

Gig Harbor City Council Meeting

**October 13, 2009
5:30 p.m.**



**AMENDED AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
Monday, October 13, 2009 – 5:30 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of Sep. 28, 2009.
2. Receive and File: Minutes of the Council Retreat Sep. 25, 2009.
3. Correspondence / Proclamations: Domestic Violence Awareness Month.
4. Dept. of Ecology Ph. 2 Stormwater Pass-Through Grant.
5. Resolution – Temporarily Restricting Comprehensive Plan Amendments to City Sponsored.
6. Resolution – Emergency Public Works Project to Install Security Fencing.
7. Approval of Payment of Bills for October 13, 2009: Checks #61969 through #62066 in the amount of \$1,269,635.24.
8. Approval of Payroll for the month of September: Checks #5537 through #5563 in the amount of \$332,189.63.

PRESENTATIONS:

1. Recognition for the Hanging Basket Program: Gig Harbor Historic Waterfront Association, Water to Wine, and the Chamber of Commerce.
2. Domestic Violence Awareness Month – Lane Judson and Judge Dunn.
3. Skansie Netshed Inventory Final Report – Michael Vlahovich.

OLD BUSINESS: None scheduled.

NEW BUSINESS:

1. Resolution Rejecting Bid for 2009 Roadway Maintenance Project.
2. 2009 Roadway Maintenance Project – Construction Contract and Materials Testing Contract Award.

STAFF REPORT:

PUBLIC COMMENT:

MAYOR'S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. Operations Committee: Thu. Oct 15th at 3:00 p.m.
2. Intergovernmental Affairs Committee: Oct. 13th CANCELLED
3. Regional Emergency Exercise: Wed. Oct 21st 8:00 a.m.
4. Boards & Commission Candidate Review: Oct. 26th CANCELLED.
5. Budget Worksessions: Mon. Nov 2nd and Tues. Nov. 3rd at 5:30 p.m.

EXECUTIVE SESSION: To discuss potential litigation per RCW 42.30.110(1)(i); to discuss real property per RCW 42.30.110(1)(c), and Guild Negotiations per RCW 42.30.140(4)(a).

ADJOURN:

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – SEPTEMBER 28, 2009

PRESENT: Councilmembers Ekberg, Young, Franich, Conan, Malich, Payne, Kadzik and Mayor Hunter.

CALL TO ORDER: 5:31 p.m.

PLEDGE OF ALLEGIANCE:

Mayor Hunter announced an amendment to the Agenda to hold the Executive Session right after Presentations. Council agreed to the change.

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of Sep. 14, 2009.
2. Receive and File: a) Big Gig Report; b) AWC RMSA Grant Award.
3. Correspondence / Proclamations: a) Preparedness Month; b) Red Ribbon Week - Boys & Girls Club.
4. Pierce County Interlocal – Commute Trip Reduction.
5. Wastewater Treatment Plant Grant Award Contract – Dept. of Commerce.
6. SR16/Burnham Drive Interchange Justification Report – State Interlocal Agreement.
7. Approval of Payment of Bills for September 28, 2009: Checks #61873 through #61968 in the amount of \$472,319.51.

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

PRESENTATIONS:

1. Red Ribbon Week Proclamation. *No one present to accept the proclamation.*
2. Pierce Transit System Redesign. Tina Lee, Principal Planner (System Redesign), from Pierce Transit presented information on the 'Pierce Transit Tomorrow' redesign planning process. She said that Pierce Transit will hold eight Community Design Workshops to help them understand the public's perceptions and preference for the future of the system. She urged Council and Staff to attend the workshops to provide input.

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

MOTION: Move to adjourn to Executive Session at 5:48 p.m. for approximately twenty minutes to discuss potential litigation per RCW 42.30.110(1)(i).
Franich / Malich - unanimously approved.

MOTION: Move to return to regular session at 6: 13 p.m.
Franich / Conan - unanimously approved.

OLD BUSINESS:

1. Second Reading of Ordinance – Comprehensive Plan Processing. Senior Planner Jennifer Kester presented this ordinance that updates the process for the city to update the comprehensive plan each year to provide more efficient review, remove redundancies, and to ensure better public involvement. She described the recommendation from the Planning Commission to add the words “reconsideration of” to the criteria for consideration for initiation in 19.09.130 C which further clarifies this section. There was discussion on the new language regarding public outreach added at Council’s request.

MOTION: Move to adopt Ordinance No. 1177 with the proposed amendment to 19.09.130 C.
Payne / Kadzik - unanimously approved.

NEW BUSINESS:

1. Resolution – Update of Fee Schedule. Planning Director Tom Dolan gave an overview of this update to the Planning Fees to reflect the costs associated with the new development agreement ordinance, to bring certain others fees commensurate to actual work done, and to round several of the fees to a whole number. There was discussion regarding the fee for changes to the Urban Growth Area. Jenn Kester explained that if the city were to initiate a change to the UGA for an application, the city would charge, which doesn’t happen often. There was discussion on whether to delete this from the schedule. Another discussion was held about how the fee increases are based. Tom explained that in the past, the fees have been inadequate and so in 2007 they were raised significantly; in 2008 the city used the regional Consumer Price Indexing (CPI) for a 5.5% increase. This year the CPI is flat, but it is the city’s policy to use the (CPI) as an indicator for future fee increases.

Tom Dolan addressed questions regarding wetlands explaining that since using Grette and Associates, staff time has been greatly reduced. He then said the case of Shoreline Management Permits, the State sets the amount and so projects less than \$5,700 do not require a substantial development permit. He said that staff anticipates that when the Shoreline Master Program is done, many exemptions that will not require permits will be identified.

Mark Hoppen – 8133 Shirley Avenue. Mr. Hoppen said it’s a good idea to charge for staff costs for administering permits. He then addressed another subject. He explained that there is a requirement for a Bed and Breakfast to obtain file for a \$3,000 conditional use permit when there is no outward change in the facility or any change in the home or parking. He suggested adding another class to the category of accessory uses to address this.

MOTION: Move to adopt Resolution No. 804 as presented
Kadzik / Payne – unanimously approved.

2. 2030 Population Allocation. Jennifer Kester said this is a follow-up from the Council Retreat when the population allocation was discussed and staff asked Council for a recommendation to take to the Growth Management Coordinating Committee by October 8th. She explained that the acceptable range is 9,500 to 11,500 giving an explanation of the effect of both the lower number (not achievable with current vested dwelling units) and the higher number (higher than the regional vision for Gig Harbor when the Comprehensive Plan was created in 1994). Staff proposed the 10,500 number which assumes the only growth is the currently vested dwelling units and would require some down-zoning or re-zoning to slow residential growth.

Ms. Kester addressed Council questions regarding down-zoning and rezoning by giving examples of how this could be accomplished. She discussed how the proposed number goes through the process of the Growth Management Council, then to the Puget Sound Regional Council who makes a recommendation to Pierce County to implement. A comment was made that the chosen number has to be defensible.

Ms. Kester then addressed savings to infrastructure improvements as a result of a lower population allocation. She said that the same process will occur in Engineering and Planning to determine the potential reductions. Some of the short-range projects may move to long-range, but it will take the sum of all the policy changes to come up with a definitive answer. Tom Dolan added that the lower the number you chose, the less infrastructure will be required, but we can't identify which projects will drop off.

Council discussed the need to plan responsibly and realistically to avoid higher costs later on. Issues such as changes to the Six-Year TIP, vested residential lots and reduction in zoning densities were further discussed. Ms. Kester clarified that whatever number is adopted by Pierce County has to be incorporated into the city's comprehensive plan and any land use regulations or capital facilities plans have to be adjusted accordingly. She said that the 10,500 number is very aggressive and provides the opportunity for the city to get back to lower densities. She explained that we need to be internally consistent; if the city chooses 9,500 then plans for 10,500 through the Capital Facilities Plan and zoning, there could be lawsuits from developers and other third parties. She and Tom responded to questions of staff time that it will take to implement the new number which will take hundreds of hours plus consultant time. Jenn explained that the state has allocated \$17,500 to the city in grants which could go towards a consultant. Tom added that staff must be careful on what it takes on next year in anticipation of this additional workload.

MOTION: Move to accept Staff's recommendation of 10,500 and direct Staff to communicate that to GMCC.
Young / Ekberg – five voted in favor. Councilmembers Franich and Malich voted no.

STAFF REPORT: None.

PUBLIC COMMENT: None.

MAYOR'S REPORT / COUNCIL COMMENTS:

Councilmember Kadzik said that at the last Council Meeting, there were several concerned citizens that expressed their displeasure with the city, the Chief of Police and staff in general. He said that he thinks those comments were unwarranted. We have a fine Police Department; we have a fine Chief of Police who is a good public servant and has the complete support of the Councilmembers. These citizens indicated their displeasure that the city had to pay out funds to people of unsavory character. He stressed that Council is not fond of that either, but we are also not fond of the fact that one of our employees or public servants put us in the position in which we were compromised and had to do so.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Eddon Boat Ribbon Cutting Ceremony – Wed. Sep 30th at 4:00 p.m.
2. Planning / Building Committee: Thu. Oct 5th CANCELLED
3. City Council / Planning Commission Joint Worksession: Mon. Oct 5th at 5:30 p.m.
4. Intergovernmental Affairs Committee: Mon. Oct 12th CANCELLED
5. Civic Center Furlough Day – Mon. Oct 12th
6. City Council – Tue. Oct 13th at 5:30 p.m. (due to Furlough Day).

ADJOURN:

MOTION: Move to adjourn at 6:59 p.m.
Franich / Conan – unanimously approved.

CD recorder utilized:
Tracks 1001 – 1020

Charles L. Hunter, Mayor

Molly Towslee, City Clerk

**Gig Harbor City Council Retreat
September 25, 2009, 8:30 a.m.
Community Room A/B**

Call to order: 8:34 a.m.

Members Present: Mayor Hunter, City Councilmembers Malich, Ekberg, Franich and Payne. Councilmembers Payne and Kadzik came later in the meeting.

Staff Present: Rob Karlinsey, Darrell Winans, David Stubchaer, Steve Misiurak, Molly Towslee, Jennifer Kester, Tom Dolan, David Rodenbach, Dick Bower, Mike Davis, and Paul Nelson.

Rob Karlinsey explained that the purpose of this retreat is to identify what the Mayor and Councilmembers wish to accomplish in 2010. He said that he sent out a list of objectives, and Councilmembers contacted him with items they wished to discuss which are highlighted on the three-page agenda. He encouraged Councilmembers to bring up any item of interest that may not be highlighted. The group went through the list of objectives, discussing several.

Administration / Finance

1. Health Insurance Plan: Analysis of options and transition plan. *Committee formed and in progress.*
2. Human Resources Projects such as the personnel policies re-write. *Low priority.*
3. Drug & Alcohol Testing Implementation. *Complete – Orientation of CDLs in September.*
4. Flexible Spending Accounts. *Complete.*
5. Incremental Implementation of the Business Plan. *Small steps such as the Stanich sidewalks.*
6. Mainstreet Contribution & Involvement. Rob Karlinsey gave an overview of what the city contributes to the Mainstreet Program in both monetary and in-kind donations such as rent and advertising of their events. Councilmembers asked for a draft budget from the organization before the Budget Retreat in November. They also asked that a definite line be drawn between the city's marketing department and the in-kind advertising for the Mainstreet Program.
7. Economic Development Strategy. *Work on this as time allows.*
8. State and Federal Funding, and State Legislative Lobbying. Rob recommended that the city continue funding the lobbyist in 2010 as there are several pending Federal and State appropriation requests. Mayor Hunter commented that the return on the money spent has been considerable and is necessary to stay in the game. A recommendation was made that funding is okay if we have a policy to only go after appropriate projects. There was further discussion on the need to have a lobbyist represent city interest. Several comments were made about the importance of having a constant presence and the knowledge to navigate through an extremely complex system.
9. Community survey: Implement strategy to improve on what we learned. *Low priority.*

10. Boys & Girls Club Agreement. \$150K in 2010; \$100k in 2011. Rob explained that the \$750,000 grant has passed the Senate but it isn't a sure thing. The grant is based upon the city's \$250,000 contribution. Rob offered to get a copy of the grant to Council. Concern was voiced about spending this amount during this recession.
11. Purchasing Policy. David Rodenbach explained that this would be a comprehensive policy to clarify a uniform policy such as purchase amount authority. He said it could be problematic without a purchasing person. At this time the supervisors approve expenditures. He clarified that staff attempts to buy off the state or federal contracts or go out to bid whenever possible to keep costs down.
12. 2009-2010 Budget Cuts & Monitoring. Rob discussed the impacts of the proposed furloughs and staff reductions. He announced that one less layoff is being proposed because of the clearer financial picture and the amount of feedback he has received on the importance of retaining the Receptionist position. He then proposed a 10% furlough in 2010 with a 4/9 schedule with Fridays off, as well as the week after Christmas. He said if Council is interested he will meet with the Guild to discuss these options. The group discussed the need for regular budget updates. Rob explained that the hours of operation would remain 8-5 allowing an hour for staff to work without the public. Council discussed the advantage of closing one day rather than trying to run with a skeleton crew. He was asked if options other than furloughs had been discussed. Rob explained that salary cuts would have to be negotiated with the Guild. Other options are further capital cuts or using the city's debt reserve. He said that he believes the Guild prefers furloughs to further layoffs. (Guild representative Willy Hendrickson agreed.) Suggestions were made to keep other options on the table for future consideration and if things turn around to consider putting the money back into capital projects rather than getting rid of the furloughs.

