

**AGENDA FOR  
GIG HARBOR CITY COUNCIL MEETING  
November 14, 2005 - 7:00 p.m.**

**CALL TO ORDER:**

**PLEDGE OF ALLEGIANCE:**

**PUBLIC HEARING:** 2006 Proposed Budget.

**CONSENT AGENDA:**

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

1. Approval of the Minutes of City Council Meeting of October 24, 2005.
2. Correspondence / Proclamations: a) Gig Harbor Waterfront Retail & Restaurant Assoc.
3. Resolution No. 656 Adopting Amendments to Pierce County Interlocal Agreement.
4. Holiday Lighting Festival Contracts.
5. Municipal Judge Contract Renewal.
6. Employees' and Supervisory Employees' Guild Contracts.
7. City-wide Traffic Forecasting Model - Contract Amendment.
8. Eddon Boat Netshed Re-Roofing Contract.
9. Franklin Avenue Stormwater Improvement Project - Survey Staking.
10. Grandview Forest Tank "B" Repainting Project – Materials Testing Services.
11. Skansie Brothers Park DNR Aquatic Lease Agreement.
12. Liquor License Renewals: The Harbor Kitchen; Old Harbor Saloon; and Terracciano's.
13. Approval of Payment of Bills for November 14, 2005:  
Checks #48614 through #48769 in the amount of \$474,204.71.
14. Approval of Payroll for the month of October:  
Checks #3994 through #4028 and direct deposit entries in the amount of \$250,226.33.

**OLD BUSINESS:**

1. Second Reading of Ordinance - 2005 Property Tax Levy.
2. Second Reading of Ordinance – Wright Annexation (ANX 04-02).

**NEW BUSINESS:**

1. First Reading of Ordinance – 2006 Proposed Budget.

**STAFF REPORT:**

1. Dick Bower, Building Official/Fire Marshal – Third Quarter 2005 Building Permit Data.
2. Mike Davis, Chief of Police – GHPD Monthly Report for October.

**PUBLIC COMMENT:**

**COUNCIL COMMENTS / MAYOR'S REPORT:**

**ANNOUNCEMENT OF OTHER MEETINGS:**

**EXECUTIVE SESSION:** For the purpose of discussing prospective litigation per RCW 42.30.100(1)(i).

**ADJOURN:**

## **GIG HARBOR CITY COUNCIL MEETING OF OCTOBER 24, 2005**

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

**CALL TO ORDER:** 7:03 p.m.

**PLEDGE OF ALLEGIANCE:**

**PUBLIC HEARING:**

1. Revenue Sources - 2006 General Fund Budget. Mayor Wilbert opened the public hearing at 7:02 p.m. David Rodenbach, Finance Director, explained that this is a required public hearing for levying taxes for 2005 through 2006. He said that there are few changes from the current year other than a 1% increase in property tax. He said that projected revenues are stable.

No one signed up to speak and the Mayor closed the hearing at 7:03 and opened the next public hearing.

2. Rainbow Burnham (ANX 04-03) Annexation. John Vodopich, Community Development Director, presented information on a proposed annexation of approximately 34 acres located west of Burnham Drive, north of 96<sup>th</sup> Street, and east of Highway 16.

No one signed up to speak and the Mayor closed the hearing at 7:04.

**CONSENT AGENDA:**

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

1. Approval of the Minutes of City Council Meeting of October 10, 2005.
2. Approval of Payment of Bills for October 24, 2005:  
Checks #48445 through #48613 (check #48465 missing due to printing error) in the amount of \$436,152.33.

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

**OLD BUSINESS:**

1. Appointment of the Friends of the Parks Commission. Mayor Wilbert said that the Council Parks Committee submitted suggestions for appointments to this commission for Council consideration. She said that seventeen citizens had applied, and thanked them for their willingness to serve. She then read the names aloud and asked them to stand if present. The Mayor explained that a ballot had been included in the agenda packet, and that Councilmembers had an opportunity to cast their vote for five members, providing that they put their names on the top and the vote is

announced. Sonia Billingsley, Community Development Assistant, collected the ballots from the Mayor for tallying the results, which were to be announced later in the meeting.

Councilmember Picinich thanked the Gateway for the front page article, which resulted in seventeen applicants.

2. Second Reading of Ordinance – Allowing Reconstruction of Nonconforming Structures. John Vodopich presented this ordinance that would increase the acceptable level of damage for reconstruction of nonconforming structures from seventy-five percent to one-hundred percent. He explained that he was waiting for a decision from the Washington State Department of Ecology. The effective date would be when the decision from DOE had been received.

**MOTION:** Move to adopt Ordinance No. 1018 as presented.  
Picinich / Ruffo – unanimously approved.

Councilmember Young commented that he would like the Planning Commission to come back with a recommendation to allow non-conforming structures to be rebuilt in other zones in the city. He made the following motion.

**MOTION:** Move to direct staff to forward a proposed ordinance to allow non-conforming structures up to 100% destruction in all other zones of the city to the Planning Commission and bring it back to Council to review.  
Young / Franich -

Councilmember Dick voiced concern that allowing everything to remain the same in every area could be problematic and that there would be no point in adopting any new regulations. He said that he is willing to have the Planning Commission take a look at this, but he is skeptical that it is an acceptable concept. Councilmembers discussed this further and said that they would like to give the Planning Commission an opportunity to review the issue and bring back a recommendation.

**RESTATED MOTION:** Move to direct staff to forward a proposed ordinance to allow non-conforming structures up to 100% destruction in all other zones of the city to the Planning Commission and bring it back to Council to review.  
Young / Franich – six voted in favor. Councilmember Dick voted no.

3. Second Reading of Ordinance – Amendment to Title 15 Clarifying the Authority of the Building Official/Fire Marshal with Respect to Housing Safety. Dick Bower, Building Official / Fire Marshal, presented this ordinance that would give the city the authority to seek legal abatement of unsafe dwellings.

**MOTION:** Move to adopt Ordinance No. 1019 as presented.  
Picinich / Ruffo – unanimously approved.

4. Wastewater Comprehensive Plan Population Update – Consultant Contract Amendment. Steve Misiurak, City Engineer, presented the additional information on rate fees that had been requested previously by Council.

Councilmember Franich said that he understands that these fees meet the generally accepted accounting practices, but disagreed that this is the most fiscally responsible way to approach billing.

Councilmember Young explained that billing overhead in this method helps to avoid an overly time-consuming billing system. Past contracts have not shown the overhead; only the hourly rate with these costs built in.

**MOTION:** Move to approve the Consultant Service Contract Amendment No. 1 in the amount of \$26,320.61 with HDR Engineering, Inc. for a revised contract amount not to exceed \$57,868.00.  
Dick / Ruffo – unanimously approved.

Molly Towslee, City Clerk, explained that the ballots had been tallied and there were four applicants with the highest numbers of votes, and a tie between two applicants for the fifth position. This would require another vote to break the tie. Clerk Towslee read aloud the votes cast by each Councilmember for every candidate that received a vote. The applicants that received the highest number of votes are as follows:

Jacquie Goodwill	- 7
Ken Malich	- 7
Michael Perrow	- 5
Peter Hampl	- 5
Nick Tarabochia	- 3
Robert Winskill	- 3

The Clerk asked for a roll-call vote from Councilmembers to break the tie between applicants Tarabochia and Winskill with the following results:

Ekberg – Winskill; Young – Tarabochia; Franich – Tarabochia; Conan – Tarabochia; Dick – Winskill; Picinich – Tarabochia; and Ruffo – Tarabochia.

The fifth member of the Friends of the Park Committee is Nick Tarabochia.

### **NEW BUSINESS:**

1. First Reading of Ordinance - 2005 Property Tax Levy. David Rodenbach gave an overview of the property tax levy for collection in 2006. This will return for a second reading at the next meeting.

Councilmember Franich said that the city is doing well financially, and would like to forego the option to increase the property tax by 1%. Councilmember Young agreed.

Councilmember Ruffo asked for clarification on the tax that will be levied on the Eddon Boat Property. Mr. Rodenbach explained that you compare debt service on the bonds with the assessed value of property to come up with the rate per thousand.

2. Proposed Annexation – McCormick Ridge LLC (ANX 04-04). John Vodopich presented information on this proposed annexation. He said that Council must decide whether to accept, reject, or geographically modify the boundaries of the proposed annexation. In addition, it must be decided whether to accept the pre-annexation zoning and whether to require the assumption of all or any portion of indebtedness by the area to be annexed. He recommended that Council accept the notice of intention as presented; require that the property owners assume all the proportionate share of the existing indebtedness; apply the R-1 zoning to the Somerset Subdivision and R-2 to the McCormick Ridge Condos and the property immediately to the south; and finally require that the applicant's submit a wetland analysis report with the formal annexation petition.

Councilmember Ekberg asked how much of the annexation area is vacant. Mr. Vodopich answered that approximately 1/3 of the area is vacant.

Clare Hardy – 29206 No. Union, Tacoma. Ms. Hardy said that she works for Scott Edwards, who started the annexation process. She explained that in February, Council asked them to include McCormick Ridge in the proposed annexation, and then Somerset asked to join. She said that she would appreciate Council support on this proposed annexation.

Councilmember Franich said that he was in favor of limiting the size of the UGA, especially in the Purdy area. He added that residential annexations are a net loss for the city and that he would not support this annexation.

**MOTION:** Move to accept the notice of intention to commence annexation with the three conditions outlined in the staff memo.  
Dick / Ruffo –

Councilmember Young asked if the Metro Parks taxing district would be removed from these properties after annexation. Mr. Vodopich responded that it would not.

Councilmember Dick said that the parks within the UGA were not included in the Metro Parks District. Mark Hoppen further explained that only those properties in the ED District were excluded from the taxing district. This particular area was not part of this exclusion.

Councilmember Young recommended approaching this issue in the next legislative session. Councilmember Ekberg concurred.

**RESTATED MOTION:** Move to accept the notice of intention to commence annexation with the three conditions outlined in the staff memo.  
Dick / Ruffo – six voted in favor. Councilmember Franich voted no.

3. Utility Extension, Capacity Agreement – Canterwood Business Park. John Vodopich presented the background information on this request for ten ERU's of sewer service for Canterwood Division 11 Phase 2 Business Park. He explained that the applicants are asking for an exemption to the requirement that they adhere to the city's zoning requirements. The pre-annexation zoning for this area is single family residential R-1; however, Pierce County has designated Canterwood as a Master Plan Community which provides for professional office space. He recommended conditioning the utility extension agreement by referencing the 2005 Pierce County Hearing Examiner Approval and the Conditions of Approval. Mr. Vodopich added that the Gig Harbor Municipal Code provides for an exception to the conformance with zoning requirements, adding that in his opinion, the applicants have satisfactorily met the four criteria necessary to grant the exception. He recommended approval of the Utility Extension Capacity Agreement as proposed. He then advised that the City Attorney has recommended two separate motions if Council wishes to grant the extension; the first to authorize the exemption and the second to approve the utility extension.

Councilmember Franich asked for further clarification on the variance procedure.

Councilmember Young recommended forwarding this to the Community Development Committee for review because the use is so different and due to the impacts on an already problematic road.

**MOTION:** Move to forward this Utility Extension Agreement request to the Community Development Committee for review and recommendation.  
Young / Ekberg – unanimously approved.

4. Sanitary Sewer Facilities Easement and Maintenance Agreement – Canterwood Business Park.

**MOTION:** Move to table this agenda item.  
Picinich / Ruffo – unanimously approved.

5. Resolution – Accepting the Rainbow Burnham Annexation Petition (ANX 04-03). John Vodopich explained that this matter was the subject of the public hearing earlier in the evening. This resolution would accept the annexation petition and refer the proposed annexation to the Pierce County Boundary Review Board for review.

Councilmember Young voiced objection to an annexation that creates an unincorporated island in the middle of the city. John Vodopich pointed out that there is a provision in state law that would allow Council to annex the remaining island.

**MOTION:** Move to approve Resolution No. 655 as presented.  
Ekberg / Ruffo – six voted in favor. Councilmember Young voted no.

6. First Reading of Ordinance – Relating to Annexation and Zoning – Wright Annexation. John Vodopich explained that this proposed annexation had completed the Pierce County Boundary Review and Approval Process. This is the first reading of an ordinance that would formally accept the property located at the corner of Hunt and Skansie. This will come back for a second reading at the next meeting.

Councilmembers discussed whether this also creates an island within city limits. Councilmember Young pointed out that this just adds property to the end of the existing city limits.

Councilmember Franich pointed out an error on page two of the ordinance.

**STAFF REPORT:**

1. Mark Hoppen, City Administrator – St. Anthony’s Update. Mr. Hoppen commented that Representatives Lantz and Kilmer have been working on a bill that relates to financing to be able to plan for long-term improvements.

2. David Rodenbach, Finance Director – Third Quarter Financial Report. Mr. Rodenbach offered to answer any questions on the quarterly reports.

**PUBLIC COMMENT:**

Linda Gair – 9301 North Harborview Drive. Ms. Gair requested that the sound be turned up in the Council Chambers in order for the people in the audience to be able to hear.

Eva Jacobsen – 5808 Reid Drive. Ms. Jacobsen commented on the staff report given by Mark Hoppen. She said that it is common in other cities and counties for the EIS process and Comp Plan Amendments to overlap. She said that the Planning Commission could begin to hold workshops and deliberations before the final EIS is published. This could save several months in the process if additional ideas arise before the final EIS is issued.

Mayor Wilbert said that she would ask staff to consider these comments.

**COUNCIL COMMENTS / MAYOR’S REPORT:**

Councilmember Franich discussed the extension of water services off Crescent Valley Drive discussed at the last Council Meeting. He said that he listened to the recording of the meeting. In part of the discussion, the City Attorney suggested bringing back an ordinance that would allow private parties to be allowed utility service outside the UGA. He asked if the extension could be done without amending the city code.

Carol Morris, City Attorney responded that yes, the city could. She said that state law establishes the criteria for extending utility service outside the UGA and does not limit the types of entities. The limitation for a quasi-judicial organization is only in the city's code. Her recommendation to amend the code would allow anyone to take advantage of what state law allows.

Mayor Wilbert said that she received the report from the South Sound Passenger Ferry Committee announcing that the City of Des Moines is applying for a state grant to study the feasibility of a passenger ferry. She said that she would ask the new Mayor if she can remain the city's representative on this committee.

**ANNOUNCEMENT OF OTHER MEETINGS:**

Budget Workshops: Monday, November 7<sup>th</sup> and Tuesday, November 8<sup>th</sup> at 6:00 p.m. in the Gig Harbor Civic Center Community Rooms A & B.

**EXECUTIVE SESSION:** For the purpose of discussing personnel matters per RCW 42.30.140(4)(a).

**MOTION:** Move to adjourn to Executive Session at 8:05 p.m. for approximately 30 minutes in order to discuss personnel matters per RCW 42.30.140(4)(a).  
Franich / Picinich - unanimously approved.

**MOTION:** Move to return to regular session at 8:35 p.m.  
Picinich / Franich - unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 8:35 p.m.  
Young / Ekberg – unanimously approved.

CD recorder utilized:  
Disk #1 Tracks 1-29.

---

Gretchen A. Wilbert, Mayor

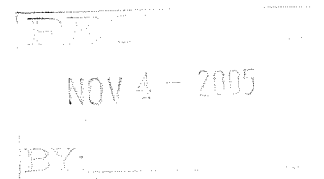
---

Molly M. Towslee, City Clerk



The Gig Harbor Waterfront Retail &  
Restaurant Association  
PO Box 2143 Gig Harbor, WA 98335  
[www.gigharbordowntownwaterfront.com](http://www.gigharbordowntownwaterfront.com)

November 1, 2005



Chief Mike Davis  
Chief of Police, City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

Dear Chief Davis,

Just a note to thank you and your officers for the outstanding and professional job you did keeping our City's children safe during the annual Trick-Or-Treat on Harborview event sponsored by the Gig Harbor Waterfront Retail & Restaurant Association. Lt. Bill Colberg and his troops, although busy directing traffic, seemed to enjoy the event almost as much as the kids.

And what a treat the hot coffee was, especially on a cold night like last night. Be sure and express our gratitude for a job well done to Lt. Colberg. You and your officers provide an invaluable service to our community, and you do so quietly and well. You are one of the primary reasons that Gig Harbor is such a desirable place in which to live.

Thanks again, and we look forward to working with you next time.

Very truly yours,

Linda Gair, President GHWRRA  
Owner, The Keeping Room

John Moist, Secretary and Incoming President GHWRRA  
General Manager, Arabella's Landing Marina

Loydette Roberts, Treasurer GHWRRA  
Owner, McBeckland's Ladies Botique

cc Mr. Mark Hoppen  
Mrs. Gretchen Wilbert



## COMMUNITY DEVELOPMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: RESOLUTION - INTERLOCAL AGREEMENT AMENDING THE PIERCE**  
**COUNTY REGIONAL COUNCIL INTERLOCAL AGREEMENT**  
**DATE: NOVEMBER 14, 2005**

### **BACKGROUND**

Pierce County has requested that the City pass a resolution adopting an Interlocal Agreement executing amendments to the Pierce County Regional Council Interlocal agreement. The Pierce County Regional Council, on which the Mayor sits, recommended adoption of the proposed amendments on May 19, 2005.

The City Attorney has reviewed the draft Resolution.

### **POLICY ISSUES**

None.

### **FISCAL IMPACT**

The Finance Director has reviewed the proposed amendments and has not identified a fiscal impact.

### **RECOMMENDATION**

I would recommend that the City Council move approval of the Resolution authorizing the Mayor's signature on the Interlocal Agreement regarding amendments to the Pierce County Regional Council Interlocal Agreement.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF GIG HARBOR AUTHORIZING THE  
PIERCE COUNTY EXECUTIVE TO EXECUTE AN INTERLOCAL  
AGREEMENT WITH THE CITIES AND TOWNS OF PIERCE COUNTY,  
THEREBY AMENDING THE INTERLOCAL AGREEMENT AS  
RECOMMENDED BY THE PIERCE COUNTY REGIONAL COUNCIL.**

---

WHEREAS, On January 31, 1995, the Pierce County Council passed Resolution R95-17 affirming the commitment of the County to continue discussions with other local jurisdictions to resolve implementation of the Growth Management Act; and

WHEREAS, The Pierce County Regional Council was created in 1992 by interlocal agreement among the cities and towns of Pierce County and Pierce County, and charged with responsibilities, including: serving as a local link to the Puget Sound Regional Council, promoting intergovernmental cooperation, facilitating compliance with the coordination and consistency requirements of the Growth Management Act (Chapter 36.70A RCW) and the Regional Transportation Planning Organization (Chapter 47.80 RCW), and developing a consensus among jurisdictions regarding the development and modification of the Countywide Planning Policies; and

WHEREAS, The Pierce County Regional Council conducted negotiations in open public meetings during 2003 AND 2004 to address substantive policy changes necessary to respond to current issues related to the coordination and consistency with the Growth Management Act; and

WHEREAS, The Pierce County Regional Council subsequently recommended adoption of the proposed amendments to the Interlocal Agreement on May 19, 2005, which address policy updates; and

WHEREAS, amendments to the Interlocal Agreement must be adopted through amendment of the original Interlocal Agreement or by a new Interlocal Agreement and will become effective when sixty- percent (60%) of the cities, towns and County government representing seventy-five percent (75%) of the population within Pierce County become signatories to the agreement; and

WHEREAS, The proposed amendments to the Interlocal Agreement are not subject to SEPA review in accordance with WAC 197-11-800(20), procedural actions; and

WHEREAS, after a properly noticed public hearing, the Community Development Committee of the County Council considered oral and written testimony and forwarded do pass recommendation to the full Council, and

WHEREAS, The Gig Harbor City Council finds that it is in the public interest to

authorize the Pierce County Executive to execute the interlocal agreement, attached hereto as Exhibit "A"; NOW THEREFORE,

BE IT RESOLVED by the City Council of the City of Gig Harbor;

Section 1. The Pierce County Executive is hereby authorized to execute the Interlocal Agreement, attached hereto as Exhibit "A" and by this reference incorporated herein, thereby ratifying the attached amendments to the Interlocal Agreement as recommended by the Pierce County Regional Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR  
this 14th day of November, 2005.

APPROVED:

\_\_\_\_\_

GRETCHEN A. WILBERT, MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 10/24/05

PASSED BY THE CITY COUNCIL:

RESOLUTION NO.

**INTERLOCAL AGREEMENT**

**CREATION OF AN INTRACOUNTY ORGANIZATION**

This agreement is entered into by and among the cities and towns and special purpose district(s) of Pierce County and Pierce County. This agreement is made pursuant to provisions of the Interlocal Cooperation Act of 1967, Chapter 39.34 RCW. This agreement has been authorized by the legislative body of each jurisdiction pursuant to formal action and evidenced by execution of the signature page of this agreement.

I. NAME:

~~THE NAME OF THE ORGANIZATION WILL BE THE PIERCE COUNTY REGIONAL COUNCIL (PCRC).~~ The name of the organization will be the Pierce County Regional Council (PCRC).

II. MISSION:

The Pierce County Regional Council is created to promote intergovernmental cooperation on issues of broad concern, and to assure coordination, consistency, and compliance in the implementation of State law covering growth management, comprehensive planning, and transportation planning by county government and the cities and towns within Pierce County. It is the successor agency to the Growth Management Steering Committee and serves as the formal, multi-government link to the Puget Sound Regional Council.

III. CREATION:

This agreement shall become effective when sixty percent (60%) of the cities, towns and county government representing seventy-five percent (75%) of the population within Pierce County become signatories to the agreement. The agreement may be terminated by vote of two or more legislative bodies collectively representing sixty percent (60%) of the population within Pierce County.

IV. MEMBERSHIP AND REPRESENTATION:

- A. Membership is available to all cities and towns within Pierce County, the Port of Tacoma, and Pierce County.
- B. Associate membership is available to such nonmunicipal governments as transit agencies, tribes, federal agencies, state agencies, port authorities, school districts, and other special purpose districts as may be interested. Associate members are non-voting.

- C. The General Assembly of the organization **PCRC** shall be comprised of all elected officials from the legislative authorities and the chief elected executive official of the member cities, towns, and county government. Associate members and staff from the various jurisdictions shall be encouraged to participate in General Assembly meetings, but without a vote.
- D. The ~~Executive Committee of the organization~~ **PCRC-Council** shall be comprised of representatives from member jurisdictions as follows: four (4) representatives from Pierce County including the County Executive and three members of the County Council; three (3) representatives from the City of Tacoma; ~~and one (1)~~ **two (2)** representatives from the **City of Lakewood, City of Puyallup, and City of University Place**; and one (1) representative from each of the remaining jurisdictions. Each representative shall have one vote.
- E. One representative from the Puyallup Tribal Council, ~~one representative from the Port of Tacoma Commission~~, one representative from Pierce Transit, and one representative of WSDOT District 3 will be ex officio, non-voting members of the ~~Executive Committee~~ **Council**. At its discretion, the ~~Executive Committee~~ **Council** may create additional ex officio, non-voting positions from among other ~~Associate members~~.
- ~~F. Voting members of the Executive Committee shall be elected officials and shall be appointed by the local jurisdictions they represent. Alternate representatives to the Executive Committee may be designated who are elected officials and are of the same number as the authorized membership for each jurisdiction or group of jurisdictions. Other elected officials and staff from the various jurisdictions shall be encouraged to participate in Executive Committee discussions, but without a vote.~~

V. GENERAL ORGANIZATION:

A. Structure

- 1. **Organization: The PCRC shall be organized into a General Assembly; a Council; an Executive Committee; and other such task forces and committees as established by the Council.**  
~~The organization shall consist of a General Assembly, an Executive Committee, and advisory committees and task forces as created by the Executive Committee.~~
- 2. **Members: Pierce County, the Port of Tacoma and each city or town in Pierce County shall be a member upon adoption of the Interlocal Agreement, provided however, a city or town partially located in Pierce County and partially in any other county must have a population of at least**

500 persons or 500 employees in Pierce County before obtaining full voting privileges.

3. Ex Officio Associate Members: The Puyallup Tribal Council, Pierce Transit, and WSDOT District 3 shall be ex officio associate members. Ex officio associate members may each provide a representative to serve as a non-voting member of the Council.
4. Other Associate Members: Other non-municipal governments such as federal agencies, other state agencies, other tribes, school districts and other special purpose districts may become associate members upon approval of the Council. Associate members are non-voting.
25. The organization will utilize a calendar year for purposes of terms of office of members of the Executive Committee, Council, and the work program.

#### B. ~~Executive Committee~~ Council

1. The ~~Executive committee~~ Council shall carry out all powers and responsibilities of the organization between meetings of the General Assembly. The ~~Executive Committee~~ Council may take action when a quorum is present. One-third of the voting members shall constitute a quorum. Except as specified in the ~~b~~By-laws, actions voted upon shall be approved by simple majority vote of the quorum. The ~~b~~By-laws shall provide for special voting processes and the circumstances when such processes are to be used.
2. A ~~president~~ Chair and ~~v~~Vice ~~president~~ Chair shall be selected by the ~~Executive Committee~~ Council from among its voting members. The ~~president~~ Chair and ~~v~~Vice ~~president~~ Chair shall serve for one-year terms and shall constitute the Executive Committee.
3. The Executive Committee shall establish a regular meeting time and place for Council meetings. ~~Executive Committee m~~Meetings shall be conducted in accordance with the Open Public Meetings Act (~~RCW~~ Chapter 42.30 RCW).
4. Committees or task forces shall be established as required and may utilize citizens, elected officials and staff from the member jurisdictions in order to enhance coordination and to provide advice and recommendations to the ~~Executive Committee~~ Council on matters of common interest including, but not limited to, planning, transportation, and infrastructure.

#### C. General Assembly

1. The General Assembly shall meet at least annually and may hold additional meetings as needed. The General Assembly may take action when a quorum is present. Thirty percent (30%) of the voting members representing a majority of the various jurisdictions shall constitute a quorum. Except as specified in the By-laws, actions voted upon shall be approved by a simple majority vote of the quorum. The By-laws shall provide for special voting processes and the circumstances when such processes are to be used.
2. The ~~president and vice president of the~~ Executive Committee shall serve as ~~president~~ Chair and ~~vice president~~ Chair of the General Assembly.
3. The General Assembly shall adopt an annual work program.
4. The General Assembly meetings shall be conducted in accordance with the Open Public Meetings Act (~~RCW~~ Chapter 42.30 ~~RCW~~).

## VI. FUNCTIONS AND AUTHORITY:

### A. The Pierce County Regional Council will:

1. Promote intergovernmental coordination within Pierce County.
2. Facilitate compliance with the coordination and consistency requirements of the state growth management laws.
3. Provide a forum to promote cooperation among and/or between jurisdictions with respect to urban growth boundaries, comprehensive plan consistency, development regulations, siting of facilities, highway, rail, air and water transportation systems, solid waste issues and other area of mutual concern.
4. Develop consensus among jurisdictions regarding review and modification of eCountywide pPlanning pPolicies.
5. Serve as the formal, multigovernment link to the Puget Sound Regional Council.
6. Develop recommendations, as required, for distribution of certain federal, state, and regional funds.
7. Provide educational forums on regional issues.
8. Make recommendations to federal, state, and regional agencies on plans, legislation, and other related matters.



9. Serve as the successor organization to the Growth Management Steering Committee which developed the eCountywide pPlanning pPolicies, and complete such tasks as may have been begun by the Steering Committee, including the following responsibilities:
  - a. develop model implementation methodologies;
  - b. assist in the resolution of jurisdictional disputes;
  - c. provide input to joint planning issues in Urban Growth Areas;
  - d. provide input in respect to countywide facilities;
  - e. advise and consult on policies regarding phased development, short plats, vested rights and related issues;
  - f. review and make a recommendation to Pierce County on the respective location of Urban Growth Area boundaries;
  - g. make a recommendation to Pierce County regarding dissolution of the Boundary Review Board;
  - h. monitor development, including population and employment growth; and
  - i. provide advice and consultation on population disaggregation.
- B. The organization shall adopt by-laws to govern its proceedings. By-laws shall be adopted by the Executive Committee Council and shall be in effect unless contrary action is taken by the General Assembly.
- C. Nothing in this agreement shall restrict the governmental authority of any of the individual members.

#### VII. AMENDMENTS:

Amendments to this agreement may be proposed by any member of the General Assembly Council and shall be adopted by affirmative resolution of the Executive Committee and of the individual legislative bodies of sixty percent (60%) of the member jurisdictions representing seventy-five percent (75%) of the population of Pierce County.

#### VIII. SEVERABILITY:

If any of the provisions of this agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

IX. FILING:

A copy of this agreement shall be filed with the County Auditor, ~~and~~ each city/town clerk, the Secretary of State, and the Washington State Department of Community Trade and Economic Development.

IN WITNESS WHEREOF, this agreement has been executed by each member jurisdiction as evidenced by signature pages affixed to this agreement.

**INTERLOCAL AGREEMENT**

CREATION OF AN INTRACOUNTY ORGANIZATION

Signature Page

The legislative body of the undersigned jurisdiction has authorized execution of the Interlocal Agreement, Creation of an Intracounty Organization.

IN WITNESS WHEREOF

This agreement has been executed by \_\_\_\_\_  
(Name of City/Town/County)

BY: \_\_\_\_\_  
(Mayor/Executive)

DATE: \_\_\_\_\_

Approved:

BY: \_\_\_\_\_  
(Director/Manager/Chair of County Council)

Approved as to Form:

BY: \_\_\_\_\_  
(City Attorney/Prosecutor)

Approved:

BY: \_\_\_\_\_  
(Pierce County Executive)



**ADMINISTRATION**

**To: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: LAUREN LUND, MARKETING DIRECTOR**  
**DATE: NOVEMBER 3, 2005**  
**SUBJECT: 2005 HOLIDAY CONTRACTS**

**INFORMATION / BACKGROUND**

The two contracts are attached for the 2005 Holiday Tree Lighting. The contracts have been reviewed and approved by City Attorney Carol Morris. Attached you will find contracts for:

The Dickens Carolers	
Budgeted 2005	\$600
Chuck Bessette (sound technician)	\$100
Budgeted 2005	

**FISCAL CONSIDERATIONS**

These two expenses are budgeted in the 2005 Marketing Office budget from hotel-motel tax.

**RECOMMENDATION**

I recommend approval of the contracts as presented.

**CONTRACT FOR CHRISTMAS TREE LIGHTING CONCERT  
CONTRACTOR AGREEMENT WITH THE CITY OF GIG HARBOR**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and **CHUCK BESSETTE**, whose address is 4024 80<sup>th</sup> AVE NW, GIG HARBOR, WA 98335 (hereinafter the "Contractor").

**RECITALS**

WHEREAS, the City wishes to engage the Contractor to provide sound services, as part of the Gig Harbor 2005 Holiday Tree Lighting; and

WHEREAS, the Contractor agrees to provide such services under the terms and conditions set forth in this Contract; and

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

**I. Services and Date of Performance.**

The City desires to hold an outdoor, family concert on; December 3, 2005. With an expected audience of 500 persons. The concert will take place regardless of the weather, rain or shine.

The Contractor agrees to provide and operate sound equipment at the above listed concert between the hours of 5:00 p.m. to 7:00 p.m, with set up anytime after 3pm.

The concert will take place at Skansie Brothers Park, a City-owned public park, located at 3207 Harborview Drive in Gig Harbor. The Contractor will be instructed where they should set up their equipment (amplifiers, microphones etc.) on the park property upon check in at 4:30 pm with Laureen Lund under the park pavilion.

**II. Payment**

The City shall pay the Contractor One Hundred Dollars and no cents (\$100.00), which shall be paid to the Contractor on performance day, immediately after the performance.

**III. Relationship of Parties**

The Contractor shall be responsible for his acts and for the acts of his agents, employees, representatives and subconsultants in fulfilling this Contract. None of the benefits provided to City employees are available to the Contractors or his employees, agents, and subconsultants, The Contractor shall take all precautions necessary and shall be responsible for his safety, the safety of his agents, employees, representatives and subconsultants in the performance of the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at the Contractor's

own risk, and the City shall not be responsible for any loss of or damage to equipment, tools or other articles used or held by the Contractor for use in connection with the services performed.

**III. General Provisions.**

Any assignment of this Contract by the Contractor without the written consent of the City shall be void. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Contract.

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

THE CITY OF GIG HARBOR

By: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Gig Harbor City Attorney

ATTEST:

\_\_\_\_\_  
Gig Harbor City Clerk

**CONTRACT FOR CHRISTMAS TREE LIGHTING CONCERT  
CONTRACTOR AGREEMENT WITH THE CITY OF GIG HARBOR**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and **THE DICKENS CAROLERS**, whose address is 17529 13<sup>TH</sup> AVE SW, SEATTLE, WA 98166 (hereinafter the "Contractor").

**RECITALS**

WHEREAS, the City wishes to engage the Contractor to provide musical services, as part of the Gig Harbor 2005 Holiday Tree Lighting; and

WHEREAS, the Contractor agrees to provide such services under the terms and conditions set forth in this Contract; and

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

**I. Services and Date of Performance.**

The City desires to hold an outdoor, family concert on; December 3, 2005. With an expected audience of 500 persons. The concert will take place regardless of the weather, rain or shine.

The Contractor agrees to provide an a cappella quartet singing holiday carols at the below listed concert site between the hours of 5:00 p.m. to 7:00 p.m, with set up anytime after 3pm.

The concert will take place at Skansie Brothers Park, a City-owned public park, located at 3207 Harborview Drive in Gig Harbor. The Contractor is instructed to stand beneath the pavilion located on the park property awaiting check in with Lauren Lund at 4:30 pm. At that time a sound check will be completed by the sound technician and the Contractor.

**II. Payment**

The City shall pay the Contractor Six Hundred Dollars and no cents (\$600.00), which shall be paid to the Contractor, by mail, the day after the performance.

**III. Relationship of Parties**

The Contractor will be solely and entirely responsible for his acts and for the acts of his agents, employees, representatives and sub-consultants in fulfilling this Contract. None of the benefits provided to City employees are available to the Contractors or his employees, agents and sub-consultants. The Contractor shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of this Contract.

**III. General Provisions.**

Any assignment of this Contract by the Contractor without the written consent of the City shall be void. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Contract.

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

THE CITY OF GIG HARBOR

By: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Gig Harbor City Attorney

ATTEST:

\_\_\_\_\_  
Gig Harbor City Clerk





ADMINISTRATION

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MARK HOPPEN, CITY ADMINISTRATOR** *MH*  
**SUBJECT: CONTRACT RENEWAL – JUDGE DUNN**  
**DATE: NOVEMBER 14, 2005**

**INFORMATION/BACKGROUND**

Honorable Michael Dunn's contract is due to expire on December 31, 2005. He is requesting that his contract be renewed without fundamental changes.

In accordance with RCW 3.50.040, appointments shall be made on or before December 1 of the year preceding the year in which the terms commence.

Consequently, Mayor Wilbert is recommending the re-appointment of Judge Dunn consistent with the terms of the attached contract.

**RECOMMENDATION**

Mayor Wilbert recommends that the City Council move to approve the attached contract at this reading.

**MUNICIPAL COURT JUDGE  
EMPLOYMENT AGREEMENT**

**THE PARTIES**

The parties to this agreement are as follows: Michael A. Dunn, hereinafter referred to as “Judge,” and the City of Gig Harbor, Washington, hereinafter referred to as the “City.”

**PURPOSE**

The purpose of this agreement is to set forth the terms of the agreement between the parties whereby the City appoints a municipal court judge at an established compensation level and the Judge agrees to perform the municipal court judge duties as provided by state statute and city ordinance.

**AGREEMENT**

The parties hereto agree as follows:

- A. **Performance of Duties.** The Judge shall at all times faithfully, and to the best of his ability and experience, perform all of the duties that are required of him pursuant to the expressed and implicit terms of this agreement and pursuant to the rules of professional ethics. The provisions of chapter 3.50 RCW and the Gig Harbor Municipal Code section creating the municipal court are incorporated into the agreement as fully as if set forth therein.
- B. **Compensation.** The City shall compensate the Judge for conducting municipal court cases for the City of Gig Harbor as follows:
1. The monthly salary shall be \$4000 for general administrative time, jury and non-jury trials and hearings, occasional in-custody arraignments, regular Tuesday and Wednesday court calendars, and related activities not specified herein.
  2. Mileage incurred by the Judge shall not be reimbursed by the City.
  3. Long distance telephone expenses shall be documented and reimbursed by the City to a limit of \$15 per month.
  4. The City will annually budget up to fifteen (15) hours of judicial training for the Judge.

The judge shall submit monthly payment invoices to the City after such services have been performed. The City shall pay the full amount of the invoice within thirty (30) days of the receipt.

- C. **Liability Insurance.** The City shall provide and maintain public officials liability insurance covering the Judge for the discharge of his official duties at limits consistent with levels of coverage maintained for other city public officials and employees.
- D. **Judge Pro Tem.** In the event of a judicial conflict or disqualification, or when in the discretion of the Judge the use of a Judge Pro Tem is required, the Judge may assign cases to a Judge Pro Tem. The Judge shall propose candidates for the position of Judge Pro Tem to the Mayor with a brief explanation of the need for the employment of the Judge Pro Tem, who shall be members of good standing of the Washington State Bar Association, and subject to confirmation by the Mayor. Salary of Judges Pro Tem shall be paid by the Judge when Judges Pro Tem are employed for reasons other than a judicial conflict or disqualification of the Judge.
- E. **Employment Conditions.** The employment relation of the Judge and Judges Pro Tem shall be governed by this Agreement. The Judge and Judges Pro Tem are independent contractors and shall provide professional services to the City pursuant to this Agreement. Neither the Judge nor the Judges Pro Tem are employees of the City, and each shall be responsible for paying federal income tax and other taxes, fees, or other charges imposed by law upon independent contractors from the compensation paid to them by the City. Neither the Judge nor the Judges Pro Tem shall be entitled to any benefits provided to City employees and shall specifically not be entitled to sick leave, vacation, unemployment insurance, worker's compensation, overtime, compensatory time or any other benefit not specifically addressed and provided for in this agreement. The Judge and Judges Pro Tem shall be solely and entirely responsible for their acts during the performance of this Agreement. The Judge and Judges Pro Tem shall be subject to the rules of conduct of the relevant personnel policies of the City and the Code of Judicial Conduct. Judges Pro Tem shall be paid at the rate of sixty dollars (\$60) per hour.

In addition, it is recognized that the Judge and Judges Pro Tem will provide work and services for other clients in their independent law practices. The Judge and Judges Pro Tem agree not to perform such services for other clients where a conflict of interest or ethical violation as defined in the rules of professional conduct for attorneys may exist.

- F. **Indemnification.** The Judge is a public official of the City of Gig Harbor. The Judge agrees to indemnify, defend and hold the City harmless for any and all claims or liabilities of any nature for any acts of the Judge that are outside of the scope of his official duties as described herein.
- G. **Term.** This agreement shall commence on January 1, 2006 and terminate on December 31, 2010 unless terminated as provided in this section and section H. If the City chooses to appoint or reappoint the municipal court judge, such appointment or reappointment shall take place on or before

December 1, 2010. This agreement may be terminated by the Judge providing a sixty (60) day written notice of termination to the city. The City may remove the Judge from office only as provided in RCW 3.50.095 (as it now exists or may be amended in the future); PROVIDED THAT, the city may decide at any time after execution of this Agreement, to terminate the municipal court as provided in chapter 3.50 RCW and eliminate the position of municipal court judge. Both parties specifically agree that elimination of the position of municipal court judge does not constitute "removal" of the judge from office, and does not trigger RCW 3.50.095 (as it now exists or may be amended in the future). PROVIDED FURTHER, that if the position of municipal court judge becomes full-time as defined in RCW 3.50.055, and the City is required to fill the position by election, the City may also terminate this Agreement by providing the Judge at least sixty (60) days written notice.

- H. **Nonexclusive Contract.** This shall be a nonexclusive contract. The City reserves the right to appoint additional judges, to contract for additional court services in the future, or to terminate this agreement for the purpose of filling the position by election (as required by RCW 3.50.055). Nothing herein shall be interpreted to prohibit such future appointment, or restrict the City's decision to increase the position to full-time, which could trigger the provisions of RCW 3.50.055. Nothing in this Agreement shall guarantee renewal of this Agreement, its level of payment, nor the level of cases forwarded to the Judge for future years, regardless of whether the Judge shall be within the terms of his appointment. In the event of such future appointments, the City reserves the right to renegotiate any and all provisions of this Agreement for future contract terms.
- I. **Resolution of Disputes.** Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City, and the City shall determine the term or provision's true intent or meaning. If any dispute arises between the City and the Judge which cannot be resolved by the City's determination in a reasonable period of time, or if the Judge does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be with the Pierce County Superior Court, in Pierce County, Washington. The prevailing party shall be reimbursed by the other party for its costs, expenses and reasonable attorneys fees incurred in any litigation arising out of the enforcement of this Agreement.
- J. **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. The entire agreement between the parties is contained in this Agreement document.

