

**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
July 24, 2006 - 7:00 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

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

1. Approval of the Minutes of the City Council Meeting of July 10, 2006.
2. Correspondence: Letter from the Gig Harbor Peninsula Historical Society.
3. Resolution No. 681 – Surplus Property.
4. 2006 Summer Sounds at Skansie – Contract.
5. Authorizing of New Street Names – Dwelling Company Subdivision.
6. Digital Orthophotography Subscription Agreement with Pierce County.
7. Eddon Boatyard Property Remediation Clean-up Action Plan – Amended Consultant Services Contract.
8. Harbor Hill Water Tank Bill of Sale, Waterline Easement Agreement and Powerline Easement.
9. Ratification of Resolution No. 679 Authorizing the Construction Agreement with FHS.
10. Liquor License Assumption: Olympic Drive Mart Inc.
11. Liquor License Renewal: Gig Harbor Yacht Club.
12. Payment of Bills for July 24, 2006.
Checks #50901 through #51063 in the amount of \$473,290.00.

OLD BUSINESS:

1. Second Reading of Ordinance – Ordering the Formation of a Hospital Benefit Zone.
2. Second Reading of Ordinance – Revisions to Chapter 12.18 – Right of Way Use for Telecommunications and Cable Television Service.
3. Second Reading of Ordinance – Accepting Proposed Franchise Agreement with Comcast.

NEW BUSINESS:

1. Burnham / Borgen / SR-16 Corridor Improvement Project – Consultant Services Contract.
2. Recreation Program Interlocal.
3. Harbor Hill Water Tank Quit Claim Deed.

STAFF REPORT:

David Rodenbach, Finance Director – Quarterly Finance Report.

PUBLIC COMMENT:

COUNCIL COMMENTS / MAYOR'S REPORT:

Mayor's Report - Eddon Boat Yard Restoration Project.

ANNOUNCEMENT OF OTHER MEETINGS:

EXECUTIVE SESSION: For the purpose of discussing potential litigation per RCW 42.30.110(1)(i).

ADJOURN:

GIG HARBOR CITY COUNCIL MEETING OF JULY 10, 2006

PRESENT: Councilmembers Young, Franich, Conan, Dick, Payne, Kadzik and Mayor Hunter. Councilmember Ekberg was absent.

CALL TO ORDER: 7:00 p.m.

PLEDGE OF ALLEGIANCE:

SWEARING IN CEREMONY: Officer Raquel Brunson, Officer Charles Dennis, and Reserve Officer Jeffrey Shepherd.

Chief Davis introduced the officers and presented a brief background on each. Mayor Hunter performed the Swearing In Ceremony. He then invited the families to come forward to place the badge on the newly sworn officers.

CONSENT AGENDA:

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

1. Approval of the Minutes of the City Council Meeting of June 26, 2006.
2. Resolution Setting Public Hearing – Bujacich Road NW and 54th Avenue NW Street Vacation Request – Harbor Reach Estates, LLC.
3. 2006 Summer Sounds at Skansie Contracts.
4. 2006 Summers Concert Series at Skansie Brothers Park – Sound System Contract.
5. Recommendation for 2006 Art Grant – Drawing You In Program.
6. Olympic Drive / 56th Roadway Improvement Project –Temporary Easement Agreements.
7. Integrated Permit Tracking Application Software Purchase / Contract Authorization.
8. Payment of Bills for July 10, 2006.
Checks #50785 through #50900 in the amount of \$270,768.49.
9. Payment of Payroll for the month of June:
Checks #4289 through # 4324 and direct deposit entries in the amount of \$276,383.62.

MOTION: Move to approve the Consent Agenda as presented.
Franich / Young – unanimously approved.

OLD BUSINESS:

1. Public Hearing and Second Reading of Ordinance – Comprehensive Plan Amendments, Authorizing Resolutions and Development Agreements. John Vodopich, Community Development Director, explained that this is the ordinance for the 2005 Comprehensive Plan Amendments, together with a public hearing on the corresponding development agreements. He then gave an overview of the four applications. He said that the packet includes development agreements for the three individually initiated applications drafted by the city attorney, adding that the agreements for HMT

Partnership and Don Huber have been signed by the applicants. The city has been in on-going discussions with Franciscan Health Systems over their development and construction agreements and that it is his belief that all are in agreement with the terms of the development agreement, but not on the construction agreement.

Mayor Hunter interjected that agreement had been met. Mr. Vodopich then asked Council to take action on each application separately, make motions to approve the resolutions for the development agreements, and then make a final motion to adopt the ordinance that embodies all the previous four actions.

Carol Morris, City Attorney, explained that one resolution in the packet authorizes two development agreements for Franciscan Health Systems; one grants the Comprehensive Plan Amendment and the second is a construction agreement that outlines the terms in which the city would construct transportation improvements. She said that this needs to be done with two separate motions rather than one, if Council approves them.

Ms. Morris continued to address the FHS agreements. She said that discussions were held today regarding the deadline to actually construct the improvements. She referred to the information she passed out to Council regarding changes to both agreements, adding that it was decided to make a recommendation to Council that the deadline be two years after the certificate of occupancy is issued, as long as certain conditions are met, such as the posting of a cash set-aside agreement in one and one-half times the amount of the estimated cost of the remaining improvements.

Ms. Morris then addressed changes to the construction agreement. She said that there is a dispute in regards to the indemnification provision. She said that the language proposed by Franciscan is in the memo she just passed out, and because it involves potential litigation, she offered to discuss this further in Executive Session.

Mayor Hunter voiced confusion as he believed that the hospital was in favor of dropping the underlined language in the memo that Ms. Morris was referring to. Ms. Morris said that in Section 13 of the indemnification agreement, the hospital had asked to add language to allow them to sue the city for the city's failure to reimburse the hospital for its expenditures as required by this agreement.

Mayor Hunter opened the public hearing on this item at 7:15 p.m. and asked if the representative from Franciscan could come forward to clarify this concern.

Laurie Nichols, Senior Vice President for Planning and Business Development at Franciscan Health System – 8223 Silverbow Road, Lakebay, WA. Ms. Nichols said that the two provisions mentioned by the city attorney regarding the one and one-half times set-aside and the two year completion are acceptable to FHS. She offered to read the indemnification language that she thought that they had agreed upon with the Mayor and City Attorney.

Ms. Morris responded that she did not believe that they had any agreement on the language that reads “or the failure of the City to reimburse FHS for its expenditures as required by this Agreement.” She said that she did not agree to the addition of this language.

Ms. Nichols clarified that at ten to five this afternoon, FHS said that told the Mayor that they wanted Council to go ahead and adopt the Comprehensive Plan Amendment tonight with the existing, final provision that was agreed to earlier.

Ms. Morris then said that based upon the discussions during the day, she recommended that Council add the following sentence to the indemnification language, “The provisions of this indemnification section shall survive the termination of this Agreement.”

Ms. Nichols and Mayor Hunter both said that this additional language was new to them. Ms. Morris said that she added this was added as a result of the additional changes suggested by FHS.

Councilmember Kadzik asked if Ms. Nichols had a copy of the memo passed out by the city attorney. Ms. Morris explained that the memo was not drafted to be distributed to the public.

Ms. Nichols asked for a brief moment to consult with her Legal Counsel.

Councilmember Kadzik asked Ms. Nichols to read her understanding of the final, agreed upon indemnification language. Ms. Nichols read the following: “The Developer (FHS) agrees to indemnify and save the City, its officials, officer, agents and representatives harmless from and against any and all liability damages, expenses, and judgments arising in connection with this Agreement, unless occasion by the negligence or intentional misconduct of the City, provided the defense of any such claim is tendered to Developer, or the expenditure of any funds deposited with the City by the Developer, FHS, other than is permitted by this agreement.”

Ms. Morris said that the only difference in what was just read and the language in her memo is the line “provided that defense of any such claim is tendered to the Developer” is in a different location. Mayor Hunter asked about the last sentence recommended to be added by Ms. Morris.

Ms. Morris said that this recommendation is so that the indemnification provision extends beyond termination of the agreement. Usually a construction contract would have a statute of limitations that would be longer than the actual agreement between the City and the Hospital.

Councilmember Young clarified that if the agreement terminates in 2008 because the road is completed and all the terms are met, but there is still a liability issue, this would cover the city for the remaining years.

Ms. Nichols asked again for a moment to speak to her legal counsel. Ms. Morris apologized that the recommended language was not included in the agreement earlier, explaining that it was due to the many versions that went back and forth during the negotiation process.

Ms. Nichols came back and said that they thought that they had reached consensus and had an agreement with the City. She said that they think it only fair for the City to uphold what had been agreed upon at the end of the day and not to add additional provisions at this time.

Councilmember Young stressed that the six Councilmembers present were not part of the negotiations, and they have to be careful to avoid allowing the city to be exposed to liability. He asked how long the statutes last beyond the term of the agreement. Ms. Morris responded that it depends on the type of cause of action brought against the city; there are different limitations for different types of claims.

Ms. Nichols said that they just don't feel like they have been dealt with in good faith. All parties bought off on an agreement, and the FHS attorney feels like they are exposed to a lot more risk to their organization that he is comfortable with. She said she would ask him to speak on behalf of FHS.

The attorney (did not identify himself) said that this is a new provision that was never presented to them before tonight. He said that a proposal was made to the city late in the day which was rejected because it was not presented earlier. And now the city is doing the same thing. The provision they are signing that says they are waiving many of their rights to sue the city if the city does not perform this agreement. The one thing they have in the agreement is that the city does not spend the funds that they have deposited with it, in the manner required by the agreement, then they can bring action against the city. However, if the city does not reimburse the funds that are committed to pay under this agreement, they have no recourse against the city. He said that FHS agreed to this provision against his recommendation, and now the city is asking for another provision; a most unusual provision that will survive the agreement, and he doesn't know for how long as there is no indication. He said that this provision has not been negotiated or discussed and they don't think it appropriate to bring up at this time.

Mayor Hunter voiced confusion and asked for a recess to discuss this further. Carol Morris said that in the Council Packet is contained another standard consultant agreement and on page four, the language reads "the provisions of this section shall survive the termination or expiration in this agreement." She added that this is standard language for any indemnification provision. She apologized again that it had been left out prior to today. She stated that negotiations with the staff are just recommendations to Council and Council can do whatever they chose.

MOTION: Move to adjourn to Executive Session at 7:30 p.m. for the purpose of discussing potential litigation for approximately fifteen minutes. Payne / Franich – unanimously approved.

The Mayor, Councilmembers, City Attorney, City Administrator and Community Development Director adjourned into the Community Rooms at this time. They returned at 7:42 and made the following motion.

MOTION: Move to return to regular session at 7:42 p.m. Payne / Conan – unanimously approved.

MOTION: Move to adjourn back into to Executive Session to discuss potential litigation for an additional twenty minutes. Payne / Conan – unanimously approved.

The group again left the Chambers. They returned at 8:00 p.m. and made this motion.

MOTION: Move to return to regular session at 8:00 p.m. Conan / Franich – unanimously approved.

Mayor Hunter announced the continuation of the public hearing on the Comprehensive Plan Amendments and asked if anyone wished to speak.

Derek Kilmer – 7617 40th St. Ct. NW – Representative Kilmer thanked Council for considering these changes to the Comprehensive Plan and spoke in support of whatever changes are necessary to see this hospital project move forward. He highlighted three important points. He said that this is a project of regional significance. He then said that this project will be the largest private sector employer between the Narrows Bridge and the Pacific Ocean, which is a great employment opportunity for Gig Harbor. He finalized by telling two stories; the first of a woman who feared losing her husband to a heart attack due to traffic delays because he was being transported to the hospital during commute time. The second story was personal. He told of the night when his own newborn daughter had a temperature of 103° and they were told to go to the hospital in Tacoma. He said that this made his family realize the need for a hospital here. He encouraged the Council to make decisions to help this project move forward.

Lori Nichols. Ms. Nichols said that tonight Council is poised to take the first official action for St. Anthony's Hospital since this project was approved by the State of Washington in May of 2004. Franciscan Health System has expended approximately eight million dollars so far and have witnessed cost escalation on the project that takes it over 15 million over the original budget. She said that the Comp Plan Amendment and the accompanying development and construction agreement are the result of many hours of hard work and thanked the Mayor and city staff, adding that they are grateful for the time effort that went into these agreements. She restated that their objection to the last minute change, adding that she is disappointed in this provision. She

encouraged adoption of the comprehensive plan amendment, the development agreement and the construction agreement with all the provision agreed upon by the Mayor and the City Attorney at the end of today. With approval tonight, she said that they can move forward on submitting the Conditional Use Permit application, and they hope to obtain building permits by the end of the year to begin construction by early spring, 2007. This will hopefully allow them to begin providing care to the residents of this community by early 2009. She said that they are eager to bring medical / surgical services to this community and approximately 450 family-wage jobs. She said that after tonight, hopefully, the entire peninsula can celebrate this hospital moving forward.

No one else came forward to speak and the Mayor closed the public hearing at 9:05 p.m. The following motions were made.

MOTION: Move to accept Application #04-01Huber/Bingham Property.
Young / Payne – unanimously approved.

MOTION: Move to adopt Resolution No. 677 authorizing the Mayor to execute the development agreement for Huber/Bingham Property.
Young / Payne – unanimously approved.

MOTION: Move to accept Comp Plan Amendment #05-01 Franciscan Health Systems – West.
Young / Payne –

Councilmember Dick asked whether the development agreements should be passed before the Comp Plan Amendment, as he has concerns with the agreements. Ms. Morris explained that the Comp Plan Amendment is conditioned upon the passage of the development agreement.

RESTATED MOTION: Move to accept Comp Plan Amendment #05-01 Franciscan Health Systems – West.
Young / Payne – unanimously approved.

Carol Morris explained that the second resolution to adopt the construction agreement is not in the packet, but she would draft one for ratification at the next meeting.

MOTION: Move to adopt Resolution No. 678 authorizing the Mayor to execute the development agreement for Franciscan Health Systems West amended as follows: Section 7(C)(2) and Section 10 as set forth in the City Attorney's memorandum.
Young / Conan –

Carol Morris read the amendments into the record:

“Section 7(C)(2): This Agreement shall terminate upon the expiration of the term identified in this Section 7, when all of the provision

of this Agreement have been satisfied, or when the Subject Property has been fully developed, whichever first occurs and all of the Developer's obligations in connection therewith are satisfied as determined by the City.

Section 10: ... At the time a Certificate of Occupancy is requested by the Developer, it shall ensure that the transportation mitigation improvements are in place of that a financial commitment is in place to provide any facilities that are not complete, within two years of the request. The Developer shall demonstrate to the City at the time the Developer requests a Certificate of Occupancy, that it has set aside sufficient funds to construct the remaining transportation mitigation improvements (through execution of a cash set aside agreement in a form approved by the City Attorney). The cash set aside amount to be deposited by the Developer shall be determined by the City Engineer, who shall estimate the cost of the remaining improvements and this amount shall be one and one-half times the cost of the remaining improvements."

RESTATED MOTION: Move to adopt Resolution No. 678 authorizing the Mayor to execute the development agreement for Franciscan Health Systems West amended as follows: Section 7(C)(2) and Section 10 as set forth in the City Attorney's memorandum.
Young / Conan – five voted in favor. Councilmember Dick voted no.

Councilmember Young asked Ms. Morris if the underlined sentence in the amendment to Section 13 of the Construction Agreement was to be deleted. Ms. Morris responded that the language agreed to be withdrawn by the hospital is: "for the failure of the City to reimburse FHS for its expenditures as required by this Agreement." She then read the entire portion agreed to by the parties for recommendation to Council:

"Section 13. *Indemnification.* The Developer (FHS) agrees to indemnify and save the City, its officials, officer, agents and representatives harmless from and against any and all liability damages, expenses, and judgments arising in connection with this Agreement, provided that defense of any such claim is tendered to the Developer (FHS), unless occasioned by the negligence or intentional misconduct of the City, or the expenditure of any funds deposited with the City by the Developer (FHS) other than as permitted by this Agreement." Ms. Morris then added that the last sentence that she recommended, but not agreed to by the hospital is: "The provision of this indemnification section shall survive the termination of this Agreement."

Councilmember Kadzik asked if this last sentence is common contract terminology as has been used on public contracts with the city. Ms. Morris responded that this is standard language in every indemnification provision that she is aware of. She then read the other recommended amendments to the Construction Agreement in Sections 5 and Section 6(G)(3)(f).

“Section 5. Developer’s Obligation to Construct Transportation Mitigation Improvements. The Developer is obligated to install and complete the Transportation Mitigation Improvements identified in Exhibits A and B at its own cost, and to assure final completion prior to the time a Certificate of Occupancy is requested by the Developer. At the time a Certificate of Occupancy is requested by the Developer, it shall ensure that the transportation mitigation improvements are in place or that a financial commitment is in place to provide any facilities that are not complete, within two years of the request. The Developer shall demonstrate to the City at the time the Developer requests a Certificate of Occupancy, that it has set aside sufficient funds to construct the remaining transportation mitigation improvements (through execution of a cash set aside agreement in a form approved by the City Attorney). The cash set aside amount to be deposited by the Developer shall be determined by the City Engineer, who shall estimate the cost of the remaining improvements and this amount shall be one and one-half times the cost of the remaining improvements.”

“Section 6(G)(3)(f): Once FHS’s Portion of the Transportation Mitigation improvements are complete, FHS (together with the Project Manager and the contractor) shall have the responsibility to ensure acceptance for ownership, maintenance and operation by the agency with jurisdiction prior to the time a Certificate of Occupancy is issued for the FHS Project on the FHS Property, Subject to Section 5 herein.”

Ms. Morris reminded Council that although there is no resolution in the packet to execute the construction agreement, she would draft one up and it would come back for ratification at the next meeting.

MOTION: To approve Resolution No. 679 and authorize the Mayor to execute the Construction Agreement amended as stated by the City Attorney.
Young / Conan –

Councilmember Dick voiced concern with the provisions. He said that he wants the hospital and thinks a great deal of work has gone into these agreements, but he said that these provisions do not provide any consideration to the city for doing the work for the developer. He said that no one knows whether or not the work can be done in two years. He stressed that this agreement needs further negotiation to either let the developer do the work or if the city is to do the work, to have it fully secured. He said that he is aware that the developer is working in good faith and staff is doing what they can to get this accomplished, but this is beyond our ability. He stressed that this needs to be fixed before he would agree to a construction agreement of this sort. He said that this is the first opportunity to see this agreement and comment.

Councilmember Franich agreed that this has been the first opportunity to comment on the agreement. He said that the one and one-half extra could easily be eaten up in a cost overrun or unforeseen problem. He agreed that a great deal of time was put into the agreement, and he will have to rely that this is the right agreement for the city. He said that he will support it as amended.

Councilmember Young addressed the late amendment to the indemnification section. He said that knows that the Mayor, City Attorney and the Franciscan representatives all negotiated in good faith and he apologized on behalf of the city that the language was inadvertently left out. He said that although it was a mistake, he understands the time constraints. He said that cannot allow the city to be exposed to further liability that they would not accept from any other developer. He said that he hopes that FHS will decide to ratify the agreement so that we won't have to come back another time. He voiced appreciation for all the hard work that went into this, and thanked FHS for their patience.

RESTATED MOTION: To approve Resolution No. 679 and authorize the Mayor to execute the Construction Agreement amended as stated by the City Attorney.
Young / Conan – five voted in favor. Councilmember Dick voted no.

MOTION: Move to approve Comp Plan Amendment #05-03 – HMT Partnership.
Franich / Conan – unanimously approved.

MOTION: Move to adopt Resolution No. 680 authorizing the Mayor to execute the development agreement for HMT Partnership.
Kadzik / Franich – unanimously approved.

MOTION: Move to approve the transportation element revisions of the Comp Plan.
Franich / Young – unanimously approved.

MOTION: Move to adopt Ordinance No. 1051 adopting amendments to the City of Gig Harbor Comprehensive Land Use Plan.
Young / Kadzik – unanimously approved.

NEW BUSINESS:

1. First Reading of Ordinance – Ordering the Formation of a Hospital Benefit Zone.
David Rodenbach, Finance Director, presented this ordinance establishing a hospital benefit zone in order to provide funding for improvements within the established zone. He said that Cynthia Weed, Bond Counsel, would be present at the public hearing on July 24th to answer any questions that may come up. He explained that the northerly point of the zone had been modified to end at city limits rather than at 144th due to the difficulty in obtaining an agreement with Pierce County by August 1st.

Mark Hoppen explained that the southerly boundary of the zone ends at Rosedale because the material portion of the traffic that empties through a corridor that is bounded northerly at 144th and southerly by Rosedale Street.

Councilmember Dick asked the effect of modifying the boundaries in terms of cost. Mr. Rodenbach explained that the 144th Interchange was not reflected in the figures, but another adjustment would have to be made to exclude the portion of the Skansie Avenue corridor that is south of Rosedale. All other projects are pro-rated for the portion directly affected by the hospital benefit zone. The remainder of the cost would be funded by other sources.

Mr. Rodenbach then noted that 100% of these improvements would be funded by the TIF Financing which may or may not be feasible. Some projects may have an LID; others may have developer contributions. He explained that the city's estimated 30 year schedule for tax revenues in this zone had not yet been estimated, but this would be included in the ordinance at the public hearing on the 24th.

Councilmember Franich asked if the boundaries or project list could be amended once adopted. Mr. Rodenbach explained that the Department of Revenue has an October 15th deadline to determine which businesses are located within this zone. In order to qualify for state funding, we are pushing for an early, August 1st submittal. Mark Hoppen explained that the Comprehensive Plan would have to be amended in order to add a project to the list.

Councilmember Franich then voiced concern that the inclination to keep this going would be to zone more property as commercial. Councilmember Young responded that this could only be done within the first three years after the base year is established in 2007. Mr. Hoppen stressed that there is a relationship between different types of uses in the Comprehensive Plan, making it difficult to rezone property to commercial. He continued to explain that the three-year period will create a retail history that will make the funding device attractive to investors. He continued to explain that sales tax generated from this zone may come from many different sources such as retail sales and construction.

David Rodenbach said that the Department of Revenue is allowing other sources to be considered such as the General Fund, developer pledges, and grants. The city has leeway on how much it wants to commit. To make the bonds more marketable, there may need to be a pledge of general funds by the city. Mark Hoppen clarified that this does not mean the expenditure of dollars, but the pledge is for the stability of the general fund revenues in order to back the bonds, adding that this may be a good option for the County.

Councilmember Kadzik restated his understanding of the process. He said that in 2007, the sales tax generated in the hospital benefit zone would create a benchmark number. He then asked how any increases in the years 2008, 2009, and 2010 would be calculated. Mr. Rodenbach responded that the legislation only requires a one year

base, but the bond writer recommends a three-year history for the bond market. Of the 8.4% being collected, the city will receive .85% and will continue to receive this same amount. The state will contribute a portion of their sales tax revenue to qualified projects within the zone. This will not result in an increase in the sales tax charged to the consumer.

Councilmember Payne asked if there was a strategy to approach Pierce County regarding expansion of the boundary. Mark Hoppen responded that we are going to approach Pierce County, but it is difficult to anticipate the future and how an amended boundary could benefit the city. In the county's residential area there is sporadic construction, but that may not be the kind of increase in sales tax that will build confidence for the potential buyers of the bonds. In the event of a streamline sales tax, the revenue from the residential areas becomes significantly greater. That is a good reason to seek the county's participation.

Mayor Hunter asked if anyone from the public would like to comment.

Jim Pasin – 2710 39th Street. Mr. Pasin encouraged Council to obtain a copy of the House Bill and the Final Bill Report which explains how it works. He addressed the comment regarding how this will impact the rest of the city long term. He said that it is imperative to have an economic model before any assumptions are made. He said it is also imperative to ask Pierce and Kitsap Counties to participate. He also encouraged the inclusion of the economic area at the Purdy Bridge, which lies within the Urban Growth Area and may have significant sales revenue.

Mr. Pasin went on to say that if you assume that other resources can pay half of the estimated \$136 million; it still leaves a large amount that the city is responsible for. This has a huge economic impact on the city. Every body wants this hospital and we need to do everything possible to make it happen, but on the other hand, we have to protect the rest of the city. He offered to discuss any details with Council if they wished to call after reviewing the House Bill.

Councilmember Franich said that he hopes that this Council and future Councils make it a high priority to fund the public traffic improvements in the Gig Harbor North area.

Councilmember Young said that Mr. Pasin is right that the city has to be careful on the portion it commits over the next 20 years, but the decision does not have to be made at this time. What this does is gives the city an opportunity to obtain matching funding from the state when the decision is made. Some of this project list is to demonstrate the need that may be impacted by the hospital, but the reality is that not all the projects are expected to be paid by this benefit zone. He stressed that the Westside and downtown will not be left out.

Mark Hoppen pointed out that these projects are in the Comprehensive Plan, and if this area generates enough sales tax, then all the projects would be half-price to the local

government, as the state will be funding the other half. This is an amazing potential to fund these projects.

Councilmember Young explained that he worked on the bill quite a bit and offered to answer any questions that may come up. Councilmember Kadzik asked that Councilmembers be given a copy of the house bill.

2. First Reading of two Ordinances – Revisions to Chapter 12.18 – Telecommunications and Cable Television Service and a Proposed Franchise with Comcast. Mark Hoppen introduced Scott Snyder, attorney with Ogden Murphy Wallace, and explained that Scott supplements the city's legal services providing labor and personnel counsel as well as an occasional negotiation issue. Mr. Hoppen said that Mr. Snyder had been retained to negotiate the cable franchise agreement, as well as make the necessary amendments to the city code regarding right of way use.

Mr. Snyder presented the background information on the renewal of the cable franchise. He explained that the changes being recommended are to bring the current right-of-way use regulations up to date to reflect current state and federal regulations. He said that the franchise agreement is crafted similar to others recently adopted, and has a 5-year option to renew. He introduced Hans Hechtman, representative from Comcast Cable, and said that Hans had been very helpful in reaching an agreement.

Mr. Snyder addressed Council's questions regarding the city's control over pricing and relocation of the utilities. These two ordinances will return at the next meeting for a second reading.

PUBLIC COMMENT: No one came forward to speak.

STAFF REPORT: None scheduled.

COUNCIL COMMENTS / MAYOR'S REPORT:

Mayor Hunter announced that he had handed out information on the Historical Society Museum regarding a request to partner with the city which will be on the next meeting agenda for discussion. He asked Council to look over the information and let him know if there are any comments.

Councilmember Young encouraged that any comments should be given to staff as quickly as possible to address the grant deadline that the Historical Society is trying to meet. Mayor Hunter responded that there may not be as big of a hurry as originally thought.

Councilmember Franich asked if a financial amount needed to be stated or just a general letter of support. Councilmember Young replied that there has to be a statement, in order to satisfy the grant requirements, but he is unsure of the amount. A separate issue is the sale of the property. He said that we have to be careful before

committing any funds before entering the budget cycle, but some contribution had been anticipated. He added that they may have to wait another two years if the Historical Society misses this grant cycle.

ANNOUNCEMENT OF OTHER MEETINGS:

John Vodopich announced that the Planning Commission may begin meeting again the second meeting of August. He clarified that the reason for the lengthy hiatus was due to the vacancies in the Planning Department. This has taken longer than anticipated.

Councilmember Young announced that the Inter-governmental Committee needs to meet and asked that the members send him an e-mail with available dates.

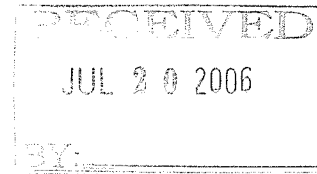
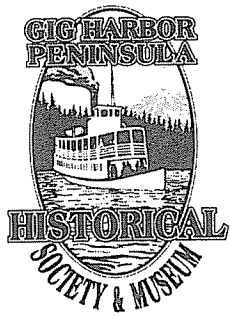
ADJOURN:

MOTION: Move to adjourn at 9: 25 p.m.
Franich / Young – unanimously approved.

CD recorder utilized:
Disk #1 Tracks 1- 27
Disk #2 Tracks 1- 9

Charles L. Hunter, Mayor

Molly M. Towslee, City Clerk



July 18, 2006

Chuck Hunter
Mayor
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Dear Mayor Hunter:

Thank you for the opportunity to present to the Gig Harbor City Council regarding our new Harbor History Museum project. Previously, we discussed presenting at the July 24, 2006 City Council meeting. We would like to request to be removed from the agenda for the 24th and placed on the agenda for the August 14, 2006 City Council meeting. This will allow us to better prepare for our presentation.

Jennifer Kilmer will follow-up with the City Clerk to confirm this date change. Thank you again for the opportunity to present to the Council.

Sincerely,

Walt Smith
Board President

cc: Mark Hoppen, City Administrator
Molly Towslee, City Clerk



TO: MAYOR HUNTER AND CITY COUNCIL MEMBERS
FROM: KAY J. TRUITT
INFORMATION SYSTEMS MANAGER
SUBJECT: RESOLUTION NO. 681 SURPLUS PROPERTY
DATE: JULY 24, 2006

INTRODUCTION/BACKGROUND

In the process of reviewing current equipment inventories, several additional items have been determined to be obsolete or surplus to the City's present or future needs. The items proposed for declaration as surplus are set forth in the attached resolution.

FISCAL CONSIDERATIONS

If monies are received for the surplus items, it will be used to offset the costs for new equipment.

RECOMMENDATION

I recommend that Council move and approve the attached resolution declaring the specified equipment surplus and eligible for sale.

RESOLUTION NO. 681

**A RESOLUTION OF THE CITY OF GIG HARBOR
DECLARING CITY EQUIPMENT SURPLUS AND ELIGIBLE
FOR SALE.**

WHEREAS, the Gig Harbor City Council has determined that city-owned equipment is surplus to the City's equipment needs and has been or is in need of being replaced with new equipment; and

WHEREAS, the City may declare such equipment surplus and eligible for sale;

NOW, THEREFORE, the City Council of the City of Gig Harbor hereby resolves as follows.

To declare as surplus:

	EQUIPMENT	TAG #	SERIAL/ID NUMBER	MODEL INFO.
1	Gateway Desktop PC	00866	0017103354	E5200
2	Dell CRT Monitor	-	KR-04N736-47602-264-B3W0	M992
3	Gateway CRT Monitor	00800	MU19003A0007498	EV910c
4	ViewSonic CRT Monitor	00894	40C003600361	VCDTS21655-5M – G810
5	Gateway CRT Monitor	00793	MU19003A0006500	EV910c
6	Envision CRT Monitor	-	9UGG1CB054546	EN-910e
7	Dell CRT Monitor	00955	8492422	D1025TM
8	Gateway Desktop PC	-	0013075113	E3200
9	Gateway Desktop PC	-	0018295226	E4200
10	Gateway Desktop PC	00851	0013612454	E3200
11	Gateway Desktop PC	00691	0007326198	P5-200
12	Dell Desktop PC	-	U07Y2	XPS-R450
13	Gateway Desktop PC	-	0018295227	E4200
14	Color Laser Printer			Lexmark Optra1200
15	BW Laser Printer		USNC144305	HP4000
16	Dell CRT Monitor		MX-04N736-47605-2A9-BR43	M992
17	Gateway CRT Monitor		17004A953314	700-069EV
18	Desktop PC	00541	90867	
19	HP Fax machine		MY12EF31NM	920
20	Packard Bell CRT Monitor	00542	90805089	PB1472A

SURPLUS ITEMS

Page 2

21	Star Micronics dot matrix printer	00325	350090801564	NX1000 II
22	Star Micronics Dot matrix printer	00366	510030733876	NX1001
23	Racal-Vadic External Modem		9A17705101	VA1251G/K
24	Gateway PC	00592	2128169	4SX-33V
25	Dell Server		H9ZM0	PowerEdge Server 2300
26	Metal Storage Cabinet			18"x24" open face cabinet

PASSED ON THIS _____ day of _____, 200__.

APPROVED:

MAYOR, CHARLES L. HUNTER


ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

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



ADMINISTRATION

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: LAUREN LUND, MARKETING DIRECTOR 
SUBJECT: 2006 SUMMER SOUNDS AT SKANSIE CONTRACTS
DATE: JULY 24TH, 2006

Attached you will find 1 contract for a performer for the 2006 Summer Sounds at Skansie Concert Series.

It's A Whale \$600
Budgeted 2006

FISCAL CONSIDERATIONS

This expense is budgeted in the 2006 Marketing Office budget from hotel-motel tax.

RECOMMENDATION

I recommend approval of the contract as presented.

CONTRACT FOR SUMMER CONCERT SERIES PERFORMER AGREEMENT WITH GIG HARBOR

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Ryan Barber of IT'S A WHALE, whose address is 1927 18th Ave., San Francisco, CA 94116 (hereinafter the "Performer").

RECITALS

WHEREAS, the City wishes to engage the Performer to provide musical services, as part of the Gig Harbor 2006 Summer Concert Series; and

WHEREAS, the Performer agrees to perform such musical services under the terms and conditions set forth in this Contract; and

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

I. Services and Date of Performance.

The City desires to hold an outdoor, family concert on Tuesday, August 8th, 2006, with an expected audience of 200-250 persons. The concert will take place regardless of the weather, rain or shine.

The Performer agrees to provide musical services at the concert for the City on August 8th, 2006, between the hours of 6:30 p.m. to 8:00 p.m. Sound will be provided by Pacific Stage Pro Sound & Light, under separate contract with the City. The Performer may begin set up for the concert at 4:00 p.m. on August 8th, 2006. The Performer's dress should be casual and reflect the weather. The City will provide water for the performers.

The concert will take place at Skansie Brothers Park, a City-owned public park, located at 3207 Harborview Drive in Gig Harbor. The Performers will be instructed where they should set up their equipment on the park property.

II. Payment

The City shall pay the Performer Six Hundred Dollars and no cents (\$600.00), which shall be paid to Ryan Barber following the performance. In order to facilitate payment the City requests that the Performer submit invoice to City 30 days prior to concert date.

III. Relationship of Parties

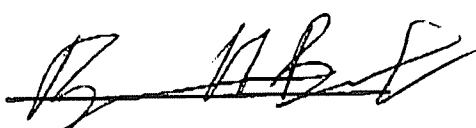
The Performer will be solely and entirely responsible for his acts and for the acts of his agents, employees, representatives and sub-consultants in fulfilling this Contract. None of the benefits provided to City employees are available to the Performers or his employees, agents and sub-consultants.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

IV. General Provisions.

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

IN WITNESS WHEREOF, the parties have executed this Agreement on this _____ day of _____, 2006.

THE CITY OF GIG HARBOR

By: 

Ryan Barber

It's A Whale
1927 16th Ave
San Francisco, CA 94116

By: _____

Mayor

APPROVED AS TO FORM:

Gig Harbor City Attorney

ATTEST:

Gig Harbor City Clerk



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
SUBJECT: COMMUNITY DEVELOPMENT DIRECTOR
AUTHORIZATION OF NEW STREET NAMES FOR THE
DWELLING COMPANY'S SUBDIVISION
DATE: JULY 24, 2006

INFORMATION/BACKGROUND

The City has received a request for the naming of public streets and private lanes in the Dwelling Company Development located in the Gig Harbor North area off Borgen Boulevard. Notification of the proposed street names has been sent to city, county and public agencies for comments. Please find attached copies of the letters of request for comment and location maps. Comments from the Gig Harbor Police Department and Pierce County GIS/911/addressing are also attached.

Mr. Scott Inveen, on behalf of the property developer, has requested nineteen street names be approved for the Dwelling Company's subdivision:

Bristol Place	Pacific Avenue	Byron Lane	Columbus Lane	Leon Lane
Glacier Place	Baltic Street	Cabot Lane	Drake Lane	Magellan Lane
Griffin Place	Bering Street	Cartier Lane	Fabian Lane	Vancouver Lane
Portage Place	Barkley Lane	Champlain Lane	Hudson Lane	

POLICY

The new streets are not located in the "Historical Name Area" and do not require names from the historic names list.

FISCAL IMPACTS

None.

RECOMMENDATION

Staff recommends approval of the street names as requested by Mr. Inveen.



the dwelling company

LITTLE BOAT NORTH INC.

June 8, 2006

Patty McGallian
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Re: Street Names

Dear Ms. McGallian:

Please accept this formal request for the following street names for our plat in the Gig Harbor North area:

Baltic Street
Bering Street
Bristol Place
Glacier Place
Griffin Place
Portage Place
Pacific Avenue
Barkley Lane
Byron lane
Cabot Lane
Cartier Lane
Champlain Lane
Columbus Lane
Drake Lane
Fabian Lane
Hudson Lane
Leon Lane
Magellan Lane
Vancouver Lane

For clarity's sake, the streets are seas, the places are bays, the avenue is an ocean and the lanes are sea explorers.

Sincerely,

Scott Inveen
Authorized Agent

FROM: CITY OF GIG HARBOR BUILDING OFFICIAL/FIRE MARSHAL

REQUESTS FOR COMMENTS

ADDRESS/STREET NAME ADDITIONS OR CHANGES

Owner/Project Name.....**The Dwelling Company, Gig Harbor North Subdivision**

Present Address/**Street** Name..... **None**

Propose Address/**Street** Name...**See attached materials, letter and plat map**

Please see attached materials.

Copy of memo sent to:

Date: **June 9, 2006**

- Planning/Building.....City Hall
- Gig Harbor Police.....City Hall
- Public Works.....City Hall
- Water & Sewer.....City Hall
- Pierce Co. Assessor.....2401 S. 35th St. Tacoma 98409
- Fire Prevention.....6711 Kimball Drive, Gig Harbor
- Post Office.....Gig Harbor
- Peninsula Light.....PO Box 78
- 911 Emergency Staff.....8102 Skansie Ave, Gig Harbor
- Cable TV Puget Sound.....2316 S. State St. Tacoma 98405
- 911 C0. Office.....Rm B-33 Co/City Bldg., 930 Tacoma Ave.
- Puget Sound Energy.....PO Box 11066, Tacoma 98411

This is **REQUEST FOR COMMENTS OF STREET NAMES ONLY- ANY COMMENTS SHOULD BE RECEIVED BY JUNE 30, 2006.** If you have any questions, please contact Patty McGallian, Building Assistant, City of Gig Harbor- 253-851-6170. 3510 Grandview St., Gig Harbor WA 98335.

A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.

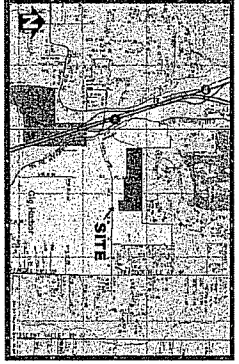


the dwelling company
an affiliate of security properties, inc.

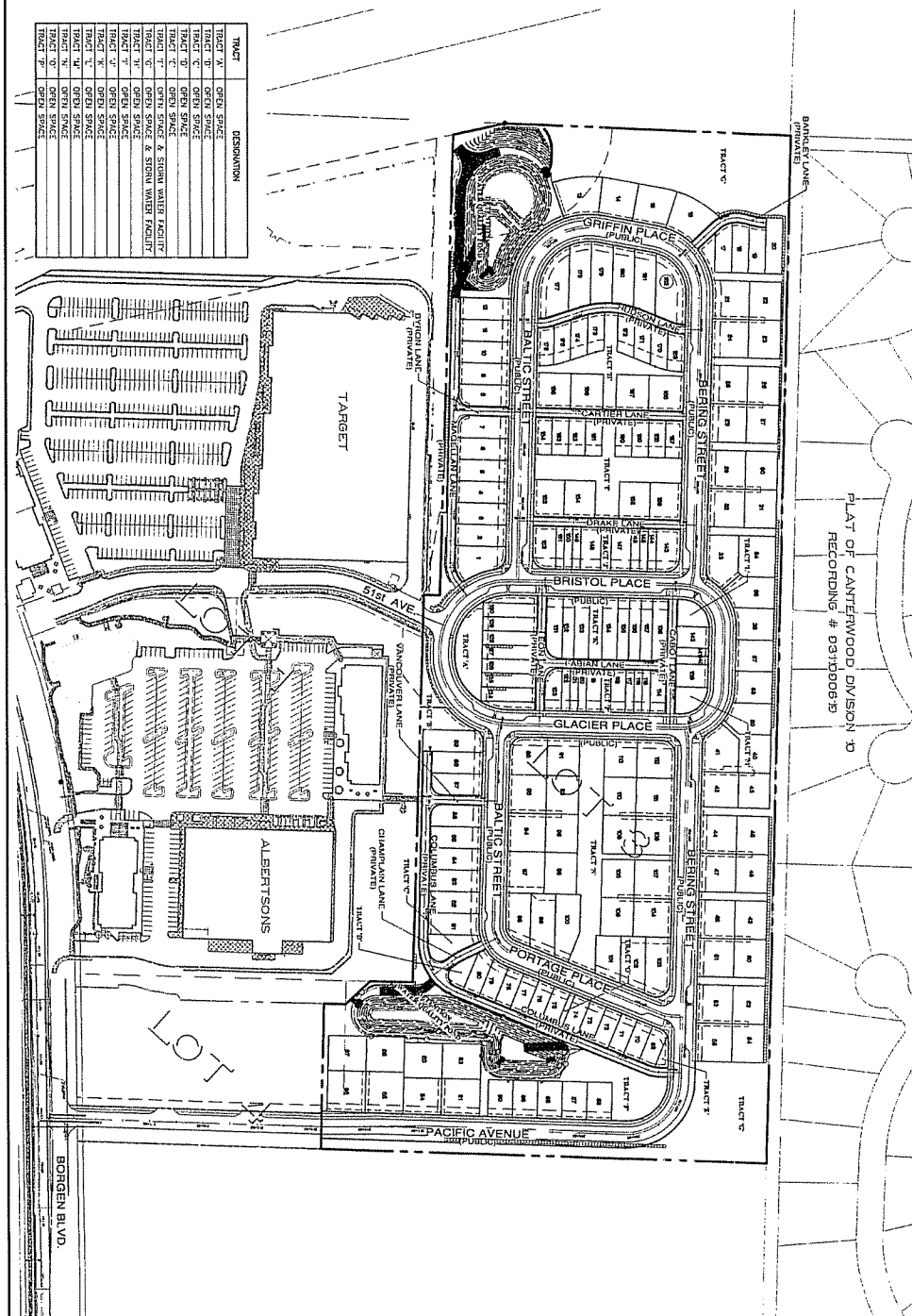
GIG HARBOR NORTH

PRELIMINARY PLAT

VICINITY MAP



File: V:\Projects\151-0025\1114\011\DWG\151-01.dwg
 Plotted: 3/23/2006 1:42 PM
 Plotted by: jason.kyle



TRACT	DESCRIPTION
TRACT 1	OPEN SPACE
TRACT 2	OPEN SPACE
TRACT 3	OPEN SPACE
TRACT 4	OPEN SPACE
TRACT 5	OPEN SPACE
TRACT 6	OPEN SPACE
TRACT 7	OPEN SPACE
TRACT 8	OPEN SPACE
TRACT 9	OPEN SPACE
TRACT 10	OPEN SPACE
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TRACT 99	OPEN SPACE
TRACT 100	OPEN SPACE

PLAT OF CANTERWOOD DIVISION D
 RECORDING # 031100067D

SCALE: 1" = 100'

LEGEND
 PROPOSED PLAT BOUNDARY

SITE STATISTICS
 THE DWELLING COMPANY
 33915 1st Way South
 Federal Way, WA 98003
 (206) 875-2311
 (206) 875-2312
 (206) 875-2313
 (206) 875-2314
 (206) 875-2315
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 (206) 875-2400

AREA SUMMARY
 TOTAL SITE AREA: 100.00 AC
 TOTAL COVERED AREA: 10.00 AC
 TOTAL OPEN SPACE: 90.00 AC
 TOTAL LOT AREA: 100.00 AC
 TOTAL LOT COVERED AREA: 10.00 AC
 TOTAL LOT OPEN SPACE: 90.00 AC
 TOTAL LOT AREA: 100.00 AC
 TOTAL LOT COVERED AREA: 10.00 AC
 TOTAL LOT OPEN SPACE: 90.00 AC

LEGAL DESCRIPTION
 THE DWELLING COMPANY
 33915 1st Way South
 Federal Way, WA 98003
 (206) 875-2311
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 (206) 875-2399
 (206) 875-2400

SHEET INDEX
 1 COVER SHEET
 2 LOT DIMENSIONS
 3 CONCEPTUAL UTILITY PLAN
 4 CONCEPTUAL GRADING PLAN
 5 TOPOGRAPHIC MAP
 L-1 PRELIMINARY LANDSCAPE PLAN
 L-2 PRELIMINARY LANDSCAPE PLAN
 L-3 PRELIMINARY LANDSCAPE PLAN
 L-4 PRELIMINARY LANDSCAPE DETAILS & NOTES

NOTE:
 THE BOUNDARY AND TOPOGRAPHY SHOWN ON THESE PLANS WERE PROVIDED TO ESM LLC BY OTHERS. ESM LLC ASSUMES NO LIABILITY AS TO THE ACCURACY OF THIS INFORMATION, AND IS ONLY PROVIDING FOR INFORMATIONAL PURPOSES.

