

Gig Harbor City Council Meeting

**September 27, 2010
5:30 p.m.**



**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
Monday, September 27, 2010 – 5:30 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of September 13, 2010.
2. Liquor Licenses: a) Renewals – Fred Meyer; Harvester Restaurant; QFC 864; QFC 886; Bella Kitchen Essentials.
3. Stormwater Capacity Grant Agreement with Dept. of Ecology.
4. Donkey Creek & Austin Estuary Restoration Project – Consultant Services Contract / Murray Smith & Associates.
5. WWTP Digesters #2 & #3 Aeration/Mixing System w/ Support Bridge – Purchase Authorization.
6. Approval of Payment of Bills for September 27, 2010: Checks #64585 through #64696 in the amount of \$874,622.85.

PRESENTATIONS:

Netshed Survey Report – Lita Dawn Stanton.

OLD BUSINESS:

1. Second Reading of Ordinance – Permit Processing Amendment.
2. Second Reading of Ordinance – Adopting Regulations for Second Hand Stores and Pawnbrokers.

NEW BUSINESS:

1. Introduction and Public Hearing – 2010 Comprehensive Plan Amendments.
2. Public Meeting on 72nd Annexation Petition.
3. Resolution Fee Schedule Update to Implement Permit Processing Amendments.

STAFF REPORT:

1. Harborview Drive/Stinson Avenue Water Main Replacement Project – Work Hours and Sequencing.
2. Marine Outfall Project Update.

PUBLIC COMMENT:

MAYOR'S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. 2nd Annual First Responders Event – Sat. Oct. 2nd from 1:00-4:00 p.m. at the Methodist Church.
2. City Council/Parks Commission Joint Worksession – Mon. Oct. 4th at 5:30 p.m.
3. Intergovernmental Affairs – Mon. Oct 11th at 4:30 p.m.

ADJOURN:

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – SEPTEMBER 13, 2010

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

CALL TO ORDER: 5:30 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes of City Council Meeting of July 26, 2010.
2. Correspondence / Proclamations: a) Constitution Week; b) National Preparedness Month; c) Boys and Girls Day for Kids.
3. Liquor License Action: a) Farmers Market; b) Moctezumas and Forza Coffee Company; c) QFC Pt. Fosdick; d) Gig Harbor Gallery Association; e) Boys & Girls Club.
4. Cartegraph Systems, Inc. Software & Service Proposal – WA State Sales/Use Tax.
5. Wastewater Treatment Plant Ph.1 Improvement Project – Contract Amendment #2 / Parametrix.
6. Resolution - Harbor Glen/Block Land Annexation Legal Description Revision.
7. Fisherman's Pier – Dept. of Natural Resources (DNR) Aquatic Lands Lease Assignments.
8. Skansie Netshed Partners in Preservation – Grant Agreement.
9. Resolution No. 840 – Setting the Public Hearing Date Prentice Avenue Street Vacation – Thomas Page.
10. Resolution No. 841 – Declaring Emergency Repairs Related to Lift Station #7 Accident.
11. Frontage Road Turnback Agreement with WSDOT.
12. Initiation of Proposed Development Agreement with Harbor Hill LLC.
13. Employee Dental Plan Change.
14. Approval of Payment of Bills for August 9, 2010: Checks #64236 through #64341 in the amount of \$1,564,194.27.
15. Approval of Payment of Bills for August 23, 2010: Checks #64342 through #64451 in the amount of \$495,824.67.
16. Approval of Payment of Bills for September 13, 2010: Checks #64452 through #64584 in the amount of \$3,446,485.70.
17. Approval of Payroll for the month of July: Checks #5714 through #5728 in the amount of \$477,781.05.
18. Approval of Payroll for the month of August: Checks #5729 through #5746 in the amount of \$309,876.09.

MOTION: Move to adopt the Consent Agenda as presented.
Ekberg / Conan – unanimously approved.

PRESENTATIONS:

1. Constitution Week Proclamation. Mayor Hunter invited Kathleen Grulke, Chapter Regent/President of Elizabeth Forey Chapter NSDAR, to come forward and accept the proclamation. Ms. Grulke accepted the proclamation and thanked the Mayor and City Council for what they do on behalf of the people they serve.
2. Boys and Girls Clubs Day for Kids. Mayor Hunter invited Jo Anne Maxwell, Director of the Gig Harbor Boys and Girls Club, to come forward and accept the proclamation. Ms. Maxwell came forward and invited some young members in the audience to accept the proclamation with her and say a few words about their experience there. Each of the children addressed the Mayor and City Council with examples of how valuable their experiences have been at the Club. Ms. Maxwell said that on September 24-25, they are celebrating National Kids Day invented by the Boys and Girls Club with over 300 kids. It will be a fun, carnival-type event and welcomed everyone to come. She stated that on October 25, 2009, the new Gig Harbor facility opened their doors with a membership of twelve children. Almost a year later, they have a current membership of 687 children between the ages of 6-18.
3. National Preparedness Month. Mayor Hunter invited Dick Bower, Emergency Management Director, to come forward and accept the proclamation, and encouraged citizens to put together their own emergency plan and the importance of being prepared.

OLD BUSINESS:

1. Third Reading of Ordinance – Vacating a Portion of Woodworth Avenue - Gartland. Engineering Technician Willy Hendrickson presented the third and final reading of this ordinance. He stated the Gartlands have paid the \$3,200 appraisal fee in anticipation of the approval of the street vacation. Mr. Hendrickson further stated that all Public Works issues have been addressed.

MOTION: Move to adopt Ordinance No. 1196 as presented vacating a 15-foot portion of Woodworth Avenue.
Kadzik / Payne – unanimously approved.

2. Public Hearing – Interim Ordinance Amending Temporary Sign Regulations in the C-1 / Sign Area 2 District. Senior Planner Jennifer Kester gave a brief background of the temporary sign Ordinance 1195 that was passed on July 26, 2010 with a majority plus one vote of the whole Council. Ms. Kester explained that no action was required by Council, however she said that after the public hearing, the Council had the option of adopting additional findings justifying interim amendments if desired.

Mayor Hunter opened the public hearing at 5:42 p.m.

Jennifer Kilmer – 4121 Harborview Drive. Ms. Kilmer, Harbor History Museum Director thanked the Council for continuing to move forward to allow some banners to be hung for the grand opening event. She said that once the banners go up, she is certain that the Council will note that the quality is good. Ms. Kilmer stated that they are putting the finishing touches on this \$11.6M project and looking forward to a great grand opening event on Saturday, September 18.

There were no further public comments and the public hearing closed at 5:44 p.m.

NEW BUSINESS:

1. Public Hearing and First Reading of Ordinance – Permit Processing Amendment. Planning Director Tom Dolan provided background information for this ordinance. Mr. Dolan stated that during last year's budget discussions, the Planning Department indicated that there were a number of code amendments identified that would add efficiencies to the land use permit process. He explained that the biggest proposed change was to allow the administrative approval of site plans by the Planning Director. All other major land use permits would still require approval by the Hearing Examiner. He stated that allowing the Planning Director to administratively approve a site plan will shorten the processing time for the applicant by 30 days and as well as provide a savings of \$500 - \$1,000 for the applicant. Mr. Dolan further explained that in order to allow the administrative approval of site plans, DRB recommendations needed to be made to the Planning Director rather than the Hearing Examiner and appealable to the Hearing Examiner.

Mr. Dolan summarized two other major changes that included closing out lapsed applications and amending the expiration period for land use permits.

Mayor Hunter opened the public hearing at 5:50 p.m.

Mark Hoppen – 8133 Shirley Avenue. Mr. Hoppen requested city staff to comment on why there is no review of PUDs and PRDs under the proposed amendment and noted that PUDs and PRDs no longer had noticing requirements under this proposal.

There were no further public comments and the public hearing closed at 5:51 p.m.

Ms. Kester explained that Type 3 PRD & PUD major amendments are processed as permits and currently only noticed as a legal notice in the Gateway newspaper. The proposed amendment would have increased noticing requirements which would include posting the property, a legal notice in the Gateway, and notices mailed out to all property owners within 300 feet.

Ms. Kester further explained that Type 1 PRD and PUD minor amendments do not affect the substance of PRDs and PUDs therefore there are no added noticing

requirements. Council and staff discussed the pros and cons of the proposed amendment.

2. First Reading of Ordinance – Adopting Regulations for Second Hand Stores and Pawnbrokers. Chief Davis explained during a recent investigation by the Pierce county Sheriff's Department involving a burglary revealed that a second hand dealer in precious metals located in the city was not following RCW 19.60, a legal requirement to keep items received for 30 days before removing them from its place of business. He stated that in order to regulate the activities of pawnbrokers and second hand dealers, RCW 19.60 must be adopted by ordinance. Adopting the ordinance will allow the city to proceed with prosecution of criminal investigations of this type in the future. Council and Chief Davis discussed the proposed ordinance.

STAFF REPORT:

1. Pierce County Flood Plan Elected Officials Workshop. City Administrator Rob Karlinsey encouraged the electeds to attend the workshop on Sept. 30 from 6:30-9:00 pm. The meeting location had not yet been determined. Mr. Karlinsey asked council to let him know if they were attending. He further stated that legal counsel was able to get a BRB hearing on Oct. 12 at 9:00 a.m. at the Pierce County Annex. He said that we should have a presence there to speak/testify on the city's behalf.

Mr. Karlinsey reminded council of the Council Retreat on Friday, Sept. 24 from 8:30 to noon.

Mr. Karlinsey spoke about the 2011 federal and state legislative agenda. He stated that he and Mayor Hunter would be meeting with the Capital Budget Chair at the offices of Gordon Thomas Honeywell to discuss funding for the Fishermen's Pier with the hope of getting this on the state's Capital Budget. Mr. Karlinsey stated that this matter has already been discussed with the Internal Government Affairs committee and has received their concurrence to move forward.

Mr. Karlinsey gave a brief update of the Harborview Drive/Stinson Water Main Replacement project. He reported that Phase 1 is almost complete. Paving of the ditch line from N. Harborview Drive to Stinson Avenue will occur next Monday with a full one lane overlay over the entire project at completion. He further reported that the main line and connection lines are in, however they are not hooked up until a pressure test is performed and the results of the purity test are in, which is expected on Sept. 22.

Chief Davis reported that the Peninsula's first Emergency Preparedness Fair at Chapel Hill Presbyterian Church was a great success and well attended with about 800 people. He stated that the overall message was that families need to have their own emergency plan in place. In a catastrophic event, the city, fire department and police will be initially responding to greater emergencies first.

Chief Davis also mentioned the 2nd Annual First Responders Event at the Methodist Church on Oct. 2 from 1:00-4:00 p.m. He stated that this is a quality and multi-denominational event and welcomed everyone to attend.

PUBLIC COMMENT: None.

MAYOR'S REPORT / COUNCIL COMMENTS:

Mayor Pro Tem Payne said that he represented Gig Harbor while attending a memorial service for fallen soldier, Sergeant Faith Renee Hinkley, 27 years old of the 502nd Military Intelligence Battalion, who died on Aug. 7, 2010. He shared that he was deeply moved by the service and the outpouring for this young soldier.

Councilmember Payne said that he had toured the Marine Outfall project with Construction Inspector George Flanigan and highly encouraged members of council that have not seen this project up close, to do so. Mr. Payne stated that on Sept. 29 is an important date for this project as the outer pipe will be connected from the sand spit to the Sound. He commended Sr. Engineer Jeff Langhelm as the project manager and George Flanigan for doing a great job.

Councilmember Payne also reported that on Aug. 29, he, along with 50 volunteers from Chapel Hill Church laid down a 600-ft. trail at KLM Park. He has suggested to the Parks Commission to do a Hero's Walk there.

Councilmember Franich thanked Kathleen Grulke for accepting the proclamation for Constitution Week and enjoyed what she had to say.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Operations Committee – Thu. Sept. 16 at 3:00 p.m. – CANCELLED
2. Harbor History Museum Grand Opening – Sat. Sept. 18.
3. Finance / Safety Committee – Mon. Sept. 20 at 4:00 p.m. - CANCELLED
4. City Council / Planning Commission Joint Meeting – Mon. Sept. 20 at 5:30 p.m.
5. Council Retreat – Fri. Sept. 24 at 8:30 a.m. to noon.
6. Pierce County Flood Plan Elected Officials Workshop – Thu. Sept. 30 from 6:30-9:00 p.m.
7. City Council/Parks Commission Joint Worksession – Mon. Oct. 4 at 5:30 p.m.

ADJOURN:

MOTION: Move to adjourn at 7:35 p.m.
Young / Ekberg – unanimously approved.

CD recorder utilized: Tracks 1002 – 1010

Charles L. Hunter, Mayor

Maureen Whitaker, Assistant City Clerk

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
 (BY ZIP CODE) FOR EXPIRATION DATE OF 20101231

| LICENSEE | BUSINESS NAME AND ADDRESS | LICENSE NUMBER | PRIVILEGES |
|-------------------------------|---|----------------|--|
| 1. FRED MEYER STORES, INC. | FRED MEYER #601 5500 OLYMPIC DR BLDG B GIG HARBOR WA 98335 0000 | 076448 | GROCERY STORE - BEER/WINE GROCERY STORE - BEER/WINE |
| 2. HARVESTER GIG HARBOR, INC. | HARVESTER RESTAURANT 5601 SOUNDVIEW DR GIG HARBOR WA 98335 0000 | 366707 | SPIRITS/BR/WN REST LOUNGE + |
| 3. FRED MEYER STORES, INC. | QUALITY FOOD CENTER / QFC #864 5010 PT FOSDICK DR NW GIG HARBOR WA 98335 0000 | 070236 | GROCERY STORE - BEER/WINE |
| 4. FRED MEYER STORES, INC. | QUALITY FOOD CENTER / QFC #886 3110 JUDSON AVE GIG HARBOR WA 98335 0000 | 362719 | GROCERY STORE - BEER/WINE |
| 5. GPS-GIG HARBOR, LLC | BELLA KITCHEN ESSENTIALS 4793 POINT FOSDICK DR NW GIG HARBOR WA 98335 2315 | 406253 | BEER/WINE SPECIALTY SHOP |



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

Subject: Stormwater Capacity Grant Agreement between Washington State Department of Ecology and City of Gig Harbor.
Proposed Council Action: Authorize the Mayor to execute the FY 2011-2012 Phase II Stormwater Capacity Grant Agreement between the State of Washington Department of Ecology and the City of Gig Harbor in the amount of \$89,878.

Dept. Origin: Public Works/Engineering
Prepared by: Wayne Matthews *WM*
Engineering Technician
For Agenda of: September 27, 2010
Exhibits: Dept. of Ecology Capacity Grant Letter to Mayor and a Stormwater Capacity Grant Agreement

Concurred by Mayor: Initial & Date
Approved by City Administrator: *CLH 9/24/10*
Approved as to form by City Atty: *rd K 9/20/10*
Approved by Finance Director: *approx via email 9/20/10*
Approved by Department Head: *CR 9/20/10*
Jim 9/20/10

| | | | | | |
|-----------------------------|---|------------------------|---|-------------------------------|---|
| Expenditure Required | 0 | Amount Budgeted | 0 | Appropriation Required | 0 |
|-----------------------------|---|------------------------|---|-------------------------------|---|

INFORMATION/BACKGROUND

This Stormwater Capacity Grant Agreement between City of Gig Harbor and State of Washington Department of Ecology provides \$89,878 no-match funding for equipment, staff training, public education and outreach activities, efforts to control construction runoff, pollution prevention and maintenance activities, annual reporting, and stormwater monitoring plan development among other efforts to comply with the NPDES Stormwater Permit requirements.

FISCAL CONSIDERATION

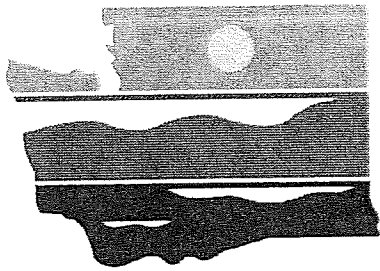
The Stormwater Pass-through Grant Agreement provides \$89,878 funding toward the City's efforts to meet future permit requirements of the City's NPDES Phase II General Stormwater Permit. The effective date of this grant agreement is July 1, 2010 and it will expire on June 30, 2012.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION/MOTION

Move to: Authorize the execution of the Stormwater Pass-through Grant Agreement that will provide \$89,878 funding toward the City's efforts to meet future permit requirements of the City's NPDES Phase II General Stormwater Permit.



DEPARTMENT OF
ECOLOGY
State of Washington

FY 2011 MUNICIPAL STORMWATER CAPACITY GRANTS PROGRAM

GRANT AGREEMENT BETWEEN THE

STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
CITY OF GIG HARBOR

GRANT AGREEMENT NUMBER
G1100048

TABLE OF CONTENTS

| | |
|--|----|
| PART I. GENERAL INFORMATION | 3 |
| PART II. PERFORMANCE MEASURES | 4 |
| PART III. PROJECT DESCRIPTION | 4 |
| PART IV. PROJECT BUDGET | 5 |
| PART V. SCOPE OF WORK | 5 |
| PART VI. SPECIAL TERMS AND CONDITIONS..... | 7 |
| ATTACHMENT I: GENERAL PROJECT MANAGEMENT REQUIREMENTS FOR THE CENTENNIAL CLEAN WATER PROGRAM AND THE FEDERAL CLEAN WATER ACT SECTION 319 NONPOINT SOURCE FUND..... | 9 |
| EDUCATION AND OUTREACH..... | 9 |
| EQUIPMENT PURCHASE | 9 |
| FUNDING RECOGNITION | 9 |
| INDIRECT RATE | 9 |
| MINORITY AND WOMEN'S BUSINESS PARTICIPATION..... | 10 |
| PAYMENT REQUEST SUBMITTALS | 10 |
| POST PROJECT ASSESSMENT | 11 |
| PROCUREMENT..... | 11 |
| PROGRESS REPORTS | 11 |
| REQUIRED DOCUMENT SUBMITTALS..... | 12 |
| WATER QUALITY MONITORING | 12 |
| ATTACHMENT II: GENERAL TERMS AND CONDITIONS PERTAINING TO GRANT AND LOAN AGREEMENTS OF THE DEPARTMENT OF ECOLOGY..... | 14 |
| A. RECIPIENT PERFORMANCE..... | 14 |
| B. SUBGRANTEE/CONTRACTOR COMPLIANCE..... | 14 |
| C. THIRD PARTY BENEFICIARY | 14 |
| D. CONTRACTING FOR SERVICES (BIDDING)..... | 14 |

E. ASSIGNMENTS 14

F. COMPLIANCE WITH ALL LAWS 14

G. KICKBACKS 15

H. AUDITS AND INSPECTIONS 15

I. PERFORMANCE REPORTING 15

J. COMPENSATION 15

K. TERMINATION 16

L. WAIVER 17

M. PROPERTY RIGHTS 17

N. SUSTAINABLE PRODUCTS 18

O. RECOVERY OF PAYMENTS TO RECIPIENT 18

P. PROJECT APPROVAL 19

Q. DISPUTES 19

R. CONFLICT OF INTEREST 19

S. INDEMNIFICATION 19

T. GOVERNING LAW 20

U. SEVERABILITY 20

V. PRECEDENCE 20

MUNICIPAL STORMWATER CAPACITY GRANTS PROGRAM
FUNDING AGREEMENT BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
CITY OF GIG HARBOR

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

PART I. GENERAL INFORMATION

| | |
|---|--|
| Project Title: | Municipal Stormwater Capacity Grant Program |
| State Fiscal Year: | FY2011 |
| Grant Number: | G1100048 |
| RECIPIENT Name: | City of Gig Harbor |
| Mailing Address: | 3510 Grandview St. Gig Harbor, WA 98335 |
| RECIPIENT Federal ID Number: | 91-6001435 |
| Total Eligible Cost (\$70,000 plus per capita calculated amount): | \$89,878 |
| DEPARTMENT Share: | \$89,878 |
| DEPARTMENT Maximum Percentage: | 100% |
| RECIPIENT Contact: | Wayne Matthews |
| Telephone Number: | (253) 853-2646 |
| Fax Number: | (253) 853-7597 |
| E-Mail Address: | matthewsw@cityofgigharbor.net |
| RECIPIENT Billing Contact: | Janis Gibbard |
| Telephone Number: | (253) 853-7696 |
| Fax Number: | (253) 851-8563 |
| E-Mail Address: | gibbardj@cityofgigharbor.net |

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

The effective date of this grant agreement is **July 1, 2010**. Any work performed prior to the effective date of this agreement is not eligible for reimbursement.

This agreement expires on **June 30, 2012**.

PART II. PERFORMANCE MEASURES

A. Water Quality Goal.

Improved stormwater oversight and water quality protection through the direct development and implementation of a comprehensive stormwater management program.

B. Project Outcomes.

Implementation of Phase I and II municipal stormwater National Pollutant Discharge Elimination System (NPDES) permits.

C. Post Project Assessment.

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

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

Approximate Post Project Assessment Date: June 30, 2015

PART III. PROJECT DESCRIPTION

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

PART IV. PROJECT BUDGET

| Municipal Stormwater Capacity Grants Program, FY2011 | |
|---|-----------------------------------|
| Elements/Objects | TOTAL ELIGIBLE COST (TEC)* |
| Task 1 – Project Administration/Management (limited to 10% of total) | \$0 |
| Task 2 – Implementation and management of Stormwater Program | \$89,878 |
| Total | \$89,878 |
| *The DEPARTMENT's Fiscal Office will track to the Total Eligible Project Cost. | |
| MATCHING REQUIREMENTS (There are no matching requirements) | |
| DEPARTMENT Share FY 2011 (100% of TEC) | \$89,878 |

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

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

PART V. SCOPE OF WORK

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

Task 1 - Project Administration/Management

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

- B. The RECIPIENT will manage the project. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort

will be made to maintain effective communication with the RECIPIENT's designees; the DEPARTMENT; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT will carry out this project in accordance with any completion dates outlined in this agreement.

- C. The RECIPIENT will submit all invoice voucher submittals and supportive documentation, to the DEPARTMENT's Project/Financial Manager. Copies of all applicable forms will be included with an original A19-1A, and will be submitted to the DEPARTMENT. Blank forms are found in Administrative Requirements for Recipients of Ecology Grants and Loans at <http://www.ecy.wa.gov/biblio/9118.html>

Required Forms:

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

Where Eligible Costs Have Incurred:

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

- D. If work conducted results in a report, the RECIPIENT will submit the following to the DEPARTMENT's Project/Financial Manager and in the quantities identified:

- Draft project completion reports – one electronic copy
- Final project completion reports – five copies
- Electronic copy of final project completion report

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

Task 2 – Implementation of Stormwater Planning and Management Needs

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

The following is a list of elements your project may include. Please check all boxes that apply to your project.