K. **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.

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

Judge: Michael A. Dunn  
585 Bethel Ave., Suite 204  
Port Orchard, WA 98366

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

This contract contains the complete agreement concerning the employment arrangement between the parties and shall, as of the effective date hereof, supersede all other agreements between the parties.

No waiver or modification of this agreement shall be valid unless in writing and duly executed by both parties. 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.

DATED this 14th day of November, 2005.

CITY OF GIG HARBOR

\_\_\_\_\_  
Gretchen A. Wilbert, Mayor

\_\_\_\_\_  
Michael Dunn, Municipal Court Judge

ATTEST:

\_\_\_\_\_  
Molly M. Towslee, City Clerk

**MUNICIPAL COURT JUDGE  
EMPLOYMENT AGREEMENT**

**THE PARTIES**

The parties to this agreement are as follows: Michael A. Dunn, hereinafter referred to as “Judge,” and the City of Gig Harbor, Washington, hereinafter referred to as the “City.”

**PURPOSE**

The purpose of this agreement is to set forth the terms of the agreement between the parties whereby the City appoints a municipal court judge at an established compensation level and the Judge agrees to perform the municipal court judge duties as provided by state statute and city ordinance.

**AGREEMENT**

The parties hereto agree as follows:

- A. **Performance of Duties.** The Judge shall at all times faithfully, and to the best of his ability and experience, perform all of the duties that are required of him pursuant to the expressed and implicit terms of this agreement and pursuant to the rules of professional ethics. The provisions of chapter 3.50 RCW and the Gig Harbor Municipal Code section creating the municipal court are incorporated into the agreement as fully as if set forth therein.
- B. **Compensation.** The City shall compensate the Judge for conducting municipal court cases for the City of Gig Harbor as follows:
1. The monthly salary shall be \$4000 for general administrative time, jury and non-jury trials and hearings, occasional in-custody arraignments, regular Tuesday and Wednesday court calendars, and related activities not specified herein.
  2. Mileage incurred by the Judge shall not be reimbursed by the City.
  3. Long distance telephone expenses shall be documented and reimbursed by the City to a limit of \$15 per month.
  4. The City will annually budget up to fifteen (15) hours of judicial training for the Judge.

The judge shall submit monthly payment invoices to the City after such services have been performed. The City shall pay the full amount of the invoice within thirty (30) days of the receipt.

- C. **Liability Insurance.** The City shall provide and maintain public officials liability insurance covering the Judge for the discharge of his official duties at limits consistent with levels of coverage maintained for other city public officials and employees.
- D. **Judge Pro Tem.** In the event of a judicial conflict or disqualification, or when in the discretion of the Judge the use of a Judge Pro Tem is required, the Judge may assign cases to a Judge Pro Tem. The Judge shall propose candidates for the position of Judge Pro Tem to the Mayor with a brief explanation of the need for the employment of the Judge Pro Tem, who shall be members of good standing of the Washington State Bar Association, and subject to confirmation by the Mayor. Salary of Judges Pro Tem shall be paid by the Judge when Judges Pro Tem are employed for reasons other than a judicial conflict or disqualification of the Judge.
- E. **Employment Conditions.** The employment relation of the Judge and Judges Pro Tem shall be governed by this Agreement. The Judge and Judges Pro Tem are independent contractors and shall provide professional services to the City pursuant to this Agreement. Neither the Judge nor the Judges Pro Tem are employees of the City, and each shall be responsible for paying federal income tax and other taxes, fees, or other charges imposed by law upon independent contractors from the compensation paid to them by the City. Neither the Judge nor the Judges Pro Tem shall be entitled to any benefits provided to City employees and shall specifically not be entitled to sick leave, vacation, unemployment insurance, worker's compensation, overtime, compensatory time or any other benefit not specifically addressed and provided for in this agreement. The Judge and Judges Pro Tem shall be solely and entirely responsible for their acts during the performance of this Agreement. The Judge and Judges Pro Tem shall be subject to the rules of conduct of the relevant personnel policies of the City and the Code of Judicial Conduct. Judges Pro Tem shall be paid at the rate of sixty dollars (\$60) per hour.

In addition, it is recognized that the Judge and Judges Pro Tem will provide work and services for other clients in their independent law practices. The Judge and Judges Pro Tem agree not to perform such services for other clients where a conflict of interest or ethical violation as defined in the rules of professional conduct for attorneys may exist.

- F. **Indemnification.** The Judge is a public official of the City of Gig Harbor. The Judge agrees to indemnify, defend and hold the City harmless for any and all claims or liabilities of any nature for any acts of the Judge that are outside of the scope of his official duties as described herein.
- G. **Term.** This agreement shall commence on January 1, 2006 and terminate on December 31, 2010 unless terminated as provided in this section and section H. If the City chooses to appoint or reappoint the municipal court judge, such appointment or reappointment shall take place on or before

December 1, 2010. This agreement may be terminated by the Judge providing a sixty (60) day written notice of termination to the city. The City may remove the Judge from office only as provided in RCW 3.50.095 (as it now exists or may be amended in the future); PROVIDED THAT, the city may decide at any time after execution of this Agreement, to terminate the municipal court as provided in chapter 3.50 RCW and eliminate the position of municipal court judge. Both parties specifically agree that elimination of the position of municipal court judge does not constitute "removal" of the judge from office, and does not trigger RCW 3.50.095 (as it now exists or may be amended in the future). PROVIDED FURTHER, that if the position of municipal court judge becomes full-time as defined in RCW 3.50.055, and the City is required to fill the position by election, the City may also terminate this Agreement by providing the Judge at least sixty (60) days written notice.

- H. **Nonexclusive Contract.** This shall be a nonexclusive contract. The City reserves the right to appoint additional judges, to contract for additional court services in the future, or to terminate this agreement for the purpose of filling the position by election (as required by RCW 3.50.055). Nothing herein shall be interpreted to prohibit such future appointment, or restrict the City's decision to increase the position to full-time, which could trigger the provisions of RCW 3.50.055. Nothing in this Agreement shall guarantee renewal of this Agreement, its level of payment, nor the level of cases forwarded to the Judge for future years, regardless of whether the Judge shall be within the terms of his appointment. In the event of such future appointments, the City reserves the right to renegotiate any and all provisions of this Agreement for future contract terms.
- I. **Resolution of Disputes.** Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City, and the City shall determine the term or provision's true intent or meaning. If any dispute arises between the City and the Judge which cannot be resolved by the City's determination in a reasonable period of time, or if the Judge does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be with the Pierce County Superior Court, in Pierce County, Washington. The prevailing party shall be reimbursed by the other party for its costs, expenses and reasonable attorneys fees incurred in any litigation arising out of the enforcement of this Agreement.
- J. **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. The entire agreement between the parties is contained in this Agreement document.



K. **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.

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

Judge: Michael A. Dunn  
585 Bethel Ave., Suite 204  
Port Orchard, WA 98366

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

This contract contains the complete agreement concerning the employment arrangement between the parties and shall, as of the effective date hereof, supersede all other agreements between the parties.

No waiver or modification of this agreement shall be valid unless in writing and duly executed by both parties. 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.

DATED this 14th day of November, 2005.

CITY OF GIG HARBOR

\_\_\_\_\_  
Gretchen A. Wilbert, Mayor

\_\_\_\_\_  
Michael Dunn, Municipal Court Judge

ATTEST:

\_\_\_\_\_  
Molly M. Towslee, City Clerk



## **ADMINISTRATION**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: MARK HOPPEN, CITY ADMINISTRATOR**  
**DAVID RODENBACH, FINANCE DIRECTOR**  
**SUBJECT: EMPLOYEES' AND SUPERVISORY EMPLOYEES' GUILD**  
**CONTRACTS**  
**DATE: NOVEMBER 14, 2005**

### **INTRODUCTION**

These contracts are on the consent agenda because the contract, as presented was discussed previously with Council.

Contracts with both guilds expire December 31, 2005. These are three year contracts and will take effect January 1, 2006.

### **FINANCIAL**

The contracts as presented adjust the salary ranges according to the comparable cities the City has been using over the last 6 years. The comparable cities are: Bonney Lake, Fife, Fircrest, Lakewood, Port Orchard, Puyallup, Sumner and University place. Both contracts include a 2.3 percent cost of living adjustment (COLA) effective January 1, 2006 and COLA's based upon the June CPI-W in 2007 and 2008. The contracts provide a minimum and maximum COLA of 2 percent and 4 percent in each year.

In addition to some minor language changes that clarify application of the contract, this contract increases education reimbursements to \$200 and \$400 per credit hour for undergraduate and graduate classes respectively. The contract also provides a temporary 5% pay increase for employees who are placed in a temporary supervisory position; a minimum of one hour overtime for employees attending evening meetings; vacation time cash-out (at the City Administrator's sole discretion), for employees who, through no fault of their own, exceed the 240 hour maximum accrual vacation at year-end; safety glasses lenses every year and frames every other year and increase the boot allowance from \$200 to \$250.

### **RECOMMENDATION**

Staff recommends approval of these contracts.

# AGREEMENT

By and Between

CITY OF GIG HARBOR

And

GIG HARBOR EMPLOYEES' GUILD

~~2003~~2006

## PREAMBLE

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

## ARTICLE I - RECOGNITION

The Employer hereby recognizes the Guild as the exclusive bargaining representative for employees employed by the Employer as certified by the State of Washington, Department of Labor and Industries in Case No. 09524-E-91-01579, issued July 20, 1992. The bargaining unit covered by this Agreement shall include those regular employees working full time as non-uniformed personnel for the Employer, but shall not include those employees within the Police Officer's Guild or supervisory or confidential employees, including the Chief of Police, Police Lieutenant, Police Sergeant, City Administrator, City Clerk, Wastewater Treatment Plant Supervisor, Community Development Director, Information Systems Manager, Director of Operations, City Engineer, Fire Marshall/Building Official, Planning/Building Manager, Tourism Marketing Director and Finance Director. The ~~position of~~ Police Services Specialist and Community Service Officer positions, through inclusion in this contract, waives the right to also participate in Civil Service.

## ARTICLE II - MEMBERSHIP

**Section 1.** All employees who are members of the Guild on the effective date of this Agreement and all employees who may become members thereafter during the life of this Agreement shall as a condition of employment remain members of the Guild in good standing for the term of this Agreement.

**Section 2.** The Employer agrees to deduct monthly dues uniformly required in the bargaining unit from employees who voluntarily execute a wage assignment authorization form. The Employer shall transmit such deduction to the Guild by check payable to its order. Upon issuance and transmission of such deduction the Employer's responsibility shall cease with

respect to such deductions.

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

### **ARTICLE III - NONDISCRIMINATION**

**Section 1.** The Employer and the Guild agree that the administration and application of this Agreement shall be consistent with applicable state and federal laws regarding nondiscrimination in employment.

**Section 2.** No employee covered by this Agreement shall be discriminated against because of his/her membership or nonmembership in the Guild, or lawful activities on behalf of the Guild; provided, however, that such activity shall not be conducted during working hours nor be allowed to interfere with the Employer's operations except as defined herein.

### **ARTICLE IV - HOURS OF WORK AND OVERTIME**

**Section 1. Normal workweek.** The normal workweek, with a period beginning on Monday and ending on Sunday, shall consist of forty (40) hours. The normal workday shall consist of eight (8) hours per day in each of five (5) consecutive days or four (4) consecutive, ten (10) hour days. The normal workweek and workday are goals. The normal workweek and workday schedules shall be defined by the Mayor or the Mayor's designee. The work year shall consist of two thousand and eighty (2,080) hours.

**Section 2. Overtime.** ~~Overtime as used in this Agreement shall mean that time an employee works in excess of the normal forty (40) hour workweek.~~ Overtime as used in this Agreement shall mean hours worked in excess of 8 hours a day or 40 hours in an established 7 day work period. Compensation for overtime shall be as set forth in subsections A through H G of this article.

- A.** All overtime must be authorized in advance by the City Administrator or the respective department head, except in cases of emergency.
- B.** Overtime shall be compensated at the rate of one-and-one half (1-1/2) times the regular straight-time pay (monthly salary x 12 /2080) for overtime worked on Monday through Saturday inclusive (or the employee's regular work week and the following day). Overtime shall be compensated at the rate of two times the regular straight time pay for holidays and for hours worked on the last day off before a regular work week (Sunday for employees working a normal Monday through Friday work week).
- C.** Employees will receive a minimum of 3 hours pay (straight time or overtime as determined according to Section 2b above) for work requiring a return to work from home during the employees regularly scheduled time off or while on call, such as for

emergencies or meetings called by the employer. The pay rate for overtime worked under this paragraph will be determined according to Section 2b above.

- D. Mandatory training on a regularly scheduled day off required by State, City or Departmental regulations as determined by the respective department head shall be compensated at one-and-one-half (1-1/2) times the employee's straight-time base hourly rate of pay with a minimum of two hours overtime compensation.
- E. ~~The Employer shall have the discretion to grant compensatory time off in lieu of paid overtime. The pay rate for overtime worked under this paragraph will be determined according to Section 2b above.~~ The option to compensate by compensatory time shall be arranged by mutual agreement between the Employer (City Administrator, Department Head or manager) and the Employee. The compensatory time shall be used within a reasonable period of time and may be denied by the Employer only if it would cause an undue hardship to the city's operation. Accrued compensatory time off shall be used at a time mutually agreeable to Employer and the Employee. Employees may accrue a maximum of 80 compensatory time-off hours. If the employee works over time hours and has reached his/her maximum compensatory time hours, he/she shall be paid his/her regular pay according to Section 2b above.
- F. Any employee required to return to work while on vacation shall earn pay at the employee's overtime rate for his/her scheduled shift. In addition, monetary compensation shall be paid to said employee for reimbursement of any actual expenses regarding the rescheduling of hotel/motel, airfare, etc.
- GF.** When a member of the Guild completes an unscheduled shift in which 4 or more hours fall between the hours of 6:00 P.M. and 6:00 A.M. he/she shall be entitled to overtime pay according to Article IV, section 2 for those hours worked between 6:00 P.M. and 6:00 A.M. In order for a shift to be scheduled, at least 24 hours notice must be given to the employee prior to the start of the shift.
- H.** If a scheduled meeting occurs outside an employee's regular shift and involves the use of overtime, a minimum of one hour of overtime shall be earned. In order to qualify, the meeting must begin after 6:00 P.M.

**Section 3. Workweek.** The Employer retains the right to schedule the workweek in any manner, which may be required in order to meet the needs of the community.

## **ARTICLE V - WAGE RATES**

### **Section 1 Wages and Salary Survey.**

- A. **Wages.** Effective January 1, ~~2006~~ 2003, members of the Guild shall receive a cost-of-living increase in their salaries of two and three tenths percent (~~2.0~~ 2.3%). The salary schedule (see Attachment "A"), reflects adjustments required due to the salary range adjustment and to the cost of living increase for ~~2006~~ 2003. .

Effective January 1, ~~2007~~ 2004, members of the Guild shall receive a cost of living wage increase in the salaries based on 100% of the annual increase of the June ~~2006~~ 2003 Seattle-Tacoma-Bremerton CPI-W, but not less than 2% nor greater than 4%.

Effective January 1, ~~2008~~ 2005, members of the Guild shall receive a cost of living wage increase in the salaries based on 100% of the annual increase of the June ~~2007~~ 2004 Seattle-Tacoma-Bremerton CPI-W, but not less than 2% nor greater than 4%.

**B. Salary Survey.** The City shall initiate a salary survey of employee wage rates prior to January 1, of each contract year, which shall analyze the appropriate wages for members relative to a selected group of cities determined by the City. The results of this survey shall be compared with the current-year salary ranges of Guild members at that time, and if the survey results disclose that the salary range midpoint for any Guild position is two and one-half percent (2.5%) or more below the survey range mid-point for that position, then the City will:

1. Adjust the salary range midpoint for an identified position to conform to 100% of the salary survey midpoint.
2. Construct a salary range for this identified position around the adjusted salary midpoint, consistent with the City's past practice.

**Section 2. Salary range.** Movement within each salary range shall be governed by the City's Personnel Regulations as shown within Attachment "B".

**Section 3. Mileage.** Mileage shall be paid as prescribed by City Ordinance Chapter 2.28.010.

**Section 4. Education reimbursement.** Upon satisfactory completion of a job related educational course, when the employee who desires to take the course has prior written approval from the City Administrator, the city shall reimburse the employee for the educational course up to a maximum rate of ~~two hundred dollars (\$200.00) one hundred sixty (\$160.00) dollars~~ per credit hour for undergraduate courses and ~~four hundred dollars (\$400.00) two hundred fifty (\$250.00) dollars~~ per credit hour for graduate courses. The city agrees to reimburse reasonable expenses for textbooks required for such course and will retain such textbooks in the department of the respective Department Head. No employee shall receive a total credit reimbursement of over \$1,600 ~~for undergraduate courses and \$3,000 for graduate courses~~ in a given budget year. All reimbursements shall be taken from specifically budgeted line items. Based on the standards of the institution, a passing grade must be obtained in a given course in order for that course to be reimbursed. Upon the request of the City Administrator, an employee who is enrolled in a program leading to a two or four year degree shall submit evidence that the employee's accumulative GPA in the academic program is equivalent to 3.0 (on a 4.0 scale). An employee in such a program must maintain a 3.0 accumulative GPA or greater in order to qualify for tuition reimbursement. Any course that does not qualify for reimbursement at the end of the evaluation period for that course shall be ineligible for retroactive reimbursement.

**Section 5. Meal Pay.** If an employee is required to work through any meal period he/she shall

receive a reasonably priced meal. The employer shall provide the meal or reimbursement.

**Section 6. Severance Notice and Support.** The employer shall provide three months notice for employees whose positions will be eliminated due to lack of work, budgetary restraints, or other organizational changes and shall provide up to \$1,500 in direct payment for career counseling or re-training with the funds approved and designated by the employer within the three month period prior to termination for each employee who has received notice of termination. Approved and designated funds shall be available and may be expended solely within twelve (12) months of the notice of termination.

## ARTICLE VI - VACATIONS

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

Months of Service	Earned Working Hours per Month	Working Days per Year Max.
0 - 12	6.67	10

During months 13 - 192 (2nd through 16th year), an additional .67 vacation hours per month (8 additional hours per year) shall be earned. The annual earned vacation rate shall not exceed 208 hours per year. Accumulated vacation balance shall not exceed 336 hours at any one time. Accumulated vacation balance shall not exceed 240 hours at year-end (December 31); With prior written approval by the City Administrator, employees who have reached the 240 hour maximum accrued vacation balance and are not able due to no fault of their own to take a sufficient amount of time off in order to avoid losing vacation hours may sell back a maximum of 15 vacation days to the city at year-end. All other any-accumulated vacation hours in excess of 240 hours at year-end will be lost without compensation.

## ARTICLE VII - HOLIDAYS

The following holidays shall be recognized by the city as city holidays:

New Year's Day	January 1
Martin Luther King Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Day	December 25
*2 Floating Holidays	(taken at employee's discretion)

\* An employee must be on the payroll a minimum of 90 days to receive the floating holiday.

If a holiday falls on a Saturday (or the day following the employee's regular workweek) it shall be observed on the preceding day. A holiday falling on a Sunday (or the day preceding the employee's regular work week) shall be observed on the following day.

If a Department Manager directs an employee to work on a paid holiday, the employee shall receive pay at two times his/her regular straight-time hourly rate for the actual time worked.

Holidays observed during vacation or sick leave shall not be charged against such leave.

## **ARTICLE VIII - MEDICAL BENEFITS**

**Section 1.** The Employer shall pay 100% of the monthly premium for the following benefit plans for the Guild employee and eligible dependents:

- 1) Medical - Association of Washington Cities Plan- A with orthodontia and chiropractic coverage.
- 2) Dental - AWC Trust (Plan A - Washington Dental Service).
- 3) Vision - AWC Trust (Western Vision Service Plan).

## **ARTICLE IX - LEAVES**

**Section 1. Sick leave.** Full-time employees shall accrue sick leave at the rate of one day per calendar month for each month compensated. Sick leave is accumulated to a maximum of one hundred and eighty (180) days. Sick leave may be used for time off with pay for bona fide cases of incapacitating illness, injury, disability or for care of dependents as required by state law. Abuse of sick leave shall be grounds for suspension or dismissal.

**Section 2. Return to work.** A medical certificate may be required when there is cause to suspect sick leave abuse; to assist agencies in protecting the employees from returning to work too soon following an illness or injury; or to protect fellow employees or clients from contagious illness. A medical certificate must be required if the reason was personal illness as cited in WAC 356-18-060 (1)(a), (b), or (c), and continued for more than four continuous workdays.

**Section 3. Sick leave bonus.** An employee who has taken no sick leave during any six (6) month period shall receive, as a bonus, one annual day off or one day's pay (eight hours) for each period during the term of this Agreement. It shall be the responsibility of the employee to notify the City of the employee's eligibility of the bonus day(s). Upon retirement or voluntary termination twenty-five percent (25%) of unused sick leave shall be paid to an employee with five years or more of continuous city employment. Upon involuntary termination where the Mayor alone grants this benefit at the Mayor's sole discretion, twenty-five percent (25%) of unused sick leave shall be paid to an employee with five years or more of continuous city employment. Upon death, one hundred (100%) percent of sick leave will be paid.

**Section 4. Use of sick leave.** Sick leave may be used for the following:



- a. Personal illness or physical incapacity resulting from causes beyond the employee's control.
- b. Medical or dental treatment of the employee or his/her dependents.
- c. Illness within the immediate family (spouse or dependents) necessitating the employee's absence from work).
- d. Maternity or paternity purposes relating to childbirth or related circumstances.

Where practicable, notification of absence due to illness or injury shall be given to the relevant supervisor as soon as possible, but no later than one-half hour after the start of the work day. Failure to so notify shall cause the leave so taken to be construed as leave without pay and may result in disciplinary action.

**Section 5. Bereavement Leave.** A regular full-time employee may be granted up to five (5) days of leave without loss of pay because of death of a member in the immediate family. Leave over five days per death shall be charged to Sick Leave. For purposes of this section, immediate family shall be defined as husband, wife, children, step-children, mother, father, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparents, grandparents-in-law, brother or sister of the employee and others as authorized by the City Administrator.

**Section 6. Military Leave.** In accordance with RCW 38.40.060, eligible employees shall receive employer pay up to fifteen (15) days during each calendar year.

**Section 7. Jury Duty.** While on jury duty, or while appearing as a legally required witness, any jury duty pay received by the employee during such leave shall be deducted from the employee's base pay. Travel time will be granted in the calculation of this deduction.

**Section 8. Funeral Participation.** An employee may be granted up to three (3) hours time off, without loss of pay, accrued vacation, or sick leave, to participate in a funeral ceremony when first approved by the respective department head.

**Section 9. Voting.** When an employee's work schedule is such that he/she cannot vote prior to or after the normally scheduled working hours, he/she shall be allowed time off to vote without loss of pay, accrued vacation, or sick leave.

**Section 10. Emergency call-outs.** Emergency call-outs before and after normal working hours. Employees shall be given the discretion to take up to six hours for rest after being called out for emergency work. Any normal work hours missed during this rest period shall be considered as sick leave time. The rest period time shall be deducted from the employee's accumulated sick leave. Any time taken in addition to the six-hour rest period shall be considered vacation time and shall be deducted from the employee's accumulated vacation time. Time taken for a rest period shall not be counted against the employee's time earned towards a bonus day off as described in Section 3 of this Article.

## ARTICLE X - BENEFIT PLAN

**Section 1. Statewide pension plan.** The Employer shall participate in the state-wide system for pension, relief, disability and retirement for qualified employees as provided in RCW 41.44.050.

**Section 2. Substitute Social Security Plan.** The City shall provide and maintain a benefit plan as a substitute for Social Security benefits. The City Administrator, with guild advisement, shall select the corporation(s) that will manage these benefits. The plan shall consist of three benefits:

- a. Long-term disability;
- b. Life insurance; and
- c. A deferred compensation plan for retirement income.

**Section 3. Workmen's Compensation.** The city shall insure city employees with the State Workmen's compensation plan. An employee receiving pay for sick leave who is eligible for time-loss payments under the workmen's compensation law, shall for the duration of such payments, receive only that portion of his regular salary which, together with said payments, will equal his/her regular salary. To avoid hardship on the employee caused by a time lag in time-loss payments he/she shall endorse such payments to the city.

#### **ARTICLE XI - STAND-BY PAY**

An employee scheduled for "standby status" shall be compensated as follows:

1. If the standby period is less than eighteen (18) hours, the employee shall receive one (1) hour of pay or compensation time at his/her overtime rate; or
2. If the standby period exceeds eighteen (18) hours but not twenty-four (24) hours, the employee shall receive two (2) hours pay or compensation time at his/her overtime hourly rate.
3. After twenty-four (24) hours, compensation is calculated by repeating the aforementioned method.
4. If the employee is called back to work while on stand-by, compensation shall be computed according to Article IV of this agreement.

Stand-by is defined as: The employee being available to respond to any call for City service during those hours and in such manner as designated by the respective department head. The method of scheduling personnel and the determination of periods for standby assignments shall be the responsibility of the respective department head or his/her designee.

## **ARTICLE XII - TEMPORARY APPOINTMENT**

Any non supervisory employee who is placed in a supervisory position, with prior approval of the City Administrator, for a minimum of four weeks shall receive a pay increase of five percent (5%) for the duration of the assignment.

## **ARTICLE XIII ~~XII~~ - RIGHT OF ACCESS-GUILD REPRESENTATION**

**Section 1.** Duly authorized representatives of the Guild shall be permitted to enter upon the Employer's premises at reasonable times for the purpose of observing working conditions and transacting Guild business that cannot be transacted elsewhere; provided, however, that the Guild representative first secures approval from the designated Employer representative as to time and place, and that no interference with the work of the employees or the proper operation of the Employer shall result.

**Section 2.** The Guild agrees that Guild business conducted by Guild members, including the investigation of grievances, shall occur during nonworking hours (e.g., coffee breaks, lunch periods, and before and after regular working hours). Public Works Department employees shall be allowed one-half (1/2) hour each quarter for their use to attend Guild meetings during the half hour of 7:30 a.m. to 8:00 a.m.

## **ARTICLE XIV ~~XIII~~ - EMPLOYEE RIGHTS**

**Section 1.** Any employee, when being questioned by his/her employer about matters that may result in discipline has the right to:

- A. Receive the specific nature of the charge or allegation against him/her in writing.
- B. Have present his/her choice of the Guild Representative (who must be reasonably available). To a contract maximum of \$250 for all salary-related city expenses, the expense for guild representation shall be paid 50% by the employer and 50% by the Guild when the meeting is requested by the employer. Subsequent to exceeding the \$250 expense maximum, the Guild shall be solely responsible for representation expenses. The employer shall allow a reasonable length of time for the representative to arrive at the place of meeting.
- C. The questioning by the Employer shall be during normal Employer business hours unless agreed to be held at other times by the Employee.

**D.** The employee may receive reasonable intermissions or breaks if the questioning exceeds approximately one hour.

**Section 2. City's Rules and Regulations.** It is mutually agreed that the Employer has full responsibility and authority to adopt rules and regulations for the operation of the city's departments and conduct of its employees. The Guild agrees that its members shall comply in full with such rules and regulations. Nothing in this Section shall be interpreted to restrict the respective department head and/or the City Administrator the right to make decisions or to establish procedures consistent with the "emergency" nature of operating each department.

**Section 3. Maintenance of city services.** In the event of any strike, walkout, slow down or work stoppage, the respective department head and/or City Administrator shall retain the right to require necessary level of staffing from the ranks of guild members in order to insure, in the city's immediate discretion, the safe maintenance of city services.

**Section 4. Failure to comply with Section 3.** Any employee refusing to comply with the conditions of Section 3 above will be subject to immediate dismissal.

## **ARTICLE XV ~~XIV~~ - GRIEVANCE PROCEDURES**

**Grievance defined:** A grievance is defined as an alleged violation of express terms and conditions of this Agreement. If any such grievance arises, it shall be submitted to the following grievance procedure.

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

### **Step One - The Respective Department Head.**

The grievance in the first instance will be presented to the respective department head in writing within ten (10) working days of the alleged breach of the express terms and conditions of this Agreement. Every effort shall be made to settle the grievance at this Step One.

### **Step Two - City Administrator.**

If the respective department head does not adjust the grievance to the Complainant's satisfaction within ten (10) working days from the time the grievance was submitted in Step One, then the grievance may be presented to the City Administrator within five (5) working days (15 days after submittal of the grievance to the department head). The grievance shall be presented to the City Administrator in writing, setting forth detailed facts concerning the nature of the grievance, the contractual provisions allegedly violated, and the relief requested. Upon receipt of the written grievance, the City Administrator shall, within ten (10) working days, meet with the grievant and/or the representative of the Guild in an attempt to resolve the grievance. Within ten (10) working days after such meeting, the City Administrator shall send to the Guild a written answer stating the Employer's decision concerning the grievance.

### **Step Three - Mediation.**

In the event the grievant, Guild and Employer are not able to resolve the grievance to the employee's satisfaction at Step Two, the parties may request the assistance of the State Mediation Service.

**Step Four - Arbitration.**

A grievance may be submitted to arbitration by a written demand for arbitration delivered within ten (10) working days following the decision rendered in Step Two. Within ten (10) working days after delivery of the demand for arbitration, the Employer shall select one (1) person and the Guild shall select one (1) person. Within five (5) working days, such selected persons shall then select a third impartial person who shall serve as chairman of the Arbitration Panel. A majority decision of the Arbitration Panel shall be made in writing within twenty (20) working days following the conclusion of the Arbitration hearing(s). Such decision shall be final and binding on both the Guild and the Employer. The authority of the Arbitration Panel is limited to ruling on the correct interpretation or application of the Articles of this Agreement and shall not add to or take away therefrom. Each party shall be responsible for their own costs and the fees and costs of the arbitrator appointed by them. The fees and costs of the third neutral arbitrator shall be borne equally between the Guild and the Employer.

**ARTICLE ~~XVI~~ XV - PERSONNEL POLICIES**

**Section 1.** All employees of this bargaining unit, in addition to being governed by this Agreement, shall also be subject to the Personnel Policies published by the Employer having general applicability to all employees of the Employer and any subsequent personnel policies, rules and regulations that may be promulgated in the future, so long as they do not conflict with this Agreement. In case of any conflict, this Agreement shall be the controlling policy for the employees covered by this Agreement. Any changes made in the personnel policies, rules and regulations shall be approved by the Employer with Guild input.

**Section 2.** During the term of this Agreement, employees may submit a written request that his/her department head review that employee's job classification.

**Section 3.** An employee who is promoted or reclassified to a higher salary range (not transferred) shall receive an increase in salary of not less than 3%.

**ARTICLE ~~XVII~~ XVI - PERSONNEL RECORDS**

The Employer and Guild recognize that effective management requires the maintenance of records regarding an employee's career development. These records may accompany an employee through succeeding management administrations. To ensure that the doctrine of fairness is applied with respect to these records, the following procedure will be adhered to:

1. Whenever any paper is entered into an employee's personnel file, a copy of same shall be provided to the employee.
2. In the case of any paper which reflects unfavorably upon an employee, the employee shall be allowed an opportunity to respond to the content of the paper, in writing, and the

employee response shall be included in the personnel file.

3. Each employee shall be allowed access to his personnel file for review of its contents at reasonable times and upon reasonable notice.
4. The Employer, through the department head, shall take measures to assure that, within the Guild, only legitimate supervisory and administrative personnel, and the employee, have access to the employee's personnel file. The confidentiality of personnel records is acknowledged to the extent permissible by law.

### **ARTICLE XVIII ~~XVII~~ - UNIFORMS AND EQUIPMENT**

At the time of employment and as needed thereafter as determined by the department head, full time Police Services Specialists will be assigned the following uniform items:

1. 1 skirt, or 1 jumper, or 1 skort
2. 2 blouses and/or shirts
3. 1 vest
4. 1 pair of slacks

At the time of employment, and as needed thereafter as determined by the department head, full time employees except clerical employees and sewer treatment plant operators will be assigned the following uniform items:

A. Uniform:

1. 5 trousers
2. 7 short sleeve shirts
3. 3 long sleeve shirts
4. 1 pair safety shoes or boots (Not to exceed \$250 ~~200~~ per year)
5. 3 jackets
6. 3 coveralls

B. Rain Gear:

1. 1 waterproof coat
2. 1 waterproof trousers
3. 1 pair waterproof shoes or boots

C. Safety Equipment:

All safety equipment as required by Washington State and Federal regulations. These items are to include but are not limited to gloves, safety vests, safety goggles and hard hats.

At the time of employment, and as needed thereafter as determined by the department head, full

time sewer treatment plant operators will be assigned the following uniform items:

A. Uniform:

1. 5 trousers
2. 5 short sleeve shirts
3. 3 long sleeve shirts
4. 1 pair safety shoes or boots (Not to exceed \$250 ~~200~~ per year)
5. 3 jackets
6. 5 coveralls

B. Rain Gear:

1. 1 waterproof coat
2. 1 waterproof trousers
3. 1 pair waterproof shoes or boots

C. Safety Equipment:

All safety equipment as required by Washington State and Federal regulations. These items are to include but are not limited to gloves, safety vests, safety goggles or a \$350 prescription safety glasses allowance for frames ~~and lenses~~ every other year, lenses every year and hard hats.

At the time of employment, and as needed thereafter, to be determined by the department head, full time employees who make periodic inspections including the Construction Inspector, Associate Engineer, Engineering Technician, Associate Planner, ~~Building Official/Fire Marshal~~, Senior Planner, Assistant Planner, Assistant Building Official and Planning/Building Inspector will be assigned the following uniform items:

A. Uniform:

1. 1 summer jacket
2. 1 pair safety shoes or boots (Not to exceed \$250 ~~200~~ per year)
3. 1 winter jacket
4. 2 coveralls

B. Rain Gear:

1. 1 waterproof coat
2. 1 waterproof trouser
3. 1 pair waterproof shoes or boots

C. Safety Equipment:

All safety equipment as required by Washington State and Federal regulations. These

items are to include but are not limited to gloves, safety vests, safety goggles and hard hats.

The uniform shall meet the approval of the respective department head and all purchases shall be through his/her office's established procedures. The employee agrees to maintain and keep in good condition and repair all parts of the uniform, and will have available for inspection on due notice his/her complete uniform.

The employer shall be responsible for laundering uniforms. Frequency of laundering uniforms shall be established by employer management policy.

#### **ARTICLE ~~XIX~~ XX - VACCINATIONS**

The Employer shall provide those Employees who are subject to working in or around the Gig Harbor Sewer Treatment Plant or any areas subject to exposure to waste water with the proper and required vaccinations for Hepatitis B and Tetanus along with any other vaccinations as required or recommended by the Tacoma/Pierce County Health Department.

#### **ARTICLE ~~XX~~ XXI - LEAVE SHARING**

As per Resolution 393, employees may extend their accrued vacation time to any employee to a maximum benefit of 261 days in any one incidence. For employees eligible for unpaid FMLA leave, shared leave must be used at the same time as unpaid FMLA leave.

#### **ARTICLE ~~XXI~~ XXII - SAVING CLAUSE**

If any article or section of this Agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction, the balance of this Agreement shall continue in full force and effect. The article and section held invalid shall be modified as required by law or the tribunal of competent jurisdiction, or shall be re-negotiated to a mutually agreeable resolution for the purpose of adequate replacement.

#### **ARTICLE ~~XXII~~ XXIII - COMPLETE AGREEMENT**

The parties acknowledge that during the negotiations which resulted in this Agreement, each had an unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after the exercises of that right and opportunity are set forth in this Agreement. Therefore, the parties for the life of this Agreement voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement.

#### **ARTICLE ~~XXIII~~ XXIV - TERM OF AGREEMENT**



This Agreement is effective January 1, ~~2006~~ 2003, and shall continue in full force and effect to and including December 31, ~~2008~~ 2005.

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

IN WITNESS WHEREOF, we attached our signatures this \_\_\_\_\_ day of \_\_\_\_\_, ~~2005~~ 2003.

CITY OF GIG HARBOR

GIG HARBOR EMPLOYEES' GUILD

---

Gretchen Wilbert, Mayor

---

Willy Hendrickson, Co-President

---

Mark Hoppen, City Administrator

---

Linda Gratzner, Co-President

ATTEST:

---

Greg Foote

**ATTACHMENT "A"**

**2006 ~~2003~~ GIG HARBOR EMPLOYEE'S SALARY SCHEDULE**

POSITION	<u>2006</u> <del>2003</del>	
	Minimum	Maximum
<del>Fire Marshal/Building Official</del>	<del>4,593</del>	<del>5,741</del>
Senior Planner	<u>4,602</u> <del>4,303</del>	<u>5,753</u> <del>5,379</del>
Accountant	<u>4,485</u> <del>4,193</del>	<u>5,606</u> <del>5,241</del>
Associate Engineer	<u>4,576</u> <del>4,107</del>	<u>5,720</u> <del>5,134</del>
Assistant Building Official	<u>4,546</u> <del>3,996</del>	<u>5,683</u> <del>4,995</del>
Field Supervisor	<u>4,291</u> <del>3,905</del>	<u>5,364</u> <del>4,881</del>
Associate Planner	<u>3,889</u> <del>3,636</del>	<u>4,861</u> <del>4,545</del>
<u>Payroll/Benefits Administrator</u>	<u>3,883</u>	<u>4,854</u>
Planning / Building Inspector	<u>3,926</u> <del>3,468</del>	<u>4,908</u> <del>4,335</del>
Construction Inspector	<u>3,926</u> <del>3,468</del>	<u>4,908</u> <del>4,335</del>
Mechanic	<u>3,665</u> <del>3,427</del>	<u>4,581</u> <del>4,284</del>
Engineering Technician	<u>3,605</u> <del>3,371</del>	<u>4,506</u> <del>4,214</del>
Wastewater Treatment Plant Operator	<u>3,607</u> <del>3,373</del>	<u>4,509</u> <del>4,216</del>
Court Administrator	<u>4,478</u> <del>4,042</del>	<u>5,598</u> <del>5,053</del>
<u>Information System Assistant</u>	<u>3,531</u>	<u>4,414</u>
Maintenance Worker	<u>3,505</u> <del>3,276</del>	<u>4,381</u> <del>4,095</del>
<u>Assistant City Clerk</u> <del>Public Works Assistant</del>	<u>3,446</u> <del>2,942</del>	<u>4,308</u> <del>3,678</del>
<u>Assistant Planner</u>	<u>3,393</u>	<u>4,241</u>
<u>Community Services Officer</u>	<u>3,294</u>	<u>4,118</u>
Community Development Assistant	<u>3,168</u> <del>2,833</del>	<u>3,960</u> <del>3,541</del>
Finance Technician	<u>3,283</u> <del>2,964</del>	<u>4,104</u> <del>3,705</del>
Court Clerk	<u>2,826</u> <del>2,642</del>	<u>3,533</u> <del>3,303</del>
<u>Custodian</u>	<u>2,814</u>	<u>3,518</u>
Laborer	<u>2,814</u> <del>2,631</del>	<u>3,518</u> <del>3,289</del>
<u>Mechanic Assistant</u>	<u>2,814</u>	<u>3,518</u>
Police Services Specialist	<u>2,864</u> <del>2,519</del>	<u>3,580</u> <del>3,149</del>
<u>Administrative Assistant</u>	<u>2,719</u>	<u>3,399</u>
Community Development Clerk	<u>2,464</u> <del>2,304</del>	<u>3,080</u> <del>2,880</del>
Administrative Receptionist	<u>2,464</u> <del>2,304</del>	<u>3,080</u> <del>2,880</del>

Ranges include a cost-of-living adjustment calculated at 2.3% ~~2.0%~~.

## ATTACHMENT "B"

### PERSONNEL SALARIES

#### SALARY RANGES ADJUSTED ANNUALLY

- ~~1. The City Administrator shall brief the Mayor and City Council regarding timing and considerations for adjusting employee's compensation.~~
- 1 2. City employees shall have the opportunity to suggest modifications in salaries and other wage supplements to the City Administrator.
- ~~3. The City Administrator shall conduct annually a compensation survey (salary survey) in accordance with labor market and benchmark classifications.~~
- ~~4. The City Council shall give the Mayor and City Administrator policy guidance regarding adjustments to the employee compensation program, based on the following criteria:
  - ~~a. Ability of city to pay;~~
  - ~~b. Compensation survey information;~~
  - ~~c. Changes in cost of living;~~
  - ~~d. Desires of the employees;~~
  - ~~e. Compensation adjustments for other employees.~~~~
- ~~5. The City Administrator shall make recommendations to the Mayor and City Council regarding salary range and fringe benefit modifications. Salary range adjustments shall be based on the compensation survey and the internal salary relationships.~~
- 2 6. Employees who have satisfactorily completed a six month employment probationary period shall be eligible for a performance pay increase from 0% to 5% and a one year employment probationary period shall be eligible for a performance pay increase from 0% to 8%.
- 3 7. Employees who have yet to reach the top of their salary range shall be eligible for performance pay increases of 0% to 8% each year. Such performance pay increases shall be added to their base rate of pay to compute the employee's new salary. Performance pay increase shall be approved by the City Administrator. Once an employee has reached the top of his/her salary range (control point) the employee shall be eligible for merit/bonus compensation up to 5% of the employees annual base salary. Such merit/bonus pay increase shall not be added to the employee's base pay. This merit bonus pay is separate,

non-cumulative compensation and must be earned through exemplary performance each evaluation period.