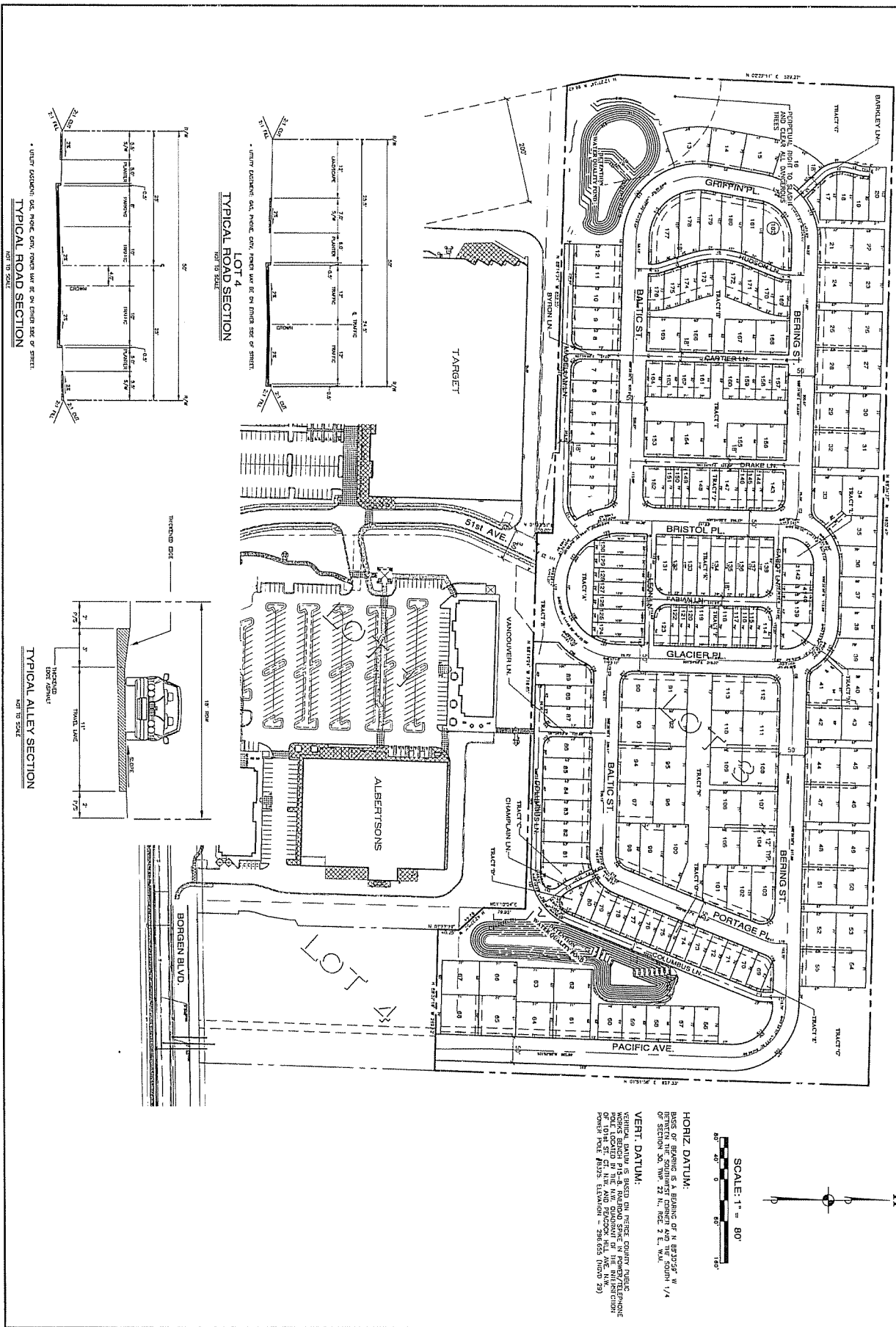
THE DWELLING COMPANY
 33915 1st Way South
 Federal Way, WA 98003
 www.esmcivil.com

ESM CONSULTING ENGINEERS, LLC
 33915 1st Way South
 Federal Way, WA 98003
 www.esmcivil.com
 Civil Engineering
 Land Surveying
 Planning
 Project Management
 Landscape Architecture

CITY OF GIG HARBOR PRELIMINARY PLAT - COVER SHEET WASHINGTON

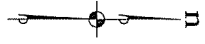
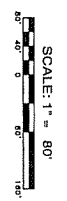
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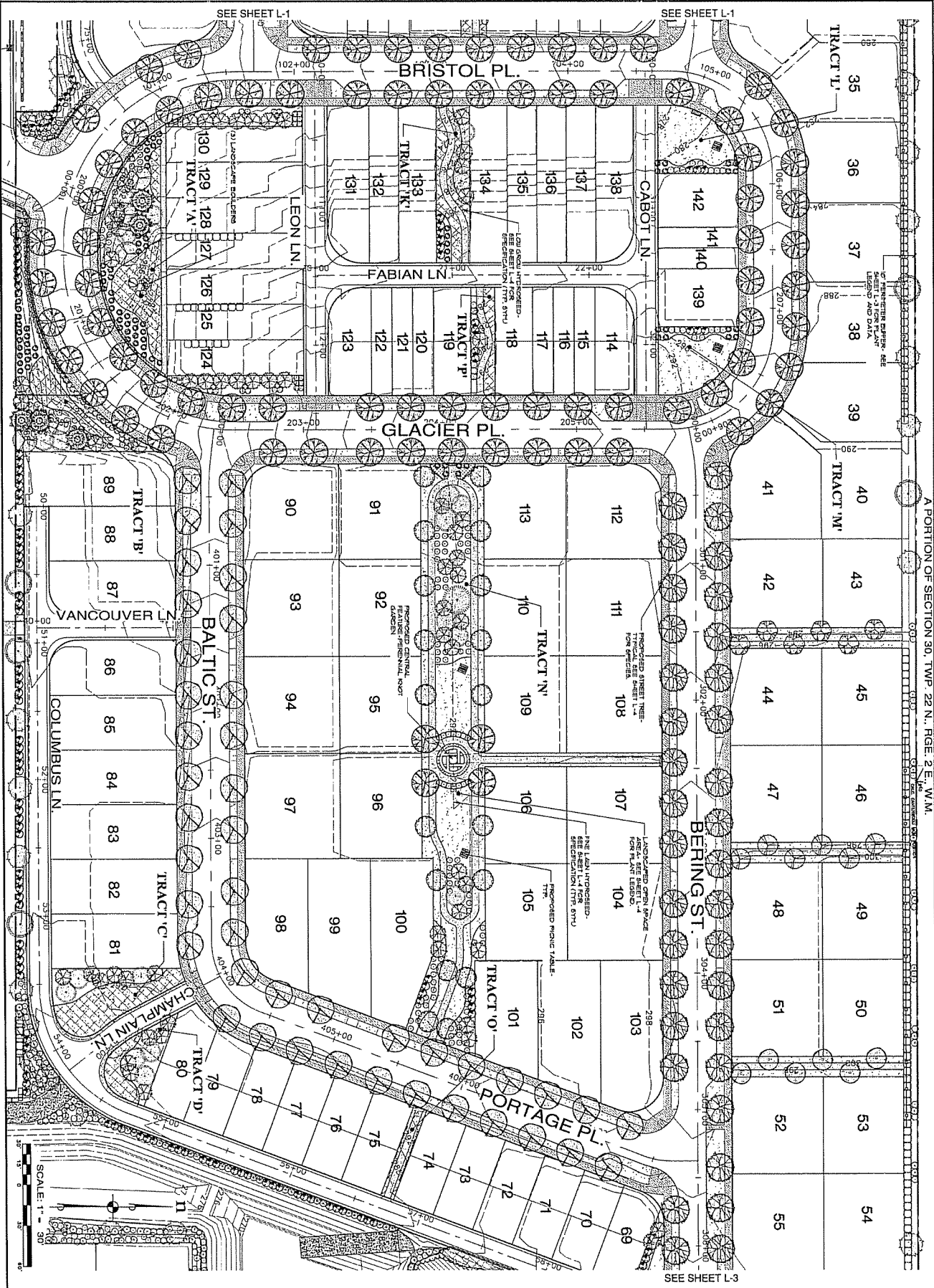
PLAT OF CANTERWOOD DIVISION D
 RECORDING # 091DD0893
 A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.



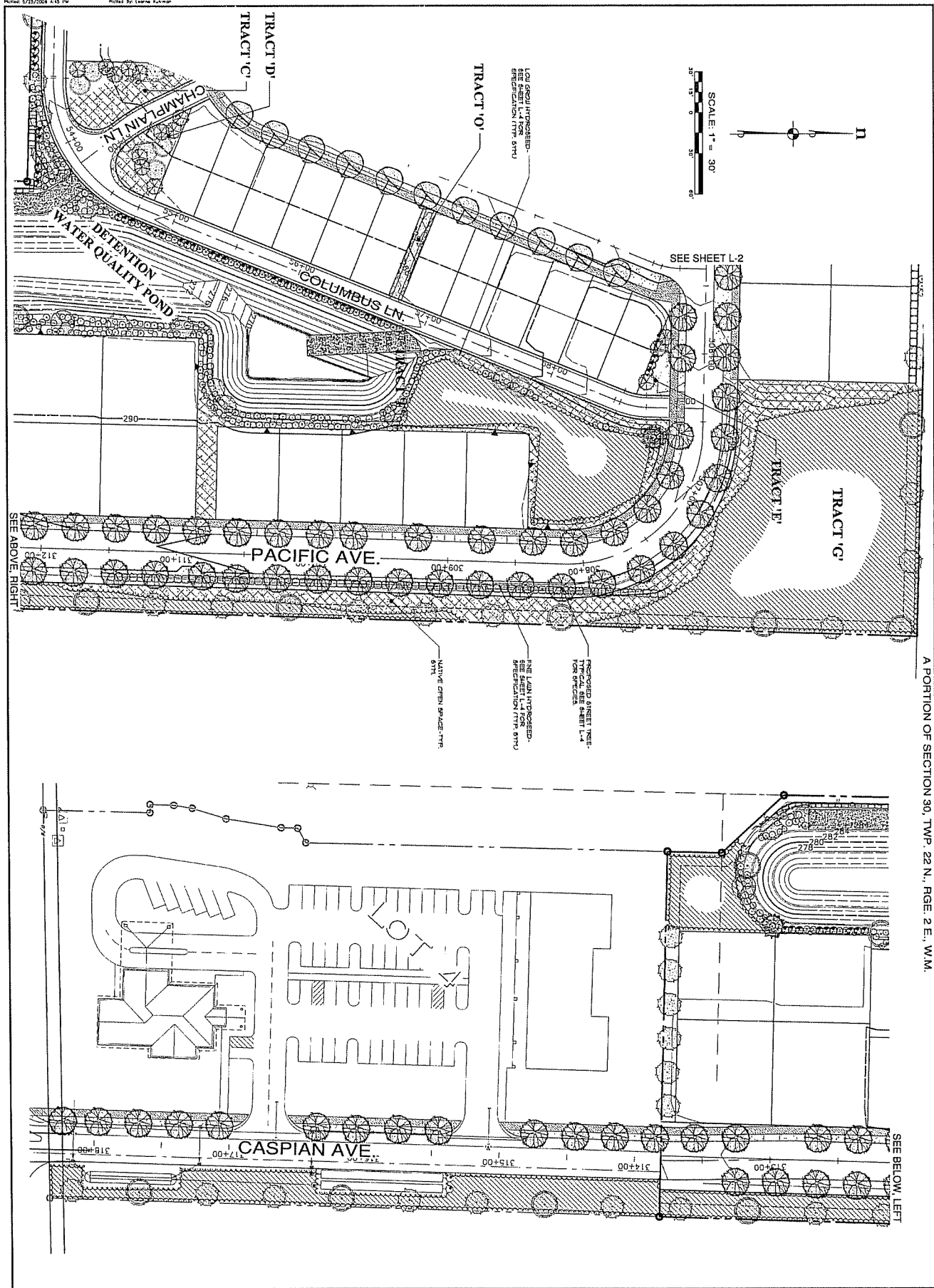
HORIZ. DATUM:
 BASIS OF BEARING IS A BEARING OF N 82°35'57" W
 BETWEEN THE SOUTHWEST CORNER AND THE SOUTH 1/4
 OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.

VERT. DATUM:
 VERTICAL DATUM IS BASED ON MEASURE COUNTY PUBLIC
 WORKS BEARING P.I.S. 8. LOCATION SPHERE IN POWER/TELEPHONE
 OF 10th ST. CL. N.W. AND RECORDS # 114, N.W. 1/4
 PORTAGE PLAZA ELEVATION = 586.03 (ROUND UP)





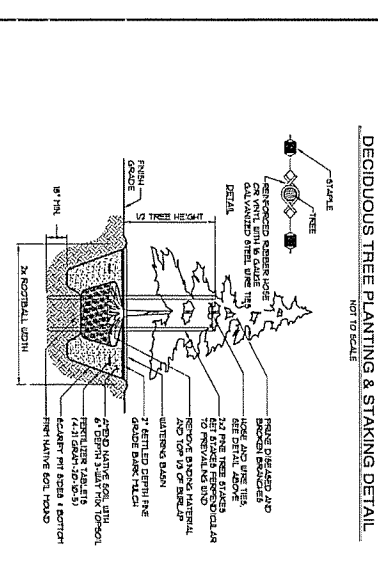
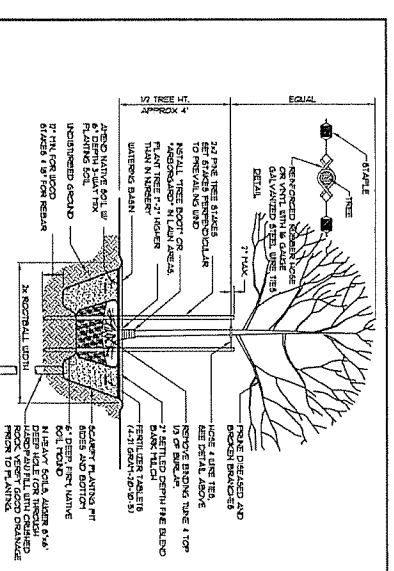
<p>DATE: 11/18/2008 DRAWN BY: LK CHECKED BY: LK SCALE: 1" = 30'</p>	<p>THE DWELLING COMPANY GIG HARBOR NORTH PRELIMINARY LANDSCAPE PLAN</p>		<p>ESM CONSULTING ENGINEERS, L.P. 33915 1st Way South #200 Federal Way, WA 98003 www.esmcivil.com</p>	<p>City Engineering Public Works</p>	<p>Land Surveying Project Management</p>	<p>Land Planning Landscape Architecture</p>		<p>REVISIONS</p> <table border="1"> <tr><th>NO.</th><th>DESCRIPTION</th><th>DATE</th></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </table>	NO.	DESCRIPTION	DATE									
	NO.	DESCRIPTION							DATE											
<p>7 of 9 SHEETS</p>	<p>CITY OF GIG HARBOR WASHINGTON</p>																			



A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.

<p>DATE: 07-27-24 DRAWN BY: LKASPER CHECKED BY: LKASPER JOB NO.: 1118-001-001</p>	<p>THE DWELLING COMPANY</p>		<p>ESM CONSULTING ENGINEERS, LLC</p> <p>33015 1st Way South #200 Federal Way WA 98003</p> <p>www.esmcivil.com</p> <p>Civil Engineering Land Surveying Public Works</p>		<p>DATE: 07-27-24 DRAWN BY: LKASPER CHECKED BY: LKASPER JOB NO.: 1118-001-001</p>
	<p>GIG HARBOR NORTH</p>		<p>Land Planning Landscape Architecture</p>		
	<p>CITY OF GIG HARBOR PRELIMINARY LANDSCAPE PLAN</p>		<p>WASHINGTON</p>		

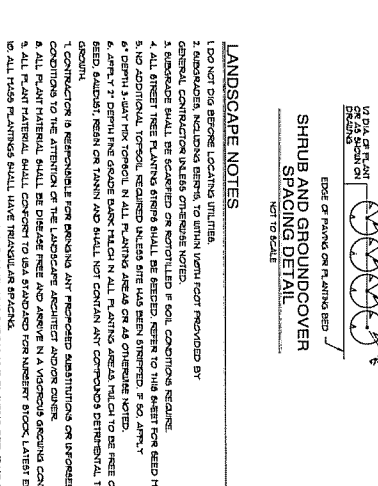
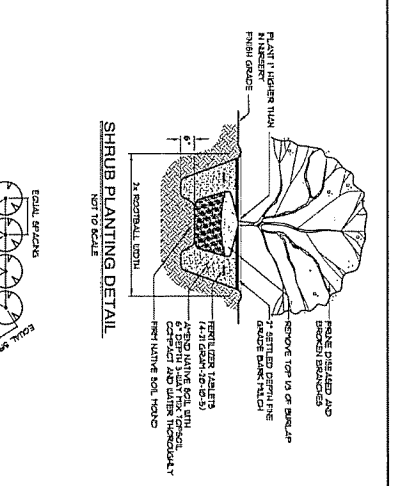
L-3
 8 of 9 SHEETS



LOW GROW HYDROSEED MIX

INGREDIENT	PERCENTAGE	APPROXIMATE RATE
PERMANENT SEED	50%	50 LB / ACRE
HYDROSEED	50%	50 LB / ACRE
TOTAL WEIGHT	100%	100 LB / ACRE

NOTE: SEEDS ARE TO BE PLANTED AT A RATE OF 100 LB PER ACRE. HYDROSEED APPLICATION RATE: 50 LB / ACRE. WOOD PELLETS OR APPLICATION RATE: 100 LB / ACRE. FERTILIZER APPLICATION RATE: 100 LB / ACRE. HYDROSEED APPLICATION RATE: 50 LB / ACRE.



SEED MIX FOR FINE LAWN AREAS

INGREDIENT	PERCENTAGE	APPROXIMATE RATE
PERMANENT SEED	50%	50 LB / ACRE
HYDROSEED	50%	50 LB / ACRE
TOTAL WEIGHT	100%	100 LB / ACRE

NOTE: SEEDS ARE TO BE PLANTED AT A RATE OF 100 LB PER ACRE. HYDROSEED APPLICATION RATE: 50 LB / ACRE. WOOD PELLETS OR APPLICATION RATE: 100 LB / ACRE. FERTILIZER APPLICATION RATE: 100 LB / ACRE. HYDROSEED APPLICATION RATE: 50 LB / ACRE.

PLANT LEGEND

SYMBOL	PLANT NAME	SIZE	QUANTITY
(Symbol)	CEANOX NITRATA / PACIFIC DOGWOOD	7' CAL.	37
(Symbol)	ACER RUBRA / RED BARKED MAPLE	7' CAL.	37
(Symbol)	CEANOX NITRATA / PACIFIC DOGWOOD	7' CAL.	37
(Symbol)	ACER RUBRA / RED BARKED MAPLE	7' CAL.	37
(Symbol)	CEANOX NITRATA / PACIFIC DOGWOOD	7' CAL.	37
(Symbol)	ACER RUBRA / RED BARKED MAPLE	7' CAL.	37
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(Symbol)	CEANOX NITRATA / PACIFIC DOGWOOD	7' CAL.	37
(Symbol)	ACER RUBRA / RED BARKED MAPLE	7' CAL.	37

LANDSCAPE NOTES

1. ALL PLANTING SHALL BE ACCORDING TO THE LANDSCAPE PLAN PROVIDED BY THE ARCHITECT.
2. ALL PLANTING SHALL BE ACCORDING TO THE LANDSCAPE PLAN PROVIDED BY THE ARCHITECT.
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9. ALL PLANTING SHALL BE ACCORDING TO THE LANDSCAPE PLAN PROVIDED BY THE ARCHITECT.
10. ALL PLANTING SHALL BE ACCORDING TO THE LANDSCAPE PLAN PROVIDED BY THE ARCHITECT.

EROSION CONTROL SEED MIX FOR DETENTION PONDS

INGREDIENT	PERCENTAGE	APPROXIMATE RATE
PERMANENT SEED	50%	50 LB / ACRE
HYDROSEED	50%	50 LB / ACRE
TOTAL WEIGHT	100%	100 LB / ACRE

NOTE: SEEDS ARE TO BE PLANTED AT A RATE OF 100 LB PER ACRE. HYDROSEED APPLICATION RATE: 50 LB / ACRE. WOOD PELLETS OR APPLICATION RATE: 100 LB / ACRE. FERTILIZER APPLICATION RATE: 100 LB / ACRE. HYDROSEED APPLICATION RATE: 50 LB / ACRE.

THE DWELLING COMPANY
GIG HARBOR NORTH
 CITY OF GIG HARBOR PRELIMINARY LANDSCAPE DETAILS AND NOTES WASHINGTON

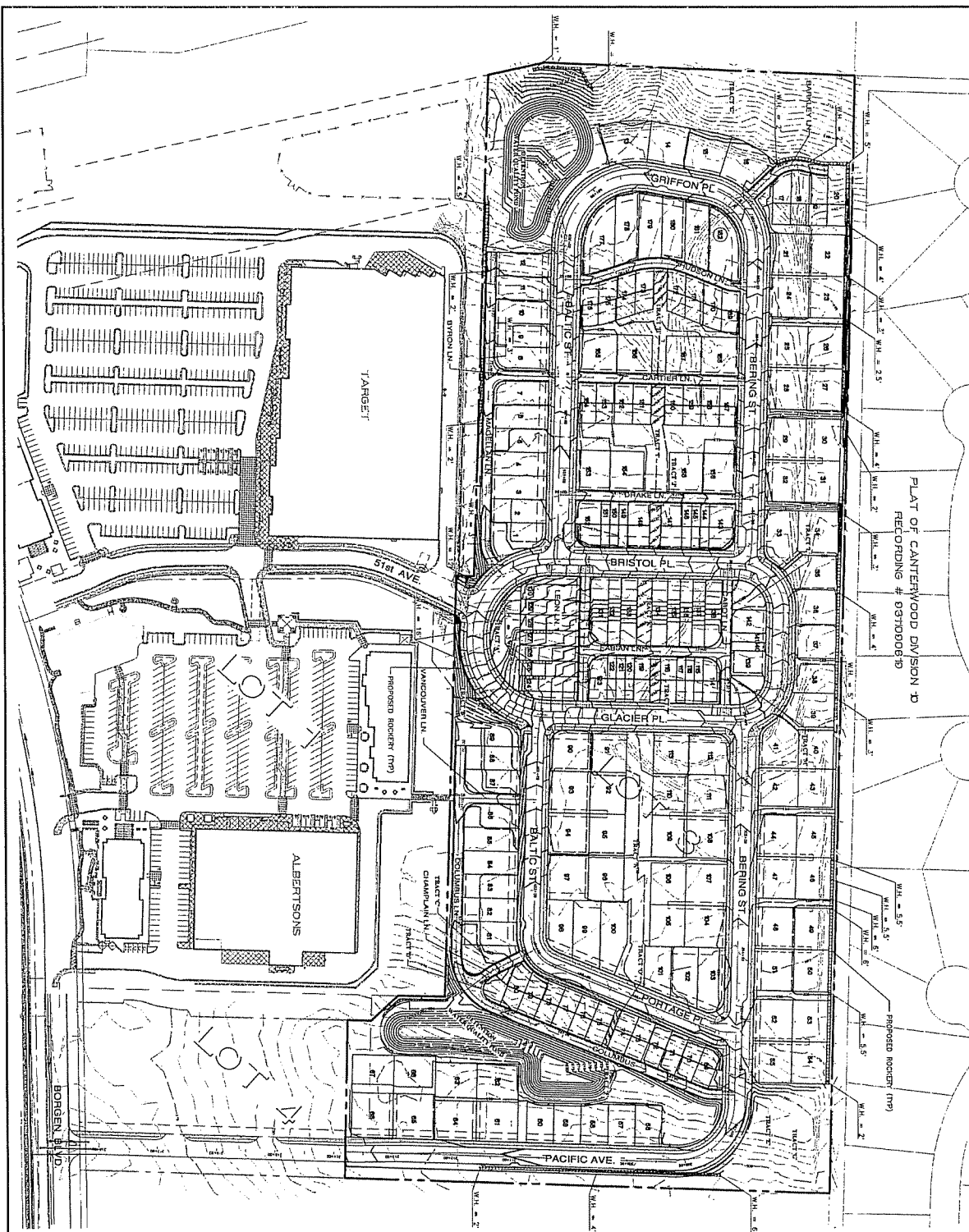
ESM CONSULTING ENGINEERS, LLC
 33015 1st Way South #200
 Federal Way, WA 98003
 www.esmcivil.com

REVISIONS

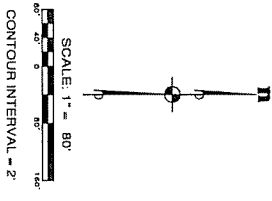
NO.	DESCRIPTION	DATE
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2		
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WARNING:
 THE UTILITY LOCATIONS SHOWN
 ARE APPROXIMATE ONLY. DEPTH
 UNKNOWN. CALL 1-800-424-5555.

A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.



PLAT OF CANTERWOOD DIVISION D
RECORDING # 0370006 D



LEGEND

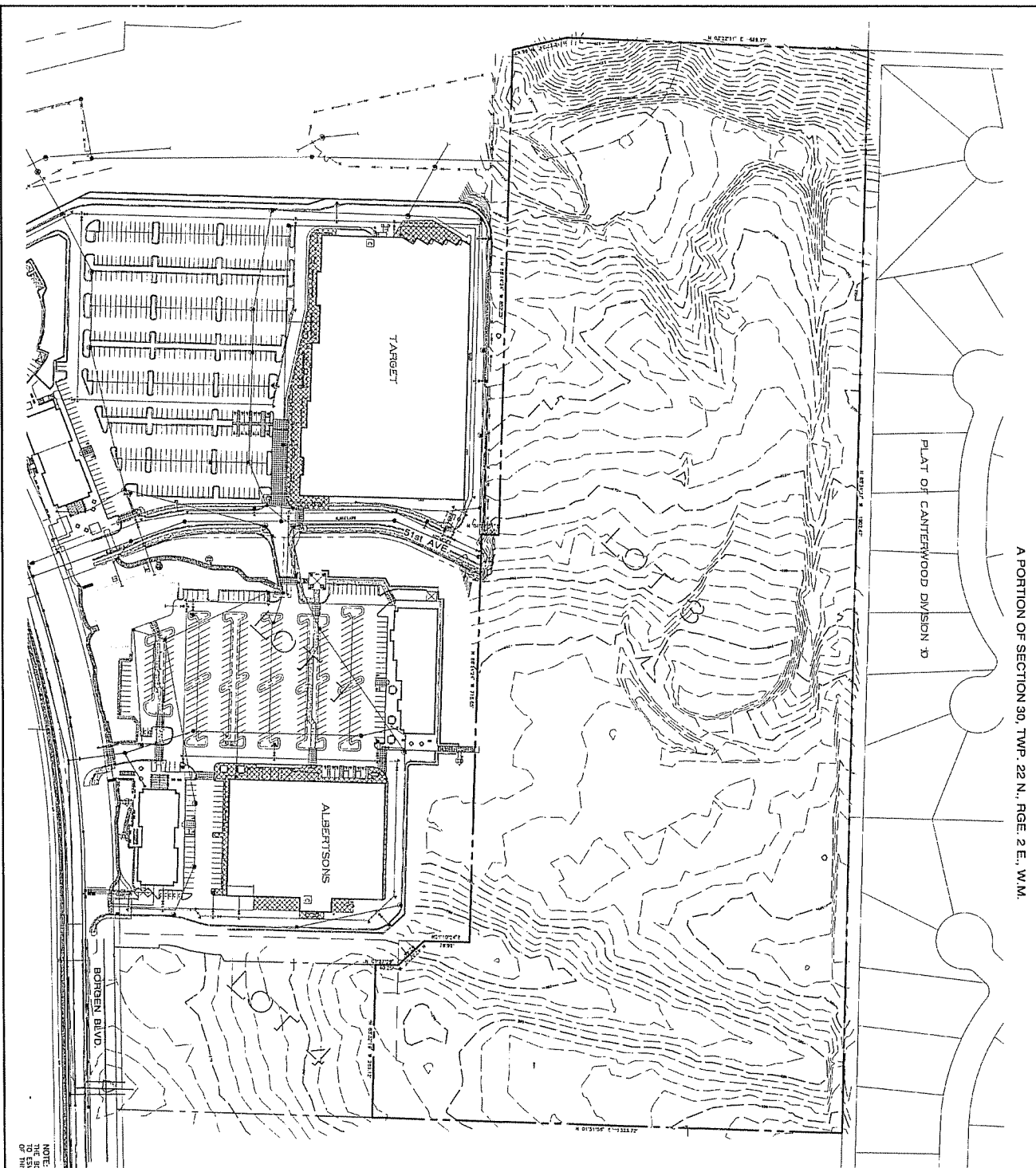
- EXISTING 1' CONTOUR
- EXISTING 2' CONTOUR
- PROPOSED 1' CONTOUR
- PROPOSED 2' CONTOUR
- ROCKERY WALL HEIGHT

QUANTITIES	
SITE SHERING	42,106 CY
TOTAL CUT	58,533 CY
TOTAL FILL	11,200 CY

<p>PP-04 4" x 9" SHEET</p>	<p>THE DWELLING COMPANY GIG HARBOR NORTH</p>	<p>ESM CONSULTING ENGINEERS LLC 720 S. 348th Street Federal Way, WA 98003 www.esmcivil.com</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO.</td> <td style="text-align: center;">REVISIONS</td> </tr> <tr> <td style="text-align: center;"> </td> <td style="text-align: center;"> </td> </tr> <tr> <td style="text-align: center;"> </td> <td style="text-align: center;"> </td> </tr> <tr> <td style="text-align: center;"> </td> <td style="text-align: center;"> </td> </tr> </table>	NO.	REVISIONS						
NO.	REVISIONS											
<p>JOB NO. 1114-01-01 DATE 07/24/11 DRAWN BY: [Name] CHECKED BY: [Name] DATE OF PRINT: 07-23-11</p>	<p>CITY OF GIG HARBOR CONCEPTUAL GRADING PLAN WASHINGTON</p>	<p>Civil Engineers Land Surveying Public Works Project Management Landscape Architecture</p>										

A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.

PLAT OF CANTERWOOD DIVISION 3D



NOTE:
THE BOUNDARY AND TOPOGRAPHY SHOWN ON THESE PLANS WERE PROVIDED
TO ESM BY THE DWELLING COMPANY AND SHOWN FOR REFERENCE PURPOSES.
THE INFORMATION AND DATA SHOWN FOR REFERENCE PURPOSES.

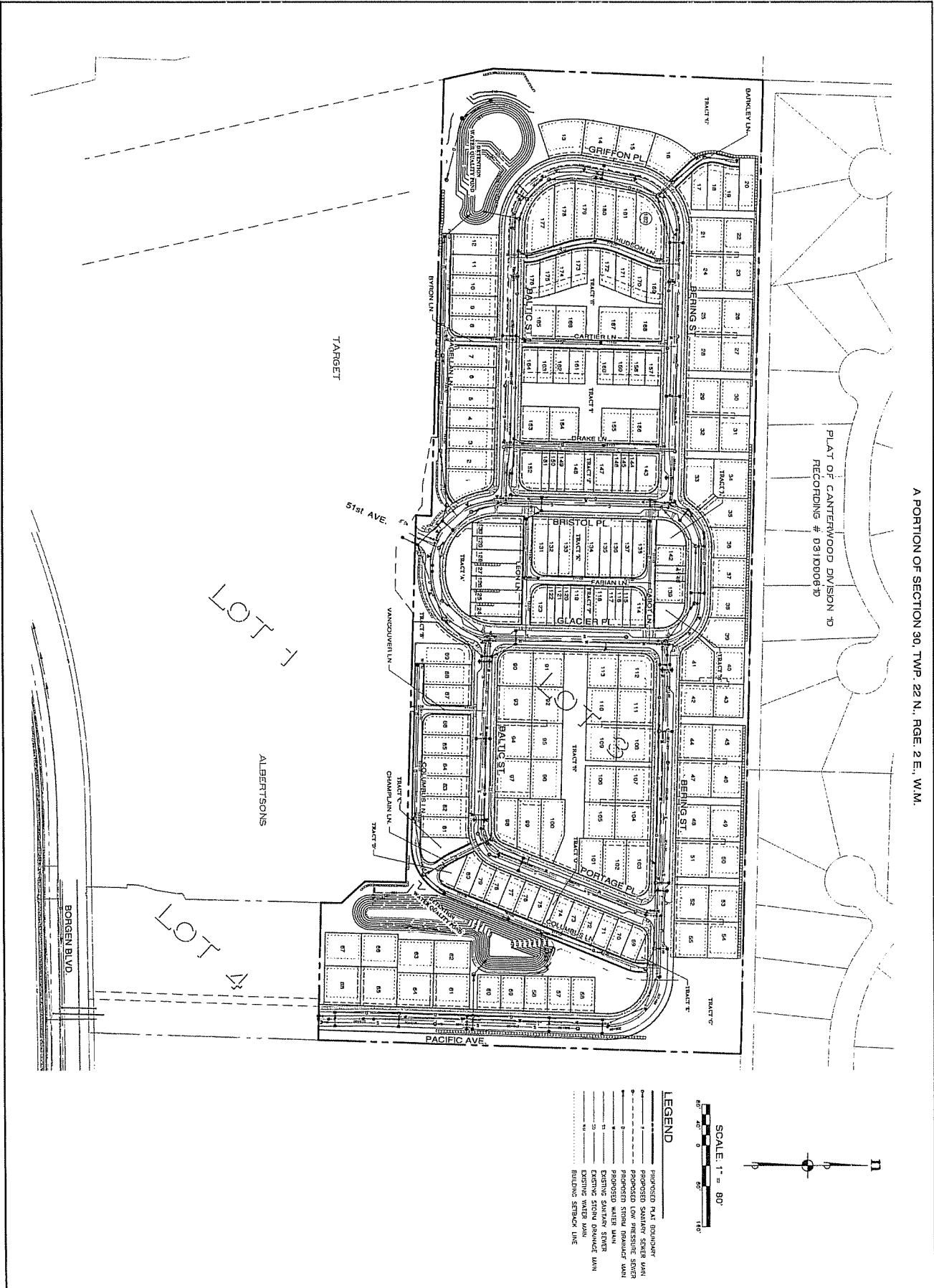
PP-05
OF 9 SHEETS

THE DWELLING COMPANY
GIG HARBOR NORTH
CITY OF GIG HARBOR TOPOGRAPHIC MAP - EXISTING CONDITIONS WASHINGTON

ESM CONSULTING ENGINEERS, LLC
720 S. 348th Street
Federal Way, WA 98003
www.esmcivil.com
Civil Engineering | Land Surveying | Land Planning |
Public Works | Project Management | Landscape Architecture



NO.	DATE	DESCRIPTION



From: Jenee Nash [JNASH@co.pierce.wa.us]
Sent: Monday, June 12, 2006 4:28 PM
To: McGallian, Patty
Subject: Request For Comments - Gig Harbor North

Hi, Patty-

I just received a "Request for Comments" mailing regarding the Gig Harbor North Preliminary Plat. I ran a query to find any road name matches with County roads, and the only match that came up was Pacific Avenue (a well-known thoroughfare in Tacoma).

From a GIS / 9-1-1 dispatch standpoint, a duplicate name within the Pierce County roads system could pose a problem if the roads had similar address ranges, producing two location results when an address on Pacific Ave is queried. Assuming that everyone involved is awake and all the technology is working correctly, the distinction would be made clear possibly through the enhanced 9-1-1 system or when a caller stated that s/he was in Gig Harbor rather than Tacoma, but you should be aware that there is some potential for confusion.

Anyway, there are my two cents' worth of comments. My apologies if you already knew this information or have already heard it from others.

Thank you!

Jenee' Nash
GIS Technician
Pierce County, WA
(253) 798-6768
jnash@co.pierce.wa.us

From: Davis, Michael L
Sent: Friday, June 09, 2006 1:23 PM
To: McGallian, Patty
Subject: STREET NAMES

I think the names for Gig Harbor North are fantastic!

Mike Davis

Chief of Police
Gig Harbor Police Department
3510 Grandview Street
Gig Harbor, WA 98355
Office: 253.853.2420
Fax: 253.851.2399

"Leadership is the challenge to do something more than average"



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: DIGITAL ORTHOPHOTOGRAPHY SUBSCRIPTION
AGREEMENT WITH PIERCE COUNTY
DATE: JULY 24, 2006

INFORMATION/BACKGROUND

The City's GIS system has been using orthophotos on a daily basis for viewing, mapping and developmental analysis since 2001. It is therefore of great importance that the City continue to utilize the most current orthophotos made available by subscription.

Pierce County conducted an orthophotography (orthophoto) construction program and made this digital data available for subscription. The City as well as Pierce County previously purchased orthophotos for GIS in 2001 from Triathlon. Pierce County has replaced Triathlon as a vendor and created the current 2005 orthophotos themselves. A new ongoing agreement with Pierce County will be a three year subscription (2006-2008), replacing the 2001 orthophotos with 2005 orthophotos. The subscription program agreement includes an update in 2008 to replace the 2005 orthophoto dataset. Future updates will be as frequent as every three years and no less than four years.

Other related datasets to this subscription are contours, lidar terrain model and Ortho Viewer System.

The initial licensing fee for the City's Urban Growth Area Only: \$8,326
The annual maintenance fee for 2006: \$4,163
The annual maintenance fee for 2007 and 2008 described in this agreement will be included in those forthcoming budget cycles.

The City Attorney has reviewed and approved this Agreement.

ISSUES/FISCAL IMPACT

Payment of the Orthophotography Subscription of \$12,489 was a regularly anticipated expense in the *City of Gig Harbor 2006 Annual Budget*.

RECOMMENDATION

I recommend that Council authorize the attached Agreement with Pierce County in the amount of Twelve Thousand Four Hundred Eighty-nine dollars (\$12,489).

DIGITAL ORTHOPHOTOGRAPHY SUBSCRIPTION AGREEMENT

Agreement # 52772
between
Pierce County
and
City of Gig Harbor

City of Gig Harbor, hereinafter called **Subscriber**, and Pierce County, hereinafter called COUNTY, agree to the terms of this Digital Orthophotography Subscription Agreement.

WHEREAS the **County** conducts an orthophotography (orthophoto) construction program to develop a high resolution digital orthophotography database and makes this digital data available for subscription;

WHEREAS the **Subscriber** needs digital orthophotography for viewing, mapping and analysis and wishes to subscribe to the **County's** Digital Orthophotography;

NOW, THEREFORE, the **Subscriber** and **County** agree to the following responsibilities and terms of the Digital Orthophotography Subscription agreement effective this _____ day of _____, 2006.

It is agreed by the parties:

Product

1. **County** will establish the orthophotography specifications and requirements for 1"=100" mapping.
 - 1.1. Imagery is a 1"=800' color photo, pixel size of 0.5 ft, free of cloud cover, and artifacts that obscure physical features.
 - 1.2. Every effort is made to utilize the best available terrain model and maintain the horizontal positional alignment of the dataset as compared to the 1998 county orthophotos. This will benefit **Subscribers** who have constructed datasets on top of the orthophotos.
2. **County** will conduct and manage the timely competitive bid, selection, procurement, development, quality control of the Pierce County orthophotography dataset.
3. **Subscriber** will determine what geographic area of the orthophoto database the Subscriber will subscribe to and use.

4. Orthophotography Subscription program provides to the **Subscriber**:
 - 4.1. Orthophoto coverage area defined by: **CITY URBAN GROWTH AREA**
 - 4.2. Orthophotography for the year(s): **2005 and 2008**
 - 4.3. Other related data sets: contours, lidar terrain model, OrthoViewer System for subscribers with on-line access and full countywide ortho subscription
5. The **County** Orthophotography Subscription program includes an update in 2008 to the 2005 orthophoto dataset. Updates to the orthophotography database will be as frequently as every three years and no less than every four years. The frequency of the update is determined by the County following consideration of subscriber concerns, budget issues and any other pertinent factors that may affect the quality or cost of the orthophoto database.
6. Other **County** products, services or data sets are not a part of this agreement.

Product Use

7. **Subscriber** will have rights to use the orthophotography for viewing, mapping, analysis and use in a GIS system.
8. The **County** licenses the orthophotos from the orthophoto vendor. Access by the **Subscriber** to the digital orthophotos and associated data is subject to and governed by this agreement, including the following licensing terms:
 - 8.1. The **Subscriber** shall use the orthophoto data for internal business purposes only.
 - 8.2. The **Subscriber** may make hardcopy maps of orthophotos (and with other data overlays) for internal or public distribution.
 - 8.3. The **Subscriber** may copy portions of the orthophoto database to other internal company servers for use with Autocad or other mapping software.
 - 8.4. The **Subscriber** can request the **County** to may make a copy of the orthophotos and provide this data to consultants or engineers who are performing work under contract for a specific **Subscriber** project. Consultants or contractors must adhere to the terms in agreement (restricted distribution) and pay the \$76/hr to copy the dataset onto CD or DVD.
 - 8.5. The **Subscriber** may not post the orthophotos to any web site.
9. The **Subscriber** may not distribute or permit the distribution of the orthophoto database/files in any digital format to other agencies, the public or third parties. Violation of this restriction will result in a) the **Subscriber** returning the orthophotography to the

County thus ceasing use of the product, b) if using online **County** GIS application services, orthophoto access will be discontinued or c) the **County** may also seek legal redress.

10. If the **Subscriber** uses **County** GIS on-line application services, the **Subscriber's** GIS users will be provided access to the orthophotography through the on-line application services in CountyView. If the **Subscriber** does not have on-line access to the **County** GIS, the **Subscriber** will provide a hard disk to copy the dataset for transfer.
11. The Subscriber has a perpetual use license to the orthophotography as defined in this document unless terminated for cause (section 8) or non-payment of license fees.
12. **Subscriber's** rights under this agreement are nonassignable, nontransferable, nonsublicensable and nonexclusive.
13. **Subscriber** accepts that a limited (larger pixel scale) public domain product may be produced with each acquisition and released with a 6 month schedule delay. This product is for the USGS and National Map program and will be provided only when the USGS contributes funding to the orthophotography program.

Product Fees and Term

14. The **Subscriber** will pay license fees for the development and maintenance of the orthophotography. Subscribers may choose to license a city urban growth area or the entire county dataset:

Yearly licensing fee for CITY URBAN GROWTH AREA only:

Initial fee of:	\$8,326
Annual maintenance fee in 2006, 2007, 2008:	\$4,163

Yearly licensing fees for COUNTY dataset:

Initial fee of:	\$15,000 **
Annual maintenance fee in 2006, 2007, 2008:	\$ 7,500

** includes use of OrthoViewer

15. After the initial contract term (2006-2008), the fees will be adjusted based on the number of subscribers and the cost of the products provided in the program. The **County** will notify **Subscribers** of changes to the subscription fees.
16. Non-Appropriations (applies to Governmental Agencies only)
 - 16.1. **Subscriber** intends to continue this Agreement for its entire term and to satisfy its obligations hereunder. For each fiscal period during the term of this Agreement: 1) **Subscriber** agrees to include in its budget request appropriations sufficient to cover **Subscriber's** obligations under this Agreement and 2) **Subscriber** agrees to use all reasonable and lawful means to secure these appropriations.

- 16.2 In the event that **Subscriber** is appropriated insufficient funds, by appropriation, appropriation limitation or grant, to continue payments under this Agreement and has no other funding source lawfully available to it for such purpose, **Subscriber** may terminate this Agreement by giving **County** at least two weeks' written notice to terminate as of December 31st of the then current calendar year. Upon termination and to the extent of lawfully available funds, **Subscriber** shall remit all amounts due through the date of termination.
17. The **Subscriber** may unsubscribe to the **County** Orthophotography Program by giving **County** at least two weeks' written notice to terminate as of December 31st of the then current calendar year. Fees are not refundable.
18. In the event the **Subscriber** chooses to unsubscribe to the orthophotography program, the **Subscriber** will return the orthophotography to the **County** and discontinue use of the data.
19. The contract period shall be from January 1, 2006 to December 31, 2008. The contract shall be renewable for one additional three year term, unless either party gives notice of non-renewal not less than 60 days prior to the expiration of the next term.

Limitations

20. The **County** makes no warranty, expressed or implied, concerning the orthophotography's content, accuracy, currency or completeness, or concerning the results to be obtained from queries or use of the data. ALL DATA IS EXPRESSLY PROVIDED "AS IS" AND "WITH ALL FAULTS". The **County** makes no warranty of fitness for a particular purpose, and no representation as to the quality of any data. **Subscriber** users of data are responsible for ensuring the accuracy, currency and other qualities of all products (including maps, reports, displays and analysis) produced from or in connection with County's orthophotography.

Spatial Accuracy

21. Orthophotography can be plotted or represented at various scales other than the original source of the data. The **Subscriber** is responsible for adhering to industry standard mapping practices which specify that data utilized in a map or analysis, separately or in combination with other data, will be produced at the largest scale common to all data sets.

No County Liability

22. **County** shall not be liable to the **Subscriber** (or transferees or vendees of **Subscriber**) or others for damages of any kind, including lost profits, lost savings or any other incidental or consequential damages relating to the providing of the orthophotography or the use of it. The **Subscriber** and any others shall have no remedy at law or equity against the

County in case the orthophotography provided is inaccurate, incomplete or otherwise defective in any way.

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

CITY OF GIG HARBOR:

Name Date

(Signature) Date

Title of Signatory

Contact Name Date

Mailing Address:

Street Address, if different:

Contact Phone: _____

Contact Email: _____

Contact FAX: _____

PIERCE COUNTY:

By _____
Deputy Prosecuting Attorney Date
Approved as to legal form only

Recommended:

By _____
Budget and Finance Date

Approved:

By _____
Department Director Date
(less than \$250,000)

or

By _____
Pierce County Executive Date
(\$250,000 or more)



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E. *Stm*
CITY ENGINEER
SUBJECT: EDDON BOATYARD PROPERTY REMEDIATION CLEAN-UP ACTION
PLAN - AMENDED CONSULTANT SERVICES CONTRACT - ANCHOR
ENVIRONMENTAL, LLC
DATE: JULY 24, 2006

INFORMATION/BACKGROUND

Due to project developments, this Amendment requests the release of additional portions of the budget which are now necessary to continue negotiations with Ecology, complete additional soil, sediment, and TBT pore water sampling activities, and to support construction management of both upland and sediment work. This proposed amendment in the amount of \$97,625.00 provides for continuing negotiations with Ecology, completion of required DOE additional soil and sediment sampling activities and to support preliminary construction management of both upland and sediment work.

FISCAL CONSIDERATIONS

Adequate funds exist from the Seller's Clean-up Remediation Account to fund this amendment and the sellers have given their approval of this amendment. Approval of this contract amendment revises the total contract amount to \$272,625.00.

RECOMMENDATION

I recommend that Council authorize the amendment to the consultant services contract with Anchor Environmental, LLC for the remediation design and permitting for the Eddon Boatyard property in an amount not to exceed (\$97,625.00) Ninety-Seven Thousand Six Hundred Twenty-five Dollars and Zero Cents.

**FOURTH AMENDMENT TO CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
ANCHOR ENVIRONMENTAL, LLC**

THIS FOURTH AMENDMENT is made to the AGREEMENT, dated December 13, 2004, subsequent AMENDMENT #3, dated October 10, 2005; subsequent AMENDMENT #2, dated April 25, 2005, and subsequent AMENDMENT #1, dated February 14, 2005 by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and Anchor Environmental, LLC, a limited liability corporation organized under the laws of the State of Washington, located and doing business at 1423 Third Avenue, Suite 300, Seattle, Washington 98101 (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the environmental assessment and remediation services for the property commonly known as Eddon Boatyard 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 December 13, 2004, (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 Work**, attached to this Amendment, which Exhibit is incorporated herein as if fully set forth.

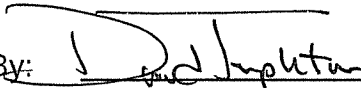
Section 2. **Amendment to Compensation.** Section II(A) of the Agreement is amended to require the City to pay compensation to the Consultant for the work described in **Exhibit A** to the Amendment in the amount of Ninety Seven Thousand Six Hundred Twenty-Five Dollars and Zero Cents (\$97,625.00). This 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 _____, 2006.