- Public education and outreach activities
- Public involvement and participation activities
- Illicit discharge detection and elimination (IDDE) program activities, including:
 1. Mapping or geographic information systems of municipal separate storm sewer systems (MS4s);
 2. Staff training;
 3. Activities to identify and remove illicit stormwater discharges;
 4. Dry weather outfall screening procedures and field activities;

5. Complaint hotline database or tracking system improvements.
- Activities to support programs to control runoff from new development, redevelopment, and construction sites, including:
 1. Development of an ordinance and associated technical manual;
 2. Inspections before, during, and upon completion of construction, or for post-construction long-term maintenance;
 3. Training for plan review and/or inspection staff.
- Pollution prevention, good housekeeping, and operation and maintenance program activities, such as:
 1. Inspecting and/or maintaining the MS4 infrastructure;
 2. Developing and/or implementing policies, procedures, or stormwater pollution prevention plans at municipal properties or facilities.
- Annual reporting activities, including developing a summary of identified barriers to the use of low impact development.
- Establishing and refining stormwater utilities, including stable rate structures.
- Water quality monitoring to implement permit requirements for a Water Cleanup Plan (TMDL). Note that any monitoring funded by this program requires submittal of a Quality Assurance Project Plan that Ecology approves prior to awarding funding for monitoring.
- Monitoring, including:
 1. Developing a report to plan for monitoring the next permit cycle;
 2. Monitoring activities to meet Phase I permit requirements;
- Structural stormwater controls program activities (Phase I permit requirement)
- Source control for existing development (Phase I permit requirement), including:
 1. Inventory and inspection program;
 2. Technical assistance and enforcement;
 3. Staff training.
- Equipment purchases that result directly in improved compliance with permit requirements. Allowed costs for equipment purchases must be specific to implementing a permit requirement (such as a vactor truck) rather than general use (such as a general us pick-up truck). Qualified equipment purchases include but are not limited to:
 1. Illicit discharge testing equipment and materials;
 2. Vactor truck or sweeper truck or MS4 maintenance activities;
 3. Electronic devices dedicated to mapping of MS4 facilities and attributes;
 4. Software dedicated to tracking permit implementation activities.

PART VI. SPECIAL TERMS AND CONDITIONS

- A. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project within four months of the signatory date, the DEPARTMENT reserves the right to terminate this agreement.

PART VII. ALL WRITINGS CONTAINED HEREIN

The following contain the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein:

- This agreement
- Attachment I: General Project Management Requirements for the Municipal Stormwater Capacity Grants Program.
- Attachment II: General Terms and Conditions
- The effective edition, at the signing of this agreement, of the DEPARTMENT's "Administrative Requirements for Ecology Grants and Loans"
- The associated funding guidelines that correspond to the fiscal year in which the project is funded
- The applicable statutes and regulations

No subsequent modifications or amendments of this agreement will be of any force or effect unless signed by authorized representatives of the RECIPIENT and the DEPARTMENT and made a part of this agreement, EXCEPT that in response to a request from the RECIPIENT, the DEPARTMENT may redistribute the grant budget. The DEPARTMENT or the RECIPIENT may change their respective staff contacts without the concurrence of either party.

The RECIPIENT acknowledges that they have had the opportunity to thoroughly review the terms of this agreement, the attachments, all incorporated or referenced documents, as well as all applicable statutes, rules, and guidelines mentioned in this agreement.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

CITY OF GIG HARBOR

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

CHARLES L. HUNTER DATE
MAYOR

APPROVED AS TO FORM ONLY
ASSISTANT ATTORNEY GENERAL

**ATTACHMENT I: GENERAL PROJECT MANAGEMENT REQUIREMENTS FOR
THE FEDERAL CLEAN WATER ACT SECTION 319 NONPOINT SOURCE FUND**

EDUCATION AND OUTREACH

The RECIPIENT must do a regional search for existing materials before producing any new educational flyers or pamphlets. The RECIPIENT must request the use of those materials before time and resources are invested to duplicate materials that are already available.

The RECIPIENT must also check the Washington Waters website http://www.ecy.wa.gov/washington_waters/index.html for useful educational materials. These materials are available for public use and can be downloaded directly from the website.

The RECIPIENT must provide the DEPARTMENT up to two copies and an electronic copy either on floppy disks or CD-ROM of any tangible educational products developed under this grant, such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements or gadgets, such as a refrigerator magnet with a message. If this is not practical, the RECIPIENT must provide a complete description including photographs or printouts of the product.

The RECIPIENT must also supply the DEPARTMENT with the names and contact information of local project leads.

If there are a significant number of people in the community that speak languages other than English, the RECIPIENT must produce all pamphlets, fliers, meeting notices, reports, and other educational and public outreach materials in English and in the other prevalent language.

EQUIPMENT PURCHASE

The total cost of all equipment purchased under this project will not exceed \$89,878. Changes in equipment type must have prior approval from the DEPARTMENT.

FUNDING RECOGNITION

The RECIPIENT must inform the public about DEPARTMENT or EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from the DEPARTMENT upon request.

INDIRECT RATE

To acknowledge overhead costs, the RECIPIENT may charge an indirect rate of up to 25 percent based on employees' direct salary and benefit costs incurred while conducting project-related work. The DEPARTMENT's Financial Manager may require a list of items included in the indirect rate at any time.

MINORITY AND WOMEN'S BUSINESS PARTICIPATION

The RECIPIENT agrees to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

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

- a) Include qualified minority and women's businesses on solicitation lists.
- b) Assure that qualified minority and women's businesses are solicited whenever they are potential sources of services or supplies.
- c) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- d) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- e) Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

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

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

PAYMENT REQUEST SUBMITTALS

Frequency. The RECIPIENT must submit payment requests at least quarterly but no more often than monthly, unless allowed by the DEPARTMENT's Financial Manager. The DEPARTMENT's Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.

Supporting Documentation. The RECIPIENT must submit all payment request vouchers and supportive documentation to the DEPARTMENT's Financial Manager. Payment request voucher submittals are based on match requirements found in the budget.

Required Forms.

Any Match Combination

Cash Only Match

Where Applicable

| | | |
|----------------------------------|----------------------------------|---------------------|
| Form A19-1A (original signature) | Form A19-1A (original signature) | Form E (ECY 060-12) |
| Form B1 (ECY 060-3) | Form B2 (ECY 060-7) | Form F (ECY 060-13) |
| Form C1 (ECY 060-8) | Form C2 (ECY 060-9) | Form H (F-21) |
| Form D (ECY 060-11) | Form D (ECY 060-11) | Form I (ECY 060-15) |

Reporting eligible costs. The RECIPIENT must report all eligible costs incurred on the project, regardless of the source of funding for those costs. This includes costs used as match. All eligible and ineligible project costs must be separate and identifiable.

Reimbursements. Payments will be made on a cost-reimbursable basis.

POST PROJECT ASSESSMENT

The RECIPIENT agrees to submit a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project three years after project completion.

The DEPARTMENT's Water Quality Program Performance Measures Lead will contact the RECIPIENT before the Post Project Assessment date to request this data.

The DEPARTMENT may also conduct site interviews and inspections, and may otherwise evaluate the Project, as part of this assessment.

PROCUREMENT

The RECIPIENT certifies by signing this agreement that all applicable requirements have been satisfied in the procurement of any professional services.

PROGRESS REPORTS

The RECIPIENT must submit quarterly progress reports to the DEPARTMENT's Financial Manger and Project Manager. Payment requests will not be processed without a progress report.

Reporting Periods.

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

Reporting Due Date. Quarterly progress reports are due 15 days following the end of the quarter.

Report Content. At a minimum, all progress reports must contain a comparison of actual accomplishments to the objectives established for the period, the reasons for delay if established objectives were not met, analysis and explanation of any cost overruns, and any additional pertinent information specified in this agreement. The recipient must also attach all landowner agreements signed during the respective quarter to each progress report.

REQUIRED DOCUMENT SUBMITTALS

The RECIPIENT must submit the following documents to the DEPARTMENT as requested by the DEPARTMENT's Project Manager or Financial Manager:

- Draft project completion reports – up to 3 copies
- Electronic copy of final project completion report – 1 copy
- Final project completion reports – up to 8 copies
- Final project completion reports of statewide significance – up to 50 copies
- Educational products developed under this agreement – up to 2 copies
- Documents that require DEPARTMENT Approval – 2 copies (one for the DEPARTMENT and one for the RECIPIENT)
- Interlocal agreements – 1 copy for the DEPARTMENT's Financial Manager
- Professional services procurement agreements – 1 copy to the DEPARTMENT's Financial Manager

WATER QUALITY MONITORING

Quality Assurance Project Plan (QAPP). Prior to initiating water quality monitoring activities, the RECIPIENT must prepare a Quality Assurance Project Plan (QAPP). The QAPP must follow Ecology's *Guidelines and Specifications for Preparing Quality Assurance Project Plans for Environmental Studies*, February 2001 (Ecology Publication No. 01-03-003). The applicant may also reference the *Technical Guidance for Assessing the Quality of Aquatic Environments*, revised February 1994 (Ecology Publication No. 91-78) or more current revision, in developing the QAPP.

The RECIPIENT must submit the QAPP to Ecology's project manager for review, comment, and must be approved before starting the environmental monitoring activities.

The RECIPIENT must use an environmental laboratory accredited by Ecology to analyze water samples for all parameters to be analyzed that require bench testing. Information on currently accredited laboratories and the accreditation process is provided on the Department of Ecology's Environmental Assessment Program's website, available at:

<http://www.ecy.wa.gov/programs/eap/labs/search.html>

The RECIPIENT should manage all monitoring data collected or acquired under this agreement in order to be available to secondary users and meet the "ten-year rule." The ten-year rule means that data documentation is sufficient to allow an individual not directly familiar with the specific monitoring effort to understand the purpose of the data set, methods used, results obtained, and quality assurance measures taken ten years after data are collected.

Monitoring Data Submittal / Environmental Information Management System. Funding recipients that collect water quality monitoring data must submit all data to Ecology through the Environmental Information Management System (EIM). Data must be submitted by following instructions on the EIM website, currently available at:

<http://www.ecy.wa.gov/eim>

The data submittal portion of the EIM website provides information and help on formats and requirements for submitting tabular data. Specific questions about data submittal can be directed to the EIM Data Coordinator, currently available at:

eim_data_coordinator@ecy.wa.gov

If GIS data is collected, Ecology data standards are encouraged. An Ecology Focus Sheet entitled *GIS Data and Ecology Grants* (Publication No. 98-1812-SEA) outlines the standards. Common standards must be used for infrastructure details, such as geographic names, Geographic Information System (GIS) coverage, list of methods, and reference tables.

**ATTACHMENT II: GENERAL TERMS AND CONDITIONS PERTAINING TO
GRANT AND LOAN AGREEMENTS OF THE DEPARTMENT OF ECOLOGY**

A. RECIPIENT PERFORMANCE

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

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

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

C. THIRD PARTY BENEFICIARY

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

D. CONTRACTING FOR SERVICES (BIDDING)

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

E. ASSIGNMENTS

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

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits. Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.
2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.
3. Wages And Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

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

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object. All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

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

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.
3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.
4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$500,000 or more in a year in Federal funds. The \$500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted. Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for

each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer. The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work.

Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.
3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.
5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.
6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

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

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys,

drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

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

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

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

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

L. WAIVER

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

M. PROPERTY RIGHTS

1. **Copyrights and Patents.** When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes. Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.
2. **Publications.** When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.
4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the B-4 DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:
 - a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
 - b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.
6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

N. SUSTAINABLE PRODUCTS

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

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform. Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in

Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the

RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

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

Q. DISPUTES

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

representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

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

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all

injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

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

U. SEVERABILITY

If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

V. PRECEDENCE

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

SS-010 Rev. 04/04



Subject: (CPP 0914) Donkey Creek / Austin Estuary Restoration and Transportation Improvements Project – Consultant Services Contract / Final Concept Selection, Preliminary Design and Environmental Permitting Services

Proposed Council Action: Authorize the Mayor to execute a Consultant Services Contract with Murray, Smith & Associates, Inc. in the amount of \$172,364 with a management reserve fund of \$12,000 for a total amount not to exceed \$184,364.

Dept. Origin: Engineering
Prepared by: Emily Appleton, P.E.
Senior Engineer
For Agenda of: September 27, 2010

Exhibits: Consultant Contract and Exhibits

| | |
|--|----------------------------|
| | Initial & Date |
| Concurred by Mayor: | <i>SLH 9/29/10</i> |
| Approved by City Administrator: | <i>RJK 9/24/10</i> |
| Approved as to form by City Atty: | <i>OK per email</i> |
| Approved by Finance Director: | <i>JDF 9/24/10</i> |
| Approved by Department Head: | <i>[Signature] 9/24/10</i> |

| | | | | | |
|----------------------|-----------|-----------------|--------------------------------------|------------------------|-----------|
| Expenditure Required | \$184,364 | Amount Budgeted | ** see "Fiscal Consideration" | Appropriation Required | \$184,364 |
|----------------------|-----------|-----------------|--------------------------------------|------------------------|-----------|

INFORMATION / BACKGROUND

In November of 2006, the City entered into an agreement with the Gig Harbor Peninsula Historical Society (GHPHS) which resulted in the City purchase of a conservation easement over GHPHS property in 2009. The conservation easement was required in order to pursue restoration of Donkey Creek and improvements located within the nearby Austin Estuary.

The City of Gig Harbor received a grant and an appropriation to perform restoration work at Donkey Creek and Austin Estuary, administered by the United States Fish and Wildlife (USF&W) and the Washington State Recreation and Conservation Office (RCO), respectively. The restoration work includes a trail that connects Austin Estuary Park through the Museum site to Donkey Creek Park.

In 2010, work started on developing conceptual designs for the restoration project. The work on the original restoration project did not include a significant transportation element, as funding had not yet been secured to consider associated roadway or pedestrian improvements within the right-of-way.

The City has since received confirmation that a third grant through the United States Housing and Urban Development (HUD) will be awarded for design and construction of improvements to increase safety and improve circulation in the right-of-way near the restoration work. To maximize available funding, the City intends to combine the three grants with additional funds from the City's Stormwater Capital account to complete the restoration, the scope of which now includes stormwater and transportation improvements. Please see the funding summary table, below:

| Source | Administered By: | Agreement No. | Award Amount | Scope | Project Split |
|----------------------|--|---------------|---------------------|---|----------------|
| Federal | United States Fish and Wildlife (USF&W) | 13320-A-G004 | \$800,000 | Creek restoration and fish habitat | 28.22% |
| Federal | Housing and Urban Development (HUD) | pending | \$1,410,000 | Transportation improvements and pedestrian safety | 49.74% |
| State | Recreation and Conservation Office (RCO) | 06-1916C | \$325,000 | Austin Estuary Restoration | 11.46% |
| Local | City Stormwater Capital Fund - proposed 2011 Budget; and/or future Street and Park Capital Funds | n/a | \$300,000 | Improvements to alleviate flooding and maintenance issues | 10.58% |
| TOTAL FUNDING | | | \$2,835,000* | | 100.00% |

* Estimate as of September 24, 2010

A Request for Qualifications (RFQ) to solicit consultants for the revised project scope was issued in August and staff interviewed three firms on August 18th, 2010. Murray, Smith and Associates (MSA) was selected as the most qualified firm to perform the work. MSA will build upon previously completed work, refine the project components, help the City select the preferred alternative within budget and property constraints, and facilitate HUD permitting requirements. The final negotiated contract amount is \$184,364 which includes \$12,000 for additional work, to be spent only if necessary and authorized by the City Engineer.

This phase of work must be completed prior to December 31, 2010 in order to meet HUD funding requirements. Future phases will be negotiated as amendments under this contract and brought forward for Council authorization.

FISCAL CONSIDERATION

**Funding for this phase of work will be in the form of reimbursement of expenses through the Washington State Recreation and Conservation Office (RCO) grant fund, a US Fish & Wildlife appropriation and a HUD appropriation. Now that the flow of grant funding is secured, the City will follow up with a budget amendment to appropriate the grant revenue and corresponding expenditures.

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to execute a Consultant Services Contract with Murray, Smith and Associates, Inc. in the amount of \$172,364 with a management reserve fund of \$12,000 for a total amount not to exceed **\$184,364**.

Local Agency Standard Consultant Agreement

| | |
|--|---|
| <p>Local Agency Standard Consultant Agreement</p> <p><input checked="" type="checkbox"/> Architectural/Engineering Agreement <input type="checkbox"/> Personal Services Agreement</p> <p>Agreement Number _____</p> <p>Federal Aid Number _____</p> <p>Agreement Type (Choose one)</p> <p><input type="checkbox"/> Lump Sum Lump Sum Amount \$ _____</p> <p><input type="checkbox"/> Cost Plus Fixed Fee</p> <p>Overhead Progress Payment Rate _____ % Overhead Cost Method _____</p> <p><input type="checkbox"/> Actual Cost _____ % <input type="checkbox"/> Actual Cost Not To Exceed _____ % <input type="checkbox"/> Fixed Overhead Rate _____ %</p> <p>Fixed Fee \$ _____</p> <p><input checked="" type="checkbox"/> Specific Rates Of Pay</p> <p><input checked="" type="checkbox"/> Negotiated Hourly Rate <input type="checkbox"/> Provisional Hourly Rate</p> <p><input type="checkbox"/> Cost Per Unit of Work</p> | <p>Consultant/Address/Telephone Murray, Smith & Associates, Inc. 1119 Pacific Avenue, Suite 1202 Tacoma, WA 98402</p> <hr/> <p>Project Title And Work Description Donkey Creek / Austin Estuary Restoration and Roads Project CPP-0914</p> <hr/> <p>DBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No _____ %</p> <hr/> <p>Federal ID Number or Social Security Number _____</p> <hr/> <p>Do you require a 1099 for IRS? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Completion Date 12-31-10</p> <hr/> <p>Total Amount Authorized \$ 172,366.00</p> <p>Management Reserve Fund \$ 12,000.00</p> <hr/> <p>Maximum Amount Payable \$ 184,366.00</p> |
|--|---|

Index of Exhibits (Check all that apply):

| | |
|---|---|
| <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Exhibit A-1 Scope of Work <input type="checkbox"/> Exhibit A-2 Task Order Agreement <input type="checkbox"/> Exhibit B-1 DBE Utilization Certification <input type="checkbox"/> Exhibit C Electronic Exchange of Data <input type="checkbox"/> Exhibit D-1 Payment - Lump Sum <input type="checkbox"/> Exhibit D-2 Payment - Cost Plus <input checked="" type="checkbox"/> Exhibit D-3 Payment - Hourly Rate <input type="checkbox"/> Exhibit D-4 Payment - Provisional <input checked="" type="checkbox"/> Exhibit E-1 Fee - Lump/Fixed/Unit <input checked="" type="checkbox"/> Exhibit E-2 Fee - Specific Rates <input checked="" type="checkbox"/> Exhibit F Overhead Cost <input checked="" type="checkbox"/> Exhibit G Subcontracted Work <input checked="" type="checkbox"/> Exhibit G-1 Subconsultant Fee | <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Exhibit G-2 Fee-Sub Specific Rates <input checked="" type="checkbox"/> Exhibit G-3 Sub Overhead Cost <input type="checkbox"/> Exhibit H Title VI Assurances <input type="checkbox"/> Exhibit I Payment Upon Termination of Agreement <input type="checkbox"/> Exhibit J Alleged Consultant Design Error Procedures <input type="checkbox"/> Exhibit K Consultant Claim Procedures <input type="checkbox"/> Exhibit L Liability Insurance Increase <input checked="" type="checkbox"/> Exhibit M-1a Consultant Certification <input checked="" type="checkbox"/> Exhibit M-1b Agency Official Certification <input checked="" type="checkbox"/> Exhibit M-2 Certification - Primary <input checked="" type="checkbox"/> Exhibit M-3 Lobbying Certification <input checked="" type="checkbox"/> Exhibit M-4 Pricing Data Certification <input type="checkbox"/> App. 31.910 Supplemental Signature Page |
|---|---|

THIS AGREEMENT, made and entered into this _____ day of September, 2010,
between the Local Agency of City of Gig Harbor, Washington, hereinafter called the "AGENCY",
and the above organization hereinafter called the "CONSULTANT".

DOT Form 140-089 EF
Revised 3/2008

WITNESSETH THAT:

WHEREAS, the AGENCY desires to accomplish the above referenced project, and

WHEREAS, the AGENCY does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the PROJECT; and

WHEREAS, the CONSULTANT represents that he/she is in compliance with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish Consulting services to the AGENCY,

NOW THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I General Description of Work

The work under this AGREEMENT shall consist of the above described work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor, and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

II Scope of Work

The Scope of Work and projected level of effort required for this PROJECT is detailed in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT.

III General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress and presentation meetings with the AGENCY and/or such Federal, State, Community, City or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

The CONSULTANT, and each SUBCONSULTANT, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT, and each SUBCONSULTANT, shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT that may result in the termination of this AGREEMENT.

Participation for Disadvantaged Business Enterprises (DBE), if required, per 49 CFR Part 26, or participation of Minority Business Enterprises (MBE), and Women Business Enterprises (WBE), shall be shown on the heading of this AGREEMENT. If D/M/WBE firms are utilized, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made a part of this AGREEMENT. If the Prime CONSULTANT is a DBE firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY'S "DBE Program Participation Plan". The mandatory DBE participation goals of the AGREEMENT are those established by the WSDOT'S Highway and Local Programs Project Development Engineer in consultation with the AGENCY.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for this PROJECT, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

IV Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY.

All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD or governmental actions or other conditions beyond the control of the CONSULTANT. A prior supplemental agreement issued by the AGENCY is required to extend the established completion time.

V Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided in Exhibit "D" attached hereto, and by reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A post audit may be performed on this AGREEMENT. The need for a post audit will be determined by the State Auditor, WSDOT External Audit Office and/or at the request of the AGENCY'S PROJECT Manager.

VI Sub-Contracting

The AGENCY permits sub-contracts for those items of work as shown in Exhibit "G" attached hereto and by this reference made part of this AGREEMENT.

Compensation for this sub-consultant work shall be based on the cost factors shown on Exhibit "G."

The work of the sub-consultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the sub-consultant shall be substantiated in the same manner as outlined in Section V. All sub-contracts shall contain all applicable provisions of this AGREEMENT.

With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. No permission for sub-contracting shall create, between the AGENCY and sub-contractor, any contract or any other relationship. A DBE certified sub-consultant is required to perform a minimum amount of their sub-contracted agreement that is established by the WSDOT Highways and Local Programs Project Development Engineer in consultation with the AGENCY.