#### MERIT/BONUS PAY

Employees shall be eligible for merit/bonus pay salary increases in accordance with the provisions set forth below:

1. Merit/bonus pay increases shall be within the city's budget in an appropriate fund within each Department's budget.
2. The amount of the merit/bonus pay salary increase for each employee shall be based solely on performance.
3. Merit/bonus pay salary increase shall be granted by the City Administrator and confirmed by the Mayor.

# AGREEMENT

By and Between

CITY OF GIG HARBOR

And

GIG HARBOR EMPLOYEES' GUILD  
SUPERVISORY BARGAINING UNIT

~~2003~~2006

## PREAMBLE

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

## ARTICLE I - RECOGNITION

The Employer hereby recognizes the Guild as the exclusive bargaining representative for employees employed by the Employer as certified by the State of Washington, Department of Labor and Industries in Case No. 09524-E-91-01579, issued July 20, 1992. The bargaining unit covered by this Agreement shall include the City Engineer, Director of Operations, Planning/~~Building~~ Manager, Information Systems Manager, Building Official/Fire Marshall and the Wastewater Treatment Plant Supervisor.

## ARTICLE II - MEMBERSHIP

**Section 1.** All employees who are members of the Guild on the effective date of this Agreement and all employees who may become members thereafter during the life of this Agreement shall as a condition of employment remain members of the Guild in good standing for the term of this Agreement.

**Section 2.** The Employer agrees to deduct monthly dues uniformly required in the bargaining unit from employees who voluntarily execute a wage assignment authorization form. The Employer shall transmit such deduction to the Guild by check payable to its order. Upon issuance and transmission of such deduction the Employer's responsibility shall cease with respect to such deductions.

The Guild and each employee authorizing the assignment of wages for payment of Guild dues

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

### **ARTICLE III - NONDISCRIMINATION**

**Section 1.** The Employer and the Guild agree that the administration and application of this Agreement shall be consistent with applicable state and federal laws regarding nondiscrimination in employment.

**Section 2.** No employee covered by this Agreement shall be discriminated against because of his/her membership or non-membership in the Guild, or lawful activities on behalf of the Guild; provided, however, that such activity shall not be conducted during working hours nor be allowed to interfere with the Employer's operations except as defined herein.

### **ARTICLE IV - HOURS OF WORK AND OVERTIME**

**Section 1. Normal workweek.** The normal workweek, with a period beginning on Monday and ending on Sunday, shall consist of forty (40) hours. The normal workday shall consist of eight (8) hours per day in each of five (5) consecutive days or four (4) consecutive, ten (10) hour days. The normal workweek and workday are goals. The normal workweek and workday schedules shall be defined by the Mayor or the Mayor's designee. The work year shall consist of two thousand and eighty (2,080) hours.

**Section 2. Overtime.** ~~Overtime as used in this Agreement shall mean that time an employee works in excess of the normal forty (40) hour workweek. Overtime as used in this Agreement shall mean hours worked in excess of 8 hours a day or 40 hours in an established 7 day work period. Hours of work shall be determined in accordance with the federal Fair Labor Standards Act.~~ Compensation for overtime shall be as set forth in subsections A through H G of this article.

- A. All overtime must be authorized in advance by the City Administrator or the respective department head, except in cases of emergency.
- B. Overtime shall be compensated at the rate of one-and-one half (1-1/2) times the regular straight-time pay (monthly salary x 12 /2080) for overtime worked on Monday through Saturday inclusive (or the employee's regular work week and the following day). Overtime shall be compensated at the rate of two times the regular straight time pay for holidays and for hours worked on the last day off before a regular work week (Sunday for employees working a normal Monday through Friday work week).
- C. Employees will receive a minimum of 3 hours pay (straight time or overtime as determined according to Section 2b above) for work requiring a return to work from home during the employees regularly scheduled time off or while on call, such as for emergencies or meetings called by the employer. The pay rate for overtime worked under this paragraph will be determined according to Section 2b above.

- D. Mandatory training on a regularly scheduled day off required by State, City or Departmental regulations as determined by the respective department head shall be compensated at one-and-one-half (1-1/2) times the employee's straight-time base hourly rate of pay with a minimum of two hours overtime compensation.
- E. ~~The Employer shall have the discretion to grant compensatory time off in lieu of paid overtime. The pay rate for overtime worked under this paragraph will be determined according to Section 2b above.~~ The option to compensate by compensatory time shall be arranged by mutual agreement between the Employer and the Employee. The compensatory time shall be used within a reasonable period of time and may be denied by the Employer only if it would cause an undue hardship to the city's operation. Accrued compensatory time off shall be used at a time mutually agreeable to Employer and the Employee. Employees may accrue a maximum of 80 compensatory time-off hours. If the employee works over time hours and has reached his/her maximum compensatory time hours, he/she shall be paid his/her regular pay according to Section 2b above.
- F. Any employee required to return to work while on vacation shall earn pay at the employee's overtime rate for his/her scheduled shift. In addition, monetary compensation shall be paid to said employee for reimbursement of any actual expenses regarding the rescheduling of hotel/motel, airfare, etc.
- G. When a member of the Guild completes an unscheduled shift in which 4 or more hours fall between the hours of 6:00 P.M. and 6:00 A.M. he/she shall be entitled to overtime pay according to Article IV, section 2 for those hours worked between 6:00 P.M. and 6:00 A.M. In order for a shift to be scheduled, at least 24 hours notice must be given to the employee prior to the start of the shift.
- H. If a scheduled meeting occurs outside an employee's regular shift and involves the use of overtime, a minimum of one hour of overtime shall be earned. In order to qualify, the meeting must begin after 6:00 P.M.

**Section 3. Workweek.** The Employer retains the right to schedule the workweek in any manner, which may be required in order to meet the needs of the community.

## ARTICLE V - WAGE RATES

### **Section 1 Wages and Salary Survey.**

- A. **Wages.** Effective January 1, 2006 ~~2003~~, members of the Guild shall receive a cost-of-living increase in their salaries of two and three tenths percent (~~2-0~~ 2.3%). The salary schedule (see Attachment "A"), reflects adjustments required due to the salary range adjustment and to the cost of living increase for 2006 ~~2003~~. .

Effective January 1, 2007 ~~2004~~, members of the Guild shall receive a cost of living wage increase in the salaries based on 100% of the annual increase of the June 2006 ~~2003~~



Seattle-Tacoma-Bremerton CPI-W, but not less than 2% nor greater than 4%.

Effective January 1, ~~2008~~ 2005, members of the Guild shall receive a cost of living wage increase in the salaries based on 100% of the annual increase of the June ~~2007~~ 2004 Seattle-Tacoma-Bremerton CPI-W, but not less than 2% nor greater than 4%.

**B. Salary Survey.** Effective January 1, ~~2006~~ 2005, members of the Guild shall receive a cost of living wage increase in the salaries based on 100% of the annual increase of the June 2005 Seattle-Tacoma-Bremerton CPI-W, but not less than 2% nor greater than 4%. ~~**Salary Survey.**~~ The City shall initiate a salary survey of the Community Development Director and Wastewater Treatment Plant Supervisor salary ranges prior to January 1, of each contract year, which shall analyze the appropriate salary range for the Community Development Director and Wastewater Treatment Plant Supervisor position relative to a selected group of cities determined by the City. The results of this survey shall be compared with the current-year salary ranges of the Community Development Director and Wastewater Treatment Plant Supervisor at that time, and if the survey results disclose that the salary range midpoint for the Community Development Director and Wastewater Treatment Plant Supervisor position is two and one-half percent (2.5%) or more below the survey range mid-point for that position, then the City will:

1. Adjust the salary range midpoint for the Community Development Director and Wastewater Treatment Plant Supervisor position to conform to the salary survey midpoint.
2. Construct a salary range for this identified position around the adjusted salary midpoint, consistent with the City's past practice.
3. The City Engineer, Director of Operations, Planning Manager, Building Official / Fire Marshall and Information Systems Manager salary ranges shall be adjusted to eighty-seven percent (87%) of the Community Development Director salary range.

**Section 2. Salary range.** Movement within each salary range shall be governed by the City's Personnel Regulations as shown within Attachment "B".

**Section 3. Mileage.** Mileage shall be paid as prescribed by City Ordinance Chapter 2.28.010.

**Section 4. Education reimbursement.** Upon satisfactory completion of a job related educational course, when the employee who desires to take the course has prior written approval from the City Administrator, the city shall reimburse the employee for the educational course up to a maximum rate of two hundred dollars (\$200.00) ~~one hundred sixty (\$160.00) dollars~~ per credit hour for undergraduate courses and four hundred dollars (\$400.00) ~~two hundred fifty (\$250.00) dollars~~ per credit hour for graduate courses. The city agrees to reimburse reasonable expenses for textbooks required for such course and will retain such textbooks in the department of the respective Department Head. No employee shall receive a total credit reimbursement of over \$1,600 for undergraduate courses and \$3,000 for graduate courses in a given budget year.

All reimbursements shall be taken from specifically budgeted line items. Based on the standards of the institution, a passing grade must be obtained in a given course in order for that course to be reimbursed. Upon the request of the City Administrator, an employee who is enrolled in a program leading to a two or four year degree shall submit evidence that the employee's accumulative GPA in the academic program is equivalent to 3.0 (on a 4.0 scale). An employee in such a program must maintain a 3.0 accumulative GPA or greater in order to qualify for tuition reimbursement. Any course that does not qualify for reimbursement at the end of the evaluation period for that course shall be ineligible for retroactive reimbursement.

**Section 5. Meal Pay.** If a supervisor is required to work two hours beyond the normal work day, then he/she shall receive a paid meal. The employer shall provide the meal or reimbursement.

**Section 6. Severance Notice and Support.** The employer shall provide six months notice for supervisors whose positions will be eliminated due to lack of work, budgetary restraints, or other organizational changes.

## ARTICLE VI - VACATIONS

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

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

During months 13 - 192 (2nd through 16th year), an additional .67 vacation hours per month (8 additional hours per year) shall be earned. The annual earned vacation rate shall not exceed 208 hours per year. Accumulated vacation balance shall not exceed 336 hours at any one time. Accumulated vacation balance shall not exceed 240 hours at year-end (December 31); With prior written approval by the City Administrator, employees who have reached the 240 hour maximum accrued vacation balance and are not able due to no fault of their own to take a sufficient amount of time off in order to avoid losing vacation hours may sell back a maximum of 15 vacation days to the city at year-end. All other any-accumulated vacation hours in excess of 240 hours at year-end will be lost without compensation.

## ARTICLE VII - HOLIDAYS

The following holidays shall be recognized by the city as city holidays:

New Year's Day	January 1
Martin Luther King Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Day	December 25
* 2 Floating Holidays	(taken at employee's discretion)

\* An employee must be on the payroll a minimum of 90 days to receive the floating holiday.

If a holiday falls on a Saturday (or the day following the employee's regular workweek) it shall be observed on the preceding day. A holiday falling on a Sunday (or the day preceding the employee's regular work week) shall be observed on the following day.

If a Department Manager directs an employee to work on a paid holiday, the employee shall receive pay at two times his/her regular straight-time hourly rate for the actual time worked.

Holidays observed during vacation or sick leave shall not be charged against such leave.

## ARTICLE VIII - MEDICAL BENEFITS

The Employer shall pay 100% of the monthly premium for the following benefit plans for the Guild employee and eligible dependents:

- 1) Medical - Association of Washington Cities Plan- A with orthodontia and chiropractic coverage.
- 2) Dental - AWC Trust (Plan A - Washington Dental Service).
- 3) Vision - AWC Trust (Western Vision Service Plan).

## ARTICLE IX - LEAVES

**Section 1. Sick leave.** Full-time employees shall accrue sick leave at the rate of one day per calendar month for each month compensated. Sick leave is accumulated to a maximum of one hundred and eighty (180) days. Sick leave may be used for time off with pay for bona fide cases of incapacitating illness, injury, disability or for care of dependents as required by state law. Abuse of sick leave shall be grounds for suspension or dismissal.

**Section 2. Return to work.** A medical certificate may be required when there is cause to suspect sick leave abuse; to assist agencies in protecting the employees from returning to work too soon following an illness or injury; or to protect fellow employees or clients from contagious illness. A medical certificate must be required if the reason was personal illness as cited in WAC 356-18-060 (1)(a), (b), or (c), and continued for more than four continuous workdays.

**Section 3. Sick leave bonus.** An employee who has taken no sick leave during any six (6) month period shall receive, as a bonus, one annual day off or one day's pay (eight hours) for each period during the term of this Agreement. It shall be the responsibility of the employee to notify the City of the employee's eligibility of the bonus day(s). Upon retirement or voluntary termination twenty-five percent (25%) of unused sick leave shall be paid to an employee with five years or more of continuous city employment. Upon involuntary termination where the Mayor alone grants this benefit at the Mayor's sole discretion, twenty-five percent (25%) of unused sick leave shall be paid to an employee with five years or more of continuous city employment. Upon death, one hundred (100%) percent of sick leave will be paid.

**Section 4. Use of sick leave.** Sick leave may be used for the following:

- a. Personal illness or physical incapacity resulting from causes beyond the employee's control.
- b. Medical or dental treatment of the employee or his/her dependents.
- c. Illness within the immediate family (spouse or dependents) necessitating the employee's absence from work).
- d. Maternity or paternity purposes relating to childbirth or related circumstances.

Where practicable, notification of absence due to illness or injury shall be given to the relevant supervisor as soon as possible, but no later than one-half hour after the start of the work day. Failure to so notify shall cause the leave so taken to be construed as leave without pay and may result in disciplinary action.

**Section 5. Bereavement Leave.** A regular full-time employee may be granted up to five (5) days of leave without loss of pay because of death of a member in the immediate family. Leave over five days per death shall be charged to Sick Leave. For purposes of this section, immediate family shall be defined as husband, wife, children, step-children, mother, father, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparents, grandparents-in-law, brother or sister of the employee and others as authorized by the City Administrator.

**Section 6. Military Leave.** In accordance with RCW 38.40.060, eligible employees shall receive employer pay up to fifteen (15) days during each calendar year.

**Section 7. Jury Duty.** While on jury duty, or while appearing as a legally required witness, any jury duty pay received by the employee during such leave shall be deducted from the employee's base pay. Travel time will be granted in the calculation of this deduction.

**Section 8. Funeral Participation.** An employee may be granted up to three (3) hours time off, without loss of pay, accrued vacation, or sick leave, to participate in a funeral ceremony when first approved by the respective department head.

**Section 9. Voting.** When an employee's work schedule is such that he\she cannot vote prior to or after the normally scheduled working hours, he/she shall be allowed time off to vote without loss of pay, accrued vacation, or sick leave.

## **ARTICLE X - BENEFIT PLAN**

**Section 1. Statewide pension plan.** The Employer shall participate in the statewide system for pension, relief, disability and retirement for qualified employees as provided in RCW 41.44.050.

**Section 2. Substitute Social Security Plan.** The City shall provide and maintain a benefit plan as a substitute for Social Security benefits. The City Administrator, with guild advisement, shall select the corporation(s) that will manage these benefits. The plan shall consist of three benefits:

- a. Long-term disability;
- b. Life insurance; and
- c. A deferred compensation plan for retirement income.

**Section 3. Workmen's Compensation.** The city shall insure city employees with the State Workmen's compensation plan. An employee receiving pay for sick leave who is eligible for time-loss payments under the workmen's compensation law, shall for the duration of such payments, receive only that portion of his regular salary which, together with said payments, will equal his/her regular salary. To avoid hardship on the employee caused by a time lag in time-loss payments he/she shall endorse such payments to the city.

## **ARTICLE XI - STAND-BY PAY**

An employee scheduled for "standby status" shall be compensated as follows:

1. If the standby period is less than eighteen (18) hours, the employee shall receive one (1) hour of pay or compensation time at his/her overtime rate; or
2. If the standby period exceeds eighteen (18) hours but not twenty-four (24) hours, the employee shall receive two (2) hours pay or compensation time at his/her overtime hourly rate.
3. After twenty-four (24) hours, compensation is calculated by repeating the aforementioned method.
4. If the employee is called back to work while on stand-by, compensation shall be computed according to Article IV of this agreement.

Stand-by is defined as: The employee being available to respond to any call for City service during those hours and in such manner as designated by the respective department head. The method of scheduling personnel and the determination of periods for standby assignments shall be the responsibility of the respective department head or his/her designee.

### **ARTICLE XII – TEMPORARY APPOINTMENT**

Any non supervisory employee who is placed in a supervisory position, with prior approval of the City Administrator, for a minimum of four weeks shall receive a pay increase of five percent (5%) for the duration of the assignment.

### **ARTICLE XIII XH - RIGHT OF ACCESS-GUILD REPRESENTATION**

**Section 1.** Duly authorized representatives of the Guild shall be permitted to enter upon the Employer's premises at reasonable times for the purpose of observing working conditions and transacting Guild business that cannot be transacted elsewhere; provided, however, that the Guild representative first secures approval from the designated Employer representative as to time and place, and that no interference with the work of the employees or the proper operation of the Employer shall result.

**Section 2.** The Guild agrees that Guild business conducted by Guild members, including the investigation of grievances, shall occur during nonworking hours (e.g., coffee breaks, lunch periods, and before and after regular working hours). Public Works Department employees shall be allowed one-half (1/2) hour each quarter for their use to attend Guild meetings during the half hour of 7:30 a.m. to 8:00 a.m.

### **ARTICLE XIV XIII- EMPLOYEE RIGHTS**

**Section 1.** Any employee, when being questioned by his/her employer about matters that may result in discipline has the right to:

- A.** Receive the specific nature of the charge or allegation against him/her in writing.
- B.** Have present his/her choice of the Guild Representative (who must be reasonably available). To a contract maximum of \$250 for all salary-related city expenses, the expense for guild representation shall be paid 50% by the employer and 50% by the Guild when the meeting is requested by the employer. Subsequent to exceeding the \$250 expense maximum, the Guild shall be solely responsible for representation expenses. The employer shall allow a reasonable length of time for the representative to arrive at the place of meeting.
- C.** The questioning by the Employer shall be during normal Employer business hours unless agreed to be held at other times by the Employee.
- D.** The employee may receive reasonable intermissions or breaks if the questioning exceeds approximately one hour.

**Section 2. City's Rules and Regulations.** It is mutually agreed that the Employer has full responsibility and authority to adopt rules and regulations for the operation of the city's departments and conduct of its employees. The Guild agrees that its members shall comply in full with such rules and regulations. Nothing in this Section shall be interpreted to restrict the respective department head and/or the City Administrator the right to make decisions or to establish procedures consistent with the "emergency" nature of operating each department.

**Section 3. Maintenance of city services.** In the event of any strike, walkout, slow down or work stoppage, the respective department head and/or City Administrator shall retain the right to require necessary level of staffing from the ranks of guild members in order to insure, in the city's immediate discretion, the safe maintenance of city services.

**Section 4. Failure to comply with Section 3.** Any employee refusing to comply with the conditions of Section 3 above will be subject to immediate dismissal.

## **ARTICLE XV ~~XIV~~ - GRIEVANCE PROCEDURES**

**Grievance defined:** A grievance is defined as an alleged violation of express terms and conditions of this Agreement. If any such grievance arises, it shall be submitted to the following grievance procedure.

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

### **Step One - The Respective Department Head.**

The grievance in the first instance will be presented to the respective department head in writing within ten (10) working days of the alleged breach of the express terms and conditions of this Agreement. Every effort shall be made to settle the grievance at this Step One.

### **Step Two - City Administrator.**

If the respective department head does not adjust the grievance to the Complainant's satisfaction within ten (10) working days from the time the grievance was submitted in Step One, then the grievance may be presented to the City Administrator within five (5) working days (15 days after submittal of the grievance to the department head). The grievance shall be presented to the City Administrator in writing, setting forth detailed facts concerning the nature of the grievance, the contractual provisions allegedly violated, and the relief requested. Upon receipt of the written grievance, the City Administrator shall, within ten (10) working days, meet with the grievant and/or the representative of the Guild in an attempt to resolve the grievance. Within ten (10) working days after such meeting, the City Administrator shall send to the Guild a written answer stating the Employer's decision concerning the grievance.

### **Step Three - Mediation.**

In the event the grievant, Guild and Employer are not able to resolve the grievance to the employee's satisfaction at Step Two, the parties may request the assistance of the State

Mediation Service.

**Step Four - Arbitration.**

A grievance may be submitted to arbitration by a written demand for arbitration delivered within ten (10) working days following the decision rendered in Step Two. Within ten (10) working days after delivery of the demand for arbitration, the Employer shall select one (1) person and the Guild shall select one (1) person. Within five (5) working days, such selected persons shall then select a third impartial person who shall serve as chairman of the Arbitration Panel. A majority decision of the Arbitration Panel shall be made in writing within twenty (20) working days following the conclusion of the Arbitration hearing(s). Such decision shall be final and binding on both the Guild and the Employer. The authority of the Arbitration Panel is limited to ruling on the correct interpretation or application of the Articles of this Agreement and shall not add to or take away therefrom. Each party shall be responsible for their own costs and the fees and costs of the arbitrator appointed by them. The fees and costs of the third neutral arbitrator shall be borne equally between the Guild and the Employer.

**ARTICLE ~~XVI~~ XV - PERSONNEL POLICIES**

**Section 1.** All employees of this bargaining unit, in addition to being governed by this Agreement, shall also be subject to the Personnel Policies published by the Employer having general applicability to all employees of the Employer and any subsequent personnel policies, rules and regulations that may be promulgated in the future, so long as they do not conflict with this Agreement. In case of any conflict, this Agreement shall be the controlling policy for the employees covered by this Agreement. Any changes made in the personnel policies, rules and regulations shall be approved by the Employer with Guild input.

**Section 2.** During the term of this Agreement, employees may submit a written request that his/her department head review that employee's job classification.

**Section 3.** An employee who is promoted or reclassified to a higher salary range (not transferred) shall receive an increase in salary of not less than 3%.

**ARTICLE ~~XVII~~ XVI - PERSONNEL RECORDS**

The Employer and Guild recognize that effective management requires the maintenance of records regarding an employee's career development. These records may accompany an employee through succeeding management administrations. To ensure that the doctrine of fairness is applied with respect to these records, the following procedure will be adhered to:

1. Whenever any paper is entered into an employee's personnel file, a copy of same shall be provided to the employee.
2. In the case of any paper which reflects unfavorably upon an employee, the employee shall be allowed an opportunity to respond to the content of the paper, in writing, and the employee response shall be included in the personnel file.



3. Each employee shall be allowed access to his personnel file for review of its contents at reasonable times and upon reasonable notice.
4. The Employer, through the department head, shall take measures to assure that, within the Guild, only legitimate supervisory and administrative personnel, and the employee, have access to the employee's personnel file. The confidentiality of personnel records is acknowledged to the extent permissible by law.

#### **ARTICLE ~~XVIII~~ XVII - VACCINATIONS**

The Employer shall provide all those Employees ~~who are subject to working in or around the Gig Harbor Sewer Treatment Plant or any areas subject to exposure to waste water with the proper and required vaccinations for Hepatitis B and Tetanus along with any other vaccinations~~ as required or recommended by the Tacoma/Pierce County Health Department.

#### **ARTICLE ~~XIX~~ XVIII- SAVING CLAUSE**

If any article or section of this Agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction, the balance of this Agreement shall continue in full force and effect. The article and section held invalid shall be modified as required by law or the tribunal of competent jurisdiction, or shall be re-negotiated to a mutually agreeable resolution for the purpose of adequate replacement.

#### **ARTICLE ~~XX~~ XIX - COMPLETE AGREEMENT**

The parties acknowledge that during the negotiations which resulted in this Agreement, each had an unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after the exercises of that right and opportunity are set forth in this Agreement. Therefore, the parties for the life of this Agreement voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement.

#### **ARTICLE ~~XXI~~ XX - TERM OF AGREEMENT**

This Agreement is effective January 1, 2006 ~~2003~~, and shall continue in full force and effect to and including December 31, 2008 ~~2005~~.

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

IN WITNESS WHEREOF, we attached our signatures this \_\_\_\_\_ day of \_\_\_\_\_, 2005  
2003~~2002~~.

CITY OF GIG HARBOR

GIG HARBOR EMPLOYEES' GUILD

---

Gretchen Wilbert, Mayor

---

Dave Brereton, Co-President

---

Mark Hoppen, City Administrator

---

Steve Misiurak, Co-President

**ATTACHMENT "A"**

**2006 ~~2003~~ GIG HARBOR EMPLOYEE'S SALARY SCHEDULE**

<b>POSITION</b>	<b>2006</b>	
	<b>RANGE</b>	
	<b>Minimum</b>	<b>Maximum</b>
City Engineer	<u>\$5,486</u> <del>4,854</del>	<u>\$6,857</u> <del>6,064</del>
Director of Operations	<u>\$5,486</u> <del>4,854</del>	<u>\$6,857</u> <del>6,064</del>
Information Systems Manager	<u>\$5,486</u> <del>4,854</del>	<u>\$6,857</u> <del>6,064</del>
Planning Manager	<u>\$5,486</u> <del>4,854</del>	<u>\$6,857</u> <del>6,064</del>
Building Official/Fire Marshall	<u>\$5,486</u> <del>4,854</del>	<u>\$6,857</u> <del>6,064</del>
Wastewater Treatment Plant Supervisor	<u>\$ 4,774</u> <del>4,279</del>	<u>\$5,968</u> <del>5,349</del>

Includes cost-of-living adjustment calculated at 2.3%.

## ATTACHMENT "B"

### PERSONNEL SALARIES

#### ~~SALARY RANGES ADJUSTED ANNUALLY~~

- ~~1. The City Administrator shall brief the Mayor and City Council regarding timing and considerations for adjusting employee's compensation.~~
- ~~2. City employees shall have the opportunity to suggest modifications in salaries and other wage supplements to the City Administrator.~~
- ~~3. The City Administrator shall conduct annually a compensation survey (salary survey) in accordance with labor market and benchmark classifications.~~
- ~~4. The City Council shall give the Mayor and City Administrator policy guidance regarding adjustments to the employee compensation program, based on the following criteria:
  - ~~a. Ability of city to pay;~~
  - ~~b. Compensation survey information;~~
  - ~~c. Changes in cost of living;~~
  - ~~d. Desires of the employees;~~
  - ~~e. Compensation adjustments for other employees.~~~~
- ~~5. The City Administrator shall make recommendations to the Mayor and City Council regarding salary range and fringe benefit modifications. Salary range adjustments shall be based on the compensation survey and the internal salary relationships.~~
- ~~6. Employees who have satisfactorily completed a six month employment probationary period shall be eligible for a performance pay increase from 0% to 5% and a one year employment probationary period shall be eligible for a performance pay increase from 0% to 8%.~~
- ~~7. Employees who have yet to reach the top of their salary range shall be eligible for performance pay increases of 0% to 8% each year. Such performance pay increases shall be added to their base rate of pay to compute the employee's new salary. Performance pay increase shall be approved by the City Administrator. Once an employee has reached the top of his/her salary range (control point) the employee shall be eligible for merit/bonus compensation up to 5% of the employees annual base salary. Such merit/bonus pay increase shall not be added to the employee's base pay. This merit bonus pay is separate, non-cumulative compensation and must be earned through exemplary performance each evaluation period.~~

## MERIT/BONUS PAY

~~Employees shall be eligible for merit/bonus pay salary increases in accordance with the provisions set forth below:~~

- ~~1. Merit/bonus pay increases shall be within the city's budget in an appropriate fund within each Department's budget.~~
- ~~2. The amount of the merit/bonus pay salary increase for each employee shall be based solely on performance.~~
- ~~3. Merit/bonus pay salary increase shall be granted by the City Administrator and confirmed by the Mayor.~~



## **COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: STEPHEN MISIURAK, P.E.**  
**CITY ENGINEER**  
**SUBJECT: CITY WIDE TRAFFIC FORECASTING MODEL**  
**- CONTRACT AMENDMENT**  
**DATE: NOVEMBER 14, 2005**

### **INFORMATION/BACKGROUND**

The project will result in the development of a traffic forecasting model calibrated to accurately replicate existing traffic conditions city wide, and be capable of forecasting future traffic conditions based on forecasts of future land use growth within the City.

David Evans and Associates, Inc. (DEA) entered into an agreement with the City on May 9, 2005 to perform traffic engineering work and develop a traffic mitigation plan for the Gig Harbor North area. Task 11 of that agreement was subsequently amended at the request of the City to assist the City in the review of the proposed hospital and medical office complex project. This work included performing a traffic impact analysis for the proposed hospital project on an expedited basis. It was determined that the proposed hospital project would have a significant impact on the existing traffic network in the Gig Harbor North area. DEA entered into another agreement with the City on August 8, 2005 to represent the City on the Gig Harbor North Traffic Options Committee. The purpose of this committee was to develop various methods for mitigating traffic impacts from the proposed hospital project.

The development of a city wide traffic model will benefit the City in a variety of ways. Traffic volumes and associated traffic impacts generated by proposed projects can be determined and will allow traffic impact or mitigation fees to be established for these proposed projects. It will allow the development of a pro-rated method for sharing traffic improvement costs for traffic mitigation amongst all undeveloped properties within a traffic study area. The model will show where levels of service are failing in the City's transportation network and this information can be used by City staff in the preparation of the City's Annual and 6-year Road Improvement Program. This same information can be used by planning staff to assist them in deciding where development should or should not occur in the City. Zoning and land use designations can be altered to coincide with available traffic capacity on the City's transportation system. The model will allow the City to develop a realistic impact fee schedule for proposed developments so that these developments pay for their fair share of traffic mitigation costs.

The traffic model can be used for long range planning, alternatives analysis, corridor studies, project planning, systematic measurement of the impacts of growth, providing

support for concurrency monitoring, and derivation of traffic impact fees. The model will develop traffic generation information that results from a Buildable Land Analysis (BLA) for the Urban Growth Area that is being performed by another consultant for the City. As a result of previous meetings with the City, the BLA and subsequent traffic generation factors will be based on a "bottom up" approach that uses actual development trends in the City. DEA will also utilize regional growth forecasts outside the City that are consistent with the Pierce County Traffic Model and account for significant regional facilities in the Pierce County Transportation Plan. Based on a start in September, 2005 for the Gig Harbor North area, the base-year traffic model will be expanded in 2005 and future year applications will be possible in early 2006. This contract does not include the City purchase of the actual traffic modeling software because it is not economically feasible for the City to purchase traffic modeling software such as VISSIM. Due to it being relatively expensive and complex, this requires the skills of a seasoned traffic engineer who uses them on a regular basis. Additionally these types of software programs are updated frequently and the City would have to be willing to provide regular training to a staff person to keep that person versed in its use.

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

### **FISCAL CONSIDERATIONS**

This work is a component of the 2005 Street Operating Budget Objective No. 3, \$150,000.00. On May 9, 2005, Council approved a contract in the amount of \$96,038.00. This proposed contract amendment is the amount of \$49,964.00, revising the total contract amount to \$146,002.00. Sufficient funds exist to fund this study.

### **RECOMMENDATION**

I recommend that Council approve a contract amendment with David Evans and Associates, Inc. for the Gig Harbor North Traffic Mitigation Plan in the amount not to exceed \$49,964.00 for a total contract amount of \$146,002.00.

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

THIS AMENDMENT is made to the AGREEMENT, dated May 9, 2005, by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and David Evans and Associates, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 3700 Pacific Highway East, Suite 311, Tacoma, Washington 98424 (hereinafter the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in the development of a traffic study and a traffic mitigation plan for the Gig Harbor North area and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agreed to perform the services, and the parties executed an Agreement on May 9, 2005 (hereinafter the "Agreement"); and

WHEREAS, the existing Agreement requires the parties to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant, or to exceed the amount of compensation paid by the City;

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

Section 1. **Amendment to Scope of Work.** Section I of the Agreement is amended to require the Consultant to perform all work described in **Exhibit A – Scope of Services**, attached to this Amendment, which Exhibit is incorporated herein as if fully set forth.

Section 2. **Amendment to Compensation.** Section II(A) of the Agreement is amended to require the City to pay compensation to the Consultant for the work described in **Exhibit A** to the Amendment in the amount of: Forty-nine Thousand Nine Hundred Sixty-four Dollars and no cents (\$49,964.00). This Amendment shall not modify any other of the remaining terms and conditions in Section II, which shall be in effect and fully enforceable.

Section 3. **Effectiveness of all Remaining Terms of Agreement.** All of the remaining terms and conditions of the Agreement between the parties shall be in effect and be fully enforceable by the parties. The Agreement shall be incorporated herein as if fully set forth, and become a part of the documents constituting the contract between the parties.



IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

THE CITY OF GIG HARBOR

By: Randy A. Anderson  
Its Principal  
SR. ASSOCIATE 9/20/05

By: \_\_\_\_\_  
Mayor

Notices to be sent to:

CONSULTANT  
David Evans and Associates, Inc.  
Attn: Randy Anderson, P.E.  
3700 Pacific Highway East, Suite 311  
Tacoma, Washington 98424  
(253) 922-9780

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ 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 \_\_\_\_\_ of \_\_\_\_\_ Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

My Commission expires: \_\_\_\_\_

STATE OF WASHINGTON                    )  
  ) ss.  
COUNTY OF PIERCE                    )

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

Dated: \_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_  
My Commission expires:\_\_\_

# **CITY OF GIG HARBOR**

## **EXHIBIT A**

### **SCOPE OF SERVICES for the DEVELOPMENT OF CITYWIDE TRAFFIC FORECASTING MODEL**

David Evans and Associates, Inc. (DEA) is pleased to provide this Scope of Services to the City of Gig Harbor (City). Exhibit A describes the Scope of Services that will be performed by DEA for this project. The project will result in the development of a traffic forecasting model calibrated to accurately replicate existing traffic conditions citywide, and be capable of forecasting future traffic conditions based on forecasts of future land use growth within the city.

DEA entered into an agreement with the City on May 9, 2005 to perform traffic engineering work and develop a traffic mitigation plan for the North Gig Harbor area. Task 11 of that agreement was subsequently amended at the request of the City to assist the City in the review of a proposed hospital and medical office complex project. This work included performing a traffic impact analysis for the proposed hospital project on an expedited basis. It was determined that the proposed hospital project would have a significant impact on the existing traffic network in the North Gig Harbor Area. DEA entered into another agreement with the City on August 8, 2005 to represent the City on the North Gig Harbor Traffic Committee. The purpose of this committee was to develop various methods for mitigating traffic impacts from the proposed hospital project.

As a result of this work DEA has become very familiar with traffic issues in the City and has started the development of a traffic modeling system for the City. The model will be usable not only in the North Gig Harbor area but for the overall City. Due to manpower and budgetary constraints it is not uncommon to develop a traffic model for a portion of a municipality and expand the model on an annual basis until it is completed for the entire municipality. Throughout this process DEA staff has become familiar with engineering and planning staff from the City to learn where development is occurring, City development requirements, and existing City infrastructure. DEA is very well qualified and experienced to perform additional traffic engineering work for the City in the future.

The development of a City wide traffic model will benefit the City in a variety of ways. Traffic volumes and associated traffic impacts generated by proposed projects can be determined and will allow traffic impact or mitigation fees to be established for these proposed projects. It will allow the development of a pro-rate method for sharing traffic improvement costs for traffic mitigation amongst all undeveloped properties within a traffic study area. The model will show where levels of service are failing in the City's transportation network and this information can be used by City staff in the preparation of the City's Annual and 6-year Road Improvement Program. This same information can be used by planning staff to assist them in deciding where development should or should not

occur in the City. Zoning and land use designations can be altered to coincide with available traffic capacity on the City's transportation system. The model will allow the City to develop a realistic impact fee schedule for proposed developments so that these developments pay for their fair share of traffic mitigation costs.

### **OVERVIEW**

The traffic model can be used for long range planning, alternatives analysis, corridor studies, project planning, systematic measurement of the impacts of growth, providing support for concurrency monitoring, and derivation of traffic impact fees. The model will develop traffic generation information that results from a Buildable Land Analysis (BLA) for the Urban Growth Area that is being performed by another consultant for the City. As a result of previous meetings with the City the BLA and subsequent traffic generation factors will be based on a "bottom up" approach that uses actual development trends in the City. DEA will also utilize regional growth forecasts outside the City that are consistent with the Pierce County Traffic Model, and account for significant regional facilities in the Pierce County Transportation Plan. Based on a start in September, 2005 for the North Gig Harbor area, the base-year traffic model will be expanded in 2005 and future-year applications will be possible in early 2006.

### **TASK 1 - PROJECT MANAGEMENT AND ADMINISTRATION**

DEA will provide project management, project administration and QA/QC for the project. It is anticipated that this project will have a duration of approximately four to six months. DEA will:

- Provide project status reports to the City every two weeks either verbally or in written form documenting key issues and decisions made for the project. When applicable, tasks that must be performed by DEA and/or the City in the future will be documented for project scheduling purposes;
- Prepare and submit monthly invoices to the City and perform project administrative duties as required. The invoices will be broken into subsections that follow the tasks identified in this Scope of Services and will show the hours of work used for each task for the billing period and the individuals who worked on the project. The invoices will show mileage, postage, reprographic, and other expenses associated with the project;
- Provide project management, administration, and professional engineering supervision for the project to assure that the work is being done in conformance with the project's established guidelines and the overall scope of work. Coordinate sub-consultant work as required if applicable;
- Provide internal QA/QC review throughout the project.

Task Deliverables: Provide project management and administration, monthly invoices and progress reports, and internal QA/QC. If the project extends beyond a six-month time limit additional administrative costs to DEA will be considered.

### **TASK 2--IDENTIFY SIGNIFICANT MODELING ISSUES**

This task will develop an understanding of future traffic analysis issues to support the design of the traffic model. DEA will:

- Review with city staff the citywide road system to identify present and future traffic issues and locations of interest that may be addressed using the traffic model;
- Review with city staff the nature of existing and future growth issues in each part of the city; and
- Account for identified issues in subsequent tasks for design and calibration of the traffic model.

Task Deliverables: A task memorandum to document the identified conditions and concerns.

### **TASK 3--INVENTORY EXISTING TRAFFIC VOLUMES**

This task will develop traffic count and other monitoring information to establish a baseline of current traffic volume information citywide. DEA will:

- Identify up to twenty citywide intersections of present or future interest in consultation with city staff;
- Identify up to twenty citywide arterial locations to perform daily and hourly counts that are representative of the time-of-day patterns on all other arterials;
- Schedule traffic counts for October which is generally representative of annual average traffic conditions; and
- Review all readily available traffic count data the City has on file for suitability to this task.

Task Deliverables: Traffic counts and a task memorandum to document the existing conditions of peak hour turns at monitored intersections, and daily and peak hour volumes on selected arterials. The information will be presented in a format that shows existing and allowable vehicle trips for a particular roadway.

The proposed budget for this task is based on 50 two-hour intersection turn counts and 10 two-day tube counts. If the final list of count locations exceeds this estimate, a budget adjustment would be needed by DEA.

### **TASK 4--DEVELOP TRAFFIC MODEL ROAD NETWORK AND ZONES.**

This task will create the computerized traffic model data files to represent the road network and Traffic Analysis Zones (TAZs). VISSIM software will be used for this purpose. Approximately 100 TAZs will be created to cover the remainder of the City not included in the North Gig Harbor area work. Approximately 100 TAZs will also be created for areas external to the City including north Pierce County, south Kitsap County, Tacoma and other Pierce County areas across the Tacoma Narrows. The model will be compatible with the Pierce County traffic model and will account for regional plans outside the City. DEA will:

- Identify significant city arterials, collectors, and local streets in consultation with City staff. The selection of these roads will need to be compatible with known or foreseeable traffic and growth issues that are important to future applications of the model;
- Identify significant arterials in Pierce and Kitsap Counties that generate significant travel interactions with Gig Harbor and provide for compatibility with the Pierce County traffic model;

- Identify the boundaries of up to 100 TAZs in consultation with City staff. These TAZs will accommodate the development of trip generation information in the traffic model for intersection-level travel modeling work. When combined they will match larger TAZs used in Pierce County's and Puget Sound Regional Council's traffic model;
- Develop a shape file of TAZ boundaries based on land parcels in the City's Geographic Information System (GIS) to allow for an efficient exchange of land use information;
- Develop standard coding assumptions for each class and sub-class of roads and intersections used in the traffic model;
- Code the TAZ zone system in VISSIM format;
- Code the road network in VISSIM format;
- Produce VISSIM maps of the key features and attributes of the existing road network and the TAZ boundaries; and
- Meet with City staff up to three times for purposes of identifying needed features and to review and refine the final coding of the network model and zone structure.