THE CITY OF GIG HARBOR

By:  _____
Its Principal

By: _____
Mayor

Notices to be sent to:

CONSULTANT
Anchor Environmental, LLC
Attn: David Templeton, Partner
1423 Third Avenue, Suite 300
Seattle, Washington 98101
(206) 287-9130

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 KING)

I certify that I know or have satisfactory evidence that David Templeton 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 partner of Anchor Environmental LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 6-5-06

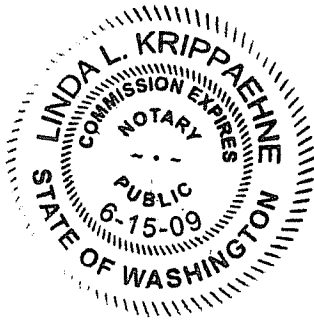
Linda L. Krippaehne

Linda L. Krippaehne
(print or type name)

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

Bothell, WA

My Commission expires: 6-15-09



STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Charles L. Hunter 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 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: _____



Anchor Environmental, L.L.C.
1423 3rd Avenue, Suite 300
Seattle, Washington 98101
Phone 206.287.9130
Fax 206.287.9131

July 17, 2006

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

Mr. William Joyce
Salter Joyce Ziker, PLLC
1601 Fifth Avenue, Suite 2040
Seattle, WA 98101-1686

**Re: Exhibit A – Revised Addendum No. 4 to Scope of Work (dated June 6, 2006)
Environmental Assessment and Remediation Services
Eddon Boatyard Property**

Dear Mr. Misiurak and Mr. Joyce:

The purpose of this letter is to provide the City of Gig Harbor (City) with Anchor Environmental L.L.C.'s (Anchor) request for additional funding for work on the Eddon Boat Park environmental assessment and remediation. In April 2005, we provided the City with a full scope of work necessary to meet the City's obligations under the amended purchase and sale agreement (March 14, 2005; Amendment). That scope of work incorporated relevant elements of the Amendment and is designed to reach cost effective regulatory closure. In September 2005 we submitted requests to authorize release of a portion of the budget to address design and permitting elements. Task 5 and Task 6 were authorized by the City on October 12, 2005.

Due to project developments, this letter requests the release of additional portions of the budget which are now necessary to continue negotiations with Ecology, complete some additional soil, sediment, and TBT pore water sampling activities, and to support construction management of both upland and sediment work.

To this end, Anchor is currently requesting authorization for release of funds for Tasks 1, 3, 4, and 8. The following table (Table 1) summarizes our request. Additional breakdown can be provided at your request.

**Table 1
 Budget Summary**

Task	Description	Current City Authorization	Current Request ¹	New Task Budgets
1	Project Management and Strategy Development	\$20,000	\$15,625	\$35,625
2	Meetings	\$25,000	(\$5,000) ¹	\$20,000
3a	Work Plans -- Upland	\$0	\$2,000	\$2,000
3b	Work Plans -- Sediment	\$0	\$8,000	\$8,000
4a	Additional Field Investigations -- Upland	\$0	\$10,000	\$10,000
4b	Additional Field Investigations -- Sediment	\$0	\$40,000	\$40,000
5	Design (5a and 5b)	\$90,000	\$0	\$90,000
6	Permitting (6a and 6b)	\$40,000	\$0	\$40,000
7	Sediment Construction Management and Monitoring	\$0 ^{2, 3}	\$0	\$0
8	Upland Construction Management and Monitoring	\$0 ^{2, 3}	\$27,000	\$27,000
9	Long-Term Monitoring	\$0	\$0	\$0
	Total		\$97,625	

Notes:

1. The total amount requested and reflected in the new proposed budget is \$102,625. The Task 2 budget will be decreased from \$25,000 to \$20,000 and the \$5,000 redistributed to other tasks. Consequently, the actual approval amount is \$102,625 less \$5,000 (\$97,625).
2. For Tasks 3 – 9 estimated costs were provided on Tables 4 and 5 of the Preliminary Assessment of Potential Environmental Remediation Costs (Anchor 2005) though the total authorization has been modified to match the required level of effort following discussion with Ecology.
3. Tasks 7 and 8 will not include construction contractor costs, Ecology oversight costs, or consider contingency costs (see Tables 5a and 5b from the Preliminary Assessment).

Task 1 – Project Management and Strategy Development (2006-2007)

This task (and budget request) addresses on-going efforts related to discussions with Ecology, discussions with Harbor Cove, discussions and strategy development with City staff, project management, and budget tracking. This task does not address Eddon Boat Park design, though it includes the integration of site environmental cleanup requirements. Between now and entering construction in 2007, these efforts are critical to keeping the project on schedule and on budget. This request is for 2006 and 2007, and will be accessed on an as-needed basis.

Task 3a and 3b – Work Plans (2006-2007)

Ecology has requested additional upland (Task 3a) and sediment (Task 3b) characterization. This task addresses this additional work required by Ecology and covers development of Technical Memorandums (documentation) to describe these investigations/monitoring events (see below).

Task 4a and 4b – Additional Field Investigations (2006-2007)

This budget covers additional upland (Task 4a) and sediment (Task 4b) field sampling required by Ecology in Opinion Letter #2, which were described during site visits and discussed during our May 12 meeting with Ecology. Specifically, this includes sediment sampling, TBT pore water sampling (scope to be finalized per Ecology comment), soil sampling, well installation, development, and groundwater sampling. At Ecology's request, we have developed a number of Technical Memorandums that will be the basis of "opinion letters" and detail additional field investigations. These technical memorandums are summarized below:

- Technical Memorandum #1 – Addresses confirmation sampling during soil removal. Opinion letter received.
- Technical Memorandum #2 – Address sediment cleanup alternatives for the aquatic area. A revision is on hold pending completion of Technical Memorandum #5.
- Technical Memorandum #3 – Address the results of soil investigations and cleanup performed to date (e.g., removal of UST). Ecology provided an opinion letter on July 7, 2006.
- Technical Memorandum #4 – Address additional upland investigations required by Ecology. Ecology provided an opinion letter on July 7, 2006. A letter amendment to Technical Memorandum #4 will be prepared and submitted to

Ecology. Field activities will be performed in early August. Results will be provided to Ecology in a Technical Memorandum.

- Technical Memorandum #5 – Addresses additional sediment investigations required by Ecology. This Technical Memorandum will be submitted to Ecology in mid July. Results of the field investigations will be provided to Ecology in a revised Technical Memorandum #2.

Task 7 – Sediment Construction Management and Monitoring (2006-2007)

No funds are requested at this time. Funds will be required during the construction of the selected remedy, anticipated to begin during the late summer of 2007. As noted in Table 2, these costs do not include contractor costs, Ecology oversight, or any contingency. We will also need to re-evaluate these costs if an EPA Brownfields Grant (for construction) is awarded, and once the final remedy design is complete and the level of effort for contracting and construction management is better defined. Anchor anticipates that City staff will be utilized to complete portions of the construction documentation and support construction management. Anchor believes that our experience with the development of contract documents, contractor selection, and construction management for aquatic projects will be of value to the City.

Task 8 – Upland Construction Management and Monitoring (2006-2007)

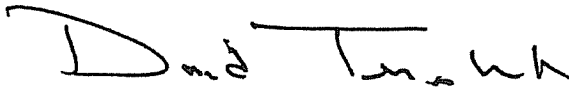
These funds will be required during the construction of the selected remedy, initiated in early 2006, which include tank and soil removal, demolition support, and monitoring. This authorization will need to be amended when the final upland design is complete and the level of effort for contracting and construction management is better defined. Costs to date include development of Technical Memorandum #1 and #3, which address the results of soil investigations and cleanup performed to date.

These costs do not include park development costs, Ecology oversight, or any contingency. We will also need to re-evaluate these costs if an EPA Brownfields Grant is awarded, and once the final park design is complete and the level of effort for contracting and construction management is better defined.

If this Scope of Work meets the City's needs we will assume that the City will prepare the necessary contract amendments. We propose to continue to perform these tasks on a time and material and not to exceed basis as an amendment to our existing Consultant Services Agreement with the City dated December 13, 2004. If the project conditions change outside the assumptions discussed above, Anchor will work with you to re-scope the necessary project elements.

Please feel free to contact me (206) 903-3312 or dtempleton@anchorenv.com if you have any questions or would like additional information on this scope of work.

Sincerely,



David Templeton
Partner
Anchor Environmental

ACCEPTED BY:

David Templeton, Partner
Anchor Environmental, L.L.C.

Date

Name: _____ Date: _____

Title: _____

City of Gig Harbor

cc: Mark Hoppen, City of Gig Harbor
John Renda, Anchor Environmental, L.L.C.
Bud Whitaker, Inspectus, Inc.

ANCHOR ENVIRONMENTAL, L.L.C.
2006 PROJECT COST ESTIMATING FORM
 Proposal/Project Name: Eddon Boat Environmental Assessment and Remediation Services
 City of Gig Harbor

Number: 040289-02
 Prepared by: David Templeton

- Task 1 Project Management and Strategy Development (Orig. Auth. April 2005)
- Task 2 Meetings (Authorized April 2005)
- Task 3 Work Plans (Upland and Sediment)
- Task 4 Additional Field Investigations (Upland and Sediment)
- Task 5 Design (Authorized October 2005)
- Task 6 Permitting (Authorized October 2005)
- Task 7 Sediment Construction Management and Monitoring
- Task 8 Upland Construction Management and Monitoring
- Task 9 Long-Term Monitoring (Reserved)
- Task 10

Labor Categories	Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Total Hours	Total Dollars
Principal Engr/Plan/Sci	75	-10	25	55	0	0	0	50	0	0	195	\$ 34,125
Consulting Engr/Plan/Sci	0	0	0	0	0	0	0	0	0	0	0	\$ -
Senior Engr/LA/Plan/Sci	0	-8	16	0	0	0	0	25	0	0	33	\$ 4,620
Engr/Plan/Sci	0	-8	10	0	0	0	0	55	0	0	57	\$ 6,840
Senior Staff Engr/LA/Plan/Sci	0	0	0	128	0	0	0	0	0	0	128	\$ 12,800
Staff 2 Engr/Plan/Sci	0	0	0	0	0	0	0	24	0	0	24	\$ 2,160
Staff 1 Engr/Plan/Sci	0	0	0	36	0	0	0	0	0	0	36	\$ 2,880
Senior Design/GIS/Database/IT	0	0	12	30	0	0	0	15	0	0	57	\$ 5,130
Design/GIS/Database/IT	0	0	0	0	0	0	0	0	0	0	0	\$ -
Project Assistant	30	-10	6	54	0	0	0	15	0	0	95	\$ 6,650
Administrative	0	0	0	10	0	0	0	0	0	0	10	\$ 650
Human Resources	0	0	0	0	0	0	0	0	0	0	0	\$ -
Total Hours	105	-36	69	313	0	0	0	184	0	0	635	\$ 75,855
Total Labor	\$ 15,225	\$ (4,530)	\$ 9,315	\$ 32,435	\$ -	\$ -	\$ -	\$ 23,410	\$ -	\$ -	\$ -	\$ -
Average Hourly Rate	\$ 119											
Subconsultants												
Analytical Laboratory	\$ -	\$ -	\$ -	\$ 13,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 16,014
List subconsultants here	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
List subconsultants here	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
List subconsultants here	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
List subconsultants here	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
List subconsultants here	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Cost	\$ -	\$ -	\$ -	\$ 13,000	\$ -	\$ -	\$ -	\$ 3,014	\$ -	\$ -	\$ -	\$ 16,014
Markup on Subs	\$ -	\$ -	\$ -	\$ 1,300	\$ -	\$ -	\$ -	\$ 301	\$ -	\$ -	\$ -	\$ 1,601
Reimbursables												
CAD/Computer (\$/hr)	\$ -	\$ -	\$ 120	\$ 300	\$ -	\$ -	\$ -	\$ 150	\$ -	\$ -	\$ -	\$ 570
Mileage (\$/mile)	\$ 53	\$ (134)	\$ 45	\$ 312	\$ -	\$ -	\$ -	\$ 111	\$ -	\$ -	\$ -	\$ 387
Copies (\$/copy)	\$ -	\$ -	\$ -	\$ 49	\$ -	\$ -	\$ -	\$ 14	\$ -	\$ -	\$ -	\$ 62
Anchor boat (\$/day)	\$ -	\$ -	\$ -	\$ 600	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 600
Faxes (\$/fax)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Outside Expenses												
Airfare	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Hotel	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Car Rental	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Repro/Plotting	\$ -	\$ -	\$ 223	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 223
Mail/Fedex/Courier	\$ -	\$ -	\$ -	\$ 400	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400
Other expenses	\$ 315	\$ (306)	\$ 250	\$ 1,423	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,682
Total Cost	\$ 368	\$ (439)	\$ 638	\$ 3,083	\$ -	\$ -	\$ -	\$ 275	\$ -	\$ -	\$ -	\$ 3,924
Outside Exp Markup	\$ 31	\$ (31)	\$ 47	\$ 182	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 230
Field Equip. and Supplies Summary												
Markup	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Markup	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL COSTS	\$ 15,624	\$ (5,000)	\$ 10,000	\$ 50,000	\$ -	\$ -	\$ -	\$ 27,000	\$ -	\$ -	\$ -	\$ 97,625



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E., CITY ENGINEER *de*
**SUBJ: HARBOR HILL (OPG PROPERTIES) WATER TANK BILL OF SALE,
WATERLINE EASEMENT AGREEMENT, POWERLINE EASEMENT**
DATE: JULY 24, 2006

INTRODUCTION/BACKGROUND

As part of the process for the completion of Harbor Hill Development (D-0311), agreements for a Waterline Easement, Powerline Easement, and Water Tank Bill Of Sale are required for this project.

In order for the City to have access and the ability to maintain the waterline and water tank in the Gig Harbor North area (parcel 0222304000), the subject agreements have been granted by the Owner (OPG Properties) for these purposes.

The City's standard easement agreements have been drafted and approved by City Attorney Carol Morris.

The Bill Of Sale for the Water Tank is for motion to approve only. No signatures are required.

City Council approval of the subject agreements is requested.

FISCAL CONSIDERATIONS

No funds will be expended for the acquisition of the described deed and agreements.

RECOMMENDATION

I recommend that City Council approve the Bill Of Sale and Easement agreements as presented.

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that Harbor Hill LLC, a Washington Limited Liability Corporation, hereinafter referred to as the OWNER, for and in consideration mutual promises heretofore made by the parties under separate agreement entered into the ___ day of _____, 2006, (-----), does hereby grant, sell, transfer and deliver unto the City of Gig Harbor, a Municipal Corporation in Pierce County, Washington, hereinafter referred to as CITY, the following goods, chattels and other items of personal property, namely:

- I: A 2.3 million gallon ground supported standpipe water reservoir.
II: A 16 inch water line extension of a length of approximately 4200 linear feet. Said extension connecting to the existing City water main on Borgen Boulevard (Approximate station 127+00), as shown on the as built drawings entitled Borgen Boulevard Improvement Project, dated July, 2006.

III: The object of this Bill of Sale is to grant, sell, transfer and deliver to the City of Gig Harbor, the ownership in all items of personalty which comprise the reservoir and water main installed by the OWNER to date.

The OWNER does hereby covenant that he/she is the lawful owner of the afore described goods, chattels and personalty; that such items are free from all liens and encumbrances; that the OWNER has the right to sell the same as aforesaid, and that the OWNER warrants and will defend the same against the claims and demands of all persons; and that the execution of this Bill of Sale is an authorized act of said department.

Dated at Poulsbo, Washington, this 14th day of July, 2006.

OWNER: [Signature]
(print name)
OWNER: JON ROSE
(print name)

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this 14th day of July, 2006, before me personally appeared JON ROSE described in and that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the OWNER for the uses and purposed therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereto set my hand and affixed by official seal the day and year first above written.



[Signature]
SONIA R BILLINGSLEY
(print or type name)
NOTARY PUBLIC for the State of Washington,
residing at
GIG HARBOR WASHINGTON
My Commission expires 11/9/09

NOTARY FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY
STATE OF WASHINGTON)

COUNTY OF PIERCE) ss.
)

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

DATED: 7/19/06

Sonia R Billingsley
(Signature)
SONIA R BILLINGSLEY
NOTARY PUBLIC, State of Washington,
residing at: GIG HARBOR



AFTER RECORDING RETURN TO:

The City of Gig Harbor
Attn: City Clerk
3510 Grandview St.
Gig Harbor, WA 98335

QUIT CLAIM DEED

Grantor(s) (Last name first, then first name and initials)

OPG PROPERTIES LLC, a Washington limited liability company

Grantee(s) (Last name first, then first name and initials)

City of Gig Harbor

Legal Description (abbreviated: i.e., lot, block, plat or section, township, range)

Assessor's Property Tax Parcel or Account Number: 0222304000

Reference Number(s) of Documents assigned or released: _____

EASEMENT AGREEMENT

THIS INSTRUMENT, executed this date by and between the City of Gig Harbor, a Washington municipal corporation (the "City" herein), and OPG Properties LLC [a/an Limited Liability Corporation] organized under the laws of the State of Washington], as the owners of the within-described property (the "Owners" herein):

WITNESSETH:

WHEREAS, Owners own a fee simple and/or have a substantial beneficial interest in the following real property, commonly known as 11402XXX 41st Avenue Court NW, Gig Harbor, Washington 98335, and legally described as follows (the "Property" herein):

The west half of the SE quarter of Section 30, Township 22 North, Range 2 East, W.M., City of Gig Harbor, Pierce County, State of Washington except that portion set aside for Borgen Boulevard under instrument recorded under AFN 200007130672;

WHEREAS, the City desires an easement for the purpose of accessing, monitoring, inspecting, maintaining, operating, improving, repairing, constructing, and reconstructing a waterline;

NOW, THEREFORE, the parties hereto agree as follows:

In consideration of one dollar (\$1.00), receipt of which is hereby acknowledged, Owners hereby convey and warrant to the City, a perpetual, nonexclusive easement, under, over, through and across the Property, for the purposes of accessing, monitoring, inspecting, maintaining, improving, repairing, constructing, and reconstructing a waterline, which easement (the "Easement" herein) is legally described as follows:

See Exhibit A on page 7.

The Easement shall also allow the City to access the underground waterline as needed by the City, in its discretion for the above purposes. If this easement area is improved or will be improved by the Owner in the future as a private road (subject to Section 2 below), nothing in this Easement Agreement shall require the City to repair, maintain or improve the private road.

This Easement is subject to and conditioned upon the following terms and covenants, which both parties promise to faithfully and fully observe and perform:

1. **Responsibility to Repair Damage.** The City shall, upon completion of any work within the Property covered by the easement, restore the surface of the Easement, and any improvements on the Property not owned by the City, disturbed, damaged or destroyed during execution of the work, as nearly as practicable to the condition they were in immediately before commencement of the work or entry by the City. However, the City shall not be required to restore any such improvements installed and/or constructed on the Easement by the Owners subsequent to execution of this Easement Agreement, and as otherwise provided in paragraph "2" below.

2. **Limitations on Owners.** The Owners shall retain the right to use the surface of the Easement. However, the Owners shall not directly or indirectly have the right to:

- A. Erect or install, or cause to be erected or installed, any buildings, structures, pavement, or facilities within the Easement; or
- B. Plant, or cause to be planted, any additional trees, shrubs, or vegetation with deep root patterns which may cause damage to or interfere with the drainage system located within the Easement; or
- C. Develop, landscape, or beautify, or cause to be developed, landscaped, or beautified, the Easement area in any way that would unreasonably increase the costs to the City of restoring the Easement or restoring any Owner-caused or Owner authorized improvements therein; or
- D. Grant any additional or subsequent easement inconsistent with the rights of the City as granted herein. The City shall make the final determination whether any proposed subsequent easement is inconsistent with the City's Easement.

3. **Notice of Entry.** The Owners, their successors and assigns, shall allow access to the Easement by the City, without the City having to give prior notice of its intent to access the Easement.

4. **Indemnification, Hold Harmless.** The Owners hereby release, covenant not to bring suit and agree to indemnify, defend and hold harmless the City, its officers, officials, employees, agents and representatives from any and all claims, costs, judgments, losses or suits including attorneys' fees, awards or liabilities to any person arising out of or in connection with this Easement, except for injuries or damages caused by the sole negligence of the City.

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 Owners and the City, its officers, officials, employees, agents and representatives, the Owners' liability hereunder shall be only to the extent of the Owners' negligence.

The provisions of this section shall survive the termination of this Easement.

5. **Dispute Resolution and Attorneys Fees.** If any dispute arises between the Owners and the City under any of the provisions of this Easement which cannot be resolved by agreement of the parties, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Easement shall be governed by and construed in accordance with the laws of the State of Washington. The prevailing party of any such litigation shall be entitled to recover its reasonable attorneys' fees and costs, including any expert witness fees.

6. **Waiver.** No waiver by either party of any term or condition of this Easement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this Easement.

7. **Merger.** This Easement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Easement and no prior agreements shall be effective for any purpose.

8. **Severability.** If any of the provisions contained in this Easement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

9. **Easement Binding on Successors and Assigns.** This instrument shall be recorded in the records of the Pierce County Auditor at the expense of the Owners and shall inure to the benefit of and be binding upon the Owners, its legal representatives, assigns, heirs and all owners of an after-acquired interest in the Property, and their successors and assigns.

Dated this ____ day of _____, 200__.

CITY OF GIG HARBOR

By: _____

Its Mayor

OWNERS:



Print Name: JON ROSE

Print Name: _____

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

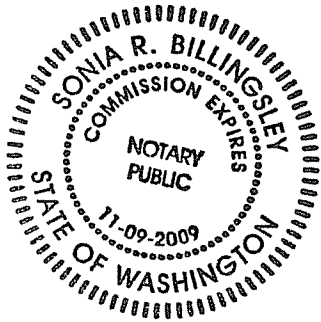
I certify that I know or have satisfactory evidence that JON ROSE is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the PRESIDENT of the OPG PROPERTIES LLC, to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

Dated: 7/19/06

Sonia R Billingsley
SONIA R BILLINGSLEY

NOTARY PUBLIC, State of Washington,
residing at: GIG HARBOR

My Commission expires: 11/9/09



STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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 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, State of Washington,
residing at: _____
My Commission expires: _____

EXHIBIT A
LEGAL DESCRIPTION FOR
ACCESS AND WATERMAIN EASEMENT

PART A

A 60-FOOT WIDE EASEMENT EXTENDING THIRTY FEET ON BOTH SIDES OF A CENTERLINE DESCRIBED AS FOLLOWS:

THE SIDELINES SHALL BE EXTENDED OR SHORTENED SO AS TO BEGIN AT THE NORTHERLY RIGHT-OF-WAY LINE OF BORGES BOULEVARD.

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 30, TOWNSHIP 22 NORTH, RANGE 2 EAST, W.M.; THENCE S88°22'28"E 578.56 FEET ALONG THE SOUTH LINE OF SECTION 30; THENCE N01°54'11"E 39.15 FEET TO THE TRUE POINT OF BEGINNING; THENCE N01°54'11"E 175.21 FEET; THENCE NORTHERLY AND NORTHEASTERLY ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 1000.00 FEET, THROUGH A CENTRAL ANGLE OF 19°50'08", AN ARC LENGTH OF 346.20 FEET; THENCE NORTHEASTERLY ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 2931.79 FEET, THROUGH A CENTRAL ANGLE OF 02°58'02", AN ARC LENGTH OF 151.83 FEET; THENCE NORTHEASTERLY ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 1000.00 FEET, THROUGH A CENTRAL ANGLE OF 04°19'40", AN ARC LENGTH OF 75.54 FEET; THENCE N20°22'40"E 256.01 FEET; THENCE NORTHEASTERLY AND NORTHERLY ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 1000.00 FEET, THROUGH A CENTRAL ANGLE OF 20°20'36", AN ARC LENGTH OF 355.06 FEET; THENCE N00°02'04"E 48.16 FEET; THENCE NORTHERLY AND NORTHWESTERLY ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 1500.00 FEET, THROUGH A CENTRAL ANGLE OF 14°27'20", AN ARC LENGTH OF 378.45 FEET; THENCE N14°25'16"W 195.75 FEET, THE EASTERLY SIDELINE SHALL BE EXTENDED TO THE NORTHERLY EDGE OF EASEMENT ; THENCE N75°34'44"E 40.00 FEET TO A POINT WHICH CORRESPONDS TO **PART B** 30-FOOT WIDE EASEMENT CENTERLINE.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.
THE EASEMENT CONTAINS 2.76 ACRES, MORE OR LESS.

PART B

A 30-FOOT WIDE EASEMENT EXTENDING FIFTEEN FEET ON BOTH SIDES OF A CENTERLINE DESCRIBED AS FOLLOWS:

THE SIDELINES SHALL BE EXTENDED SO AS TO BEGIN AT THE SOUTHERLY EDGE OF EASEMENT.

BEGINNING AT THE CENTERLINE OF THE NORTHERLY END OF THE EASEMENT DESCRIBED IN **PART A**; THENCE N14°25'16"W 38.26 FEET; THENCE NORTHWESTERLY AND NORTHERLY ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 105.00 FEET, THROUGH A CENTRAL ANGLE OF 21°00'33", AN ARC LENGTH OF 38.50 FEET; THENCE N06°35'17"E 206.12 FEET; THENCE NORTHERLY AND NORTHWESTERLY ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 95.00 FEET, THROUGH A CENTRAL ANGLE OF 23°17'35", AN ARC LENGTH OF 38.62 FEET; THENCE N16°42'18"W 62.64 FEET; THENCE NORTHWESTERLY AND WESTERLY ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 45.00 FEET, THROUGH A CENTRAL ANGLE OF 71°30'49", AN ARC LENGTH OF 56.17 FEET; THE SIDELINES SHALL BE EXTENDED OR SHORTENED SO AS TO END AT THE EASTERLY BOUNDARY OF THE WATER TANK SITE, RECORDED UNDER A SEPARATE INSTRUMENT.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.
THE EASEMENT CONTAINS 0.32 ACRES, MORE OR LESS.

EXHIBIT B PART A WATER TRANSMISSION EASEMENT AREA

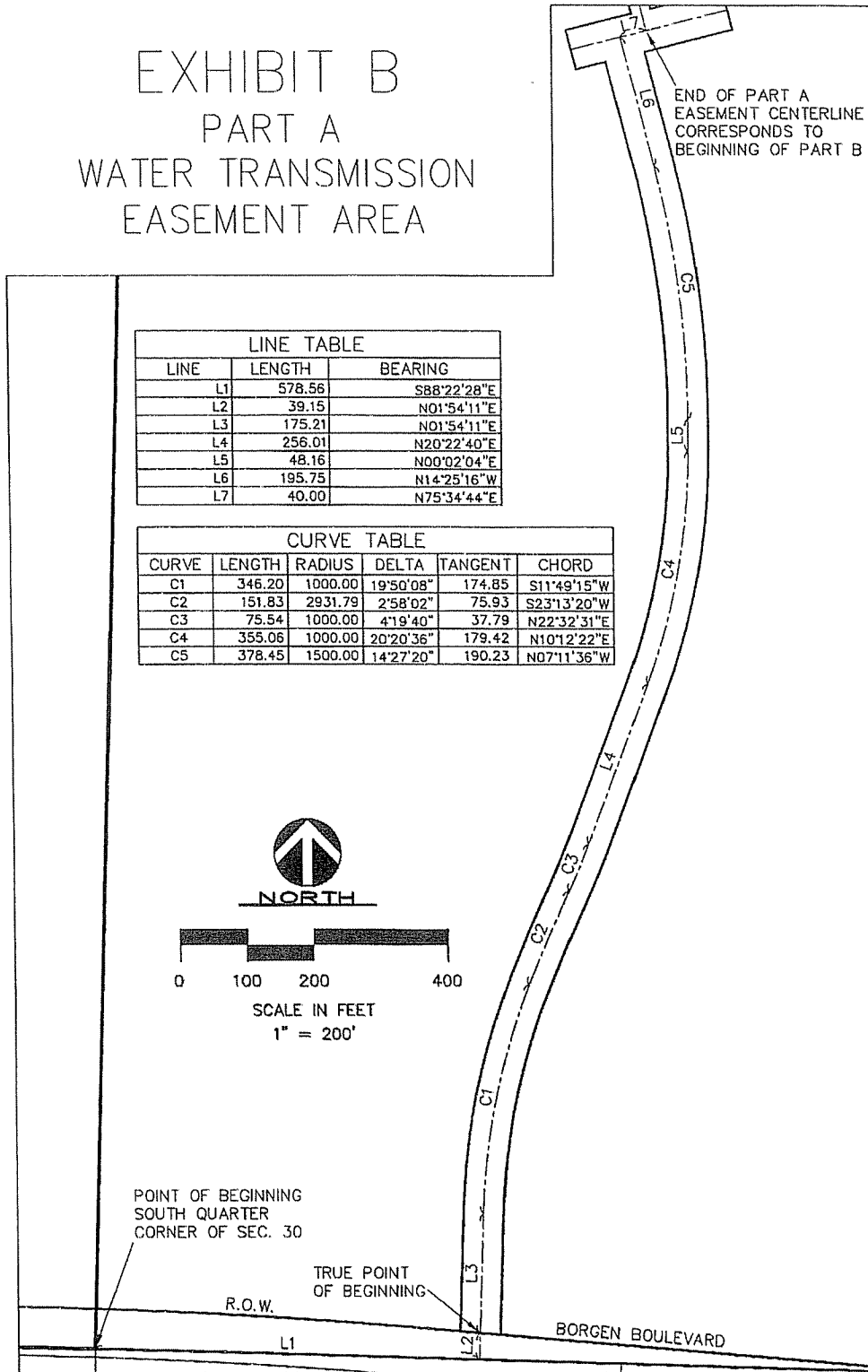
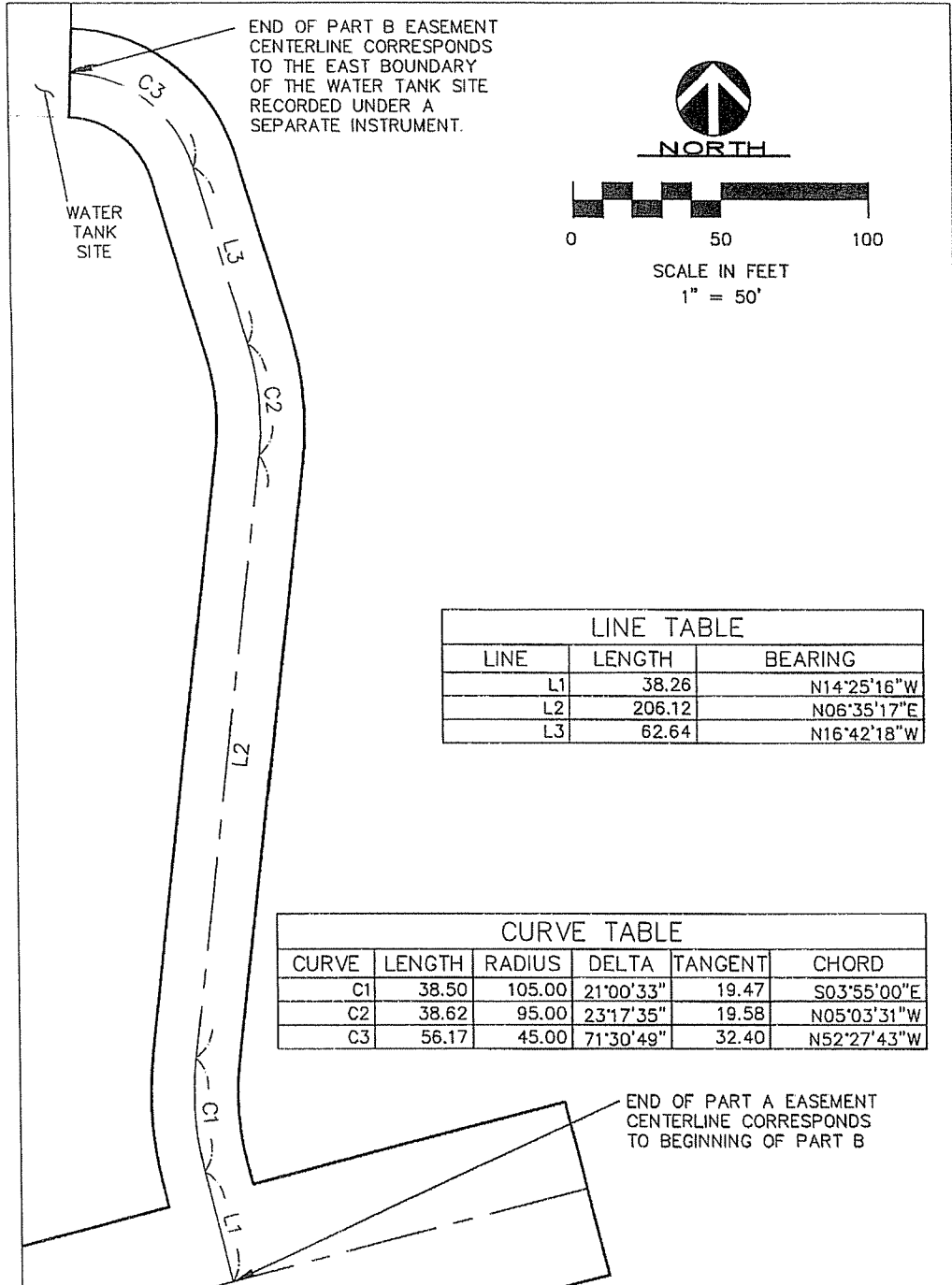


EXHIBIT B PART B WATER TRANSMISSION EASEMENT AREA



AFTER RECORDING, RETURN TO:

**The City of Gig Harbor
Attn: City Clerk
3510 Grandview Street
Gig Harbor, WA 98335**

Document Title: **EASEMENT AGREEMENT**

Grantor: OPG Properties LLC

Grantee: City of Gig Harbor

Legal Description: *[insert abbreviated legal description here]*

The complete legal description may be found on page 7 of the document.

Property Tax Parcel No.: 0222304000

Reference No. of Documents Assigned or Released: _____

EASEMENT AGREEMENT

THIS INSTRUMENT, executed this date by and between the City of Gig Harbor, a Washington municipal corporation (the "City" herein), and OPG Properties LLC [a/an Limited Liability Corporation organized under the laws of the State of Washington], as the owners of the within-described property (the "Owners" herein):

WITNESSETH:

WHEREAS, Owners own a fee simple and/or have a substantial beneficial interest in the following real property, commonly known as 11402XXX 41st Avenue Court NW, Gig Harbor, Washington 98335, and legally described as follows (the "Property" herein):

The west half of the SE quarter of Section 30, Township 22 North, Range 2 East, W.M., City of Gig Harbor, Pierce County, State of Washington except that portion set aside for Borgen Boulevard under instrument recorded under AFN 200007130672;

WHEREAS, the City desires an easement for the purpose of monitoring, inspecting, maintaining, operating, improving, repairing, constructing, and reconstructing a power line;

NOW, THEREFORE, the parties hereto agree as follows:

In consideration of one dollar (\$1.00), receipt of which is hereby acknowledged, Owners hereby convey and warrant to the City, a perpetual, nonexclusive easement, under, over, through and across the Property, for the purposes of monitoring, inspecting, maintaining, improving, repairing, constructing, and reconstructing a powerline, which easement (the "Easement" herein) is legally described as follows:

See Exhibit A on page 7.

This Easement is subject to and conditioned upon the following terms and covenants, which both parties promise to faithfully and fully observe and perform:

1. **Responsibility to Repair Damage.** The City shall, upon completion of any work within the Property covered by the easement, restore the surface of the Easement, and any improvements on the Property not owned by the City, disturbed, damaged or destroyed during execution of the work, as nearly as practicable to the condition they were in immediately before commencement of the work or entry by the City. However, the City shall not be required to restore any such improvements installed and/or constructed on the Easement by the Owners subsequent to execution of this Easement Agreement, and as otherwise provided in paragraph "2" below.

2. **Limitations on Owners.** The Owners shall retain the right to use the surface of the Easement. However, the Owners shall not directly or indirectly have the right to:

- A. Erect or install, or cause to be erected or installed, any buildings, structures, pavement, or facilities within the Easement; or
- B. Plant, or cause to be planted, any additional trees, shrubs, or vegetation with deep root patterns which may cause damage to or interfere with the drainage system located within the Easement; or
- C. Develop, landscape, or beautify, or cause to be developed, landscaped, or beautified, the Easement area in any way that would unreasonably increase the costs to the City of restoring the Easement or restoring any Owner-caused or Owner authorized improvements therein; or
- D. Grant any additional or subsequent easement inconsistent with the rights of the City as granted herein. The City shall make the final determination whether any proposed subsequent easement is inconsistent with the City's Easement.

3. **Notice of Entry.** The Owners, their successors and assigns, shall allow access to the Easement by the City, without the City having to give prior notice of its intent to access the Easement.

4. **Indemnification, Hold Harmless.** The Owners hereby release, covenant not to bring suit and agree to indemnify, defend and hold harmless the City, its officers, officials, employees, agents and representatives from any and all claims, costs, judgments, losses or suits including attorneys' fees, awards or liabilities to any person arising out of or in connection with this Easement, except for injuries or damages caused by the sole negligence of the City.

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 Owners and the City, its officers, officials, employees, agents and representatives, the Owners' liability hereunder shall be only to the extent of the Owners' negligence.

The provisions of this section shall survive the termination of this Easement.

5. **Dispute Resolution and Attorneys Fees.** If any dispute arises between the Owners and the City under any of the provisions of this Easement which cannot be resolved by agreement of the parties, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Easement shall be governed by and construed in accordance with the laws of the State of Washington. The prevailing party of any such litigation shall be entitled to recover its reasonable attorneys' fees and costs, including any expert witness fees.

6. **Waiver.** No waiver by either party of any term or condition of this Easement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this Easement.

7. **Merger.** This Easement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Easement and no prior agreements shall be effective for any purpose.

8. **Severability.** If any of the provisions contained in this Easement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

9. **Easement Binding on Successors and Assigns.** This instrument shall be recorded in the records of the Pierce County Auditor at the expense of the Owners and shall inure to the benefit of and be binding upon the Owners, its legal representatives, assigns, heirs and all owners of an after-acquired interest in the Property, and their successors and assigns.

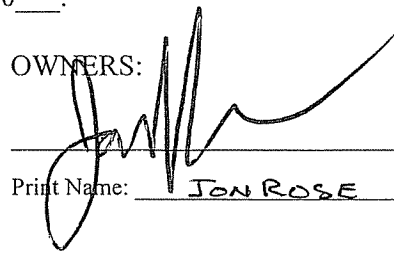
Dated this ____ day of _____, 200__.

CITY OF GIG HARBOR

By: _____

Its Mayor

OWNERS:



Print Name: JON ROSE

Print Name: _____

APPROVED AS TO FORM:

City Attorney

ATTEST:

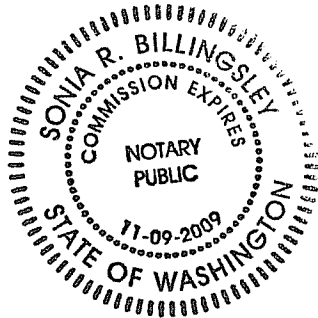
City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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

Dated: 7/19/06

Sonia R Billingsley
SONIA R BILLINGSLEY



NOTARY PUBLIC, State of Washington,
residing at: GIG HARBOR

My Commission expires: 11/9/09

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

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 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, State of Washington,
residing at: _____
My Commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION FOR POWERLINE EASEMENT

A 20-FOOT WIDE EASEMENT EXTENDING TEN FEET ON BOTH SIDES OF A CENTERLINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 30, TOWNSHIP 22 NORTH, RANGE 2 EAST, W.M.; THENCE N01°46'53"E 2648.83 FEET ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 30 TO THE NORTH LINE OF SAID QUARTER SECTION; THENCE S88°35'02"E 633.56 FEET ALONG THE NORTH QUARTER SECTION LINE OF THE SOUTHEAST QUARTER OF SECTION 30 TO THE TRUE POINT OF BEGINNING (TPOB);

THE SIDELINES SHALL BE EXTENDED SO AS TO BEGIN AT THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 30;

THENCE S20°25'31"E 183.88 FEET TO THE NORTH BOUNDARY LINE OF THE WATER TANK SITE WHOSE LEGAL DESCRIPTION IS RECORDED UNDER A SEPARATE INSTRUMENT;

THE SIDELINES SHALL BE EXTENDED SO AS TO END AT THE NORTH BOUNDARY LINE OF THE WATER TANK SITE.

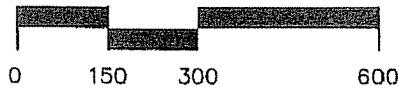
SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON. THE EASEMENT CONTAINS 0.08 ACRE, MORE OR LESS.

EXHIBIT B

POWER EASEMENT FOR WATER TANK SITE

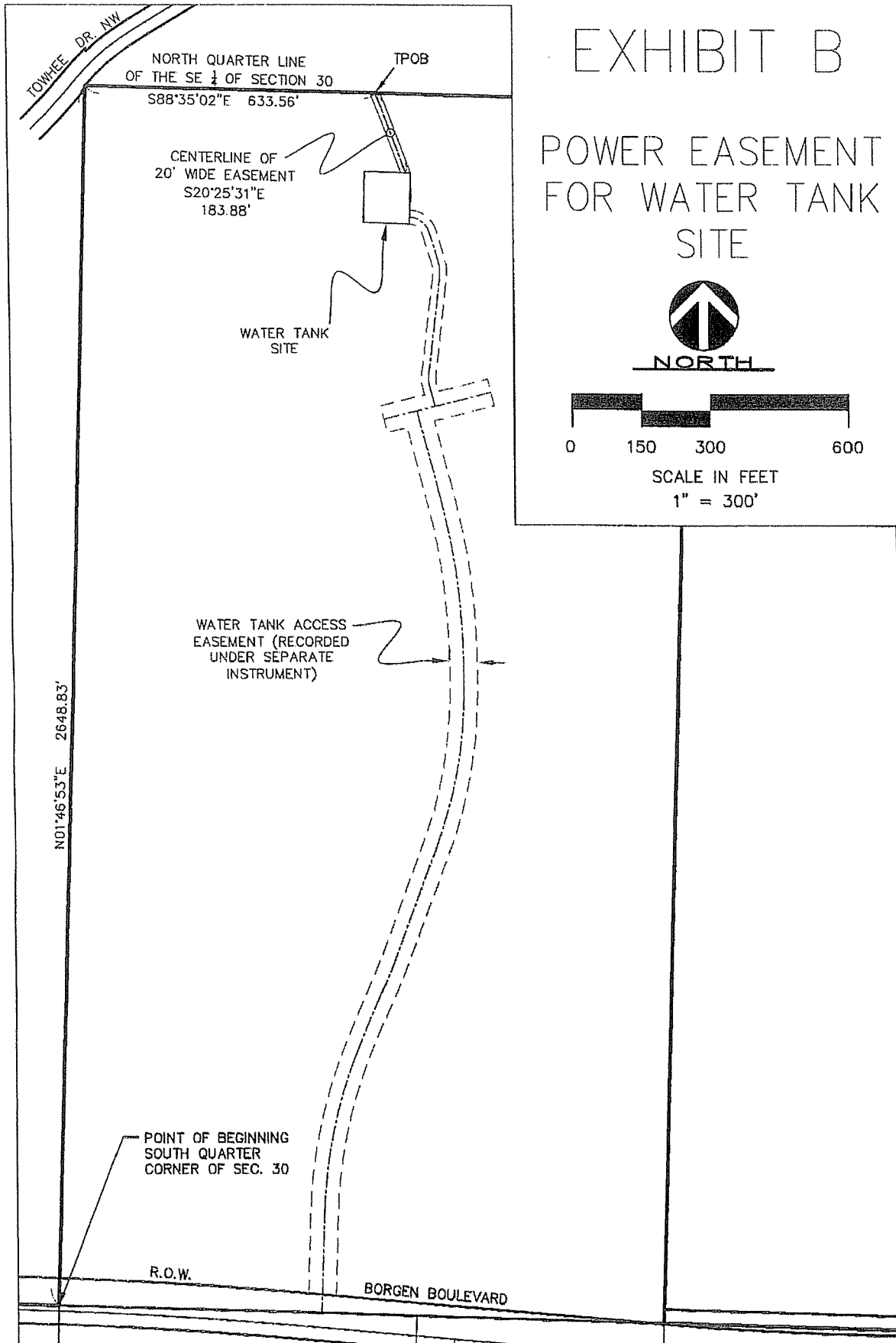


NORTH



SCALE IN FEET

1" = 300'





ADMINISTRATION

TO: MAYOR CHUCK HUNTER AND CITY COUNCILMEMBERS
FROM: CAROL MORRIS, CITY ATTORNEY
SUBJECT: RATIFICATION OF RESOLUTION NO. 679 AUTHORIZING
THE CONSTRUCTION AGREEMENT WITH FHS
DATE: JULY 24, 2006

BACKGROUND

At the last Council meeting, the City Council approved a Development Agreement to accompany a Comprehensive Plan Amendment for Franciscan Hospital System. In addition, the Council approved the Construction Agreement to address a method for construction of the improvements described in the Development Agreement. The resolution in the Council packet erroneously addressed both Agreements.

RECOMMENDATION

The City Attorney recommends that the Council ratify the approval of the Development Agreement (attached as Exhibit A to the Resolution) and ratify the resolution authorizing the Mayor to sign the Development Agreement. This resolution properly addresses only the Development Agreement.

RESOLUTION NO. 679

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, AUTHORIZING THE EXECUTION OF A CONSTRUCTION AGREEMENT WITH FRANCISCAN HEALTH SYSTEM.

WHEREAS, by Ordinance No. 1051, the City approved the FHS Comp Plan Amendment, subject to and conditioned upon execution of a Development Agreement (hereinafter the “FHS Development Agreement”) which described certain Transportation Mitigation to be performed by FHS); and

WHEREAS, the City applied to the State of Washington Department of Community Economic Revitalization Board (“CERB”) for a grant of Five Million Dollars (\$5,000,000.00), to be used for the construction of transportation improvements relating to infrastructure improvements to roadway structures connected to the Burnham/Borgen Interchange, which is adjacent to the City of Gig Harbor; and

WHEREAS, the City will not know whether it has been awarded the CERB grant until 2007 or thereabouts; and

WHEREAS, the inquiry performed by the City at this time as to the improvements likely to be covered by the CERB Grant disclosed that the Grant will not include any transportation improvements proposed within unincorporated Pierce County and WSDOT right-of-way; and

WHEREAS, the Transportation Mitigation that FHS is required to perform is within the City limits, unincorporated Pierce County and WSDOT right-of-way; and

WHEREAS, the parties desire to address the means by which the FHS Transportation Mitigation will be performed, if the CERB Grant is received by the City because the CERB Grant will require compliance with all public works procedures; and

WHEREAS, the parties also desire to address the means by which the FHS Transportation Mitigation will be designed, because the design work must proceed immediately (before the parties have knowledge whether the CERB grant has been received); and

WHEREAS, the parties agreed to enter into a contract to address these issues, and to allow the Council to still make the necessary legislative, discretionary decisions regarding the subject matter at the time the City learns whether it will receive the CERB Grant; and

WHEREAS, on July 10, 2006, the City Council held a public hearing on the Comprehensive Plan Amendment and Development Agreement during a regular public meeting and also voted to approve the Construction Agreement attached hereto as Exhibit B; Now, Therefore,

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

Section 1. The City Council hereby authorizes the Mayor to execute the Construction Agreement attached hereto as Exhibit B, with the applicant Franciscan Health System.

PASSED by the City Council this 24th day of July 2006.