Rob then explained that the draft budget assumes that Initiate 1033 doesn't pass; other cities are preparing parallel budgets. He and David Rodenbach described the possible impacts on the budget if the initiative is adopted.

13. Stutz Property Lease. *Do not pursue.*
14. Senior Center Study. *Boys & Girls Club plans include a Senior Center Program.*
15. Pierce County Public Benefit Rating System – Monitor. *Monitor and continue to endorse.*
16. National Maritime Heritage Area. *Monitor and continue to endorse.*
17. Historic District Boundaries and Architecture.
18. Committee/Commission Meeting Frequency. Rob proposed a reduction in meeting frequencies of the Council Committees as well as the appointed committees and commissions. The group discussed the recommendations and suggested that the Arts Commission be reduced to quarterly meetings rather than bi-monthly. The Parks Commission meetings should also be reduced to quarterly with an option to meet on an as-needed basis. A comment was made that "as needed" seems too loose a term. There was discussion on certain commissions such as the Design Review Board meeting without staff. Tom Dolan explained that the DRB is currently meeting without staff to work on a tree-retention policy resulting in the direction given them at the joint City Council / DRB meeting. He assured Councilmembers that the product of these meetings would be presented to the Planning Commission before coming to Council. Staff was directed to move forward with the proposed changes as amended.
19. PenMet / City Tax Overlap – Continue to Pursue? *PenMet does not maintain Cushman Trail.*
20. New Revenue. *Revenue options provided at the July 13th workstudy session.*
21. Regular City Council Meetings Start Time 5:30 p.m. *Done.*

22. PenMet Brochure Contribution (\$25k). *Discontinue in 2010, send certified letter in November.*
23. Automatic Utility Bill Payments via Credit Card. David Rodenbach explained that a program was already in place to do this function adding that the information is available on the webpage and at the front counter. He said that on-line payment was not an option yet and would cost \$4,000 - \$5,000 to set up. Dave was encouraged to put something on the billing to let people know about the option to auto-pay by credit card.

Building / Fire Safety

1. Master Plan. *Deleted.*
2. Green Building / LEEDS and Low Impact Development (ex: Reduced road widths and turnarounds in exchange for sprinklers?) *Changes in storm manual will address LID. Provide incentives such as density credits. Move to PW.*
3. Emergency Management Plans: Continuity of Operations, etc. *Done.*
4. Fire Marshal – Arson Investigations. Dick addressed the contract with Pierce County for Fire Investigations. He said that he was unsuccessful in negotiating a Mutual Aid Agreement with Tacoma and/or Pierce County for hourly investigation services. He recommended continuing the contract with Pierce County for fire investigation assistance only when the city requests it. This should reduce the annual fee.
5. EOC Trailer and Supplies. Dick discussed the plan to purchase the equipment with the state grant for approximately \$19,000 and the remainder would go for the trailer which would be purchased on state bid. After discussion Dick was asked to put together a complete package and bring it to Council as an agenda item.

Dick Bower responded to questions regarding fire inspections. He explained that the Fire District has agreed to do the fire inspections at no charge for another six months. They would like the city to consider charging a fee for the inspections which creates some administrative problems due to staffing and furloughs. When the cost of inspections approached \$80,000 the Fire Department agreed to cut the cost in half because they see the value in the annual, voluntary business inspection as it helps to keep insurance rates down.

Rob said that due to the budget cuts, about a year ago the city proposed scaling back to mailing a voluntary survey card. That is when the Fire District offered to do the inspections for free. He recommended that in 2010 if they discontinue the service for free, that the city fall back on the survey card program until things turn around.

The group discussed the value in a voluntary survey card and asked about charging for inspections. Dick explained that the county charges \$50, but the history here says businesses will refuse the voluntary inspection if we charge. He was asked for staff to look into whether these inspections truly are voluntary or if a business is required to allow the inspection. The group then discussed the insurance rating system and how it is affected by inspections. A comment was made that the firefighters valuation the inspections as a safety precaution.

6. Earthquake Disaster Exercise. *County-wide. PSD and FPD #5 involved.*

Planning

1. Text Amendments. Tom Dolan and Jennifer Kester took the group through a comprehensive, staff prioritized list of Text Amendments. The following is a summary of comments on the highest priority amendments:
 - Efficiency Housekeeping Amendments. Staff was asked to provide a list of the amendments.
 - Site plan Review Approval Process. Staff was directed to move forward but to clearly identify thresholds for when a hearing is necessary or important to identify impacts. This could be based upon building /project size or location.
 - Civil Penalty Process for Code Enforcement. Should this be put off until 2011 due to staffing challenges? More teeth in enforcement may save staff time...move ahead with it in 2010, but as a lower priority.
 - Mixed Use District Overlay Removal. To be discussed further at the upcoming joint meeting with the Planning Commission.
 - Cottage Housing. Ad Hoc Committee working on draft ordinance; should be ready for Planning / Building Committee in 2010 and on to the Planning Commission for consideration later in 2010 or 2011. Master Builders is now on board with Cottage Housing.Tom acknowledged the hard work that went into the six amendments that have been finished. He asked if there were comments on any of the other amendments on the medium to low priority list.
 - Height Restriction Area Criteria Amendment. Make sure there are stringent criteria for removal.
 - Floor Area Ratios for small lots. Should be moved higher on the list.
 - Minimum and Maximum Residential Densities. This is dependent upon other things and will be discussed in time.
2. 2030 Population Allocations. Jenn Kester said these are done every seven years in preparation of the GMA Update. She described the process and the philosophy switch to “low and slow growth” adding that we are looking at a 2030 population range between 9,500 to 11,500. She explained that whatever number is chosen will affect the city’s utility and infrastructure plans as well as land use. She said that after meeting with Councilmembers to discuss this, staff’s recommendation is to go with 10,500, adding that she needs to provide a recommended number to the Growth Management Board on October 9th. After discussion, it was determined that this would need to go to vote at the next Council Meeting on September 28th.
3. Shoreline Master Program Update. *In progress.*
4. 2009 Comprehensive Plan Amendments. Will be discussed at the October 5th joint meeting.
5. 2010 Comprehensive Plan Amendments. There will be a resolution coming in October proposing to only allow city-initiated amendments in 2010. If an important amendment comes forward, it could be city-sponsored.
6. State Mandated Com Plan Update Due in 12/1/11. Jenn said that a major component will be implementing the population allocation and correcting inconsistencies between the city’s land use designation and zoning. Also, the County-wide Planning Policies for climate change and affordable housing will be incorporated; a huge undertaking. Staff would like to begin in-house work in 2010 using allocated state funds of \$17,500. This will be a full-time project for her and half-time for another planner from mid-2010 on. Jenn addressed a question on participation in the Puget Sound Regional Council by explaining that if the city did not participate there would be significantly less changes required to the Comprehensive Plan but we would still have to deal with the population allocation. Because Pierce County chooses to plan as part of the Council, Gig Harbor has to participate. The only option would be to choose not to plan and live with the consequences of being out of compliance with the GMA and the liability of not being eligible for any state grants and being sued.

7. PROS Plan. *In progress.*
8. Development agreement with OPG/ GH North Visioning. Tom reported that they will begin working on a development agreement for the 800 until residential development.
9. UGA Line in Gig Harbor Bay. *Resolves jurisdictional issue.*
10. Canterwood Annexation Analysis. Because this is such a huge undertaking and the staff's workload, after discussion Council recommended that this be moved to 2011 and to check with legal counsel to determine how to respond to the 10% annexation petition.

Tom was asked if staff needed direction on the Boss Amendment. He responded that an application has been submitted and it's on the list for Council's consideration. Rob pointed out that there is a recommendation for no Planning Commission meetings in November, December or January. Tom explained that the schedule was full this spring in anticipation of the Shoreline Update. Now the consultants have been asked to postpone work to save money; the cancelled meetings will allow staff to catch up with the current workload which has been affected by the 2009 furloughs and the elimination of overtime and comp time.

11. Permitting in the UGA. *Major issues resolved.*
12. Annexation Sequencing Strategy. *No new annexations anticipated in near future.*
13. Fee Discount / Waiver for Low Income Housing, including impact/connection fees. *Recommend delaying due to furloughs.*
14. City / County Coordination of Cross-Boundary Impacts. *Delete as it is similar to 11 above.*

Police

1. Drug Dog and accompanying training, supplies and equipment. Chief Davis reported this was implemented in 2009 and will be re-evaluated in 2010. This program is funded with drug seizure money.
2. Policy Manual. *On-going.*
3. Evidence on Q. This computerized scanning program for the property room is funded by the Memorandum of Understanding with Property.com where surplus items are sent out to be sold.
4. EOC Trailer (moved from Building). The department will work with Dick Bower to accomplish this with the grant money.

Chief Davis said he has been getting inquiries on the pan-handling and asked if Council was interest in drafting an ordinance to address this, which comes with a legal cost. He said there is a citizens group interested in helping out with any program. After discussion Council agreed that, until they become aggressive it would be best addressed through outreach and education, and perhaps to engage the local volunteer citizens group to contact. A comment was made about the firemen's "Fill the Boot" program, which is more intimidating and dangerous.

Chief Davis then reported that the COPS hiring recovery grant. With two positions gone, it changes the information he submitted on the application. He is working with the grant administrator and will keep Council advised.

Chief responded to a question about the take-home car program by saying that it is working well and has given the officers the ability to be ready at the start of shift. The fuel cost has increased slightly and the lifespan of the vehicles is on track at eight years before replacement is

needed. The group discussed options for planning for the replacements. Because the vehicle loan will be paid off in a couple of years, it makes sense to continue putting the money into a fund to purchase new vehicles. Rob said that a simple equipment replacement reserve fund makes good sense when the city is in a better financial place.

The group adjourned at 12:05 p.m. for a half-hour lunch. The session reconvened at 12:40 p.m.

Court

Paul Nelson reported that jail costs in 2009 are down significantly from 2008 due to probation services that use alternatives like home monitoring, community service, and partnering with the Police Department. The Judge plays a large part in implementing these alternatives.