Task Deliverables: VISSIM plots and a task memorandum documenting the coding assumptions for links and intersections, and the zone boundaries for TAZs. This memorandum will be incorporated into final model documentation report.

#### **TASK 5---DEVELOP TRIP GENERATION MODEL**

This task creates coding procedures to correlate trip generation information from land use designations and provides for demand-side inputs to the traffic model. The trip generation model will account for travel by direction, for work-commute (nonstop) travel, for work-other-home commute (with stop) travel, for home-based other (local) travel, for home-based other (regional) travel, for park/ride-home commute travel and, for non-home-based travel. DEA will:

- Adapt the trip generation model used in another DEA-maintained traffic model to fit the Gig Harbor traffic model framework in an Excel workbook;
- Develop and enter appropriate zone-specific parameters for each TAZ;
- Establish trip generation rates for unique land uses encountered in the City (marinas and other water-related land uses; correctional institution; other);
- Estimate initial zone-specific scaling factors needed to balance total trip generation inside and outside of the City; and
- Meet with City staff one time to identify needed features.

Task Deliverables: Excel workbook of trip generation methods and unique TAZ parameters, and task memorandum which will be incorporated into final model documentation.

#### **TASK 6---ASSEMBLE LAND USE INVENTORIES**

This task will inventory existing and future land uses for each TAZ that are the basis for trip generation and travel forecasting. DEA understands that this information is being developed for the City by others and will be made available to DEA for the development of the traffic forecasting model. This task provides only for the coordination of data

collection and clarification necessary for DEA to apply the data directly to the traffic model. The information will come with an explanation of the level of detail assumed to be present in the data that was generated for wastewater system forecasting purposes. DEA will add minor refinements to account for details of non-residential land use that are unique to trip generation and not otherwise expected to be found in the data. Overall however the same assumptions as used by the other consultant will be used by DEA at the direction of the City so that baseline development conditions are consistent for forecasting purposes.

DEA expects the following detail to be present in the land use data file:

- Residential dwelling units shall distinguish between single-family and multi-family dwelling units;
- Quasi-residential land uses (nursing homes, assisted living complexes, convalescent care centers, jails and prisons) shall be separately identified;
- Non-residential building areas shall distinguish between retail businesses (includes Post Office), office or service businesses (includes public administration buildings), industrial/manufacturing businesses, schools, churches, and public institutions
- Water-based land uses such as harbor facilities and marinas shall be separately identified; and
- Unique properties such as cemeteries, playgrounds, and parks with activity based on land area rather than building area will be separately identified.

DEA will:

- Obtain an updated GIS land use inventory file from the city containing the build-out assumptions developed by others in terms of dwelling units by type and non-residential building areas by type and other special areas by type;
- Extract for each TAZ the inventory of existing dwelling units and existing non-residential building areas, by type of occupancy or activity;
- Extract for each TAZ the potential future development totals that are provided on the basis of full build-out of all lands, minus set asides for roads, utilities, sensitive areas, etc.;
- Determine, in consultation with City staff, a proportional amount of the build-out forecast to be considered in each TAZ to represent a 20-year forecast for GMA planning purposes; and
- Meet with City staff up to two times to review assumptions, methodology, and results.

Task Deliverables: A task memorandum with maps and tables documenting the methodology and results of the land use inventory for existing baseline conditions, a 20-year constrained forecast for GMA planning purposes, and an unconstrained build-out forecast for ultimate facility needs analysis.

## **TASK 7---CALIBRATE TRAFFIC DISTRIBUTION AND ASSIGNMENT MODEL**

This task will combine the products of all preceding tasks, develop the parameters needed for the traffic model to distribute trips between zones and assign those trips to the road



network. The result of this process is a traffic forecast. The accuracy of this initial forecast will be measured and necessary revisions and refinements will be identified and applied. The process will be iteratively repeated up to three times in coordination with City staff. DEA will:

- Adapt the gravity model distribution parameters from another DEA-maintained traffic model which at this time will be the City of Covington. At the request of the City another model can be used;
- Adapt traffic assignment parameters from another DEA-maintained traffic model;
- Run an assignment process using existing land use, existing trips and existing roads;
- Compare the assignment results to actual counts;
- Compare the differences between modeled and counted volumes to customary national standards recommended by Federal Highway Administration;
- Iteratively revise and refine the parameters and assumptions of each part of the traffic model up to three times; and
- Meet with City staff one time to present the calibration results and verify satisfaction of the traffic model's performance.

Task Deliverables: A task memorandum with maps and tables documenting the methodology of trip distribution and assignment, and the accuracy of the model's final calibration. This memorandum will be incorporated into the final model documentation report.

#### **TASK 8---DELIVER TRAFFIC MODEL AND DOCUMENTATION.**

This task will incorporate and refine the task memoranda of preceding tasks to constitute a traffic model documentation report and provide for delivery of the traffic model files to the City. The City will receive a copy of all model data files needed to run the model, excluding the VISSIM software per se. The City may purchase VISSIM software independently or by amendment of the budget for this project. DEA will:

- Adapt the task memoranda of preceding tasks to form a complete traffic model documentation report;
- Provide the City with the model documentation report in the form of computer files and as a camera-ready original copy;
- Provide the City with all final traffic model computer files developed in this project; and
- Provide one presentation of the traffic model to the City Council with a demonstration of typical traffic model products and uses.

Task Deliverables: Traffic model files and documentation and a demonstration of the model to the City Council.

#### **TASK 9---PREPARE NO-ACTION TRAFFIC GROWTH FORECASTS**

This task will apply the traffic model to forecasts of future traffic conditions based on the current transportation system with no improvements beyond currently committed and funded projects. It will use growth forecasts based on the 20-year GMA growth plan and the ultimate build-out growth plan. Analysis of these forecasts in a future task will identify the deficiencies that would arise due to each level of future growth and point

toward needed improvements. Because of the preliminary and speculative nature of these growth forecasting assumptions, only a simplified planning-level method of analysis will be used to identify major facility deficiencies in terms of lanes of travel. Detailed level of service methods based on intersection operations will be deferred to a future task where actual improvement projects will be defined and justified. DEA will:

- Run the traffic model to produce a 20-year growth forecast on the No-Action road system;
- Run the traffic model to produce a build-out growth forecast on the No-Action road system;
- Perform a simplified planning level analysis to identify major corridor deficiencies arising from the impacts of growth; and
- Meet with City staff one time to present the results of this simplified analysis.

Task Deliverables: A task memorandum with maps and tables documenting the future volumes arising due to growth, and a simplified planning-level assessment of future deficiencies and road improvement needs.

### **LIST OF CITY RESPONSIBILITIES**

The City will:

- Provide DEA with a timely response for all work submitted to the City for review and/or comment;
- Provide copies of any traffic counts in its files for all intersections and road segments citywide, where such counts are less than two years old and believed to represent current traffic conditions;
- Provide DEA with electronic GIS files of existing and future land use data as described in Task 6 or provide an adjustment of scope and budget to address any aspects of Task 6 data needs which are not provided by the City;
- Facilitate direct communications between DEA and the Washington State Department of Transportation and Pierce County for the purposes of traffic model development and coordination;
- Provide descriptions of funded road improvements included in the City's adopted six-year transportation improvement program;

### **REIMBURSABLES**

The City will reimburse DEA for:

- Fees payable to various agencies for copies of legal documents obtained during the research phase of the project;
- Fees for reprographics, postage, and express mailing;
- The cost of any software programs obtained by DEA at the direction of the City (If requested DEA will submit the software to the City at the end of the project);
- Mileage;
- Fees for subconsultant services at a markup rate of 1.1; and
- Traffic count services authorized by the City.

CITY OF GIG HARBOR  
DEVELOPMENT OF A CITYWIDE TRAFFIC FORECASTING MODEL  
EXHIBIT B  
SCHEDULE OF RATES AND ESTIMATED HOURS

	Principal In Charge OA/GC	Project Manager	CADD Technician	Traffic Designer	Sr. Traffic Engineer	Sr. Trans. Planner	Graphic Designer	Accounting Manager	Clerical	Task Costs	Task Sum And Expense
<b>DAVID EVANS AND ASSOCIATES, INC</b>											
3700 PACIFIC AVENUE EAST, SUITE 311											
TACOMA, WA, 97624											
<b>TASK 1—PROJECT MANAGEMENT AND ADMINISTRATION</b>											
Provide project status reports to the City		2									
Prepare and submit invoices		2						4	8		
Provide project management, administration, and professional engineering supervision		16						2	2		
Provide internal OA/GC	6										
<b>Task 1 Total</b>	<b>6</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>10</b>	<b>\$ 4,860.00</b>	<b>\$ 4,860.00</b>
<b>TASK 2—IDENTIFY SIGNIFICANT MODELING ISSUES</b>											
Review traffic issues of importance to modeling with City staff		2									
Review land use and growth issues of importance to modeling with City staff		2									
Account for identified issues in subsequent tasks		2									
Prepare task memo report		1									
<b>Task 2 Total</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ 995.00</b>	<b>\$ 995.00</b>
<b>TASK 3—INVENTORY EXISTING TRAFFIC VOLUMES</b>											
Identify all intersections to be counted for baseline conditions						1					
Identify arterial locations to be counted for baseline conditions						1					
Conduct traffic counts as needed in October (subconsultant)				12		2					
Consider existing count data on file to reduce scope of new counts						2					
Prepare task memo report		1		8		4	4				
<b>Task 3 Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>20</b>	<b>0</b>	<b>10</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>\$ 9,654.00</b>	<b>\$ 9,654.00</b>
<b>TASK 4—DEVELOP TRAFFIC MODEL ROAD NETWORK AND ZONES</b>											
Identify all streets to be included with City staff						1					
Identify external roads in Pierce and Kitsap Counties to be included						1					
Identify boundaries of about 100 small Traffic Analysis Zones (TAZ) in Gig Harbor						6					
Develop SHP File of TAZ boundaries for GIS				10							
Develop standard road coding assumptions						4					
Code TAZ zone system in VISSIM format						10					
Code road network in VISSIM format						20					
Produce VISSIM maps of road network and TAZ boundaries						4					
Meet with City staff up to three times		12									
Prepare task memo report		1		12		24	4				
<b>Task 4 Total</b>	<b>0</b>	<b>15</b>	<b>0</b>	<b>22</b>	<b>0</b>	<b>70</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>\$ 19,976.00</b>	<b>\$ 19,976.00</b>
<b>TASK 5—DEVELOP TRIP GENERATION MODEL</b>											
Adapt trip generation model from elsewhere to Gig Harbor						2					
Develop zone-specific parameters for each Traffic Analysis Zone						6					
Establish trip rates for unique land uses in Gig Harbor						4					
Estimate zone-specific scaling factors to balance internal and external trip generation						12					
Meet with City one time		4									
Prepare task memo report		1		4		4					
<b>Task 5 Total</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>28</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ 4,774.00</b>	<b>\$ 4,774.00</b>
<b>TASK 6—ASSEMBLE LAND USE INVENTORIES</b>											
Obtain City's GIS land use files for buildout assumptions				4							
Extract existing land use data for each TAZ				6		2					
Extract buildout development potential for each TAZ				6		2					
Determine with City staff a proportion of buildout growth to use for 20-year forecasts				6		2					
Meet with City up to two times		8									
Prepare task memo report		1		4		2					
<b>Task 6 Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>26</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ 4,668.00</b>	<b>\$ 4,668.00</b>
<b>TASK 7—CALIBRATE TRAFFIC DISTRIBUTION AND ASSIGNMENT MODEL</b>											
Adapt gravity model distribution parameters from another traffic model						2					
Adapt traffic assignment parameters from another traffic model						2					
Run assignment process for existing conditions						2					
Compare assignment results to actual counts						2					
Compare differences to customary national standards						2					
Iteratively revise parameters and assumptions to obtain satisfactory calibration						16					
Meet with City one time		4									
Prepare task memo report		1		4		8					
<b>Task 7 Total</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>34</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ 6,978.00</b>	<b>\$ 6,978.00</b>
<b>TASK 8—DELIVER TRAFFIC MODEL AND DOCUMENTATION</b>											
Adapt task memoranda to form a complete model documentation report				8		1					
Provide report to City in paper and electronic versions						1					
Provide City with all final computer files						1					
Provide demonstration of traffic model to City Council		4				4					
<b>Task 8 Total</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ 2,178.00</b>	<b>\$ 2,178.00</b>
<b>TASK 9—PREPARE NO-ACTION TRAFFIC GROWTH FORECASTS</b>											
Run traffic model for 20-year growth forecast on No-Action road system						2					
Run traffic model for a buildout growth forecast on No-Action road system						2					
Perform simplified planning-level analysis to identify major corridor deficiencies				8		2					
Meet with City staff one time		4									
Prepare task memo report		1		8		4					
<b>Task 9 Total</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>16</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ 9,416.00</b>	<b>\$ 9,416.00</b>
<b>Total Hours</b>	<b>6</b>	<b>69</b>	<b>0</b>	<b>100</b>	<b>0</b>	<b>167</b>	<b>8</b>	<b>6</b>	<b>10</b>		
<b>Rate</b>	<b>\$ 160.00</b>	<b>\$ 134.00</b>	<b>\$ 80.00</b>	<b>\$ 88.00</b>	<b>\$ 134.00</b>	<b>\$ 134.00</b>	<b>\$ 80.00</b>	<b>\$ 76.00</b>	<b>\$ 65.00</b>		
<b>Direct Labor</b>	<b>900.00</b>	<b>9,246.00</b>	<b>-</b>	<b>8,800.00</b>	<b>-</b>	<b>22,378.00</b>	<b>640.00</b>	<b>460.00</b>	<b>650.00</b>	<b>43,054.00</b>	<b>\$ 43,064.00</b>
<b>SUBCONSULTANT SERVICES</b>											
Traffic Counts for Task 3										\$ 6,000.00	
<b>EXPENSES</b>											
Reproduction, Postage, Express Delivery										\$ 100.00	
Mileage at \$ .485 per mile										\$ 600.00	
Contingency Funds—Extra or out of scope work done at the direction of the City										\$ 1,200.00	
<b>TOTAL PROJECT COST</b>											<b>49,964.00</b>
<b>SUMMARY OF COSTS BY FUNCTION AND RESULTS:</b>											
Management, Expenses, Contingencies (Task 1 and Direct Expenses)											6,580.00
Assemble Baseline Data (Task 3 Counts, Task 6 Land Use, Traffic Counting Expenses)											\$ 13,120.00
Develop and Calibrate Traffic Model (Tasks 2,4,5,7)											\$ 24,668.00
Council Presentation and Application to No-Action Growth Forecasts (Tasks 8,9)											\$ 5,596.00
											49,964.00

C:\Documents and Settings\WhiteakerM.GIG-HARBOR\Local Settings\Temporary Internet Files\OLK16\MODELEXPANSION091805.xls\Sheet1



"THE MARITIME CITY"

**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: DAVID BRERETON**  
**DIRECTOR OF OPERATIONS**  
**SUBJECT: EDDON BOAT NET SHED RE-ROOFING**  
**CONTRACT AUTHORIZATION**  
**DATE: NOVEMBER 14, 2005**

**INTRODUCTION/BACKGROUND**

A directive of the Parks Committee from the October 26, 2005 Eddon Boat public meeting was to proceed with the re-roofing of the Eddon Boat net shed, utilizing surplus funds from the Wheeler Street End Project. Three potential contractors were contacted in accordance with the City's Small Works Roster process (Resolution No. 592). They responded with the following price quotations:

Rooftop Services, LLC	\$ 6,991.80
Contractor's Roof service, Inc.	\$ 9,783.10
Peninsula Roofing	\$11,176.04

Based on the price quotations received, the lowest price quotation was from Rooftop Services, LLC in the amount of Six Thousand Nine Hundred Ninety-one Dollars and Eighty-one Cents (\$6,991.80), including state sales tax.

It is anticipated that the work will be completed within four weeks after the contract is awarded.

**FISCAL CONSIDERATIONS**

This is an unbudgeted objective utilizing existing funds in the Park Department. This expenditure may require a future budget amendment if funds are depleted by the end of the fiscal year.

**RECOMMENDATION**

I recommend that the Council authorize the award and execution of the contract for the Eddon Boat Net Shed Re-roofing to Rooftop Services, LLC as the lowest responsible respondent, for their bid quotation amount of Six Thousand Nine Hundred Ninety-one Dollars and Eighty-one Cents (\$6,991.80).

**AGREEMENT FOR CONSTRUCTION SERVICES  
BETWEEN CITY OF GIG HARBOR AND ROOFTOP SERVICES, LLC.**

THIS AGREEMENT, is made this \_\_\_\_\_ day of November, 2005, by and between the City of Gig Harbor (hereinafter the "City"), and Rooftop services, LLC, a Washington corporation, located and doing business at P.O. box 1034, Gig Harbor, WA 98335, (hereinafter "Contractor").

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

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

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

**I. Description of Work.** The Contractor shall perform all work as described below, which is attached hereto and incorporated herein by this reference, in a workman-like manner according to standard construction practices. The work shall generally include the furnishing of all materials and labor necessary to Replace sheathing and re-roof the Eddon Boat Net shed. The Contractor shall not perform any additional services without the express permission of the City.

**II. Payment.**

A. The City shall pay the Contractor the total sum of Six Thousand Nine Hundred Ninety One Dollars and Eighty Cents(\$6,991.80), including Washington State sales tax, for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for these tasks, and shall not be exceeded without prior written authorization from the City in the form of a negotiated and executed change order.

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

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

representatives and subcontractors during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Contractor performs hereunder.

**IV. Duration of Work.** The City and the Contractor agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement by both parties. The Contractor shall perform all work required by the Agreement on or before December 18, 2005. The indemnification provisions of Section IX shall survive expiration of this Agreement.

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

Before any payment can be made, the Contractor and each subcontractor shall submit a "Statement of Intent to Pay Prevailing Wages" to the City, which has been approved by the State Department of Labor and Industries. Each voucher claim (invoice) submitted by the Contractor for payment of work shall have an "Affidavit of Wages Paid", which states that the prevailing wages have been paid in accordance with the pre-filed "Statement(s) of Intent to Pay Prevailing Wages".

**VI. Waiver of Performance Bond and Retainage: Limited Public Works Process.** As allowed in RCW 39.04.155(3) for limited public works projects, the City has waived the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW for the work described in Exhibit A.

**VII. Termination.**

A. Termination Upon City's Option. The City shall have the option to terminate this Agreement at any time. Termination shall be effective upon five (5) days written notice to the Contractor.

B. Termination for Cause. If the Contractor refuses or fails to complete the tasks described in Exhibit A, to complete such work by the deadline established in Section IV, or to complete such work in a manner satisfactory to the City, then the City may, by written notice to the Contractor, give notice of its intention to terminate this Agreement. On such notice, the Contractor shall have five (5) days to cure to the satisfaction of the City or its representative. If the Contractor fails to cure to the satisfaction of the City, the City shall send the Contractor a written termination letter which shall be effective upon deposit in the United States mail to the Contractor's address as stated below.

C. Excusable Delays. This Agreement shall not be terminated for the Contractor's inability to perform the work due to adverse weather conditions, holidays or mechanical failures which affect routine scheduling of work. The Contractor shall otherwise perform the work at appropriately spaced intervals on an as-needed basis.

D. Rights upon Termination. In the event of termination, the City shall only be responsible to pay for services satisfactorily performed by the Contractor to the effective date of termination, as described in a final invoice to the City.

**VIII. Discrimination.** In the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, the Contractor, its subcontractors or any person acting on behalf of the Contractor shall not, by reason of race, religion, color, sex, national origin or the presence of any sensory, mental, or physical handicap, discriminate against any person who is qualified and available to perform the work to which the employment relates.

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

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

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONTRACTOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

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

**X. Insurance.**

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

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

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

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

- D. The City of Gig Harbor shall be named as an additional insured on the Contractor's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Contractor's insurance policies.
- E. It is the intent of this contract for the Contractor's insurance to be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage in respect to the City. Additionally, the Contractor's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.
- F. The Contractor shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Gig Harbor at least 30-days in advance of any cancellation, suspension or material change in the Contractor's coverage.

The Contractor shall procure and maintain for the duration of this Agreement, comprehensive general liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its employees, agents or subcontractors. The cost of such insurance shall be borne by the Contractor. The Contractor shall maintain limits on such insurance in the above specified amounts: The coverage shall contain no special limitations on the scope of protection afforded the City, its officials, officers, employees, agents, volunteers or representatives.

The Contractor agrees to provide the City with certificates of insurance evidencing the required coverage before the Contractor begins work under this Agreement. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. The City reserves the right to require complete, certified copies of all required insurance policies at all times.

**XI. Entire Agreement.** The written provisions and terms of this Agreement, together with all exhibits attached hereto, all bids specifications and bid documents shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement.

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



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

**XIV. Warranties.** The Contractor hereby warrants that it is fully licensed, bonded and insured to do business in the State of Washington as a general contractor. Rooftop Services, LLC will warranty the labor and installation of materials for a one (1) year warranty period.

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

**XVI. Assignment.** Any assignment of this Agreement by the Contractor without the written consent of the City shall be void.

**XVII. Written Notice.** All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

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

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

If any dispute arises between the City and the Contractor under any of the provisions of this Agreement which cannot be resolved by the City's determination in a reasonable time, or if the Contractor does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be with the Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The prevailing party shall be reimbursed by the other party for its costs, expenses, and reasonable attorney's fees incurred in any litigation arising out of the enforcement of this Agreement.

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

**Rooftop Services, LLC.**

**THE CITY OF GIG HARBOR**

By: [Signature]  
Its Manager

By: \_\_\_\_\_  
Its Mayor

**Notices should be sent to:**

Rooftop Services, LLC P.O. Box 1034 Gig Harbor, WA 98335 Phone: (253) 851-1180 Fax: (253) 858-8348	City of Gig Harbor Attn: David Brereton Director of Operations 3510 Grandview Street Gig Harbor, Washington 98335 (253) 851-6170
--	---

**Approved as to form:**

By: \_\_\_\_\_  
City Attorney

**Attest:**

By: \_\_\_\_\_  
Molly M. Towslee, City Clerk

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ 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 \_\_\_\_\_ of \_\_\_\_\_ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the  
State of Washington,  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF P I E R C E )

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

DATED: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the  
State of Washington,  
Residing at: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_



"THE MARITIME CITY"

**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: STEPHEN MISIURAK, P.E.**  
**CITY ENGINEER**  
**SUBJECT: FRANKLIN AVENUE STORMWATER IMPROVEMENT PROJECT**  
**CONTRACT AUTHORIZATION – SURVEY STAKING**  
**DATE: NOVEMBER 14, 2005**

**INTRODUCTION/BACKGROUND**

A 2005 budgeted Storm Sewer Operating objective provides for the construction of a new curb and gutter and installation of storm drainage pipes. Survey staking is needed to ensure that the contractor performing the work is meeting minimum contract requirements.

After reviewing the Consultant Services Roster, the City contacted the surveying company of PriZm Surveying, Inc. and requested a scope and fee to provide the above services. PriZm was chosen based on their extensive understanding of construction surveying.

**POLICY CONSIDERATIONS**

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

**FISCAL CONSIDERATIONS**

The low bid is within the 2005 budgeted amount of \$100,000.00 for Storm Sewer Objectives 1, 2 and 3.

**RECOMMENDATION**

I recommend that the Council authorize the execution of the Consultant Services Contract with PriZm Surveying, Inc. for survey staking work in the amount not-to-exceed Six Thousand Twenty-five Dollars and no cents (\$6,025.00).

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and PriZm Surveying, Inc., a corporation organized under the laws of the State of Washington, located and doing business at PO Box 110700, Tacoma, Washington 98411 (hereinafter the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in the survey and mapping work for the Franklin Avenue Stormwater Improvement Project and desires that the Consultant perform services necessary to provide the following consultation services.

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Work, dated October 27, 2005 including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Services**, and are incorporated by this reference as if fully set forth herein.

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

**TERMS**

**I. Description of Work**

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

**II. Payment**

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Six Thousand Twenty-Five Dollars and No Cents (\$6,025.00) 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**. 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 February 28, 2006; provided however, that additional time shall be granted by the City for excusable days or extra work.

### **V. Termination**

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

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records

and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise. Except in the situation where the Consultant has been terminated for public convenience, the Consultant shall be liable to the City for any additional costs incurred by the City in the completion of the Scope of Work and Cost referenced as **Exhibit A** and as modified or amended prior to termination. "Additional Costs" shall mean all reasonable costs incurred by the City beyond the maximum contract price specified in Section II(A), above.

## **VI. Discrimination**

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

## **VII. Indemnification**

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

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

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

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



## VIII. Insurance

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

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

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

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

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

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

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

## IX. Exchange of Information

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

#### **X. Ownership and Use of Records and Documents**

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

#### **XI. City's Right of Inspection**

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

#### **XII. Consultant to Maintain Records to Support Independent Contractor Status**

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

#### **XIII. Work Performed at the Consultant's Risk**

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done

at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

#### **XIV. Non-Waiver of Breach**

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

#### **XV. Resolution of Disputes and Governing Law**

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

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

#### **XVI. Written Notice**

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

CONSULTANT  
Dennis J. Pierce, P.L.S.  
PriZm Surveying Inc.  
PO Box 110700  
Tacoma, Washington 98411  
(253) 404-0983

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

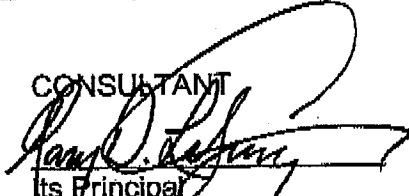
**XVIII. Modification**

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

**XIX. Entire Agreement**

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

By:   
CONSULTANT  
its Principal  
FOR DENNIS PIERCE

Notices to be sent to:  
CONSULTANT  
Dennis J. Pierce, P.L.S.  
PriZm Surveying Inc.  
PO Box 110700  
Tacoma, Washington 98411  
(253) 404-0984

CITY OF GIG HARBOR

By: \_\_\_\_\_  
Mayor

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

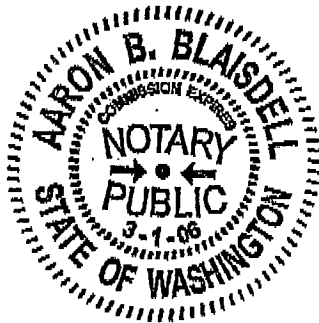
ATTEST:

\_\_\_\_\_  
City Clerk

STATE OF WASHINGTON )  
 )  
COUNTY OF PIERCE ) ss.

I certify that I know or have satisfactory evidence that GARY LEBLING is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the VICE PRESIDENT of PRIZM SURVEYING Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 11/8/2005



A B Blaisdell

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

My Commission expires: 3-1-06

STATE OF WASHINGTON     )  
  ) ss.  
COUNTY OF PIERCE        )

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

Dated: \_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**PRIZM SURVEYING INC.**  
P. O. BOX 110700, TACOMA WASHINGTON, 98411  
PHONE: (253) 404-0983, FAX: (253) 404-0984  
DENNIS J PIERCE PLS, GREG A ZURN, GARY LETZRING PLS

**BID PROPOSAL  
FOR  
FRANKLIN AVENUE STORMWATER IMPROVEMENT**

PRIZM IS PLEASED TO PROVIDE THE FOLLOWING QUOTE FOR THE ABOVE REFERENCED PROJECT. THIS QUOTE IS BASED ON STAKING EACH ITEM ONE TIME ONLY UNLESS OTHERWISE INDICATED.

- \* HORIZONTAL AND VERTICAL CONTROL FOR PROJECT DURATION. THIS CONSISTS OF ESTABLISHING A CONTROL NETWORK THAT WILL BE USED THROUGHOUT THE CONSTRUCTION PROCESS AND WILL EMPLOY BOTH CONVENTIONAL AND GPS PROCEDURES.
- \* LAYOUT CONSTRUCTION/CLEARING LIMITS AND/OR SILT FENCE LOCATIONS.
- \* STAKE AND GRADE PROPOSED STORMWATER CONVEYANCE SYSTEM AND STORM VAULT. (DOUBLE OFFSETS AT ALL STRUCTURES AND OFFSETS AT 25' OUT OF STRUCTURES AND AT MIDPOINT ALONG THE RUNS.)
- \* LAYOUT AND GRADE CONCRETE CURB AND GUTTER. (OFFSET STAKES WILL BE SET AT 3 FEET FROM BACK OF CURB GRADED TO TOP BACK OF CURB, OR AS REQUESTED BY THE CONTRACTOR) AT AREAS OF NO CURBING WE WILL PROVIDE OFFSETS TO THE EDGE OF PAVING.

ESTIMATED COST FOR THE ABOVE ITEMS . . . \$6,025.00

PRIZM HAS TRIED TO INCLUDE ALL ITEMS PERTINATE TO THIS PROJECT, BUT IF ADDITIONAL STAKING OR RESTAKING IS NECESSARY, UNIT PRICES OF \$115.00 FOR A TWO MAN SURVEY CREW AND \$75.00 FOR OFFICE SUPPORT, LICENSED SURVEYOR AND COMPUTER WORK WILL BE APPLIED.

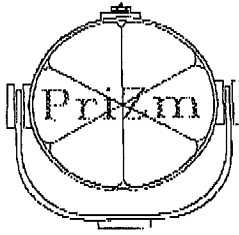
PRIZM CARRIES ERRORS AND OMISSION (\$1,000,000) AND LIABILITY INSURANCE (\$1,000,000). IF ADDITIONAL INSURANCE IS REQUIRED, THE PREMIUMS WILL BE IN ADDITION TO THE ABOVE PRICE. SHOULD YOU DESIRE TO BE NAMED PRIMARY ADDITIONALLY INSURED ADD \$300.00 TO THE ABOVE PRICE.

SINCERELY

\_\_\_\_\_  
AARON B. BLAISDELL  
PRIZM SURVEYING INC.

Exhibit A

10 of 11



**PRIZM  
SURVEYING INC.**

P.O. Box 110700  
Tacoma, WA 98411  
Office: 253-404-0983  
Fax: 253-404-0984

26-Oct-05

**Franklin Ave Stormwater Improvements  
City of Gig Harbor**

TASK	DAYS	HOURS	RATE	TOTAL
<b>FIELDWORK</b>				
INITIAL CONTROL		8	115	920
CLEARING LIMITS		4	115	460
STORM CONVEYANCE		8	115	920
CURB AND GUTTER		8	115	920
<b>OFFICE</b>				
NOTE REDUCTION		2	60	120
CADD DRAFTING		8	60	480
LICENSED LAND SURVEYOR		8	75	600
MEETINGS		6	75	450
SITE VISIT		3	75	225
CREW COORDINATION		3	60	180
CALCULATIONS		8	75	600
CLIENT COORDINATION		0	75	0
COUNTY REPRESENTATION		0	75	0
<b>ADMINISTRATION</b>				
PLOTTING				50
MISC. MATERIALS				100
<b>TOTAL ESTIMATE</b>				<b>6025</b>





"THE MARITIME CITY"

**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: STEPHEN MISIURAK, P.E.**  
**CITY ENGINEER**  
**SUBJECT: GRANDVIEW FOREST TANK "B" REPAINTING PROJECT**  
**CONTRACT AUTHORIZATION - MATERIALS TESTING SERVICES**  
**DATE: NOVEMBER 14, 2005**

**INTRODUCTION/BACKGROUND**

A 2005 budgeted objective includes the repainting of our Grandview Forest Park Tank "B" interior and exterior. On October 10, 2005, Council approved a contract with Long Painting Company in the amount of \$97,018.00. In conjunction with the painting contract, we also need to retain the services of a materials testing laboratory.

After reviewing the Consultant Services Roster, the City contacted the testing laboratory firm of Krazan and Associates, Inc. and requested a scope and fee to provide the above services. Krazan and Associates was chosen based on their extensive understanding of geotechnical engineering, their willingness to accommodate a tight schedule and their excellent work on past projects with the City.

The scope includes measurement of the post-sandblasted substrate surface and dry film coating thickness measurements, and an environmental geologist to obtain water samples for VOC and coliform analysis during one site visit.

**POLICY CONSIDERATIONS**

Krazan and Associates, Inc. are able to meet all of the City's standard insurance provisions for professional services contracts.

**FISCAL CONSIDERATIONS**

The contract amount is within the 2005 budgeted amount of Objectives Nos. 1 and 2 in the Water Operating fund. While the painting contract exceeded the allocated budget of \$75,000 (Objective No. 2), sufficient funds existed within the water operating fund to fund the painting contract and this testing contract. The Rushmore Water Main Replacement Project realized a net contract savings of \$186,258 (Objective No. 1) which can be credited towards the tank repainting project.

**RECOMMENDATION**

I recommend that the Council authorize the execution of the Consultant Services Contract with Krazan and Associates, Inc. for materials testing services work in the amount not to exceed Four Thousand Six Hundred Eighty Dollars (\$4,680.00).

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

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Krazan and Associates, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 20714 State Hwy. 305 NE, Suite 3C, Poulsbo, Washington 98370 (hereinafter the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in the construction of the Grandview Forest Park Tank "B" Repainting Project and desires that the Consultant perform materials testing 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 November 3, 2005 including any addenda thereto as of the effective date of this agreement, all of which are attached hereto as **Exhibit A – Scope of Work and Cost**, and are incorporated by this reference as if fully set forth herein.

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

**TERMS**

**I. Description of Work**

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

**II. Payment**

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Four thousand two hundred ninety-five dollars and zero cents (\$4,680.00) 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 A**. The Consultant shall not bill for Consultant's staff not identified or

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

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

### III. Relationship of Parties

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

### IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by June 30, 2006; provided however, that additional time shall be granted by the City for excusable days or extra work.

### V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in **Exhibit A**. If delivered to consultant in person, termination shall be

effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

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

## **VI. Discrimination**

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

## **VII. Indemnification**

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

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

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

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

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

### **VIII. Insurance**

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

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

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

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

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

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

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

### **IX. Exchange of Information**

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

### **X. Ownership and Use of Records and Documents**

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

### **XI. City's Right of Inspection**

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

## **XII. Consultant to Maintain Records to Support Independent Contractor Status**

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

## **XIII. Work Performed at the Consultant's Risk**

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

## **XIV. Non-Waiver of Breach**

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

## **XV. Resolution of Disputes and Governing Law**

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

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

## **XVI. Written Notice**

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

CONSULTANT  
Jonathan Baas  
Project Manager  
20714 State Hwy. 305 NE, Suite 3C  
Poulsbo, Washington 98370  
(360) 598-2126

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

## **XVII. Assignment**

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

## **XVIII. Modification**

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

## **XIX. Entire Agreement**

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



CONSULTANT  
Jonathan Baas  
Project Manager  
20714 State Hwy. 305 NE, Suite 3C  
Poulsbo, Washington 98370  
(360) 598-2126

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

**XVII. Assignment**

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

**XVIII. Modification**

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

**XIX. Entire Agreement**

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

By: \_\_\_\_\_  
CONSULTANT  
Its Principal

By: \_\_\_\_\_  
CITY OF GIG HARBOR  
Mayor

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
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 \_\_\_\_\_ of  
\_\_\_\_\_ Inc., to be the free and voluntary act of such party for  
the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_

(print or type name)

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

\_\_\_\_\_

My Commission expires: \_\_\_\_\_

STATE OF WASHINGTON                    )  
  ) ss.  
COUNTY OF PIERCE                    )

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

Dated: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(print or type name)

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

\_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**ANTICIPATED SERVICES**

DESCRIPTION	UNIT	RATES		AMOUNT
Steel Tank Substrate Inspection (4 visits)	18	\$65.00	hr.	\$1,170.00
Coating Thickness Inspection (6 visits)	26	\$65.00	hr.	\$1,690.00
Mileage	1000	\$0.40	ea.	\$400.00
Dry Film Thickness Gauge	6	\$65.00	day	\$390.00
Report Prep.	2	\$40.00	hr.	\$80.00
Project Management	6	\$60.00	hr.	\$360.00
Senior Environmental Geologist	4	\$85.00	hr.	\$340.00
VOC Analysis (EPA 624/8240/8260)	1	\$250.00	ea.	\$250.00
Total Coliform (SM 9221 or 9222)	1	\$55.00	ea.	\$55.00
<b>TOTAL ESTIMATED PROJECT BUDGET:</b>				<b>\$4,680.00</b>

**Scope of services:**

Inspection services for this project will include: Measurement of the post-sandblasted substrate surface for compliance to project specifications. Dry film coating thickness measurements will be conducted upon completion of each layer of coating. Environmental geologist to obtain water samples for VOC and coliform analysis during one site visit. A final letter will be prepared presenting our findings and delivered to the City within one (1) week of the final inspection. Daily reports can be faxed or mailed to the owner weekly or daily, if requested

**NOTES:** This cost estimate is based on the scope of work and assumptions outlined in our proposal number P05-191P dated 11/03/05 which are inclusive, by reference. A four-hour minimum portal-to-portal charge applies to each steel inspection. Costs for construction testing and inspection services are highly dependent on contractors schedule; weather, overlapping of work and other factors. Therefore, the quantities listed in our cost estimate should be considered approximate. Krazan & Associates, Inc. does not control the work, staffing, or production rate. Therefore the estimate provided above does not imply a lump sum fee, not-to-exceed fee or guaranteed maximum price. Regular time charges are Monday through Friday, from 7 a.m. to 3:30 p.m. Other arrangements available upon pre-approval. Time and one-half charges will be rendered on weekdays for services extending beyond regular time, 8-12 hours of total service that day. Saturday services are available at time and one-half charges. Services rendered on Holidays, Sunday, in excess of 8 hours on Saturday, or in excess of 12 hours on weekdays, will be charged at double the normal rate. This cost estimate does not include overtime, retests, or change in the condition or schedule. The standard turn around time for proctor/sieve analyses will be (3) business days from the time the soil sample is delivered to our lab. This offer terminates ninety calendar days from the date of the issue, unless otherwise stated and agreed.



"THE MARITIME CITY"

**COMMUNITY DEVELOPMENT DEPARTMENT**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: DAVID BRERETON**  
**DIRECTOR OF OPERATIONS**  
**SUBJECT: SKANSIE BROTHERS PARK**  
**AQUATIC LEASE AGREEMENT**  
**DATE: NOVEMBER 14, 2005**

**INTRODUCTION/BACKGROUND**

The City of Gig Harbor has submitted an application to lease state-owned aquatic lands for the public use from Washington State Department of Natural Resources (DNR) adjacent to the Skansie Brothers Park. Under RCW 79.94.070 and WAC 332-30-122, the City has the preference right to lease the abutting state-owned first class tidelands. On April 11, 2005 Council authorized a contract for PriZm Surveying, Inc. to provide a record survey of the new lease area as required in the application.

The City Attorney has reviewed the DNR lease and recommends not signing the lease. Attached are her comments along with comments provided by Wynnae Wright, Aquatics Land Manager for your review.

**POLICY CONSIDERATIONS**

None.

**FISCAL CONSIDERATIONS**

This project was not anticipated in the adopted 2005 Budget, however no additional funds are required.

**RECOMMENDATION**

I recommend that the Council authorize the execution of the Aquatic Lease Agreement.

# Memorandum

**To:** John Vodopich, Gig Harbor Community Development Director  
**From:** Carol Morris, City Attorney  
**Date:** 10/21/2005  
**Re:** DNR Aquatic Lease No. 22-077216

---

John, here are my comments on the above-referenced lease.

1. Background, p. 1: "Tenant desires to lease the aquatic lands commonly known as Gig Harbor, which are tidelands and a harbor area located in Pierce County." This description is so broad as to be unintelligible. Is there some reason DNR can't use words like "Jerisich Park Open Water Area" (which appears in Exhibit B), instead of leasing "Gig Harbor" to the City of Gig Harbor?

2. Section 2.2, Restrictions on Use, p. 2. As you are probably aware, this lease has not been drafted to cover the situation where a city leases an open water area for the benefit of the public. As the section is written (which ties into Section 8 and the indemnification provision there), the City would be liable to the State for actions of any individual member of the public who deposits garbage, toxic waste or hazardous substances in the open water leased area. The City would also be liable to the State for any of these actions that affect nearby property owned by the State.

