

Gig Harbor City Council Meeting

**July 12, 2010
5:30 p.m.**



**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
Monday, July 12, 2010 – 5:30 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of August 23, 2010.
2. Receive and File: a) Finance Committee Minutes June 21, 2010; b) City Council BB16 Worksession June 21, 2010.
3. Lift Station No. 6A – Consultant Services Contracts / Architectural and Topographical Surveying Services.
4. Harborview Dr/Stinson Ave Water Main Design / Consultant Services Contract with Murray Smith & Associates.
5. Approval of Payment of Bills for July 12, 2010: Checks #64047 through #64150 in the amount of \$896,521.93.
6. Approval of Payroll for the month of June: Checks #5703 through #5713 in the amount of \$309,725.11.

PRESENTATIONS:

Recognizing Sgt. Scott Emmett, Marline McClane, Police Services Specialist and Officer Ray Jahn for 20 years of service to the city.

OLD BUSINESS:

1. Proposed Countywide Flood Control District.

NEW BUSINESS:

1. First Reading of Ordinance – Water/Sewer Revenue Bond for Outfall Extension.
2. Public Hearing and First Reading of Ordinance on Zoning Code Efficiency Amendments.
3. Public Hearing and First Reading of Ordinance Vacating a Portion of Woodworth Avenue - Gartland.

STAFF REPORT:

PUBLIC COMMENT:

MAYOR'S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. GH North Traffic Options Committee – Wed. Jul 14th at 9:00 a.m.

ADJOURN:

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – JUNE 28, 2010

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

CALL TO ORDER: 5:31 p.m.

PLEDGE OF ALLEGIANCE:

1. Approval of the Minutes of City Council Meeting of June 14, 2010.
2. Receive and File: none.
3. Liquor License Action: a) Special Event –Communities in Schools; b) Application in lieu of current status – The Wine Studio.
4. Re-appointment to the Planning Commission.
5. Boating Safety Agreement – Pierce County Sheriff’s Department.
6. Modifications to WWTP Digesters No. 2 and 3 Aeration Systems – Design Services Contract.
7. McCormick Creek Easement – Phase 2 Assessment.
8. Eddon Boat Dust Collection System Installation.
9. Eddon Boat Dock Replacement Project – Construction Bid Award/Surveying Services/Change Order Authority.
10. Lift Station No. 12 - Canterwood Blvd Structural Analysis and Odor Monitoring.
11. Approval of Payment of Bills for June 28, 2010: Checks #63925 through #64046 in the amount of \$1,624,879.34.

Mayor Hunter announced that Consent Agenda Item No. 9 would be moved to New Business for further discussion.

MOTION: Move to adopt the Consent Agenda as amended.
Kadzik / Payne – unanimously approved.

PRESENTATIONS:

1. Street Scramble and Maritime Gig Reports. Market Director Laureen Lund introduced representatives from two successful events this spring.

Warren Zimmerman – Executive Director, Gig Harbor Chamber of Commerce. Mr. Zimmerman described how the Maritime Gig has grown into such a great family event over the years. Mayor Hunter presented him with a certificate of recognition and thanks from the City.

Kirsten Hawkins, Branch Communications and Outreach Director at the Gig Harbor YMCA, thanked the city for the opportunity to co-sponsor the family-friendly Street Scramble event which just successfully completed its fourth year. She announced that city representatives Laureen Lund and Mike Davis volunteered to jump off the dock at the Tides Tavern in support of the Strong Kids Campaign Fundraiser. She presented them with photographs commemorating the event. Mayor Hunter then presented Ms. Hawkins with a certificate of appreciation on behalf of the City of Gig Harbor.

2. Formation of Countywide Flood Control District. Mayor Hunter introduced this informational presentation and said Council could consider taking action at the July 12th meeting.

Brian Ziegler, Pierce County Public Works and Utilities Director introduced other Pierce County staff members Jeff Cox, Pierce County Counsel and Harold Smelt, Surface Water Manager. Mr. Ziegler presented information on efforts to form a Pierce County Flood Control Zone District, a special taxing district to provide funding for flood protection projects and programs.

After the PowerPoint Presentation, Mr. Ziegler addressed Council questions.

OLD BUSINESS:

1. Second Reading of Ordinance – 2010 Park Plan Update. Associate Planner Kristin Moerler explained that two items in the plan have been amended since the first reading: 1) a revised approach to acquisition of the sand spit; and 2) removing the Peacock Hill Street End from the plan because it's not city-owned.

MOTION: Move to adopt Ordinance No. 1191 adopting the 2010 Park Plan Update with amendments to the plan as discussed.
Payne / Kadzik – unanimously approved.

2. Second Reading of Ordinance – Portal Signs. Senior Planner Jennifer Kester gave a brief introduction of this ordinance to allow portal signs for city-owned docks and piers for identification of municipal facilities.

MOTION: Move to adopt Ordinance No. 1192 allowing portal signs on city owned docks and piers.
Kadzik / Payne – unanimously approved.

NEW BUSINESS:

1. Eddon Boat Dock Replacement Project – Construction Bid Award/Surveying Services/Change Order Authority. City Administrator Rob Karlinsey said that he pulled this item from the Consent Agenda in order to explain that the bid came in \$9000 over the budgeted amount funded by grants and there is \$10,000 in project contingencies. He proposed that Council award this at \$19,000 over the budgeted amount using available funds from the 2010 beginning fund balance.

MOTION: Move to award an authorize the Mayor to execute a Public Works Contract with Marine Floats Corporation in an amount not to exceed two hundred thirteen thousand six hundred fifty-six dollars and four cents and authorize the City Engineer to approve additional expenditures in the not to exceed amount of \$10,000 to cover any cost increases that may result from contract change orders.

Young / Conan – unanimously approved.

MOTION: Move to authorize the Mayor to execute a consultant services contract with Prizm Surveying, Inc. for surveying services in an amount not to exceed two thousand five hundred dollars.
Young / Conan – unanimously approved.

STAFF REPORT:

1. AWC RMSA Board of Directors. City Clerk Molly Towslee reported that Councilmember Steve Ekberg had been elected to the newly formed AWC Risk Management Services Board of Directors at the AWC Conference in Vancouver. She also noted that he was appointed President of the Board at its first meeting.

2. Stutz Property – Path Forward. Rob Karlinsey asked for Council direction on how to proceed with plans for this property. He explained that if the vision is for a parking lot and drive-on pier, plans will be constrained by the site's small size. Unless Council has something different in mind he isn't sure the formation of an Ad Hoc Committee is necessary. After discussion, Council concurred that it would be more advantageous to engage the stakeholders to work with the city during the design rather than the formation of an advisory committee.

Mayor Hunter said that he would like to obtain a filling and grading permit by fall. Mr. Karlinsey added that the Planning Department is preparing a report detailing requirements for this prominent parcel.

There was discussion the parking lot / pier design, finding a suitable name for the site, and the possibility of public restrooms.

3. Financial Update. Rob Karlinsey explained that the latest report on sales tax shows three months of flat or higher sales taxes for the same period last year. He said that the budget gap is closing, but he will continue to stick to the previous shortfall plan as the economy is still fragile.

PUBLIC COMMENT: None.

MAYOR'S REPORT / COUNCIL COMMENTS:

Councilmember Payne thanked Councilmember Young for the notes from the AWC Conference.

ANNOUNCEMENT OF OTHER MEETINGS:

1. GH North Traffic Options Committee – Wed. July 14th at 9:00 a.m.
2. Civic Center Closed Mon. July 5th for Independence Day Holiday.
3. Elected Officials Appreciation Event – Milgard Family HOPE Center Tue. July 6th at 4:30 p.m.

4. Intergovernmental Affairs Committee – Mon. July 12th at 4:30 p.m.
5. Operations Committee – Thu. Jul 15th at 3:00 p.m.

ADJOURN:

MOTION: Move to adjourn at 7:00 p.m.
Franich / Conan – unanimously approved.

CD recorder utilized: Tracks 1002 – 1019

Charles L. Hunter, Mayor

Molly Towslee, City Clerk

CITY OF GIG HARBOR COMMITTEE OUTLINE MINUTES

City of Gig Harbor Finance and Safety Committee (Council Committee Ekberg, Malich, and Conan)

Date: June 21, 2010

Time: 3:30 p.m.

Location: Community Rooms A&B

Scribe: Jaci Auclair

Commission Members and Staff Present: Paul Conan, Steve Ekberg, Ken Malich, Rob Karlinsey, Dave Rodenbach, Chief Mike Davis, Detective Kelly Busey, Jenn Kester, Jeff Olsen, Laurelyn Brekke, and Jaci Auclair.

Others Present: Douglas Evans, President, R.L. Evans Company

Absent:

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
NEW BUSINESS		
1. Employee Insurance: Medical and Life/Long Term Policies.	<p>City Administrator, Rob Karlinsey, introduced Doug Evans, President of R.L. Evans Company, whom he asked to provide quotes on Life and Long Term Disability coverage for city employees. Mr. Karlinsey stated that R.L. Evans company could provide the same coverage we are receiving now for approximately \$4,000 less.</p> <p>Mr. Evans then provided an overview of the services his company provides in conjunction with Clearpoint, how they are able to realize such savings, and presented a list of nearly two dozen other Washington municipalities served by his company.</p> <p>In addition, Mr. Karlinsey explained how</p>	<p>Finance Committee members approved the proposed agreement with Clearpoint/R.L. Evans Company following city attorney review.</p>

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up <i>(if needed)</i>
	<p>the insurance committee had been considering self-insurance plans for medical benefits when they received a call from Clearpoint stating that they could likely save the city 10% in costs for medical benefits. Though skeptical at first, the committee became interested in Clearpoint's "coalition" of fiscally sound cities who comprise their pool and subsequent buying power. Committee member, Jenn Kester, described a "letter in principle" the insurance committee developed to show sufficient interest in the coalition, and what it could provide, without producing a binding contract. The agreement also provides access to Clearpoint for them to obtain necessary information from the city's current insurance carrier(s). The insurance committee's intention is to continue with the current medical benefits the city provides through AWC until approximately January, 2012 when Clearpoint's product will be available for consideration by the insurance committee, administration, and city council. Mr. Karlinsey stated that, with Finance Committee approval, he could sign the agreement following city attorney review.</p>	
<p>2. Derelict Boats and Buoys.</p>	<p>Detective Kelly Busey presented information on the growing problem of derelict boats and buoys, primarily in Pierce County's portion of the harbor, and</p>	<p>Committee members gave their approval for GHPD to meet with Pierce County to discuss this proposal.</p>

Next Meeting: September 20, 2010 at 4:00 p.m.

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
	<p>a potential solution for the committee's consideration. In cooperation with the Pierce County Sheriff's department, the GHPD could implement a "media campaign" to warn and educate the public, followed by violation issuance to derelict boat and buoy owners, and eventual removal, impound, auction or disposal of buoys and vessels. Ninety percent of the costs associated with these activities are recoverable from the Department of Natural Resources. In addition, negotiations with Pierce County could entitle the city to a greater portion of vessel registration fees to offset the remaining costs.</p> <p>Discussion followed regarding the eventual creation of an Open Water Moorage and Anchorage Park. Committee members expressed interest in discussing this possibility further once the harbor is cleaned up according to this plan.</p>	
<p>3. High Definition Video Requirement for Retail Establishments.</p>	<p>Chief Mike Davis discussed a request to require business owners to install high definition video equipment to help protect their property and assist law enforcement in the event a robbery. Chief Davis indicated that, according to the research he has done on the subject, there appears to be little interest in pursuing such an ordinance.</p>	<p>None at this time.</p>

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
4. AWC Risk Management Consultant Report.	Mr. Karlinsey presented the May 28, 2010 AWC Risk Management Consultant Report. Recommendations contained therein were reviewed and discussed Mr. Karlinsey, committee members, and City Clerk, Molly Towslee. Of the six recommendations, committee members decided to 1) continue their review of safety claims, 2) create an employee-based safety committee according to WAC standards, 3) develop and adopt an accident prevention policy and program, and 4) develop and adopt written guidelines for the administration of claims.	Committee members directed administration and staff to develop an employee-based safety committee, an accident prevention policy and program, and written guidelines for the administration of claims.
5. Reserve Fund Policy.	Committee members discussed the possible need for a reserve fund policy. Many options were considered including building a capital reserve fund, maintaining "rainy day" funds, establishing an EMP grant fund to aid in obtaining FEMA grants, and what would be needed in order to retire the civic center debt early. It was determined that further consideration would be given to this topic during the upcoming 2011 budget process.	None at this time.
6. Low Income Disabled – Utility Billing Discount.	Finance Director, David Rodenbach, introduced the idea of creating a "Low Income Disabled" discount program for utility billing similar to the existing "Low Income Senior" discount. Following a brief	Bring forth "Low Income Disabled" discount ordinance for city council consideration.

Next Meeting: September 20, 2010 at 4:00 p.m.

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up <i>(if needed)</i>
	discussion, committee members approved the idea.	
Meeting adjourned at 5:15 p.m.		

Next Meeting: September 20, 2010 at 4:00 p.m.



**GIG HARBOR CITY COUNCIL
WORKSESSION MINUTES**

DATE: June 21, 2010
TIME: 5:30 p.m.
LOCATION: Community Rooms A & B
MEMBERS PRESENT: Mayor Hunter, Councilmembers Ekberg, Conan, Malich, Kadzik, and Payne.
STAFF PRESENT: Emily Appleton and Maureen Whitaker
OTHERS PRESENT: Al King and Bob Munchie / H.W. Lochner & Associates.

After calling the meeting to order at 5:40 p.m., Mayor Hunter took roll call.

Al King began by giving an update and brief background on the Interchange Justification Report (IJR) process for the Burnham/Borgen/SR16 Interchange (BB16). Mr. King stated that in 2007, the economy began to weaken and after the recession hit in late 2008, employment and travel both plummeted. He further explained that both employment and travel have remained at a greatly diminished rate, and debate continues on how long that situation will last. Based on discussions with WSDOT and the expected need to complete an IJR, part of Lochner's work was to update traffic projections in order to confirm the operational analysis and functionality of the BB16 Interchange. With an observable reduction in travel and growth, a new set of traffic forecasts were needed. Mr. King said that with the revised growth rates and new traffic counts provided by the City and WSDOT, the new traffic forecasts showed that with relatively minor operational modifications, the BB16 Interchange could continue to operate acceptably to 2035. WSDOT agreed that due to the economy and the reduction in vehicle trips the City is not required to do a full IJR at this point in time.

Mr. Lochner summarized that the conclusions developed collaboratively with the City and WSDOT include the following:

1. Traffic should be monitored regularly with yearly traffic counts and analyzed to verify level of service and determine when improvements are likely to become necessary.
2. As traffic begins to grow and reach overall intersection approach volumes of 3,300 to 3,500 vehicles per hour for the two SR-16 ramp terminal intersections, low cost improvements should be investigated to prevent or delay abrupt failure as counts reach

3,900 to 4,000 and to maintain acceptable levels of service. The timing of these low cost improvements will depend on traffic changes that occur, and may include metering traffic approaching the roundabouts to maintain level of service; minor modifications to both roundabouts to "tear-drop" shaped roundabouts; and minor restriping the Burnham Drive bridge over SR-16 to four lanes while constructing a new overpass designed to meet ADA requirements to accommodate pedestrians and bicycles. Mr. King stated that WSDOT liked these ideas.

3. Continue to pursue planning, design and funding considerations for a long-term fix.
4. For the Sehmel Drive/Burnham Drive intersection, a new right-turn lane should be added to the northbound Sehmel Drive approach from the existing driveway south of the intersection to Burnham Drive within the next five years.

Mr. Lochner said the considering the unknowns and recognizing that an economic recovery will almost certainly bring traffic volumes and growth back to pre-recession levels, there will be a future need to develop a full IJR to determine the interchange improvements needed.

There was a discussion about when to do the Sehmel intersection and it was noted that it should not be done as part of the current BB16 mitigation project being performed right now. Right-of-way acquisition was discussed with the conclusion that a small portion of right-of-way may be needed but nothing significant.

There were no further comments; the worksession adjourned at 6:17 p.m.

Subject: Lift Station No. 6A – Consultant Services Contracts / Architectural and Topographical Surveying Services.

Proposed Council Action: Authorize the Mayor to execute Consultant Services Contracts with Prizm Surveying, Inc. for an amount not-to-exceed \$2,853, with Sitts & Hill Engineers, Inc. for an amount not-to-exceed \$2,000.

Dept. Origin: Public Works/Engineering

Prepared by: Emily Appleton, PE
Senior Engineer

For Agenda of: July 12, 2010

Exhibits: Consultant Services Contracts

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Initial & Date

TS 7/7/10

ROK 7/6/10

by email 7/6/10

[Signature]

[Signature] 7/6/10

Expenditure	Amount	Appropriation
Required \$4,853.00	Budgeted \$700,000	Required 0

INFORMATION / BACKGROUND

The City is pursuing the in-house design of the sewer improvements required at Lift Station No. 6. In order to further these efforts, staff needs outside support to obtain a topographic survey, detailed renderings of proposed alternatives and geological engineering services. These will be used to further develop the preliminary design and to reliably depict and estimate the various costs associated with each option for housing the equipment and controls at the upgraded lift station. Staff has negotiated with Prizm Surveying, Inc., Sitts & Hill Engineers, Inc., and HWA Geosciences, Inc., to assist in the performance of these services. Due to time constraints, a contract with HWA Geosciences will be presented for authorization at the July 28th meeting.

FISCAL CONSIDERATION

The 2010 Budget, Wastewater Division – Capital Objectives Item 2 provides for a lift station replacement in the amount of \$700,000. Account 410-022-594-35-65-81 shows an adopted budget amount of \$700,000 for this project. These consultant services contracts are necessary in order to proceed with the engineered design of the lift station replacement and it is appropriate to fund them through the project budget.

BOARD OR COMMITTEE RECOMMENDATION

Staff discussed this project with the Operations and Public Works Committee on several occasions. The committee requested additional information to assist in recommending one of the several alternatives. These contracts are for services that are necessary to provide the requested information.

RECOMMENDATION / MOTION

Move to: Authorize the execution of the Consultant Services Contracts with Prizm Surveying, Inc. for an amount not-to-exceed \$2,853, and with Sitts & Hill Engineers, Inc. for an amount not-to-exceed \$2,000.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
SITTS & HILLS ENGINEERS, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and Sitts & Hill Engineers, Inc., a corporation organized under the laws of the State of Washington (the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in Sewer Lift Station No. 6A Improvements 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, dated June 16, 2010, 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 Work.** 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 Two Thousand Dollars and Zero Cents (2,000.00) 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 B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section 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, 2010; 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 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:
Sitts & Hill Engineers, Inc.
ATTN: Larry Lindell
4815 Center Street
Tacoma, WA 98409
(253) 474-9449

City of Gig Harbor
ATTN: Emily Appleton
Senior Engineer
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

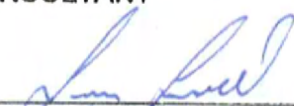
17. **Subcontracting or Assignment.** The Consultant may not assign or subcontract any portion of the services to be provided under this Agreement without the express written consent of the City. Any subconsultants approved by the City at the outset of this Agreement are named on **Exhibit C** attached 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: 
Its: Larry Lindell

By: _____
Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Professional Engineers and Planners
4815 Center Street, Tacoma, WA 98409
Telephone (253) 474-9449
Fax (253) 474-0153

ROBERT J. DAHMEN, P.E.
BRENT K. LESLIE, P.E.
ROBERT N. ERB, P.L.S.
RANDALL C. HAYDON, P.L.S.
KATHY A. HARGRAVE, P.E.
LARRY G. LINDELL, P.E.

June 16th, 2010

CITY OF GIG HARBOR
Mr. Steve Misiurak
3510 Grandview Street
Gig Harbor, Washington 98335

RECEIVED
CITY OF GIG HARBOR
JUN 17 2010
COMMUNITY
DEVELOPMENT

TO: Mr. Steve Misiurak, P.E.

SUBJECT: **PROPOSAL FOR STRUCTURAL ENGINEERING SERVICES FOR PUMP STATION RENDERINGS PROJECT LOCATED IN GIG HARBOR, WASHINGTON**

Dear Mr. Misiurak:

Sitts & Hill Engineers is pleased to present this proposal for Structural Engineering Services for Pump Station Renderings Project. We are committed to providing the City of Gig Harbor with a high level of responsiveness and service necessary to make this a cost effective and successful project.

This proposal includes our Project Description, Scope of Structural Engineering Services, Exclusions and a summary of the Professional Services Fees. If you have any questions or would like more detail on any of the information provided please contact us directly. Thank you for the opportunity to provide these engineering services.

PROJECT DESCRIPTION

Sitts & Hill Engineers proposes to provide the Engineering Consulting and Drafting Services associated with this project based upon our meeting on June 15th, 2010 and overall design concepts provided by the City of Gig Harbor.

BASIC SCOPE OF ENGINEERING DRAFTING SERVICES

Sitts & Hill Engineers understands the Scope of Services to be defined as follows. If additional items are required or excluded, please contact our office so that adjustments can be made to the proposed fee.

1. Meetings with the design team at either City of Gig Harbor or our office depending upon meeting agenda.
2. Rendering of the pump house in three configurations. The renderings are for concept use and will be exterior renderings.
3. CAD drafting in Archicad sufficient for a formal review submittal.

EXCLUSIONS: BASIC SCOPE OF ENGINEERING SERVICES

The following are a list of Additional Services that may be performed under a separate contract if necessary (at your request):

1. Our Scope of Work will **not** include detailed interior equipment and layout.
2. Topographic Survey.

STRUCTURAL ENGINEERING FEES

Basic structural engineering services are estimates and will be billed monthly on a Time and Materials Basis to help with budgetary considerations. We anticipate working with the City of Gig Harbor during the design process to optimize the final rendering views and layouts. The following is a summary of the Engineering Cost Estimate sheets attached:

Basic Engineering Services

1. Rendering Documents (Based on 20 hours)	\$2,000.00
	Total \$2,000.00

We are prepared to begin work upon receipt of Authorization to Proceed. To assure clarity in matters of our mutual responsibilities, we incorporate our Standard General Conditions and Chargeout Rates, copies of which are attached. These documents, together with this proposal, shall form the basis of our contract to perform the work.

We appreciate the opportunity to submit this proposal. If you have any questions, please don't hesitate to contact our office.

Sincerely,

SITTS & HILL ENGINEERS, INC.



Larry G. Lindell, P.E.
Principal

Bizdev:

Authorization Signature

Date

Printed Name / Title

EXHIBIT B

Consent Agenda - 3
Page 10 of 23

SITTS & HILL ENGINEERS, INC.
4815 Center Street
Tacoma, Washington 98409

The following are representative charges:

CIVIL AND STRUCTURAL ENGINEERING DESIGN

Principal	\$ 130 - 135/Hour
Senior Project Manager	\$ 110 - 120/Hour
Project Manager	\$ 90 - 112/Hour
Engineer	\$ 57 - 116/Hour
Landscape Architect	\$ 112/Hour
Inspectors & Technicians	\$ 57 - 91/Hour

SURVEYING

Principal Land Surveyor	\$ 135/Hour
Project Surveyor	\$ 80 - 100/Hour
Survey Technician	\$ 56 - 95/Hour
Field Crew Chief	\$ 58 - 95/Hour
Field Crew Member	\$ 56 - 67/Hour

SUPPORT PERSONNEL

CAD Technician	\$ 59 - 92/Hour
Administration	\$ 60 - 72/Hour

MISCELLANEOUS

Mileage	\$ 0.50 per mile
Regular Materials (Stakes)	\$ 0.50 per unit
RTK - GPS	\$ 75.00/Hour
Special Materials	Cost Plus 15%
Subconsultants	Cost Plus 15%

CONSULTING ENGINEER AND COURT CASES

Principal	\$ 275/Hour
Engineer	\$ 225/Hour
Land Surveyor	\$ 225/Hour

Effective September 1st, 2009

SITTS & HILL ENGINEERS, INC.**Professional Engineers and Planners**

4815 Center Street, Tacoma, WA 98409-2319

Telephone 253-474-9449

Fax 253-474-0153

ROBERT J. DAHMEN, P.E.

BRENT K. LESLIE, P.E.

ROBERT N. ERB, P.L.S.

RANDALL C. HAYDON, P.L.S.

KATHY A. HARGRAVE, P.E.

LARRY G. LINDELL, P.E.

Standard Conditions for Attachment to All Proposals and Contracts**CLIENT AND SITTS & HILL ENGINEERS, INC. (CONSULTANT) MUTUALLY AGREE THAT UNLESS SPECIFICALLY MODIFIED, THE FOLLOWING SHALL BE PART OF THEIR AGREEMENT.****1. BILLING AND PAYMENT**

Consultant will submit monthly invoices showing charges incurred to date, amounts paid and balance due. Charges will be calculated according to the Standard Charges attached hereto. If requested by client, Consultant will provide a tabulation showing hourly charges for labor and materials. Payment is due upon receipt of invoices. Interest at the rate of 1½% per month will be charged on all accounts not paid within 30 days of billing. Expenses incurred in liening or correcting delinquent amounts, including but not limited to attorneys fees, court costs and related fees and Consultant's staff time for such corrections, will be paid in addition to the delinquent amount.

