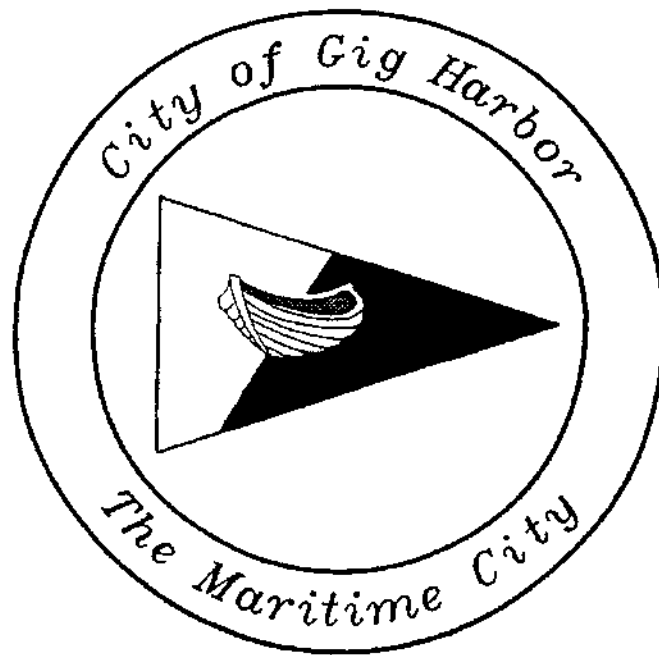


Gig Harbor City Council Meeting



February 28, 2000

AGENDA FOR GIG HARBOR CITY COUNCIL MEETING
February 28, 2000

CALL TO ORDER:

CONSENT AGENDA:

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

1. Approval of the Minutes of the February 14, 2000, City Council Meeting.
2. Correspondence / Proclamations:
3. Hearing Examiner Pro Tem Contract.
4. Design Engineering for Water Storage Tanks - Consultant Services Contract.
5. Approval of Payment of Bills for February 14, 2000:
Checks #24352 through 24358 for \$136,671.63.
6. Liquor License Assumption - Texaco Star Mart.
7. Liquor License Discontinued - Flowers on the Bay, Inc.
8. Special Occasion Liquor License - GHHS Meistersingers.

OLD BUSINESS:

1. Court Consolidation.
2. Contract Award - Springbrook Software.

NEW BUSINESS:

1. Banking Service Agreement.
2. Pape Sewer/Water Request.
3. Wollochet Harbor Sewer District Contract Amendment.
4. Pump Station 3 Property - Selection of Condemnation Attorney.

PUBLIC COMMENT/DISCUSSION:

COUNCIL COMMENTS / MAYOR'S REPORT:

STAFF REPORTS:

GHPD Stats for January - Lt. Bill Colberg.

ANNOUNCEMENT OF OTHER MEETINGS:

EXECUTIVE SESSION: For the purpose of discussing pending litigation per RCW 42.30.110(i). No action will be taken after the session.

ADJOURN:

DRAFT

GIG HARBOR CITY COUNCIL MEETING OF FEBRUARY 14, 2000

PRESENT: Councilmembers Ekberg, Young, Robinson, Owel, Dick, Picinich, Ruffo and Mayor Wilbert. .

CALL TO ORDER: 7:06 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 the January 24 and February 8, 2000, City Council Meetings.
2. Correspondence / Proclamations:
 - a. Letter from Krystal Wood - Narrows Bridge.
 - b. Letter to the Mayor of Takuma, Japan.
 - c. Pierce County Regional Council.
3. Rosedale Street Improvement Project - Change Order No. 5.
4. Purchase Authorization - Equipment Trailer.
5. Purchase Authorization - Zero Turning-Radius Mower.
6. Contract Award - Springbrook Software.
7. Communications Maintenance Contract.
8. Approval of Payment of Bills for February 14, 2000:
Checks #24243 - 24351 for \$291,973.38. Check #24242 is Void.
9. Approval of Payroll for the month of January, 2000.
10. Special Occasion Liquor Licenses: GHHS Sports Boosters Navy League

Mayor Wilbert announced that Dave Rodenbach, Finance Director, had requested that item number six, the Contract Award for Springbrook Software, be removed from the consent agenda and brought back for consideration at the next meeting after amendments had been suggested by Legal Counsel.

Councilmember Dick asked that item number seven, the Communications Maintenance Contract with Pierce County, be moved to new business as he would have to abstain from the vote as an employee of Pierce County.

MOTION: Move to approve the Consent Agenda as amended.
Picinich/Ruffo - unanimously approved.

OLD BUSINESS: None scheduled.

Councilmember Dick recommended moving New Business items six and seven, Resolution of Appreciation for Councilmembers Markovich and Platt to the beginning of New Business as Mr. Markovich was in the audience.

MOTION: Move to move agenda items 5 & 6 to the beginning of New Business.
Dick/Picinich - unanimously approved.

NEW BUSINESS:

1. Resolution of Appreciation - Councilmember Nick Markovich. Mayor Wilbert thanked Councilmember Markovich for his service and read the Resolution of Appreciation aloud. Councilmember Owel said that she found Nick to be an articulate person, and added that she appreciated his wisdom and admired the fact that he expressed himself with grace and discernment, which she considered a great contribution.

MOTION: Move to approve Resolution No. 546.
Dick/Ruffo - unanimously approved.

2. Resolution of Appreciation - Councilmember Corbett Platt. Mayor Wilbert read the personalized paragraph of this resolution thanking Corbett for his service to the City of Gig Harbor.

MOTION: Move to approve Resolution No. 547.
Picinich/Young - unanimously approved.

3. Burnham Drive Water Main Extension - Spadoni Easement Agreement. Dave Skinner, Public Works Director, explained that this easement was necessary for the construction of the water line from Bujacich Road to Burnham Drive. He described the terms requested by Mr. Spadoni as consideration for the easement requested by the City, which include a credit toward future water hook up fees, the installation of valve for future use, and a commitment that no assessment for the cost of the project will be imposed against the property.

MOTION: Move to authorize the easement agreement as presented.
Dick/Young - unanimously approved.

4. Skateboard Park Construction - Bid Award. Dave Skinner requested award of the construction bid for the Skate Park to T.F. Sahli, who has built seven of these parks. He gave an overview of the process that led to the bid award and answered Councilmembers' questions about the bidding process and construction timelines. Councilmember Ekberg said he was pleased to see this project come closer to conclusion and pulled out his support Gig Harbor Skatepark t-shirt with the logo "Ticket Free in '98" and made the following motion.

MOTION: Move to execute the contract for the Skatepark with Sahli Construction in an amount not to exceed \$237,600 dollars.
Ekberg/Robinson - unanimously approved.

5. Hilliard Sewer Request. Mark Hoppen, City Administrator, explained that Mr. Ken Hilliard had requested one ERU of residential sewer to the city system due to a failed

septic system. He said that Mr. Hilliard lived on Purdy Drive and had been advised by engineers to hook up to the pressurized line along SR-302 if possible. He gave a brief overview of the sewer line project adding that other connections were anticipated in the design of the line, necessitating payment of a latecomer's fee to Peninsula School District. Councilmember Robinson asked if it would be prudent for other residents along the line to group together to minimize the cost of connecting to the line. Mr. Hoppen explained that it was unlikely that residents with functional systems would be desirous to spend the funds on connection. He added that he had yet to be contacted in recent years by any of these homeowners seeking connection until Mr. Hilliard came forward.

MOTION: Move to extend one ERU of sewer to the Hilliard residence.
Picinich/Owel - unanimously approved.

6. Agreement for Emergency Management. Mark Hoppen explained that the city satisfied state requirements for emergency management services by contracting with Pierce County. He added that this agreement was different than ones in the past, as it was for a five-year period with memorandum of update each year which provides for a cost of living adjustment. Councilmember Dick recused himself and left the room as an employee of Pierce County.

MOTION: Move to approve the Emergency Management Agreement in the amount of \$4,080.51.
Owel/Picinich - unanimously approved.

7. Resolution - Additional Employee Benefits. Mark Hoppen explained that during the past year, discussion has arisen about the lack of short-term disability coverage for employees. He explained that this concern led to Dave Rodenbach contacting a representative from AFLAC to explore an opportunity to provide various supplemental coverage to employees at no cost to the city. Dave Rodenbach explained the program and recommended approval of the resolution amending the Personnel Policy to reflect this additional benefit.

MOTION: Move to approve Resolution No. 548 adding additional employee benefits.
Young/Robinson - unanimously approved.

8. Resolution - Declaration of Surplus Property. Dave Skinner presented this resolution declaring vehicles and other items of city property as surplus and eligible for sale.

MOTION: Move to approve Resolution No. 549 as presented.
Young/Ekberg - unanimously approved.

9. Contract Award - Springbrook Software. It was determined that this item was removed from the consent agenda and would come back at the next meeting for consideration. There was discussion regarding the software and Councilmembers voiced their concerns about the contract.

10. Communications Maintenance Contract. Mark Hoppen's memo explained that this is a yearly renewal of the maintenance contract for the two-way radios used by the Police and Public Works Department.

MOTION: Move to approve the Communications Maintenance Contract with Pierce County.
Ruffo/Ekberg - six voted in favor. Councilmember Dick abstained as an employee of Pierce County.

PUBLIC COMMENT/DISCUSSION:

COUNCIL COMMENTS / MAYOR'S REPORT:

Mayor Wilbert announced that she had attended the annual meeting of F.I.S.H. and added that the city can be proud of this volunteer organization that has provided social services to the community for over 23 years. She passed around a copy of their latest audit report and an agenda of the meeting.

She then reported that two of the three scheduled meetings to review the Borgen property had taken place. She said that many ideas had come forth, and a compilation of these ideas would be put in survey form to be mailed to the Ad Hoc Committee for consideration. She said that approximately 35-40 people had attended the sessions. The next session is scheduled for Saturday, February 26th.

STAFF REPORTS: None scheduled.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Third and final Walkabout for the Borgen Property - Saturday, February 26th at 9:00 a.m.
2. Pierce County Regional Council General Assembly Meeting - Thursday, February 17, 2000 at University Place City Hall - 7:00 p.m.

EXECUTIVE SESSION: For the purpose of discussing pending and potential litigation per RCW 42.30.110(i).

MOTION: Move to adjourn to executive session at 8:10 p.m. for approximately 45 minutes.
Picinich/Ruffo - unanimously approved.

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

MOTION: Move to go back into Executive Session for approximately 30 minutes.
Owel/Picinich - unanimously approved.

MOTION: Move to return to regular session at 9:10 p.m.
Picinich/Ruffo - unanimously approved.

MOTION: Move to authorize Legal Counsel to file a lawsuit against Pierce County for the Abu-Rish and Associates Land Use Application.
Owel/Ekberg - unanimously approved.

URN:
MOTION: Move to adjourn at 9:14 p.m.
Owel/Picinich - unanimously approved.

Cassette recorder utilized.
Tape 556 Side A 220 - end.
Tape 556 Side B 000 - end.
Tape 557 Side A 000 - 270.

City Clerk

tyor



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: HEARING EXAMINER PRO TEM CONTRACT
DATE: FEBRUARY 19, 2000

INFORMATION/BACKGROUND

Mr. Donald Marcy is serving as Hearing Examiner for the city with respect to the East-West Road SEPA appeal. The attached contract formalizes payment for these services.

CONTRACTURAL ISSUES

This contract defines the Hearing Examiner duties as those duties that are defined by city code and Washington state statute. The agreement clarifies the employment relationship of the Hearing Examiner to the city. The agreement was approved as to form by the legal counsel previously.

RECOMMENDATION

Staff recommends approval of this contract as presented.

**CONTRACT FOR PRO TEM HEARING
EXAMINER SERVICES FOR
THE CITY OF GIG HARBOR**

THIS AGREEMENT is entered into on this date by and between the City of Gig Harbor (hereinafter the "City"), a Washington municipal corporation, and Donald E. Marcy, Cairncross & Hempelmann, 701 Fifth Avenue #7000, Seattle, WA 98104-7016 (hereinafter the "Hearing Examiner Pro Tem").

RECITALS

WHEREAS, there are instances when the City's Hearing Examiner has a conflict and cannot perform services; and

WHEREAS, there is a need to have additional Hearing Examiner Services available for these instances; and

WHEREAS, the Mayor has appointed and the City Council wishes to contract with the Hearing Examiner Pro Tem under the terms and conditions set forth herein; and

In consideration of the mutual benefits to be derived by the parties herein, the parties agree as follows:

TERMS

1. Duties. The Hearing Examiner Pro Tem shall perform all of the duties set forth in Chapter 17.10 GHMC and all other actions reasonably necessary to fulfill the obligations of the position, as established by state statute or City ordinance. The provisions of RCW 35.63.130 are incorporated by this reference as if fully set forth herein.

2. Compensation.

A. The Hearing Examiner shall provide services to the City at an hourly rate of Two Hundred ,Twenty-five Dollars (\$225.00) for performance of the duties described herein.

B. The City shall reimburse the Examiner Pro Tem for the Examiner Pro Tem's travel between Gig Harbor and the Examiner Pro Tem's office at the rate of Thirty-One and One-Half Cents (\$.315) per mile. The City shall also reimburse the Examiner Pro Tem for the Examiner Pro

Tem's actual costs involved in photocopying, mailing, faxing and telephone expenses incurred in the performance of the Examiner Pro Tem's duties.

3. Term. This Agreement shall be effective upon execution, and continue until completion of all of the Hearing Examiner Pro Tem Pro Tem's responsibilities with respect to an Application.

4. Billing and Payment. The Hearing Examiner Pro Tem shall submit a final invoice to the City within thirty (30) days after the decision is rendered an Application. The City shall make payments to the Examiner Pro Tem, which payment shall be considered by the City Council at the regular meeting following receipt of the Examiner Pro Tem's invoice.

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

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

7. Independent Contractor. The Examiner Pro Tem is an independent contractor for the performance of services under this Agreement. The Examiner Pro Tem is also an appointed City official for purposes of Chapter 2.19 GHMC. The City shall not be liable for, nor obligated to pay to the Examiner Pro Tem, or any employee of the Examiner Pro Tem, sick leave, vacation pay, overtime or any other benefit applicable to employees of the City, nor to pay or deduct any social security, income tax, or other tax from the payments made to the Examiner Pro Tem which may arise as an incident of the Examiner Pro Tem performing services for the City. The City shall not be obligated to pay industrial insurance for the services rendered by the Examiner Pro Tem.

8. Taxes. The Examiner Pro Tem will be solely responsible for the payment of any and all applicable taxes related to the services provided under this Agreement and if such taxes are required to be passed through to the City by law, the same shall be duly itemized on any billings submitted to the City by the Examiner Pro Tem.

9. Conflicts of Interest. Performance of the duties required by this Agreement shall not preclude the Examiner Pro Tem or the law firm of Cairncross & Hempelmann, P.S. from representing parties in future matters before the City that the Examiner Pro Tem has not heard testimony or otherwise performed the duties in Chapter 17.10 GHMC.

10. Indemnity. The Hearing Examiner Pro Tem's indemnification by the City is covered by Chapter 2.19 of the Gig Harbor Municipal Code.

11. Nonexclusive Contract. This shall be a non-exclusive contract. The City reserves the right to appoint additional Hearing Examiner Pro Tems and to contract for additional services in the future. Nothing herein shall be interpreted to prohibit such future appointments nor to guarantee renewal of this Agreement, its level of payment, nor the level of cases forwarded to the Examiner Pro Tem in future years. The City reserves the right to renegotiate any and all provisions of this Agreement for future contract terms.

12. Integration. The written provisions and terms of this Agreement shall supersede all prior verbal statements of any officer or representative of the City, or any prior agreements between the parties, and such statement or prior agreements shall not be effective or be construed as entering into, forming a part of, or altering this Agreement in any way.

13. Termination. This Agreement may be terminated by the City or the Examiner Pro Tem for any reason upon thirty (30) days written notice. Any such notice shall be given by the terminating party to the other party at the address specified below. In the event of termination, the City shall pay for all services satisfactorily performed by the Examiner Pro Tem to the effective date of termination, as described in the Examiner Pro Tem's final report submitted to the City. No payment shall be made for any work completed after the termination date. In the event that services of the Examiner Pro Tem are terminated by the City for fault on part of the Examiner Pro Tem, the amount to be paid shall be determined by the City with consideration given to the actual cost incurred by the Examiner Pro Tem in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the City at the time of termination, the cost to the City of employing another individual to complete the work required, and the time which may be required to do so. Upon termination, the City may take possession of all records and documents in the Examiner Pro Tem's possession pertaining to or arising out of the Examiner Pro Tem's duties under this Agreement.

14. Resolution of Disputes. Any disputes, misunderstandings or conflicts except for those relating to chapter 2.19 GHMC, shall first be referred to the Mayor, and the Mayor shall determine the term or provision's true intent or meaning. The Mayors decision shall be final.

15. Waiver. The failure of either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed to be a waiver or relinquishment of said Agreement provision, and the same shall remain in full force and effect.

16. Severability. In the event that any provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid, the remaining provisions shall remain in full force and effect.

17. Notice. Notice given pursuant to this Agreement shall be given in writing to the parties as follows:

City of Gig Harbor:

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

Hearing Examiner Pro Tem:

Donald E. Marcy
Cairncross & Hempelmann
701 Fifth Avenue #7000
Seattle, WA 98104-7016

DATED this 10th day of February, 2000.

CITY OF GIG HARBOR

HEARING EXAMINER PRO TEM

By: _____
Mayor

By: Donald E. Marcy
Donald E. Marcy

APPROVED FOR FORM:

Carol A. Morris, City Attorney



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: DAVID R. SKINNER, P.E., PUBLIC WORKS DIRECTOR
SUBJECT: DESIGN ENGINEERING FOR WATER STORAGE TANKS
- CONSULTANT SERVICES CONTRACT
DATE: FEBURARY 10, 2000

DRS

INTRODUCTION/BACKGROUND

Budgeted objectives for 2000 include the design and maintenance contract for the water storage tanks at Skansie and Well No.3. This maintenance includes repainting the exterior of the Skansie tank and cleaning the exterior and repainting the interior of the Well No. 3 storage tank. Due to the unique nature of the work the City will use a consultant with the required expertise for the design and specifications preparation of water storage tanks.

After reviewing the Consultant Services Roster, four firms were contacted for the project. Based on telephone interviews and evaluation of materials submitted for review, the engineering firm of TetraTech / KCM, Inc. was selected as the most qualified to perform the work. Their selection was based on their understanding of the project, familiarity with the City's water system, and extensive storage tank maintenance experience.

The scope includes the design and specification preparation for the painting of the water storage tanks at Skansie and Well No. 3. An optional task has been included for supplemental work as needed in support of other projects.

POLICY CONSIDERATIONS

TetraTech / KCM, Inc. is able to meet all of the City's standard insurance provisions for professional services contracts.

RECOMMENDATION

I recommend that the Council move and approve execution of the Consultant Services Contract with TetraTech / KCM, Inc. for design work in the amount not to exceed five thousand four hundred dollars and no cents (\$5,400.00).

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
TETRA TECH/KCM, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and KCM, Inc., dba Tetra Tech/KCM, Inc., organized under the laws of the State of Washington, located and doing business at 1917 First Avenue, Seattle, Washington 98101-1027 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the design of the painting of the exterior and interior of two City Water Storage Tanks, 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 8, 2000, including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

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

I. Description of Work

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

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Five thousand four hundred dollars and no cents (\$5,400.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**; unless the parties agree to a modification of this Contract, pursuant to Section XVIII herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen

(15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

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

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. . The parties agree that the work described in **Exhibit A** shall be completed by December 31, 2000; 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 one consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

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

reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

VI. Discrimination

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

VII. Indemnification

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

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

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

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

VIII. Insurance

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

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

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

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

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

E. It is the intent of this contract for the Consultant's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

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

IX. Exchange of Information

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

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise. Consultant shall not be held liable for reuse of documents or modifications thereof by the City or its representatives, including electronic media, for any purpose other than intended by this Agreement without the written authorization of Tetra Tech/KCM, Inc.

XI. City's Right of Inspection

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

XII. Consultant to Maintain Records to Support Independent Contractor Status

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

XIII. Work Performed at the Consultant's Risk

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

XIV. Non-Waiver of Breach

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

XV. Resolution of Disputes and Governing Law

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

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

XVI. Written Notice

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

CONSULTANT
Lowell Warren, Project Manager
KCM, Inc., dba Tetra Tech/KCM, Inc.
1917 First Avenue
Seattle, Washington 98101-1027

David R. Skinner, P.E.
Director of Public Works
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

XVII. Assignment

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

XVIII. Modification

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

XIX. Entire Agreement

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2000.

CONSULTANT
By: 
Its Principal

CITY OF GIG HARBOR
By: _____
Mayor

Notices to be sent to:

CONSULTANT
Lowell Warren, Project Manager
KCM, Inc., dba Tetra Tech/KCM, Inc.
1917 First Avenue
Seattle, Washington 98101-1027
(206) 443-5300

David R. Skinner, P.E.
Director of Public Works
City of Gig Harbor
3105 Judson Street
Gig Harbor, Washington 98335

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

**EXHIBIT A - SCOPE OF SERVICES
FOR
CITY OF GIG HARBOR
RESERVOIR PAINTING**

GENERAL

Tetra Tech/KCM, Inc. (Consultant) will provide professional services to the City of Gig Harbor (Client) for the preparation of technical specifications, and estimate of probable cost to paint the interior of an existing 0.5 million gallon welded steel reservoir at Well No. 3 and the exterior of 1.0 million gallon welded steel reservoir at Well No. 5. Both interior and exterior painting will require the reservoirs to be drained. Consequently, the work must be completed during off peak periods of use. It is anticipated that the painting work will be accomplished under a single contract. Weather and system operations will dictate the actual schedule. The Consultant's services does not include construction administration. These services, if requested by the Client, shall be supplemental.

TASK 1: PROJECT ADMINISTRATION

The Consultant will provide project administration and management. Tasks will include preparing progress reports and invoices monthly, attend coordination meetings with the Client, monitor and update progress schedule; and provide quality assurance/control (QA/QC) for budget, schedule and work plans.

TASK 2: DATA COLLECTION

The Consultant will review the existing video of the interior of the 0.5 MG reservoir. The Consultant will make one site visit accompanied by the Client's staff and a representative of Bailey and Associates, Inc., Coating Consultants. Paint samples will be obtained from the interior walls (2) and the roof (1) at the 0.5 MG reservoir. Paint samples will be obtained from the exterior walls (2) and the roof (1) on the 1.0 MG reservoir. These samples will be analyzed for lead content and the results provided to the Client.

TASK 3: BID SPECIFICATIONS AND ESTIMATE

The Consultant will prepare technical specifications covering removal of existing paint and recoating with new paint systems, interior and exterior as appropriate. Interior paint systems will be a zinc rich urethane primer/epoxy finish coat with NSF approval for potable water contact. Exterior paint systems will be epoxy with polyurethane topcoat. The Consultant will research competitive paint products and provide specifications allowing bids by no less than two equivalent products. If the work under TASK 2 indicates the presence of lead, the bid specifications will include reference to Federal and state requirements for removing, handling and disposal of lead-based paint waste. The disposal method(s) will be contingent on the amount of

**EXHIBIT A - SCOPE OF SERVICES
FOR
CITY OF GIG HARBOR
RESERVOIR PAINTING**

lead, the paint removal process, and the amount of waste generated. The technical specifications will be prepared in CSI format using the Consultant's technical data. The Client will provide the "Front End" (General Conditions) portion of the Contract Documents, including Division 1. Technical Specifications, including vicinity maps showing the location of the reservoirs will be submitted to the Client for review at 90 percent completion. The Consultant will incorporate the Client's review comments from the 90 percent submittal into the final Technical Specifications and submit to the Client for final approval. Final approved Technical Specifications will be submitted in electronic format.

TASK 4: BIDDING ASSISTANCE

The Consultant will respond to bidder questions, prepare addenda as requested by the Client, and make a recommendation of award for a contract.

SUPPLEMENTAL SERVICES

When requested by the Client, the Consultant shall provide the following supplemental services. Attend a pre-construction meeting with the Contractor and Client. Conduct interim site visits and final inspection for each reservoir.

Tt/KCM, Inc.

Tetra Tech/KCM, Inc.
 1917 First Avenue
 Seattle, WA 98101
 (206) 443-5300
 (206) 443-5372 (FAX)

Exhibit B SCHEDULE OF RATES AND ESTIMATED HOURS

CLIENT: City of Gig Harbor

PROJECT: Reservoir Painting - Specifications

P.D. No.: 9080022 Proj. No.: 2080022

Date: 2/14/00

PHASE/TASK DESCRIPTION	LEVEL OF EFFORT - STAFF HOURS			
	Project Manager	Prof. Staff	CAD Drafting	Clerical Staff
TASK 1: PROJECT ADMINISTRATION	4			2
TASK 2: DATA COLLECTION	4			
TASK 3: BID SPECIFICATIONS AND ESTIMATES				
A. Prepare Contract Documents	2	24	2	6
B. Estimate	1	4		
C. Final Contract Documents		2		2
TASK 4: BIDDING ASSISTANCE				
A. Respond to Questions/Addenda	2			2
B. Bid Opening and Award		1		1

TOTAL HOURS	13	31	2	13
DIRECT JOB WAGES (DJW)	\$44.10	\$21.47	\$20.87	\$22.43
BILLING RATE (DJW x 3.10)	\$136.71	\$66.56	\$64.70	\$69.53
SUBTOTALS	\$1,777	\$2,063	\$129	\$904
TOTAL ESTIMATED WAGE COST				\$4,874
Travel & Per Diem		(\$50 x 1.00)		\$50
Printing, Publication, & Communications		(\$50 x 1.00)		\$50
Subconsultants Bailey and Associates		(\$405 x 1.10)		\$446
TOTAL ESTIMATED KCM COST				\$5,419
TOTAL ESTIMATED COMPENSATION				\$5,400



RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
(360) 664-1600

RECEIVED

FEB 08 2000

DATE: 2/03/00

TO: PIERCE COUNTY EXECUTIVE

PIERCE COUNTY FIRE
PREVENTION BUREAU

RECEIVED

FEB 07 2000

PIERCE
COUNTY EXECUTIVE

RE: ASSUMPTION
From TEXACO REFINING AND MARKETING INC.
Dba TEXACO REFINING AND MARKETING

APPLICANTS:

EQUILON ENTERPRISES LLC

License: 365441 - 2F County: 27
Tradename: TEXACO STAR MART #63-232-1435
Loc Addr: 5115 OLYMPIC DR NW
GIG HARBOR WA 98335-1704
Mail Addr: 10602 NE 38TH PL
KIRKLAND WA 98083-7901

DUNAGAN, CHARLES E
1941-11-16 450-66-2820
CELENTANO, EUGENE
1938-08-11 120-30-6633
SPIZALE, FELIX C
1946-09-18 436-68-3022

Phone No.: 425) 889-3253 ANNA CHRISTIE

Privileges Applied For:
GROCERY STORE - BEER/WINE

RECEIVED

FEB 09 2000

PIERCE
COUNTY EXECUTIVE

RECEIVED

FEB 11 2000

CITY OF GIG HARBOR

As required by RCW 66.24.010(8), you are notified that application has been made to the Washington State Liquor Control Board for a license to conduct business. If return of this notice is not received in this office within 20 DAYS from the date above, it will be assumed that you have no objection to the issuance of the license. If additional time is required you must submit a written request for an extension of up to 20 days. An extension of more than 20 days will be approved only under extraordinary circumstances.

- | | YES | NO |
|--|--------------------------|--------------------------|
| 1. Do you approve of applicant? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you approve of location? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. If you disapprove and the Board contemplates issuing a license, do you want a hearing before final action is taken? | <input type="checkbox"/> | <input type="checkbox"/> |

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

DATE

SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNER



RECEIVED

FEB 11 2000

CITY OF GIG HARBOR

STATE OF WASHINGTON

WASHINGTON STATE LIQUOR CONTROL BOARD
3000 Pacific Ave SE • PO Box 43075 • Olympia WA 98504-3075 • (360) 664-1600

February 8, 2000

Mayor of Gig Harbor

This is to notify you that:

FLOWERS ON THE BAY INC.
8815 N HARBORVIEW DR
GIG HARBOR, WA 98332-2168

FLOWERS ON THE BAY
8815 N HARBORVIEW DR
GIG HARBOR, WA 98332
License No. 081196-2F
UBI No. 601 818 643 001 0001

discontinued sales and service of liquor at the above location on
September 30, 1999.

This is for your information and records.

LESTER C. DALRYMPLE, Supervisor
Licensing Services

Merwil V. Guzman
MERWIL V. GUZMAN
Special Licenses & Permits
360-664-1616

X095149

cc: Bremerton Office
File



WASHINGTON STATE LIQUOR CONTROL BOARD-License Services
3000 PACIFIC AVE PO Box 43075
Olympia WA 98504-3075

TO: MAYOR OF GIG HARBOR

February 18, 2000

RECEIVED

SPECIAL OCCASION # 368424

FEB 22 2000

GIG HARBOR HIGH SCHOOL MEISTERSINGERS
5101 ROSEDALE ST
GIG HARBOR, WA 98335

CITY OF GIG HARBOR

DATE: MARCH 11, 2000

TIME: 6PM TO 10PM

PLACE: GIG HARBOR YACHT CLUB - 8209 STINSON, GIG HARBOR

CONTACT: CAMILLE HUTCHINSON - 253-851-2971

SPECIAL OCCASION LICENSES

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

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

1. Do you approve of applicant? YES__ NO__
2. Do you approve of location? YES__ NO__
3. If you disapprove and the Board contemplates issuing a license, do you want a hearing before final action is taken? YES__ NO__

<u>OPTIONAL CHECK LIST</u>	<u>EXPLANATION</u>	
LAW ENFORCEMENT	_____	YES__ NO__
HEALTH & SANITATION	_____	YES__ NO__
FIRE, BUILDING, ZONING	_____	YES__ NO__
OTHER:	_____	YES__ NO__

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

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



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR *DR*
SUBJECT: COURT CONSOLIDATION REPORT
DATE: FEBRUARY 24, 2000

BACKGROUND

Washington has 278 cities and towns. 128 cities/towns operate their own municipal courts. One city in this group, Tacoma, operates a municipal department staffed with city personnel. The remaining 150 cities/towns contract in some manner with their respective counties for court services. Of the 150 cities that contract for court services, Camas, Washougal, Anacortes, Burlington, Mount Vernon and Spokane have municipal departments that are staffed with county personnel. We spoke with several of these cities and all were satisfied with the municipal department arrangement they had with their district court.

