2005 pursuant to RCW 36.70A.390 and RCW 35A.63.220;

14. Joint worksession between the City's Design Review Board and Planning Commission (hereafter referred to as the "joint committee) were held on February 10, 2005 and February 17, 2005 to consider the City Council's proposed text amendments. The joint committee discussed at length the importance of both view protection and retention of community character in terms of building size and building separation. The joint committee discussed existing view opportunities and reviewed information on existing building sizes in the historic district. The building size information considered by the joint committee provided information on the larger and more prominent buildings in the historic district, and the committee also considered the more numerous smaller buildings in the historic district. From the information provided, the joint committee determined that the Harbor Inn building located in WC district on Harborview Drive was representative of the average historic commercial building in terms of its footprint size (approximately 3000 square feet) and square footage as seen from the street level (approximately 6,000 square feet), and that the slope of the land in the WC district made possible additional and less visible square footage in a basement level of the Harbor Inn. The joint committee recognized that there were differences in the historic development patterns of each district located near or abutting the shoreline. The joint committee further recognized that the C-1 district abutting the shoreline was recently purchased by the Gig Harbor Historical Society, which has plans to develop a museum on the site that would be larger than the size limitations proposed by the City Council. The joint committee therefore determined that there should be no changes to the 65,000 square-foot building size limit in this district at this time. Additionally, the joint committee determined that in addition to the building size limits, existing setback provisions were sufficient to provide viewing opportunities from Harborview Drive and North Harborview Drive and no additional restrictions in setbacks or floor area restrictions (i.e., floor area ratio provisions) should be imposed. Finally, the joint committee determined that vegetation limitations along the shoreline would be difficult to administer.

15. The Planning Commission held a public hearing on the proposed text amendments on March 3, 2005 and after the hearing made a final recommendation to the City Council. As part of their recommendation, and in response to public input, the Planning Commission concurred with the recommendation of the joint committee but determined that vegetation restrictions were important to the protection of views and that the building size

limit in the C-1 zone should be reduced be approximately half (35,000 square feet) in order to be closer in line with the smaller building size limitations imposed elsewhere in near the shoreline; and

WHEREAS, the City of Gig Harbor desires to preserve and perpetuate the small scale of structures in the DB district that directly abuts waterfront districts; and

WHEREAS, the City of Gig Harbor desires to protect views of the harbor along the Harborview Drive and North Harborview Drive public rights-of-way for public enjoyment; and

WHEREAS, expansive building footprints and associated expansive and continuous roof forms can result in significant obstructions to views of the harbor as seen from Harborview Drive and North Harborview Drive public rights-of-way; and

WHEREAS, structures contained to smaller footprints require smaller, less expansive roof planes than more expansive footprint structures require and therefore have less impacts on views over the tops of structures; and

WHEREAS, limiting total floor area to a size that would be similar to the building size achievable by limiting the footprint size may result in a building with a wider footprint and a more expansive roof plane, but it would in that case result in a building of a lower height, thereby providing alternate but similarly effective ways of protecting views from Harborview Drive and North Harborview Drive; and

WHEREAS, views opportunities potentially created by required setbacks of structures can be impacted or lost as a result of fences and vegetation placed within view corridors; and

WHEREAS, large structures recently built in the non-residential zones within the harbor basin have adversely impacted the visual quality of the harbor basin because of their scale in relation to the historic structures that characterize the harbor basin; and

WHEREAS, the City Council has proposed amendments that are intended to protect views of the water from Harborview Drive and North Harborview Drive public rights-of-way by establishing said rights-of-way as a public waterfront view corridor and by limiting the amount of new vegetation that may limit views in said view corridor and by maintaining the small scale structures that characterize the historic structures in and near said corridor, which are also located in the City's historic district; and

WHEREAS, the City Council agrees with the joint committee's determination that in order to balance the need to protect and retain public views

of the harbor with the need to retain the historic development patterns within the view basin, it is necessary to vary the building size and separation requirements among the various districts near or abutting the shoreline, which includes the DB, WC, WR, WM, B-2 and C-1 districts abutting Harborview Drive and/or North Harborview Drive. Specifically, the Council finds that:

(a) The historic development pattern of the DB district includes small scaled buildings with little or no separation between them (typical of most historic downtowns) and the visible portion of the Harbor Inn building as seen from the street (approximately 6,000 square feet) is an appropriate scale of building for the DB district;

(b) The historic development pattern of the WC district along North Harborview Drive in the Finholm Market area is also characterized by small scale buildings with little or no separation between them;

(c) The Harbor Inn building located in the WC district on Harborview Drive is representative of the historic structures in both the WC and DB district, but the slope of the land in the WC district makes it possible to have more square footage than structures in the DB district because the WC district's sloped topography provides opportunity for a basement level that would be largely unseen from the street level. Therefore, limiting the footprint of the building in the WC district as opposed to limiting the total square footage (as in the DB district) will provide opportunity for buildings at least as large as the 6,000 square foot buildings located across the street in the DB district, and for potentially larger buildings that would nonetheless be in scale with smaller 6,000 square foot buildings in the DB district, which has a generally level topography that does readily facilitate a basement level.

(d) Unlike the WC district located in the Finholm Market Area, the WC districts lying both north of the Stinson/Harborview Drive intersection and across the street from the DB district are not characterized by structures with no separation between them. Existing development patterns included wide areas of separation between structures. Because there is no historic development patterns of connected structures in these locations, and because existing development in these areas now provide some viewing opportunities between structures, it is appropriate to limit buildings in these areas to a size that respects the historic building sizes of the shoreline, but that also provides opportunity for views between structures.

(e) The WM and WR districts are characterized by smaller-scaled homes and neighborhood businesses than are found in the DB, WC, B-2 and C-1 districts in the view basin. The Council's initially proposed footprint limitations would ensure protection of both views and architectural character of WM and WR districts, but may be burdensome to businesses that require more square footage on a single level than 2000 square feet. A 2,000 square foot footprint along with the Basic Structure Unit allowance defined in the City's Design Manual would allow a building of approximately 3000 – 3,500 square feet of total space – depending on topography and the opportunity for a daylight basement, but only 2,000 square feet of floor area would be possible on a single level. Accordingly, both a 3,500 square-foot floor area maximum or a 2,000 square foot footprint

limitation would be appropriate for both protecting views and retaining an appropriate scale of building for these districts. Moreover, it makes sense to allow the property owner to choose between these two options because it will allow the owner to consider topographic advantages when determining how to develop his or her property.

WHEREAS, the proposed text amendments are consistent with the goals, objectives, and policies of the Comprehensive Plan; and

WHEREAS, the City's SEPA Responsible Official issued a Determination of Nonsignificance (DNS) for the proposed text amendment on January 27, 2005 pursuant to WAC 197-11-350; and

WHEREAS, the City Community Development Director forwarded a copy of this Ordinance to the Washington State Department of Trade and Community Development on January 27, 2005, pursuant to RCW 36.70A.106; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on March 3, 2005, and made a recommendation of approval to the City Council, subject to amendments recommended by the Planning Commission as incorporated herein; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of _____, 2005; Now, Therefore,

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

Section 1. A new section 17.04.877 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

17.04.877 Waterfront View Corridor

"Waterfront view corridor includes all parcels located between the shoreline of Gig Harbor bay and either Harborview Drive or North Harborview Drive, excluding parcels located north of or abutting Rust Street (originally named Walnut Street) as shown on the original Artena Addition plat recorded on August 23, 1890.

Section 2. A new section 17.78.095 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

17.78.095 Waterfront View Corridor Landscaping

All development within Waterfront View Corridors shall conform to the following landscape standards.

A. HEDGES

Hedges shall conform to the height limits for fences defined in Chapter 17.99.

B. LANDSCAPING IN SIDE YARDS

In addition to the landscaping provisions of Section 2.2.01 of Chapter 17.99, the following additional landscaping standards apply to all side yards:

1. Trees are prohibited.
2. Shrubs and bushes shall not exceed a height of 5 feet, except that shrubs or bushes that form a continuous vegetative mass in a hedge or hedge-like fashion and which are located along the perimeter of the property shall not exceed the height limits for fences.
3. Landscaping plans submitted for non-residential and multifamily residential development under the provisions of Section 17.96.050 shall specify plant species in side yards that are not expected to grow higher than 5 feet.

Section 3. A new Section 17.04.408 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

17.04.408 Hedge.

"Hedge" is a row of closely planted shrubs, bushes, or trees aligned in a linear fashion forming a screen, fence, or boundary.

Section 4. A new Section 17.31.075 of the Gig Harbor Municipal Code is hereby adopted to read as follows:

17.31.075 Maximum gross floor area

In the DB district, the maximum gross floor area per building is 6,000 square feet. Multiple buildings on the same site shall be separated by a non-penetrated fire wall as defined in the International Fire Code except that a single 6-foot opening in the firewall separating structures is permissible provided that each structure has an outside customer entrance accessible to the street. Each structure shall be designed to stand independent of other structures on the site (i.e., the addition or removal of any one building on a site will not require structural attachments or modifications to any other building on the site.)

Section 5. Section 17.36.055 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.36.055 Maximum gross floor area

The maximum gross floor area per commercial structure is 35,000 square feet, except that in with the following exceptions:

1. In the Olympic Village Activity Center and the Westside General Business (B-2) district the maximum gross floor area per commercial structure is 65,000 square feet.

2. In the B-2 district abutting North Harborview Drive (the area commonly known as Finholm Market) the maximum gross floor area per building is 6,000 square feet. Multiple buildings on the same site shall be separated by a non-penetrated fire wall as defined in the International Fire Code except that a single 6-foot opening in the firewall separating structures is permissible provided that each structure has an outside customer entrance accessible to the street. Each structure shall be designed to stand independent of other structures on the site (i.e., the addition or removal of any one building on a site will not require structural attachments or modifications to any other building on the site.)

3. In the B-2 district near the intersection of Harborview Drive and North Harborview Drive (the intersection commonly known as Borgen's Corner), the maximum gross floor area per building is 6,000 square feet with a minimum separation of 20 feet between buildings.

Section 6. Section 17.40.055 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.40.055 Maximum gross floor area

The maximum gross floor area per commercial structure is 65,000 square feet, except that in the C-1 district abutting Harborview Drive the maximum gross floor area per building is 35,000 square feet with a minimum separation of 20 feet between buildings.

Section 7. Section 17.48.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.48.040 Development standards.

A minimum lot area for new subdivisions is not specified. The minimum development standards are as follows:

	Single-family Dwelling	Attached up to 4 units	Non-residential
A. Minimum lot area (sq. ft.) ¹	6,000	6,000/unit	15,000
B. Minimum lot width	50'	100'	100'
C. Minimum front yard ²	20'	20'	20'
D. Minimum side yard	8'	10'	10'
E. Minimum rear yard	25'	25'	25'
F. Minimum yard abutting tidelands	0'	0'	0'

G. Maximum site impervious coverage	50%	55%	70%
H. Maximum density	3.5 dwelling units per acre		
I. Maximum gross floor area	N/A	N/A	3,500 sq. ft. per lot
J. Separation between structures	20'	20'	20'

Section 8. A new Section 17.48.045 of the Gig Harbor Municipal Code is hereby adopted to read as follows:

17.48.045 Maximum building size.

Each structure in the WM district shall be limited in size according to one of the following options:

A. 3,500 square feet total size, including each story of a building (finished or unfinished) as defined in GHMC Section 17.04.750, and including all habitable space* with a finished ceiling height of 5 feet or greater, and including garages, carports, shops and similar work or storage rooms, and also including non-walled stand-alone structures such as pavilions and gazebos which are not incidental and secondary extensions of fully enclosed structures, but excluding covered decks and porches; or

B. A total footprint of 2000 square feet, which may be extended to accommodate a front porch or colonnade. The building footprint shall be measured from the outside edge of all exterior walls (including walls on cantilevered projections), posts, and columns, and shall not include eave overhangs of up to 24 inches or uncovered decks of up to 60 inches above grade. Within this footprint, all structures, including non-residential or multifamily structures, are eligible for the height and massing allowed for Basic Structure Units (BSU's) as described under Section 3.14.02(1)(b) of this chapter.