2. SERVICES BY CLIENTS

Client will provide access to site work, obtain all permits, provide legal service in connection with the project and provide environmental impact reports and energy assessments unless specifically included in the scope of work. Client shall pay the cost of checking and inspection fees including zoning application fees, testing fees and all other fees, permits, bond premiums, blue prints and reproductions and all other charges not specifically covered by the terms of this agreement.

3. OWNERSHIP OF DOCUMENTS

All drawings, specifications, calculations, computer programs and reports are instruments of service and remain the property of the Consultant, are to be used only on the specific project covered by this agreement and are not to be reused on other projects without compensation to and approval of the Consultant. No documents may be altered or modified except by Consultant. Client agrees to defend, indemnify and hold Consultant harmless from claims, damages and expenses arising out of unauthorized reuse of documents.

4. SERVICES DURING CONSTRUCTION

Consultant will, upon Owner's request, provide checking of shop drawings, contractor's monthly payment requests and other submittals and will provide periodic observations of construction in order to determine general compliance with the plans and specifications. Consultant in no way guarantees or insures contractor's work nor assumes responsibility for methods or appliances used by contractor for job site safety or for contractor's compliance with laws and regulations. Client agrees that in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project including safety of all persons and property and that this responsibility shall be continuous and not limited to normal working hours.

5. COST ESTIMATES

Cost estimates provided by the Consultant are made on the basis of Consultant's experience and qualifications and represent Consultant's best judgment as an experienced and qualified professional engineer familiar with the construction industry; but Consultant cannot and does not guarantee that proposals, bids or actual total project or construction costs will not vary from opinions of probable cost prepared by the engineer, since Consultant has no control over the cost of labor, materials, equipment or services furnished by others or over contractor's methods of determining prices or over competitive bidding or market conditions.

6. WARRANTIES OR GUARANTEES

The only warranty or guarantee made by Consultant is that the services will be performed with the care and skill ordinarily exercised by members of the profession practicing under similar conditions at the same time and in the same or similar locality. When the findings and recommendations of the Consultant are based on information supplied by the client and others, such findings and recommendations are correct to the best of Consultant's knowledge and belief. No other warranty expressed or implied is made or intended by providing of Consultant services or by furnishing oral or written reports of the findings made.

7. LIMITATION OF LIABILITY

Subject to the limits, terms and conditions of the applicable Commercial General Liability Policy, the Consultant agrees to indemnify and hold owner harmless from non-professional liability arising out of the Consultant's negligence in performing of this agreement.

Consultant's professional liability of damages, loss or injury due to wrongful acts shall not exceed that total amount of Consultant's fees collected or \$50,000.00 whichever is greater.

8. TERMINATION OF SERVICES

In the event that Client requests termination of services, Consultant reserves the right to complete such analysis and records as are necessary to place files in order. The cost of such services will be paid by Client.

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

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

RECITALS

WHEREAS, the City is presently engaged in the Sewer Lift Station No. 6A Improvements 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 Estimated Hours and Fees**, 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 Work. 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 Two Thousand Eight Hundred Fifty-three Dollars and Zero Cents (\$2,853.00) 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 Hours and Fees**. 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, 2010; 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,

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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 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:
PriZm Surveying, Inc.
ATTN: Gary Letzring, P.L.S.
PO Box 110700
Tacoma, WA 98411
(253) 404-0983 FAX (253) 404-0984

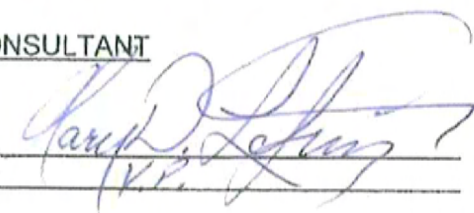
City of Gig Harbor
ATTN: Emily Appleton
Senior Engineer
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

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 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

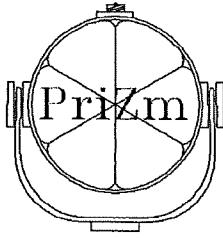
By: _____
Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



PRIZM SURVEYING INC.

P.O. Box 110700
Tacoma, WA 98411
Office: 253-404-0983
Fax: 253-404-0984
ablaisdell@prizmsurveying.com
gletzring@prizmsurveying.com
www.prizmsurveying.com

Mr. Willy Hendrickson
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

June 11, 2010

Re: Topographic Survey of Ryan Street Right-of-Way fronting 2809 Ryan Street vicinity, with GIS ready and the Benchmark at Grandview and Soundview options.

Dear Mr. Hendrickson,

PriZm Surveying is pleased to provide you with this proposal for Surveying Services. The specific area to be surveyed is defined in the email dated 6/4/10, from you. I have broken this proposal into 3 tasks: Task 1 – Topographic Survey; Task 2 – GIS Ready; Task 3 – Setting a permanent benchmark at the intersection of Grandview and Soundview Drive. The following is our proposed scope of work for the project.

Task 1 – Topographic Survey of Ryan Street Right-of-Way:

1. We will be utilizing existing horizontal control to perform this work, which is on an assumed basis of bearings (this held prior survey records and legal descriptions in this vicinity). See Task 2 to place this project on the Washington State Plane Coordinate System, South
2. Perform a level loop from a known (record) vertical elevation to elevate existing survey control points (already established) in the vicinity of the project area. Horizontal control will be per record. Vertical Datum will utilize information shown on existing LID1 plans. *Note: If Task 2 is selected the Vertical Datum will be adjusted to NGVD 1929 datum (Pierce County Datum) with a conversion reference to NAVD 1988 datum.*
3. Perform a topographic survey of the identified project area. We will be locating all relevant surface features deemed necessary for the future design of the site. We will locate the crown of the road, pavement edge, gravel shoulder, any drainage courses, ground elevations, occupational improvements, culverts, signs, utility structures, the

EXHIBIT A

tops or toes of slopes, and trees 6" or larger, etc. Accessible utility structures will be measured for depth, pipe sizes and type, direction, etc.

4. Underground utilities (Water, Gas, Power, Communication): Visible evidence of utilities will be located as noted above, but any underground locations of conductible utilities cannot be shown without the benefit of a underground utility locate service. There are a couple of options available to help identify these locations:
a) The City can call "One Call" (811) requesting a locate within the project area. b) At your request we will contact 3 private utility locate companies, requesting a proposal to perform underground locates in the project vicinity. c) We can contact local utility providers requesting as-built information in the vicinity of the project area. Those utilities identified will be located and shown on the final map.

For Private Utility Locates, proposals received will be forwarded to you for authorization.

5. Control points and temporary benchmarks will be set at convenient locations for your future reference.
6. Reduce field notes, plot data obtained from the fieldwork, and prepare an AutoCAD drawing of the above for design use at a convenient scale showing the data collected along with 1 foot interval contours and spot elevations as deemed necessary. We will utilize the prior right-of-way and parcel boundary survey information on the final drawing. The final Map will be reviewed, checked and certified by a Professional Land Surveyor, and provided in electronic format for the engineer's future design.

The estimated cost for Task 1 services is \$975.00

- Professional Land Surveyor 1 hours @ \$95.00 /hour
- 2-man survey crew 4 hours @ \$125.00 /hour
- Survey Technician 4hours @ \$85.00 /hour
- Administration 2/3 hours @ \$60.00 /hour

Task 2 - GIS Ready Deliverable:

1. Perform office research of Pierce County and the Department of Transportations Survey control networks and records for relevant survey data in the vicinity of the project capable of placing the project on the Washington State Plane Coordinate System, South Zone (Pierce County's Coordinate System)(NAD 83/91).
2. Perform a GPS survey locating relevant survey control, both horizontally and vertically, and tying into our existing survey control along Ryan Street. Vertical Datum will be converted to Pierce County Vertical Datum NGVD 1929 and will make a conversion reference to NAVD 1988 datum.
3. Reduce field notes, adjust and rotate the work performed as part of Task 1 and the prior work (along with the un-noticeable horizontal position changing, the bearings shown on the prior work will also be changed to reflect the new horizontal datum). Plot data obtained from the fieldwork, and prepare an AutoCAD drawing as

EXHIBIT A

described in Task 1 above. The final Map will be reviewed, checked and certified by a Professional Land Surveyor, and provided in electronic format for your future design.

The estimated cost for Task 2 services is \$1,442.50

- Professional Land Surveyor 1.5 hours @ \$95.00 /hour
- GPS survey crew 8 hours @ \$137.50 /hour
- Survey Technician 2 hours @ \$85.00 /hour
- Administration 1/2 hours @ \$60.00 /hour

Task 3 - Benchmark Establishment:

1. Utilizing information gathered as part of Task 2 we will perform a level loop over and across the existing brass monument located at the intersection of Grandview Avenue and Soundview Drive to determine its elevation. We will also set a point at this same intersection as an accessory benchmark for reference.
2. Vertical Datum will be Pierce County Vertical Datum NGVD 1929 and will make a conversion reference to NAVD 1988 datum.
3. Reduce field notes, and prepare a 8 1/2" x 11" exhibit noting the positions and elevations, along with references on their establishment. The final Map will be reviewed, checked and certified by a Professional Land Surveyor, and provided in electronic format for your future use.

The estimated cost for Task 3 services is \$435.00

- Professional Land Surveyor 1/2 hours @ \$95.00 /hour
- 2-man survey crew 1.5 hours @ \$125.00 /hour
- Survey Technician 2 hours @ \$85.00 /hour
- Administration 1/2 hours @ \$60.00 /hour

Specifically excluded from our described scope of services are any title research or reports, any geotechnical studies, wetland or traffic studies, landscaping, and / or any engineering services. If required the Client will pay all costs of title reports, filing fees, and other governmental fees and assessments not specifically identified within this proposal.

PriZm Surveying will perform additional services beyond the basic scope of work upon your request. No extra work will be undertaken without your prior authorization. Revisions to work completed or in progress, requested by you or your agents through no fault of PriZm Surveying, will be considered extra services for which additional compensation is due. If you require a written proposal and authorization for additional services, this should be addressed at the time the work is requested.

EXHIBIT B

Ryan Street Topographic Survey
Page 4 of 6

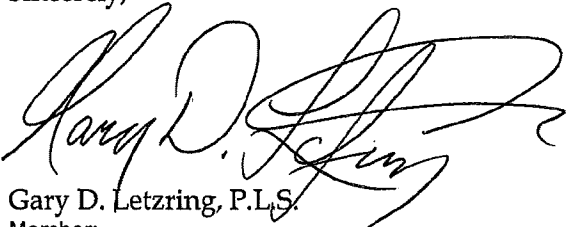
Consent Agenda - 3
Page 23 of 23

Any part of this proposal is negotiable pending your particular survey requirements. Should you desire additional services beyond the scope above our regular hourly rates are as follows:

- 2-man survey crew \$125 an hour
- GPS survey crew \$137.50 an hour
- Licensed Land Surveyor \$95 an hour
- Survey Technician \$85 an hour

We look forward to working with you, and if you have any questions or comments regarding this proposal, please call me at (253) 404-0983.

Sincerely,



Gary D. Letzring, P.L.S.
Member:
Land Surveyor's Association of Washington,
National Society of Professional Land Surveyors,
American Congress on Surveying and Mapping



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

Subject: Harborview Dr/Stinson Ave Water Main Bidding and Construction Assistance – Consultant Services Contract/MSA

Proposed Council Action: Authorize the Mayor to execute a Consultant Services Contract with Murray, Smith, and Associates, Inc., for an amount not to exceed \$16,389.

Dept. Origin: Public Works

Prepared by: Jeff Langhelm

For Agenda of: July 12, 2010

Exhibits: Consultant Services Contract, and Exhibit

Initial & Date

Concurred by Mayor: _____

Approved by City Administrator: _____

Approved as to form by City Atty: *per email 7/7/10*

Approved by Finance Director: _____

Approved by Department Head: *[Signature] 7/7/10*

Expenditure Required	\$16,389	Amount Budgeted	\$2,175,000	Appropriation Required	\$0
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INFORMATION/BACKGROUND

In December 2009 the City of Gig Harbor City Council approved the City's 2010 budget that provides for the replacement approximately 5,000 LF of aged asbestos cement water main along Harborview Drive and Stinson Avenue. In February 2010 the City Council approved a consultant services contract with Murray, Smith, and Associates (MSA) for permitting assistance and final design of this project.

MSA has completed the work described in the permitting and design contract approved in February. Subsequently, this project is now out to bid. The contract work proposed in the bidding and construction assistance contract shall include general design interpretation and reporting services during construction including construction information review and completion of the Washington State Department of Health project certification form.

Additional work associated with this project is being provided by Public Works Staff, including in-house construction management and construction inspection.

FISCAL CONSIDERATION

The 2010 Water Capital Fund has allocated the following for this project:

2010 Budget for Water Division Capital, Objective No. 4 (Harborview Dr.)	\$ 1,900,000
2010 Budget for Water Division Capital, Objective No. 5 (Stinson Ave.)	\$ 275,000
Anticipated 2010 Expenses:	
Consulting Service Contract for Design (Murray, Smith, and Assoc.)	(\$ 149,528.00)
Consulting Service Contract for Bidding/Construction (MSA)	(\$ 16,389)
<i>Public Works Construction Contract</i>	(\$ 1,800,000)
<i>Change Order Authority for Public Works Contract</i>	(\$ 100,000)
<i>Materials Testing Contract</i>	(\$ 35,000)
<i>Change Order Authority for Materials Testing Contract</i>	(\$ 3,500)
<i>City Project Design Mgmt, Construction Management, and Inspection</i>	(\$ 60,000)
Remaining 2010 Budget =	\$ 10,583

Note: Expenses in *italics* are estimated.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION/MOTION

Authorize the Mayor to execute a Consultant Services Contract with Murray, Smith, and Associates, Inc., for an amount not to exceed \$16,389.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
MURRAY, SMITH & ASSOCIATES, INC.**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and Murray, Smith and Associates, Inc., a corporation organized under the laws of the State of Oregon (the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the construction phase of the Harborview Drive and Stinson Avenue Water Main Replacement 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 Estimated Hours and Fees**, 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 Work. 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 Sixteen Thousand Three Hundred Eighty-nine Dollars and Zero Cents (\$16,389.00) 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 B – Schedule of Rates and Estimated Hours and Fees**. 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, 2010; 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 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:
Murray, Smith & Associates, Inc.
ATTN: Chris H. Uber, P.E.
1119 Pacific Avenue, Suite 1202
Tacoma, WA 98402
(253) 627-1520

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

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 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.

[Remainder of the page intentionally left blank.]

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: _____
Its: _____

By: _____
Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



EXHIBIT A

SCOPE OF WORK Construction Phase Engineering Services for the City of Gig Harbor Harborview Drive and Stinson Avenue Water Main Replacement Project

General

City of Gig Harbor staff will lead and direct all construction phase engineering and technical services for the Harborview Drive and Stinson Avenue Water Main Replacement Project. Specialty engineering services will be provided by MSA to the City during construction of the project to the level that allows MSA to provide Washington State Department of Health project certification at the completion of the work. Also included in this scope are services during construction intended to provide City staff technical services and support during construction activities on an as needed basis. It is assumed that all services performed will be at the direction of the City. It is also understood that City staff shall develop record drawings for the project.

Services During Construction

Tasks 1 through 5 presented below include detailed descriptions of proposed construction phase services. Estimated MSA resource hours are indicated, as is a task budget.

Task 1: Preconstruction Meeting and Coordination with City Inspection Staff – A representative from MSA will attend the pre-construction meeting. It is anticipated that this meeting will take 4 hours. Also included in this task is project coordination with City inspection staff. For budgeting purposes it is anticipated that this will take approximately 2 hours a week over the course of the project assuming a 10 week construction period.

- *Task hours:* 26
- *Task budget:* \$3,390

Task 2: Construction Information Review – Receive and review daily inspection reports provided by City's onsite inspector shop drawings and other technical submittals. Review photos of water main installation provided by owner's onsite inspector. Review compaction test reports completed by others and provided by the City. Review the approved set of submittals.

- *Task hours:* 42
- *Task budget:* \$4,960

Task 3: Requests for Information/Clarifications – As directed by the City, provide clarification of the contract documents to the Contractor and the City based upon the Contractor's written requests for clarifications, verbal requests or as requested by the City.

EXHIBIT A

Prepare and submit written responses and drawings or sketches to the Contractor to clarify the contract documents.

- *Task hours:* 21
- *Task budget:* \$2,645

Task 4: On-Site Construction Observation – Provide on-site construction observation as needed to meet the minimum requirements of the DOH project certification standard. The following subtasks are included in this task. Hours are indicated for each subtask as follows:

1. Onsite for first day that water main is installed – 4 hours
 2. Onsite for first concrete thrust block installation – 4 hours
 3. Witness pressure testing – 2 hours
 4. Witness disinfection concentration sampling – 2 hours
 5. Witness bacteriological sampling – 2 hours
 6. Witness final connections to existing water system – 18 hours
 7. Conduct 4 additional periodic site visits at 3 hours each – 12 hours
- *Total Task hours:* 44
 - *Task budget:* \$5,646

Task 5: Completion of DOH Project Certification – Under this task the DOH project certification form will be prepared, signed and stamped in accordance with DOH requirements.

- *Total Task hours:* 12
- *Task budget:* \$1,680

Schedule and Budget

It is proposed that work tasks 1 through 5, as detailed above be completed over the course of project construction activities. A tabulated budget breakdown by work task is provided below. MSA proposes to complete the work on a time and expenses basis, with the total proposed fee as an agreed not-to-exceed amount of \$18,321. The work will be billed at the firm’s current standard Schedule of Charges in effect at the time the work is performed. The firm’s 2010 Schedule of Charges is attached.

Budget Summary Table

Task Item	Budget
Task 1: Preconstruction Meeting and Coordination with City Inspection Staff	\$3,390
Task 2: Construction Information Review	4,960
Task 3: Requests for Information/Clarifications	2,645
Task 4: On-Site Construction Observation	5,646
Task 5: Completion of DOH Project Certification	1,680
Total	\$18,321

EXHIBIT B

City of Gig Harbor Harborview Drive and Stinson Avenue Water Main Replacement Project CONSTRUCTION PHASE ENGINEERING SERVICES PROPOSED LEVEL OF EFFORT

TASK	MSA Labor Hours						ESTIMATED FEES		
	Principal \$175	Lead Engr Engr VI \$128	Meyer Kostechka	Staff Engr	Total Hours MSA	Labor	Expenses	Total	Task Labor Hours Totals
				Engr 1					
				\$93					
Task 1: Preconstruction Meeting /Project Coord.	1	24	1	1	26	\$ 3,340	\$ 50	\$ 3,390	26
Task 2: Construction Information Review	2	24	16	16	42	\$ 4,910	\$ 50	\$ 4,960	42
Task 3: Requests for Information/Clarifications	1	16	4	4	21	\$ 2,595	\$ 50	\$ 2,645	21
Task 4: On-Site Construction Observation	2	34	8	8	44	\$ 5,446	\$ 200	\$ 5,646	44
Task 5: Completion of DOH Project Certification	2	10			12	\$ 1,630	\$ 50	\$ 1,680	12
TOTAL - ALL TASKS	8	108	29	29	145	\$ 17,921	\$ 400	\$ 18,321	145

EXHIBIT B



SCHEDULE OF RATES

Personnel:

Labor will be invoiced by staff classification at the following hourly rates, which are valid from January 1, 2010 to December 31, 2010. After this period, the rates are subject to adjustment.

Senior Principal	\$187.00
Principal	175.00
Principal Associate/Senior Associate	162.00
Principal Engineer/Associate	155.00
Senior Engineering Associate	149.00
Senior Engineer	142.00
Engineer VII	134.00
Engineer VI	128.00
Engineer V	121.00
Engineer IV	112.00
Engineer III	106.00
Engineer II	100.00
Engineer I	93.00
Senior Technician	109.00
Technician	93.00
Junior Technician	77.00
Administrator	82.00
Clerical	66.00

Project Expenses:

Expenses incurred in-house that are directly attributable to the project will be invoiced at actual cost. These expenses include the following:

Computer Aided Design and Drafting	\$13.00/hour
Mileage	Current IRS Rate
Direct Communication Charges	At Cost
Postage and Delivery Services	At Cost
Printing and Reproduction	At Cost
Travel, Lodging and Subsistence	At Cost

Outside Services:

Outside technical, professional and other services will be invoiced at actual cost plus 5 percent to cover administration and overhead.



Subject: Proposed Countywide Flood Control District

Proposed Council Action:

Move to authorize the Mayor to notify the Washington State Boundary Review Board for Pierce County that the City of Gig Harbor hereby invokes the jurisdiction of the Board in connection with Pierce County Council's request for formation of a countywide flood control district, BRB Case No. I-10-1

Dept. Origin: Administration

Prepared by: Rob Karlinsey

For Agenda of: July 12, 2010

Exhibits: None

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Initial & Date

Handwritten initials and date: JS/7/12

Handwritten signature: [Signature]

Handwritten text: by e-mail 7/2

Handwritten signature: [Signature]

Table with 6 columns: Expenditure Required, Amount Budgeted, Appropriation Required. Values: \$200, -0-, -0-

INFORMATION / BACKGROUND

As you heard at the June 28 council meeting, Pierce County desires to form a countywide flood control district. The purpose of the district would be to perform flood control projects primarily in the area of the Carbon, White and Puyallup Rivers. The district would levy taxes on a county-wide basis to pay for such improvements.

Pierce County has filed its notice of intent to form the countywide flood control district with the BRB for Pierce County. The City has until July 22 to invoke jurisdiction of the board in order to have the proposal considered at a public hearing. Comments have been expressed indicating that due to the City's geographically distinct location in a separate watershed and across the Narrows, the citizens of Gig Harbor would essentially be taxed for improvements that would provide no direct benefit. By invoking the BRB's jurisdiction, the City can present evidence for why it should not be included in the district. If the BRB's jurisdiction is not invoked by July 22, the proposal will be considered approved as presented.

After the BRB jurisdiction is invoked, the BRB will set a date for public hearing with no less than 30 days notice. Within 40 days after the conclusion of the hearing, the BRB will issue a decision either approving, rejecting or modifying the proposal.

FISCAL CONSIDERATION

A \$200 filing fee must accompany the City's notice invoking BRB jurisdiction.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to notify the Washington State Boundary Review Board for Pierce County that the City of Gig Harbor hereby invokes the jurisdiction of the Board in connection with Pierce County Council's request for formation of a countywide flood control district, BRB case No. I-10-1.

**Subject: First Reading of Ordinance
Providing for the Issuance and Sale
of Water and Sewer Revenue Bonds
For the Purpose of Providing
Financing for Sewer System
Improvements**

Dept. Origin: Finance

Prepared by: David Rodenbach, Finance Director

For Agenda of: July 12, 2010

Exhibits: Ordinance, Bond Purchase Agreement
Initial & Date

Proposed Council Action:

Adopt the ordinance and authorize execution of the Bond Purchase Agreement with DA Davidson after second reading.

Concurred by Mayor: DRD

Approved by City Administrator: POK

Approved as to form by City Atty: e-mail

Approved by Finance Director: DRD 6/30

Expenditure Required	Amount Budgeted	Appropriation Required
See Below		

INFORMATION / BACKGROUND

This is the first reading of an ordinance providing for the issuance and sale of revenue bonds in the amount of approximately \$8,035,000. During the previous revenue bond sale, which closed March 22, 2010, the City had a pending low-interest loan application with Department of Ecology. The City learned in May that the application was unsuccessful, thus creating the need for this revenue bond.

The City is expecting an AA- credit rating from Standard and Poor's for this bond issue.

The actual ordinance with maturity dates, principal amounts and interest rates filled in will be handed out at the July 26 City Council meeting.

The bonds are 20-year taxable Build America Bonds that will mature in 2030. The bonds will carry an estimated average coupon of 5.67% and True Interest Cost of 3.72%.

The proceeds of these bonds will be used to fund completion of the sewer outfall extension project.

FISCAL CONSIDERATION

The net proceeds after issuance costs and reserve account funding requirements are \$7.54 million. This amount will be deposited into the project fund. Average annual debt service requirements are expected to be approximately \$682,000.

The water and sewer rates, as approved by Council in December 2009, appear to be sufficient to meet debt coverage requirements.

RECOMMENDATION / MOTION

Move to: Staff recommends adoption of the ordinance after a second reading.

CITY OF GIG HARBOR, WASHINGTON

WATER AND SEWER REVENUE BONDS, 2010B
(TAXABLE BUILD AMERICA BONDS – DIRECT PAYMENT TO ISSUER)

ORDINANCE NO. 1191

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER REVENUE BONDS OF THE CITY IN THE PRINCIPAL AMOUNT OF \$8,035,000 TO PROVIDE FINANCING FOR CERTAIN IMPROVEMENTS TO THE WATER AND SEWER SYSTEM OF THE CITY; FIXING THE DATE, FORM, TERMS, MATURITIES AND COVENANTS OF THE BONDS; APPROVING A PURCHASE CONTRACT FOR THE BONDS; APPROVING AN AGREEMENT FOR ONGOING DISCLOSURE; AND RESERVING THE RIGHT TO ISSUE REVENUE BONDS ON A PARITY WITH THE BONDS HEREIN AUTHORIZED UPON COMPLIANCE WITH CERTAIN CONDITIONS.