VII Employment

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a

third party as a consequence of any act or omission on the part of the CONSULTANT'S employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the United States Department of Transportation, or the STATE, or the AGENCY, except regularly retired employees, without written consent of the public employer of such person.

VIII Nondiscrimination

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following laws and regulations:

Title VI of the Civil Rights Act of 1964
(42 USC Chapter 21 Subchapter V Section 2000d through 2000d-4a)

Federal-aid Highway Act of 1973
(23 USC Chapter 3 Section 324)

Rehabilitation Act of 1973
(29 USC Chapter 16 Subchapter V Section 794)

Age Discrimination Act of 1975
(42 USC Chapter 76 Section 6101 et seq.)

Civil Rights Restoration Act of 1987
(Public Law 100-259)

American with Disabilities Act of 1990
(42 USC Chapter 126 Section 12101 et. seq.)

49 CFR Part 21

23 CFR Part 200

RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "H" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "H" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT as shown in Exhibit "T" for the type of AGREEMENT used.

No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the Notice to Terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In such an event, the amount to be paid shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the work performed at the time of termination.

Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth above.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT'S failure to perform is without the CONSULTANT'S or its employee's default or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

In the event of the death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the PROJECT, or dissolution of the partnership, termination of the corporation, or disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of this AGREEMENT, if requested to do so by the AGENCY. This subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the AGENCY, if the AGENCY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the AGENCY'S concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X Changes of Work

The CONSULTANT shall make such changes and revisions in the complete work of this AGREEMENT as necessary to correct errors appearing therein, when required to do so by the AGENCY, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under Section XIV.

XI Disputes

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the AGENCY shall be referred for determination to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided, however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to de novo judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J", and disputes concerning claims will be conducted under the procedures found in Exhibit "K".

XII Venue, Applicable Law, and Personal Jurisdiction

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action shall be initiated in the Superior court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the Superior court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior court of the State of Washington, situated in the county in which the AGENCY is located.

XIII Legal Relations

The CONSULTANT shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this AGREEMENT. This contract shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall indemnify and hold the AGENCY and the STATE and its officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the CONSULTANT'S negligence or breach of any of its obligations under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify the AGENCY or the STATE against and hold harmless the AGENCY or the STATE from claims, demands or suits based solely upon the conduct of the AGENCY or the STATE, their agents, officers and employees; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT'S agents or employees, and (b) the AGENCY or the STATE, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence (2) the costs to the AGENCY or the STATE of defending such claims and suits shall be valid and enforceable only to the extent of the CONSULTANT'S negligence or the negligence of the CONSULTANT'S agents or employees.

The CONSULTANT'S relation to the AGENCY shall be at all times as an independent contractor.

The CONSULTANT shall comply with all applicable sections of the applicable Ethics Laws, including RCW 42.23, which is the Code of Ethics for regulating contract interest by municipal officers. The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT'S own employees against the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW.

Unless otherwise specified in the AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the PROJECT. Subject to the processing of a new sole source, or an acceptable supplemental agreement, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of the AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability and property damage insurance in an aggregate amount not less than two million dollars (\$2,000,000) for bodily injury, including death and property damage. The per occurrence amount shall not exceed one million dollars (\$1,000,000).
- C. Vehicle liability insurance for any automobile used in an amount not less than a one million dollar (\$1,000,000) combined single limit.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance secured by the CONSULTANT, the AGENCY will be named on all policies as an additional insured. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by the AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to the AGENCY.

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT'S professional liability to the AGENCY shall be limited to the amount payable under this AGREEMENT or one million (\$1,000,000) dollars, whichever is the greater, unless modified by Exhibit "L". In no case shall the CONSULTANT'S professional liability to third parties be limited in any way.

The AGENCY will pay no progress payments under Section V until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY and the STATE may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIV Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the AGENCY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment", hereafter referred to as "CLAIM", under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of the AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A) and (B) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XV Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XVI Federal and State Review

The Federal Highway Administration and the Washington State Department of Transportation shall have the right to participate in the review or examination of the work in progress.

XVII Certification of the Consultant and the Agency

Attached hereto as Exhibit "M-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "M-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "M-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "M-4" Certificate of Current Cost or Pricing Data. Exhibit "M-3" is required only in AGREEMENTS over \$100,000 and Exhibit "M-4" is required only in AGREEMENTS over \$500,000.

XVIII Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

XIX Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

By _____ By _____

Consultant _____ Agency _____

EXHIBIT "A-1"
CITY OF GIG HARBOR
DONKEY CREEK AND AUSTIN ESTUARY RESTORATION AND ROADS
PROJECT
PHASE 1 ENGINEERING SERVICES
SCOPE OF WORK

The proposed scope of services presented below describes the Engineer's proposed work program, which has been developed to meet the City of Gig Harbor's (City) planned timeline and project goals. The proposed scope of services has been prepared in connection with the proposal submitted by Murray, Smith & Associates, Inc. (MSA) in response to the City's Request for Proposals for the Donkey Creek/Austin Estuary Restoration and Roads project.

The following firms and their key roles/responsibilities have been identified to complete the work.

Table 1
Team Member Roles and Responsibilities Summary

| Team Member | Role/Responsibility |
|--------------------------------------|---|
| Murray, Smith & Associates, Inc. | Overall Program and Project Manager/General Civil Engineering |
| ESA Adolfson, Inc. | Environmental Design and Permitting Assistance |
| Transportation Solutions, Inc. | Traffic Analyses |
| Associated Earth Sciences, Inc. | Geotechnical Investigation |
| KPFF, Inc. | Structural Engineering |
| Touma Engineers and Surveyors, PLLC. | Surveying |
| Cultural Resource Consultants, Inc. | Cultural Resource Investigation |

Primary contacts for this project will be between City staff and staff at MSA. Contacts for the City of Gig Harbor will be Steve Misuirak, P.E., Emily Appleton, P.E. and Marcos McGraw. Primary contacts for MSA will be Chris Uber, P.E. and Marshall Meyer, P.E. Subconsultant communication will generally be through MSA.

The work program is structured into multiple phases. Phase 1 includes work to identify a final alternative to move forward into final design. The second phase of the project will include final design and final permitting work required to develop bid ready documents and permits required to begin constructing the selected design alternative. The scope of work and fee estimate for Phase 2 tasks will be fully detailed as Phase 1 tasks are completed and will be based on the final design needs of the selected alternative. The tasks in Phase 2 will not be authorized as part of this scope of work and proposal. Phase 1 work includes:

- Evaluating and selecting the preferred alternative
- Performing a "Fatal Flaws" analysis of the design alternatives

- Completing design surveys
- Performing critical areas delineation
- Performing critical areas study
- Completing design level geotechnical investigations
- Advancing project permitting to allow final designs to begin
- Completing design to the 30 percent design completion level
- Funding application preparation and assistance including assistance with completing the application for the transportation funding
- Cost estimation for all prospective alternatives

Phase 1 includes the following tasks:

Phase 1 – Data Gathering and Alternatives Development

Task 1 – Project Management and Coordination. Work under this task includes the project coordination and project management work elements. Included in this task are project communications, meetings, subconsultant coordination and communications, project invoicing and overall project management. Key elements of this task include:

- 1.1 Project startup and overall project management.
- 1.2 Progress meetings and coordination with City, regulators, funding agencies and permitting agencies. This also includes corresponding with Tribal and other agencies for cultural resource investigational work.

Task 2 – Data Gathering. Work under this task includes coordinating with City staff to obtain data and work product already developed for the project. The City has previously developed several design alternatives, most of which have an estimated construction cost above the City's established budget. The data collected will serve to further refine project components and alternatives. The design team will utilize the existing information as much as possible to quickly assist with identification of a preferred alternative. If a preferred alternative is selected early in the process, effort and associated budget will be shifted to preliminary design tasks. It is assumed that up to four site visits and meetings will be conducted by MSA staff as part of this task. Key elements of this task include:

- 2.1 Coordinate with City staff to obtain existing data including existing alternatives development/evaluation/documentation, existing cost information, documentation of previous decisions, documentation of all previous analyses and planning work, existing funding documentation, existing/previous permitting work documentation and existing traffic analyses work completed for the project area. Work under this task will also include assembling historical collision statistics, field investigation to include inventory of existing physical and traffic flow conditions and sightline evaluation and inventory bicycle, pedestrian, transit, and on-street parking activity levels.

- 2.2 Review data provided and coordinate with City staff for any additional data needed.
- 2.3 Utility locating and field surveying for additional areas not originally surveyed including the intersection of Austin Street and Harborview Drive, the west-bound lane of Austin Street between North Harborview Drive and Harborview Drive and the intersection of Harborview Drive and North Harborview Drive to create a complete site base map. The survey will also confirm existing survey data along North Harborview Drive, Donkey Creek Park, the Harbor History Museum site and Austin Estuary Park. Survey confirmation will consist of surveying a few topographical features and utilizing the existing survey CADD files to confirm field conditions match survey files. The surveying will be prepared by Touma Engineers and Surveyors.
- 2.4 Geotechnical investigation and evaluation to determine existing soil characteristics and offer recommendations regarding improvements required for retaining walls, rockeries, stream bank armoring and roadway improvements. All geotechnical investigation work will be completed by Associated Earth Sciences, Inc. (AESI) and will supplement the previous limited investigation work completed by HWA Geosciences, which are understood to have not included any subsurface borings or test pits. It is currently anticipated that this project will require retaining walls, either permanent or for shoring and as such, a more thorough geotechnical investigation is required. The anticipated boring locations, depths and purposes are summarized in Table 2.

Table 2
Geotechnical Investigation Summary

| Boring No. | Depth (ft.) | Boring Location | Purpose |
|-------------------|--------------------|---|--|
| 1 | Up to 15 | Intersection of Harborview Drive and Austin Street | Evaluate subsurface conditions at north and south corners on intersection of Austin Street and Harborview Drive where road widening may be required. |
| 2 | Up to 10 | Austin Street between Harborview Drive and North Harborview Drive | Evaluate subsurface conditions beneath Austin Street to provide recommendations for pavement design related to Austin Street improvements. |
| 3 & 4 | Up to 70 | Intersection of North Harborview Drive and Austin Street | Evaluate subsurface conditions in the vicinity of the proposed culvert beneath North Harborview Drive. |
| 5 & 6 | Up to 50 | North property line of Harbor History Museum site | Evaluate subsurface conditions along the south side of the proposed creek channel where retaining walls to a height of 14 feet are anticipated. |
| 7 | Up to 10 | Northeast corner of Harbor History Museum site | Evaluate subsurface conditions in the vicinity of the proposed 8-foot wide trail along the eastern edge of the project |
| 8 & 9 | Up to 10 | Intersection of Harborview Drive and Austin Street | Evaluate subsurface conditions at southeast corner of intersection of Austin Street and Harborview Drive where road widening may occur. |

In addition to the borings listed above, up to five test pits will be examined. The test pits will be excavated by the City concurrent with the boring work. The test pits will be excavated generally north of borings EB-4, EB-5, EB-6 and EB-7.

The findings of the geotechnical investigation will be summarized in a report. The report will include a site plan with exploration locations indicated; a summary of the subsurface observations, interpretive exploration logs, discussion of the stability of the northerly slope and potential impact on the project site, preliminary recommendations for pavement section thickness design for improvements to Austin Street, preliminary recommendations for structural fill support for the roadway near the intersection of Austin Street and Harborview Drive where road widening may be necessary, soil pressure diagrams for use in preliminary design of shoring, lateral earth pressure, passive resistance, and base friction coefficient for preliminary retaining wall design, preliminary recommendations for structural backfill, including lift thickness and compaction standard, recommendations for seismic design in accordance with the 2009 *International Building Code* (IBC), a discussion of liquefaction potential and preliminary recommendations for mitigation, where appropriate, opinion regarding the suitability of re-use of on-site soils for structural fill, general erosion control recommendations and wet weather construction considerations, and recommendations for further study, if warranted.

- 2.5 Cultural resources assessment including field work and in-office research. It is understood the project requires a US Army Corps of Engineers permit and, therefore, represents a Federal undertaking subject to compliance with Section 106 of the National Historic Preservation Act (NHPA). It is also understood that the Department of Housing and Urban Development (HUD) is providing significant federal funding for this project and will act as the lead Federal agency. The work items necessary to comply with NHPA are listed below and will be completed by Cultural Resource Consultants, Inc. (CRC). Previous cultural resource assessment work and inadvertent discovery plan (IDP) have been prepared for the Harbor History Museum site in 2007. In June 2008, significant changes were made to State law regarding the inadvertent discovery of human remains, which are not included in the existing IDP. Previous investigational work was also conducted for the Donkey Creek Park site in 2002. It appears that this information should meet current requirements and therefore should not need to be updated.

- 2.5.1 Background Research: CRC will conduct a search of site files recorded at Washington Department of Archaeology and Historic Preservation (DAHP); review of relevant correspondence between the project proponent, stakeholders and DAHP; and, review of pertinent environmental, archaeological, ethnographic and historical information appropriate to the project area. Traditional Cultural Properties (TCP) Consultation Assistance: Assist the City in consulting with Puyallup Tribe of Indians Historic Preservation Section to document the

presence and nature of TCPs within or adjacent to the Donkey Creek/Austin Estuary project area.

- 2.5.2 Tribal Contact: CRC will contact the cultural resources staff of the affected tribes.
- 2.5.3 Field Identification: CRC will provide a field investigation of the project location for identification of archaeological and historical resources and, if necessary, excavation of shovel test probes or other exploratory excavations in environments that might contain buried archaeological deposits. Field methods will be consistent with DAHP guidelines.
- 2.5.4 Documentation of Findings: CRC will document and record historic properties within the project area, including preparation of Washington State archaeological and/or historic site(s) forms. Documentation will be consistent with DAHP standards.
- 2.5.5 Cultural Resources Assessment Report: CRC will prepare a technical memo describing background research, field methods, results of investigations, and management recommendations. The report will provide supporting documentation of findings, including maps and photographs, inadvertent discovery plan and will conform to DAHP reporting standards. Report and support materials will be provided in hard copy and electronically.

2.6 Critical Area identification and delineation. Based on review of available information, it is understood that none of the existing data includes site specific wetland determinations or delineations of the ordinary high water mark (OHWM) as required by local, state, and federal regulations. Identify and flag the wetland boundaries and OHWM of Donkey Creek and tidal areas within the study area. Upland and wetland data plots will be established to collect hydrology, vegetation, and soils information, as needed. Mark wetland boundaries; data plot locations, and stream OHWM with survey flagging. Make visual observations of potential wetland areas or drainages outside of the study for the purposes of wetland and stream classification, and to assess if buffers of off-site sensitive areas extend beyond the proposed right-of-way (ROW) (200 feet beyond the study area). It is assumed the City will obtain right-of-entry for all parcels requiring wetland and/or stream delineations prior to conducting field work.

Deliverables

- 1. Existing site base map including property lines, easements, rights-of-way, topographical and utility (both above and below ground) information as well as tide levels, delineated critical area boundaries and DNR lease land limits.
- 2. Requests for information as required.

3. Preliminary geotechnical investigation report including preliminary recommendations for pavement section thickness design.
4. Cultural resources assessment report.
5. Inadvertent Discovery Plan
6. Copy of wetland determination data sheets and field sketch map.

Assumptions

1. For purposes of pavement thickness design, an assumed soil California Bearing Ration (CBR) value and City provided traffic index (TI) will be used.
2. This scope assumes that no more than one unrecorded archaeological site or one unrecorded historic site will be identified within the project area.
3. It is assumed that no more than ten (10) shovel test probes will be excavated. If extensive archaeological deposits are encountered or if additional shovel test probes are warranted within the project area it may be necessary to modify this scope of work to accommodate additional investigations for purposes of site identification.
4. It is assumed that the City will submit the prepared cultural resources assessment report to DAHP (cover page provided; however, the City should include their own cover letter requesting review) within 15 days of receipt of said report for review.
5. Because of recent changes in Washington State law, if human remains are found within the project area, all CRC field investigations will cease immediately, proper authorities will be notified and CRC will not resume field investigations until applicable state laws are addressed.

Task 3 – Alternatives Development, Evaluation and Selection of Preferred Alternative.

Under this task the MSA team will define project elements, alternatives for each element, and the probable construction costs of each alternative and evaluate complete alternative sets based on criteria determined by City. Data from previously identified alternatives will be used to the maximum extent possible for further developing and evaluating alternatives. It is anticipated that some alternatives may be eliminated early in this task, most likely when preparing preliminary opinions of cost and as such, more effort can be diverted to developing the preferred alternative.

The final preferred alternative set will be developed and selected with City staff in a workshop setting. The result of this workshop will be the selection of the final preferred alternative set that will be carried to final design.

Under this task work will be completed to approximately the 30 percent design completion level and will be documented in a preliminary design engineering report for review and comment by the City. Key elements of this task include:

- 3.1 Alternative data development. This task will include efforts to identify key project elements. Alternatives will be developed for each element and be assigned an associated budgetary cost. Project elements will be determined and categorized

considering existing funding sources and other factors. It is currently anticipated that there will be four project elements. The elements will represent a mix of independent and interdependent project components. Key work tasks for each project element are described below.

- 3.1.1 Creek Crossing Element: includes any culvert, bridge, street or pedestrian improvements above the creek along North Harborview Drive. The design team will identify up to three design alternatives for creek crossing. These alternatives will be determined through discussions with contractors, suppliers and City staff. The design team will provide preliminary, conceptual sketches to the City to convey the design intent of each alternative. Once the preferred alternative is selected, more detailed drawings will be developed for the preferred alternative.
- 3.1.2 Creek Day-lighting Element: includes removing the existing culvert and restoring the stream bed. This element may also include retaining walls, slope establishment and protection along Donkey Creek. Up to three design alternatives will be developed for this project element. The design team will provide preliminary, conceptual sketches to the City to convey the design intent of each alternative. Once the preferred alternative is selected, more detailed drawings will be developed for the preferred alternative.
- 3.1.3 Roadway Reconfiguration Element: includes traffic impact analyses for reconfiguration of traffic including. The previous Donkey Creek Restoration Project Traffic Analysis, prepared by Casseday Consulting, evaluated alternative designs for the future street network near Donkey Creek Park associated with the Donkey Creek/ Austin Estuary Restoration Project. This feasibility traffic analysis included year 2010 intersection operations based on current traffic volume counts; incorporated traffic volume distribution patterns developed through a travel demand model (concurrency) of the area without and with various design alternatives; recommended of three possible-feasible design alternatives; and noted traffic considerations during construction of the various alternatives. This task will identify existing and projected traffic counts for the project area and evaluate the traffic impact for up to three roadway configurations and/or traffic patterns under both existing and projected conditions. Transportation Solutions, Inc. (TSI) will perform the following tasks under this work item.
 - 3.1.3.1 Review and update the AM and PM peak hour Synchro analyses from Cassaday Consulting for the three roadway reconfiguration alternatives.
 - 3.1.3.2 Forecast future traffic volumes and model the alternative networks with SimTraffic. The design team will work with City

staff to identify an appropriate design year, verify forecasted traffic assumptions, and evaluate the future traffic operations to the agreed upon design year.

- 3.1.3.3 The proposed traffic analysis will refine the feasibility analysis to identify a preferred street network alternative for design. Evaluate existing and future traffic operations for each alternative including evaluating future pedestrian, bicycle, transit and on-street parking impacts. Evaluate traffic conditions under a staged construction plan.
- 3.1.3.4 Update ranking criteria, as needed, rank each alternative and select/ recommend preferred alternative.
- 3.1.3.5 Summarize findings into a technical report.
- 3.1.3.6 Prepare preliminary road channelization plans and traffic control plans for the preferred alternative.
- 3.1.3.7 Provide documentation supporting the preliminary channelization and traffic control plan designs.

The design team will provide preliminary, conceptual sketches to the City to convey the design intent of each alternative. Once the preferred alternative is selected, more detailed drawings will be developed for the preferred alternative.

- 3.1.4 Estuary Enhancement/Street face Improvements Element: includes work in Austin Estuary Park including any street face improvements and walking trail extension necessary. The design team will prepare up to three alternatives for this project element.
 - 3.1.4.1 Develop a pre-design study to daylight 300 feet of Donkey Creek and enhance the nearshore at Austin Estuary. The report will materially rely on previously developed design concepts and background information including assumptions on stream flow, sediment transport, and culvert capacity and sizing for this assessment. The purpose of the report will be to evaluate the range of previously identified options, select those elements that best work within the City's current property limitations and budget requirements, and recommend a "preferred alternative" that may be advanced to Preliminary Design. The Pre-design report will include a planning level cost estimate and an illustrative drawing for the recommended stream restoration alternative.

3.1.4.2 Develop a permit matrix for the preferred alternative with key milestones and approximate submittal dates that parallel various design stages of the project. Key technical issues and critical path items and summarize the information in tabular form for inclusion in the design study.

3.1.4.3 Once the preferred alternative is selected, prepare preliminary stream designs to daylight Donkey Creek and enhance the nearshore environment of Austin Estuary. The preliminary stream design will include drawings developed based on the 30 percent design level and a design technical memo. The preliminary stream design will incorporate a hydrologic and geomorphic analysis of how tidal influence may affect the currently freshwater dominated reaches of Donkey Creek. Develop a simple unsteady one dimensional model for the Donkey Creek downstream of Harborview Drive based on existing information and survey data. This investigation will also consider potential impacts to the salmon incubators in Donkey Creek Park. The design is anticipated to include earthwork, habitat structures, and native plantings. It is assumed that the design of modifications or replacements to the existing incubators and associated facilities would be by others.

The design team will provide preliminary, conceptual sketches to the City to convey the design intent of each alternative. Once the preferred alternative is selected, more detailed drawings will be developed for the preferred alternative.

3.2 Preliminary alternatives construction cost estimates. Design team members will coordinate with manufacturers, vendors, suppliers, contractors and existing bid tabulation data to determine and report opinions of probable construction costs for each project element alternative. These costs will be used in the City workshop to facilitate preferred alternative set selection. Cost opinions will be prepared following the AACE International Recommended Practice No. 17R-97: Cost Estimate Classification System and Recommend Practice No. 18R-97: Cost Estimate Classification System – as Applied in Engineering, Procurement, and Construction for the Process Industries.

3.3 Alternatives evaluation and City workshop. The final preferred alternative set will be developed from, and include, a combination of the four project elements. The elements and alternative sets developed in Task 3.1 will be presented and reviewed with the City in a workshop setting along with the associated costs developed in Task 3.2. It is assumed this will take place during one meeting with City and design team staff and will be no more than 4 hours long. It is also assumed that the selected alternatives will be identified at the end of this workshop to carry into design tasks. It is also assumed that the materials prepared for this workshop shall

include preliminary design calculations, preliminary sketches of design alternatives and preliminary cost opinions.