APPROVED:

MAYOR, CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 07/20/06
PASSED BY THE CITY COUNCIL: 07/24/06
RESOLUTION NO. 679

**AGREEMENT
BY AND BETWEEN THE CITY OF GIG HARBOR
AND FRANCISCAN HEALTH SYSTEM,
FOR CONSTRUCTION OF TRANSPORTATION IMPROVEMENTS**

THIS AGREEMENT is made and entered into this ____ day of _____, 2006, by and between the City of Gig Harbor, a noncharter, optional code Washington municipal corporation, hereinafter the "City," and Franciscan Health System, a nonprofit corporation organized under the laws of the State of Washington, hereinafter the "Developer," or "FHS."

RECITALS

WHEREAS, by Ordinance No.1051, the City approved the FHS Comp Plan Amendment, subject to and conditioned upon execution of a Development Agreement (hereinafter the "FHS Development Agreement") which described certain transportation mitigation to be performed by FHS (the "Transportation Mitigation"); and

WHEREAS, the City applied to the State of Washington Department of Community Economic Revitalization Board for a grant of Five Million Dollars (\$5,000,000.00) (the "CERB Grant"), to be used for the construction of that portion of the Transportation Mitigation relating to infrastructure improvements to roadway structures connected to the Burnham/Borgen Interchange, which is adjacent to the City of Gig Harbor; and

WHEREAS, the City will not know whether it has been awarded the CERB Grant until 2007 legislative session or thereabouts; and

WHEREAS, the inquiry performed by the City at this time as to the improvements likely to be covered by the CERB Grant disclosed that the Grant may not include all of the Transportation Mitigation proposed within unincorporated Pierce County and WSDOT right-of-way; and

WHEREAS, the Transportation Mitigation that FHS is required to perform is within the City limits, unincorporated Pierce County and WSDOT right-of-way; and

WHEREAS, the parties desire to address the means by which the FHS Transportation Mitigation will be performed, if the CERB Grant is received by the City and the City believes it to be cost effective and efficient to construct any portion of the Transportation Mitigation; and

WHEREAS, the parties also desire to address the means by which the FHS Transportation Mitigation will be designed, because the design work must proceed

immediately (before the parties have knowledge whether the CERB Grant has been received);

Now, therefore, the parties hereto agree as follows:

General Provisions

Section 1. The FHS Transportation Mitigation. The FHS Transportation Mitigation is described in Exhibit A, attached hereto and incorporated herein by this reference. A map showing the location of the Transportation Mitigation is attached hereto as Exhibit B and incorporated herein by this reference.

Section 2. Definitions. As used in this Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

a) "Certificate of Occupancy" means either a certificate issued after inspections by the City authorizing a person(s) in possession of property to dwell or otherwise use a specified building or dwelling unit, or the final inspection if a formal certificate is not issued.

b) "Construction Management" means on-site construction management pertaining to the coordination of separate contracts, phased construction, monitoring of individual phases of the work, adjustment of the work to accommodate changed conditions or unanticipated interferences, determination of whether materials and workmanship are in conformance with the approved contract drawings and specifications arrangement for the performance of necessary field and laboratory tests, preparation of change orders, and review of progress payments.

c) "FHS Project" means the anticipated development of an 80-bed hospital of approximately 213,000 square feet and an associated medical office building of approximately 100,000 square feet, and parking facilities for the hospital and medical office building on the 37.84 acre parcel on the east side of Canterwood Boulevard N.W., about 1,500 feet north of Borgen Boulevard in Gig Harbor, Washington, having a street address of 11567 Canterwood Boulevard N.W. (the "FHS Property").

d) "Project Manager" means the contract person responsible for performing the Construction Management.

Section 3. Exhibits. Exhibits to this Agreement are as follows:

- a) Exhibit A - FHS Transportation Mitigation.
- b) Exhibit B - Map showing approved FHS Transportation Mitigation.

Section 4. Parties to Agreement. The parties to this Agreement are:

a) The "City" is the City of Gig Harbor, 3510 Grandview Street, Gig Harbor, WA 98335.

b) The "Developer" or "FHS" is the Franciscan Health System, which owns the FHS Property in fee, and whose principal office is located at 1717 South "J" Street, Tacoma, WA 98405; Attn: Laure Nichols, Sr. Vice President of Strategic Planning.

Section 5. Developer's Obligation to Construct Transportation Mitigation Improvements. The Developer is obligated to install and complete the Transportation Mitigation improvements identified in Exhibits A and B at its own cost, and to assure final completion prior to the time a Certificate of Occupancy is requested by the Developer. At the time a Certificate of Occupancy is requested by the Developer, it shall ensure that the transportation mitigation improvements are in place or that a financial commitment is in place to provide any facilities that are not complete, within two years of the request. The Developer shall demonstrate to the City at the time the Developer requests a Certificate of Occupancy, that it has set aside sufficient funds to construct the remaining transportation mitigation improvements (through execution of a cash set aside agreement in a form approved by the City Attorney). The cash set aside amount to be deposited by the Developer shall be determined by the City Engineer, who shall estimate the cost of the remaining improvements and this amount shall be one and one-half times the cost of the remaining improvements.

Section 6. City's Agreement to Perform Transportation Mitigation Improvements if CERB Grant is Received. The Comprehensive Plan Amendment for FHS (approved by the FHS Development Agreement) is unusual and presents unique circumstances, such as:

A. Currently, there is no hospital in Gig Harbor or the immediately surrounding area. Construction of a hospital would be a benefit to the entire community.

B. The Transportation Mitigation improvements (Exhibits A and B) are extensive, and involve more than just the hospital's street frontage improvements.

C. The Transportation Mitigation improvements (Exhibits A and B) are located both within the City limits and unincorporated Pierce County, and are within both City right-of-way and WSDOT right-of-way.

D. The City has applied for a CERB Grant for a portion of the Transportation Mitigation improvements (as well as the extension of a water line along Canterwood Boulevard N.W.), and if the City receives this Grant, it will be available to reimburse the Developer for its proportionate share of the cost of the design and construction of the improvements covered by the Grant.

E. Construction of the Transportation Mitigation improvements must be performed under the public works competitive bidding process, as well as all other

associated procedures, such as prevailing wage, etc., in order for the costs to be reimbursed under the CERB Grant.

F. It is likely that the CERB Grant cannot be used for the design and construction of the Transportation Mitigation improvements that are within unincorporated Pierce County and WSDOT right-of-way. The City could design and construct the portion of the Transportation Mitigation improvements within the City limits (so that this portion of the improvements would be eligible for reimbursement under the CERB Grant) and the Developer could design and construct the remainder. However, an integrated approach with one entity responsible for performing all of the work would likely be more efficient, cost less and have better results, as long as the Grant amount is significant enough to warrant the City's involvement in the construction process.

G. In light of the above, and in lieu of the Developer's design and construction of the Transportation Mitigation improvements described in Exhibits A and B, the City agrees to design and construct all of the improvements that are a part of the Transportation Mitigation at cost of FHS subject to subsection J herein. In addition, the City's agreement is subject to the following conditions:

1. The Developer agrees to pay for all of the design and Project Manager costs associated with the Transportation Mitigation improvements as set forth herein. The City shall initiate the design and construction engineering under the procedure set forth in Section 7 below. If the City receives the CERB Grant, and to the extent allowed by the CERB Grant and applicable law, the City shall reimburse FHS for its proportionate share of the design costs associated with CERB Grant-covered improvements.

2. The Developer agrees to pay the cost of all of the Transportation Mitigation improvements, as identified in Exhibits A and B, along with all the City construction management costs.

3. If the City receives the CERB Grant, and if the CERB Grant covers any portion of the design and construction of the Transportation Mitigation improvements and related construction engineering, the City agrees to reimburse FHS for the FHS's proportionate share of the costs paid by it that are associated with same, to the extent allowed by the CERB Grant and applicable law. Subject to subsection J herein, the City agrees to take the following steps toward construction of the Transportation Mitigation improvements:

- a) the City shall prepare the necessary documents to advertise for a Project Manager, who will oversee all of the construction of the Transportation Mitigation improvements. In so doing, the City shall comply with all laws and regulations applicable to the City under state law and any other requirements that may become applicable as a result of the CERB Grant award.

b) with input from FHS, the City shall select the Project Manager. The City's decision on the Project Manager shall be final. To the extent allowed by the CERB Grant, the contract with the Project Manager shall include provisions that will provide for coordination of the construction of the Transportation Mitigation improvements covered by the CERB Grant which are within the City limits (hereinafter the "City's Portion"), with the construction of all other Transportation Mitigation improvements which are within Pierce County and WSDOT right-of-way (hereinafter "FHS's portion"). To the extent allowed by the CERB Grant, the contract with the Project Manager will provide for separate notice and billing by the Project Manager and the contractor performing the work to the City with regard to the City's Portion and to FHS with regard to FHS's Portion of the cost of the Transportation Mitigation improvements. In addition, the contract with the Project Manager shall include a dispute resolution process to ensure expeditious resolution of disputes.

c) if it is not possible to have the Project Manager separately bill the two parties for their respective portions of the Transportation Mitigation improvements, then the parties shall follow the same escrow process applicable to design costs, as described in Section 7 herein, for the payment of FHS's portion of the Project Manager and/or contractor and/or construction costs.

d) the City shall prepare the necessary bid documents for construction of the Transportation Mitigation improvements, and advertise for same. In so doing, the City shall comply with all laws and regulations applicable to the City under state law and any other requirements of the CERB Grant.

e) with input from FHS, the City shall select the contractor and award the contract. The City's decision on the contractor shall be final. To the extent allowed by the CERB Grant, the contract with the contractor shall include the construction of the Transportation Mitigation improvements covered by the CERB Grant ("City's Portion"), and construction of all other Transportation Mitigation improvements ("FHS's portion"). To the extent allowed by the CERB Grant, the contract with the contractor shall require the contractor to submit separate notices and bills to the Project Manager for the separate portions of the Transportation Mitigation improvements.

f) once FHS's Portion of the Transportation Mitigation improvements are complete, FHS (together with the Project Manager and the contractor) shall have the responsibility to ensure acceptance for ownership, maintenance and operation by the agency with jurisdiction prior to the time a Certificate of Occupancy is issued for the FHS Project on the FHS Property, subject to Section 5 herein. Once the City's Portion of the Transportation Mitigation improvements are complete, the City (together with the Project Manager and the contractor) shall have the responsibility to ensure acceptance for ownership, maintenance and operation by the Agency with jurisdiction, which in most, if not all cases will be the City. However, nothing in this Agreement shall create any liability or cause of action by FHS or any other third party against the City for the City's failure to complete the City's Portion of

the Transportation Mitigation improvements by any particular date including any date established by the FHS Development Agreement, given that the City's expected receipt of the CERB Grant is the only reason the City has elected to enter into this Agreement with the Developer.

H. The City's decision to construct the Transportation Mitigation improvements as set forth herein shall not be interpreted to mean that the City (or the public in general) has any responsibility for the funding, design or construction of the Transportation Mitigation improvements. If the City receives the CERB Grant, it agrees to reimburse the Developer for its proportionate share of the cost of improvements of any portion of the Grant which covers the cost of the Transportation Mitigation improvements that are listed in Exhibits A and B, as well as the extension of the water line along Canterwood Boulevard, N.W., in the event that FHS is required to install such line as a condition of the City's approval of the FHS Project, to the extent allowed by the CERB Grant and applicable law. The parties acknowledge that the CERB Grant, if received, will cover only a portion of the Transportation Mitigation improvements.

I. The Developer acknowledges that in order for the City to construct the Transportation Mitigation improvements, the City must adopt some framework for the assessment and collection of funds from property owners for same (it is unknown whether the City will receive the CERB Grant, and the CERB Grant will not cover all of the Transportation Mitigation improvements). Therefore, the City may (but is not required to) require other developers, as a condition of approval of their projects, to pay a proportionate share of the cost of the Transportation Mitigation improvements and/or the City may create a street assessment reimbursement district pursuant to chapter 35.72 RCW, local improvement district or other means of financing the construction of the Transportation Mitigation improvements. The City agrees to reimburse the Developer out of the funds received by these means for the costs of any Transportation Mitigation improvements that have been previously paid by the Developer, to the extent allowed by law.

The Developer acknowledges that the FHS Property would be specially benefited by the Transportation Mitigation improvements. The Developer agrees to sign a petition for the formation of a LID or ULID for the Transportation Mitigation improvements at such time as one is circulated and the Developer hereby appoints the Mayor of the City of Gig Harbor as its attorney-in-fact to sign such a petition in the event the Developer fails or refuses to do so.

With full understanding of the Developer's right to protest formation of an LID or ULID to construct the Transportation Mitigation improvements pursuant to RCW 35.43.180, the Developer agrees to participate in any such LID or ULID and to waive its right to protest formation of the same. The Developer shall retain the right to contest the method of calculating any assessment and the amount thereof, and shall further retain the right to appeal the decision of the City Council affirming the final assessment roll to the superior court. Notwithstanding any other provision of this Agreement, this waiver of the right to

protest shall be valid for a period of ten (10) years from the date this Agreement is signed by the Developer.

The Developer acknowledges that formation of any street assessment reimbursement district is subject to the procedures in chapter 35.72 RCW, and that the City Council's ruling on such area is final. RCW 35.72.040(2). The Developer agrees not to challenge the adoption of an ordinance adopted pursuant to RCW 35.72.010 (as it now exists or may hereafter be amended).

J. The Developer specifically acknowledges that nothing in this Agreement requires the City to construct the Transportation Mitigation improvements on or before a date certain or at all. In addition, the City may decide not to construct the Transportation Mitigation Improvements if the City does not receive the CERB Grant, if the Grant award is not sufficient in the City's sole discretion, to warrant the City's construction of the Transportation improvements, if an appeal is filed of the Comprehensive Plan Amendment or Development Agreement, if an appeal is filed of the FHS conditional use, site plan, design review or building permits, the street assessment reimbursement district, LID or other method of financing design and construction, City does not have to construct any of the Transportation Mitigation improvements. In the event the City decides not to construct the improvements and if the City receives any CERB grant funds for any portion of the Transportation Mitigation improvements, and to the extent allowed by the CERB grant, the City will reimburse FHS for its proportionate share of the cost of those improvements.

Section 7. Escrow Agreement. An escrow account shall be established by the City for funds to be deposited by FHS which may be drawn upon by the City solely for the purpose of paying, or reimbursing the City for, the cost of designing the Transportation Mitigation improvements. In addition, if both parties agree that the arrangement described above for the construction project manager is unworkable, and that an escrow account should be established so that the City may draw upon it in order to pay the contractor, the following procedures shall be used:

A. The total amount of initial funds to be deposited into the escrow account by FHS for design of the Transportation Mitigation improvements shall not exceed Five Hundred Thousand Dollars (\$500,000). The Developer shall eventually deposit with the City, in escrow, for use by the City the full amount of the design costs of the Transportation Improvements.

B. This Escrow Deposit shall be held in escrow by the City, in a federally insured account, and will only be paid and applied to payment of the cost of the design of the Transportation Mitigation improvements by the City as and when such costs are incurred. No interest will inure to or be paid to the Developer on the Escrow Deposit. Interest earned on the escrow account, if any, will be applied to the costs of the design of the Transportation Mitigation improvements.

C. The Escrow Deposit will be used to fund the total costs of the design of the Transportation Improvements (or of FHS's Portion of the Transportation Improvements) as well as administrative and/or inspection expenses relating thereto. In the event that the total costs incurred in performing the design work (or of construction of FHS's Portion of the Transportation Improvements) are less than the Escrow Deposit, the unexpended Portion of the Escrow Deposit will be returned to Developer within thirty (30) days of receipt of a written request of the Developer therefore.

D. In the event that the total costs incurred in performing the design work (or of construction of FHS's Portion of the Transportation Improvements) are more than the Escrow Deposit, the City shall issue another demand letter to the Developer, requesting additional funds. The Developer shall submit the additional funds to the City within thirty (30) days after receipt of the demand letter, and the City shall apply the funds to design (or construction of FHS's Portion) of the Transportation Improvements.

Section 8. Default.

A. Subject to extensions of time by mutual consent in writing, failure or delay by either party, to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days notice in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

B. After notice and expiration of the thirty (30) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party to this Agreement may, at its option, institute legal proceedings pursuant to this Agreement.

Section 9. Termination. This Agreement shall terminate when the Transportation Mitigation improvements have been constructed, and accepted for ownership, maintenance and operation by all agencies with jurisdiction, or ten (10) years, whichever first occurs. Termination of this Agreement as to the Developer of the FHS Property or any portion thereof shall not affect any of the Developer's obligations to comply with the FHS Development Agreement, the City Comprehensive Plan and the terms and conditions or any applicable zoning code(s) or subdivision map or other land use entitlements approved with respect to the FHS Project or FHS Property, or any other conditions of any other development specified in this Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees or taxes.

Section 10. Assignment and Assumption. Either party shall have the right to assign all or part of its rights and interest in and to this Agreement, provided that the

assigning party shall continue to be bound by all of its covenants and obligations hereunder, and provided that the assigning party first receives the written consent of the other party.

Section 11. Amendment to Agreement. This Agreement may not be amended verbally or in any other manner other than by an agreement in writing signed by all of the duly authorized representatives of the parties or their respective successors in interest.

Section 12. Notices. Notices, demands, correspondence to the City and Developer shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated in Section 4. Notice to the City shall be to the attention of both the City Administrator and the City Attorney. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 13. Indemnification. The Developer agrees to indemnify and save the City, its officials, officers, agents and representatives harmless from and against any and all liability, damages, expenses and judgments arising in connection with this Agreement, provided that defense of any such claim is tendered to the Developer (FHS), unless occasioned by the negligence or intentional misconduct of the City, or the expenditure of any funds deposited with the City by the Developer (FHS) other than as permitted by this Agreement. The provisions of this indemnification section shall survive the termination of this Agreement.

Section 14. Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. If litigation is initiated to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. Venue for any action shall lie in Pierce County Superior Court or the U.S. District Court for Western Washington.

Section 15. Binding Effect. All of the covenants, conditions and obligations contained in this Agreement shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties.

Section 16. Specific Performance. The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Agreement by any party in default hereof.

Section 17. Severability. If any phrase, provision or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the

terms of any statute of the State of Washington which became effective after the effective date of the ordinance adopting this Agreement, and either party in good faith determines that such provision or provisions are material to its entering into this Agreement, that party may elect to terminate this Agreement as to all of its obligations remaining unperformed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates set forth below:

FRANCISCAN HEALTH SYSTEM

By _____
Its _____

CITY OF GIG HARBOR

By _____
Its Mayor

ATTEST:

By _____
City Clerk

APPROVED AS TO FORM:

By _____
City Attorney

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: _____

(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 Charles L. Hunter 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 Mayor of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

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

My Commission expires: _____

EXHIBIT A TRANSPORTATION MITIGATION

In satisfaction of the conditions of the Comprehensive Plan Amendment and as consideration for the Development Agreement, the Developer shall:

1. Implement transportation demand management measures in accordance with the City's adopted commute trip reduction regulations, as set forth in chapter 10.28 GHMC, to reduce single occupant vehicle use.
2. Allow future transit service to be provided directly to the Property, consistent with the plans of Pierce Transit, and provide accommodations for such service in the approved site plan for the Project.
3. Construct full frontage improvements along the west boundary of the Property that fronts on Canterwood Boulevard, and construct a waterline transmission main extension along Canterwood Blvd. up to and across the entire Property frontage, consistent with adopted City standards. Improvements shall consist of a twelve (12) foot wide lane, cement concrete curb and gutter, planter strip, sidewalk, retaining walls, street illumination, storm drain system and an irrigation system.
4. Construct on Canterwood Boulevard a second southbound lane along with a ten (10) foot wide paved shoulder from the East Roundabout to the south boundary of the Property. South Access of FHS to RAB required.
5. Construct on the northbound (east) side of Canterwood Boulevard a ten (10) foot wide paved shoulder from the East Roundabout to the south boundary (or south access) of the Property.
6. Construct a bypass lane on the north side of the East Roundabout from Canterwood Boulevard southbound to the SR 16 on-ramp northbound(Westbound). The design shall meet WSDOT standards.
7. Construct a second exit lane on the SR 16 on-ramp northbound (westbound) from the East Roundabout for an appropriate taper length acceptable to the Washington State Department of Transportation ("WSDOT"). The design shall meet WSDOT standards
8. Construct and extend the storage of the SR 16 off-ramp northbound 450 feet south of the East Roundabout. This additional lane on the ramp may trigger the need to prepare an interchange justification report (IJR) to determine if the revision might adversely affect the level of service for through traffic on the mainline. The design shall meet WSDOT standards.

9. Construct a bypass lane on the south side of the East Roundabout from the SR 16 off-ramp northbound(westbound) to Burnham Drive southbound.

10. Construct a second southbound lane on the SR 16 off-ramp to the existing Roundabout intersection with Burnham Drive, for a length of approximately 1,500 feet of additional storage. This additional lane on the ramp may trigger the need to prepare an interchange justification report (IJR) to determine if the revision might adversely affect the level of service for through traffic on the mainline. The design shall meet WSDOT standards.

11. Construct a second lane circulating lane around the entire circumference of the West Roundabout. The design shall meet WSDOT standards.

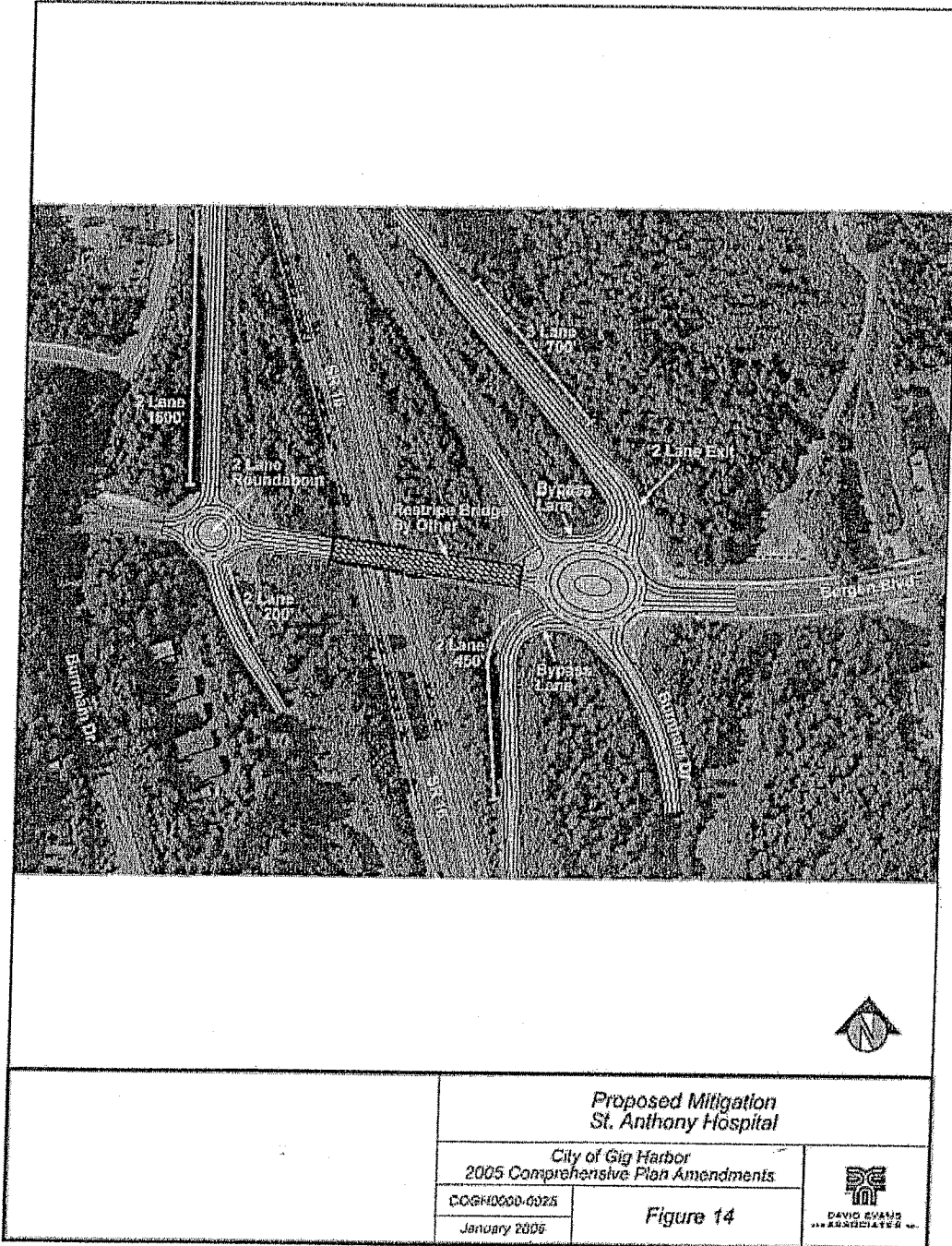
12. Construct a second exit lane on the SR 16 on-ramp southbound from the West Roundabout for an appropriate taper length acceptable to WSDOT. The design shall meet WSDOT standards.

13. Convert the channelization of the existing Burnham Drive bridge over SR 16 to a three-lane section, with two lanes eastbound and one lane westbound across the bridge, or as required by WSDOT within the existing bridge width. The design shall meet WSDOT standards.

14. Convert the channelization of the East Roundabout to align with the revised channelization on the existing Burnham Drive bridge over SR 16.

15. Exhibit B pictorially depicts the required improvements.

EXHIBIT B MAP OF TRANSPORTATION MITIGATION



CX1105

ASK

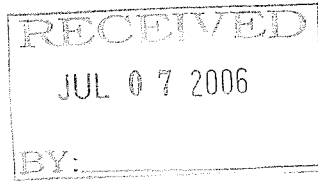


NOTICE OF LIQUOR LICENSE APPLICATION

RETURN TO:

WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov
DATE: 7/06/06

TO: MOLLY TOWSLEE, CITY CLERK



RE: ASSUMPTION

From PARK, JOHN M
PARK, WAN CHA
DbA HARBOR ARCO AM/PM MART

APPLICANTS:

OLYMPIC DRIVE MART, INC.

SHALABI, HATEM

1970-11-12

License: 080805 - 1U County: 27
UBI: 602-604-161-001-0001
Tradename: OLYMPIC DRIVE MART INC.
Loc Addr: 5119 OLYMPIC DR W WA 98335-1704
GIG HARBOR

Mail Addr: 1440 PUYALLUP AVE WA 98421-2327
TACOMA

Phone No.: 253-279-2321 HATMEM SHALABI

Privileges Applied For:
GROCERY STORE - BEER/WINE

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

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

DATE

SIGNATURE OF MAYOR,CITY MANAGER,COUNTY COMMISSIONERS OR DESIGNEE

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE: 7/03/06

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
(BY ZIP CODE) FOR EXPIRATION DATE OF 20061031

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1 THE GIG HARBOR YACHT CLUB	GIG HARBOR YACHT CLUB 8209 STINSON AVE GIG HARBOR WA 98335 0000	077100	PRIVATE CLUB - SPIRITS/BEER/WINE

RECEIVED
JUL 06 2006
BY: _____



ADMINISTRATION

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR
SUBJECT: SECOND READING OF ORDINANCE ORDERING THE FORMATION
OF A HOSPITAL BENEFIT ZONE
DATE: JULY 24, 2006

INTRODUCTION

This is an ordinance establishing a hospital benefit zone in order to provide funding for improvements within the benefit zone.

BACKGROUND

Once this ordinance is passed the city will be eligible to apply to the Department of Revenue (DOR) after August 1 to create the zone which will enable the city to impose a new state-shared local sales and use tax. If approved, calendar year 2007 will be considered the base year, in which DOR will measure sales and use tax generated within the zone in order to determine future incremental increases that could be used to finance certain infrastructure improvements.

The benefit zone is the immediate city area most directly impacted by transportation improvements in the Gig Harbor North area and is entirely within city limits.

RECOMMENDATION

Staff recommends adoption of this ordinance.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, MAKING CERTAIN FINDINGS AND
ORDERING THE FORMATION OF A HOSPITAL BENEFIT
ZONE.**

WHEREAS, the Washington State Legislature in its 2006 Regular Session approved SHB 2670, as Chapter 111, Laws of 2006 (the "Act"), authorizing the formation of hospital benefit zones; and

WHEREAS, the Franciscan Health System, a Washington nonprofit corporation ("Franciscan") is proposing to construct a hospital ("Hospital") at 11567 Canterwood Boulevard NW, and Franciscan received a certificate of need for the construction of the Hospital on June 15, 2006; and

WHEREAS, a hearing was held on July 24, 2006, after notice as provided by law, and after discussion of the proposed public improvements and the proposed boundaries of the benefit zone and due consideration thereof and of all objections thereto, the Council has determined to order the formation of a benefit zone in order to undertake the public improvements described below;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN; as follows:

Section 1. Definitions. As used herein, the following capitalized terms have the following meanings:

Act means Laws of Washington, Chapter 111, 2006 Regular Session.

Base Year means 2007 which is the calendar year immediately following the creation of the Benefit Zone.

Benefit Zone means the Gig Harbor Hospital Benefit Zone established by Section 4 of this ordinance.

Department means the State of Washington Department of Revenue.

Excise Taxes mean the local retail sales and use taxes authorized in RCW82.14.030.

Excess Excise Taxes mean the amount of Excise Taxes received by the City during each Measurement Year from taxable activity within the Benefit Zone over and above the amount of Excise Taxes received by the City during the Base Year from taxable activity within the Benefit Zone.

Excess State Excise Taxes mean the amount of Excise Taxes received by the State during the Measurement Year from taxable activity within the Benefit Zone over and above the amount of Excise Taxes received by the State during the Base Year from the taxable activity within the Benefit Zone. The term **Excise Taxes**, for the purpose of this definition, means state retail sales and use taxes imposed under chapter 82.08 and 82.12 RCW.

Fiscal Year means the year beginning July 1 and ending on June 30.

Franciscan means the Franciscan Health System, the owner and operator of the Hospital.

Hospital means St. Anthony Hospital to be constructed at 11567 Canterwood Boulevard NW and operated by the Franciscan.

Local Public Sources include, but are not limited to, private monetary contributions and Tax Allocation Revenues dedicated to the financing of the Public Improvements.

Local Tax means the sales and use tax authorized to be imposed by Section 7 of the Act.

Measurement Year means a calendar year, beginning with 2008 which is the year following the Base Year and each calendar year thereafter, that is used annually to measure the amount of Excess Excise Taxes required to be used to finance the costs of Public Improvements.

Public Improvements means the public improvements described in Section 2 of this ordinance.

State Contribution means the lesser of (i) two million dollars or (ii) an amount equal to Excess State Excise Taxes received by the State during the preceding calendar year.

Tax Allocation Revenues mean the tax revenues derived from the receipt of Excess Excise Taxes and distributed to the City in order to finance the Public Improvements.

Section 2. The City hereby designates a benefit zone within the boundaries of the City for the purpose of acquiring, constructing and installing the public improvements described on Exhibit A attached hereto and incorporated by this reference herein. The foregoing improvements are hereafter referred to as the “Public Improvements.”

Section 3. The City Council hereby makes the following findings:

(a) The Public Improvements are expected both to encourage private development within the area described in Section 4(a) (the “Benefit Zone”) and to support the development of the Hospital;

(b) The Public Improvements proposed to be financed in whole or in part using hospital benefit zone financing are expected both to encourage private development within the Benefit Zone and to support the development of the Hospital;

(c) Private development that is anticipated to occur within the Benefit Zone, as a result of the Public Improvements, will be consistent with the county-wide planning policy adopted by Pierce County under RCW ch. 36.70A.210 and the City's comprehensive plan and development regulations as adopted under authority of chapter 36.70 RCW; and

(d) The Public Improvements proposed to be financed in whole or in part using hospital benefit zone financing (as authorized under the Act) are reasonably likely to:

- (1) increase private investment within the Benefit Zone;
- (2) increase employment within the Benefit Zone; and
- (3) generate, over a period of time that the Local Tax is expected to be imposed, state and local sales use tax revenues that are equal to or greater than the aggregate State Contributions and Local Public Sources.

Section 4. There is hereby established a hospital benefit zone of the City to be known as "Gig Harbor Hospital Benefit Zone" (herein referred to as the "Benefit Zone").

(a) The boundaries of the Benefit Zone shall be as described on Exhibit B attached hereto and incorporated by this reference herein.

(b) The estimated cost of the Public Improvements is \$136,570,000, all of which is expected to be financed by the Bonds.

(c) The Excess Excise Taxes to be used to finance the Public Improvements

are expected to be in place for thirty (30) years.

(d) The average amount of tax revenue to be received in all Fiscal Years through the imposition of the "Local Tax" is \$68,285,000.

(e) The City anticipates that the use of Excess Excise Taxes by the City will commence in 2011.

(f) In Section No. 3 of this ordinance, the City Council has made the findings required by Section 3(g) of the Act.

Section 5. Application to the Department. The City Manager is hereby directed to make application to the Department in the form and manner prescribed by the Department and file the same as soon as practicable on or after August 1, 2006.

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

PASSED by the City Council and approved by the Mayor of the City of Gig Harbor this ____ day of _____, 2006.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
CAROL A. MORRIS

FILED WITH THE CITY CLERK: 6/7/06
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:

EXHIBIT A-1

DESCRIPTION OF PUBLIC IMPROVEMENTS

The group of improvements, beginning with the SR 16/Burnham Drive interchange project which is the cornerstone of the plan, plus several other important arterial improvements, are all essential to support that interchange or to divert some of the forecast demand away from that interchange. Completing all of these improvements is the key to maintaining LOS standards for the interchange area when North Gig Harbor is fully developed. These projects are described next.

Reconstruct the SR 16/Burnham Drive Interchange as a SPUI. This configuration replaces two roundabouts with one signalized intersection at the mid-point of the arterial bridge across the freeway. The arterial bridge is expanded to provide four through travel lanes plus turning lanes. Estimated Cost is \$40M.

Reconstruct the Existing Roundabout Intersection of Borgen Boulevard with Canterwood Boulevard/Burnham Drive as a Signalized Intersection. This high volume intersection is east of the SR 16/Burnham Drive interchange as reconstructed, and will need to be converted to a signalized intersection in lieu of the current six-legged roundabout at the same time as the SPUI interchange conversion. Estimated Cost is \$400K. New East-West Arterial Connection between Canterwood Boulevard and Purdy Drive, across SR 16, north of the SR 16/Burnham Drive Interchange. A new arterial connection is proposed across SR 16 between South Purdy Drive on the west and Canterwood Boulevard on the east. Estimated Cost is \$7.5M.

New East-West Arterial Connection between Burnham Drive and Bujacich Road, across SR 16, at or near 96th Street NW. Connect across the freeway at 96th Street a longer surface route that would contour southerly from 96th Street to cross SR 16 up to one quarter mile south of 96th Street, then contour back to that east-west alignment. Estimated Cost is \$13M.

Improved Arterial Connection North-South between Bujacich Road and Wollochet Drive, west of SR 16. Construct an arterial connection between Bujacich Road to Rosedale Street. Estimated Cost is \$15M.

Harbor Hill Drive, South Extension to Burnham Drive. Extend Harbor Hill Drive from its current terminus down to Burnham Drive. Estimated Cost is \$6M.

New Collector Arterial, Canterwood Boulevard to Borgen Boulevard to 50th Street to Harbor Hill Drive. Construct a new road from Canterwood Boulevard to Borgen Boulevard. Estimated Cost is \$15M.

EXHIBIT A - 2

CFPs from the City's 2004 Comp Plan

Stormwater

Project Name	Cost*
1 (DC1012) Burnham Dr	\$ 39,000
2 (AW1027) Peacock Hill Ave	\$ 24,000
3 Donkey Crk Fish Enhancement Study	\$ 62,000
4 McCormick Crk Fish Enhancement Study	\$ 62,000
TOTAL = \$ 187,000	

* In 2006 Dollars (WSDOT Indice for Construction Costs)

EXHIBIT A - 3

CFPs from the City's 2004 Comp Plan

Water

Project Name	Cost*
1 Storage Tank Mtce	\$ 150,000
2 Replace Source Meters	\$ 23,000
3 Leak Detection & BFP Inventory	\$ 66,000
4 Upgrade Perrow Well	\$ 179,000
5 GH North Well (#7)	\$ 1,100,000
6 500,000 Gallon Storage Tank	\$ 2,925,000

TOTAL = \$ 4,443,000

* In 2006 Dollars (WSDOT Indice for Construction Costs)

EXHIBIT A - 4

CFPs from the City's 2004 Comp Plan

Wastewater

Project Name	Cost ¹
1 Outfall Misc ²	\$ 77,000
2 WWTP Aeration Modifications, Complete ²	\$ 215,000
3 WWTP Dewatering ²	\$ 1,108,000
4 WWTP Headworks ²	\$ 416,000
5 WWTP Headworks Complete ²	\$ 427,000
6 Outfall Construction Phase 1 ²	\$ 542,000
7 Outfall Construction Phase 2 ²	\$ 558,000
8 Outfall Construction Phase 3 ²	\$ 4,461,000
9 WWTP Clarifier ²	\$ 679,000
10 WWTP UV Disinfection ²	\$ 398,000
11 Gig Harbor North (East Side) ³	\$ 3,224,000
12 Peacock Hill Ave from 99th St to Harbor Estates ³	\$ 3,162,000
13 Peacock Hill Ave from Harbor Estates to North UGA Boundary ³	\$ 4,545,000
14 54th Ave south of Bujacich Rd ³	\$ 2,238,000
15 East Side of Highway 16, North of Rosedale St ³	\$ 1,599,000
16 Woodhill Drive ³	\$ 864,000
17 Burnham Dr from Harborview Dr to 96th St	\$ 862,000
18 N. Harborview Dr from Peacock Hill Ave to LS#2	\$ 450,000
19 LS#4, Phase 1	\$ 2,119,000
20 LS#4, Phase 2	\$ 558,000
21 LS#8	\$ 1,074,000

TOTAL = \$ 29,576,000

1. In 2006 Dollars (WSDOT Indice for Construction Costs)

2. This project is for system-wide improvements. Cost shown is only 50% of estimated construction costs.

3. Currently shown in the 2004 Comp Plan as developer funded.

EXHIBIT A - 5

CFPs from the City's 2004 Comp Plan

Parks

Project Name	Cost*
1 Burnham Dr	\$ 421,000
2 City Park at Crescent	\$ 1,920,000
3 Gig Harbor North	\$ 3,033,000
4 Trail - City Park/Sunset	\$ 90,000
5 WWTP	\$ 482,000
TOTAL = \$ 5,464,000	

* In 2006 Dollars (WSDOT Index for Construction Costs)

EXHIBIT A - 6

CFPs from the City's 2004 Comp Plan

Summary

Facility	Cost*
1 Stormwater	\$ 187,000
2 Water	\$ 4,443,000
3 Wastewater	\$ 29,576,000
4 Parks	\$ 5,464,000
<hr/>	
	TOTAL = \$ 39,670,000

EXHIBIT B

BOUNDARIES OF THE BENEFIT ZONE

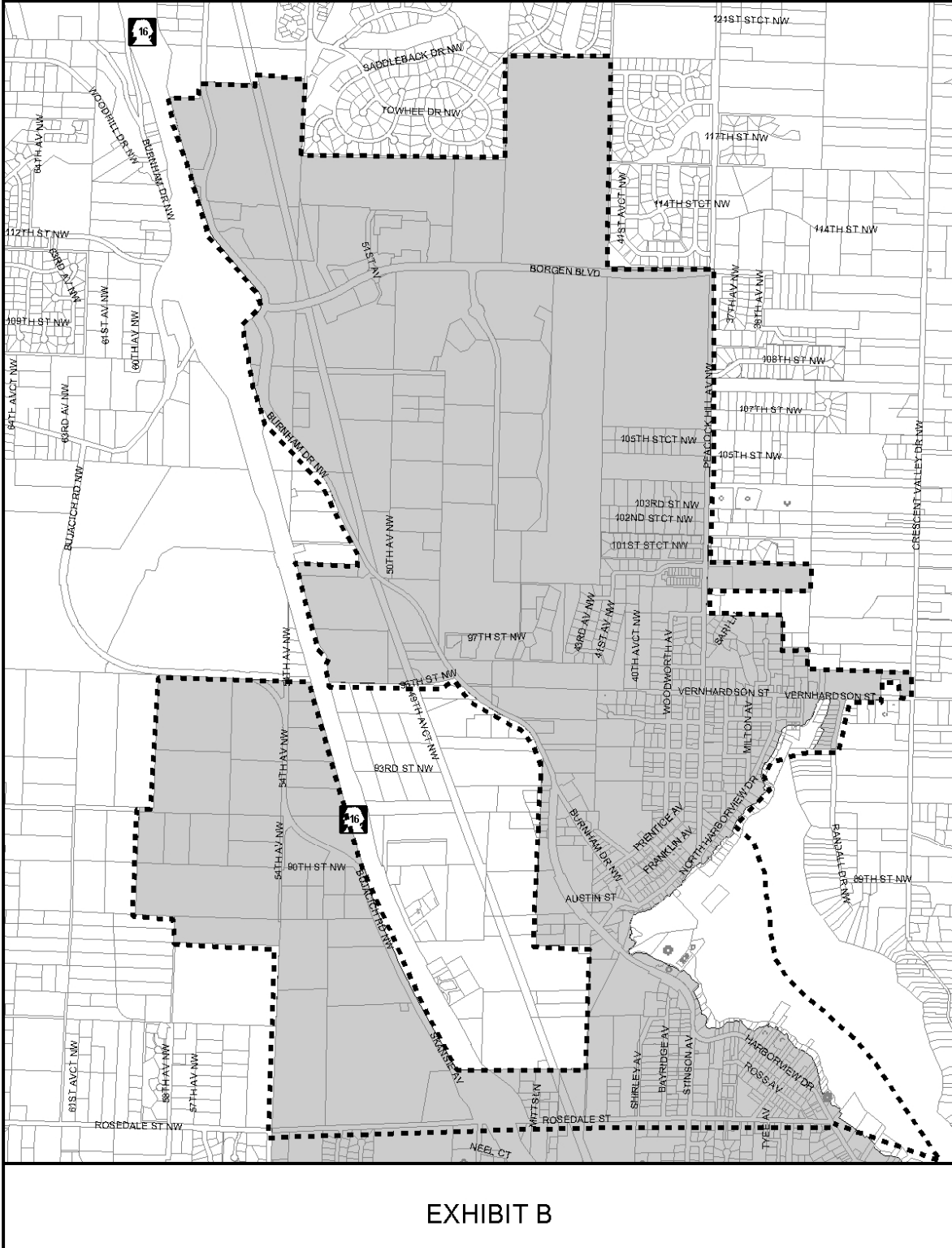


EXHIBIT B

CLERK'S CERTIFICATE

I, the undersigned, the duly chosen, qualified, and acting Clerk of the City of Gig Harbor, Washington, and keeper of the records of the Council of the City (herein called the "Council"), DO HEREBY CERTIFY:

1. That the attached is a true and correct copy of Ordinance No. ___ (herein called the "Ordinance") of the Council as finally adopted at a meeting of the Council held on the 24th day of July, 2006, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the adoption of the Ordinance; that all other requirements and proceedings incident to the proper adoption of the Ordinance have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of July, 2006.

City Clerk

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

On July 24, 2006 the City Council of the City of Gig Harbor, Washington, approved Ordinance No. _____, the summary of text of which is as follows:

**AN ORDINANCE OF THE CITY OF GIG HARBOR,
WASHINGTON, MAKING CERTAIN FINDINGS AND
ORDERING THE FORMATION OF A HOSPITAL BENEFIT
ZONE.**

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

APPROVED by the City Council at their regular meeting on July 24, 2006.

BY: _____
MOLLY M. TOWSLEE, CITY CLERK



TO: MAYOR HUNTER AND CITY COUNCILMEMBERS
FROM: W. SCOTT SNYDER, CITY ATTORNEY
SUBJECT: REVISIONS TO CHAPTER 12.18 RIGHT-OF-WAY USE
TELECOMMUNICATIONS AND CABLE TELEVISION SERVICE AND
THE PROPOSED FRANCHISE BETWEEN THE CITY AND COMCAST
DATE: JULY 24, 2006

INFORMATION/BACKGROUND

Proposed for your consideration is a rewrite of Chapter 12.18 of City Code governing right-of-way use by telecommunications and cable television services. In addition, an extension to the City's franchise agreement with Comcast Cable is forwarded to you for your consideration. These are lengthy documents, and I would be happy to meet with you and discuss any questions you have.

Chapter 12.18 was revised in order to bring it into compliance with the provisions of Chapter 35.99 RCW. This state chapter was enacted several years ago and limits a government's regulation of public rights-of-way and use by telecommunications and cable service providers. Because of the need to extensively rewrite the chapter, it is not being provided to you in redline format.

The major changes in Chapter 12.18 occur in Section 12.18.260 *et seq.* These sections govern the relative cost burden and process for relocation of facilities in the public rights-of-way. Chapter 35.99 RCW is primarily concerned with cost apportionment when a service provider is required to relocate either within the public right-of-way or from the public right-of-way. The process that is employed in the draft ordinance mirrors that required by statute.

Current City procedures for granting right-of-way use permits are retained. The structure of the chapter is somewhat confusing in that some telecommunication entities require franchise from the City, others are deemed to have a state franchise, and, if new federal legislation is enacted, others will have a national franchise.

Within the ordinance draft, the major distinction is between those telecommunication services who use the City's right-of-way but do not provide service to citizens of Gig Harbor and those that do, whether franchised or not. All cable television service and telecommunication service providers who wish to use the City's right-of-way are required to have some form of authorization and permission. Those whose facilities are merely for the purpose of transmission and are not providing service to your citizens are required by Section 12.18.040 to have a Master Use Permit. Telecommunications providers who

provide services to your citizens are required to have a business license, a franchise (unless exempted by state or federal law) and either a Master Use Permit or an Encroachment Permit from the City. Section 12.18.050.

The purpose of a Master Use Permit is to regulate those entities which are using your right-of-way for transmission purposes or for franchisees which wish to seek annual permits for large-scale projects rather than an individual Encroachment Permits.

FRANCHISE

The franchise is modeled on a franchise approved in the City of Oak Harbor and considers the recent Kitsap County franchise. It is a short-term (five-year) franchise with a renewal option for five years. The short term recognizes both the technological change in this industry and Congress's consideration of revisions to the Telecommunications Act. This legislation, known as the Communications Opportunity, Promotion and Enforcement Act of 2006 (the COPE Act), will sweepingly revise the franchising process. There are a number of versions of the bills so these comments are general but, in general, national franchises will supplant local franchises when there are "competitive cable service providers." That is, should another entity come in and commence competition with Comcast in your community, a "national franchise" consisting of limited FCC regulation would replace your local franchise provisions. The federal legislation under consideration would continue payment of a franchise fee to the City. The City would be permitted to continue to manage its right-of-way on a "reasonable," "competitively neutral," and "nondiscriminatory" basis," as well as to impose reasonable charges for the management. However, the Act specifies no specific mechanism for that requirement.