The following cities were identified as having recently (since 1994) formed municipal courts after having contracts with their respective counties: Bellingham, Bothell, Federal Way, Kirkland and Yakima. In each case, increasing contract costs were the reason for establishment of the municipal court.

In Pierce County three municipalities, Carbonado, Edgewood and University Place, contract with the county for court services. Lakewood formed its own municipal court upon incorporation.

FINANCIAL AND OTHER CONSIDERATIONS

There are several attachments to this memo, one of which is a comparison of Gig Harbor court activity and statistics with those of eight other similar cities/towns. The cities in the comparison group have been used as a benchmark since 1993. These cities were chosen because they held similar characteristics such as population, similar budgets, water and/or sewer utilities, number of employees, and are all connected to the Puget Sound Basin.

Gig Harbor's court costs on a per filing basis (for both gross expenditures and net court expenditures) are higher than all cities in our comparison group. This is a difficult comparison because each city classifies costs in a slightly different manner. For example, Sumner does not include prosecutorial costs with court costs, jail costs may be included, overhead may or may not be allocated, and the actual operation of the courts is different in each city. It should be noted that the two courts that document a profit both contract for court services with their district courts.

The second attachment is a graphical presentation of court revenues and expenditures projected out to 2010 based on actual data from 1988 to present. This chart depicts approximately a \$100,000 savings if the court were consolidated with the county in 2000. This savings is expected to increase annually each succeeding year (because court costs are growing faster than court revenues). The savings increases greatly if the new court facility is built and the court's portion of annual debt service and operating costs are included. With these costs included in the court's annual operating expenditures, the annual savings with consolidation approach \$300,000 per year in 2010. All forecast data were obtained using linear regression and historical data from 1988 through 1998.

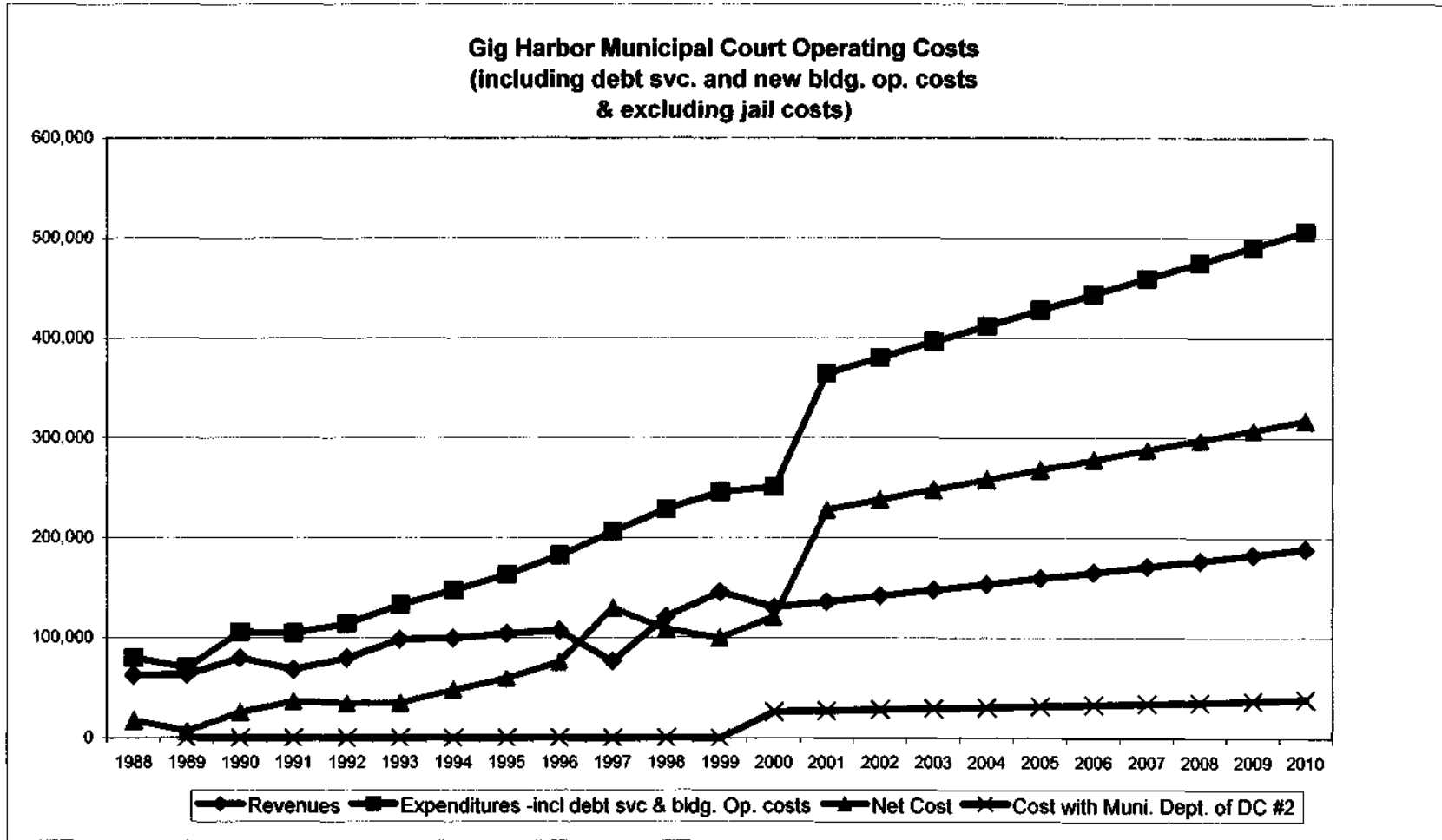
The third attachment is a listing of all cities and towns in the state that indicates whether they operate their own municipal courts or, in the alternate, contract with their respective counties for court services.

The fourth attachment is a listing of services District Court No. 2 currently offers to defendants.

The fifth attachment is the December 8th memo prepared by the City Attorney discussing the draft interlocal agreement with Pierce County.

RECOMMENDATION

At this point in time, the City staff presents this information to find out whether the Mayor and Council would like to petition the Pierce County Council for a municipal division of District Court No. 2.



Annual new facility operating expense and debt service:

According to the June 1999 Gig Harbor Municipal Facilities Plan:

Annual operating costs are estimated at \$13,000.

Debt Service on the new court facility is estimated to be \$85,000.

(The sharp increase in expenditures projected in 2001 reflect the court's share of costs of the new facility.)

Forecast Method:

Forecast values were obtained using linear regression (MS Excel forecast function).

Attachment I

1998 Selected Court Statistics

1998 Municipal Court Filings											
Court	1998 Population	FTE	Infractions	DUI	Criminal Traffic	Criminal Non-Traffic	Civil	Small Claims	Parking	Total	
Gig Harbor	6,350	2	1,016	99	131	167	-	-	256	1,669	
Enumclaw	10,550	3	824	68	247	244	-	-	154	1,537	
Fife	5,000	4	5,394	266	931	1,019	-	-	-	7,610	
Fircrest	5,930	2	2,123	61	238	75	-	-	15	2,512	
Mukilteo	16,810	county	1,400	83	525	187	-	-	13	2,208	
Poulsbo	6,590	4.5	1,653	60	252	271	-	-	348	2,584	
Sequim	4,405	county	394	42	82	121	-	-	8	647	
Steilacoom	6,185	2	970	64	66	130	-	-	416	1,646	
Sumner	8,130	2	1,031	44	363	270	-	-	74	1,782	

Court	1998 Population	1998 Total Filings	Filings Per Capita	1998 Net Court Revenue		1998 Court Expenditures	Net Court Rev/(Expend)	1998 Expend Per Filing	1998 Gross Revenue Per Filing	1998 Net Revenue Per Filing	Net Rev/(Cost) Per Filing
				1998 Gross Revenue	(less state's share)						
Gig Harbor	6,350	1,669	0.26	\$ 187,895	\$ 95,069	\$ 228,740	\$ (133,671)	\$ 137	\$ 113	\$ 57	\$ (80)
Enumclaw	10,550	1,537	0.15	270,955	152,250	160,991	(8,741)	105	176	99	(6)
Fife	5,000	7,610	1.52	766,964	421,733	428,204	(6,471)	56	101	55	(1)
Fircrest	5,930	2,512	0.42	259,511	138,049	150,824	(12,775)	60	103	55	(5)
Mukilteo	16,810	2,208	0.13	261,440	187,336	119,852	67,484	54	118	85	31
Poulsbo - see note 1	6,590	2,584	0.39	150,849	78,511	208,725	(130,214)	81	58	30	(50)
Sequim	4,405	647	0.15	90,894	49,208	10,982	38,226	17	140	76	59
Steilacoom	6,185	1,646	0.27	122,107	61,833	96,534	(34,701)	59	74	38	(21)
Sumner	8,130	1,782	0.22	\$ 335,447	\$ 187,969	\$ 243,245	\$ (55,276)	\$ 137	\$ 188	\$ 105	\$ (31)

Note 1: Expenditures do not include prosecutor costs.

Attachment 3

Source: 1999 Washington Court Directory & OFM Population of Cities, Towns, And Counties

	County	City/Town	Municipal Court	Contract with County	Population	Comments	
60	Grays Harbor	Aberdeen	X		16,420		
61		Cosmopolis	X		1,555		
62		Elma	X		3,045		
63		Hoquiam	X		8,995		
64		McCleary	X		1,565		
65		Montesano	X		3,580		
66		Oakville	X		670		
67		Ocean Shores	X		3,270		
68		Westport	X		2,075		
69	Island	Coupeville	X		1,640		
70		Langley	X		1,095		
71		Oak Harbor			X	20,830	
72	Jefferson	Port Townsend		X	8,400		
73	King	Algona	X		2,110	Contracts with Auburn	
74		Auburn	X		38,980		
75		Beaux Arts			X	289	
76		Bellevue			X	106,200	Bellevue Division KCDC
77		Black Diamond	X			3,825	
78		Bothell	X			27,810	
79		Burien			X	29,770	
80		Camation			X	1,785	
81		Clyde Hill			X	2,883	
82		Covington			X	13,010	
83		Des Moines	X			27,160	
84		Duvall			X	4,435	
85		Enumclaw	X			10,740	
86		Federal Way			X	76,910	Federal Way Division KCDC
87		Hunts Point			X	472	
88		Issaquah			X	10,130	Violations Bureau
89		Kenmore			X	17,168	
90		Kent	X			73,060	
91		Kirkland	X			44,860	
92		Lake Forest Park	X			13,040	
93		Maple Valley	X			12,540	
94	Medina			X	2,940		
95	Mercer Island			X	21,570		
96	Newcastle			X	8,605		
97	Normandy Park			X	7,035		
98	North Bend			X	3,815	Violations Bureau	
99	Pacific	X			5,665		
100	Redmond			X	43,610		
101	Renton	X			47,620		
102	SeaTac	X			23,570		
103	Seattle	X			540,500		
104	Shoreline			X	52,030		
105	Skykomish			X	275		
106	Snoqualmie			X	1,980		
107	Tukwila	X			14,840		
108	Woodinville			X	10,250		
109	Yarrow Point			X	980		
110	Kitsap	Bainbridge Island	X		19,840		
111		Bremerton	X		36,270		
112		Port Orchard	X		7,255		
113		Poulsbo	X		6,445		
114	Kittitas	Cle Elum	X		1,795		
115		Ellensburg			X	14,230	
116		Kittitas	X			1,135	
117		Roslyn	X			938	
118		South Cle Elum			X	510	
119	Klickitat	Bingen			X	705	
120		Goldendale			X	3,570	
121		White Salmon			X	2,035	

Attachment 3

Source: 1999 Washington Court Directory & OFM Population of Cities, Towns, And Counties

County	City/Town	Municipal Court	Contract with County	Population	Comments
122	Lewis	Centralia	X	13,620	
123		Chehalis	X	7,010	
124		Morton		1,275	Violations Bureau
125		Mossyrock		565	Violations Bureau
126		Napavine	X	1,255	Violations Bureau
127		Pe Ell	X	685	Violations Bureau
128		Toledo	X	690	Violations Bureau
129		Vader	X	490	Violations Bureau
130		Winlock	X	1,225	
131	Lincoln	Almira		304	
132		Creston	X	250	
133		Davenport	X	1,778	
134		Harrington	X	482	
135		Odessa	X	975	
136		Reardan	X	610	
137		Sprague	X	455	
138		Wilbur	X	895	
139	Mason	Shelton	X	7,810	
140	Okanogan	Brewster	X	2,065	
141		Conconully		200	
142		Coulee Dam	X	1,090	
143		Elmer City	X	310	
144		Nespelem		265	
145		Okanogan		2,385	
146		Omak	X	4,545	
147		Oroville		1,585	
148		Pateros	X	630	Contract with Brewster
149		Riverside		350	
150		Tonasket	X	1,010	
151		Twisp	X	990	
152		Winthrop	X	380	
153	Pacific	Ilwaco	X	860	
154		Long Beach	X	1,440	
155		Raymond	X	2,950	
156		South Bend	X	1,650	
157	Pend Oreille	Cusick		246	
158		Ione		452	
159		Metaline		172	
160		Metaline Falls		230	
161		Newport	X	1,980	Violations Bureau
162	Pierce	Bonney Lake	X	10,060	
163		Buckley	X	3,980	
164		Carbonado		649	
165		Du Pont	X	1,755	
166		Eatonville	X	1,915	
167		Edgewood		10,700	
168		Fife	X	5,155	
169		Fircrest	X	5,935	
170		Gig Harbor	X	6,405	
171		Lakewood	X	63,820	
172		Milton	X	5,680	
173		Orting	X	3,825	
174		Puyallup	X	30,740	
175		Roy	X	370	
176		Ruston	X	745	
177		South Prairie	X	485	
178		Steilacoom	X	6,240	
179		Sumner	X	8,495	
180		Tacoma	X	187,200	Municipal Department staffed with city personnel
181		University Place		29,550	
182		Wilkeson	X	430	

Attachment 3

Source: 1999 Washington Court Directory & OFM Population of Cities, Towns, And Counties

	County	City/Town	Municipal Court	Contract with County	Population	Comments
183	San Juan	Friday Harbor		X	1,900	
184	Skagit	Anacortes		X	14,370	Muni. Dept. staffed with county personnel
185		Burlington		X	5,635	Muni. Dept. staffed with county personnel
186		Concrete	X		780	
187		Hamilton		X	300	
188		LaConner	X		800	
189		Lyman		X	320	
190		Mount Vernon		X	22,700	Muni. Dept. staffed with county personnel
191		Sedro-Woolley	X		8,010	
192	Skamania	North Bonneville	X		596	
193		Stevenson	X		1,275	
194	Snohomish	Arlington		X	7,350	Violations Bureau
195		Brier		X	6,350	Violations Bureau
196		Darrington		X	1,245	Violations Bureau
197		Edmonds	X		38,610	
198		Everett	X		86,730	
199		Gold Bar		X	1,810	Violations Bureau
200		Granite Falls		X	2,010	Violations Bureau
201		Index		X	140	
202		Lake Stevens		X	6,100	Violations Bureau
203		Lynnwood	X		33,140	
204		Marysville	X		20,680	
205		Mill Creek		X	11,110	Violations Bureau
206		Monroe		X	11,450	
207		Mountlake Terrace		X	20,270	Violations Bureau
208		Mukilteo		X	17,180	Violations Bureau
209		Snohomish		X	8,250	Violations Bureau
210		Stanwood		X	3,380	Violations Bureau
211		Sultan		X	2,955	Violations Bureau
212		Woodway		X	990	Violations Bureau
213	Spokane	Airway Heights	X		4,495	
214		Cheney	X		8,545	
215		Deer Park	X		2,965	
216		Fairfield		X	605	
217		Latah		X	212	
218		Medical Lake	X		3,870	
219		Millwood		X	1,665	
220		Rockford		X	517	
221		Spangle		X	255	
222		Spokane		X	189,200	Muni. Dept. staffed with county personnel
223		Waverly		X	130	
224	Stevens	Chewelah		X	2,435	
225		Colville		X	4,750	
226		Kettle Falls		X	1,535	
227		Marcus		X	154	
228		Northport		X	312	
229		Springdale		X	260	
230	Thurston	Bucoda		X	645	
231		Lacey		X	29,020	Violations Bureau
232		Olympia	X		40,210	
233		Rainier	X		1,570	
234		Tenino	X		1,600	
235		Tumwater	X		12,530	
236		Yelm	X		2,750	
237	Wahklakum	Cathlamet	X		545	

Attachment 3

Source: 1999 Washington Court Directory & OFM Population of Cities, Towns, And Counties

	County	City/Town	Municipal Court	Contract with County	Population	Comments
238	Walla Walla	College Place	X		7,395	
239		Prescott	X		335	
240		Waitsburg	X		1,200	
241		Walla Walla		X	29,200	
242	Whatcom	Bellingham	X		64,070	
243		Blaine	X		3,640	
244		Everson	X		1,840	
245		Ferndale	X		7,925	
246		Lynden	X		8,910	
247		Nooksack	X		890	Contracts with Everson
248		Sumas	X		976	
249	Whitman	Albion	X		685	
250		Colfax	X		2,880	
251		Colton	X		370	
252		Endicott		X	351	
253		Farmington		X	150	
254		Garfield		X	592	
255		LaCrosse		X	380	
256		Lamont		X	85	
257		Malden		X	265	
258		Oakesdale		X	445	
259		Palouse		X	985	
260		Pullman		X	25,630	
261		Rosalia		X	644	
262		St. John		X	555	
263		Tekoa	X		815	
264		Uniontown	X		330	
265	Yakima	Grandview	X		8,190	
266		Granger	X		2,255	
267		Harrah		X	545	
268		Mabton		X	1,655	Violations Bureau
269		Moxee	X		1,050	
270		Naches		X	715	
271		Selah	X		6,005	
272		Sunnyside	X		12,290	
273		Tieton		X	1,122	
274		Toppenish	X		7,940	
275		Union Gap	X		5,350	
276		Wapato	X		3,975	
277		Yakima	X		65,500	
278		Zillah	X		2,395	
Totals			128	150		



Pierce County

District Court No. 2

6659 Kimball Drive, N.W. #E503
Gig Harbor, Washington 98335
(253) 851-5131

THOMAS A. FARROW
District Court Judge

BONNIE WOODROW
Court Administrator

January 19, 2000

Dave Rodenbeck^{ach}
City of Gig Harbor
3105 Judson Street
Gig Harbor, WA 98335

Re: Current District Court No. Two Services

Dear Mr. Rodenbeck^{ach}:

Upon your request the following is a listing of services that District Court No. Two currently offers to defendants:

Formal Probation Supervision

- Full time Probation Officer w/BA in Law and Justice, minor in psychology
- Manageable caseload/high level of supervision
- Emphasizes offender accountability
- Probation Officer is certified alcohol evaluator and will obtain DASA Certification late Fall, 2000
- Restitution recovery for crime victims

Domestic Violence Advocate Services

- Coordinated effort with Prosecutor's Office offering victim services and safety plans
- Office at courthouse in Gig Harbor
- Information and assistance with Restraining/Protection/No Contact Orders
- Assistance with obtaining Crime Victim Compensation
- Escort (to and from court) services

Electronic Home Detention as alternative to incarceration

- With or without REACT alcohol detection

Work Crew as alternative to incarceration

Community Service as alternate means of fine payment

Time-Payment Program through Signal Credit

Delinquent Revenue Collection Program through Allied Credit

DWI Alternative Facility as 1 day alternative to incarceration



- **Civil, Small Claims and Mediation Calendar**
- **Full-time judge allows 5 day a week access for**
 - **Immediate Anti-Harassment Orders**
 - **Immediate Name Changes**
 - **Immediate Search Warrants**

If you need further clarification or if I can be of any assistance, please contact me at your earliest convenience.

Sincerely,

Bonnie Woodrow
Bonnie Woodrow
Court Administrator

Cc: Judge Thomas A. Farrow



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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: CAROL MORRIS, CITY ATTORNEY
SUBJECT: COURT CONSOLIDATION – DRAFT INTERLOCAL AGREEMENT
DATE: DECEMBER 8, 1999

INFORMATION/BACKGROUND

Pierce County has provided the City with a draft interlocal agreement for the purpose of consolidating the City's municipal court and the County's district court. This agreement contemplates that the City will first petition the County for the creation of a municipal department of the district court. Once the County allows the municipal department to be created, the parties can execute an interlocal agreement for consolidation. I will be providing a flowchart at the next Council meeting to describe the process and show the suggested timeframes for accomplishing each task.

CITY ATTORNEY COMMENTS

We are presenting this interlocal agreement at this time so that you can voice any objections you may have regarding the terms of the agreement and the proposed process. The following are my general comments on the attached draft:

1. Repeal of RCW's Incorporated by Reference in City's Code. As you know, the City's criminal code is primarily comprised of state law, adopted and incorporated into the City's criminal code by reference. In our initial negotiations with Pierce County, the County asked the City to repeal its criminal code. The County has drafted this interlocal so that the City would be required to repeal those sections of the City's criminal code that incorporate state law by reference. Under the interlocal, the County prosecutor's office would prosecute the state law on behalf of the City. The City would keep (and could adopt) other criminal code provisions that are unique to Gig Harbor.

The remaining criminal code provisions in the City's code would be enforced by the City's prosecutor. Dave Rodenbach is currently compiling statistics on the number of criminal code provisions that would be solely enforced by the City's prosecutor under this interlocal, so that we can present an accurate picture of the associated costs. (We assume that the City prosecutor could file these cases in the district court, but this would have to be clarified, as it does not appear to be consistent with the language in the first paragraph of page 2.)

2. Level of Service. In this draft of the interlocal, as in previous drafts provided to City Pierce County, the County promises to "provide court services to the City at the same level as the County provides for the same types of cases originating in unincorporated Pierce County served by District Court No. 2." (Draft interlocal, Sec. 2.1, p.2.) This means that no particular level of service is assured, and that the County will have at all times, the ability to unilaterally decide the level of court services it will

provide under this interlocal. In addition, the County has the ability to unilaterally decide what probation and domestic violence advocacy services "are necessary and appropriate." (Section 2.1.1, p. 2.)

3. City Prosecutor's Role. As stated in Section 2.2 on page 3, the County will consider the City's input with regard to prosecution on particular case. However, if the City believes that a case should be prosecuted, and the County does not, the County still may decide not to prosecute at all. If the County decides not to prosecute a case that the City wants to prosecute, the parties will be required to enter into an agreement to designate the City prosecutor as a County deputy prosecuting attorney on that particular case.

4. Termination. The County has inserted a termination date of January 1, 2004. (Section 8, p. 5.) As the interlocal is written, the City would not be able to terminate at all prior to January 1, 2004. This is an arbitrary date chosen by the County. There are two issues here: (1) the date that the parties could terminate the agreement (if the Mayor and Council would like to consider a date other than January 1, 2004); and (2) clarification of the fact that after the termination date, the parties could terminate the interlocal, with or without cause, probably with some notice to the other party.

5. Indemnification. Most of the indemnification section in this interlocal is unnecessary, given the fact that the County has required as a condition of the interlocal, that the City repeal all of its ordinances incorporating any state laws by reference, and the fact that the County will not be prosecuting any City ordinances. Thus, there is no need to have any indemnification sections relating to the situation where the County may have liability as a result of the "existence or effect of City ordinances, rules, regulations, resolutions, customs, policies or practices." In other words, if the County is not enforcing, practicing, adopting, implementing or prosecuting any City ordinances, rules, regulations or ordinances, most of this indemnification section is unnecessary. In addition, there is no need at all for the reciprocal indemnification section requiring the County to indemnify the City for the "existence or effect of County ordinances, rules, regulations, resolutions, customs, policies or practices," because the City will not be enforcing, practicing, adopting, implementing, or prosecuting any County ordinances, rules, regulations or ordinances.

The reason I recommend that the unnecessary language be omitted is so that there is no confusion at all over the issue whether the County's enforcement of state law on behalf of the City could be construed as the County's enforcement of the "City's ordinances." If the County doesn't intend to consider this language in the indemnification section to cover state law as if it were the "City's ordinances," an amendment should be no problem.

Keep in mind that the County would like to have a separate interlocal agreement for the County to be given the authority to enforce the City's ordinances (and this situation would arise when a state law violation had to be prosecuted in conjunction with a violation of City ordinance). The County would also like to have a separate agreement for the City prosecutor to enforce state law on behalf of the City (again, in conjunction

with a violation of both state law and City ordinance that could not be prosecuted separately).

RECOMMENDATION

At this point in time, the City staff merely presents this draft interlocal to find out whether the Mayor and Council would like us to proceed further in our negotiations with the County on this Court consolidation issue, and which of the above issues should be further negotiated.



Pierce County

Budget and Finance Department

615 South 9th Street, Suite 100
Tacoma, Washington 98405-4673
(253) 798-7450 • FAX (253) 798-6699

PATRICK KENNEY
Executive Director of Administration

RECEIVED

NOV 15 1999

November 10, 1999

CITY OF GIG HARBOR

Mark Hoppen, City Administrator
City of Gig Harbor
3105 Judson St.
Gig Harbor, WA 98335

Mark
Dear Mr. Hoppen:

Attached is the latest draft of a proposed contract between the City of Gig Harbor and Pierce County regarding the provision of Court Services by District Court No. 2. I believe that it satisfactorily addresses the many issues which have arisen in our recent discussions. Please review with appropriate staff and feel free to call us for questions and/or to set-up a meeting for further discussion if necessary.

In addition to this Agreement, it will be necessary for the Redistricting Committee to meet and approve the creation of a municipal division of District Court No. 2. I am personally not familiar with the procedures necessary to cause this to happen. However, it is my understanding that your staff is making inquiries with the Prosecutor's Office regarding this matter.

Sincerely,

Patrick Kenney,
Executive Director of Administration

cc: C. Quinn-Brintnall
T. Farrow
C. Robbins
K. Matthews
D. Rodenbach

Accounting • Budget
Revenue • General Services
Purchasing • Fleet

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Printed on recycled paper

Draft

**INTERLOCAL AGREEMENT BETWEEN
PIERCE COUNTY AND CITY OF GIG HARBOR
RELATING TO DISTRICT COURT, PROSECUTION
AND ASSIGNED COUNSEL SERVICES**

THIS INTERLOCAL AGREEMENT is entered into this day by and between Pierce County, a political subdivision of the State of Washington (herein referred to as "COUNTY") and the City of Gig Harbor, a municipal corporation of the State of Washington (herein referred to as "CITY").

WHEREAS, the CITY currently operates a municipal court to process municipal code violations occurring within the City limits; and

WHEREAS, the COUNTY operates Pierce County District Court No. 2 which is a full time district court that serves all of Pierce County lying west of the Narrows Bridge and to the Kitsap and Mason County lines; and

WHEREAS, the CITY has determined that, given the number of cases filed within the CITY and the costs involved with operating a separate municipal court, it is more cost effective to consolidate municipal and district court functions by creating a municipal department of the Pierce County District Court and to enter into an Interlocal Agreement which will document the terms of the consolidation, and

WHEREAS, the CITY has agreed to repeal those portions of its code duplicative of the identical provisions in the Revised Code of Washington (RCW), and

WHEREAS, the CITY and COUNTY have mutually considered anticipated costs of services, as well as anticipated and potential revenues to fund the services, including fines and fees; and

WHEREAS, the parties are authorized to enter into such agreements by virtue of RCW Chapter 39.34;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, it is mutually agreed by and between the COUNTY and the CITY as follows:

SECTION 1. PURPOSE. The purpose of this Agreement is to memorialize the

agreement reached between the CITY and the COUNTY regarding the consolidation of municipal and district court resources in the creation of a municipal department of Pierce County District Court. It is the purpose of this agreement that court, prosecution, and assigned counsel services on all violations of the Revised Code of Washington occurring within the CITY's limits, will be provided by Pierce County District Court No. 2. As a condition precedent to this agreement, the City will comply with RCW 3.46.040 to create a Municipal Department of District Court No. 2. This agreement will take effect upon adoption of the redistricting plan by the Pierce County Council.

SECTION 2. COUNTY SERVICES TO BE PROVIDED.

2.1 Pierce County District Court No. 2. Pierce County District Court No. 2 shall provide court services for all violations of the Revised Code of Washington occurring within the CITY's limits. The COUNTY shall provide court services to the CITY at the same level as the COUNTY provides for the same types of cases originating in unincorporated Pierce County served by District Court No. 2.

2.1.1 Municipal Cases. The term "municipal cases" shall include all cases alleging violations of the Gig Harbor Municipal Code (GHMC) as amended in accordance with this agreement, occurring within the CITY and filed with District Court #2.

2.1.2 Municipal Court Services. The term "municipal court services" shall include: the filing, processing, adjudication, penalty enforcement and appeal processing for all traffic infractions filed in District Court No. 2, and the filing, prosecution, adjudication, sentencing, post sentencing and appeal processing for all criminal cases filed in District Court No. 2 and any and all other court functions provided by law as they relate to municipal cases filed by the CITY in District Court No. 2. The COUNTY shall provide all necessary judicial clerical personnel to perform such services in a timely manner as required by law and court rule, and shall also provide probation and domestic violence advocacy services as necessary and appropriate.

- 2.2 District Court Prosecution. The Pierce County Prosecuting Attorney's Office shall provide sufficient personnel to provide prosecution services for criminal traffic and criminal non-traffic, misdemeanor and gross misdemeanor cases filed with District Court No. 2.

All violations of the Revised Code of Washington alleged to have occurred within the limits of the City of Gig Harbor are covered by this Agreement and shall be reviewed, filed and prosecuted by the Office of the Pierce County Prosecutor. The City Attorney may indicate an interest in a particular CITY case or express an opinion about a proposed disposition. The office of the Prosecuting Attorney shall consider such interest or opinion, but shall retain sole discretion to prosecute the case in a manner it deems appropriate.