- 3.4 Preliminary alternatives technical memorandum. Prepare a technical memorandum generally describing each element alternative and its advantages and disadvantages. Also describe the associated costs, permitting requirements and general timelines for each alternative set. The memorandum will also document the alternative set selected for final design. Work from subconsultants will be incorporated into technical memorandum.

Deliverables

1. Conceptual level sketches of each project element design alternative.
2. Engineer’s opinion of probable construction cost for each project element alternative.
3. City workshop meeting agenda and minutes.
4. Preliminary Alternatives technical memorandum.

Task 4 – Preliminary Permitting Assistance. This task will identify permit requirements associated with up to three alternatives and to lead preliminary permitting tasks. The following environmental reviews or approvals may be necessary to construct the work depending on the alternative and construction methods necessary to complete the work. Items to be completed in Phase 1 of the project are identified in the right-most column of Table 3. Permitting efforts to take place in Phase 2 are identified as “Final Design” in the right-most column of Table 3. A more detailed discussion of each permit follows.

Table 3
Potential Permits Summary

| Lead Agency | Permits/Approvals/ Reviews | Application/ Documentation | Consultant Team Lead | Phase 1 or Final Design |
|--------------------|---|-----------------------------------|-----------------------------|--------------------------------|
| Corps of Engineers | Section 404/401/10 | JARPA (60%) | ESA Adolfson | Final Design |
| | 404(b)(1) Alternatives Analysis | n/a | ESA Adolfson | Final Design (if needed) |
| HUD | NEPA | DCE | ESA Adolfson | Phase 1 |
| | ESA Section 7 Review | BE | ESA Adolfson | Phase 1 |
| | Section 106 Review | APE Letter | CRC | Phase 1 |
| WDFW | HPA | JARPA (60%) | ESA Adolfson | Final Design |
| USFWS/ NMFS | Section 7 ESA Consultation/MSA Consultation | Final BE | ESA Adolfson | Final Design |
| WA Dept of Ecology | CZM Consistency Determination | CZM Form/Checklist | ESA Adolfson | Phase 1 |
| | Section 401 Water Quality Certification | JARPA (60%) | ESA Adolfson | Final Design |

**Table 3 (Continued)
Potential Permits Summary**

| Lead Agency | Permits/Approvals/Reviews | Application/Documentation | Consultant Team Lead | Phase 1 or Final Design |
|--------------------|--|--|----------------------|--------------------------|
| City of Gig Harbor | SEPA | Environmental Checklist | ESA Adolfson | Phase 1 |
| | Critical Areas Review | Critical Areas Study | ESA Adolfson | Phase 1 and Final Design |
| | Shoreline Substantial Development Permit | JARPA (60%) | ESA Adolfson | Final Design |
| | Shoreline Conditional Use Permit | JARPA (60%) Conditional Use Permit Application | ESA Adolfson | Final Design (if needed) |
| | Conditional Use Permit | Conditional Use Permit Application | ESA Adolfson | Final Design (if needed) |
| | Design Review | Design Review Application | ESA Adolfson | Final Design |
| | Flood Hazard Area Development Permit | Flood Hazard Permit Application | ESA Adolfson | Final Design |
| | Land Clearing Permit | Land Clearing and Grading Application- includes a tree survey. | ESA Adolfson | Final Design |

4.1 SEPA Checklist – For the purpose of this scope of work, it is assumed that the City of Gig Harbor will be the SEPA lead agency and that they will issue a SEPA determination consistent with their SEPA rules. Although an Environmental Impact Statement (EIS) may ultimately be required for this project, the preparation of an Environmental Checklist (Checklist) is currently assumed as the basis for determining a scope and cost estimate for this task. The City will be responsible for publishing and circulating the project Checklist and printing and installing the required SEPA notice.

To the extent practical, work necessary to complete the Environmental Checklist will be undertaken relying on previously completed environmental documentation from other projects and inventories provided by the City, including preliminary traffic studies, geotechnical reports, environmental site assessments, and critical areas reports, permit applications, and biological evaluations from earlier phases and adjoining parcels such as Murphy’s landing and the waste water treatment plant site provided prior to scoping. These existing materials will be augmented by project-specific predesign studies, traffic studies, critical areas studies, geotechnical analysis, and cultural resource assessment prepared completed under other tasks or subtasks. Preparation of the SEPA Checklist includes intra team coordination to include the background information, findings, and recommended mitigation measures in these

technical reports. This subtask includes the preparation of SEPA exhibits and submittal of a camera-ready checklist, which will be finalized by the City. At this time it is reasonable to assume that no additional studies would be necessary for the purpose of completing the Checklist. Should cooperating agencies be determined to be the SEPA lead agency or co-lead agencies for this project, additional coordination and document preparation may be required and will be negotiated separately.

- 4.2 Environmentally Critical Areas – Prepare a Critical Areas Study, which will include identification of wetlands and streams (delineated per Task 2), critical fish and wildlife habitat areas, and flood hazard areas, a preliminary discussion on potential impacts to critical areas and corresponding mitigation, habitat assessment and preliminary habitat management plan for use during project permitting for the project area. The Critical Areas Study for the Donkey Creek project will be based as much as possible on the critical areas study prepared in 2008 for the adjacent waste water treatment plant project. It is assumed that the stream classifications and functional assessment for Donkey Creek for the current project would be the same identified in the 2008 study. Other City-regulated critical areas including aquifer recharge areas, hillsides, ravine sidewalls and bluffs, landslide and erosion hazard areas, and seismic hazard areas will be addressed in the Geotechnical Report (Task 2). The Critical Areas Study will include the elements of a “Conceptual Phase” mitigation plan as outlined in GHMC 18.08.150(A)(1). The report will be submitted to the City with the SEPA checklist.
- 4.3 NEPA/DCE – The consultant team will prepare a NEPA Documented Categorical Exclusion (DCE) checklist for the proposed project per HUD guidelines. This scope of work assumes a DCE will be required. The actual NEPA compliance document will be dependent on the federal lead agency and design information not available at this time. The DCE materials will be completed per the guidance in effect at the time a notice to proceed is received by the project, adjusting for schedule limitations where necessary. The DCE shall include a CZM determination form.

Efforts for this task will rely on previously completed environmental documentation from other projects and inventories provided by the City to complete the NEPA review. This include preliminary traffic studies, geotechnical reports, environmental site assessments, and critical areas reports, permit applications, and biological evaluations from adjoining parcels provided prior to scoping. At this time it is reasonable to assume that these previously completed studies will be sufficient to complete the required NEPA review and that no additional studies would be necessary except those additional studies otherwise specifically identified in the scope of work for the project. This task anticipates that HUD will be the sole Federal lead agency. Should cooperating agencies be determined to be the Federal lead agency or co-lead agencies for this project, additional coordination and document preparation may be required and will be negotiated separately.

- 4.4 Biological Evaluation – Prepare a Biological Evaluation (BE), also termed Biological Assessment (BA) for the project based on the completed 30 percent design. The biological assessment will be prepared to support consultation efforts under Section 7 of the Endangered Species Act of 1973 (ESA) among the federal lead agency and Services. The design team will rely on the BE provided by the City for the adjoining Murphy’s Landing project to provide site-specific information regarding species utilization and existing Properly Functioning Conditions within the project vicinity; however, Endangered Species Act requirements require that species information be reviewed and updated every 6 months and must be specific to the particular federal action. Therefore, although much of the information is likely to be unchanged from the Murphy’s Landing BE, it is assumed that it will be necessary to verify the existing data following Endangered Species Act requirements.

The BE will be submitted to the Federal Lead Agency and will include a narrative of the project based on the 30 percent design. Based on the determinations from the Murphy’s Landing BE, it is assumed that the project can be designed and constructed in such a manner that the project will qualify for a May Affect, Not Likely to Adversely Affect determination. Specifically, it is assumed that the project can be designed to meet current surface water quality standards and National Marine Fisheries Service guidelines in terms of water quality treatment and load limits for nutrients, metals, and organics. Work to support formal consultation with the Services is not included in this task.

Deliverables

1. Monthly progress reports (submitted with monthly invoice).
2. Data sheets, wetland rating forms (if necessary) and wetland and stream descriptions and classifications.
3. Draft and Final Restoration Pre-design Report on Donkey Creek daylighting.
4. Draft and Final Permit matrix for up to three project alternatives.
5. Draft and Final SEPA Checklist.
6. Draft and Final DCE Form.
7. Draft and Final CZM Form.
8. Draft and Final Biological Evaluation.

Assumptions

1. A “Detail Phase” (per GHMC 18.08.150(A)(2) Mitigation Plan will not be required for Phase 1. The scope of work does not include preparation of “Detail Phase” mitigation plan.

2. The number of copies of applications and supporting documentation identified on the application forms, plus two additional copies will be submitted for the project files. The City shall be responsible for additional copies. The City shall be responsible for distributing permit materials and the publication of any required notifications.
3. The City shall be responsible for all permit fees or third-party review fees.
4. The City will secure rights-of-entry as necessary to access the project area.
5. The City will acquire R/W and easements necessary for construction of the project.
6. The City will be the lead for all negotiations with utilities and adjoining property owners' ties regarding construction.
7. The City will sign and be responsible for delivering all permit applications.
8. The City will be responsible for forwarding all permit-related correspondence to consultant team in a timely manner.
9. Additional work required to address requests for additional information beyond the submittal of the specified materials are not included in this scope of work.
10. The City will be responsible for publishing all notices required by the approving agencies.
11. The City shall produce and install the SEPA notice sign.
12. The City will be the sole SEPA lead agency.
13. A SEPA EIS is not included in this scope of work.
14. HUD will be the federal lead agency.
15. The DCE will not address any real property exchanges.
16. The DCE will not require any additional technical memoranda or discipline reports.
17. Preparation of a BE/BA to support a "may affect, likely to adversely affect" determination is not included herein.
18. Additional support for consultations between the Federal Lead Agency and the Services following submittal of the BE/BA to the services is not included herein.
19. If work cannot be designed to meet DCE criteria and/or avoid significant impacts an Environmental Assessment and/or Environmental Impact Statement may be required. This additional work is not included herein.
20. Unless specified in this scope, no other project specific discipline reports or technical memorandum are anticipated to be required in support of the NEPA or SEPA documentation process, but can be completed as an additional task(s), if required.

Phase 1 Fee Estimate

Table 4 presents a budget summary of Phase 1 work tasks with subconsultant budgets listed separately. MSA proposes to undertake and complete the above described work on a time and expenses basis in accordance with the City's proposed Local Agency Standard

Consultant Agreement format and calculated rates. A more detailed fee estimate and summary of hours is enclosed as Exhibit E.

**Table 4
Fee Estimate Summary**

| Phase 1 - Data Gathering and Alternatives Development | |
|--|---------------------|
| MSA Services | Fee Estimate |
| Task 1 - Project Management and Coordination | \$ 10,073 |
| Task 2 - Data Gathering | \$ 8,003 |
| Task 3 - Alternatives Development, Evaluation and Selection | \$ 35,499 |
| Task 4 - Preliminary Permitting Assistance | \$ 4,199 |
| Phase 1 Total (MSA) | \$ 57,775 |
| | |
| Subconsultants Services | Fee Estimate |
| Geotechnical - AESI | \$ 29,500 |
| Environmental - ESA Adolphson | \$ 44,006 |
| Structural - KPFF | \$ 10,664 |
| Cultural Resources - Cultural Resource Consultants | \$ 4,750 |
| Surveying - Touma | \$ 9,880 |
| Traffic Analyses - TSI | \$ 15,791 |
| Phase 1 Subtotal (Subconsultants) | \$ 114,591 |
| | |
| PHASE 1 TOTAL (MSA & Subconsultants) | \$ 172,366 |

Phase 2 – Final Design and Permitting Assistance (Not Included in This Contract)

Work in Phase 2 includes completing the final design of the selected alternative set to ultimately prepare bid ready plans and specifications as well as preparing and submitting permit applications required for the project. Work in Phase 2 will not be included as part of the scope of services at this time, but may be authorized as a contract amendment. If so desired by the City, MSA will prepare a revised proposal and associated fee estimate for these tasks at that time. Key tasks of Phase 2 will include:

Task 5 – Final Design. Under this task the preliminary alternative set drawings will be advanced to detailed construction drawings suitable for public bidding. Project specifications will also be developed. The final project plans and specifications will be developed in accordance with the 2010 Washington State Department of Transportation Standard Specifications as well as incorporate the requirements of various permits and agency plan reviews. Submittal of the final design plans, specifications and cost estimates will be provided to the City at the 60 percent and 90 percent completion levels. Prior to submitting to the City for review, each design set will be subjected to MSA’s internal review for constructability, in addition to a thorough QA/QC review of the work. Key elements of this task include:

- 5.1 Design plans and specifications at 60 percent with updated cost estimates.
- 5.2 Design plans and specifications at 90 percent with updated cost estimates.
- 5.3 Constructability and QA/QC reviews.
- 5.4 City review of plans and specifications at 60 percent and 90 percent development.
- 5.5 Contract bid set with final design plans and specifications at 100 percent.

Task 6 – Final Permitting Assistance. Work under this task will finalize the permitting assistance activities in Task 4 of Phase 1. Subtasks will include:

- 6.1 Prepare 60% JARPA application for City Shoreline, Corps of Engineers, and Department of Ecology permits.
- 6.2 Prepare a 90% JARPA Application for Department of Fish and Wildlife Permits
- 6.3 Prepare a “Detailed Phase” mitigation plan per GHMC.

Task 7 – Public Information Program Assistance. Work under this task includes providing technical assistance in support of City’s public information and project communication programs. As part of this task MSA will develop project graphics and technical documents for use and distribution to the public as requested by the City. Key elements of this task include:

- 7.1 Attend City Council meeting to present selected design alternative.
- 7.2 Attend Public Informational Open House to provide technical information.

Phase 3 – Bidding and Award and Construction Management Assistance (Not Included in this Contract)

Work in Phase 3 will not be included as part of the scope of services at this time, but may be authorized as a contract amendment if the City desires. If so desired by the City, MSA will prepare a revised proposal and associated fee estimate for these tasks at that time. Key tasks of Phase 3 may include:

Task 8 – Bidding Assistance. If so desired by the City, MSA can assist the City as needed during the project bidding and award process. Key elements of this task may include:

- 8.1 Respond to bidders questions.

Task 9 – Construction Management Assistance. If so desired by the City, MSA can assist the City as needed during construction of the project. Key elements of this task may include:

- 9.1 Project administration services.

- 9.2 Attend pre-construction meeting and periodic progress meetings.
- 9.3 Review and comment on shop drawings, submittals and contractor's schedule.
- 9.4 Review and respond to requests for information (RFI) and change orders.
- 9.5 Review and assist with pay requests and on-site construction observation.
- 9.6 Final inspection and project close-out assistance, including separate post-project review and discussion with the City.
- 9.7 Prepare as-built drawings per City CAD standards.

Exhibit D-3

Payment (Negotiated Hourly Rate)

Exhibit D-3 Payment (Negotiated Hourly Rate)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

1. **Hourly Rates:** The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibit "E" and "F" attached hereto and by this reference made part of this AGREEMENT. The rates listed shall be applicable for the first twelve (12) month period and shall be subject to negotiation for the following twelve (12) month period upon request of the CONSULTANT or the AGENCY. If negotiations are not conducted for the second or subsequent twelve (12) month periods within ninety (90) days after completion of the previous period, the rates listed in this AGREEMENT, or subsequent written authorization(s) from the AGENCY shall be utilized. The rates are inclusive of direct salaries, payroll additives, overhead, and fee. The CONSULTANT shall maintain support data to verify the hours billed on the AGREEMENT.
2. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and sub-consultant costs.
 - a. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Costs."
 - b. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
 - c. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
 - d. All above charges must be necessary for the services provided under this AGREEMENT.
3. **Management Reserve Fund:** The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."

Exhibit D-3

4. **Maximum Total Amount Payable:** The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
5. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in 1 and 2 above. The monthly billing shall be supported by detailed statements for hours expended at the rates established in Exhibit "E", including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT'S employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
6. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

7. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, STATE and the United States, for a period of three (3) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

EXHIBIT E-1

Donkey Creek and Austin Estuary Restoration and Roads Project
City of Gig Harbor, Washington
PHASE 1 - PROPOSED FEE ESTIMATE
Exhibit E

| TASK | ESTIMATED FEES | | | | | | | | | | | | | | | | | | |
|--|---------------------------------|----------------------------------|------------------------------|------------------------|----------------------------|----------------|-----------------|--------------------|-----------------|------------------------|----------------|--------------|----------|----------|-----------|-------------------------|------------|-----------|------------|
| | Principal \$62.30 CHU/TJP | Engineer VI \$38.46 MGM | Engr. I \$25.96 JAK | Tech. \$29.33 SW | Clerical \$21.63 DAB | Total Hours | Direct Labor | Overhead 194.1% | Profit 12.0% | Total Labor Fees | Subconsultants | | | | | Total Subconsultants | Expenses | Total | |
| | | | | | | | | | | | AESI | ESA Adolfsen | CRC | Touma | KPFF | | | | TSI |
| Task 1 - Project Management and Coordination | | | | | | | | | | | | | | | | | | | |
| 1.1 - Project Startup and Overall Project Management | 16 | 24 | | | 6 | 46 | \$ 2,050 | \$ 3,978 | \$ 723 | \$ 6,751 | \$ - | \$ 2,383 | \$ - | \$ - | \$ 1,160 | \$ 2,945 | \$ 6,488 | \$ 50 | \$ 13,289 |
| 1.2 - Progress Meetings and Coordination with City | 8 | 12 | | | | 20 | \$ 960 | \$ 1,863 | \$ 339 | \$ 3,162 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 110 | \$ 3,272 |
| <i>Task 1 Subtotal</i> | 24 | 36 | 0 | 0 | 6 | 66 | \$ 3,010 | \$ 5,842 | \$ 1,062 | \$ 9,913 | \$ - | \$ 2,383 | \$ - | \$ - | \$ 1,160 | \$ 2,945 | \$ 6,488 | \$ 160 | \$ 16,561 |
| Task 2 - Data Gathering | | | | | | | | | | | | | | | | | | | |
| 2.1 - Coordinate with City Staff to Obtain Existing Data | 2 | 4 | | | 2 | 8 | \$ 322 | \$ 624 | \$ 114 | \$ 1,060 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 1,597 | \$ 1,597 | \$ 20 | \$ 2,677 |
| 2.2 - Review Data Provided | 4 | 8 | 8 | 4 | 2 | 26 | \$ 925 | \$ 1,796 | \$ 327 | \$ 3,047 | \$ - | \$ - | \$ - | \$ - | \$ 928 | \$ 223 | \$ 1,151 | \$ 78 | \$ 4,276 |
| 2.3 - Utility Locating and Field Surveying | | 2 | 4 | 8 | | 14 | \$ 415 | \$ 806 | \$ 147 | \$ 1,368 | \$ - | \$ - | \$ - | \$ 9,880 | \$ - | \$ - | \$ 9,880 | \$ 177 | \$ 11,425 |
| 2.4 - Geotechnical Investigation | | 4 | | | | 4 | \$ 154 | \$ 299 | \$ 54 | \$ 507 | \$ 29,500 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 29,500 | \$ 70 | \$ 30,077 |
| 2.5 - Cultural Resources Assessment Report | | 4 | | | 2 | 6 | \$ 197 | \$ 383 | \$ 70 | \$ 649 | \$ - | \$ - | \$ 4,750 | \$ - | \$ - | \$ - | \$ 4,750 | \$ 70 | \$ 5,469 |
| 2.6 - Critical Area Identification and Delineation | | 1 | 2 | 4 | 2 | 9 | \$ 251 | \$ 487 | \$ 89 | \$ 827 | \$ - | \$ 3,179 | \$ - | \$ - | \$ - | \$ - | \$ 3,179 | \$ 131 | \$ 4,136 |
| <i>Task 2 Subtotal</i> | 6 | 23 | 14 | 16 | 8 | 67 | \$ 2,264 | \$ 4,395 | \$ 799 | \$ 7,458 | \$ 29,500 | \$ 3,179 | \$ 4,750 | \$ 9,880 | \$ 928 | \$ 1,820 | \$ 50,057 | \$ 546 | \$ 58,060 |
| Task 3 - Alternatives Development, Evaluation and Selection | | | | | | | | | | | | | | | | | | | |
| 3.1 - Alternative Data Development | | | | | | | | | | | | | | | | | | | |
| 3.1.1 - Creek Crossing Element | 4 | 16 | 16 | 6 | 2 | 44 | \$ 1,499 | \$ 2,910 | \$ 529 | \$ 4,938 | \$ - | \$ - | \$ - | \$ 5,274 | \$ - | \$ 5,274 | \$ 200 | \$ 10,412 | |
| 3.1.2 - Creek Day-Lighting Element | 6 | 24 | 24 | 12 | 2 | 68 | \$ 2,315 | \$ 4,494 | \$ 817 | \$ 7,626 | \$ - | \$ 4,973 | \$ - | \$ - | \$ 2,316 | \$ - | \$ 7,289 | \$ 334 | \$ 15,249 |
| 3.1.3 - Roadway Reconfiguration Element | 4 | 16 | 12 | 8 | 2 | 42 | \$ 1,454 | \$ 2,822 | \$ 513 | \$ 4,789 | \$ - | \$ - | \$ - | \$ - | \$ 10,385 | \$ - | \$ 10,385 | \$ 263 | \$ 15,437 |
| 3.1.4 - Estuary Enhancement Element | 4 | 8 | 12 | 4 | 2 | 30 | \$ 1,029 | \$ 1,997 | \$ 363 | \$ 3,389 | \$ - | \$ 9,947 | \$ - | \$ - | \$ - | \$ - | \$ 9,947 | \$ 211 | \$ 13,547 |
| 3.2 - Preliminary Alternatives Construction Cost Estimates | 6 | 16 | 24 | 4 | 2 | 52 | \$ 1,773 | \$ 3,441 | \$ 626 | \$ 5,839 | \$ - | \$ - | \$ - | \$ - | \$ 988 | \$ - | \$ 988 | \$ 180 | \$ 7,007 |
| 3.3 - Alignment Alternatives Evaluation and City Workshop | 4 | 6 | 8 | | 2 | 20 | \$ 731 | \$ 1,419 | \$ 258 | \$ 2,408 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 146 | \$ 2,554 |
| 3.4 - Preliminary Alternatives Technical Memorandum | 4 | 24 | 8 | 2 | 4 | 42 | \$ 1,525 | \$ 2,960 | \$ 538 | \$ 5,024 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ 152 | \$ 5,176 |
| <i>Task 3 Subtotal</i> | 32 | 110 | 104 | 36 | 16 | 298 | \$ 10,326 | \$ 20,043 | \$ 3,644 | \$ 34,013 | \$ - | \$ 14,920 | \$ - | \$ - | \$ 8,578 | \$ 10,385 | \$ 33,883 | \$ 1,486 | \$ 69,382 |
| Task 4 - Preliminary Permitting Assistance | | | | | | | | | | | | | | | | | | | |
| 4.1 - SEPA Checklist | 1 | 2 | 2 | 1 | 1 | 7 | \$ 242 | \$ 470 | \$ 85 | \$ 797 | \$ - | \$ 5,509 | \$ - | \$ - | \$ - | \$ - | \$ 5,509 | \$ 20 | \$ 6,326 |
| 4.2 - Environmentally Critical Areas | 1 | 2 | 2 | 2 | 1 | 8 | \$ 271 | \$ 527 | \$ 96 | \$ 894 | \$ - | \$ 5,933 | \$ - | \$ - | \$ - | \$ - | \$ 5,933 | \$ 33 | \$ 6,860 |
| 4.3 - NEPA/DCE | 1 | 4 | 2 | 1 | 1 | 9 | \$ 319 | \$ 619 | \$ 113 | \$ 1,051 | \$ - | \$ 4,662 | \$ - | \$ - | \$ - | \$ 640 | \$ 5,302 | \$ 20 | \$ 6,372 |
| 4.4 - Biological Evaluation | 2 | 4 | 2 | 2 | 1 | 11 | \$ 411 | \$ 797 | \$ 145 | \$ 1,353 | \$ - | \$ 7,417 | \$ - | \$ - | \$ - | \$ - | \$ 7,417 | \$ 33 | \$ 8,802 |
| <i>Task 4 Subtotal</i> | 5 | 12 | 8 | 6 | 4 | 35 | \$ 1,243 | \$ 2,413 | \$ 439 | \$ 4,095 | \$ - | \$ 23,521 | \$ - | \$ - | \$ - | \$ 640 | \$ 24,161 | \$ 104 | \$ 28,360 |
| TOTAL - ALL TASKS | 67 | 181 | 126 | 58 | 34 | 466 | \$ 16,843 | \$ 32,692 | \$ 5,944 | \$ 55,479 | \$ 29,500 | \$ 44,003 | \$ 4,750 | \$ 9,880 | \$ 10,666 | \$ 15,790 | \$ 114,589 | \$ 2,296 | \$ 172,364 |