APPROVED ON JULY 26, 2010

PREPARED BY:

K&L GATES LLP

CITY OF GIG HARBOR, WASHINGTON
ORDINANCE NO. 1191

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* This Table of Contents and the cover page are not a part of this ordinance; they are included for convenience of the reader only.

ORDINANCE NO. 1191

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER REVENUE BONDS OF THE CITY IN THE PRINCIPAL AMOUNT OF \$8,035,000 TO PROVIDE FINANCING FOR CERTAIN IMPROVEMENTS TO THE WATER AND SEWER SYSTEM OF THE CITY; FIXING THE DATE, FORM, TERMS, MATURITIES AND COVENANTS OF THE BONDS; APPROVING A PURCHASE CONTRACT FOR THE BONDS; APPROVING AN AGREEMENT FOR ONGOING DISCLOSURE; AND RESERVING THE RIGHT TO ISSUE REVENUE BONDS ON A PARITY WITH THE BONDS HEREIN AUTHORIZED UPON COMPLIANCE WITH CERTAIN CONDITIONS.

WHEREAS, the City of Gig Harbor needs to make certain improvements to its combined water and sewerage system (the "System"); and

WHEREAS, the City is in need of improvements (herein further defined as the "Project") and it is in the best interests of the citizens of the City to finance the Project by means of the revenue bonds authorized herein (the "Bonds"); and

WHEREAS, the City has outstanding the following series of revenue bonds, each having a parity lien from revenues of the City:

<u>Series Designation</u>	<u>Resolution Number</u>	<u>Date of Issue</u>	<u>Original Principal Amt.</u>	<u>Currently Outstanding (6/1/2010)</u>	<u>Final Maturity Dates</u>
2003	946	12/02/2003	\$ 1,811,000	\$ 824,000	09/01/2013
2010	1184	03/30/2010	6,035,000	6,035,000	04/01/2030

(collectively, the "Outstanding Parity Bonds"); and

WHEREAS, in order to finance the Project, the City is proposing to issue water revenue bonds on a parity of lien with the Outstanding Parity Bonds; and

WHEREAS, Ordinance Nos. 946 and 1184, which authorized the issuance of the Outstanding Parity Bonds (the "Outstanding Parity Bond Ordinances") authorize the City to

issue revenue bonds in the future having a parity lien on net revenues of the System upon compliance with the terms and conditions set forth in the Outstanding Parity Bond Ordinances, and said conditions will be met with respect to the bonds authorized herein; and

WHEREAS, the Outstanding Parity Bond Ordinances permits the City to issue revenue bonds on a parity of lien with the Outstanding Parity Bond upon compliance with certain conditions; and

WHEREAS, the City has received an offer from D.A. Davidson & Co. to purchase such revenue bonds on terms and conditions that are acceptable to this Council; and

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

Section 1. Definitions. As used in this ordinance, unless a different meaning clearly appears from the context:

Annual Debt Service means, with respect to any issue of Parity Bonds, the amount required in a given calendar year for the payment of the principal of and interest on such Parity Bonds. From and after the New Date (absent a written election by the Designated Representative to the contrary), the Annual Debt Service shall be calculated net of any federal subsidy legally available to pay the principal of or interest on Parity Bonds in the year of calculation.

Assessments means any assessments levied in any utility local improvement district of the City created for the acquisition or construction of additions and improvements to and extensions of the System, if such assessments are pledged to be paid into the Bond Fund. The word *Assessments* shall also include any installments of assessments and any interest or penalties which may be due thereon.

Assessment Income means the principal of and interest on assessments levied in any utility local improvement district and pledged to be paid into the Bond Fund. In the case of assessments payable in installments, Assessment Income shall be allocated to the years in which it would be received if the unpaid principal balance of each assessment roll were paid in equal principal amounts over the remaining number of installments with interest on the declining balance at the times and at the rate provided in the ordinance confirming the assessment roll.

Average Annual Debt Service means the average amount of annual debt service which will become due in any fiscal year hereafter on all Parity Bonds then outstanding. From and after the New Date (absent a written election by the Designated Representative to the contrary), the Average Annual Debt Service shall be calculated net of any federal subsidy legally available to pay the principal of or interest on Parity Bonds in the year of calculation.

Bond Fund means the City of Gig Harbor Utility Bond Redemption Fund created in the office of the Treasurer of the City pursuant to Section 13 of Ordinance No. 468.

Bond Register means the books or records maintained by the Bond Registrar containing the name and mailing address of the owner of each Bond or nominee of such owner and the principal amount and number of Bonds held by each owner or nominee.

Bond Registrar means the fiscal agency of the State of Washington, for the purposes of registering and authenticating the Bonds, maintaining the Bond Register, effecting transfer of ownership of the Bonds, and paying the principal of, premium, if any, and interest on the Bonds.

Bond Year means each one-year period that ends on the date selected by the City. The first and last Bond Years may be short periods. If no day is selected by the City before the earlier of the final maturity date of the Bonds or the date that is five years after the date of

issuance of the Bonds, Bond Years end on each anniversary of the date of issue and on the final maturity date of the Bonds.

Bonds means the City of Gig Harbor, Washington Water and Sewer Revenue Bonds, 2010B (Taxable Build America Bonds – Direct Payment to Issuer), issued pursuant to this ordinance.

Build America Bonds means bonds issued under authority of Section 54AA of the Code, enacted by the American Recovery and Reinvestment Act of 2009.

City means the City of Gig Harbor, Washington, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Washington.

Code means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

Costs of Maintenance and Operation mean all necessary operating expenses, current maintenance expenses, expenses of reasonable upkeep and repairs, and insurance and administrative expenses with respect to the System, but excludes depreciation, payments for debt service or into reserve accounts, costs of capital additions to or replacements of the System, municipal taxes or payments to the City in lieu of taxes.

Council means the City Council as the general legislative authority of the City as the same shall be duly and regularly constituted from time to time.

Debt Service Account means the account of that name created in the Bond Fund by Ordinance No. 468.

Designated Representative means the Finance Director or City Administrator or any official or employee of the City designated in writing by either of them.

DTC means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, as depository for the Bonds pursuant to Section 4 hereof.

Future Parity Bonds means any water and sewer revenue bonds which the City may hereafter issue having a lien upon the Revenue of the System for the payment of the principal thereof and interest thereon equal to the lien upon the Revenue of the System of the Bonds.

Government Obligations has the meaning given such term in RCW Ch. 39.53, as amended to date and as the same may hereinafter be amended and shall include any successor statute thereto.

Letter of Representations means the blanket issuer letter of representations from the City to DTC.

Maximum Annual Debt Service means the highest remaining Annual Debt Service requirement for outstanding Parity Bonds. From and after the New Date (absent a written election by the Designated Representative to the contrary), the Maximum Annual Debt Service shall be calculated net of any federal subsidy legally available to pay the principal of or interest on Parity Bonds in the year of calculation.

MSRB means the Municipal Securities Rulemaking Board or any successors to its functions. Until otherwise designated by the MSRB or the Securities and Exchange Commission, any information, reports or notices submitted to the MSRB in compliance with the Rule are to be submitted through the MSRB's Electronic Municipal Market Access system ("EMMA"), currently located at www.emma.msrb.org.

Net Revenue means the Revenue of the System less the Costs of Maintenance and Operation.

New Date means the date on which the City's Water and Sewer Revenue and Refunding Bond, 2003 issued December 2, 2003 is no longer outstanding.

Outstanding Parity Bonds means the City's outstanding Water and Sewer Revenue and Refunding Bond, 2003, issued December 2, 2003 and currently outstanding in the amount of \$824,000 and the City's outstanding Water and Sewer Revenue Bonds, 2010 (Taxable Build America Bonds – Direct Payment to Issuer) issued March 30, 2010 and currently outstanding in the amount of \$6,035,000.

Outstanding Parity Bond Ordinances means Ordinance No. 946 approved by the Council on November 24, 2003 and Ordinance No. 1184 approved by the Council on March 8, 2010.

Parity Bonds means the Bonds, the Outstanding Parity Bonds and any Future Parity Bonds.

Project means capital improvements to the water and sewer system of the City.

Project Account means the fund established in Section 15 of this ordinance.

Private Person means any natural person engaged in a trade or business or any trust, estate, partnership, association, company or corporation.

Private Person Use means the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes attendance by the Private Person at municipal meetings or business rental of property to the

Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such use by all such community groups on an equal basis and such community groups are charged only a *de minimis* fee to cover custodial expenses.

Rate Covenant means the covenants described in Section 10(c) of this ordinance.

Registered Owner means the person named as the registered owner of a Bond in the Bond Register. For so long as the Bonds are held in book-entry only form, DTC shall be deemed to be the sole Registered Owner.

Reserve Account means the account created in the Bond Fund by Section 15 of Ordinance No. 468 and shall include any subaccount created therein.

Reserve Account Requirement means the lesser of (A) 10% of the net proceeds of each series of Parity Bonds, (B) Maximum Annual Debt Service, (C) 1.25 times average Annual Debt Service, or (D) such amount as shall be required to maintain the exemption of interest of any series of Parity Bonds from taxation under the Code.

Revenue Fund means the “City of Gig Harbor Utility Revenue Fund” authorized to be created by Section 12 of Ordinance No. 468, into which fund all of the Revenue of the System is to be deposited, as collected. The Revenue Fund may be maintained as one or more separate funds of the City into which all of the Revenue of the System shall be deposited.

Revenue of the System means all earnings, revenue and moneys received by the City from or on account of the operation of the System, including the income from investments of money in the Revenue Fund and the Bond Fund or from any other investment thereof. “Revenue

of the System” shall also include any federal or state reimbursements of operating expenses to the extent such expenses are included as “Costs of Maintenance and Operation.” From and after the New Date, unless declined by a written election by the Designated Representative, the term **Revenue of the System** shall not include any federal subsidy legally available to pay the principal of or interest on Parity Bonds.

Rule means the Securities and Exchange Commission’s Rule 15c2-12 under the Securities Exchange Act of 1934, as the same may be amended from time to time.

System means the existing sanitary sewerage collection and treatment system of the City, as it now exists and as it may later be added to, extended and improved, and the existing water supply and distribution system of the City, as it now exists and as it may later be added to, extended and improved for as long as any Parity Bonds remain outstanding.

Term Bonds means any Parity Bonds identified as such in the ordinance authorizing the issuance thereof, the payment of which is provided for by a requirement for mandatory deposits of money into a “sinking fund account” in the Bond Fund.

Underwriter means D.A. Davidson & Co., Seattle, Washington.

Rules of Interpretation. In this ordinance, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this ordinance;

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect;

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

(f) Words importing the singular number include the plural number and vice versa.

Section 2. Compliance with Parity Conditions. The Council hereby finds and determines, as required by Section 11 of the Outstanding Parity Bond Ordinance, that:

(a) the City has not been in default of its Rate Covenant for the immediately preceding fiscal year 2009;

(b) this ordinance provides that the Reserve Account Requirement shall be funded no later than the date of delivery of the Bonds; and

(c) there will have been filed a certificate of an independent professional engineer, certified public accountant or City representative demonstrating fulfillment of Section 11(a)(5) of the Outstanding Parity Bond Ordinance.

The conditions contained in Section 11 of the Outstanding Parity Bond Ordinance having been complied with or assured, the payments required herein to be made out of the Revenue Fund into the Bond Fund and the Reserve Account to pay and secure the payment of the principal of and interest on the Bonds shall constitute a lien and charge upon the money in the

Revenue Fund equal in rank with the lien and charge thereon for the payments required to be made for the Outstanding Parity Bond.

Section 3. Authorization of Bonds. The Council hereby finds that the public interest, welfare and convenience require capital improvements to the water and sewer system of the City (the “Project”). The City shall now issue and sell \$8,035,000 of water and sewer revenue bonds (the “Bonds”) for the purpose of paying the costs of the Project and paying the costs of issuance of the Bonds. The Bonds shall be designated as the “City of Gig Harbor, Washington, Water and Sewer Revenue Bonds, 2010B (Taxable Build America Bonds – Direct Payment to Issuer),” shall be dated as of their date of original issuance and delivery; shall be fully registered as to both principal and interest; shall be in the denomination of \$5,000 each, or any integral multiple thereof, provided that no Bond shall represent more than one maturity; shall be numbered separately in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification; and shall bear interest from their date payable semiannually on the first days of each April and October, commencing on October 1, 2010. The Bonds shall be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification and shall mature on April 1 of the following years in the following amounts and bear interest at the following rates per annum:

<u>Maturity Dates</u> <u>(April 1)</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>
	\$	%

The Bonds shall be obligations only of the Bond Fund and shall be payable and secured as provided herein. The Bonds do not constitute an indebtedness or general obligation of the City within the meaning of the constitutional provisions and limitations of the State of Washington.

Section 4. Registration, Exchange and Payments.

(a) *Bond Registrar/Bond Register.* The City hereby specifies and adopts the system of registration approved by the Washington State Finance Committee from time to time through the appointment of state fiscal agencies. The City shall cause a bond register to be maintained by the Bond Registrar. So long as any Bonds remain outstanding, the Bond Registrar shall make all necessary provisions to permit the exchange or registration or transfer of Bonds at its principal corporate trust office. The Bond Registrar may be removed at any time at the option of the City upon prior notice to the Bond Registrar and a successor Bond Registrar appointed by the City. No resignation or removal of the Bond Registrar shall be effective until a successor shall have been appointed and until the successor Bond Registrar shall have accepted the duties of the Bond Registrar hereunder. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of such Bonds and this ordinance and to carry out all of the Bond Registrar's powers and duties under this ordinance. The Bond Registrar shall be responsible for its representations contained in the Certificate of Authentication of the Bonds.

(b) *Registered Ownership.* The City and the Bond Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes (except as provided in Section 16 of this ordinance), and neither the City nor the Bond Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be

made only as described in Section 4(h) hereof, but such Bond may be transferred as herein provided. All such payments made as described in Section 4(h) shall be valid and shall satisfy and discharge the liability of the City upon such Bond to the extent of the amount or amounts so paid.

(c) *DTC Acceptance/Letters of Representations.* The Bonds initially shall be held in fully immobilized form by DTC acting as depository. To induce DTC to accept the Bonds as eligible for deposit at DTC, the City has executed and delivered to DTC a Blanket Issuer Letter of Representations. Neither the City nor the Bond Registrar will have any responsibility or obligation to DTC participants or the persons for whom they act as nominees (or the participants of any successor depository or those for who any such successor acts as nominee) with respect to the Bonds in respect of the accuracy of any records maintained by DTC (or any successor depository) or any DTC participant, the payment by DTC (or any successor depository) or any DTC participant of any amount in respect of the principal of or interest on Bonds, any notice which is permitted or required to be given to Registered Owners under this ordinance (except such notices as shall be required to be given by the City to the Bond Registrar or to DTC (or any successor depository)), or any consent given or other action taken by DTC (or any successor depository) as the Registered Owner. For so long as any Bonds are held in fully-immobilized form hereunder, DTC or its successor depository shall be deemed to be the Registered Owner for all purposes hereunder, and all references herein to the Registered Owners shall mean DTC (or any successor depository) or its nominee and shall not mean the owners of any beneficial interest in such Bonds.

If any Bond shall be duly presented for payment and funds have not been duly provided by the City on such applicable date, then interest shall continue to accrue thereafter on the unpaid principal thereof at the rate stated on such Bond until it is paid.

(d) *Use of Depository.*

(1) The Bonds shall be registered initially in the name of “Cede & Co.”, as nominee of DTC, with one Bond maturing on each of the maturity dates for the Bonds in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such immobilized Bonds, or any portions thereof, may not thereafter be transferred except (A) to any successor of DTC or its nominee, provided that any such successor shall be qualified under any applicable laws to provide the service proposed to be provided by it; (B) to any substitute depository appointed by the Designated Representative pursuant to subsection (2) below or such substitute depository’s successor; or (C) to any person as provided in subsection (4) below.

(2) Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository or a determination by the Designated Representative to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the Designated Representative may hereafter appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

(3) In the case of any transfer pursuant to clause (A) or (B) of subsection (1) above, the Bond Registrar shall, upon receipt of all outstanding Bonds, together with a written request of the Designated Representative, issue a single new Bond for each maturity then outstanding, registered in the name of such successor or such substitute depository, or their

nominees, as the case may be, all as specified in such written request of the Designated Representative.

(4) In the event that (A) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (B) the Designated Representative determines that it is in the best interest of the beneficial owners of the Bonds that such owners be able to obtain such bonds in the form of Bond certificates, the ownership of such Bonds may then be transferred to any person or entity as herein provided, and shall no longer be held in fully-immobilized form. The Designated Representative shall deliver a written request to the Bond Registrar, together with a supply of definitive Bonds, to issue Bonds as herein provided in any authorized denomination. Upon receipt by the Bond Registrar of all then outstanding Bonds together with a written request of the Designated Representative to the Bond Registrar, new Bonds shall be issued in the appropriate denominations and registered in the names of such persons as are requested in such written request.

(e) *Registration of Transfer of Ownership or Exchange; Change in Denominations.* The transfer of any Bond may be registered and Bonds may be exchanged, but no transfer of any such Bond shall be valid unless it is surrendered to the Bond Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Bond Registrar. Upon such surrender, the Bond Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond (or Bonds at the option of the new Registered Owner) of the same date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or

persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and cancelled Bond. Any Bond may be surrendered to the Bond Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same date, maturity and interest rate, in any authorized denomination. The Bond Registrar shall not be obligated to register the transfer or to exchange any Bond during the 15 days preceding any interest payment or principal payment date any such Bond is to be redeemed.

(f) *Bond Registrar's Ownership of Bonds.* The Bond Registrar may become the Registered Owner of any Bond with the same rights it would have if it were not the Bond Registrar, and to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as member of, or in any other capacity with respect to, any committee formed to protect the right of the Registered Owners of Bonds.

(g) *Registration Covenant.* The City covenants that, until all Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code.

(h) *Place and Medium of Payment.* Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be calculated on the basis of a year of 360 days and twelve 30-day months. For so long as all Bonds are in fully immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of DTC referred to in the Letter of Representations. In the event that the Bonds are no longer in fully immobilized form, interest on the Bonds shall be paid by check or draft mailed to the Registered Owners at the addresses for such Registered Owners appearing on the Bond Register on the fifteenth day of the month preceding the interest payment date, or upon the written request of a Registered Owner of more

than \$1,000,000 of Bonds (received by the Bond Registrar at least 15 days prior to the applicable payment date), such payment shall be made by the Bond Registrar by wire transfer to the account within the United States designated by the Registered Owner. Principal of the Bonds shall be payable upon presentation and surrender of such Bonds by the Registered Owners at the principal office of the Bond Registrar.

Section 5. Redemption and Purchase.

(a) *Optional Redemption.* The Bonds maturing on and prior to April 1, 2020 are not subject to optional redemption in advance of their scheduled maturity. The Bonds maturing on and after April 1, 2021 are subject to redemption at the option of the City on and after April 1, 2020 in whole or in part (and if in part, with maturities to be selected by the City) on any date at a price of par plus accrued interest to the date of redemption.

[(b) *Mandatory Redemption.* Unless redeemed pursuant to the foregoing optional redemption provisions, the Bonds maturing on _____ are Term Bonds subject to mandatory sinking fund redemption at a price of par plus accrued interest to the date of redemption on April 1 of the following years in the following principal amounts:

<u>Redemption Years</u>	<u>Redemption Amounts</u>
	\$

*

* Final Maturity]

(c) *Purchase of Bonds for Retirement.* The City reserves the right to use at any time any surplus Gross Revenue available after providing for the payments required by paragraphs First, through Fifth of Section 6 of this ordinance, or other available funds, to purchase any of the

Bonds at any price deemed reasonable by the City to purchase for retirement any of the Bonds offered to the City at any price deemed reasonable to the City.

(d) *Selection of Bonds for Redemption.* For as long as the Bonds are held in book-entry only form, the selection of particular Bonds within a maturity to be redeemed shall be made in accordance with the operational arrangements then in effect at DTC. If the Bonds are no longer held in uncertificated form, the selection of such Bonds to be redeemed and the surrender and reissuance thereof, as applicable, shall be made as provided in the following provisions of this subsection (c). If the City redeems at any one time fewer than all of the Bonds having the same maturity date, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot (or in such manner determined by the Bond Registrar) in increments of \$5,000. In the case of a Bond of a denomination greater than \$5,000, the City and the Bond Registrar shall treat each Bond as representing such number of separate Bonds each of the denomination of \$5,000 as is obtained by dividing the actual principal amount of such Bond by \$5,000. In the event that only a portion of the principal sum of a Bond is redeemed, upon surrender of such Bond at the principal office of the Bond Registrar there shall be issued to the Registered Owner, without charge therefor, for the then unredeemed balance of the principal sum thereof, at the option of the Registered Owner, a Bond or Bonds of like maturity and interest rate in any of the denominations herein authorized.

(e) *Notice of Redemption.*

(1) Official Notice. For so long as the Bonds are held in uncertificated form, notice of redemption (which notice may be conditional) shall be given in accordance with the operational arrangements of DTC as then in effect, and neither the City nor the Bond Registrar will provide any notice of redemption to any Beneficial Owners. Thereafter (if the Bonds are no

longer held in uncertificated form), notice of redemption shall be given in the manner hereinafter provided. Unless waived by any owner of Bonds to be redeemed, official notice of any such redemption (which redemption shall be conditioned by the Bond Registrar on the receipt of sufficient funds for redemption) shall be given by the Bond Registrar on behalf of the City by mailing a copy of an official redemption notice by first class mail at least 20 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Bond Registrar. Mailed notices will also be sent within the same period to the Underwriter or its business successor, if any.

All official notices of redemption shall be dated and shall state:

- (A) the redemption date,
- (B) the redemption price,
- (C) if fewer than all outstanding Bonds are to be redeemed, the identification by maturity (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (D) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and
- (E) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Bond Registrar.

On or prior to any redemption date, unless the redemption notice was conditional and the City shall thereafter have determined not to proceed with the redemption, the City shall deposit

with the Bond Registrar an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date.

(2) Effect of Notice; Bonds Due. If an unconditional official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Bond Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. All Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

(3) Additional Notice. In addition to the foregoing notice, further notice shall be given by the City as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed. Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (A) the CUSIP numbers of all Bonds being redeemed; (B) the date of issue of the Bonds as originally issued; (C) the rate of interest borne by each Bond being redeemed; (D) the maturity date of each Bond being redeemed; and (E) any other descriptive information needed to identify accurately the Bonds being redeemed. Each further notice of redemption may be sent at least 35 days before the redemption date to each party entitled to receive notice pursuant to Section 16, and to the Underwriter or to its business successor, if any, and to such persons and

with such additional information as the Designated Representative shall deem appropriate, but such mailings shall not be a condition precedent to the redemption of such Bonds.

(4) CUSIP Number. Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(5) Amendment of Notice Provisions. The foregoing notice provisions of this Section 5, including but not limited to the information to be included in redemption notices and the persons designated to receive notices, may be amended by additions, deletions and changes in order to maintain compliance with duly promulgated regulations and recommendations regarding notices of redemption of municipal securities.

Section 6. Priority of Payments from Revenue Fund. There has heretofore been established in the office of the Treasurer a special fund of the City known as the “City of Gig Harbor Utility Revenue Fund” (the “Revenue Fund”), into which the Revenue of the System is deposited as collected. The Revenue Fund shall be held separate and apart from all other funds and accounts of the City, and the Revenue of the System shall be used only for the following purposes and in the following order of priority:

First, to pay the Costs of Maintenance and Operation of the System;

Second, to make all payments required to be made into the Bond Fund to pay the interest on any Parity Bonds;

Third, to make all payments required to be made into the Bond Fund to pay the maturing principal of any Parity Bonds;

Fourth, to make all payments required to be made into the Reserve Account created to secure the payment of the Parity Bonds;

Fifth, to make all payments required to be made into any other revenue bond redemption fund or revenue warrant redemption fund and debt service account or reserve account created to pay and secure the payment of the principal of and interest on any revenue bonds or revenue warrants of the City having a lien upon the Revenue of the System junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

Sixth, to retire by redemption or purchase any outstanding revenue bonds or revenue warrants of the City, to make necessary additions, betterments and improvements and repairs to or extensions and replacements of the System, or for any other lawful City purposes.

Section 7. Bond Fund. A special fund of the City known as the “Utility Bond Redemption Fund” (the “Bond Fund”) has heretofore been created by the City for the sole purpose of paying and securing the payment of Parity Bonds.

(a) *Payments into Debt Service Account.* A special account to be known as the “Debt Service Account” has heretofore been created in the Bond Fund for the purpose of paying the principal of, premium, if any, and interest on Parity Bonds.