Public Works Projects

1. Truck Weight Limits on Pioneer Way Ordinance. *Done; signage installed.*
2. Sewer CRC Orderly Processing. *Done.*
3. Permit Extension. *Done.*
4. Trip Transfer Ordinance. *For same owner, adjacent properties.*
5. BB16 Latecomers Agreement. David Stubchaer explained that the hospital was unable to provide any examples or information on how to implement a Latecomers Agreement of this type. He said that he is working with Legal Counsel to determine that the city's contractual obligation has been met. Rob added that we need to make sure that the hospital doesn't claim the city hasn't done everything possible for them to be reimbursed through SEPA. Jenn added that the Hearing Examiner ruled that the statute doesn't allow that to occur. The city could ask for SEPA mitigation for BB16, but after the Hearing Examiner's decision, the applicants will appeal the request. Steve Misiurak explained that reimbursement is not addressed in the city's concurrency ordinance. Ms. Kester stressed that you have to separate concurrency from SEPA; reimbursement could be done through a latecomers. Rob said that after clarification from Legal Counsel and meeting with the hospital representatives, a proposal may come forward. David suggested that Council might consider a more generic street latecomers agreement ordinance. If passed then it would be up to the hospital to propose an agreement for consideration.
6. Street Vacation One Time Blanket Waiver. *Recommend doing on a case-by-case basis.*
7. Public Works Standards Updates. *Perform work in-house.*
8. NPDES Phase II – Stormwater Manual Update. *Done.*
9. Thurston Lane Prescriptive Easement. *Still in discussions.*
10. Traffic Impact Fees. Steve Misiurak said a draft Six-Year TIP will be presented to the Operations Committee in October and updates to the Traffic Impact Fees calculations will depend upon the list. The fees will range anywhere \$2800 up to \$5000 per trip depending on the projects and the growth assumptions.
11. ADA Transition Plan. David explained that this is a requirement of any city with more than 50 employees and should have been done some time ago. The proposal is to implement the ADA transition plan incrementally. This involves city facilities including improvements to

sidewalks or streets, but does not include slurry or chip seal improvements. There are two costs associated with this; preparation of the plan and implementation.

12. PenLight Proposal to amend Undergrounding Policy and Funding.
13. Jerisich Dock Moorage Fees. Molly Towslee said that the discussion that led to the elimination of the fees several years ago surrounded the parks immunity statute, which the city would lose if fees were charged. In addition, the small amount earned from the dock fees collected do not cover the time spent for two employees to enforce, collect, count, and log in the money collected. There is an issue of vandalism of the money box. A suggestion was made to install for an automated debit / credit card payment option. David Rodenbach said it was an option, but there would be an up-front cost to purchase and install this equipment and monthly fees from the credit card company. This still leave an enforcement issue to determine whether those docking had paid. Because Jerisich Dock doesn't offer amenities such as laundry, showers, water and electrical hookup, raising the fees is not warranted. Most of the group didn't recommend reintroducing fees at this time.
14. Sidewalk / Trails Inventory & Connections. *Included in the PROS Plan.*

Street Capital

1. Road Rehabilitation. David Stubchaer said that the conclusion from the Operations Committee is that with the budgeted \$100,000, pavement repair only will be done and a list of streets was developed. This will go to bid with a contract before Council in October. He said that repairs to Harborview due to the watermain break were included in the bid but will be paid for from the water fund.
2. BB16 Interim Improvement. *Construction 2009. One-year duration.*
3. BB16 Long-Term Solution IJR. David said that after a long process the SPUI was the locally preferred alternative, but that recommendation could change after the Interchange Justification Report. David explained that another option is improvements to the round-about with a four lane bridge between and a pedestrian bridge. He said that state has relaxed its requirements due to the economy and adopting a more flexible philosophy which may allow a less expensive solution. The advantage is the lower cost and interim improvements that would remain in place, in contrast to the SPUI in which most would be destroyed. Another advantage is less disruption to traffic. The need for the IJR may be eliminated if the same bridge can be used.
4. 38th Street Design. Rob explained that 38th doesn't have status as being regionally important for PSRC Federal money but there is a possibility for a small state grant some day through the Safe Routes to School. To rebuild the road with curb, gutter and sidewalks from T.C.C. to city limits will cost approximately \$10 million. He said staff is recommending is to try and extend the life of the existing road through repairs and chip seal. David Stubchaer said that using Pierce County pricing, the repair and striping from 56th south to city limits could be done for \$125,000. The group discussed the poor condition of the roadway and lack of pedestrian paths. Staff offered to provide traffic counts. There was continued discussion on budgeting for systematic road rehabilitation over the years and the option of using a portion of the Civic Center Debt Reserve Fund. David Stubchaer discussed a pavement indexing system to categorize the condition of roadways which would allow a way to prioritize maintenance. Council also discussed the philosophy of contributing to private organizations and purchase of public parks, and the direction the city should go when and if the economy turns around.
5. 50th Street Prescriptive Easement. *Pursue in 2010 – 2011 as time allows.*

6. 50th Street Extension Design, Permitting & Right-of-Way. Mayor Hunter said this road has been pushed through and staff is working on options to slow traffic to address neighborhood complaints.
7. Pioneer Planter Box. A suggestion was made to install a mirror on the north end and trim back vegetation so that you can see pedestrians. Mayor Hunter said that there are safety concerns and staff is considering options. There was discussion on what could be done to make this safer and comments on how it should have been constructed to prevent these issues and to improve pedestrian flow.
8. Uddenberg / Judson Sidewalks and Crosswalk. David Stubchaer described the proposal to install sidewalks on Judson to the Post Office on Stanich and rehabilitating Uddenberg Lane, implementing portions of the Master Plan. There was discussion on the budget for this project. Rob talked about the Public Works Trust Fund Grant explaining they want to use the existing \$200,000 budget as matching funds to grow the budget to \$400,000. Staff was asked for an accounting of how much of the original LTGO bond had been spent. Dave Rodenbach said the original bond was for \$1.1 million and there is about \$200,000 left.
9. Skansie / Jerisich Frontage Improvements. Rob pointed out that the GHHWA Design Committee is working on this and there are improvements that can be done in-house. David described several of the planned improvements. Darrell Winans explained there are plans to put a pump-around vault where the bulb-out is indicated. He asked to be included in the design phase to incorporate any necessary utilities.
10. Harborview / Judson Master Plan Construction. *Take incremental steps.*

Parks Capital

1. Eddon Park Boat Building Restoration. *Done.*
2. Eddon Park Dock and Marine Railway. Rob explained that for grant purposes the \$750,000 is the total project cost. The city will receive \$243,000 from the state which should be sufficient to rebuild the dock. He said that they have asked the state if it would be permissible to make the dock drivable and the response was it would be okay. He stressed that the city's match for the grant was the purchase price of the property. Steve Misiurak asked about the estimate, as his preliminary estimate for a marine dock was \$750,000. He was referred to Lita Dawn Stanton. Steve also said that the permits expire at the end of 2011.
3. Eddon Boat ICP & Long-Term Monitoring. *Assumed in 2009 & 2010 budgets.*
4. KLM Veterans Memorial Park Restroom & Shelter. *Restrooms complete; shelter to be completed by year's end.*
5. Austin Estuary. Rob discussed the \$450,000 grant recently awarded, and the plans to combine with the Donkey Creek Daylighting design. A RFQ for engineering will go out soon.
6. Skansie Netshed Piling Repair / Replace. *Carry \$ forward to 2010. Fish window dependent. Will be contracted out.*
7. Cushman Trail Construction. Rob said this should be done by the end of this year. David said that the city's contribution of \$664,000 will be spent by then so the rest of the project will have to be funded by the County. He gave a progress report on the project.
8. Future Parks Grants Request – e.g. RCO, ALEA & Construction Futures. Rob said that the next round of RCO State Park Grant funding is due in 2010 with legislative approval in 2011. A recommendation was made to apply for a viewing platform at Wilkinson Park.

9. Skansie Maritime Pier Study. Rob said that this was completed this summer and we are waiting for the fishermen to return before the report comes before Council in November. After that, the full Skansie Ad Hoc Committee recommendation will be presented for consideration.
10. Council Decision on Skansie Ad Hoc Committee Recommendations. *Council to discuss in November.*
11. Skansie House Interior Painting & Repair. Mayor Hunter reported that there are electrical problems that need immediate attention before winter. The work can be done in-house for approximately \$3000. He mentioned the recommendation from former Mayor Wilbert to use the house as an Interpretive Center with a Docent, adding that the house could be painted and plumbing and electrical repaired to open it up for use as a useable artifact. He said that the foundation is in good shape and bathrooms are next door at Jerisich Dock. The group discussed use of the building further and whether a more expanded use such as a visitor's center is appropriate which would trigger issues such as ADA access, parking, and possible sale of the Bogue Building. Rob said this is going to be discussed further in December or early 2010; before then he will clarify the ADA concerns. Staff was given direction to get the electrical repairs done up to commercial standards to address any future use.
12. Bogue Building – Sell or Hold. A suggestion was made that if the Visitor's Center is moved into the Skansie House, the Bogue Building becomes surplus and should be sold. Mayor Hunter said it is a donated building, the Lion's Club has a stake in the building, and property values are down and so there is no pressure to sell, and because it's located in a strategic location, the city has say on what goes on down there. There was discussion on whether to the proper thing to do is sell; there is a potential public use purchaser and if the decision is made in December to move the visitor's center the city could sell the Bogue Building with an option to lease until the Skansie House is ready to occupy.

Sewer Capital

1. WWTP Phase I Expansion. *Currently underway.*
2. WWTP Marine Outfall Extension. *Currently out to bid. Construction to begin in 2010.*
3. Lift Station Upgrades / retrofits / replacements. David Stubchaer explained the plan to replace aged lift stations one per year. It was determined that the amount listed on the agenda (\$100,000) was in error; it should be \$700,000. Darrell Winans said money for design was been budgeted in 2009 and fund will be requested in 2010 to replace Lift Station #6. He explained that he can't get parts for the 37 year old system, the pumps are worn out, and there is no backup. He described plans for the project and was asked to explore a backflow valve with the property owner at this site.
4. WWTP Plant Phase II Expansion Design. *Cash flow dependent.*
5. Shorecrest Septic System on Ray Nash Drive. David gave an overview of this system explaining that the city doesn't have more connections to sell, even though there are requests from houses that have septic systems that have been condemned for ten years. An idea for a study on the drain-field capacity has been suggested, but that takes money. Rob discussed the plans to separate the fund for this system to address increases for studies and upgrades. David said that the franchise agreement allows a line to be run up Rosedale if that becomes necessary.

6. Unsewered Areas Strategy. Darrell said they are researching satellite plants in accordance with the Comprehensive Plan and have identified where lift stations would be located. David said if the satellite plants can produce Class A effluent, it will be important when the city applies for water rights or the NPDES permits. Darrell explained that the Woodhill Lift Station is a likely location for a satellite plant.

Water Capital

1. Crescent Creek Well Drilling. Davis Stubchaer explained that Well #10 drilled here did no yield as much as anticipated and so staff asked permission to develop a matrix to find another drilling site. There are seven options from rehabilitating existing wells to locating new wells. These options were rated by a consultant and the water-rights attorney. He described the top two options; a new well on Grandview and / or a new well on Skansie by the Public Works Shop. The group discussed the budget impacts of finding additional water pressure which is a current and future problem. The cost of a new Grandview Well is \$3.4 million; drilling test wells would cost \$100,000 each.

As it was past 3:00 p.m., Rob suggested that the remainder of the agenda items be discussed during the Budget Worksessions.

2. Crescent Creek Well Development. *Pending outcome of decision matrix.*
3. GHN Well. *Permitting & design.*
4. Water Rights Advocate. *Ongoing.*
5. Reid & Hollycroft Intertie. *Delete - pot holing revealed this project is not needed.*
6. Stinson Water Main Replacement. *Still in the '09 budget; carry forward to Spring 2010.*
7. Harborview Watermain Replacement. *This needs to come to the top of the priority list.*

Stormwater Capital

1. 50th Street Culvert. *Construction funding on-hold.*
2. Donkey Creek Daylighting and N. Harborview Pedestrian Bridge. *Funded via Federal Grants.*

The meeting adjourned at 3:13 p.m.