Under the indemnification provision in Section 8, the City is required to pay for the costs of clean up, remediation, penalties, fines, lawsuits, attorneys' fees, etc., arising from the actions of a member of the public in dumping hazardous waste in the water. Essentially, Section 2.2 and Section 8 impose unlimited liability on the City for actions that the City cannot control (a member of the public dumping hazardous substances in the water at night for example). (Keep in mind that this lease also allows the State to grant easements to others over or under the same area as the City's lease area, as long as the State decides that the easement will not unreasonably interfere with the City's permitted use. (Section 1.1.) As a result, there could be others with easement rights who the City cannot control, and these people may deposit hazardous substances in the water during the term of the City's lease -- the City would be responsible for this easement holder's activities.)

These sections make sense in a lease to a private party who has more control over the manner in which the property is used. However, it is my understanding that the City will not have any park employee on the property to supervise use of the open water area, and it is not reasonable under these circumstances.

3. Section 4, 5 and 6 are not applicable to the City's lease of the open water area and are totally unnecessary.

4. Section 8.3 is the State's admission that there may be hazardous substances on the property. The State "disclaims any and all responsibility to conduct investigations to . . . supply any information to" the City regarding the existence of hazardous substances on the property. The property is being

leased to the City "as is." The City is required under the lease to indemnify the State from all damages, costs, clean up costs, penalties, fines, etc., associated with a deposit of hazardous substances in the open water area, if such deposit is caused by the City, "its subtenants, contractors, agents, employees, guests, invitees, or affiliates." In other words, the property could be contaminated now, and the question is whether any one could tell whether the contamination took place during the City's lease or before. If it is discovered during the term of the City's lease, the City would have to pay all of these cleanup costs, penalties, fines, etc. In addition, the City is required to cover all of these costs, damages, penalties, fines, attorneys' fees, etc., regardless of who performed the illegal activity.

5. Section 10.1: Same comment as above. This is a vacant open water area. The State can't prevent someone from dumping hazardous substances in the water any more than the City can. However, this lease requires the City to indemnify the State for actions of a member of the public – shifting the liability from the offender to the City.

6. Section 10.2: This section requires that the Tenant post a bond and is not applicable to the City.

In summary, I cannot recommend that the Council sign this lease due to the broad indemnification provisions. Under this lease, the City would have unlimited liability for activities of members of the public or others with permission by the State to enter the leased area. I understand that the City Council may weigh the risks associated with the lease and decide to authorize the Mayor to execute it regardless of this opinion. If you have any questions, please let me know.



**RECEIVED**

NOV 08 2005

CITY OF GIG HARBOR  
OPERATIONS & ENGINEERING

November 4, 2005

Dave Brereton  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, Washington 98335

SUBJECT: Response to Aquatic Lease Comments

Dear Mr. Brereton,

Thank you for forwarding me Carol Morris' comments on the State's aquatic lease document so that the Department had a chance to defend the document before the issue was taken to the council. Below you will find Ms. Morris' comments followed by the Departments responses in **blue**.

As we all know, Gig Harbor's harbor area is filling fast; it is in the best interest of the State and the City to provide public access to the waterfront for the citizens along this crowded shoreline. The bottom line is the City has already signed this document for the Jerisich Park Dock (#22-002801) so the Council should not refuse to sign this one for the adjacent open water area.

Please let me know if you need further clarification on anything. I can be reached at 206-909-1304 or voicemail at 360-802-7070 ext.2008.

Sincerely,

Wynnae Wright, Aquatics Land Manager  
Shoreline District Aquatics Region

Enclosure

c: Region File  
Aquatic Resources File

ORIGINALS FILE  
C: DAVE

gj/22077216OfficialResponse



Carol Morris' comments on the State aquatic lease document, followed by the Departments responses in blue.

1. Background, p. 1: "Tenant desires to lease the aquatic lands commonly known as Gig Harbor, which are tidelands and a harbor area located in Pierce County." This description is so broad as to be unintelligible. Is there some reason DNR can't use words like "Jerisich Park Open Water Area" (which appears in Exhibit B), instead of leasing "Gig Harbor" to the City of Gig Harbor?

**The terms used in Background refer to the aquatic lands themselves, not the use. Gig Harbor is the common name of the water body the lease is located in. Tidelands and harbor area are the type of aquatic lands being leased and are defined by statute, RCW 79.105.060 (formerly 79.90.030) and 79.115.010 respectively. The Exhibit B further defines the Lease and that is why the "description of the property and facility" section refers to the leasehold area by the use the City has assigned to it: "Jerisich Park Open Water Area". At the end of the lease the lands will always be tidelands and harbor area in Gig Harbor, but they may no longer be used as the Jerisich park open water area.**

2. Section 2.2, Restrictions on Use, p. 2. As you are probably aware, this lease has not been drafted to cover the situation where a city leases an open water area for the benefit of the public.

**The lease offered is the current lease the State uses for all leases on State owned aquatic lands be it commercial, private or City, County or State park. The State does not negotiate leases on a case-by-case basis our leases are standardized so that all tenants are treated as equally as possible.**

**\* Please also note that the City has signed leases with the State for the Jerisich park dock (#22-002801) and the City's outfall (#20-010230), which contain the same terms and conditions.**

As the section is written (which ties into Section 8 and the indemnification provision there), the City would be liable to the State for actions of any individual member of the public who deposits garbage, toxic waste or hazardous substances in the open water leased area. The City would also be liable to the State for any of these actions that affect nearby property owned by the State.

**See note below**

Under the indemnification provision in Section 8, the City is required to pay for the costs of clean up, remediation, penalties, fines, lawsuits, attorneys' fees, etc., arising from the actions of a member of the public in dumping hazardous waste in the water.

**See note below**

Essentially, Section 2.2 and Section 8 impose unlimited liability on the City for actions that the City cannot control (a member of the public dumping hazardous substances in the water at night for example).

Section 8 of the DNR lease document simply spells out what State (MTCA) and Federal (CERCLA) law already impose.

The Department will not be the agency determining potentially responsible parties (PRP) for any contamination clean-up. Tenant is expected to practice due diligence, as required by state and federal law, by reporting to DNR and Ecology any contamination issues. If a clean up were triggered the lead agency (Ecology or EPA) would determine PRP's based upon an investigation of past and present uses on this and adjacent properties. The City, as a lessee of the property, with a permitted use of public access, is at little risk for being held responsible for contamination issues.

The DNR would not take on a cleanup of materials spilled or released from nearby (adjacent to or outside) the lease area. Typically Ecology spill responders would respond according to the severity of the event, implementing containment and characterization as necessary to prevent further damage and then initiate a cleanup response. If the event required an immediate response, the spill response group would continue to oversee the cleanup, otherwise the site would be referred to the normal cleanup process. Under that scenario, Ecology would rank the site according to severity and, in turn, initiate identification of liable parties and negotiate the formal cleanup. (The formal cleanup route under MTCA and Sediment Management Standards (SMS) protects the participating parties from suits for contribution to cleanup costs incurred at the site by other persons and facilitates their contribution claims against other parties that are responsible for part of the cleanup costs.) If a voluntary cleanup were to occur by DNR, a lessee or a 3rd party, these also would have to answer to MTCA and SMS.

(Keep in mind that this lease also allows the State to grant easements to others over or under the same area as the City's lease area, as long as the State decides that the easement will not unreasonably interfere with the City's permitted use. (Section 1.1.) As a result, there could be others with easement rights who the City cannot control, and these people may deposit hazardous substances in the water during the term of the City's lease -- the City would be responsible for this easement holder's activities.)

The State's easement agreements have the same terms and conditions as the lease agreements. The easement holder would be responsible for their activities and any damage arising from said activities, not the City.

These sections make sense in a lease to a private party who has more control over the manner in which the property is used. However, it is my understanding that the City will not have any park employee on the property to supervise use of the open water area, and it is not reasonable under these circumstances.

Again, this lease contains the same terms and conditions as the Jerisich Dock lease (#22-002801) that was signed by the City. There is no park employee supervising the public dock either.

3. Section 4, 5 and 6 are not applicable to the City's lease of the open water area and are totally unnecessary.

**Because this is a boilerplate document there are sections of the lease that will not apply to all tenants.**

**You are correct that section 4 "Rent" and 6 "Late Payments and Other Charges" does not apply to the City's use of the leasehold for public use and access so long as they comply with WAC 332-30-131.**

**Section 5 "Other Expenses" does apply because the City is required to pay utilities. At this time the City does not pay taxes on the property, but over the course of this lease laws may change so these sections need to remain to spell out the City's responsibilities.**

4. Section 8.3 is the State's admission that there may be hazardous substances on the property. The State "disclaims any and all responsibility to conduct investigations to . . . supply any information to" the City regarding the existence of hazardous substances on the property. The property is being leased to the City "as is." The City is required under the lease to indemnify the State from all damages, costs, clean up costs, penalties, fines, etc., associated with a deposit of hazardous substances in the open water area, if such deposit is caused by the City, "its subtenants, contractors, agents, employees, guests, invitees, or affiliates." In other words, the property could be contaminated now, and the question is whether any one could tell whether the contamination took place during the City's lease or before. If it is discovered during the term of the City's lease, the City would have to pay all of these cleanup costs, penalties, fines, etc. In addition, the City is required to cover all of these costs, damages, penalties, fines, attorneys' fees, etc., regardless of who performed the illegal activity.

**The State will accept a sediment sampling report from the City if they choose to have one completed. This sediment sampling report will be used as a baseline survey, showing what condition the property was in at the start of the lease. At the end of the lease the City would then be responsible for completing a close-out sampling of the property. If contamination was found that exceeded Department of Ecology standards, then a clean-up would be triggered as described in my response to #2 above.**

**Please note that in the event that a clean-up was triggered Ecology would still determine responsible parties based on past uses of the site; it is unlikely that the City's use of "public use and access" would be responsible.**

5. Section 10.1: Same comment as above. This is a vacant open water area. The State can't prevent someone from dumping hazardous substances in the water any more than the City can. However, this lease requires the City to indemnify the State for actions of a member of the public – shifting the liability from the offender to the City.

**Not true, the liability is not shifted from the offender to the City. If the City practices due diligence as required by State and Federal law, by reporting spills, the City has done its part. Ecology would then step in to sort out liability as stated in previous responses above.**

6. Section 10.2: This section requires that the Tenant post a bond and is not applicable to the City.

**State law, RCW 79.115.100 (formerly 79.92.060), requires that all harbor area leases furnish a minimum security of at least five hundred dollars. The Jerisich park dock lease (#22-002801) was also required to carry the security and the City did so with a savings account assignment drawn on Key Bank.**

In summary, I cannot recommend that the Council sign this lease due to the broad indemnification provisions. Under this lease, the City would have unlimited liability for activities of members of the public or others with permission by the State to enter the leased area. I understand that the City Council may weigh the risks associated with the lease and decide to authorize the Mayor to execute it regardless of this opinion. If you have any questions, please let me know.

**In summary, the City has signed two previous leases with the Department of Natural Resources; the Jerisich Park dock lease is the same lease as the one offered for the open water area. I see no reason why the Council should refuse to recommend this lease for signature.**

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
DOUG SUTHERLAND, Commissioner of Public Lands**

**AQUATIC LANDS LEASE  
(Commercial)**

**TABLE OF CONTENTS**

<b>SECTION</b>	<b>PAGE</b>
BACKGROUND .....	1
1. PROPERTY .....	1
1.1 Property Defined.....	1
1.2 Survey, Maps, and Plans.....	1
1.3 Inspection.....	1
2. USE .....	2
2.1 Permitted Use .....	2
2.2 Restrictions on Use.....	2
2.3 Conformance with Laws.....	2
2.4 Liens and Encumbrances .....	2
3. TERM .....	2
3.1 Term Defined.....	2
3.2 Renewal of the Lease.....	2
3.3 Delay in Delivery of Possession.....	3
3.4 End of Term.....	3
3.5 Hold Over.....	3
4. RENT .....	3
4.1 Annual Rent.....	3
4.2 Payment Place.....	3
4.3 Adjustment Based on Use.....	3
4.4 Rent Adjustments for Water-Dependent Uses.....	4
4.5 Rent Adjustment Procedures .....	4

5.	OTHER EXPENSES .....	4
5.1	Utilities .....	5
5.2	Taxes and Assessments .....	5
5.3	Right to Contest.....	5
5.4	Proof of Payment.....	5
5.5	Failure to Pay.....	5
6.	LATE PAYMENTS AND OTHER CHARGES .....	5
6.1	Late Charge.....	5
6.2	Interest Penalty for Past Due Rent and Other Sums Owed .....	5
6.3	No Accord and Satisfaction.....	5
6.4	No Counterclaim, Setoff, or Abatement of Rent. ....	6
7.	IMPROVEMENTS.....	6
7.1	Existing Improvements.....	6
7.2	Tenant-Owned Improvements .....	6
7.3	Construction.....	6
7.4	Removal.....	6
7.5	Unauthorized Improvements .....	7
8.	ENVIRONMENTAL LIABILITY/RISK ALLOCATION .....	7
8.1	Definition.....	7
8.2	Use of Hazardous Substances.....	7
8.3	Current Conditions, Duty of Utmost Care, and Duty to Investigate .....	7
8.4	Notification and Reporting .....	8
8.5	Indemnification.....	9
8.6	Cleanup.....	10
8.7	Sampling by State, Reimbursement, and Split Samples.....	10
8.8	Reservation of Rights.....	11
9.	ASSIGNMENT AND SUBLETTING .....	12
9.1	State Consent Required .....	12
9.2	Event of Assignment .....	12
9.3	Rent Payments Following Assignment.....	12
9.4	Terms of Subleases.....	12
9.5	Routine Subleasing of Moorage Slips .....	13
10.	INDEMNITY, FINANCIAL SECURITY, INSURANCE.....	13
10.1	Indemnity .....	13
10.2	Financial Security.....	14
10.3	Insurance .....	14
10.4	State's Acquisition of Insurance .....	16
10.5	Self-Insurance.....	17
11.	MAINTENANCE AND REPAIR .....	17
11.1	State's Repairs .....	17
11.2	Tenant's Repairs, Alteration, Maintenance and Replacement.....	17
12.	DAMAGE OR DESTRUCTION.....	17
13.1	Definitions.....	18
13.2	Effect of Taking .....	18

13.3	Allocation of Award.....	19
14.	DEFAULT AND REMEDIES.....	19
15.	ENTRY BY STATE .....	20
16.	DISCLAIMER OF QUIET ENJOYMENT .....	20
17.	NOTICE .....	20
18.	MISCELLANEOUS .....	21
18.1	Authority .....	21
18.2	Successors and Assigns .....	21
18.3	Headings.....	21
18.4	Entire Agreement .....	21
18.5	Waiver .....	21
18.6	Cumulative Remedies .....	21
18.7	Time is of the Essence.....	21
18.8	Language .....	21
18.9	Invalidity .....	22
18.10	Applicable Law and Venue .....	22
18.11	Recordation .....	22
18.12	Modification.....	22

EXHIBIT A: LEGAL DESCRIPTION AND SURVEY

EXHIBIT B: PLAN OF OPERATIONS AND MAINTENANCE

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
DOUG SUTHERLAND, Commissioner of Public Lands**

**AQUATIC LANDS LEASE  
(Commercial)**

**AQUATIC LANDS LEASE NO. 22-077216**

THIS LEASE is made by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and the CITY OF GIG HARBOR a government agency/entity, ("Tenant").

**BACKGROUND**

Tenant desires to lease the aquatic lands commonly known as Gig Harbor, which are tidelands and a harbor area located in Pierce County, Washington, from State, and State desires to lease the property to Tenant pursuant to the terms and conditions of this Lease.

THEREFORE, the parties agree as follows:

**SECTION 1 PROPERTY**

**1.1 Property Defined.** State leases to Tenant and Tenant leases from State the real property described in Exhibit A together with all the rights of State, if any, to improvements on and easements benefiting the Property, but subject to the exceptions and restrictions set forth in this Lease (collectively the "Property"). This Lease is subject to all valid interests of third parties noted in the records of Pierce County, or on file in the office of the Commissioner of Public Lands, Olympia, Washington; rights of the public under the Public Trust Doctrine or federal navigation servitude; and treaty rights of Indian Tribes. Not included in this Lease are any right to harvest, collect or damage any natural resource, including aquatic life or living plants, any water rights, or any mineral rights, including any right to excavate or withdraw sand, gravel, or other valuable materials. State reserves the right to grant easements and other land uses on the Property to others when the easement or other land uses will not unreasonably interfere with Tenant's Permitted Use.

**1.2 Survey, Maps, and Plans.** In executing this Lease, State is relying on the surveys, plats, diagrams, and/or legal descriptions provided by Tenant. Tenant is not relying upon and State is not making any representations about any survey, plat, diagram, and/or legal description provided by State.

**1.3 Inspection.** State makes no representation regarding the condition of the Property, improvements located on the Property, the suitability of the Property for Tenant's Permitted Use, compliance with governmental laws and regulations, availability of utility rights, access to the Property or the existence of hazardous substances on the Property. Tenant has inspected the Property and accepts it "AS IS."



## SECTION 2 USE

**2.1 Permitted Use.** Tenant shall use the Property for public access and recreation (the "Permitted Use"), and for no other purpose. The Permitted Use is described or shown in greater detail in Exhibit B, the terms and conditions of which are incorporated by reference and made a part of this Lease. The parties agree that this is a water-dependent use.

**2.2 Restrictions on Use.** Tenant shall not cause or permit any damage to natural resources on the Property. Tenant shall also not cause or permit any filling activity to occur on the Property. This prohibition includes any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter in or on the Property, except as approved in writing by State. Tenant shall neither commit nor allow waste to be committed to or on the Property. If Tenant fails to comply with all or any of the restrictions on the use of the Property set out in this Subsection 2.2, State shall notify Tenant and provide Tenant a reasonable time to take all steps necessary to remedy the failure. If Tenant fails to do so in a timely manner, then State may take any steps reasonably necessary to remedy this failure. Upon demand by State, Tenant shall pay all costs of such remedial action, including but not limited to the costs of removing and disposing of any material deposited improperly on the Property. This section shall not in any way limit Tenant's liability under Section 8, below.

The prohibitions in this section against damage to natural resources, filling, deposition of any unapproved materials, and waste, shall also apply to protect state-owned aquatic lands adjacent to the Property from any of Tenant's activities related to Tenant's occupation of the Property. All obligations imposed by this section on Tenant to cure any violation of the prohibited activities in this section shall also extend to state-owned aquatic lands adjacent to the Property when the violation arose from Tenant's activities related to Tenant's occupation of the Property.

**2.3 Conformance with Laws.** Tenant shall, at all times, keep current and comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding its use or occupancy of the Property.

**2.4 Liens and Encumbrances.** Tenant shall keep the Property free and clear of any liens and encumbrances arising out of or relating to its use or occupancy of the Property.

## SECTION 3 TERM

**3.1 Term Defined.** The term of this Lease is thirty (30) years (the "Term"), beginning on the 1<sup>st</sup> day of October, 2005 (the "Commencement Date"), and ending on the 30<sup>th</sup> day of September, 2035 (the "Termination Date"), unless terminated sooner under the terms of this Lease.

**3.2 Renewal of the Lease.** Tenant shall have the option to renew this Lease for zero (0) terms of N/A years each. The initial Term of this Lease, and all renewal terms, shall not exceed thirty (30) years in the aggregate. Tenant shall exercise this option by providing written notice of its election to renew at least ninety (90) days prior to the Termination Date of the initial Term

or any renewal term of this Lease. Tenant shall not be entitled to renew if it is in default under the terms of this Lease at the time the option to renew is exercised. The terms and conditions of any renewal term shall be the same as set forth in this Lease, except that rent shall be recalculated, the required amounts of financial security may be revised, and provisions dealing with hazardous waste or impacts to natural resources may be changed at the time of the renewal.

**3.3 Delay in Delivery of Possession.** If State, for any reason whatsoever, cannot deliver possession of the Property to Tenant on the Commencement Date, this Lease shall not be void or voidable, nor shall State be liable to Tenant for any loss or damage resulting from the delay in delivery of possession. In such event, the date of delivery of possession shall be the Commencement Date for all purposes, including the payment of rent. In the event Tenant takes possession before the Commencement Date, the date of possession shall be the Commencement Date for all purposes, including the payment of rent. If the Lease Term commences earlier or later than the scheduled Commencement Date, the Termination Date shall be adjusted accordingly.

**3.4 End of Term.** Upon the expiration or termination of the Term or extended term, as applicable, Tenant shall surrender the Property to State in the same or better condition as on the Commencement Date, reasonable wear and tear excepted.

**3.5 Hold Over.** If Tenant remains in possession of the Property after the Termination Date, the occupancy shall not be an extension or renewal of the Term. The occupancy shall be a month-to-month tenancy, on terms identical to the terms of this Lease, which may be terminated by either party on thirty (30) days written notice. The monthly rent during the holdover shall be the same rent which would be due if the Lease were still in effect and all adjustments in rent were made in accordance with its terms. If State provides a notice to vacate the Property in anticipation of the termination of this Lease or at any time after the Termination Date and Tenant fails to do so within the time set forth in the notice, then Tenant shall be a trespasser and shall owe the State all amounts due under RCW 79.01.760 or other applicable law.

## SECTION 4 RENT

**4.1 Annual Rent.** Until adjusted as set forth below, Tenant shall pay to State an annual rent of Zero Dollars (\$0) related to the water-dependent use. The annual rent, as it currently exists or as adjusted or modified (the "Annual Rent"), shall be due and payable in full on or before the Commencement Date and on or before the same date of each year thereafter.

**4.2 Payment Place.** Payment is to be made to Financial Management Division, 1111 Washington St SE, PO Box 47041, Olympia, WA 98504-7041.

**4.3 Adjustment Based on Use.** Annual Rent is based on Tenant's Permitted Use of the Property, as described in Section 2 above. If Tenant's Permitted Use changes, the Annual Rent shall be adjusted as appropriate for the changed use.

#### **4.4 Rent Adjustments for Water-Dependent Uses.**

- (a) Inflation Adjustment. State shall adjust water-dependent rent annually pursuant to RCW 79.90.450 -902, except in those years in which the rent is revalued under Subsection 4.4(b) below. This adjustment shall be effective on the anniversary of the Commencement Date.
- (b) Revaluation of Rent. State shall, at the end of the first four-year period of the Term, and at the end of each subsequent four-year period, revalue the water-dependent Annual Rent in accordance with RCW 79.90.450-.902.
- (c) Rent Cap. After the initial year's rent is determined under Subsection 4.1, rent may increase by operation of Subsection 4.4(a) or 4.4(b). If application of the statutory rent formula for water-dependent uses would result in an increase in the rent attributable to such uses of more than fifty percent (50%) in any one year, the actual increase implemented in such year shall be limited to fifty percent (50%) of the then-existing rent, in accordance with RCW 79.90.490. The balance of the increase determined by the formula shall be deferred to subsequent years and added to the next and subsequent years' rental increases until the full amount of the increase is lawfully implemented.

#### **4.5 Rent Adjustment Procedures.**

- (a) Notice of Rent Adjustment.  
Notice of any adjustments to the Annual Rent that are allowed by Subsection 4.4(b) shall be provided to Tenant in writing no later than ninety (90) days after the anniversary date of the Lease.
- (b) Procedures on Failure to make Timely Adjustment.  
In the event the State fails to provide the notice required in Subsection 4.5(a), it shall be prohibited from collecting any adjustments to rent only for the year in which it failed to provide notice. No failure by State to adjust Annual Rent pursuant to Subsection 4.5(a) shall affect the State's right to establish Annual Rent for a subsequent lease year as if the missed or waived adjustment had been implemented. The State may adjust, bill, and collect Annual Rent prospectively as if any missed or waived adjustments had actually been implemented. This includes the implementation of any inflation adjustment and any rent revaluations that would have been authorized for previous lease years.

### **SECTION 5 OTHER EXPENSES**

During the Term, Tenant shall pay the following additional expenses:

**5.1 Utilities.** Tenant shall pay all fees charged for utilities in connection with the use and occupancy of the Property, including but not limited to electricity, water, gas, and telephone service.

**5.2 Taxes and Assessments.** Tenant shall pay all taxes (including leasehold excise taxes), assessments, and other governmental charges, of any kind whatsoever, applicable or attributable to the Property, Tenant's leasehold interest, the improvements, or Tenant's use and enjoyment of the Property.

**5.3 Right to Contest.** Tenant may, in good faith, contest any tax or assessment at its sole cost and expense. At the request of State, Tenant shall furnish reasonable protection in the form of a bond or other security, satisfactory to State, against any loss or liability by reason of such contest.

**5.4 Proof of Payment.** Tenant shall, if required by State, furnish to State receipts or other appropriate evidence establishing the payment of any amounts required to be paid under the terms of this Lease.

**5.5 Failure to Pay.** If Tenant fails to pay any of the amounts due under this Lease, State may pay the amount due, and recover its cost in accordance with the provisions of Section 6.

## **SECTION 6 LATE PAYMENTS AND OTHER CHARGES**

**6.1 Late Charge.** If any rental payment is not received by State within ten (10) days of the date due, Tenant shall pay to State a late charge equal to four percent (4%) of the amount of the payment or Fifty Dollars (\$50), whichever is greater, to defray the overhead expenses of State incident to the delay.

**6.2 Interest Penalty for Past Due Rent and Other Sums Owed.** If rent is not paid within thirty (30) days of the date due, then Tenant shall, in addition to paying the late charges determined under Subsection 6.1, above, pay interest on the amount outstanding at the rate of one percent (1%) per month until paid. If State pays or advances any amounts for or on behalf of Tenant, including but not limited to leasehold taxes, taxes, assessments, insurance premiums, costs of removal and disposal of unauthorized materials pursuant to Section 2 above, costs of removal and disposal of improvements pursuant to Section 7 below, or other amounts not paid when due, Tenant shall reimburse State for the amount paid or advanced and shall pay interest on that amount at the rate of one percent (1%) per month from the date State notifies Tenant of the payment or advance.

**6.3 No Accord and Satisfaction.** If Tenant pays, or State otherwise receives, an amount less than the full amount then due, State may apply such payment as it elects. In the absence of an election, the payment or receipt shall be applied first to accrued taxes which State has advanced or may be obligated to pay, then to other amounts advanced by State, then to late charges and accrued interest, and then to the earliest rent due. State may accept any payment in any amount without prejudice to State's right to recover the balance of the rent or pursue any other right or

remedy. No endorsement or statement on any check, any payment, or any letter accompanying any check or payment shall constitute or be construed as accord and satisfaction.

**6.4 No Counterclaim, Setoff, or Abatement of Rent.** Except as expressly set forth elsewhere in this Lease, rent and all other sums payable by Tenant pursuant to this Lease shall be paid without the requirement that State provide prior notice or demand, and shall not be subject to any counterclaim, setoff, deduction, defense or abatement.

## SECTION 7 IMPROVEMENTS

**7.1 Existing Improvements.** On the Commencement Date, the following improvements are located on the Property: three (3) creosote pile, and a portion of a historic netshed ("Existing Improvements"). The improvements are not owned by State

**7.2 Tenant-Owned Improvements.** So long as this Lease remains in effect, Tenant shall retain ownership of all Existing Improvements, and all authorized improvements and trade fixtures it may place on the Property (collectively "Tenant-Owned Improvements"). Tenant-Owned Improvements shall not include any construction, reconstruction, alteration, or addition to any Unauthorized Improvements as defined in Subsection 7.5 below. No Tenant-Owned Improvements shall be placed on the Property without State's prior written consent.

**7.3 Construction.** Prior to any construction, alteration, replacement, removal or major repair of any improvements (whether State-Owned or Tenant-Owned), Tenant shall submit to State plans and specifications which describe the proposed activity. Construction shall not commence until State has approved those plans and specifications in writing and Tenant has obtained a performance and payment bond in an amount equal to 125% of the estimated cost of construction. The performance and payment bond shall be maintained until the costs of construction, including all laborers and material persons, have been paid in full. State shall have sixty (60) days in which to review the proposed plans and specifications. The plans and specifications shall be deemed approved and the requirement for State's written consent shall be treated as waived, unless State notifies Tenant otherwise within the sixty (60) days. Upon completion of construction, Tenant shall promptly provide State with as-built plans and specifications. State's consent and approval shall not be required for any routine maintenance or repair of improvements made by the Tenant pursuant to its obligation to maintain the Property in good order and repair that does not result in the construction, alteration, replacement, removal, or major repair of any improvements on the Property.

**7.4 Removal.** Tenant-Owned Improvements shall be removed by Tenant by the Termination Date unless State notifies Tenant that the Tenant-Owned Improvements may remain. If the State elects for the Tenant-Owned Improvements to remain on the Property after the Termination Date, they shall become the property of State without payment by State (if the provisions of RCW 79.94.320 or RCW 79.95.040 apply, Tenant shall be entitled to the rights provided in the statute). To the extent that Tenant-Owned Improvements include items of personal property which may be removed from the leasehold premises without harming the Property, or diminishing the value of the Property or the improvements, the State asserts no ownership

interest in these improvements unless the parties agree otherwise in writing upon termination of this Lease. Any Tenant-Owned Improvements specifically identified as personal property in Exhibit A or B shall be treated in accordance with this provision. Tenant shall notify State at least one hundred eighty (180) days before the Termination Date if it intends to leave the Tenant-Owned Improvements on the Property. State shall then have ninety (90) days in which to notify Tenant that it wishes to have the Tenant-Owned Improvements removed or elects to have them remain. Failure to notify Tenant shall be deemed an election by State that the Tenant-Owned Improvements will remain on the Property. If the Tenant-Owned Improvements remain on the Property after the Termination Date without State's actual or deemed consent, they still will become the property of the State but the State may remove them and Tenant shall pay the costs of removal and disposal upon State's demand.

**7.5 Unauthorized Improvements.** Improvements made on the Property without State's prior consent pursuant to Subsection 7.3 or which are not in conformance with the plans submitted to and approved by State ("Unauthorized Improvements") shall immediately become the property of State, unless State elects otherwise. Regardless of ownership of Unauthorized Improvements, State may, at its option, require Tenant to sever, remove, and dispose of them, charge Tenant rent for the use of them, or both. If Tenant fails to remove an Unauthorized Improvement upon request, State may remove it and charge Tenant for the cost of removal and disposal.

## SECTION 8 ENVIRONMENTAL LIABILITY/RISK ALLOCATION

**8.1 Definition.** "Hazardous Substance" means any substance which now or in the future becomes regulated or defined under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination or cleanup, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, and Washington's Model Toxics Control Act ("MTCA"), RCW 70.105D.010 *et seq.*

**8.2 Use of Hazardous Substances.** Tenant covenants and agrees that Hazardous Substances will not be used, stored, generated, processed, transported, handled, released, or disposed of in, on, under, or above the Property, except in accordance with all applicable laws.

**8.3 Current Conditions, Duty of Utmost Care, and Duty to Investigate.**

- (a) State makes no representation about the condition of the Property. Hazardous Substances may exist in, on, under, or above the Property. With regard to any Hazardous Substances that may exist in, on, under, or above the Property, State disclaims any and all responsibility to conduct investigations, to review any State records, documents or files, or to obtain or supply any information to Tenant.
- (b) Tenant shall exercise the utmost care with respect to both Hazardous Substances in, on, under, or above the Property as of the Commencement Date, and any Hazardous Substances that come to be located in, on, under, or above the Property

during the Term of this agreement, along with the foreseeable acts or omissions of third parties affecting those Hazardous Substances, and the foreseeable consequences of those acts or omissions. The obligation to exercise utmost care under this Subsection 8.3 includes, but is not limited to, the following requirements:

- (1) Tenant shall not undertake activities that will cause, contribute to, or exacerbate contamination of the Property;
  - (2) Tenant shall not undertake activities that damage or interfere with the operation of remedial or restoration activities on the Property or undertake activities that result in human or environmental exposure to contaminated sediments on the Property;
  - (3) Tenant shall not undertake any activities that result in the mechanical or chemical disturbance of on-site habitat mitigation;
  - (4) If requested, Tenant shall allow reasonable access to the Property by employees and authorized agents of the Environmental Protection Agency, the Washington State Department of Ecology, or other similar environmental agencies; and
  - (5) If requested, Tenant shall allow reasonable access to potentially liable or responsible parties who are the subject of an order or consent decree which requires access to the Property. Tenant's obligation to provide access to potentially liable or responsible parties may be conditioned upon the negotiation of an access agreement with such parties, provided that such agreement shall not be unreasonably withheld.
- (c) It shall be Tenant's obligation to gather sufficient information concerning the Property and the existence, scope, and location of any Hazardous Substances on the Property, or adjoining the Property, that allows Tenant to effectively meet its obligations under this lease.

#### **8.4 Notification and Reporting.**

- (a) Tenant shall immediately notify State if Tenant becomes aware of any of the following:
- (1) A release or threatened release of Hazardous Substances in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property;
  - (2) Any problem or liability related to, or derived from, the presence of any Hazardous Substance in, on, under, or above the Property, any adjoining

property, or any other property subject to use by Tenant in conjunction with its use of the Property;

- (3) Any actual or alleged violation of any federal, state, or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances with respect to the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property;
  - (4) Any lien or action with respect to any of the foregoing; or,
  - (5) Any notification from the US Environmental Protection Agency (EPA) or the Washington State Department of Ecology (DOE) that remediation or removal of Hazardous Substances is or may be required at the Property.
- (b) Upon request, Tenant shall provide State with copies of any and all reports, studies, or audits which pertain to environmental issues or concerns associated with the Property, and which were prepared for Tenant and submitted to any federal, state or local authorities pursuant to any federal, state or local permit, license or law. These permits include, but are not limited to, any National Pollution Discharge and Elimination System Permit, any Army Corps of Engineers permit, any State Hydraulics permit, any State Water Quality certification, or any Substantial Development permit.

#### **8.5 Indemnification.**

- (a) Tenant shall fully indemnify, defend, and hold State harmless from and against any and all claims, demands, damages, natural resource damages, response costs, remedial costs, cleanup costs, losses, liens, liabilities, penalties, fines, lawsuits, other proceedings, costs, and expenses (including attorneys' fees and disbursements), that arise out of, or are in any way related to:
- (1) The use, storage, generation, processing, transportation, handling, or disposal of any Hazardous Substance by Tenant, its subtenants, contractors, agents, employees, guests, invitees, or affiliates in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, during the Term of this Lease or during any time when Tenant occupies or occupied the Property or any such other property;
  - (2) The release or threatened release of any Hazardous Substance, or the exacerbation of any Hazardous Substance contamination, in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, which release, threatened release, or exacerbation occurs or occurred during the Term of



this Lease or during any time when Tenant occupies or occupied the Property or any such other property, and as a result of:

- (i) Any act or omission of Tenant, its subtenants, contractors, agents, employees, guests, invitees, or affiliates; or,
  - (ii) Any foreseeable act or omission of a third party unless Tenant exercised the utmost care with respect to the foreseeable acts or omissions of the third party and the foreseeable consequences of those acts or omissions.
- (b) In addition to the indemnifications provided in Subsection 8.5(a), Tenant shall fully indemnify State for any and all damages, liabilities, costs or expenses (including attorneys' fees and disbursements) that arise out of or are in any way related to Tenant's breach of the obligations of Subsection 8.3(b). This obligation is not intended to duplicate the indemnity provided in Subsection 8.5(a) and applies only to damages, liabilities, costs, or expenses that are associated with a breach of Subsection 8.3(b) and which are not characterized as a release, threatened release, or exacerbation of Hazardous Substances.

**8.6 Cleanup.** If a release of Hazardous Substances occurs in, on, under, or above the Property, or other State-owned property, arising out of any action, inaction, or event described or referred to in Subsection 8.5, above, Tenant shall, at its sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances. Cleanup actions shall include, without limitation, removal, containment and remedial actions and shall be performed in accordance with all applicable laws, rules, ordinances, and permits. Tenant's obligation to undertake a cleanup under this Subsection 8.6 shall be limited to those instances where the Hazardous Substances exist in amounts that exceed the threshold limits of any applicable regulatory cleanup standards. Tenant shall also be solely responsible for all cleanup, administrative, and enforcement costs of governmental agencies, including natural resource damage claims, arising out of any action, inaction, or event described or referred to in Subsection 8.5, above. Tenant may undertake a cleanup pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that: (1) Any cleanup plans shall be submitted to State (DNR) for review and comment at least thirty (30) days prior to implementation (except in emergency situations), and (2) Tenant must not be in breach of this lease. Nothing in the operation of this provision shall be construed as an agreement by State that the voluntary cleanup complies with any laws or with the provisions of this Lease.

**8.7 Sampling by State, Reimbursement, and Split Samples.**

- (a) State may conduct sampling, tests, audits, surveys, or investigations ("Tests") of the Property at any time to determine the existence, scope, or effects of Hazardous Substances on the Property, any adjoining property, any other property subject to use by Tenant in conjunction with its use of the Property, or any natural resources. If such Tests, along with any other information, demonstrates the existence,

release, or threatened release of Hazardous Substances arising out of any action, inaction, or event described or referred to in Subsection 8.5, above, Tenant shall promptly reimburse State for all costs associated with such Tests.

- (b) State's ability to seek reimbursement for any Tests under this Subsection shall be conditioned upon State providing Tenant written notice of its intent to conduct any Tests at least thirty (30) calendar days prior to undertaking such Tests, unless such Tests are performed in response to an emergency situation in which case State shall only be required to give such notice as is reasonably practical.
- (c) Tenant shall be entitled to obtain split samples of any Test samples obtained by State, but only if Tenant provides State with written notice requesting such samples within twenty (20) calendar days of the date Tenant is deemed to have received notice of State's intent to conduct any non-emergency Tests. The additional cost, if any, of split samples shall be borne solely by Tenant. Any additional costs State incurs by virtue of Tenant's split sampling shall be reimbursed to State within thirty (30) calendar days after a bill with documentation for such costs is sent to Tenant.
- (d) Within thirty (30) calendar days of a written request (unless otherwise required pursuant to Subsection 8.4(b), above), either party to this Lease shall provide the other party with validated final data, quality assurance/quality control information, and chain of custody information, associated with any Tests of the Property performed by or on behalf of State or Tenant. There is no obligation to provide any analytical summaries or expert opinion work product.

**8.8 Reservation of Rights.** The parties have agreed to allocate certain environmental risks, liabilities, and responsibilities by the terms of Section 8. With respect to those environmental liabilities covered by the indemnification provisions of Subsection 8.5, that subsection shall exclusively govern the allocation of those liabilities. With respect to any environmental risks, liabilities, or responsibilities not covered by Subsection 8.5, the parties expressly reserve and do not waive or relinquish any rights, claims, immunities, causes of action, or defenses relating to the presence, release, or threatened release of Hazardous Substances in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, that either party may have against the other under federal, state, or local laws, including but not limited to, CERCLA, MTCA, and the common law. No right, claim, immunity, or defense either party may have against third parties is affected by this Lease and the parties expressly reserve all such rights, claims, immunities, and defenses. The allocations of risks, liabilities, and responsibilities set forth above do not release either party from, or affect either party's liability for, claims or actions by federal, state, or local regulatory agencies concerning Hazardous Substances.

## SECTION 9 ASSIGNMENT AND SUBLETTING

**9.1 State Consent Required.** Tenant shall not sell, convey, mortgage, assign, pledge, sublet, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or the Property without State's prior written consent, which shall not be unreasonably conditioned or withheld.

- (a) In determining whether to consent, State may consider, among other items, the proposed transferee's financial condition, business reputation and experience, the nature of the proposed transferee's business, the then-current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a tenant of the Property. Tenant shall submit information regarding any proposed transferee to State at least thirty (30) days prior to the date of the proposed transfer.
- (b) State reserves the right to condition its consent upon: (1) changes in the terms and conditions of this Lease, including the Annual Rent and other terms; and/or (2) the agreement of Tenant or transferee to conduct Tests for Hazardous Substances on the Property or on other property owned or occupied by Tenant or the transferee.
- (c) Each permitted transferee shall assume all obligations under this Lease, including the payment of rent. No assignment, sublet, or transfer shall release, discharge, or otherwise affect the liability of Tenant.

**9.2 Event of Assignment.** If Tenant is a corporation, a dissolution of the corporation or a transfer (by one or more transactions) of a majority of the voting stock of Tenant shall be deemed to be an assignment of this Lease. If Tenant is a partnership, a dissolution of the partnership or a transfer (by one or more transactions) of the controlling interest in Tenant shall be deemed an assignment of this Lease.

**9.3 Rent Payments Following Assignment.** The acceptance by State of the payment of rent following an assignment or other transfer shall not constitute consent to any assignment or transfer.

**9.4 Terms of Subleases.** All subleases shall be submitted to State for approval and shall meet the following requirements:

- (a) The sublease shall be consistent with and subject to all the terms and conditions of this Lease;
- (b) The sublease shall confirm that if the terms of the sublease conflict with the terms of this Lease, this Lease shall control;

- (c) The term of the sublease (including any period of time covered by a renewal option) shall end before the Termination Date of the initial Term or any renewal term;
- (d) The sublease shall terminate if this Lease terminates, whether upon expiration of the Term, failure to exercise an option to renew, cancellation by State, surrender or for any other reason;
- (e) The subtenant shall receive and acknowledge receipt of a copy of this Lease;
- (f) The sublease shall prohibit the prepayment to Tenant by the subtenant of more than one month's rent;
- (g) The sublease shall identify the rental amount to be paid to Tenant by the subtenant;
- (h) The sublease shall confirm that there is no privity of contract between the subtenant and State;
- (i) The sublease shall require removal of the subtenant's improvements and trade fixtures upon termination of the sublease; and,
- (j) The subtenant's permitted use shall be within the Permitted Use authorized by this Lease.