As long as any Parity Bonds remain outstanding, the City hereby obligates and binds itself to set aside and pay from the Bond Fund into the Debt Service Account those amounts necessary, together with such other funds as are on hand and available in the Debt Service Account, to pay the principal of and the interest on such Parity Bonds on or prior to the respective dates the same become due (and if such payment is made on the due date, such payment shall be made in immediately available funds):

(1) Such amounts as are required to pay the interest scheduled to become due on outstanding bonds; and

(2) Such amounts with respect to outstanding bonds as are required (A) to pay maturing principal, (B) to make any required sinking fund payments, and (C) to redeem outstanding bonds in accordance with any mandatory redemption provisions.

(b) *Payments into Reserve Account.* A Utility Reserve Account has heretofore been created in the Bond Fund for the purpose of securing the payment of the principal of and the interest on all bonds payable out of such Fund.

In the event that the City issues any Term Bonds in the future and provides for the payment thereof by a mandatory schedule of payments into a sinking fund account in the Bond Fund, the term Average Annual Debt Service shall be deemed to exclude from principal an amount of Term Bonds equal to such mandatory payments, and from interest, the interest on such Term Bonds subsequent to the date of the respective deposits, and to include in lieu thereof the mandatory sinking fund deposits as of the date required and interest on Term Bonds provided for by such deposits only to the dates of the respective deposits.

The City hereby covenants and agrees that on the date of issuance of the Bonds it will pay into the Reserve Account (out of Revenue of the System or any funds on hand legally available for such purpose) one fifth of the Reserve Account Requirement, and thereafter not less than approximately equal additional annual payments so that by five years from the date of issuance of the Bonds there will have been paid into the Reserve Account an amount which, with the money already on deposit therein (or any insurance policy(ies) or letter(s) of credit), will be equal to the Reserve Account Requirement.

The City hereby further covenants and agrees that in the event it issues any Future Parity Bonds that it will provide in the ordinance authorizing the issuance of the same that it will pay into the Reserve Account out of the Revenue of the System or Assessments (or, at the option of the City, out of any other funds on hand legally available for such purpose) not less than approximately equal additional annual payments so that by five years from the date of such Future Parity Bonds there will have been paid into the Reserve Account an amount which, with the money already on deposit therein (or any insurance policy(ies) or letter(s) of credit), will be equal to the Reserve Account Requirement.

The City further covenants and agrees that when the required deposits have been made into the Reserve Account, it will at all times maintain therein an amount at least equal to the Reserve Account Requirement. Whenever there is a sufficient amount in the Revenue Bond Fund, including the Reserve Account and the Debt Service Account, to pay the principal of, premium if any, and interest on all outstanding Parity Bonds, the money in the Reserve Account may be used to pay such principal, premium and interest. Money in the Reserve Account may also be withdrawn to redeem and retire, and to pay the premium, if any, and interest due to such date of redemption, on any outstanding Parity Bonds, as long as the moneys left remaining on deposit in the Reserve Account are equal to the Reserve Account Requirement.

In the event there shall be a deficiency in the Debt Service Account to meet maturing installments of either interest on or principal of and interest on the outstanding bonds payable out of such Account, such deficiency shall be made up from the Reserve Account by the withdrawal of moneys therefrom. Any deficiency created in the Reserve Account by reason of any such withdrawal shall then be made up out of Revenue of the System or Assessments after making necessary provision for the payments required to be made by subparagraphs First, Second, Third,

Fourth and Fifth of Section 6 hereof.

(c) *Priority of Lien of Payments into Bond Fund.* The amounts so pledged to be paid into the Bond Fund are hereby declared to be a lien and charge upon the Revenue of the System junior in lien to the Costs of Maintenance and Operation, equal to the lien of the charges upon such Revenue to pay and secure the payment of the principal of and interest on the Outstanding Parity Bond and any Future Parity Bonds, and prior and superior to all other charges of any kind or nature whatsoever.

(d) *Application and Investment of Money in the Bond Fund.* Moneys in the Bond Fund shall be invested in any investments that are permitted by law for the investment of City funds. Investments in the Debt Service Account shall mature prior to the date on which such money shall be needed for required interest or principal payments. Investments in the Reserve Account shall mature not later than the last maturity of the Parity Bonds secured thereby. All interest earned and income derived by virtue of such investments shall remain in the Bond Fund and be used to meet the required deposits into any account therein.

(e) *Sufficiency of Revenues.* The Council hereby finds that in fixing the amounts to be paid into the Bond Fund out of the Revenue of the System, it has exercised due regard for the Costs of Maintenance and Operation and has not obligated the City to set aside and pay into such Fund a greater amount of such Revenue than in its judgment will be available over and above the Costs of Maintenance and Operation.

Section 8. Defeasance. In the event that money and/or Government Obligations maturing at such time or times and bearing interest to be earned thereon in amounts (together with such money, if necessary) sufficient to redeem and retire part or all of the Bonds authorized hereunder in accordance with their terms, are set aside in a special account of the City to effect

such redemption and retirement, and such moneys and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund of the City for the payment of the principal of and interest on the Bonds so provided for, and such Bonds shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive the moneys so set aside and pledged, and except the right to receive the moneys so set aside and pledged, such Bonds shall be deemed not to be outstanding hereunder.

Section 9. Tax Covenants.

(a) *Arbitrage Covenant.* The City hereby covenants that it will not make any use of the proceeds of sale of the Bonds or any other funds of the City which may be deemed to be proceeds of such Bonds pursuant to Section 148 of the Code which will cause the Bonds to be “arbitrage bonds” within the meaning of said section and said Regulations. The City will comply with the requirements of Section 148 of the Code (or any successor provision thereof applicable to the Bonds) and the applicable Regulations thereunder throughout the term of the Bonds.

(b) *Private Person Use Limitation for Bonds.* The City covenants that for as long as the Bonds are outstanding, it will not permit:

(1) More than 10% of the Net Proceeds of the Bonds to be used for any Private Person Use; and

(2) More than 10% of the principal or interest payments on the Bonds in a Bond Year to be directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City further covenants that, if:

(3) More than five percent of the Net Proceeds of the Bonds are to be used for any Private Person Use; and

(4) More than five percent of the principal or interest payments on the Bonds in a Bond Year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use, then, (i) any Private Person Use of the Project or Private Person Use payments described in subsection (4) hereof that is in excess of the five percent limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local governmental use of the Project, and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Bonds used for the state or local governmental use portion of the Project to which the Private Person Use of such portion of the Projects relates. The City further covenants that it will comply with any limitations on the use of the projects by other than state and local governmental users that are necessary, in the opinion of its bond counsel, to preserve the tax exemption of the interest on the Bonds. The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bonds.

(c) *No Designation under Section 265(b) of the Code.* The Bonds are not “qualified tax-exempt obligations” for investment by financial institutions under Section 265(b) of the Code.

Section 10. Bond Covenants.

(a) *Maintenance of System.* The City shall at all time maintain, preserve and keep the properties of the System in good repair, working order and condition and will from time to time make all necessary and proper repairs, renewals, replacements, extensions and betterments thereto, so that at all times the business carried on in connection therewith will be properly and advantageously conducted and said properties of the System and the business in connection therewith administered in an efficient manner and at a reasonable cost.

(b) *Collection and Application of Assessments.* The City will promptly collect all Assessments levied in utility local improvement districts that have been heretofore created by the City and all Assessments levied in utility local improvement districts heretofore created, and all utility local improvement districts that are hereafter created to secure the payment of the principal of and interest on Parity Bonds and will pay the same into the Bond Fund. The same may be used to meet required payments into any Account of the Bond Fund and may be used to pay the principal of and interest on any Parity Bonds without said Assessments being particularly allocated to the payment of any particular series of bonds payable out of such Fund. It is hereby further provided, however, that nothing in this ordinance or in this subsection shall be construed to prohibit the City from issuing revenue bonds having a lien on the Revenue of the System and the money in the Revenue Fund junior to the lien on such revenue and money for the payment of the principal of and interest on the Bonds and pledging as security for the payment of such junior lien bonds assessments levied in any utility local improvement district that may have been created to pay part or all of the cost of improvements to the System for which such junior revenue bonds were specifically issued.

(c) *Rates and Charges.* The City shall fix, maintain and collect rates and charges for the use of the services and facilities and all commodities sold, furnished or supplied by the System, which shall be fair and nondiscriminatory and shall adjust such rates and charges from time to time so that:

(1) the Revenue of the System derived therefrom, together with Assessments collected, will at all times be sufficient (A) to pay the Costs of Maintenance and Operation, (B) to pay the principal of and interest on all Parity Bonds, as and when the same shall become due and payable, (C) to make adequate provision for the payment of any Term Bonds, (D) to make when due all payments which the City is obligated to make into the Reserve Account and all other payments which the City is obligated to make pursuant to this ordinance, and (F) to pay all taxes, assessments or other governmental charges lawfully imposed on the System or the revenue therefrom or payments in lieu thereof and any and all other amounts which the City may now or hereafter become obligated to pay from the Revenue of the System by law or contract; and

(2) the Net Revenue together with Assessment Income in each calendar year will equal at least 1.25 times the maximum amount required to be paid in any succeeding calendar year for the principal of and interest on all Parity Bonds then outstanding. From and after the New Date, the maximum amount required to be paid as principal and interest shall be calculated net of any federal subsidy legally available to pay such principal and interest. In the event the City issues any Term Bonds, and provides for the payment thereof by a mandatory schedule of payments into a sinking fund account in the Bond Fund, the words “principal of and interest on all outstanding Parity Bonds” in the preceding sentence shall be deemed to exclude from “principal” an amount of Term Bonds equal to such mandatory payments, and from

“interest” the interest on such Term Bonds subsequent to the date of the respective deposits, and to include in lieu thereof the mandatory sinking fund deposits as of the date required and interest on Term Bonds provided for by such deposits only to the date of the respective deposits.

(d) *Net Revenue.* After making or providing for the monthly payments from the Revenue Fund as required by Section 6 hereof, there shall be maintained in the Revenue Fund sufficient moneys to enable the City to meet the Costs of Maintenance and Operation of the System on a current basis. The City shall not change any rate or charge for service of the System as now established by the existing rate ordinance or ordinances that will reduce substantially the annual Net Revenues below that which would have been obtained before such change, unless the City shall have on file a certificate from a licensed professional engineer experienced in the design, construction and operation of municipal utilities or from an independent certified public accountant stating that the rates and charges as so changed will provide Net Revenues sufficient to comply with all the covenants and requirements of this ordinance.

(e) *Sale of Properties.* The City will not sell or otherwise dispose of the System in its entirety unless simultaneously with such sale or other disposition, provision is made for the payment into the Bond Fund of cash or Government Obligations sufficient (taking into account interest to be earned on any such Government Obligations) to pay the principal of and interest on all then outstanding Parity Bonds, nor will it sell or otherwise dispose of any part of the useful operating properties of the System unless such facilities are replaced or provision is made for payment into the Bond Fund of the greatest of the following:

(1) An amount which will be in the same proportion to the net amount of Parity Bonds then outstanding (defined as the total amount of the Parity Bonds less the amount of cash and investments in the Bond Fund and Accounts therein) that the Revenue from the

portion of the System sold or disposed of for the preceding year bears to the total Revenue of the System for such period; or

(2) An amount which will be in the same proportion to the net amount of Parity Bonds then outstanding (defined as the total amount of the Parity Bonds less the amount of cash and investments in the Bond Fund and Accounts therein) that the Net Revenue from the portion of the System sold or disposed of for the preceding year bears to the total Net Revenue of the System for such period; or

(3) An amount which will be in the same proportion to the net amount of Parity Bonds then outstanding (as defined above) that the depreciated cost value of the facilities sold or disposed of bears to the depreciated cost value of the entire System immediately prior to such sale or disposition.

The proceeds of any such sale or disposition of a portion of the properties of the System (to the extent required above) shall be paid into the Reserve Account in the Bond Fund.

Notwithstanding any other provision of this paragraph, the City may sell or otherwise dispose of any of the works, plant, properties and facilities of the System or any real or personal property comprising a part of the same which shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the System, or no longer necessary, material to or useful in such operation, without making any deposit into the Bond Fund.

(f) *No Encumbrances.* The City will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the System or the Revenue of the System, or any part thereof, prior or superior to the lien thereon for the payment of Parity Bonds, and will pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Revenue of

the System, or any part thereof, or upon any funds in the hands of the City, prior to or superior to the lien of Parity Bonds, or which might impair the security of Parity Bonds.

(g) *Insurance.* The City will keep the works, plants and facilities comprising the System insured, and will carry such other insurance, with responsible insurers, with policies payable to the City, against risks, accidents or casualties, at least to the extent that insurance is usually carried by private corporations operating like properties, or will implement a self-insurance program with reserves adequate, in the judgment of the Council, to protect City and the owners of the Bonds against loss. In the event of any loss or damage, the City will promptly repair or replace the damaged portion of the insured property and apply the proceeds of any insurance policy for that purpose; or in the event the City should determine not to repair or reconstruct such damaged portion of the properties of the System, the proceeds of such insurance shall be paid into the Reserve Account to the extent that such transfer shall be necessary to make up any deficiency in said Reserve Account and the balance, if any, shall at the option of the City, be used either for repairs, renewals, replacements, or capital additions to the System, for the redemption of Parity Bonds, or for deposit into the Reserve Account.

(h) *Books and Accounts.* The City shall keep proper books of account which shall be kept in accordance with any applicable rules and regulations prescribed by the State of Washington. The City shall prepare, and any owner of Parity Bonds may obtain copies of, balance sheets and profit and loss statements showing in reasonable detail the financial condition of the System as of the close of each year, and the income and expenses of such year, including the amounts paid into the Revenue Fund, the Bond Fund, and into any and all special funds or accounts created pursuant to the provisions of this ordinance, and the amounts expended for maintenance, renewals, replacements, and capital additions to the System.

(i) *No Free Service.* The City will not furnish or supply or permit the furnishing or supplying of any commodity, service or facility furnished by or in connection with the operation of the System, free of charge to any person, firm or corporation, public or private, so long as any Bonds are outstanding and unpaid.

(j) *Sound Expenditures.* The City will not expend any of the Revenue derived by it from the operation of the System or the proceeds of any indebtedness payable from Revenue of the System for any extensions, betterments and improvements to the System which are not legally required or economically sound, and which will not properly and advantageously contribute to the conduct of the business of the System in an efficient manner.

(k) *Enforcement of Collection of Service Charges and Assessments.* The City shall promptly take action to enforce the payment of delinquent service charges and Assessments by such means as are legally available.

Section 11. Issuance of Future Parity Bonds. The City hereby further covenants and agrees with the owners of each of the Bonds for as long as any of the same remain outstanding as follows:

The City will not issue any bonds having a greater or equal priority of lien upon the Revenue of the System to pay and secure the payment of the principal of and interest on such bonds than the priority of lien created on such bonds than the priority of lien created on such Revenue to pay and secure the payment of the principal of and interest on the Parity Bonds except as follows:

(a) The City reserves the right to issue Future Parity Bonds for the purposes of

First, providing funds to acquire, construct, reconstruct, install, or replace any equipment, facilities, additions, betterments, or other capital improvements to the System for which it is authorized by law to issue revenue bonds, or

Second, refunding at or prior to their maturity, any revenue bond anticipation notes, or outstanding revenue bonds or other obligations payable out of the Revenue of the System and to pledge that payments will be made out of the Revenue of the System and into the Bond Fund and the Reserve Account therein to pay and secure the payment of the principal of and interest on such Future Parity Bonds on a parity with the payments required herein to be made out of such Revenue into such Fund and Account to pay and secure the payment of the principal of and interest on any Parity Bonds then outstanding, upon compliance with the following conditions:

(1) At the time of the issuance of any Future Parity Bonds there is no deficiency in the Bond Fund or the Reserve Account.

(2) If there are Assessments levied in any utility local improvement district to pay for additions and improvements to and extensions of the System which will be constructed from the proceeds of such Future Parity Bonds, the ordinance authorizing such Future Parity Bonds shall require that such Assessments be paid into the Bond Fund.

(3) If there are Assessments pledged to be paid into a warrant or bond redemption fund for revenue bonds or warrants being refunded by Future Parity Bonds, the ordinance authorizing the Future Parity Bonds shall require such Assessments to be paid into the Bond Fund.

(4) The principal of and interest on the Future Parity Bonds shall be payable out of the Bond Fund and the requirements for Reserve Account payments in Section 14(b) hereof shall be met.

(5) Prior to the delivery of any Future Parity Bonds the City shall have on file a certificate of an independent professional engineer, certified public accountant or City representative dated not earlier than 90 days prior to the date of delivery of such Future Parity Bonds and showing that the Net Revenue determined and adjusted as hereafter provided for each calendar or fiscal year after the issuance of such Parity Bonds (the "Adjusted Net Revenue") together with Assessment Income will equal at least 1.25 times the amount required in any such year for the payment of the principal of and interest on all Parity Bonds then outstanding, including the Future Parity Bonds proposed to be issued, except that the certificate of a City representative shall be based on actual historical Net Revenue of the System and no adjustments to that revenue shall be allowed. In the event the City issues any Term Bonds, and provides for the payment thereof by a mandatory schedule of payments into a sinking fund account in the Bond Fund, the words "principal of and interest on all outstanding Parity Bonds" in the preceding sentence shall be deemed to exclude from "principal" an amount of Term Bonds equal to such mandatory payments, and from "interest" the interest on such Term Bonds subsequent to the date of the respective deposits, and to include in lieu thereof the mandatory sinking fund deposits as of the date required and interest on Term Bonds provided for by such deposits only to the dates of the respective deposits. From and after the New Date, the "principal or interest" on Parity Bonds shall be calculated net of any federal subsidy legally available to pay the principal of or interest on Parity Bonds.

The Adjusted Net Revenue shall be the Net Revenue for a period of any 12 consecutive months out of the 24 months immediately preceding the date of delivery of such proposed Parity Bonds as adjusted by such engineer or accountant to take into consideration changes in Net Revenue estimated to occur under one or more of the following conditions for each year after such delivery for so long as any Parity Bonds, including the Future Parity Bonds proposed to be issued, shall be outstanding:

(i) any increase or decrease in Net Revenue which would result if any change in rates and charges adopted prior to the date of such certificate and subsequent to the beginning of such 12-month period, had been in force during the full 12-month period;

(ii) any increase or decrease in Net Revenue estimated by such Engineer or Accountant to result from any additions, betterments and improvements to and extensions of any facilities of the System which (a) became fully operational during such 12-month period, (b) were under construction at the time of such certificate or (c) will be constructed from the proceeds of the Parity Bonds to be issued;

(iii) the additional Net Revenue which would have been received if any customers added to the System during such 12-month period were customers for the entire period;

Such Engineer or Accountant shall base his or her certification upon, and his or her certificate shall have attached thereto, financial statements of the System audited by the State Examiner (unless such an audit is not available for a 12-month period within the preceding 24 months) and certified by the City Administrator, showing income and expenses for the period upon which the same is based.

The certificate of such Engineer or Accountant shall be conclusive and the only evidence required to show compliance with the provisions and requirements of this subsection (5).

Notwithstanding the foregoing requirement, if Future Parity Bonds are to be issued for the purpose of refunding at or prior to their maturity any part or all of the then outstanding Parity Bonds and the issuance of such refunding Parity Bonds results in a debt service savings and does not require an increase of more than \$5,000 in any year for principal and interest on such refunding Parity Bonds, the certificate required by subsection (a)(5) of this section need not be obtained.

(b) Nothing herein contained shall prevent the City from issuing revenue bonds or other obligations which are a charge upon the Revenue of the System junior or inferior to the payments required by this ordinance to be made out of such Revenue into the Bond Fund and Reserve Account to pay and secure the payment of any outstanding Parity Bonds.

(c) Nothing herein contained shall prevent the City from issuing revenue bonds to refund maturing Parity Bonds for the payment which moneys are not otherwise available.

Section 12. Form of Bond and Certificate of Authentication. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA

No. _____ \$ _____

STATE OF WASHINGTON
CITY OF GIG HARBOR
WATER AND SEWER REVENUE BOND, 2010B
(TAXABLE BUILD AMERICA BONDS – DIRECT PAYMENT TO ISSUER)

INTEREST RATE: MATURITY DATE: CUSIP NO.:

REGISTERED OWNER: CEDE & Co.

PRINCIPAL AMOUNT: _____ AND NO/DOLLARS

THE CITY OF GIG HARBOR, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (the “City”), promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above, solely from the special fund of the City known as the “Utility Bond Redemption Fund” (the “Bond Fund”), the Principal Amount indicated above and to pay interest thereon from the Bond Fund from August __, 2010, or the most recent date to which interest has been paid or duly provided for or until payment of this bond at the Interest Rate set forth above, payable on October 1, 2010, and semiannually thereafter on the first days of each April and October. Both principal of and interest on this bond are payable in lawful money of the United States of America. For so long as the bonds of this issue are held in fully immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of The Depository Trust Company (“DTC”) referred to in the Blanket Issuer Letter of Representations (the “Letter of Representations”) from the City to DTC. The fiscal agency of the state of Washington is acting as the registrar, authenticating agent and paying agent for the bonds of this issue (the “Bond Registrar”).

This bond is one of an authorized issue of bonds of the City of like date and tenor except as to number, amount, rate of interest and date of maturity in the aggregate principal amount of \$8,035,000. This issue of bonds is authorized by Bond Ordinance No. 1191 of the City for the purposes of paying the costs of capital improvements to the City’s water and sewer system (the “System”).

The bonds of this issue are subject to optional [and mandatory] redemption prior to their scheduled maturity as provided in the Bond Ordinance.

The bonds of this issue are not general obligations of the City. The City hereby covenants and agrees with the owner and holder of this bond that it will keep and perform all the covenants of this bond and the Bond Ordinance.

The bonds of this issue are not "private activity bonds" as such term is defined in the Internal Revenue Code of 1986, as amended (the "Code"). The bonds of this issue are not "qualified tax-exempt obligations" under Section 265(b) of the Code.

This bond is payable solely out of the Revenue of the System, and does not constitute a general obligation of the City. Both principal of and interest on this bond are payable solely out of the special fund of the City known as the Bond Fund. The City does hereby pledge and bind itself to set aside and pay into the Bond Fund the amounts required by the Bond Ordinance to be paid therein on or prior to the maturity of the Bond as the same shall become due from the proceeds of the Bonds (as authorized in the Bond Ordinance) or from the sources and in the priority specified in the Bond Ordinance.

The City does hereby pledge and bind itself to set aside from the Revenue Fund out of the Revenue of the System and to pay into the Bond Fund and the Reserve Account the various amounts required by the Bond Ordinance to be paid into and maintained in such Fund and account, all within the times provided by the Bond Ordinance. To the extent more particularly provided by the Bond Ordinance, the amounts so pledged to be paid from the Revenue Fund out of the Revenue of the System into the Bond Fund and the account therein shall be a lien and charge thereon equal in rank to the lien and charge upon said revenue of the Outstanding Parity Bonds and the amounts required to pay and secure the payment of any revenue bonds of the City hereafter issued on a parity with Outstanding Parity Bonds and the bonds of this issue and superior to all other liens and charges of any kind or nature except the Costs of Maintenance and Operation of the System.

The City has further bound itself to maintain the System in good repair, working order and condition, to operate the same in an efficient manner and at a reasonable cost, and to establish, maintain and collect rates and charges for as long as any of the bonds of this issue are outstanding that will make available, for the payment of the principal thereof and interest thereon as the same shall become due,

Net Revenue together with Assessment Income in each calendar year will equal at least 1.25 times the maximum amount required to be paid in any succeeding calendar year for the principal of and interest on all Parity Bonds then outstanding.

The pledge of Revenues of the System and other obligations of the City under the Bond Ordinance may be discharged at or prior to the maturity or redemption of the bonds of this issue upon the making of provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by the Bond Registrar.

It is hereby certified that all acts, conditions, and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done, and performed precedent to and in the issuance of this bond have happened, been done, and performed.

IN WITNESS WHEREOF, the City of Gig Harbor, Washington has caused this bond to be signed with the facsimile or manual signature of the Mayor, to be attested by the facsimile or manual signature of the City Clerk, and the corporate seal of the City to be impressed, imprinted or otherwise reproduced hereon, all as of this ____ day of August, 2010.

CITY OF GIG HARBOR, WASHINGTON

By _____
/s/ manual or facsimile
Mayor

(SEAL)

ATTEST:

/s/ manual or facsimile
City Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This bond is one of the bonds described in the within-mentioned Bond Ordinance and is one of the Water and Sewer Revenue Bonds, 2010 (Taxable Build America Bonds – Direct Payment to Issuer) of the City of Gig Harbor, Washington, dated August ____, 2010.

WASHINGTON STATE FISCAL AGENCY,
Bond Registrar

By _____
Authorized Signer

Section 13. Execution and Delivery of Bonds. The Bonds shall be executed on behalf of the City with the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk, and the seal of the City shall be impressed, imprinted or otherwise reproduced on the Bonds.

Only such Bonds as shall bear thereon a Certificate of Authentication in the form hereinbefore recited, manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall

be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

In case either of the officers who shall have executed the Bonds shall cease to be an officer or officers of the City before the Bonds so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. Any Bond may also be signed and attested on behalf of the City by such persons who are at the actual date of delivery of such Bond the proper officers of the City although at the original date of such Bond any such person shall not have been such officer of the City.