Cases involving violations of the Municipal Code of the City of Gig Harbor may be prosecuted by the City Attorney.

- 2.3 Assigned Counsel. The Pierce County Department of Assigned Counsel shall assign personnel to provide legal counsel services to persons accused of committing offenses within the municipal boundaries of the CITY in the same manner as it would to persons accused of committing offenses within unincorporated Pierce County. Such services will include, but are not limited to, legal services to all indigent defendants charged with misdemeanor crimes, including, where appropriate, interviewing defendants held in custody, representation at arraignments as requested by District Court No. 2, and all subsequent proceedings in District Court No. 2 relating to the offense.
- 2.4 Jail Services Governed by Separate Contract. Housing of defendants in-custody at the Pierce County Detention Center on municipal cases and the terms, conditions, and costs related thereto are governed by a separate agreement executed between the CITY and the COUNTY, and will still remain the fiscal responsibility of the CITY.
- 2.5 The COUNTY shall not be responsible for transport of municipal case prisoners.

SECTION 3. CITY RESPONSIBILITY. The CITY shall be responsible for initiating all documentation to implement the termination of the municipal court as described herein, repealing provisions in its criminal code which duplicate those in the Revised Code of Washington, and for transferring its municipal court services to the municipal department of District Court No. 2. The CITY will be responsible for all transport of prisoners to and from any required court appearance.

SECTION 4. DISPOSITION OF REVENUES, FEES, FINES, AND COSTS. In return for and in consideration of the assumption of responsibilities identified herein by the COUNTY, the COUNTY shall retain all fees, costs, fines and penalties imposed on all cases filed in District Court No. 2. The CITY shall not be required to pay a filing fee to the COUNTY for the processing of cases charged under the Revised Code of Washington nor will the CITY be billed separately for prosecution or assigned counsel services in connection with these charges, unless such provisions are included in subsequent amendments to this Interlocal Agreement. In return for these services the CITY shall also pay the COUNTY \$26,000 per year (by June 30 of each year) commencing in 2000. This amount will be increased by the CPI-Seattle urban inflation rate for each succeeding year. For example, the amount to be paid in the year 2001 would be \$26,000 plus the percentage change in the CPI for 2000.

SECTION 5. TERMINATION OF ASSIGNED COUNSEL AGREEMENT. This Interlocal Agreement is intended to supersede and replace the Assigned Counsel Agreement executed in March 1994. No penalty shall accrue to either party as a result of the termination of the Assigned Counsel Agreement.

SECTION 6. DESIGNATION OF LIAISONS AND DISPUTE RESOLUTION. The COUNTY shall designate an employee representative for the various departments that will be providing the services contemplated herein to act as a liaison with the CITY to handle daily administration of this Agreement. The CITY shall also designate one or more liaisons for the various services described herein. Each party shall notify the other in writing of its designated representatives for the various services. COUNTY liaisons shall meet with the CITY liaisons on a regular or on an as-needed basis, whichever the liaisons deem appropriate, to discuss questions and resolve problems regarding the delivery of services and activities to be performed under this Agreement, including but not limited to personnel distribution. Any operational conflict that is not resolved by the liaisons shall be referred to the City Administrator and the Executive Director of Public Safety.

Any controversy or claim arising out of or relating to this Agreement or the alleged breach thereof that cannot be resolved, shall be submitted to non-binding arbitration under chapter 7.04 RCW. The prevailing party in any subsequent litigation shall be entitled to its reasonable attorneys' fees, costs and expenses.

SECTION 7. DURATION. The term of this Interlocal Agreement shall be ten (10) years. The agreement shall commence on January 1, 2000, or as soon thereafter as the redistricting plan is adopted by the Pierce County Council, and terminate at midnight, December 31, 2009. Thereafter, this Agreement shall renew automatically from year to year unless the termination process outlined herein is invoked.

SECTION 8. TERMINATION PROCESS. Neither party may terminate this agreement prior to January 1, 2004. If either party wishes to terminate this agreement on that date or any subsequent date, written notice must be given at least twelve months prior to the proposed date of termination.

SECTION 9. PERIODIC REVIEW AND RENEWAL OF AGREEMENT. Pursuant to RCW 3.50.805, the parties hereto shall meet every 4 years to review the terms of this Agreement, and determine whether any amendments are necessary. If the parties are unable to agree on the terms of renewal or any amendment of existing terms, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceedings, the terms of this Agreement shall remain in effect. The parties shall have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

SECTION 10. INDEMNIFICATION AND DEFENSE. The COUNTY shall defend, indemnify and save harmless the CITY, its officers, employees and agents from any and all costs, claims, judgments, or awards of damages, resulting from the acts or omissions of the COUNTY, its officers, employees, or agents associated with the performance of this Agreement. In executing this Agreement, the COUNTY does not assume liability or responsibility for or in any way release the CITY from any liability or responsibility which arises in whole or in part from the existence or effect of CITY ordinances, rules, regulations, resolutions, customs, policies, or practices. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such CITY ordinance, rule, regulation, resolution,

custom, policy or practice is at issue, the CITY shall defend the same at its sole expense and if judgment is entered or damages are awarded against the CITY, the COUNTY, or both, the CITY shall satisfy the same, including all chargeable costs and attorney's fees.

The CITY shall defend, indemnify and save harmless the COUNTY, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, resulting from the acts or omissions of the CITY, its officers, employees or agents associated with the performance of this Agreement. In executing this Agreement, the CITY does not assume liability or responsibility for or in any way release the COUNTY from any liability or responsibility which arises in whole or in part from the existence or effect of COUNTY ordinances, rules, regulations, resolutions, customs, policies, or practices. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such COUNTY ordinance, rule, regulation, resolution, custom, policy or practice is at issue, the COUNTY shall defend the same at its sole expense and if judgment is entered or damages are awarded against the COUNTY, the CITY, or both, the COUNTY shall satisfy the same, including all chargeable costs and attorney's fees.

It is further specifically and expressly understood that the indemnification provided herein constitutes each party's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

The provisions of this indemnification section shall survive the termination of this Agreement.

SECTION 11. The City and County have negotiated this Agreement pursuant to the principles described in, RCW 39.34.180, and have considered: (a) anticipated costs of services; (b) anticipated and potential revenues to fund the services, including fines and fees, criminal justice funding, and state-authorized sales tax funding levied for criminal justice purposes.

SECTION 12. NO THIRD-PARTY BENEFICIARY. The COUNTY does not intend by this Agreement to assume any contractual obligations to anyone other than the CITY, and the CITY does not intend by this Agreement to assume any contractual obligations to anyone other than the COUNTY. The COUNTY and the CITY do not intend that there be any third-party beneficiary to this Agreement.

SECTION 13. INSURANCE COVERAGE. The parties hereto shall maintain at all times during the course of this Agreement a general liability insurance policy or other comparable coverage with a self-insured retention of no more than \$500,000.00 and a policy limit of no less than \$5,000,000.00 dollars. For purposes of this Agreement the parties acknowledge that the COUNTY is self-insured.

SECTION 14. NON-DISCRIMINATION. The COUNTY and the CITY certify that they are Equal Opportunity Employers.

SECTION 15. ASSIGNMENT. Neither the COUNTY nor the CITY shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

SECTION 16. NOTICE. Any formal notice or communication to be given by the COUNTY to the CITY under this Agreement shall be deemed properly given if delivered, or if mailed postage prepaid and addressed to:

CITY OF GIG HARBOR
3105 Judson Street
Gig Harbor, Washington 98335

Attention: City Administrator

Any formal notice or communication to be given by the CITY to the COUNTY under this Agreement shall be deemed properly given if delivered, or if mailed postage prepaid and addressed to:

PIERCE COUNTY
Pierce County Executive's Office
930 Tacoma Avenue South, Room 737
Tacoma, Washington 98402-2100
Attention: Executive Director of Public Safety

The name and address to which notices and communications shall be directed may be changed at any time, and from time to time, by either the CITY or the COUNTY giving notice thereof to the other as herein provided.

SECTION 17. COUNTY AS INDEPENDENT CONTRACTOR. COUNTY is, and shall at all time be deemed to be, an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between CITY and COUNTY or any of the COUNTY's agents or employees. The COUNTY shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by COUNTY pursuant to this Agreement.

Nothing in this Agreement shall make any employee of the CITY a COUNTY employee or any employee of the COUNTY a CITY employee for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded COUNTY or CITY employees by virtue of their employment.

SECTION 18. WAIVER. No waiver by either party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this Agreement.

SECTION 19. NO REAL PROPERTY ACQUISITION OR JOINT FINANCING.

This Interlocal Agreement does not provide for the acquisition, holding or disposal of real property. Nor does this Agreement contemplate the financing of any joint or cooperative undertaking. There shall be no budget maintained for any joint or cooperative undertaking pursuant to this Interlocal Agreement.

SECTION 20. ENTIRE AGREEMENT. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

SECTION 21. AMENDMENT. Provisions within this Agreement may be amended with the mutual consent of the parties hereto. No additions to, or alteration of, the terms of this Agreement shall be valid unless made in writing, formally approved and executed by duly authorized agents of both parties.

SECTION 22. SEVERABILITY. If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

SECTION 23. FILING. Copies of this Interlocal Agreement, together with the resolution of the Pierce County Council and the City Council of the City of Gig Harbor, approving and ratifying this Agreement, shall be filed with the Gig Harbor City Clerk, the Pierce County Auditor, and the Secretary of the State of Washington after execution of the Agreement by both parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

GIG HARBOR

PIERCE COUNTY

GRETCHEN WILBERT
Mayor

Date

DOUG SUTHERLAND
Pierce County Executive

Date

MARK HOPPEN
City Administrator

Date

JOHN W. LADENBURG
Pierce County Prosecuting Attorney

Date

Approved as to Form:

Approved as to Form:

CAROL A. MORRIS
Gig Harbor City Attorney

Date

KEITH M. BLACK
Chief Civil Deputy Prosecuting
Attorney

Date

(2gig.cqb)



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR *DR*
SUBJECT: CONTRACT AWARD - SPRINKBROOK SOFTWARE
DATE: FEBRUARY 23, 2000

BACKGROUND

Our current DOS-based financial system is archaic/obsolete. As technology advances the system becomes increasingly unstable. As a result, we included a budget objective in the amount of \$120,000 to upgrade or replace our current financial system in 2000.

We identified nine (9) vendors who had potential to fulfill our needs. We submitted a request for proposal (RFP) to each of the following vendors: Caselle, Creative Computer Solutions, Inc., Bi-Tech Software, Inc., Mirasoft, Inc., American Fundware, Data West Corporation, American Data Group, Eden Systems, Inc., and The Springbrook Software Company. We received 5 responses to our RFP. Of these 5 responses only 2 vendors, Eden Systems, Inc. and The Springbrook Software Company, were marketing systems that were responsive to the specifications in the RFP.

POLICY CONSIDERATIONS

The City has used Eden Systems products for 10 + years. Over the last few years Eden's product support and quality has eroded. Eden also does not expect to have a utility billing application available until later in the year. In addition to our own experiences with Eden, we spoke with a city currently using a newer Eden product. The response was not favorable.

Springbrook Software is an applications solution provider located in Portland, OR, that specializes in local government and special districts. They have several clients in Washington. Recently, the Cities of Mill Creek and Port Townsend converted from Eden Systems to Springbrook. Inquiries of each City revealed that both were satisfied with their selections. We also contacted the City of Redmond, East Wenatchee Water District and Kitsap County PUD #1. Each was content with their purchase and the support of the product. We attended a monthly users group meeting in Poulsbo. The atmosphere was positive and demonstrated cooperation between Springbrook and the users.

FISCAL CONSIDERATIONS

The price quoted by Eden (not including utility billing application) was \$75,810.60. The utility billing application is expected to cost around \$30,000. The Springbrook Software Company quote (including utility billing application) was \$103,259.

RECOMMENDATION

Staff recommends that Council authorize award and execution of the Software License Agreement in the amount of \$95,965 and the related Software Maintenance Agreement in the amount of \$7,294 to The Springbrook Software Company.

SPRINGBROOK SOFTWARE SOFTWARE LICENSE AGREEMENT

PARTIES:

LICENSOR:

Springbrook Software, Inc., an Oregon corporation
720 S.W. Washington Street, Suite 330
Portland, OR 97205
Ph. (503) 973-7750
Fax (503) 973-7760
Email: info@springbrooksoftware.com

LICENSEE:

CITY OF GIG HARBOR
3105 JUDSON STREET
GIG HARBOR, WA 98335

EFFECTIVE DATE: February 29, 2000

AGREEMENT:

1. **Grant of License.** This Software License Agreement grants Licensee a nonexclusive license to copy and distribute internally the current version of the Software available at the time of purchase and related end-user materials in support of Licensee's use of the Software, as set forth below. As used in this Agreement the "Software" refers to the version of the Springbrook Software, Inc. software packages and/or applications available as of the time of purchase, in any form, and includes: 1) any future modifications, enhancements or additions to the Software; 2) any modification, enhancement or addition to the Software developed specially for Licensee's use; 3) user manuals, copies, modifications, enhancements, revisions, or updates thereof; and 4) diskettes, tapes and other magnetic media on which the Software is recorded or copied and accompanying user documentation and other related end-user materials (the "User Materials"). Licensee's license and right pursuant to this Agreement is limited to those specific Applications of the Software for which Licensee has paid License Fees as indicated on Attachment A. Licensor grants Licensee a nonexclusive license to use the Software in machine-readable, object code form only, to:
 - a. Install the Software on computers that Licensee owns or leases;
 - b. Use and execute the Software for purposes of serving Licensee's internal needs;
 - c. In support of Licensee's authorized use of the Software, physically transfer the Software from one of Licensee's computers to another; store the Software's machine-readable instructions or data on a temporary basis in main memory,

extended memory, or expanded memory of such computers as necessary for such use; and transmit such instructions or data through Licensee's computers and associated devices.

Licensee agrees that Licensee and Licensee's employees will not assign, sublicense, transfer, pledge, lease, rent, or share Licensee's rights under this License Agreement with any third party. Licensee agrees that Licensee and Licensee's employees may not reverse assemble, reverse compile, cross compile or otherwise adopt, translate or modify the Software.

Licensor agrees to house the latest release of the Software (containing source code) with the president or designate of the National User Group for safekeeping. As of the Effective Date the latest release is housed with Judith Cole, National User Group President, at the City of Turner, Oregon.

2. **Proprietary Protection; Non-disclosure.** Licensor shall have sole and exclusive ownership of all right, title and interest in and to the Software and User Materials, all copies thereof, and all related material generated from the Software including material displayed on the screen such as icons, screen displays, etc. (including ownership of all copyrights and other intellectual property rights pertaining thereto), subject only to the right and license expressly granted herein. This Agreement does not provide Licensee with title or ownership of the Software, but only a right of limited use. Licensee may only copy the written materials accompanying the Software for use by Licensee.

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Licensor shall treat all Licensee's data provided by or disclosed by Licensee in confidence and shall not use, copy, or disclose, nor permit any of its employees to use, copy, or disclose Licensee's data for any purpose other than those necessary for the performance of Licensor's obligations under this Agreement or any other agreement between the parties.

3. **License Fees.** The License Fees paid by Licensee are paid in consideration of the License granted under this Agreement. The License Fees shall be in the amount(s) invoiced, and in accordance with the payment schedule listed in Attachment A. Services covered by the License Fees do not include Installation, Set-Up, Training, Customization, Maintenance, Support or Data Conversion from Licensee's existing system. License Fees are due upon contract signing or as agreed in a separate installment note. If the license fees are paid through an installment note, any default under the terms of said note will constitute default by Licensee under this Agreement, entitling Licensor to terminate this Agreement. All fees paid hereunder are nonrefundable and will be forfeited in the event of cancellation or termination except as specifically provided in Sections 9 and 10 of this Agreement.
4. **Installation, Data Conversion and Training Charges.** Any installation, data conversion or training services provided by Licensor shall be charged per Attachment A – schedule of fees, and are in addition to the License Fees. Training services include both on-site, off-site and telephone training. License Fees do not include travel (including travel time one way) and living expenses for installation and training; on-site support, installation or training; file and data conversion costs; consulting services; shipping charges; or the costs of any recommended hardware. Licensee agrees to pay such fees and costs, when and as the services are rendered and the expenses incurred. Licensor shall provide supporting documentation for all such services and expenses upon Licensee's request.
5. **Licensee's Cooperation.** Licensee acknowledges that successful installation, implementation and use of the Software cannot be accomplished by Licensor's efforts alone, and requires substantial effort and cooperation by Licensee. Both Licensor and Licensee shall at all times use their best efforts to actively participate and cooperate in data conversion, system installation, implementation, training and use, and shall at all times afford each other reasonable access to information and facilities.
6. **Term; Default; Opportunity to Cure.** This Agreement is effective as of the Effective Date and shall continue until terminated. If Licensee discloses or transfers possession of any copy or merged portion of the Software to another party, or to a computer other than those owned or leased by Licensee, the License shall automatically terminate. A party shall be considered in default if the party, 30 days after written notice from the other party identifying a specific failure to comply with any term or condition contained herein (including without limitation Licensee's failure to pay any fees or charges due under this Agreement or any related Software Maintenance Agreement or Service Agreement, or Licensor's breach of the limited warranty provided in Section 9), has not cured such failure or breach.
7. **Modifications.** Licensee agrees to pay an hourly rate (see Attachment A for rates and/or bids) based on Licensor's regular schedule of fees or on a bid basis for any modifications to the Software made by Licensor at the Licensee's written request.

No modifications will be made to the Software until the base system is installed and all License Fees have been paid.

8. **Support and Maintenance.** Support and maintenance of the Software is not included in this Agreement but is purchased through a separate Software Maintenance Agreement.

9. **Limited Warranty and Exclusions.** LICENSOR WARRANTS THAT IT HAS TITLE TO THE SOFTWARE AND THAT IT HAS AUTHORITY TO GRANT THIS LICENSE TO LICENSEE. LICENSOR ALSO WARRANTS THAT, FOR A PERIOD OF ONE HUNDRED AND EIGHTY (180) DAYS FROM THE DATE OF LICENSOR'S INITIAL INSTALLATION OF THE SOFTWARE AT THE LICENSEE'S SITE, THE SOFTWARE WILL FUNCTION IN CONFORMITY WITH THE DESCRIPTION, SPECIFICATIONS AND DOCUMENTATION PROVIDED (SEE ATTACHMENT B AND C). LICENSOR MAKES NO WARRANTY REGARDING THE USABILITY OR CONVERTABILITY OF ANY OF LICENSEE'S PRE-EXISTING DATA. ANY DEFECTS FOUND IN THE SOFTWARE WILL BE REPAIRED IN A REASONABLE TIME PERIOD (as described in Attachment D of Agreement) AND UNDER THE TERMS AND CONDITIONS OF THIS WARRANTY. LICENSEE AGREES THAT THE FOREGOING LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OF LICENSOR AND LICENSOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS OR ADEQUACY FOR ANY PARTICULAR PURPOSE OR USE, QUALITY OR PRODUCTIVENESS, OR CAPACITY, OR THAT THE OPERATION OF THE SOFTWARE WILL BE ERROR-FREE. NO ACTION AGAINST LICENSOR FOR BREACH OF THIS LIMITED WARRANTY MAY BE COMMENCED MORE THAN 60 DAYS AFTER EXPIRATION OF THE WARRANTY PERIOD STATED IN THIS SECTION 9.

10. **Limitation of Remedies and Liability; Exclusion of Consequential Damages.** The cumulative liability of Licensor to Licensee for all claims relating to the Software and any services rendered hereunder, in contract, tort, or otherwise, shall not exceed the total amount of the License Fees paid to Licensor for the relevant Application(s) of the Software. Licensor's liability for breach of warranty exists only during the warranty period set forth in Section 9. In no event shall Licensor be liable for any consequential, indirect, special or incidental damages (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or other pecuniary loss), whether arising out of contract, tort, warranty or otherwise, even if Licensor has been advised of the possibility of such potential loss or damage. The foregoing limitation of liability and exclusion of certain damages shall apply regardless of the success or effectiveness of other remedies, and applies to claims pursuant to the limited warranty created under this Agreement.

11. **Governing Law; Venue.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Washington as it applies to a contract made and performed in such state, regardless of the place of execution or performance. Any action brought by either party hereunder may only be brought in the Pierce County Superior Court, in Pierce County, Washington, or any federal district court in the State of Washington.
12. **Severability.** If any provision of this agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement will remain in full force and effect.
13. **Entire Agreement; Licensor and Licensee Representations.** This Agreement is the complete and exclusive statement of the agreement between Licensor and Licensee and supercedes all prior and contemporaneous negotiations, discussions, proposals and understandings, oral, written or implied, including those involving any agent of either party, relating to the subject matter herein. No representations or statements made by either party or either party's agents not expressly stated herein are binding on either party (except as noted in the response to the City of Gig Harbor's Request for Proposals dated December 15, 1999 and is included in this agreement as Attachment C). Licensee represents and warrants that it has conducted its own due diligence investigation of all facts material to this transaction, that it possesses all information and expertise and capacity necessary to conduct such investigation, and that it possesses sufficient technical and accounting expertise and capacity (including sufficient mastery of the principles of fund accounting) to use the Software for its intended purpose.
14. **Modification.** The terms of this Agreement may only be modified in writing by the duly authorized representatives of the parties. No oral communication is binding upon either party unless the duly authorized representatives of the parties agree in writing agree in writing to the terms of such communication.
15. **Insurance.** During the term of this Agreement Licensor shall maintain 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 Licensor, its agents, representatives, employees, sub-consultants or sub-contractors. Before beginning work on the project described in this Agreement, the licensor 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
 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

3. Professional Liability insurance with limits no less than \$1,000,000 limit per occurrence.

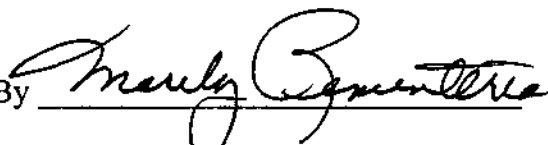
Any payment of deductible or self-insured retention shall be the sole responsibility of the Licensor. The City shall be named as an additional insured on the Commercial General Liability insurance policy, as respects work performed by or on behalf of the Licensor and a copy of the endorsement naming 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.

The Licensor'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 Licensor'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

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed in duplicate by its duly authorized officer or representative.

LICENSOR

LICENSEE

By 

By _____

Title: V.P. Marketing

Title: _____

Date: February 23 _____, 2000

Date: _____, 2000

**ATTACHMENT A
SCHEDULE OF FEES**

Attachment A is a checklist showing which products & services Licensee has purchased and the amount charged for each, the current cost for other services, and a schedule of payments. By signing the Attachment, Licensee is agreeing to the schedule of fees for the duration of the implementation.

<u>SOFTWARE:</u>	<u>Price</u>	<u>1st yr maint.</u>
Finance Suite	\$ 9,500	\$ 997
General Ledger		
Accounts Payable		
Budgeting		
Bank Reconciliation		
Payroll	\$ 8,000	\$ 840
Project Management	\$ 5,000	\$ 525
Utility Billing	\$ 11,000	\$ 1,208
Special Assessments/LIDs	\$ N/A	
Accounts Receivable	\$ 5,000	\$ 525
Fixed Assets	\$ 4,000	\$ 420
Business Licenses	\$ 4,500	\$ 472
Central Cash Management	\$ 4,500	\$ 472
Less Multiple Application Discount	- 5,000	
Meter Reading Interface	<u>See Services below</u>	<u>\$ 210</u>
Sub-Total:	\$ 46,500	\$ 5,669
Database Manager		
Server_10_(no. of users) @ 300/ea	\$ 3,000	\$ 750
Client_10_(no. of users) @ 250/ea	\$ 2,500	\$ 625
Report Writer	<u>\$ 1,000</u>	<u>\$ 250</u>
Sub-total:	\$ 6,500	\$ 1,625
Services		
Data Conversion (client must provide data in readable format)	\$	
Training & Implementation	\$ 18,000	
Set up Services	\$ 4,500	
Implementation Management	\$ 10,400	
Custom Modifications		
Bills	\$ 500 (as selected in IPS)	
Past Dues	\$ 500 (as selected in IPS)	
Meter Interface	\$ 2,000 (standard Sensus)	
Sewer Rates	<u>\$ 1,500 (12 hours)</u>	
Sub-total:	\$ 37,400	

Attachment A, cont'd:

Hardware/Other Software

Scanner(s)	\$ 1,500
Azalea Software	\$ 150
PostalSoft	\$ 3,000
Printer-Axiohm with auto cutter	\$ 565
Cash Drawer	<u>\$ 350</u>
Sub-Total:	\$ 5,565

PROJECT TOTAL: \$103,259

Attachment A, cont'd:

SERVICES:

After hours support **\$ 125/hr**
*(Licensee maintenance contract covers support from 8a-5p Pacific Time,
Monday through Friday)*

Data Conversion **\$ 125/hr**
(Transferring UB data from Licensee current system) **(or as bid)**

Installation (hardware) **\$ 125/hr**

Network & Operating System Consulting **\$ 125/hr**
*(Answering questions and assisting users and/or their consultants with
all aspects of hardware, networks, and operating systems - includes
installation, set-up, and trouble shooting)*

Implementation Management Breakdown from Previous Page

Finance Suite	\$ 1800.00
Payroll	\$ 1600.00
Project Management	\$ 1000.00
Utility Billing	\$ 3500.00
Accounts Receivable	\$ 500.00
Fixed Assets	\$ 600.00
Business Licenses	\$ 900.00
Central Cash Management	\$ 500.00

On-site training **\$ 125/hr**

Travel Time (billed one way) **\$ 125/hr**

Telephone training **\$ 125/hr**
*(Working with a trainer or customer support representative on questions other than
support related issues (including defined in Maintenance Agreement) where the call
exceeds 30 minutes in length is considered training rather than support and will be
billed as such)*

Weekend Training/Support

On-site rate	\$ 175/hr
Telephone rate	\$ 175/hr

**These are current rates for services and are subject to change within twelve months
of executed date of this contract.**

Attachment A, cont'd:

Schedule of Payment Terms:

Springbrook License Fees: 50% due at contract signing
50% of each application due as that application is live
("live" is defined as the first successful month end closing
in G/L; first successful A/P check run to vendors; first
successful payroll checks issued to employees; first
successful full cycle run in UB, including bills and past
dues generated and cash received back in; first successful
business licenses issued and cash received back in; all other
applications considered live when they are the only ones
being used by client to perform their assigned business
function – old software is no longer in parallel)

Database Fees: 100% due at contract signing

Setup Fees: 50% due upon contract signing
50% due after software is initially installed at customer site

Training: Invoiced and due as incurred **

Implementation Management: 50% due at contract signing;
50% due at project completion (customer is live)

1st yr Maintenance Fees: 100% due at contract signing (1st year maint. will be pro-
rated from June 1 – December 31)

1st yr Progress Maint. 100% due at contract signing

Hardware: 100% due at time of order

Programming Services (eg, meter interface) 50% due upon acceptance of bid
50% due upon installation of finished product

****Note:** a 40% increase in maintenance fees will occur if training is not completed.

By my signature below, I confirm that I have read, understand and agree to this Attachment A, Schedule of Fees:

(Signature)

(Date)

Attachment B
02/01/2000 – Finance/Payroll
IPS Findings

Participants: Dave Rodenbach, Fumiko, Linda – City of Gig Harbor
Roberta Heinz – Springbrook Software

Time: 8:00AM – 9:45AM

The IPS was conducted on a conference call.

General Ledger: The current chart of account array is: XXX-XXX-XXX.XXX. It is built around the BARS codes. The only significant change that will need to be made will be to get rid of the “.”. This will be replaced with a section break.

The account sections are Fund – Department – BASUB – Element. They know they will have to create a department 000 for the balance sheet accounts and currently have 000 already in place for revenue accounts.

We discussed the use of account types to break the reports and how they could be used to their advantage.

Their accounting basis is modified accrual for all funds except the enterprise funds. For the enterprise funds, they use accrual basis.

The council gets traditional reports. (The balance sheet, income statement, summary revenue and expense per fund and an investment summary) They also include a blanket voucher statement but the checks have already been cut.

Gig Harbor operates on a calendar year/fiscal year. They budget one year at a time and would like to be able to use the monthly budgeting feature of our software for accounts with cyclic revenue or expense. They are interested in budgeting at the asset level for capital projects.

We discussed the mandatory accounts that are needed (Fund Balance, Cash in Bank, AP Liability) across all funds and PR Liability accounts in the General Fund. This will be no problem.

Accounts Payable/Purchase Orders: Vendor numbers are currently numeric but they would like to change to alpha/numeric. Accounts Payable is submitted twice monthly. Linda liked the idea that she could work on a batch all month long.

The blanket voucher list is submitted to the board for approval but the checks are already cut by that time. They do not use warrants but do use the blanket voucher/disbursement voucher procedure and produce checks.

They currently are using a purchase order system but it is not as formal as they would wish it to be. I will fax a copy of the purchase order document that our system creates. They will consider using it in place of their current form. They have no real problem switching to a new form.

They are interested in bmp files for signatures in both accounts payable and in payroll. They are aware of the cost of \$400.00 per file. We discussed the procedure they would have to follow to get the proper format of the check to us so that the bmp file could be created.

There is no problem with the required check format for accounts payable and for payroll.

They have a Lexmark 1275 laser printer and will have no problem producing their reports and documents out of this printer.

Payroll: They currently use ADP but intend to discontinue this service when they get our program.

There are about sixty employees and most of them receive a mid-month draw. They do not want to change this. They understand that the draws will be processed through accounts payable.

The employee numbers are numeric and they are considering changing them to alpha. Deductions and benefits are not unusual. We will be able to handle them quite well. The part time and council members receive FICA. The balance of the staff pays 6.2% to a retirement 401A plan with the city matching the 6.2% less LTD and Life Insurance premium. The city match will be a flat amount entered on each employee's own master.

There are LEOFF 1 and 2 and PERS plans. There is also a 457 voluntary deduction. It is a flat amount. Health insurance is covered 100% by the city.

Pay types are not unusual and will not be any problem to handle. Accruals are also not unusual.

They do not currently use ACH but would like to be able to do so in the future. They know they will need to purchase their bank's software.