**9.5 Routine Subleasing of Moorage Slips.** In the case of routine subleasing of moorage slips to recreational and commercial vessel owners for a term of one year or less, Tenant shall not be required to obtain State's written consent or approval pursuant to Subsection 9.1 or Subsection 9.4. Tenant shall be obligated to ensure that these moorage agreements conform to the sublease requirements in Subsection 9.4.

## **SECTION 10 INDEMNITY, FINANCIAL SECURITY, INSURANCE**

**10.1 Indemnity.** Tenant shall indemnify, defend, and hold harmless State, its employees, officers, and agents from any and all liability, damages (including bodily injury, personal injury and damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs, fees (including attorneys' fees), penalties, or judgments, of any nature whatsoever, arising out of the use, occupation, or control of the Property by Tenant, its subtenants, invitees, agents, employees, licensees, or permittees, except as may arise solely out of the willful or negligent act of State or State's elected officials, employees, or agents. To the extent that RCW 4.24.115 applies, Tenant shall not be required to indemnify, defend, and hold State harmless from State's sole or concurrent negligence. Tenant's liability to State for hazardous substances, and its obligation to indemnify, defend, and hold the State harmless for hazardous substances, shall be governed exclusively by Section 8.

## 10.2 Financial Security.

- (a) At its own expense, Tenant shall procure and maintain a corporate surety bond or provide other financial security satisfactory to State (the "Bond") in an amount equal to Five Hundred Dollars (\$500.00), which shall secure Tenant's full performance of its obligations under this Lease, with the exception of the obligations under Section 8 (Environmental Liability/Risk Allocation) above. The Bond shall be in a form and issued by a surety company acceptable to State. State may require an adjustment in the amount of the Bond:
- (1) At the same time as revaluation of the Annual Rent;
  - (2) As a condition of approval of assignment or sublease of this Lease;
  - (3) Upon a material change in the condition of any improvements; or,
  - (4) Upon a change in the Permitted Use.

A new or modified Bond shall be delivered to State within thirty (30) days after adjustment of the amount of the Bond has been required by State.

- (b) Upon any default by Tenant in its obligations under this Lease, State may collect on the Bond to offset the liability of Tenant to State. Collection on the Bond shall not relieve Tenant of liability, shall not limit any of State's other remedies, and shall not reinstate or cure the default or prevent termination of the Lease because of the default.

**10.3 Insurance.** At its own expense, Tenant shall procure and maintain during the Term of this Lease, the insurance coverages and limits described in Subsections 10.3(a) and (b) below. This insurance shall be issued by an insurance company or companies admitted and licensed by the Insurance Commissioner to do business in the State of Washington. Insurers must have a rating of B+ or better by "Best's Insurance Reports," or a comparable rating by another rating company acceptable to State. If non-admitted or non-rated carriers are used, the policies must comply with Chapter 48.15 RCW.

- (a) Types of Required Insurance.
- (1) **Commercial General Liability Insurance.** Tenant shall procure and maintain Commercial General Liability insurance and, if applicable, Marina Operators Legal Liability insurance covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of Tenant's operations. If necessary, commercial umbrella insurance covering claims for these risks shall be procured and maintained. Insurance must include liability coverage with limits not less than those specified below:

Description	
Each Occurrence	\$1,000,000
General Aggregate Limit	\$2,000,000

State may impose changes in the limits of liability:

- (i) As a condition of approval of assignment or sublease of this Lease;
- (ii) Upon any breach of Section 8, above;
- (iii) Upon a material change in the condition of the Property or any improvements; or,
- (iv) Upon a change in the Permitted Use.

New or modified insurance coverage shall be in place within thirty (30) days after changes in the limits of liability are required by State.

(2) Property Insurance. Tenant shall procure and maintain property insurance covering all real property located on or constituting a part of the Property in an amount equal to the replacement value of all improvements on the Property. Such insurance may have commercially reasonable deductibles.

(3) Worker's Compensation/Employer's Liability Insurance. Tenant shall procure and maintain:

- (i) State of Washington Worker's Compensation coverage, as applicable, with respect to any work by Tenant's employees on or about the Property and on any improvements;
- (ii) Employers Liability or "Stop Gap" insurance coverage with limits not less than those specified below. Insurance must include bodily injury coverage with limits not less than those specified below:

Each Employee	Policy Limit	
<u>By Accident</u>	<u>By Disease</u>	<u>By Disease</u>
\$1,000,000	\$1,000,000	\$1,000,000

(iii) Longshore and Harbor Worker's Act and Jones Act coverage, as applicable, with respect to any work by Tenant's employees on or about the Property and on any improvements.

(4) Builder's Risk Insurance. As applicable, Tenant shall procure and maintain builder's risk insurance in an amount reasonably satisfactory to State during construction, replacement, or material alteration of the Property or improvements on the Property. Coverage shall be in place until such work is completed and evidence of completion is provided to State.

- (5) Business Auto Policy Insurance. As applicable, Tenant shall procure and maintain a business auto policy. The insurance must include liability coverage with limits not less than those specified below:

<u>Description</u>	<u>Each Accident</u>
Bodily Injury and Property Damage	\$1,000,000

- (b) Terms of Insurance. The policies required under Subsection 10.3 shall name the State of Washington, Department of Natural Resources as an additional insured (except for State of Washington Worker's Compensation coverage, and Federal Jones' Act and Longshore and Harbor Worker's Act coverages). Furthermore, all policies of insurance described in Subsection 10.3 shall meet the following requirements:
- (1) Policies shall be written as primary policies not contributing with and not in excess of coverage that State may carry;
  - (2) Policies shall expressly provide that such insurance may not be canceled or nonrenewed with respect to State except upon forty-five (45) days prior written notice from the insurance company to State;
  - (3) To the extent of State's insurable interest, property coverage shall expressly provide that all proceeds shall be paid jointly to State and Tenant;
  - (4) All liability policies must provide coverage on an occurrence basis; and
  - (5) Liability policies shall not include exclusions for cross liability.
- (c) Proof of Insurance. Tenant shall furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to the State accompanied by a checklist of coverages provided by State, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements described in section 10, and, if requested, copies of policies to State. The Certificate of Insurance shall reference the State of Washington, Department of Natural Resources and the lease number. Receipt of such certificates or policies by State does not constitute approval by State of the terms of such policies. Tenant acknowledges that the coverage requirements set forth herein are the minimum limits of insurance the Tenant must purchase to enter into this agreement. These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these limits of coverage does not relieve the Tenant from liability for losses and settlement expenses greater than these amounts.

**10.4 State's Acquisition of Insurance.** If Tenant fails to procure and maintain the insurance described above within fifteen (15) days after Tenant receives a notice to comply from State,

State shall have the right to procure and maintain comparable substitute insurance and to pay the premiums. Tenant shall pay to State upon demand the full amount paid by State, together with interest at the rate provided in Subsection 6.2 from the date of State's notice of the expenditure until Tenant's repayment.

**10.5 Self-Insurance.** Tenant warrants that it has the capacity to self insure for the risks and coverages specified in Subsection 10.3. Tenant's obligations under Subsection 10.3 may be met by providing evidence of self-insurance that is acceptable to the State. Any evidence of Tenant's proof of self insurance by State must be obtained in writing. The decision to accept, or reject, Tenant's proof of self-insurance is within the sole discretion of State. Tenant must provide State with proof of continuing ability to provide self-insurance within thirty (30) days of any written request by State for such proof. Tenant shall also provide State with written notice within seven (7) days of any material change in it ability to self insure, or to its program of self-insurance. If Tenant elects to discontinue its program of self-insurance, or if State provides written notice withdrawing its acceptance of Tenant's proof of self-insurance, Tenant shall be subject to the requirements of Subsections 10.3 and 10.4. Tenant shall be in compliance with the requirements of Subsection 10.2 prior to exercising an election to terminate self-insurance coverage and shall comply with those requirements within thirty (30) days of receipt of any notice from State withdrawing its consent to self-insurance.

## **SECTION 11 MAINTENANCE AND REPAIR**

**11.1 State's Repairs.** State shall not be required to make any alterations, maintenance, replacements, or repairs in, on, or about the Property, or any part thereof, during the Term.

**11.2 Tenant's Repairs, Alteration, Maintenance and Replacement.**

- (a) Tenant shall, at its sole cost and expense, keep and maintain the Property and all improvements (regardless of ownership) in good order and repair, in a clean, attractive, and safe condition.
- (b) Tenant shall, at its sole cost and expense, make any and all additions, repairs, alterations, maintenance, replacements, or changes to the Property or to any improvements on the Property which may be required by any public authority.
- (c) All additions, repairs, alterations, replacements or changes to the Property and to any improvements on the Property shall be made in accordance with, and ownership shall be governed by, Section 7, above.

## **SECTION 12 DAMAGE OR DESTRUCTION**

- (a) In the event of any damage to or destruction of the Property or any improvements, Tenant shall promptly give written notice to State. Unless otherwise agreed in writing, Tenant shall promptly reconstruct, repair, or replace the Property and any improvements as nearly as possible to its condition immediately prior to the damage or destruction.



- (b) Tenant's duty to reconstruct, repair, or replace any damage or destruction of the Property or any improvements on the Property shall not be conditioned upon the availability of any insurance proceeds to Tenant from which the cost of repairs may be paid.
- (c) Unless this Lease is terminated by mutual agreement, there shall be no abatement or reduction in rent during such reconstruction, repair, and replacement.
- (d) Any insurance proceeds payable by reason of damage or destruction shall be first used to restore the real property covered by this Lease, then to pay the cost of the reconstruction, then to pay the State any sums in arrears, and then to Tenant.
- (e) In the event Tenant is in default under the terms of this Lease at the time damage or destruction occurs, State may elect to terminate the Lease and State shall then have the right to retain any and all insurance proceeds payable as a result of the damage or destruction.

## SECTION 13 CONDEMNATION

### 13.1 Definitions.

- (a) **Taking.** The term "taking," as used in this Lease, means the taking of all or any portion of the Property and any improvements thereon under the power of eminent domain, either by judgment or settlement in lieu of judgment. Taking also means the taking of all or a portion of the Property and any improvements thereon to the extent that the Permitted Use is prevented or, in the judgment of State, the Property is rendered impractical for the Permitted Use. A total taking occurs when the entire Property is taken. A partial taking occurs when the taking does not constitute a total taking as defined above.
- (b) **Voluntary Conveyance.** The terms "total taking" and "partial taking" shall include a voluntary conveyance, in lieu of formal court proceedings, to any agency, authority, public utility, person, or corporate entity empowered to condemn property.
- (c) **Date of Taking.** The term "date of taking" shall mean the date upon which title to the Property or a portion of the Property passes to and vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor.

**13.2 Effect of Taking.** If during the Term there shall be a total taking, the leasehold estate of Tenant in the Property shall terminate as of the date of taking. If this Lease is terminated, in whole or in part, all rentals and other charges payable by Tenant to State and attributable to the Property taken shall be paid by Tenant up to the date of taking. If Tenant has pre-paid rent, Tenant will be entitled to a refund of the pro rata share of the pre-paid rent attributable to the period after the date of taking. In the event of a partial taking, there shall be a partial abatement of rent from the date of taking in a percentage equal to the percentage of Property taken.

**13.3 Allocation of Award.** State and Tenant agree that in the event of any condemnation, the award shall be allocated between State and Tenant based upon the ratio of the fair market value of Tenant's leasehold estate and Tenant-Owned Improvements on the Property and State's interest (a) in the Property, (b) in the reversionary interest in Tenant-Owned Improvements, and (c) in State-Owned Improvements. In the event of a partial taking, this ratio will be computed on the basis of the portion of Property or improvements taken. If Tenant and State are unable to agree on the allocation, it shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association.

#### **SECTION 14 DEFAULT AND REMEDIES**

- (a) Tenant shall be in default of this Lease on the occurrence of any of the following:
  - (1) Failure to pay Annual Rent or other expenses when due;
  - (2) Failure to comply with any law, regulation, policy, or order of any lawful governmental authority;
  - (3) Failure to comply with any other provision of this Lease;
  - (4) Two or more defaults over a period of time, or a single serious default, that demonstrates a reasonable likelihood of future defaults in the absence of corrective action by Tenant; or
  - (5) Proceedings are commenced by or against Tenant under any bankruptcy act or for the appointment of a trustee or receiver of Tenants' property.
- (b) A default shall become an event of default ("Event of Default") if Tenant fails to cure the default within sixty (60) days after State provides Tenant with written notice of default, which specifies the nature of the default.
- (c) Upon an Event of Default, State may terminate this Lease and remove Tenant by summary proceedings or otherwise. State may also, without terminating this Lease, relet the Property on any terms and conditions as State in its sole discretion may decide are appropriate. If State elects to relet, rent received by it shall be applied: (1) to the payment of any indebtedness other than rent due from Tenant to State; (2) to the payment of any cost of such reletting; (3) to the payment of the cost of any alterations and repairs to the Property; and, (4) to the payment of rent and leasehold excise tax due and unpaid under this Lease. Any balance shall be held by State and applied to Tenant's future rent as it becomes due. Tenant shall be responsible for any deficiency created by the reletting during any month and shall pay the deficiency monthly. State's reentry or repossession of the Property under this subsection shall not be construed as an election to terminate this Lease or cause a forfeiture of rents or other charges to be paid during the balance of the Term, unless State gives a written notice of termination to Tenant or termination

is decreed by legal proceedings. State may at any time after reletting elect to terminate this Lease for the previous Event of Default.

#### **SECTION 15 ENTRY BY STATE**

State shall have the right to enter the Property at any reasonable hour to inspect for compliance with the terms of this Lease.

#### **SECTION 16 DISCLAIMER OF QUIET ENJOYMENT**

As indicated in Section 1.1, this Lease is subject to all valid recorded interests of third parties, as well as rights of the public under the Public Trust Doctrine or federal navigation servitude, and treaty rights of Indian Tribes. State believes that its grant of the Lease is consistent with the Public Trust Doctrine and that none of the identified interests of third parties will materially and adversely affect Tenant's right of possession and use of the Property as set forth herein, but makes no guaranty or warranty to that effect. Tenant and State expressly agree that Tenant shall be responsible for determining the extent of its right to possession and for defending its leasehold interest. Consequently, State expressly disclaims and Tenant expressly releases State from any claim for breach of any implied covenant of quiet enjoyment with respect to the possession of the Property. This disclaimer includes, but is not limited to, interference arising from or in connection with access or other use rights of adjacent property owners or the public over the water surface or in or under the water column, including rights under the Public Trust Doctrine; rights held by Indian Tribes; and the general power and authority of State and the United States with respect to aquatic lands, navigable waters, bedlands, tidelands, and shorelands. In the event Tenant is evicted from the Property by reason of successful assertion of any of these rights, this Lease shall terminate as of the date of the eviction. In the event of a partial eviction, Tenant's rent obligations shall abate as of the date of the partial eviction, in direct proportion to the extent of the eviction, but in all other respects, this Lease shall remain in full force and effect.

#### **SECTION 17 NOTICE**

Any notices required or permitted under this Lease may be personally delivered, delivered by facsimile machine, or mailed by certified mail, return receipt requested, to the following addresses or to such other places as the parties may direct in writing from time to time:

State: DEPARTMENT OF NATURAL RESOURCES  
Shoreline District Aquatics Region  
950 Farman Avenue North  
Enumclaw, WA 98022-9282

Tenant: CITY OF GIG HARBOR  
3510 Grandview Street  
Gig Harbor, WA 98335

A notice shall be deemed given and delivered upon personal delivery, upon receipt of a confirmation report if delivered by facsimile machine, or three (3) days after being mailed as set forth above, whichever is applicable.

## SECTION 18 MISCELLANEOUS

**18.1 Authority.** Tenant and the person or persons executing this Lease on behalf of Tenant represent that Tenant is qualified to do business in the State of Washington, that Tenant has full right and authority to enter into this Lease, and that each and every person signing on behalf of Tenant is authorized to do so. Upon State's request, Tenant will provide evidence satisfactory to State confirming these representations. This Lease is entered into by State pursuant to the authority granted it in Chapters 79.90 to 79.96 RCW and the Constitution of the State of Washington.

**18.2 Successors and Assigns.** This Lease shall be binding upon and inure to the benefit of the parties, their successors and assigns.

**18.3 Headings.** The headings used in this Lease are for convenience only and in no way define, limit, or extend the scope of this Lease or the intent of any provision.

**18.4 Entire Agreement.** This Lease, including the exhibits and addenda, if any, contains the entire agreement of the parties. All prior and contemporaneous agreements, promises, representations, and statements relating to this transaction or to the Property, if any, are merged into this Lease.

**18.5 Waiver.** The waiver by State of any breach or default of any term, covenant, or condition of this Lease shall not be deemed to be a waiver of such term, covenant, or condition; of any subsequent breach or default of the same; or of any other term, covenant, or condition of this Lease. State's acceptance of a rental payment shall not be construed to be a waiver of any preceding or existing breach other than the failure to pay the particular rental payment that was accepted.

**18.6 Cumulative Remedies.** The rights and remedies of State under this Lease are cumulative and in addition to all other rights and remedies afforded to State by law or equity or otherwise.

**18.7 Time is of the Essence.** TIME IS OF THE ESSENCE as to each and every provision of this Lease.

**18.8 Language.** The word "Tenant" as used in this Lease shall be applicable to one or more persons, as the case may be. The singular shall include the plural, and the neuter shall include the masculine and feminine. If there is more than one Tenant, their obligations shall be joint and several. The word "persons," whenever used, shall include individuals, firms, associations, and corporations.

**18.9 Invalidity.** If any provision of this Lease shall prove to be invalid, void, or illegal, it shall in no way affect, impair, or invalidate any other provision of this Lease.

**18.10 Applicable Law and Venue.** This Lease shall be interpreted and construed in accordance with the laws of the State of Washington. Any reference to a statute shall mean that statute as presently enacted or hereafter amended or superseded. Venue for any action arising out of or in connection with this Lease shall be in the Superior Court for Thurston County, Washington.

**18.11 Recordation.** Tenant shall record this Lease or a memorandum documenting the existence of this Lease in the county in which the Property is located, at Tenant's sole expense. The memorandum shall, at a minimum, contain the Property description, the names of the parties to the Lease, the State's lease number, and the duration of the Lease. Tenant shall provide State with recording information, including the date of recordation and file number. Tenant shall have thirty (30) days from the date of delivery of the final executed agreement to comply with the requirements of this subsection. If Tenant fails to record this Lease, State may record it and Tenant shall pay the costs of recording upon State's demand.

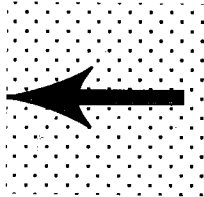
**18.12 Modification.** Any modification of this Lease must be in writing and signed by the parties. State shall not be bound by any oral representations or statements.

THIS AGREEMENT requires the signature of all parties and is executed as of the date of the last signature below.

Tenant: CITY OF GIG HARBOR

Dated: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
GRETCHEN A. WILBERT



Title: Mayor

Address: 3510 Grandview Street  
Gig Harbor, WA 98335

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

Dated: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
DOUG SUTHERLAND

Title: Commissioner of Public Lands

Address: Shoreline District Aquatics Region  
950 Farman Avenue North  
Enumclaw, WA 98022-9282

Approved as to Form May, 2005  
by Joe Panesko  
Assistant Attorney General  
State of Washington

**PROOFED**

REPRESENTATIVE ACKNOWLEDGMENT

STATE OF )  
 ) ss  
County of )

I certify that I know or have satisfactory evidence that GRETCHEN A. WILBERT is the person who appeared before me, and said person acknowledged that 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.

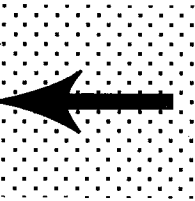
Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Notary Public in and for the State of  
Washington, residing at

\_\_\_\_\_  
My appointment expires \_\_\_\_\_



STATE ACKNOWLEDGMENT

STATE OF WASHINGTON )  
 ) ss  
County of )

I certify that I know or have satisfactory evidence that DOUG SUTHERLAND 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 Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Notary Public in and for the State of  
Washington, residing at

\_\_\_\_\_  
My appointment expires \_\_\_\_\_



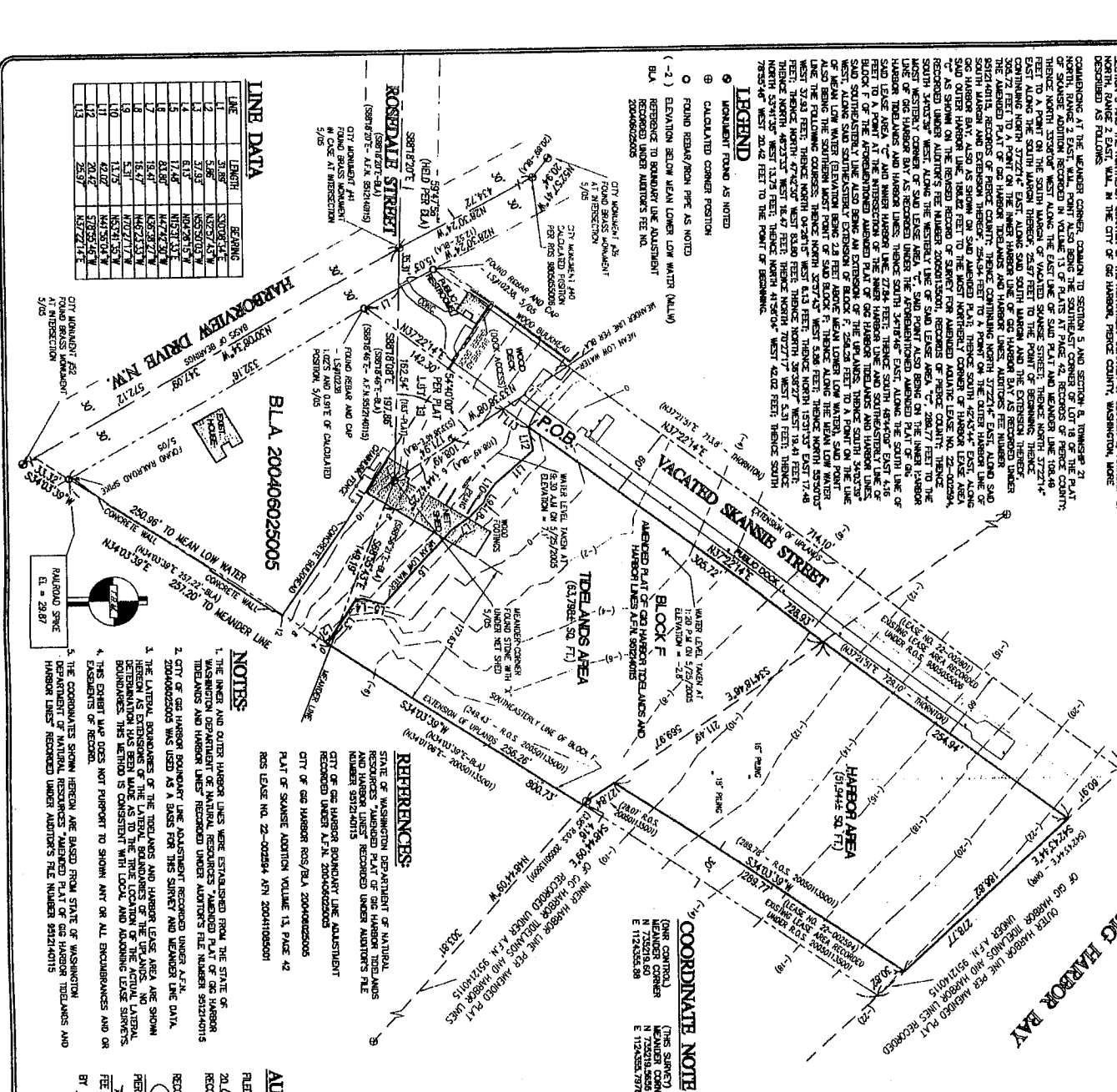
# RECORD OF SURVEY FOR AQUATIC LEASE NO. 22-077216

SHEET 1 OF 1

A PORTION OF THE SE 1/4 OF SECTION 5, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M. AND A PORTION OF THE NE 1/4 OF SECTION 8, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M. CITY OF GIG HARBOR, PIERCE COUNTY, WASHINGTON

LEGAL DESCRIPTION FOR LEASE AREA  
 COMMENSING AT THE WETHER CORNER, CORNER 71, SECTION 5, AND SECTION 8, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M. ALSO BEING THE SOUTHWEST CORNER OF LOT 18 OF THE PLAT OF SWANSEAR ADDITION RECORDED IN VOLUME 13 OF PLATS AT PAGE 42, RECORDS OF PERCE COUNTY, THENCE NORTH 23°07' WEST ALONG THE EAST LINE OF SAID PLAT AND MEASURED LINE 108.48 FEET TO A POINT ON THE SOUTH TIER, THENCE NORTH 1°54'00" WEST ALONG THE POINT OF BEGINNING CONTAINING NORTH 37°22'14" EAST ALONG SAID SOUTH HARBOR AND THE EXTENSION THEREOF, 304.12 FEET TO A POINT ON THE HARBOR BOUNDARY LINE OF GIG HARBOR BAY AS RECORDED UNDER THE ADJUSTED PLAY OF GIG HARBOR BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NO. 2004002200043, THENCE CONTINUING NORTH 37°22'14" EAST ALONG SAID HARBOR BOUNDARY LINE OF GIG HARBOR BAY AND EXPOSITION THEREOF, 234.94 FEET TO A POINT ON THE OTHER HARBOR LINE OF GIG HARBOR BAY, ALSO AS SHOWN ON SAID ADJUSTED PLAY, THENCE SOUTH 42°34'44" EAST ALONG SAID OTHER HARBOR LINE, 806.23 FEET TO THE ADJUSTED PLAY OF GIG HARBOR BOUNDARY LINE OF GIG HARBOR BAY, RECORDED UNDER THE ADJUSTED PLAY OF GIG HARBOR BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NO. 2004002200043, THENCE SOUTH 34°02'06" WEST ALONG THE WESTERN LINE OF SAID LEASE AREA 'C', 288.17 FEET TO THE MOST WESTLY CORNER OF SAID LEASE AREA 'C', SAID POINT ALSO BEING ON THE OTHER HARBOR LINE OF GIG HARBOR BAY, AS SHOWN ON SAID ADJUSTED PLAY, THENCE SOUTH 48°44'04" EAST 4.16 FEET TO A POINT AT THE INTERSECTION OF THE OTHER HARBOR LINE AND SOUTHWESTLY LINE OF SAID LEASE AREA 'C', AND OTHER HARBOR LINE, 67.84 FEET; THENCE SOUTH 48°44'04" EAST 4.16 FEET TO A POINT AT THE INTERSECTION OF THE OTHER HARBOR LINE AND SOUTHWESTLY LINE OF SAID LEASE AREA 'C', AND OTHER HARBOR LINE OF THE UPPER LINE, THENCE SOUTH 48°44'04" WEST, ALONG SAID SOUTHWESTLY EXTENSION OF BLOCK 'C', 564.28 FEET TO A POINT ON THE LINE OF MEAN LOW WATER (ELEVATION BEING 2.8 FEET ABOVE MEAN LOWER LOW WATER), SAID POINT ALSO BEING THE SOUTHERN MOST POINT OF SAID LEASE AREA, THENCE SOUTH 63°45'15" WEST 17.48 FEET, THENCE NORTH 67°42'04" WEST 63.80 FEET, THENCE NORTH 38°27'27" WEST 19.41 FEET, THENCE NORTH 67°42'04" WEST 12.47 FEET, THENCE NORTH 38°27'27" WEST 53.1 FEET, THENCE NORTH 38°27'27" WEST 12.73 FEET, THENCE NORTH 38°27'27" WEST 12.73 FEET, THENCE NORTH 38°27'27" WEST 12.73 FEET TO THE POINT OF BEGINNING.

- LEGEND**
- MONUMENT CORNER POSITION
  - CALCULATED CORNER POSITION
  - FOUND REBAR/PIN/PNE AS NOTED
  - (- 2 -) ELEVATION BELOW MEAN LOWER LOW WATER (MULLW)
  - REFERENCE TO SURVEYING LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NO. 2004002200043



**LINE DATA**

LINE	LENGTH	BEGINNING	ENDING
1	37.99	N 30° 07' 12" E	S 30° 07' 12" W
2	3.88	S 89° 52' 47" W	N 89° 52' 47" E
3	37.93	N 89° 52' 02" W	S 89° 52' 02" E
4	37.93	N 89° 52' 02" W	S 89° 52' 02" E
5	6.25	N 89° 52' 02" W	S 89° 52' 02" E
6	41.67	N 89° 52' 02" W	S 89° 52' 02" E
7	18.47	N 67° 42' 04" W	S 67° 42' 04" E
8	12.47	N 38° 27' 27" W	S 38° 27' 27" E
9	12.73	N 38° 27' 27" W	S 38° 27' 27" E
10	12.73	N 38° 27' 27" W	S 38° 27' 27" E
11	42.02	N 38° 27' 27" W	S 38° 27' 27" E
12	35.97	N 38° 27' 27" W	S 38° 27' 27" E
13	42.02	N 38° 27' 27" W	S 38° 27' 27" E
14	35.97	N 38° 27' 27" W	S 38° 27' 27" E

**COORDINATE NOTE**

POINT	(X)	(Y)
MONUMENT CORNER	1125252.98	7232182.85
ADJUSTED PLAY	1125252.98	7232182.85

**REFERENCES:**  
 STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES RECORDED PLAY OF GIG HARBOR TIDELANDS AND HARBOR LINES RECORDED UNDER AUDITOR'S FILE NUMBER 99214015  
 CITY OF GIG HARBOR BOUNDARY LINE ADJUSTMENT RECORDED UNDER A.F.N. 2004002200043  
 CITY OF GIG HARBOR BOUNDARY LINE ADJUSTMENT RECORDED UNDER A.F.N. 2004002200043  
 CITY OF GIG HARBOR BOUNDARY LINE ADJUSTMENT RECORDED UNDER A.F.N. 2004002200043  
 CITY OF GIG HARBOR BOUNDARY LINE ADJUSTMENT RECORDED UNDER A.F.N. 2004002200043

**NOTES:**

1. THE HARBOR AND OTHER HARBOR LINES WERE ESTABLISHED FROM THE STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES ADJUSTED PLAY OF GIG HARBOR TIDELANDS AND HARBOR LINES RECORDED UNDER AUDITOR'S FILE NUMBER 99214015
2. CITY OF GIG HARBOR BOUNDARY LINE ADJUSTMENT RECORDED UNDER A.F.N. 2004002200043 WAS USED AS A BASIS FOR THIS SURVEY AND MEASURED LINE DATA.
3. THE LATERAL BOUNDARIES OF THE TIDELANDS AND HARBOR LEASE AREA ARE SHOWN HEREON AS EXTENSIONS OF THE LATERAL BOUNDARIES OF THE TIDELANDS AND HARBOR LINES RECORDED UNDER AUDITOR'S FILE NUMBER 99214015 AND AS SHOWN ON THE ADJUSTED PLAY OF GIG HARBOR TIDELANDS AND HARBOR LINES SURVEY EXHIBITS OF RECORD.
4. THIS EXHIBIT LINE DOES NOT PERTAIN TO ANY OF ALL ENCUMBRANCES AND OR EXHIBITS OF RECORD.
5. THE COORDINATES SHOWN HEREON ARE BASED FROM STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES ADJUSTED PLAY OF GIG HARBOR TIDELANDS AND HARBOR LINES RECORDED UNDER AUDITOR'S FILE NUMBER 99214015

**AUDITORS CERTIFICATE**

FILED FOR RECORD THIS 2 DAY OF September 2005 AT SEATTLE WASHINGTON RECORDS OF THE PERCE COUNTY AUDITOR, TACOMA, WASHINGTON.

RECORDING NUMBER 200509225801

BY G.A. McCarty

PERCE COUNTY AUDITOR

2005-98

BY Jessica Brown

ESTABLISHED OFFICE 253-404-0983  
 1985  
 253-404-0984  
 TACOMA, WA 98411

**VERTICAL DATUM**

MEAN LOWER LOW WATER - CITY MONUMENT NO. 55 (IN CASE) IN THE PARKING LOT OF THE "HUBS" TOWER - PUBLISHED ELEVATION OF 2682 FEET (MULLW)

NOTE: THIS RECORDATION IS BASED ON GIG HARBOR TIDELANDS RECORD NO. 5 (1944) WHICH HAS AN ELEVATION OF 14.18 FEET

MEAN LOWER LOW WATER 5.0  
 MEAN LOW WATER 2.8  
 MEAN WATER 11.8  
 MEAN HIGHER HIGH WATER

(NOTE: THIS INFORMATION WAS OBTAINED FROM INFORMATION FURNISHED BY NOAA (NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION) AND AGREES WITH THE DATA SHOWN ON LEASE SURVEY RECORDED UNDER A.F.N. 2004002200043)

**HORIZONTAL DATUM**

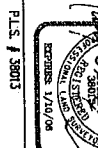
THE HORIZONTAL DATUM FOR THIS SURVEY UTILIZED THE WASHINGTON STATE PLANE COORDINATE SYSTEM - SOUTH ZONE (NAD83/95) AS SHOWN ON STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES ADJUSTED PLAY OF GIG HARBOR TIDELANDS AND HARBOR LINES RECORDED UNDER AUDITOR'S FILE NUMBER 99214015, RECORDS OF PERCE COUNTY, WASHINGTON.

**METHODS AND EQUIPMENT**

SURVEY PERFORMED WITH A 2" TOTAL STATION, USING TRAVESSE AND RADIAL SURVEY METHODS. THIS SURVEY METHOD'S OR EXCEEDS ACRAPACT REQUIREMENTS CONTAINED IN IAC 100.120.020.

**SURVEYORS CERTIFICATE**

THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND I AM A LICENSED SURVEYOR OF THE STATE OF WASHINGTON. I HEREBY CERTIFY THAT THE SURVEY RECORDING ACT AT THE REQUEST OF THE CITY OF GIG HARBOR, IN MAY, 2005.



DATE 9/1/05

**EXHIBIT A**

Page 1 of 1

22-077216

**JOB NO. 2005-39**

## **EXHIBIT B**

### **PLAN OF OPERATIONS AND MAINTENANCE**

**JERISICH PARK OPEN WATER AREA  
LEASE NO. 22-077216**

**CITY OF GIG HARBOR  
3510 GRANDVIEW STREET  
GIG HARBOR WA, 98335**

#### **DESCRIPTION OF THE PROPERTY AND FACILITY**

The Jerisich Park open water area is located on the southwestern shoreline of Gig Harbor in Pierce County, Washington. The lease area occupies 63,798 square feet (1.46 acres) of tidelands and 51,944 square feet (1.19 acres) of harbor area. This lease compliments the neighboring Jerisich Park public dock (lease number 22-002801). On the adjacent private tidelands the City of Gig Harbor (City) maintains the old Skansi Brothers netshed as a historical reference, a small portion of the netshed extends onto State owned tidelands. Within this leasehold exists three (3) creosote piling, one of which has a safety light affixed to the top to aid boats navigating at night.

#### **FUTURE USE AND CONDITIONS**

There are no plans to develop the site now or in the future. The purpose of the site is to allow public access to the City's waterfront for recreation activities.

#### **SECTION 2 USE**

- 2.1 Permitted Use.** The use of the property is for public access and recreation.
- 2.2 Restrictions on Use.** No non water-dependent uses or activities allowed in the lease area.

#### **SECTION 4 RENT**

Per RCW 79.105.230 the City of Gig Harbor qualifies for a no-fee lease so long as the state-owned aquatic lands and improvements are available to the general public on a first-come, first-served basis and are not managed to produce a profit for the operator or a concessionaire.

#### **SECTION 7 IMPROVEMENTS**

**7.3 Construction.** State shall be notified of any construction that may impact the environment, result in expansion, decrease the area of the lease, or require regulatory permit approval. Tenant shall provide State with documentation showing that Tenant has obtained all applicable permits when Tenant provides plans and specifications describing the proposed activity as required by Section 7.3 Construction.

## **SECTION 8 ENVIRONMENTAL LIABILITY/ RISK ALLOCATION**

**8.4 Notification and Reporting.** Tenant will immediately notify State of any violation received from any regulatory agency. In addition to reviewing any plans associated with remedying the violations, State may attach additional requirements for asset protection of state-owned aquatic lands.

## **SECTION 17 NOTICE**

Tenant will at all times maintain professional management park facilities. The name and address of the designated manager shall be provided to State to facilitate direct communications regarding park operations. Tenant shall promptly notify State of any changes in management. The current contact is:

David Brereton, Director of Operations  
3510 Grandview Drive  
Gig Harbor, Washington 98335  
(253) 851-6170

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE:11/03/05

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR  
(BY ZIP CODE) FOR EXPIRATION DATE OF 20060228

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1 DREYLING, CHERRI LYNN	THE HARBOR KITCHEN 8809 N HARBORVIEW DR GIG HARBOR WA 98332 2168	083974	BEER/WINE REST - BEER/WINE
2 THE OLD HARBOR SALOON, L.L.C.	OLD HARBOR SALOON 5114 POINT FOSDICK DR NW GIG HARBOR WA 98335 0000	073240	TAVERN - BEER/WINE OFF PREMISES
3 TERRACCIANO, MASSIMO TERRACCIANO, CINDY LOUISE	TERRACCIANO'S 3119 JUDSON ST GIG HARBOR WA 98335 1221	085087	BEER/WINE REST - BEER/WINE

NOV 4 - 2005

Attention:

Enclosed is a listing of liquor licensees presently operating establishments in your jurisdiction whose licenses expire on FEBRUARY 28, 2006. Applications for renewal of these licenses for the upcoming year are at this time being forwarded to the current operators.

As provided in law, before the Washington State Liquor Control Board shall issue a license, notice regarding the application must be provided to the chief executive officer of the incorporated city or town or the board of county commissioners if the location is outside the boundaries of an incorporated city or town.

Your comments and recommendations regarding the approval or disapproval for the enclosed listed licensees would be appreciated. If no response is received, it will be assumed that you have no objection to the reissuance of the license to the applicants and locations listed. In the event of disapproval of the applicant or the location or both, please identify by location and file number and submit a statement of all facts upon which such objections are based (please see RCW 66.24.010{8}). If you disapprove then the Board shall contemplate issuing said license, let us know if you desire a hearing before final action is taken.

In the event of an administrative hearing, you or your representative will be expected to present evidence in support of your objections to the renewal of the liquor license. The applicant would presumably want to present evidence in opposition to the objections and in support of the application. The final determination whether to grant or deny the license would be made by the Board after reviewing the record of the administrative hearing.

If applications for new licenses are received for persons other than those specified on the enclosed notices, or applications for transfer of licenses are received by the Board between now and FEBRUARY 28, 2006, your office will be notified on an individual case basis.

Your continued assistance and cooperation in these licensing matters is greatly appreciated by the Liquor Control Board.

LORRAINE LEE, Director  
Regulatory Services  
Enclosures

NOV 28 2005

MAYOR OF GIG HARBOR  
3510 GRANDVIEW ST  
GIG HARBOR, WA 98335



## **ADMINISTRATION**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: DAVID RODENBACH, FINANCE DIRECTOR**  
**SUBJECT: SECOND READING - 2005 PROPERTY TAX LEVY ORDINANCE**  
**DATE: NOVEMBER 14, 2005**

### **INTRODUCTION**

This is the second reading of an ordinance setting the 2005 property tax levy for collection in 2006.

### **POLICY CONSIDERATIONS**

The 2006 preliminary budget plans a total levy for collection in 2006 in the amount of \$1,447,247. This consists of a \$14,003 property tax increase over the current levy, \$30,482 resulting from new construction and a \$2,432 levy for refunds. This is a total increase of \$46,917 over the current levy.

The total excess levy which will be used to pay the debt service on the Eddon Boat bond is \$258,000. This calculates to a preliminary rate of \$0.2233 per thousand dollars of assessed valuation.

### **FINANCIAL**

Property taxes are approximately 5% of the proposed 2005 General Fund revenue budget and 77% of the proposed 2006 Street Fund operating budget.

Total assessed valuation for the city increased 15% from 2004 to \$1,165,100,070. Total assessed valuation for the excess levy is \$1,155,483,745.