Respectfully Submitted:

Molly Towslee, City Clerk

**PROCLAMATION OF THE MAYOR
OF THE CITY OF GIG HARBOR**

WHEREAS, the care and protection of victims of domestic violence has traditionally been the responsibility of law enforcement agencies; and

WHEREAS, dedicated professionals and concerned community members have recognized the need to become involved, ensuring protection for those who may have violence imposed on them by another; and

WHEREAS, these victims live in fear day-to-day for their lives and the lives of their children; and

WHEREAS, the trauma of domestic violence includes facing emotional, financial and legal obstacles, often alone and without support; and

WHEREAS, the number of victims being served by our partners at the Crystal Judson Family Justice Center and the city's Domestic Violence Kiosk is increasing each month and continues to act as important tools in combating domestic violence; and

WHEREAS, the significant impact of domestic violence on our community and our efforts to combat this criminal activity using various methods alongside our valued partners deserves to be recognized;

NOW, THEREFORE, I, Charles Hunter, Mayor of the City of Gig Harbor, do proclaim the month of October, as

Domestic Violence Awareness Month

And invite all citizens of Gig Harbor to join me in this special observance. In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 13th day of October, 2009.

Mayor, City of Gig Harbor

Date



**Business of the City Council
City of Gig Harbor, WA**

Subject: Stormwater Pass-through Grant Agreement between Washington State Department of Ecology and City of Gig Harbor.

Proposed Council Action: Authorize the Mayor to execute the FY 2010-2011 Phase II Stormwater Pass-through Grant Agreement between the State of Washington Department of Ecology and the City of Gig Harbor in the amount of \$50,000.

Dept. Origin: Public Works/Engineering

Prepared by: Wayne Matthews *WAM*
Engineering Technician

For Agenda of: October 13, 2009

Exhibits: Dept. of Ecology Pass-through Grant Letter to Mayor and a Stormwater Pass-through Grant Agreement

	Initial & Date
Concurred by Mayor:	<i>CLH 10/5/09</i>
Approved by City Administrator:	<i>RSR</i>
Approved as to form by City Atty:	<i>approve via email 10/1/09</i>
Approved by Finance Director:	<i>CF 10/1/09</i>
Approved by Department Head:	<i>RSR 9/30/09</i>

Expenditure Required	0	Amount Budgeted	0	Appropriation Required	0
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INFORMATION/BACKGROUND

This Stormwater Pass-through Grant Agreement between City of Gig Harbor and State of Washington Department of Ecology provides \$50,000 no-match funding for equipment, staff training, public education and outreach activities, efforts to control construction runoff, pollution prevention and maintenance activities, annual reporting, and stormwater monitoring plan development among other efforts to comply with the NPDES Stormwater Permit requirements.

FISCAL CONSIDERATION

The Stormwater Pass-through Grant Agreement provides \$50,000 funding toward the City's efforts to meet future permit requirements of the City's NPDES Phase II General Stormwater Permit. The effective date of this grant agreement is July 1, 2009 and it will expire on June 30, 2011.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION/MOTION

Move to: Authorize the execution of the Stormwater Pass-through Grant Agreement that will provide \$50,000 funding toward the City's efforts to meet future permit requirements of the City's NPDES Phase II General Stormwater Permit.



RECEIVED
Consent Agenda - 4
AUG 27 2009
CITY OF GIG HARBOR

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

August 20, 2009

The Honorable Charles Hunter
Mayor of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Re: Phase II Stormwater Pass-through Grants Program
FY 2010-11 Grant Funding Offer

Dear Mayor Hunter:

I am pleased to inform you that your community is eligible for a \$50,000 grant from the Department of Ecology's (Ecology) new *Phase II Stormwater Pass-through Grants Program*.

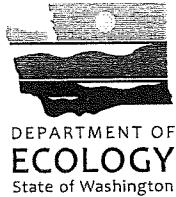
The purpose of the *Phase II Stormwater Pass-through Grants Program* is to provide grants to local governments throughout Washington State for implementation of Phase II municipal stormwater National Pollutant Discharge Elimination System (NPDES) permits.

In the 2007-2009 biennium, the Washington State Legislature provided \$9 million in base funds for stormwater management activities for local governments. Ecology is now offering two programs with the carry-over from those funds. One program is for pass-through grants to cities, towns, and counties covered by a Phase II municipal stormwater general permit, as described in the enclosed materials. We will contact your staff in the near future to solicit offers for the other program, a competitive Request for Proposal (RFP) for stormwater projects of regional or statewide significance.

This letter includes guidelines and a grant agreement to receive the *Phase II Stormwater Pass-through Grant*. Because of the nature of the appropriation, all funds must be obligated in a grant agreement and spent by **June 30, 2011**.

This offer is contingent on Ecology receiving a signed grant agreement and scope of work by **October 30, 2009**. If we do not receive a signed grant agreement from you by that date, the funds will be made available to other local governments.





**FY 2010-2011 PHASE II STORMWATER PASS-THROUGH
GRANTS PROGRAM
GRANT AGREEMENT BETWEEN THE
STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
CITY OF GIG HARBOR**

THIS is a binding agreement entered into, by, and between the state of Washington Department of Ecology (DEPARTMENT), and City of Gig Harbor (RECIPIENT). The purpose of this agreement is to provide funds to the RECIPIENT to carry out the requirements described herein.

PART I. GENERAL INFORMATION

Project Title: **Phase II Stormwater Pass-through Grant Program**

Grant Number: **G1000179**

RECIPIENT Name and Address: **City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335**

RECIPIENT Contact: **Wayne Matthews**
Telephone Number: **(253) 853-2646**
Fax Number: **(253) 853-7597**
E-Mail Address: **matthewsw@cityofgigharbor.net**

RECIPIENT Billing Contact: **Wayne Matthews**
Telephone Number: **(253) 853-2646**
Fax Number: **(253) 853-7597**
E-Mail Address: **matthewsw@cityofgigharbor.net**

RECIPIENT Federal ID Number: **91-6001435**

DEPARTMENT Project/Financial Manager:
Mailing Address: **Water Quality Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600**
Telephone Number: **360- 407-6502**
Fax Number: **360- 407-7151**
E-Mail Address:

DESIGNATED LOCAL
GOVERNMENT PARTNERS
(if applicable)

For partnerships, the lead government and partners must submit a copy of the signed agreement in Appendix B with each copy of the grant agreement.

DEPARTMENT Funding Source: **2010-2011 Biennial Operating Budget/Local Toxics Control Account**

Total Cost (up to \$50,000 each recipient): **\$ 50,000**

Total Eligible Cost (up to \$50,000 each Recipient): **\$ 50,000**

DEPARTMENT Share (\$50,000 each Recipient): **\$ 50,000**

DEPARTMENT Maximum Percentage: **100%**

The effective date of this grant agreement is July 1, 2009. Any work performed prior to the effective date of this agreement will be at the sole expense and risk of the RECIPIENT.

This agreement expires on **June 30, 2011**.

PART II. PERFORMANCE MEASURES

A. Water Quality Goal.

Improved stormwater management and water quality protection associated with development and implementation of a stormwater management program.

B. Project Outcomes.

Local Government Stormwater Grants for local governments to receive grants for municipal stormwater programs, including but not limited to implementation of Phase II municipal stormwater National Pollutant Discharge Elimination System (NPDES) permits.

C. Post Project Assessment.

The RECIPIENT agrees to submit a brief survey three years after project completion regarding the key project outcomes and the status of environmental results or goals from the project. The DEPARTMENT's Performance Measures Lead will e-mail the RECIPIENT the Post Project Assessment Survey.

The DEPARTMENT may conduct on-site interviews and inspections, and may otherwise evaluate the Project. The DEPARTMENT will enter the information provided into its performance measures database to be provided to the Washington State Legislature, United States Environmental Protection Agency, and other natural resource agencies.

Approximate Post Project Assessment Date: June 30, 2012

PART III. PROJECT DESCRIPTION

The RECIPIENT’s stormwater project will address implementation or management of municipal stormwater programs.

PART IV. PROJECT BUDGET

Phase II Stormwater Pass-through Grant Program	
ELEMENTS	TOTAL ELIGIBLE COST (TEC)*
Task 1 – Project Administration/Management (limited to 10% of total)	\$ 0
Task 2 – Implementation and management of Stormwater Program	\$ 50,000
Total (limited to \$50,000 per Recipient partner)	\$ 50,000
*The DEPARTMENT's Fiscal Office will track to the Total Eligible Project Cost.	
MATCHING REQUIREMENTS (There are no matching requirements)	
DEPARTMENT Share FY 2010-11 (100% of TEC)	\$ 0

Payment Request Submittals. Payment requests will not be submitted more often than monthly, unless allowed by the DEPARTMENT’s Project/Financial Manager. The DEPARTMENT’s Project/Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.

Payment Schedule. Payments will be made on a cost-reimbursable basis.

PART V. SCOPE OF WORK

The RECIPIENT shall ensure that this project is completed according to the details of this agreement. The RECIPIENT may elect to use its own forces or it may contract for professional services necessary to perform and complete project related work. The RECIPIENT certifies by signing this agreement that all applicable requirements have been satisfied in the procurement of any professional services. Eligible and ineligible project costs are separate and identifiable for billing purposes. If professional services are contracted, the RECIPIENT shall submit a copy of the final contract to the DEPARTMENT’s Project/Financial Manager.

Task 1 - Project Administration/Management

- A. The RECIPIENT shall administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, and progress reports; compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required

permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

- B. The RECIPIENT shall manage the project. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; the DEPARTMENT; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.
- C. The RECIPIENT shall submit all invoice voucher submittals and supportive documentation, to the DEPARTMENT's Project/Financial Manager. Copies of all applicable forms shall be included with an original A19-1A, and shall be submitted to the DEPARTMENT. Blank forms are found in Administrative Requirements for Recipients of Ecology Grants and Loans at <http://www.ecy.wa.gov/biblio/9118.html>

Required Forms:

- Form A19-1A (original signature)
- Form B2 (ECY 060-7)
- Form C2 (ECY 060-9)
- Form D (ECY 060-11)

Where Eligible Costs Have Incurred:

- Form E (ECY 060-12)
- Form F (ECY 060-13)
- Form G (ECY 060-14)
- Form H (F-21)
- Form I (ECY 060-15)

- D. If work conducted results in a report, the RECIPIENT shall submit the following to the DEPARTMENT's Project/Financial Manager and in the quantities identified:
 - Draft project completion reports – one electronic copy
 - Final project completion reports – five copies
 - Electronic copy of final project completion report

The RECIPIENT shall submit two copies of any document(s) which requires DEPARTMENT approval. Once approval is given, one copy will be returned to the RECIPIENT. If the RECIPIENT needs more than one approved copy, the number of submittals should be adjusted accordingly.

Task 2 – Implementation of Stormwater Planning and Management Needs

- A. The RECIPIENT shall address stormwater management needs that protect or restore water quality. The RECIPIENT may conduct work related to implementation of activities required by the municipal stormwater National Pollutant Discharge Elimination System (NPDES) permits.