*"Habitable space" as used in this section, shall mean: a space in a building for living, sleeping, eating or cooking, and shall also include bathrooms, toilet rooms, closets, halls, storage rooms and utility rooms. Habitable space does not include attic areas that have no finished floors or finished interior walls.

Section 9. A new Section 17.50.045 of the Gig Harbor Municipal Code is hereby adopted to read as follows:

17.50.045 Maximum building size

Each structure in the WC district shall be limited in size as follows:

1. In the WC district abutting the DB (downtown business) district, the maximum building footprint is 3000 square feet. Multiple buildings on the same site shall have a minimum 20-foot separation between structures.

2. In the WC district abutting North Harborview Drive (the area commonly known as Finholm Market) the maximum building footprint is 3000 square feet. Multiple buildings on the same site shall be separated by a non-penetrated fire wall as defined in the International Fire Code except that a single 6-foot opening in the firewall separating structures is permissible provided that each structure has an outside customer entrance accessible to the street. Each structure shall be designed to stand independent of other structures on the site (i.e., the addition or removal of any one building on a site will not require structural attachments or modifications to any other building on the site.)

3. In the WC district abutting Harborview Drive and lying north of the Stinson/Harborview Drive intersection (the area commonly known as Murphy's Landing), the maximum building footprint is 3000 square feet. Multiple buildings on the same site shall have a minimum 20-foot separation between structures.

Section 10. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Ordinance.

Section 11. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this ___ day of _____, 2005.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

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



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEVE OSGUTHORPE, AICP 30,
PLANNING MANAGER
SUBJECT: FIRST READING OF ORDINANCE AMENDING THE CITY'S
PROCEDURES FOR CHARGING PRIVATE APPLICANTS FOR THE
COSTS ASSOCIATED WITH EIS PREPARATION
DATE: MARCH 28, 2005

INFORMATION/BACKGROUND

The city's code currently requires that an applicant for a development pay for the costs associated with preparation of an Environmental Impact Statement (EIS). However, the city's existing procedures are not specific as to the manner in which the city will charge the applicant. It is therefore necessary to amend Section 18.04.140 of the Gig Harbor Municipal Code to specify methods for reimbursing the city for necessary costs and expenses relating to its compliance with the SEPA rules. An ordinance amending this section is attached for the City Council's consideration.

POLICY CONSIDERATIONS

Chapter 18 of the Gig Harbor Municipal Code specified procedures for environmental review. Section 18.04.140 specifies procedures for the preparation of an EIS.

FISCAL IMPACTS

This proposal will provide revenue necessary for the implementation of SEPA rules by requiring applicants to pay the full cost of preparing an environmental impact statement.

RECOMMENDATION

This is first reading of the ordinance. The staff will be recommending approval of the attached ordinance at the second reading on April 11, 2005.

ORDINANCE NO. __

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS (EIS), AMENDING THE CITY'S PROCEDURES FOR CHARGING PRIVATE APPLICANTS FOR THE COSTS ASSOCIATED WITH EIS PREPARATION, AMENDING SECTION 18.04.140 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the City's code currently requires that an applicant for a development pay for the costs associated with preparation of an EIS; and

WHEREAS, the City's existing procedures are not specific as to the manner in which the City will charge the applicant; Now, therefore:

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

Section 1. Section 18.04.140 of the Gig Harbor Municipal Code is hereby amended to read as follows:

18.04.140. EIS – Preparation.

A. **Responsible Official's responsibilities.** Preparation of draft and final EIS's and SEIS's shall be under the direction of the responsible official. Before the City issues an EIS or SEIS, the responsible official shall be satisfied that it complies with this chapter and chapter 197-11 WAC.

B. **Time Limit.** ~~The draft and final EIS or SEIS shall be prepared at the City's option by the City staff, the applicant or a consultant approved by the city. If the responsible official requires an EIS for a proposal and determines that someone other than the city will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the city's procedure for EIS preparation, including approval of the draft and final EIS prior to distribution. The fee for the preparation of the draft and final EIS shall be as established under chapter 3.30 GHMC.~~ Subject to delays caused by the applicant's failure to

provide needed information and other delays beyond the city's control, draft and final EIS's will be completed within one year of the date of the declaration of significance, unless the city and the applicant agree in writing to a different estimated time period for completion.

C. Requirement for Additional Information. The city may require an applicant to provide additional information which the City does not possess, including information which must be obtained by specific investigations. This provision is not intended to expand or limit an applicant's other obligations under WAC 197-11-100, or other provisions of regulation, statute or ordinance. An applicant shall not be required to produce information under this provision which is not specifically required by this chapter, nor is the applicant relieved of the duty to supply any other information required by statute, regulation or ordinance.

D. Fees.

1. For the purpose of reimbursing the City for necessary costs and expenses relating to its compliance with the SEPA rules and this chapter in connection with private projects, the following schedule of fees are established (in addition to the fees in the City's fee resolution):

a. For a threshold determination which requires information in addition to that contained in or accompanying the environmental checklist, a fee in an amount equal to the actual costs and expenses incurred by the City in conducting any studies or investigations necessary to provide such information;

b. For all private projects requiring an EIS for which the City is the lead agency and for which the responsible official determines that the EIS shall be prepared by the employees of the City, or that the City will contract directly with a consultant or consultants for the preparation of an EIS, a fee in an amount equal to the actual costs and expenses incurred by the City in preparing the EIS. Such fee shall also apply when the City determines that the applicant may prepare the EIS, and the responsible official determines that substantial revisions or reassessing of impacts must be performed by employees of the City to ensure compliance with the provisions of the SEPA Guidelines and this chapter.

2. If the responsible official determines that an EIS is required, and that the EIS shall be prepared by employees of the City or by a consultant or consultants retained by the City, or that the applicant-prepared EIS shall be substantially re-written by employees of the City, the private applicant shall be advised by the responsible official of the estimated costs and expenses of preparing or rewriting the EIS prior to actual preparation or rewriting, and the private applicant shall post a bond or otherwise insure payment of such costs and expenses. A consultant or consultants may be

recommended by the applicant. The final decision to hire a consultant or consultant shall be made by the City Council.

3. All fees owed the City under this Section shall be paid in full by the private applicant prior to final action by the City on the private project. Any fee owed the City under this subsection D shall be paid by the private applicant prior to the initiation of actual preparation of an EIS (if required) or actual rewriting of an applicant-prepared EIS by the City or its consultant(s). If a private applicant disputes the amount of the fee, the fee may be paid under protest and without prejudice to the applicant's right file a claim and bring an action to recover the fee.

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

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

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this ____th day of _____, 2005.

CITY OF GIG HARBOR

Gretchen Wilbert, Mayor

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney

Carol A. Morris, City Attorney

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

SUMMARY OF ORDINANCE NO. _____

Of the City of Gig Harbor, Washington

On _____, 2005, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. _____, the main points of which are summarized by the title as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS, AMENDING THE CITY'S PROCEDURES FOR CHARGING PRIVATE APPLICANTS FOR THE COSTS ASSOCIATED WITH EIS PREPARATION, AMENDING SECTION 18.04.140 OF THE GIG HARBOR MUNICIPAL CODE.

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

APPROVED by the City Council at their meeting of _____, 2005.

MOLLY TOWSLEE, City Clerk



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E.
CITY ENGINEER *SM*
SUBJECT: FIRST READING OF ORDINANCE
AMENDMENT TO ORDINANCE NO. 712 – AMENDING THE PUBLIC
WORKS STANDARDS FOR PRIVATE STREETS
DATE: MARCH 28, 2005

INTRODUCTION/BACKGROUND

The current Public Works Standards for Private Streets, Section 2B.070, permits the construction of a private street to serve unlimited dwelling units or businesses on one parcel. In the situation of a very large parcel, a long private street could result. In the case of a long private street on one parcel, the homeowners face repair and operation costs associated with the street that may be beyond their means to finance. Consequently a number of situations have arisen in which the city has been requested by the homeowners to accept private streets for ownership and operation, after the homeowners realize the repair and operation costs are beyond their means.

In response to these situations, staff has generated an amendment to Section 2B.070 of the Public Works Standards to allow for short private streets in developments meeting certain development standards.

The proposed ordinance has been reviewed and approved by the City Attorney.

RECOMMENDATION

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO PUBLIC WORKS STANDARDS FOR NEW DEVELOPMENT IN THE CITY, AMENDING THE STANDARDS FOR PRIVATE STREETS TO LIMIT THE SITUATIONS IN WHICH PRIVATE STREETS MAY BE CONSTRUCTED, ESTABLISH THE DIMENSIONAL STANDARDS OF PRIVATE STREETS, DESCRIBE THE REQUIREMENTS FOR PRIVATE MAINTENANCE AND THE NEED FOR A MAINTENANCE AGREEMENT; REPEALING SECTION 2B.070 OF THE CITY'S PUBLIC WORKS STANDARDS, AS ADOPTED BY ORDINANCE NO. 712; AND ADOPTING A NEW SECTION 2B.070 TO THE CITY'S PUBLIC WORKS STANDARDS.

WHEREAS, the City adopted the Public Works Standards in Ordinance No. 712;
and

WHEREAS, the Public Works Standards include standards allowing for the construction of a private street if the street will not serve more than four dwelling units or businesses on separate parcels (Section 2B.070); and

WHEREAS, the Public Works Standards allow construction of a private street to serve unlimited dwelling units or businesses on one parcel as a planned unit development or planned residential development (Section 2B.070); and

WHEREAS, the City Council finds that public interest concerns are implicated when a private street is constructed to serve a number of dwelling units or businesses

on separate parcels or one parcel, if the private street is very long, or if traffic circulation needs are not individually considered by the City, and

WHEREAS, the City Council finds that when a long private street is constructed on one parcel, the homeowners face repair and operation costs associated with the street that may be beyond their means to finance; and

WHEREAS, the City Council finds that there have been a number of situations in the City in which homeowners have asked the City Council to accept private streets for ownership and operation, after the homeowners realize that the repair and operation costs are beyond their means; and

WHEREAS, the City Council finds that it is in the public interest to allow short private streets in developments meeting certain criteria and as long as development standards are crafted to ensure that the repair and operation costs of the private street are manageable for the private street owners; and

WHEREAS, the City SEPA Responsible Official has determined that this ordinance is categorically exempt from SEPA under WAC 197.11.800(20); and

WHEREAS, the City Council held a public hearing and considered this Ordinance during its regular City Council meeting of April 11, 2005 ; Now, Therefore,

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

Section 1. Section 2B.070 "Private Streets" of the City's Public Works Standards, as adopted by Ordinance No. 712, is hereby repealed.

Section 2. A new Section 2B.070 is hereby added to the City's Public Works Standards.

2B.070 PRIVATE STREETS.

See definition of private streets in Section 1.025.

A. Criteria for Allowing Private Streets.

1. Private streets will be allowed only if the City Engineer makes a determination that the private street is not needed for traffic circulation under the criteria set forth in this Section, the City's Public Works Standards and the Transportation Element of the City's Comprehensive Plan.

2. Private streets will not be allowed (a) when the street connects two public streets; and (b) when in conflict with the adopted arterial plan or street circulation plan, adopted in the City's Transportation Element of the Comprehensive Plan.