Section 14. Sale of Bonds. The Bonds shall be sold as Build America Bonds and shall be sold by negotiated sale to D.A. Davidson & Co., Seattle, Washington (the "Underwriter"). The Bonds shall be sold to the Underwriter under the terms of a bond purchase agreement dated as of this date. The Designated Representative is hereby authorized and directed to execute and deliver such bond purchase agreement.

The Designated Representative is hereby authorized to review and approve on behalf of the City the preliminary and final Official Statements relative to the Bonds with such additions and changes as may be deemed necessary or advisable to them. The preliminary official statement for the Bonds dated July __, 2010, is hereby deemed final within the meaning of SEC Rule 15c2-12. The proper City officials are hereby authorized and directed to do everything necessary for the prompt execution and delivery of the Bonds to said Underwriter, in accordance with the purchase agreement, and for the proper application and use of the proceeds of sale thereof

Section 15. Disposition of Bond Proceeds. From the proceeds of the Bonds, a sum sufficient to meet the Reserve Account Requirement shall be deposited in the Reserve Fund. The Designated Representative shall establish an account within the Revenue Fund to be designated as the “Project Account” (the “Project Account”). The balance of the proceeds of sale of the Bonds shall be deposited in the Project Account and shall be expended solely to pay the cost of issuing and selling the Bonds and, together with other available moneys of the City, shall be used to undertake the Project. Money in the Project Account shall be invested by the Designated Representative, pending disbursement, in any legal investment for City funds.

Section 16. Undertaking to Provide Ongoing Disclosure.

(a) *Contract/Undertaking.* This section constitutes the City's written undertaking for the benefit of the owners of the Bonds as required by Section (b)(5) of the Rule.

(b) *Financial Statements/Operating Data.* The City agrees to provide or cause to be provided to the Municipal Securities Rulemaking Board (“MSRB”), the following annual financial information and operating data for the prior fiscal year (commencing in 2011 for the fiscal year ended December 31, 2010):

1. Annual financial statements, which statements may or may not be audited, showing ending fund balances for the City’s water and sewer funds prepared in accordance with the Budgeting Accounting and Reporting System prescribed by the Washington State Auditor pursuant to RCW 43.09.200 (or any successor statute) and generally of the type included in the official statement for the Bonds under the heading “Historical Operating Results and Debt Service Coverage”;

2. Statement of authorized, issued and outstanding Parity Bonds;

3. Number of water utility and sewer utility customers; and

4. Debt service coverage ratios for Parity Bonds.

Items 2-5 shall be required only to the extent that such information is not included in the annual financial statements.

The information and data described above shall be provided on or before nine months after the end of the City's fiscal year. The City's current fiscal year ends December 31. The City may adjust such fiscal year by providing written notice of the change of fiscal year to the MSRB. In lieu of providing such annual financial information and operating data, the City may cross-reference to other documents available to the public on the MSRB's internet website.

If not provided as part of the annual financial information discussed above, the City shall provide the City's audited annual financial statement prepared in accordance with the Budgeting Accounting and Reporting System prescribed by the Washington State Auditor pursuant to RCW 43.09.200 (or any successor statute) when and if available to the MSRB.

(c) *Material Events.* The City agrees to provide or cause to be provided, in a timely manner, to the MSRB notice of the occurrence of any of the following events with respect to the Bonds if material:

- Principal and interest payment delinquencies;
- Non-payment related defaults;
- Unscheduled draws on debt service reserves reflecting financial difficulties;
- Unscheduled draws on credit enhancements reflecting financial difficulties;
- Substitution of credit or liquidity providers, or their failure to perform;

- Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- Modifications to rights of owners;
- Optional, contingent or unscheduled Bond calls other than scheduled sinking fund redemptions for which notice is given pursuant to Exchange Act Release 34-23856;
- Defeasances;
- Release, substitution or sale of property securing the repayment of the Bonds; and
- Rating changes.

Solely for purposes of disclosure, and not intending to modify this undertaking, the City advises that there is no property securing repayment of the Bonds, and there is no debt service reserve fund or account securing the repayment of the Bonds.

(d) *Notification Upon Failure to Provide Financial Data.* The City agrees to provide or cause to be provided, in a timely manner, to the MSRB, if any, notice of its failure to provide the annual financial information described in subsection (b) above on or prior to the date set forth in subsection (b) above.

(e) *Emma; Format for Filings with the MSRB.* Until otherwise designated by the MSRB or the Securities and Exchange Commission, any information or notices submitted to the MSRB in compliance with the Rule are to be submitted through the MSRB's Electronic Municipal Market Access system ("EMMA"), currently located at www.emma.msrb.org. All notices, financial information and operating data required by this undertaking to be provided to the MSRB must be in an electronic format as prescribed by the MSRB. All documents provided

to the MSRB pursuant to this undertaking must be accompanied by identifying information as prescribed by the MSRB.

(f) *Termination/Modification.* The City's obligations to provide annual financial information and notices of material events shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. This section, or any provision hereof, shall be null and void if the City (1) obtains an opinion of nationally recognized bond counsel to the effect that those portions of the Rule which require this section, or any such provision, are invalid, have been repealed retroactively or otherwise do not apply to the Bonds; and (2) notifies the MSRB, if any, of such opinion and the cancellation of this section. Notwithstanding any other provision of this ordinance, the City may amend this Section 16 and any provision of this Section 16 may be waived, with an approving opinion of nationally recognized bond counsel.

In the event of any amendment of or waiver of a provision of this Section 16, the City shall describe such amendment in the next annual report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (I) notice of such change shall be given in the same manner as for a material event under Subsection (c), and (II) the annual report for the year in which the change is made should present a comparison (in narrative form and also, if practical, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

(g) *Bond Owner's Remedies Under This Section.* A Bond owner's right or Beneficial Owner's to enforce the provisions of this section shall be limited to a right to obtain specific enforcement of the City's obligations hereunder, and any failure by the City to comply with the provisions of this undertaking shall not be an event of default with respect to the Bonds under this ordinance.

Section 17. Lost or Destroyed Bonds. In case any Bond or Bonds shall be lost, stolen or destroyed, the Bond Registrar may execute and deliver a new Bond or Bonds of like date, number and tenor to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the City in connection therewith and upon his/her filing with the City evidence satisfactory to the City that such Bond was actually lost, stolen or destroyed and of his/her ownership thereof, and upon furnishing the City with indemnity satisfactory to the City.

Section 18. Supplements and Amendments.

(a) *Without Consent.* The Council from time to time and at any time may adopt an ordinance or ordinances supplemental hereof, which ordinance or ordinance thereafter shall become a part of this ordinance, for any one or more or all of the following purposes:

(1) To add to the covenants and agreements of the City contained in this ordinance other covenants and agreements thereafter to be observed, which shall not adversely affect the interests of the owners of any Parity Bonds, or to surrender any right or power herein reserved to or conferred upon the City.

(2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this ordinance or any ordinance authorizing Parity Bonds in regard to matters or questions arising under such

ordinances as the Council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect the interest of the owners of Parity Bonds.

Any such supplemental ordinance of the Council may be adopted without the consent of the owners of any Parity Bonds at any time outstanding, notwithstanding any of the provisions of subsection (b) of this section.

(b) *With Consent.* With the consent of the owners of not less than 65% in aggregate principal amount of the Parity Bonds at the time outstanding, the Council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

(1) Extend the fixed maturity of any Parity Bonds, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof without the consent of the owner of each Bond so affected; or

(2) Reduce the aforesaid percentage of owners of Bonds required to approve any such supplemental ordinance, without the consent of the owners of all of the Parity Bonds then outstanding.

It shall not be necessary for the consent of the Bondowners under this subsection (b) to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

(c) *Effect of Supplemental Ordinance.* Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations

of the City under this ordinance and all owners of Parity Bonds outstanding hereunder shall thereafter be determined, exercised and enforced thereunder, subject in all respect to such modification and amendments, and all the terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this ordinance for any and all purposes.

(d) *Notation on Future Parity Bonds.* Parity Bonds executed and delivered after the execution of any supplemental ordinance adopted pursuant to the provisions of this section may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new bonds so modified as to conform in the opinion of the Council, to any modification of this ordinance contained in any such supplemental ordinance, may be prepared by the City and delivered without cost to the owners of any affected Parity Bonds then outstanding.

Section 19. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bond.

Section 20. Effect of Covenants, Etc.. All covenants, obligations and agreements of the City contained in this ordinance shall be deemed to be covenants, obligations and agreements of the City to the full extent authorized by the Act and permitted by the Constitution of the State of Washington. No covenant, obligation or agreement contained herein shall be deemed to be a covenant, obligation or agreement of any present or future official, member, agent or employee

of the City in his or her individual capacity, and neither the members of the Council nor any officer thereof executing the Bond shall be liable personally on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member, officer, agent or employee of the City shall incur any liability in acting or proceeding or in not acting or proceeding, in good faith in accordance with the terms of this ordinance.

Section 21. Effective Date. This ordinance shall be effective five days after its passage and publication in the manner required by law.

PASSED by the Council of the City of Gig Harbor, Washington at a regular meeting held on the 26th day of July, 2010.

CITY OF GIG HARBOR, WASHINGTON

Mayor

ATTEST:

City Clerk

First Reading: July 12, 2010

Date Adopted: July 26, 2010

Date of Publication: _____, 2010

Effective Date: _____, 2010

CERTIFICATE

I, the undersigned, City Clerk of the City of Gig Harbor, Washington (the "City") and keeper of the records of the City Council (the "Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. 1191 of the Council (the "Ordinance"), duly passed at a regular meeting thereof held on the 26th day of July, 2010.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of July, 2010.

Molly Towslee, City Clerk



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

Subject: Public Hearing and First Reading of Ordinance on Zoning Code Efficiency Amendments.

Proposed Council Action: Review ordinance and approve at second reading.

Dept. Origin: Planning

Prepared by: Jennifer Kester
Senior Planner

JK

For Agenda of: July 12, 2010

Exhibits: Ordinance with exhibit;
Summary of amendments.

Initial & Date

Concurred by Mayor:

TS 7/24/10

Approved by City Administrator:

PK 7/16

Approved as to form by City Atty:

e-mail 6/24/10

Approved by Finance Director:

N/A

Approved by Department Head:

JK

Expenditure	Amount	Appropriation	
Required 0	Budgeted 0	Required	0

INFORMATION / BACKGROUND

Over the last seven years, the Planning Department has been documenting text amendments to the land use code (Title 16, 17, 18 and 19) necessary to clarify permitting procedures, correct errors and omissions, reduce the need for interpretations and improve customer service. Over 75 such efficiency amendments have been identified; however only 10 percent have been resolved with previous ordinances. In an effort to gain efficiency in the permitting process and improve customer service, the department has undertaken the process of developing ordinances to resolve a majority of these issues in 2010.

The department is seeking review of these in phases. The first phase which is the subject of the attached ordinance encompasses obvious errors and omissions and basic amendments that help in interpretations and permit processing. The second phase, scheduled for review by the Council this fall, includes substantial revisions to our site plan review process and permit expiration codes.

The enclosed summary sheet explains the proposed amendments. The ordinance shows the actual code changes in numerical order. The exhibit to the ordinance includes all changes in the Design Manual. Due to file conversion issues, the proposed changes to the Design Manual are shown as comments in a PDF document.

ENVIRONMENTAL ANALYSIS

The City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on May 5, 2010.

FISCAL CONSIDERATION

None.

BOARD OR COMMITTEE RECOMMENDATION

The Planning and Building Committee reviewed these changes at their April 5, 2010 meeting and did not suggest changes. Furthermore, the Planning Commission agreed that these amendments could be directly considered by the City Council.

RECOMMENDATION / MOTION

Review ordinance and approve at second reading.

Phase 1 Zoning Code Efficiency Amendments

<p>1. References</p>	<p>Issue: There are several incorrect code references in Title 16 and 17 Proposed Solution: Correct references. Proposed Text: See <u>Sections 1, 2, 3, 24, 42 and 44</u> of the ordinance and <u>pages 2, 6, 9 of Exhibit A.</u></p>
<p>2. Temporary Trailers</p>	<p>Issue: The provisions for allowing temporary construction and office trailers are out-of-date and do not reflect current bonding process. Proposed Solution: Update provisions to reflect current practice. Proposed Text: See <u>Section 4</u> of the ordinance.</p>
<p>3. Nonconforming Lots</p>	<p>Issue: The provision for combining legally nonconforming lots and granting lot of record status to lots that have had their size reduced due to right-of-way dedication is not located in the Nonconforming chapter, but instead the general provisions chapter. This makes the knowledge and use of this code difficult for applicants and staff. Proposed Solution: Relocate such provisions to the Nonconforming chapter. Proposed Text: See <u>Sections 5 and 43</u> of the ordinance.</p>
<p>4. Front Lot Line Definition</p>	<p>Issue: Definition is not clear on what's the front lot line of an interior lot which does not abut a public street or abuts both a private and public street. Proposed Solution: Clarify the definition to match past application and interpretation. Proposed Text: See <u>Section 6</u> of the ordinance.</p>
<p>5. Tenant Improvement Definition</p>	<p>Issue: Design review chapter includes an administrative process for review of design alternatives to tenant improvements; however, the term tenant improvement is not defined. Proposed Solution: Rename "tenant improvement" to "tenant-specific alteration" and define "tenant-specific alteration" Proposed Text: See <u>Section 7</u> of the ordinance and <u>page 2 of Exhibit A.</u></p>
<p>6. Zoning Districts</p>	<p>Issue: Certain zoning districts are not listed as established zoning districts and the zoning district boundary interpretation provisions do not reflect modern GIS mapping abilities (and inabilities) Proposed Solution: Establish omitted zoning districts and update interpretation language to reflect the inability to map the zoning of shorelands and ROW in GIS. Proposed Text: See <u>Sections 8 and 9</u> of the ordinance.</p>

<p>MUD Overlay Minimum parcel requirements</p>	<p>Issue: Land Use Matrix does not reference parcel size/location limitations for uses in the MUD overlay causing applicants to assume certain uses are allowed regardless of parcel size or location Proposed Solution: Insert reference into the Matrix to the use limitations in the MUD Overlay. Proposed Text: See <u>Section 10</u> of the ordinance.</p>
<p>8. Maximum Height of Structures</p>	<p>Issue: Not all zoning districts reference the Design Manual building height standards leading some applicants to proposed buildings exceeding the height allowance unknowingly. Proposed Solution: Include a reference to the Design Manual height standards in each zoning district and standardize reference language. Proposed Text: See <u>Sections 11, 12, 14, 16, 18, 20, 23, 30, 31, 32, 33, 34, 36, 38, 40, 41 and 45</u> of the ordinance.</p>
<p>9. Duplex Design Standards</p>	<p>Issue: The Design Manual does not specify what design standards apply to duplexes as they are neither single-family nor multiple-family dwelling by definition. Certain zones call out duplexes needing to meet single-family standards and staff has been applying such single-family standards to duplexes since the 2004 DM update. Proposed Solution: State in the Design Manual that single-family standards are also duplex standards and update the design manual reference in each zoning district accordingly. Proposed Text: See <u>Sections 13, 17, 21, 31, 35, 37, and 39</u> of the ordinance and <u>pages 1, 7-8, 10 and 14-16</u> of <u>Exhibit A</u>.</p>
<p>10. Corner Lot Footnote in R-2 and R-3 zones</p>	<p>Issue: Footnote for corner lots in the R-2 and R-3 zones conflicts with the definition of corner lot which states that the shortest of the two lot lines adjacent to a public street is the front lot line. Proposed Solution: Remove conflicting footnote. Proposed Text: See <u>Section 15 and 19</u> of the ordinance.</p>
<p>11. Residential to Residential buffer</p>	<p>Issue: Several of our zones that allow both single-family and nonresidential development require buffering to single-family or residential use. However, this buffering is also required between two single-family uses or two like residential uses. Staff does not feel it is the intent to require dense vegetative screening between like residential uses. Proposed Solution: Clarify that the dense vegetative buffer is only required when a nonresidential use abuts a residential use. Proposed Text: See <u>Sections 22, 26 and 29</u> of the ordinance.</p>
<p>12. B-1 zoning district</p>	<p>Issue: Current code includes two references to maximum impervious surface allowed (70% and</p>

	<p>imperVIOUS surface standards</p> <p>80%). Proposed Solution: Remove oldest requirement (70%). Proposed Text: See <u>Section 27</u> of the ordinance</p>
<p>13. Enhancement Corridors</p>	<p>Issue: The Enhancement Corridor standards are not consistent in the term used for the City of Tacoma Cushman transmission line properties. Sometimes it is called out as a utility corridor or utility right-of-way. As the property is owned fee simple by the City of Tacoma, these are incorrect, non-specific terms and could lead to minimal enhancement corridor buffering in some areas of the city. Proposed Solution: Use "City of Tacoma Cushman transmission line properties" as the term for the utility corridor in the Design Manual Proposed Text: See <u>pages 3 and 4 of Exhibit A</u> for proposed changes.</p>
<p>14. Zone Transition Standards</p>	<p>Issue: The standards inadvertently require zone transition across SR16, where Enhancement Corridor standards already require buffering. In the Zone Transition Categories table, some zones are incorrectly reference and the MUD overlay and PCD-BP zone are omitted. Proposed Solution: State that zone transition does not occur across SR16, correct references and add MUD and PCD-BP to the table. Proposed Text: See <u>page 5 of Exhibit A</u> for proposed changes.</p>
<p>15. Horizontal Building Modulation</p>	<p>Issue: The 4 requirements that make up the horizontal modulation requirements are called out in one paragraph. Using a paragraph rather than bullet-like formatting leads to architects and staff overlooking requirements. Proposed Solution: Format the standards so that they are more apparent. Proposed Text: See <u>page 11 of Exhibit A</u> for proposed changes</p>
<p>16. Siding and Trim Standards</p>	<p>Issue: The siding and trim allowance does not specifically allow ground-faced block even though the masonry facade option encourages its use and ground-faced block is extremely similar to brick, an allowed material. The masonry facade options do not specify recessed panel depth and plaster spacing limitations resulting in the staff's inability to require a recessed depth of significance (applicants are proposing 1/2 inch, which is not noticeable) and plaster spacing that is reasonable. Proposed Solution: Allow ground-faced block and specify minimum recessed panel depth (4") and state that plaster must be 15-20 feet "on-center" Proposed Text: See <u>pages 12-13 and 18 of Exhibit A</u> for proposed changes</p>

<p>17. Dormer Width</p>	<p>Issue: The Design Manual has a minimum roof pitch allowance of 6/12 in the Historic District; however shed dormers are allowed to have a less steep pitch. The manual does not limit the amount of a roof that can be a dormer. Without that specificity, staff has had to approve shed dormers that are almost as wide as the main roof, masking the true roof form and further blocking views.</p> <p>Proposed Solution: Limit shed dormers to no more than 50% of the roof length.</p> <p>Proposed Text: See page 17 of Exhibit A for proposed changes.</p>
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ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, CORRECTING ERRORS AND OMISSIONS, AND CLARIFYING PROVISIONS TO AID IN INTERPRETATION AND IMPLEMENTATION OF TITLE 16 AND 17; REPEALING SECTIONS 17.01.100 AND 17.32.045; ADDING NEW SECTION 17.04.797; AND AMENDING SECTIONS 16.01.030, 16.04.005, 16.06.005, 17.01.090, 17.04.510, 17.12.010, 17.12.050, 17.14.020, 17.15.060, 17.16.070, 17.16.100, 17.17.040, 17.20.040, 17.20.060, 17.20.070, 17.21.040, 17.24.050, 17.24.060, 17.24.070, 17.28.050, 17.28.060, 17.30.030, 17.30.070, 17.31.060, 17.32.080, 17.36.060, 17.36.080, 17.40.100, 17.41.030, 17.45.040, 17.46.060, 17.46.090, 17.48.060, 17.48.090, 17.50.060, 17.50.090, 17.54.030, 17.56.030, 17.62.040, 17.68.020, 17.80.110, 17.91.040, 17.99.030, 17.99.160, 17.99.170, 17.99.240, 17.99.290, 17.99.300, 17.99.380, 17.99.420, 17.99.490, 17.99.510 AND 17.99.540 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City has documented numerous land use code amendments necessary to correct errors and omissions and reduce the need for interpretations by the planning department; and

WHEREAS, the City desires to correct these errors and omissions and clarify the code to reduce interpretation and improve customer service; and

WHEREAS, the City desires to correct and update references and remove conflicting provisions in Titles 16 and 17; and

WHEREAS, the provisions for allowing temporary construction and office trailers are out-of-date and need to be updated to reflect current bonding process; and

WHEREAS, the City desires to relocate and reorganize the provisions for combining legally nonconforming lots, lot of record status, and horizontal building façade modulation to aid in implementation of the zoning code; and

WHEREAS, the City desires to clarify the definition of front lot line and add a definition of tenant-specific alteration to aid in implementation of the zoning code; and

WHEREAS, certain zoning districts adopted by the City are not listed as established zoning districts in Chapter 17.12 and the zoning district boundary interpretation provisions do not reflect modern GIS mapping capabilities; and

WHEREAS, the City desires to establish the omitted zoning districts in Chapter 17.12 and update interpretation language to reflect GIS mapping capabilities; and

WHEREAS, the City desires to include a reference to the Design Manual height standards in each zoning district and standardize reference language; and

WHEREAS, the City desires to codify the current policy to apply the single-family design standards to duplexes and update the design manual reference in each zoning district chapter accordingly; and

WHEREAS, the City desires to clarify that the dense vegetative buffer required in our mixed use zone between uses is only required when a nonresidential use abuts a residential use, not when a residential use abuts a residential use; and

WHEREAS, the City desires to remove multiple impervious surface limitations in the B-1 zoning district; and

WHEREAS, the Design Manual inadvertently requires zone transition across SR16, where Enhancement Corridor standards already require buffering and the City desires to clarify that that zone transition does not occur across SR16; and

WHEREAS, the City desires to clarify the use of ground-faced CMU block and better define the masonry façade option for nonresidential buildings; and

WHEREAS, the Design Manual has a minimum roof pitch allowance of 6/12 in the Historic District; however, shed dormers are allowed to have a less steep pitch. The manual does not limit the amount of a roof that can be a dormer. The City desires to limit dormers to 50% of the roof plane length; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on May 5, 2010; and

WHEREAS, a copy of this Ordinance was forwarded to the Washington State Department of Commerce on April 10, 2010, pursuant to RCW 36.70A.106; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on _____; and

WHEREAS, on _____, the City Council held a second reading during a regular City Council meeting; Now, therefore,

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

Section 1. Section 16.01.030 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.01.030 Final plat.

“Final plat” is the final drawing of the subdivision and dedication prepared for filing of record with the Pierce County auditor, and containing all elements and requirements set forth in Chapter ~~16.09~~ 16.06 GHMC.

Section 2. Section 16.04.005 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.04.005 Construction of improvements.

An approved short plat shall not be filed for record until the applicant has constructed or bonded for all improvements required by the director in the final decision on the short plat, pursuant to GHMC ~~16.04.001(F)~~ 16.08.001(F).

Section 3. Subsection 16.06.005(D) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.06.005 Criteria for approval.

A final plat application shall be approved if the subdivision proposed for approval:

* * *

D. Director’s Decision. If the application conforms to all of the above criteria, the director shall approve or conditionally approve the ~~short~~ final plat. Any subdivision submitted to the city for approval shall contain the following certificates. The property owner and the land surveyor shall execute their respective certificates prior to the director’s final decision. The certificates to be executed by city and county officials and employees shall be executed after final plat approval, if granted.

1. Mayor. A signature block and statement for the approval of the final plat;
2. City Clerk. A signature block and statement that the city clerk finds that there are no delinquent assessments outstanding on the property subject to this final plat approval;
3. City Engineer. A signature block and statement that the short plat complies with the applicable provisions of the city of Gig Harbor public works construction standards;
4. Planning Director. A signature block and statement that the subdivision complies with the city’s development regulations under GHMC Titles 16 and 17.

* * *

Section 4. Section 17.01.090 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.01.090 Construction Temporary trailers—Temporary uses.

~~A. Applications for the temporary use of construction trailers are Type 1 project permit applications as defined under GHMC Title 19 and shall be processed accordingly. These permits are available for those who are in the process of constructing a building or buildings, which shall be subject to renewal, to locate a construction trailer or similar portable office on the building lot during the course of construction of the building or buildings. Such permit shall not be issued until after a building permit has been obtained.~~

~~B. Construction trailers or portable offices may be used as caretaker's quarters at various job sites which are controlled by other permits of limited time duration. All other types of caretaker quarters must meet the requirements for dwellings.~~

A. Temporary trailers are portable trailers used for a construction office, sales office, or caretaker's quarters during the course of construction of building(s) in a plat or site plan. Temporary trailers shall be located on a lot within the site plan or plat.

B. Prior to the use of a temporary trailer on any site, a temporary use permit shall be obtained. Temporary use permits are a Type I project permit application and shall be processed as set forth in GHMC Title 19.