B. Check the boxes that represent the activities funded under this grant:

- Public education and outreach activities
- Public involvement and participation activities
- Illicit discharge detection and elimination (IDDE) program activities, including:
 - Mapping or geographic information systems of municipal separate storm sewer systems (MS4s);
 - Staff training
 - Activities to identify and remove illicit stormwater discharges;
 - Dry weather outfall screening procedures and field activities;
 - Complaint hotline database or tracking system improvements.
- Activities to support programs to control runoff from new development, redevelopment, and construction sites, including:
 - Development of an ordinance and associated technical manual
 - Inspections before, during, and upon completion of construction, or for post-construction long-term maintenance.
 - Training for plan review and/or inspection staff
- Pollution prevention, good housekeeping, and operation and maintenance program activities, such as:
 - Inspecting and/or maintaining the MS4 infrastructure
 - Developing and/or implementing policies, procedures, or stormwater pollution prevention plans at municipal properties or facilities.
- Annual reporting activities, including developing a summary of identified barriers to the use of low impact development.
- Establishing and refining stormwater utilities, including stable rate structures.
- Water quality monitoring to implement permit requirements for a Water Cleanup Plan (TMDL). Note that any monitoring funded by this program requires submittal of a Quality Assurance Project Plan that Ecology approves prior to awarding funding for monitoring.
- Developing a report to plan for monitoring the next permit cycle.
- Equipment purchases that result directly in improved compliance with permit requirements. Allowed costs for equipment purchases must be specific to implementing a permit requirement (such as a vactor truck) rather than general use (such as a general use pick-up truck). Qualified equipment purchases include but are not limited to:
 - Illicit discharge testing equipment and materials
 - Vactor truck or sweeper truck for MS4 maintenance activities
 - Electronic devices dedicated to mapping of MS4 facilities and attributes
 - Software dedicated to tracking permit implementation activities
- Other activities consistent with the funding purposes of this program that support stormwater management programs or permit compliance, which can be completed by the June 30, 2011, deadline. Provide brief description in the space below:

PART VI. SPECIAL TERMS AND CONDITIONS

- A. Commencement of Work. In the event that the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date mutually agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.
- B. DEPARTMENT Funding Recognition. The RECIPIENT shall acknowledge and inform the public about DEPARTMENT funding participation in this project as appropriate. Examples include project signs and/or acknowledgement in published materials and reports, the news media, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs.
- C. Equipment Purchase. The purchase of equipment may be eligible under this project. If the RECIPIENT determines that equipment is needed to achieve the project outcomes, a request must be made to the DEPARTMENT. All equipment purchases must have prior approval by the DEPARTMENT. Allowable equipment purchases include equipment needed to implement permit requirements (such as a vactor truck) rather than for general use (such as general use pick-up truck).
- D. Indirect Rate. To acknowledge overhead costs, the RECIPIENT may charge an indirect rate up to 25 percent based on RECIPIENT employee's direct salary and benefit costs incurred while conducting project related work, provided that prior to signature of this agreement, the DEPARTMENT's Project/Financial Manager may require a list of items included in the indirect rate during negotiations or thereafter. Items that are generally included in an indirect rate are identified in Administrative Requirements for Recipients of Ecology Grants and Loans.
- E. Meetings/Light Refreshments. The RECIPIENT may spend up to \$50 per meeting for light refreshments associated with this project. The total amount spent for light refreshments under this agreement cannot exceed \$300.
- F. Minority and Women's Business Participation. The RECIPIENT agrees to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

Contract awards or rejections cannot be made based on MBE or WBE participation. M/WBE participation is encouraged, however, and the RECIPIENT and all prospective bidders or persons submitting qualifications should take the following steps, when possible, in any procurement initiated after the effective date of this agreement:

1. Include qualified minority and women's businesses on solicitation lists.
2. Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.

4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

The RECIPIENT shall report to the DEPARTMENT at the time of submitting each invoice, on forms provided by the DEPARTMENT, payments made to qualified firms. Please include the following information:

1. Name and state OMWBE certification number (if available) of any qualified firm receiving funds under the invoice, including any sub-and/or sub-subcontractors.
2. The total dollar amount paid to qualified firms under this invoice.

- G. Progress Reports. The RECIPIENT shall submit quarterly Progress Reports to the DEPARTMENT's Project/Financial Manager. Payment requests will not be processed without a Progress Report.

Reporting Periods.

- January 1 through March 31
- April 1 through June 30
- July 1 through September 30
- October 1 through December 31

Reporting Due Date. Quarterly Progress Reports are due 15 days following the end of the quarter.

Report Content. At a minimum, all Progress Reports must contain a comparison of actual accomplishments to the objectives established for the period, the reasons for delay if established objectives were not met, analysis and explanation of any cost overruns, and any additional pertinent information specified in this agreement.

- H. Water Quality Monitoring. Prior to initiating water quality monitoring activities, the RECIPIENT must prepare a Quality Assurance Project Plan (QAPP) that follows Ecology's *Guidelines and Specifications for Preparing Quality Assurance Project Plans for Environmental Studies*, February 2001 (Ecology Publication No. 01-03-003).

The RECIPIENT must submit the QAPP to the DEPARTMENT for review, comment, and must be approved before starting the environmental monitoring activities.

The RECIPIENT must use an environmental laboratory accredited by Ecology to analyze water samples for all parameters to be analyzed that require bench testing.

The RECIPIENT should manage all monitoring data collected or acquired under this agreement in order to be available to secondary users and meet the "ten-year rule."

Monitoring Data Submittal / Environmental Information Management System. Funding recipients that collect water quality monitoring data must submit all appropriate data to Ecology through the Environmental Information Management System (EIM).

PART VII. ALL WRITINGS CONTAINED HEREIN

This agreement, the appended GENERAL TERMS AND CONDITIONS, the DEPARTMENT's current edition of *Administrative Requirements for Recipients of Ecology Grants and Loans* ("Yellow Book"), and the *Local Government Stormwater Grants Program FY 2008* contain the entire understanding between the parties, and there are no other understandings or representations other than as set forth or incorporated by reference, herein. No subsequent modification(s) or amendment(s) of this agreement shall be of any force or effect unless signed by authorized representatives of the RECIPIENT and DEPARTMENT and made a part of this agreement, EXCEPT that in response to a request from the RECIPIENT, the DEPARTMENT may redistribute the grant budget. The DEPARTMENT or RECIPIENT may change their respective staff contacts without the concurrence of either party.

IN WITNESS WHEREOF, the parties hereby execute this Grant:

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CITY OF GIG HARBOR
JURISDICTION

DATE
KELLY SUSEWIND, P.E., P.G.
WATER QUALITY PROGRAM MANAGER

DATE
NAME: CHARLES L. HUNTER
TITLE: MAYOR

APPROVED AS TO FORM ONLY
ASSISTANT ATTORNEY GENERAL

(Revised 8/14/09)

Appendix A**GENERAL TERMS AND CONDITIONS**
**Pertaining to Grant and Loan Agreements of
the Department of Ecology****A. RECIPIENT PERFORMANCE**

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the agreement's final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.

3. Wages And Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the

DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object.

All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.

3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.

4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$500,000 or more in a year in Federal funds. The \$500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee.

Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.

3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five(45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.

4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.

5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.

6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.

7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds thereunder and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; Provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date mutually agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes.

Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.

4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:

a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.

b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.

6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g. recycled paper). For more information, see www.ecy.wa.gov/sustainability..

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the

DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

This agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY

If any provision of this agreement or any provision of any document incorporated by reference

V. PRECEDENCE

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Ecology Grants and Loans"; and (e) the General Terms and Conditions.

SS-010 Rev. 04/04

Appendix B

PARTNERSHIP AGREEMENT FOR ECOLOGY GRANTS

FY2010-2011 PHASE II STORMWATER PASS-THROUGH GRANTS

The cities, towns, and counties listed below agree to partner under one grant agreement for the FY2010 -2011 Phase II Stormwater Pass-through Grants. The grant shall be administered on behalf of the partners by the Lead Phase II Local Government. Each partner local government is a city, town, or county permittee under the Phase II Western Washington Municipal Stormwater General Permit or the Phase II Eastern Washington Municipal Stormwater General Permit.

Lead Phase II Local Government: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____

Title

Date _____

Partner Local Government #1: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____

Title

Date _____

Partner Local Government #2: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____

Title

Date _____

Partner Local Government #3: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____

Title

Date _____

Partner Local Government #4: _____

Phase II permit coverage number: _____

Signature of authorized representative: _____

Title

Date _____

If you require special accommodations or need this document in a format for the visually impaired, call the Water Quality Program at 360-407-6502. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.



Subject: 2010 Comprehensive Plan Amendments

Proposed Council Action: Pass resolution limiting the processing of 2010 amendments to only City initiated amendments

Dept. Origin: Planning

Prepared by: Tom Dolan
Planning Director

For Agenda of: October 13, 2009

Exhibits: Resolution

Initial & Date

Concurred by Mayor:

CHH 10-7-09

Approved by City Administrator:

ROK 10/7

Approved as to form by City Atty:

Via E-mail

Approved by Finance Director:

N/A

Approved by Department Head:

TD 10/7/09

Expenditure		Amount		Appropriation	
Required	0	Budgeted	0	Required	0

INFORMATION / BACKGROUND

In order for the City to be consistent with requirements of the State, Puget Sound Regional Council and Pierce County, a major update to the Comprehensive plan is required in 2011. In that it is anticipated that funding to hire consultants to assist with the update will be limited, the majority of the work associated with the update will be done in-house with existing staff.

Due to staff reductions and/or furloughs, it is anticipated that the amount of staff time available to work on the update will also be limited. In that staff anticipates that it will be necessary to start the 2011 update in early 2010, staff is recommending that amendments to the Comprehensive Plan for 2010 be limited to City initiated amendments. Private amendments submitted for the 2010 Comprehensive Plan review cycle should be moved to the 2011 annual review period. This will allow staff to focus on the major amendments necessary in 2011.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

None

RECOMMENDATION / MOTION

Move to: Pass resolution limiting the processing of 2010 amendments to only City initiated amendments.

RESOLUTION NO. 805

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, TEMPORARILY RESTRICTING THE FILING OF COMPREHENSIVE PLAN AMENDMENTS TO ONLY CITY SPONSORED AMENDMENTS.

WHEREAS, the City of Gig Harbor is required by the State Growth Management Act to amend our Comprehensive Plan every seven years; and

WHEREAS, the State mandated revision is due in 2011; and

WHEREAS, to be consistent with the Puget Sound Regional Council's VISION 2040 and the Pierce County "CountyWide Planning Policies a major update to the City's Comprehensive Plan is required; and

WHEREAS, during the last update 7 years ago the City utilized the services of a planning consultant; and

WHEREAS, the City's current budget situation requires that the majority of work associated with the update be done by current city employees; and

WHEREAS, in order to complete the required update in 2011 a significant amount of staff time will be necessary; and

WHEREAS, it is anticipated that in order to complete the 2011 major Comprehensive Plan update by December 31, 2011 it will be necessary to begin work on the update in 2010; and

WHEREAS, the staff time available to work on the 2011 update in 2010 will be significantly reduced due to anticipated mandatory furloughs and/or staff reductions required for budgetary reasons; and

WHEREAS, if a large number of Comprehensive Plan Amendments are accepted for review in the 2010 review cycle, the City's ability to complete the State mandated 2011 Comprehensive Plan update will be adversely affected;

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

Section 1. The city shall process only city-initiated applications in the 2010 annual review period. Any complete private application submitted by the deadlines

outlined in GHMC 19.09.030 and GHMC 19.09.090 for the 2010 annual review period shall be moved to the docket for the 2011 annual review period.

RESOLVED by the City Council this 13th day of October, 2009.

APPROVED:

Charles L. Hunter, Mayor

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

By: _____



**Business of the City Council
City of Gig Harbor, WA**

Subject: Resolution declaring emergency related to vandalism at North Water Tank

Dept. Origin: Public Works

Proposed Council Action:

Prepared by: David Stubchaer, PW Director *DJS*

Authorize the Resolution declaring an emergency situation, waive competitive bidding requirements and approve construction services contract with Viking Fence for the installation of barb wire and razor ribbon to the existing fence at the North Water Tank for a lump sum amount of \$2,369.62.

For Agenda of: October 13, 2009

Exhibits: Resolution

Initial & Date

Concurred by Mayor:

CLH 10/7/09

Approved by City Administrator:

POK 10/7/09

Apprv'd as to form by City Atty:

Via email

Approved by Finance Director:

CL 10/7/09

Approved by Department Head:

DJS 10/7/09

Expenditure Required	\$2,369.62	Amount Budgeted	See Fiscal Consideration below	Appropriation Required	\$0
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INFORMATION/BACKGROUND

On August 10, 2009, during a routine cleaning and inspection of the North Water Tank, Public Works staff found that the top of an electrical junction box fitting on top of the 152 foot tall tank had been pried off by unauthorized persons allowing access to the inside of the water tank.

The Public Works Director and Public Works Operations Superintendent inspected the damage and concluded from their inspections that the tank was susceptible to being compromised and that additional protection measures were in order to secure the safety of the water supply and public health.

Steps were taken to address the issue by hiring Viking Fence to install barbed wire and razor ribbon to better secure the water tank site. In order to avoid additional delay in installation of the additional security measures, Viking Fence was hired without going through the Small Works Roster process. Bypassing the process is allowed if the proposed resolution is authorized which declares it an emergency.

FISCAL CONSIDERATION

Costs for this item were paid out of the Water Operating Repair and Maintenance fund.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION/MOTION

Authorize the Resolution declaring emergency to waive the competitive bidding process to address the installation of fencing material at the North Water Tank after a recent vandalism incident and authorization of the construction services.