**Exhibit E-2
Consultant Fee Determination - Summary Sheet
(Specific Rates of Pay)
Fee Schedule**

| Discipline or Job Title | Maximum Hourly Rate | Overhead 194.1% | Profit @ 12% | Rate Per Hour |
|------------------------------|---------------------------|--------------------|-----------------|------------------|
| Senior Principal | \$66.92 | \$129.89 | \$23.62 | \$220.43 |
| Principal | \$62.30 | \$120.92 | \$21.99 | \$205.21 |
| Senior Associate | \$54.09 | \$104.99 | \$19.09 | \$178.17 |
| Associate | \$50.48 | \$97.98 | \$17.82 | \$166.28 |
| Senior Engineering Associate | \$50.48 | \$97.98 | \$17.82 | \$166.28 |
| Senior Engineer | \$43.51 | \$84.45 | \$15.36 | \$143.32 |
| Engineer VII | \$41.50 | \$80.55 | \$14.65 | \$136.70 |
| Engineer VI | \$38.46 | \$74.65 | \$13.57 | \$126.68 |
| Engineer V | \$36.54 | \$70.92 | \$12.90 | \$120.36 |
| Engineer IV | \$32.93 | \$63.92 | \$11.62 | \$108.47 |
| Engineer III | \$31.01 | \$60.19 | \$10.94 | \$102.14 |
| Engineer II | \$28.65 | \$55.61 | \$10.11 | \$94.37 |
| Engineer I | \$25.96 | \$50.39 | \$9.16 | \$85.51 |
| Senior Technician | \$44.28 | \$85.95 | \$15.63 | \$145.85 |
| Technician | \$29.33 | \$56.93 | \$10.35 | \$96.61 |
| Junior Technician | \$18.27 | \$35.46 | \$6.45 | \$60.18 |
| Administrator | \$40.38 | \$78.38 | \$14.25 | \$133.01 |
| Clerical | \$21.63 | \$41.98 | \$7.63 | \$71.25 |

Exhibit F
Breakdown of Overhead Cost

| Account Title | \$ Beginning Total | % of Direct Labor |
|--|---------------------------|--------------------------|
| Direct Labor | \$2,399,660 | |
| Overhead Expenses: | | |
| Payroll Taxes | \$403,721 | 16.82% |
| 401k and Retirement Plan Contributions | \$167,142 | 6.97% |
| Health/Accident Insurance | \$232,757 | 9.70% |
| Holiday/Vacation/Sick Leave/Severance | \$456,639 | 19.03% |
| Commission/Bonus/Pension | \$730,374 | 30.44% |
| Other Employee Benefits | \$13,539 | 0.56% |
| Total Fringe Benefits | \$2,004,172 | |
| General Overhead: | | |
| Taxes - General | \$63,450 | 2.64% |
| Insurance | \$74,347 | 3.10% |
| Administration & Time Not Assignable | \$1,370,763 | 57.12% |
| Printing, Stationery & Supplies | \$43,489 | 1.81% |
| Professional Services | \$31,364 | 1.31% |
| Travel Not Assignable | \$87,498 | 3.65% |
| Telephone & Telegraph Not Assignable | \$154,079 | 6.42% |
| Fees, Dues & Professional Meetings | \$71,922 | 3.00% |
| Recruiting/Employment Ads | \$21,941 | 0.91% |
| Rent | \$432,997 | 18.04% |
| Equipment Support | \$187,974 | 7.83% |
| Office, Miscellaneous & Postage | \$49,991 | 2.08% |
| Depreciation | \$242,026 | 10.09% |
| Other - Expenses Billed to Contracts | -\$178,316 | |
| Total General Overhead | \$2,653,525 | |
| Total Overhead (General + Fringe) | \$4,657,697 | |
| Overhead Rate (Total Overhead / Direct Labor) | 194.10% | |

Local Ag

Exhibit G

Subcontracted Work

**Exhibit G
Subcontracted Work**

The AGENCY permits subcontracts for the following portions of the work of this AGREEMENT:

Permitting Assistance

Surveying

Geotechnical Investigation

Traffic Analyses and Simulations

Cultural Resources Investigation

Structural Engineering

Exhibit G-1
Cultural Resources Consultants

Subconsultant Fee Determination - Summary Sheet

Project: Donkey Creek/Austin Estuary
 CRC #: 1009C - Murray, Smith & Associates

Direct Labor Cost

| <u>Classifications</u> | <u>Labor Hours</u> | x | <u>Rate</u> | = | <u>Cost</u> |
|---------------------------|--------------------|---|-------------|---|-------------|
| Principal Investigator | 3.0 | | \$ 57.00 | | \$ 171.00 |
| Project Archaeologist I | 0.0 | | \$ 31.50 | | \$ - |
| Project Archaeologist II | 40.0 | | \$ 30.00 | | \$ 1,200.00 |
| Project Archaeologist III | 0.0 | | \$ 28.50 | | \$ - |
| Field Archaeologist | 24.0 | | \$ 19.00 | | \$ 456.00 |
| Field Archaeologist | 0.0 | | \$ 18.00 | | \$ - |
| Field Archaeologist | 0.0 | | \$ 17.00 | | \$ - |
| Historic Architect | 0.0 | | \$ 40.00 | | \$ - |
| Project Historian | 0.0 | | \$ 29.00 | | \$ - |
| Office Manager | 3.0 | | \$ 28.50 | | \$ 85.50 |
| Office Assistant | 0.0 | | \$ 16.00 | | \$ - |
| | 70.0 | | | | \$ 1,912.50 |

Overhead (OH Cost - - including Salary Additives):

OH Rate x DLC of: 110% %x\$ \$ 1,912.50 \$ 2,103.75

Fixed Fee (FF):

FF Rate x DLC of: 20.00% %x\$ \$ 1,912.50 \$ 382.50

Reimbursables:

Photo & Graphic Supplies \$ 100.00
 Lodging: \$ -
 Per Diem: \$ -
 Mileage: \$ 251.25
 \$ 351.25

Grand Total: \$ 4,750.00

Prepared by: Teresa Peterson, Office Manager
 DOT Form 140-089 EF Exhibit G-1

Date: 21-Sep-10

Exhibit G-2
Subconsultant Fee Determination - Summary Sheet
(Specific Rates of Pay) - Fee Schedule
Cultural Resource Consultants, Inc.
Hourly Billing Rate

| Personnel Job Classification | Hourly Rate | 110% Overhead | Subtotal DL & OH | 20.00% Profit | Rate per Hour |
|---|----------------|------------------|---------------------|------------------|------------------|
| Glenn Hartmann Principal Investigator | \$ 57.00 | \$ 62.70 | \$ 119.70 | \$ 11.40 | \$ 131.10 |
| James McNett Historic Architect | \$ 40.00 | \$ 44.00 | \$ 84.00 | \$ 8.00 | \$ 92.00 |
| Marcia Montgomery Project Historian | \$ 29.00 | \$ 31.90 | \$ 60.90 | \$ 5.80 | \$ 66.70 |
| James Schumacher Project Archaeologist I | \$ 31.50 | \$ 34.65 | \$ 66.15 | \$ 6.30 | \$ 72.45 |
| Margaret Berger Project Archaeologist I | \$ 30.00 | \$ 33.00 | \$ 63.00 | \$ 6.00 | \$ 69.00 |
| Kat Kelly Project Archaeologist II | \$ 28.50 | \$ 31.35 | \$ 59.85 | \$ 5.70 | \$ 65.55 |
| Ed Arthur Project Archaeologist III | \$ 28.00 | \$ 30.80 | \$ 58.80 | \$ 5.60 | \$ 64.40 |
| Jennifer Chambers Project Archaeologist III | \$ 25.00 | \$ 27.50 | \$ 52.50 | \$ 5.00 | \$ 57.50 |
| Charlie Reed, Jason Cowan Project Archaeologist III | \$ 23.00 | \$ 25.30 | \$ 48.30 | \$ 4.60 | \$ 55.20 |
| Josh Watrous, Melanie Diedrich Field Archaeologist I | \$ 19.00 | \$ 20.90 | \$ 39.90 | \$ 3.80 | \$ 43.70 |
| Jeremy Ripin, Doug Mitchell Field Archaeologist I | \$ 19.00 | \$ 20.90 | \$ 39.90 | \$ 3.80 | \$ 43.70 |
| Jesse Buerhaus, Leandra Medina, Phil Pedack, Kelli Shoaf Field Archaeologist II | \$ 17.00 | \$ 18.70 | \$ 35.70 | \$ 3.40 | \$ 41.40 |
| Vacant Research Assistant II | \$ 16.00 | \$ 17.60 | \$ 33.60 | \$ 3.20 | \$ 36.80 |
| Teresa Peterson Office Manager | \$ 28.50 | \$ 31.35 | \$ 59.85 | \$ 5.70 | \$ 65.55 |
| Abby Hartmann; Wendy Hufnagle Office Assistant | \$ 16.00 | \$ 17.60 | \$ 33.60 | \$ 3.20 | \$ 36.80 |

Exhibit G-3
Cultural Resources Consultants

Consent Agenda - 4
Page 36 of 61



Washington State
Department of Transportation
Paula J. Hammond, P.E.
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300

360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

September 18, 2008

Mr. Glenn Hartmann
Cultural Resource Consultants, Inc.
8001 Day Road W. Suite B
Bainbridge Island, WA. 98110-4208

Re: Cultural Resource Consultants, Inc. Overhead Schedule
FYE December 31, 2007

Dear Mr. Hartmann:

On September 18, 2008, as a WSDOT representative, Nicole Mitchell reviewed your proposed 2007 Overhead Schedule. Nicole also completed an analytical review of the schedule by comparing it to data that WSDOT had collected in our permanent files. Cultural Resource Consultants provided a copy of the In-House compiled overhead and 2007 Profit & Loss.

The reviewed data included, but was not limited to, the schedule of the indirect cost rate, a description of the company, basis of accounting and description of Cultural Resource's accounting system, basis of indirect costs, in addition to a review of the firm's internal control structure.

Based on our review, we are issuing this letter of concurrence establishing Cultural Resource's overhead rate for 2007, at 117.67% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

If you or any representative of Cultural Resource Consultants have any questions, please contact Martha Roach at (360)705-7006.

Sincerely,

A handwritten signature in cursive script that reads "Martha Roach".

Martha S. Roach
Agreement Compliance Audit Manager

MR:ds
Enclosures

cc: Steve McKerney
Marilyn Bowman, MS 47323
Rick Griffith, MS 47323
File

Exhibit G-3
Cultural Resource Consultants, Inc.
Overhead Schedule
Fiscal Year Ended December 31, 2007

| Description | Financial Statement Amount | CRC Adj. | WSDOT Adj. | Ref. | Accepted Amount | % |
|--------------------------------|----------------------------------|----------|---------------|------|--------------------|---------|
| Direct Labor Base | <u>\$252,654</u> | | \$1,163 | B,C | <u>\$253,818</u> | 100.00% |
| Overhead Costs | | | | | | |
| Auto & Travel | \$9,780 | | (\$697) | E | \$9,082 | 3.58% |
| Bank Service Charges | \$325 | | | | \$325 | 0.13% |
| Business Taxes | \$8,405 | | | | \$8,405 | 3.31% |
| Business Licenses | \$290 | | | | \$290 | 0.11% |
| Computer Expenses | \$3,421 | | | | \$3,421 | 1.35% |
| Cnsultant Services | \$0 | | | | \$0 | 0.00% |
| Depreciation | \$3,092 | | | | \$3,092 | 1.22% |
| Employee Health Insurance | \$25,104 | | | | \$25,104 | 9.89% |
| EME Recog., Morale, & Training | \$800 | | | | \$800 | 0.32% |
| Employment Recruiting | \$0 | | | | \$0 | 0.00% |
| Equipment Repair & Maintenance | \$71 | | | | \$71 | 0.03% |
| Fees, Dues, Meetings, Etc. | \$539 | | | | \$539 | 0.21% |
| Insurance | \$15,328 | | (\$236) | D | \$15,092 | 5.95% |
| Internet | \$505 | | | | \$505 | 0.20% |
| Lab & Field Supplies | \$487 | | | | \$487 | 0.19% |
| Office Equipment | \$974 | | | | \$974 | 0.38% |
| Office Maintenance | \$0 | | | | \$0 | 0.00% |
| Office Supplies | \$7,038 | | | | \$7,038 | 2.77% |
| Payroll Taxes | \$28,955 | | | | \$28,955 | 11.41% |
| Pension - 401(k) | \$19,550 | | | | \$19,550 | 7.70% |
| Principal's Salaries | \$44,669 | | | | \$44,669 | 17.60% |
| Postage & Delivery | \$3,893 | | | | \$3,893 | 1.53% |
| Professional Services | \$8,825 | | (\$178) | A | \$8,647 | 3.41% |
| Professional Tax Prep | \$0 | | | | \$0 | 0.00% |
| Rent | \$19,535 | | | | \$19,535 | 7.70% |
| Sick Leave | \$5,274 | | | | \$5,274 | 2.08% |
| Subscriptions/Publications | \$0 | | | | \$0 | 0.00% |
| Communications & Telephone | \$3,655 | | | | \$3,655 | 1.44% |
| Unemployment Taxes | \$6,069 | | | | \$6,069 | 2.39% |
| Vacation Leave | \$14,644 | | | | \$14,644 | 5.77% |
| Wages, Administrative | \$12,874 | | | | \$12,874 | 5.07% |
| Wages, Bonus | \$3,775 | | | | \$3,775 | 1.49% |
| Wages, Clerical Salaries | \$36,369 | | (\$1,411) | C | \$34,957 | 13.77% |
| Wages, Holiday | \$10,880 | | | | \$10,880 | 4.29% |

Exhibit G-3

**Cultural Resource Consultants, Inc.
Overhead Schedule
Fiscal Year Ended December 31, 2007**

| Description | Financial Statement Amount | CRC Adj. | WSDOT Adj. | Ref. | Accepted Amount | % |
|--------------------------------|----------------------------|------------|------------------|------|------------------|----------------|
| Worker's Comp. | \$6,078 | | | | \$6,078 | 2.39% |
| Total Overhead Expenses | \$301,200 | \$0 | (\$2,522) | | \$298,678 | 117.67% |
| Overhead Rate | 119.21% | | | | 117.67% | |

*Cultural Resource Consultants, Inc. - Reviewed & Accepted on 9/18/08 NM
Overhead Rate still subject to WSDOT Audit*

References

Cultural Resource Consultants, Inc. Overhead prepared by Teresa Peterson, Office Manager.

WSDOT Adjustments:

- A Litigation expenses unallowable per 48 CFR 31.205-47(f)(5).
- B Overtime Premium unallowable per 48 CFR 22.103-1, 22.103-4(g) & WSDOT O/H Policy.
- C Uncompensated Overtime adjustment totaling \$1,411.26 per 48 CFR 37.115 & DCAA 5-910.5-910.2 & 6-410.
- D Personal use of auto insurance unallowable per 48 CFR 31.201-4.
- E Personal use of company vehicle unallowable per 48 CFR 31.205-6(m)(2) & WSDOT Accounting Manual, Ch. 10, Travel.

Exhibit G-1
 Associated Earth Sciences

**Subconsultant Fee Determination
 Summary Sheet**

Exhibit G-1
 Subconsultant Fee Determination - Summary Sheet
 (Mandatory when Subconsultants are utilized)

Project: DONKEY CREEK & Austin Estuary Restoration

Sub Consultant: ASSOCIATED EARTH SCIENCES

Direct Salary Cost (DSC):

| Classification | Man Hours | | Rate | = | Cost |
|-----------------------|--------------|----------|--------------|---|------------------|
| <u>Principal</u> | <u>10</u> | <u>x</u> | <u>47.20</u> | | <u>\$ 472.00</u> |
| <u>SENIOR</u> | <u>25</u> | <u>x</u> | <u>36.87</u> | | <u>921.75</u> |
| <u>SENIOR Project</u> | <u>40</u> | <u>x</u> | <u>33.92</u> | | <u>1356.80</u> |
| <u>Project</u> | <u>50</u> | <u>x</u> | <u>30.97</u> | | <u>1548.50</u> |
| <u>STAFF</u> | <u>10.12</u> | <u>x</u> | <u>22.12</u> | | <u>223.85</u> |
| <u>CAD</u> | <u>16</u> | <u>x</u> | <u>24.78</u> | | <u>396.48</u> |
| <u>Clerical</u> | <u>20</u> | <u>x</u> | <u>15.63</u> | | <u>312.60</u> |
| <u>GIS</u> | <u>9.6</u> | <u>x</u> | <u>23.60</u> | | <u>226.56</u> |
| | | <u>x</u> | | | |

Total DSC = \$ 5458.50

Overhead (OH Cost -- including Salary Additives):

OH Rate x DSC of 2.29 % x \$ 5458.50 = \$ 12,500

Fixed Fee (FF):

FF Rate x DSC of _____ % x \$ _____ = _____

Reimbursables:

Itemized = \$ 17,000

Subconsultant Total

= _____

Grand Total

= \$ 29,500

Prepared By: MAIRE THORNTON Date: 09/22/10

Subconsultant Fee Determination

Exhibit G-2
Subconsultant Fee Determination - Summary Sheet
(Specific Rates of Pay)
Fee Schedule

Subconsultant: *ASSOCIATED EARTH SCIENCES*

| Discipline or Job Title | Hourly Rate | Overhead @ 2.29% | Profit @ 0.1% | Rate Per Hour |
|-------------------------|--------------|------------------|---------------|---------------|
| <i>Principal</i> | <i>47.20</i> | <i>108.08</i> | <i>4.72</i> | <i>160</i> |
| <i>Senior</i> | <i>36.87</i> | <i>84.44</i> | <i>3.69</i> | <i>125</i> |
| <i>Senior Project</i> | <i>33.92</i> | <i>77.69</i> | <i>3.39</i> | <i>115</i> |
| <i>Project</i> | <i>30.97</i> | <i>70.07</i> | <i>3.97</i> | <i>105</i> |
| <i>Staff</i> | <i>22.12</i> | <i>50.76</i> | <i>2.12</i> | <i>75</i> |
| <i>CAD</i> | <i>24.78</i> | <i>56.74</i> | <i>2.48</i> | <i>84</i> |
| <i>Clerical</i> | <i>15.63</i> | <i>35.81</i> | <i>1.56</i> | <i>53</i> |
| <i>GIS</i> | <i>23.60</i> | <i>54.04</i> | <i>2.36</i> | <i>80</i> |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Exhibit G-3
Associated Earth Sciences

Breakdown of Subconsultants Overhead Cost

Exhibit G-3
Breakdown of Subconsultants Overhead Cost

| Account Title | \$ Beginning Total | % of Direct Labor |
|--|--------------------|-------------------|
| Direct Labor | 1,747,646 | |
| Overhead Expenses: | | |
| FICA (1) | 270,138 | 15.48% |
| Unemployment (2) | | |
| Health/Accident Insurance | | |
| Medical Aid & Industrial Insurance (3) | 259,608 | 14.85 |
| Holiday/Vacation/Sick Leave | 389,183 | 22.27 |
| Commission/Bonus/Pension | 1,256,300 | 71.89 |
| Total Fringe Benefits | 2,175,229 | |
| General Overhead: | | |
| State B&O Taxes | 107,840 | 6.17 |
| Insurance | 132,281 | 7.57 |
| Administration & Time Not Assignable | 941,878 | 53.89 |
| Printing, Stationery & Supplies | 22,670 | 1.29 |
| Professional Services | 40,830 | 2.34 |
| Travel Not Assignable | 347,168 | 1.99 |
| Telephone & Telegraph Not Assignable | 42,697 | 2.44 |
| Fees, Dues & Professional Meetings | 17,987 | 1.03 |
| Utilities & Maintenance | 67,402 | 3.86 |
| Professional Development | 12,807 | .73 |
| Rent | 345,021 | 19.68 |
| Equipment Support | 34,417 | 1.97 |
| Office, Miscellaneous & Postage | 26,771 | 1.53 |
| Total General Overhead | 1,824,733 | |
| Total Overhead (General + Fringe) | 3,999,962 | |
| Overhead Rate (Total Overhead / Direct Labor) | 2.29 | |