### **RECOMMENDATION**

I recommend adoption of this ordinance.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF GIG HARBOR,  
WASHINGTON, LEVYING THE GENERAL PROPERTY  
TAXES IN THE AMOUNT OF \$1,447,247 AND EXCESS  
PROPERTY TAXES IN THE AMOUNT OF \$258,000 FOR  
THE CITY OF GIG HARBOR FOR THE FISCAL YEAR  
BEGINNING JANUARY 1, 2006.**

---

WHEREAS, the City Council of the City of Gig Harbor attests that the City population is 6,765; and

WHEREAS, the City Council of the City of Gig Harbor have properly given notice of the public hearing held October 24, 2005 to consider the City's General Fund revenue sources for the 2006 calendar year, pursuant to RCW 84.55.120; and

WHEREAS, the City Council of the City of Gig Harbor held a meeting on October 24, 2005 and considered its budget for the 2006 calendar year; and

WHEREAS, the City Council of the City of Gig Harbor after a public hearing held on October 24, 2005, and after duly considering all relevant evidence and testimony presented, determined that the City of Gig Harbor requires a regular levy in the amount of one million four hundred forty seven thousand two hundred forty seven dollars and no cents (\$1,447,247.00), which includes an increase in property tax revenue from the previous year, and amounts resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, and the amounts authorized by law as a result of any annexations that have occurred and refunds made, in order to discharge the expected expenses and obligations of the city and in its best interest; and

WHEREAS, the City Council of the City of Gig Harbor determined that the City of Gig Harbor requires an excess levy in the amount of two hundred fifty eight thousand dollars and no cents (\$258,000.00) in order to provide debt service for the 2005 Unlimited Tax General Obligation Bond.

NOW, THEREFORE, the City Council of the City of Gig Harbor, Washington ORDAINS as follows:

Section 1. An increase in the regular property tax levy is hereby authorized for the 2005 levy in the amount of fourteen thousand three dollars and no cents (\$14,003.00) which is a percentage increase of 1% from the previous year.

Section 2. The Property tax excess levies required to raise estimated revenues

for the City of Gig Harbor for the ensuing year commencing January 1, 2006, shall be levied upon the value of real and personal property which has been set at an assessed valuation of \$1,155,483,745. Taxes levied upon this value shall be:

Approximately \$0.2233 per \$1,000 assessed valuation, producing an estimated amount of two hundred fifty eight thousand dollars and no cents (\$258,000.00) for 2005 Unlimited Tax General Obligation Bond debt service.

Section 3. This ordinance shall be published in the official newspaper of the city, and shall take effect and be in full force five (5) days after the date of its publication.

PASSED by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this 14th day of November, 2005.

\_\_\_\_\_  
Gretchen A. Wilbert, Mayor

ATTEST/AUTHENTICATED:

By: \_\_\_\_\_  
Molly Towslee, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Carol A. Morris, City Attorney

Filed with city clerk: 10/19/05

Passed by the city council:

Date published:

Date effective:





## COMMUNITY DEVELOPMENT DEPARTMENT

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: JOHN P. VODOPICH, AICP**  
**COMMUNITY DEVELOPMENT DIRECTOR**  
**SUBJECT: SECOND READING OF AN ORDINANCE RELATING TO ANNEXATION**  
**AND ZONING - WRIGHT ANNEXATION (ANX 04-02)**  
**DATE: NOVEMBER 14, 2005**

### INFORMATION/BACKGROUND

The City received a complete Notice of Intention to Commence Annexation Proceedings from James Wright for a proposal to annex approximately 8.62 acres of property located northwest of the intersection of Hunt Street NW and 46<sup>th</sup> Avenue NW (Skansie Avenue) adjacent to the existing City limits. The City Council approved the applicants request on February 28, 2005 to revise the annexation boundaries to encompass this one parcel. At the June 27, 2005 meeting, the City Council accepted the notice of intention and authorized the circulation of an annexation petition.

The City received a petition for annexation on June 28, 2005, which was subsequently certified by the Pierce County Office of the Assessor-Treasurer on August 1, 2005 as being legally sufficient.

At the conclusion of a public hearing on August 22, 2004, the Council passed Resolution No. 652 accepting the annexation petition and referred the annexation to the Pierce County Boundary Review Board for consideration. The Boundary Review Board deemed the annexation approved on October 11, 2005.

Adoption of an Ordinance annexing the property and establishing zoning is in order. The City Attorney has reviewed and approved the attached Ordinance for your consideration.

### POLICY CONSIDERATIONS

None.

### FISCAL IMPACT

None.

### RECOMMENDATION

I recommend that the Council approve the Ordinance as presented.



Pierce County

Boundary Review Board

2401 South 35th Street  
Tacoma, Washington 98409-7460  
(253) 798-7156 • FAX (253) 798-3680

October 11, 2005

RECEIVED  
CITY OF GIG HARBOR  
OCT 13 2005  
COMMUNITY  
DEVELOPMENT

Mr. John Vodopich  
Director of Community Development  
City of Gig Harbor  
3510 Grandview Street  
Gig Harbor, WA 98335

RE: Proposed Annexation to City of Gig Harbor - Wright (A-05-7)

Dear Mr. Vodopich:

The forty-five (45) day period has elapsed since the Notice of Intention was officially filed with the Pierce County Boundary Review Board on August 25, 2005, and the Board's jurisdiction has not been invoked.

Accordingly, as provided by RCW 36.93.100, the subject proposal is deemed approved by the Boundary Review Board.

The City of Gig Harbor needs to submit a certified copy of its final ordinance, along with the attached legal description, formally extending its boundaries to accomplish completion of the proposal. The ordinance should come directly to the Boundary Review Board for distribution to all concerned County departments.

Sincerely,

Toni Fairbanks  
Chief Clerk

f:\clerk\brb\annexations\GH Ltr Wright Cert.doc



Printed on recycled paper

**CITY OF GIG HARBOR  
ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO ANNEXATION AND ZONING, ANNEXING APPROXIMATELY 8.62 ACRES OF PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF HUNT STREET NORTHWEST AND 46<sup>TH</sup> AVENUE NORTHWEST (SKANSIE AVENUE), LOCATED IN PIERCE COUNTY (ANX 04-02), ADOPTING SINGLE-FAMILY RESIDENTIAL (R-1) ZONING, AND REQUIRING THE PROPERTY OWNERS TO ASSUME THEIR PROPORTIONATE SHARE OF INDEBTEDNESS.**

---

WHEREAS, The City of Gig Harbor received a Notice of Intent to Annex approximately 8.62 acres of property located northwest of the intersection of Hunt Street NW and 46<sup>th</sup> Avenue NW (Skansie Avenue) located, adjacent to the existing City limits and within the City's Urban Growth Area (UGA), and located in Pierce County; and

WHEREAS, the Notice of Intent was signed by the owners of not less than ten percent (10%) of the acreage of the property; and

WHEREAS, on May 23, 2005, the Pierce County Boundary Review Board approved the legal description and map date stamped May 16, 2005; and

WHEREAS, on June 27, 2005, the City Council met with the initiators of the petition voted to authorize circulation of the annexation petition subject to certain conditions including adoption of pre-annexation Single-Family Residential (R-1) zoning being applied to the area proposed for annexation and requiring that the property owners assume a proportionate share of the City's indebtedness; and

WHEREAS, on June 28, 2005, a petition for annexation of the property described and graphically depicted in Exhibit A was received by the City; and

WHEREAS, on August 1, 2005 the Pierce County office of the Assessor-Treasurer certified the signatures on the petition for annexation of the property described and graphically depicted in Exhibit A; and

WHEREAS, on August 22, 2005, the City Council, following a public hearing on the annexation petition, voted to approve the annexation and the proposed pre-annexation Single-Family Residential (R-1) zoning for the area described and graphically depicted in Exhibit A, subject to Boundary Review Board approval (Resolution No. 652); and

WHEREAS, on August 24, 2005, the Notice of Intention, together with supporting documentation, was submitted to the Chief Clerk of the Pierce County Boundary Review Board; and

WHEREAS, on September 6, 2005, the Chief Clerk of the Pierce County Boundary Review Board deemed the annexation proposal as complete, set the official filing date as August 25, 2005, initiated the forty-five (45) day review period, and noted that the period during which jurisdiction could be invoked would expire on October 10, 2005; and

WHEREAS, on October 11, 2005, the Pierce County Boundary Review Board issued a written decision approving the annexation of the property as described and graphically depicted in Exhibit A; and

WHEREAS, the property described and graphically depicted in Exhibit A and proposed to be annexed is within the Urban Growth Area as established by Pierce County and is included in the Comprehensive Plans of both the County and the City of Gig Harbor; and

WHEREAS, the City of Gig Harbor Comprehensive Plan, adopted in December, 2004, established the land use map designations for this area as Residential Low, along with pertinent goals and objectives, to guide the development of the annexation area over the next twenty years; and

WHEREAS, the proposed pre-annexation zoning of Single-Family Residential (R-1) of the property described and graphically depicted in Exhibit A is consistent with the City of Gig Harbor Comprehensive Land Use Plan designation of Residential Low; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting's of October 24 and November 14, 2005; Now, Therefore,

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

Section 1. The Gig Harbor City Council hereby approves the annexation of approximately 8.62 acres of property located northwest of the intersection of Hunt Street NW and 46<sup>th</sup> Avenue NW (Skansie Avenue) located in Pierce County, as described and graphically depicted in Exhibit A, contingent upon the following conditions:

- A. Assumption by the property owners of their proportionate share of the City of Gig Harbor's indebtedness; and
- B. Imposition of Single-Family Residential (R-1) being applied to those properties described and graphically depicted in Exhibit A.

Section 2. The Community Development Director is hereby instructed to effectuate the necessary changes to the Official Zoning Map of the City in accordance with the zoning established in Section 1.

Section 3. The Gig Harbor City Clerk hereby declares the property described and graphically depicted in Exhibit A to be contiguous with the boundaries of the City of Gig Harbor.

Section 4. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor.

Section 5. This ordinance shall take effect five days after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 14<sup>th</sup> day of November 2005.

APPROVED:

\_\_\_\_\_  
MAYOR, GRETCHEN WILBERT

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;  
OFFICE OF THE CITY ATTORNEY:

BY:\_\_\_\_\_

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
ORDINANCE NO.

**Exhibit A**  
**WRIGHT ANNEXATION (ANX 04-02)**

WRIGHT ANNEXATION  
ANX 04-02

LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN PIERCE COUNTY, WASHINGTON;

EXCEPT THE WEST 8 FEET THEREOF;

EXCEPT 46<sup>TH</sup> AVENUE NORTHWEST;

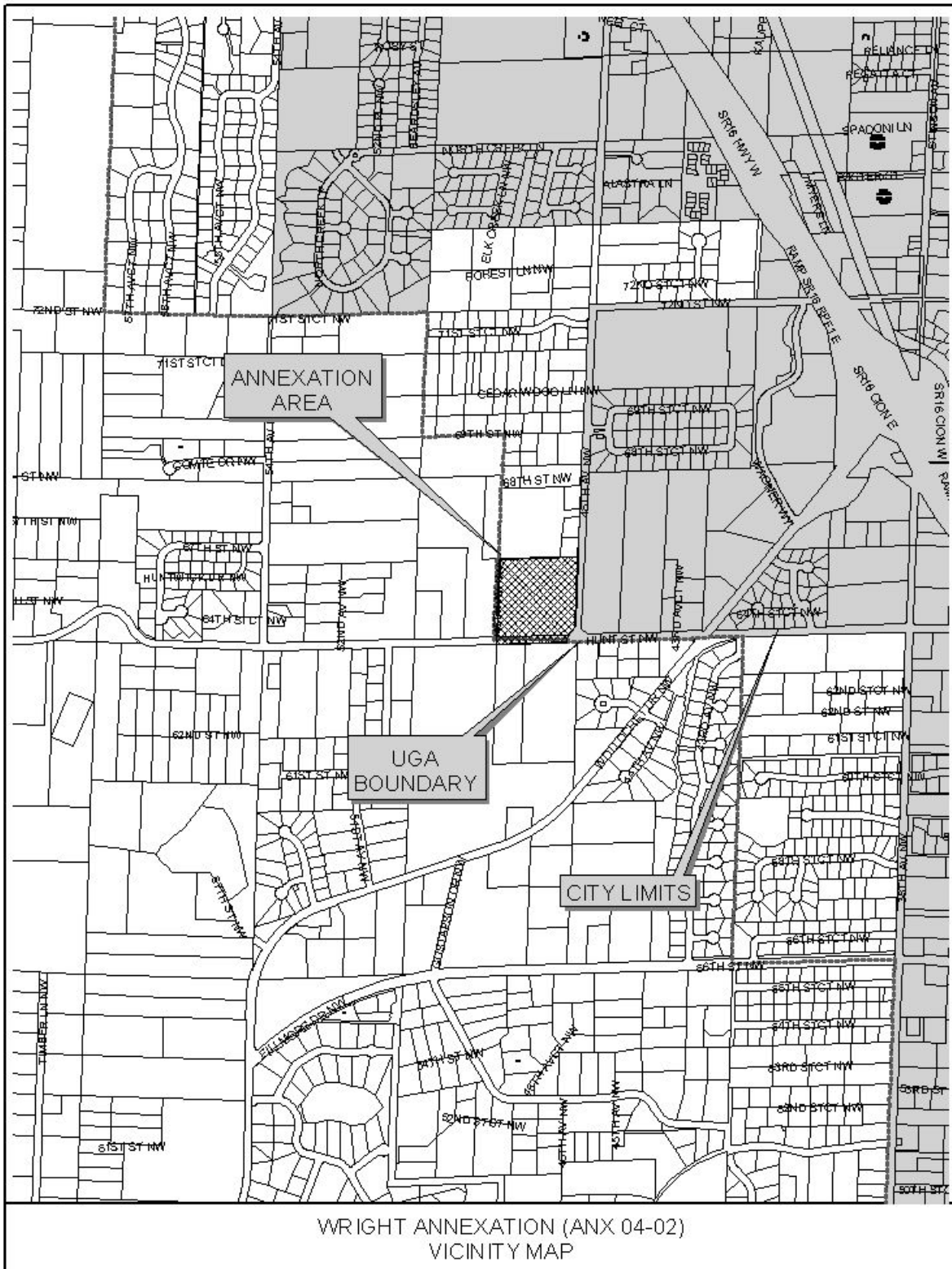
EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER RECORDING NUMBER 2364858;

INCLUDING HUNT STREET NORTHWEST ABUTTING SAID ANNEXATION IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M.

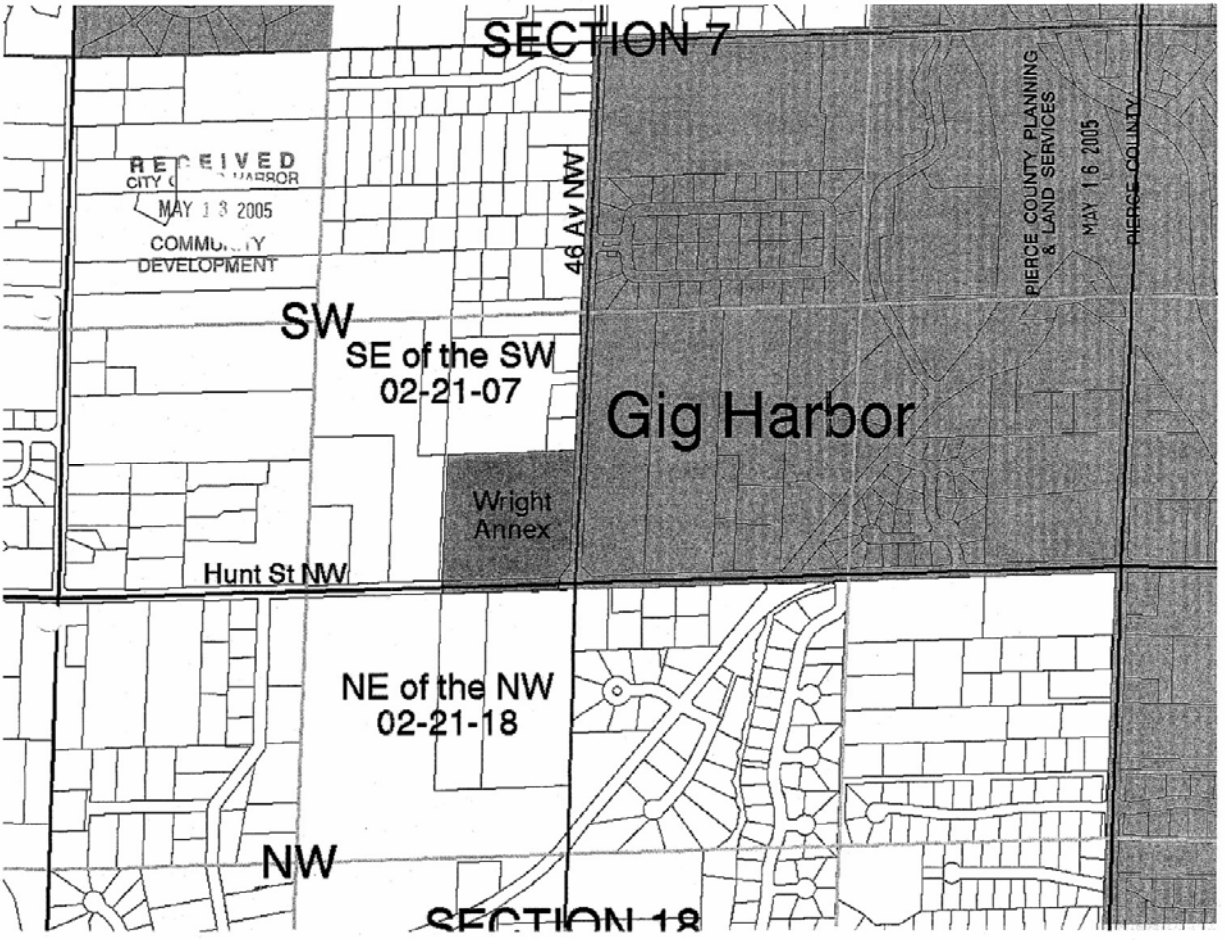
SITUATED IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.

PIERCE COUNTY PLANNING  
& LAND SERVICES  
MAY 16 2005  
PIERCE COUNTY

RECEIVED  
CITY OF GIG HARBOR  
MAY 13 2005  
COMMUNITY  
DEVELOPMENT







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

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

**AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO ANNEXATION AND ZONING, ANNEXING APPROXIMATELY 8.62 ACRES OF PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF HUNT STREET NORTHWEST AND 46<sup>TH</sup> AVENUE NORTHWEST (SKANSIE AVENUE), LOCATED IN PIERCE COUNTY (ANX 04-02), ADOPTING SINGLE-FAMILY RESIDENTIAL (R-1) ZONING, AND REQUIRING THE PROPERTY OWNERS TO ASSUME THEIR PROPORTIONATE SHARE OF INDEBTEDNESS.**

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

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

APPROVED by the City Council at their regular meeting of \_\_\_\_\_, 2005.

BY: \_\_\_\_\_  
MOLLY M. TOWSLEE, CITY CLERK



## ADMINISTRATION

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: DAVID RODENBACH, FINANCE DIRECTOR**  
**SUBJECT: FIRST READING - 2006 BUDGET ORDINANCE**  
**DATE: NOVEMBER 14, 2005**

### **BACKGROUND**

The total budget is \$25,370,289. Total budgeted revenues for 2006 are \$16.9 million while budgeted beginning fund balances total \$8.5 million. Total budgeted expenditures for 2006 are \$19.3 million and budgeted ending fund balances total \$6.1 million.

The 2006 budgeted revenues and expenditures are 19% and 2% less than in 2005. Budgeted operating or ongoing revenues and expenditures are 4% and 9% greater than 2005.

The General Fund accounts for 39 percent of total expenditures, while Special Revenue (Street, Drug Investigation, Hotel - Motel, Public Art Capital Projects, Park Development, Civic Center Debt Reserve, Property Acquisition, General Government Capital Improvement, Impact Fee Trust and Lighthouse Maintenance) and Enterprise Funds are 34 percent and 22 percent of total expenditures. General government debt service funds are 5 percent of 2006 budgeted expenditures.

This budget adds the following full-time positions:

- A Community Development Clerk - to be hired January 1
- Two Laborers - to be hired April 1
- A Police Sergeant - to be hired mid-year
- Two temporary, part-time Community Development Clerks
- A temporary, part-time Building Inspector

Changes to the budget document resulting from the study session are attached to this memo.

### **RECOMMENDATION**

I recommend adoption of the 2006 budget ordinance after a second reading.

**CITY OF GIG HARBOR  
ORDINANCE NO.**

**AN ORDINANCE ADOPTING THE BUDGET FOR THE CITY OF GIG  
HARBOR, WASHINGTON, FOR THE 2006 FISCAL YEAR.**

---

**WHEREAS**, the Mayor of the City of Gig Harbor, Washington completed and placed on file with the city clerk a proposed budget and estimate of the amount of the moneys required to meet the public expenses, bond retirement and interest, reserve funds and expenses of government of said city for the 2006 fiscal year, and a notice was published that the Gig Harbor City Council would meet on November 14 and November 28, 2005 at 7:00 p.m., in the Council Chambers in the Civic Center for the purpose of making and adopting a budget for 2006 and giving taxpayers an opportunity to be heard on the budget; and

**WHEREAS**, the said city council did meet at the established time and place and did consider the matter of the 2006 proposed budget; and

**WHEREAS**, the 2006 proposed budget does not exceed the lawful limit of taxation allowed by law to be levied on the property within the City of Gig Harbor for the purposes set forth in the budget, and the estimated expenditures set forth in the budget being all necessary to carry on the government of Gig Harbor for 2006 and being sufficient to meet the various needs of Gig Harbor during 2006.

**NOW, THEREFORE**, the City Council of the City of Gig Harbor **DO  
ORDAIN** as follows:

Section 1. The budget for the City of Gig Harbor, Washington, for the year 2006 is hereby adopted in its final form and content.

Section 2. Estimated resources, including beginning fund balances, for each separate fund of the City of Gig Harbor, and aggregate total for all funds combined, for the year 2006 are set forth in summary form below, and are hereby appropriated for expenditure during the year 2006 as set forth below:

**2006 BUDGET APPROPRIATIONS**

<u>FUND / DEPARTMENT</u>	<u>AMOUNT</u>
001 GENERAL GOVERNMENT	
01 NON-DEPARTMENTAL	\$2,297,445
02 LEGISLATIVE	35,600
03 MUNICIPAL COURT	547,000
04 ADMINISTRATIVE/FINANCIAL	895,800
06 POLICE	2,279,680
14 COMMUNITY DEVELOPMENT	1,502,890
15 PARKS AND RECREATION	968,300
16 BUILDING	374,600
19 ENDING FUND BALANCE	1,002,825
001 TOTAL GENERAL FUND	9,904,140
101 STREET FUND	2,538,047
105 DRUG INVESTIGATION FUND	5,874
107 HOTEL-MOTEL FUND	468,268
108 PUBLIC ART CAPITAL PROJECTS	50,314
109 PARK DEVELOPMENT FUND	185,391
110 CIVIC CENTER DEBT RESERVE	2,953,311
208 LTGO BOND REDEMPTION	910,894
209 2000 NOTE REDEMPTION	123,952
210 LID 99-1 GUARANTY	88,460
211 UTGO BOND REDEMPTION	259,000
301 PROPERTY ACQUISITION FUND	713,433
305 GENERAL GOVT. CAPITAL IMPROVEMENT	572,433
309 IMPACT FEE TRUST	358,315
401 WATER OPERATING	860,530
402 SEWER OPERATING	1,950,344
407 UTILITY RESERVE	157,308
408 UTILITY BOND REDEMPTION FUND	390,054
410 SEWER CAPITAL CONSTRUCTION	1,172,274
411 STORM SEWER OPERATING	623,400
420 WATER CAPITAL ASSETS	363,765
605 LIGHTHOUSE MAINTENANCE TRUST	1,782
607 EDDON BOAT REMEDIATION TRUST	<u>719,000</u>
TOTAL ALL FUNDS	<u>\$ 25,370,289</u>

Section 3. Attachment "A" is adopted as the 2006 personnel salary schedule.

Section 4. The city clerk is directed to transmit a certified copy of the 2006 budget hereby adopted to the Division of Municipal Corporations in the Office of the State Auditor and to the Association of Washington Cities.

Section 5. This ordinance shall be in force and take effect five (5) days after its publication according to law.

**PASSED** by the City Council of the City of Gig Harbor, Washington, and approved by its Mayor at a regular meeting of the council held on this 28th day of November, 2005.

---

Mayor

ATTEST:

---

Molly Towslee, City Clerk

Filed with city clerk:  
Passed by the city council:  
Date published:  
Date effective:

ATTACHMENT "A"

2006 Salary Schedule

POSITION	2006 RANGE	
	Minimum	Maximum
City Administrator	\$ 8,217	\$ 10,271
Chief of Police	6,419	8,024
Community Development Director	6,306	7,883
Finance Director	6,196	7,745
Police Lieutenant	5,551	6,939
City Engineer	5,486	6,857
Director of Operations	5,486	6,857
Information Systems Manager	5,486	6,857
Fire Marshal/Building Official	5,486	6,857
Planning/Building Manager	5,486	6,857
Police Sergeant	4,901	6,126
Wastewater Treatment Plant Supervisor	4,774	5,967
Senior Planner	4,602	5,753
City Clerk	4,596	5,745
Associate Engineer	4,576	5,720
Assistant Building Official	4,546	5,683
Public Works Supervisor	4,546	5,683
Accountant	4,485	5,606
Court Administrator	4,478	5,598
Field Supervisor	4,292	5,366
Tourism Marketing Director	4,136	5,170
Planning / Building Inspector	3,926	4,908
Construction Inspector	3,926	4,908
Associate Planner	3,889	4,861
Payroll/Benefits Administrator	3,883	4,854
Police Officer	3,760	4,700
Mechanic	3,665	4,581
Wastewater Treatment Plant Operator	3,607	4,509
Engineering Technician	3,605	4,506
Information System Assistant	3,531	4,414
Maintenance Worker	3,505	4,381
Assistant City Clerk	3,446	4,308
Assistant Planner	3,393	4,241
Community Services Officer	3,294	4,118
Finance Technician	3,283	4,104
Community Development Assistant	3,168	3,960
Police Services Specialist	2,864	3,580
Court Clerk	2,826	3,533
Custodian	2,814	3,518
Laborer	2,814	3,518
Mechanic Assistant	2,814	3,518
Administrative Assistant	2,719	3,399
Community Development Clerk	2,464	3,080
Administrative Receptionist	\$ 2,464	\$ 3,080

2006  
NARRATIVE OF OBJECTIVES

Administration

1. **Preparation of 2007 Community Development Department budget.** Prepare and submit the annual Community Development Department budget in a manner consistent with the directives of the city administration. **September.**
2. **Annual reporting.** Prepare and submit statistical reports as required by State law and/or local ordinance. **December.**
3. **Customer service survey.** Survey the customers of the Community Development Department to better understand attitudes towards the Department; analyze how the Department interacts with customers; and prepare a summary report. **April.**
4. **Development application database.** Purchase a 'turn-key' development application GIS-based database for the use by all Community Development Divisions for the integration of all permits issued by the department. **\$55,000 - June.**
5. **Online permitting.** Investigate and pursue the implementation of online permitting, including permit status, inspection requests, and reporting functions to facilitate the provision of seamless on-line services for customers. **December.**
6. **Permit training and guidance.** Provide training and assistance to landowners or interest groups with regards to the development review and permitting processes of the City. **December.**

Planning

1. **Update comprehensive plan.** Complete annual Comprehensive Plan update to include both city and privately proposed amendments. **July March.**
2. **Conduct visioning charette.** Conduct a "charette" to address use scale and nature of buildings that appropriately reflects the character of existing development in Gig Harbor. **\$75,000 - June.**
3. **Creation of a certified local government for historic structures.** Develop application forms, provide training to the Design Review Board, conduct a historic structures inventory, and begin reviewing historic structures for addition to the historic register. **\$25,000 - June.**
4. **Code enforcement.** Increase public awareness of code compliance through



2006  
NARRATIVE OF OBJECTIVES

1. **Wilkinson Farm.** Hire a consultant to inventory contents of the barn. **\$10,000 - December.**
2. **Skansie Brothers Park.** Install four moorage buoys in front of park property. **\$6,000 - September.**
3. **Jerisich Park Restroom.** Install improvements on the bathroom structure including repainting exterior walls, new gutters and post repairs. **\$5,000 - May.**
4. **Streetscapes.** Install additional street planters and landscape improvements in the Harborview Drive-North Harborview Drive, Borgen Blvd., Pioneer Way and Point Fosdick corridors. **\$10,000 - December.**
5. **Pedestrian facilities.** Work with Pierce Transit and Planning for design and construction of additional Gig Harbor transit/pedestrian shelters. **\$5,000 - December.**
6. **Sign placement and repair.** Provide informational signage and markers at significant locations and/or repair existing signage. **\$20,000 - December.**
7. **Drinking fountains.** Identify and install dog friendly drinking fountains at various locations along pedestrian pathways and city parks. **\$2,500 - December.**
8. **Holiday decorations.** Decorate streetscapes along city arterials with cedar garlands and seasonal banners throughout the winter holiday season. These would be decorated with 4" bows to bring a warm, festive look to the harbor. **\$8,500 - November.**
9. **Arts Commission Project Support Program.** Continue an Arts Commission Project Support Program to provide funding to nonprofit art and cultural arts organizations that provide benefit for city residents. The program will also fund non-profit organizations that want to do arts projects that involve city residents, such as community service organizations, civic organizations, or libraries. Projects that benefit city residents are the core focus. Project grants can include concerts, theatre productions, visual art exhibits, art festivals, or a broad range of arts-related services. **\$25,000 - December.**
10. **Westside Park Improvements.** Hire consultant to assist in the design of the park. Begin construction of the approved designed features while preserving substantial natural buffers and wetland vegetation. Work with local community service organizations in assisting with the development of passive recreational features. **\$50,000 - October.**

11. **Cushman Trailhead.** Construct phase III of the park at the intersection of Hollycroft and Olympic Drive to include lawn, irrigation, retaining walls, parking and site furnishings. **\$10,000 - November.**
12. **Eddon Boat.** Implement the required DOE cleanup action plan and consider possible uses for the dock as a maritime pier. **\$250,000 - December.**  
(Accounted for in Park Development Fund 109)
13. **Concerts on the Park.** Provide weekly concerts at the Skansie Brothers Park during the summer months. **\$6,000 - June through September.**
14. **Cushman Trail.** Construct the next phase of the trail system from Kimball Dr. to Wilkinson Farm utilizing Tacoma Public Right of Way and park property as identified in the city's park plan. **\$45,000 - December.**
15. **Crescent Creek City Park Restoration.** Develop restoration plan to reduce erosion and provide safer public access to Crescent Creek at Gig Harbor City Park utilizing grants and local volunteer organizations to help with plantings and nature displays. **December.**
16. **Movies on the park.** Provide monthly outdoor movies at the Skansie Brothers Park and civic center during the summer months using a portable 12ft. X 16ft screen. **\$1,000 - June - August.**
17. **Gig Harbor Peninsula Historical Society.** Partner with the Historical Society to create a joint-use open area at and across from the Donkey Creek Park site. Develop an agreement to acquire fee simple property or perpetual easement commensurate with the value of property or easement. **December.**
18. **Friends of the Parks Commission.** Continue to work with Friends of the Parks Commission to advise the Mayor and City Council on park and recreation facilities, open space acquisition and development, maintenance and operation of parks and recreation public facilities, operation of parks and recreation programs, and other matters as directed by the City Council.

2006  
NARRATIVE OF OBJECTIVES

1. **Gig Harbor North Well Site.** Begin preliminary design of a primary source well and work with Department of Health to procure additional water rights for a primary well adjacent to the Gig Harbor North Tank currently under construction. **\$75,000 - December.** (Accounted for in Water Capital Assets Fund 420)
2. **Lewis St. Water main.** Replace existing 4 inch asbestos water main with 8 inch ductile iron pipe. **\$100,000 - September.** (Accounted for in Water Capital Assets Fund 420)
3. **Shoreacres Water System Assumption.** Negotiate an equitable transition of the Shoreacres Water System to the city water utility. Transition of the system will be predicated on prior capital upgrades undertaken by Shoreacres. **June.**
4. **Storage tank maintenance.** Refinish the exterior surface of the 1,000,000-gallon Skanise tank. **\$100,000 - November.** (Accounted for in Water Capital Assets Fund 420)
5. **Well Site Improvements.** Construct security and safety improvements around well and tank sites as identified in the City's Vulnerability Assessment. **\$25,000 - December.** (Accounted for in Water Capital Assets Fund 420)
6. **System Upgrades.** Install pressure regulating valves at the intersection of Prentice and Fennimore and Vernhardson and Peacock. **\$30,000 - July.** (Accounted for in Water Capital Assets Fund 420)
7. **Backflow device testing and inventory.** Continue to develop an inventory of existing backflow devices throughout the city and conduct testing and repairs of any found defects in the devices. **\$10,000 - November.**
8. **Conservation program.** Conduct a comprehensive leak detection program for the water distribution system in conjunction with the city's water conservation program as recommended by the State Department of Health. **\$5,000 - December.**
9. **Source meter testing.** Testing of source meters in accordance with Comprehensive Water System Plan. **\$1,500 - July.**
10. **Newsletter.** Mail newsletter regarding water system performance in accordance with Department of Ecology requirements. **\$3,000 - October.**
11. **Comprehensive Water System Plan.** Begin updating the city's Comprehensive Water System Plan. **\$50,000 - December.**

2006  
CAPITAL OUTLAY

1. **Replace Existing Street Sweeper.** Replace existing Johnson Street Sweeper due to high maintenance costs. **Estimated cost is \$150,000 (Sewer-\$15,000, Street-\$75,000, Water-\$25,000, Storm-25,000, Parks-\$10,000)**
2. **Computer replacement.** Replace one workstation at the wastewater treatment plant. **Estimated cost is \$1,800.**
3. **Computer and peripheral upgrades.** Storm and Water modeling license renewals, Projector, Survey equipment, AutoCAD License, and miscellaneous computer hardware and software. **Estimated cost is \$26,900 (Sewer - \$5,380, Storm - \$5,380, Streets - \$5,380, Parks - \$5,380, Water - \$5,380)**
4. **Portable Asphalt Cutter.** Replace existing cutter used to cut asphalt and concrete surfaces. **Estimated cost is \$10,000. (Sewer - 2,500, Street - \$2,500, Water - \$2,500, Storm - \$2,500)**
5. ~~**Lawn Mower.** Purchase a new riding lawn mower used to maintain the landscaped areas. **Estimated cost is \$1,700.**~~
6. **Gas Detectors.** Purchase new meters to monitor air quality in confined spaces during maintenance and repair activities. **Estimated cost is \$5,000.**
7. **Fall Protection.** Purchase a tripod and winch required to enter confined spaces (manholes and lift stations). **Estimated cost is. \$ 3,500**
8. **Various needed equipment.** Purchase equipment as needed. Purchases may include replacement of 1992 flatbed truck - \$35,000, 1994 1-ton flatbed - \$35,000, 1998 Ford Expedition - \$28,000, 1989 John Deere Tractor - \$30,000 and 1995 ¾-ton pickup with liftgate - \$35,000. **Estimated cost is \$60,000. (Sewer-\$12,000, Storm-\$12,000, Parks-\$12,000, Street-\$12,000, Water-\$12,000).**
9. **Miscellaneous.** Purchase small hand tools and equipment as needed. **Estimated cost is \$4,000.**

Total capital outlay is \$47,380 49,080.



**COMMUNITY DEVELOPMENT DEPARTMENT**

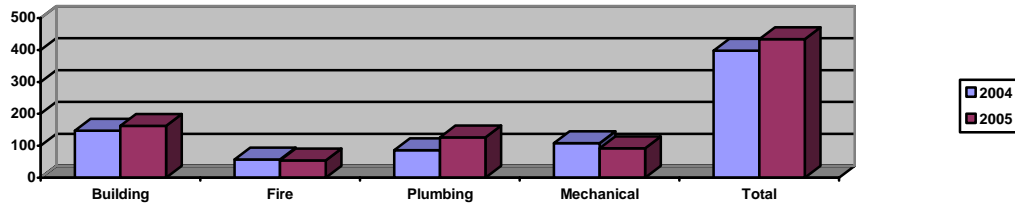
**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: DICK J. BOWER, CBO**  
**BUILDING OFFICIAL/FIRE MARSHAL**  
**SUBJECT: STAFF REPORT - THIRD QUARTER 2005 BUILDING PERMIT DATA**  
**DATE: NOVEMBER 14, 2005**

Attached for your review is the Building division quarterly activity summary for the third quarter of 2005. Please feel free to contact me should you have any comments or questions regarding this information.

**City of Gig Harbor  
Building and Fire Safety Division  
Activity Summary  
As of 3<sup>rd</sup> Quarter of 2005**

The following information provides a snapshot of the Building and Fire Safety Division activity for the first 3 quarters of 2005 with a comparison to activity from the prior year. Changes rounded to the closest .5%.

**PERMIT ACTIVITY**

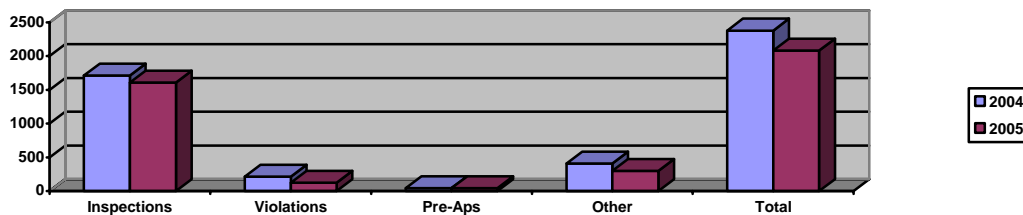


Type	04	05	% Increase
Building	147	162	10
Fire	57	54	(5)
Plumbing	86	126	46
Mechanical	108	92	(14)
Total	398	434	9

Permit types include all commercial and residential construction, including civil works structures such as retaining walls, detention vaults, water tanks and similar facilities. For each permit issued, plan review services at an average of 2 hours per plan are provided.

Fire permits include permits for sprinkler systems, fire alarm systems, commercial cooking suppression systems and similar fire protection and suppression equipment.

**OTHER CONSTRUCTION SERVICES**



Service	04	05	% Increase
Inspections	1711	1608	(6)
Violations (Except Title 17 for '05)	214	127	(40)
Pre-Application Conferences	44	44	0
Other	408	302	(25)
Total	2377	2081	(12)

Inspections include building, plumbing, mechanical, and fire code inspections for new and remodel construction. Figure does not include annual fire safety inspections, fire inspection

referrals, or fire marshal inspections performed to assure code compliance prior to business license issuance.

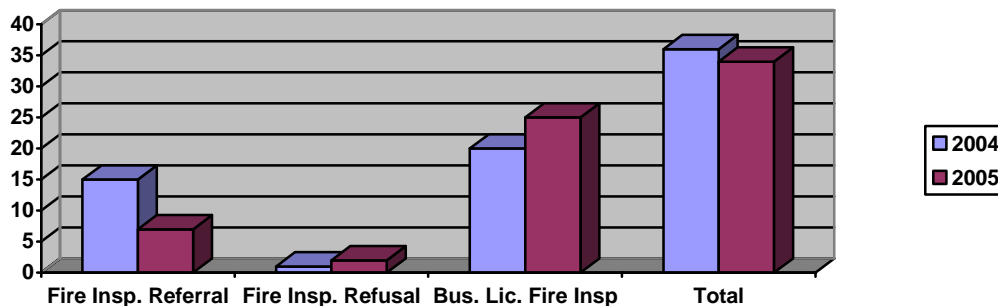
Violations include citizen complaints and staff generated investigations, and include those settled prior to issuance of a Notice of Violation as well as those resulting in legal enforcement action.

Pre-Application Conferences include those scheduled by the Planning division for discussion of general planning, zoning, public works and building requirements as well as those scheduled by the Building division for discussion of project specific fire and building code requirements.

The other category includes permits reviewed and issued over the counter through the City's Permit by Appointment program. Also included is staff member attendance at training programs.

Not included in any category are counter and phone consultations with members of the public on code and project related issues, administrative projects, and similar efforts.

### **FIRE PREVENTION SERVICES**



Service	04	05	%
<b>Fire Inspection Referral</b>	<b>16</b>	<b>9</b>	<b>(43)</b>
<b>Fire Inspection Refusal</b>	<b>1</b>	<b>2</b>	<b>100</b>
<b>Fire Marshal Insp. For Bus. Lic.</b>	<b>24</b>	<b>26</b>	<b>8</b>
<b>Total</b>	<b>41</b>	<b>37</b>	<b>(9)</b>

Fire inspection referrals include annual fire safety inspections, done under contract by Fire District 5, which have not achieved voluntary compliance within the reinspection period. These are referred to the City fire marshal for legal enforcement action. The referral category also includes follow-up on deficiencies found during required annual inspections or fire protection systems performed by private contractors..