3. Private streets will be allowed within developments as long as they meet the following additional criteria: (a) structural sections shall consist of 4 inch crushed surfacing base course followed with 4 inch

crushed surfacing top course followed by minimum 4 inches of asphalt concrete pavement all placed over "suitable" subgrade compacted to 95%; (b) a non motorized access plan, approved by the City; (c) internal traffic calming measures or devices such as speed humps or traffic circles may be required; (d) minimum curb to curb width shall be twenty (20) feet; (e) 5 feet 6 inch sidewalk shall be required on each side of the street that is serving residence(s) and shall be consistent with the approved non motorized plan; (f) parking shall be prohibited on both sides of the street; (g) the sidewalk and curb design must prevent parking upon the sidewalk; and (h) are constructed according to the drawing in Exhibit "A", which depicts the geometric roadway cross section for private streets.

"Figure 2-07A" is hereby incorporated by this reference.

B. Length of Private Streets. All private streets shall be limited in length to no more than four hundred (400) feet as measured along its centerline.

C. Maintenance. The City will not maintain private streets, signs or drainage improvements on private streets. As a condition of constructing a private street, the City will require that the owners of the private street enter into a private maintenance agreement between themselves describing their responsibilities

and providing notice to subsequent purchasers that the City does not own or maintain the private street. The agreement must be on a form approved by the City Attorney and recorded with the Pierce County Auditor. The agreement shall contain the following specific terms: (1) the responsibilities of the individual owners for maintenance, repair and reconstruction of the private street; (2) maintenance methods; (3) standards of maintenance; (4) distribution of expenses; (5) remedies for noncompliance with the agreement; (6) exchange of right of use easements; and (7) the creation of a private street maintenance fund and the annual assessment.

D. Notice on Plat regarding Private Streets. Each development, plat or short plat with a private street shall contain a notice to the public/purchasers, which shall contain the following language: "The City of Gig Harbor has no responsibility to build, improve, maintain or otherwise serve any private streets providing access to the property described in this plat. Any private access street shall remain a private street unless it is upgraded to public street standards at the expense of the developer or adjoining lot owners to public street standards, and the City chooses to accept such private street for public ownership and maintenance."

E. Turnarounds. When three or more lots or dwelling units are served on a dead-end greater than one hundred and fifty feet (150) feet in length, a turnaround having an improved radius of forty-five (45) feet, or an equivalent, workable maneuvering area approved by the City Engineer, shall be provided at the end of the private street.

F. Utilities. All City utilities located within the plat, short plat or development shall be owned and maintained by the City. If the City owns utilities within the development and the development is served by a private road, then an easement shall be granted to the City over the road to access its utilities.

G. Signs. Private street signs with street designations shall be provided by the developer at the intersection of private streets with other private streets and public streets. Such signs shall meet the specifications in the City's Public Works Standards, and in the case of intersections with public streets, shall either be located within the public right-of-way or within a separate maintenance easement. Maintenance and repair of such street signs shall be included in the maintenance agreement between the private property owners.

H. Bonds. All private streets shall be constructed prior to the time that the developer makes application for final plat approval. Bonds or other methods of

assuring construction of improvements shall not be allowed for the future construction of private streets after final plat approval.

I. Construction. Private streets are the responsibility of the developer to construct to the requirements in the City's Public Works Standards. Upon completion of the required improvements, the developer will be required to submit a statement to the City warranting that the improvements have been completed in accordance with the adopted standards (2-year Maintenance Bond).

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

Section 4. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this ____ day of _____, 2005.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

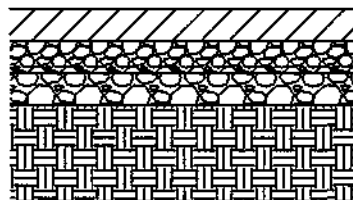
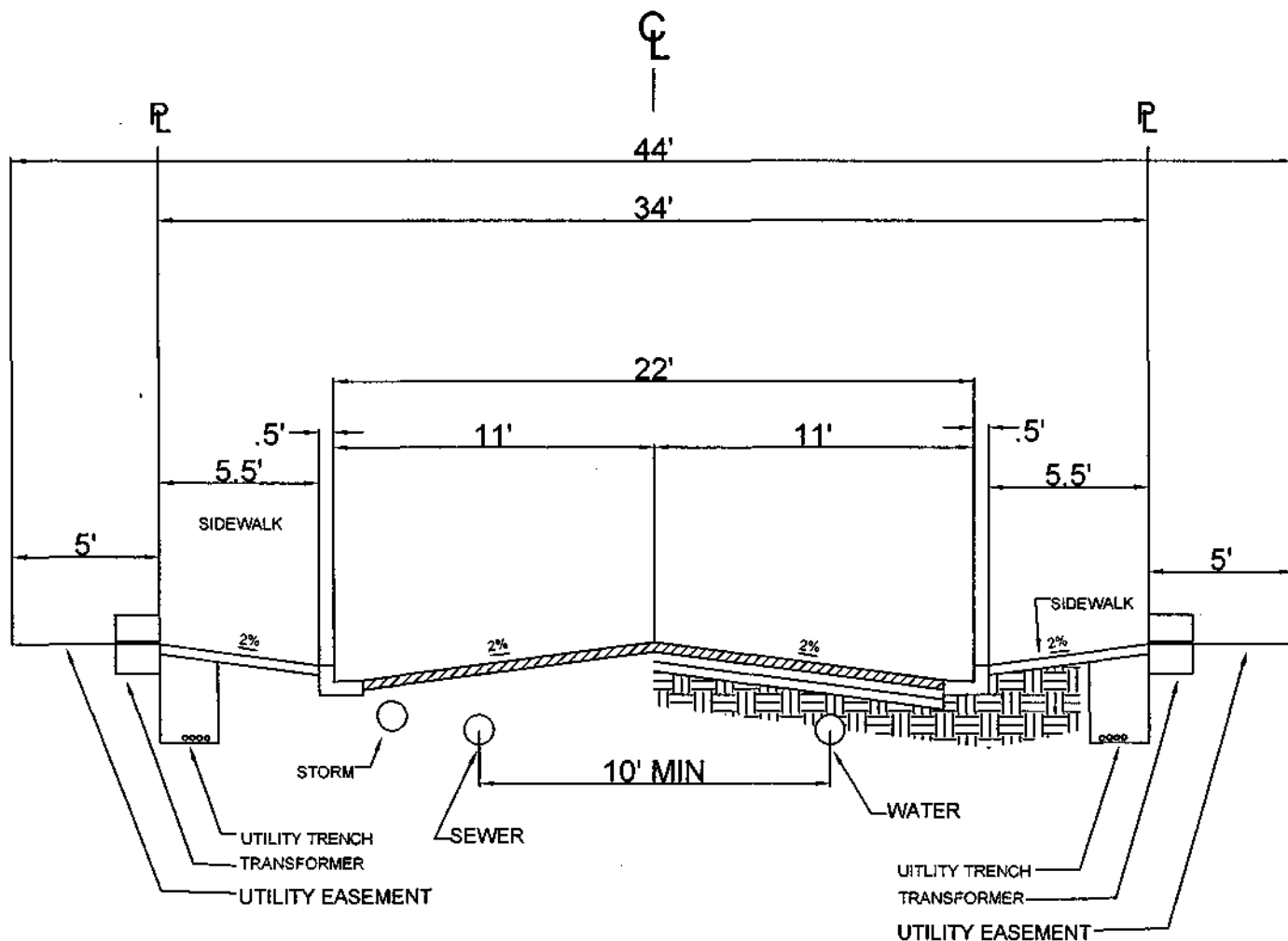
By: _____
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: _____
CAROL A. MORRIS

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

EXHIBIT A



- .33' HOT MIX ASPHALT, WSDOT 5-04
- .33' CRUSHED SURFACING TOP COURSE, WSDOT 9-03.9(3)
- .33' CRUSHED SURFACING BASE COURSE, WSDOT 9-03.9(3)
- NATIVE MATERIAL ALLOWED IF ADEQUATE SOILS CONDITIONS EXIST, IF ACCEPTABLE SOILS ARE NOT PRESENT, MATERIALS CONFORMING TO WSDOT 9-03.10 SHALL BE USED.

NOTES:

1. On street parking prohibited
2. Maximum Center Line Length 400 feet
3. Deletion of Sidewalk on one side of street allowed if units are "sideloaded" or as permitted by the City Engineer
4. Vertical curb and gutter meeting FIG 2-16 required on both sides of street

CITY OF GIG HARBOR DEPARTMENT OF PUBLIC WORKS			
PRIVATE STREET			
APPROVED BY CITY ENGINEER		DATE <u>3/28/05</u>	
DWN GBG	CKD STM	DATE 11/2/04	FILE 2-07A

SUMMARY OF ORDINANCE NO. _____

of the City of Gig Harbor, Washington

On _____, 2005, the City Council of the City of Gig Harbor, Washington, approved Ordinance No. _____, the main points of which are summarized by its title as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO PUBLIC WORKS STANDARDS FOR NEW DEVELOPMENT IN THE CITY, AMENDING THE STANDARDS FOR PRIVATE STREETS TO LIMIT THE SITUATIONS IN WHICH PRIVATE STREETS MAY BE CONSTRUCTED, ESTABLISH THE DIMENSIONAL STANDARDS OF PRIVATE STREETS, DESCRIBE THE REQUIREMENTS FOR PRIVATE MAINTENANCE AND THE NEED FOR A MAINTENANCE AGREEMENT; REPEALING SECTION 2B.070 OF THE CITY'S PUBLIC WORKS STANDARDS, AS ADOPTED BY ORDINANCE NO. 712; AND ADOPTING A NEW SECTION 2B.070 TO THE CITY'S PUBLIC WORKS STANDARDS.

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

APPROVED by the City Council at their meeting of _____, 2005.

MOLLY TOWSLEE, CITY CLERK



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID BRERETON *David*
DIRECTOR OF OPERATIONS
SUBJECT: WASTEWATER TREATMENT PLANT ROOF REPAIR
- CONTRACT AUTHORIZATION
DATE: MARCH 28, 2005

INTRODUCTION/BACKGROUND

The 2005 Sewer Operating Budget provides for maintenance and repairs at the Wastewater Treatment Plant. The Wastewater Treatment Plant requires repair work on the main lower section of the roof.

In accordance with the city's small works roster process, the city recently contacted four contractors from the city's small works consultant roster and requested price quotations to repair the lower section of the Plant's roof. Three contractors responded with the following price quotations:

Harcor, Inc., dba Cleo's Roofing	\$3,107.00
Peninsula Roofing, Inc.	\$4,638.00
Cobra Roofing Services	\$5,054.00

ISSUES/FISCAL IMPACT

Routine maintenance of our buildings and structures was anticipated in the adopted 2005 Budget. Sufficient funds are available in the Sewer Operating fund for the Wastewater Treatment Plant maintenance and repair.

RECOMMENDATION

I recommend that Council authorize the contract for the Wastewater Treatment Plant to Harcor Inc., dba Cleo's Roofing in the amount of Three thousand One hundred Seven dollars (\$3,107.00), plus retail sales tax.

**AGREEMENT FOR CONSTRUCTION SERVICES
BETWEEN GIG HARBOR AND
HARCOR, INC. dba CLEO'S ROOFING**

THIS AGREEMENT, is made this _____ day of _____, 200____, by and between the City of Gig Harbor (hereinafter the "City"), and Harcor, Inc., dba Cleo's Roofing, a Washington corporation, located and doing business at 12218 Vernon Avenue SW, Lakewood, Washington 98498, (hereinafter "Contractor").

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

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

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

I. Description of Work. The Contractor shall perform all work as described below, which is attached hereto and incorporated herein by this reference, in a workman-like manner according to standard construction practices. The work shall generally include the furnishing of all materials and labor necessary to repair by installing torchdown strips along the seams of the existing roof at the Wastewater Treatment Plant and apply a roof coating on the torchdown roofing. The Contractor shall not perform any additional services without the express permission of the City.

II. Payment.

A. The City shall pay the Contractor the total sum of Three thousand one hundred seven dollars and zero cents (\$3,107.00), plus sales tax, for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for these tasks, and shall not be exceeded without prior written authorization from the City in the form of a negotiated and executed change order.