Time cards are entered in totals by pay type at month end. The police work on a 160 – 28 day work cycle but are paid monthly. The 28 days are for calculating overtime compensation. Because they located in Washington, they will be using hours worked for the L & I report but the employees are salaried so receive a consistent amount of pay each month.

We discussed the required reports. We also discussed the annual reports that the state requires for the year-end audit procedure. I have the examples from another Washington client and we are working on satisfying this need.

Project Management: They currently have an XXXXX-XXXX array for their project management codes. I do not see any problem with their use of our program. It offers more than their current program and should prove to be quite user friendly for them.

Cash Receipts: Cash is entered and committed daily. Cash is collected of-site and input in the office. They currently are using the Quadrant system to process the cash receipts.

They have a receipt printer but if it will not work with our software, they will purchase one that will work. The receipt printer is an EpsonTM-H500 IIP Model #128C. It is a thermal printer and can print a duplicate receipt if the roll of paper is a duplicate copy roll. Currently the print a single copy and can request a second copy by pushing a button on their keyboard.

They are working with a system similar to our type/category process so the codes will not be strangers to them.

They have no unusual report requirements.

Accounts Receivable: Less than ten invoices are processed a month and Dave does not feel that they will be using this module.

Miscellaneous: Dave Rodenbach will be the project leader and the primary contact during implementation. They have the finance implementation manual and will read it and fill out and return the necessary pages.

They have purchased a new server. Their Tech is Kay Truitt. She is on site and Dave said that she is very good.

We discussed the receipt and installation procedures for both Progress and Springbrook programs. Dave said that Kay would work with our Fulfillment staff to get the programs properly installed.

By my signature below I agree to the above stated Implementation Planning Session (IPS) findings as stated in Attachment C of this License Agreement:

(Signature)

(Date)

(Printed Name)

Attachment C
Gig Harbor RFP and Springbrook Response

City of Gig Harbor – Request for Proposal
For

Integrated Municipal Finance Software System

Date of issue: December 15, 1999
Date Proposal is Due: January 5, 1999
Date of Final Selection: February 14, 2000

1999 REQUEST FOR PROPOSAL

Integrated Municipal Finance Software System

Overview

The City of Gig Harbor is requesting proposals for an integrated municipal finance software system. The system should include all or part of the following comprehensive, fully integrated systems: *General Ledger, Budget Preparation, Accounts Payable/Purchasing, Cash Receipting, Payroll/Human Resources, Utility Billing, Fixed Asset Accounting and Job Costing* applications. This will be a competitive negotiation process. The City reserves the right to reject all bids and issue another Request for Proposal (RFP). This RFP does not commit the City of Gig Harbor to reimburse vendors for proposal submission costs. Price is an important consideration in this process, but not the only consideration. Other factors include track record of successes at other municipalities or utilities, identification and understanding of the City's requirements as embodied in the following list of questions, and experience and qualifications of key personnel.

The City of Gig Harbor is a general purpose government and provides police protection, street maintenance and improvement, parks and general administrative services. In addition, the City owns and operates a water and sewer system and a storm drainage system. The accounting policies of the City conform to the Budgeting, Accounting and Reporting System for Category 1 local governments prescribed by the State Auditor. Gig Harbor has a 1999 population of 6,350.

Deadline: *The City hereby sets a deadline two weeks from the date of publication of this Request for Proposals. All proposals must be postmarked by this deadline.*

Requirements and Specifications

Proposal Instructions: Please answer the stated questions listed below. If additional pages are necessary please feel free to attach them to your proposal. Please feel free to include pre-printed product literature regarding your system(s) should you desire. **Please provide one price quote for the entire system and a separate quote for each separate subsystem.** Please indicate the length of time over which your price quote applies. If enhancements are required to accommodate a specific task identified below please identify the cost of such enhancement. For each subsystem, please identify when the application was first put into production, how many sites are using the application, and how many installations are in progress.

Proposals should be mailed to:

City Clerk
City of Gig Harbor
3105 Judson Street
Gig Harbor, WA 98335

The following requirements and features have been identified by the City of Gig Harbor for inclusion in the desired system. The responses should be in the following format:

Enter "Y" if the item is included as part of the standard system package.

Enter "N" if the item is not available.

Enter "M" if the system requires modifications to meet this specification. Please identify the estimated cost of any required modification.

General

- | | | |
|-------|---|---------------------------|
| 1. | Single Input: Information should be entered into the system one time. Duplicate entry of data should be eliminated. This should provide greater efficiency, timely information, and eliminate errors introduced through data re-entry. | <u>Y</u> |
| 2. | Client/server: Solution proposed must be a client/server application. | <u>Y</u> |
| 3. | Ease of Use: The system must be easy to use and learn. A Windows environment is required. | <u>Y</u> |
| _____ | | |
| | Please specify which version(s) of Windows on which your system will run: | <u>95/98/N</u> |
| 4. | Real Time Information: The system must be real time, not batch. | <u>Y</u> |
| | | <u>Y</u> |
| | Budget: Transactions that will affect financial balances should be reflected immediately in the appropriate ledgers. | <u>Y</u> |
| | Forecast: Users should be able to forecast required resources based on current, actual data. | <u>Y</u> |
| 5. | Remote Access: The system must provide access to remote departments for budget and other financial information | <u>Y</u> |
| 6. | Schedule: Install system in a timely manner and according a mutually agreeable schedule. | <u>Y</u> |
| 7. | Convenient Communications: The system should facilitate the exchange of information by supporting electronic messaging and mail functions. | <u>Y</u> |
| 8. | Ad Hoc Reporting: The system should provide reporting tools for generating custom reports from system information. | <u>Y</u> |
| 9. | User Group Meetings: Do you currently sponsor regular (i.e., quarterly) user group meetings for each module? | <u>Y</u> |
| | Where does the nearest (to Gig Harbor) user group meet? | <u>Seattle/
Brem.</u> |
| 10. | System Documentation: Do you provide system documentation manuals for each subsystem? | <u>Y(On-
line)</u> |
| 11. | User Documentation: Do you provide user documentation manuals for each subsystem? | <u>Y</u> |
| 12. | Training and Support: Do you provide detailed on-site training, documentation, and support? | <u>Y</u> |
| | Is ongoing training and support available? | <u>Y</u> |
| | Please state hours of live support availability: | <u>8-
5</u> |
| 13. | Training: Please specify how many staff-days of training you anticipate providing as part of your proposal: | |
| | System Overview | <u>Inc GL</u> |
| | General Ledger | <u>4</u> |
| | Budget Preparation | <u>Inc GL</u> |
| | Accounts Payable/Purchasing | <u>Inc GL</u> |
| | Cash Receipting | <u>1</u> |
| | Payroll/Human Resources | <u>2</u> |
| | Utility Billing | <u>7</u> |
| | Fixed Assets | <u>1</u> |
| | Job Costing | <u>1</u> |

- | | | |
|-----|--|------------|
| 14. | Functional fit: If you are chosen as a finalist, are you willing to provide a functional fit in order to confirm your proposal responses in order to allow the City to more fully evaluate your product? | <u>Y</u> |
| 15. | References: Please provide a list of municipalities or public utilities that use your system, along with names and phone numbers of responsible individuals who can be contacted. | <u>A-1</u> |
| 16. | Hourly rates: As part of your proposal, please provide staff hourly rates for additional work outside the scope of any contract should the vendor be selected. | <u>IV</u> |
| 17. | Report writer: Please describe how your report writer works and identify if it is provided by another entity. | <u>A-2</u> |
| 18. | Vendor profile: Please provide a vendor profile that indicates number of staff, years established, and key staff. | <u>A-3</u> |
| 19. | Product Testing. Describe how you conduct product testing and explain how it will ensure the system is ready for production. | <u>A-4</u> |
| 20. | Security: The system should be capable of enforcing uniform policies and procedures throughout the City of Gig Harbor. Security should cover various levels from user to user class or group. Please describe, on a separate sheet, what security provisions your system has. | <u>A-5</u> |

System Specifications

The following requirements and features have been identified by the City of Gig Harbor for inclusion in the desired system. The responses should be in the following format:

Enter "Y" if the item is included as part of the standard system package.

Enter "N" if the item is not available.

Enter "M" if the system requires modifications to meet this specification.

Please note:

You may attach additional sheets wherever necessary to provide an adequate response.

System Environment

- | | | |
|----|--|-----------|
| 1. | Does the system include basic password protection for standard access? | <u>Y</u> |
| 2. | For the password can you specify:
That it must include numbers? | <u>N</u> |
| | That it cannot be the same as a prior password? | <u>N</u> |
| 3. | Can application access be restricted by password? | <u>Y</u> |
| 4. | Does the system use a GUI interface? | <u>Y</u> |
| 5. | Is file recovery automatic after a system failure? | <u>Y</u> |
| 6. | State-of-the-art database, such as Progress, Oracle, or MS SQL? | <u>Y</u> |
| 7. | Does the database support real-time processes? | <u>Y</u> |
| 8. | Does the system run on an NT network/Windows workstations or Novell?
[required] | <u>Y*</u> |

* If using a Novell network a dedicated NT server is still required.

Financial System

General Ledger

- | | | |
|-----|---|--|
| 1. | System is real time system not batch processing? | <u>Y</u> |
| 2. | Menus have drill-down capabilities for detail? | <u>Y</u> |
| 3. | ALL screens in a GUI format? | <u>Y</u> |
| 4. | System has complete on-line help function? | <u>Y</u> |
| 5. | Report writer for ad-hoc reporting? | <u>Y</u> |
| 6. | Handle an unlimited number of accounts? | <u>Y</u> |
| 7. | Does the system allow the use of control accounts that reflect revenue, expenditure and encumbrance activity totals from subsidiary ledgers? | <u>N(Yif JE)</u> |
| 8. | Interface to Bank Reconciliation, AP, PM, PO, JC? | <u>N</u>
<u>Y</u> |
| 9. | Does the system provide for centralized account management? | <u>Y</u> |
| 10. | Are users restricted from access of applications not within their authority? | <u>Y</u> |
| 11. | Can information be exported to other systems such as Excel? | <u>Y</u> |
| 12. | Can reports be generated for each individual fund? | <u>Y</u> |
| 13. | Can accounts be added in years other than the current fiscal year? | <u>Y</u> |
| 14. | Is security provided by user? | <u>Y</u> |
| 15. | Allow at least 13 periods per year with open periods? | <u>Y</u> |
| 16. | Allow unlimited number of years of detail information? | <u>Y</u> |
| 17. | Does the system provide for real time maintenance of account:
Status?
Balance? | <u>Y</u>
<u>Y</u> |
| 18. | Which of the following reports are available:
Trial Balance?
Detail of transactions by account/object code?
Revenue and expense detail by account?
Revenue and expense summary? | <u>Y</u>
<u>Y</u>
<u>Y</u>
<u>Y</u> |
| 19. | Is selectivity for accounting information available:
By account?
By period?
By date range? | <u>Y</u>
<u>Y</u>
<u>Y</u> |
| 20. | Can reports be rerun for periods other than the current period? | <u>Y</u> |
| 21. | Does the system support multiple accounting methods:
Cash Basis?
Modified Accrual? | <u>Y</u>
<u>Y</u> |

	Full Accrual?	<u>Y</u>
22.	Can entries be reversed and deleted automatically?	<u>Y</u>
23.	Are entries tracked as to:	-
	Transaction date and time?	<u>Y</u>
	Posting date and time?	<u>Y</u>
	By user performing entry?	<u>Y</u>
24.	Allow unlimited number of journal entries?	<u>Y</u>
25.	Have unlimited number of recurring journal entries?	<u>Y</u>
26.	Does the system have an approval process for journal entries?	<u>N</u>
27.	On-line screen inquiry including unlimited history?	<u>Y</u>
28.	Can the previous year be "locked" after year-end closure occurs so inadvertent changes cannot be made?	<u>Y*</u>
* In Next revision		

29.	Does the system provide year-end annual reporting for:	
	Balance sheets?	<u>Y</u>
	Operating statements?	<u>Y</u>
	Cash flow statements?	<u>Y</u>
30.	Does the system support the following charts of accounts:	-
	BARS?	<u>Y</u>
	NARUC?	<u>Y</u>
31.	Allow on-line notes to accounts?	-
	How many?	<u>N*</u>
32.	How many user-defined chart of account components?	-
33.	How many characters available in the chart of accounts?	<u>6</u>
34.	Will the system allow accounting periods other than the City's fiscal year for projects and grants?	<u>36</u>
35.	How many funds can your system manage?	-
36.	Is a fixed asset system available?	<u>Y**</u>
	Cost: \$ See B-1	<u>Unlimit</u>
		<u>Y</u>

Budget Preparation

1.	Forecast (using different methods) current-year ending balances based on current year-to-date data?	<u>Y*-</u>
2.	Will the budget system allow import of data from another payroll system?	<u>"</u>
3.	Modify a single line item, ranges of items or the entire file based on parameters entered.	<u>"</u>
4.	Allow for budget amendments and maintain the original budget and the amended budget.	<u>"</u>
5.	Can multi-year project budgets be integrated into the annual budget?	<u>"</u>

Accounts Payable/Purchasing

1.	System is real time system not batch processing?	<u>Y</u>
2.	Menus have drill-down capabilities for detail?	<u>Y</u>
3.	ALL screens in a GUI format?	<u>Y</u>
4.	System has complete on-line help function?	<u>Y</u>
5.	Report writer for ad-hoc reporting?	<u>Y</u>
6.	Handle an unlimited number of accounts?	<u>Y</u>
7.	Can the system support online paperless requisition and purchase orders, including online approvals?	<u>Y*</u>

- | | | |
|-----|--|--------------------------|
| 8. | Does the system provide for vendor maintenance:
By vendor name?
By vendor number? | <u>Y</u>
<u>Y</u> |
| 9. | Does the system support temporary vendors? | <u>Y</u> |
| 10. | Does the system track whether vendors require 1099's or not? | <u>Y</u> |
| 11. | Will the system track vendor product/service codes? | <u>Y*</u> |
| 12. | Can you cancel invoices in the system? | <u>Y</u> |
| 13. | Can you cancel checks in the system? | <u>Y</u> |
| 14. | Does the system allow unlimited number of vendors? | <u>Y</u> |
| 15. | Does the system allow unlimited years of history? | <u>Y</u> |
| 16. | Will the system allow you to work in both current and future periods? | <u>Y</u> |
| | * Available in next revision 2 nd quarter 2000 ** In Project Management | |
| 17. | Does the system interface with other systems such as: | |
| | General Ledger? | <u>Y</u> |
| | Budgets & Encumbrances? | <u>Y</u> |
| | Cash Receipting (refunds)? | <u>Y</u> |
| | Purchasing (purchase orders)? | <u>Y</u> |
| | Fixed Assets? | <u>Y</u> |
| | Inventory? | <u>Y</u> |
| | Job Costing? | <u>Y</u> |
| 18. | Does the system support both check and voucher printing? | <u>Y</u> |
| 19. | Do transactions directly affect General Ledger accounts in: | |
| | Income? | <u>Y</u> |
| | Expenses? | <u>Y</u> |
| | Budget? | <u>Y</u> |
| 20. | Does the system support recurring entries (biweekly, monthly)? | <u>Y</u> |
| 21. | Does the system provide a check reconciliation system? | <u>Y</u> |
| 22. | Are duplicate payments prevented? | <u>Y</u> |
| 23. | Can the system print 1099's at year-end for vendors requiring them? | <u>Y</u> |
| 24. | Can the system generate a payment approval list for City Council approval? | <u>Y</u> |
| 25. | Does the system provide user-defined payment terms? | <u>N</u> |
| 26. | Access vendor history by vendor, invoice date, check date? | <u>Y(+R)</u>
<u>W</u> |
| 27. | Does the system provide history drill-down to include: invoice information, P.O.'s, GL account number? | <u>Y</u> |
| 28. | Does the system allow the user to inquire vendor by name? | <u>Y</u> |

29. Does the system track Washington State "use" tax by expenditure account? Y
30. Does the vendor screen information include contract limits? Y
31. Does the system allow for use of both treasurer checks and warrants and have two separate check reconciliation systems? N
32. Please describe (on a separate sheet) how your Accounts Payable system integrates with Job Costing. A-7
33. Does the system provide the use of clearing funds for accounts payable and payroll to disburse cash? Y (ie's)
34. Does the system accommodate wire transfers of funds? N*
35. Does the system verify budget status prior to accepting a transaction? Y(PO)

Cash Receipting

1. System is real time system not batch processing? Y
2. Menus have drill-down capabilities for detail? Y
3. ALL screens in a GUI format? Y
4. System has complete on-line help function? Y
5. Report writer for ad hoc reporting? Y
6. Handle an unlimited number of accounts or transaction codes? Y
7. Does the system provide centralized collections? Y
8. Will the system distribute appropriate information to:
 General Ledger? Y
 Utility Billing? Y
9. Can the system track all entered payments including voided receipts? Y
10. Does the system provide integration to an electronic cash drawer system? Y
11. Can the system allow collection of all methods of payment at one location? Y
12. Does the system provide cash-out procedure for balancing each operator? Y
13. Does the system provide the ability to define payment mode and provide a daily deposit cash & check composition? * Next Revision Y
14. Can the system print a cash receipt on demand? Y
15. Can you view transactions in the cash receipts inquiry?
 Pending transactions? Y
 Historical transactions? Y
16. Does the system provide on-line payment information? Y
17. Does the system allow one or more transactions per receipt? Y
18. Does the system allow for posting charges from billed-out jobs and the Job Costing system? (Misc A/R) Y
19. Will the Cash Receipting system post to a different vendor's Utility Billing system and General Ledger? Y(inter f)
20. Will the system allow for credit card payments? Y

Payroll/Human Resources

- 1. System is real time system not batch processing? Y
- 2. Menus have drill-down capabilities for detail? Y
- 3. ALL screens in a GUI format? Y
- 4. System has complete on-line help function? Y
- 5. Report writer for ad-hoc reporting? Y
- 6. Handle an unlimited number of accounts? Y
- 7. Does the system support standard user-defined salary tables? Y
- 8. Allow unlimited salary tables? Y
- 9. Does the system support part-time and hourly employees, with pro-rated benefits? Y
- 10. Does the system accommodate employees with unusual shifts (i.e., police)? Y
- 11. Can the system support multiple positions for a single employee? Y
- 12. Does the system automatically account for and distribute overtime pay in accordance with the Fair Labor Standards Act (FLSA)? Y
- 13. Is the payroll system integrated to the General Ledger and budget? Y
- 14. Does the system track accrued time earned?
 - Vacation? Y
 - Sick Time? Y
 - Comp Time? Y
 - How many user defined accruals? 3
- 15. Does the system support multiple pay periods? Y
- 16. Does the system support payroll draws? Y
- 17. Allow an unlimited number of pay types ? Y
- 18. Can the system support the State PERS retirement program requirements? Y
- 19. Will the system generate all Federal and State reporting requirements? Y
- 20. Can the system generate:
 - W2 statements? Y
 - 1099R statements? Y
 - 941 and other quarterly reports? Y
- 21. Unlimited number of years of history? Y
- 22. Can the system track job or project costing information? Y
- 23. Unlimited number of employees allowed? Y
- 24. Can the system support labor union or other:
 - Deduction calculations? Y

	Reporting?	<u>Y</u>
	Deferred compensation plus employer match?	<u>Y</u>
	Payroll contributions such as state employment security payments?	<u>Y</u>
	Flexible spending (Section 125) plan?	<u>Y</u>
25.	Can tax tables be maintained and updated by the user?	<u>Y</u>
26.	Can the system provide daily time entry?	<u>Y</u>
27.	Support other methods of time entry such as electronic time clocks?	<u>Y*</u>
28.	Is an automatic payroll deposit provided?	<u>Y</u>
29.	Does the payroll system allow for remote data entry of timesheets?	<u>Y</u>
30.	Is all pertinent payroll information on one or two screens?	<u>Y</u>
31.	What type of security does the system provide for Payroll? Please attach response.	<u>See A-5</u>
32.	How are employee screens set up? Please attach response on a separate sheet.	<u>See A-6</u>
33.	Please describe (on a separate sheet) how the Payroll system integrates with Job Costing.	<u>See A-7</u>
34.	Will the payroll system allow import of data from ADP's PC/Payroll for Windows, version 3.0 payroll system?	<u>Y**</u>

Utility Billing

1.	System is real time system not batch processing?	<u>Y</u>
2.	Menus have drill-down capabilities for detail?	<u>Y</u>
3.	ALL screens in a GUI format?	<u>Y</u>
4.	System has complete on-line help function?	<u>Y</u>
5.	Report writer for ad-hoc reporting?	<u>Y</u>
6.	Handle an unlimited number of accounts?	<u>Y</u>
7.	Does the system support multiple billing cycles?	<u>Y</u>
	Monthly billing?	<u>Y</u>
	Bi-monthly billing?	<u>Y</u>
	Mixture of monthly and bi-monthly?	<u>Y</u>
	Quarterly billing/mixture of quarterly and monthly?	<u>Y</u>
	Semi-Annual?	<u>Y</u>
8.	Does the system integrate with:	<u>Y</u>
	General Ledger?	<u>Y</u>
	Cash Receipting?	<u>Y*</u>
	Accounts Payable (refunds)?	<u>Y</u>
9.	Allow unlimited number of customers?	<u>Y</u>
10.	Unlimited number of rates per service?	<u>Y</u>
11.	Does the system have a meter change-out program?	<u>Y</u>
12.	Can the system generate work orders?	<u>Y</u>

- | | | |
|-----|--|-------------|
| | Connection? | <u>Y</u> |
| | Disconnect? | <u>Y</u> |
| | Service? | <u>Y</u> |
| 13. | Does the system support hand-held meter reading devices? | <u>Y</u> |
| | What kind(s)? <u>All major manufact.</u> | - |
| | Support unlimited number of meters? | <u>Y</u> |
| 14. | Does the system have a meter inventory? | <u>Y***</u> |
| | Locations? | <u>Y</u> |
| | Type? | <u>Y</u> |
| | Class? | <u>Y</u> |
| 15. | Does the system track meter maintenance? | <u>Y</u> |
| 16. | Does the system support user-defined bill calculations? | <u>Y</u> |
| 17. | Does the system provide user-defined penalty options? | <u>Y</u> |
| 18. | Can the system prorate billings? | <u>Y</u> |
| 19. | Are grace/tolerance days user-definable? | <u>Y</u> |

20.	Does the system produce "dunning" letters?	<u>Y</u>
	Door hangers?	<u>Y</u>
	Rate changes?	<u>Y</u>
	Reminders?	<u>Y</u>
21.	Does the system have ad-hoc report writing capabilities?	<u>Y</u>
	Does the system include a built-in utility consumption and revenue summary by rate class?	<u>Y</u>
22.	Unlimited number of years of billing information?	<u>Y</u>
23.	Can the system automatically generate credit refunds?	<u>N</u>
24.	Allow special charges and lien charges?	<u>Y</u>
25.	Date sensitive user-defined code comment screen?	<u>Y</u>
26.	Unlimited notes per account?	<u>Y(1000)</u>
27.	A separate lot screen listing at least:	
	Service location	<u>Y</u>
	Lot number	<u>Y</u>
	Parcel number	<u>Y</u>
	Inside/outside City code	<u>Y</u>
	Lot size	<u>Y</u>
	Buildable/impervious/developed lot size	<u>Y</u>
28.	Does the system allow for "unbundling" of charges and show them separately on the customer's utility bill?	<u>Y</u>
29.	Does the system accommodate average payment plans?	
	Low income or other discounts?	<u>Y</u>
30.	Does the system accommodate Internet bill delivery and payment?	<u>Y</u>
31.	Will the Utility Billing system post to another vendor's General Ledger system?	<u>Y</u>
32.	Does the system print shut-off notices?	<u>Y</u>
33.	Will the system print bills on a line printer?	<u>N</u>
34.	A separate "Meter Screen" listing at least:	
	Route number	<u>Y</u>
	Sequence number	<u>Y</u>
	Meter serial number	<u>Y</u>
	Installation date	<u>Y</u>
	Manufacturer code	<u>Y</u>
	Meter size	<u>Y</u>
	# of digits	<u>Y</u>
	EDU'S, status code, type of meter	<u>Y</u>
	Radio read capability (MXU-ID, Reg-ID, longitude, and latitude)	<u>Y</u>
	How many user defined meter fields?	<u>Y</u>
35.	How many services per customer?	<u>8</u>
36.	How many user-defined fields?	<u>20+</u>
37.	How many name/address sections (i.e. master, owner, "bill-to")?	<u>2</u>

Fixed Asset Accounting

- 1. System is real time system not batch processing? Y
- 2. Menus have drill-down capabilities for detail? Y
- 3. ALL screens in a GUI format? Y
- 4. System has complete on-line help function? Y
- 5. Report writer for ad-hoc reporting? Y
- 6. Integrated with Accounts Payable system to facilitate additions to the fixed assets inventory. Y
- 7. Allows user to assign fixed assets to one or more funds, users, and/or locations. Y
- 8. Allows the user to define classes of fixed assets. Y
- 9. Acquisition method is tracked. Y
- 10. Capability of bar coding assets for physical inventory. Y
- 11. Can the system generate depreciation postings and post automatically to the general ledger? Y

Job Costing

- 1. System is real time system not batch processing? Y
- 2. Menus have drill-down capabilities for detail? Y
- 3. ALL screens in a GUI format? Y
- 4. System has complete on-line help function? Y
- 5. Report writer for ad-hoc reporting? Y
- 6. Handle an unlimited number of job and activity numbers? Y
- 7. Does the system allow for compilation of project life costs? Y
- 8. Does the system integrate with:
 - General Ledger? Y
 - Payroll? Y
 - Accounts Payable? Y
 - Cash Receipts? Y
- 9. Are labor costs, including fringe benefits, derived directly from the payroll system? Y
- 10. Does the system have the flexibility to add a percentage to cover overhead costs such as supervision and "unproductive" time (vacation, sick leave, etc.)? Y
- 11. Does the system have a project summary report available?

- | | | |
|-----|---|-----------------|
| | Activity summary report? | <u>Y</u> |
| | Project detail report? | <u>Y</u> |
| | Activity detail report? | <u>Y</u> |
| | Are other stock reports available (please list)? | <u>Y</u> |
| 12. | How many job-type codes are available? | <u>Unlimit.</u> |
| | Work order or project number? | <u>"</u> |
| | Project type code? | <u>"</u> |
| | Sub-project code? | <u>"</u> |
| | Activity number? | <u>"</u> |
| | Activity type code? | <u>"</u> |
| | Sub-activity code? | <u>"</u> |
| | Additional codes? | <u>"</u> |
| 13. | Is an inventory system available? | <u>Y</u> |
| | Cost: <u>See B-1</u> | - |
| | Does it integrate with job costing? | <u>Y</u> |
| 14. | Is an equipment or fleet management system available? | <u>N</u> |
| | Cost: _____ | - |
| | Does it integrate with job costing? | <u> </u> |

* Next Revision ** ADP interface currently in testing phase *** Only with Inventory Application

**Attachment D
Software License Agreement
User Support**

What type of support is available?

The primary goal of Springbrook's user support team is to provide clients with Springbrook application software support. The support team can:

- Answer your questions about how the V5 applications work
- Help you troubleshoot problems you experience in working with the V5 applications

Unfortunately, Springbrook cannot provide networking, hardware or 3rd party software support. However, if a problem occurs while you are working in the Springbrook applications, the support team can assist you in determining if that problem is due to a V5/Progress application issue.

What does support cost?

Do you have a maintenance contract with Springbrook? For clients with maintenance agreements, support is available during regular support hours (Monday - Friday, 7am-5pm Pacific Standard Time) at no additional cost. Off-hours support must be prearranged and will be billed at \$125.00 per hour.

Clients without maintenance agreements are billed \$25.00 per hour for support obtained during regular hours and \$150.00 for off-hours support.

Note: We encourage you to make use of the application help files before calling the support team for help. If you work with the support team on questions that do not involve problems with the functioning of the application, and if your call exceeds 30 minutes in length, Springbrook considers the call a training call rather than a support call. Training calls are generally billed at \$125.00 per hour.

If you need assistance handling problems that stem from hardware or networking issues or that stem from applications other than the V5 applications or Progress

The ID is designed to ensure that your call is documented and returned correctly.)

The support receptionist will also ask you for a small amount of information, including:

- Your name
 - The phone number where you can be reached
 - The product(s) you are having difficulty with
 - A one sentence description of the issue
2. The support receptionist will provide you with a call number and place your information in a call queue.

3. Calls in the queue are returned as support representatives become available. As soon your call is the first unanswered call in the queue, a support representative will call you.

What if my problem is an emergency?

The support team considers your issue an emergency if

- You cannot open the application
- You are running live and unable to process payroll (Finance)
- You are running live unable to send out bills (Utility Billing)

If you are having such an emergency, your call will be given a higher priority in the call queue. Otherwise, the support team will return calls strictly on a first call, first serve basis.

What kind of information will the support team need from me?

When you talk to a support representative, she or he will want to know some specific details about the nature of your issue. She or he may ask you:

- What exactly were you doing in the system when the problem occurred?
- What happened?
- If you were generating a report or generating information from the data, what did you enter in the generate window?
- If you received an error message, what is the exact message?
- What did you try to do to resolve the problem?
 - If it was an error in the system, did you try to reboot?
 - If it is a balancing problem, did you look at your reports and accounts to try to track down the source of the error?

If you are prepared to answer these questions with specific information, using the exact window and report titles, the support representative will be able to help you much more quickly.

The support representative may ask you to fax information or a report to Springbrook. Faxes should be clearly labeled and directed to the support contact you have been working with on this particular issue.

Often, when the support team asks you to supply them with additional information, they need that information before they can progress toward finding a solution for you. Please provide any requested information in a timely manner.

What happens after I report a problem to the support team?

The support team will work directly with you to try and resolve your issue. If they resolve the issue for you, they will note the solution in our call tracking system, and close out your call. If the issue requires a programmer's assistance, the support team will create a work order for the programming staff. When an issue needs to be addressed by the programming department, the support team will continue to track the issue for you – so you will always have a single point of contact to help you reach a satisfactory resolution.

How can I get information about an outstanding issue?