Exhibit G-1

ESA Adolfson
CONSULTANT FEE DETERMINATION - SUMMARY SHEET
COST PLUS FIXED FEE

Direct Salary Cost (DSC)

| Classification | Man Hours | x | Rate | = | Cost |
|------------------------------|-----------|---|---------|---|------------|
| Senior Director II | 0 | x | \$57.69 | = | \$0.00 |
| Senior Director I | 0 | x | \$64.90 | = | \$0.00 |
| Director II | 12 | x | \$57.69 | = | \$692.28 |
| Director I | 59 | x | \$50.00 | = | \$2,950.00 |
| Senior Managing Associate II | 0 | x | \$46.78 | = | \$0.00 |
| Senior Managing Associate I | 0 | x | \$40.48 | = | \$0.00 |
| Senior Technical Associate I | 0 | x | \$45.46 | = | \$0.00 |
| Managing Associate II | 0 | x | \$39.48 | = | \$0.00 |
| Managing Associate I | 40 | x | \$38.94 | = | \$1,557.60 |
| Technical Assoc. II | 10 | x | \$40.34 | = | \$403.40 |
| Technical Assoc. I | 0 | x | \$38.46 | = | \$0.00 |
| Senior Associate II | 50 | x | \$37.56 | = | \$1,878.00 |
| Senior Associate I | 0 | x | \$30.05 | = | \$0.00 |
| Associate III | 132 | x | \$26.92 | = | \$3,553.44 |
| Associate II | 24 | x | \$22.40 | = | \$537.60 |
| Associate I | 12 | x | \$20.34 | = | \$244.08 |
| Senior Admin / Graphics | 36 | x | \$27.78 | = | \$1,000.08 |
| Admin / Graphics | 0 | x | \$22.14 | = | \$0.00 |
| Clerical | 20 | x | \$19.65 | = | \$393.00 |

SUBTOTAL DSC = \$13,209.48

OVERHEAD (OH COST- Including Salary Additives):

OH Rate x DSC or 197.82% x \$13,209.48 = \$26,130.99

Fixed Fee (FF):

FF Rate x DSC or 30% x \$13,209.48 = \$3,962.84

REIMBURSABLES:

Mileage/Parking/Plots = \$700.00

MAXIMUM AMOUNT PAYABLE = \$44,003.32

PREPARED BY: Benn Burke

DATE: 9/20/2010

ESA Adolphson

Exhibit G-2

Subconsultant Fee Determination - Summary Sheet
(mandatory when subconsultants are utilized)

Overhead Rate: 1.9782
Fee: 30%

| Staff Last Name | Staff First Name | ESA Classification | Hourly Rate | Overhead 197.82% | Profit 30% | Billing Rate |
|--------------------|---------------------|---------------------------|----------------|---------------------|---------------|--------------|
| Adolfson | Molly | Senior Director II | \$74.51 | \$147.40 | \$22.35 | \$ 244.26 |
| Skinner | Lloyd | Senior Director II | \$69.71 | \$137.90 | \$20.91 | \$ 228.52 |
| Vanderburg | Teresa | Senior Director I | \$64.90 | \$128.39 | \$19.47 | \$ 212.76 |
| Wolfe | Marjorie | Director II | \$57.69 | \$114.12 | \$17.31 | \$ 189.12 |
| Clancy | Margaret | Director II | \$55.53 | \$109.85 | \$16.66 | \$ 182.04 |
| Masterson | Ikuno | Director II | \$57.21 | \$113.17 | \$17.16 | \$ 187.55 |
| Burke | Benn | Director I | \$50.00 | \$98.91 | \$15.00 | \$ 163.91 |
| Conolly | Cathie | Director I | \$44.67 | \$88.37 | \$13.40 | \$ 146.44 |
| McGuire | Tom | Director I | \$43.75 | \$86.55 | \$13.13 | \$ 143.42 |
| Mackey | Bruce | Director I | \$58.41 | \$115.55 | \$17.52 | \$ 191.48 |
| Adolfson | Lisa | Senior Managing Associate | \$42.43 | \$83.94 | \$12.73 | \$ 139.09 |
| Johnson | Mark | Senior Managing Associate | \$46.78 | \$92.54 | \$14.03 | \$ 153.35 |
| Schniewind | Eric | Technical Associate II | \$43.27 | \$85.60 | \$12.98 | \$ 141.85 |
| Epstein | Mark | Technical Associate II | \$40.34 | \$79.80 | \$12.10 | \$ 132.24 |
| Hafs | Mark | Managing Associate II | \$40.48 | \$80.08 | \$12.14 | \$ 132.70 |
| Root | Ann | Managing Associate I | \$39.66 | \$78.46 | \$11.90 | \$ 130.01 |
| Borba | Greg | Technical Associate I | \$38.46 | \$76.08 | \$11.54 | \$ 126.08 |
| Martin | Karmen | Managing Associate I | \$37.44 | \$74.06 | \$11.23 | \$ 122.74 |
| Cohen | Alex | Senior Associate I | \$33.17 | \$65.62 | \$9.95 | \$ 108.74 |
| Gordon | John | Managing Associate II | \$41.83 | \$82.75 | \$12.55 | \$ 137.13 |
| Krueger | Steve | Managing Associate I | \$38.94 | \$77.03 | \$11.68 | \$ 127.65 |
| Muscari | Michael | Managing Associate II | \$40.58 | \$80.28 | \$12.17 | \$ 133.03 |
| Zemke | Lizzie | Managing Associate I | \$38.56 | \$76.28 | \$11.57 | \$ 126.41 |
| Winter | Steve | Senior Associate II | \$37.56 | \$74.30 | \$11.27 | \$ 123.13 |
| Fain | Annika | Senior Associate II | \$35.43 | \$70.09 | \$10.63 | \$ 116.15 |
| Hartung | Sarah | Senior Associate I | \$30.05 | \$59.44 | \$9.02 | \$ 98.51 |
| Thompson | Sharese | Associate III | \$26.59 | \$52.60 | \$7.98 | \$ 87.17 |
| Logan | Ilon | Senior Associate II | \$33.22 | \$65.72 | \$9.97 | \$ 108.90 |
| Shakra | Reema | Associate III | \$26.92 | \$53.25 | \$8.08 | \$ 88.25 |
| Brock | Laura | Associate III | \$26.19 | \$51.81 | \$7.86 | \$ 85.86 |
| Noland | Sara | Associate III | \$28.56 | \$56.50 | \$8.57 | \$ 93.63 |
| Merrill | Adam | Associate III | \$26.00 | \$51.43 | \$7.80 | \$ 85.23 |
| Lennox | Michelle | Associate III | \$24.04 | \$47.56 | \$7.21 | \$ 78.81 |
| Booy | Aaron | Associate III | \$23.39 | \$46.27 | \$7.02 | \$ 76.68 |
| Easton | Spencer | Associate II | \$20.19 | \$39.94 | \$6.06 | \$ 66.19 |
| Baker | Rosemary | Associate I | \$20.34 | \$40.24 | \$6.10 | \$ 66.68 |
| Leech | Mike | Managing Associate I | \$36.06 | \$71.33 | \$10.82 | \$ 118.21 |
| Raymond | Aaron | Associate II | \$22.40 | \$44.31 | \$6.72 | \$ 73.43 |
| Feifel | Kirsten | Intern | \$19.00 | \$37.59 | \$5.70 | \$ 62.29 |
| Sigler | Alison | Associate I | \$20.82 | \$41.19 | \$6.25 | \$ 68.25 |
| Pierce | Danielle | Associate I | \$20.00 | \$39.56 | \$6.00 | \$ 65.56 |
| Bayer | Julie | Graphics | \$27.78 | \$54.95 | \$8.33 | \$ 91.07 |
| Reese | Cynthia | Senior Administrative | \$32.84 | \$64.96 | \$9.85 | \$ 107.66 |
| Bjork | Susan | Senior Administrative | \$29.21 | \$57.78 | \$8.76 | \$ 95.76 |
| Clark | Ara | Senior Associate II | \$29.86 | \$59.07 | \$8.96 | \$ 97.89 |
| Wade | Kelly | Administrative | \$22.14 | \$43.80 | \$6.64 | \$ 72.58 |
| Porter | Ashley | Clerical | \$19.65 | \$38.87 | \$5.90 | \$ 64.42 |
| Jones | Maureen | Clerical | \$19.23 | \$38.04 | \$5.77 | \$ 63.04 |
| Stubbs | Jane | Clerical | \$17.93 | \$35.47 | \$5.38 | \$ 58.78 |

(a) WSDOT has reviewed and approved for use the 2009 Overhead Rate

Exhibit G-3
ESA Adolphson



Washington State
Department of Transportation
Paula J. Hammond, P.E.
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300

360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

May 17, 2010

Jean Chen, Controller
Environmental Science Associates (ESA)
225 Bush Street, Suite 1700
San Francisco, CA 94104-4248

Re: ESA Overhead Schedule
Fiscal Year End December 31, 2008

Dear Ms. Chen:

On April 26, 2010, as a WSDOT representative, Tandi Reyes, Audit Specialist, completed a desk review of your proposed FYE December 31, 2008, Overhead Schedule. Tandi also reviewed the documentation provided by ESA during this review process.

The reviewed data included, but was not limited to, the schedule of the indirect cost rate, a description of the company, basis of accounting and description of ESA's accounting system, and the basis of indirect costs.

Based on our work, we are issuing this letter of review establishing ESA's overhead rate for FYE December 31, 2008, at 197.82% of direct labor. Costs billed to actual agreements will still be subject to audit of actual costs.

Please check with the WSDOT Consultant Services Office (HQ) and/or the WSDOT Area Consultant Liaison to determine when this reviewed rate will be applicable to your WSDOT agreement (s).

If you or any representative of ESA have any questions, please contact Martha Roach, Jeri Sivertson or Steve McKerney at (360) 705-7003.

Sincerely,

A handwritten signature in cursive script that reads "Martha Roach".

Martha S. Roach
Agreement Compliance Audit Manager

MR:ds
Enclosures

cc: Steve McKerney, Director of Internal Audit
Jeri Sivertson, Assistant Director of Internal Audit
Kyle McKeon, MS 47329
Rick Griffith, MS 47323
Meg Blau, MS NB82-112
File

Exhibit G-3
ENVIRONMENTAL SCIENCE ASSOCIATES ADOLPHSON
Overhead Schedule
For the Year Ended December 31, 2008

| Description | Balance Sheet Amount | ESA Adj. | WSDOT Adj | Ref. | Accepted Amount | % |
|---------------------------------|-------------------------|------------|-------------------|------|--------------------|---------|
| Direct Labor Base | <u>\$9,811,058</u> | | | | <u>\$9,811,058</u> | 100.00% |
| Fringe Benefits: | | | | | | |
| FICA/Employer Portion | \$1,380,506 | | | | \$1,380,506 | 14.07% |
| Federal Unemployment Tax | 6,766 | | | | 6,766 | 0.07% |
| State Unemployment Tax | 145,136 | | | | 145,136 | 1.48% |
| Worker's Compensation Insurance | 93,370 | | | | 93,370 | 0.95% |
| 401(k) Employer Matching | 315,961 | | | | 315,961 | 3.22% |
| ESOP Contribution | 1,210,031 | | | | 1,210,031 | 12.33% |
| Incentive Compensation Program | 1,646,877 | | | | 1,646,877 | 16.79% |
| Medical Insurance | 1,177,882 | | | | 1,177,882 | 12.01% |
| Dental Insurance | 224,428 | | | | 224,428 | 2.29% |
| Group Term Insurance | 119,200 | | | | 119,200 | 1.21% |
| Bonuses | 133,036 | | | | 133,036 | 1.36% |
| Vacation Pay | 1,088,751 | | | | 1,088,751 | 11.10% |
| Sick Leave | 411,874 | | | | 411,874 | 4.20% |
| Holiday Pay | 606,557 | | | | 606,557 | 6.18% |
| Personal Leave | 22,656 | | | | 22,656 | 0.23% |
| Other Employment Benefits | 92,713 | | | | 92,713 | 0.94% |
| Marketing Fringe | | | (40,000) | V | (40,000) | -0.41% |
| Total Fringe Benefits | <u>\$8,675,743</u> | \$0 | <u>(\$40,000)</u> | | <u>\$8,635,743</u> | 88.02% |
| General Overhead: | | | | | | |
| Indirect Administration Labor | \$4,011,622 | (\$36,206) | | R | \$3,975,416 | 40.52% |
| Indirect Proposal Labor | 1,032,682 | | | | 1,032,682 | 10.53% |
| Indirect Marketing Labor | 1,074,537 | (127,344) | (\$2,228) | P, Z | 944,965 | 9.63% |
| Indirect Education Labor | 136,842 | | | | 136,842 | 1.39% |
| Indirect Other Compensation | 102,689 | | | | 102,689 | 1.05% |
| Stock Options Compensation | 51,633 | | | | 51,633 | 0.53% |
| Rent | 2,037,433 | | | | 2,037,433 | 20.77% |
| Office Supplies | 212,389 | (6,740) | | B | 205,649 | 2.10% |
| Computer Supplies / Equipment | 74,729 | (512) | | B | 74,217 | 0.76% |
| Office Equipment | 24,877 | (1,302) | | B | 23,575 | 0.24% |
| Equipment Maintenance | 143,297 | | | | 143,297 | 1.46% |
| Software Maintenance | 164,818 | | | | 164,818 | 1.68% |
| Equipment Rental | 57,250 | | | | 57,250 | 0.58% |
| Telephone | 486,687 | (500) | | B | 486,188 | 4.96% |
| Postage | 128,262 | (1,022) | | B | 127,240 | 1.30% |
| Marketing Supplies & Services | 60,247 | (60,247) | | B | 0 | 0.00% |
| Advertising & Promotions | 35,250 | (35,250) | | A | 0 | 0.00% |

Exhibit G-3
ENVIRONMENTAL SCIENCE ASSOCIATES ADOLPHSON

Overhead Schedule
For the Year Ended December 31, 2008

| Description | Balance Sheet Amount | ESA Adj. | WSDOT Adj | Ref. | Accepted Amount | % |
|-------------------------------|-------------------------|----------------------|--------------------|---------|---------------------|----------------|
| Education/Training | 95,494 | | | | 95,494 | 0.97% |
| Conference / Meetings | 117,537 | (49,299) | | B | 68,238 | 0.70% |
| Dues / Subscriptions | 97,478 | (1,674) | | B,S | 95,804 | 0.98% |
| Recruiting & Relocation | 102,644 | (15,703) | | C | 86,940 | 0.89% |
| Airfare | 80,384 | (15,409) | | E,O,F | 64,975 | 0.66% |
| Other Travel & Subsistence | 516,412 | (90,479) | (79,070) | E,O,F,X | 346,864 | 3.54% |
| Employee Relations | 107,250 | (33,598) | (60,694) | D,R,Q,Y | 12,958 | 0.13% |
| Legal & Accounting Fees | 207,929 | | (19,291) | U | 188,638 | 1.92% |
| Insurance | 278,742 | | | | 278,742 | 2.84% |
| Outside Consultants | 379,865 | (1,083) | (35,000) | B,W | 343,782 | 3.50% |
| Business taxes and Licenses | 177,128 | | | | 177,128 | 1.81% |
| Charitable Contributions | 41,683 | (41,683) | | G | 0 | 0.00% |
| Bad Debt Expense | 329,712 | (329,712) | | H | 0 | 0.00% |
| ESOP Expenses | 81,601 | | | | 81,601 | 0.83% |
| Miscellaneous | 18,024 | (18,024) | | I, K, J | 0 | 0.00% |
| Cost Recovery | (597,994) | | | | (597,994) | -6.10% |
| Communication Cost Recovery | (788,495) | | | | (788,495) | -8.04% |
| Depreciation/Amortization | 723,263 | (47,125) | | T | 676,138 | 6.89% |
| Printing and Reproduction | 121,976 | (6,497) | | A | 115,479 | 1.18% |
| Other Income/Expenses | (37,478) | | | | (37,478) | -0.38% |
| Interest Income- | (10,415) | 10,415 | | K | 0 | 0.00% |
| Interest Expense | 91,659 | (91,659) | | K | 0 | 0.00% |
| VBI Expenses | 138,871 | (138,871) | | L | 0 | 0.00% |
| Tax Expense | 23,272 | (23,272) | | M | 0 | 0.00% |
| Total General Overhead | \$12,131,785 | (\$1,162,795) | (\$196,282) | | \$10,772,708 | 109.80% |
| Total Overhead Costs | \$20,807,528 | (\$1,162,795) | (\$236,282) | | \$19,408,450 | 197.82% |
| Overhead Rate | 212.08% | 200.23% | | | 197.82% | |

Environmental Science Associates - Reviewed & Accepted TR 4/26/10
Overhead Rate still subject to WSDOT Audit

References

ESA Adjustments:

ESA Overhead Audited by Gusman & Associates, CPA's

- A Advertising unallowable per 48 CFR 31.205-1(b)
- B Marketing unallowable per 48 CFR 31.205-1(f)
- C Recruiting and Relocation unallowable per 48 CFR 31.205-35
- D Gifts unallowable per 48 CFR 31.205-13(b)
- E Excess Lodging and per diem unallowable per 48 CFR 31.205-14, 31.205-46 & WSDOT policy

Exhibit G-3
ENVIRONMENTAL SCIENCE ASSOCIATES ADOLPHSON
Overhead Schedule
For the Year Ended December 31, 2008

| Description | Balance Sheet Amount | ESA Adj. | WSDOT Adj | Ref. | Accepted Amount | % |
|---|-------------------------|----------|-----------|------|--------------------|---|
| F Alcohol unallowable per 48 CFR 31.205-51 | | | | | | |
| G Contributions unallowable per 48 CFR 31.205-8 | | | | | | |
| H Bad Debts unallowable per 48 CFR 31.205-3 | | | | | | |
| I Miscellaneous account unallowable per 48 CFR 31.201-2 | | | | | | |
| J Fines unallowable per 48 CFR 31.205-15 | | | | | | |
| K Interest unallowable per 48 CFR 31.205-20 | | | | | | |
| L Value Enhancement Incentive unallowable per 48 CFR 31.206-6(f) and WSDOT policy | | | | | | |
| M Credits due to Federal Deferred Tax adjustments unallowable per 48 CFR 31.205-26(b) | | | | | | |
| O Entertainment unallowable per 48 CFR 31.205-14 | | | | | | |
| P Marketing labor unallowable per 48 CFR 31.205-1(f) | | | | | | |
| Q Holiday Party Expenses in excess of \$25 per person unallowable per 48 CFR 31.205-14 & WSDOT policy | | | | | | |
| R Overtime Premium unallowable per WSDOT policy | | | | | | |
| S Lobbying is unallowable per 48 CFR 31.205-22 | | | | | | |
| T Amortization unallowable per 48 CFR 31.205-49 | | | | | | |
| WSDOT Adjustments: | | | | | | |
| U Federal and State Income Tax Preparation are unallowable per 48 CFR 31.205-41 (b) (1), 48 CFR 31.201-6 and WSDOT Policy - Income Tax Preparation in excess of \$250.00 | | | | | | |
| V Unallowable fringe expenses related to marketing expenses per 48 CFR 31.205-1 and 31.201-6. | | | | | | |
| W Marketing Survey \$35,000 is unallowable per 48 CFR 31.205-1. | | | | | | |
| X Local meals that are not in compliance with WSDOT overhead policy for local meals and are entertainment: \$50,104 Employee Meals, \$28,965.22 Business Meals. Tested 6 transactions, examples of expenses: Worked through lunch to meet a deadline, monthly managers meetings, interview, business meals, etc... Those types of meals/documentation did not meet WSDOT local meal criteria and are unallowable. | | | | | | |
| Y Employee Relations \$60,694: Staff Appreciation, ESOP stock price announcement celebration, successful CRM database conver. celebration, department team building luncheon, service awards. Those types of meals/documentation did not meet WSDOT local meal criteria and are unallowable. Per 48 CFR 31.205-14 and WSDOT M 13-82 | | | | | | |
| Z Unallowable marketing expenses per 48 CFR 31.205-1. | | | | | | |

**Subconsultant Fee Determination
Summary Sheet**

Exhibit G-1

**Subconsultant Fee Determination - Summary Sheet
(Mandatory when Subconsultants are utilized)**

Project: DONKEY CREEK AND AUSTIN EST. REST. & ROADS

Sub Consultant: KPFF

Direct Salary Cost (DSC):

| Classification | Man Hours | | Rate | = | Cost |
|-------------------|-----------|---|--------------|---|-------------------|
| <u>P.M.</u> | <u>24</u> | X | <u>56.50</u> | | <u>\$ 1356.00</u> |
| <u>STRUC. ENG</u> | <u>68</u> | X | <u>33.46</u> | | <u>2275.28</u> |
| <u>DRAFTER</u> | <u>8</u> | X | <u>25.96</u> | | <u>207.68</u> |
| <u>ADMIN</u> | <u>4</u> | X | <u>25.39</u> | | <u>101.56</u> |
| _____ | _____ | X | _____ | | _____ |
| _____ | _____ | X | _____ | | _____ |
| _____ | _____ | X | _____ | | _____ |
| _____ | _____ | X | _____ | | _____ |
| _____ | _____ | X | _____ | | _____ |

Total DSC = \$ 3940.52

Overhead (OH Cost -- Including Salary Additives):

OH Rate x DSC of 128 % x \$ 3940.52 = 5043.87

Fixed Fee (FF):

FF Rate x DSC of 30 % x \$ 3940.52 = 1182.16

Reimbursables:

Itemized = 500

SubConsultant Total

= 10,667

Grand Total

= _____

Prepared By: CRAIG TOTTEN Date: 9/7/10

Subconsultant Fee Determination

Exhibit G-2
 Subconsultant Fee Determination - Summary Sheet
 (Specific Rates of Pay)
 Fee Schedule

| Subconsultant | | Fixed Fee | | |
|-------------------------|-------------|-------------------|---------------|---------------|
| Discipline or Job Title | Hourly Rate | Overhead @ 12.8 % | Profit @ 30 % | Rate Per Hour |
| KPFF Project Mgr | 56.90 | 70.30 | 16.95 | 145.77 |
| Structural Eng | 33.46 | 42.83 | 10.04 | 86.33 |
| Draftsman | 25.94 | 33.23 | 7.79 | 66.96 |
| Admin | 25.39 | 32.50 | 7.62 | 65.51 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