B. After completion of the work, the City shall pay the full amount of an invoice within thirty (30) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Contractor of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

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

IV. Duration of Work. The City and the Contractor agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement by both parties. The Contractor shall perform all work required by the Agreement on or before April 30, 2005. The indemnification provisions of Section IX shall survive expiration of this Agreement.

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

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

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

VII. Termination.

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

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

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

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

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

IX. Indemnification. The Contractor shall indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, and shall pay for all costs, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the

sole negligence of the City. The City's inspection or acceptance of any of the Contractor's work when completed shall not be grounds to avoid any of these covenants of indemnification.

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

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONTRACTOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

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

X. Insurance.

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

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

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
 2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
- C. The Contractor is responsible for the payment of any deductible or self-insured retention that is required by any of the Contractor's insurance. If the City is required to contribute to the deductible under any of the Contractor's insurance policies, the Contractor shall reimburse the City the full amount of the deductible.
- D. The City of Gig Harbor shall be named as an additional insured on the Contractor's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Contractor's insurance policies.
- E. It is the intent of this contract for the Contractor's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the Contractor's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.
- F. The Contractor shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Contractor's coverage.

The Contractor shall procure and maintain for the duration of this Agreement, comprehensive general liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its employees, agents or subcontractors. The cost of such insurance shall be borne by the Contractor.

The Contractor shall maintain limits on such insurance in the above specified amounts: The coverage shall contain no special limitations on the scope of protection afforded the City, its officials, officers, employees, agents, volunteers or representatives.

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

XI. Entire Agreement. The written provisions and terms of this Agreement, together with all exhibits attached hereto, all bids specifications and bid documents shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement.

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

XIII. Work Performed at the Contractor's Risk. The Contractor shall take all precautions necessary and shall be responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall utilize all protection

necessary for that purpose. All work shall be done at the Contractor's own risk, and the Contractor shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Contractor for use in connection with the work.

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

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

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

XVII. Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

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

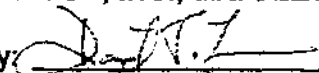
XIX. Resolution of Disputes. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City, and the City shall determine the term or provisions' true intent or meaning. The City shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Contractor under any of the provisions of this Agreement which cannot be resolved by the City's determination in a reasonable time, or if the Contractor does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be with the Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The prevailing party shall be reimbursed by the other party for its costs, expenses, and reasonable attorney's fees incurred in any litigation arising out of the enforcement of this Agreement.

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

HARCOR, INC., dba CLEO'S ROOFING

THE CITY OF GIG HARBOR

By: 
Its President

By: _____
Its Mayor

Notices should be sent to:

Harcor, Inc., dba Cleo's Roofing
Attn: David Lerum
12218 Vernon Avenue SW
Lakewood, Washington 98498
(253) 581-1055

City of Gig Harbor
Attn: David Brereton
Director of Operations
3510 Grandview Street
Gig Harbor, Washington 98335

Approved as to form:

By: _____
City Attorney

Attest:

By: _____
Molly M. Towslee, City Clerk

STATE OF WASHINGTON)
COUNTY OF Pierce) ss.

I certify that I know or have satisfactory evidence that DAVID T. LEWIS is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the President of Harcor, Inc., dba Cleo's Roofing to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 3-23-05

[Signature]
Notary Public in and for the
State of Washington,
Residing at 673 Harbor
My appointment expires: 11-26-06

[Faint notary seal text]

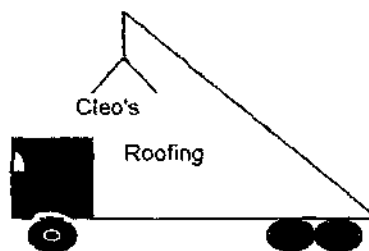
STATE OF WASHINGTON)
) ss.
COUNTY OF P I E R C E)

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

DATED: _____

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

12218 Vernon Ave. SW
Lakewood, WA 98498
253-581-1055



A Division of Harcor, Inc
CLEOSR*110BP

March 9, 2005

To: City of Gig Harbor
Attn: Dave B.
Re: Waste Water Treatment Plant

Proposal:

Cleo's Roofing will prep roof area to have work done, Provide and install Granulated Torch down 6" Seam strips over existing seams, Install new Leads Flanges For 5 Pipes, seal drains, coat roof with Silver Coating. To include a 90-day workmanship warranty on proposed areas.

For the sum of: \$3,107.00

Exclusions:

Dry time, roof protection, and Washington sales tax.

Note:

Proposal is good for 10 days after above date.

Respectfully Submitted

John Henry
Estimator



March 7, 2005

John Long
World Cultural Interaction Board

Dear Friends:

I want to thank you all for your magnificent effort to make our first student exchange with Takuma a rewarding experience for all the students. Yasuko Wada went above and beyond our expectations in her hours of presentation of cultural learning opportunities for all the participants including parents and host families prior to and during the exchanges.

I understand the Boards decision in recognizing the effort and realizing the impossibility of continuing this program. Enclosed is the letter I have sent to Mayor Yokoyama.

At this time I plan to ask for volunteers to continue a cross-cultural program in WCI to promote international understanding and cultural and social awareness for our citizens through international study and travel opportunities.

Our community is blessed by the services rendered to us by our own culturally diverse population.

Gig Harbor's TCC offers five foreign languages as well as English as a second language and American Sign Language. The cultural cuisine of 14 countries can be found in our local restaurants. Travel agencies offer opportunities to travel world wide. The Chinese Delegation from Beijing, China, designated the Peninsula School District as having the finest intercultural program on the entire West coast. The school district continues to have conversation with Beijing, China. You may remember the Japanese Delegation hosted by WCI in October, 2003.

I will be asking our community members to advice us of any specific cultural educational interest they have and if they would be willing to volunteer to put that interest together in a plan. All are invited to visit the Bogue Volunteer Center and indicate their interest.

Let's review the objectives of WCI and bring about action to fit the mission. You are all invited to continue serving on the board as we look toward "tomorrow," however, I understand if you feel the need to leave the board.

Thank you again for your guidance and service. Please let me know your interest.

Sincerely,

Gretchen A. Wilbert, Mayor



ADMINISTRATION

February 10, 2005

Mayor Yokoyama, President
International Cultural Exchange Association
c/o Town of Takuma
1338-13, Owaza Takuma
Takuma-cho
Mitoyo-gun
Kagawa-ken, Japan 669-1101

RE: MIDDLE SCHOOL EXCHANGE FOR SUMMER 2005

Dear Mayor Yokoyama,

The City of Gig Harbor values exchange activities with Takuma, and in particular values the relationship that has matured over the last several years. Unfortunately, through no fault of Takuma whatsoever, the volunteer group World Cultural Interaction that supported exchange activities for the City of Gig Harbor in 2004 is unable to continue its exchange activity in the future. Right now, no group has committed the necessary resources for an exchange in 2005.

Dr. Mark Hoppen, City Administrator, is exploring the possibility of exchange activities with Peninsula School District middle schools and with parent groups for the middle schools. So far, however, the middle schools have not expressed adequate interest in supporting an exchange.

Considering the current situation, the City of Gig Harbor is unable to provide an exchange opportunity in 2005. Nevertheless, the city hopes that an exchange opportunity can be developed in the future, and we will work toward fostering such an opportunity.

Sincerely,

Mayor Gretchen Wilbert

c: Ms. Chie Hashimoto
World Cultural Interaction

HOST FAMILY MATCHES

Deanne and Yaponcha English
PO Box 564
Vaughn, WA 98394

Cell phone: 307-5401
Home: 253-884-2556
Email: yaponcha@hotmail.com

Yasuke Ando, 14, boy AND Ryo Irie, 14, boy

John Seaman and Ilka Van Waasen
2905 Ryan Street
Gig Harbor, WA 98335

Cell phone: none
Home: 253-858-7415
Email: vanwaasen@hotmail.com

Yuta Shirakawa, 14, boy

Morris and Barbara Lewis
14511 46th Ave Ct NW
Gig Harbor, WA 98332

Cell phone: 225-1467
Home: 253-851-7240
Email: BLewis2@aol.com

Akito Toyota, 15, boy AND Ryohei Onishi, 14, boy

Kurt and Kerry Esson
2206 68th Ave
Gig Harbor, WA 98335

Cell phone: 576-4455
Home: 253-265-4328
Email: kerryesson@hotmail.com

Sho Maruoka, 14, boy

Christopher and Lorrie Wolle
8527 Goodman Dr. NW
Gig Harbor, WA 98335

Cell phone: 905-7497
Home: 253-857-8026
Email: lewolle@comcast.net

Miko Shinohara, 14, girl

Donn and Tammi Falconer
1065 12th Ave
Fox Island, WA 98335

Cell phone: 686-6342
Home: 253-549-2085
Email: falconheather@yahoo.com

Yukiko Itoguchi, 14, girl

Jeffrey and Gabriela Hansen
3710 Forest Beach Dr. NW
Gig Harbor, WA 98335

Cell phone: 229-5056
Home: 253-265-8086
Email: JGHA@comcast.net

Misato Hatakeda, 14, girl

John and Nancy Picinich
7803 Insel Ave
Gig Harbor, WA 98335

Cell phone:
Home: 253-858-9082
Email: njpicinich@yahoo.com

Keiko Shirakawa, 14, girl

Spence and Lesley Iacolucci
9919 184th Ave
Vaughn, WA 98394

Cell phone: 884-5889
Home: 884-5572
Email: Lesley@harbornet.com

Hideki Yokoyama, 14, boy

Al and Natalie Fujita
2621 88th St. Ct. NW
Gig Harbor, WA 98335

Cell phone: 208-7171
Home: 858-7647
fujitas44@aol.com

Yukari Hoshaku, Middle School English teacher

Other chaperones:

Chie Hashimoto: Town of Takuma
Katsutoshi Fujita: Town councilman

Gig Harbor Contacts

Yasuko Wada	Home: 858-3945	Cell: 732-1934
Carolyn Dupille	Home: 858-3849	Cell: 222-6576
Elayne Wallis	Home: 265-1364	Cell: 973-7399

WCI Summer Itinerary for Japanese students July 28-August 6, 2004

Wednesday, July 28: Arrival Afternoon welcome for Takuma group at Gig Harbor Civic Center

Flight arrives at SeaTac at 2:48 p.m. Students will be tired from travel and time change. No formal activities planned for this day.

Phone tree will be activated upon departure from Seatac airport.

Thursday, July 29: Orientation to America and Gig Harbor *Host family drops off student at Civic Center at 9 a.m.

*Host family provides sack lunch Morning - at GH Civic Center Practice using American money (including purchase of stamps) Practice writing an address in English Practice writing the address and stamping a postcard Learn how to use a map of Gig Harbor Practice the "Gig Harbor Scavenger Hunt"

Afternoon: Go on Gig Harbor Scavenger Hunt During the Scavenger Hunt the students will: Visit businesses and offices Look for monuments Ask questions Purchase at least one postcard of Gig Harbor Purchase at least one stamp Regroup to share and write postcards *Host family to pick up at Civic Center at 3:30 p.m. Homework assignment: Read handout information regarding July 30 field trip

Evening: (6:00 p.m.) Welcome BBQ at the home of host family Christopher and Lorrie Wolle, 8527 Goodman Dr. N.W. Gig Harbor, 857-8026

WCI will provide burgers, hot dogs, beverages, chips, and cookies.

Friday, July 30: Tacoma Regroup at Civic Center at 9 a.m.

(WCI to provide lunch) Orientation to Tacoma (map) Read in English a brief explanation of: Point Defiance The Glass Museum

In Tacoma: Visit Point Defiance Gardens Fort Nisqually Zoo and Aquarium (drive by only) Picnic Lunch at Owens Beach Glass Museum

Regroup in Gig Harbor at Civic Center Debrief the day Overview for weekend Overview for Mount Rainier (Monday's trip) *Host families pick up students at Civic Center at 3:30 p.m. Homework: Read handout information regarding Mt. Rainier field trip

Saturday/Sunday, July 31 and August 1: Weekend with host families

Suggested activities will be provided to host families. *Free time with host families. Students will have journal assignments.