Therefore, the current franchise and revisions to Chapter 12.18 are intended to govern your relationship with Comcast for the near term. On the longer term, it would appear that changes to federal and state limitation will continue the trend to restrict local government's ability to meaningfully regulate telecommunication providers and cable service providers in the City.

The franchise provides at your option for the construction of an I-Net or for PEG (Public, Educational, and Governmental) uses and for the funding of any such programs through user charges. In accordance with federal law, the franchise provides for pass-through of these charges to the consumer. The City Council has the option to trigger these provisions at any time during the first five years of the franchise. Please note that the franchise is renewable for an additional five-year term.

This will require two separate motions to adopt the revisions to Chapter 12.18, and to adopt the Franchise Agreement with Comcast.

RECOMMENDATION

Staff recommends a motion to adopt the ordinance amending Chapter 12.18, for Right of Way Use for Telecommunications and Cable Television Service. Staff also recommends and a separate motion to adopt the ordinance accepting the proposed Franchise Agreement with Comcast.

RECITALS

SECTION 1 ENACTMENT

- §1.01 Recitals
- §1.02 Short Title

SECTION 2 DEFINITIONS

- §2.01 Terms

SECTION 3 GRANT OF AUTHORITY

- §3.01 Use of Public Rights-of-Way
- §3.02 Additional Services/Compensation
- §3.03 Responsibility for Costs
- §3.04 Publication Costs
- §3.05 Franchise Non-Exclusive
- §3.06 Disputes

SECTION 4 SERVICE AVAILABILITY

- §4.01 Service Availability
- §4.02 Annexations
- §4.03 Installation and Extension Policy

SECTION 5 TERM, EVALUATION AND RENEWAL

- §5.01 Term of Franchise
- §5.02 Performance Evaluations
- §5.03 Additional Performance Evaluations
- §5.04 Renewal

SECTION 6 COMPLIANCE WITH CITY, STATE, AND FEDERAL LAWS

- §6.01 Compliance with Applicable Laws
- §6.02 Subject to Police Power of the City
- §6.03 Notification in the Event of Preemptive Law

SECTION 7 CONDITIONS OF PUBLIC RIGHTS-OF-WAY OCCUPANCY

- §7.01 Use
- §7.02 Excavation
- §7.03 Restoration
- §7.04 Relocation
- §7.05 Temporary Removal of Wire for Building Moving
- §7.06 Tree Trimming
- §7.07 Approval of Plans and Specifications
- §7.08 Underground Installation
- §7.09 Facilities Location

SECTION 8 INDEMNIFICATION AND LIABILITY

- §8.01 Indemnification
- §8.02 Damages and Penalties
- §8.03 Expenses
- §8.04 Separate Counsel

SECTION 9 INSURANCE REQUIREMENTS

- §9.01 Minimum Coverage
- §9.02 Increased Coverage
- §9.03 Endorsements
- §9.04 Workers' Compensation
- §9.05 Certificate of Insurance
- §9.06 Insurance Term
- §9.07 Issuing Companies

SECTION 10 PERFORMANCE BONDING

- §10.01 Amount
- §10.02 Reservation of Rights
- §10.03 Endorsement

SECTION 11 CABLE SYSTEM CHARACTERISTICS

- §11.01 Channel Capacity
- §11.02 New Construction
- §11.03 Cable System Capabilities
- §11.04 Equal and Uniform Service
- §11.05 Future Upgrades
- §11.06 Institutional Network

SECTION 12 OPERATIONAL STANDARDS

- §12.01 Compliance with FCC Rules
- §12.02 Technical Performance
- §12.03 Parental Guidance Control
- §12.04 Customer Service

SECTION 13 SIGNALS TO BE CARRIED

- §13.01 Required Programming Categories
- §13.02 Service for the Hearing Impaired

SECTION 14 PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

- §14.01 Initial Channels
- §14.02 Additional Channels
- §14.03 Delivery of PEG Programming
- §14.04 Management and Control of PEG Channels
- §14.05 Return Lines
- §14.06 Relocation of Access Channels
- §14.07 PEG Channels on Basic Cable Service
- §14.08 PEG Capital Support
- §14.09 Technical Assistance

SECTION 15 EMERGENCY USE OF THE CABLE SYSTEM

- §15.01 Emergency Alert Capability

SECTION 16 FREE DROPS AND SERVICE

- §16.01 Free Drops and Service

SECTION 17 PAYMENT TO CITY

- §17.01 Amount and Time

- §17.02 Senior Citizen/Disabled Persons' Discounts
- §17.03 Annual Financial Report
- §17.04 Right of Inspection of Records
- §17.05 Late Payment Interest Charge
- §17.06 Acceptance
- §17.07 Acts of Non-Collection
- §17.08 Additional Commitments Not Franchise Fees

SECTION 18 RECORDS AND REPORTS

- §18.01 Notice
- §18.02 Books of Account
- §18.03 Confidentiality
- §18.04 Quarterly Reports
- §18.05 Annual Report
- §18.06 Disconnect Reports

SECTION 19 REGULATION OF RATES

- §19.01 City Regulation of Grantee's Rates
- §19.02 Notice of Rates
- §19.03 Customer Billing

SECTION 20 EMPLOYMENT REQUIREMENTS

- §20.01 Equal Opportunity in Employment

SECTION 21 PROHIBITION OF DISCRIMINATORY OR PREFERENTIAL PRACTICES

- §21.01 No Rate Discrimination

SECTION 22 ASSIGNMENT OF FRANCHISE

- §22.01 City Approval of Assignment Required
- §22.02 City Approval of Change of Control Required

SECTION 23 FRANCHISE VIOLATIONS, NOTICE AND LIQUIDATED DAMAGES

- §23.01 Notice of Default; Opportunity to Cure; Public Hearing
- §23.02 City Action in Event of Violation
- §23.03 Liquidated Damages
- §23.04 Arbitration
- §23.05 Force Majeure
- §23.06 Reservation of Rights
- §23.07 Venue and Jurisdiction

SECTION 24 REVOCATION OF FRANCHISE

- §24.01 General
- §24.02 Material Provisions
- §24.03 Method of Revocation
- §24.04 Grantee May Appeal City's Decision

SECTION 25 VALUATION

- §25.01 Purchase Price of Cable System

SECTION 26 FAILURE OF CITY TO ENFORCE FRANCHISE

- §26.01 No Waiver of Terms

SECTION 27 RECOURSE, UNDERSTANDING, CONSTRUCTION, AND SEVERABILITY

- §27.01 Requirements and Enforcement
- §27.02 Grantee's Understanding
- §27.03 Construction of Franchise
- §27.04 Provisions Severable

SECTION 28 ACCEPTANCE OF FRANCHISE

- §28.01 Method of Acceptance
- §28.02 Acceptance of Franchise Not a Waiver
- §28.03 Effective Date

EXHIBITS

- Exhibit A – Customer Service Standards
- Exhibit B – Existing Locations for Complimentary Cable Service
- Exhibit C – Potential Locations for I-Net

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, GRANTING TO COMCAST OF PUGET SOUND, INC., ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AND FRANCHISE FOR THE TERM OF FIVE YEARS, TO ERECT, MAINTAIN, AND OPERATE A CABLE SYSTEM IN THE CITY OF GIG HARBOR, WASHINGTON; TO ERECT, MAINTAIN, AND OPERATE ITS POLES, TOWERS, ANCHORS, WIRES, CABLES, ELECTRONIC CONDUCTORS, CONDUITS, MANHOLES, AND OTHER STRUCTURES AND APPURTENANCES IN, OVER, UNDER, ALONG, AND ACROSS THE PRESENT AND FUTURE PUBLIC RIGHTS-OF-WAY IN THE CITY; PRESCRIBING COMPENSATION FOR THE RIGHTS, PRIVILEGES, AND FRANCHISE CONFERRED HEREUNDER; PRESCRIBING THE CONDITIONS GOVERNING THE OPERATION OF THE BUSINESS INsofar AS IT AFFECTS THE USE OF PUBLIC PROPERTY FOR THE PURPOSE OF SUCH BUSINESS; INSTALLATION, UPGRADE, MAINTENANCE, AND OPERATION OF SAID SYSTEM AND BUSINESS; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, by Ordinance No. 566 passed and approved on November 13, 1989, the City of Gig Harbor, Washington ("City"), granted to Comcast of Puget Sound, Inc. the right, privilege, and franchise to erect, maintain, and operate for a term of fifteen (15) years a cable system in said City with an effective date of December 11, 1989; and

WHEREAS, Grantee has provided cable services within the City under such franchise; and

WHEREAS, Grantee has requested renewal of its franchise in accordance with Section 626 of the Cable Act to allow continued operation of its cable system in the City; and

WHEREAS, the City Council finds from all the evidence that Grantee meets the legal, financial, and technical qualifications, as well as other qualifications, necessary to assure that the residents of the City of Gig Harbor will receive the best available cable service provided in accordance with this franchise; and

WHEREAS, following proper notice, the City Council of the City of Gig Harbor held a public hearing on Grantee's request for renewal, at which time representatives of Grantee and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the

City Council now deems it appropriate and in the best interest of the City and its inhabitants that the franchise be renewed with Grantee; now, therefore

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

SECTION 1 ENACTMENT

§1.01. Recitals. The facts and recitations set forth in the preamble of this Ordinance are hereby adopted, ratified, and confirmed.

§1.02. Short Title. This Ordinance shall be known and may be cited as “The City of Gig Harbor Cable Service Franchise Ordinance.” Within this document, it shall be referred to as the “Franchise.”

SECTION 2 DEFINITIONS

§2.01. Terms. Terms, phrases, words, and abbreviations not defined herein shall be construed in accordance with the Cable Act, and if not therein defined, then in accordance with the ordinances of the City or their customary usage and meaning. When not inconsistent with the context, words used in the singular shall include the plural, words in the plural shall include the singular, and words used or defined in one tense or form shall include other tenses or derivative forms. The headings contained in this Franchise are to facilitate reference only, do not form a part of this Franchise, and shall not in any way affect the construction or interpretation hereof. The words “shall,” “will,” and “must” are mandatory, and the word “may” is permissive or directory.

A. Affiliate. When used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

B. Basic Cable Service. The Cable Service tier, which includes the retransmission of local television broadcast signals, as well as the PEG Channels required by this Franchise.

C. Cable Act. The Cable Communications Policy Act of 1984 as amended and as may be amended from time to time during the term of this Franchise (47 U.S.C. § 521 et seq., as amended).

D. Cable Operator. Any Person or group of Persons (i) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in the Cable System, or (ii) who otherwise Controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

- E. Cable Service. The transmission to Subscribers of Video Programming, or Other Programming Service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.
- F. Cable System. A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes, but is not limited to, Video Programming and which is provided to multiple Subscribers within a community, but such term does not include facilities that qualify under the exceptions put forth in 47 U.S.C. §522(7). Unless otherwise specified, "Cable System" is used in this Franchise to refer to the particular cable system authorized under the Franchise and operated by the Grantee or any Affiliate who is a Cable Operator within the Franchise Area.
- G. Channels. A portion of the frequency band capable of carrying a video programming service or a combination of video programming services, whether by analog or digital signal.

City Engineer. The Gig Harbor City Engineer or his/her designee.
- H. Control. The actual working control of Grantee in whatever manner exercised. Without limiting the generality of the foregoing, for the purposes hereof, a change in Control shall be deemed to have occurred at any point in time when there is: (i) a change in working or effective voting control, in whatever manner effectuated, of the Grantee; or (ii) an agreement of the holders of voting stock or rights of the Grantee which effectively vests or assigns policy decision-making in any Person other than the Grantee.
- I. Days. Calendar days unless otherwise specified.
- J. Drop. An aerial or underground portion of the Cable System which extends from the tap to the ground block of the Subscriber's residence or business.
- K. Educational Access Channel. The non-commercial Channel(s) on the Cable System which are reserved for educational users and used in accordance with the rules and procedures established by the City or its designee.
- L. Expanded Basic Cable Service. The tier of cable programming services which is offered for an additional monthly charge over and above the charge for Basic Cable Service.
- M. Federal Communications Commission or FCC. The agency as presently constituted by the United States Congress or any successor agency with jurisdiction over Cable Service matters.

- N. Franchise Area. The incorporated area of the City and such additional areas as may be included in the corporate limits of the City during the term of this Franchise.
- O. Government Access Channel. The non-commercial Channel(s) on the Cable System which are reserved for government users and used in accordance with the rules and procedures established by the City or its designee.
- P. Grantee. Comcast of Puget Sound, Inc., also known as Comcast, or its lawful successor.
- Q. Gross Revenue. Any and all revenue as determined in accordance with generally accepted accounting principles (GAAP) derived by the Grantee or any Cable Operators of the Cable System, including an Affiliate of Grantee, from the operation of the Cable System to provide Cable Services within the Franchise Area.

By way of illustration and not limitation, Gross Revenue includes all fees charged Subscribers for any and all Cable Services provided by Grantee over the Cable System such as Basic Cable Service revenues, Expanded Basic Cable Service revenues, Premium Cable Service revenues, revenues resulting from connection or reconnection to the Cable System in order to receive Cable Services, revenues resulting from the lease, rental, or use of Cable System equipment used to provide Cable Service, revenues from late, delinquent, or other administrative fees applied to Cable Services, and Franchise fees assessed on Cable Services which are collected from Subscribers.

Gross Revenues shall also include advertising sales and home shopping revenues to the extent consistent with GAAP, revenues resulting from the lease of Channels to provide Cable Services.

Gross Revenues shall not include (i) any tax, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency; (ii) unrecovered bad debt, and (iii) those payments described in subsection 14.08 of this Franchise.

- R. Institutional Network. A portion of the Cable System constructed and maintained by Grantee and which is only available for private, non-commercial use by governmental and/or educational entities pursuant to agreement between the Grantee and the City.
- S. Other Programming Service. Information that a Cable Operator makes available to all Subscribers generally.

- T. Master Use Permit Ordinance. Chapter 12.18 of the Gig Harbor Municipal Code enacted contemporaneously with the adoption of this Franchise ordinance.
- U. Normal Operating Conditions. Those service conditions that are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, labor strikes or slowdowns, civil disturbances, telephone network outages which are not caused by Grantee or its Affiliate, commercial power outages, and severe or unusual weather conditions. Those conditions which are within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, changes in rates, regular or seasonal demand periods, changes in the billing cycles, changes in channel lineups that are within the Grantee's control, backup power during power outages, and maintenance or upgrade of the Cable System.
- V. Premium Cable Services. The delivery over the Cable System of programming to Subscribers for a fee or charge over and above the charge for Basic Cable Service or Expanded Basic Cable Programming Service on a per program, per-Channel, per connection or per-time period of connection basis.
- W. PEG Channels. All Public Access Channels, Educational Access Channels and Government Access Channels, collectively.
- X. PEG Programming. Non-commercial programming produced for cable casting over the PEG Channels.
- Y. Person. Any natural person, firm, partnership, association, corporation, company, joint stock company, trust corporation, governmental entity, or organization of any kind.
- Z. Public Access Channel. The non-commercial Channel(s) on the Cable System which are reserved for public users and used in accordance with the rules and procedures established by the City, or its designee.
- AA. Public Rights-of-Way. The surface, the air space above the surface, and the area below the surface of any public street, highway, freeway, land path, parkway, circle, lane, alley, sidewalk, boulevard, drive, bridge, tunnel, easement or similar property in which the City holds any property interest or exercises any rights of management or control and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation, repair, and maintenance of a Cable System. No reference in this Franchise to a Public Right-of-Way shall be deemed to be a representation or guarantee by the City that its interests or other rights in such property are sufficient to permit its use for the installation, repair, and maintenance of a

Cable System, and the Grantee shall be deemed to gain only those rights which the City has the undisputed right and power to give.

AB. Subscriber. Any Person lawfully receiving Cable Service delivered by means of the Grantee's Cable System.

SECTION 3 GRANT OF AUTHORITY

§3.01. Use of Public Rights-of-Way. There is hereby granted to Grantee the right, privilege, and Franchise to have, acquire, construct, reconstruct, upgrade, repair, maintain, use, and operate in the City a Cable System, and to have, acquire, construct, reconstruct, repair, maintain, use, and operate in, over, under, and along the present and future Public Rights-of-Way of the City all necessary or desirable poles, towers, anchors, wires, cables, electronic conductors, underground conduits, manholes, and other structures and appurtenances necessary for the construction, maintenance, and operation of a Cable System in the Franchise Area. Grantee or Affiliates shall not install or construct facilities within the City's Public Rights-of-Way which are not authorized by this Franchise or lawfully allowed by applicable local, state, or federal law.

§3.02. Additional Services/Compensation. By granting this Franchise, the City does not waive and specifically retains any right to regulate and receive compensation as allowed by law for services offered over the Cable System which are not Cable Services. Upon request, Grantee shall inform City of any non-Cable and/or Cable Services offered over the Cable System of which Grantee or its Affiliates are aware. By accepting this Franchise, Grantee does not waive any right it has under law to challenge the City's requirement for authorization to provide non-Cable Services.

§3.03. Responsibility for Costs. Except as expressly provided otherwise, any act that Grantee is required to perform under this Franchise shall be performed at its cost. If Grantee fails to perform work that it is required to perform within the time provided for performance or a cure period, the City may perform the work and bill the Grantee for documented costs. The Grantee shall pay the amounts billed within forty-five (45) days. The parties agree that any amounts paid pursuant to this Section are not Franchise fees and fall within one or more of the exceptions to the definition of Franchise fee under federal law. Nothing in this section is intended to affect in any way (by expansion or contraction) Grantee's rights under applicable law governing rates.

§3.04. Publication Costs. Any and all costs of publication related to this Franchise which may be required by law or action of City Council shall be borne by Grantee, subject to the five percent (5%) limit established by Section 622 of the Cable Act. Any payments made by the City under this provision are to be reimbursed to the City within thirty (30) days of Grantee's receipt of the invoice.

§3.05. Franchise Non-Exclusive. The rights, privileges, and Franchise granted hereby are not exclusive. This Franchise shall not be construed as any limitation upon the right of the Grantor, through its proper officers, to grant to other persons or corporations, including itself, rights, privileges or authority the same as, similar to or different from the rights, privileges or authority herein set forth, in the same or other streets and public ways by Franchise, permit or otherwise. The City shall not authorize or permit any Person providing Video Programming and/or Cable Services to enter into the Public Rights-of-Way in any part of the City on terms or conditions more favorable or less burdensome to such Person than those applied to the Grantee pursuant to this Franchise, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

§3.06. Disputes. In the event that the City is considering the grant of a franchise to another Person to provide Video Programming and/or Cable Services in the City, and the City provides a copy of the final negotiated franchise to Grantee, Grantee shall have forty-five (45) days to notify the City, in writing, of any alleged discrimination between this Franchise and the burdens and rights provided in such other franchise. If the City does not provide a copy of the franchise to Grantee, Grantee shall have three (3) months from the date Grantee receives a copy of the final negotiated franchise to notify the City, in writing, of any alleged discrimination between this Franchise and the burdens and rights provided in such other franchise. In either event, failure to notify the City shall stop Grantee from any further action related to allegations of discrimination regarding the granting of such franchise. This subsection is not intended to prevent Grantee from any action related to the City's actual administration of such franchise that the Grantee believes is discriminatory.

SECTION 4 SERVICE AVAILABILITY

§4.01. Service Availability. The Grantee shall provide Cable Service throughout the entire Franchise Area, subject to the provision below.

§4.02. Annexations. If the City annexes any contiguous area which is being provided Cable Service by the Grantee or its Affiliates, the annexed area will be subject to the provisions of this Franchise upon the effective date of the annexation; provided, however, that Grantee shall be allowed a reasonable time under the circumstances to make any required modifications to the Cable System, Cable Services, billing system, etc., as may be required to accommodate such change, and provided that if the area is serviced by an Affiliate, a transfer of ownership of the Cable System in that area to the Grantee shall not be required by the City. If the annexed area is being provided Cable Service by another provider, Grantee shall have the right, but not the requirement, to extend its Cable System to the annexed area. If the annexed area is not being provided Cable Services, the Grantee shall be required to provide service within one (1) year of the annexation.

§4.03. Installation and Extension Policy

- A. In general, except as otherwise provided herein, Grantee shall provide a standard installation of Cable Service within seven (7) days of a request by any Person within its Franchise Area. For purposes of this Section a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Grantee shall provide such service:
- (1) With no line extension charge except as specifically authorized elsewhere in this Franchise.
 - (2) At a non-discriminatory installation charge for a standard installation, consisting of a one hundred twenty-five (125) foot aerial or sixty (60) foot Underground drop connecting to the exterior demarcation point for Subscribers, with additional charges for non-standard installations computed according to subsection B below.
- B. No Customer shall be refused service arbitrarily. However, for unusual circumstances, such as the existence of more than one hundred twenty-five (125) aerial feet or sixty (60) underground feet of distance from distribution cable to connection of service to Customers, or a density of less than twenty-five (25) residences per cable-bearing mile of aerial trunk or distribution cable or sixty (60) residences per cable-bearing mile of underground trunk or distribution cable, service shall be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and Customers in the area in which service shall be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per cable-bearing mile of its trunk or distribution cable and whose denominator equals twenty-five (25) for an aerial extension or sixty (60) for an underground extension. Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential Customers be paid in advance.

SECTION 5 TERM, EVALUATION, AND RENEWAL

§5.01. Term of Franchise. This Franchise shall be in full force and effect for a term and period, commencing after the effective date of this Franchise and in accordance with written acceptance as required by Section 28 of this Franchise, of five (5) years, which may be extended by mutual acceptance of the Grantee and City for an additional five (5) years for a total of ten (10) years.

§5.02. Performance Evaluations. In order to assure that the Grantee is complying with the terms of this Franchise and with the character, quality, and efficiency of service to be rendered, given, performed, and furnished under this Franchise, and in order to promote a sharing of information between the City Council and the Grantee, the City may schedule a performance evaluation once during any five (5) year term of the Franchise, subject to subsection 5.03 below, in accordance with the following process:

- A. At least one hundred twenty (120) days prior to each performance evaluation, the City shall notify the Grantee of the date, time and location of the evaluation. Such notice shall include specification of any additional information to be provided by the Grantee pursuant to paragraph B below. Unless specifically waived by the City Council, attendance of Grantee's duly authorized representative at these meetings shall be mandatory.
- B. Within sixty (60) days from receipt of such notification, the Grantee shall file a report with the City that is certified by a representative of the Grantee knowledgeable of the operations of Grantee within the City, in reasonable detail, specifically addressing, at a minimum, the following areas:
 - (1) compliance with the requirements regarding technical performance and testing, as provided in subsection 12.02 of this Franchise;
 - (2) compliance with the PEG Channel requirements, as provided in subsections 14.01 and 14.02;
 - (3) compliance with Institutional Network ("I-Net") requirements, as provided in Section 11.06 of this Franchise;
 - (4) compliance with the FCC customer service standards.
 - (5) a comparison of rates to any benchmarks or standards set by federal, state, or local agencies having jurisdiction; and
 - (6) any other topic deemed material or relevant by the City for its enforcement of this Franchise, subject to the confidentiality provisions in subsection 18.03.
- C. All reports to be prepared under this subsection and submitted by Grantee shall be based on information since the previous performance evaluation up to and inclusive of the most current quarter available and not data that ends more than twelve (12) months before the time of the performance evaluation.
- D. Following receipt of the report, but not less than thirty (30) days prior to the performance evaluation, the City may request additional information, clarification or detailed documentation concerning those topics identified for

inclusion in the performance evaluation. Grantee shall make reasonable effort to provide such additional information to the City prior to the meeting. In the event that the information cannot be made available prior to the performance evaluation, Grantee shall notify the City, in writing, explaining the reasons for such delay.

- E. The City Council shall hear any interested Persons during such performance evaluation. The Grantee shall be entitled to all the rights of due process consistent with the City proceedings including, but not limited to, the right to present evidence and the right to be represented by counsel.

§5.03. Renewal. Grantee and City agree that the Cable Act shall govern Franchise renewal proceedings at the time of renewal.

SECTION 6 COMPLIANCE WITH CITY, STATE, AND FEDERAL LAWS

§6.01. Compliance with Applicable Laws. Grantee shall at all times comply with all laws, rules, and regulations of the City, state and federal governments and any administrative agencies thereof which are applicable to all businesses in the City and/or all users of the Public Rights-of-Way. The express provisions of this Franchise constitute a valid and enforceable contract between the parties.

§6.02. Subject to Police Power of the City. Construction, maintenance, and operation of Grantee's Cable System and all property of Grantee subject to the provisions of this Franchise shall be subject to all lawful police powers, rules, and regulations of the City. The City shall have the power at any time to order and require Grantee to remove or abate any pole, line, tower, wire, cable, guy, conduit, electric conductor, or any other structure or facility that is dangerous to life or property. In the event Grantee, after written notice, fails or refuses to act within fifteen (15) days of such written notice, City shall have the power to remove or abate the same at the expense of Grantee, all without compensation or liability for damages to Grantee except in instances when the damage is caused by negligence or willful misconduct of the City or its agents.

§6.03. Notification in the Event of Preemptive Law. Grantee shall use its best efforts to notify the City of any change in law that materially affects Grantee's rights or obligations under this Franchise.

SECTION 7 CONDITIONS OF PUBLIC RIGHTS-OF-WAY OCCUPANCY

§7.01. Use. All structures, wires, cables, equipment, and facilities erected or maintained by Grantee within the City shall be located as to cause minimum interference with the proper and intended use of the Public Rights-of-Way and with the rights or reasonable convenience of the owners or occupants of property which adjoins any of

such Public Rights-of-Way. The location of all poles, towers, anchors, wires, cables, electronic conductors, conduits, manholes and other structures and appurtenances in, over, under, along, and across the present and future Public Rights-of-Way in the City shall be fixed under the supervision of the City or an authorized agent appointed by the City. Grantee agrees to comply with all other City laws, rules, or ordinances that govern the use of Public Rights-of-Way that may be lawfully promulgated by the City during the franchise term. In the event that there is substantial conflict between the requirements of this Franchise and any newly enacted Public Rights-of-Way standards, the franchise shall govern.

§7.02. Excavation. Grantee may excavate only for the construction, installation, expansion, repair, removal, and maintenance of all or a portion of its facilities used to provide Cable Service under this Franchise. In the event a permit may ordinarily be required for any excavation, a permit shall not be required for the installation of facilities to initiate service to a customer's property, or repair or maintenance of existing facilities unless such installation, repair or maintenance requires the breaking of pavement, excavation or boring. Grantee shall provide the City written notice within fifteen (15) days of any proposed breaking of pavement, excavation, or boring on any Public Rights-of-Way other than for the purposes of installation of facilities to initiate service to a customer's property, or repair or maintenance of existing facilities, prior to the commencement thereof.

Grantee shall provide the City with notice following any emergency maintenance that required the breaking of pavement, excavation, or boring on the Public Right-of-Way. Property owners or occupants of adjoining property shall be given reasonable notice. No Public Rights-of-Way shall be encumbered by construction, maintenance, removal, restoration, or repair work by Grantee for a longer period than shall be necessary to execute such work. When the Grantee shall make or cause to be made excavations or shall place obstructions in any Public Rights-of-Way, the public shall be protected by barriers and lights placed, erected, and maintained by the Grantee in accordance with any existing or future City, state, or federal requirements.

§7.03. Restoration. Grantee shall warrant any restoration work performed by or for Grantee in the Public Rights-of-Way or on other public property for one (1) year. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the City may, after a 48-hour notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within forty-five (45) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall reimburse the City in a manner agreeable to both parties.

§7.04. Relocation. Whenever by reason of the construction, repair, maintenance, relocation, widening, raising, or lowering of the grade of any Public Rights-of-Way by the City or by the location or manner of construction, reconstruction, maintenance, or repair of any public property, structure, or facility by the City, it shall be deemed necessary by the City for Grantee to move, relocate, change,

alter, or modify any of its facilities or structures, such change, relocation, alteration, or modification shall be promptly made by Grantee upon thirty 30 days' written notice by the City. If the City requires Grantee to relocate its facilities located within the Public Rights-of-Way, the City shall make a reasonable effort to provide Grantee with an alternate location within the Public Rights-of-Way. Reasonable effort shall mean a review by the City Engineer of the available construction space in or under the Public Rights-of-Way. After making provision for the foreseeable future capacity requirements for City owned utilities and other public infrastructure of the City, the City Engineer shall allot any available excess among the City's franchisees on a first come, first serve basis with Grantee being given preference along with any other franchisee with similar right to relocation consideration. In the event that limited space is available for multiple relocated franchised facilities, and all franchisees have an equal right to be considered for relocation, all available space shall be allotted in the same proportion as space was allotted in the Public Rights-of-Way from which the facilities are to be removed. Grantee shall pay the cost of relocating its facilities unless there are funds generally available to affected users of the Public Rights-of-Way for reimbursement of such costs, in which case Grantee shall be entitled to its share of such funding. If the funds are controlled by another governmental entity, the City shall make application for such funds on behalf of the Grantee, if Grantee cannot make such application itself. In the event Grantee, after such notice, fails or refuses to commence, pursue, or complete such relocation work within a reasonable time, the City shall have the authority, but not the obligation, to remove or abate such structures or facilities and to require Grantee to pay to the City the reasonable cost of such removal or abatement, all without compensation or liability for damages to Grantee unless such damage was caused by the willful misconduct of the City or its agents.

§7.05. Temporary Removal of Wire for Building Moving. Upon written request of any Person holding a building moving permit issued by the City, Grantee shall remove, raise, or lower its wires and cables temporarily to permit the moving of houses, buildings, or other bulky structures. The reasonable expense of such temporary removal, raising, or lowering shall be paid by the benefited Person, and Grantee may require such payment in advance, Grantee being without obligation to remove, raise, or lower its wires and cables until such payment shall have been made. Grantee shall be given written notice, at least five (5) business days in advance, to arrange for such temporary wire and cable adjustments.

§7.06. Tree Trimming. The Grantee shall have the authority to trim trees or other natural growth overhanging any of the Cable System in the Franchise Area to prevent branches from coming into contact with the Grantee's wires, cables or other equipment that may be damaged due to continued contact. The Grantee shall reasonably compensate the City or property owner for any damages caused by such trimming, or shall, at its own expense, replace all trees or shrubs damaged as a result of such trimming in a mutually agreed manner with the property owner. From time to time, the City may pass ordinances regulating tree trimming or removal on or along City property, and Grantee shall comply with these ordinances.

§7.07. Approval of Plans and Specifications. In accordance with the City's right-of-way use regulations, Grantee shall provide complete plans and specifications for all construction (with the exception of individual drops) within Public Rights-of-Way. Approval of plans and specifications shall not be unreasonably delayed or denied. In the event of rejection, Grantee shall submit revised plans and specifications for approval. This provision shall apply to each construction sequence if the construction is accomplished in phases.

§7.08. Underground Installation.

- A. In those portions of the City where telephone lines and electric utility lines are both located underground, Grantee's lines, cables, and wires shall also be placed underground. Grantee's lines, cables, wires, and similar facilities located above ground prior to the effective date of this Franchise shall be relocated underground by Grantee at the same time that all other above-ground utility lines (e.g., electric and telecommunications lines) located on the poles with Grantee's facilities are required to be placed underground. Grantee shall pay the cost of relocating its facilities unless there are funds generally available to affected users of the Public Rights-of-Way. It shall be the policy of the City that existing poles for electric and communications purposes be utilized by Grantee whenever possible.
- B. Whenever feasible and when a pathway is needed by Grantee, and at Grantee's sole discretion, City shall allow Grantee to place conduit and conduit appurtenances in trenches provided by City for City projects. The costs of providing and installing conduits and associated appurtenances shall be the sole responsibility of Grantee. With respect to City projects, the costs of City trenching, including side trenching and excavation for vault and equipment placement, backfill, and restoration, shall be the sole responsibility of the City.

§7.09. Facilities Location.

- A. From time to time, the City, or its representatives, may request identification of the specific location of certain Grantee Cable System facilities. The Grantee agrees to respond, if possible, to such request within forty-eight (48) hours of the receipt of the request. In the event that Grantee cannot locate such information within forty-eight (48) hours, Grantee shall notify the City to alert them. If Grantee fails to notify the City of its facilities locations within forty-eight (48) hours, and damage is caused to Grantee's facilities as a direct result, the Grantee shall hold the City harmless from all liability, damage, cost or expense resulting from the City's actions in this regard unless such damage was caused by the willful misconduct of the City or its agents.
- B. Within sixty (60) days of the effective date of this Franchise, Grantee shall provide the City with a current route map of the Cable System located within

the City. Upon City request, but no more often than once each year during the term of this Franchise, the Grantee shall provide the City with an updated route map showing the changes that have occurred in the Cable System.

- C. Grantee agrees to obtain facilities location information from other users of the Public Rights-of-Way prior to Grantee's construction, reconstruction, maintenance, operations and repair of the Cable System facilities.

SECTION 8 INDEMNIFICATION AND LIABILITY

§8.01. Indemnification. It is the intent of this Section and by its acceptance of this Franchise, Grantee specifically agrees, that Grantee for itself and its agents, employees, subcontractors, and the agents and employees of said subcontractors, shall indemnify and hold the City, its officers, agents, employees, and elected officials harmless from all liability actions, causes of action, lawsuits, judgments, claims, damages, penalties, costs or fees, including attorney's fees and costs of defense, for any injury to or the death of any Person or damage to or destruction of any property arising out of, resulting from or based upon, in whole or in part, any negligent act or omission of Grantee under this Franchise related to the construction, reconstruction, upgrade, operation, or maintenance of its Cable System. In the event that any action, suit or proceeding is brought or claim is made against the City based upon or arising out of any such negligent act or omission of the Grantee under this Franchise, the City shall give timely notice in writing of such action, suit, proceeding and tender such claim to the Grantee. However, the failure of the City to provide such notice in writing to Grantee shall not relieve Grantee of its duties and obligations under this Section, provided that Grantee is given sufficient advance notice to perform its duties under this Section.

The City shall not and does not by reason of granting this Franchise, or any failure to act by the City which may impact the Grantee's performance under this Franchise, assume any liability of Grantee whatsoever for injury or death to Persons, damage to property, or penalties of any kind whatsoever. The provisions of this Section shall survive the expiration or early termination of this Franchise.

§8.02. Damages and Penalties. By acceptance of this Franchise, Grantee specifically agrees that it will pay, all damages or penalties which the City, its officers, agents, employees, or contractors may legally be required to pay as a result of damages arising out of copyright infringements and all other damages arising out of Grantee's or Grantee's agents' installation, maintenance, or operation of the Cable System, except as referenced in §14 of this Franchise, whether or not any act or omission complained of is authorized, allowed, or prohibited by this Franchise, subject to Section 635A of the Cable Act and applicable law.

§8.03. Expenses. If any action or proceeding is brought against the City or any of its officers, agents, or employees for claims for damages or penalties described in this Section, the Grantee, upon written notice from the City, shall assume the

investigation of defense and fully control any resolution or compromise thereof, including the employment of counsel and the payment of all expenses including the reasonable value of any services rendered by any officers, agents, employees or contractors of the City which are not unreasonably duplicative of services provided by Grantee and its representatives. The City shall fully cooperate with the Grantee.

§8.04. Separate Counsel. The City shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and the Grantee shall pay the reasonable fees and expenses of such separate counsel if representation of both the Grantee and the City by the same attorney would be inconsistent with accepted canons of professional ethics and if separate counsel is employed with the approval and consent of the Grantee, which shall not be unreasonably withheld.

SECTION 9 INSURANCE REQUIREMENTS

§9.01. Minimum Coverage. Grantee shall maintain throughout the term of this Franchise:

- A. A commercial general liability insurance policy issued by a company duly authorized to do business in the State of Washington insuring the Grantee with respect to the installation, maintenance, and operation of Grantee's Cable System in the minimum amount of One Million Dollars (\$1,000,000) per incident and Two Million Dollars (\$2,000,000) aggregate.
- B. An automobile liability insurance policy and, if necessary, a commercial umbrella liability insurance policy with a limit of not less than One Million Dollars (\$1,000,000) per accident. Such insurance shall cover liability arising out of any Grantee motor vehicle (including owned, hired, and non-owned vehicles).

§9.02. Increased Coverage. The City Council reserves the right to require Grantee to increase the minimum amounts of liability insurance coverage up to a maximum of Four Million Dollars (\$4,000,000) per incident if such increased coverage is deemed by City Council to be reasonably based on changes in statutory law, court decisions, or the claims history of the industry or the Grantee. Such requirement shall be expressed by resolution or ordinance.

§9.03. Endorsements. Grantee agrees that with respect to the insurance requirements contained in subsection 9.01, all insurance certificates will contain the following required provisions:

- A. Name the City of Gig Harbor and its officers, employees, and elected representatives as additional insureds.

- B. Provide for thirty (30) days' notice to the City for cancellation, non-renewal or material change, or ten (10) days notice to the City in the event of non-payment of the premium.
- C. Shall be on an occurrence basis and shall be primary coverage of all losses resulting from Grantee's operations covered by the policies.

§9.04. Workers' Compensation. The Grantee shall maintain throughout the term of this Franchise workers' compensation and employers liability insurance in the amount required by all applicable federal and state laws.

§9.05. Certificate of Insurance. Upon acceptance of the Franchise, Grantee shall provide to the City and maintain on file throughout the term of the Franchise a certificate of insurance evidencing coverage as required in this Section.

§9.06. Insurance Term. The insurance required by subsection 9.01 shall be kept in full force and effect by Grantee during this Franchise and thereafter until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of Grantee's Cable System, should such removal be required by City Council or undertaken by Grantee.

§9.07. Issuing Companies. Companies issuing the insurance policies shall have no recourse against the City for payment of any premiums or assessments which all are set at the sole risk of the Grantee.

SECTION 10 PERFORMANCE BONDING

§10.01. Amount. Upon acceptance of the Franchise, Grantee shall furnish and file with the City a performance bond in the amount of Seventy-Five Thousand Dollars (\$75,000.00). The bond shall be conditioned upon the faithful performance of the Grantee of all terms and conditions of the Franchise.

§10.02. Reservation of Rights. The rights reserved by the City with respect to the bond are in addition to all other rights the City may have under the Franchise or any other law.

§10.03. Endorsement. The bond shall contain the following endorsement:

"It is hereby understood and agreed that this bond may not be canceled without notice to the City and issuance of a replacement bond. The City must be given thirty (30) days written notice by certified mail, return receipt requested, of intent to cancel or not to renew."

SECTION 11
CABLE SYSTEM CHARACTERISTICS

- §11.01. Channel Capacity. Grantee's Cable System shall have the potential of providing no fewer than one hundred (100) Channels throughout the term of this Franchise. All Channels being offered to Subscribers within the Franchise Area will adhere to the technical standards set forth in paragraph 12.02 (A).
- §11.02. New Construction. Any areas of the City where Grantee constructs new Cable System facilities, such facilities shall be built, at a minimum, to the same technical specifications as the Cable System existing in the City as of the effective date of this Franchise.
- §11.03. Cable System Capabilities. Prior to the effective date of this Franchise, Grantee completed an upgrade of its Cable System. Concurrently, the Grantee modified its Cable System from a traditional "Christmas tree architecture" to a hybrid fiber coaxial, fiber-to-the-node system architecture, with fiber-optic cable deployed from the headend to the node and coaxial cable deployed from the node to Subscriber's homes. Active and passive devices are capable of passing a minimum of 550MHz and capable of delivering more than 100 Channels of high quality analog or digital video signals, meeting or exceeding FCC technical quality standards. Emergency standby power is rated at a minimum of twelve (12) hours at the headend, two (2) hours at each fiber optic node located throughout the Cable System. During this Franchise, the Grantee agrees to maintain the Cable System in a manner consistent with, or in excess of these specifications.
- §11.04. Equal and Uniform Service. The Franchisee shall provide access to equal and uniform Cable Service offerings throughout the Franchise Area.
- §11.05. Institutional Network
- A. Upon written request from the City at any time during this Franchise, Grantee shall construct, in accordance with the provisions set forth herein and the terms and conditions of mutually acceptable I-Net Service Agreements as required, an Institutional Network for non-commercial private network communications between schools, libraries and governmental agencies. The City shall determine, at its sole discretion, the I-Net design specifications.
 - B. Within one hundred twenty (120) days of receipt of the City's written request for an I-Net proposal, to include the City's I-Net design specifications and complete list of I-Net sites, Grantee shall provide a design and cost estimate for the I-Net. The City may request a proposal for either of the following I-Net models:

- (1) A fiber-optic cable I-Net infrastructure constructed, maintained and owned by Grantee over which the City may operate and manage an Institutional Network ("City Managed Network").
 - (2) A managed Institutional Network, owned, maintained and administered by the Grantee ("Grantee Managed Network").
- C. The City shall have one hundred twenty (120) days from receipt of Grantee's I-Net design and cost estimate to respond to Grantee with an acceptance or rejection of the proposal. If the City accepts Grantee's proposal, Grantee will proceed with construction.
- (1) City Managed Network Model. If the City chooses the City Managed Network model, the City will be invoiced for construction costs upon completion of construction, in an amount not to exceed the estimate, due and payable to Grantee within one hundred twenty (120) days. Additionally, ongoing maintenance of the I-Net infrastructure shall be performed by the Grantee as part of an annual maintenance fee, initially established at Five Hundred and No One Hundredths Dollars (\$500.00) per strand mile per year, and fully defined in an I-Net Maintenance Agreement.
 - (a) Construction and Termination. I-Net infrastructure will be constructed and terminated by Grantee in accordance with Grantee's standard practices, including but not limited to practices concerning connectorization, and the City agrees to grant Grantee all necessary rights of entry, easements and licenses to accomplish the construction to the I-Net sites. Each fiber I-Net site connection will be terminated at an internal point of demarcation in a standard fiber termination panel, unless the City provides another means of termination, in which case the City will provide all necessary fiber termination equipment. At each fiber termination location the City will provide wall mount backboards and a power source for the basic termination, or such equipment as chosen by the City as a replacement.
 - (b) Administration, Maintenance and Management. The City shall be responsible for the ongoing administration, maintenance and management of the I-Net equipment located on the City side of the I-Net fiber termination panel at each I-Net site, and the internal site network itself. All maintenance conducted by the City shall be performed in accordance with industry standards, and any equipment owned and used by the City shall comply

in all respects with applicable governmental codes, laws, ordinances or regulations and the National Electrical Code and the National Electric Safety Code.

- (c) City I-Net Users to Provide Electronics. Grantee shall be responsible for supplying and installing the I-Net infrastructure to the specified fiber termination panel locations only, providing a pathway for I-Net communications between sites. NOTWITHSTANDING, GRANTEE DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. GRANTEE SPECIFICALLY DISCLAIMS ANY RESPONSIBILITY FOR ANY DAMAGES SUFFERED BY THE CITY ARISING OUT OF ITS PERFORMANCE UNDER THIS AGREEMENT. IN NO EVENT SHALL GRANTEE BE LIABLE TO THE CITY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORSEEABLE. Any “active” equipment or components, including but not limited to computers, network cards, optronics, electronics, and equipment racks, required for I-Net use shall be provided at the City’s sole expense.

- (2) Grantee Managed Network Models. The City may elect one (1) of two (2) options for a Grantee Managed Network:

Option 1: Grantee’s high-speed cable Internet service activated to City buildings and potential designated I-Net users.

Option 2: Capacity on Grantee’s fiber infrastructure designed and constructed for use by the City and potential designated I-Net users.

- (a) Monthly Service Fee. The City will pay a recurring monthly per site service fee in accordance with a fully executed I-Net Service Agreement negotiated in good faith by the parties. Ongoing maintenance and repair of the I-Net and fiber infrastructure, whether scheduled or prompted by an emergency, shall be performed by the Grantee at no additional charge to the City.
- (b) Construction and Termination. Grantee’s infrastructure

will be constructed and terminated by Grantee in accordance with standard practices, including but not limited to practices concerning connectorization, and the City agrees to grant Grantee all necessary rights of entry, easements and licenses to accomplish the construction to the I-Net sites.

- (c) Grantee to Provide Equipment, Optronics and Electronics. Grantee shall provide I-Net system and site equipment, optronics and electronics in accordance with a fully executed I-Net Service Agreement.
 - (d) Administration, Maintenance and Management. Grantee shall be responsible for the ongoing administration, maintenance and management of the I-Net equipment in accordance with a fully executed I-Net Service Agreement. All maintenance shall be performed in accordance with industry standards, and all I-Net equipment shall comply in all respects with applicable governmental codes, laws, ordinances or regulations and the National Electrical Code and the National Electric Safety Code.
 - (e) At the discretion of the City, I-Net costs, up to but not exceeding \$0.30 per month per Subscriber when aggregated with the PEG Capital Contribution, may be treated as external costs under 47 CFR 76.922.
- D. Ownership and Right of Use. The City shall have an exclusive right of use of the I-Net for non-commercial private network communications, so long as the City has met its financial obligations to Grantee, which right cannot be revoked by Grantee, or successor companies, if any, during the term of the Franchise or any renewals thereof. However, Grantee shall at all times own in fee the fiber optic and/or coaxial cable infrastructure and associated facilities and equipment up to termination points where physically connected to City-owned optronics or electronics, if any.
- E. Private Network Status. The I-Net is a private communication network governed by this Franchise and I-Net Service Agreement, if any, and the City will use the I-Net solely for non-commercial applications in accordance therewith. To-wit, the City shall not lease, resell or grant access privileges to I-Net capacity or services to a third party, for any purpose whatsoever. The City will not attach any equipment or otherwise modify the I-Net in any way that will interfere with the signal quality and the normal operation of Grantee's Cable System, and Grantee reserves the right to suspend until rectified the

City's rights granted hereunder in the event such interference should occur. Such unilateral suspension shall not place Grantee in violation of the Franchise. The City's use of the I-Net contemplated herein shall not qualify the Grantee as a common carrier, and City agrees to forebear its rights hereunder indefinitely in the event of inquiry into same by a state or federal agency with oversight.

- F. Force Majeure. Neither the City nor the Grantee shall be in default or liable to the other for any failure or performance under this Section 11.6 due to causes beyond its control (except for the fulfillment of payment obligations as set forth herein), including, but not limited to: acts of God, fire, flood or other catastrophes; adverse weather conditions; national emergencies; insurrections; riots, wars; or strikes, lock-outs, work stoppages or other labor difficulties; provided, however, the party that is unable to perform its obligations shall promptly notify the other party of such delay and the time period shall be extended for the actual amount of time said party is so delayed.

SECTION 12 OPERATIONAL STANDARDS

§12.01. Compliance with Applicable FCC Rules. Grantee shall comply with present and future applicable rules and regulations of the FCC including, but not limited to, technical standards, testing requirements, consumer protection standards and consumer electronics compatibility regulations and all other present and future rules and regulations of the FCC in connection with and relating to the operation of Grantee's Cable System.

§12.02. Technical Performance.