~~C. Construction Temporary trailers or portable offices used for temporary uses must have an approval on approved sewage disposal system, water supply, and electrical connection.~~

~~D. A temporary use permit may be issued by the planning/building department for a period not to exceed one year; provided, the department, for good cause shown, may renew the permit for an additional six-month period, at which time the temporary use (construction trailer or portable office) trailer and all appurtenances thereto shall be removed from the property.~~

~~E. As a condition Performance Assurance. Prior to the issuance of a temporary use permit under the provisions of this section, the property owner shall deposit in trust with the city, in cash or its equivalent, an amount as established under the City's Fee Schedule Resolution, to be deposited in a special fund created by this chapter and identified as the "construction trailer or portable office deposit fund," and shall enter into an agreement with the city. submit a performance surety bond equal to not less than the 110 percent of the cost to remove the temporary trailer and all appurtenances thereto. The performance surety bond shall be executed by a surety company authorized to transact business in the state in a form approved by the city attorney. Such agreement shall provide, at a minimum, as follows:~~

~~1. The applicant agrees to pay to the city all fees, costs, and/or expenses, legal or otherwise, which the city may incur in causing the~~

~~removal of the construction trailer or portable office, and all its appurtenances left in place beyond the time period approved by the city or used or installed in violation of the ordinances of the city;~~

~~2. The applicant agrees that all such fees, costs and/or expenses incurred by the city shall be deducted from the deposit;~~

~~3. The applicant agrees to pay to the city such fees, costs, and/or expenses incurred by the city which are in excess of the deposit;~~

~~4. The city agrees to refund the deposit at the time of expiration of the permit, in total; provided the city does not incur such fees, costs, and/or expenses, or shall refund the remainder of the deposit after deduction of such fees, costs, and/or expenses; and~~

~~5. The city agrees to provide to the applicant a complete and accurate accounting of all such fees, costs, and/or expenses, if any, incurred by the city.~~

1. The property owner shall provide the city with a nonrevocable notarized agreement granting the city and its agents the right to enter the property and remove the temporary trailer and all appurtenances thereto.

2. If the property owner fails to remove the temporary trailer and appurtenances thereto and the city has incurred costs or expenses to remove such, the city shall call on the bond for reimbursement. If the amount of the bond is less than the cost and expense incurred by the city, the property owner shall be liable to the city for the difference. If the amount of the bond exceeds the cost and expense incurred by the city, the remainder shall be released.

F. A temporary use permit will be issued by the planning/building department. The fee imposed for the permit is in addition to all other required permits for electrical, plumbing and sewage disposal systems.

Section 5. Section 17.01.100 of the Gig Harbor Municipal Code is hereby repealed.

Section 6. Section 17.04.510 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.04.510 Lot line, front.

“Front lot line” of an interior lot means the lot line adjacent to a public street, or If the interior lot does not have a lot line adjacent to a public street, the front lot line shall be the total line first crossed when gaining access to the lot from a public private street or access easement. See GHMC 17.04.470 for the definition of the front lot line of a corner lot.

Section 7. A new section 17.04.797 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

17.04.797 Tenant-specific alteration.

"Tenant-specific alteration" means an exterior improvement made to the façade of a completed building by or for a single tenant which does not substantially modify the approved architecture.

Section 8. Section 17.12.010 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.12.010 Districts established.

The city is divided into the following use districts:

- A. Single-family residential (R-1);
- B. Medium density residential (R-2);
- C. Multiple-family residential (R-3);
- D. Residential business 1 (RB-1);
- E. Residential business 2 (RB-2);
- F. Downtown business (DB);
- G. Neighborhood commercial (B-1);
- H. General business (B-2);
- I. General commercial (C-1);
- J. Public-institutional (PI);
- K. Waterfront residential (WR);
- L. Waterfront Millville (WM);
- M. Waterfront commercial (WC);
- N. Employment district (ED)
- O. Planned community development low density residential (RLD)
- P. Planned community development medium density residential (RMD)
- Q. Planned community development commercial (PCD-C)
- R. Planned community development business park district(PCD-BP)
- S. Planned community development neighborhood business district (PCD-NB)
- T. Mixed use district overlay (MUD)

Section 9. Section 17.12.050 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.12.050 District boundary – Interpretation when uncertainty exists.

When uncertainty exists as to the boundaries of districts as shown on an official zoning map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;
- B. Boundaries indicated as following platted outlines shall be construed to follow the lot lines in effect at the time the applicable zoning district was approved;
- C. Boundaries indicated as following public land survey section or section subdivision lines shall be construed as following such section or section subdivision lines;
- D. Boundaries indicated as approximately following city limits shall be construed as following city limits;

E. Boundaries indicated as following shorelines shall be construed as following the mean high water line at the shore and, in the event of a change in the shoreline, shall be construed as moving with the mean high water line of the actual shoreline;

F. Boundaries indicated as following approximately the centerline of streams shall be construed as following such centerlines;

G. In unsubdivided property, the location of any district boundary, unless the same is indicated by dimensions shown on the official zoning map, shall be determined by the use of the scale appearing on the official zoning map;

H. Boundaries indicated as parallel to or extension of features indicated in subsections A through G above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the official zoning map.

I. Shorelands shall be considered to be within the same zone as the abutting upland.

J. Where boundaries do not show a zoning district extending into a public right-of-way, alley, private road, or other easement, the zone boundary and district immediately abutting shall extend to the center of the right-of-way, alley, road, or easement. It is the intent of this statement that all lands in the City are zoned and are subject to the provisions of this title.

Section 10. Section 17.14.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.14.020 Land use matrix

	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WMI	WC	PCD-BP	PCD-NB	MUD ²⁵
Uses																				
Dwelling, single-family	-	P	P	P	P	C	P	P	C	P ¹⁴	C	C	P ¹⁴	-	P	P	P	-	P ¹⁴	P
Dwelling, duplex	-	-	-	P	P	P	-	P	C	P ¹⁴	C	C	P ¹⁴	-	P	P	P	-	P ¹⁴	P
Dwelling, triplex	-	-	-	C	P	P	-	P	C	P ¹⁴	C	C	P ¹⁴	-	-	C ¹⁷	P	-	P ¹⁴	P
Dwelling, fourplex	-	-	-	C	P	P	-	P	C	P ¹⁴	C	C	P ¹⁴	-	-	C ¹⁷	P	-	P ¹⁴	P
Dwelling, multiple-family	-	-	-	-	P	P ⁶	-	P	C	P ¹⁴	C	C	P ¹⁴	-	-	-	-	-	P ¹⁴	P
Accessory apartment ¹	-	C	P	-	P	-	C	C	C	P ¹⁴	C	C	P ¹⁴	-	-	-	P	-	P ¹⁴	P
Family day care provider	-	P	P	P	P	P	P	P	C	P	P	P	P	-	P	P	P	-	P	P
Home occupation ²	-	P	P	P	P	P	P	P	C	P	-	C	-	-	P	P	P	-	-	-
Adult family home	-	P	P	P	P	P	P	P	C	P	P	P	P	-	P	P	P	-	P	P
Living facility, independent	-	-	-	C	-	P	C	C	C	P	C	C	P	C ²²	-	-	-	-	-	P

Uses	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WMI	WC	PCD-BP	PCD-NB	MUD ²⁵
Living facility, assisted	-	-	-	C	-	P	C	C	C	P	-	C	P	C	-	-	-	-	-	P
Nursing facility, skilled	-	-	-	C	-	P	C	C	C	P	C	C	P	C	-	-	-	-	-	P
Hospital	-	-	-	-	-	-	-	-	C	-	C	C	-	C	-	-	-	C	-	-
School, primary	P	C	P	C	P	C	C	C	C	P	-	C	P	-	-	-	-	-	-	-
School, secondary	P	C	P	C	P	C	C	C	C	P	-	C	P	-	-	-	-	-	-	-
School, higher educational	P	C	-	C	-	C	C	C	C	P	-	C	P	-	-	-	-	P	-	-
School, vocational/trade	P	C	-	C	-	C	C	C	C	P	-	C	P	P	-	-	-	P	-	-
Government administrative office	P	C	P	C	P	C	C	P	P	P	P	P	P	P	C	P	P	P	P	P
Public/private services	P	C	-	C	-	C	C	C	C	P	C	C	P	C	C	C	C	P	P	P
Religious worship, house of	-	C	P ⁵	C	P ⁵	C	C	C	C	P	-	C	P	C	-	-	-	C	-	P/C ¹⁵
Museum	P	-	-	-	-	-	-	-	-	-	C	C	P	-	-	-	-	-	-	-
Community recreation hall	P	-	P	C	P	C	C	C	C	P	C	C	P	-	-	-	-	P	P	-
Clubs	-	-	C	C	C	C	C	C	P	P	P	P	P	C	-	C ²¹	P	P	C	-
Parks	P	P	P	P	P	P	P	P	P	P	C	C	P	-	P	P	P	P	P	P
Essential public facilities	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Utilities	P	C	P	C	P	C	C	C	C	P	C	C	P	C	C	C	C	P	P	P
Cemetery	-	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lodging, level 1	-	C	-	C	-	P	P	P	P	P	C	C	-	-	C	C	C	-	-	P
Lodging, level 2	-	-	-	-	-	-	-	C	P	-	P	P	P	-	-	-	C	-	-	P
Lodging, level 3	-	-	-	-	-	-	-	C	P	-	P	P	P	-	-	-	C	P	-	P
Personal services	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Business services	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Professional services	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	P	P	P	P	P
Ancillary services	P	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Product services, level 1	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Product services, level 2	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	P ¹⁶
Sales, level 1	-	-	-	-	-	-	C ^{7,8}	-	P	P	P	P	P	C ²³	-	-	P	C ²⁴	P ¹³	P
Sales, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	C ²³	-	-	-	-	-	-
Sales, level 3	-	-	-	-	-	-	-	-	-	-	-	P	-	C	-	-	-	-	-	-
Sales, ancillary	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	-	P	P	-	-

	PI	R-1	RLD	R-2	RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 ²⁰	PCD-C	ED ¹⁸	WR	WM	WC	PCD-BP	PCD-NB	MUD ²⁵
Uses																				
Commercial child care	-	-	C	-	C	-	C	C	C	-	-	P	-	C	-	-	-	C	-	-
Recreation, indoor commercial	-	-	-	-	-	-	C	C	P	-	P	P	P	C	-	-	-	C	-	P
Recreation, outdoor commercial	-	-	-	-	-	-	C	C	C	-	P ¹⁰	P	P	C	-	-	-	C	-	P
Entertainment, commercial	-	-	-	-	-	-	-	-	P	-	P	P	P	-	-	-	-	C	-	P
Automotive fuel-dispensing facility	-	-	-	-	-	-	-	-	P	-	P	P	P	C	-	-	-	C	P	-
Vehicle wash	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	-	-
Parking lot, commercial	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-	-	C ¹⁹	-	-	-
Animal clinic	-	-	-	-	-	-	-	-	P ⁹	-	P	P	-	P	-	-	-	P	-	P
Kennel	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-
Adult entertainment facility ³	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-
Restaurant 1	-	-	-	-	-	-	C ⁸	P	P	P	P	P	P	P	-	C ¹²	P	P	P	P
Restaurant 2	-	-	-	-	-	-	-	-	P	-	P	P	P	C ²³	-	-	P	C ²⁴	P	P
Restaurant 3	-	-	-	-	-	-	-	-	P	-	P	P	P	C ²³	-	-	P	C ²⁴	P	P
Tavern	-	-	-	-	-	-	-	-	C	-	P	P	P	-	-	-	P	-	-	-
Drive-through facility	-	-	-	-	-	-	-	-	C	-	C	C	P	-	-	-	-	-	-	-
Marina	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-
Marine sales and service	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-
Marine boat sales, level 1	-	-	-	-	-	-	-	-	-	-	P	P	-	P	-	P	P	-	-	-
Marine boat sales, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	C ²³	-	P	P	-	-	-
Ministorage	-	-	-	-	-	-	-	C	-	-	C	C	P	C	-	-	-	-	-	P
Industrial, level 1	-	-	-	-	-	-	-	C	C	-	C	P	-	P	-	-	-	C	-	P
Industrial, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-	-	-
Marine industrial	-	-	-	-	-	-	-	-	-	-	-	P	-	C	-	P ¹¹	C	-	-	-
Wireless communication facility ⁴	C	C	C	C	C	C	P	P	C	P	C	P	P	P	C	C	C	P	P	-
Accessory uses and structures	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

¹ Accessory apartments requiring conditional use permits are subject to the criteria in GHMC Section 17.64.045.

² Home occupations are subject to Chapter 17.84 GHMC.

³ Adult entertainment facilities are subject to Chapter 17.58 GHMC.

⁴ Wireless communication facilities are subject to Chapter 17.61 GHMC.

- ⁵ Houses of religious worship shall be limited to parcels not greater than 5 acres.
- ⁶ Multiple-family dwellings shall be limited to no more than eight attached dwellings per structure in the R-3 district.
- ⁷ Sales, level 1 uses shall be limited to food stores in the RB-1 district.
- ⁸ See GHMC Section 17.28.090(G) for specific performance standards of restaurant 1 and food store uses in the RB-1 zone.
- ⁹ Animal clinics shall have all activities conducted indoors in the DB district.
- ¹⁰ Drive-in theaters are not permitted in the B-2 district.
- ¹¹ Marine industrial uses in the WM district shall be limited to commercial fishing operations and boat construction shall not exceed one boat per calendar year.
- ¹² Coffeehouse-type restaurant 1 uses shall not exceed 1,000 square feet in total size in the WM district.
- ¹³ Sales, level 1 uses shall be limited to less than 7,500 square feet per business in the PCD-NB district.
- ¹⁴ Residential uses shall be located above a permitted business or commercial use.
- ¹⁵ Houses of religious worship on parcels not greater than 10 acres are permitted uses in the MUD district; houses of religious worship on parcels greater than 10 acres are conditionally permitted uses in the MUD district.
- ¹⁶ Auto repair and boat repair uses shall be conducted within an enclosed building or shall be in a location not visible from public right-of-way and adjacent properties.
- ¹⁷ Only one triplex dwelling or one fourplex dwelling is conditionally permitted per lot in the WM district.
- ¹⁸ Planned unit developments (PUDs) are conditionally permitted in the ED district.
- ¹⁹ Commercial parking lots in the WC district shall be related to shoreline uses.
- ²⁰ Junkyards, auto wrecking yards and garbage dumps are not allowed in the C-1 district.
- ²¹ Clubs in the WM zone shall not serve alcoholic beverages and shall not operate a grill or deep-fat fryer.
- ²² Independent living facilities are conditionally allowed in the ED zone only when in combination with assisted living facilities, skilled nursing facilities or hospitals in the same site plan or binding site plan.
- ²³ See GHMC Section 17.45.040 for specific performance standards of sales and restaurant uses in the ED zone.
- ²⁴ See GHMC Section 17.54.030 for specific performance standards of sales and restaurant uses in the PCD-BP zone.
- ²⁵ Permitted and conditional uses in the MUD district overlay are subject to the minimum parcel size and location requirements contained in GHMC 17.91.040(A).

Section 11. Section 17.15.060 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.15.060 Maximum height of structures.

In a PI district, all buildings and structures shall not exceed a height of 35 feet as provided for in GHMC 17.99.370(D), except as provided for restricted under Chapter 17.62 GHMC, Height Restriction Area, and except as provided under GHMC 17.99.390(A)(3), 17.99.510(A)(2) and 17.99.510(B).

Section 12. Section 17.16.070 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.16.070 Maximum height of structures.

In an R-1 district, all buildings and structures shall not exceed a height of 35 feet as provided for in GHMC 17.99.370(D) except as provided for restricted under Chapter 17.62 GHMC, Height Restriction Area, and as provided under GHMC 17.99.390(A)(3), 17.99.510(A)(2) and 17.99.510(B).

Section 13. Section 17.16.100 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.16.100 Design of structures.

All structures development shall conform to the applicable design standards ~~for single-family dwellings as defined in GHMC 17.99.490 and 17.99.510, as well as all other provisions of contained in Chapter 17.99 GHMC applicable to single-family development.~~

Section 14. Subsection 17.17.040(B) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.17.040 Performance standards.

* * *

B. General.

1. Maximum density is four dwelling units per structure in attached single-family dwellings.

2. Each unit must have individual private yards or courts enclosed by a wall, berm or dense landscaping.

3. Private easements shall be required for all zero lot line developments to facilitate access from the adjoining lot for necessary maintenance and repair activities.

4. Minimum yards (from the property lines):

- a. Front yard setback House: 20'
Porch: 12'
Garage: 26'

b. Rear yard setback 30'

c. Side yard setback 8'

d. Garages may be located in the defined side and rear yards, provided they conform to the criteria in GHMC 17.99.490(A)(1).

5. Minimum Lot Area. The minimum lot size is 10,000 square feet for divisions of land of four or less lots. A minimum parcel size is not specified for divisions of land of five or more lots.

6. Minimum Lot Width. Minimum lot width is 0.7 percent of the lot area, in lineal feet.

7. Maximum Height of Structures. ~~The maximum~~ All buildings and structures shall not exceed a height of 35 feet as provided for in GHMC 17.99.370(D), except as increased under GHMC 17.99.390(A)(3).

8. Maximum lot area coverage: Forty-five percent, excluding residential driveways, private walkways and similar impervious surfaces.

9. Landscaping. Landscaping shall comply with the requirements of Chapters 17.78 and 17.99 GHMC.

10. Design. ~~All residential single family structures, attached or detached, shall comply with the design standards defined in GHMC 17.99.490. Development in the RLD district shall conform to the design and development standards contained in Chapter 17.99 GHMC.~~

11. Circulation/Roads/Streets. Residential development which provides pedestrian linkages to and within common open space trails systems may be waived from the provisions of public sidewalks, curbs and gutters within the residential development, in whole or in part, upon approval of the public works director.

12. Signage. Signage must comply with the requirements of Chapter 17.80 GHMC.

* * *

Section 15. Section 17.20.040 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.20.040 Development standards.

In an R-2 district, the minimum requirements are as follows:

	Single- Family and Duplex Dwellings	Other Residential and Nonresidential
A. Minimum lot area for short plats ¹	7,000 sq. ft./dwelling unit	
B. Minimum lot width ¹	50'	50'
C. Minimum front yard ^{2,3}	House: 20' Porch: 12' Garage: 26'	25'
D. Minimum side yard ^{2,3,4}	8'	7'
E. Minimum rear yard ^{2,3,4}	30'	25'
F. Maximum impervious lot coverage	60% of the total lot area	
G. Minimum density	4 dwelling units/acre	
H. Maximum density	6 dwelling units/acre	

¹A minimum lot area is not specified for subdivisions of five or more lots. The minimum lot width shall be 0.7 percent of the lot area, in lineal feet.

²~~In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line; provided, such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties as determined by the planning and public works directors. The other property line abutting a street shall be deemed the side property line. An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.~~

³Development in the historic district shall comply with the setbacks defined in GHMC 17.99.310 and 17.99.320.

⁴Garages accessory to single-family and duplex dwellings may be located in the defined side and rear yards, provided they conform to the criteria in GHMC 17.99.490(A)(1).

Section 16. Section 17.20.060 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.20.060 Maximum height of structures.

In an R-2 district, all buildings and structures shall not exceed a height of 35 feet as provided for in GHMC 17.99.370(D), except as ~~provided for restricted~~ under Chapter 17.62 GHMC, Height Restriction Area, and as provided for under GHMC 17.99.390(A)(3), 17.99.510(A)(2) and 17.99.510(B).

Section 17. Section 17.20.070 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.20.070 Design.

All development shall conform to the applicable design standards contained in Chapter 17.99 GHMC. ~~Duplex dwellings shall conform to the design standards for single-family dwellings as provided in GHMC 17.99.490 and 17.99.510.~~

Section 18. Subsection 17.21.040(B) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.21.040 Performance standards.

* * *

B. General.

1. Single-family attached dwelling units must have individual private yards or courts enclosed by a wall, berm or dense landscaping. Easements shall be required for all zero lot line developments to facilitate access from the adjoining lot for necessary maintenance and repair activities.

2. Minimum yards (from the property line).

Multifamily or multiple units of single-family on one parcel:

- a. Front, 10 feet.
- b. Side, 30 feet.
- c. Rear, 30 feet.

Single-family on individual parcels:

- a. Front yard setback House: 15'
 Porch: 12'
 Garage: 15'

b. Rear yard setback 15', except that garages may be within three feet of an alley easement.

c. Side yard setback 5'

3. Maximum Height of Structures. ~~The maximum~~ All buildings and structures shall not exceed a height is of 45 feet as provided for in GHMC 17.99.370(D), except as provided under GHMC 17.99.390(A)(3).

4. Maximum lot area coverage: Sixty-five percent, excluding driveways, private walkways and similar impervious surfaces. Impervious surface coverage of individual parcels may exceed the 65 percent maximum when included within a subdivision; provided, that the overall impervious surface coverage of the subdivision does not exceed 65 percent.

5. Landscaping. Landscaping shall comply with the requirements of Chapters 17.78 and 17.99 GHMC, except that buffer dimensions shall be reduced to 10 feet when the proposed use is adjacent to a similar use or zone which includes a platted buffer of equal or greater width.

6. Circulation/Roads/Streets. Residential development which provides pedestrian linkages to and within common open space trails systems may be waived from the requirements in the city's public works standards for public sidewalks, curbs and gutters within the residential development, in whole or in part, upon approval of the public works director.

7. Design. All development shall comply with the standards of Chapter 17.99 GHMC.

8. Signage. Signage must comply with the requirements of Chapter 17.80 GHMC.

Section 19. Section 17.24.050 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.24.050 Development standards.

In an R-3 district, the minimum lot requirements are as follows:

	Single- Family and Duplex Dwellings	Other Residential and Nonresidential
A. Minimum lot area for short plats ¹	5,400 sq. ft./dwelling unit	
B. Minimum lot width ¹	50'	50'
C. Minimum front yard ²	House: 20' Porch: 12' Garage: 26'	20'
D. Minimum side yard ^{3,2}	8'	7'
E. Minimum rear yard ^{3,2}	30'	25'
F. Maximum site coverage	60% of the total lot area	

G. Maximum density 8 dwelling units/acre

¹A minimum lot area is not specified for subdivisions of five or more lots. The minimum lot width shall be 0.7 percent of the lot area, in lineal feet.

~~²In the case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line; provided, such choice does not impair corner vision clearance for vehicles and shall not be detrimental to adjacent properties as determined by the planning and public works directors.~~

³²Garages accessory to single-family and duplex dwellings may be located in the defined side and rear yards, provided they conform to the criteria in GHMC 17.99.490(A)(1).

Section 20. Section 17.24.060 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.24.060 Maximum height of structures.

In an R-3 district, all buildings and structures shall not exceed a height of 35 feet in height as provided for in GHMC 17.99.370(D), except as provided for restricted under Chapter 17.62 GHMC, Height Restriction Area, and as provided under GHMC 17.99.390(A)(3), GHMC 17.99.510(A)(2) and 17.99.510(B).

Section 21. Section 17.24.070 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.24.070 Design.

~~All single-family and duplex structures shall conform to the design standards defined for single-family development in Chapter 17.99 GHMC. All multifamily and nonresidential development shall conform to all the applicable design standards of Chapter 17.99 GHMC.~~

Section 22. Subsection 17.28.050(K) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.28.050 Minimum development standards.

In an RB-1 district, the minimum lot requirements are as follows:

* * *

K. Any yard abutting a single-family residence shall be required to maintain a 30-foot-wide dense vegetated screen. This requirement does not apply to single-family dwellings in the RB-1 district.

Section 23. Section 17.28.060 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.28.060 Maximum height of structures.

In an RB-1 district, all buildings and structures shall not exceed a height of 35 feet in height as provided for in GHMC 17.99.370(D), except

as provided for restricted under Chapter 17.62 GHMC, Height Restriction Area, and as provided under GHMC 17.99.390(A)(3), 17.99.510(A)(2) and 17.99.510(B).

Section 24. Section 17.30.030 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.30.030 Conditional uses.

Refer to Chapter 17.14 GHMC for uses conditionally permitted in the RB-2 district.

Section 25. Section 17.30.070 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.30.070 Maximum building height of structures.

In an RB-2 district, all buildings and structures shall not exceed a height of 35 feet as provided for in GHMC 17.99.370(D), except as provided for restricted under Chapter 17.62 GHMC, Height Restriction Area, and as provided under GHMC 17.99.390(A)(3), ~~and~~ 17.99.510(A)(2) and 17.99.510(B).

Section 26. Section 17.31.060 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.31.060 Minimum building setback requirements.

In a DB district, the setbacks defined in GHMC 17.99.310 and 17.99.320 apply; provided, however, that where a DB district abuts a residential district, ~~a~~ the nonresidential building setback shall be 20 feet minimum, and the space so created shall be landscaped to screen the ~~commercial~~ nonresidential uses from the abutting residential district.

Section 27. Section 17.32.045 of the Gig Harbor Municipal Code is hereby repealed.

Section 28. Section 17.32.080 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.32.080 Building Maximum height of structures.

In a B-1 district, all buildings and structures shall not exceed a height of 35 feet as provided for in GHMC 17.99.370(D), except as provided for restricted under Chapter 17.62 GHMC, Height Restriction Area, and as provided under GHMC 17.99.390(A)(3), ~~and~~ 17.99.510(A)(2) and 17.99.510(B).