Monday, August 2: Mount Rainier

*Host families drop students off at Civic Center, 8:45 a.m. *Host families to provide sack lunches. Ice chests will be provided on the bus. Bus leaves for Mt. Rainier at 9 a.m. Experience: Orient selves using a map of the park Take a short hike View glaciers, wildflowers, large trees, mountains Visit Paradise Inn, Visitor Center, souvenir shops and displays Return around 5 p.m. to GH Civic Center (Phone tree will be activated if bus is late)

Tuesday, August 3: Cultural Exchange Day *Host families drop students at Harbor Ridge Middle School, 9 a.m.

*Host families provide sack lunches for students

MorningArt: Visual Arts Sampler 9:00a.m.-11:45a.m.

Lunch: 11:45a.m.-12:15p.m.

Dance: Movement Exploration 12:15p.m.-3:00p.m.

Afternoon: Teen Mixer, 3:00p.m.-3:30p.m. Ask questions of Japanese and American teens Why do you go to school? What is your father's/mother's role in your home? What is the teacher's role in your country? How much time do you spend on homework each night? How do you spend your leisure time? What is your favorite food? What is your least favorite food? How do you earn your spending money? Tell whether you agree or disagree with each of the following statements and why: "Everyone should be involved in sports" "Everyone should be involved in an art"

Have Japanese and American students share answers to compare cultural perspectives. Japanese and American CDs. Japanese and American teen dances.

Homework assignment: As your host family to tell you about Seattle. *Host families pick up students at Harbor Ridge at 3:30 p.m.

Wednesday, August 4: Seattle *Host families drop students off at Civic Center, 9 a.m. Students to purchase their own lunch today Bus leaves for Seattle at 9:15 a.m. Pike Place Market Seattle Center University of Washington (driving tour) Shopping (choice) "The Ave" or "University Village"

Return to Gig Harbor Civic Center. Host families pick up students at 5p.m.

Thursday, August 5: Preparation to return to Japan *Host families to drop off students at Civic Center at 9 a.m. *Host families to supply sack lunch. Japanese students discuss their perceptions of America and the American way of life. Japanese students note the similarities and differences between the two cultures. *1 p.m. Return to host family home to pack 6:30 p.m. - Farewell Potluck Dinner at Gig Harbor Civic Center. Please see Elayne Wallis for sign up. Transfer to SeaTac for overnight stay before Aug. 6 departure. Rental buses will transport Takuma guests. Host families may accompany in private vehicles.

Friday, August 6: Depart for Japan

* = Host family responsibilities



ADMINISTRATION

Mayor's Report
March 28, 2005
Appointment to Puget Sound Regional Council

Thanks to Councilmember Derek Young for serving as the Mayor / Council representative on the Puget Sound Regional Council for Gig Harbor.

Derek wishes to pass this opportunity of regional focus education on to another elected official. Please let me know of your interest.

I have attached the agenda for last Thursday's meeting. No one from Gig Harbor was able to attend.

GENERAL ASSEMBLY MEETING

THURSDAY, MARCH 24, 2005

WESTIN HOTEL, ELLIOTT BAY ROOM

SEATTLE, WA (MAP ATTACHED)

3 p.m. – Registration begins for General Assembly

Please register if you plan to attend the meeting and/or the dinner (registration form attached, or at <http://www.psrc.org>)* Assembly members – by registering if you plan to attend the meeting, it will help us to determine our quorum.

The full Regional Council Assembly includes all mayors, county executives, and council and commission members from member jurisdictions.

Agenda

3:30 p.m.

1. **Call to Order** – *Councilmember Richard McIver, President*
 - Roll Call (*by sign-in sheet—please sign in*)
 - General Assembly Voting*
2. **Welcome**
3. **Public Comments**
4. **President's Report** – *Councilmember Richard McIver*
 - Economic Development District; Transportation Policy Board; Growth Management Policy Board
5. **Consent Agenda**
 - Adoption of Minutes of Puget Sound Regional Council Assembly Meeting, held March 25, 2004 *
6. **New Business**
 - a. Adoption of Fiscal Years 2006-2007 Budget and Work Program*/** - *Executive John Ladenburg, Vice President*
 - b. Major Amendment to Destination 2030 Admitting Three New Candidate Projects*
7. **Election of Officers**
 - Report of the Nominating Committee – *Councilmember Richard McIver, Chair*
8. **Other Business**

5:30 p.m. – Adjourn

5:30 – 6:30 p.m. – No-host Reception – Fifth Avenue Foyer

6:30 – 8:30 p.m. – Dinner – Fifth Avenue Room

- **VISION 2020 Awards Presentation** – *Councilmember Pam Carter, City of Tukwila, Chair, Awards Selection Committee*

The Awards dinner will also feature Congressman Norm Dicks. PSRC will honor him for his leadership in implementing VISION 2020 – highlighting accomplishments in Tacoma and Bremerton.

*Supporting materials attached

**Draft FY 2006-2007 Budget and Work Program enclosed for Assembly members. For additional copies, please call the Regional Council Information Center, (206) 464-7532.

Sign Language and communication material in alternate formats can be arranged given sufficient notice by calling Mark Demry at (206) 464-7090; TDD/TTY (206) 464-5409.

PIERCE COUNTY REGIONAL COUNCIL

TRANSPORTATION COORDINATING COMMITTEE

Pat O'Neill , PE, Chairman

Tuesday, April 12, 2005
1:30 PM to 3:30 PM

MEETING LOCATION:

Pierce County Medical Examiner/Road Operations Building
3619 Pacific Avenue, Tacoma)

CONFERENCE ROOM on Second Floor

(In order to gain entry, you must use the callbox at the door to contact the Program Development Division staff.)

AGENDA

1. Rural Corridors and Centers Program

The deadline for submission of the Rural Corridors and Centers Program has been extended in order to offer all eligible Pierce County jurisdictions the opportunity to apply for this program. The TCC will review and make a recommendation to the PCRC on proposed projects to be submitted for the Rural Town Centers and Corridors Program.

Please note the following schedule for applicants:

Date	Product	Forum/Recipient/Action	Format
April 7, 2005	2 Page summary of application (see attached for details)	To Pat O'Neil (poneill@cityofup.com) and Jesse Hamashima (jhamash@co.pierce.wa.us) Email to TCC with applications	Email as Word or PDF document
April 12, 2005	10 Minute Presentation to TCC with Maximum 10 Minute Q&A	TCC hears the applicants, makes a recommendation to the PCRC for final two to go to PSRC. <u>Completed applications for ALL applicants must be ready by this point</u>	Have hard copies available to TCC
April 21, 2005	5 Minute presentation to PCRC	PCRC hears presentations, acts on TCC Recommendation, Two applicants go on to PSRC for consideration.	Have hard copies of project summary and completed application available to PCRC
April 22, 2005	Completed Application	<u>PSRC must receive completed applications in THEIR offices by 1:00 pm</u>	Electronic format to PSRC preferred

PLEASE CALL JESSE HAMASHIMA , 798-2760 IF YOU HAVE ANY QUESTIONS REGARDING THIS AGENDA .

PIERCE COUNTY REGIONAL COUNCIL

TRANSPORTATION COORDINATING COMMITTEE

The Rural Corridors and Centers Program

Guidelines for the Two Page Presentation to be submitted to the TCC by April 7, 2005.

The Preliminary Project Description/Proposal sent to the TCC should:

1. Be no more than 2 face pages, this includes photos and maps- a map depicting the project is required
2. Clearly state the project limits
3. Concisely indicate the project benefits and in summary form indicate why the proposed project is an appropriate candidate for the program (For guidance please use the page 7 from the application (Part 1--Issues and Benefits).
4. Provide statistical detail (such as traffic volumes, population statistics) where appropriate.
5. Indicate current funding/anticipated funding and current project status if ongoing project.
6. Relationship of this project to jurisdiction/area's comprehensive plan.

Guidelines for the Presentation to the PCRC on April 21, 2005

1. Applicants must be prepared to keep their presentation to a five minute time limit. This time is exclusive of questions that may come from the PCRC members.
2. Please have additional copies of the two page project summary for distribution to the PCRC.
3. The completed PSRC application should be completed at this point and available for reference.
4. Bring poster sized graphics if necessary- coordinate any display, graphic needs with Paula Manning, PALS, at 798-2785

27 June 2002

City of Gig Harbor
Mayor Wilbert
Members of the City Council
Members of the Planning Commission
c/o John Vodopich - Community Development Director
City of Gig Harbor Planning and Building Services
3125 Judson Street
Gig Harbor, Washington 98335

COPY

**RE: Proposed 'Sensitive Area' Maximum Gross Floor Limitation
Harborview Drive Properties from Old Ferry Terminal to Peacock Hill**

Dear Mayor Wilbert, Members of the City Council and Members of Planning Commission,

Further to my previous letter of 27 December 2001 to the Planning Commission (copy attached), and with reference to my attendance at the recent Planning Study Session on 17 June 2002, I again thank you for this opportunity to express my considered opinion regarding the proposed Building Size Limitations in the 'Sensitive Area' Size Limitation Overlay for the commercial properties along Harborview and North Harborview Drive. What I heard at this Study Session, and at previous public meetings that I attended, is summarized as follows:

Preservation of the Building and Urban Character of Gig Harbor

The impetus for reviewing the option to limit the size of new buildings in Gig Harbor, specifically in the 'Sensitive Area' Overlay, seems to be as a reaction to a change in the perceived size of developments recently completed in Gig Harbor and the concern that new project developments could alter, dare I say destroy, the unique character of the harbor townscape. It was discussed at the Study Session that the increased size of new projects, specifically on the waterfront, could block existing open views of the harbor from Harborview and North Harborview Drives (an existing condition believed to be a vital design element in contributing to the general ambience of downtown).

From an architectural and urban design view, I whole-heartedly agree with this concern. But I believe the concern is not necessarily one of building size as it is one of building and site character of which preservation of the direct connection of Harborview to the water edge is such an important factor. The concerns I heard expressed at the meetings were for assuring new projects we designed with the appropriate urban designed character and that limiting building area was being proposed as a regulation 'means' to achieve this 'end.'

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The recently completed Russell 'Sunshine' Facility is a good example to review regarding the difference between reinforcing character and limiting the footprint of buildings. While the 'Sunshine' Project has preserved the appropriate building scale consistent with the Harbor and provides public view areas within the grounds, the site has been developed on a grand scale that is approximately 150% larger than the adjacent properties (with a frontage over 6 times wider than the parcels directly across Harborview). What one initially perceives is not the individual scale of each of the pavilions, as much as it is the total site gesture of the project. *(Note: Think of the waterfront as being made up of individual small paintings with the new 'Sunshine' being a canvass 4x as big as its neighbors along the water – it doesn't matter if the painting is of small scale elements, the single vision over the larger canvas has considerable more impact than the smaller painting canvasses on either side – not to mention the discrepancy in the quality of the picture frames).* The proposed building footprint regulation would not have significantly changed the 'Sunshine' project as the total building area could have been sub-divided into many smaller building areas under the main level of the plaza without significantly changing the street level as now constructed (and my understanding is that parking garages are exempt from any building limitations being considered). The 'Sunshine' project expertly hides its bulk and building size from Harborview – so what would be gained by limiting a similar project's total building footprint or gross square footage area?

Again, the component missing in the proposed ordinance revisions, but brought up at the Study Session, is maintaining the existing character of Gig Harbor which I believe consists of a variety of building sizes, materials, scale and its represented history. This unique character of the waterfront is due in large part to its development of timber and marine uses from the waterside edge in towards the land. The scale of the buildings were large at the water edge and got smaller as the properties developed inland. Boat moorage, marine repair and marine factory uses were more important than the smaller houses built at the head of these properties (now along Harborview); however, it is now these remaining houses the we perceive as the context of the waterfront as the industrial structures disappear along with the marine tidal grids that provided direct visual connection from the street to the water edge (e.g. the Ross House in Millville is a good historical example of this type of development).