If the support team is unable to resolve an issue for you within a single phone call, they will work diligently to keep you informed about the status of that issue. However, if you have a question about an ongoing issue, you can call the support line: (503) 820-2240. Simply provide the support receptionist with your call number or work order number. If the support receptionist cannot answer your question, he or she will refer you to the person who can best assist you.

SPRINGBROOK SOFTWARE SOFTWARE MAINTENANCE AGREEMENT

PARTIES:

LICENSOR:

Springbrook Software, Inc., an Oregon corporation
720 S.W. Washington Street, Suite 330
Portland, OR 97205
Ph. (503) 973-7750
Fax (503) 973-7760
Email: info@springbrooksoftware.com

LICENSEE:

CITY OF GIG HARBOR
3105 JUDSON STREET
GIG HARBOR, WA 98335

EFFECTIVE DATE: February 23, 2000

AGREEMENT:

This Software Maintenance Agreement ("Agreement") is by and between Springbrook Software ("Company") and the City of Gig Harbor, Washington. ("Customer").

The Company has licensed its proprietary software products and programs ("Software") to the Customer, and Customer wishes to have the Company maintain and support the use of the Software. The following are the terms of the Agreement between Company and Customer:

1. Definitions.

- a. **"Enhancement"** means any modification or addition that, when made or added to the Software, materially changes its utility, efficiency, functional capability, or application, but that does not constitute solely an Error Correction. Company may designate Enhancements as minor or major, depending on its assessment of their value and of the function added to the Software.
- b. **"Error"** means any failure of the Software to conform in any material respect to its published specification.
- c. **"Error Correction"** means either a modification or addition that, when made or added to the Software, brings the Software into material conformity with its published specifications, or a procedure or routine that, when observed in the regular operation of the Software, avoids the practical adverse effect of such nonconformity.
- d. **"Releases"** means new versions of the Software, which may include Error Corrections and/or Enhancements.

- e. **"Temporary Fix"** means is an initial correction or "fix" to a problem in the software prior to the release of an error correction.
- f. **"Major Enhancement"** means either the total rewrite of an application and/or additional functionality benefiting only certain entities, not all customers as a whole, and requiring these enhancements to be packaged as a separate Module.

2. Term. The maintenance term of this Agreement shall be for the duration listed in the accompanying invoice for maintenance (not to exceed one year). During the first term of this agreement, customer shall pay for maintenance for each module pro rata as determined by the number of months from installation to the end of the customer's fiscal year. Company shall bill and Customer shall pay for maintenance provided under this Agreement on an annual basis, payment due as of the start of each annual maintenance period. The maintenance term shall automatically renew thereafter for subsequent terms of one (1) year each unless and until either party gives the other party at least thirty (30) days' written notice of termination in advance of the termination of the then-current term.

3. Acceptance. Agreement shall become effective upon Company's receipt of payment in full for the initial maintenance term from Customer.

4. Scope of Maintenance. During the maintenance term, Company agrees to provide basic maintenance services in support of the Software. Basic maintenance services shall be supplied for one database (additional databases will be supported under a separate Agreement) at Customer site and will consist of:

- a. **Error Correction.** Company shall be responsible for using all reasonable diligence to correct verifiable and reproducible Errors within a reasonable time period when reported to Company. The Error Correction, when completed, may be provided in the form of a "temporary fix," consisting of sufficient programming and operating instructions to implement the Error Correction.
- b. **Telephone/Modem Support.** Company shall maintain a telephone and modem support line during normal business hours (8AM to 5 PM Pacific Standard Time) that permits Customer to report Errors in the Software and to receive assistance in cases of operator error. Customer agrees to provide and maintain a modem, PC Anywhere, and dedicated modem line on Customer's server to allow Company to maintain and support Company's application software. Company reserves the right to bill hourly (following Customers approval) for maintenance in cases of repeated operator error, where a single operator error results in extensive Company time to resolve the problem.
- c. **Changes in State and Federal Regulations.** Company shall provide updates needed to conform to state and federal regulations, including changes to tax tables and routine forms. Maintenance services under this Agreement do not include updates to conform to any changes in local governmental regulations, including without limitation changes in utility billing rates, reports or methods.
- d. **Routine Releases.** Company may, from time to time, issue routine Releases of the Software, containing Error Corrections and minor Enhancements to customers who have maintenance agreements in effect. Installation of routine releases is provided at no charge to customer if completed over the modem. Installation of routine releases and updates by Company at Customer's site will be billed to the Customer at the then current hourly rate except cases where Company is solely responsible for the inability to provide modem support.
- e. **Discounts on Major Enhancement Releases.** Company may, from time to time, offer major Enhancements to its customers, generally for an additional charge. To the extent Company

offers such Enhancements, it shall permit Customer to obtain one copy of each major Enhancement for each copy of the Software being maintained under this Agreement at the discount then specified by Company.

5. Exceptions. The following matters are not covered by basic maintenance:

- a. On-site support by employees or agents of Company;
- b. Training users in the proper operation of the Software;
- c. Any problem resulting from the material misuse, improper use, alteration, or damage of the Software by the Customer not previously approved by the Company.
- d. Support of operating systems; support of non-Company software, including but not limited to spreadsheets, word processors, and general office software; maintenance related to errors caused by or attributable to the failure of any interconnected third party product or data including errors related to such third party product's failure to be Year 2000 compliant.

6. Cooperation of Customer. Customer agrees to notify Company promptly following the discovery of any Error. Further, upon discovery of an Error, Customer agrees, if requested by Company, to submit to company a listing of output and any other data that Company may require in order to reproduce the Error and the operating conditions under which the Error occurred or was discovered. Company shall treat any such data as confidential.

7. Fees and Expenses. The initial maintenance fee (based on 18% of the current list price of the application software and 25% of the database manager software) will be per Attachment B to this Agreement and will be pro-rated for the period 6-1-2000 through 12-31-2000. Maintenance fees are due and payable at the beginning of the initial and each renewal year of maintenance hereunder. Maintenance fees do not include travel (including travel time) and living expenses for installation and training; on-site support, installation or training; file and data conversion costs; consulting services; shipping charges; or the costs of any recommended hardware. Customer agrees to pay such fees and costs, when and as the services are rendered and the expenses incurred, as approved by Customer and invoiced by Company. Company shall provide supporting documentation for all expenses upon customer request. Company reserves the right to require prepayment or advance deposit for such additional charges or expenses in some instances. Customer is also responsible for sales or use taxes and state or local property or excise taxes associated with licensing, possession, or use of the Software or any associated services. The annual maintenance fee may change for renewals provided that Company gives Customer at least thirty days prior written notice of the change. All fees paid hereunder are nonrefundable and will be forfeited in the event of cancellation except as specifically provided in sections 10, 11, and 13.

8. Late Charges. If any fees or expenses are not paid within thirty (30) days after they are due, Company may, at its option, charge interest at a rate of one and one-half percent (1 ½%) per monthly (eighteen percent (18%) per annum) or, if less, the highest rate allowed by applicable law from the date such fee or charge first became delinquent.

9. Use and Restrictions. The Customer's rights and obligations concerning the use of any Error Corrections, Enhancements, or Releases (or any other programming provided by Company, regardless of its form or purpose) shall be as provided in the Software License Agreement. Company shall have sole and exclusive ownership of all right, title and interest in and to such works (including ownership of all copyrights and other intellectual property rights pertaining thereto), subject only to the license expressly granted to customer therein.

10. Limited Remedy. The cumulative liability of Company to customer for all claims relating to the Software and any services rendered hereunder, in contract, tort, or otherwise, shall not exceed the total amount of the license fee paid to Company for the relevant Software. In no event shall either party be liable

to the other for any consequential, indirect, special, or incidental damages (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or other pecuniary loss), even if such party has been advised of the possibility of such potential loss or damage. The foregoing limitation of liability and exclusion of certain damages shall apply regardless of the success or effectiveness of other remedies.

11. Warranty and Exclusions. COMPANY WARRANTS THAT IT WILL RENDER ITS SERVICES HEREUNDER IN A GOOD AND WORKMANLIKE MANNER. DURING THE TERM OF THIS AGREEMENT COMPANY SHALL, SUBJECT TO THE LIABILITY LIMITATIONS SET FORTH IN SECTION 10, CORRECT WITHIN A REASONABLE TIME (see Attachment A) ANY FAILURE BY COMPANY TO RENDER ITS SERVICES HEREUNDER IN A GOOD AND WORKMANLIKE MANNER. ANY CLAIM BASED ON THE FOREGOING WARRANTY MUST BE SUBMITTED IN WRITING TO COMPANY.

12. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Washington as it applies to a contract made and performed in such state, regardless of the place of execution or performance. Any action brought by either party hereunder may only be brought in the Pierce County Superior Court, in Pierce County, Washington, or any Federal District Court in the State of Washington.

13. Year 2000. All error corrections, enhancements and temporary fixes will be year 2000 compliant. All other terms of this agreement notwithstanding, company makes no warranty or representation that the software will be completely and finally installed and fully functional on or prior to January 1, 2000.

14. Insurance. During the term of this Agreement Licensor shall maintain 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 Licensor, its agents, representatives, employees, sub-consultants or sub-contractors. Before beginning work on the project described in this Agreement, the licensor 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
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
3. Professional Liability insurance with limits no less than \$1,000,000 limit per occurrence.

Any payment of deductible or self-insured retention shall be the sole responsibility of the Licensor. 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 Licensor 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.

The Licensor'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 Licensor'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

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed in duplicate by its duly authorized officer or representative.

Signature states that Customer and Company agree with terms and conditions of this Agreement, including all attachments.

ACCEPTED BY CUSTOMER

Company _____

By: _____
Authorized Signature

Name: _____
Type or Print

Title Date

ACCEPTED BY THE SPRINGBROOK SOFTWARE CO.

By: 
Authorized Signature

Name: Marily Rementeria
Type or Print

V.P. Marketing February 23, 2000
Title Date

Attachment A

Software Maintenance Agreement

User Support

What type of support is available?

The primary goal of Springbrook's user support team is to provide clients with Springbrook application software support. The support team can:

- Answer your questions about how the V5 applications work
- Help you troubleshoot problems you experience in working with the V5 applications

Unfortunately, Springbrook cannot provide networking, hardware or 3rd party software support. However, if a problem occurs while you are working in the Springbrook applications, the support team can assist you in determining if that problem is due to a V5/Progress application issue.

What does support cost?

Do you have a maintenance contract with Springbrook? For clients with maintenance agreements, support is available during regular support hours (Monday - Friday, 7am-5pm Pacific Standard Time) at no additional cost. Off-hours support must be prearranged and will be billed at \$125.00 per hour.

Clients without maintenance agreements are billed \$25.00 per hour for support obtained during regular hours and \$150.00 for off-hours support.

Note: We encourage you to make use of the application help files before calling the support team for help. If you work with the support team on questions that do not involve problems with the functioning of the application, and if your call exceeds 30 minutes in length, Springbrook considers the call a training call rather than a support call. Training calls are generally billed at \$125.00 per hour.

If you need assistance handling problems that stem from hardware or networking issues or that stem from applications other than the V5 applications or Progress

How do I get help from the support team?

To reach the Springbrook support team, dial the support line number:
(503) 820-2240.

Here's what you can expect:

1. Springbrook's support receptionist will answer your call and ask for your customer ID. (Your Implementation coordinator will supply you with your site's ID number. The ID is designed to ensure that your call is documented and returned correctly.) The support receptionist will also ask you for a small amount of information, including:
 - Your name
 - The phone number where you can be reached
 - The product(s) you are having difficulty with
 - A one sentence description of the issue
2. The support receptionist will provide you with a call number and place your information in a call queue.
3. Calls in the queue are returned as support representatives become available. As soon your call is the first unanswered call in the queue, a support representative will call you.

What if my problem is an emergency?

The support team considers your issue an emergency if

- You cannot open the application
- You are running live and unable to process payroll (Finance)
- You are running live unable to send out bills (Utility Billing)

If you are having such an emergency, your call will be given a higher priority in the call queue. Otherwise, the support team will return calls strictly on a first call, first serve basis.

What kind of information will the support team need from me?

When you talk to a support representative, she or he will want to know some specific details about the nature of your issue. She or he may ask you:

- What exactly were you doing in the system when the problem occurred?
- What happened?
- If you were generating a report or generating information from the data, what did you enter in the generate window?
- If you received an error message, what is the exact message?
- What did you try to do to resolve the problem?
 - If it was an error in the system, did you try to reboot?
 - If it is a balancing problem, did you look at your reports and accounts to try to track down the source of the error?

If you are prepared to answer these questions with specific information, using the exact window and report titles, the support representative will be able to help you much more quickly.

The support representative may ask you to fax information or a report to Springbrook. Faxes should be clearly labeled and directed to the support contact you have been working with on this particular issue.

Often, when the support team asks you to supply them with additional information, they need that information before they can progress toward finding a solution for you. Please provide any requested information in a timely manner.

What happens after I report a problem to the support team?

The support team will work directly with you to try and resolve your issue. If they resolve the issue for you, they will note the solution in our call tracking system, and close out your call. If the issue requires a programmer's assistance, the support team will create a work order for the programming staff. When an issue needs to be addressed by the programming department, the support team will continue to track the issue for you – so you will always have a single point of contact to help you reach a satisfactory resolution.

How can I get information about an outstanding issue?

If the support team is unable to resolve an issue for you within a single phone call, they will work diligently to keep you informed about the status of that issue. However, if you have a question about an ongoing issue, you can call the support line: (503) 820-2240. Simply provide the support receptionist with your call number or work order number. If the support receptionist cannot answer your question, he or she will refer you to the person who can best assist you.

**ATTACHMENT B
SCHEDULE OF FEES**

Attachment B is a checklist showing which products & services Licensee has purchased and the amount charged for each, the current cost for other services, and a schedule of payments. By signing the Attachment, Licensee is agreeing to the schedule of fees for the duration of the implementation.

<u>SOFTWARE:</u>	<u>Price</u>	<u>1st yr maint.</u>
Finance Suite	\$ 9,500	\$ 997
General Ledger		
Accounts Payable		
Budgeting		
Bank Reconciliation		
Payroll	\$ 8,000	\$ 840
Project Management	\$ 5,000	\$ 525
Utility Billing	\$ 11,000	\$ 1,208
Special Assessments/LIDs	\$ N/A	
Accounts Receivable	\$ 5,000	\$ 525
Fixed Assets	\$ 4,000	\$ 420
Business Licenses	\$ 4,500	\$ 472
Central Cash Management	\$ 4,500	\$ 472
Less Multiple Application Discount	- 5,000	
Meter Reading Interface	<u>See Services below</u>	<u>\$ 210</u>
Sub-Total:	\$ 46,500	\$ 5,669

Database Manager

Server_10_(no. of users) @ 300/ea	\$ 3,000	\$ 750
Client_10_(no. of users) @ 250/ea	\$ 2,500	\$ 625
Report Writer	<u>\$ 1,000</u>	<u>\$ 250</u>
Sub-total:	\$ 6,500	\$ 1,625

Services

Data Conversion (client must provide data in readable format)	\$
Training & Implementation	\$ 18,000
Set up Services	\$ 4,500
Implementation Management	\$ 10,400
Custom Modifications	
Bills	\$ 500 (as selected in IPS)

Past Dues	\$ 500 (as selected in IPS)
Meter Interface	\$ 2,000 (standard Sensus)
Sewer Rates	\$ 1,500 (12 hours)
Sub-total:	<u>\$ 37,400</u>

Hardware/Other Software

Scanner(s)	\$ 1,500
Azalea Software	\$ 150
PostalSoft	\$ 3,000
Printer-Axiom with auto cutter	\$ 565
Cash Drawer	\$ 350
Sub-Total:	<u>\$ 5,565</u>

PROJECT TOTAL: \$103,259

Attachment B, cont'd:

SERVICES:

After hours support **\$ 125/hr**

*(Licensee maintenance contract covers support from 8a-5p Pacific Time,
Monday through Friday)*

Data Conversion **\$ 125/hr**

(Transferring UB data from Licensee current system) (or as bid)

Installation (hardware) **\$ 125/hr**

Network & Operating System Consulting **\$ 125/hr**

*(Answering questions and assisting users and/or their consultants with
all aspects of hardware, networks, and operating systems - includes
installation, set-up, and trouble shooting)*

Implementation Management Breakdown from Previous Page

Finance Suite	\$ 1800.00
Payroll	\$ 1600.00
Project Management	\$ 1000.00
Utility Billing	\$ 3500.00
Accounts Receivable	\$ 500.00
Fixed Assets	\$ 600.00
Business Licenses	\$ 900.00
Central Cash Management	\$ 500.00

On-site training **\$ 125/hr**

Travel Time (billed one way) **\$ 125/hr**

Telephone training **\$ 125/hr**

*(Working with a trainer or customer support representative on questions other than
support related issues (including defined in Maintenance Agreement) where the call
exceeds 30 minutes in length is considered training rather than support and will be
billed as such)*

Weekend Training/Support

On-site rate	\$ 175/hr
Telephone rate	\$ 175/hr

**These are current rates for services and are subject to change within twelve months of executed date
of this contract.**

Attachment B, cont'd:

Schedule of Payment Terms:

Springbrook License Fees:	50% due at contract signing 50% of each application due as that application is live ("live" is defined as the first successful month end closing in G/L; first successful A/P check run to vendors; first successful payroll checks issued to employees; first successful full cycle run in UB, including bills and past dues generated and cash received back in; first successful business licenses issued and cash received back in; all other applications considered live when they are the only ones being used by client to perform their assigned business function ~ old software is no longer in parallel)
Database Fees:	100% due at contract signing
Setup Fees:	50% due upon contract signing 50% due after software is initially installed at customer site
Training:	Invoiced and due as incurred **
Implementation Management:	50% due at contract signing; 50% due at project completion (customer is live)
1 st yr Maintenance Fees:	100% due at contract signing (1 st year maint. will be pro-rated from June 1 – December 31)
1 st yr Progress Maint.	100% due at contract signing
Hardware:	100% due at time of order
Programming Services: (eg; meter interface)	50% due upon acceptance of bid 50% due upon installation of finished product
**Note:	a 40% increase in maintenance fees will occur if training is not completed.

By my signature below, I confirm that I have read, understand and agree to this Attachment A, Schedule of Fees:

(Signature)

(Date)

Springbrook Software, Inc.

720 S W Washington Street, Suite 330
Portland, OR 97205

Invoice

DATE	INVOICE #
2/10/2000	5811

BILL TO
City of Gig Harbor 3105 Judson Street Gig Harbor, WA 98335

P.O. NO.	TERMS	DUE DATE
		2/10/2000

DESCRIPTION	QUANTITY	RATE	AMOUNT
License Fees-50% upon Contract Signing			
Finance		4,750.00	4,750.00
Payroll		4,000.00	4,000.00
Project Management		2,500.00	2,500.00
Utility Billing		5,500.00	5,500.00
Fixed Assets		2,000.00	2,000.00
Accounts Receivable		2,500.00	2,500.00
Business License		2,250.00	2,250.00
Central Cash Management		2,250.00	2,250.00
Less Discount		-2,500.00	-2,500.00
Database Manager-100% upon Contract Signing			
Progress Database Server (10)	10	300.00	3,000.00
Progress Database Client (10)	10	250.00	2,500.00
Progress Report Writer		1,000.00	1,000.00
Maintenance-100% upon Contract Signing. (Pro-rated from June 1 - December 31st) 18% of License Fees			
Maintenance-Finance		997.00	997.00
Maintenance-Payroll		840.00	840.00
Maintenance-Project Management		525.00	525.00
Maintenance - Utility Billing		1,208.00	1,208.00
Maintenance-Accounts Receivable		525.00	525.00
Maintenance-Fixed Assets		420.00	420.00
Maintenance-Business License		472.00	472.00
Maintenance-Central Cash		472.00	472.00
Maintenance-Progress-100%		1,375.00	1,375.00
Maintenance-Report Writer-100%		250.00	250.00
Services-50% upon Contract Signing			
System Setup Services		2,250.00	2,250.00
Implementation Management		5,200.00	5,200.00
Out-of-state sale, exempt from sales tax		0.00%	0.00

Total \$44,284.00

Please remit payment to 720 SW Washington Suite 330,
Portland, OR 97205. If questions, please call Morrie
Jubb (503) 973-7750. Thank you for your business.



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: DAVID RODENBACH *DR*
DATE: FEBRUARY 23, 1999
SUBJECT: BANKING SERVICE AGREEMENTS

INTRODUCTION

Two agreements are attached for Council approval. The first is a Master Agreement that covers general banking services, and the second is a Wire Transfer Service Agreement that covers Automated Clearinghouse (ACH) Transactions.

BACKGROUND

These agreements are necessary to give the City access to Key Bank's online reports and wire transfer services. The City currently receives monthly bank statements. With online reporting the City's banking information will be updated and available daily. The Wire Transfer Service Agreement will allow the City to provide automatic deposit for payroll checks and accomplish wire transfers cheaper and more efficiently.

FINANCIAL

At this time monthly service fees are about \$200 per month and are not expected to change significantly.

RECOMMENDATION

Staff recommends approval of the attached contracts.

Master Agreement

KEYBANK NATIONAL ASSOCIATION-WASHINGTON
1211 SW Fifth Avenue, Suite 520
Portland, OR 97204



City of Gig Harbor

Client Name
3105 Judson Street

Client Address
Gig Harbor, WA 98335

Bank, or any of its Affiliate(s), as the case may be, agree to perform and Client agrees to purchase Service(s), as defined below.

1. Definitions.

(a) "Affiliate(s)" shall mean any direct or indirect subsidiary (other than the Bank) of KeyCorp and its successors.

(b) "Bank" shall mean the Bank specified above in this Master Agreement and any Affiliate(s) which may, from time to time, provide Service(s) for the Client.

(c) "Banking day" shall mean any day other than a Saturday, Sunday, or a day on which Bank is authorized or required to close according to applicable law.

(d) "Client Service Order" shall mean the Bank's internal worksheet describing details regarding Services being provided by the Bank to the Client as the same may be amended by Bank from time to time.

(e) "Rules and Regulations" shall mean the deposit account rules and regulation agreement governing the Client's deposit account with the Bank.

(f) "Services" shall mean any cash management service undertaken by the Bank for the Client, including, but not limited to the following Services: Account Reconciliation (ARP), Automated Clearinghouse (ACH), Automatic Investment Sweep Account, Controlled Disbursement Account, Electronic Data Interchange, Lockbox, Positive Pay, Wire Transfer, and Zero Balance Account.

(g) "Service Agreement(s)" shall mean a written agreement other than the Master Agreement, by which Bank undertakes to provide Services to the Client.

(h) "Service Instruction(s)" shall mean any Client Service Order and any instruction by Client that covers any of the Services being provided.

2. Account Documentation. Client will execute and deliver to Bank such account documentation as Bank deems necessary. Bank will, in its sole discretion, determine the adequacy of such documentation, and may refuse to provide the Service(s) until such documentation is received by Bank. Client agrees promptly to notify Bank of any changes to any information presented in the account documentation.

3. Client's Records and Media. Prior to the implementation of the Service(s), Client agrees to provide to Bank all records and data processing media necessary to perform the Service(s). The records will be legible, correct, complete and in the format specified in the Service Instruction(s), Service Agreement(s), Service Manual(s) and related schedules. Checks will be MICR encoded according to the Bank's specifications. Bank will, in its sole discretion, determine the adequacy of the information and the format in which it is submitted, and may refuse to provide the Service(s) until such information and/or format is deemed satisfactory.

4. Software Provided in Connection with Performance of Service(s).

All software, specifications, tapes or other media, programs and procedures owned by the Bank or its service providers and used in connection with the performance of the Service(s), will be and remain the sole property of the Bank and will not be modified or altered in any way or used for any other purpose by the Client. The terms of all license and copyright notice requirements shall be complied with by the Client.

5. Client Failure to Furnish Satisfactory Records and Media.

The Bank's performance under this Agreement is subject to the Bank's receiving timely, accurate and complete data for each Service, in form and on media specified by the Bank. If any of these requirements are not met by Client, the Bank shall:

- no longer be bound to the delivery schedule set forth in the Service Agreement(s), and
- be authorized to deliver as complete and finished whatever portion of the Service(s) that can be performed with the data available.

6. Client's Duty to Inspect. Client must inspect all Service(s) performed and notify the Bank within fourteen (14) days after receipt of the material containing the error or of a report or statement reflecting the error. Except to the extent required by law, failure to notify the Bank of errors within this time will relieve the Bank of any and all liability.

7. Limitation of Liability; Disclaimer of Warranties. Except to the extent required by law, the Bank's duties and liabilities will be limited to those set forth herein. The Bank's liability shall be limited to actual damages sustained by Client and only to the extent such damages are a direct result of the Bank's willful misconduct. The liability of the Bank in all these instances shall not exceed the recovery of funds erroneously processed or not processed. The Bank shall not be liable for damages caused by any act or omission of any third party, whether or not such party was chosen by the Bank, or for any charges imposed by any third party. In no event shall the Bank be liable for special, incidental, punitive or consequential loss or damage of any kind including, but not limited to, lost profits (whether or not the Bank has been advised of the possibility of such loss or damage). Bank shall have no liability hereunder to any third party. The Bank shall be relieved of liability where the Bank performs any Service in accordance with any Service Instruction(s) or Service Agreement(s), and the Bank may rely on the accuracy of any information set forth in the Service Instruction(s) or Service Agreement(s).

BANK HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. Fees. Client shall compensate the Bank for Service(s) in accordance with the Bank's fee schedule and shall be liable for all taxes applicable to the Services. The Bank may amend fee schedule at any time and will give written notice to Client of changes in fees for Service(s) then used by Client.



9. Overdrafts; Set-off. In the event any actions by Client should result in an overdraft in any of its accounts, Client is responsible for repaying the overdraft immediately, without notice or demand, together with interest thereon at a rate determined in accordance with Bank's fee schedule in effect from time to time. Bank has the right, in addition to all other rights and remedies available to it, to set off the unpaid balance of any amount owed it in connection with the Service(s) against any debt or deposit owing to the Client by the Bank or any Affiliate, or property of Client in Bank's or Affiliate's possession or control.

10. Credit Limits. In the event the Service(s) selected by Client result in unacceptable credit exposures to the Bank or affect the amount of capital required or expected to be maintained by the Bank or its parent under any law, regulation, guideline, or request from any central bank or governmental authority, the Bank may limit Client's transaction volume or dollar amount.

11. Security Procedures. If the Service(s) are subject to security procedures, Client agrees that it shall be solely responsible to assure that such security procedures are followed, as they may be amended from time to time. If such procedures are violated, Client agrees to promptly notify Bank of any such breach. Client acknowledges that it has reviewed all applicable security procedures, has selected its preferred security procedure where applicable, and has determined that such procedures are commercially reasonable.

12. Agency. Bank may designate one of the Affiliate(s) to act as agent for the purpose of performing the Service(s). In no event shall any such Affiliate be considered the agent of the Client in connection with any Service(s) performed on behalf of the Bank. Affiliate shall have the right to assert any defense against the Client that the Bank could assert hereunder.

13. Indemnification. The Client shall indemnify and hold the Bank harmless from any and all liabilities, losses, damages, costs, and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel) which may be incurred by the Bank relating to or arising out of this Agreement or any Service Agreement(s); provided, however, that the Bank shall have no right to be indemnified hereunder for its own bad faith or willful negligence as determined by a court of competent jurisdiction.

14. Term. The Master Agreement and Service Agreement(s) shall continue until terminated by either party with thirty (30) days prior written notice, but shall terminate automatically in the event that Client's account with the Bank that is associated with the Service(s) is closed, upon termination of a third party contract which is necessary for the performance of the Service(s), if either the Bank or Client is hereafter prohibited by law from performing the Service(s), or if the Bank determines that Client has failed to maintain a financial condition deemed reasonably satisfactory to the Bank. In the event of any termination, all fees incurred under this Agreement or any Service Agreement(s) so terminated shall become immediately due and payable.

15. Force Majeure. The Bank shall bear no responsibility for non-performance of one or more Service(s) caused by an event beyond its reasonable control, such as: fire, casualty, breakdown in equipment or failure of telecommunications or data processing services, lockout, strike, unavoidable accident, act of God, riot, war or the enactment, issuance or operation of any adverse governmental law, ruling, regulation, order or decree, or an emergency that prevents the Bank from operating normally.

16. Severability. If any provision of this Master Agreement or any Service Agreement(s) shall be determined by a court of competent jurisdiction to be unenforceable, that provision shall be interpreted so as to achieve, as much as possible, the purposes intended by the original provision, and the remaining provisions of the Service Agreement(s) and this Master Agreement shall continue intact.

17. Governing Law. The Service Agreement(s) and this Master Agreement shall be governed by and interpreted in accordance with the laws of State of Washington.

18. Complete Agreement. The parties agree that the Service Agreement(s) and this Master Agreement constitute the complete and exclusive expression of the terms of this agreement between the parties regarding the Service(s) and the matters covered hereunder.

19. Independent Contractor. Client agrees that in performing the Service(s) hereunder, the Bank will be acting as an independent contractor and not as an employer, employee, partner, or agent of Client.

20. Amendments. The Bank may amend this Master Agreement and any Service Agreement(s) at any time with the prior approval of the client.

21. Assignment. This Master Agreement and Service Agreement(s) shall not be assigned or otherwise transferred by the Client without the prior written consent of the Bank.

22. Authorization. Client warrants and represents on the date hereof and on any date any Service is performed, (a) that Client is duly organized, validly existing, and in good standing in the jurisdiction in which it is organized; (b) that there are no provisions of any law, or any Certificate of Incorporation or By-Laws, or any agreement of any kind, nature or description binding upon Client which prohibits Client from entering into or performing under this Master Agreement and Service Agreement(s); (c) that Client's execution and performance of this Master Agreement and Service Agreement(s) has been duly authorized; and (d) that this Master Agreement and Service Agreement(s) is a binding obligation of Client.

23. Notices. All notices required to be given hereunder or under any Service Agreement(s) shall be effective when received if hand delivered or sent by telegraph or fax, or when deposited in the United States Mail, first class postage prepaid, and (i) addressed to the Bank at 1211 SW Fifth Avenue, Suite 520, Portland, OR 97204.

or (ii) or to such other address as either party shall have specified in writing to the other.