Section 29. Subsection 17.36.060(E) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.36.060 Minimum building setback requirements.

* * *

E. Any yard abutting residential development, 30 feet with dense vegetative screening. This requirement does not apply to single-family and duplex dwellings in the B-2 district.

Section 30. Section 17.36.080 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.36.080 Maximum height of structures.

In a B-2 district, all buildings and structures shall not exceed a height of 35 feet as provided for in GHMC 17.99.370(D), except as ~~provided for restricted~~ under Chapter 17.62 GHMC, Height Restriction Area, and as provided under GHMC 17.99.390(A)(3), 17.99.510(A)(2) and 17.99.510(B).

Section 31. Section 17.40.100 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.40.100 Maximum height of structures.

In a C-1 district, all buildings and structures shall not exceed a height of 35 feet as provided for in GHMC 17.99.370(D), except as ~~provided for restricted~~ under Chapter 17.62 GHMC, Height Restriction Area, and as provided under GHMC 17.99.390(A)(3), and 17.99.510(A)(2) and 17.99.510(B).

Section 32. Subsections 17.41.030(D and K) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.41.030 Performance standards (PCD-C)

* * *

D. Maximum Hheight of structures. Structures within 100 feet of a residential low density zone shall not exceed 35 feet in height, ~~except as provided under GHMC 17.99.390(A)(3)~~. Structures within 100 feet of a residential medium density zone shall not exceed 45 feet in height. ~~The building Structure~~ height shall be determined as ~~defined provided for in GHMC 17.04.160-17.99.370(D)~~, except as provided under GHMC 17.99.390(A)(3). The maximum building height shall also be limited by the city building and fire codes. Definitions within the city building and fire codes shall be used to determine height for compliance with the applicable building and fire codes.

* * *

K. Design. ~~All residential structures of four or more attached dwelling units and all nonresidential structures shall comply with the standards of~~

~~the city of Gig Harbor design manual. All development in the PCD-C district shall conform to the design and development standards contained in Chapter 17.99 GHMC.~~

* * *

Section 33. Subsection 17.45.040(E) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.45.040 Performance standards.

* * *

~~E. Maximum Hheight of structures. The maximum height of a All buildings and structures shall not exceed a height of 35 feet as provided for in GHMC 17.99.370(D), except as restricted under Chapter 17.62 GHMC, Height Restriction Area, and as permitted provided under GHMC 17.99.390(A)(3).~~

* * *

Section 34. Section 17.46.060 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.46.060 Maximum height of structures.

In a WR district, all buildings and structures shall not exceed the height limits defined in GHMC 17.99.510(A)(2) and 17.99.510(B).

Section 35. Section 17.46.090 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.46.090 Design.

~~All Ddevelopment in the WR district shall conform to the design and development standards contained in Chapter 17.99 GHMC. Duplex dwellings shall conform to the design standards defined for single family dwellings in Chapter 17.99 GHMC.~~

Section 36. Section 17.48.060 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.48.060 Maximum Hheight of structures.

In the WM district, all buildings and structures shall not exceed the height limits defined in GHMC 17.99.510(A)(2) and 17.99.510(B).

Section 37. Subsection 17.48.090(F) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.48.090 Performance standards.

* * *

F. Design. All development in the WM district shall conform to the design and development standards contained in Chapter 17.99 GHMC. ~~Two family dwellings (duplexes) shall conform to the design standards defined for single family development in Chapter 17.99 GHMC.~~

Section 38. Section 17.50.060 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.50.060 Maximum height of structures.

In a waterfront commercial the WC district, all the maximum buildings and structures height shall not exceed the height limits defined in GHMC 17.99.510(A)(2) and 17.99.510(B).

Section 39. Subsection 17.50.090(E) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.50.090 Performance standards.

In a waterfront commercial district, performance standards are as follows:

* * *

E. Design. All development in the WC district shall conform to the design and development standards contained in Chapter 17.99 GHMC. ~~Two family dwellings (duplexes) shall conform to the design standards defined for single family dwellings in Chapter 17.99 GHMC.~~

Section 40. Subsection 17.54.030(F) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.54.030 Performance standards.

* * *

F. Maximum Hheight of structures. Structures within 100 feet of a residential low density zone shall not exceed 35 feet in height ~~except as provided under GHMC 17.99.390(A)(3)~~. Structures within 100 feet of a residential medium density zone shall not exceed 45 feet in height. ~~The building~~ Structure height shall be calculated as ~~defined provided for in GHMC 17.04.160-17.99.370(D)~~, except as provided under GHMC 17.99.390(A)(3). The maximum building height shall also be limited by the city building and fire codes. Definitions within the city building and fire codes shall be used to determine height for compliance with the applicable building and fire codes.

* * *

Section 41. Subsection 17.56.030(D) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.56.030 Performance standards.

* * *

D. Maximum H height of structures. All buildings and structures ~~Maximum height shall not exceed a height of 35 feet for all structures as provided for in GHMC 17.99.370(D),~~ except as provided under GHMC 17.99.390(A)(3).

* * *

Section 42. Section 17.62.040 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.62.040 Amendment to height restriction area map.

Amendments to the height restriction area map are a Type ~~IV~~ III permit procedure. The procedures established under Chapter 17.10 GHMC and GHMC Title 19 for the consideration of amendments to the zoning district map shall be followed for amendments to the height restriction area map. The criteria for approval shall be as follows:

- A. That the request to amend the height restriction area map furthers the goals, policies and objectives of the comprehensive plan;
- B. The property or area proposed for exclusion from the height restriction area map does not currently possess a view of Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows;
- C. The gradient of the land within 100 feet of the property or area does not have a slope of five percent or greater toward Gig Harbor Bay, Mt. Rainier or the Puget Sound Narrows;
- D. That views from adjacent properties will not be adversely affected.

Section 43. Section 17.68.020 of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.68.020 Nonconforming lots of record.

A. Building on Nonconforming Lots of Record. In any district, notwithstanding limitations imposed by other provisions of Chapter 17.01 GHMC, permitted principal uses and structures and customary accessory buildings may be erected on any lot that is of record at the effective date of the adoption or of an amendment of the applicable regulations. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are applicable in the district. Such permitted principal uses and structures and accessory buildings shall be erected on such a nonconforming lot so that all dimensional requirements of the zoning title including minimum yard requirements, the maximum height of structures and the maximum coverage by all buildings are complied with.

B. Combination of Legally Nonconforming Lots. A property owner of two or more lots that are legally nonconforming as to lot area may request that the lots be combined into one larger lot, even if the resulting lot does not satisfy the existing lot area requirements in the underlying zone, as

long as the director determines that the property owner has submitted sufficient evidence to demonstrate that the original lots are legally nonconforming. In addition, the lot combination shall satisfy the requirements of and be processed according to the procedures in Chapter 16.03 GHMC, with the exception of GHMC 16.03.003(B). This section does not apply in any overlay district to allow the combination of any lots created through the mixed use overlay district (MUD), a planned unit development (PUD) or planned residential district (PRD).

C. Dedication of Property to the Public. That portion of a lot remaining after dedication or sale of a portion of the lot to the city or state for street or highway purposes shall be a separate building site, as long as the area of the remaining lot is at least 3,000 square feet.

Section 44. Subsection 17.80.110(E) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.80.110 Temporary signs.

* * *

E. Signs Advertising a Public Event. Maximum duration shall be from one month before the event to five days after the event. Because public events are allowed on a limited time basis and on sites not normally associated with the event, public event signs may be located off-premises within the city right-of-way, subject to the provisions of Chapter 12.02 GHMC, ~~Right of Way Use~~ Encroachment Permits, or within the windows of buildings, subject to the building owner's approval and all other window sign requirements. Signs shall be removed by the promoters of the event, or the city will remove such signs at the promoter's expense.

* * *

Section 45. Subsection 17.91.040(F) of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.91.040 Site development and performance standards.

* * *

F. Performance Standards.

1. Minimum yards (from the property line):

- a. Front, 15 feet.
- b. Side, five feet. At least 20 feet is required on the opposite side of a lot having a zero lot line.
- c. Rear, 15 feet.

2. Maximum Height of structures. The maximum All buildings and structures shall not exceed a height of a structure shall not exceed 35 feet as provided for in GHMC 17.99.370(D), except as provided under GHMC 17.99.390(A)(3).

3. Maximum lot area coverage: Forty-five percent, excluding driveways, private walkways and similar impervious surfaces.

4. Landscaping. Landscaping shall comply with the requirements of Chapter 17.78 GHMC.

5. Exterior Mechanical Devices. All HVAC equipment, pumps, heaters and other mechanical devices shall be screened from view from all public rights-of-way.

6. Outdoor Storage of Materials. Outdoor storage of materials and supplies, except for authorized sales displays, shall be completely screened from adjacent properties and public rights-of-way.

7. Outdoor Lighting. Outdoor lighting shall conform to the standards of GHMC 17.99.350 and 17.99.460. Such lighting shall be shielded so that direct illumination shall be confined to the property boundaries of the light source. Ground-mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise. Temporary outdoor lighting intended to advertise a temporary promotional event shall be exempt from this requirement.

8. Trash Receptacles. Trash receptacles shall be screened from view. Screening shall be complementary to building design and materials.

9. Design. ~~Development in the MUD district shall conform to the design and development standards contained in Chapter 17.99 GHMC. Duplex dwellings shall conform to the design standards defined for single-family dwellings in Chapter 17.99 GHMC.~~ Development in the MUD overlay shall conform to the design and development standards contained in Chapter 17.99 GHMC.

10. Signage. Signage must comply with the requirements of Chapter 17.80 GHMC.

Section 46. The following sections and subsections of the Gig Harbor Municipal Code are hereby amended as set forth in Exhibit A attached to this Ordinance:

Subsections 17.99.030(D and E); Subsections 17.99.160(A, B, and C); Section 17.99.170; Subsection 17.99.240(D)(3); Section 17.99.290; Subsection 17.99.300(B); Subsection 17.99.380(B); Subsections 17.99.420 (A and B); Section 17.99.490; Subsection 17.99.510(A)(3); Subsection 17.99.540(A)

Section 47. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 48. Effective Date. This Ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ____ day of _____, 2010.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

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

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and duplex

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CROSS-REFERENCE TABLE



standards must be obtained through the variance process defined in Chapter 17.66 GHMC and not through the design review board process.

C. MINOR ADJUSTMENTS TO HEARING EXAMINER DECISIONS

The planning director may review minor adjustments to a final, approved hearing examiner decision prior to building permit issuance as described in GHMC 17.98.056. The minor adjustment process can be used only after the design review board has made a recommendation and the hearing examiner has ruled on the recommendation. The director can approve a minor adjustment if all of the criteria set forth in GHMC 17.99.056(B) are met.

D. ADMINISTRATIVE REVIEW OF ALTERNATIVE DESIGNS

The planning director will review alternative design solutions to SPECIFIC REQUIREMENTS, as described in GHMC 17.99.058, for single-family (detached only) and duplex dwelling building permit applications for remodel and construction as well as tenant improvement applications. The director can approve alternative designs for such application if all of the criteria set forth in GHMC 17.99.058(B) are met.

E. EXCEPTIONS

An exception is used in those situations when a project does not meet the SPECIFIC REQUIREMENTS and the applicant does not provide an alternative design solution. A request for an exception is reviewed by the design review board and the board issues a recommendation to the hearing examiner. The DRB can recommend approval of an exception if the board finds that all of the criteria set forth in GHMC 17.99.060(D) are met.

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tenant-specific alterations

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17.98.060(D)

17.99.160 Enhancement corridor standards.

All development within enhancement corridors must conform to the following design criteria:

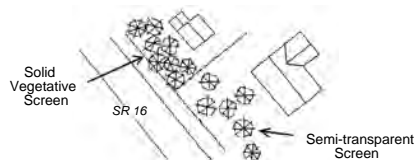
A. Retain significant vegetation.

Significant vegetation within 30 feet of the property line abutting the street or utility rights-of-way within the enhancement corridor shall be retained.

B. Provide full screening or partial screening with glimpse-through areas.

Parking lots and structures in any area of the defined enhancement corridor must be fully screened from SR 16, except they may be viewed through a semi-transparent screen of on-site trees as follows:

1. Neither full or semi-transparent screening is required on parcels designated as prominent parcels on the city's visually sensitive areas map, except that significant vegetation within 30 feet of the property line abutting the street or utility rights-of-way within the enhancement corridor shall be retained.
2. Semi-transparent screens must provide at least 70 percent year-round foliage coverage distributed evenly across the view along the SR 16 and Tacoma-Cushman utility corridors and 50 percent coverage along the Canterwood Blvd/Burnham Drive/Harborview Drive corridor. Semi-transparent screens may consist of new vegetation only if healthy existing vegetation is not adequate to fulfill this requirement.



3. A semi-transparent screen shall not be a rigid line of trees along the property's edge. Rows of trees existing along property edges shall be retained. Additional trees are required so that a staggered, natural growth pattern is retained or achieved.

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and City of Tacoma Cushman transmission line properties

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and City of Tacoma Cushman transmission line properties

C. Maintain 30-foot setbacks from the rights-of-way that define enhancement corridors.

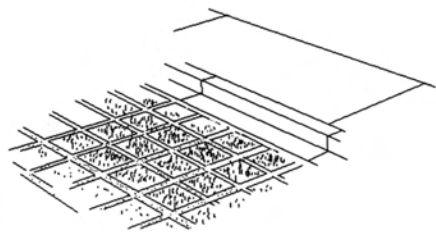
Parcels abutting defined enhancement corridor rights-of-way must maintain a 30-foot setback within which no structures or parking lots shall be allowed. Existing significant vegetation within the setback shall be retained.

D. Orient service and delivery areas away from enhancement corridors.

Service and delivery bays, warehouses and mini-storage units may not be visible from enhancement corridors.

E. Screen or enhance parking lots visible from the SR 16 enhancement corridor.

Parking lots designed for more than 16 cars shall be either fully or partially screened under the provisions of subsection A of this section, and shall conform to all other applicable landscape requirements for parking lots. On-site parking spaces more than 200 feet from the building to which they apply shall be surfaced with textured and colored paving material if not fully screened.



Grass block pavers (sometimes known as grasscrete) are concrete pavers designed to allow grass to grow up through the center. They are useful for limited-use parking areas where an asphalt or concrete appearance is not appropriate.

F. Screen or enhance building design.

Buildings visible from or partially visible from enhancement corridors shall meet all design criteria for prominent facades. Semi-transparent screens are not sufficient to negate this requirement.

17.99.170 Zone transition standards.

Zone transitions occur wherever opposing zones meet. All parcels in a specific zone that abut, or are across the street from, parcels in a different zone (regardless of uses in that zone or as otherwise stated below) are subject to either ZONE TRANSITION BUFFERING STANDARDS or ZONE TRANSITION DEVELOPMENT STANDARDS. Zone transition standards do not apply to development that is permitted under the development standards of the opposing zone or between zones that collectively fall under any one of the following zoning district categories.

The DRB shall not consider or recommend approval of any deviation or proposed modification of any standard in GHMC 17.99.180 or 17.99.190, except as provided in GHMC 17.99.200.

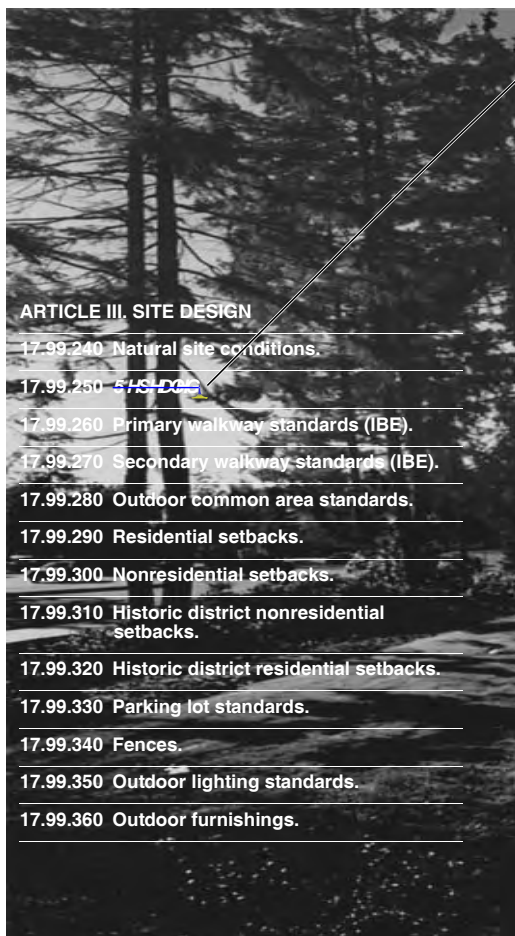
Zoning designations serve to contain similar and compatible uses within specified areas of the city. Incompatible development may occur where two or more zoning designations meet.

ZONE TRANSITION CATEGORIES	ZONING DISTRICTS
LOW DENSITY RESIDENTIAL	R-1, R-2, PCD-RLD, WM, WR
LOW TO MEDIUM DENSITY RESIDENTIAL	R-2, R-3
MODERATE DENSITY RESIDENTIAL AND MIXED USES	R-3, PCD-RMD, RB-1, RB-2, PCD-NB
NONRESIDENTIAL*	B-1, B-2, C-1, PCD-C, ED, PI, DB, WC, RB-1*, RB-2*, PCD-NB1
* PARCELS WITH AN RB-1, RB-2 OR PCD-NB ZONING DESIGNATION ARE NOT INCLUDED IN THE NONRESIDENTIAL CATEGORY IF THERE ARE ANY RESIDENTIAL STRUCTURES ON THE SITE.	

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Zone transition standards do not apply between parcels in a different zone separated by State Route 16.

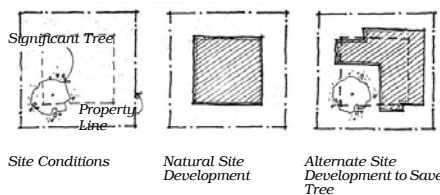
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, MUD*, PCD-BP

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3. ENCROACHMENT INTO SETBACKS

Structures and parking areas may encroach into required setbacks if it can be shown that such encroachment allows significant trees or tree clusters to be retained. Encroachment shall be the minimum encroachment necessary to protect specified trees. In no case shall the yard be reduced to less than five feet. (Not applicable to single-family development or to development subject to zone transition standards.)



E. Replace lost trees which were intended to be retained.

Any tree proposed or required to be retained and which is subsequently lost or destroyed must be replaced with at least three six-foot trees or one 18-foot tree or one 12-foot plus one six-foot tree of the same species.

F. Retain the natural symmetry of trees.

Trimming of trees shall be done in a manner that preserves the tree's natural symmetry. Topping is prohibited unless recommended by an ISA certified arborist for health or safety reasons. Limbing-up may be appropriate if sufficient crown is retained to preserve the tree's fullness and health.

G. Maintain health and fullness of natural vegetation and buffer areas.

Areas of natural vegetation shall be retained over time. To ensure this, volunteer saplings of coniferous trees should be allowed to grow to replace older, less healthy trees. However, it may be prudent to thin out some saplings to avoid overcrowding if existing trees are healthy and full. A healthy and typical spacing of larger trees in a natural or forested setting is about 12 to 15 feet on center.

17.99.290 Residential setbacks.

The following standards apply to all single-family residential development outside the historic district and all multifamily development city-wide. In order to deviate from minimum setback standards, approval must be obtained through the variance process defined in Chapter 17.66 GHMC and not through the design review process.

A. Conform to single-family setback requirements.

Single-family development shall comply with the setbacks defined for each zone in GHMC Title 17. Single-family setbacks are intended to give greater emphasis to front entrances and porches while keeping the garage a subordinate element in the house design. Garages may be located in the defined side and rear yards, provided they conform to the criteria in GHMC 17.99.490(A)(1).

B. Conform to multifamily setback requirements.

Multifamily development shall comply with the setbacks defined for each zone in GHMC Title 17. (Ord. 1085 § 1, 2007).

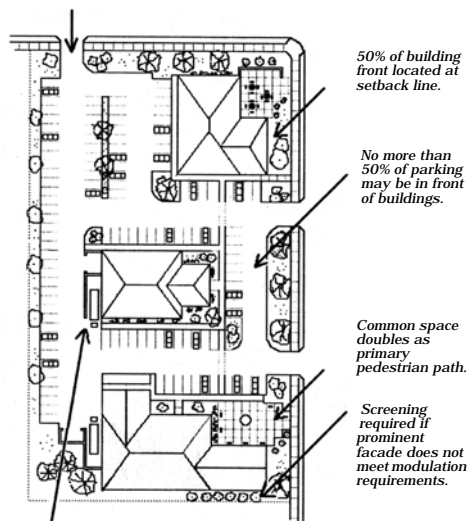
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B. Locate structures near front setback line (IBE).

At least 50 percent of the primary structure's front facade shall be placed on the front setback line (except in the historic district or unless retention of significant vegetation warrants an increased setback). Additional structures on the site shall be likewise placed on the front setback line unless they are located behind other structures on the site. The remaining portion of the building may be stepped back to accommodate common areas or parking. However, no more than 50 percent of required parking may be located forward of the front facade of a building (see parking standards in GHMC 17.99.330(H)).

Secondary driveway accessed off sidewalk. Width of all curb cuts must be minimized.

Notice secondary pedestrian paths connecting each building and primary pedestrian paths which link buildings with the street.



Trash receptacles and delivery areas kept away from public's view.

To enhance the visual quality and the pedestrian environment of nonresidential streets and activity centers, an increased emphasis should be placed on landscaping, pedestrian walkways and architecture.

Parking lots and service areas should be visually diminished by keeping them to the side or rear of the buildings.

A sense of place cannot be achieved with a single building. It is the cumulative effect of each building and its relationship to surrounding buildings that creates rhythm, pattern and defines scale in the city's streetscapes.



B. Provide substantial shifts in walls and roof surfaces (IBE).

Wall and roof surfaces shall be broken down into smaller planes using substantial shifts in building footprints which result in substantial shifts in roof lines, as follows:

1. Horizontal shift

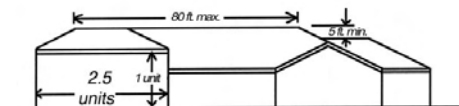
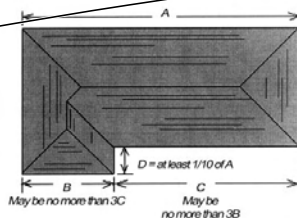
No portion of a prominent facade may exceed 80 feet in length without a shift in the building footprint measuring one-tenth of the facade length. This shift may be broken down into smaller shifts of at least six feet each.

Horizontal shifts, when required, shall be reflected by a shift alteration in the roof design. To assure that footprint shifts are distributed across the building facade, shifted wall planes shall have a width proportion of between one-to-one and three-to-one the width of adjacent wall planes on the same facade.

2. Vertical shift

No single run of ridge, cornice or fascia (excluding eave overhang) shall exceed 80 feet without a five-foot transition in height. Cupolas and similar minor projections above roof lines do not meet the vertical shift requirement.

Horizontal shifts required if "A" exceeds 80 feet in length.



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- b. Author: KesterJ Subject: Inserted Text Date: 3/30/2010 2:51:51 PM
- c. Author: KesterJ Subject: Inserted Text Date: 3/30/2010 2:51:59 PM

C. Avoid a false-front look on building exterior.

Exterior walls and roof forms shall be a true reflection of interior space. False projections of wall or roof forms are not allowed, except that parapets and gables may rise above the true roof line if they include side returns or roof planes that (1) extend back at least one and one-half times the width of the parapet or gable, or (2) extend back to a point that is not visible from any public vantage point.

17.99.420 Siding and trim.

The following standards apply to all nonresidential and multifamily residential development:

A. Use siding materials that convey the same visual qualities as wood, brick, stone, stacked masonry or (in limited application) other unspecified materials (IBE).

Siding materials are limited to horizontal lap siding (of any lap design) made of wood or cement-like materials; shingles made of cedar or cement-like materials; board and batten (or panels with similarly spaced battens); brick, stone (real or cultured), nonscored, split-faced brick (CMU), Stucco, tile, terra cotta, concrete, spandrel glass, sheet siding (e.g., T-11), corrugated metal panels and smooth-faced or scored concrete block may be used as accent materials on nonresidential projects, not to exceed 20 percent of any given facade. Standing seam metal siding with separately attached battens (with proportions similar to board and batten siding) may be used in gables only, or on up to 20 percent of any given facade.

B. Consider masonry facade option.

Brick, split-faced block (nonscored) or ground-faced block, if used in a manner that provides added relief, shadow lines, and dimensional interest to a facade, may serve as an alternate method of compliance to other specified design requirements, as follows:

1. ALTERNATIVE TO SOLID/VOID RATIO REQUIREMENTS

(NOTE: This option may not be used on facades facing and within 50 feet of the street or street right-of-way providing primary access to a site.) All prominent facades shall be 80 percent sided with the masonry materials stated above, which shall also include:

- a. Masonry pilasters regularly spaced every 15 to 25 feet apart (depending on the scale of the building); and
- b. Recessed "panels" in the masonry work that provide a "frame and panel" design in the masonry work between all pilasters and that comprise approximately 70 percent of the width and height of the space between pilasters.