What is consistent when reviewing these existing historic waterside developments is the amount of open space and the visual connection to the water from Harborview Drive. I propose that it is the quality of the space between the buildings (as much, or more, than the quality of the buildings themselves) is what contributes to the unique urban design character along the waterfront-the existing buildings frame the views more than they are the actual objects on display.

Preservation of Commercial Uses

As noted in my previous letter, I believe enacting an ordinance for commercial uses only may also result in the water edge of the harbor becoming primarily private residential for those who can afford the land (with water access/moorage/view). In essence, it will reduce, not increase, the public's access and enjoyment of the harbor from Harborview (and indeed Harborview could no longer have a view of the Harbor!). I have studied sites that if developed commercially, would be limited to single structures of 3,500 square foot prints (with a maximum residential density of 4 dwellings per acre); or, these same sites could be subdivided into separate residential lots, with no maximum floor area, and achieve a higher density of 6 dwellings per acre. I do not believe that fences, gates and 'No Trespassing' signs would be a positive contribution to the Harbor environs. Do you? Also, this overlay district includes properties zoned as RB-1. My understanding of this zone classification is that it is intended to be a transition zone between commercial uses and residential uses. With inclusion in the size limitation overlay, it essentially down zones these properties into residential developments thus eliminating any transition between commercial and residential uses.

Recommendation

An option for your consideration is to study a maximum building frontage allowed along Harborview (i.e. a maximum frontage that the view of the water can be obstructed from the pedestrian way) before a development is required to provide a minimum view corridor to the water. Such a regulation, combined with the existing setbacks, height limitations, design guidelines and shoreline regulations, will assist to reinforce the existing character of the townscape and assure its direct visual connection to the harbor.

Another option for your consideration is requiring developers to submit a study model for approval of any project proposed on a site area exceeding one acre within the 'Sensitive Area'. These don't have to be fancy, display behind glass type of models, but rather study models that encompass the surrounding context that can be displayed for public viewing and comment prior to a public hearing approval process.

Thank you again for this opportunity to submit my considered opinion regarding the proposed ordinance revisions. If there is any assistance I can provide in the study of the proposed development regulation within the City of Gig Harbor, please do not hesitate to contact me at 383-7762.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Boe', enclosed within a large, loopy, circular scribble.

David Arthur Boe - Principal
BOE architects, pllc

27 December 2001

City of Gig Harbor Planning Commission
c/o City of Gig Harbor Planning and Building Services
3125 Judson Street
Gig Harbor, Washington 98335

COPY

**RE: Proposed 'Sensitive Area' Maximum Gross Floor Limitation
Harborview Drive Properties from Old Ferry Terminal to Peacock Hill**

Dear Members of the City of Gig Harbor Planning Commission,

Thank you for this opportunity to express my considered opinion regarding the proposed 'Sensitive Area' Overlay for the commercial properties along Harborview and North Harborview Drive. As an architect working a number of sites directly affected by this proposed change to the Zoning Code, I have serious concern about the potential negative impact this Overlay District will have to the continued development of the City and the Business District. My concerns are based on first hand experience working on similar subject sites for compliance with the Zoning Code, the Design Manual, Shoreline Regulation, and Building and Fire Code Requirements along with my clients' goals of a quality and financial feasible project. My greatest concerns are summarized as follows:

Type of New Development

The proposed square footage limitation for non-residential structures will likely result in the subdivision of larger parcels for residential development only. Due to the location of the subject properties, owners of these site will need to determine the greatest and best use for development; consequently, the waterfront in the harbor will most likely become a residential enclave for those that can afford the development and land costs. Since a commercial use has also to provide considerable more parking than residential (and this parking will likely have to be structured due to the constraints of the parcels along Harborview), this additional cost and area will also defer any development to private residential. The waterfront will then become less public and more private (i.e. for only the privileged). I do not believe that a Gig Harbor waterfront only for the wealthy and to the exclusion of the public is consistent with the goals and vision of the greater community.

Cost of Development

By limiting the size of non-residential structure gross square footage to 5,000 square feet, the development cost for any new commercial space will be so high per building area that the rent for such space will be considerably higher than comparable spaces outside the Overlay Area (or within preexisting commercial space). This will result in limited development only by those that can afford the considerable cost (e.g. new commercial space at \$40 per square foot rent will have to compete with commercial space in existing structures is at \$12 per square foot rent). If the City was considering this Overlay as a Tax-free Zone for the development of an International Jewelry District (per Rotterdam, Netherlands), this proposed limitation of square footage for the structures may be consistent. As noted above, this situation will again steer the new development of the waterfront as a residential and private office enclave for the wealthy.

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Public Process/Planned Use Development/Revisions to the Design Manual

If the Planning Commission's intent is to control the development of the character and appropriateness of new development along the property, might I suggest requiring projects to be reviewed as Planned Use Developments when the proposed non-residential structure exceeds a determined size. This will allow designers and developers to consider impacts of their project that can reach beyond their specific sites to benefit the community. For example, by designing a commercial property to include retail spaces, public access routes to the waterfront (both at pier level and beach level), retainage of significant vegetation, restoration of shoreline and shorelands with a non-residential structure that utilizes existing site contours, appropriate materials and architectural forms that may exceed the regulated maximum square footage (though it may not appear to), may have a greater appeal within the community than the prescriptive following of the published regulations. The Design Manual could also be amended to include projects over 5,000 square feet within the Overlay District to have articulation and massing that can be reviewed as appearing to not exceed the maximum size.

Alternatives Studies

As I have noted, I have been working with a number of different property developers in the design of site options for their parcels that would be consistent with the multiple regulation and requirements for their specific sites. In my design approach, I develop multiple design options for their review and consideration. I always include one option that pedantically follows the rules and regulations of the site to illustrate what could be directly permitted administratively without any public or board review. These options are routinely rejected by my clients' as being inconsistent with their personal goals or their perceived goals for a quality development within Gig Harbor. If so desired, I will gladly share some of these design options with the Planning Commission as illustrations of consequential development based on the existing and/or proposed planning regulations.

As aforementioned, if there is any assistance I can provide in the study of development regulation within Gig Harbor, please do not hesitate to contact me at 383-7762. Thank you again for this opportunity to submit my considered opinion regarding the proposed modifications to the Zoning Code.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Arthur Boe', enclosed within a large, loopy circular scribble.

David Arthur Boe - Principal
BOE architects, pllc

March 28, 2005

Charles L. Hunter
8829 Franklin Ave
Gig Harbor, WA. 98332

Mayor and City Council
3510 Grandview Ave.
Gig Harbor, WA. 98335

RE: Proposed Text Amendment Creating Water View Corridors and Limiting Building Sizes in the Height Restriction Area.

In reference to the above mention action that is coming before you I would like to offer the following comments.

I have not seen the final document that staff has prepared for your approval. I was a member of the joint Planning Commission/DRB committee that reviewed and made recommendations to the original document for your consideration and attended the public meeting held by the Planning Commission.

My understanding is that the following zones in the view basin are not included in this action, R-1, R-2, R-3, and R-B2, and that these zones have **NO** building size limits. I would propose footprint limit on these zones for both non-residential and residential of a maximum 3500 square footprint per building.

It doesn't make sense to have a moratorium include these areas for 9 months and then lift the moratorium and allow any size building to be constructed in these zones.

My reasoning for this recommendation is that Gig Harbor is characterized by small scale buildings, take a look from the Finholm View Climb, East Gig Harbor or even the water and what you see are small scale buildings with the exception of some of the later buildings constructed.

It has been argued correctly that building size does not equal good design, that large buildings can be designed in a pleasing manner using modulation and other design techniques, I have no argument with this line of reasoning, however the character of Gig Harbor is small scale and that character needs to be maintained, small buildings can also be well designed. The Russell building is an example of a well designed building, however many people don't like the scale and the character of the structure.

In addition I would recommend that the present buildings that are larger than the proposed sizes, be allowed to be altered or rebuilt within their existing footprint and envelope.

If these additional zone changes cannot be part of the Text Amendment, make these requirements part of the action lifting the moratorium. Then the criteria could be a "springboard" for the proposed charette and would allow time to organize and carry out the charette.

The second recommendation I would like to make is that, the criteria for the Charette process and the selection of a facilitator be overseen by a joint committee of the Planning Commission and Design Review Board and that the facilitator be from our community and have a real knowledge of it.

Another issue that could be determined by the charette process is allowances for projects where the proponent is willing to have a pre-submittal meeting. By establishing a Maximum Limit based on Performance Standards it would allow flexibility in design for footprint, height and other design criteria, (based on specific site conditions) required by the Design Manual and Municipal Codes. At the present time the DRB is not allowed to deviate from these codes.

The C-1 zone where the Gig Harbor Historical Society is planning to locate the new museum is recommended to have a maximum building area of thirty or thirty five thousand square feet. I think you should also allow a height exception for their centerpiece artifact, the fishing boat "Shenandoah", so that it may be housed in a building of adequate size and height to allow for rehabilitation and display, the Historical Society proposal could be reviewed by the DRB.

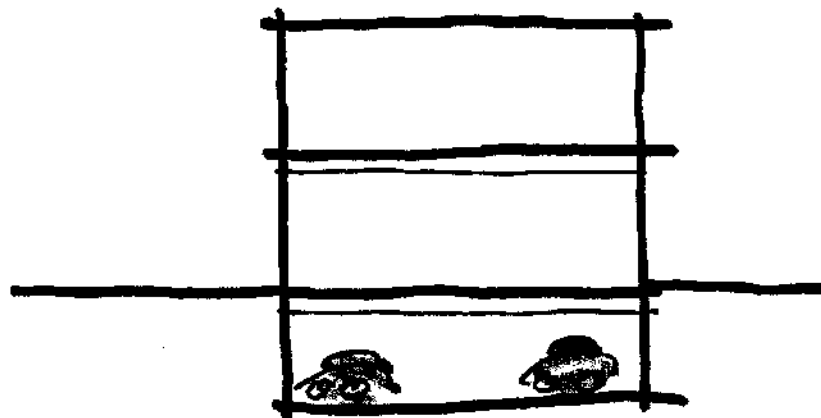
I would hope that you would consider these suggestions during your consideration to remove the current moratorium.

Sincerely,

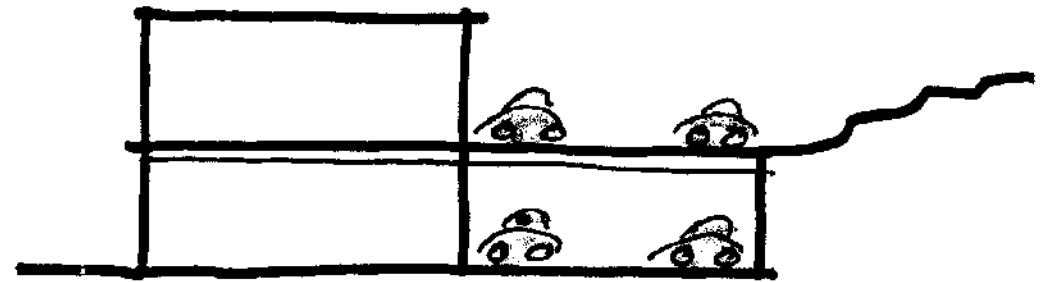
Charles L Hunter

PARKING GARAGE ADVANTAGES

- ❑ Reduce parking lot area & increase area for new buildings
- ❑ Hides parking lot from view
- ❑ Lower impervious coverage
- ❑ Conserves space while providing convenience & security to occupants



Under structure concept



Adjacent w/deck over

REQUEST: Do not count garage area in calculation for new building size!