24. Additional Terms and Conditions. It is agreed that all transactions will be performed in a manner consistent with any separate Service Instruction(s), and shall be subject to the existing Rules and Regulations of the Bank as well as any amendments thereto hereafter made. If the terms of any Service Agreement(s) conflicts with this Master Agreement, the terms of the Service Agreement(s) shall apply.

City of Gig Harbor

Client

By:

Signature

Date:

Title

KEYBANK NATIONAL ASSOCIATION

Bank

By:

Signature Doris Reynolds

Date: November 18, 1999

Community Cash Management Sales Officer

Title:

**WIRE TRANSFER
Service Agreement**



City of Gig Harbor
Client Name

1. **Service.** Bank provides Client with access to a Wire Transfer Service which enables Client to transfer available funds from its account at Bank as stated herein. Client agrees to be legally bound by the following terms and conditions each time that Client uses this Wire Transfer Service.

2. **Authorizations.**

(a) The authority of any agent of Client may be established under applicable principles of agency law or by resolution of the Client. Without limiting the generality of the foregoing, Client hereby authorizes each of the persons listed on the Caller Authorization Form (each herein called an "Authorized Representative"), and any person who may be added to the Caller Authorization Form by amendment thereof, to issue or authorize to be issued requests, instructions, and payment orders, including any cancellation or amendment thereof, in the name and on behalf of the Client, given by any means or modality, including without limitation by oral, written, terminal, personal computer, telephone, telegraph, telex, facsimile or electronic communication or signal, for or relating to any funds transfer from or into any account or accounts of the Client. Bank may rely on the authorization set forth in the prior sentence with respect to any Authorized Representative until the Wire Communications Department of Bank or its agent, if any, as designated on the Caller Authorization Form ("Agent") has received a proposed amended Caller Authorization Form deleting such person as an Authorized Representative, and Bank has had a reasonable opportunity to act upon any such amendment. Any Amendment to the Caller Authorization Form may be signed by any person who executed the Caller Authorization Form or by any other person whose authority to do so has been established to Bank's satisfaction. The Client shall send any proposed amended Caller Authorization Form by registered mail to the Wire Communications Department of Bank or Agent, if designated.

(b) Client requests Bank to transfer funds from Client account(s) whether such accounts are at Bank or another financial institution, and to any account of a third party specified by Client, whether such third party account(s) is at Bank or another financial institution.

(c) Client requests Bank to effect funds transfers based upon pre-determined repetitive transfer instructions described in any Repetitive Transfer Schedule executed in the name of the Client currently on file with Bank ("Repetitive Transfers"). Such instructions cover pre-authorized transfers of a repetitive nature (those in which transfer debit and credit parties remain the same; date and dollar amount may be variable).

(d) The Client warrants and represents that Client's performance of this Agreement has been duly authorized and is a binding obligation of the Client.

3. **Security Procedures.**

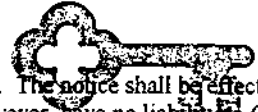
(a) When a payment order issued in the name of a Client is transmitted directly to the Wire Communications Department of Bank or Agent, if designated, its authenticity will be verified pursuant to the security procedure chosen by the Client from among the alternative security procedures set forth in the Caller Authorization Form. Where Repetitive Transfers are requested, such initial request and any proposed modification to the Repetitive Transfer Schedule will be verified in accordance with the security procedure set forth in the Caller Authorization Form, but each successive transaction need not otherwise be independently verified.

(b) Client agrees that the security procedure chosen by Client as set forth in the Caller Authorization Form are commercially reasonable for the Client and waives any objection that they are not. The Client shall be bound by any payment order, whether or not authorized, issued in its name and accepted by Bank in compliance with such security procedures. To the extent that Client fails to follow these security procedures, Client shall be deemed to have refused such security procedures.

(c) Bank will assign a unique Personal Identification Number (PIN) for each of Client's Authorized Representatives as designated in the Caller Authorization Form. Client shall be responsible for transmitting the PIN to the appropriate Authorized Representative and for assuring that it is not made known to any person other than the Authorized Representative by whom it is intended to be used. Client shall maintain the PINs in strictest confidence and take security measures sufficient to assure that they are not used to facilitate unauthorized transactions.

(d) If applicable, Bank will assign to Client an identification number ("User ID"), a Password, and a Call Back Code which will enable Client to initiate payment orders by computer terminal. The initial assigned Password shall be changed by Client immediately. Thereafter, Client shall change the Password frequently, but in no event shall more than thirty (30) days pass between successive changes. Client shall change the Password immediately whenever an Authorized Representative is to be deleted from the Caller Authorization Form. Client shall exercise reasonable care in determining when changes in the Password shall be made. Client understands that each non-repetitive transaction initiated by computer terminal requires the approval of two Authorized Representatives. Client acknowledges receipt of a procedure manual for terminal-initiated wire transfers. Client agrees to retain the procedure manual in a confidential manner and return it to Bank upon termination of this agreement.

(e) Bank may require the use of a user authentication device for each of Client's Authorized Representatives as designated in the Caller Authorization Form. Client shall be responsible for transmitting the user authentication device to the appropriate Authorized Representative. Client shall maintain the user authentication device in strictest confidence and take security measures sufficient to assure that it is not used to facilitate unauthorized transactions.



(f) Client warrants that each transaction initiated or facilitated by the use of the User ID, Password, or any PIN is fully authorized by the Client and by any other party whose authorization is required. Bank shall not be liable for any loss, damage, or liability which may arise from the unauthorized use of the User ID, Password, or any PIN.

(g) The security procedures set forth in the Caller Authorization Form are available only if the Client's payment orders are transmitted directly to the Wire Communications Department of Bank or Agent, if designated. If the Client instead chooses to transmit such payment orders to a Bank or Agent representative outside the Wire Communications Department (such as a branch office employee or the Client's relationship manager or his or her assistant), the security procedures will be limited to possible voice recognition and the Client will be deemed to have refused the security procedures set forth in the Caller Authorization Form.

(h) Security procedures for the detection of Client errors are not provided by Bank and in no event shall Bank be liable for Client errors.

4. **Inconsistencies Between Names and Numbers.** If an identifying or bank account number provided in a payment order issued in the name of the Client identifies a person different from the beneficiary named in the payment order, or if the words and numbers set forth in a payment order are otherwise inconsistent, the Client understands that execution or payment of the payment order might be made by Bank or Agent, another beneficiary's bank, or any other person on the basis of identifying number, bank account number, or other number rather than on the basis of the name or words. If a payment order identifies an intermediary bank or the beneficiary's bank both by name and an identifying number and the name and number identify different persons, the Client understands that Bank, another receiving bank, or any other person might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from Bank identified by name. Bank may, in its discretion and without liability, choose to rely either upon a name or other words, or upon an identifying, related, accompanying, or bank account number in a payment order. Bank shall not, for any purpose, be deemed to know that an account identifying or other number in a payment order does not identify or match the person or words intended to be identified or otherwise set forth therein unless the officer or employee of Bank or Agent, if designated, who receives or accepts the payment order has actual knowledge and awareness of the contents of the payment order and the fact that a discrepancy exists.
5. **Execution, Rejection and Payment of Payment Orders.** Bank shall have the right to reject or impose conditions that must be satisfied before it will accept a payment order for any reason, including without limitation Client's violation of any term of this Service Agreement or the Master Agreement/Cash Management Services, Client's failure to maintain a sufficient withdrawable account balance, or the belief by Bank or Agent that the payment order may have not in fact been authorized. The payment order may also be rejected by an intermediary or beneficiary's bank other than Bank, or by operation of law. If a payment order is rejected, Bank shall endeavor to notify the Client by telephone, electronic transmission, in writing or by

other means chosen by Bank. The notice shall be effective when given. Bank shall, however, have no liability to Client by reason of such rejection by another person in the funds transfer chain, or the fact that such notice was not given or was not given at an earlier time. Bank shall have no liability to Client for failing to notify Client within any specified period of time of receipt, acceptance, execution, or payment of any payment order.

6. **Execution Date.** The Client shall not issue a payment order instructing execution or payment on a banking day later than the day the order is received by Bank unless Bank agrees to accept such order.
7. **Cut-Off Hours.** Format requirements and cut-off hours may be established and changed by Bank from time to time. Payment orders received after such cut-off hours may be treated by Bank for all purposes as having been received on the following banking day.
8. **Provisionality of Credits.** While an account of the Client may be credited in the amount of an incoming payment order, such crediting shall be subject to receipt of final settlement by Bank and any cancellation effected or agreed to by Bank.
9. **Cancellation and Amendment.** Client shall have no right to amend or cancel any payment order. Bank may, however, on its own initiative and without obligation, act upon a request to amend or cancel, but shall have no liability if such cancellation or amendment is not effected. Any such request to cancel or amend must be received by the Wire Communications Department of Bank or Agent, if designated, on or before the banking day on which the payment order is to be executed. If Bank agrees to a request from the sender or originator to cancel a payment order which has been credited to a Client's account, Bank may deduct or set off the amount of the order from or against any Client account or otherwise obtain a refund from the Client.
10. **Overdrafts.** The Client does not have the right to incur an overdraft in any of its accounts as a result of a funds transfer. The Client shall have in its account, at the time a payment order is initiated, a balance of actually and finally collected funds sufficient to cover all of its obligations including the payment order. Bank may, however, in its discretion, execute the payment order even if such execution should result in the creation of an overdraft in a Client's account. The Client shall be liable to Bank for any such overdraft. If insufficient Client funds are available to cover a payment order, including charges, Bank may, in its discretion, send the amount of funds available or send the payment net of charges, or not execute the payment order.
11. **Report of Discrepancies in Payment Orders.** Within fourteen (14) days after the date the Client receives notification from Bank, whether by advice, confirmation, statement or otherwise, or Bank makes such notification available to the Client, whether by computer link or otherwise, that a payment order in the name of the Client was accepted by Bank or the Client's account was debited or credited with respect to a payment order, or within fourteen (14) days of any earlier date upon which the Client has notice from another source of execution, payment, non-execution, or non-payment by Bank or any other party of any payment order issued in the name of or paid to the account of the Client, the Client must notify the Wire



Communications Department of Bank or Agent, if designated, of the relevant facts regarding any unauthorized or erroneous payment order, any discrepancy reflected in such notification or notice, and any right of a refund. Failure of Client to so notify shall relieve Bank of any liability it would otherwise have in regard to such payment order. Bank shall have no obligation to notify the Client of the receipt, execution, or payment of any payment order within any specified period of time. If Client chooses not to receive advices, statements or other notifications of debits or credits to the Client's account, or instructs Bank to hold such notifications for Client, the fourteen-day period set forth herein shall be deemed to begin to run, respectively, on the date of the debit or credit or on the date the notification is prepared by Bank.

Attachments:

- Caller Authorization Form (two pages)
NOTE: This form must accompany all Wire Transfer Service agreements.
- Repetitive Transfer Schedule (optional)

- 12. **Recording.** Bank may, but shall not be obligated to, tape or otherwise record telephone conversations between Bank and Client.
- 13. **Notices.** All notices or written communications of any type related to the Agreement or to the funds transfers hereunder shall be directed: (a) if sent by the Client, to the address for notices to Bank as set forth in the Caller Authorization Form, unless the Wire Communications Department of Bank or Agent, if designated, shall expressly specify a different address to the Client in writing; and (b) if sent by Bank, to the address of Client set forth in the Caller Authorization Form, as the same may be amended to reflect a different address.
- 14. Client has decided to use the above-referenced Service, and Bank agrees to provide the Service as stated herein. Client and Bank agree that the Service shall be performed in accordance with this Agreement and Client's selections, designations, authorizations and/or other instructions subject to Bank's Master Agreement/Cash Management Services, a copy of which has been received and signed by Client, and which is hereby incorporated herein by reference.

City of Gig Harbor

 CLIENT

By: _____
 Signature

 Title

Date: _____

KEYBANK NATIONAL ASSOCIATION
 BANK

By: _____
 Signature Doris Reynolds

Community Cash Management Officer

 Title

Date: November 18, 1999



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MHS*
SUBJECT: PAPE SEWER/WATER REQUEST
DATE: FEBRUARY 20, 2000

INFORMATION/BACKGROUND

Mr. Gene Pape has requested 3 ERUs of sewer capacity and service, as well as four ¾" meters for city water service. The site has completed Pierce County administrative review, pending commitment of water and sewer service. Both City of Gig Harbor Public Works and Planning Departments report that the 54th Avenue Northwest Business Park site plan (Pape development request) is in substantial compliance with City of Gig Harbor developmental standards, including design review, land use and public works standards.

A site description of the project as submitted to the Planning and Building, and Public Works Departments is attached.

POLICY CONSIDERATIONS

City sewer and city water are immediately available to the site that is requesting service. The site is in Pierce County within the city's urban growth area. The site is included in a City Comprehensive Plan designation of Employment Center. The city's pre-annexation zoning identifies this area as suitable for ED uses, which include mixed warehouse/professional office as a permitted use.

FISCAL CONSIDERATIONS

This applicant will pay \$9640 for water service, \$9999.26 in latecomers fees, and \$7815 for basic sewer system connection, as well as associated sewer charges.

RECOMMENDATION

Staff recommends the extension of 3 ERUs of sewer and the extension of water service as per the attached contract to 54th Avenue Northwest Business park site.

PENINSULA EQUIPMENT

PO Box 2016
GIG HARBOR, WA 98335
851-3290

August 4, 1999

Mark Hoppen
City of Gig Harbor
Public Works
3105 Judson Street
Gig Harbor, WA 98335

RE: Request for Extension of Water and Sewer Services
For Parcel No. 0221062071

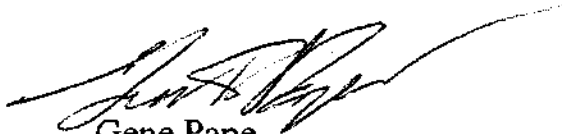
Dear Mr. Hoppen,

This letter is to serve as a "Letter of Request for Extension" for sewer and water services to the property at 9401 54th Avenue NW, Gig Harbor, WA 98335, Parcel NO. 0221062071.

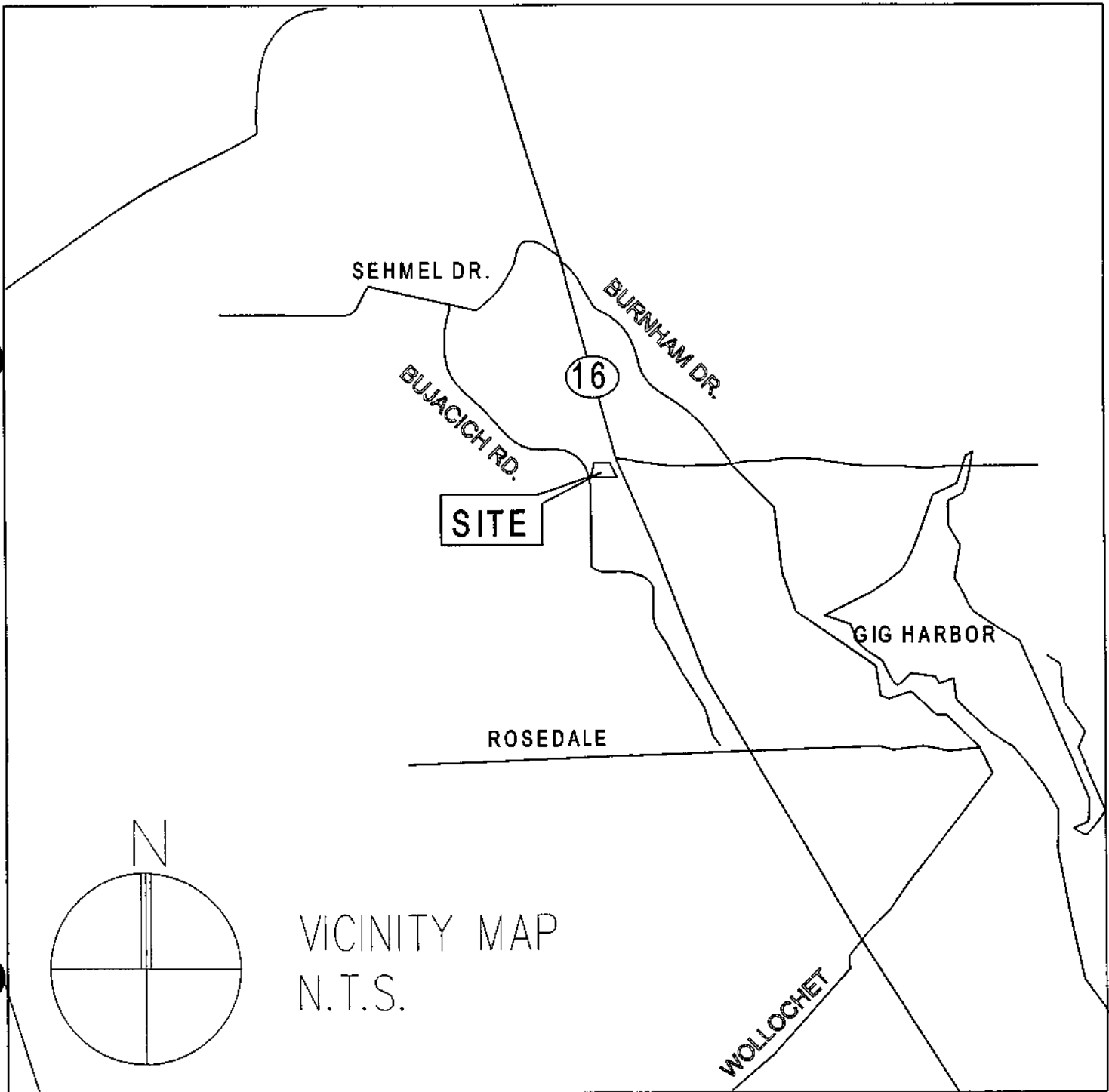
We will have an engineer calculate the ERU's we are requesting.

If you have any questions please do not hesitate to contact me at 851-6040.

Respectfully,



Gene Pape
Peninsula Equipment



SEHMEL DR.

BURNHAM DR.

BUJACICH RD.

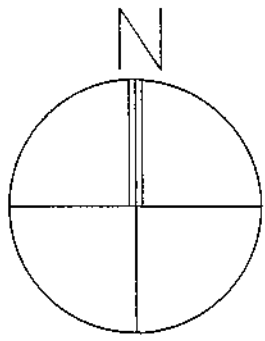
16

SITE

GIG HARBOR

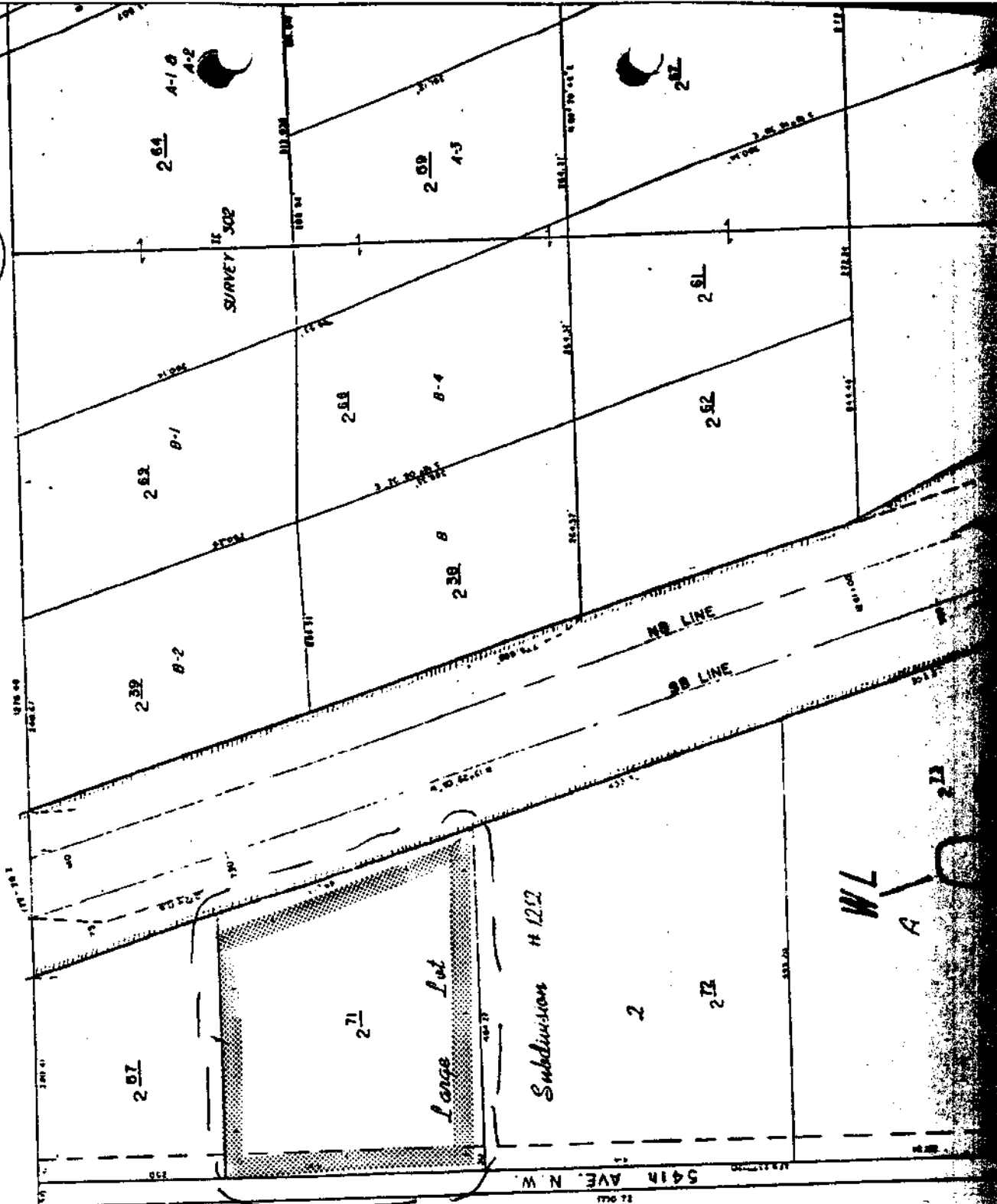
ROSEDALE

WOLLOCHET



VICINITY MAP
N.T.S.

123



PIERCE COUNTY WETLANDS INVENTORY - 1987
 Pierce County Assessor's basemap - 1987
 ————— verified boundary
 - - - - - unverified boundary

123



City of Gig Harbor. The "Maritime City"

DEPARTMENT OF PLANNING & BUILDING SERVICES
3125 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(253) 851-4278

**GIG HARBOR DESIGN REVIEW BOARD
DECISION**

TO: Mr. David Boe
FROM: Planning Department and Design Review Board
DATE: August 20, 1997

RE: DRB 97-06 -- Project Review - Pape Development - Bujacich Road

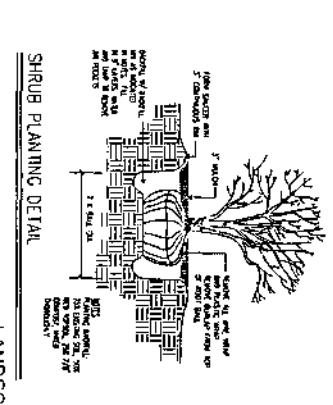
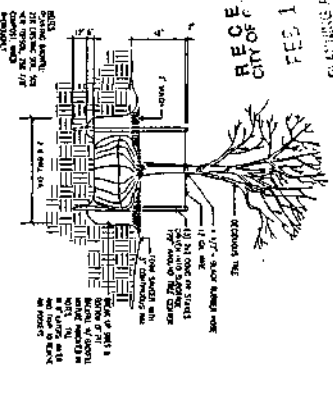
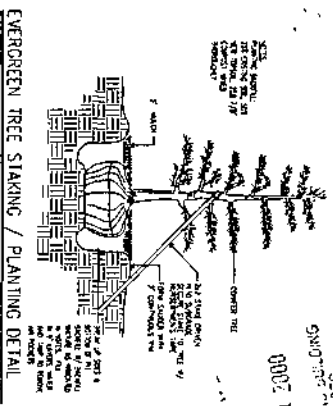
On June 26, 1997, the Design Review Board (DRB) reviewed your proposed development plans for the warehouse/retail building on Bujacich Road to determine conformance to the Design Manual's requirement to have at least 50% of the primary structure's front facade on the front setback line. (Design Manual pg. 36). The DRB requested that additional design options be developed for the DRB's consideration. Accordingly, conceptual drawings were submitted to and reviewed by the DRB on July 31, 1997. One of the drawings indicated two separate buildings near the street edge - one building was located within 5 feet of the existing easement line with parking on the side and rear; the other building was stepped back to allow parking along the front and side. In consideration of the curvature of the road and the existing easement along the front of the property, the DRB determined that this location conformed to the intent of the Design Manual and granted approval of the proposed location.

Please be advised that no other issues were reviewed by the DRB in relation to this site. Full review by either staff or DRB will be required as plans are developed.

Chuck Hunter, Chair
Design Review Board

Charles J. Hunter Date 8/25/97

RECEIVED
CITY OF
00071133



SITE INFORMATION

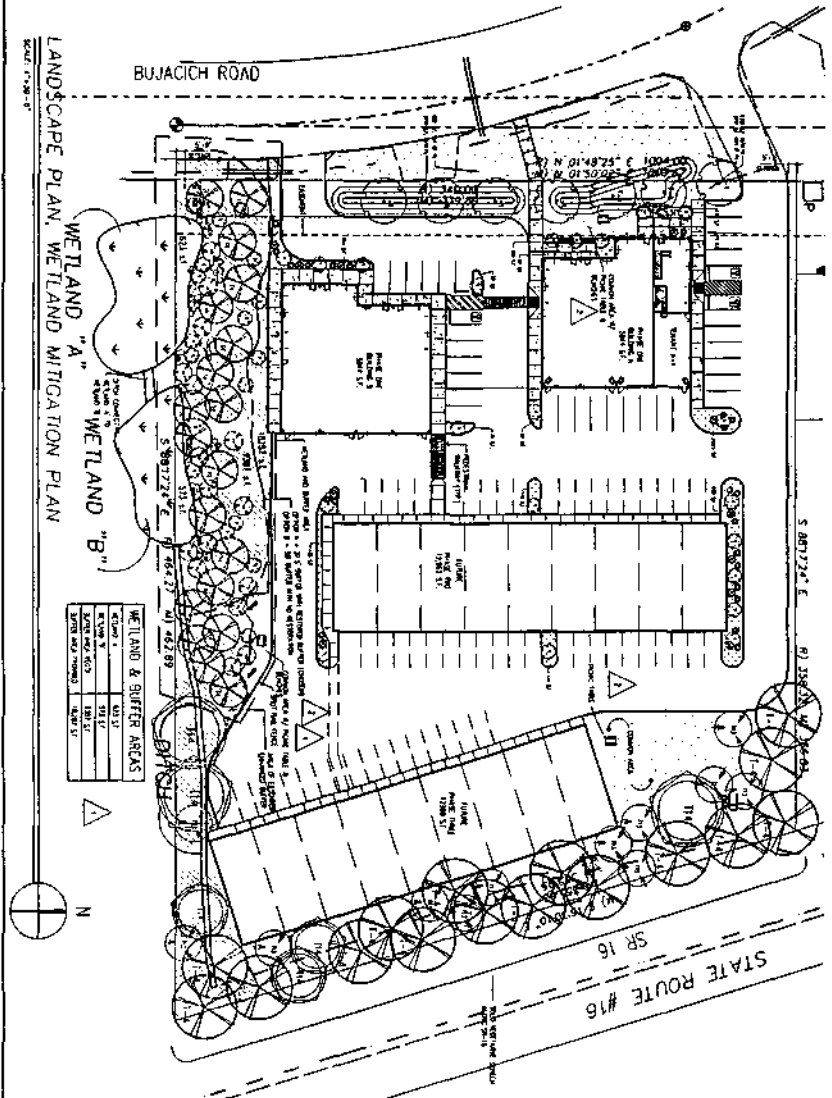
Site information text detailing project location, owner, and other site-specific data.

LANDSCAPE NOTES

1. All trees to be planted...
2. Stake to be placed 18" from trunk...
3. Stake to be placed 18" from trunk...
4. Stake to be placed 18" from trunk...
5. Stake to be placed 18" from trunk...
6. Stake to be placed 18" from trunk...
7. Stake to be placed 18" from trunk...
8. Stake to be placed 18" from trunk...
9. Stake to be placed 18" from trunk...
10. Stake to be placed 18" from trunk...