- A. Grantee's Cable System within the City shall meet or exceed all FCC and other applicable technical and signal quality standards for cable systems, including any such standards or regulations as hereinafter may be amended or adopted to the extent that compliance with such amended standards is mandated by law or regulation.
- B. Antennas, supporting structures, headend and associated equipment, outside plant used in the Cable System shall comply with any applicable federal, state or generally applicable City law.
- C. Grantee shall not design, install or operate its facilities in a manner that will interfere with the signals of any broadcast station, the electrical or telephone system located in any building, the cable system of another franchisee, or individual or master antennas used for receiving television or other broadcast signals.

- D. If the City contacts Grantee prior to the next FCC required test period (e.g., those generally conducted in February and August of each year), a City representative may be present during the testing. Upon request, Grantee shall provide written summary reports of the results of such tests to the City.
- E. Grantee shall maintain all of its facilities and outside plant in a safe condition. Copies of the plant maintenance procedure manuals will be available for inspection at Grantee's office in Bremerton, Washington on written request, within thirty (30) days.
- F. Grantee shall keep and maintain a proper and adequate inventory of maintenance and repair parts for the Cable System. Grantee shall maintain or otherwise have available a work force of skilled technicians for Cable System repair and maintenance.
- G. Upon request, Grantee shall provide the City copies of all correspondence with the FCC related to technical performance of the Cable System in the Franchise Area. In the event that any complaints are filed with the FCC related to the Cable System operations, Grantee shall provide copies of such complaints as well as the resolution thereof to the City upon request.

§12.03. Parental Guidance Control. Upon request of a Subscriber, Grantee shall provide by sale and/or lease a device by which the Subscriber can prohibit viewing or use of a particular Cable Service(s) during periods selected by that Subscriber. Subscribers shall be notified in writing, by the Grantee of the availability of the device at least once per year.

§12.04. Customer Service. The Grantee shall provide customer service in accordance with the FCC standards set forth in 47 CFR 76.309(a-c). If City enters into a subsequent franchise with any other competing cable operator and affords them more favorable terms relating to customer service standards Grantee shall be entitled to the benefit of the more favorable terms as well. Additionally, if the City subsequently adopts a Customer Service Standards ordinance the terms of that subsequent ordinance shall govern.

SECTION 13 SIGNALS TO BE CARRIED

§13.01. Required Programming Categories. To the extent they are reasonably available, Grantee shall carry the following general programming categories:

- A. News, Information and Government
- B. Movies
- C. Sports
- D. General Entertainment, Music and the Arts

- E. Children, Family
- F. Educational, Science, Foreign language

§13.02. Service for the Hearing Impaired. Grantee shall comply with any FCC requirements regarding altering or adapting programming for the hearing impaired. Grantee shall not take any action to remove or alter closed captioning provided for the hearing impaired as a part of any programming. Grantee shall deliver intact such closed captioning in the manner in which it arrives at the headend or from another origination source to the Cable System.

SECTION 14 PUBLIC, EDUCATIONAL AND GOVERNMENT ACCESS

§14.01. Initial Channels. Within forty-five (45) of written request, Grantee shall dedicate one (1) Channel for the carriage of PEG Programming. The Grantee shall ensure that such PEG Channel is of a technical quality comparable to any other Channel offered over the Cable System. To the extent allowed by law, the City agrees to indemnify, save and hold harmless the Grantee from and against any and all liability resulting from the City's use of the PEG Channels required herein.

§14.02. Additional Channels.

- A. Grantee shall make available up to two (2) additional PEG Channels (for a total of 3 PEG Channels) based on demonstrated community need and subscriber support for additional channels.
- B. If all the Video Programming Services offered by Grantee on the Cable System are in a digital format, Grantee shall likewise make the PEG Channels available in a digital format.

§14.03. Delivery of PEG Programming. PEG Programming may be in analog or digital format, so long as it is compatible with the technology utilized by the Cable System for delivery to Subscribers on the Basic tier of service.

§14.04. Management and Control of PEG Channels. The City may, at its discretion, allocate and reallocate the PEG Channels amongst Public, Educational and Government Access Programming. The City may authorize a third party(ies) to control and manage the use of any or all PEG Channels dedicated for City use, and their related facilities. The City, or its designee, may formulate rules for the operation of PEG Channels consistent with this Franchise and federal law.

§14.05. Relocation of Access Channels. Grantee will use reasonable efforts to minimize the movement of PEG Channel assignments. Grantee shall provide the City with at least forty-five (45) days' notice, prior to the time

any PEG Channel designation is changed, unless the change is required by federal law, in which case Grantee shall give the City the maximum notice possible. Grantee shall notify customers of the Access Channel's relocation in the form of a bill message. Any new Channel designations for the PEG Channels provided pursuant to this Franchise shall be in full compliance with FCC signal quality and proof-of-performance standards.

§14.06. PEG Channels on Basic Cable Service. All PEG Access Channels provided for under this Section shall be part of Basic Cable Service.

§14.07. PEG Capital Support. Effective sixty (60) days after written request and continuing during the term of this Franchise, Grantee shall pay to City a Capital Contribution for PEG Access capital expenditures in the amount of fifteen cents (\$.15) per Subscriber per month. If City chooses to construct an Institutional Network, then the Capital Fee shall be raised to thirty cents (\$.30) per Subscriber per month. Any increase in the Capital Fee shall be payable by Grantee to City after sixty (60) days notice to Subscribers of such increase; and (b) the collection of the Capital Fee from such Subscribers. Grantee shall make Capital Contribution payments quarterly, no later than thirty (30) days following the end of the quarter. The City agrees that 47 C.F.R. §76.922 permits Grantee to add the cost of the Capital Contribution to the price of Cable Services and to collect the Capital Contribution from Subscribers. In addition, as permitted in 47 C.F.R. §76.985, all amounts paid as the Capital Contribution may be separately stated on Subscriber's bills as a Government Access capital equipment fee.

§14.08. Technical Assistance. Within four (4) hours of receipt of a request from the City regarding a problem with a PEG Channel, Grantee shall commence research to determine whether or not the problem with the PEG Channel is the result of matters for which Grantee is responsible and, if so, Grantee will take prompt corrective action. Such assistance will be at no charge to the City. Grantee is responsible for all maintenance, repair and replacement of the return lines and associated equipment from Grantee's side of the fiber termination panel at the PEG origination sites to the headend. The City is responsible for all maintenance, repair and replacement of facilities and equipment on the City-side of the fiber termination panel at the PEG origination sites. Grantee agrees to install equipment provided by the City at the PEG origination sites and provide technical support for the installation for six months after the date of installation.

SECTION 15 EMERGENCY USE OF THE CABLE SYSTEM

§15.01. Emergency Alert Capability.

- A. Grantee shall provide an operating Emergency Alert System ("EAS") in accordance with and at the time required by the provisions of federal laws, including FCC regulations.
- B. The City shall only permit appropriately trained and authorized persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System that in any manner results in an inappropriate use thereof. To the extent allowed by law, the City shall hold the Grantee, its employees and officers harmless from any claims arising out of the emergency use of the EAS facilities by the City, including, but not limited to, reasonable attorneys' fees and costs.
- C. Grantee shall ensure that the EAS is functioning properly at all times. It will test the EAS periodically, in a manner consistent with sound operational practices for emergency systems. Grantee will advise the City of the testing schedule and the City and/or its authorized representative may be present for the tests.

SECTION 16 FREE DROPS AND SERVICE

§16.01. Free Drops and Service. Free drops and service provided pursuant to this section are a voluntary initiative of Grantee and Grantee agrees to continue the service throughout the term of the Franchise to existing city owned and occupied buildings, schools and public libraries. Complimentary service is defined as standard installation, one outlet per building per campus and basic service. For purposes of this section, "school" means all State-accredited public and private K-12 schools. In addition, Grantee shall provide, at no cost to the City or other entity, throughout the term of this Franchise, one outlet of Basic Cable Service to new buildings that are owned or leased and occupied by the City, schools and public libraries where service is not being provided as of the effective date of this Franchise. If additional outlets of Basic Cable Service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

The complimentary Cable Service described herein shall be limited to those locations where the drop line from the feeder cable to such building does not exceed one hundred twenty-five aerial feet (125') or sixty feet (60') underground unless the City or other entity agrees to pay the actual incremental cost of such drop line in excess of one hundred twenty-five aerial feet (125') or sixty feet (60') underground.

This complimentary service is provided for the benefit of the Community and shall only be accessible to the employees of the receiving institutions. This complimentary service shall not be made available to the general public such

as on a commercial basis. The City shall guarantee that its use will not conflict with Grantee's general policies regarding commercial contracts. The City shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service provided under this section.

SECTION 17 PAYMENT TO CITY

- §17.01. Amount and Time. As compensation for the right, privilege, and Franchise herein conferred, Grantee shall pay to City each year during the term of this Franchise a sum equal to five percent (5%) of the Grantee's Gross Revenues. Such payments shall be made quarterly within forty-five (45) days after the expiration of each calendar quarter. Accompanying the payment, Grantee shall submit a written report verified by an authorized representative of Grantee, containing an accurate statement of Grantee's Gross Revenues by category, and the computation thereof.
- §17.02. Annual Financial Report. Grantee shall file with the City within ninety (90) days following the end of each calendar year, or portion thereof during which the Franchise is in effect, a certified statement of Gross Revenues, prepared according to generally accepted accounting principles, showing Gross Revenues by significant category used in the computation of Franchise fee payments for the previous year.
- §17.03. Right of Inspection of Records. The City shall have the right to inspect Grantee's records showing the Gross Revenues from which payments to the City are computed and to recompute any and all amounts paid under this Franchise. The City's right to audit and the Grantee's obligation to retain records related to a Franchise fee audit shall expire six (6) years after each Franchise fee payment has been made to the City. The City shall have the right to hire, at its own expense, an independent certified public accountant, or other business or financial expert, to review the books and records of the Grantee. If after a financial audit it is agreed that the Grantee has under paid amounts owed to the City in excess of ten percent (10%) then the City may require the Grantee to reimburse the City for the actual cost of the audit, such cost not to exceed Five Thousand Dollars (\$5,000) for each year of the audit period.
- §17.04. Late Payment Interest Charge. In the event any payment due quarterly is not received within forty-five (45) days from the end of the preceding quarter, Grantee shall pay interest on the amount due in accordance with IRS specified interest amounts for corporate under-payments for the applicable period.

- §17.05. Acceptance. Payments received from the Grantee under this Section shall not in any way limit or impair any of the privileges or rights of the City, whether under this Franchise or otherwise. No acceptance of any payment shall be construed as an accord that the amount paid is the correct amount, nor shall acceptance be construed as a release of any claim the City may have for additional amounts payable under the provisions of this Section, subject to the limitations in subsection 17.03.
- §17.06. Acts of Non-Collection. Any transaction or arrangement made for the purpose of evading Franchise fees payable under this Franchise is prohibited.
- §17.07. Additional Commitments Not Franchise Fees. The Franchise fee payable hereunder shall be exclusive of and in addition to all taxes, fees for municipal improvements, the PEG Capital Fee and other lawful obligations of Grantee to City, subject to applicable law.

Although the total sum of Franchise fee payments and additional commitments set forth elsewhere in this Franchise may total more than five percent (5%) of Grantee's Gross Revenues in any annual period, Grantee agrees that the additional commitments herein are neither Franchise fees as defined under any federal law in effect as of the effective date of this Franchise, nor are the additional payments to be offset or credited against any Franchise fee payments due to the City.

SECTION 18 RECORDS AND REPORTS

- §18.01. Notice. Unless expressly otherwise agreed between the parties, every notice or response required by the Franchise to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when hand delivered, or five (5) business days after having been posted in a properly sealed and correctly addressed envelope and sent by certified or registered mail, postage prepaid.

The notices or responses to the City shall be addressed as follows:

Office of the Mayor
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335

With a copy to:
City Clerk
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335

The notices or responses to the Grantee shall be addressed as follows:

Comcast of Puget Sound, Inc.
Attention: General Manager
1225 Sylvan Way
Bellingham, WA 98310

With a copy to:
Comcast of Puget Sound, Inc.
Attention: Franchising and Local Government Relations
19909 – 120th Avenue NE
Bothell, Washington 98011

The City and the Grantee may designate such other address or addresses from time to time by giving notice to the other.

§18.02. Books of Account. Grantee shall keep complete and accurate books of accounts and records of its business and operations under and in connection with this Franchise and its exhibits. All such books of accounts and records related to enforcement of the Franchise shall be made available for inspection by the City at Grantee's office in Bothell, Washington, during normal business hours upon thirty (30) days' advance notice. If Grantee elects to move the books of accounts and records relating to the enforcement of this Franchise elsewhere, Grantee must make said books and records available and pay the travel costs, lodging, meals and any copying expenses or a City representative to visit the site where the books and records may be found, if such a review is requested by the City. Grantee shall maintain the books and records for Franchise compliance purposes for a period of five (5) years. If Grantee maintains books and records related to enforcement of the Franchise for a period greater than five (5) years, City shall have access to those records.

§18.03. Confidentiality. The City agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or state law, to the extent Grantee makes the City aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is considered confidential. If the City believes it must release any such confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the City receives a request from any Person for disclosure of any information designated by Grantee as confidential, the City shall, so far as consistent with applicable law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of

competent jurisdiction, the City agrees that, to the extent permitted by state and federal law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person.

§18.04. Quarterly Reports. A report shall be filed by Grantee with the City within forty-five (45) days following the end of each calendar quarter, or portion thereof during which the Franchise is in effect. At the Grantee's option, the measurements and reporting above may be changed from calendar quarters to billing or accounting quarters. Grantee shall notify the City of such a change thirty (30) days in advance. The material substance of the report shall be in a form reasonably acceptable to the City. The information contained within the quarterly report shall include, but not be limited to:

A. The Gross Revenue report required by subsection 17.01.

§18.05. Annual Report. A report shall be filed by Grantee with the City within ninety (90) days following the end of each calendar year, or portion thereof during which the Franchise is in effect. At the Grantee's option, the measurements and reporting above may be changed from calendar years to billing or accounting years. Grantee shall notify the City of such a change thirty (30) days in advance. The information contained within the annual report shall include, but not be limited to:

A. Total number of Subscribers and Basic Service only Subscribers, subject to subsection 18.03.

B. The Gross Revenue report required by subsection 17.02.

C. A summary of any Grantee activities regarding an I-Net.

D. A summary of any new services being offered.

E. A PEG capital support recovery report.

Such report shall be certified by a representative of the Grantee knowledgeable of the operations of the Grantee within the City. Grantee shall also provide the City a copy of the publicly-available annual report of the Grantee's parent company, when available.

SECTION 19 REGULATION OF RATES

§19.01. City Regulation of Grantee's Rates. All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the City to the full extent authorized by applicable federal, State and local laws.

§19.02. Notice of Rates. Upon request, Grantee shall provide a copy of its rates and charges for any and all of its Cable Services in the City and shall notify the City of any changes to such rates and charges in compliance with any timing requirements prescribed in FCC regulations.

§19.03. Customer Billing. Customer billing shall be itemized by service(s) per FCC regulation 76 CFR 309 (B)(ii)(A).

SECTION 20 EMPLOYMENT REQUIREMENTS

§20.01. Equal Opportunity in Employment. Grantee shall afford equal opportunity in employment to all qualified Persons. No Person shall be discriminated against in employment because of race, color, religion, national origin, or gender.

SECTION 21 PROHIBITION OF DISCRIMINATORY OR PREFERENTIAL PRACTICES

§21.01. No Rate Discrimination. All Grantee rates and charges shall be published in the form of a publicly-available rate card, made available to the public, and shall be non-discriminatory as to all Persons of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with governing law. Grantee shall permit Subscribers to make any in- residence connections the Subscriber chooses without additional charge and without penalizing the Subscriber therefore. If any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged appropriate service charges by Grantee. Nothing herein shall be construed to prohibit:

- A. The temporary reduction or waiving of rates or charges in conjunction with promotional campaigns;
- B. The offering of rate discounts for Cable Service to governmental agencies or educational institutions; or
- C. Offering of bulk discounts for Multiple Dwelling Units.

SECTION 22 ASSIGNMENT OF FRANCHISE

§22.01. City Approval of Assignment Required. This Franchise shall not be assigned, sold or transferred, or otherwise encumbered, to any third party that does not possess the legal, technical or financial qualifications to operate the Cable System without the prior consent of the City expressed by resolution

or ordinance, and then only under such conditions as may be lawfully prescribed therein. Within thirty (30) days of receiving the request for transfer, the City shall notify the Grantee, in writing, of the information it requires to determine whether the FCC Form 394 (the transfer application) is complete so that the City can ascertain the legal, financial, and technical qualifications of the transferee. If the City has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving a complete FCC Form 394, consent by the City shall be deemed given. No assignment to any Person shall be deemed effective until the transferee has filed with the City an instrument in writing, duly executed, reciting the fact of such assignment, accepting the terms of this Franchise, and agreeing to comply with all lawful provisions hereof, subject to applicable law.

§22.02. City Approval of Change of Control Required. The Grantee shall promptly notify the City of any proposed change of Control of the Grantee. For the purpose of determining whether the City shall consent to such change of Control, the City may inquire into the legal, financial, and technical qualifications of the prospective controlling party, but shall do so within thirty (30) days of receipt of the requested change of Control from the Grantee. Grantee shall assist the City in such inquiry and will respond within ten (10) days unless a longer time is reasonably necessary to respond or allowed by law.

SECTION 23 FRANCHISE VIOLATIONS, NOTICE AND LIQUIDATED DAMAGES

§23.01. Notice of Default; Opportunity to Cure; Public Hearing.

- A. Notice of Default. The City shall notify the Grantee, in writing, of any alleged failure to comply with a provision of this Franchise, which notice shall specify the alleged failure with reasonable particularity. The Grantee shall have thirty (30) days subsequent to receipt of the notice in which to:
1. respond to the City, contesting the City's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below; or
 2. cure the default; or
 3. notify the City that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the City, in writing and in detail, as to the exact steps that will be taken and the projected completion

date. In such case, the City may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

- B. If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with subsection (A)(2), or the City orders a meeting in accordance with subsection (A)(3), the City shall set a meeting to investigate said issues and the existence of the alleged default. The City shall notify Grantee of the meeting, in writing, and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.
- C. If, after the meeting, the City determines that a default exists, Grantee and the City may agree on a plan and schedule to cure the default. Absent such agreement, the City shall order Grantee to correct or remedy the default or violation within fifteen (15) days or within such other reasonable timeframe as the City shall determine.
- D. The determination as to whether a violation of this Franchise has occurred shall be within the discretion of the City, provided that any such determination may be subject to appeal to the City Council or review by a court of competent jurisdiction under applicable law.

§23.02. City Action in Event of Violation. Subject to the City's compliance with the cure notice and procedures given in §23.01 and in the event Grantee does not cure within such time to the City's reasonable satisfaction, the City may:

- A. Seek liquidated damages pursuant to §23.03;
- B. In the case of violation of a material provision of the Franchise or other material violation as set forth in §24.01 and §24.02, seek to revoke the Franchise pursuant to §24.03;
- C. Recommend any other legal or equitable remedy available under this Franchise or any applicable law.

Notwithstanding the foregoing, the City may not pursue monetary damages or liquidated damages in addition to the interest specified in §17.04 for late payment of Franchise fees; or monetary damages or liquidated damages in addition to the interest specified in §14.08 (B) for late payment of the PEG Capital Fee.

§23.03. Liquidated Damages.

- A. If Grantee remains in violation following this cure period, the City may charge to and collect from Grantee the liquidated damages set forth in subsection (E) below, with liquidated damages beginning to accrue no earlier than the day following the end of the cure period set forth in §23.01 above. If the City pursues liquidated damages, the Grantee may elect, in response, to request to enter into arbitration pursuant to §23.04 below. If the Grantee enters into arbitration, liquidated damages shall be tolled from the date of Grantee's election for a period of ninety (90) days before accruing again. If Grantee prevails at arbitration liquidated damages shall be waived, if the City prevails in arbitration liquidated damages shall accrue until Grantee corrects the violation.
- B. The parties agree that actual damages that might be sustained by the City by reason of Grantee's violation of the Franchise provisions below, are uncertain and difficult to ascertain, and that the sums set forth below are reasonable compensation for such violation, and Grantee promises to pay, and the City agrees to accept, such sums as liquidated damages, and not as a penalty, in the event of such violation.
- C. Additionally such sums of money shall be considered liquidated damages due the City by Grantee by reason of inconvenience to the public and because of public works supervision and maintenance and other City administrative time and involvement which resulted in the expenditure of public funds due to Grantee's failure to comply with certain provisions in this Franchise.
- D. Grantee covenants that any such sums paid to the City under this Franchise provision shall not be included in the development of any rate, change, or price for services charged to Subscribers.
- E. The specific amounts of liquidated damages are as follows:
 - (1) For failure of Grantee to provide any report, certificate or map to the City as required by this Franchise, Fifty Dollars (\$50) per day.
 - (2) For failure to comply with the service availability requirements set forth in Section 4, the greater of Fifty Dollars (\$50) per day or One Dollar (\$1.00) per day per impacted Subscriber.
 - (3) For failure of Grantee to respond, restore or repair the Public Rights-of-Way within forty-eight (48) hours of notice by City under §7.03, Two Hundred Fifty Dollars (\$250) per day for

every day following forty-eight (48) hours after Grantee's receipt of the notice.

- (4) Should the City adopt any lawful and generally applicable ordinance governing the Public Rights-of-Way which includes administrative fees for City-performed relocation of Grantee facilities, such fees in the ordinance shall apply to the Grantee and supersede the ability of the City to collect liquidated damages under the Franchise for relocation violations.
- (5) For failure of Grantee to provide a cable system in accordance with Section 11, One Thousand Dollars (\$1000) per day.
- (6) For failure of Grantee to provide the PEG Channels as required by Section 14, Two Hundred Fifty Dollars (\$250) per day.
- (7) For failure of Grantee to provide the notice of rates as required by §19.02, Twenty-Five Dollars (\$25) per day.
- (8) For departure of fifteen percent (15%) measured over a quarterly period from FCC Customer Service Standards, Fifty Dollars (\$50) per day.
- (9) For failure to comply with any other material breaches of the Franchise, Two Hundred Fifty (\$250) per day.

§23.04 Arbitration.

- A. All disputes relating to the interpretation, application or enforcement of liquidated damages under § 23.03 may be arbitrated as provided below.
- B. Either party may initiate arbitration by sending written notice to the other.
- C. In the event an arbitration is initiated, each party has fifteen (15) days from the date of receipt of written notice, to provide to the other party in writing, a list of six persons qualified to serve as arbitrators with no affiliation or relationship with either party that would tend to affect the person's ability to act as a neutral arbitrator, and acceptable to that party.

- D. The City and Grantee shall mutually select an arbitrator from the list within five (5) days after the exchange of proposed arbitrators information. If the City and Grantee are unable to agree upon an arbitrator within the time specified herein, then an arbitrator shall be appointed by the Chief Judge of the Federal District Court for the Western District of Washington or, if said judge declines to act, by the Presiding Judge of the Pierce County Superior Court.
- E. After an arbitrator has been selected, he or she shall take an oath to serve neutrally and impartially. The arbitrator shall then schedule such discovery or other exchange of documents and information as is appropriate to the issue and a date, time and place for hearing the presentations of the City and the Grantee. The hearing shall occur not less than sixty (60) days and not more than one hundred (100) days after the appointment of the arbitrator unless the parties mutually agree to a different schedule or an extension is granted by the arbitrator for good cause shown. The arbitrator shall make a written report to the City and the Grantee on their final determination within thirty (30) days after completion of the hearing. The determination of the arbitrator shall constitute a final arbitration determination, appealable to a court of competent jurisdiction by either party.
- F. The arbitration shall be conducted in Seattle, Washington, in accordance with the existing rules of the American Arbitration Association, but not under the auspices or control of the AAA unless the parties so agree. Judgment upon any award by the arbitrator may be entered by the state or federal court having jurisdiction.
- G. Each party shall be responsible for its own costs of arbitration.

§23.05. Force Majeure. Other than its failure, refusal, or inability to pay its debts and obligations, including, specifically, the payments to City required by this Franchise, Grantee shall not be declared in default or be subject to any sanction under any provision of this Franchise in those cases in which performance of such provision is prevented by reasons beyond its control.

§23.06. Reservation of Rights. The rights reserved to the City under this Section are in addition to all other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right shall affect any other right the City may have.

§23.07. Venue and Jurisdiction. Venue and jurisdiction for any action for breach or default of this agreement will lie in Pierce County, Washington.

SECTION 24 REVOCATION OF FRANCHISE

§24.01. General. In addition to all rights and powers of the City by virtue of this Franchise or otherwise, the City reserves, as an additional and as a separate and distinct power, the right to revoke the Franchise in accordance with the procedures specified herein if any of the following events occur or for any of the following reasons:

- A. Grantee by act or omission violates any material term, condition, or provision of this Franchise and fails or refuses to effect material compliance following the notice and opportunity to cure specified under §23.01.
- B. Grantee knowingly or willingly attempts to evade any material provision of this Franchise.
- C. Grantee knowingly makes a false entry or statement regarding any material provision under this Franchise in any reports or records provided to the City.
- D. Repeated and substantial violation or willful disregard of:
 - (1) the City's lawful ordinances and regulations related to the Public Rights-of-Way; or
 - (2) the Customer Service Standards in Exhibit A; or
 - (3) the Cable System technical performance requirements in Section 12.
- E. The occurrence of any event which may reasonably lead to the foreclosure or other similar judicial or non-judicial sale of all or any material part of the Cable System.
- F. Grantee becomes insolvent or is adjudged bankrupt or all or any part of Grantee's facilities are sold under an instrument to secure a debt and are not redeemed by Grantee within thirty (30) days from the date of such sale; provided, however, this shall not be an event of termination or cancellation in the event of bankruptcy proceeding and the trustee, receiver, or debtor in possession agrees in writing to be bound by the terms of this Franchise.
- G. Grantee has been found by a court of law to have practiced any fraud or deceit in its conduct or relations under this Franchise with the City, Subscribers or potential Subscribers.

§24.02. Material Provisions. Material terms of this Franchise include, but are not limited to:

The indemnification required by Section 8.

- A. The insurance required by subsection 9.01.
- B. The Cable System Capabilities required by section 11.03.
- C. The I-Net required by subsection 11.06, if requested.
- E. The PEG Channels as required by subsections 14.01 and 14.02.
- F. The PEG Capital Fee required by subsection 14.07.
- G. The EAS required by subsection 15.01.
- H. Payment of Franchise fees as required by subsection 17.01.
- I. The reporting requirements of Section 18.02.
- J. Nondiscrimination in rates and services as required by Section 21.
- K. City approval of transfers and changes of control required by subsections 22.01 and 22.02.

§24.03. Method of Revocation. Should the City Council determine, following the process set forth in §23.01 and §23.02 (to the extent applicable,) that its selected course of action shall be to seek revocation of the Franchise, the City shall give Grantee written notice of such intent. The notice shall set forth the causes and reasons for the proposed revocation, shall advise Grantee that it will be provided an opportunity to be heard by City regarding such proposed action before any such action is taken, and shall set forth the time, date, and place of the hearing. In no event shall such hearing be held less than thirty (30) days following delivery of such notice to Grantee. At the hearing, the Grantee shall be entitled to all rights of due process consistent with the City procedures including, but not limited to, the right to present evidence, examine witnesses and the right to be represented by counsel. Any such revocation of this Franchise shall be by ordinance.

§24.04. Grantee May Appeal City's Decision. The Grantee may appeal the City's decision to revoke the Franchise to an appropriate court, which shall have the power to review the City's decision de novo and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the City.

SECTION 25 VALUATION

§25.01. Purchase Price of Cable System. If the Franchise is revoked for cause and the parties agree that the City may purchase the Cable System, the City may purchase the Cable System at an equitable price. If renewal of the Franchise is lawfully denied and the parties agree that the City may purchase the Cable System, the City may purchase the Cable System at fair market value, determined on the basis of the Cable System valued as a going concern but

with no value allocated to the Franchise itself. Should the parties fail to agree upon the equitable price or the fair market value of the Cable System, the same shall be determined in an appropriate proceeding filed in any court having jurisdiction.

SECTION 26 FAILURE OF CITY TO ENFORCE FRANCHISE

- §26.01. No Waiver of Terms. The Grantee shall not be excused from complying with each and all of the terms, conditions, and provisions of this Franchise even though the City should upon one or more occasions fail to insist upon, to require, or to seek compliance with any such term, condition, or provision.

SECTION 27 RECOURSE, UNDERSTANDING, CONSTRUCTION, AND SEVERABILITY

- §27.01. Requirements and Enforcement. Except as expressly provided herein, Grantee shall have no monetary recourse whatsoever against City of any loss, cost, expense, or damage arising out of the provisions or requirements of this Franchise or because of the enforcement thereof by City or because of the lack of City's authority to grant all or any part of this Franchise.
- §27.02. Grantee's Understanding. Grantee expressly acknowledges that in accepting this Franchise, it relied solely upon its own investigation and understanding of the power and authority of City to grant this Franchise and that Grantee was not induced to accept this Franchise by any understanding, promise, or other statement, verbal or written, by or on behalf of City or by any third Person concerning any term or condition not expressed herein.
- §27.03. This Franchise, including all Exhibits, embodies the entire understanding and agreement of the City and the Grantee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral.
- §27.04. Construction of Franchise. By acceptance of this Franchise, Grantee acknowledges that it has carefully read the provisions hereof and is willing to and does accept all of the risks of the meanings of such provisions.
- §27.05. Provisions Severable. If any provision, section, subsection, paragraph, sentence, clause, or phrase of this Franchise is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this Franchise. It is the intent of City in adopting this Franchise that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this Franchise are declared to be severable.

**SECTION 28
ACCEPTANCE OF FRANCHISE**

§28.01. Method of Acceptance. Within thirty (30) days from the publication date of this Franchise, Grantee shall file with the City Clerk a written instrument, executed and sworn to by a corporate officer of the Grantee before a Notary Public, in the following form signed in its name and behalf:

“To the Honorable Mayor and City Council of the City of Gig Harbor, Washington: For itself, its successors, and assigns, Comcast of Puget Sound, Inc., duly authorized to do business in the State of Washington, hereby accepts the attached Franchise and agrees to be bound by all of its terms, conditions, and provisions, subject to applicable law.

COMCAST OF PUGET SOUND, INC.

By: _____

Its: _____

Dated this _____ day of _____, 2006.”

§28.02. Acceptance of Franchise Not a Waiver. Acceptance of this Franchise by Grantee shall not constitute a waiver by it of any of its rights.

§28.03. Effective Date. Subject to the acceptance by Grantee, this Franchise shall be effective five (5) days after its publication and passage as required by law.

BY THE CITY COUNCIL AND APPROVED BY ITS MAYOR ON THIS _____ day of _____, 2006.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 7/7/06

PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.

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

On July 24, 2006 the City Council of the City of Gig Harbor, Washington, approved Ordinance No. ___, the summary of text of which is as follows:

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, GRANTING TO COMCAST OF PUGET SOUND, INC., ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AND FRANCHISE FOR THE TERM OF FIVE YEARS, TO ERECT, MAINTAIN, AND OPERATE A CABLE SYSTEM IN THE CITY OF GIG HARBOR, WASHINGTON; TO ERECT, MAINTAIN, AND OPERATE ITS POLES, TOWERS, ANCHORS, WIRES, CABLES, ELECTRONIC CONDUCTORS, CONDUITS, MANHOLES, AND OTHER STRUCTURES AND APPURTENANCES IN, OVER, UNDER, ALONG, AND ACROSS THE PRESENT AND FUTURE PUBLIC RIGHTS-OF-WAY IN THE CITY; PRESCRIBING COMPENSATION FOR THE RIGHTS, PRIVILEGES, AND FRANCHISE CONFERRED HEREUNDER; PRESCRIBING THE CONDITIONS GOVERNING THE OPERATION OF THE BUSINESS INsofar AS IT AFFECTS THE USE OF PUBLIC PROPERTY FOR THE PURPOSE OF SUCH BUSINESS; INSTALLATION, UPGRADE, MAINTENANCE, AND OPERATION OF SAID SYSTEM AND BUSINESS; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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 July 24, 2006.

BY: *MOLLY M. TOWSLEE, CITY CLERK*



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: JOHN P. VODOPICH, AICP
SUBJECT: COMMUNITY DEVELOPMENT DIRECTOR
AUTHORIZATION OF NEW STREET NAMES FOR THE
DWELLING COMPANY'S SUBDIVISION
DATE: JULY 24, 2006

INFORMATION/BACKGROUND

The City has received a request for the naming of public streets and private lanes in the Dwelling Company Development located in the Gig Harbor North area off Borgen Boulevard. Notification of the proposed street names has been sent to city, county and public agencies for comments. Please find attached copies of the letters of request for comment and location maps. Comments from the Gig Harbor Police Department and Pierce County GIS/911/addressing are also attached.

Mr. Scott Inveen, on behalf of the property developer, has requested nineteen street names be approved for the Dwelling Company's subdivision:

Bristol Place	Pacific Avenue	Byron Lane	Columbus Lane	Leon Lane
Glacier Place	Baltic Street	Cabot Lane	Drake Lane	Magellan Lane
Griffin Place	Bering Street	Cartier Lane	Fabian Lane	Vancouver Lane
Portage Place	Barkley Lane	Champlain Lane	Hudson Lane	

POLICY

The new streets are not located in the "Historical Name Area" and do not require names from the historic names list.

FISCAL IMPACTS

None.

RECOMMENDATION

Staff recommends approval of the street names as requested by Mr. Inveen.



the dwelling company

LITTLE BOAT NORTH INC.

June 8, 2006

Patty McGallian
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Re: Street Names

Dear Ms. McGallian:

Please accept this formal request for the following street names for our plat in the Gig Harbor North area:

Baltic Street
Bering Street
Bristol Place
Glacier Place
Griffin Place
Portage Place
Pacific Avenue
Barkley Lane
Byron lane
Cabot Lane
Cartier Lane
Champlain Lane
Columbus Lane
Drake Lane
Fabian Lane
Hudson Lane
Leon Lane
Magellan Lane
Vancouver Lane

For clarity's sake, the streets are seas, the places are bays, the avenue is an ocean and the lanes are sea explorers.

Sincerely,

Scott Inveen
Authorized Agent

FROM: CITY OF GIG HARBOR BUILDING OFFICIAL/FIRE MARSHAL

REQUESTS FOR COMMENTS

ADDRESS/STREET NAME ADDITIONS OR CHANGES

Owner/Project Name.....**The Dwelling Company, Gig Harbor North Subdivision**

Present Address/**Street** Name..... **None**

Propose Address/**Street** Name...**See attached materials, letter and plat map**

Please see attached materials.

Copy of memo sent to:

Date: **June 9, 2006**

- Planning/Building.....City Hall
- Gig Harbor Police.....City Hall
- Public Works.....City Hall
- Water & Sewer.....City Hall
- Pierce Co. Assessor.....2401 S. 35th St. Tacoma 98409
- Fire Prevention.....6711 Kimball Drive, Gig Harbor
- Post Office.....Gig Harbor
- Peninsula Light.....PO Box 78
- 911 Emergency Staff.....8102 Skansie Ave, Gig Harbor
- Cable TV Puget Sound.....2316 S. State St. Tacoma 98405
- 911 C0. Office.....Rm B-33 Co/City Bldg., 930 Tacoma Ave.
- Puget Sound Energy.....PO Box 11066, Tacoma 98411

This is **REQUEST FOR COMMENTS OF STREET NAMES ONLY- ANY COMMENTS SHOULD BE RECEIVED BY JUNE 30, 2006.** If you have any questions, please contact Patty McGallian, Building Assistant, City of Gig Harbor- 253-851-6170. 3510 Grandview St., Gig Harbor WA 98335.

A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.

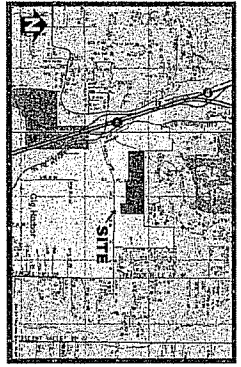


the dwelling company
an affiliate of security properties, inc.

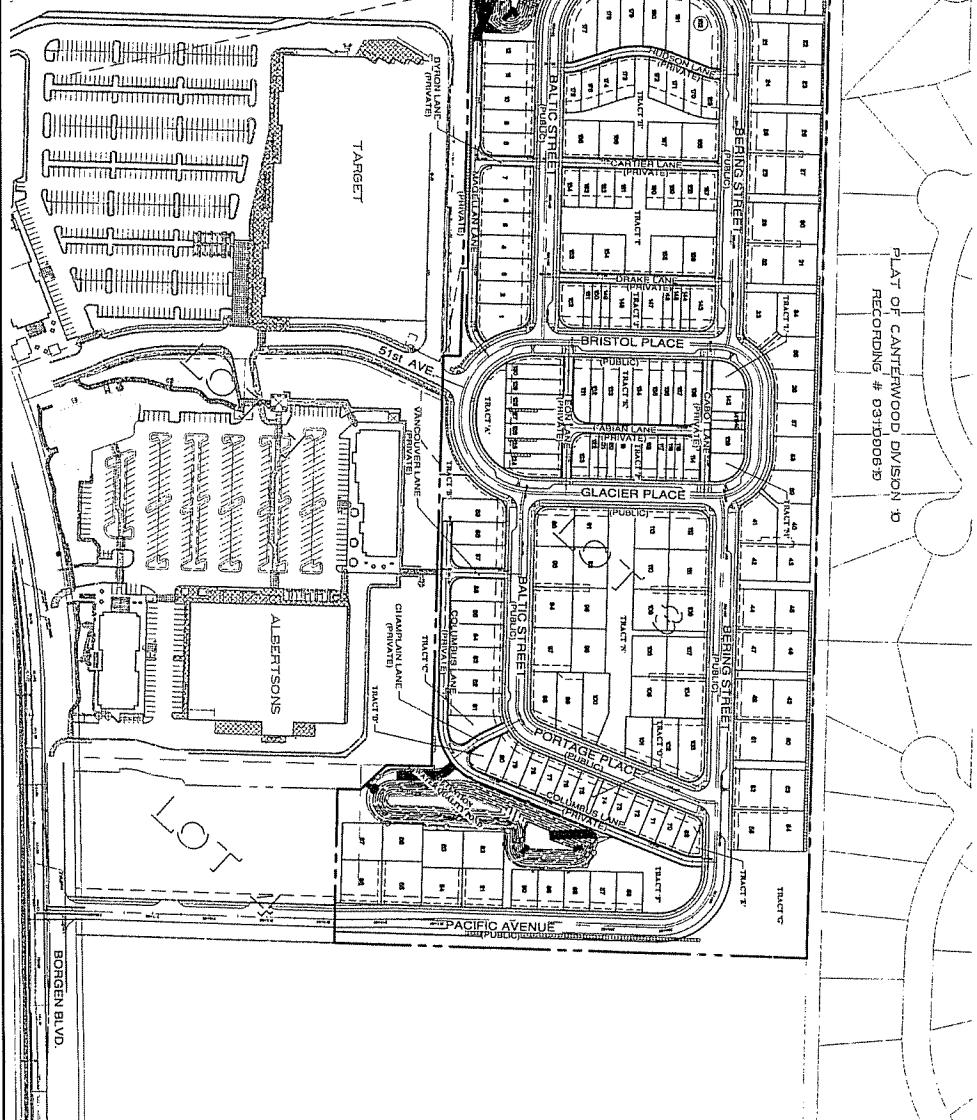
GIG HARBOR NORTH

PRELIMINARY PLAT

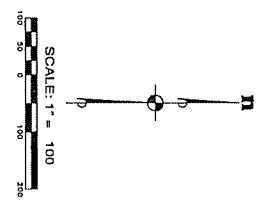
VICINITY MAP



TRACT	DESCRIPTION
TRACT A	OPEN SPACE
TRACT B	OPEN SPACE
TRACT C	OPEN SPACE
TRACT D	OPEN SPACE
TRACT E	OPEN SPACE
TRACT F	OPEN SPACE & STORM WATER FACILITY
TRACT G	OPEN SPACE & STORM WATER FACILITY
TRACT H	OPEN SPACE
TRACT I	OPEN SPACE
TRACT J	OPEN SPACE
TRACT K	OPEN SPACE
TRACT L	OPEN SPACE
TRACT M	OPEN SPACE
TRACT N	OPEN SPACE
TRACT O	OPEN SPACE
TRACT P	OPEN SPACE



PLAT OF CANTERWOOD DIVISION D
RECORDING # 031100067D



LEGEND
PROPOSED PLAT BOUNDARY

SITE STATISTICS
TOTAL SITE AREA: 149 SHEET FAMILY UNITS
TOTAL NUMBER OF LOTS: 149 SHEET FAMILY UNITS
TOTAL NUMBER OF UNITS: 149 SHEET FAMILY UNITS

AREA SUMMARY
TOTAL SITE AREA: 149 SHEET FAMILY UNITS
TOTAL NUMBER OF LOTS: 149 SHEET FAMILY UNITS
TOTAL NUMBER OF UNITS: 149 SHEET FAMILY UNITS

LEGAL DESCRIPTION
SUBJECT TO THE RECORDING OF THE PLAT AND THE RECORDING OF THE PLAT NUMBER 20002315004.

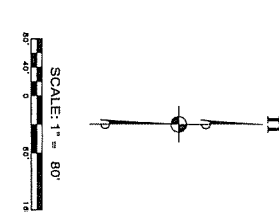
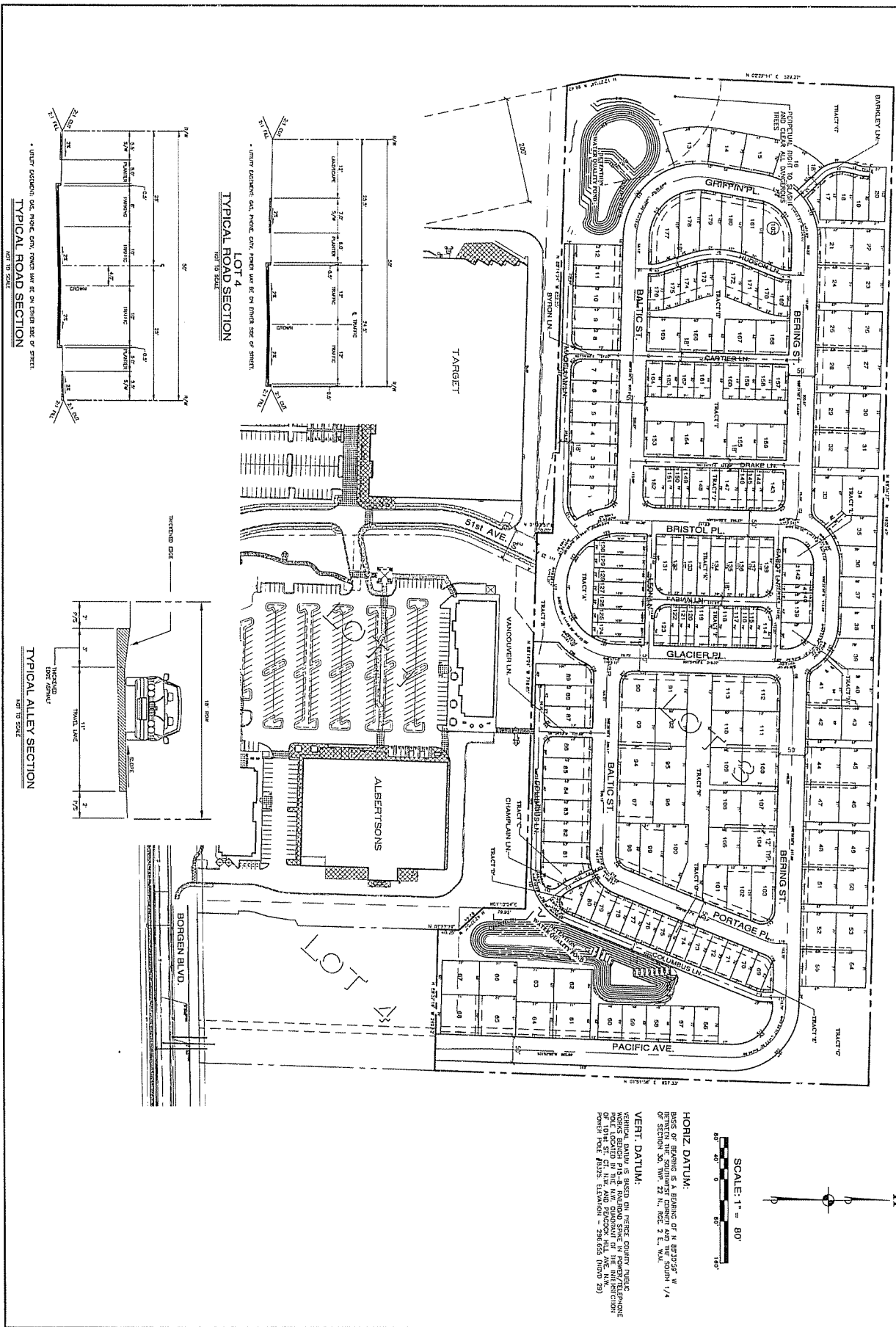
NOTE:
THE BOUNDARY AND TOPOGRAPHY SHOWN ON THESE PLANS WERE PROVIDED TO ESM LLC BY OTHERS. ESM LLC ASSUMES NO LIABILITY AS TO THE ACCURACY OF THIS INFORMATION, AND IS ONLY PROVIDING FOR INFORMATIONAL PURPOSES.