DOT 140-089 EF Exhibit E-2
 8/07

**Exhibit G-3
KPF**

**Exhibit G-3 Breakdown of subconsultant's Overhead Cost
KPF Fiscal Year 2008-9**

| Account Title | \$ Beginning Total | % of Direct Labor |
|--|---------------------|-------------------|
| Direct Labor | \$42,314,088 | 100.00% |
| Overhead Expenses: | | |
| FIC | \$5,030,815 | 11.89% |
| Unemployment | \$321,116 | 0.76% |
| Health/Accident Insurance | \$3,958,007 | 9.35% |
| Medical Air & Industrial Insurance | \$246,500 | 0.58% |
| Holiday/Vacation/Sick Leave | \$6,347,093 | 15.00% |
| Commission/Bonus/Pension w/ WSDOT bonus rule | \$8,153,811 | 19.27% |
| Total Fringe Benefits | \$24,057,342 | 56.85% |
| General Overhead: | | |
| State B&O Taxes | \$941,011 | 2.22% |
| Insurance | \$694,922 | 1.64% |
| Administration & Time not assignable | \$12,101,892 | 28.60% |
| Printing, Stationery & Supplies | \$1,158,804 | 2.74% |
| Professional Services | \$848,742 | 2.01% |
| Travel Not Assignable | \$1,128,481 | 2.67% |
| Telephone Not Assignable | \$470,293 | 1.11% |
| Fees, Dues & Professional Meetings | \$601,881 | 1.42% |
| Utilities & Maintenance | \$211,300 | 0.50% |
| Professional Development | \$0 | 0.00% |
| Rent | \$7,797,736 | 18.43% |
| Equipment Support | \$0 | 0.00% |
| Office, Miscellaneous & Postage | \$4,346,337 | 10.27% |
| Total General Overhead | \$30,301,399 | 71.61% |
| Total Overhead (General + Fringe) | \$54,358,741 | 128.46% |
| Overhead Rate (Total Overhead/Direct Labor) | 128.46% | |

Exhibit G-1
Subconsultant Fee Determination - Summary Sheet
(Mandatory when Subconsultants are utilized)

Project: Donkey Creek & Austin Estuary Restoration

Sub Consultant: Touma Engineers & Land Surveyors PLLC

Direct Salary Cost (DSC):

| <u>Classification</u> | <u>Man Hours</u> | | <u>Rate</u> | = | <u>Cost</u> |
|-----------------------|------------------|---|-------------|---|---------------|
| <u>Chairman</u> | <u>35</u> | X | <u>18</u> | | <u>\$ 630</u> |
| <u>PL Surveyor</u> | <u>35</u> | X | <u>35</u> | | <u>1225</u> |
| <u>Eng Tech.</u> | <u>40</u> | X | <u>25</u> | | <u>1000</u> |
| _____ | _____ | X | _____ | | _____ |
| _____ | _____ | X | _____ | | _____ |
| _____ | _____ | X | _____ | | _____ |
| _____ | _____ | X | _____ | | _____ |
| _____ | _____ | X | _____ | | _____ |
| _____ | _____ | X | _____ | | _____ |

Total DSC = \$ 2855.0

Overhead (OH Cost – including Salary Additives):

OH Rate x DSC of 166 % x \$ 2855 = 4739.0

Fixed Fee (FF):

FF Rate x DSC of 10 % x \$ 2855 = 286.0

Reimbursables:

Itemized = 2000.00

SubConsultant Total = 7880.00

Grand Total = 9880.00

Prepared By: Dan Touma

Date: 9/21/10

Subconsultant Fee Determination

Exhibit G-2
Subconsultant Fee Determination - Summary Sheet
(Specific Rates of Pay)
Fee Schedule

Subconsultant *TOUMA Engineers and Land Surveyors*

| Discipline or Job Title | Hourly Rate | Overhead @ <i>166%</i> | Profit @ <i>10%</i> | Rate Per Hour |
|-------------------------|-------------|------------------------|---------------------|---------------|
| <i>Chairman</i> | <i>18.0</i> | <i>29.88</i> | <i>4.79</i> | <i>52.67</i> |
| <i>PLS</i> | <i>35.0</i> | <i>58.10</i> | <i>9.31</i> | <i>102.41</i> |
| <i>Engineering Tech</i> | <i>25.0</i> | <i>41.50</i> | <i>6.65</i> | <i>73.15</i> |
| <i>2 man crew</i> | <i>53.0</i> | <i>87.98</i> | <i>14.10</i> | <i>155.0</i> |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

DOT 140-089 EF Exhibit E-2
8/07

Exhibit G-3

TOUMA ENGINEERS & LAND SURVEYORS

Breakdown of Subconsultants Overhead Cost

Exhibit G-3
Breakdown of Subconsultants Overhead Cost

| Account Title | \$ Beginning Total | % of Direct Labor |
|---|--------------------|-------------------|
| Direct Labor | 111,800 | 100% |
| Overhead Expenses: | | |
| FICA | 16,770 | 15% |
| Unemployment | | |
| Health/Accident Insurance | 27,950 | 25% |
| Medical Aid & Industrial Insurance | 10,062 | 9% |
| Holiday/Vacation/Sick Leave | 13,416 | 12% |
| Commission/Bonus/Pension | 11,180 | 10% |
| Total Fringe Benefits | 79,378 | 71% |
| General Overhead: | | |
| State B&O Taxes | 20,124 | 18% |
| Insurance | 11,180 | 8% |
| Administration & Time Not Assignable | 16,770 | 15% |
| Printing, Stationery & Supplies | 11,180 | 10% |
| Professional Services | 8,944 | 8% |
| Travel Not Assignable | | |
| Telephone & Telegraph Not Assignable | 5,590 | 5% |
| Fees, Dues & Professional Meetings | 2,236 | 2% |
| Utilities & Maintenance | 13,416 | 12% |
| Professional Development | 8,944 | 8% |
| Rent | 25,714 | 12% |
| Equipment Support | 2,236 | 2% |
| Office, Miscellaneous & Postage | 3,354 | 3% |
| Total General Overhead | 106,210 | 95% |
| Total Overhead (General + Fringe) | 185,588 | 166% |
| Overhead Rate (Total Overhead / Direct Labor) | 1.66, | |

DOT Form 140-000 BF Exhibit G-2
Revised 8/87

Exhibit G-1

Transportation Solutions Inc. (TSI)

Subconsultant Fee Determination Form
Exhibit G-1

Project: Donkey Creek Austin Estuary
Sub Consultant: Transportation Solutions, Inc.

Direct Salary

| Classification | Man Hours | | Rate | = | Cost |
|----------------------------|-----------|---|------------------|----|----------------|
| Principal | 28.5 | X | \$ 62.00 | | \$1,767 |
| Assoc. Principal | 0 | X | \$ 51.00 | | \$0 |
| Project Manager | 0 | X | \$45.50 | | \$0 |
| Project Engineer | 82.5 | X | \$39.47 | | \$3,256 |
| Transportation Engineer | 14 | X | \$28.15 | | \$394 |
| Office Administrator | 2 | X | \$32.34 | | \$65 |
| Finance Administrator | 2.5 | X | \$28.88 | | \$72 |
| | | X | | | \$0 |
| | | X | | | \$0 |
| | | X | | | \$0 |
| | | | Total DSC | | \$5,554 |
| Overhead | | | | | |
| OH Rate x DSC of | 170% | x | 5554 | \$ | 9,442 |
| Fixed Fee | 12% | x | 5554 | \$ | 667 |
| Reimbu Mileage | | | | \$ | 100 |
| Delivery | | | | \$ | 27 |
| Subconsultant Total | | | | \$ | 15,790 |
| Grand Total | | | | | |

Prepared By: David D. Markley

Date: 7-Sep-10

Exhibit G-2
Transportation Solutions Inc. (TSI)

Subconsultant Fee Determination
Exhibit G-2
Specific Rates of Pay

| Discipline or Job Title | Hourly Rate | Overhead @ 170% | Profit @ 12% | Rate Per Hour |
|--------------------------------|--------------------|----------------------------|-------------------------|--------------------------|
| Principal | \$ 62.00 | \$ 105.40 | \$ 7.44 | \$ 174.84 |
| Assoc. Principal | \$ 51.00 | \$ 86.70 | \$ 6.12 | \$ 143.82 |
| Project Manager | \$ 45.50 | \$ 77.35 | \$ 5.46 | \$ 128.31 |
| Project Engineer | \$ 39.47 | \$ 67.10 | \$ 4.74 | \$ 111.31 |
| Transportation Engineer | \$ 28.15 | \$ 47.86 | \$ 3.38 | \$ 79.38 |
| Office Administrator | \$ 32.34 | \$ 54.98 | \$ 3.88 | \$ 91.20 |
| Finance Administrator | \$ 28.88 | \$ 49.10 | \$ 3.47 | \$ 81.44 |

Exhibit G-3
Transportation Solutions Inc. (TSI)

Subconsultant Overhead Cost Breakdown
 Exhibit G-3

| Account Title | \$ Beginning Total | % of Direct Labor |
|--|--------------------|-------------------|
| Direct Labor | \$541,549 | |
| Overhead Expenses: | | |
| FICA (Payroll Taxes) | \$76,633 | 14% |
| Unemployment | | |
| Health/Accident Insurance | \$67,805 | 13% |
| Medical Aid & Industrial Insurance | | |
| Holiday/Vacation/Sick Leave | \$114,913 | 21% |
| Quarterly/Annual Bonuses | \$137,884 | 25% |
| Retirement | \$50,581 | 9% |
| Total Fringe Benefits | \$447,816 | 83% |
| General Overhead | | |
| State B&O Taxes (including City Taxes | \$26,842 | 5% |
| Insurance | \$10,572 | 2% |
| Administration & Time Not Assignable (including recruiting) | \$215,455 | 40% |
| Printing, Stationery & Supplies | \$22,337 | 4% |
| Professional Services | \$37,776 | 7% |
| Travel Not Assignable | \$11,995 | 2% |
| Telephone & Telegraph Not Assignable | \$10,441 | 2% |
| Fees, Dues & Professional Meetings | \$14,570 | 3% |
| Utilities & Maintenance | \$10,015 | 2% |
| Professional Development | \$7,267 | 1% |
| Rent | \$51,653 | 10% |
| Equipment Support | \$11,745 | 2% |
| Office, Miscellaneous & Postage | \$0 | 0% |
| Depreciation | \$36,041 | 7% |
| Facilities Cost of Capital | \$4,699 | 1% |
| Total General Overhead | \$471,408 | 87% |
| Total Overhead (General + Fringe) | \$919,224 | |
| Overhead Rate (Total Overhead / Direct Labor) | | 170% |

Exhibit M-1(a)

Certification of Consultant

**Exhibit M-1(a)
Certification Of Consultant**

Project No. _____

Local Agency _____

I hereby certify that I am CHRIS H. UBER and duly authorized representative of the firm of MURRAY, SMITH & ASSOCIATES, INC. whose address is 1119 PACIFIC AVE #1202 TALOMA, VA 98402 and that neither I nor the above firm I here represent has:

- (a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure the AGREEMENT;
- (b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- (c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be available to the Washington State Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

9/20/10
Date

Chris Uber
Signature

Exhibit M-1(b)

Certification of Agency Official

**Exhibit M-1(b)
Certification Of Agency Official**

I hereby certify that I am the AGENCY Official of the Local Agency of _____,
Washington, and that the consulting firm or its representative has not been required, directly or indirectly as an
express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- (a) Employ or retain, or agree to employ to retain, any firm or person; or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or
consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be available to the Washington State Department of
Transportation and the Federal Highway Administration, U.S. Department of Transportation, in
connection with this AGREEMENT involving participation of Federal-aid highway funds, and is
subject to applicable State and Federal laws, both criminal and civil.

_____ Date

_____ Signature

Exhibit M-2 **Certification Regarding Debarment,
Suspension, and Other Responsibility Matters**

Exhibit M-2
Certification Regarding Debarment, Suspension, and Other Responsibility
Matters-Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (I)(B). of this certification; and
 - D. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Consultant (Firm): MURRAY, SMITH ASSOCIATES, INC.

9/20/10
(Date)

Cl - UB
(Signature) President or Authorized Official of Consultant

Exhibit M-3

**Certification Regarding the Restrictions
of the Use of Federal Funds for Lobbying**

**Exhibit M-3
Certification Regarding The Restrictions
of The Use of Federal Funds for Lobbying**

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Consultant (Firm):

MURRAY, SMITH & ASSOCIATES, INC.

9/20/10
(Date)

CL-UB
(Signature) President or Authorized Official of Consultant

Exhibit M-4

Certificate of Current Cost or Pricing Data

**Exhibit M-4
Certificate of Current Cost or Pricing Data**

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of DONKEY CREEK AND AUSTIN ESTUARY RESTORATION AND ROADS PROJECT are accurate, complete, and current as of SEPTEMBER 21, 2010*. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm MURRAY, SMITH & ASSOCIATES, INC.
Name CHRIS H. UBER
Title SENIOR VICE PRESIDENT
Date of Execution*** SEPTEMBER, 27, 2010

* Identify the proposal, quotation, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., RFP No.).

** Insert the day, month, and year when price negotiations were concluded and price agreement was reached.

*** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.



Subject: WWTP Digesters 2&3 Aeration/
Mixing System with Support Bridge – Purchase
Authorization

Proposed Council Action:

Authorize the purchase of Digesters 2&3
Aeration/Mixing System with Support Bridge
from Ovivo in the amount of \$64,940.27,
including WA State sales tax.

Dept. Origin: Wastewater Treatment Plant

Prepared by: Darrell Winans
Supervisor

For Agenda of: September 27, 2010

Exhibits: Purchase Authorization
Contract

Initial & Date

Concurred by Mayor:

CLH 9/22/10

Approved by City Administrator:

ROK 9/22/10

Approved as to form by City Atty:

by email

Approved by Finance Director:

Approved by Department Head:

| | | | |
|----------------------|----------------------|---------------|---|
| Expenditure | Amount | Appropriation | |
| Required \$64,940.27 | Budgeted \$65,000.00 | Required | 0 |

INFORMATION / BACKGROUND

A component of the Wastewater Capital Fund under Objective #5 provides for purchase of an aeration/mixing system with support bridge. The City advertised on September 1, 2010 and September 8, 2010 for the aeration/mixing system with support bridge. One bid was received, as follows:

- Ovivo USA, LLC \$64,940.27 (including WA State sales tax @ 8.4%)

This price includes delivery.

FISCAL CONSIDERATION

The cost of this aeration/mixing system with support bridge is necessary and is covered in our Wastewater Capital Fund under Objective #5. The treatment plant staff will install the aeration/mixing system with support bridge.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION / MOTION

Move to:

Authorize the purchase of Digesters 2&3 Aeration/Mixing System with Support Bridge from Ovivo in the amount of \$64,940.27, including WA State sales tax.

AGREEMENT FOR PURCHASING MATERIALS
BETWEEN CITY OF GIG HARBOR
AND OVIVO USA, LLC

THIS AGREEMENT is made this 27TH day of September, 2010, by and between the City of Gig Harbor (hereinafter the "City"), and Ovivo USA (formerly known as Enviroquip, a Division of Eimco Water Technologies), a Limited Liability Company, located and doing business at 2404 Rutland Drive, Austin, Texas (hereinafter "Vendor").

WHEREAS, the City desires to purchase a Aeration/Mixing System with Support Bridge from the Vendor, as described in Exhibit A and the Vendor agrees to sell and/or deliver such items under the terms set forth in this Agreement; and

WHEREAS, in the process of selection of the Vendor and award of this contract, the City has utilized the procedures in RCW 39.04.190, 35A.40.210(2) and 35.23.352 and Resolution No. 593;

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

I. Description of Materials, Supplies, Tools or other items.

The Vendor shall sell and provide for purchase an Aeration/Mixing System with Support Bridge and/or deliver all materials, supplies, tools or other items to the City, as described in Exhibit A and detailed in Exhibit B, both of which are attached hereto and incorporated herein by this reference,

II. Payment.

A. The City shall pay the Vendor the total sum of Sixty-Four Thousand, Nine Hundred Forty dollars, and Twenty-Seven Cents (\$64,940.27), including Washington State sales tax, for the Aeration/Mixing System with Support Bridge described in Exhibit A herein including all costs of delivery and field services assistance/start-up. This is the maximum amount to be paid under this Agreement, and shall not be exceeded without prior written authorization from the City in the form of a negotiated and executed contract amendment.

B. After delivery of the materials, supplies, tools or other items, the City shall inspect the same, and if acceptable, shall pay the Vendor the full amount of the invoice corresponding to this Agreement. If the materials, supplies, tools or other items are not acceptable to the City for any reason or are delivered in a damaged or unusable condition, the City shall not be obligated to accept delivery or to make any payment.

III. Deadline for Delivery.

The City and the Vendor agree that the Aeration/Mixing System with Support Bridge described in Exhibit A will be delivered to The City of Gig Harbor, Wastewater Treatment Plant, 4216 Harborview Drive, Gig Harbor, WA by the Vendor on or before December 3, 2010.

IV. Termination.

Either party shall have the ability to terminate this Agreement no later than 30 days prior to the delivery date, as long as written notice of termination is faxed or e-mailed to the other party at the addresses set forth in this Agreement.

V. Insurance.

The Vendor shall procure and maintain until delivery AND acceptance of the materials, supplies, tools or equipment by the City, insurance to cover any damage to the same prior to delivery to the City at the location specified by the City. The Vendor shall assume all liability relating to such damage or loss until acceptance by the City.

VI. Warranty.

The Vendor shall guarantee materials and equipment against defects for a period of 24 months following startup and engineer's acceptance of equipment. In the event of equipment failure, repair and/or replacement shall be made at no cost, including no shipping cost, to the Owner.

The warranty shall be in printed form. The warranty shall commence upon the date of issuance of equipment startup and acceptance of by the Owner.

VII. Entire Agreement

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

VIII. Modification

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

IX. Assignment

Any assignment of this Agreement by the Vendor without the written consent of the City shall be void.

X. Written Notice

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

Vendor:

Attn: Kevin Crane
Ovivo USA, LLC
2404 Rutland Drive
Austin, TX 78758
Facsimile: 512-834-6039

City of Gig Harbor:
Attn: Darrell Winans, Supervisor
Wastewater Treatment Plant
3510 Grandview Street
Gig Harbor, WA 98335
Facsimile: 253-853-7597

XI. 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.

XII. Resolution of Disputes

Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Administrator, and the City Administrator shall determine the term or provisions' true intent or meaning.

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

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

SUPPLIER

By: _____
Its _____

THE CITY OF GIG HARBOR

By: _____
Its Mayor

Attest:

By: _____
Molly M. Towslee, City Clerk

Approved as to form:

By: _____
City Attorney

Exhibit A

SECTION 11088 DIGESTERS 2 & 3 AERATION/MIXING SYSTEM WITH SUPPORT BRIDGE

PART 1 GENERAL

1.1 DESCRIPTION OF WORK

- A. This specification shall govern all work necessary to furnish, deliver to project site and provide installation and startup assistance as described in Section 11088, the medium bubble aeration system for the aerobic digester basins numbers 2 and 3, as described in detail herein and as shown on the Drawings.
- B. The equipment furnished under this specification shall consist of but not be limited to all "in-basin" air supply piping, air control valves, air headers, diffuser drop assemblies, support bridge, anchorage and fasteners as necessary to form a complete aeration system.

1.2 GENERAL REQUIREMENTS

- A. The specific equipment described herein are based upon equipment manufactured by Enviroquip, a Division of Eimco Water Technologies. It is the intent of this specification to require individual air diffusers and drop pipes that are capable of being cleaned without draining the basins. In addition, the aeration system shall include only above water orificing that allows cleaning of the drop pipe and diffuser from the top. It is the intent of this specification to require air diffuser equipment designed to meet the air flow distribution and oxygen transfer requirements of the aerated system at all air flows from design to maximum as specified, to completely mix the basin contents and to require little or no maintenance to continuously meet these requirements. The aeration equipment must have a history of efficient operation and be free from clogging, excessive backpressure and/or any structural failure, when applied to service conditions similar to those indicated for this project.
- B. Alternate manufacturers may propose similar equipment meeting these specifications provided that all required submittals are provided at the time of the bidding for evaluation by the engineer. Alternate manufacturers with the lowest, responsive, responsible bid that meet all the conditions of the specifications, as determined by the engineer (provided that submittal is adequate for evaluation), may be selected for provision of the equipment, based upon the sole discretion of the City.

1.3 SUBMITTALS

- A. Submit Shop Drawings and technical information to show compliance with the Specifications. Provide five (5) copies of the submittal. The information shall include the following:

1. Drawings showing plan views and cross sections of the equipment as installed in the digester basins.
2. Detailed layouts of anchor bolt locations and anchor bolt technical information.
3. Material specifications describing the size, type, and quality of individual items to be provided. Catalog cut sheets shall be provided when appropriate.
4. Fabrication drawings showing details of bridge including handrail, aeration piping to each basin, and diffuser drop pipes.
5. Procedures for product quality control testing, as required herein.
6. A letter of qualification shall be provided if the manufacturer is recommending any deviations from the contract Plans and Specifications. Reasons for such requests shall be fully justified, with illustrative drawings when appropriate.
7. Instructions on receiving (offloading), storage, handling and installation of equipment shall be provided at the time of submittal.
8. Equipment description for each component explaining scope of supply.
9. Installation, operation and maintenance manuals shall be provided prior to delivery of equipment. The number of manuals shall be as called out in Section 11000.

1.4 QUALITY ASSURANCE

- A. Standardization: To assure compatibility, all equipment items furnished under this specification shall be furnished by a single manufacturer who shall be responsible for the adequacy of design.
- B. Manufacturer's Quality Control: All fabrication shall be carefully inspected at the site of fabrication by factory inspectors who shall use whatever means are necessary, including shop assembly, to assure the proper fit of all field connections and compliance with all material and fabrication requirements of the specifications.

PART 2 PRODUCTS

2.1 PROCESS DESIGN REQUIREMENTS

- A. The Aerobic Digester(s) aeration equipment shall be designed based on the following criteria:
 1. Number of Basins: 2
 2. Basin Dimensions: 18'-2" and 18' X 18' (as shown on the drawings)
 3. Basin Side Water Depth: 16' (as shown on the drawings)
 4. Floor Slope: NA

5. Design Airflow: 160 SCFM
6. Maximum Blower Discharge Pressure: 8 PSI
7. Minimum Standard Oxygen Transfer Efficiency: 11%

B. Site conditions:

1. Elevation: 50 ft. AMSL
2. Maximum Air Temperature: 38 degrees C
3. Minimum Water Temperature: 12 degrees C

2.2 GENERAL REQUIREMENTS

- A. Design: The equipment manufacture shall be responsible for determining the size and number of all diffusers, air drops, shear tubes, draft tubes, baffles and other equipment required for the specified air flow ranges indicated below, subject to approval of the Engineer.
- B. Structural Steel Fabrication: Except where specifically stated otherwise, all carbon steel plate and structural members shall have a minimum material thickness of ¼". Pieces shall be fabricated in maximum sizes suitable for shipping and galvanizing. The equipment shall be designed and fabricated per ASTM A-143, A-384, and A-385 for bolt together field assembly. All welding shall conform to the latest AWS Standards and shall be performed by certified welders. All welding shall use a minimum of 3/16" fillets, and shall completely seal all mating surfaces. Skip welding will not be allowed. All field connections shall be bolted connections designed to resist all static, live and erection loads. Field welded assembly will not be allowed.
- C. Hot Dip Galvanizing: All fabricated carbon steel components shall be designed and fabricated per ASTM A-143, A-384 and A-385 for bolt together field assembly and shall be hot dipped galvanized after fabrication in accordance with ASTM A-123. Minor defects in the hot dipped galvanizing coating caused by shipping, handling or installation shall be repaired after equipment installation. The defects shall be thoroughly cleaned and wire brushed to remove all foreign substances, wiped clean with a suitable solvent, thoroughly dried, and coated with at least 3 mils of a zinc rich compound specifically formulated for touch-up galvanizing and conforming to USN Specification MIL-P-21035 or USAF Specification MIL-P-26915A.
- D. Anchorage and Fasteners: All anchors shall be stainless steel with stainless steel nuts and washers. All fasteners attached to stainless steel shall be Type 304 stainless steel. The equipment manufacturer shall furnish all anchor bolts, nuts, washers, and gaskets necessary for the equipment furnished, as well as any templates required for setting the anchorage. The Installing Contractor shall place the anchorage in accordance with the certified prints supplied by the equipment manufacturer. All anchor bolts shall be set with proper projection.