LANDSCAPE LEGEND

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
(1)	1" x 4" Stake	(10)	10' Wetland Buffer
(2)	2" x 4" Stake	(11)	11' Wetland Buffer
(3)	3" x 4" Stake	(12)	12' Wetland Buffer
(4)	4" x 4" Stake	(13)	13' Wetland Buffer
(5)	5" x 4" Stake	(14)	14' Wetland Buffer
(6)	6" x 4" Stake	(15)	15' Wetland Buffer
(7)	7" x 4" Stake	(16)	16' Wetland Buffer
(8)	8" x 4" Stake	(17)	17' Wetland Buffer
(9)	9" x 4" Stake	(18)	18' Wetland Buffer



DRIVING COMPASS

LANDSCAPE PLAN ENHANCED WETLAND BUFFER PLAN

PROJECT: 54th Avenue Northwest Business Park, Gig Harbor, Washington

DATE: May 11, 1999

DESIGNED BY: [Firm Name]

PROJECT NO.: [Project Number]

SCALE: 1" = 10'-0"

DATE: May 11, 1999

PROJECT NO.: [Project Number]

SCALE: 1" = 10'-0"

BOE
architects

708 Pacific Avenue
Tacoma, WA 98402
253.383.7762
FAX 363.8041

PROJECT:

**54th Avenue
Northwest
Business Park**

for

Peninsula Equipment
P.O. Box 2016
Gig Harbor, WA 98335

GENERAL NOTES:

REVISIONS:
1. PER 2. 02/18/00. REVISIONS:
a) Window and door sizes
b) Window and door sizes
c) Window and door sizes
FOR CITY COUNCIL APPROVAL

DRAWING SUBMITTED FOR:
OS-AREOR
DIS ON RE/CA
DATE: 02 FEBRUARY 2000

BOE ARCHITECTS
TACOMA, WA
DATE: 02 FEBRUARY 2000

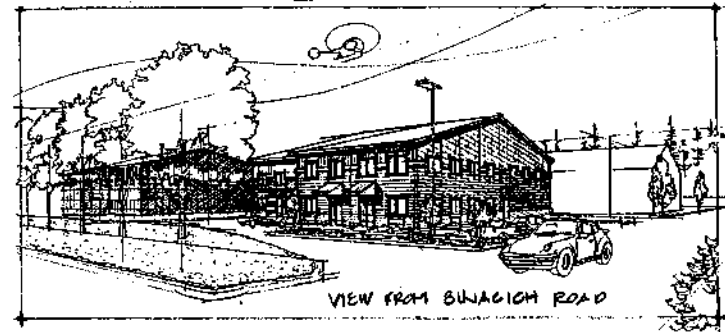
PROJECT NO.: 00001
FILE NAME: 00-001
XREF: 00-001
DRAWN BY: VJB
CHECKED BY:
PLOT SCALE:
DRAWING SCALE: 1/8" = 1'-0"

DRAWING CONTENTS
BUILDING
ELEVATIONS

DRAWING NO.:

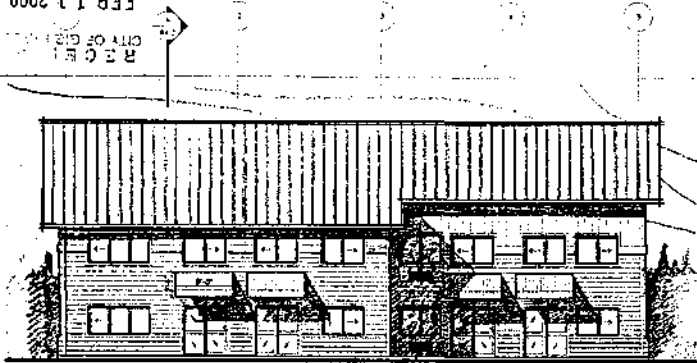
A4.1

1 OF 1

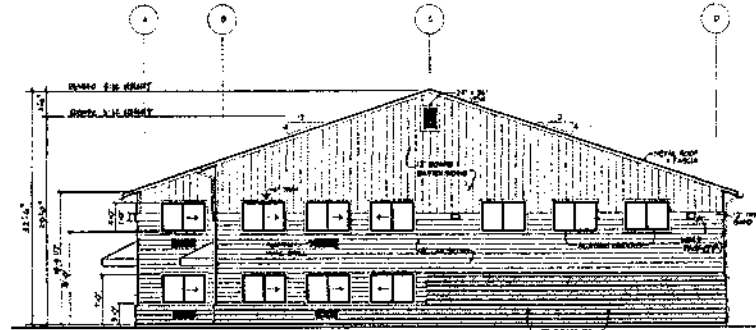


VIEW FROM SUNACICH ROAD

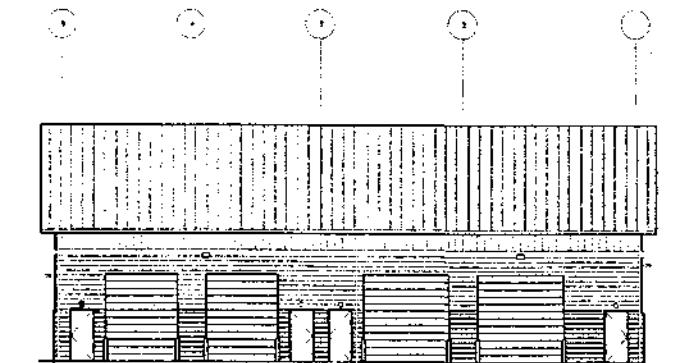
PLANNING
BY
FEB 11 2000
RECEIVED
CITY OF GIG HARBOR



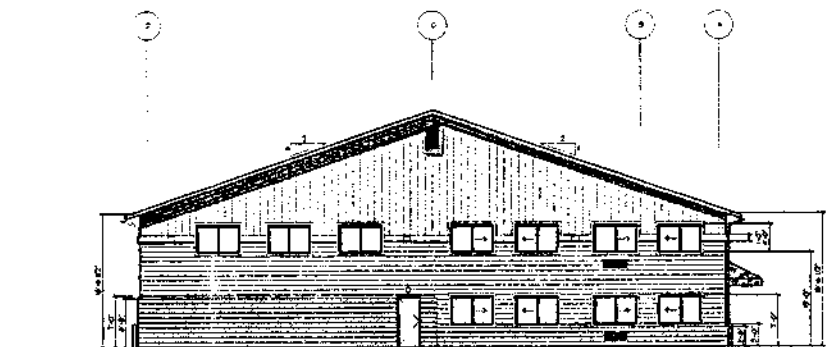
WEST ELEVATION (Phase A Building One) / PROMINENT FACADE
SCALE: 1/8" = 1'-0"



SOUTH ELEVATION (Phase A Building One)
SCALE: 1/8" = 1'-0"



EAST ELEVATION (Phase A Building One)
SCALE: 1/8" = 1'-0"



NORTH ELEVATION (Phase A Building One)
SCALE: 1/8" = 1'-0"

DRAWING NO. 00-001-01



City of Gig Harbor. The "Maritime City"

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

CITY OF GIG HARBOR - UTILITIES SERVICE APPLICATION

Application No. _____, Parcel No. 0221062071, Date 3/27/2000

Applicant GENE Pape, Phone # 851-6040

Mailing Address 9401 5th Avenue N.W. Gig Harbor, WA 98335

STORM WATER CALCULATION:

Impervious Area (Sq.Ft.)	Calculation	Units

Connection/Service ADDRESS OR LOCATION: 5TH
 Subdivision _____, Lot No. _____
 Date of Hook-Up _____, Meter No. _____, Size _____, Rate _____
 Account No. _____, Meter Location _____

WATER SYSTEM HOOK-UP & METER INSTALLATION CHARGES:

	Meter Size	Capacity Factor(s)	Hook-Up Fee (Inside City Limits)	Hook-Up Fee (Outside City) (1)	Meter Charge	Total Fees
4	3/4"	1	\$1,305.00	\$1,960.00	\$450.00	\$ 9,640.00
	1"	1.67	\$2,175.00	\$3,260.00	\$555.00	\$
	1-1/2"	3.33	\$4,350.00	\$6,525.00	(2) \$1,130.00	\$
	2"	5.33	\$6,960.00	\$10,440.00	(2) \$1,260.00	\$
	Over 2"	(3)	(3)\$	(3)\$	(3) \$	\$

IMPACT FEES & OTHER CHARGES:

Street Boring (2)	\$ 10.00 / Foot		\$
Open Street Cut (2)	\$ 20.00 / Foot		\$
Park Impact Fees	Residential @ \$ 517.30 Commercial/Multi - @ \$		\$
Transportation Impact Fees	Residential @ \$1,500.00 Commercial/Multi - @ \$		\$
Late camera Fees	8695.01 + 15%		\$ 9999.26

Notes: (1) If project is outside the city limits, the hook-up fee is (1.5) times inside city rate.
 (2) Time & Material Plus 10% (3) Negotiable

TOTAL WATER, IMPACT AND OTHER CHARGES: \$ 19,639.26

BASIC SEWER SYSTEM CONNECTION FEE:

Zone A	Zone B, C, D	Other	# Of ERU'S *	Total Fee
\$ 755.00	\$ 1,855.00	\$ 2,605.00	3	\$ 7815.00

• Equivalent Residential Unit Calculation for non-residential service:

• Coml (ERU's per) X () = 3
 Class of Service Conversion rate for appropriate unit (sq. ft., seats, students, etc.) Number of units Equivalent ERU's

SPECIAL CHARGES:

Check (X)	Type of Fee (1)	Fee
	Encroachment Permit Application & Fee	\$ 50.00
	Sewer Stub Inspection Fee	\$ 125.00
	House Stub Inspection Fee (\$25 in city / \$37.50 out)	\$
	As-Built Plans Fee (Refundable)	\$ 150.00
	Late Comers Agreement Fee	\$

Note: (1) Single Family Residence only (See Public Works Department for Multi-Family and Commercial)

TOTAL WATER, IMPACT & OTHER FEES PAID:

\$ 19,639.26

TOTAL SEWER SYSTEM FEES PAID:

\$ 7815.00

GRAND TOTAL FEES PAID WITH THIS APPLICATION:

\$ 27,454.26

Application is hereby made by the undersigned property owner or his agent for all water and/or sewer service required or used for any purpose at the above property address for which I agree to pay in advance and in accordance with existing ordinances and regulations of the city. Following estimated charges, the exact charges will be determined and are payable immediately upon completion of the installation.

I further agree that all rates and charges for water, sewer and/or storm service to the above property shall be paid in accordance with the existing ordinances and regulations of the city or any ordinances or regulations adopted hereafter. I agree to comply with the water, sewer and storm drainage service existing ordinances/regulations of the city or any such ordinances/regulations adopted hereafter.

I understand that the city will use all reasonable effort to maintain uninterrupted service, but reserves the right to terminate the water and/or sewer service at any time without notice for repairs, extensions, non payment of rates or any other appropriate reason and assumes no liability for any damage as a result of interruption of service from any cause whatsoever.

I understand that the city shall maintain ownership in such water meters installed by the city and the city shall be responsible for providing reasonable and normal maintenance to such meters. Damage to meters, boxes, and fittings will be repaired by the city's public works department. The cost of such repair work shall be borne by the contractor or the owner of the property.

[Signature]
 Applicant's Signature Date

TO BE COMPLETED BY STAFF ONLY:

Receipt No.	Fees Paid	Date	Requested By

REVIEWED BY:

Building Official	P.W. Inspector	P.W. Supervisor	Finance Technician

WHEN RECORDED RETURN TO:

City of Gig Harbor
City Clerk
3105 Judson Street
Gig Harbor, WA 98335

UTILITY EXTENSION, CAPACITY AGREEMENT
AND AGREEMENT WAIVING RIGHT TO PROTEST LID

THIS AGREEMENT is entered into on this ___ day of _____, 2000, between the City of Gig Harbor, Washington, hereinafter referred to as the "City", and Mr. Gene Pape, hereinafter referred to as "the Owner".

WHEREAS, the Owner is the owner of certain real property located in Pierce County which is legally described as set forth in Exhibit "A" attached hereto and incorporated herein by this reference as though set forth in full, and

WHEREAS, the Owner's property is not currently within the City limits of the City, and

WHEREAS, the Owner desires to connect to the City water and sewer utility system, hereinafter referred to as "the utility" and is willing to allow connection only upon certain terms and conditions in accordance with Title 13 of the Gig Harbor Municipal code, as now enacted or hereinafter amended, NOW, THEREFORE,

FOR AND IN CONSIDERATION OF the mutual benefits and conditions hereinafter contained, the parties agree as follows:

1. Warranty of Title. The Owner warrants that he/she is the Owner of the property described in Exhibit "A" and is authorized to enter into this Agreement.

2. Extension Authorized. The City hereby authorizes the Owner to extend service to Owner's property from the existing utility lines on or near 54th Street (street or right-of-way) at the following location:

*9401 54th Avenue NW, Gig Harbor, WA
Tax Parcel 0221062071*

3. Costs. Owner will pay all costs of designing, engineering and constructing the extension. All construction shall be done to City standards and according to plans approved by the City's Public Works Director. Any and all costs incurred by the City in reviewing plans and inspecting construction shall be paid for by the Owner.

4. Sewer and Water Capacity Commitments. The City agrees to provide to the Owner sewer utility service and hereby reserves to the Owner the right to discharge to the City's sewerage system (3 ERUs) 693 gallons per day average flow. Capacity rights acquired by the Owner pursuant to this agreement shall not constitute ownership by the Owner of any facilities comprising the City sewerage system. The City agrees to reserve to the Owner this capacity for a period of 12 months ending on _____, provided this agreement is signed and payment for sewer and water capacity commitments is received within 45 days after City Council approval of extending sewer and water capacity to the Owner's property. Sewer and water capacity shall not be committed beyond a three year period.

The city also agrees to provide to the Owner water service and reserves to the owner the right to connect service with four 3/4" meters. These sewer and water capacity rights are allocated only to the Owner's system as herein described; provided however, that the City retains the authority to temporarily suspend such capacity where necessary to protect public health and safety, or where required to comply with the City's NPDES permit, or any other permits required by any agency with jurisdiction. Any addition to this system must first be approved by the City.

5. Capacity Commitment Payment. The Owner agrees to pay the City the sum of \$ 872.75 for sewer and for water, to reserve the above specified time in accordance with the schedule set forth below.

Commitment period	Percent (%) of Connection Fees
One year	Five percent (5%)

In no event, however, shall the Owner pay the City less than five hundred dollars (\$500) for commitment for water service capacity and less the five hundred dollars (\$500) for commitment for sewer reserve capacity. In the event the Owner has not made connection to the City's utility system by the date set forth above, such capacity commitments shall expire and the Owner shall forfeit one hundred percent (100%) of these capacity commitment payments to cover the City's administrative and related expenses.

In the event the Pierce County Boundary Review Board should not approve extension of the City's sewer system prior to the extension of the commitment period, the Owner shall be entitled to a full refund (without interest) from the City of the capacity agreement.

6. Extension of Commitment Period. In the event the Owner chooses to permanently reserve sewer and water capacity by paying the entire connection fee for the number of equivalent residential units desired to be reserved before the expiration date set forth above, and by paying the water service payment described in Sections 4 and 5, the Owner shall be responsible for paying each year for the sewer utility system's depreciation based on the following formula (Owner's reserved capacity divided by the total plant capacity times the annual budgeted depreciation of the sewer facilities) and by paying the monthly water base charge for the service described in Section 4.

7. Permits - Easements. Owner shall secure and obtain, at Owner's sole cost and expense any necessary permits, easements and licenses to construct the extension, including, but not limited to, all necessary easements, excavation permits, street use permits, or other permits required by state, county and city governmental departments including the Pierce County Public Works Department, Pierce County Environmental Health Department, State Department of Ecology, Pierce County Boundary Review Board, and City of Gig Harbor Public Works Department.

8. Turn Over of Capital Facilities. If the extension of utility service to Owner's property involves the construction of water or sewer main lines, pump stations, wells, and/or other city required capital facilities, the Owner agrees if required by the City to turn over and dedicate such facilities to the City, at no cost, upon the completion of construction and approval and acceptance of the same by the City. As a prerequisite to such turn over and acceptance, the Owner will furnish to the City the following:

- A. As built plans or drawings in a form acceptable to the City Public Works Department;
- B. Any necessary easements, permits or licenses for the continued operation, maintenance, repair or reconstruction of such facilities by the City, in a form approved by the City Attorney;
- C. A bill of sale in a form approved by the City Attorney; and
- D. A bond or other suitable security in a form approved by the City Attorney and in an amount approved by the City Public Works Director, ensuring that the facilities will remain free from defects in workmanship and materials for a period of 2 year(s).

9. Connection Charges. The Owner agrees to pay the connection charges for water and for sewer, in addition to any costs of construction as a condition of connecting to the City utility system at the rate schedules applicable at the time the Owner requests to actually connect his property to the system. Any commitment payment that has not been forfeited shall be applied to the City's connection charges. Should the Owner not initially connect 100% of the Sewer Capacity Commitment, the Capacity Commitment payment shall be credited on a pro-rated percentage basis to the connection charges as they are levied.

10. Service Charges. In addition to the charges for connection, the Owner agrees to pay for utility service rendered according to the rates for services applicable to properties outside the city limits as such rates exist, which is presently at 150% the rate charged to customers inside city limits, or as they may be hereafter amended or modified.

11. Annexation. Owner understands that annexation of the property described on Exhibit "A" to the City will result in the following consequences:

- A. Pierce County ordinances, resolutions, rules and regulations will cease to apply to the property upon the effective date of annexation;

- B. City of Gig Harbor ordinances, resolutions, rules and regulations will begin to apply to the property upon the effective date of annexation;
- C. Governmental services, such as police, fire and utility service, will be provided to the property by the City of Gig Harbor upon the effective date of annexation;
- D. The property may be required to assume all or any portion of the existing City of Gig Harbor indebtedness, and property tax rates and assessments applicable to the property may be different from those applicable prior to the effective date of annexation;
- E. Zoning and land use regulations applicable to the property after annexation may be different from those applicable to the property prior to annexation; and
- F. All or any portion of the property may be annexed and the property may be annexed in conjunction with, or at the same time as, other property in the vicinity.

With full knowledge and understanding of these consequences of annexation and with full knowledge and understanding of Owner's decision to forego opposition to annexation of the property to the City of Gig Harbor, Owner agrees to sign a petition for annexation to the City of the property described on Exhibit A as provided in RCW 35.14.120, as it now exists or as it may hereafter be amended, at such time as the Owner is requested by the City to do so. The Owner also agrees and appoints the Mayor of the City as Owner's attorney-in-fact to execute an annexation petition on Owner's behalf in the event that Owner shall fail or refuse to do so and agrees that such signature shall constitute full authority from the Owner for annexation as if Owner had signed the petition himself. Owner further agrees not to litigate, challenge or in any manner contest, annexation to the City. This Agreement shall be deemed to be continuing, and if Owner's property is not annexed for whatever reason, including a decision by the City not to annex, Owner agrees to sign any and all subsequent petitions for annexations. In the event that any property described on Exhibit "A" is subdivided into smaller lots, the purchasers of each subdivided lot shall be bound by the provisions of this paragraph.

12. Land Use. The Owner agrees that any development or redevelopment of the property described on Exhibit "A" shall meet the following conditions after execution of Agreement:

- A. The use of the property will be restricted to uses allowed in the City of Gig Harbor ED Pre-annexation Zone for the parcel.
- B. The development or redevelopment of the property shall comply with all requirements of the City Comprehensive Land Use Plan, Zoning Code, Design Review Standards, Building Regulations, and City Public Works Standards for similar zoned development or redevelopment in effect in the City at the time of such development or redevelopment. The intent of this section is that future annexation of the property to the City of Gig Harbor shall result in a development which does conform to City standards.

13. Liens. The Owner understands and agrees that delinquent payments under this agreement shall constitute a lien upon the above described property. If the extension is for sewer service, the lien shall be as provided in RCW 35.67.200, and shall be enforced in accordance with RCW 35.67.220 through RCW 35.67.280, all as now enacted or hereafter amended. If the extension is for water service, the lien shall be as provided in RCW 35.21.290 and enforced as provided in RCW 35.21.300, all as currently enacted or hereafter amended.

14. Termination for Non-Compliance. In the event Owner fails to comply with any term or condition of this Agreement, the City shall have the right to terminate utility service to the Owner's property in addition to any other remedies available to it.

15. Waiver of Right to Protest LID. Owner acknowledges that the entire property legally described in Exhibit "A" would be specially benefited by the following improvements (specify):

***Sewer LID or ULID on Bujacich Drive
Sidewalk LID on Bujacich Drive***

Owner agrees to sign a petition for the formation of an LID or ULID for the specified improvements at such time as one is circulated and Owner hereby appoints the Mayor of the City as his attorney-in-fact to sign such a petition in the event Owner fails or refuses to do so.

With full understanding of Owner's right to protest formation of an LID or ULID to construct such improvements pursuant to RCW 35.43.180, Owner agrees to participate in any such LID or ULID and to waive his right to protest formation of the same. Owner shall retain the right to contest the method of calculating any assessment and the amount thereof, and shall further retain the right to appeal the decision of the City Council affirming the final assessment roll to the superior court. Notwithstanding any other provisions of this Agreement, this waiver of the right to protest shall only be valid for a period of ten (10) years from the date this Agreement is signed by the Owner.

16. Specific Enforcement. In addition to any other remedy provided by law or this Agreement, the terms of this Agreement may be specifically enforced by a court of competent jurisdiction.

17. Covenant. This agreement shall be recorded with the Pierce County Auditor and shall constitute a covenant running with the land described on Exhibit "A", and shall be binding on the Owner, his/her heirs, successors and assigns. All costs of recording this Agreement with the Pierce County Auditor shall be borne by the Owner.

18. Attorney's Fees. In any suit or action seeking to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other remedy provided by law or this agreement.

19. Severability. If any provision of this Agreement or its application to any circumstance is held invalid, the remainder of the Agreement or the application to other circumstances shall not be

affected.

DATED this _____ day of _____, 2000.

CITY OF GIG HARBOR

Mayor Gretchen Wilbert

OWNER


Name: *Vice President*

Title:

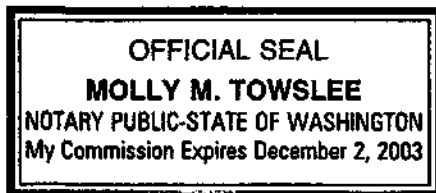
ATTEST/AUTHENTICATED:

City Clerk, Molly Towslee

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Gone Pope is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it as the Vice President of Pope & Sons to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 2/23/00



Molly M Towslee
Signature
Molly M. Towslee
NOTARY PUBLIC for the State
of Washington, residing at
Gig Harbor
My commission expires 12/2/03

STATE OF WASHINGTON)
) ss:
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Gretchen A. Wilbert, and Mark E. Hoppen, are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the Mayor and City Administrator 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: _____

Signature

NOTARY PUBLIC for the State
of Washington, residing at

My commission expires _____

Exhibit 'A'

Parcel 1

THE NORTH 250 FEET OF THAT PORTION OF THE NW ¼ OF THE NW ¼ OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN LYING WESTERLY OF THE WESTERLY LINE OF PRIMARY STATE HIGHWAY 16, EXCEPT THE WEST 30 FEET THEREOF SITUATED IN PIERCE COUNTY STATE OF WASHINGTON.

Parcel 2

LOT 1 OF LARGE LOT SUBDIVISION #1212 EXCEPT THE NORTH 250 FEET THEREOF DESCRIBED AS FOLLOWS:
COMMENCING AT THE NW CORNER OF THE NW ¼ OF SECTION 6; THENCE ALONG WEST LINE OF SAID SUBDIVISION SOUTH 01°48'25" W 250 FEET; THENCE PARALLEL WITH THE NORTH LINE OF SAID SUBDIVISION, S 88°17'24" E, 30 FEET TO EASTERLY R/W LINE OF 131ST AVENUE NW AND THE POINT OF BEGINNING; THENCE ALONG SAID EASTERLY R/W LINE SOUTH 01°48'25" W, 340 FEET; THENCE PARALLEL WITH THE NORTH LINE SAID SUBDIVISION SOUTH 88°17'24" E, 464.27 FEET TO THE WESTERLY R/W LINE OF PRIMARY STATE HIGHWAY #16; THENCE ALONG SAID WESTERLY R/W NORTH 15°30'35" WEST, 355.96 FEET TO INTERSECT A LINE PARALLEL WITH AND LYING 250 FEET SOUTH OF THE NORTH LINE OF SAID SUBDIVISION; THENCE ALONG SAID PARALLEL LINE, NORTH 88°17'24" West 358.32 FEET MORE OR LESS TO POINT OF BEGINNING.

DUPLICATE RECEIPT DUPLICATE RECEIPT

=====

CITY OF GIG HARBOR
3105 JUDSON STREET
GIG HARBOR WA 98335
TEL (253) 851-8136

=====

THE "MARITIME CITY"

=====

REG-RECEIPT:01-0013285 C:Aug 16 1999
CASHIER ID:H 11:59 am A:Aug 16 1999

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1060 ADMIN FEE-FILING \$100.00
PAPE & SONS/ADMIN FILING FEE/SWR & WTR

TOTAL DUE \$100.00

RECEIVED FROM:
PAPE & SONS CONSTRUCTION, INC.

CHECK: \$100.00

TOTAL TENDERED \$100.00

CHANGE DUE \$0.00

=====

HAVE A NICE DAY

=====

DUPLICATE RECEIPT DUPLICATE RECEIPT



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: WOLLOCHET HARBOR SEWER DISTRICT CONTRACT
AMENDMENT
DATE: FEBRUARY 24, 2000

INFORMATION/BACKGROUND

The Wollochet Harbor Sewer District signed a contract that authorized connection to the city's sewer utility for sixty-six (66) residential lots in 1996. The sewer district agreed to meet stringent requirements to connect to the city system.

The sewer district is seeking amendment to its contract to reflect design alterations in the manner of connection. In the original agreement, connection was anticipated at Hunt Street/Skansie Avenue. Since this location is not currently available, the contract amendment identifies connection at Wagner Way. Periodic pumping from the White Cloud Lane Pump Station to the terminus at the city pump station, originally slated to occur at night, will now take place on an as-needed basis. The contract reflects engineering controls intended to accommodate the sewer district's design changes at minimal cost to the city. The respective obligations of the district and city are also redefined in the amendment with respect to influent volume, quality and monitoring; pump station monitoring and maintenance; and odor control.

Engineering staff views these amendments as realistic improvements to the original contract given current sewer district design constraints and city sewer system development.

Legal Counsel has reviewed and adjusted the contract amendment to the satisfaction of the city and the sewer district.

FISCAL CONSIDERATIONS

Within the three-year term of the original contract, the district was required to connect to the city system or pay the full connection fee without connection to retain the right to connect its 66 residential lots. Within the period of the contract, the district chose to pay \$158,400 to permanently reserve its sewer capacity.

RECOMMENDATION

Staff recommends approval of this contract amendment as presented.

Return Address:

The City of Gig Harbor
Attn: City Administrator
3105 Judson Street
Gig Harbor, Washington 98335

Document Title: Amendment to Utility Extension and Capacity Agreement
City: City of Gig Harbor
District: Wollochet Harbor Sewer District
Legal Description: Portion of Plat of Wollochet Yacht Harbor recorded in Volume 15 of Plats, pages 90-93; Wollochet Yacht Harbor 2nd Addition, Volume 16 of Plats, page 45; Wollochet Yacht Harbor 3rd Addition, Volume 18 of Plats, page 13; Wollochet Yacht Harbor 4th Addition, Volume 27 of Plats, pages 30-33, being portions of Sections 19 and 30, Township 21 North, Range 2 East, W.M.

AMENDMENT TO
UTILITY EXTENSION AND CAPACITY AGREEMENT
BETWEEN THE CITY OF GIG HARBOR
AND WOLLOCHET HARBOR SEWER DISTRICT

THIS AGREEMENT is entered into on this ____ day of _____, 2000, between the City of Gig Harbor, a Washington municipal corporation, hereinafter referred to as the "City", and Wollochet Harbor Sewer District, a Washington quasi-municipal corporation, hereinafter referred to as the "District".

R E C I T A L S

WHEREAS, the City and the District entered into a Utility Extension and Capacity Agreement dated October 22, 1996; and

WHEREAS, the pump station site at Hunt Street--Skansie Avenue Corridor is not available and the pump station site has now been changed to Wagner Way; and

WHEREAS, the sewer capacity commitment and the sewer flow restrictions have been modified; and

WHEREAS, the City and the District now desire to amend the Utility Extension and Capacity Agreement dated October 22, 1996, to reflect the changes; now, therefore,

FOR AND IN CONSIDERATION of the mutual benefits and conditions hereinafter described, the parties agree as follows:

Section 1. That Section 2 of the Utility Extension and Capacity Agreement between the City of Gig Harbor and Wollochet Harbor Sewer District dated October 22, 1996, is hereby amended to read as follows:

Section 2. Extension Authorized by City. The City hereby authorizes the District to extend a transmission line from its property, as shown in Exhibit "A", hereto, to the pump station being constructed at Wagner Way. Upon completion, this pump station will be owned and operated by the City of Gig Harbor.

Section 2. That Section 4 of the Utility Extension and Capacity Agreement between the City of Gig Harbor and Wollochet Harbor Sewer District dated October 22, 1996, is hereby amended to read as follows:

Section 4. Sewer Capacity Commitment. The City agrees to provide sewer treatment capacity to the District for sewer service by the District for the sixty-six (66) lots that comprise the District's service area, and hereby reserves to the District the right to discharge to the City's sewerage system sixteen thousand four hundred (16,400) gallons per day (gpd) (sixty-six (66) individual, single family residential connections) on an average annual flow basis. It is understood that these capacity rights are allocated only to the District's system as herein described, and only if the District meets the acceptable parameters for domestic sanitary sewage of pH of 6 to pH 9, installs off-gassing and Biocide injection equipment and corrosion protection at the point of discharge to the City's system and a maximum sixteen thousand four hundred (16,400) gallons per day on an average flow basis as measured at the District's pump station. The District shall not allow additional connections to the force main from the District to the City. Any additional discharge into the system without the City's prior written consent is strictly prohibited. If any additions are made without the City's prior written consent, the City may take the action described in Sections 16 and 17 herein.

The District shall own, operate, maintain and repair the sanitary sewer transmission line from the District to the point of connection with the City's sanitary sewer system at the wet well of the Wagner Way pump station. In addition, the District shall be billed time and materials for the replacement of the biofilter contents on an as-needed basis, approximately every five (5) years. The District shall pay on a monthly basis for the material cost of Bioxide used at the Wagner Way pump station. The City shall maintain the Wagner Way pump station including the odor control equipment. Capacity rights acquired by the District pursuant to this Agreement shall not constitute ownership by the District of any other facilities comprising the City's sewerage system.

Capacity rights include the average annual daily discharge of sixteen thousand four hundred (16,400) gallons of screened, aerated septic tank effluent to the City's sewer system for secondary treatment and disposal by the City. In the event that either party is unable to perform any of its obligations under this Agreement or Amendment because of natural disaster, actions or decrees of governmental agencies or other unforeseen failure not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected immediately shall give notice to the other party and shall do everything possible to resume performance. If the period of nonperformance exceeds fifteen (15) days from the receipt of notice of the Force Majeure Event, the party whose performance has not been so affected may, by giving fifteen (15) days written notice, terminate this Agreement as provided herein.