- SHEET INDEX**
- 1 COVER SHEET
 - 2 LOT DIMENSIONS
 - 3 CONCEPTUAL UTILITY PLAN
 - 4 CONCEPTUAL GRADING PLAN
 - 5 TOPOGRAPHIC MAP
 - 1-1 PRELIMINARY LANDSCAPE PLAN
 - 1-2 PRELIMINARY LANDSCAPE PLAN
 - 1-3 PRELIMINARY LANDSCAPE PLAN
 - 1-4 PRELIMINARY LANDSCAPE DETAILS & NOTES

<p>THE DWELLING COMPANY 33615 1st Way South Federal Way WA 98003 www.esmcivil.com</p>	<p>ESM CONSULTING ENGINEERS, LLC 33615 1st Way South Federal Way WA 98003 www.esmcivil.com</p>	<p>CITY OF GIG HARBOR PRELIMINARY PLAT - COVER SHEET WASHINGTON</p>	<p>INSURANCE LICENSED PROFESSIONAL ENGINEER LICENSED PROFESSIONAL SURVEYOR LICENSED PROFESSIONAL LANDSCAPE ARCHITECT</p>
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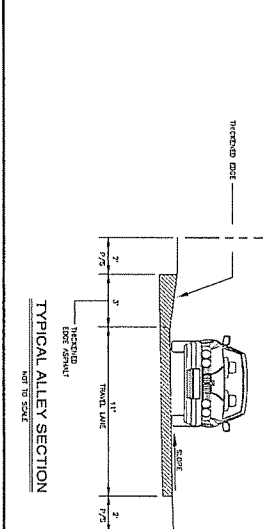
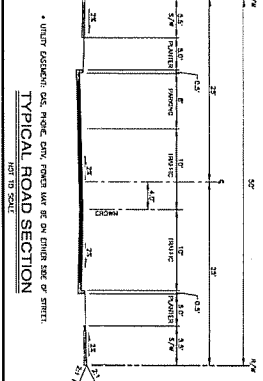
PLAT OF CANTERWOOD DIVISION D
 RECORDING # 091DD0893

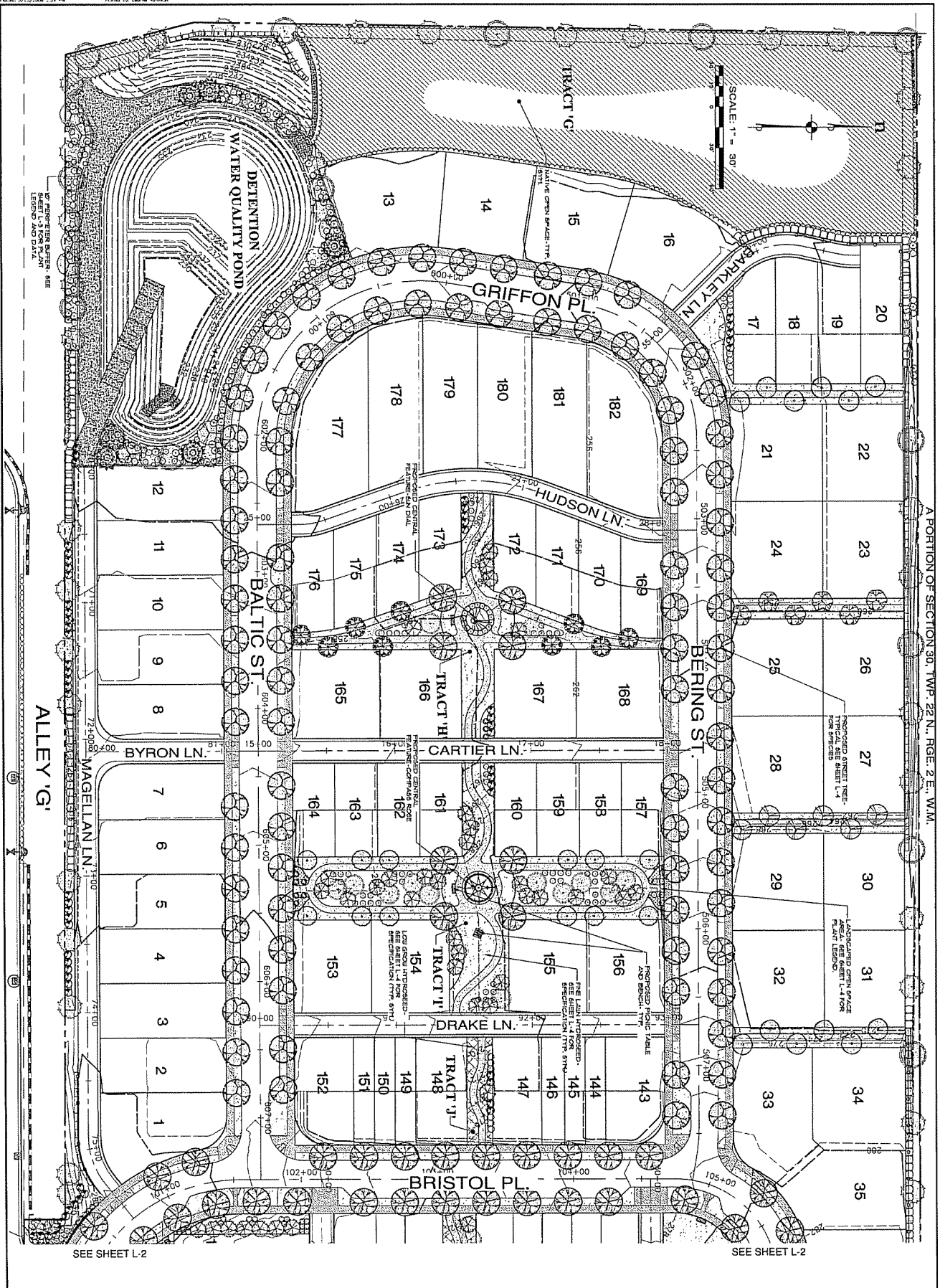
A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.



HORIZ. DATUM:
 BASIS OF BEARING IS A BEARING OF N 82°35'57" W
 BETWEEN THE SOUTHWEST CORNER AND THE SOUTH 1/4
 OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.

VERT. DATUM:
 VERTICAL DATUM IS BASED ON HEIGHT CONTROL PUBLIC
 WORKS BEING PLACED BY THE PORTAGE/TELEPHONE
 OF 10th ST. CL. N.W. AND RECORDING # 114, N.W. 1/4
 PORTAGE PLAZA ELEVATION = 586.03 (MOND 89)





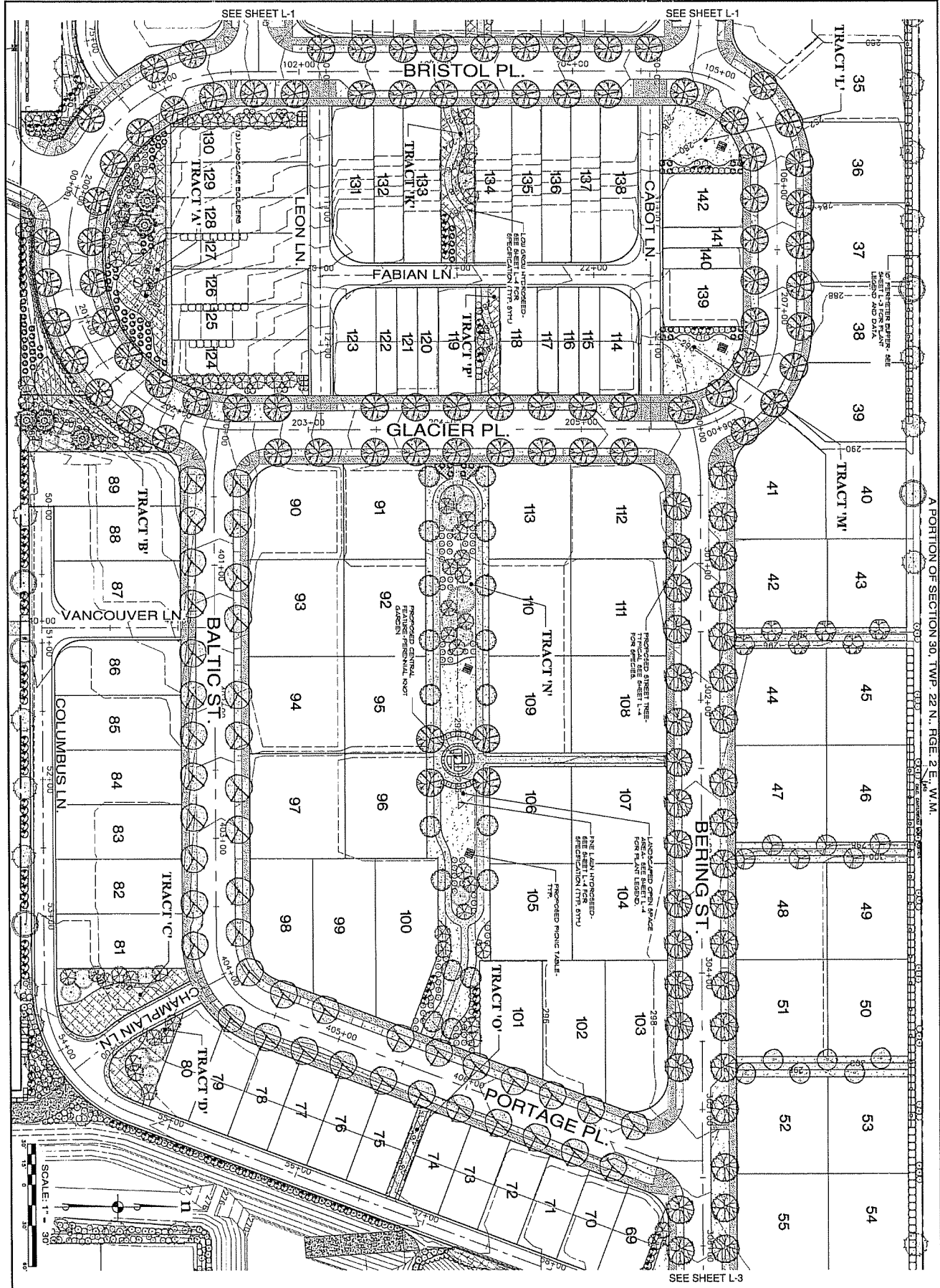
SEE SHEET L-2

SEE SHEET L-2

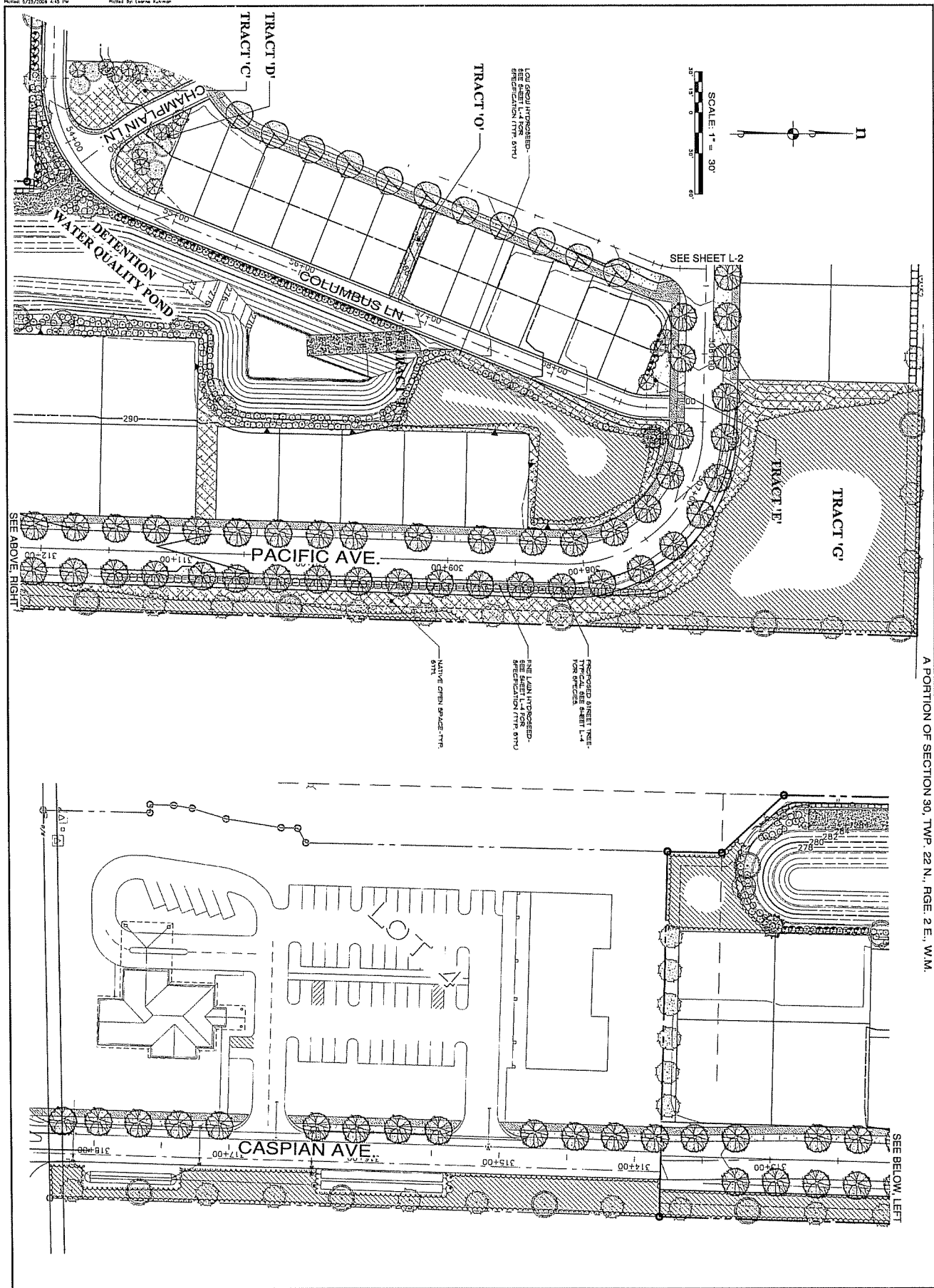
SEE SHEET L-2

SEE SHEET L-2

<p>2014 12 11 11:43:00 CHG: JMK DESIGNED BY: JMK CHECKED BY: JMK DATE: 12-11-14</p>	<p>THE DWELLING COMPANY GIG HARBOR NORTH PRELIMINARY LANDSCAPE PLAN</p>		<p>ESM CONSULTING ENGINEERS, L.L.C. 33915 1st Way South #200 Federal Way, WA 98003 www.esmcivil.com</p>		<p>1" = 30' NORTH</p>	<p>11 10 9 8 7 6 5 4 3 2 1</p>	<p>13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35</p>	<p>ALLEY 'G' MAGELLAN LN. BYRON LN. BALTIMORE ST. CARTIER LN. HUDSON LN. GRIFFON PL. BERING ST. DRAKE LN. BRISTOL PL.</p>	<p>TRACT 'G' TRACT 'H' TRACT 'I'</p>	<p>DETONATION WATER QUALITY POND</p>
	<p>1 of 9 SHEETS</p>	<p>CITY OF GIG HARBOR WASHINGTON</p>	<p>Civil Engineering Land Surveying Public Works</p>	<p>Land Planning Project Management Landscape Architecture</p>						



<p>DATE: 11/18/2005</p> <p>DRAWN BY: LK</p> <p>CHECKED BY: LK</p> <p>SCALE: 1" = 30'</p> <p>SHEET NO. 7 OF 9 SHEETS</p> <p>L-2</p>	<p>THE DWELLING COMPANY</p> <p>GIG HARBOR NORTH</p> <p>PRELIMINARY LANDSCAPE PLAN</p> <p>CITY OF GIG HARBOR WASHINGTON</p>		<p>ESM CONSULTING ENGINEERS, L.P.</p> <p>33915 1st Way South #200 Federal Way, WA 98003</p> <p>www.esmcivil.com</p> <p>Civil Engineering Land Surveying Public Works</p>		<p>LANDSCAPE ARCHITECTURE</p> <p>33915 1st Way South #200 Federal Way, WA 98003</p> <p>www.esmcivil.com</p> <p>Land Planning Landscape Architecture</p>	
	<p>PROJECT NO. 05-001-001</p> <p>CLIENT: THE DWELLING COMPANY</p> <p>LOCATION: GIG HARBOR NORTH</p> <p>DATE: 11/18/2005</p>		<p>PROJECT NO. 05-001-001</p> <p>CLIENT: THE DWELLING COMPANY</p> <p>LOCATION: GIG HARBOR NORTH</p> <p>DATE: 11/18/2005</p>		<p>PROJECT NO. 05-001-001</p> <p>CLIENT: THE DWELLING COMPANY</p> <p>LOCATION: GIG HARBOR NORTH</p> <p>DATE: 11/18/2005</p>	
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A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.

<p>13</p> <p>8 of 9 SHEETS</p>	<p>THE DWELLING COMPANY</p> <p>GIG HARBOR NORTH</p> <p>CITY OF GIG HARBOR PRELIMINARY LANDSCAPE PLAN WASHINGTON</p>	<p>ESM CONSULTING ENGINEERS, LLC</p> <p>33015 1st Way South #200 Federal Way WA 98003</p> <p>www.esmcivil.com</p> <p>Civil Engineering Public Works Land Surveying Project Management Land Planning Landscape Architecture</p>	<p>DATE: 07-27-24</p> <p>PROJECT NO: 33015 1st Way South #200</p> <p>SCALE: 1" = 30'</p> <p>DRAWN BY: LAUREN KASPER</p> <p>CHECKED BY: [Signature]</p> <p>DATE: 07-27-24</p>	<p>DATE: 07-27-24</p> <p>PROJECT NO: 33015 1st Way South #200</p> <p>SCALE: 1" = 30'</p> <p>DRAWN BY: LAUREN KASPER</p> <p>CHECKED BY: [Signature]</p> <p>DATE: 07-27-24</p>
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LOW GROW HYDROSEED MIX

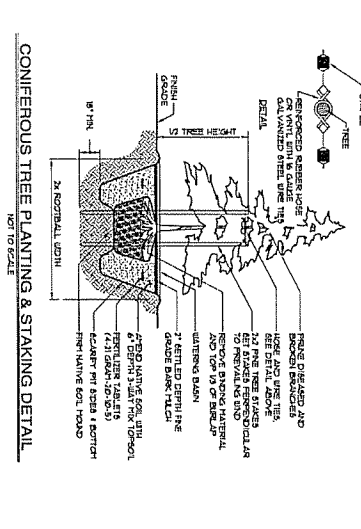
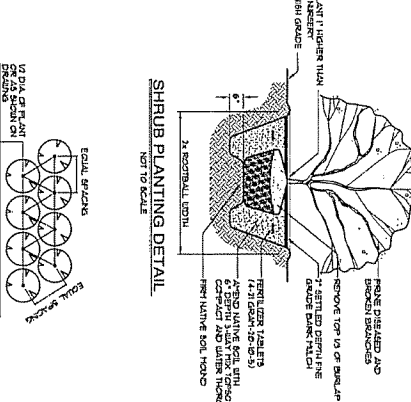
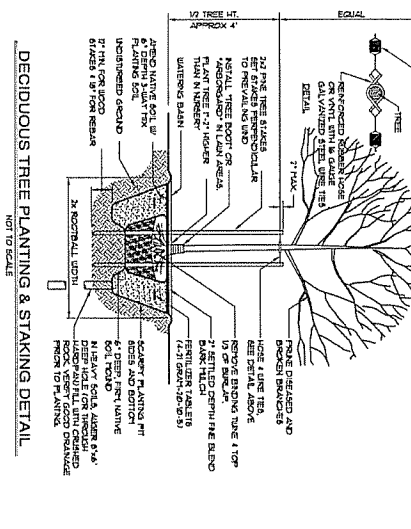
NAME	PROPORTION BY WEIGHT	PERCENT QUANTITY	APPROXIMATE
PERENNIAL BLUEGRASS	50%	50	4-1/2 lbs / 1000 sq ft
RAVENSCLAW	50%	50	4-1/2 lbs / 1000 sq ft

SEED MIX FOR FINE LAWN AREAS

NAME	PROPORTION BY WEIGHT	PERCENT QUANTITY	APPROXIMATE
PERENNIAL BLUEGRASS	50%	50	4-1/2 lbs / 1000 sq ft
RAVENSCLAW	50%	50	4-1/2 lbs / 1000 sq ft

EROSION CONTROL SEED MIX FOR DETENTION PONDS

NAME	PROPORTION BY WEIGHT	PERCENT QUANTITY	APPROXIMATE
PERENNIAL BLUEGRASS	50%	50	4-1/2 lbs / 1000 sq ft
RAVENSCLAW	50%	50	4-1/2 lbs / 1000 sq ft



LANDSCAPE NOTES

- DO NOT DO BEYOND LOCAL CLIMATE.
- GENERAL CONTRACTOR SHALL PROVIDE FOR ALL GENERAL CONTRACTOR DETAILS OTHERWISE NOTED.
- ALL SHRUBS MUST BE ESCORTED OR ESCORTED BY SOIL CONDITIONING.
- DO NOT DO BEYOND LOCAL CLIMATE.
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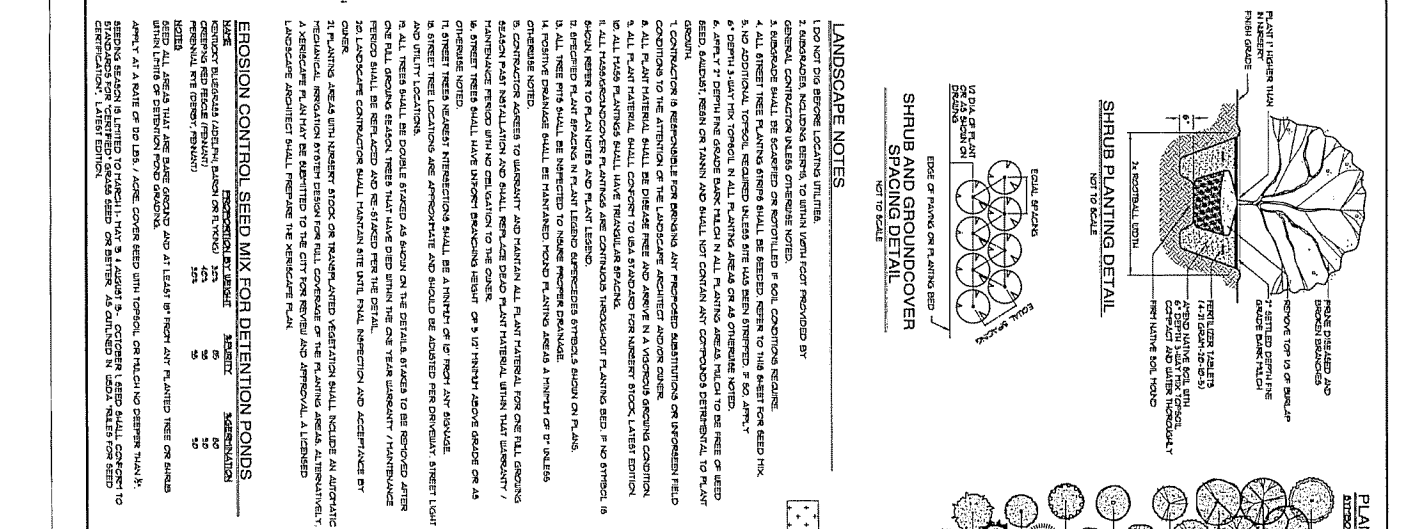
PLANT LEGEND

PLANT NAME	SIZE	QUANTITY
AKER NATURAL / PACIFIC DOGWOOD	7' CAL.	37
AKER NORTHERN CORONADO GUMMEL / OCTOBER GUMMEL MOUND	7' CAL.	39
CARLEYS DETAILA / KANTHANA / GOUTY-NATURE HORSESHOE	7' CAL.	39
FRAXINA OBTUSATA / RAYWOOD / RAYWOOD SHAW	7' CAL.	39
AKER NORTHERN BOWL LEAF / BOWL LEAF HAYME	7' CAL.	39
CEDRUS DECOLORED / REDWOOD CEDAR	10' FT. H.N.	48
AKER NORTHERN / KENTUCKY RED HAWK	10' FT. H.N.	48
STIMULAX JAPONICA / JAPANESE EXCELLENCE	10' FT. H.N.	48
HEDERA HELIX / ENGLISH IVY	4' FT. H.N.	48
PRUNUS SP. / BARKED TREE FLOWERING CRABAPPLE	10' FT. CAL.	48
PRUNUS SP. / YOUNG PLEASING CEREUS	10' FT. CAL.	48
PRUNUS SP. / MOUNTAIN BLOOMING PEAR	10' FT. CAL.	48
PRUNUS SP. / MOUNTAIN BLOOMING PEAR	10' FT. CAL.	48
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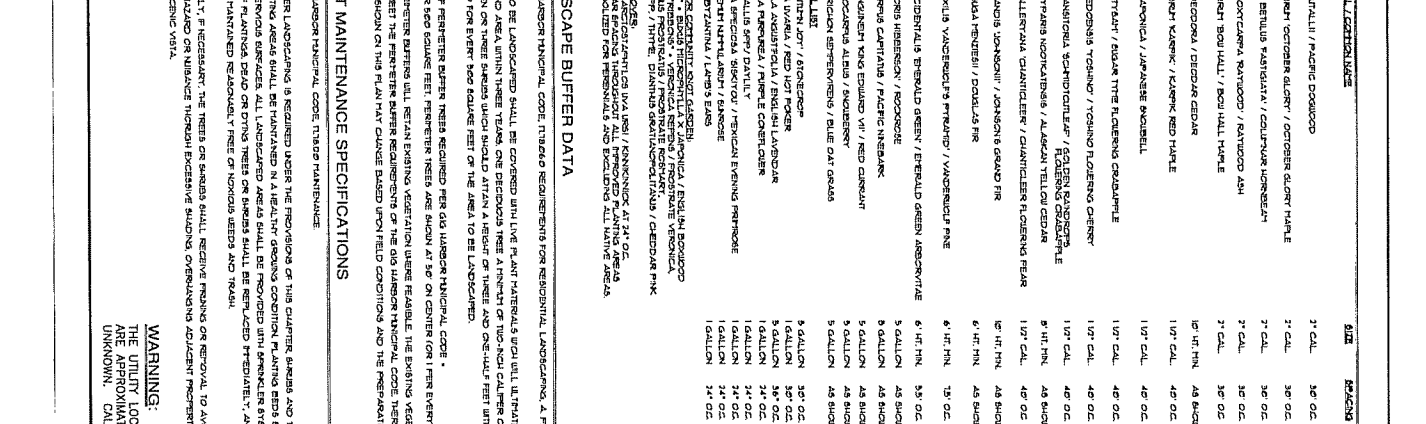
LANDSCAPE BUFFER DATA

PLANT NAME	HEIGHT	WIDTH	DEPTH
AKER NATURAL / PACIFIC DOGWOOD	7'	7"	37
AKER NORTHERN CORONADO GUMMEL / OCTOBER GUMMEL MOUND	7'	7"	39
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PRUNUS SP. / MOUNTAIN BLOOMING PEAR	10'	10"	48
PRUNUS SP. / MOUNTAIN BLOOMING PEAR	10'	10"	48

CONIFEROUS TREE PLANTING & STAKING DETAIL



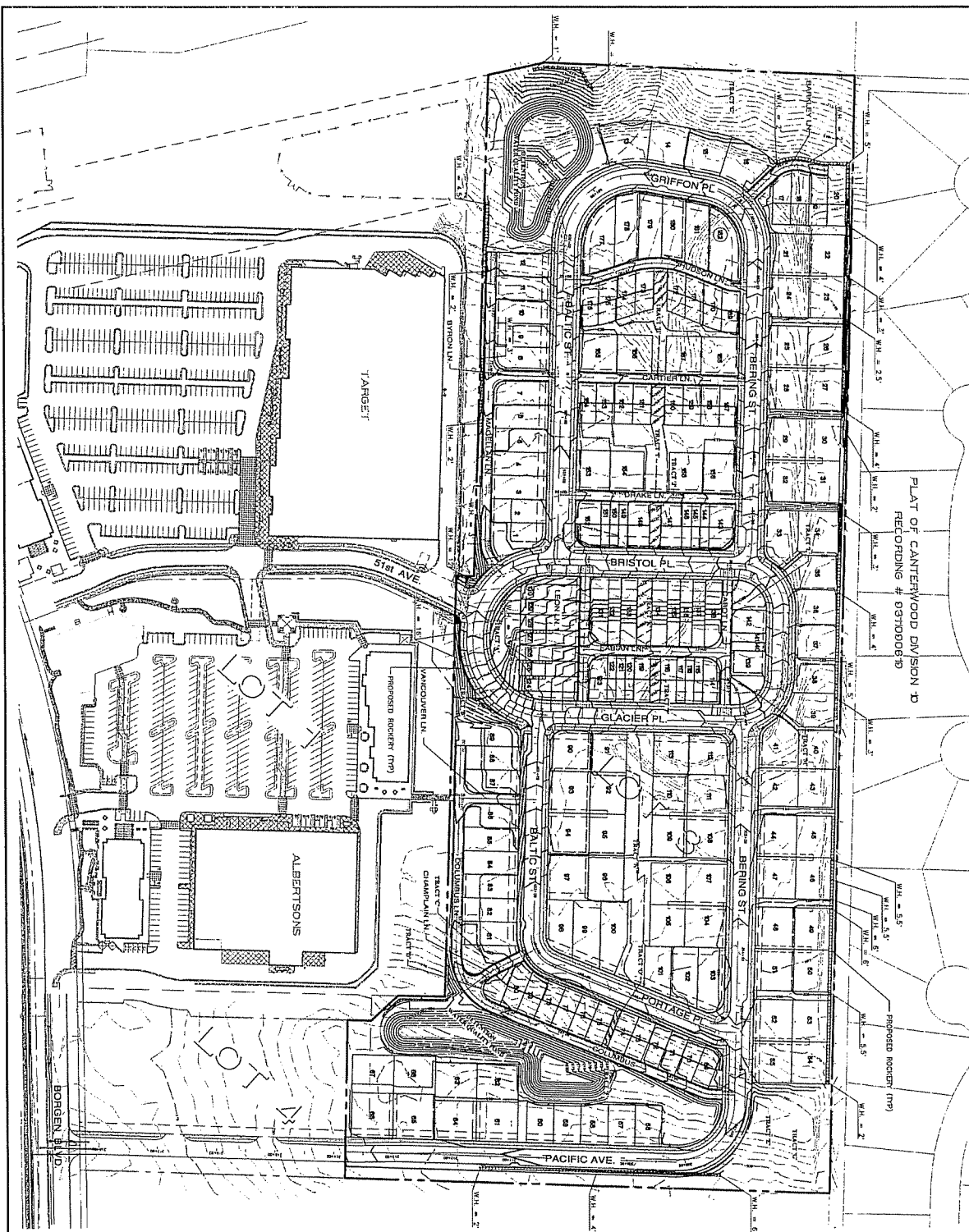
SHRUB AND GROUND COVER SPAACING DETAIL



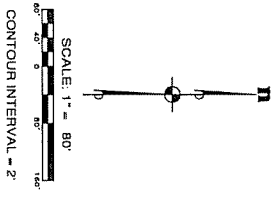
LANDSCAPE BUFFER DATA

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PRUNUS SP. / MOUNTAIN BLOOMING PEAR	10'	10"	48

A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.



PLAT OF CANTERWOOD DIVISION TO
RECORDING # 0370006-D



LEGEND

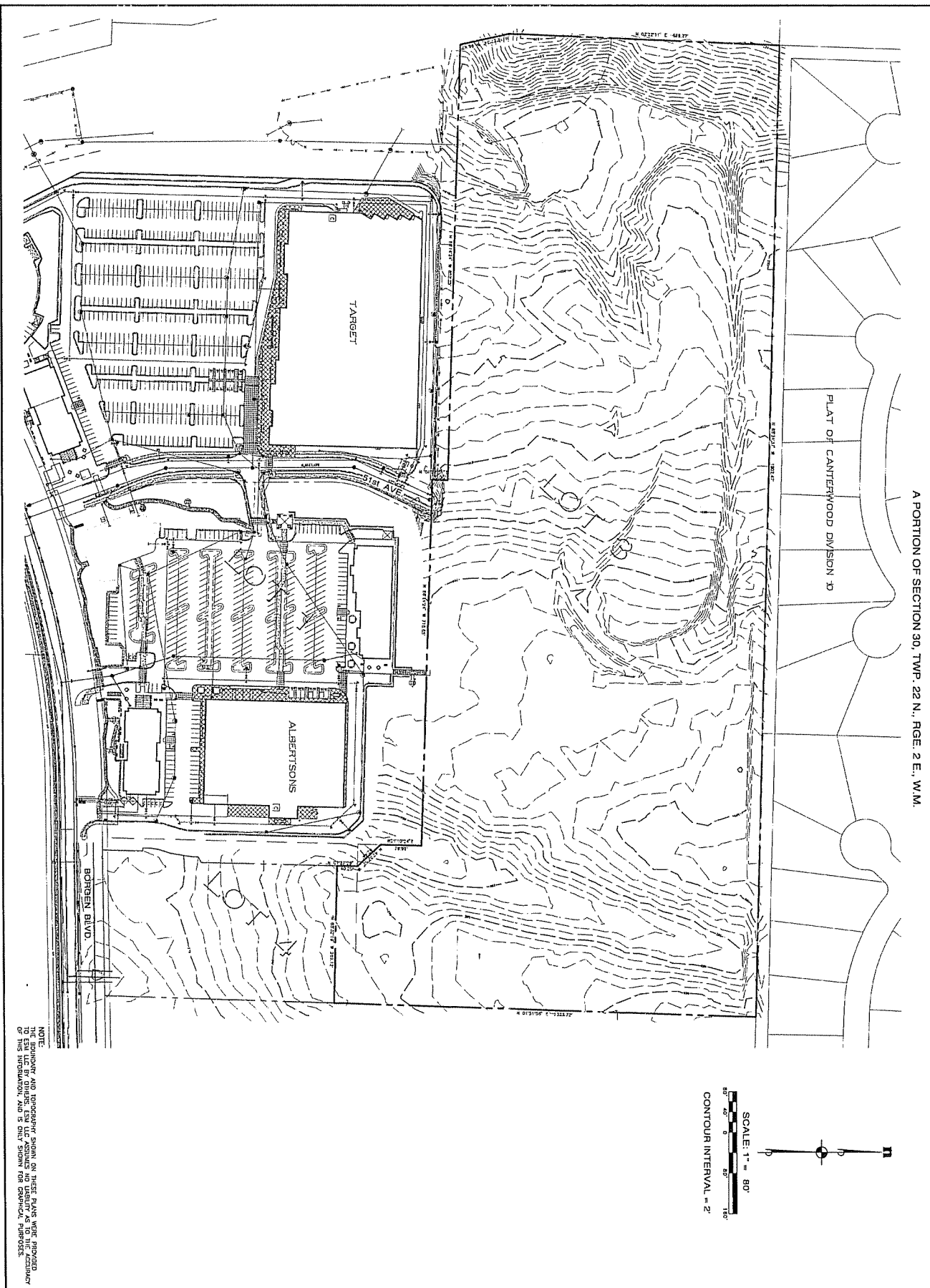
- EXISTING 1' CONTOUR
- EXISTING 2' CONTOUR
- PROPOSED 1' CONTOUR
- PROPOSED 2' CONTOUR
- ROCKERY WALL HEIGHT
- W.H. = 2'

QUANTITIES	
SITE SHEDDING	42,106 SQ FT
TOTAL CUT	58,533 SQ FT
TOTAL FILL	11,200 SQ FT

<p>PP-04 4" x 9" SHEET</p>	<p>THE DWELLING COMPANY GIG HARBOR NORTH</p>	<p>ESM CONSULTING ENGINEERS LLC 720 S. 348th Street Federal Way, WA 98003 www.esmcivil.com</p>	<p>CITY OF GIG HARBOR CONCEPTUAL GRADING PLAN WASHINGTON</p>	<p>Civil Engineering Public Works</p>	<p>Land Scaping Project Management Landscape Architecture</p>		<table border="1" style="width: 100%; height: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">REVISIONS</td></tr> <tr><td style="text-align: center;">NO.</td></tr> <tr><td style="text-align: center;">DATE</td></tr> <tr><td style="text-align: center;">BY</td></tr> <tr><td style="text-align: center;">CHECKED BY</td></tr> <tr><td style="text-align: center;">DATE</td></tr> <tr><td style="text-align: center;">BY</td></tr> <tr><td style="text-align: center;">CHECKED BY</td></tr> <tr><td style="text-align: center;">DATE</td></tr> <tr><td style="text-align: center;">BY</td></tr> <tr><td style="text-align: center;">CHECKED BY</td></tr> <tr><td style="text-align: center;">DATE</td></tr> </table>	REVISIONS	NO.	DATE	BY	CHECKED BY	DATE	BY	CHECKED BY	DATE	BY	CHECKED BY	DATE
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A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.

PLAT OF CANTERWOOD DIVISION 3D



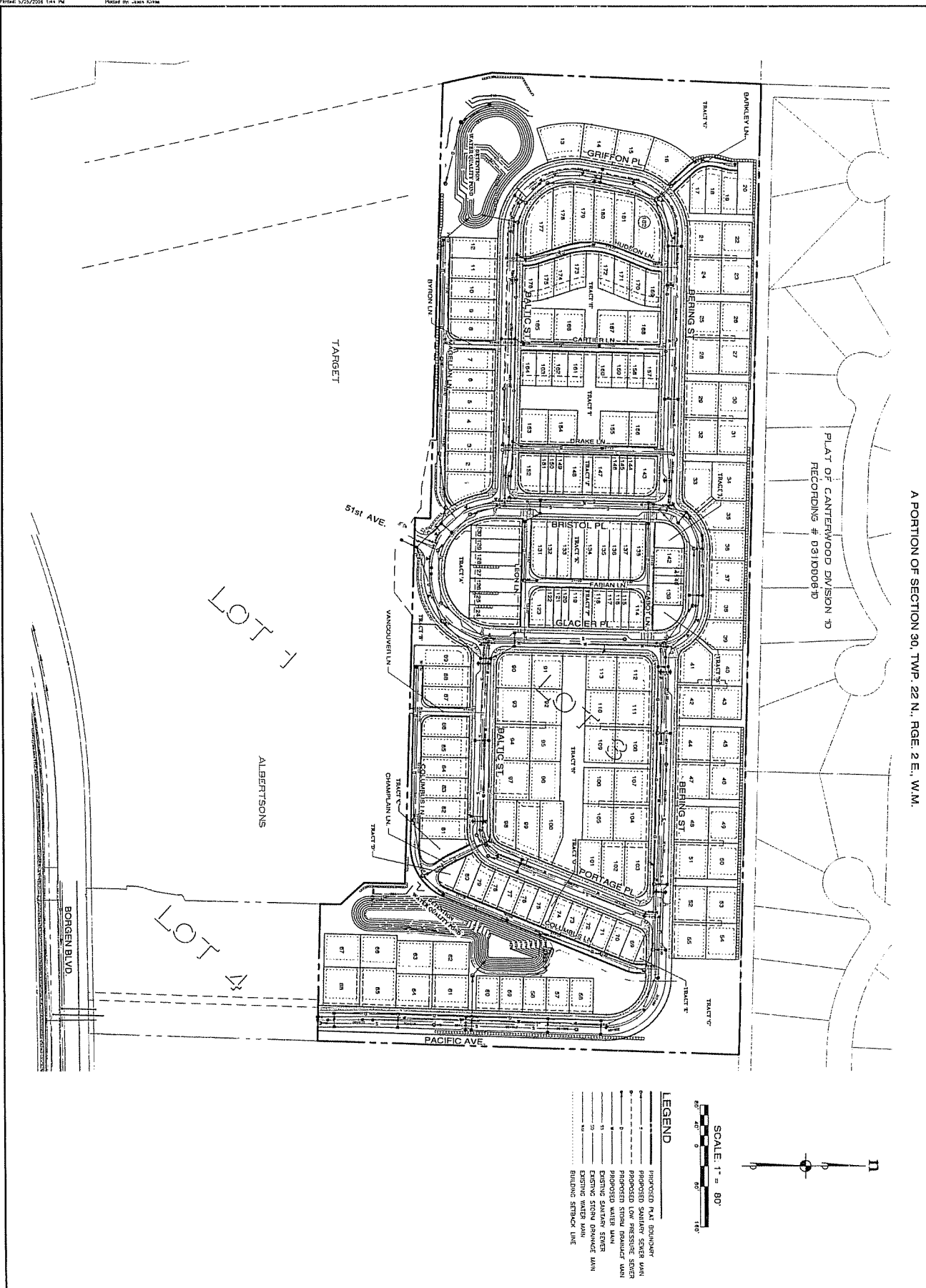
NOTE:
THE BOUNDARY AND TOPOGRAPHY SHOWN ON THESE PLANS WERE PROVIDED
TO ESM BY THE DWELLING COMPANY AND SHOWN FOR GENERAL PURPOSES.
THE INFORMATION AND DATA SHOWN ARE NOT TO BE USED FOR CONSTRUCTION PURPOSES.

PP-05
OF 9 SHEETS

THE DWELLING COMPANY
GIG HARBOR NORTH
CITY OF GIG HARBOR TOPOGRAPHIC MAP - EXISTING CONDITIONS WASHINGTON

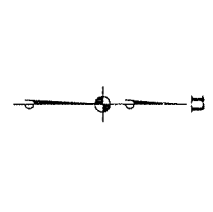
ESM CONSULTING ENGINEERS LLC
720 S. 348th Street
Federal Way, WA 98003
www.esmcivil.com
Civil Engineering | Land Surveying | Land Planning |
Public Works | Project Management | Landscape Architecture

7/13/20
11:11 AM
REVISIONS



A PORTION OF SECTION 30, TWP. 22 N., RGE. 2 E., W.M.

PLAT OF CANTERWOOD DIVISION 10
 RECORDING # 031D00087D



- LEGEND**
- PROPOSED RAIN DRAINAGE MAIN
 - PROPOSED STORM DRAINAGE MAIN
 - PROPOSED LOW PRESSURE SEWER
 - PROPOSED WATER MAIN
 - EXISTING WATER MAIN
 - EXISTING STORM DRAINAGE MAIN
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<p>THE DWELLING COMPANY GIG HARBOR NORTH CITY OF GIG HARBOR CONCEPTUAL UTILITY PLAN WASHINGTON</p>	<p>ESM CONSULTING ENGINEERS, LLC 305 S 1st Way South Federal Way, WA 98003 www.esmcivil.com Civil Engineering Land Surveying Public Works Project Management Landscape Architecture</p>		<p>DATE: 03/25/10 DRAWN BY: J. KIRBY CHECKED BY: J. KIRBY TITLE: PROJECT ENGINEER</p>	<p>1000 3RD, WASHINGTON ENG. LICENSE: 44576 REGISTERED: 03/25/10 EXPIRES: 03/25/13 NO. OF SHEETS: 9 SHEET NO.: 3</p>
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From: Jenee Nash [JNASH@co.pierce.wa.us]
Sent: Monday, June 12, 2006 4:28 PM
To: McGallian, Patty
Subject: Request For Comments - Gig Harbor North

Hi, Patty-

I just received a "Request for Comments" mailing regarding the Gig Harbor North Preliminary Plat. I ran a query to find any road name matches with County roads, and the only match that came up was Pacific Avenue (a well-known thoroughfare in Tacoma).

From a GIS / 9-1-1 dispatch standpoint, a duplicate name within the Pierce County roads system could pose a problem if the roads had similar address ranges, producing two location results when an address on Pacific Ave is queried. Assuming that everyone involved is awake and all the technology is working correctly, the distinction would be made clear possibly through the enhanced 9-1-1 system or when a caller stated that s/he was in Gig Harbor rather than Tacoma, but you should be aware that there is some potential for confusion.

Anyway, there are my two cents' worth of comments. My apologies if you already knew this information or have already heard it from others.

Thank you!

Jenee' Nash
GIS Technician
Pierce County, WA
(253) 798-6768
jnash@co.pierce.wa.us

From: Davis, Michael L
Sent: Friday, June 09, 2006 1:23 PM
To: McGallian, Patty
Subject: STREET NAMES

I think the names for Gig Harbor North are fantastic!

Mike Davis

Chief of Police
Gig Harbor Police Department
3510 Grandview Street
Gig Harbor, WA 98355
Office: 253.853.2420
Fax: 253.851.2399

"Leadership is the challenge to do something more than average"



ADMINISTRATION

TO: MAYOR HUNTER AND CITY COUNCIL MEMBERS
FROM: MARK HOPPEN, CITY ADMINISTRATOR
SUBJECT: RECREATION PROGRAM INTERLOCAL
DATE: JUNE 24, 2006

INFORMATION/BACKGROUND

The *City of Gig Harbor 2006 Annual Budget* identifies an administration objective to cooperate with the PenMet Parks District to develop recreation programs on the Gig Harbor Peninsula for Gig Harbor residents. \$20,000 was budgeted for the purpose of recreational program support 2002 through 2005 for the Peninsula Recreational Program. This program dissolved in 2005 with the formation of the PenMet Parks District and with the withdrawal of Pierce County from recreational programming on the Peninsula. The attached agreement is ready for approval by the City of Gig Harbor and the PenMet Parks District. The attached agreement, once approved by both jurisdictions, will enable the development and coordination of existing and yet-to-be-developed recreational opportunities for people of all ages on the Peninsula.

The program will rely on the recreation programming capabilities of the PenMet Parks District and will be administrated by PenMet Parks Executive Director Marc Connelly with programming assistance from PAA.

POLICY CONSIDERATIONS

This program will be constrained by the availability of school district, city, county, and park district facilities. Neither the city nor parks district will need to change its mission or policies to accommodate this program. The school district is not a partner to this agreement because the rental policy for school district facilities will be sufficient to provide the necessary school facilities for the conduct of this program.

FISCAL CONSIDERATIONS

Since the year is partly over, \$12,500 will be the first and only payment for 2006. In 2007, the city budget would anticipate an annual payment of \$25,000. The agreement allows for yearly termination by any party through notice on or before December 1 of any year through 2008, but anticipates an on-going relationship between the two jurisdictions.

RECOMMENDATION

The City Attorney has reviewed and approved the agreement. Insurance and indemnification concerns have been satisfied through the city's insurance pool. I recommend that the City Council approve the attached resolution that authorizes the Mayor to sign the interlocal agreement as presented.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF GIG HARBOR, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN AN INTERLOCAL AGREEMENT WITH PENMET PARKS FOR COOPERATION TO DELIVER RECREATION PROGRAM SERVICES TO SHARE FACILITY AND EQUIPMENT RESOURCES.

WHEREAS, through extensive public involvement and to further the interest of the community, the City adopted the 2001 City of Gig Harbor Parks, Recreation and Open Space Plan which identifies partnerships with local parks agencies to enhance park and recreation opportunities as one of the major goals; and

WHEREAS, the Interlocal Cooperation Act, RCW 39.34, permits government agencies to contract with each other to provide mutually beneficial services and to share facilities and equipment; and

WHEREAS, an interlocal agreement between PenMet Parks and the City of Gig Harbor will provide a significant public benefit providing the support necessary to provide public recreational program opportunities to the residents of the City of Gig Harbor and provide financial and operational efficiencies through the sharing of public resources such as equipment and facilities;

NOW BE IT RESOLVED that the City of Gig Harbor supports an interlocal agreement to develop community recreational opportunities for residents in the City of Gig Harbor and authorizes the Mayor to sign such agreement.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR
this ____ day of _____, 2006.

APPROVED:

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 07/18/06
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.



INTERLOCAL AGREEMENT BETWEEN THE CITY OF GIG HARBOR AND THE PENINSULA METROPOLITAN PARK DISTRICT

THIS IS AN INTERLOCAL AGREEMENT made and entered into, pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, by and between the City of Gig Harbor (the "City"), an optional code, non-charter municipal corporation, and Peninsula Metropolitan Park District ("PenMet Parks"), a municipal corporation, (collectively referred to as the "Parties"), relating to the operation of a Joint Recreation Program.