RESOLUTION NO. 806

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DECLARING THE EXISTENCE OF AN EMERGENCY NECESSITATING THE WAIVER OF COMPETITIVE BIDDING REQUIREMENTS TO ADDRESS THE EMERGENCY INSTALLATION OF BARB WIRE AND RAZOR RIBBON TO THE EXISTING FENCE AT THE NORTH WATER TANK LOCATED OFF BORGEN BOULEVARD AFTER A RECENT VANDALISM INCIDENT; RATIFYING THE CONTRACT FOR SUCH PUBLIC WORK; AND, WAIVING THE REQUIREMENTS OF RCW 39.04.190, RCW 39.04.155, AND CITY OF GIG HARBOR RESOLUTION NO. 797, AS ALLOWED BY RCW 39.04.280.

WHEREAS, RCW 39.04.280(1)(c) authorizes the City to waive competitive bidding and professional selection requirements in the event of an emergency; and

WHEREAS, RCW 39.04.280(3) defines an emergency as an unforeseen circumstance beyond the control of the municipality that either (a) presents a real, immediate threat to the proper performance of an essential function; or (b) will likely result in material loss or damage to property, bodily injury or loss of life if immediate action is not taken; and

WHEREAS, on August 10, 2009, during a routine cleaning and inspection of the North Water Tank, Public Works staff found that the top of an electrical junction box fitting on top of the 152 foot tall tank had been pried off by unauthorized persons allowing access to the inside of the water tank; and

WHEREAS, the Public Works Director and Public Works Operations Superintendent inspected the damage and concluded from their inspections that the tank was susceptible to being compromised and that additional protection measures were in order to secure the safety of the water supply and public health; and

WHEREAS, because of this emergency, the City is unable to comply with the City's resolution applicable to bidding procedures; NOW THEREFORE,

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

Section 1. Finding and Declaration of Emergency. The City Council hereby declares that an emergency exists requiring the immediate action by the Public Works Director in order to preserve the public health, safety, property and welfare. The Council further declares that the delay necessitated by compliance with the procedures for procurement of equipment and construction of public works found in City Resolution No.

797, RCW 39.04.190 and RCW 39.04.155, prevent the City from coping with the emergency in time to minimize impact to the City's vital infrastructure. This declaration of emergency is based upon the following findings of fact:

- A. On August 19, 2009 Public Works requested a quote and schedule from Viking Fence to perform the installation of barb wire and razor ribbon to the existing fence at the North Water Tank.
- B. On September 17, 2009, Viking Fence performed the installation of barb wire and razor ribbon to the existing fence at the North Water Tank for a lump sum cost of \$2,369.62.
- C. Council ratification of the utilization of Viking Fence to perform the installation of the fencing material to further protect the North Tank water quality is appropriate given the immediate need to protect vital city infrastructure.

Section 2. Authorization to Contract. The City Council hereby ratifies and approves the Public Works Director contracting with Viking Fence Company for a lump sum cost of \$2,369.62 for the installation of barb wire and razor ribbon to the existing fence at the North Water Tank.

RESOLVED by the City Council this _____ day of _____, 2009.

APPROVED:

MAYOR CHUCK HUNTER

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

BY: _____

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



Subject: 2009 Roadway Maintenance Project – Construction Contract and Materials Testing Contract Award

Proposed Council Action:

A. Authorize the Mayor to execute the Public Works Contract to the lowest responsive, responsible bidder provided the contract amount does not exceed \$125,000 and authorize the Public Works Director to approve additional expenditures up to \$14,000 to cover any cost increases that may result from contract change orders.

B. Authorize the award and execution of a consultant services contract to Construction Testing Laboratories, Inc, for materials testing services in an amount not to exceed \$751.00 and authorize the Public Works Director to approve additional expenditures up to \$100.00 to cover any cost increases that may result from necessary changes in the scope of work.

Dept. Origin: Public Works

Prepared by: Jeff Langhelm Senior Engineer *AL*

For Agenda of: October 13, 2009

Exhibits: Public Works Contract and Materials Testing Scope, Fee, and Contract

Concurred by Mayor:	Initial & Date <i>CLH 10/7/09</i>
Approved by City Administrator:	<i>POK 10/7/09</i>
Approved as to form by City Atty:	<i>OK BY EMAIL</i>
Approved by Finance Director:	<i>DF 10/7/09</i>
Approved by Department Head:	<i>DS 10/7/09</i>

Expenditure Required	Not to Exceed \$ 140,000	Amount Budgeted	\$ 140,000	Appropriation Required	\$0
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INFORMATION / BACKGROUND

The City of Gig Harbor budgets funds each year for maintenance of existing roadways throughout the City. Due to the limited budget in 2009 the work proposed under Bid Schedule A for the 2009 roadway maintenance provides for repair of the worst area along three high volume roadways and repair of a low volume roadway where roadway failure may otherwise be eminent.

Additionally, under a separate bid schedule this contract provides for roadway repair of Harborview Drive at Novak Street where a water main break in August 2009 caused roadway damage. Funding for the roadway repair associated with the water main break is proposed to be provided from the water operating fund.

Additionally, the City requested a scope and fee from Construction Testing Laboratories, Inc., for materials testing services for this project.

BID RESULTS

The 2009 Roadway Maintenance Project was bid using the City’s Small Works Roster Process (Resolution No. 750). The Engineer’s Opinion of Probable Cost for this contract is \$126,000. Bids will be received by the City of Gig Harbor on October 13, 2009. Bid results will be made available at the October 13 City Council Meeting.

FISCAL CONSIDERATION

The 2009 City of Gig Harbor Budget includes funding for this work in the Street Division Capital budget, Item No. 5, “Street Maintenance”. The City Budget also includes funding for the roadway repair due to the water main break in the Water Operating budget for water main repairs, maintenance, and breaks. The budget summary for this item is provided in the table below:

2009 Budget for Street Division Capital, Item No. 5 (102-018-595-30-63-12)	\$ 100,000
2009 Budget for Water Operating (401-020-534-52-48-00/10)	\$ 40,000
Anticipated 2009 Expenses:	
Award Limit of Schedule A – Roadway Maintenance	\$ 95,000
Award Limit of Schedule B – Water Main Roadway Repair	\$ 30,000
Change Order Authority for Public Works Contract	\$ 14,000
Materials Testing Contract	\$ 851
Remaining 2009 Budget =	\$ 149

BOARD OR COMMITTEE RECOMMENDATION

The various roadway maintenance options were presented to the Operations and Public Project Committee at their May 2009 meeting. Committee Members requested limited pavement repair at only the most severely deteriorated sections of roadways not being repaired or replaced as part of a separate forthcoming capital project.

RECOMMENDATION / MOTION

Move to: Staff recommends approval of proposed council action A and B above.

**2009 STREET REHABILITATION PROJECT
CSP- 0912**

CONTRACT

THIS AGREEMENT, made and entered into, this ____ day of _____, 2009, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and _____ hereinafter called the "Contractor."

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Contract, the parties hereto covenant and agree as follows:

The Contractor shall do all of the work and furnish all of the labor, materials, tools, and equipment necessary to complete the overlay of existing roadways with asphalt concrete pavement and repair of asphalt concrete pavement in various locations located within the limits of the City of Gig Harbor including the planning of the existing asphalt pavement, pavement repair, raising or grinding around of structures, street cleaning, application of tack coat, placement of pavement markings, and other work, all in accordance with the attached Contract Plans, Special Provisions, and the Standard Specifications and shall perform any changes in the work, all in full compliance with the contract documents entitled "2009 Street Rehabilitation Project, CSP-0912," which are by this reference incorporated herein and made a part hereof; and agrees to accept payment for the same in accordance with the said contract documents, including the schedule of prices in the "Proposal," the sum of _____, subject to the provisions of the Contract Documents, the Special Provisions, and the Standard Specifications.

1. Work shall commence as specified in Section 1-08.4 of the Special Provisions of the contract documents. Contract time shall begin and all contract work shall be completed as specified in Section 1-08.5 of the Special Provisions of the contract documents.
2. The Contractor agrees to pay the City the sum of \$ _____ per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
3. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
4. The term "Contract Documents" shall mean and refer to the following: "Invitation to Bidders," "Quotation Proposal," "Addenda" if any, "Specifications," "Plans," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Special Provisions," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents, including, but not limited to the Washington State Department of Transportation's "2008 Standard Specifications for Road, Bridge, and Municipal Construction," including the American Public Works Association (APWA) General Special Provisions.

- 5. The City agrees to pay the Contractor for materials furnished and work performed in the manner and at such times as set forth in the Contract Documents.
- 6. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, assigns, agents, subcontractors, and employees, does hereby agree to the full performance of all of the covenants herein contained upon the part of the Contractor.
- 7. It is further provided that no liability shall attach to the City by reason of entering into this Contract, except as expressly provided herein.

IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed the day and year first hereinabove written:

CITY of GIG HARBOR:

CONTRACTOR:

 Charles L. Hunter, Mayor
 City of Gig Harbor

Print Name: _____

Print Title: _____

ATTEST:

 City Clerk

APPROVED FOR FORM:

 City Attorney

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
CONSTRUCTION TESTING LABORATORIES, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and Construction Testing Laboratories, Inc., a corporation organized under the laws of the State of Washington (the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in construction testing services for the 2009 Roadway Maintenance Project and desires that the Consultant perform services necessary to provide the following consultation services; and

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

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

TERMS

1. **Retention of Consultant - Scope of Services**. The City hereby retains the Consultant to provide professional services as defined in this Agreement and as necessary to accomplish the scope of work attached hereto as **Exhibit A** and incorporated herein by this reference as if set forth in full. The Consultant shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this Agreement.

2. **Payment**.

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Seven Hundred Fifty-one Dollars and No Cents (\$751.00) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit A – Scope of Work and Estimated Fee Schedule**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit A** or bill at rates in excess of the hourly rates shown in **Exhibit A**, unless the parties agree to a modification of this Contract, pursuant to Section 18 herein.

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

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

4. Duration of Work. The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by December 31, 2009; provided however, that additional time shall be granted by the City for excusable days or extra work.

5. Termination. The City reserves the right to terminate this Agreement at any time upon ten (10) days written notice to the Consultant. Any such notice shall be given to the address specified above. In the event that this Agreement is terminated by the City other than for fault on the part of the Consultant, a final payment shall be made to the Consultant for all services performed. No payment shall be made for any work completed after ten (10) days following receipt by the Consultant of the notice to terminate. In the event that services of the Consultant are terminated by the City for fault on part of the Consultant, the amount to be paid shall be determined by the City with consideration given to the actual cost incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the City at the time of termination, the cost of the City of employing another firm to complete the work required, and the time which may be required to do so.

6. Non-Discrimination. The Consultant agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The Consultant understands that if it violates this provision, this Agreement may be terminated by the City and that the Consultant may be barred from performing any services for the City now or in the future.

7. Indemnification.

A. The Consultant agrees to hold harmless, indemnify and defend the City, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the Consultant, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the Consultant, its officers, agents, subconsultants or employees, in connection with the services required by this Agreement; provided, however, that:

1. The Consultant's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or sole negligence of the City, its officers, agents or employees; and

2. The Consultant's obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the Consultant and the City, or of the Consultant and a third party other than an officer, agent, subconsultant or employee of the Consultant, shall apply only to the extent of the negligence or willful misconduct of the Consultant.

B. It is further specifically and expressly understood that the indemnification provided herein constitutes the consultant's waiver of immunity under industrial insurance, title 51 RCW, solely for the purposes of this indemnification. The parties further acknowledge that they have mutually negotiated this waiver. The consultant's waiver of immunity under the provisions of this section does not include, or extend to, any claims by the consultant's employees directly against the consultant.

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

8. Insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

15. Resolution of Disputes and Governing Law.

A. Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Engineer or Director of Operations and the City shall determine the term or provision's true

{ASB714519.DOC;1/00008.900000/}

intent or meaning. The City Engineer or Director of Operations shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

B. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Engineer or Public Works Director determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.