PROPOSED AMENDMENT

Whereas the current definition of a garage defined in Section 17.04.370 states that a "garage" means a building or a portion of a building thereof in which motor vehicles are stored, repaired, or maintained.

I propose the following amendment as an additional definition to the Gig Harbor Municipal Code:

*"**Parking Garage**" means a building or a portion of a building in which motor vehicles are "parked". This structure may be wholly or partially underground or incorporated into the structure of a building.*

Additionally, I offer the following amendment to the proposed new building size ordinance:

Sections 17.31.075 Max gross floor area
17.36.055 Max gross floor area
17.40.055 Max gross floor area
17.48.045 Max building size
17.50.045 Max building size

That the square footage of a parking garage used for the sole purpose of providing required parking in the development of new or existing buildings **not be** included in the calculation for the proposed size of a new building and that there would not be a maximum size limitation to a "parking garage".

Bonuses for use of a parking garage: An increase to a building's maximum square footage of 20% would be allowed provided that up to 50% of a building's required parking stalls are located within a "parking garage".

To the attention of the Gig Harbor City Council
3-28-05

From Carol Ann Johnson
4318 35th Ave. NW
Gig Harbor WA 98335

The Gig Harbor Planning Commission addressed issues raised by the City Council concerning View Corridor and Building Sizes as requested. The ordinance as presented tonight represents decisions made by the Planning Commission after joint meetings with the Design Review Board and public hearings. However, please note that much discussion also took place on the issue of the implementation of such ordinances.

I have regularly heard the Planning Commissioners and the Public speak of the pressing need for the DRB to enter into reviews of applicant's projects earlier in the planning process. The DRB can offer the consideration needed for decisions based upon the pattern of development if the DRB membership and procedures are expanded.

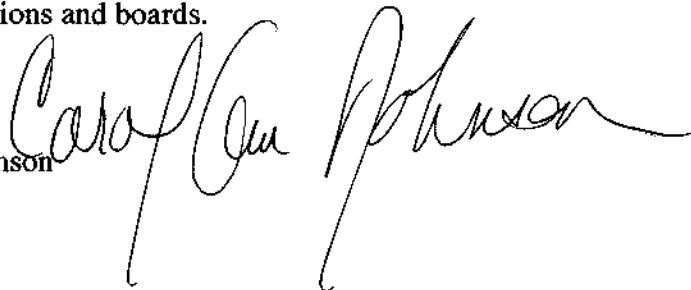
It is important for the City Council to consider that many members of the Planning Commission feel the View Corridor and Building Size Ordinance and the Historic Preservation Ordinance would be best implemented with additional expert membership on the Design Review Board and for 4 year staggered terms for members of the expanded DRB to allow for consistent expertise in matters brought before the DRB. Also the chartered procedures and powers for the DRB would best be expanded to include additional flexibility in their review process. As mentioned above, it has often been suggested that the involvement of the DRB earlier in a project's planning appears to be essential.

Please note especially well that statements made by the public in hearings conducted before the Planning Commission support this enhanced DRB approach for the above mentioned Ordinances. Public support for enhanced, 'early on' DRB involvement has also been noted in Planning Commission public hearings on many other Ordinances reviewed by the Commission in years past.

I urge the City Council to make the necessary tools available to the DRB to facilitate the development of the City of Gig Harbor as envisioned by its residents and as put forth in the well thought out decisions and recommendations of the city's commissions and boards.

Thank you,

Carol Ann Johnson
Citizen

A handwritten signature in cursive script that reads "Carol Ann Johnson". The signature is written in black ink and is positioned to the right of the typed name and title.

CORRECTED DRAFT

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING NEAR THE SHORELINE IN THE CITY'S HEIGHT RESTRICTION AREA, ADDING A NEW SECTION 17.04.877 TO THE GIG HARBOR MUNICIPAL CODE (GHMC) DEFINING A WATERFRONT VIEW CORRIDOR FOR PURPOSES OF PROTECTING VIEWS FROM SPECIFIED PUBLIC RIGHTS OF WAY; ADOPTING A NEW SECTION 17.78.095 GHMC TO ESTABLISH LANDSCAPING STANDARDS IN THE WATERFRONT VIEW CORRIDOR; ADOPTING A NEW SECTION 17.04.408 GHMC DEFINING HEDGES; ADOPTING A NEW SECTION 17.31.075 GHMC ESTABLISHING BUILDING SIZE LIMITS IN THE DB DISTRICT; AMENDING GHMC SECTION 17.36.055 ESTABLISHING BUILDING SIZE LIMITS IN THE B-2 DISTRICTS LOCATED IN THE HEIGHT RESTRICTION AREA; AMENDING GHMC SECTION 17.40.055 TO REDUCE THE MAXIMUM BUILDING SIZE IN THE C-1 DISTRICT LOCATED IN THE HEIGHT RESTRICTION AREA; AMENDING GHMC SECTION 17.48.040 TO PROVIDE A SPACING REQUIREMENT BETWEEN STRUCTURES AND ELIMINATE REFERENCE TO GROSS FLOOR AREA LIMITS IN THE WM DISTRICT; ADDING A NEW SECTION 17.46.045 TO THE GIG HARBOR MUNICIPAL CODE TO REDEFINE BUILDING SIZE LIMITS IN THE WR DISTRICT; ADDING A NEW SECTION 17.48.045 TO THE GIG HARBOR MUNICIPAL CODE TO REDEFINE BUILDING SIZE LIMITS IN THE WM DISTRICT; AMENDING GHMC SECTION 17.50.045 ESTABLISHING MAXIMUM BUILDING SIZE LIMITS IN THE WC DISTRICTS.

WHEREAS, a large portion of the City of Gig Harbor is characterized by views of Gig Harbor bay and the small scale buildings that reflect the historic development of the harbor basin.

WHEREAS, the City of Gig Harbor's Comprehensive Plan has the stated goal to "Preserve the character of those sites or districts which reflect the style of Gig Harbor's historical development" (Goal 3.13); and

WHEREAS, the City of Gig Harbor's Comprehensive Plan has the stated objectives to:

Develop guidelines which promote compatible development within designated areas. (Objective 3.13.2)

Consider standards which encourage building forms consistent with historic designs, (e.g., massing, roof styles and scale," (Objective 3.14.2)

Define and retain "small town" characteristics of historic business districts. (Objective 3.15.1); and

WHEREAS, the City of Gig Harbor's Comprehensive Plan has the stated goal to "Control vegetation to preserve significant views" (Goal 3.18); and

WHEREAS, the City of Gig Harbor has received numerous complaints from the public regarding large buildings recently built in the height restriction area, which have been found by many members of the public to be out of scale and character with the historic development patterns in the height restriction area; and

WHEREAS, in response to the public outcry over large buildings and view impacts in the height restriction area, the City proceeded as follows:

1. The City hired a consultant – Perteet Engineering – to explore the economic impacts of limiting building sizes throughout the City;
3. Perteet Engineering conducted public meetings and interviewed stakeholders to solicit input on the building size issue in order to formulate draft findings pertaining to limiting building sizes;
4. Perteet Engineering conducted public hearings on proposed code amendments pertaining to building size limitations;
5. The public comments at the public meetings and hearings addressed other concerns in addition to building size, including view protection and vegetation control;
6. On July 12, 2004, the Gig Harbor City Council passed Ordinance No. 965, imposing an immediate moratorium on the acceptance of applications for new development or certain types of re-development within the height restriction area as shown on the official height restriction map;
7. On September 13, 2004, the City Council passed Ordinance No. 968, which adopted findings and conclusions supporting the continued maintenance of the moratorium;
8. On November 8, 2004, the Gig Harbor City Council adopted ordinance 974 amending the City's Design Manual to, in part, (a) impose additional height limits on non-residential structures within the historic district portion of the view basin, (b) limit the use of tall vegetation in addressing buffering issues in the view basin, and (c) eliminate the allowance for additional height on primary structures in the view basin;
9. The City Council directed the Community Development Committee to discuss remaining and outstanding issues raised by the public at the public meetings and hearings and to draft recommendations for the full-council's consideration;

10. An outline of the Community Development Committee's proposed text amendments was presented to the City Council on January 10, 2004;

11. The City Council determined that additional time was needed to both allow planning commission and public review of the proposed text amendments and also to allow a 60-day review of the amendments by State agencies pursuant to RCW 36.70A.106;

12. The City Council passed ordinance No. 986 on January 10, 2005 extending the moratorium for an additional 90 days to allow time to proceed with the recommendations of the Community Development Committee, which the Council forwarded as a Council-initiated text amendment;

13. The City Council held a public hearing on the moratorium extension on February 14, 2005 pursuant to RCW 36.70A.390 and RCW 35A.63.220;

14. Joint worksessions between the City's Design Review Board and Planning Commission (hereafter referred to as the "joint committee") were held on February 10, 2005 and February 17, 2005 to consider the City Council's proposed text amendments. The joint committee discussed at length the importance of both view protection and retention of community character in terms of building size and building separation. The joint committee discussed existing view opportunities and reviewed information on existing building sizes in the historic district. The building size information considered by the joint committee provided information on the larger and more prominent buildings in the historic district, and the committee also considered the more numerous smaller buildings in the historic district. From the information provided, the joint committee determined that the Harbor Inn building located in WC district on Harborview Drive was representative of the average historic commercial building in terms of its footprint size (approximately 3000 square feet) and square footage as seen from the street level (approximately 6,000 square feet), and that the slope of the land in the WC district made possible additional and less visible square footage in a basement level of the Harbor Inn. The joint committee recognized that there were differences in the historic development patterns of each district located near or abutting the shoreline. The joint committee further recognized that the C-1 district abutting the shoreline was recently purchased by the Gig Harbor Historical Society, which has plans to develop a museum on the site that would be larger than the size limitations proposed by the City Council. The joint committee therefore determined that there should be no changes to the 65,000 square-foot building size limit in this district at this time. Additionally, the joint committee determined that in addition to the building size limits, existing setback provisions were sufficient to provide viewing opportunities from Harborview Drive and North Harborview Drive and no additional restrictions in setbacks or floor area restrictions (i.e., floor area ratio provisions) should be imposed. Finally, the joint committee determined that vegetation limitations along the shoreline would be difficult to administer.

15. The Planning Commission held a public hearing on the proposed text amendments on March 3, 2005 and after the hearing made a final recommendation to the City Council. As part of their recommendation, and in response to public input, the Planning Commission concurred with the

recommendation of the joint committee but determined that vegetation restrictions were important to the protection of views and that the building size limit in the C-1 zone should be reduced be approximately half (35,000 square feet) in order to be closer in line with the smaller building size limitations imposed elsewhere in near the shoreline; and

WHEREAS, the City of Gig Harbor desires to preserve and perpetuate the small scale of structures in the DB district that directly abuts waterfront districts; and

WHEREAS, the City of Gig Harbor desires to protect views of the harbor along the Harborview Drive and North Harborview Drive public rights-of-way for public enjoyment; and

WHEREAS, expansive building footprints and associated expansive and continuous roof forms can result in significant obstructions to views of the harbor as seen from Harborview Drive and North Harborview Drive public rights-of-way; and

WHEREAS, structures contained to smaller footprints require smaller, less expansive roof planes than more expansive footprint structures require and therefore have less impacts on views over the tops of structures; and

WHEREAS, limiting total floor area to a size that would be similar to the building size achievable by limiting the footprint size may result in a building with a wider footprint and a more expansive roof plane, but it would in that case result in a building of a lower height, thereby providing alternate but similarly effective ways of protecting views from Harborview Drive and North Harborview Drive; and

WHEREAS, views opportunities potentially created by required setbacks of structures can be impacted or lost as a result of fences and vegetation placed within view corridors; and

WHEREAS, large structures recently built in the non-residential zones within the harbor basin have adversely impacted the visual quality of the harbor basin because of their scale in relation to the historic structures that characterize the harbor basin; and

WHEREAS, the City Council has proposed amendments that are intended to protect views of the water from Harborview Drive and North Harborview Drive public rights-of-way by establishing said rights-of-way as a public waterfront view corridor and by limiting the amount of new vegetation that may limit views in said view corridor and by maintaining the small scale structures that characterize the historic structures in and near said corridor, which are also located in the City's historic district; and

WHEREAS, the City Council agrees with the joint committee's determination that in order to balance the need to protect and retain public views of the harbor with the need to retain the historic development patterns within the view basin, it is necessary to vary the building size and separation requirements among the various districts near or abutting the shoreline, which includes the DB, WC, WR, WM, B-2 and C-1 districts abutting Harborview Drive and/or North Harborview Drive. Specifically, the Council finds that:

(a) The historic development pattern of the DB district includes small scaled buildings with little or no separation between them (typical of most historic downtowns) and the visible portion of the Harbor Inn building as seen from the street (approximately 6,000 square feet) is an appropriate scale of building for the DB district;

(b) The historic development pattern of the WC district along North Harborview Drive in the Finholm Market area is also characterized by small scale buildings with little or no separation between them;

(c) The Harbor Inn building located in the WC district on Harborview Drive is representative of the historic structures in both the WC and DB district, but the slope of the land in the WC district makes it possible to have more square footage than structures in the DB district because the WC district's sloped topography provides opportunity for a basement level that would be largely unseen from the street level. Therefore, limiting the footprint of the building in the WC district as opposed to limiting the total square footage (as in the DB district) will provide opportunity for buildings at least as large as the 6,000 square foot buildings located across the street in the DB district, and for potentially larger buildings that would nonetheless be in scale with smaller 6,000 square foot buildings in the DB district, which has a generally level topography that does readily facilitate a basement level.