WHEREAS the City of Gig Harbor adopted the *2001 City of Gig Harbor Comprehensive Parks, Recreation and Open Space Plan* that encourages joint ventures and partnerships; and

WHEREAS it is an adopted goal of PenMet Parks "To provide park and recreation opportunities for our constituents through partnerships with Peninsula School District, City of Gig Harbor, Pierce County, Washington State, Key Peninsula Metropolitan Park District, and other public agencies or private organizations;" and

WHEREAS there is a need for additional recreation services within the geographic boundaries of the City of Gig Harbor and PenMet Parks, the boundaries of which are limited to the Gig Harbor Peninsula and are complementary and exclusive from each other at this time, except in the Pt. Fosdick neighborhood within the city limits; and

WHEREAS the City of Gig Harbor and PenMet Parks each desire to provide the citizens of their respective jurisdictions enhanced opportunities for recreation and park services; and

WHEREAS it is in the public interest that the Parties cooperate to provide resources to provide efficient, cost-effective delivery of recreation service; and

WHEREAS each of the Parties is a public agency within the meaning of Chapter 39.34 RCW, and citizens of both park jurisdictions customarily use parks within both districts without respect to jurisdictional boundaries and without fee for general use; and

WHEREAS both parties acknowledge that they independently have the powers, privileges or authority to perform the activities described herein, but choose to perform them jointly, to the extent described in this Agreement;

NOW, THEREFORE, pursuant to Chapter 39.34 RCW, the City of Gig Harbor and PenMet Parks agree as follows:

1. PENINSULA RECREATION PROGRAM

The Peninsula Recreation Program is a comprehensive program providing recreational opportunities in the arts, athletics, travel, life-long learning, and special events for youth, adults, and seniors.

The City of Gig Harbor and PenMet Parks will cooperate to provide the services of the Peninsula Recreation Program to citizens of both entities as described below.

For the purposes of this agreement the Executive Director of PenMet Parks or his or her designee shall be the administrator of the activities of the Peninsula Recreation Program supported by this agreement.

- 1.1 PenMet Parks will coordinate the development and distribution of the Peninsula Recreation Guide to citizens of the City and PenMet Parks.
- 1.2 PenMet Parks with the Peninsula Athletic Association will provide administrative and clerical support for the Peninsula Recreation Program including, but not limited to producing the Peninsula Recreation Guide, arranging program offerings, registration of participants, and monitoring program activities.
- 1.3 PenMet Parks will provide fiscal oversight and administration for the Peninsula Recreation Program.
- 1.4 PenMet Parks will provide professional recreation services for the Peninsula Recreation Program through one-half of a full time PenMet Parks employee valued at approximately \$24,000.00 per year. Nothing in this Agreement is intended to change the employment relationship between this PenMet Parks employee (or any other PenMet Parks employee) and PenMet Parks.
- 1.5 PenMet Parks will provide \$6,000 toward the publication of the initial Peninsula Recreation Guide.
- 1.6 The City of Gig Harbor will provide \$25,000 annually to PenMet Parks toward the layout, publication, and quarterly distribution of the Peninsula Recreation Guide.
- 1.7 The City will provide classroom space as available for recreation programs.

2. USE OF FACILITIES

The City of Gig Harbor and PenMet Parks share a similar mission to provide recreational opportunities and maintain recreational facilities they own and operate, and that it is in the interests of the Parties to develop mechanisms to share equipment and expertise.

- 2.1 The Parties will cooperate as reasonably possible to enable each other to schedule rooms and facilities for use as available for recreation classes, meetings, and related events.
- 2.2 The Parties will cooperate as reasonably possible to share maintenance storage space for equipment, materials, and supplies.

3. INTERGOVERNMENTAL SERVICES

The City of Gig Harbor and the PenMet Parks share a common interest in providing governmental programs at the lowest cost, and it is in the interest of the Parties to avoid duplication of services as well as to increase efficiency in the services currently provided.

- 3.1 PenMet Parks will provide professional recreation planning services such as facilitating program development, marketing, recreation program scheduling.
- 3.2 In consideration of providing the services identified herein the City shall pay to PenMet Parks \$12,500 on or before March first and \$12,500 on or before September 1st of each year.
- 3.3 PenMet Parks shall provide an annual written report to the City Administrator itemizing all expenses and payments made related to the layout, publication and distribution of the Peninsula Recreation Guide within two weeks of the distribution of the Fall Peninsula Recreation Guide.

4. RELATIONSHIP OF THE PARTIES

As each party is an independent governmental entity, no agent, employee, representative or sub-consultant of a party shall be or shall be deemed to be the employee, agent, or representative of the other party. In the performance of the work described herein, each party acknowledges that it has the ability to control and direct the performance and details of the work performed by its own employees, and the other party being interested only in the results obtained under this Agreement. None of the benefits provided by a party to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the other party's employees, agents, representatives, or sub-consultants. Each party will be solely and entirely responsible for its acts and for the acts of its officers, agents, employees or representatives during the performance of this Agreement.

5. MODIFICATION OF AGREEMENT

This Agreement may be amended at any time, but only by the unanimous written agreement of the duly authorized representatives of the Parties.

6. TERMINATION

This Agreement shall be effective after both parties sign, and will expire on December 31, 2008, but shall be indefinitely extended unless one of the parties sends a written termination notice to the other party, which must be received by the other party on or before December 1st of any calendar year. Any Party may terminate this Agreement for any reason by giving notice to the other Party on or before December 1st of any calendar year. Said termination shall become effective on January 1 of the subsequent year. If this Agreement is terminated as provided in this provision, neither party shall be responsible to pay for any invoices for any costs or expenses incurred after the effective date of termination. Without the written agreement of the other party, neither Party nor its staff shall commit the program to any contractual obligations that extend beyond each calendar year. Upon termination of the Agreement, any unexpended funds at the point of termination will be returned with the exception of any encumbered debt obligations to close out any program responsibilities.

7. HOLD HARMLESS AND INDEMNITY AGREEMENT

The City agrees to defend, indemnify and save harmless PenMet Parks, its board or council members, officers, agents and employees, from and against all loss or expense including, but not limited to claims, damages, injuries, penalties, lawsuits, judgments, settlements, attorney's fees and costs by reason of any and all claims for injuries, damages, penalties or other relief based upon the alleged negligence, or wrongful conduct, of the City, its officers, agents and employees, except for the claims, lawsuits, judgments, settlements, attorneys' fees and costs, injuries, penalties and damages arising from or caused by the sole negligence or wrongful conduct of PenMet Parks, its officers, agents and employees.

PenMet Parks agrees to defend, indemnify and save harmless the City, its board or council members, officers, agents and employees, from and against all loss or expense including, but not limited to claims, damages, injuries, penalties, lawsuits, judgments, settlements, attorney's fees and costs by reason of any and all claims for injuries, damages, penalties or other relief based upon the alleged negligence, or wrongful conduct of PenMet Parks, its officers, employees and agents, except for the injuries, penalties and damages claims, lawsuits, settlements attorneys' fees and costs arising from or caused by the sole negligence or wrongful conduct of the City, its officers, employees and agents.

Such claims for damages or other relief include, but are not limited to those for personal or bodily injury including death from such injury, property damage, torts, defamation, penalties imposed by any agency of the state or federal government for failure to comply with applicable law in the performance of this Agreement. If the claim, suit or action involves concurrent negligence of more than one Party, the indemnity provisions provided herein shall be applicable only to the extent of the percentage of

each Party's negligence. It is further and expressly understood that the indemnification provided herein constitutes each Party's waiver of immunity under Industrial Insurance, Title 51 RCW, but only for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

8. INSURANCE

A. Both Parties 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 Parties own work including the work of the Parties agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Parties 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. Errors and Omissions or Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on an occurrence made basis.

C. The Parties are responsible for the payment of any deductible or self-insured retention that is required by any of the Parties' insurance.

D. Each Party shall be named as an additional insured on each Party'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 Parties reserve the right to receive a certified and complete copy of each Party's insurance policy.

E. Each Party's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. Each Party shall request from its insurer a modification of the ACORD certificate to include language that prior written notification will be given to each Party at least 30-days in advance of any cancellation, suspension or material change either of the Parties' coverage.

9. NONDISCRIMINATION

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the City, Pen Met Parks, or any other person acting on behalf of the Parties 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.

10. AUDITS AND INSPECTIONS

The records and documents with respect to all matters covered by this Agreement shall be subject to inspection, review or audit by each of the Parties during the term of the Agreement and shall be maintained for a minimum of three years after termination of this Agreement.

11. ENTIRE AGREEMENT

The Parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded.

12. NON-WAIVER OF BREACH

The failure of either party 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.

13. RESOLUTION OF DISPUTES AND GOVERNING LAW

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Administrator and the Executive Director who shall attempt to agree upon the term or provision's true intent or meaning. They may also decide any 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 PenMet Parks under any of the provisions of this Agreement which cannot be resolved by the City Administrator and the Executive Director or they cannot agree on the outcome of a disputed matter, either party may submit the matter to the Pierce County Superior Court for resolution. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the prevailing parties' expenses and reasonable attorney's fees.

14. 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:

City of Gig Harbor
Attn: City Administrator
3510 Grandview St.
Gig Harbor, WA 98335

Peninsula Metropolitan Parks District
Attn: Executive Director
P.O. Box 425
3614 Grandview Street
Gig Harbor, WA 98335

15. ASSIGNMENT

This agreement is not assignable to any other entity or individual. Any assignment of this Agreement by either party shall be void.

16. SEVERABILITY

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

IN WITNESS WHEREOF, this Agreement has been executed by each Party on the date set forth below:

CITY OF GIG HARBOR

Mayor, Charles L. Hunter

Date: _____


ATTEST:

City Clerk, Molly Towslee

APPROVED AS TO FORM:



COMMUNITY DEVELOPMENT DEPARTMENT

TO: MAYOR HUNTER AND CITY COUNCIL
FROM: STEPHEN MISIURAK, P.E., CITY ENGINEER 
SUBJ: HARBOR HILL (OPG PROPERTIES) QUIT CLAIM DEED
DATE: JULY 24, 2006

INTRODUCTION/BACKGROUND

As part of the process for the completion of Harbor Hill Development (D-0311), an agreement for a Quit Claim Deed is required for this project. The Quit Claim Deed is for a parcel located in the Gig Harbor North area (parcel 0222304000). The subject deed has been granted by the Owner, OPG Properties, for this purpose. The Quit Claim Deed will dedicate to the City the land that the new water tank currently occupies.

The subject Quit Claim Deed has not been approved by City Attorney Carol Morris but has been submitted for Council discussion by OPG Properties. The issue of discussion relates to the possible use of communication facilities to be constructed on or around the water tank.

FISCAL CONSIDERATIONS

No funds will be expended for the acquisition of the described Quit Claim Deed.

RECOMMENDATION

I recommend that City Council discuss the Harbor Hill Development Quit Claim Deed and provide a response to OPG Properties regarding the use of this site for communication purposes.

QUIT CLAIM DEED

THIS AGREEMENT is made this ____ day of _____, 2006, by and between the City of Gig Harbor (hereinafter the "City"), a Washington municipal corporation, and OPG PROPERTIES LLC, a Washington limited liability company (hereinafter the "Owner"), and whose address is 19245 Tenth Avenue N.E., Poulsbo, Washington 98370, Attn: President.

RECITALS

WHEREAS, the Owner is holder of a fee or substantial beneficial interest in the real property commonly known as the Harbor Hills Water Tank Site (Tax Parcel No. 0222304000) which is legally described in **Exhibit "A"** (hereinafter the "Property") which is attached hereto and by this reference incorporated herein; and

WHEREAS, the Owner has agreed to convey a portion of the Property to the City (hereinafter the "Deeded Property"), which portion is legally described in **Exhibit "B"**, which is attached hereto and by this reference incorporated herein; and

WHEREAS, a map showing the location of the Deeded Property is attached hereto as **Exhibit "C"** and by this reference incorporated herein; and

WHEREAS, in exchange for the Owner's dedication of the Deeded Property, the Owner will obtain the benefits of the operation of the water tank located within the Deeded Property; and

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, as well as \$10.00, which is in hand paid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Owner agree as follows:

TERMS

1. Conveyance of Deeded Property to the City. The Owner conveys and quitclaims to the City of Gig Harbor all interest it has acquired in the Deeded Property legally described in **Exhibit "B"**, which is shown on the map in **Exhibit "C"**, both of which are attached hereto and incorporated herein by this reference, subject to matters of record and the covenants and reservations described hereinbelow.
2. Covenants and Reservations. The City of Gig Harbor, its successors and assigns, shall not permit the installation or operation of communication facilities within the Deeded Property, including without limitation antennas; transmitters; two-way, land-mobile, personal wireless services, and cellular communications facilities; cable TV facilities; point-to-point microwave antennas; FM translators; FM boosters; and radio and television transmission towers (collectively, "Communication Facilities"), or grant or make agreements and other instruments relating to access to and use of the Deeded Property (collectively, "Communication Facility Agreements") for the purpose of establishing and using

Communication Facilities within the Deeded Property, except publicly-owned or emergency service Communication Facilities and Communication Facility Agreements with government agencies for governmental purposes, without the prior written consent of OPG Properties LLC, and in any event the City of Gig Harbor shall deliver to OPG Properties LLC any monetary or other consideration given in exchange for such agreement or permission within thirty (30) days after receipt by the City. If any person shall bring any action to enforce or interpret the foregoing covenants and reservations, then the losing party shall pay the prevailing party a reasonable sum for attorneys' fees in such suit, at trial and on appeal, and such attorneys' fees shall be deemed to have accrued on the commencement of such action.

OPG PROPERTIES LLC, a Washington limited liability company

By _____
Print Name: JON ROSE
Its: PRESIDENT

CITY OF GIG HARBOR

By: _____
Its Mayor

Attest:
By: _____
City Clerk

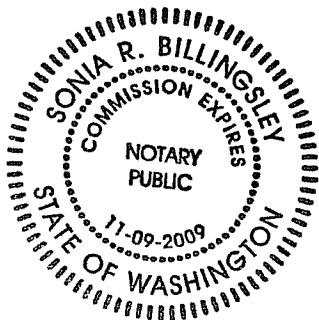
Approved as to form:

By: _____
City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

On this 14TH day of JULY, 2006, before me, a Notary Public in and for the State of Washington, personally appeared JON ROSE, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the President of OPG PROPERTIES LLC to be the free and voluntary act and deed of said limited liability company for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Sonia R Billingsley
NOTARY PUBLIC in and for the State of
Washington, residing at GIG HARBOR
My appointment expires 11/9/09
Print Name SONIA R BILLINGSLEY

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Chuck Hunter is the person who appeared before me, and said person acknowledged that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Gig Harbor for the uses and purposes mentioned in this instrument.

DATED: _____

(Signature)

NOTARY PUBLIC, State of Washington,
residing at: _____
My appointment expires: _____

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

The west half of the southeast quarter of Section 30, Township 22, Range 2, WM except that portion reserved for Borgen Boulevard under AFN #200007130672.

EXHIBIT B

WATER TANK SITE LEGAL DESCRIPTION

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 30, TOWNSHIP 22 NORTH, RANGE 2 EAST, W.M.; THENCE N01°46'53"E 2648.83 FEET ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 30; THENCE S88°35'02"E 644.33 FEET ALONG THE NORTH QUARTER LINE OF THE SE QUARTER OF SECTION 30; THENCE S20°25'31"E 183.96 FEET TO THE TRUE POINT OF BEGINNING (TPOB); THENCE S01°46'53"W 110.00 FEET; THENCE N88°13'07"W 100.00 FEET; THENCE N01°46'53"E 110.00 FEET; THENCE S88°13'07"E 100.00 FEET TO THE TRUE POINT OF BEGINNING.

SITUATE IN THE COUNTY OF PIERCE, STATE OF WASHINGTON.
THE PARCEL CONTAINS 0.25 ACRES, MORE OR LESS.

EXHIBIT C

WATER STORAGE AREA FOR QUIT CLAIM DEED

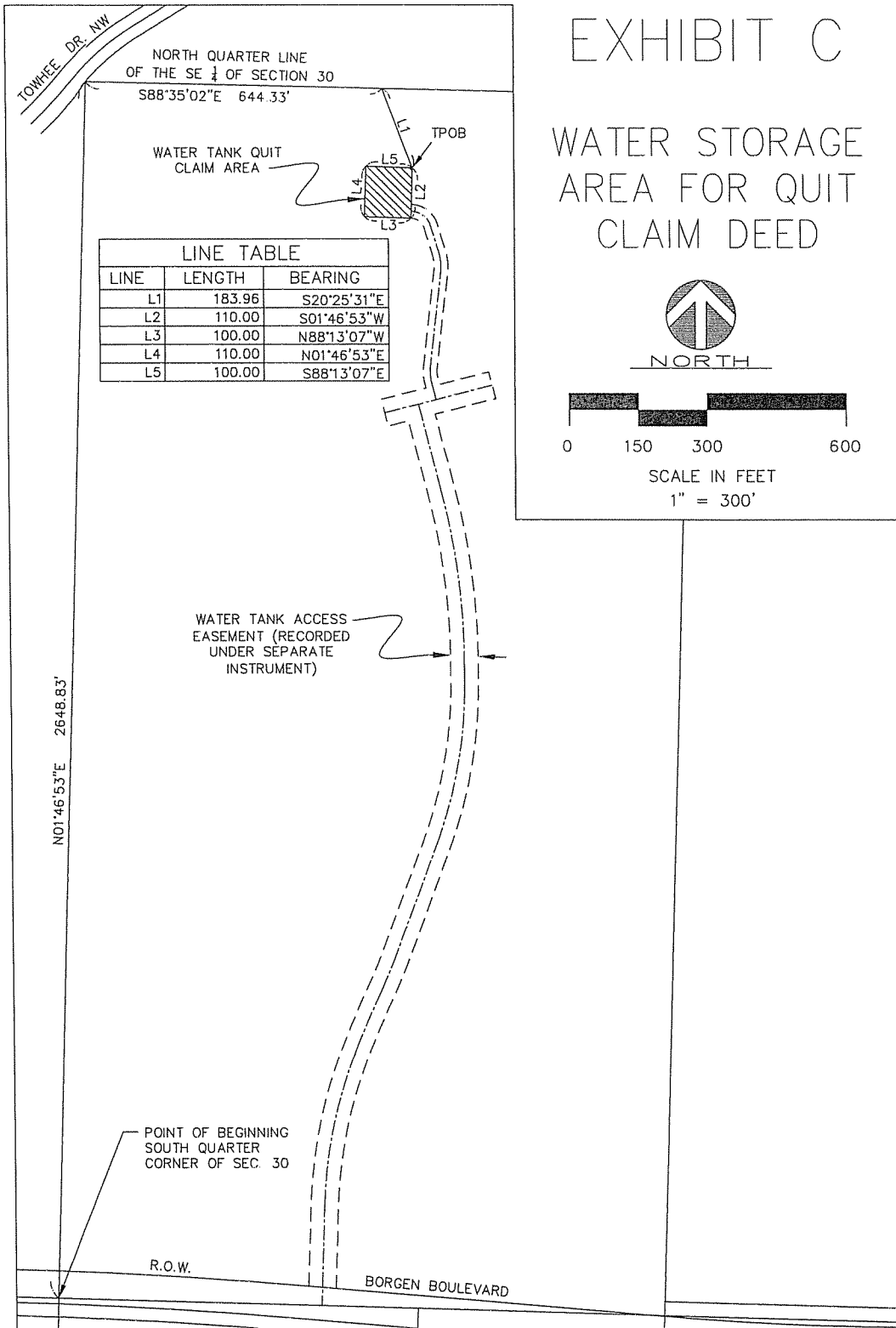


NORTH



SCALE IN FEET

1" = 300'



AFTER RECORDING, RETURN TO:

**The City of Gig Harbor
Attn: City Clerk
3510 Grandview Street
Gig Harbor, WA 98335**

Document Title: **EASEMENT AGREEMENT**

Grantor: OPG Properties LLC

Grantee: City of Gig Harbor

Legal Description: A portion of the west half of the southeast quarter of Section 30,
Township 22 North, Range 2 East, WM

The complete legal description may be found on page 7 of the
document.

Property Tax Parcel No.: 0222304000

Reference No. of Documents Assigned or Released: _____



TO: MAYOR HUNTER AND CITY COUNCIL
FROM: DAVID RODENBACH, FINANCE DIRECTOR DR
SUBJECT: QUARTERLY FINANCE REPORT
DATE: JULY 24, 2006

The 2006 second financial reports are attached.

Total resources, including all revenues and beginning fund balances, are at 77% of the annual budget. Revenues, excluding beginning fund balances, are at 55% of the annual budget. Expenditures are at 41% of budget.

General Fund revenues (excluding beginning fund balance) are at 55% (57% in 2005) of budget. All significant General Fund revenues are coming in as expected.

General Fund expenditures are at 45% (48% in 2005) of budget. All General Fund departments are within their 2006 budgets.

Street Fund revenues and expenditures have no significant deviations from budget.

Water, Sewer and Storm Sewer revenues are 46%, 50% and 49% of budget; while expenditures for these three funds are at 37%, 32% and 34% of budget. 2004 amounts for the same period were 41%, 47% and 50% for revenues and 38%, 36% and 27% for expenditures.

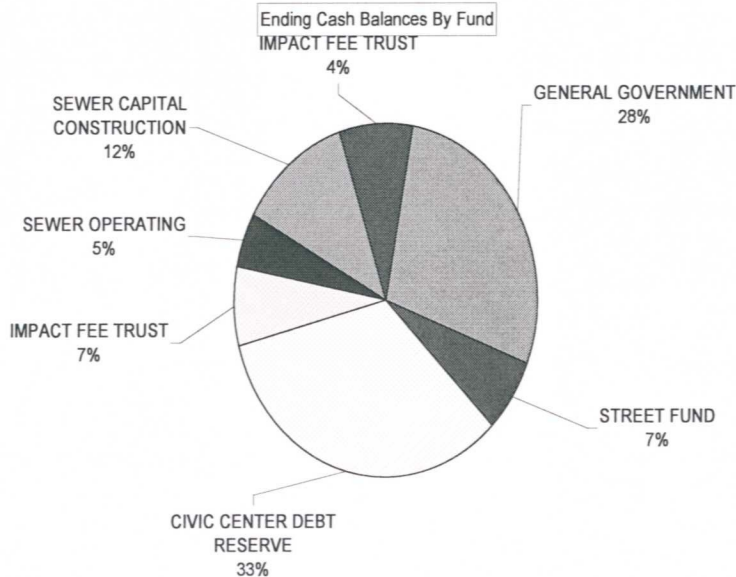
At this time cash balances are adequate in all funds. Most of the City's investments are in the State Treasurer's pool.

**CITY OF GIG HARBOR
CASH AND INVESTMENTS
YEAR TO DATE ACTIVITY
AS OF JUNE 30, 2006**

FUND NO.	DESCRIPTION	BEGINNING BALANCE	REVENUES	EXPENDITURES	OTHER CHANGES	ENDING BALANCE
001	GENERAL GOVERNMENT	\$ 2,689,243	\$ 4,166,126	\$ 4,057,478	\$ (328,605)	\$ 2,469,286
101	STREET FUND	706,817	1,234,000	1,019,918	(349,379)	571,519
105	DRUG INVESTIGATION FUND	10,729	1,362	4,019	(91)	7,981
107	HOTEL-MOTEL FUND	272,198	87,043	114,366	(17,397)	227,478
108	PUBLIC ART CAPITAL PROJECTS	40,454	11,062	-	-	51,516
109	PARK DEVELOPMENT FUND	92,986	103,217	167,509	2,855	31,549
110	CIVIC CENTER DEBT RESERVE	2,086,382	849,736	-	-	2,936,118
208	LTGO BOND REDEMPTION	11,965	450,736	319,911	(304)	142,487
209	2000 NOTE REDEMPTION	16,069	83,624	-	-	99,693
210	LID NO. 99-1 GUARANTY	83,932	1,766	-	-	85,698
211	UTGO BOND REDEMPTION	1,581	136,277	66,325	-	71,534
301	PROPERTY ACQUISITION FUND	314,021	118,411	259,203	(1,765)	171,465
305	GENERAL GOVT CAPITAL IMPR	335,014	119,902	400,000	-	54,917
309	IMPACT FEE TRUST	407,534	235,399	-	(1,711)	641,223
401	WATER OPERATING	117,807	361,359	291,579	(47,852)	139,735
402	SEWER OPERATING	285,832	829,824	586,893	(93,457)	435,305
407	UTILITY RESERVE	112,569	2,369	-	-	114,937
408	UTILITY BOND REDEMPTION	76,365	1,154	73,295	(179)	4,044
410	SEWER CAPITAL CONSTRUCTION	1,370,665	377,987	393,561	(303,923)	1,051,167
411	STORM SEWER OPERATING FUND	248,313	215,523	204,612	(55,043)	204,181
420	WATER CAPITAL ASSETS	155,517	51,133	1,035	(98,305)	107,310
605	LIGHTHOUSE MAINTENANCE TRUST	1,857	39	-	-	1,896
607	EDDON BOATYARD TRUST	711,027	11,004	39,998	(10,288)	671,745
		<u>\$ 10,148,874</u>	<u>\$ 9,449,054</u>	<u>\$ 7,999,701</u>	<u>\$ (1,305,444)</u>	<u>\$ 10,292,783</u>

**COMPOSITION OF CASH AND INVESTMENTS
AS OF JUNE 30, 2006**

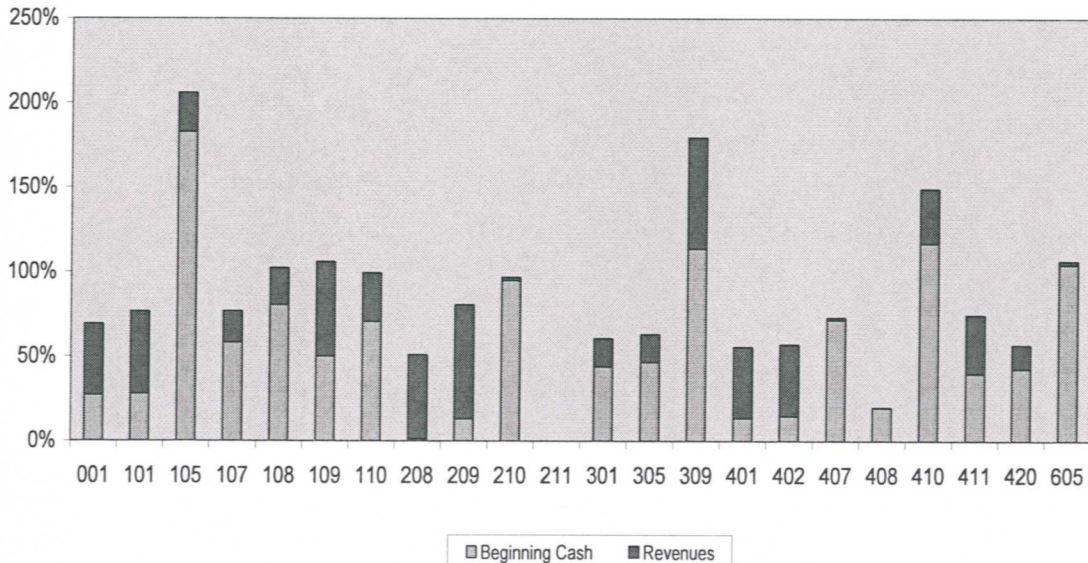
	MATURITY	RATE	BALANCE
CASH ON HAND			\$ 300
CASH IN BANK		0.9500%	896,800
LOCAL GOVERNMENT INVESTMENT POOL		4.1605%	6,595,683
FEDERAL HOME LOAN BANK	11/27/06	3.2000%	500,000
FEDERAL HOME LOAN BANK	05/03/10	5.0000%	700,000
BANK OF AMERICA - CD	03/31/06		100,000
FEDERAL HOME LOAN BANK	11/24/10	6.0000%	1,500,000
			<u>\$ 10,292,783</u>



**CITY OF GIG HARBOR
YEAR-TO-DATE RESOURCE SUMMARY
AND COMPARISON TO BUDGET
AS OF JUNE 30, 2006**

FUND NO.	DESCRIPTION	ESTIMATED RESOURCES	ACTUAL Y-T-D RESOURCES	BALANCE OF ESTIMATE	PERCENTAGE (ACTUAL/EST.)
001	GENERAL GOVERNMENT	\$ 9,904,140	\$ 6,855,368	\$ 3,048,772	69%
101	STREET FUND	2,538,047	1,940,816	597,231	76%
105	DRUG INVESTIGATION FUND	5,874	12,091	(6,217)	206%
107	HOTEL-MOTEL FUND	468,268	359,241	109,027	77%
108	PUBLIC ART CAPITAL PROJECTS	50,314	51,516	(1,202)	102%
109	PARK DEVELOPMENT FUND	185,391	196,202	(10,811)	106%
110	CIVIC CENTER DEBT RESERVE	2,953,311	2,936,118	17,193	99%
208	LTGO BOND REDEMPTION	910,894	462,701	448,193	51%
209	2000 NOTE REDEMPTION	123,952	99,693	24,259	80%
210	LID NO. 99-1 GUARANTY	88,460	85,698	2,762	97%
211	UTGO BOND REDEMPTION	259,000	137,859	121,141	53%
301	PROPERTY ACQUISITION FUND	713,433	432,432	281,001	61%
305	GENERAL GOVT CAPITAL IMPR	722,433	454,917	267,516	63%
309	IMPACT FEE TRUST	358,315	642,934	(284,619)	179%
401	WATER OPERATING	860,530	479,165	381,365	56%
402	SEWER OPERATING	1,950,344	1,115,656	834,688	57%
407	UTILITY RESERVE	157,308	114,937	42,371	73%
408	UTILITY BOND REDEMPTION	390,054	77,519	312,536	20%
410	SEWER CAPITAL CONSTRUCTION	1,172,274	1,748,652	(576,378)	149%
411	STORM SEWER OPERATING FUND	623,400	463,836	159,564	74%
420	WATER CAPITAL ASSETS	363,765	206,650	157,115	57%
605	LIGHTHOUSE MAINTENANCE TRUST	1,782	1,896	(114)	106%
607	EDDON BOATYARD TRUST	719,000	722,031	(3,031)	100%
		\$ 25,520,289	\$ 19,597,928	\$ 5,922,361	77%

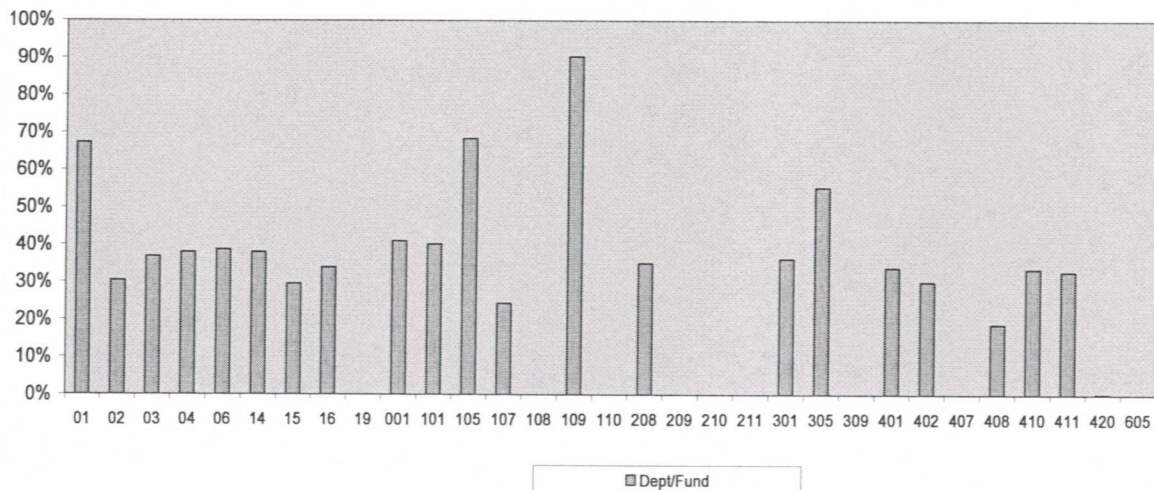
Resources as a Percentage of Annual Budget



**CITY OF GIG HARBOR
YEAR-TO-DATE EXPENDITURE SUMMARY
AND COMPARISON TO BUDGET
FOR PERIOD ENDING JUNE 30, 2006**

FUND NO.	DESCRIPTION	ESTIMATED EXPENDITURES	ACTUAL Y-T-D EXPENDITURES	BALANCE OF ESTIMATE	PERCENTAGE (ACTUAL/EST.)
001	GENERAL GOVERNMENT				
01	NON-DEPARTMENTAL	\$ 2,470,445	\$ 1,663,447	\$ 806,998	67%
02	LEGISLATIVE	35,600	10,860	24,740	31%
03	MUNICIPAL COURT	547,000	201,776	345,224	37%
04	ADMINISTRATIVE/FINANCIAL	895,800	340,657	555,143	38%
06	POLICE	2,279,680	882,994	1,396,686	39%
14	COMMUNITY DEVELOPMENT	1,427,890	543,193	884,697	38%
15	PARKS AND RECREATION	968,300	287,128	681,172	30%
16	BUILDING	374,600	127,423	247,177	34%
19	ENDING FUND BALANCE	904,825	-	904,825	
001	TOTAL GENERAL FUND	9,904,140	4,057,478	5,846,662	41%
101	STREET FUND	2,538,047	1,019,918	1,518,129	40%
105	DRUG INVESTIGATION FUND	5,874	4,019	1,855	68%
107	HOTEL-MOTEL FUND	468,268	114,366	353,902	24%
108	PUBLIC ART CAPITAL PROJECTS	50,314	-	50,314	
109	PARK DEVELOPMENT FUND	185,391	167,509	17,882	90%
110	CIVIC CENTER DEBT RESERVE	2,953,311	-	2,953,311	
208	LTGO BOND REDEMPTION	910,894	319,911	590,983	35%
209	2000 NOTE REDEMPTION	123,952	-	123,952	
210	LID NO. 99-1 GUARANTY	88,460	-	88,460	
211	UTGO BOND REDEMPTION	259,000	66,325	192,675	
301	PROPERTY ACQUISITION FUND	713,433	259,203	454,230	36%
305	GENERAL GOVT CAPITAL IMPR	722,433	400,000	322,433	55%
309	IMPACT FEE TRUST	358,315	-	358,315	
401	WATER OPERATING	860,530	291,579	568,952	34%
402	SEWER OPERATING	1,950,344	586,893	1,363,451	30%
407	UTILITY RESERVE	157,308	-	157,308	
408	UTILITY BOND REDEMPTION	390,054	73,295	316,759	19%
410	SEWER CAPITAL CONSTRUCTION	1,172,274	393,561	778,713	34%
411	STORM SEWER OPERATING FUND	623,400	204,612	418,788	33%
420	WATER CAPITAL ASSETS	363,765	1,035	362,730	0%
605	LIGHTHOUSE MAINTENANCE TRUST	1,782	-	1,782	
607	EDDON BOATYARD TRUST	719,000	39,998	679,002	6%
		\$ 25,520,289	\$ 7,999,701	\$ 17,520,588	31%

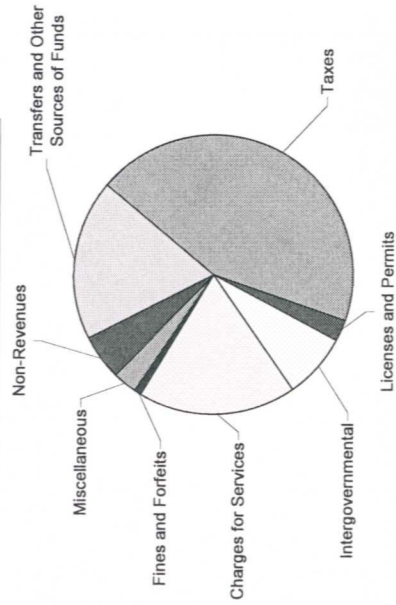
Expenditures as a Percentage of Annual Budget



CITY OF GIG HARBOR
 YEAR-TO-DATE REVENUE SUMMARY
 BY TYPE
 FOR PERIOD ENDING JUNE 30, 2006

TYPE OF REVENUE	AMOUNT
Taxes	\$ 4,168,114
Licenses and Permits	234,169
Intergovernmental	719,012
Charges for Services	1,719,363
Fines and Forfeits	96,066
Miscellaneous	260,154
Non-Revenues	489,833
Transfers and Other Sources of Funds	1,762,343
Total Revenues	9,449,054
Beginning Cash Balance	10,148,874
Total Resources	\$ 19,597,928

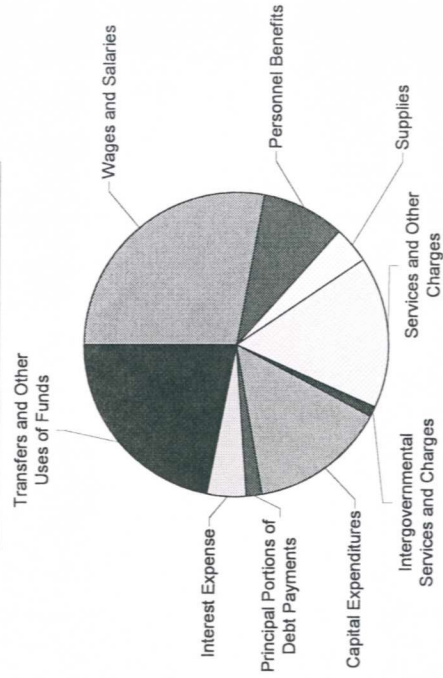
Revenues by Type - All Funds



CITY OF GIG HARBOR
 YEAR-TO-DATE EXPENDITURE SUMMARY
 BY TYPE
 FOR PERIOD ENDING JUNE 30, 2006

TYPE OF EXPENDITURE	AMOUNT
Wages and Salaries	\$ 2,216,412
Personnel Benefits	727,797
Supplies	300,328
Services and Other Charges	1,291,254
Intergovernmental Services and Charges	76,522
Capital Expenditures	1,167,858
Principal Portions of Debt Payments	129,292
Interest Expense	330,239
Transfers and Other Uses of Funds	1,760,000
Total Expenditures	7,999,701
Ending Cash Balance	10,292,783
Total Uses	\$ 18,292,484

Expenditures by Type - All Funds



CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2006

	SPECIAL REVENUE FUNDS											TOTAL SPECIAL REVENUE		
	001	101	105	107	108	109	110	301	305	307	309		605	607
GENERAL	GOVERNMENT	STREET	INVESTIGATION	HOTEL - MOTEL	PUBLIC ART PROJECTS	PARK D/VP FUND	CIVIC CTR DEBT RSRV	PROPERTY ACQUISITION	GEN GOVT CAPITAL IMP	LID NO. 99-1	IMPACT FEE TRUST FUND	LIGHTHOUSE MAINT	EDDON BOATYARD	
ASSETS														
CASH	\$ 78,273	\$ 18,858	\$ 263	\$ 7,506	\$ 1,700	\$ 1,041	\$ 7,791	\$ 5,658	\$ 1,812	\$ -	\$ 21,158	\$ 63	\$ 671,745	\$ 737,594
INVESTMENTS	2,391,013	552,661	7,717	219,973	49,816	30,508	2,928,327	165,807	53,105	-	620,065	1,834	-	4,629,813
RECEIVABLES	1,092,227	6,946	-	25,373	-	-	-	-	-	-	-	-	-	32,319
FIXED ASSETS	-	-	-	-	-	-	-	-	-	-	-	-	-	-
OTHER	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL ASSETS	3,561,513	578,465	7,981	252,852	51,516	31,549	2,936,118	171,465	54,917	-	641,223	1,896	671,745	5,399,726
LIABILITIES														
CURRENT	2,487	186,596	-	-	-	5,267	-	-	-	-	12,411	-	-	204,273
LONG TERM	24,213	3,217	-	-	-	-	-	-	-	-	-	-	-	3,217
TOTAL LIABILITIES	26,699	189,812	-	-	-	5,267	-	-	-	-	12,411	-	-	207,490
FUND BALANCE:														
BEGINNING OF YEAR	3,426,166	174,571	10,638	280,174	40,454	90,574	2,086,382	312,256	335,014	-	393,412	1,857	700,739	4,426,073
Y-T-D REVENUES	4,166,126	1,234,000	1,362	87,043	11,062	103,217	849,736	118,411	119,902	-	235,399	39	11,004	2,771,176
Y-T-D EXPENDITURES	(4,057,478)	(1,019,918)	(4,019)	(114,366)	-	(167,509)	-	(259,203)	(400,000)	-	-	-	(99,998)	(2,005,013)
ENDING FUND BALANCE	3,534,813	388,653	7,981	252,852	51,516	26,282	2,936,118	171,465	54,917	-	628,812	1,896	671,745	5,192,236
TOTAL LIAB & FUND BAL	3,561,513	578,465	7,981	252,852	51,516	31,549	2,936,118	171,465	54,917	-	641,223	1,896	671,745	5,399,726

**CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2006**

	208	209	210	211	TOTAL
	LTGO BOND REDEMPTION	2000 NOTE REDEMPTION	LID 99-1 GUARANTY	UTGO BOND REDEMPTION	DEBT SERVICE
ASSETS					
CASH	\$ 4,701	\$ 3,289	\$ 2,828	\$ 2,360	\$ 13,179
INVESTMENTS	137,785	96,404	82,870	69,173	386,232
RECEIVABLES	-	-	-	-	-
FIXED ASSETS	-	-	-	-	-
OTHER	-	-	-	-	-
TOTAL ASSETS	142,487	99,693	85,698	71,534	399,411
LIABILITIES					
CURRENT	-	-	-	-	-
LONG TERM	-	-	-	-	-
TOTAL LIABILITIES	-	-	-	-	-
FUND BALANCE:					
BEGINNING OF YEAR	11,661	16,069	83,932	1,581	113,243
Y-T-D REVENUES	450,736	83,624	1,766	136,277	672,404
Y-T-D EXPENDITURES	(319,911)	-	-	(66,325)	(386,236)
ENDING FUND BALANCE	142,487	99,693	85,698	71,534	399,411
TOTAL LIAB. & FUND BAL.	\$ 142,487	\$ 99,693	\$ 85,698	\$ 71,534	\$ 399,411

CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
AS OF JUNE 30, 2006

	PROPRIETARY							TOTAL PROPRIETARY	TOTAL
	401	402	407	408	410	411	420		
	WATER OPERATING	SEWER OPERATING	UTILITY RESERVE	UTILITY BOND REDEMPTION	SEWER CAP. CONST.	STORM SEWER OPERATING	WATER CAP. ASSETS		
ASSETS									
CASH	\$ 4,707	\$ 14,460	\$ 3,792	\$ 133	\$ 34,684	\$ 6,737	\$ 3,541	\$ 68,055	\$ 897,100
INVESTMENTS	135,028	420,845	111,145	3,910	1,016,483	197,444	103,769	1,988,625	9,395,683
RECEIVABLES	129,912	285,497	-	-	-	92,316	-	507,724	1,632,270
FIXED ASSETS	3,537,426	8,452,880	-	-	1,636,259	639,403	370,869	14,636,836	14,636,836
OTHER	-	-	-	-	-	-	-	-	-
TOTAL ASSETS	3,807,073	9,173,682	114,937	4,044	2,687,426	935,899	478,179	17,201,240	26,561,890
LIABILITIES									
CURRENT	(500)	-	-	264,729	42,032	2	44,605	350,869	557,629
LONG TERM	41,041	41,590	-	1,609,905	-	29,119	-	1,721,655	1,749,084
TOTAL LIABILITIES	40,541	41,590	-	1,874,634	42,032	29,122	44,605	2,072,524	2,306,713
FUND BALANCE:									
BEGINNING OF YEAR	3,696,752	8,889,161	112,569	(1,798,449)	2,660,968	895,866	383,475	14,840,343	22,805,824
Y-T-D REVENUES	361,359	829,824	2,369	1,154	377,987	215,523	51,133	1,839,349	9,449,054
Y-T-D EXPENDITURES	(291,579)	(586,893)	-	(73,295)	(393,561)	(204,612)	(1,035)	(1,550,975)	(7,999,701)
ENDING FUND BALANCE	3,766,533	9,132,092	114,937	(1,870,590)	2,645,394	906,777	433,573	15,128,717	24,255,177
TOTAL LIAB. & FUND BAL.	\$ 3,807,073	\$ 9,173,682	\$ 114,937	\$ 4,044	\$ 2,687,426	\$ 935,899	\$ 478,179	\$ 17,201,240	\$ 26,561,890

CITY OF GIG HARBOR
STATEMENT OF FINANCIAL POSITION
BY FUND TYPE
AS OF JUNE 30, 2006

	GENERAL GOVERNMENT	SPECIAL REVENUE	DEBT SERVICE	TOTAL GOVERNMENTAL	PROPRIETARY	TOTAL ALL FUND TYPES
ASSETS						
CASH	\$ 78,273	\$ 737,594	\$ 13,179	\$ 829,045	\$ 68,055	\$ 897,100
INVESTMENTS	2,391,013	4,629,813	386,232	7,407,059	1,988,625	9,395,683
RECEIVABLES	1,092,227	32,319	-	1,124,546	507,724	1,632,270
FIXED ASSETS	-	-	-	-	14,636,836	14,636,836
OTHER	-	-	-	-	-	-
TOTAL ASSETS	3,561,513	5,399,726	399,411	9,360,650	17,201,240	25,561,890
LIABILITIES						
CURRENT	2,487	204,273	-	206,760	350,869	557,629
LONG TERM	24,213	3,217	-	27,429	1,721,655	1,749,084
TOTAL LIABILITIES	26,699	207,490	-	234,189	2,072,524	2,306,713
FUND BALANCE:						
BEGINNING OF YEAR	3,426,166	4,426,073	113,243	7,965,481	14,840,343	22,805,824
Y-T-D REVENUES	4,166,126	2,771,176	672,404	7,609,705	1,839,349	9,449,054
Y-T-D EXPENDITURES	(4,057,478)	(2,005,013)	(386,236)	(6,448,726)	(1,550,975)	(7,999,701)
ENDING FUND BALANCE	3,534,813	5,192,236	399,411	9,126,460	15,128,717	24,255,177
TOTAL LIAB. & FUND BAL.	\$ 3,561,513	\$ 5,399,726	\$ 399,411	\$ 9,360,650	\$ 17,201,240	\$ 26,561,890



ADMINISTRATION

Mayor's Report July 24, 2006

Eddon Boatyard Restoration Project

Gerald Eysaman of Eysaman & Company and Michael Sullivan of Artifacts Consulting have completed and submitted the Eddon Boatyard Historic Structures Report (HSR) to Garry Schalliol of the Washington State Historical Society. The report includes a brief assessment of the brick house and restoration alternative recommendations as it relates to facility amenities. A PDF of the report will be viewable/downloadable as a link on the City's website at: [Mayor's Report - Eddon Boat Yard Restoration Project.](#)

This coming Tuesday, July 25th, an eleven-person panel will assemble at an open, public meeting to rank the projects and recommend funding levels. There will not be any site visits related to the application prior to the meeting and no presentations will be made by applicants on the 25th. Final funding will depend on approvals from the House, the Senate and the Governor, and are expected by the end of June, 2007.

If you are interested in attending this meeting, it begins at **9am** at the **Holiday Inn Express** (19621 International Blvd.) just south of the airport in SeaTac.