16. Written Notice. All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth below. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

CONSULTANT:
ATTN: Dennis M. Smith, Manager
Construction Testing Laboratories, Inc.
1202 East "D" Street, Suite 101
Tacoma, WA 98421
253-383-8778 FAX 253-383-2231

City of Gig Harbor
ATTN: Stephen Misiurak, P.E.,
City Engineer
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170 FAX 253-853-7597

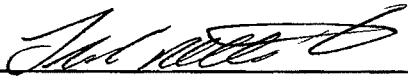
17. Subcontracting or Assignment. The Consultant may not assign or subcontract any portion of the services to be provided under this Agreement without the express written consent of the City. Any subconsultants, if any, approved by the City at the outset of this Agreement are named on **Exhibit C** attached hereto and incorporated herein by this reference as if set forth in full.

18. Entire Agreement. This Agreement represents the entire integrated agreement between the City and the Consultant, superseding all prior negotiations, representations or agreements, written or oral. This Agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

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

CONSULTANT

CITY OF GIG HARBOR

By: 

By: _____

Its: 

Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



CONSTRUCTION TESTING LABORATORIES, INC.

Consent Agenda



1202 EAST "D" STREET, SUITE 101, TACOMA, WA 98421

TEL # (253) 383-8778 / FAX # (253) 383-2231

website: www.ctlwa.com

Exhibit A

August 19 2009

CITY OF GIG HARBOR

3510 Grandview Street

Gig Harbor, WA 98335

ATTN: JEFF OLSEN

REF: ROADWAY REHABILITATION PROJECT # CSP0912
Inspection & Testing Services

Dear Mr. Olsen:

As per our telephone conversation, we are pleased to submit our proposal to provide special inspection and testing services for the above project.

CERTIFICATIONS:

Our firm is registered with WABO and accredited by AASTHO (R-18) and A2LA, in accordance with the requirements of ASTM E329, D3740 and D3666 (ISO 9001/9002 and ISO 17025-2005). We are routinely inspected by, and participate in proficiency testing with CCRL and AMRL. This includes the fields of soils, aggregate masonry, concrete and bituminous mixtures. We are also validated by the U.S. Army Corps of Engineers.

Our Inspectors are certified by ACI, ICBO and WABO and have been with us for ten to twenty years.

All equipment is calibrated at regular intervals, as required by ASTM, AASHTO and A2LA. Copies of all calibrations are on file.

If selected, our fees would be as follows:

ASPHALTIC CONCRETE:

• Asphalt Technician (Inspector).....	\$	52.00/hr
• In-Place Density Tests (Nuclear).....		NO CHARGE
• Extraction-Gradation Tests (C-117).....	\$	225.00/ea
• Marshall Test (per specimen).....	\$	450.00/ea
• Maximum Theoretical Density (Rice).....	\$	110.00/ea

ESTIMATED TOTAL COST	
TYPE OF INSPECTION & TESTING SERVICES	ESTIMATED COST
ASPHALTIC CONCRETE PAVEMENT	
8 hrs. inspection & Testing services	\$ 416.00
1 ea. Rice Value Analysis	\$ 110.00
1 ea. Extraction/Gradation Analysis	\$ 225.00
DAILY HMA RATE TOTAL EST. COST =	\$ 751.00

LIEN: CITY OF GIG HARBOR / ATTN JEFF OLSEN
PROJECT: ROADWAY REHABILITATION PROJECT # CSP0912
PROPOSAL: 05 / 2009 FEE SCHEDULE
DATE PROCESSED: AUG 18 2009



CONSTRUCTION TESTING LABORATORIES, INC.

Consent Agenda



Exhibit B

1202 EAST "D" STREET, SUITE 101, TACOMA, WA 98421

TEL # (253) 383-8778 / FAX # (253) 383-2231

website: www.ctlwa.com

August 19 2009

REF: ROADWAY REHABILITATION PROJECT # CSP0912
Inspection & Testing Services

BASIS OF CHARGES:

Three-hour minimum for special inspection, sampling and field-testing. One-hour minimum for cylinder pick-up. Four hour minimum for weekends and holidays. Time and one half (1.5) for work in excess of eight hours per day and Saturdays. Double time for Sundays and Holidays. All work performed outside normal working hours (07:00 hr. to 16:00 hr.), Monday thru Friday will be charged 1.5 times the normal rate. Hourly rates and mileage are portal to portal. Terms are thirty (30) days from date of invoice. A minimum of (24) twenty-four hours notice is required to schedule technician(s).

REPORTS:

All overhead, engineer review of reports, final inspection report and mail distribution costs are included in the hourly/unit rates. There are no hidden charges.

Our highly trained staff would be delighted to assist you in the successful completion of this project.

If you have any questions regarding this proposal or if we may be of service, please call.

Sincerely,
Construction Testing Laboratories, Inc. (CTL)

Dennis M. Smith

Manager

e-mail: denniss@ctlwa.com

cell # 253-732-7575

DMS / fmd

cc: FILE



Subject: Resolution – Rejecting bid for 2009 Roadway Maintenance Project

Proposed Council Action: Adopt the Resolution rejecting a single bid from Dumpman Construction, Inc., received by the City for the 2009 Roadway Maintenance Project (CSP-0912).

Dept. Origin: Public Works
Prepared by: Jeff Langhelm
Senior Engineer

For Agenda of: October 13, 2009

Exhibits: Resolution and copies of the bid tab provided

	Initial & Date
Concurred by Mayor:	<u>CLH 10-13-09</u>
Approved by City Administrator:	<u>POK</u>
Approved as to form by City Atty:	<u>By EMAIL</u>
Approved by Finance Director:	<u>CF 10/13/09</u>
Approved by Department Head:	<u>DF 10/13/09</u>

Expenditure Required	\$ 0	Amount Budgeted	\$ 0	Appropriation Required	\$ 0
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INFORMATION / BACKGROUND

On October 13, 2009, the City opened bids for the 2009 Roadway Maintenance Project. The bid received from Dumpman Construction, Inc., was reviewed and determined to be nonresponsive due to several irregularities, including the lack of unit prices and unit prices that do not meet prevailing wage requirements. RCW 35.23.352 authorizes the City to reject such a bid by resolution.

The owner of Dumpman Construction, Inc., was notified by phone on October 13 of the irregularities and staff's intent to recommend rejection of the bid.

FISCAL CONSIDERATION

None.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Move to: Adopt the Resolution rejecting a single bid from Dumpman Construction, Inc., received by the City for the 2009 Roadway Maintenance Project (CSP-0912).

RESOLUTION NO. 807

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, REJECTING BID FROM DUMPMAN CONSTRUCTION, INC., RECEIVED BY THE CITY ON THE 2009 ROADWAY MAINTENANCE PROJECT, #CSP-0912

WHEREAS, the City of Gig Harbor recently opened bids on the project commonly known as the 2009 Roadway Maintenance Project (#CSP-0912); and

WHEREAS, due to irregularities in the bid received from Dumpman Construction, Inc., including the lack of unit prices and unit prices that do not meet prevailing wage requirements, the City desires to exercise its right to reject the bid in accordance with the City's reservation of right to reject any or all bids as set forth in its Invitation to Bidders and as authorized under RCW 35.23.352; Now, therefore,

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

Section 1. Rejection of Bid. The bid received by the City of Gig Harbor from Dumpman Construction, Inc., on the 2009 Roadway Maintenance Project (#CSP-0912) contains bid irregularities and is hereby rejected pursuant to Section 1-02.13 of the WSDOT Standard Specifications and RCW 35.23.352, and the bid deposit shall be returned to the bidder.

RESOLVED this 13th day of October, 2009.

CITY OF GIG HARBOR

MAYOR, CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

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

PRICE QUOTATION PROPOSAL

Note: Prices for all items, all extensions and total amount of bid must be shown. Sales tax shall be included in the unit bid prices in accordance with Section 1-07.2 of the Standard Specifications.

Schedule A: 2009 Pavement Repair

ITEM No.	ITEM DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE (Incl. Tax)	EXTENDED AMOUNT (Incl. Tax)
A1	Mobilization	LS	1	\$	\$ 5,000
A-2	Flaggers and Spotters	HR	160	\$	\$ 5,000
A-3	Traffic Control Supervisor	HR	80	\$	\$ 5,000
A-4	Other Temporary Traffic Control	LS	1	\$	\$ 5,000
A-5	Pavement Repair	SY	1910	\$	\$ 30,000
A-6	Pavement Markings	LS	1	\$	\$ 5,000
A-7	Maintenance Bond	LS	1	\$	\$ 4,473
SUBTOTAL					
SCHEDULE A: 2009 Pavement Repair					\$ 59,473

Schedule B: Harborview Drive @ Novak (Watermain Break Repair)

ITEM No.	ITEM DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE (Incl. Tax)	EXTENDED AMOUNT (Incl. Tax)
B-1	Mobilization	LS	1	\$	\$ 2,000
B-2	Flaggers and Spotters	HR	80	\$	\$ 2,000
B-3	Traffic Control Supervisor	HR	40	\$	\$ 2,000
B-4	Other Temporary Traffic Control	LS	1	\$	\$ 2,000
B-5	Roadway Excavation	CY	40	\$	\$ 10,000 ⁰⁰
B-6	Adjust Utility Casting	EA	1	\$	\$ 3,000
B-7	Crushed Surfacing Top Course	TON	30	\$	\$ 4,000 ⁰⁰
B-8	Commercial HMA	TON	50	\$	\$ 1,000 ⁰⁰
B-9	Pavement Markings	LS	1	\$	\$ 3,000 ⁰⁰
B-10	Maintenance Bond	LS	1	\$	\$ 2,000 ⁰⁰
Subtotal					\$ 31,000 ⁰⁰
Schedule 2: Harborview Drive @ Novak (Watermain Break Repair)					

TOTAL QUOTATION PROPOSAL:

\$ 90,473⁰⁰

TOTAL PROPOSAL (USE WORDS):

NINETY THOUSAND FOUR HUNDRED SEVENTY THREE DOLLARS

DOLLARS AND

zero.

CENTS.



Subject: 2009 Roadway Maintenance Project – Construction Contract and Materials Testing Contract Award

Proposed Council Action:

A. Authorize the Mayor to execute the Public Works Contract to Tucci & Sons in an amount not exceed \$132,860 and authorize the Public Works Director to approve additional expenditures up to \$6,200 to cover any cost increases that may result from contract change orders.

B. Authorize the award and execution of a consultant services contract to Construction Testing Laboratories, Inc, for materials testing services in an amount not to exceed \$751.00 and authorize the Public Works Director to approve additional expenditures up to \$100.00 to cover any cost increases that may result from necessary changes in the scope of work.

Dept. Origin:	Public Works	
Prepared by:	Jeff Langhelm Senior Engineer	
For Agenda of:	October 13, 2009	
Exhibits:	Public Works Contract and Materials Testing Scope, Fee, and Contract	
		Initial & Date
Concurred by Mayor:		<u>CLH 10/13/09</u>
Approved by City Administrator:		<u>RSK</u>
Approved as to form by City Atty:		<u>BY EMAIL</u>
Approved by Finance Director:		<u>DR 10/13/09</u>
Approved by Department Head:		<u>DR 10/13/09</u>

Expenditure Required	Not to Exceed \$ 140,000	Amount Budgeted	\$ 140,000	Appropriation Required	\$0
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INFORMATION / BACKGROUND

The City of Gig Harbor budgets funds each year for maintenance of existing roadways throughout the City. Due to the limited budget in 2009 the work proposed under Bid Schedule A for the 2009 roadway maintenance provides for repair of the worst area along three high volume roadways and repair of a low volume roadway where roadway failure may otherwise be eminent.

Additionally, under a separate bid schedule this contract provides for roadway repair of Harborview Drive at Novak Street where a water main break in August 2009 caused roadway damage. Funding for the roadway repair associated with the water main break is proposed to be provided from the water operating fund.

Additionally, the City requested a scope and fee from Construction Testing Laboratories, Inc., for materials testing services for this project.