Section 3. That Section 11 of the Utility Extension and Capacity Agreement between the City of Gig Harbor and Wollochet Harbor Sewer District dated October 22, 1996, is hereby amended to read as follows:

Section 11. Sewage Flow Restrictions. Sewer service shall not exceed sixteen thousand four hundred (16,400) gallons per day on an average annual daily flow basis, nor shall it cause any detriment to the City's facilities or the City's provision of sewer service to other City customers, nor shall it affect the City's wastewater treatment plant and discharge capacity. A flow meter shall be installed, at the District's cost, at the pump station at White Cloud Avenue. The meter data, certified by the District, will be transmitted monthly to the City. The meter will be calibrated every two (2) years, at the District's cost. The City will be allowed access to the flow meter at all times. The sewage flow

from the District will be treated with dissolved oxygen and/or Bioxide at the District's pump station, at the District's cost, to control the formation of hydrogen sulfide and for odor control. The District will install a soil biofilter, at the District's cost, for off-gassing and odor control at the Wagner Way pump station. The District, at the District's cost, will provide corrosion protection coating in the wet well in the Wagner Way pump station. The District, at the District's cost, will provide Bioxide injection equipment at the Wagner Way pump station. Raw sewage from facilities within the City limits will be introduced into the Wagner Way pump station. Through a combination of oxygen injection/Bioxide injection at the White Cloud pump station and off-gassing and Bioxide injection at the Wagner Way pump station the level of hydrogen sulfide, as determined by atmospheric testing at the Wagner Way pump station and the first gravity manhole on Skansie Avenue following the Wagner Way force main, shall not exceed a level which would cause corrosion or odors in the downstream gravity system. The level of hydrogen sulfide, as determined by atmospheric testing, shall not exceed 30 ppm at the Wagner Way pump station wet well and 5 ppm in the first gravity manhole in Skansie Avenue. The District, at the District's cost, shall provide atmospheric monitoring at these sites for a two (2) week period following start-up of the Wagner Way pump station and for an additional four (4) week period during the first full month of July the pump station is operational.

If, during the course of normal operation of the Wagner Way pump station, the City receives complaints of odor at the Wagner Way pump station facilities, the District shall be notified by the City and the District shall have fifteen (15) days from the date of the notice to investigate the cause of the odor. The District shall notify the City of the cause of the odor problem within the fifteen (15) day period. If the cause of the odor is the District's responsibility, then the District shall first notify the City of its proposed remedy, which would be implemented at the District's cost. The City shall have discretion to determine whether or not the proposed remedy is adequate and to approve it prior to the time that any such remedy is implemented by the District.

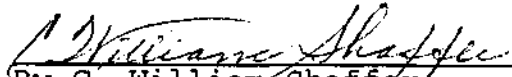
Section 4. That the terms and provisions of all other sections of the Utility Extension and Capacity Agreement between the City of Gig Harbor and Wollochet Harbor Sewer District dated October 22, 1996, shall remain in full force and effect.

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

CITY OF GIG HARBOR

WOLLOCHET SEWER DISTRICT

By Gretchen Wilbert
Its Mayor



By C. William Shaffer
Its President

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

STATE OF WASHINGTON)
 : ss
County of PIERCE)

I certify that I know or have satisfactory evidence that GRETCHEN WILBERT 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 this ____ day of _____, 2000.

(Signature)

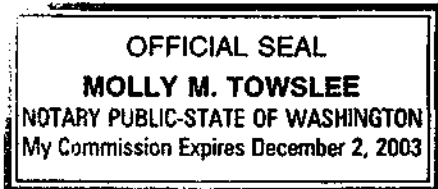
(Printed or typed name)
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My appointment expires: _____

STATE OF WASHINGTON)
 : ss
County of PIERCE)

I certify that I know or have satisfactory evidence that C. WILLIAM SHAFFER is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged

it as the President of the WOLLOCHET SEWER DISTRICT, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 24 day of February, 2000.



Molly M Towslee
(Signature)
Molly M. Towslee
(Printed or typed name)
NOTARY PUBLIC in and for the State of
Washington, residing at Gig Harbor
My appointment expires: 12/2/03

AGMT:md/2.23.00
WOLLOADM.AG2

EXHIBIT "A"

LEGAL DESCRIPTION FOR
WOLLOCHET HARBOR SEWER DISTRICT

That portion of Plat of Wollochet Yacht Harbor recorded in Volume 15 of plats, pages 90-93, Wollochet Yacht Harbor 2nd Addition recorded in Volume 16 of plats, page 45, Wollochet Yacht Harbor 3rd Addition recorded in Volume 19 of plats, page 13, Wollochet Yacht Harbor 4th Addition recorded in volume 27 of plats, pages 30-33, all of records of Pierce County, Washington, being portions of Sections 19 & 30, Township 21 North, Range 2 East W.M., more particularly described as follows:

Beginning at the intersection of West Wollochet Bay Road and Cabrini Ave.; thence west along the centerline of Wollochet Bay Road to the intersection of the southerly extension of the west line of lot 12 of Wollochet Yacht Harbor 4th Addition; thence north along the west line of lots 10, 11 & 12 of said 4th Addition to the southwest corner of lot 9 of said 4th Addition; thence along the arc of a non tangent curve to the left whose radius bears north 100.00 feet an arc length of 211.53 feet to a point which bears S58°48'09"W from the northwest corner of said lot 9; thence northeasterly to the northwest corner of said lot 9; thence northerly and northwesterly along the centerline of the alley for Wollochet Yacht Harbor 3rd Addition to the centerline of Lambert Road; thence northerly and northwesterly along the westerly lot lines of lots 38 through 43 of said 3rd Addition to the centerline of Charles Olson Road; thence northeasterly along said centerline to the intersection of Charles Olson Road and Cabrini Ave.; thence northwesterly along the centerline of Cabrini Ave. to the intersection of the southwesterly extension of the northwesterly boundary of lot 13 of said 3rd Addition; thence northeasterly along said northwesterly boundary to the centerline of White Cloud Ave.; thence southeasterly along the centerline of White Cloud Ave. to the intersection of the southwesterly extension of the northwesterly boundary of lot 12 of said 3rd Addition; thence northeasterly along said northwesterly boundary to the mean high water line of Wollochet Bay; thence southeasterly and southerly along said mean high water line and along lots 3 through 12 and mutual use area 'B' of Wollochet Yacht Harbor 3rd Addition to the northerly line of the mutual use area for Wollochet Yacht Harbor 2nd Addition; thence southerly and continuing along said mean high water line along said mutual use area and lots 1 through 9 of Wollochet Yacht Harbor 2nd Addition to the southerly line of said lot 1 also being the northerly line of lot 11 of the plat of Wollochet Yacht Harbor; thence westerly along said northerly line of lot 11 to the northwest corner of said lot 11; thence southerly along the westerly line of said lot 11 to the northwest corner of lot 10 of the plat of Wollochet Yacht Harbor; thence S24°00'00"E along the westerly line of said lot 10 a distance of 75.40 feet; thence N74°20'59"E to the mean high water line of Wollochet Bay; thence southeasterly along said mean high water line to the southerly line of said lot 10; thence westerly along said southerly line to the southwest corner thereof; thence southerly along the easterly line of lots 9, 8 & 7 of the plat of Wollochet Yacht Harbor to the centerline of West Wollochet Bay Road; thence westerly along said centerline to the POINT OF BEGINNING.



City of Gig Harbor. The "Maritime City."

3105 JUDSON STREET
GIG HARBOR, WASHINGTON 98335
(206) 851-8136

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: MARK HOPPEN, CITY ADMINISTRATOR *MH*
SUBJECT: WOLLOCHET HARBOR SEWER DISTRICT CONTRACT
DATE: SEPTEMBER 18, 1996

INTRODUCTION/BACKGROUND

The Wollochet Harbor Sewer District was previously authorized to contract for sewer with the City of Gig Harbor. Contractual details have been arduously reconciled over the ensuing months. Attached is the final agreement signed by the sewer district which meets the stated requirements for contract indicated by the City Council in the previous motion for approval.

POLICY CONSIDERATIONS

This agreement provides protections for the city, prohibitions against city financial involvement in sewer district affairs, and working mechanisms for enforcement of the agreement.

FISCAL CONSIDERATIONS

For the three year reservation of 66 ERUs of sewer capacity, the sewer district will make three payments of \$7920 each payment on November 1, 1996, on May 1, 1997, and on November 1, 1997. Unlike most city agreements, the sewer district will pay the *entire* remainder of the connection fee (at the rates in effect at the time of connection) before any connection is authorized. The current outside connection rate is \$2400 per ERU; this rate increases according to construction index adjustment each year.

RECOMMENDATION

Staff recommends approval of the contract as presented.

9610250316

After recording return to:

The City of Gig Harbor
Attn: Administrative Assistant
3105 Judson Street
Gig Harbor, WA 98335

**UTILITY EXTENSION AND CAPACITY AGREEMENT
BETWEEN THE CITY OF GIG HARBOR
AND WOLLOCHET HARBOR SEWER DISTRICT**

THIS AGREEMENT is entered into on this 22nd day of October, 1996, between the City of Gig Harbor, a Washington municipal corporation, hereinafter referred to as the "City", and Wollochet Harbor Sewer District, a Washington quasi-municipal corporation, hereinafter referred to as the "District".

R E C I T A L S

WHEREAS, the District is located approximately four miles southwest of the City, outside of the City's Urban Growth Area, and consists of sixty-six (66) lots, located on property described in Exhibit A, attached and incorporated herein by this reference; and

WHEREAS, the Department of Ecology (DOE) has, through Administrative Order (No. DE 94-WQ-S357, Exhibit B, attached hereto and incorporated herein by this reference), required the District to upgrade its primary wastewater treatment plant to provide secondary treatment to its sewage; and

WHEREAS, using a life cycle comparison of construction, operation and maintenance costs for twenty (20) years, the District's cost of a secondary treatment plant is greater than the cost of a transmission line and support facilities to send the sewage to the City's secondary wastewater treatment plant; and

WHEREAS, the Growth Management Act allows the City to extend urban governmental services, such as sewer service, outside of the City's urban growth area "in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development" (RCW 36.70A.110(4)); and

WHEREAS, pursuant to GHMC 13.34.070(A) (as adopted in Ordinance 697), the City Council may allow the construction of extensions for sewer service to property outside the City's Urban Growth Area for municipal or quasi-municipal corporations, where the applicant can demonstrate that the extension is necessary to protect basic public health, safety and/or the environment, including an emergency order issued by the Department of Ecology; and

WHEREAS, pursuant to GHMC 13.34.070(B), the City Council may approve the construction of such extension if it finds that:

- (1) the requested service is financially supportable at rural densities and does not permit urban development;
- (2) restrictions are placed on the hours that the City will accept sewage flow from the applicants;
- (3) restrictions are placed on the amount of sewage flow provided to the applicant;
- (4) the City's NPDES permit will not be affected by the extension;
- (5) the applicant shall have responsibility for operation, maintenance and repair of its own facilities;
- (6) the extension is consistent with the goals of the City's sewer comprehensive plan and all applicable law; and
- (7) any other conditions the Council considers appropriate; and

WHEREAS, the City Council determined that the application by the District satisfied the requirements of GHMC 13.34.070 for the following reasons:

- (1) the District requested such extension and treatment pursuant to an Administrative Order of the Department of Ecology (Exhibit B hereto), which affects all sixty-six (66) lots that comprise the District's service area, and the same is necessary for the protection of the public health, safety and/or the environment;
- (2) DOE has provided a written statement that the proposed extension is consistent with the City's comprehensive sewer plan and that the additional loading from the District's projected average daily flow and loading will not affect the permitted design capacity of the City's wastewater treatment plant (Exhibit C, attached hereto and incorporated herein by this reference); and

- (3) the District will be required to pay the same rate for sewerage as other customers located outside the City limits; and
- (4) No connection will be allowed except those identified in (1) above;
- (5) Restrictions will be placed on the amount of sewage and the time during which the City will accept sewage from the District;
- (6) The District will have responsibility for operation, maintenance and repair of the sewage transmission and support facilities to the point of discharge into the City's sewage system; and
- (7) The extension is, by the terms and conditions of this Agreement, consistent with the goals of the City's sanitary sewer comprehensive plans and applicable law.

WHEREAS, both the City and the District are authorized by law to engage in the construction and/or operation of sewerage facilities, and to enter into joint agreements for their joint use and benefit to cities and sewer districts (RCW 35.67.300 and RCW 56.08.060); and

WHEREAS, the parties agreed to enter into an interlocal agreement describing the terms and conditions of construction, operation, maintenance and operation of the extension, and other terms and conditions relating to capacity and the City's provision of sewer service to the District; now, therefore,

FOR AND IN CONSIDERATION of the mutual benefits and conditions hereinafter described, the parties agree as follows:

Section 1. Authorization to Contract by District. The District warrants that the property described in Exhibit A is within the District's boundaries, that it is authorized to enter into this Agreement, and has complied with all of the provisions in Chapter 56.08 RCW for the performance of all terms and conditions of this Agreement.

Section 2. Extension Authorized by City. The City hereby authorizes the District to extend a transmission line from its property, as shown in Exhibit A, hereto, to the City's sewer facilities in the Hunt Street--Skansie Avenue Corridor and at the location designated by the City Public Works Director.

Section 3. Costs to be Paid by District.

A. The District will pay all of the costs relating to this project, including, but not limited to: engineering design, bid advertisement and award, construction, inspection,

maintenance, repair and operation of the sanitary sewer transmission line, and support facilities. The City shall not be required to pay any costs, expenses or attorneys' fees for any work, equipment or materials related to this Agreement, unless provided otherwise in this Agreement.

B. Plans and Inspections. Construction of the extension will be in compliance with the City's Public Works Standards, at a minimum, and with the Department of Ecology publication, "Criteria for Sewage Works Design, 85-1," any applicable requirements of Pierce County Utilities for construction within County right-of-way, and any applicable requirements of the agency providing funding to the District.

C. Construction. The District agrees that no construction of the extension authorized by this Agreement shall take place unless and until all capacity commitment payments are made as provided in Section 5 herein. The District shall communicate with the City during the course of the construction, and report its progress.

Section 4. Sewer Capacity Commitment. The City agrees to provide sewer treatment capacity to the District for sewer service by the District for the sixty-six (66) lots that comprise the District's service area, and hereby reserves to the District the right to discharge to the City's sewerage system 16,400 gallons per day (gpd) (66 individual, single family residential connections) on an average annual flow basis. It is understood that these capacity rights are allocated only to the District's system as herein described, and only if the District meets the acceptable parameters for domestic sanitary sewage of ph 6 to ph 9, dissolved oxygen (DO) content of one (1) milligram/liter (mg/l), and a maximum 16,400 gallons per day on an average flow basis at the point of connection into the City's sewer system. Any additional discharge into the system without the City's prior written consent is strictly prohibited. If any additions are made without the City's prior written consent, the City may take the action described in Sections 16 and 17 herein.

The District shall own, operate, maintain and repair the sanitary sewer transmission line and support facilities constructed under this Agreement. Capacity rights acquired by the District pursuant to this Agreement shall not constitute ownership by the District of any other facilities comprising the City's sewerage system.

Capacity rights include the average annual daily discharge of 16,400 gallons of screened, aerated septic tank effluent to the City of Gig Harbor sewer system for secondary treatment and disposal by the City of Gig Harbor.

Section 5. Commitment Payment. The District agrees to pay the City Twenty Three Thousand Seven Hundred Sixty and No/100 Dollars (\$23,760.00) to reserve sewer capacity for

the period of three (3) years from the execution of Council approval of the agreement by both parties to be paid in three equal payments as follows:

November 1, 1996:	\$7,920.00
May 1, 1997:	7,920.00
November 1, 1997:	\$7,920.00

Failure of the District to make any or all of the above payments on or before the deadlines shall constitute a breach of this Agreement, allowing the City to immediately terminate this Agreement and retain all previous payments made by the District. In the event the District has not made connection to the City's utility system at the end of the three-year period, such capacity commitment shall be released by the City and the District shall forfeit one hundred percent (100%) of this capacity commitment payment to cover the City's administrative and related expenses.

If the approval of the Pierce County Boundary Review Board is required, and the Board does not approve the District's proposed extension to the City's sewer system, then the District shall be entitled to a full refund from the City of its capacity commitment payment.

Section 6. Extension of Commitment Period. In the event no connection has been made and the District chooses to permanently reserve sewer capacity by paying the entire connection fee for the number of equivalent residential units desired to be reserved before the expiration date set forth under Section 5 above, the District shall be responsible for paying for the sewer system's depreciation based on the following formula: District's reserved capacity divided by the total plant capacity times the annual budgeted depreciation of the sewer treatment plant facilities.

Section 7. Connection Charges. As a condition of connecting to the City sewer system, the District agrees to pay connection charges at the rate schedule applicable at the time the District requests to connect to the City's sewer system, in addition to any costs of construction. Any commitment payment that has not been forfeited shall be applied to the City's connection charge(s). The District agrees to pay the connection fee for the entire District (sixty-six (66) lots) at the time of the initial connection, which payment shall reserve capacity for the entire District.

Section 8. Service Charge. In addition to the charges for connection, the District agrees to pay for utility service rendered according to the rates for services applicable to properties outside the City limits as such rates exist (which is currently charged at 150% the rate charged to customers inside the city limits), or as such rates may hereafter be adjusted.

Section 9. District's Ownership of the Transmission Line and Support Facilities. The sanitary sewer extension and support facilities to be constructed by the District shall remain in District ownership. The District shall be responsible for operation, repair and maintenance of the sanitary sewer extension and support facilities to and including the point of connection to the City's sewer facilities. At no time shall the City have any responsibility for the sanitary sewer extension, support facilities, or any other facilities constructed by the District.

Section 10. District's Payment of City's Sewer Diffuser Extension Cost. At such time as the flow from the City's sewer treatment plant reaches 1,600,000 gallons per day, the City will take the sewer diffuser outside Gig Harbor Bay. The District agrees to pay for its proportionate share of the sewer diffuser cost, to be calculated based upon the District's projected average annual flow of 16,400 gpd.

If the cost for the extension of the City of Gig Harbor outfall will be financed by a loan and subsequently charged as debt service in the monthly service charge or by a collection of funds through monthly rates, and the District pays for their share of the new outfall in advance, the monthly service charge for the District shall not include payment for the outfall.

Section 11. Sewage Flow Restricted to Certain Hours. The City shall only accept the District's sewage at the point of connection to the City's system between the hours of 1:00 a.m. and 5:00 a.m., or such other times as the City may subsequently specify due to the City's operation and maintenance requirements. The District shall construct sufficient reserve storage and treatment capacity for a minimum storage time of two (2) days excluding line storage capacity. Such sewer service shall not exceed 16,400 gallons per day on an average annual daily flow basis, nor shall it cause any detriment to the City's facilities or the City's provision of sewer service to other City customers, nor shall it affect the City's wastewater treatment plant and discharge capacity. A flow meter shall be installed at the District's cost at the point of connection with the City's facilities, with the District and the City monitoring the amount of flow. The District shall also monitor the dissolved oxygen content and hydrogen ion concentration (ph) at the point of connection to the City's facilities, which shall not exceed the levels and amounts set forth in Section 4.

Section 12. Compliance with Applicable Law. The District agrees that it will comply with all applicable laws, ordinances and/or regulations applicable to this project as the same are adopted by any agency with jurisdiction.

Section 13. Other Terms and Conditions. The District agrees to abide by and comply with other terms and conditions that the City has established as set forth below:

A. The District agrees to allow the City access to any and all sewer collection and extension facilities for purposes of inspection; and

B. The District will furnish to the City as-built plans and drawings in a form acceptable to the funding agency and the Public Works Director.

C. The City shall not be responsible for costs or damages due to the District's need to provide alternative arrangements for sewage detention, treatment and disposal in the event maintenance and operations of the transmission line and support facilities, or of the City's sewerage and/or treatment facilities, disrupt or otherwise preclude or prevent discharge of the District's sewage into the City's sanitary sewer system.

Section 14. Delinquent Payments. The District understands and agrees that it has the responsibility to collect all delinquent payments from the property owners in the District as described in Exhibit A, and to take all necessary enforcement action. All service to the property described in Exhibit A shall be billed to the District, and the District shall make the necessary payments as any other customer of the City.

Pursuant to RCW 35.67.310, if the terms of this Agreement are not kept or performed, or the payments made as required, the City may disconnect the sewer and for that purpose may at any time enter upon the property described in Exhibit A.

Section 15. Permits, Franchises. With regard to construction of the sewer extension and associated improvements covered by this Agreement, it shall be the District's responsibility to secure and acquire at the District's expense, all necessary permits, easements, licenses, franchises and approvals required by state, county and city governmental departments (including Pierce County Public Works Department, Pierce County Environmental Health Department, State Department of Ecology, Pierce County Boundary Review Board and City of Gig Harbor Public Works and Building Departments).

Section 16. Termination for Non-Compliance. In the event the District fails to comply with any term or condition of this Agreement, the City may take the action described in Section 5 to terminate this Agreement and retain all payments made by the District, and in addition, the City shall have the right to terminate sewer service or to disconnect the property described in Exhibit A from the City's sewer facilities. The remedies described in this paragraph shall be in addition to any other remedies available to the City under applicable law.

Section 17. Specific Enforcement. In addition to any other remedy provided by law or this Agreement, the terms of this Agreement may be specifically enforced by a court of competent jurisdiction.

Section 18. Attorneys' Fees. In any suit or action seeking to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, in addition to any other remedy provided by law or this Agreement.

Section 19. Assignment. The District shall not have the right to assign this Agreement or any of its rights and obligations hereunder either by operation of law or by voluntary agreement, without the written consent of the City.

Section 20. Notice. Notice to the parties shall be given at the following addresses:

The City of Gig Harbor
City Administrator
3105 Judson Street
Gig Harbor, WA 98335

Wollochet Harbor Sewer District
P. O. Box 2166
Gig Harbor, WA 98335
Attn: Commissioners

Each party shall advise the other in writing of the name(s) of its respective officials as listed above and provide written notice within ten (10) days of any changes.

Section 21. Effective Date. This Agreement shall be in full force and effect and binding upon the parties hereto upon execution by the parties' governing bodies. A copy of this Agreement shall be filed with the Gig Harbor City Clerk and the Pierce County Auditor's office.

Section 22. Waiver. No waiver by either party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver or any subsequent breach.

Section 23. Indemnification. The District hereby releases, covenants not to bring suit, and agrees to indemnify, defend and hold harmless the City, its officers, officials, employees, agents and representatives from any and all claims, costs, judgments, losses or suits, including attorney's fees, awards or liabilities to any person, including claims by the District's own employees to which the District might otherwise be immune under Title 51 RCW, 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 District shall also release, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, officials, employees and agents from any damages, losses, costs, fees, penalties or liabilities of any kind arising out of the District's failure to comply or its inadequate compliance with the State Environmental Policy Act (Chapter 43.21C RCW), challenge that the action described herein is subject to Boundary Review Board review under Chapter 36.93 RCW, or any laws relating to the construction of public works, including but not limited to competitive bidding and payment of prevailing wages. Such indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

The City's inspection of the District's sanitary sewer transmission line and support facilities shall not be grounds to avoid any of these covenants of indemnification. It is further

specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Title 51 RCW, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the parties.


Section 24. Enforcement, No Latecomer's Agreement. The City has conditioned its approval of the construction of the sanitary sewer transmission line and support facilities described in this Agreement and the City's provision of sanitary sewer service to the property described in Exhibit A upon the District's agreement not to allow any other property owners to hook up to the extension. This Agreement is limited to the 66 single family residential lots contained within the District boundaries as described in Exhibit A. If any hook-ups are made to the extension described in this Agreement with or without the District's permission, the City shall have the right and authority to terminate the connection between the District's extension and the City's sewer facilities at the District's expense, upon thirty (30) days notice to the District. The City Council shall not execute any latecomer's agreement for the facilities described in this Agreement.

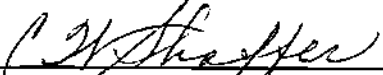
Section 25. Complete Agreement. This Agreement merges and supersedes all prior negotiations, representations and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire Agreement between the parties.

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

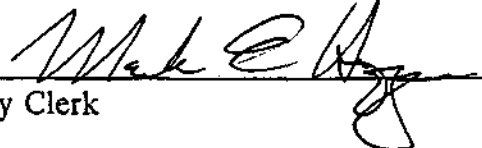
CITY OF GIG HARBOR

WOLLOCHET HARBOR SEWER DISTRICT


By: Gretchen Wilbert
Its Mayor


By: C.W. SHAFFER
Its president

ATTEST:


City Clerk

APPROVED AS TO FORM:

N/A
City Attorney

STATE OF WASHINGTON)
)
County of Pierce) ss

I certify that I know or have satisfactory evidence that Eretchen 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 Mayer 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 this 22nd day of October, 1996.

Molly M. Towsee
Molly M. Towsee
(Printed or typed name)
NOTARY PUBLIC, State of Washington,
residing at: Gig Harbor
My appointment expires: 12/12/99

STATE OF WASHINGTON)
)
County of Pierce) ss

I certify that I know or have satisfactory evidence that Carl Shaffer 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 the Wollochet Harbor Sewer District, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 22nd day of October, 1996.

Molly M. Towsee
Molly M. Towsee
(Printed or typed name)
NOTARY PUBLIC, State of Washington,
residing at: Gig Harbor
My appointment expires: 12/12/99



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL MEMBERS
FROM: DAVID R. SKINNER, P.E., PUBLIC WORKS DIRECTOR *DES*
SUBJECT: PUMP STATION 3 PROPERTY
- SELECTION OF CONDEMNATION ATTORNEY
DATE: FEBRUARY 23, 2000

INTRODUCTION/BACKGROUND

Pump Station 3 is the final pump station prior to discharge of raw sewage to the City's wastewater treatment plant. Presently, the pump station has a peak pumping capacity of 2.66-million gallons per day (mgd) based on two out of three 40-hp pumps in operation. This compares with average and peak design flows for the existing treatment plant of 1.6-mgd and 4.0-mgd, respectively. The National Pollutant Discharge Elimination System (NPDES) permit issued in 1997 for the City's expanded wastewater treatment plant requires that Pump Station 3 be upgraded to accommodate the 4.0-mgd peak flow.

Presently, the projected ultimate treatment plant capacity is 3.5-mgd. The current pump station has numerous deficiencies, including aging equipment and controls. In 1995, the City had to abandon plans for connecting a pair of larger diameter pressure pipes from the existing station to the Wastewater Treatment Plant (WWTP) due to the discovery of free fuel product in the immediate vicinity of the pump station. Based on these deficiencies and future requirements, a new pump station in a different location has been determined to be necessary.

The small overflow parking lot for the Union 76 station on the south side of Harborview Drive, approximately opposite the existing pump station, was identified as the best alternative location. Engineering staff has determined that this proposed site is the only practical location for Pump Station 3.

The site offers proximity to the unused twin pressure lines, separation from the heavily used pedestrian sidewalk on the north side of Harborview Drive, better opportunities for screening due to the adjoining vegetated hillside, low impact to the existing land use, and no intrusion into the view of Gig Harbor. The easement area required for the new pump station is 2,631 SF. The overflow parking lot is part of a 9.4-acre parcel.

Unfortunately, attempts to determine who is the property owner of the proposed site reveal a legal dispute with respect to ownership. The City ordered a title report for this parcel, and it confirmed that The Peninsula Group was the owner of the property. The report indicated that a judgement had been entered by Pierce County Superior Court on December 3, 1999. The title company assured the City that the appeal process had been exhausted and that this judgement was final. Since then, apparently, this decision has been appealed, and the timeline for the process that will clarify title is uncertain.

The City Attorney prefers that the City hire a condemnation specialist to conduct legal action to enable the City to gain clear title to this proposed site.

FISCAL CONSIDERATIONS

Sufficient funds are available for this work.

RECOMMENDATION

Condemnation attorney John Hurley has worked in the Attorney General's office for thirty years and was the chief condemnation attorney. He condemned property for Interstates 90 and 405. He retired from the Attorney General's office 3-1/2 years ago, and has been doing condemnations since that time for several jurisdictions, including University Place. He is highly recommended. Staff requests that the Council move and approve the City Attorney to negotiate a contract with Mr. Hurley, that the Mayor sign and initiate said contract, and that the contract be ratified at the next available Council Meeting.



City of Gig Harbor. The "Maritime City"

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

TO: MAYOR WILBERT AND CITY COUNCIL
FROM: BILL COLBERG, ACTING CHIEF OF POLICE *wlc*
SUBJECT: JANUARY INFORMATION FROM PD
DATE: FEBRUARY 14, 2000

The January 2000 activity statistics are attached for your review.

Bike patrol officers spent approximately twenty-three hours on bicycle patrol. Main emphasis was working the evening hours, commercial patrol.

Reserve Officers contributed 150 hours during the month of January. Officer Welch assisted in a DUI emphasis patrol and also assisted with jail transports. Officer Abell, after extensive training and experience, is now solo qualified.

The Marine Services Unit had negative patrol activity for the month of January. The patrol boat is now stored in a semi-secure tarp shed within the confines of the city shops. Some routine maintenance and electronics repair will be initiated before spring.

The police explorers served 54 hours in the month of January. This composed of 24 hours of meetings and 30 hours of ride-alongs.

Periodic communications with Chief Barker indicates that he is doing well, however, very homesick and misses everyone.

Detective Carpenter and Officer Dougil have tentatively identified a suspect responsible for our two convenience store robberies, Pets and Pals and the Mt. Constance Mountain Shoppe. The officers are now attempting to locate the suspect with the assistance of the Port Orchard Police Department, Bremerton Police Department and the Kitsap County Sheriff's Department.

GIG HARBOR POLICE DEPARTMENT

MONTHLY ACTIVITY REPORT

January 2000

	<u>JAN</u> <u>2000</u>	<u>YTD</u> <u>2000</u>	<u>YTD</u> <u>1999</u>	<u>% chg to</u>
CALLS FOR SERVICE	345	345	379	- 8
CRIMINAL TRAFFIC	17	17	23	- 26
TRAFFIC INFRACTIONS	67	67	80	- 16
DUI ARRESTS	5	5	14	- 64
FELONY ARRESTS	5	5	1	+ 400
MISDEMEANOR ARRESTS	14	14	11	+ 27
WARRANT ARRESTS	3	3	12	- 75
CASE REPORTS	113	113	110	+ 2
REPORTABLE VEHICLE ACCIDENTS	28	28	16	+ 75