(d) Unlike the WC district located in the Finholm Market Area, the WC districts lying both north of the Stinson/Harborview Drive intersection and across the street from the DB district are not characterized by structures with no separation between them. Existing development patterns included wide areas of separation between structures. Because there is no historic development patterns of connected structures in these locations, and because existing development in these areas now provide some viewing opportunities between structures, it is appropriate to limit buildings in these areas to a size that respects the historic building sizes of the shoreline, but that also provides opportunity for views between structures.

(e) The WM and WR districts are characterized by smaller-scaled homes and neighborhood businesses than are found in the DB, WC, B-2 and C-1 districts in the view basin. The Council's initially proposed footprint limitations would ensure protection of both views and architectural character of WM and WR districts, but may be burdensome to businesses that require more square footage on a single level than 2000 square feet. A 2,000 square foot footprint along with the Basic Structure Unit allowance defined in the City's Design Manual would allow a building of approximately 3000 – 3,500 square feet of total space – depending on topography and the opportunity for a daylight basement, but only

2,000 square feet of floor area would be possible on a single level. Accordingly, both a 3,500 square-foot floor area maximum or a 2,000 square foot footprint limitation would be appropriate for both protecting views and retaining an appropriate scale of building for these districts. Moreover, it makes sense to allow the property owner to choose between these two options because it will allow the owner to consider topographic advantages when determining how to develop his or her property.

WHEREAS, the proposed text amendments are consistent with the goals, objectives, and policies of the Comprehensive Plan; and

WHEREAS, the City's SEPA Responsible Official issued a Determination of Nonsignificance (DNS) for the proposed text amendment on January 27, 2005 pursuant to WAC 197-11-350; and

WHEREAS, the City Community Development Director forwarded a copy of this Ordinance to the Washington State Department of Trade and Community Development on January 27, 2005, pursuant to RCW 36.70A.106; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on March 3, 2005, and made a recommendation of approval to the City Council, subject to amendments recommended by the Planning Commission as incorporated herein; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of _____, 2005; Now, Therefore,

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

Section 1. A new section 17.04.877 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

17.04.877 Waterfront View Corridor

"Waterfront view corridor includes all parcels located between the shoreline of Gig Harbor bay and either Harborview Drive or North Harborview Drive, excluding parcels located north of or abutting Rust Street (originally named Walnut Street) as shown on the original Artena Addition plat recorded on August 23, 1890.

Section 2. A new section 17.78.095 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

17.78.095 Waterfront View Corridor Landscaping

All development within Waterfront View Corridors shall conform to the following landscape standards.

A. HEDGES

Hedges shall conform to the height limits for fences defined in Chapter 17.99.

B. LANDSCAPING IN SIDE YARDS

In addition to the landscaping provisions of Section 2.2.01 of Chapter 17.99, the following additional landscaping standards apply to all side yards:

1. Trees are prohibited.
2. Shrubs and bushes shall not exceed a height of 5 feet, except that shrubs or bushes that form a continuous vegetative mass in a hedge or hedge-like fashion and which are located along the perimeter of the property shall not exceed the height limits for fences.
3. Landscaping plans submitted for non-residential and multifamily residential development under the provisions of Section 17.96.050 shall specify plant species in side yards that are not expected to grow higher than 5 feet.

Section 3. A new Section 17.04.408 of the Gig Harbor Municipal Code is hereby adopted, to read as follows:

17.04.408 Hedge.

"Hedge" is a row of closely planted shrubs, bushes, or trees aligned in a linear fashion forming a screen, fence, or boundary.

Section 4. A new Section 17.31.075 of the Gig Harbor Municipal Code is hereby adopted to read as follows:

17.31.075 Maximum gross floor area

In the DB district, the maximum gross floor area per building is 6,000 square feet. Multiple buildings on the same site shall be separated by a non-penetrated fire wall as defined in the International Fire Code except that a single 6-foot opening in the firewall separating structures is permissible provided that each structure has an outside customer entrance accessible to the street. Each structure shall be designed to stand independent of other structures on the site (i.e., the addition or removal of any one building on a site will not require structural attachments or modifications to any other building on the site.)

Section 5. Section 17.36.055 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.36.055 Maximum gross floor area

The maximum gross floor area per commercial structure is 35,000 square feet, except that in with the following exceptions:

1. In the Olympic Village Activity Center and the Westside General Business (B-2) district the maximum gross floor area per commercial structure is 65,000 square feet.
2. In the B-2 district abutting North Harborview Drive (the area commonly known as Finholm Market) the maximum gross floor area per building is 6,000 square feet. Multiple buildings on the same site shall be separated by a non-penetrated fire wall as defined in the International Fire Code except that a single 6-foot opening in the firewall separating structures is permissible provided that each structure has an outside customer entrance accessible to the street. Each structure shall be designed to stand independent of other structures on the site (i.e., the addition or removal of any one building on a site will not require structural attachments or modifications to any other building on the site.)
3. In the B-2 district near the intersection of Harborview Drive and North Harborview Drive (the intersection commonly known as Borgen's Corner), the maximum gross floor area per building is 6,000 square feet with a minimum separation of 20 feet between buildings.

Section 6. Section 17.40.055 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.40.055 Maximum gross floor area

The maximum gross floor area per commercial structure is 65,000 square feet, except that in the C-1 district abutting Harborview Drive the maximum gross floor area per building is 35,000 square feet with a minimum separation of 20 feet between buildings.

Section 7. A new Section 17.46.045 of the Gig Harbor Municipal Code is hereby adopted to read as follows:

17.46.045 Maximum building size.

Each structure in the WR district shall be limited in size according to one of the following options:

A. 3,500 square feet total size, including each story of a building (finished or unfinished) as defined in GHMC Section 17.04.750, and including all habitable space* with a finished ceiling height of 5 feet or greater, and including garages, carports, shops and similar work or storage rooms, and also including non-walled stand-alone structures such as pavilions and gazebos which are not incidental and secondary extensions of fully enclosed structures, but excluding covered decks and porches; or

B. A total footprint of 2000 square feet, which may be extended to accommodate a front porch or colonnade. The building footprint shall be

measured from the outside edge of all exterior walls (including walls on cantilevered projections), posts, and columns, and shall not include eave overhangs of up to 24 inches or uncovered decks of up to 60 inches above grade. Within this footprint, all structures, including non-residential, are eligible for the height and massing allowed for Basic Structure Units (BSU's) as described under Section 3.14.02(1)(b) of chapter 17.99 GHMC.

*"Habitable space" as used in this section, shall mean: a space in a building for living, sleeping, eating or cooking, and shall also include bathrooms, toilet rooms, closets, halls, storage rooms and utility rooms. Habitable space does not include attic areas that have no finished floors or finished interior walls.

Section 8. Section 17.48.040 of the Gig Harbor Municipal Code is hereby amended to read as follows:

17.48.040 Development standards.

A minimum lot area for new subdivisions is not specified. The minimum development standards are as follows:

	Single-family Dwelling	Attached up to 4 units	Non-residential
A. Minimum lot area (sq. ft.) ¹	6,000	6,000/unit	15,000
B. Minimum lot width	50'	100'	100'
C. Minimum front yard ²	20'	20'	20'
D. Minimum side yard	8'	10'	10'
E. Minimum rear yard	25'	25'	25'
F. Minimum yard abutting tidelands	0'	0'	0'
G. Maximum site impervious coverage	50%	55%	70%
H. Maximum density ³	3.5 dwelling units per acre		
I. Maximum gross floor area	N/A	N/A	3,500 sq. ft. per lot
<u>I. Separation between structures</u>	<u>20'</u>	<u>20'</u>	<u>20'</u>

Section 9. A new Section 17.48.045 of the Gig Harbor Municipal Code is hereby adopted to read as follows:

17.48.045 Maximum building size.

Each structure in the WM district shall be limited in size according to one of the following options:

A. 3,500 square feet total size, including each story of a building (finished or unfinished) as defined in GHMC Section 17.04.750, and including all habitable space* with a finished ceiling height of 5 feet or greater, and including garages, carports, shops and similar work or storage rooms, and also including non-walled stand-alone structures such as pavilions and gazebos which are not incidental and secondary extensions of fully enclosed structures, but excluding covered decks and porches; or

B. A total footprint of 2000 square feet, which may be extended to accommodate a front porch or colonnade. The building footprint shall be measured from the outside edge of all exterior walls (including walls on cantilevered projections), posts, and columns, and shall not include eave overhangs of up to 24 inches or uncovered decks of up to 60 inches above grade. Within this footprint, all structures, including non-residential or multifamily structures, are eligible for the height and massing allowed for Basic Structure Units (BSU's) as described under Section 3.14.02(1)(b) of Chapter 17.99 GHMC.

*"Habitable space" as used in this section, shall mean: a space in a building for living, sleeping, eating or cooking, and shall also include bathrooms, toilet rooms, closets, halls, storage rooms and utility rooms. Habitable space does not include attic areas that have no finished floors or finished interior walls.

Section 10. A new Section 17.50.045 of the Gig Harbor Municipal Code is hereby adopted to read as follows:

17.50.045 Maximum building size

Each structure in the WC district shall be limited in size as follows:

1. In the WC district abutting the DB (downtown business) district, the maximum building footprint is 3000 square feet. Multiple buildings on the same site shall have a minimum 20-foot separation between structures.
2. In the WC district abutting North Harborview Drive (the area commonly known as Finholm Market) the maximum building footprint is 3000 square feet. Multiple buildings on the same site shall be separated by a non-penetrated fire wall as defined in the International Fire Code except that a single 6-foot opening in the firewall separating structures is permissible provided that each structure has an outside customer entrance accessible to the street. Each structure shall be designed to stand independent of other structures on the site (i.e., the addition or removal of any one building on a site will not require structural attachments or modifications to any other building on the site.)

3. In the WC district abutting Harborview Drive and lying north of the Stinson/Harborview Drive intersection (the area commonly known as Murphy's Landing), the maximum building footprint is 3000 square feet. Multiple buildings on the same site shall have a minimum 20-foot separation between structures.

Section 11. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, clause or phrase of this Ordinance.

Section 12. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this ___ day of _____, 2005.

CITY OF GIG HARBOR

GRETCHEN WILBERT, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

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