BID RESULTS

The 2009 Roadway Maintenance Project was bid using the City's Small Works Roster Process (Resolution No. 750). The Engineer's Opinion of Probable Cost was \$126,000. A total of four bids were received by the City of Gig Harbor on October 13, 2009. One bid was recommended for rejection. Bid results of the three remaining bids are summarized below:

BIDDER	BID AMOUNT
1. Tucci & Sons	\$132,860.00
2. AA Asphaltting	\$165,548.58
3. Looker & Associates	\$231,008.00

FISCAL CONSIDERATION

The 2009 City of Gig Harbor Budget includes funding for this work in the Street Division Capital budget, Item No. 5, "Street Maintenance". The City Budget also includes funding for the roadway repair due to the water main break in the Water Operating budget for water main repairs, maintenance, and breaks. The budget summary for this item is provided in the table below:

2009 Budget for Street Division Capital, Item No. 5 (102-018-595-30-63-12)	\$ 100,000
2009 Budget for Water Operating (401-020-534-52-48-00/10)	\$ 40,000
Anticipated 2009 Expenses:	
Schedule A – Pavement Repair	\$ 106,450
Schedule B – Water Main Roadway Repair	\$ 26,410
Change Order Authority for Public Works Contract	\$ 6,200
Materials Testing Contract	\$ 851
Remaining 2009 Budget =	\$ 89

BOARD OR COMMITTEE RECOMMENDATION

The various roadway maintenance options were presented to the Operations and Public Project Committee at their May 2009 meeting. Committee Members requested limited pavement repair at only the most severely deteriorated sections of roadways not being repaired or replaced as part of a separate forthcoming capital project.

RECOMMENDATION / MOTION

Move to: Staff recommends approval of proposed council action A and B above.

**2009 ROADWAY MAINTENANCE PROJECT
CSP- 0912**

CONTRACT

THIS AGREEMENT, made and entered into, this ____ day of _____, 2009, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and Tucci & Sons, Inc., located and doing business at, 4224 Waller Road, Tacoma, Washington 98443, hereinafter called the "Contractor."

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Contract, the parties hereto covenant and agree as follows:

The Contractor shall do all of the work and furnish all of the labor, materials, tools, and equipment necessary to complete the repair of existing roadways with hot mix asphalt at various locations within the City of Gig Harbor and shall include removal of existing asphalt concrete pavement, grinding around structures, compacting of existing subgrade, street cleaning, application of tack coat, placement of pavement markings, and other work, all in accordance with the Contract Documents and shall perform any changes in the work, all in full compliance with the contract documents entitled "2009 Roadway Maintenance Project, CSP-0912," which are by this reference incorporated herein and made a part hereof; and agrees to accept payment for the same in accordance with the said contract documents, including the schedule of prices in the "Proposal," the sum of One Hundred Thirty-two Thousand Eight Hundred Sixty Dollars and No Cents (\$132,860.00), subject to the provisions of the Contract Documents, the Special Provisions, and the Standard Specifications.

1. Work shall commence and contract time shall begin as specified in Section 1-08.4 of the Special Provisions of the contract documents. All contract work shall be completed within the working days specified in Section 1-08.5 of the Special Provisions of the contract documents.
2. The Contractor agrees to pay the City the sum of \$996.00 per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
3. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
4. The term "Contract Documents" shall mean and refer to the following: "Invitation to Bidders," "Quotation Proposal," "Addenda" if any, "Specifications," "Plans," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Special Provisions," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents, including, but not limited to the Washington State Department of Transportation's "2008 Standard Specifications for Road, Bridge, and Municipal Construction," including the American Public Works Association (APWA) General Special Provisions.

- 5. The City agrees to pay the Contractor for materials furnished and work performed in the manner and at such times as set forth in the Contract Documents.
- 6. The Contractor for himself/herself, and for his/her heirs, executors, administrators, successors, assigns, agents, subcontractors, and employees, does hereby agree to the full performance of all of the covenants herein contained upon the part of the Contractor.
- 7. It is further provided that no liability shall attach to the City by reason of entering into this Contract, except as expressly provided herein.

IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed the day and year first hereinabove written:

CITY of GIG HARBOR:

CONTRACTOR:

 Charles L. Hunter, Mayor
 City of Gig Harbor

 Print Name: _____
 Print Title: _____

ATTEST:

 City Clerk

APPROVED FOR FORM:

 City Attorney

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
CONSTRUCTION TESTING LABORATORIES, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and Construction Testing Laboratories, Inc., a corporation organized under the laws of the State of Washington (the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in construction testing services for the 2009 Roadway Maintenance Project and desires that the Consultant perform services necessary to provide the following consultation services; and

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

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

TERMS

1. **Retention of Consultant - Scope of Services**. The City hereby retains the Consultant to provide professional services as defined in this Agreement and as necessary to accomplish the scope of work attached hereto as **Exhibit A** and incorporated herein by this reference as if set forth in full. The Consultant shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this Agreement.

2. **Payment**.

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Seven Hundred Fifty-one Dollars and No Cents (\$751.00) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit A – Scope of Work and Estimated Fee Schedule**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit A** or bill at rates in excess of the hourly rates shown in **Exhibit A**, unless the parties agree to a modification of this Contract, pursuant to Section 18 herein.

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

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

4. **Duration of Work.** The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by December 31, 2009; provided however, that additional time shall be granted by the City for excusable days or extra work.

5. **Termination.** The City reserves the right to terminate this Agreement at any time upon ten (10) days written notice to the Consultant. Any such notice shall be given to the address specified above. In the event that this Agreement is terminated by the City other than for fault on the part of the Consultant, a final payment shall be made to the Consultant for all services performed. No payment shall be made for any work completed after ten (10) days following receipt by the Consultant of the notice to terminate. In the event that services of the Consultant are terminated by the City for fault on part of the Consultant, the amount to be paid shall be determined by the City with consideration given to the actual cost incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the City at the time of termination, the cost of the City of employing another firm to complete the work required, and the time which may be required to do so.

6. Non-Discrimination. The Consultant agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The Consultant understands that if it violates this provision, this Agreement may be terminated by the City and that the Consultant may be barred from performing any services for the City now or in the future.

7. Indemnification.

A. The Consultant agrees to hold harmless, indemnify and defend the City, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the Consultant, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the Consultant, its officers, agents, subconsultants or employees, in connection with the services required by this Agreement; provided, however, that:

1. The Consultant's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or sole negligence of the City, its officers, agents or employees; and

2. The Consultant's obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the Consultant and the City, or of the Consultant and a third party other than an officer, agent, subconsultant or employee of the Consultant, shall apply only to the extent of the negligence or willful misconduct of the Consultant.

B. It is further specifically and expressly understood that the indemnification provided herein constitutes the consultant's waiver of immunity under industrial insurance, title 51 RCW, solely for the purposes of this indemnification. The parties further acknowledge that they have mutually negotiated this waiver. The consultant's waiver of immunity under the provisions of this section does not include, or extend to, any claims by the consultant's employees directly against the consultant.

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

8. Insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

15. Resolution of Disputes and Governing Law.

A. Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Engineer or Director of Operations and the City shall determine the term or provision's true

{ASB714519.DOC;1/00008.900000/}

intent or meaning. The City Engineer or Director of Operations shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

B. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the City Engineer or Public Works Director determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.

16. Written Notice. All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth below. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

CONSULTANT:
ATTN: Dennis M. Smith, Manager
Construction Testing Laboratories, Inc.
1202 East "D" Street, Suite 101
Tacoma, WA 98421
253-383-8778 FAX 253-383-2231

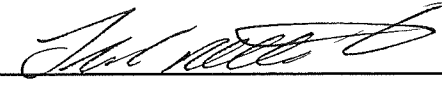
City of Gig Harbor
ATTN: Stephen Misiurak, P.E.,
City Engineer
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170 FAX 253-853-7597

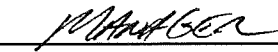
17. Subcontracting or Assignment. The Consultant may not assign or subcontract any portion of the services to be provided under this Agreement without the express written consent of the City. Any subconsultants, if any, approved by the City at the outset of this Agreement are named on **Exhibit C** attached hereto and incorporated herein by this reference as if set forth in full.

18. Entire Agreement. This Agreement represents the entire integrated agreement between the City and the Consultant, superseding all prior negotiations, representations or agreements, written or oral. This Agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

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

CONSULTANT

By: 

Its: 

CITY OF GIG HARBOR

By: _____

Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



CONSTRUCTION TESTING LABORATORIES, INC.



1202 EAST "D" STREET, SUITE 101, TACOMA, WA 98421
 TEL # (253) 383-8778 / FAX # (253) 383-2231
 website: www.ctlwa.com

Exhibit A

August 19 2009

CITY OF GIG HARBOR

3510 Grandview Street
 Gig Harbor, WA 98335
 ATTN: **JEFF OLSEN**

REF: **ROADWAY REHABILITATION PROJECT # CSP0912**
 Inspection & Testing Services

Dear Mr. Olsen:

As per our telephone conversation, we are pleased to submit our proposal to provide special inspection and testing services for the above project.

CERTIFICATIONS:

Our firm is registered with WABO and accredited by AASTHO (R-18) and A2LA, in accordance with the requirements of ASTM E329, D3740 and D3666 (ISO 9001/9002 and ISO 17025-2005). We are routinely inspected by, and participate in proficiency testing with CCRL and AMRL. This includes the fields of soils, aggregate masonry, concrete and bituminous mixtures. We are also validated by the U.S. Army Corps of Engineers.

Our inspectors are certified by ACI, ICBO and WABO and have been with us for ten to twenty years.

All equipment is calibrated at regular intervals, as required by ASTM, AASHTO and A2LA. Copies of all calibrations are on file.

If selected, our fees would be as follows:

ASPHALTIC CONCRETE:

- Asphalt Technician (Inspector)..... \$ 52.00/hr
- In-Place Density Tests (Nuclear)..... **NO CHARGE**
- Extraction-Gradation Tests (C-117)..... \$ 225.00/ea
- Marshall Test (per specimen)..... \$ 450.00/ea
- Maximum Theoretical Density (Rice)..... \$ 110.00/ea

ESTIMATED TOTAL COST	
TYPE OF INSPECTION & TESTING SERVICES	ESTIMATED COST
ASPHALTIC CONCRETE PAVEMENT	
8 hrs. Inspection & Testing services	\$ 416.00
1 ea. Rice Value Analysis	\$ 110.00
1 ea. Extraction/Gradation Analysis	\$ 225.00
DAILY HMA RATE TOTAL EST. COST =	\$ 751.00

CLIENT: CITY OF GIG HARBOR / ATTN: JEFF OLSEN
 PROJECT: ROADWAY REHABILITATION PROJECT # CSP0912
 PROPOSAL: 08 / 2009 FEE SCHEDULE
 DATE PROCESSED: AUG 19 2009



CONSTRUCTION TESTING LABORATORIES, INC.

New Business 2



Exhibit B

1202 EAST "D" STREET, SUITE 101, TACOMA, WA 98421
TEL # (253) 383-8778 / FAX # (253) 383-2231
website: www.ctlwa.com

August 19 2009

REF: ROADWAY REHABILITATION PROJECT # CSP0912
Inspection & Testing Services

BASIS OF CHARGES:

Three-hour minimum for special inspection, sampling and field-testing. One-hour minimum for cylinder pick-up. Four hour minimum for weekends and holidays. Time and one half (1.5) for work in excess of eight hours per day and Saturdays. Double time for Sundays and Holidays. All work performed outside normal working hours (07:00 hr. to 16:00 hr.), Monday thru Friday will be charged 1.5 times the normal rate. Hourly rates and mileage are portal to portal. Terms are thirty (30) days from date of invoice. A minimum of (24) twenty-four hours notice is required to schedule technician(s).

REPORTS:

All overhead, engineer review of reports, final inspection report and mail distribution costs are included in the hourly/unit rates. There are no hidden charges.

Our highly trained staff would be delighted to assist you in the successful completion of this project.

If you have any questions regarding this proposal or if we may be of service, please call.

Sincerely,
Construction Testing Laboratories, Inc. (CTL)

Dennis M. Smith

Manager

e-mail: dennlss@ctlwa.com

cell # 253-732-7575

DMS / pmc

cc: FILE