Fire inspection refusals include buildings and occupancies which have denied Fire District 5 personnel access for an annual fire safety inspection. These are referred to the City for documentation of the denial and consideration of enforcement action.

Fire marshal inspections for business license issuance are performed by the City fire marshal to assure compliance with GHMC Chapter 15.12 prior to approval of a business license.

### **SPECIAL SERVICES PROJECTS**

Special services projects are those that due to their magnitude or technical difficulty have already, or are anticipated to, constitute extraordinary demands on staff time. These projects typically result in numerous partial inspections, reinspections, and technically demanding plan reviews and inspections. The following list includes those projects that currently fall into this category.

Address	Permit Yr.	Special Services
2727 Hollycroft	2002-04	MG, TM, MTI, MPI, MR
7101 Stinson	2005	MPI
5201 Olympic	2004	MPI, MR
4408 97 <sup>th</sup>	2004	MPI,MR,TMS
4100 Foster	2005	MPI
7610 Pioneer	2005	MPI
4717 97 <sup>th</sup>	2005	MR
4408 97 <sup>th</sup>	2004	MR,TMS,MPI
9010 Prentice	2005	MPI
MG – Medical gas systems MR – Multiple significant revisions MTI – Multiple tenant improvements MPI – Multiple partial inspections TM – Technical medical facility TMS- Technical mechanical systems or equipment		

Medical gas systems (MG) include systems providing oxygen, air, nitrous oxide and similar gases for inhalation therapy as well as air, nitrogen and oxygen systems for operating medical/dental instruments. Med gas systems require multiple inspections as well as coordination with medical gas certification contractors.

Multiple significant revisions (MR) includes projects that have undergone significant revisions to the civil plans and structural or fire resistive systems during construction. MR projects demand additional plan review, inspections and require considerable additional coordination between inspectors and contractors to facilitate project scheduling concerns.

Multiple tenant improvements (MTI) projects include projects in which tenant improvement work has been permitted during shell construction, and projects where shell and core projects are anticipated to result in numerous future tenant improvement permits. Concurrent shell and TI projects demand additional coordination between plan reviewers, inspectors, and contractors.

Multiple partial inspections (MPI) denotes projects that, due to the type of construction or project scheduling concerns are afforded numerous partial inspections for typical single inspection phases. E.g. partial reinforcement inspections for concrete walls, wall board inspections for fire resistive assemblies requiring multiple layers.



Technical medical facility (TM) projects involve medical treatment facilities where invasive procedures, anesthesia, and/or procedures involving complex medical equipment (MRI, CT, Dialysis, Endoscopy) are conducted.

Technical mechanical systems or equipment (TMS) denotes projects including smoke control systems, complex heating, ventilation and air conditioning systems, flammable and combustible vapor and dust conveying systems and similar systems of a complex or safety related nature.



## POLICE

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: CHIEF OF POLICE MIKE DAVIS**  
**SUBJECT: GHPD MONTHLY REPORT FOR OCTOBER 2005**  
**DATE: NOVEMBER 14, 2005**

### DEPARTMENTAL ACTIVITIES

October YTD totals show we have seen an increase of 396 reports written in 2005 (2004/1090, 2005/1486). October YTD DUI arrests in 2005 are up by 23 (2004/33, 2005/56) and October YTD infractions in 2005 are up by 228 (2004/875, 2005/1103). Statistics show our October 2005 YTD traffic accidents are down by 23 accidents when compared to the same October YTD period in 2004 (2004/175, 2005/152). I have updated the table that I provided last month tracking traffic collisions by age group. The table is provided on the attached traffic accident report.

October YTD misdemeanor arrests in 2005 are up by 113 (2004/203, 2005/316) and our October YTD felony arrests are down by 13 (2004/114, 2005/101). For every ticket our officers wrote in October 2005, 1.74 verbal warnings were given (165 warnings and 95 tickets).

Attached you will find several graphs that track selected 2004 and 2005 monthly statistics. I have updated the graphs for October so you can visually evaluate and track our monthly activity trends (remember some of the graphs contain cumulative numbers).

We have received our 2005 mid-year UCR crime report. Our Violent Crime Index for the first six months of 2005 has increased 180% when compared to the same period in 2004 (2005/14,2004/5). The violent crimes category includes Murder, Forcible Rape, Robbery and Aggravated Assault. We have seen a 350% increase in Aggravated Assault during the first six months of 2005. The good news is our property crime index has stayed static. You will find a copy of the report in your mailbox at the Civic Center. You may remember that our Violent Crime Index decreased almost 30% in 2004 when compared to 2003.

**The Reserve Unit** supplied 107.75 hours of volunteer time assisting our officers in October. Our reserves provided assistance with the Annual Downtown Halloween Festival on October 31<sup>st</sup>. We are currently recruiting additional members for our reserve unit.

**The Marine Services Unit** is currently deactivated for the winter months.

**Some of the more interesting calls for the month of October 2005 included:**

- October 5<sup>th</sup>: While investigating a suspicious occupied vehicle in a local apartment complex at 0200 hours, Officer Allen smelled a strong odor of burning marijuana from inside the vehicle. After further investigation, Officer Allen arrested two 19-year old males for possession of marijuana. Case # 051203
- October 5<sup>th</sup>: Two male subjects pumped \$28.00 worth of gas into their vehicle at a local service station located on Pt. Fosdick Drive. The female clerk became suspicious of the vehicle when she noticed that the vehicle had no license plates. The clerk confronted the driver about paying for the gas. The driver entered his vehicle and drove into the clerk as she blocked the vehicle. The two subjects then fled the scene. The clerk suffered minor injuries, but did not require medical aid. Officer Mike Cabacungan and Detective Entze investigated the case eventually arresting the driver of the vehicle. Case # 051205
- October 6<sup>th</sup>: Lt. Colberg and Officer Jahn responded to a domestic violence incident at Harbor Ridge Middle School. A 14-year old male student assaulted his mother in the parking lot of the school. The mother did not require medical attention and the student was arrested and booked into Remann Hall. Case # 051208
- October 7<sup>th</sup>: Officers from GHPD received information that a 21-year old wanted subject was a passenger in a vehicle in the area of his residence off Rosedale Street. The subject was wanted by Tacoma Police Department (TPD) on Assault 1<sup>st</sup> Degree charges. It was alleged that the subject had shot and seriously wounded a male subject in Tacoma with a shotgun. Officer Allen observed the vehicle on Rosedale Street and with the assistance of other officers, stopped the vehicle and made the arrest without injury or incident. Nice job by Officer Allen! Case # 051212
- October 7<sup>th</sup>: Officer Chapman contacted a male at a local car wash at 0521 hours. The 20-year old male was arrested on an active felony warrant from Kitsap County Sheriff's Office. Case # 051213
- October 8<sup>th</sup>: Officers Chapman and Welch were dispatched to a residence where a grandfather had discovered his 15-year old grandson and two of his friends drinking in the garage at 1230 hours. All three juveniles were arrested for Minors in Possession (MIP) and released to their parents. Case # 051220
- October 8<sup>th</sup>: Officer Welch investigated a suspicious occupied vehicle in a business area off Harborview Drive. Inside of the vehicle, Officer Welch spotted a 5-gallon gas can and a length of rubber hose. When questioned about the items, the occupants could not provide reasonable answers. Upon checking the identification of the occupants, an active warrant from Des Moines PD was found for a 23-year old passenger. During a search of the vehicle incident to arrest, a meth pipe was discovered which contained meth residue. The owner of the pipe, a 31-year old male was arrested for possession of meth. Case # 051221

- October 8<sup>th</sup>: While on his way to Starbuck's Coffee Shop on Pt. Fosdick, Officer Douglas observed a 2001 Honda Sport Bike parked on the sidewalk. As Officer Douglas passed the bike, he noticed that a helmet was sitting on the ignition area of the bike. Officer Douglas knew that a rash of motorcycles have been stolen recently using a screwdriver to force the ignition. Officer Douglas checked the license plate and discovered that the motorcycle was stolen from Tacoma. Officer Douglas cleared the area and watched the motorcycle from a distance. Within a few minutes, Officer Douglas saw a white male he recognized return to the motorcycle. Officer Douglas snuck up behind the subject as he was attempting to start the motorcycle. The subject saw Officer Douglas approaching and attempted to flee on foot. After a short foot pursuit, Officer Douglas tackled the subject and took him into custody. The subject was booked into the Pierce County Jail on charges of possession of stolen property 1<sup>st</sup> degree, taking a motor vehicle w/o permission, and possession of burglar tools. This subject is the same individual that Sgt. Dougil arrested in August of 2005 for possession of a stolen sport bike. Both Officer Douglas and Sgt. Dougil were recognized for doing a great job with these investigations. Case # 051223
- October 9<sup>th</sup>: Officer Dahm observed a suspicious occupied vehicle behind the Safeway Store at 0330 hours. When he approached the vehicle, Officer Dahm saw a female inside attempting to hide something under the car seat. During questioning, the 28-year old female admitted to placing a meth pipe under the seat. The female and her 31-year old boyfriend were arrested for possession of meth and booked into the Pierce County Jail. Case # 051227
- October 9<sup>th</sup>: Sgt. Emmett and Officer Garcia were dispatched to a gas station located at 5006 Pt. Fosdick on a report of a subject harassing customers. Upon arrival, the subject was gone. Thirty minutes later, the officers were again dispatched to the same location on the same subject attempting to open car doors on vehicles passing through the lot. Sgt Emmett located a 23-year old male at the bus stop on Pt. Fosdick. The subject had an open bottle of malt liquor and was somewhat intoxicated and disorderly. He said that he was just asking for money and did not attempt to enter any vehicles. During a records check, a Tacoma Municipal Court warrant for "Unlawful Bus Conduct" was discovered and the subject was taken into custody and transported to the Pierce County Jail Case # 051228

**Summary of incidents during the first week of October included:**

- 1 Non Injury Accident
- 2 Injury Accidents
- 2 Vehicle Prowls
- 1 Stolen Auto
- 1 Recovered Stolen Auto
- 21 arrests for the week!!!**

- October 10<sup>th</sup>: At 1510 hours, a Hispanic male walked into a local bank located on Olympic Drive and told the teller that he was robbing the bank. At first the teller thought the male was joking, however when the male told the teller again “give me the money in your till, you don’t want anyone to get hurt, this is a robbery, give me your money”, the teller complied and gave the male an undisclosed amount of cash. The male then calmly walked out of the bank and disappeared. The robber was described as being approximately 40 years old and wearing a baseball cap, t-shirt and jacket. The case is being investigated by Detective Entze and the FBI. Case # 051232
- October 12<sup>th</sup>: At a road construction project on Borgen Boulevard, a 21-year old male bicyclist reported that he was assaulted by a 59-year old flagger. The bicyclist said that he had failed to stop for one flagger and as he approached the 2nd flagger, the 2nd flagger struck the bicyclist with his hand-held stop sign. The flagger said that the bicyclist was ignoring the flaggers and he held out his stop sign to get the bicyclist’s attention. The flagger denied that any contact was made. The case was investigated by Detective Entze and referred to the Gig Harbor Municipal Court for possible charges. Case # 051238
- October 14<sup>th</sup>: While on patrol at 0410 hours, Officer Chapman came upon a disabled pick-up truck on Borgen Boulevard. The driver said that the truck was out of gas and his friend was currently enroute to bring him gas. Officer Chapman saw a male subject lying near a parked van. As Officer Chapman approached the van, a 19-year old male jumped up and said “you got me.” Next to the male was a gas can with a rubber hose stuck in the van’s gas tank. The male was siphoning gas for his buddy in the disabled truck on Borgen Boulevard. The suspect was arrested for attempted theft and released with a criminal citation. Case # 051242

**Summary of incidents during the second week of October included:**

- 1 Injury Accident
- 2 Hit & Run Accidents
- 4 Vehicle Prowls
- 1 Stolen Auto

**Officer Welch arrested three DUIs over the weekend**

- October 19<sup>th</sup>: Officer Cabacungan was dispatched to a local retirement home on an 80-year old male resident that was assaulting staff members. Upon arrival, it was determined that the male needed an adjustment in his medication. It was decided by Officer Cabacungan and the staff members to do an involuntary commit on the male resident. Case # 051270

- October 19<sup>th</sup>: Officer Garcia responded to a Hit & Run accident involving minor injuries. Pierce County deputies located the vehicle and the 21-year old male driver several miles from the crash scene. Officer Garcia arrived at that location and determined that the male driver was under the influence of alcohol. The driver's BAC results were .133 & .136. The driver was booked into jail for DUI and Hit & Run at an injury accident. Case # 051272
- October 20<sup>th</sup>: A 17-year old male approached a 22-year old male manager of a local business and punched him in the stomach. The 17-year old then continued to punch the manager as he lay on the ground. The 17-year old suspect then fled the scene. It was later determined that the suspect believed that the manager had been harassing the suspect's girlfriend, who also works at the business. The 17-year old suspect was later apprehended by Officer Cabacungan and arrested for Assault 4<sup>th</sup> Degree. Case # 051273
- October 23<sup>rd</sup>: While on patrol, Officer Chapman was advised of a possible suicidal male in a pickup truck at the rear of a local grocery store. Officer Chapman contacted the 19-year old male and his 18-year old girlfriend. It was revealed that prior to going to the grocery store the male had put a loaded rifle to his head and threatened to kill himself during an argument. The male consented to a voluntary commit and his rifle was removed from the apartment and is being held at GHPD for safekeeping. Case # 051287

**Summary of incidents during the third week of October included:**

2 Non Injury Accidents  
 1 Hit & Run Accident  
 3 Vehicle Prowls  
 2 Stolen Autos  
 2 Burglaries

- October 24<sup>th</sup>: Officer Dahm stopped a vehicle for an equipment violation. While approaching the vehicle, Officer Dahm noticed that the passenger was attempting to stuff something under the front seat. Upon contacting the driver, Officer Dahm smelled the unmistakable odor of burning marijuana. During his investigation, Officer Dahm recovered 4 grams of marijuana, a marijuana pipe and a case of Budweiser (which the passenger was attempting to stuff under his seat). The 20-year old male driver and his 20-year old male passenger were arrested for possession of marijuana and MIP. Case # 051298
- October 26<sup>th</sup>: Officer Busey was dispatched to the local UPS Store on a suspicious package. The package was supposed to contain written documents going to Mexico. However, when the UPS courier picked up the package he determined that the package contained something other than written documents. Officer Busey brought the package back to GHPD and discovered that it

contained 5 grams of Marijuana in cigar tubes along with some loose coffee grounds. The identification of the sender turned out to be false and the investigation is pending. Case # 051304

- October 26<sup>th</sup>: Sgt Dougil stopped a vehicle for weaving and discovered that the 18-year old female driver was under the influence of alcohol. Her two teenage passengers had also been drinking. The driver was arrested for DUI and the passengers for MIP. The driver blew a .171 & .166 on the BAC machine. The passengers were released to their parents and the driver to a relative. Case # 051307
- October 29<sup>th</sup>: Sgt. Emmett arrested a 15-year old male shoplifting suspect at the Target Store. The 15-year old lives in Eastern Washington and is staying with a friend locally. He decided to do a little shoplifting while in town because there is no Target Store where he lives. Case # 051311
- October 30<sup>th</sup>: Officer Welch watched a 46-year old female almost hit another vehicle and then drive into a curb. Upon contacting her, he discovered that she was intoxicated. The female was arrested for DUI and blew a .205 & .200 on the BAC machine. Case # 051318

**Summary of incidents during the fourth week of October included:**

2 Non Injury Accidents  
1 Injury Accident  
1 Hit & Run Accident  
7 Vehicle Prowls (3 occurred during church service @ Chapel Hill Church)  
1 Stolen Auto

- October 31<sup>st</sup>: During a traffic stop for expired license plates, Officer Cabacungan arrested the 21-year old male driver for an outstanding warrant. While searching the vehicle incident to arrest, Officer Cabacungan discovered 5.2 grams of marijuana, a marijuana pipe and a ninja throwing star. The driver was also DWLS 3<sup>rd</sup> degree. Case # 051325
- October 31<sup>st</sup>: A 40-year old father was out "Trick or Treating" with his 6-year old son, when a vehicle approached him at a high rate of speed. The father yelled at the driver to slow down and slapped the back end of the vehicle with his hand. The vehicle came to a sudden stop and the male driver exited the vehicle. The driver then approached the 40-year old father and punched him in the face, knocking him down. The driver then fled the scene in his vehicle. The victim was assisted home by other pedestrians and later transported to Tacoma General with a concussion. Two teenage girls witnessed the assault and a short time later located the suspect's vehicle at a party they were attending. The girls then provided Sgt. Emmett with the vehicle's license plate. Sgt. Emmett was able to determine the suspect's identity and a short time later apprehended the

20-year old male suspect. Upon questioning, the suspect said that he was mad because the man yelled at him and slapped his vehicle. The suspect was arrested for Assault 4<sup>th</sup> degree. Case # 051330

- October 31<sup>st</sup>: An off-duty deputy sheriff was picking up a friend at a local tavern. The deputy was driving his personal vehicle. While waiting for his friend, a van backed into the deputy's vehicle. The deputy approached the 34-year old male driver and identified himself as a deputy sheriff. The male said that he didn't have insurance and would retrieve his identification from his van. The male then entered his van and fled the parking lot at a high rate of speed. The deputy called dispatch and followed the van to a local apartment complex. Sgt. Emmett arrived and investigated the hit and run. While interviewing the suspect driver, Sgt. Emmett determined that the suspect was under the influence of alcohol. The 34-year old suspect was taken into custody for DUI and Hit & Run. The suspect blew a .215/.212 on the BAC. Case # 051331
- November 1<sup>st</sup>: Officer Busey was dispatched to a local car wash center on a suspicious male. The male had been at the car wash for a long period of time, but had not washed his car. Officer Busey ran a check on the 47-year old male and discovered a Felony Escape warrant from the Department of Corrections. The male was taken into custody and booked on the warrant. Case # 051338
- November 1<sup>st</sup>: Officer Allen was dispatched to look for a pickup truck that had just run into a landscaping wall and fled the scene. Officer Allen located the P/U about a block from the accident scene. The 25- year old driver was lying under the P/U trying to get the spare because the P/U sustained a flat tire during the collision. Officer Allen determined that the male driver was under the influence of alcohol and arrested him for DUI and Hit & Run. The suspect blew a .164/.174 on the BAC. Case # 051340
- November 2<sup>nd</sup>: While working as the School Resource Officer at Gig Harbor High School, Officer Douglas observed two male students walking off campus towards the football field. Officer Douglas followed the two and they both began running. Officer Douglas was able to catch one of two subjects. The male was identified as a 15-year old student. Inside the student's backpack was 3.1 grams of marijuana and a marijuana pipe. The student was arrested for possession of marijuana and possession of drug paraphernalia. The other student was not identified. Case # 051344
- November 4<sup>th</sup>: While on patrol, Officer Allen drove up on a car that was "high centered" on a big rock near the pump station on Wagner Way. While talking with the teenage driver and occupants, Officer Allen discovered that all three were under 21-years of age and all three had been drinking. Officer Allen arrested a 16-year old female, an 18-year old male and a 19-year old male for MIP. Case # 051347



## **Summary of incidents during the first week of November included:**

3 Non Injury Accidents  
2 Injury Accidents  
3 Hit & Run Accidents  
2 Vehicle Prowls  
1 Burglary

### **TRAVEL/TRAINING**

- Officer Busey attended Field Sobriety Test & Drug Impaired Training from October 3<sup>rd</sup> through October 6<sup>th</sup> at the Kitsap County Sheriff's Office.
- Officer Busey completed Marine Services training at the Washington Parks and Recreation Fall Conference at Lake Chelan from October 10<sup>th</sup> through October 13<sup>th</sup>.
- Officers Douglas and Cabacungan attended the Reid Method of Criminal Interviews & Interrogation training in Bremerton on October 10<sup>th</sup> through the 13<sup>th</sup>.
- Officers Busey and Douglas attended the Violent Crime Investigations Training Conference in Burien on October 18<sup>th</sup> through the 21<sup>st</sup>.
- CSO Mock attended a Safe Kids "*train the trainer*" session in Puyallup on October 11<sup>th</sup>.
- CSO Mock attended a Senior Citizens and Elderly Abuse seminar in Bremerton on October 14<sup>th</sup>.
- Most of our officers attended National Incident Management Training on October 19<sup>th</sup> at the Civic Center. This is required training to be eligible for Homeland Security grants from the federal government.
- CSO Lynn Mock attended Crime Analysis Training on October 17<sup>th</sup> through the 21<sup>st</sup>.
- PSS Yerry attended LEIRA Training on October 19<sup>th</sup> through the 21<sup>st</sup> in Bellingham. This is training dealing with records management.
- Officer Welch attended a Simmunition Scenario Instructor & Safety Certification Class on October 18<sup>th</sup> through the 21<sup>st</sup> in Kirkland.
- CSO Mock attended Crime Scene Investigation Training at the Criminal Justice Training Center in Burien.
- Sgt. Dougil and Officer Allen attended Firearms Crime Enforcement Training in Shelton on October 25<sup>th</sup>.

## **SPECIAL PROJECTS**

- Sgt. Emmett spent approximately 76 hours in the property room during the month of October purging about half the evidence and property inventory from 2002. The state auditor conducted a routine audit of our property room and found no problems or inconsistencies.
- Councilman Bob Dick did a ride-along with Officer Welch on October 15th.
- We are in the final stages of creating a Police Explorer Post.
- CSO Mock has been meeting with the Pierce County Sheriff's Department's new CSO Emily Watson. The both of them are looking at ways to coordinate community outreach services.
- CSO Mock is working diligently with organizing our alarm compliance program. Much of her activities have been directed at educating area alarm owners on our municipal code.

## **PUBLIC CONCERNS:**

The good news is that stolen vehicles have decreased this last month. The bad news is our vehicle prowls are back on the increase.

## **FIELD CONTACTS**

Staff made the following contacts in the community during October:

- Chaplain Roger Roth was called to assist the Fire Department on the Peninsula for the sudden death of a 68- year old female on Sunday October 23rd. Chaplain Roth was able to provide counseling and support to the family members who were present.
- October 11<sup>th</sup>, Chief Davis attended the Small Agency meeting at the law Enforcement Support Agency (LESA).
- On October 12<sup>th</sup>, Chief Davis attended the 2nd Annual NASA Celebration at Key Peninsula Middle School commemorating their selection as a NASA learning site.
- Chief Davis attended the Red Ribbon Week assembly at Harbor Ridge Middle School on October 19<sup>th</sup>.
- Chief Davis and Lt. Colberg met with Paul Nelson and Judge Dunn to discuss expanding our Domestic Violence services by continuing to support partnerships with other service providers on the Peninsula.
- On October 19<sup>th</sup>, Chief Davis attended the Tacoma/Pierce County DUI task Force meeting.

- On October 20<sup>th</sup>, Chief Davis attended the Chief's and Sheriff's meeting at Fircrest.
- On October 26<sup>th</sup> and 27<sup>th</sup>, Chief Davis participated in mock job interviews at Gig Harbor High School.
- CSO Mock has been providing numerous school presentations and tours of the police station.
- On October 28<sup>th</sup>, Chief Davis hosted the 4<sup>th</sup> Annual Law Enforcement Summit held at the Peninsula Work Release facility in Port Orchard. Attorney General Rob McKenna was the featured speaker.
- Several staff members from GHPD assisted with the Halloween patrol on October 31<sup>st</sup>. Coffee and candy was provided by the Jaycox Gig Harbor Police Benevolent Fund.

#### **OTHER COMMENTS**

The department is fully-staffed

#### **ATTACHMENTS**

- October Monthly Activity Report
- October Activity Graphs
- October Traffic Accident Reports



**POLICE**

**TO: MAYOR WILBERT AND CITY COUNCIL**  
**FROM: CHIEF OF POLICE MIKE DAVIS**  
**SUBJECT: TRAFFIC ACCIDENT REPORT FOR OCTOBER 2005**  
**DATE: NOVEMBER 14, 2005**

**LEGEND:**

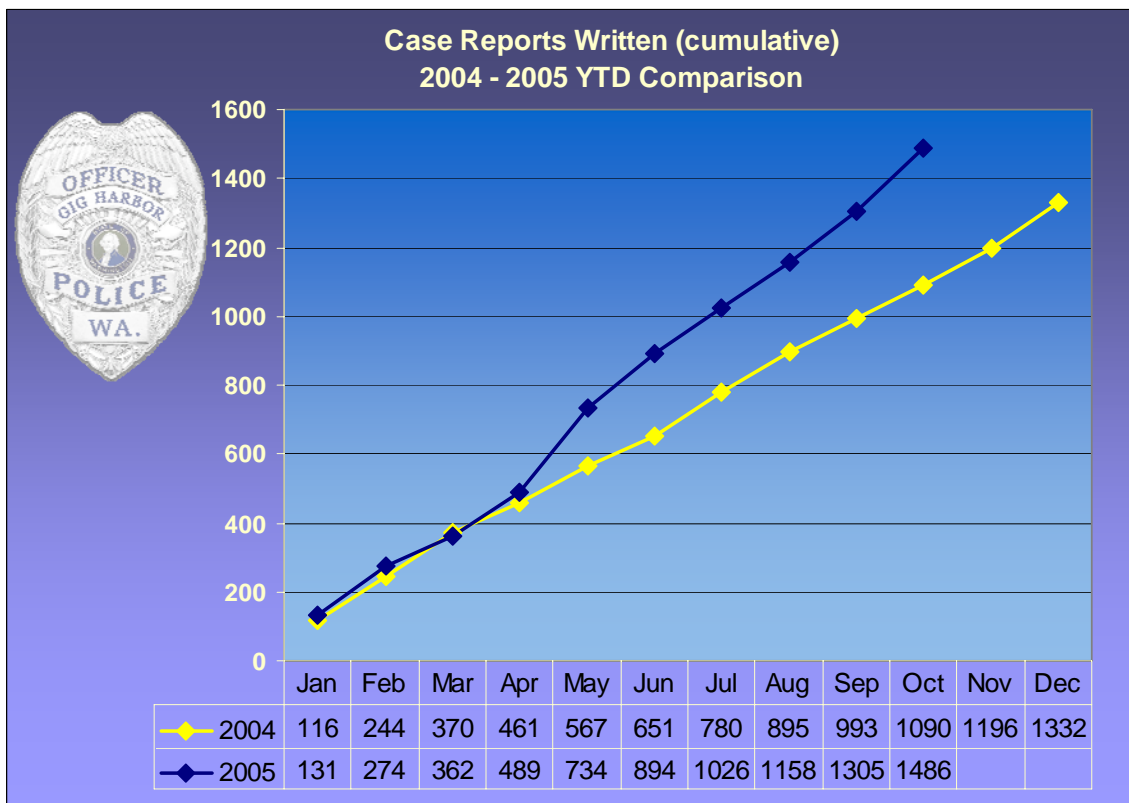
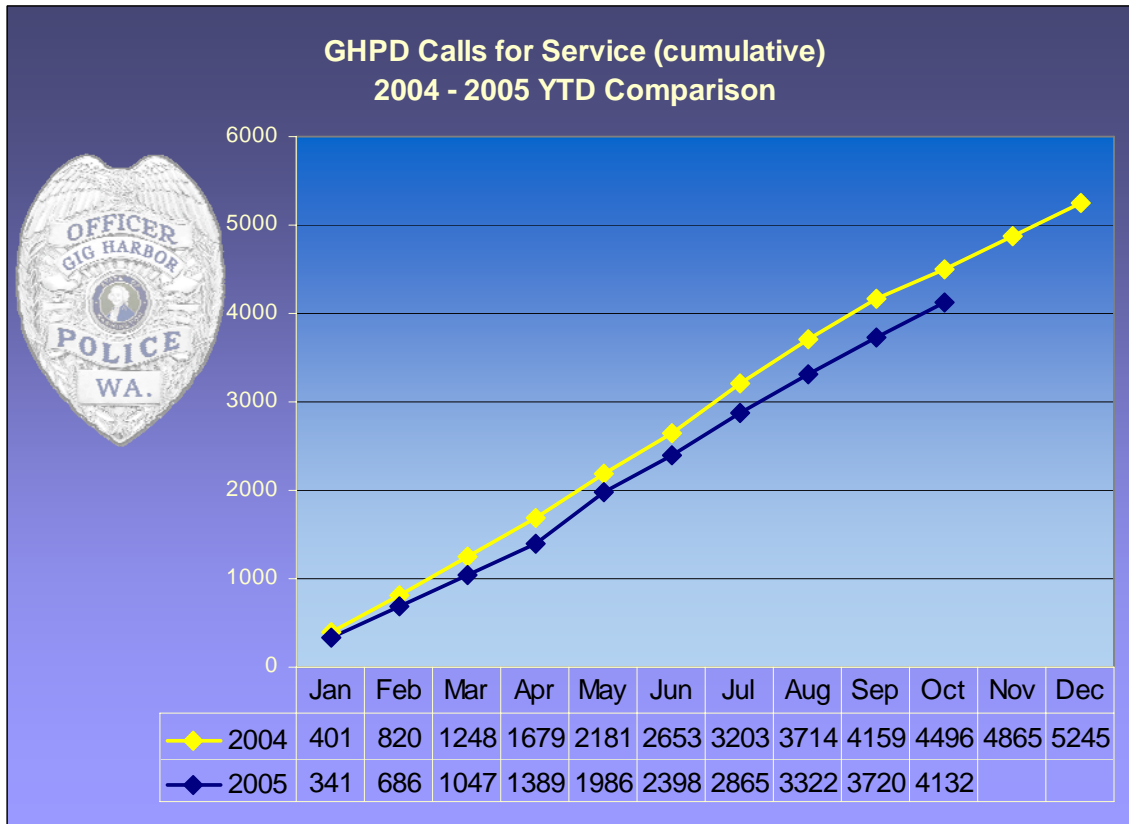
P-LOT- PARKING LOT                                      H&R- HIT & RUN  
 NON - NON INJURY                                        INJ- INJURY  
 RED/CYC- PEDESTRIAN/CYCLIST      R/A- ROUNDABOUT

<u>DATE</u>	<u>LOCATION</u>	<u>TYPE</u>	<u>CASE#</u>
10-06-05	Olympic & Pt. Fosdick Dr.	INJ	GH051210
10-07-05	Harborview Dr & Pioneer Way	INJ	GH051216
10-08-05	5500 Olympic Dr.	NON	GH051224
10-10-05	Olympic Dr & Hwy 16	INJ	GH051235
10-14-05	5120 Borgen Blvd	H&R	GH051243
10-19-05	Harborview & Soundview	NON	GH051268
10-19-05	6100 Soundview Dr	INJ	GH051272
10-22-05	38 <sup>th</sup> Ave & 60 <sup>th</sup> St. Ct.	INJ	GH051278
10-23-05	4831 Pt. Fosdick Dr.	P-LOT/H&R	GH051288
10-23-05	5000 Olympic Dr	NON	GH051290
10-26-05	3715 56 <sup>th</sup> St.	INJ	GH051305
10-27-05	Olympic & Pt. Fosdick	NON	GH051308
10-28-05	33 <sup>rd</sup> Ave Ct. & 43 <sup>rd</sup> St. Ct.	NON	GH051314
10-29-05	11400 51 <sup>st</sup> Ave.	NON	GH051316
10-31-05	7600 Thurston Ave.	NON	GH051327
10-31-05	4926 Pt. Fosdick	P-LOT	GH051331

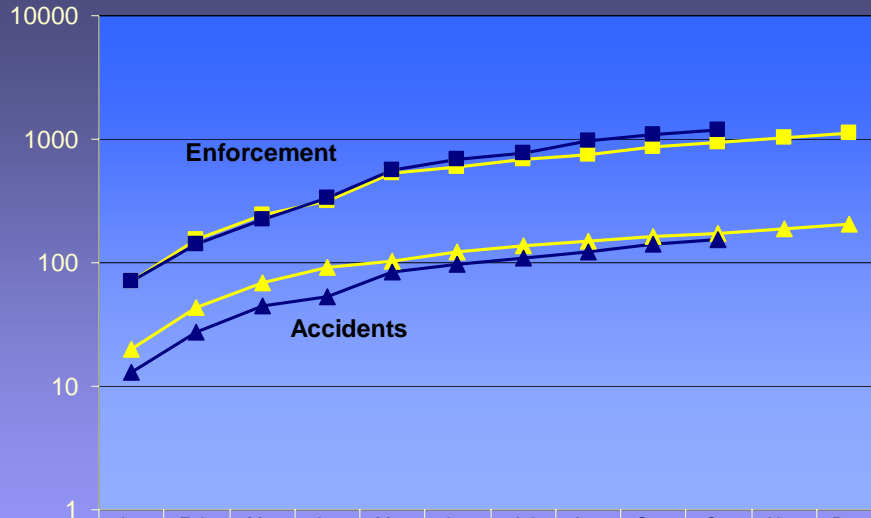
**TRAFFIC ACCIDENT INVOLVEMENT ACCORDING TO AGE CATEGORY 2005**

	<b>Teens (15-18)</b>	<b>Young Adult (19-25)</b>	<b>Adult (26-50)</b>	<b>Seniors (51 over)</b>
January	1	1	2	8
February	4	2	5	4
March	4	6	9	3
April	3	4	5	2
May	2	6	9	6
June	4	1	1	6
July	1	7	2	6
August	3	3	3	6
September	5	2	6	3
October	2	2	8	4
<b>YTD Totals</b>	<b>29</b>	<b>34</b>	<b>50</b>	<b>48</b>

# OCTOBER 2005 YTD MONTHLY ACTIVITY GRAPHS

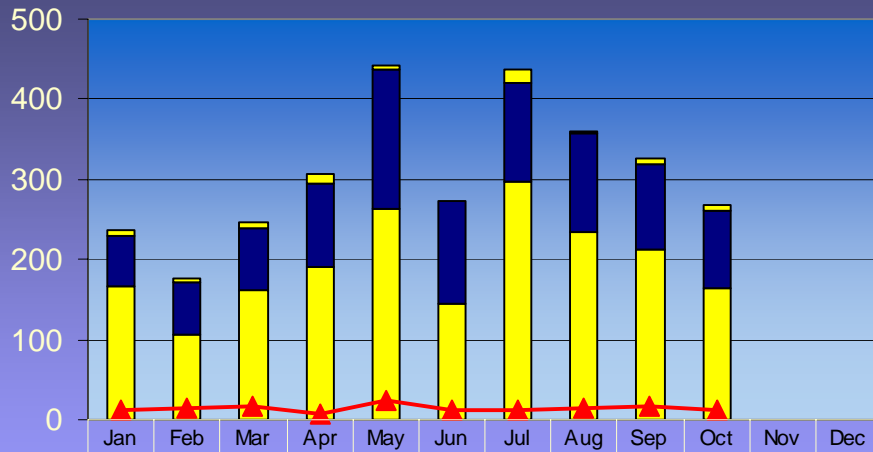
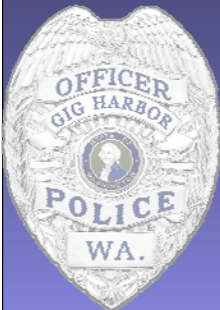


Trends: Traffic Enforcements vs. Accidents  
2004 - 2005 YTD Comparison (cumulative)



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2004 Infractions + Citations	70	156	241	313	525	599	681	755	865	944	1015	1116
2005 Infractions + Citations	71	140	223	337	568	696	779	968	1092	1195		
2004 Reportable Accidents	20	44	68	91	103	121	137	150	164	175	190	207
2005 Reportable Accidents	13	27	45	53	84	96	109	124	140	152		

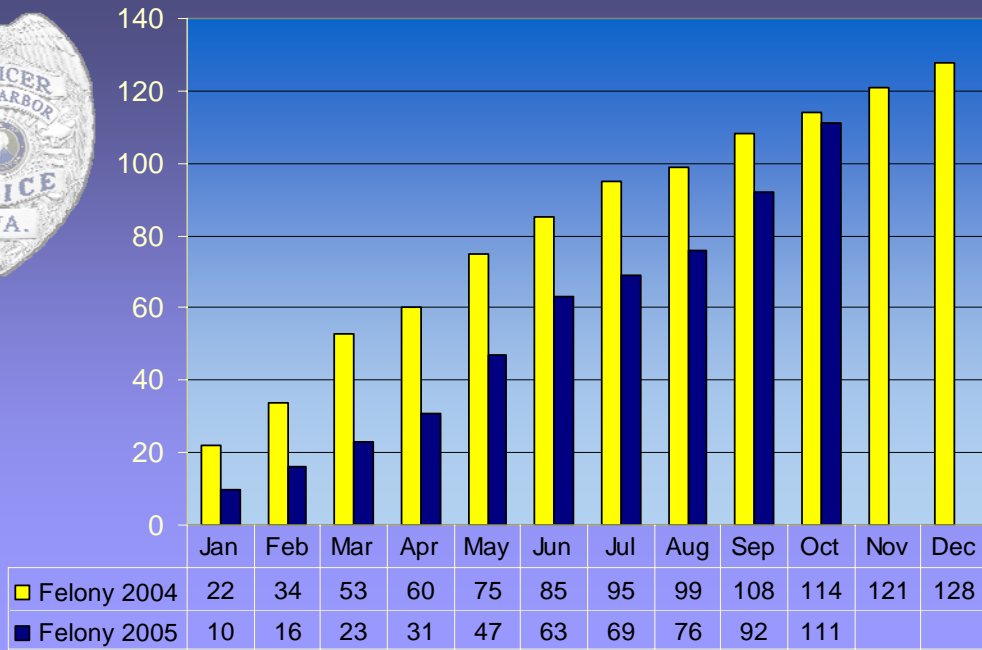
2005 Traffic Enforcement vs. Accidents Comparison  
Monthly Totals



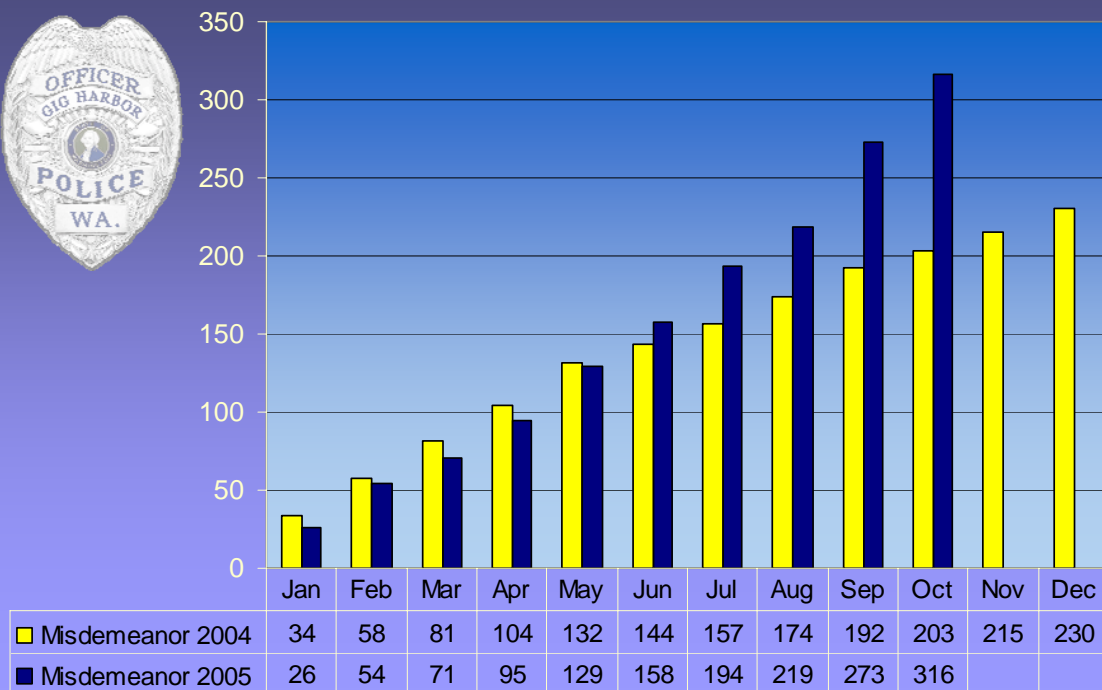
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Criminal Traffic Citations	8	4	7	12	5	0	15	4	6	8		
Infractions	63	65	76	102	174	128	125	123	106	95		
Verbal Warnings	166	107	163	192	264	146	296	234	213	165		
Accidents	13	14	18	8	23	12	13	15	16	12		



### Felony Arrests (cumulative) 2004 - 2005 YTD Comparison



### Misdemeanor Arrests (Cumulative) 2004 - 2005 YTD Comparison



### DUI Arrests (cumulative) 2004 - 2005 YTD Comparison