Traditional building materials such as brick, stone or wood reflect human handcraft and provide texture to building exteriors. Materials for new construction and remodeling should convey similar visual qualities.

- Author: KesterJ Subject: Inserted Text Date: 3/22/2010 4:36:17 PM
or ground-faced
- Author: KesterJ Subject: Cross-Out Date: 3/22/2010 4:36:24 PM
- Author: KesterJ Subject: Replacement Text Date: 3/22/2010 4:37:04 PM
on center
- Author: KesterJ Subject: Inserted Text Date: 3/22/2010 4:37:38 PM
Recessed "panels" shall be recessed a minimum of four inches.

2. ALTERNATIVE TO WALL AND ROOF
SUBSTANTIAL SHIFT REQUIREMENTS

All prominent facades shall be 80 percent sided with the previously stated masonry materials, which shall also include:

- a. ~~Masonry pilasters~~ regularly spaced every 15 to 20 feet ~~apart~~ (depending on the scale of the building);
- b. Windows comprising of 25 to 30 percent of the wall plane or recessed "panels" in the masonry work that provide a "frame and panel" design in the masonry work between all pilasters, with the recessed panel comprising approximately 70 percent of the width and height of the space between pilasters;
- c. Projecting lintels and windowsills made of brick, cut stone or similar masonry material and placed above and below each main-floor window;
- d. A projecting wainscot at the base of the building made of brick, cut stone or similar masonry material per the previously stated masonry materials;
- e. A projecting string course of brick above the windows or recessed panels; and
- f. A corbelled projection in the masonry work at or near the top of the building spanning the full width of the facade, completed by a cornice made of masonry or some other material that meets standard cornice requirements.

**NOTE: The option to use recessed panels in lieu of windows may not be used on facades facing and within 50 feet of the street or street right-of-way providing primary access to a site.)

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on center

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, Recessed "panels" shall be recessed a minimum of four inches;

17.99.490 Single-family housing standards.

The following standards apply to all single-family residential development outside the historic district. In order to deviate from minimum setback standards or maximum height standards, approval must be obtained through the variance process defined in Chapter 17.66 GHMC and not through the design review process.

A. De-emphasize garages.

De-emphasize garages by giving visual emphasis to design elements which reflect human activity and enclosure. Choose one of the following options:

1. LOCATE GARAGE BEHIND HOUSE

A garage may be located in the defined side and rear yards provided it conforms to the following criteria:

- a. The garage is placed at least six feet behind the house (a six-foot-wide breezeway (measured side-to-side) may connect the garage to the house).
- b. The garage is at least three feet from the side and rear property lines or three feet from an alley access easement.
- c. The size of the garage does not exceed 24 by 24 feet.
- d. The garage is no higher than 12 feet above the highest point of natural grade along the vehicular entrance side of the garage.

2. RECESS VEHICULAR ENTRANCES

At least 70 percent of the front walls of the house that enclose the living area shall project at least six feet forward of the garage doors.

3. EMPHASIZE WINDOWS AND PORCHES

Provide windows above garage doors in gables, dormers, or other wall planes that are within two feet of the garage door wall planes, along with front porches which emphasize front entries. At least one window is required for every two garage bays. Each window shall have at least 10 square feet of glazing area.

The standards of subsection A of this section represent alternative ways to de-emphasize garages located in the front of houses and include incentive to locate garages behind houses.

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Author: KesterJ and duplex	Subject: Inserted Text	Date: 3/22/2010 11:56:16 AM
Author: KesterJ dwelling	Subject: Replacement Text	Date: 3/22/2010 3:59:33 PM
Author: KesterJ dwelling	Subject: Replacement Text	Date: 3/22/2010 3:59:49 PM
Author: KesterJ dwelling	Subject: Replacement Text	Date: 3/22/2010 4:00:07 PM

4. INCREASE WINDOW AREA

Garage doors may be flush with the front walls of the house if the front walls include window glazing area that is at least 50 percent of the total garage door area. Garages may project forward of the front walls of the house if the front walls include window glazing area that is at least 70 percent of the total garage door area. (Garage door windows may not be included in the glazing area calculations.)

5. PLACE GARAGE ENTRY ON SIDE OF HOUSE.

In this context, garage doors may not face the street unless it is a side street on a corner lot. If the garage projects forward of the house, the garage doors must be located on the side of the garage most distant from the entry to the house.

6. GARAGE DOOR PLACEMENT

Place garage doors in locations that are not visible from the street providing access to the site.

B. Emphasize front entry.

Front porches can be used to emphasize the front entry. When there is no front porch or when a front porch is not an obvious or prominent feature of the house design, the front door must be oriented so that it directly faces the street.

C. Determine allowable building height from any point within setback area.

Allowable building height may be measured from any point within defined setbacks; provided, that the point of measurement is within 50 feet of the building footprint (refer to zoning code for allowed height in specific zones).

D. Avoid visually looming wall planes.

No wall plane, excluding gable areas, may exceed a height of 22 feet above any point of finished grade. Additional wall plane area may be allowed (subject to maximum building height limits) only if it is stepped back at least eight feet from the lower wall plane, or if it is in a dormer that is stepped back from the lower wall plane. Step-backs from decks, balconies or other spaces not fully enclosed do not meet this step-back requirement. This requirement applies only to prominent facades.

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Author: KesterJ AND DUPLEX	Subject: Inserted Text	Date: 3/22/2010 2:00:32 PM
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SINGLE-FAMILY

17.99.490 SINGLE-FAMILY HOUSING DESIGN

Page: 83

E. If applicable, conform to all parkway standards.

Single-family houses on parcels having frontage on a designated parkway shall conform to all parkway standards in GHMC 17.99.110 through 17.99.140.

F. Conform to all building and outdoor lighting standards.

Single-family homes shall comply with all outdoor lighting standards in GHMC 17.99.350.

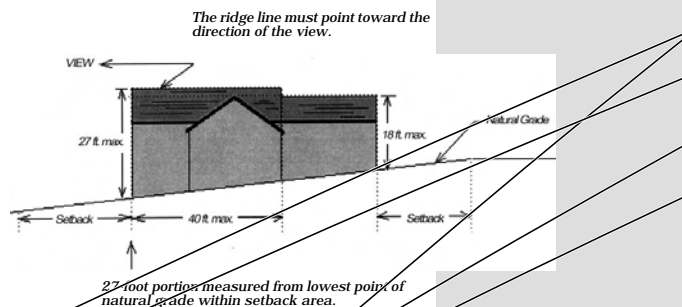
G. Conform to all fencing standards.

Single-family development shall conform to all fencing standards defined in GHMC 17.99.340.



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Author: KesterJ	Subject: Replacement Text	Date: 3/22/2010 3:04:14 PM
Author: KesterJ and duplex	Subject: Inserted Text	Date: 3/22/2010 1:59:22 PM

f. All other setback and height requirements are complied with.



3. INTERSECTING GABLES OR DORMER REQUIREMENT.

To avoid expansive roof planes, fascia boards may not exceed 35 feet in length without an intersecting gable, dormer or similar architectural element incorporated into the roof plane above the fascia board on pitched roofs. This requirement does not apply to BASIC STRUCTURES defined under subsection (A)(2) of this section.

The intersecting dormers and porch gable provide visual interest to this otherwise unbroken roof plane.



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Author: KesterJ	Subject: Inserted Text	Date: 3/22/2010 4:33:38 PM

Author: KesterJ Subject: Inserted Text Date: 3/22/2010 4:39:56 PM
or ground-faced

Author: KesterJ Subject: Cross-Out Date: 3/22/2010 3:17:46 PM

17.99.540 Siding and trim – Historic district.
The following standards apply to all development within the historic district:

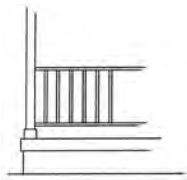
A. Use siding materials that convey the same visual qualities as wood, brick, stone, stacked masonry or (in limited application) other unspecified materials.

Siding materials are limited to horizontal lap siding (of any lap design) made of wood or cement-like materials; shingles made of cedar or of cement-like materials; board and batten (or panels with similarly spaced battens); brick; stone (real or cultured); nonscored, split-faced block (CMU); stucco on single-family homes. Stucco, tile, terra-cotta, concrete, spandrel glass, sheet siding (e.g. T-11), corrugated metal panels and smooth-faced or scored concrete block may be used as accent materials on nonresidential projects, not to exceed 20 percent of any given facade. Standing seam metal siding with separately attached battens (with proportions similar to board and batten siding) may be used in gables only, or on up to 20 percent of any given facade.

B. Incorporate vertical balusters into traditional balustrade design.

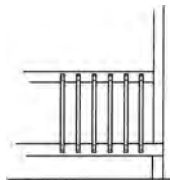
Balustrades shall include both an upper and lower rail with turnings or two-inch balusters, vertically installed. The balusters shall be connected to a top and bottom rail in a traditional manner, i.e., the balusters shall join at their top and bottom as opposed to contemporary-style face connections. Face connections may occur on the back side of the rail if, from the front side, a traditional appearance is maintained. In waterfront zones, horizontal cable may be used in lieu of vertical balusters if a more nautical look is desired; provided, that the balustrade include top and bottom rails supported by vertical post and caps. Rails, posts and caps shall have the appearance and dimensions of standard lumber products.

ACCEPTABLE



Traditional balustrade with top and bottom rail.

UNACCEPTABLE



Contemporary balustrade face nailed with no bottom rail.

Siding materials such as brick, stone or wood reflect human handicraft and provide texture to building exteriors. Materials for new construction and remodeling must convey similar visual qualities.



Business of the City Council
City of Gig Harbor, WA

Subject: Public Hearing and First Reading of the Ordinance for the Gartland Street Vacation Petition request

Proposed Council Action:

Move to continue the public hearing to July 26, 2010, to allow staff to obtain an appraisal at Petitioner's expense, and consider adoption of the Ordinance at second reading.

Dept. Origin: Public Works

Prepared by: Willy Hendrickson, Engineering Technician

For Agenda of July 12, 2010

Exhibits: Ordinance, Location Map, Petition for Vacation letter, Vacation of Streets and Alley Checklist

	Initial & Date
Concurred by Mayor:	_____
Approved by City Administrator:	_____
Approved as to form by City Atty:	Via email
Approved by Finance Director:	N/A
Approved by Department Head:	<i>[Signature]</i> 7/6/2010

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

On June 10, 2010, Timothy Gartland filed a petition for vacation of a 30-foot strip of Woodworth Avenue (formerly known as Florence Street) abutting property owned by Timothy and Kimberly Gartland located at 9112 Prentice Avenue NW.

The Right-of-Way proposed for vacation along Woodworth Avenue has two water meters located within the Right-of-Way. One meter services Mr. Gartland's property and one meter with a service line services the property to the north at 9114 Prentice. The Public Works Superintendant recommends retaining an easement on the portion of the requested street vacation for future repair and maintenance of existing water meters and water line serving the property to the north or moving the meters and water line outside of the proposed street vacation area at the owners expense. There are no future roadway improvement plans or uses intended for this portion of Prentice Ave. All other City departments had no comment on the proposed street vacation.

POLICY CONSIDERATIONS

Any policy considerations will be provided at the public hearing. In addition, a checklist for vacation of streets and alleys along with supporting documents and maps will also be provided at the public hearing.

FISCAL CONSIDERATION

Petitioner Gartland has paid the processing fee and \$500 deposit for appraisal as required by GHMC 12.14.004. As a condition of approval, the City will require compensation for the right-of-

way to be vacated as determined by the appraisal.

RECOMMENDATIONS

Recommend that the Council continue the public hearing to July 25, 2010, to allow staff to obtain the required appraisal at petitioner's cost, and consider adoption of the Ordinance contingent upon a water line easement at second reading.

AFTER RECORDING RETURN TO:

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

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

Document Title(s) (or transactions contained therein):

ORDINANCE NO. XXXX OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, VACATING A 30 FOOT PORTION OF WOODWORTH AVENUE, GIG HARBOR, WASHINGTON.

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

City of Gig Harbor

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

Timothy and Kimberly Gartland

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

Section 6, Township 21 North, Range 02 East, W.M. in Pierce County, Washington

Assessor's Property Tax Parcel or Account number: 4030200170

Reference number(s) of documents assigned or released: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, VACATING A 30-FOOT PORTION OF WOODWORTH AVENUE, GIG HARBOR, WASHINGTON; RESERVING A UTILITY EASEMENT FOR CITY WATER UTILITY PURPOSES; ESTABLISHING REQUIRED COMPENSATION AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on June 10, 2010, Timothy Gartland filed a petition for vacation of a 30-foot strip of Woodworth Avenue (formerly known as Florence Street) abutting property owned by Timothy and Kimberly Gartland located at 9112 Prentice Avenue NW, City of Gig Harbor, legally described on Exhibit A and shown on Exhibit B, both of which are attached hereto and incorporated herein by this reference; and

WHEREAS, on June 14, 2010, the Gig Harbor City Council accepted the petition and passed Resolution No. 763, establishing July 12, 2010 as the date for a public hearing on the vacation of the right-of-way; and

WHEREAS, after the required public notice had been given, the City Council conducted a public hearing on the matter and first reading of this Ordinance on July 12, 2010 as scheduled and heard testimony from all interested parties, and continued the public hearing to July 26, 2010, in order to allow for the City to obtain an appraisal as required under GHMC 12.14.004, *et seq.*; and

WHEREAS, after considering any and all such testimony, the Council desires to vacate the right-of-way as requested; Now, therefore,

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

Section 1. Adoption of Findings and Conclusions. The City Council makes the following findings and conclusions in support of vacation:

A. The portion of right of way that is proposed to be vacated was dedicated to the City from the State of Washington on July 11, 1940, and described as the Plat of Fuller's Second Addition to Gig Harbor (Auditors File Number 1263576).

B. A water service utility located on the portion of right-of way that is proposed to be vacated services the property to the north and requires an easement from petitioner Gartland, and the City also requires an easement for its current water lines and water meters within the area to be vacated.

C. The portion of right-of-way proposed to be vacated has an existing driveway access.

D. The proposed 30-foot portion of right-of-way to be vacated does not conflict with the City's Six Year Transportation Plan or the Transportation section (Chapter 11) of the City's Comprehensive Plan.

E. The portion of right-of-way proposed to be vacated does not abut any body of water.

F. The portion of right-of-way proposed to be vacated is not needed for any future right-of-way purpose.

Section 2. Vacation; Reservation of City Utility Easement. With the condition that petitioner Gartland provide to the City a copy of a recorded utility easement granting rights for the private utility service referenced in Finding B above, that portion of Woodworth Avenue legally described on Exhibit A and depicted on Exhibit B, is hereby vacated; SUBJECT TO the reservation by the City of Gig Harbor of an easement in, on, under, along, and across said vacated right-of-way for the maintenance, repair, improvement and operation of any and all City utilities lying within said vacated right-of-way as of the date of vacation.

Section 3. Compensation. In accordance with GHMC 12.14.018 the amount of _____ (\$ _____) shall be required from petitioner Gartland in exchange for the vacation.

Section 4. Duties of City Clerk. The City Clerk is hereby directed to record a certified copy of this ordinance with the office of the Pierce County Auditor only after receipt of the required compensation and satisfaction of the condition in Section 2.

Section 5. Effective Date. This ordinance shall take effect five days after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this ____ day of _____, 2010.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

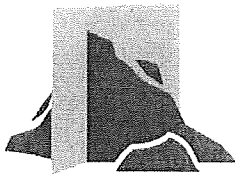
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

Angela S. Belbeck

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

EXHIBIT A
PROPERTY LEGAL DESCRIPTION



THORNTON

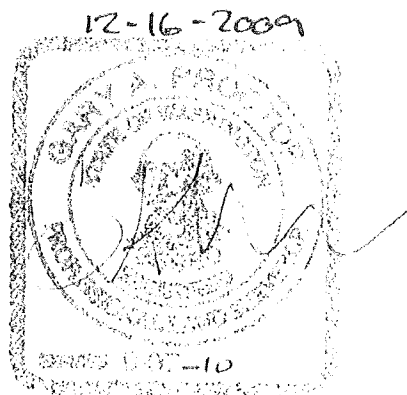
INCORPORATED IN WASHINGTON

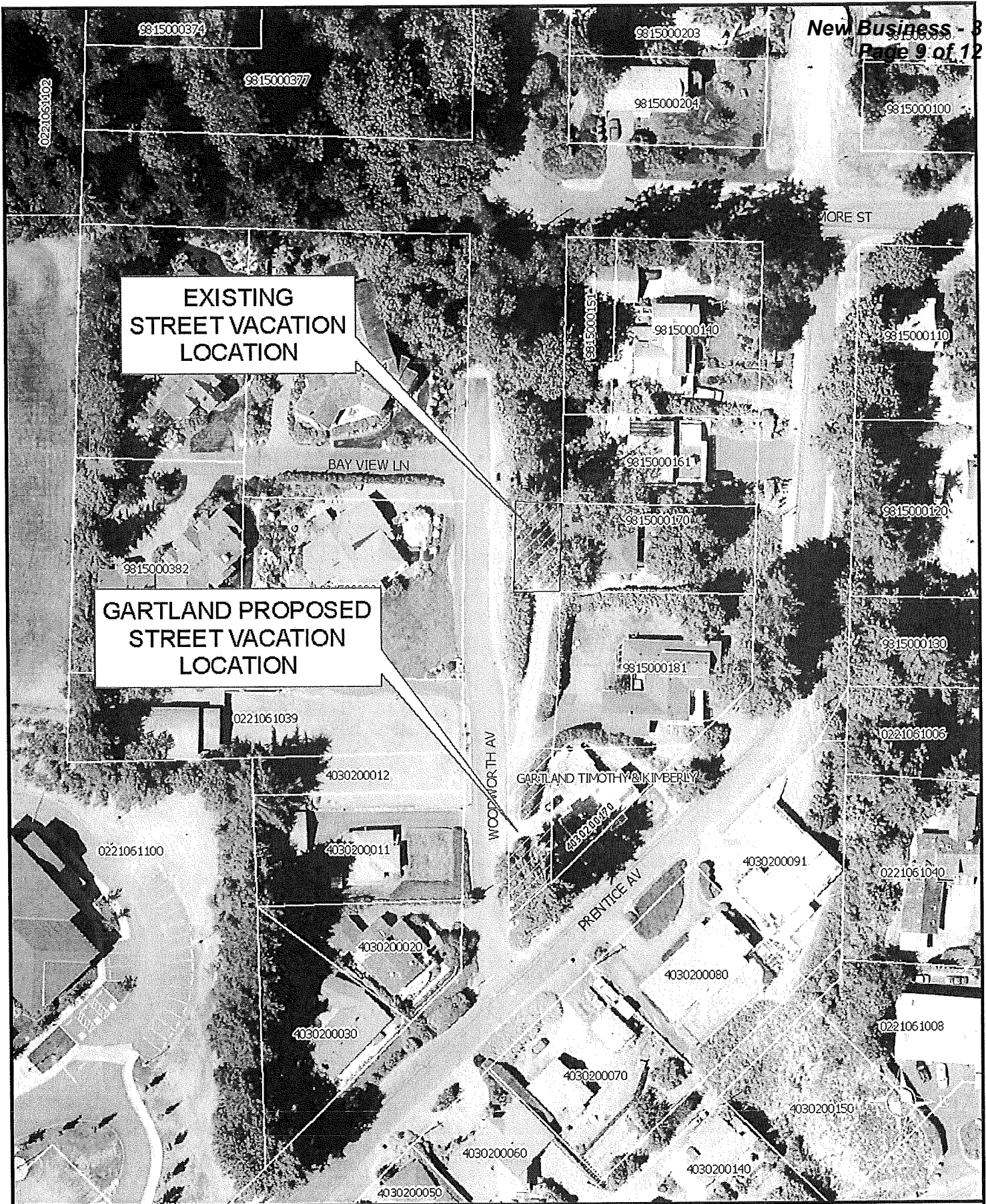
8803 State Highway 16
PO Box 249
Gig Harbor, WA 98335
T 253 858 8106
F 253 858 7466
thorntonls.com

PROPOSED
LEGAL DESCRIPTION

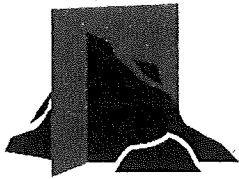
RIGHT-OF-WAY THAT WILL ATTACH BY OPERATION OF LAW TO GARTLAND ADJOINER FOLLOWING VACATION OF A PORTION OF FLORENCE STREET, GIG HARBOR, WASHINGTON, BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M., IN PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EAST HALF OF WOODWORTH AVENUE (FORMERLY FLORENCE STREET) PER THE PLAT OF FULLER'S 2ND ADDITION TO GIG HARBOR, RECORDED IN VOLUME 12 OF PLATS AT PAGE 25, UNDER AUDITOR'S FILE NUMBER 1263576, RECORDS OF PIERCE COUNTY, WASHINGTON, ADJACENT TO AND ABUTTING LOT 1, BLOCK 4 OF SAID PLAT, EXTENDING SOUTH TO THE NORTHERN MARGIN OF PRENTICE AVENUE (FORMERLY FOREST STREET NW) PER SAID PLAT.





GARTLAND - 9112 PRENTICE AVE - WOODWORTH STREET VACATION LOCATION MAP



T H O R N T O N
LAND SURVEYING, INC.

New Business - 3
8803 State Highway 16 **Page 10 of 12**
PO Box 249
Gig Harbor, WA 98335
T 253 858 8106
F 253 858 7466
thorntonls.com

10 June 2010

Mr. Willie Hendrickson
Engineering Technician
3510 Grandview Street
Gig Harbor, WA 98335

RECEIVED
CITY OF GIG HARBOR
JUN 10 2010
COMMUNITY
DEVELOPMENT

RE: Vacation of a portion of Florence Street right-of-way

Dear Mr. Hendrickson,

This letter serves as an official request to vacate a 30-foot wide strip of Florence Street (Woodworth Ave) right-of-way abutting my property at 9112 Prentice Avenue NW, in the City of Gig Harbor. This right-of-way along with my property was created from the plat called "Fuller's 2nd addition to Gig Harbor" in book 12 of plats at page 25, in Pierce County, Washington. This portion of Florence Street abutting my property at parcel number 4030200170 has never been used as street, nor has it been constructed.

In light of this information, I wish to request those portions of the Florence Street abutting my property be vacated. See attached drawings depicting the original location of the subject portion of Florence Street right-of-way's in relation to my parcels.

Thank you for your assistance.

Sincerely,

Timothy Gartland



VACATION OF STREETS AND ALLEYS

GIG HARBOR MUNICIPAL CODE CHAPTER 12.14

Name: WILLIAM HENDRICKSON Date: 6/3/10

Site address: 9112 PRENTICE

Phone Number: 253 853 2120 Parcel Number: 4030200170

OWNER REQUIREMENTS

- The petition or resolution shall be filed with the city clerk, and the petition shall be signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated. [GHMC § 12.14.002 (c)].
- Nonrefundable payment to the City of a pre-hearing fee of \$150.00, to defray the administrative cost incurred in processing such vacation petitions [GHMC § 12.14.004 (a)].
- Legal description prepared by a Licensed Surveyor of area to be vacated [GHMC § 12.14.002 (b)].
- Location map showing surrounding street network, existing utilities, and adjacent properties labeled with ownership, site addresses, and parcel numbers.
- Site map prepared by a Licensed Surveyor showing the existing property and street vacation areas with dimensions (using bearings and distances), calculated square footage, two-foot contours, existing easements, wetlands and trails or other relevant information.
- At the time the City Council recommends granting a vacation petition, the petitioner shall deposit a \$500.00 appraisal fee with the Public Works Director [GHMC § 12.14.004 (b)]. Appraisal fee not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].
- Compensation to the City for vacation if applicable [GHMC § 12.14.018]. Compensation not required if qualified under the Non-user Statute [GHMC § 12.14.018 (c)].

CITY REVIEW

- Determine Non-user Statute application. N/A
- Verify all information provided in the petition, legal description, location map, and site map.
- Describe topography and vegetation (forested, cleared, etc.) using GIS aerial and digital camera photos of site. EXISTING SINGLE FAMILY RESIDENCE
- Verify existing utilities or call One Call Locate to determine what utilities are on the property.
- Determine proposed vacation's consistency with City of Gig Harbor Comprehensive Plan (i.e. OL EA 6-11-10 transportation element).
- Determine current extent of public use of area proposed to be vacated as a Prescriptive Easement.
- Determine possible retention for future public uses: Roadway, water, sewer, storm drainage, parking facilities, parks, view areas, and access to waterfront.

THIS PORTION IS NOT BEING USED BY THE PUBLIC. DRIVEWAY ACCESS ONLY.

NO FUTURE PUBLIC USE

1

- Develop history of area proposed to be vacated including when area was purchased, dedicated, or otherwise acquired. *FULLERS SECOND ADDITION RECORDED JULY 11, 1940*
- Determine compensation for vacation as described in GHMC § 12.14.018 if applicable.
- Verify payment of pre-hearing \$150 fee and \$500 appraisal fee.
- Prepare aerial vicinity map.
- Prepare Council Resolution.
- Post notices of Public Hearing.
- Determine hearing date.
- Legal Review