2.3 AERATION EQUIPMENT

- A. The aeration system shall be able to properly distribute design airflow to all diffusers at design airflow in compliance with the air supply pressure requirement.
1. The equipment manufacturer shall demonstrate uniform air delivery to all diffusers at design airflow in compliance with the air supply pressure

- requirement.
 2. The equipment manufacturer shall guarantee that the increase in diffuser back pressure at the design airflow specified shall not exceed 0.1 psig after one year of operation and 0.2 psig after five years of operation.
 3. The equipment manufacturer shall demonstrate compliance with the air supply pressure requirement and provide baseline data for the increase in diffuser backpressure requirement.
- B. Air supply piping shall be sized so that the velocity in the pipe at 150% of the design airflow is less than or equal to 3,000 fpm.
1. Piping smaller than 8" diameter shall be fabricated from Schedule 40 steel pipe.
 2. All air piping shall be hot dip galvanized after fabrication.
 3. Couplings for air piping shall be hot dip galvanized or stainless steel.
 4. Gaskets for air piping couplings shall be EPDM with a temperature rating of 250°F or higher (or Viton with a temperature rating of 350°F or higher).
 5. Air distribution headers shall be furnished with threaded couplings welded at each air drop location. The couplings shall be welded prior to hot dip galvanizing and the threads shall be retapped after galvanizing.
- C. Orificing shall be sized by the equipment manufacturer to provide balanced air distribution for proper mixing and aeration.
1. All orificing shall be interchangeable without draining the tank contents.
 2. To ensure structural integrity the orifice must be removable without disassembly of any rigid piping.
 3. Orifice sizing shall provide at least 3" of water column head loss at minimum conditions.
 4. No air diffusion equipment using underwater orificing or restricting devices such as couplings to provide male to female to male connections to the 304 stainless steel drop pipes will be accepted.
 5. The orifice assembly shall be molded of high temperature, black pigmented, glass reinforced nylon suitable for extended outdoor application in extreme heat and wastewater environments.
 6. The orifice assembly shall screw into the top of the adapter and shall be easily removable for positive cleaning of the drop pipe and diffuser.
- D. An individual air drop shall be furnished for each air diffuser assembly.
1. Each drop shall be supported by the orifice-tee assembly attached to the air supply and by a lower drop support.
 2. Drop pipes with lengths in excess of 20'-0" shall include two (2) lower drop supports.
 3. Individual air drops shall be positively and securely fixed in place at the proper elevation and must be capable of being individually and positively cleaned from above the water surface without being removed.
- E. Diffuser Assemblies: Individual air drop assemblies each consisting of an easily replaceable above water air control orifice, orifice adapter piece, drop pipe,

vibration dampening clamp, upper deflector, and non-clogging air diffuser shall be furnished as indicated. The use of dissimilar metals in the air drop assembly will not be allowed. No diffuser utilizing small underwater orifices for either bubble formation or air distribution will be permitted.

1. 1" Diffusers: The individual air drop diffusers shall be pressure injection molded, black pigmented ABS plastic having a high temperature tolerance range of 220°F to 245°F. Each diffuser shall be constructed with a full (1") inlet diameter, vertical, hollow section extending from the inlet through the bottom-most point of the diffuser to provide for minimum pressure losses and positive cleaning of the airway throughout its length. The bottom of the diffuser tube shall contain vertical slots at least 3/16" wide to insure unimpeded distribution of airflows to eight quadrants of the diffuser deflector. The slots shall begin to release air at a point no closer than 2" below the diffuser deflector shear plane to create an initial upward direction of air bubble travel before the bubbles hit the diffuser deflector shear plane. The slots shall extend to the open bottom of the air release tube to facilitate cleaning.
 2. Upper Deflector: The upper deflector (hat) shall consist of eight shear edges in a pie shaped pattern. The deflector must be concave with the highest point away from the diffuser and the underside must be large enough to capture all bubbles. No perforations of the air distribution surface will be permitted. Flat plates or deflectors that do not capture and retain the bubbles will not be allowed. It will be the manufacturer's responsibility to set the distance between the upper deflector and the upper portion of the diffuser based on the type of the application, submergence, and air flow per diffuser.
 3. Air Drops: Each 1" air drop shall be 1.315" O.D. schedule 10, Type 304 stainless steel tubing. The connection between the drop pipe and the diffuser shall be male threads on the drop pipe to female threads on the diffuser.
 4. Air Drop Supports: Each air drop pipe shall be rigidly secured in place by the orifice adapter piece and a lower support mounted on the energy recovery baffle. The lower support clip shall be fabricated from a minimum 3" x 3" x 1/4" steel angle. A vibration resistant clamping block shall be used molded from black pigmented filled polypropylene.
- F. Air Bridge: Access air bridges shall provide convenient access to the air drop assemblies and provide a conduit for the airflow to the air drops. The air bridge tubing shall be sized so that the velocity of the air in the tubing at 150% of the design airflow is less than or equal to 3,000 feet per minute (fpm) for tubing up to and including 6" x 12" and 4,000 fpm for tubing larger than 6" x 12". The structural design of the air bridges shall be based on all dead loads plus a live load of 50 pounds per square foot (psf) with a maximum deflection less than L/360.
1. Air bridges shall be fabricated from standard rectangular steel tubing with a minimum 1/4" wall thickness and interlaced with 3" x 3" x 1/4" grating support angles. Each air bridge section shall be hot dip galvanized (inside and outside) after fabrication.

2. Air bridge handrail shall be 1-1/2" aluminum pipe (1.9" O.D.) with schedule 10 rails, schedule 40 posts and cast aluminum fittings and aluminum toe board (kick plate). Handrails 42-inches high of 1-1/2-inch diameter, triple-row (minimum) horizontal aluminum pipe shall be placed along both sides of the walkway. Handrail on the bridge (including the South end of the bridge) shall meet all OSHA requirements.
 3. Air bridge grating shall be 1-1/2" deep Fiberglass grating of sufficient strength to support a live load of 50 pounds per square foot.
 4. Gaskets for air bridges shall be EPDM with a temperature rating of 250°F or higher.
- G. Butterfly Air Control Valves: Butterfly valves shall be of the wafer body style for air service as noted on the plans. All valves shall be suitable for use with ANSI 125 or 150 pound flanges. Bodies shall be cast iron. Valves shall be available with field interchangeable manual or powered actuators as required. Valves 8" and smaller shall have 10-position levers. All manually actuated valves 10" and larger shall be operated using a cast iron housed handwheel gear actuator with manufacturer's painted finish. Operating shaft to be supported axially and radially at input end by permanently lubricated bronze thrust and sleeve bearings. Valves shall be as manufactured by DeZurik, or equal, and be furnished by the aeration manufacturer.
- H. Aeration System Supports: Design of the supports for the aeration system shall be the responsibility of the equipment manufacturer.
1. All supports shall be minimum ¼" thick steel and shall be hot dip galvanized after fabrication.
 2. Lower drop pipe supports shall include a polypropylene clamp block with minimum 10 gauge stainless steel backing plate.
- I. Anchorage and Fasteners
1. All anchors shall be minimum ½" ϕ , Type 304 stainless steel with stainless steel nuts and washers.
 2. All fasteners attached to stainless steel shall be Type 304 stainless steel.
 3. All submerged fasteners shall be Type 304 stainless steel.
 4. All other fasteners shall be Type 304 stainless steel.
- J. Protective Coating
1. All fabricated steel equipment described as hot dip galvanized shall conform with ASTM A-123.
 2. Individual components shall be fabricated in maximum sizes suitable for shipping and galvanizing.
 3. The equipment shall be designed and fabricated in accordance with ASTM A-143, A-384 and A-385 for bolt-together assembly.
 4. No field welding will be allowed on hot dip galvanized equipment.
 5. Mechanical components, such as valves, gear reducers and bearings, shall be furnished with the original manufacturer's standard finish.

PART 3 EXECUTION

3.1 PREPARATION

- A. Inspect all concrete and piping and determine that all dimensions and elevations relating to the equipment are correct. All modifications to existing concrete requires approval of the Engineer.
- B. The Owner shall have sufficient copies of the equipment manufacturer's installation, operation and maintenance manuals onsite prior to installation (see request for proposal Specifications General Conditions).

3.2 INSTALLATION

- A. The Owner shall install all equipment in accordance with the manufacturer's written instructions and as directed during onsite inspection by the manufacturer's representative.
- B. Deviations from the manufacturer's written or verbal instructions shall be subject to approval of the Engineer.

3.3 FIELD TESTING

- A. Prior to start-up, the Owner shall test all valves, switches and gauges for proper setting and operation.
- B. Check assembly alignment.
- C. Ensure all equipment is properly lubricated.

3.4 START-UP SERVICES

- A. The manufacturer shall provide the services of a field service representative to inspect the equipment installation and place the equipment into initial operation.
- B. The field service representative shall instruct operating personnel in the proper operation and maintenance of the equipment.
- C. A minimum of two (2), eight (8) hour days and one (1) trip to the jobsite shall be provided by the manufacturer. The owner shall be responsible for coordinating with the manufacturer for this start up testing and training.

EXHIBIT B

Ovivo USA, LLC
2404 Rutland Drive
Austin TX
78758
USA

Telephone: 512.834.6000
Facsimile: 512.834.6039
www.ovivowater.com



PROPOSAL

We propose to provide the following items of equipment and associated services at the prices indicated and in accordance with the terms and conditions set forth herein:

ITEM I - Aeration Equipment
Engineer's Specifications -- Item 11088
Engineer's Drawings Sheet 1 and 2

One (1) Lot Ovivo Aeration System Equipment, FOR INSTALLATION BY OTHERS, in the Proposed Digester Basins beginning with the 4" flange on the air bridge piping connecting to the air supply piping from the blowers and terminating with the air release point within the basins. The following equipment will be included:

Two (2) 4" x 8" air bridge, approximately 18' in length each, including mid-span supports, fiberglass grating, aluminum handrail and kickplates with SS hardware. Air bridge shall be fabricated from carbon steel and hot dipped galvanized after fabrication.

Twenty-four (24) 1-inch diameter individual air drop assemblies. Each 1-inch diameter air drop assembly to be complete with 1-inch diameter stainless steel threaded nipple, 1-inch diameter stainless steel threaded tee with orifice insert, 1-inch diameter stainless steel individual drop pipe, 1-inch diameter polypropylene clamp block assembly, upper deflector and 1-inch TransMax. air diffusers. Each air drop assembly shall also include supports, anchorage and fasteners.

NOT INCLUDED

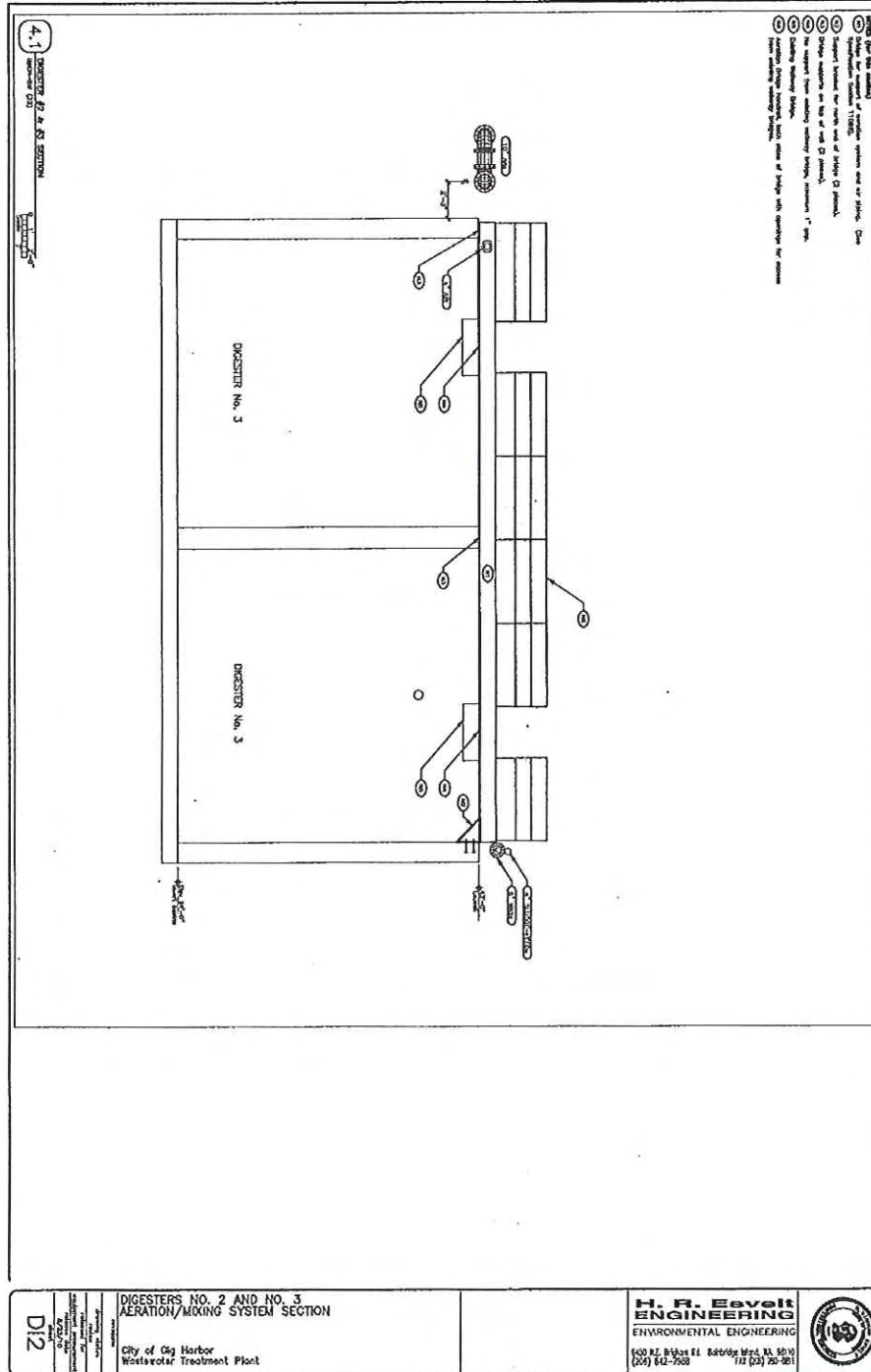
Unless specifically mentioned in this proposal for inclusion with the proposed equipment, the above price DOES NOT INCLUDE:

- Spare parts
- Unloading, hauling or storage
- Equipment erection or field welding
- Concrete work, grout or sealant
- Field cleaning or field painting
- Protection against rusting or deterioration due to unprotected storage
- Piping, valves or fittings
- Pipe hangers, or supports
- Lubricating oil or grease
- Wire, wiring or conduit
- Motor starters or controls

Proposal Number: 11-024-001

Bid Date: 9/16/10

EXHIBIT B



Presentations - Net Shed Survey Report

City of Gig Harbor
Net Shed Survey
Contract # BY09-61019-007

DAHP REPORT - OUT

The City of Gig Harbor completed the “HAER DOCUMENTATION OF HISTORIC NET SHEDS” using the SECRETARY OF THE INTERIOR'S GUIDELINES for ARCHITECTURAL AND ENGINEERING DOCUMENTATION guide. The project was funded through a Department of Archaeology and Historic Preservation (DAHP) certified local government (CLG) grant.

The documentation was reviewed by the National Park Service regional coordinator and transmitted to the HABS/HAER Washington office for inclusion in the HABS/HAER collections at the Library of Congress. A final public meeting fulfills the City's obligation identified in the project scope.

Four hard copies will be placed in local public facilities for access. One copy is for DAHP, one will reside in the Peninsula Public Library and one will be available to the public through the City's Historic Preservation Division. The City will create another volume for the new Harbor History Museum and each form is posted on the City's website at **cityofgigarobr.net** (Historic Preservation – Net Shed Survey)

Presentations - Net Shed Survey Report

THE PRODUCT

- Measured Drawings

The drawings produced using HABS or HAER formats depict existing conditions and other relevant features of the net sheds. A Plan, Profile and Perspective were completed on all but one of the sites (Ross Net Shed).

- Large Format Photographs

The black and white photos include a cover sheet list of descriptions of the 4x5 original prints for each net shed

- Written Data

The data includes a written history and description. A methodology section specifying the name of researcher, the date of research, the sources searched, and the limitations of the project are included. Primary and secondary sources are identified.

PUBLIC INFORMATION & EDUCATION ACTIVITIES

- Newspaper

The City initiated a number of public interest articles over the course of the project. In addition, city-owned Skansie Netshed (one of the survey sites) was awarded a \$100,000 restoration grant from the National Trust of Historic Preservation in partnership with American Express. This publicity heightened the public's interest in the other 16 net shed locations and this survey. (Articles on owners and their net sheds can be viewed online at the City's website – Historic Preservation / Net Shed Survey.)

Presentations - Net Shed Survey Report

- Student Support

HABS/HAER documentation was developed using student engineers, historians and architectural historians under the supervision of National Park Service professional, Todd Croteau. Bates Technical College land surveying students participated in the project under the supervision of instructor, Richard Land, PLS. University of Washington students, Brian Diveley and Shelly Leavens worked on the engineered illustrations and documentation under Todd Croteau. In addition to oral histories, a number of interviews were recorded and will be kept on file with the City and the Harbor History Museum. A number of the participants represent 2nd and 3rd generation commercial fishermen.

- Property Owners Input

Individual interviews produced draft narratives that were circulated to all net shed owners. Prior to completion of the report, a copy of each net shed narrative was mailed in June of 2010 for final review. Corrections and updates were adopted prior to the final submittal.

- Public Meetings

The net shed survey project “kick-off” was presented during a public meeting to the City’s Design Review Board’s in 2009. All 17 completed net shed survey forms are currently posted on the City’s website (Historic Preservation – Net Shed Survey <http://www.cityofgigharbor.net/page.php?id=689>) They can be downloaded and printed by the public. A formal presentation is scheduled **September 27, 2010** during a public meeting with City Council members. This meeting is posted in the local newspaper. All property owners have been notified of the presentation and will have an opportunity to comment.



Subject: Second Reading of Ordinance on Permit Processing Amendments

Proposed Council Action: Adopt at this second reading

Dept. Origin: Planning

Prepared by: Tom Dolan 
Planning Director

For Agenda of: September 27, 2010

Exhibits: Ordinance; Summary of amendments; Mayor's requested change

Initial & Date

Concurred by Mayor: CLH 9-22-10
Approved by City Administrator: RJK 9/21
Approved as to form by City Atty: email 9/21
Approved by Finance Director: N/A
Approved by Department Head: TD 9/21/10

| | | |
|-------------|------------|---------------|
| Expenditure | Amount | Appropriation |
| Required 0 | Budgeted 0 | Required 0 |

INFORMATION / BACKGROUND

During the Council's discussion on the proposed ordinance at 1st reading, the subject of director's interpretations came up. Under the current code, a director's interpretation happens without much public involvement – there is no notice of application or notice of decision available for the public to comment on. Therefore, a director's interpretation is not often known by a neighboring property owner until an actual project is proposed and goes to hearing. At that point the public has missed their opportunity to argue the interpretation. One of the proposed changes contained in the draft ordinance presented last week was requiring significant public notice for director's interpretations, a Type II application. For site specific interpretations, property owners within 300 feet of the property subject to the interpretation will be noticed of both the application and decision on the interpretation. If a neighboring property owner believes that the director's interpretation was issued in error, that neighboring property owner may appeal the interpretation. If the appeal is successful, they will be refunded the appeal fee of \$275 and will not be required to pay the hearing examiner costs.

The Mayor has requested that the City allow even more public opportunity for comment on projects with associated interpretations. Therefore, new language is being presented for consideration which would require those projects needing major site plan review which are associated with a previously issued administrative interpretation to go to hearing examiner for the decision rather than the planning director. Staff should note that this change will not affect the decision on the interpretation only the process by which the site plan decision is made. The proposed language is attached.

Staff is also suggesting a few changes since the first reading. First, staff is suggesting final short plat decisions go from a Type II permit to a Type I permit. The preliminary short plat decision that the final short plat is based on would remain a Type II decision with the appropriate public noticing. The final short plat process is simply staff reviewing the record documents to make sure they meet the preliminary short plat approval; we do not believe notices of the application and decision, as required by the new Type II process, is warranted.

Finally, staff is suggesting that the City allow existing site plan application to use this new process, once effective, provided the new public noticing requirements are met. A new section 120 has been added to the ordinance to allow this.

Previously presented information:

During last year's budget discussions, the Planning Department indicated that we had identified a number of code amendments that would add efficiencies to the land use permit process. The enclosed draft ordinance for your review is considered Phase 2 in the Planning Department's efforts to improve the land use permitting process.

While gaining efficiency is important, planning staff believes it should not come at the expense of the quality of development or necessary public process. The amendments proposed are consistent (but still somewhat more restrictive) with the manner most other jurisdictions conduct their land use permit process. Should the City Council approve permit processing amendments in the draft ordinance, the land use process in Gig Harbor will continue to be robust and challenging for both applicants and staff. The planning staff understands that the citizens and policy makers in the City expect a high level of project review and citizen participation in the process.

The major change proposed is to allow the administrative approval of site plans by the Planning Director. All other major land use permits would still require approval by the hearing examiner¹. It is the planning staff's observation that the vast majority of site plan approval hearings (where site approval is the only permit being considered by the hearing examiner) do not have a high level of citizen participation. Most of the time, the only people at the hearing are the examiner, the applicant and the planner who processed the case. It is important to understand that when a permit hearing only involves site approval, there is very little discretion in making a decision. If the project being considered includes a use that is permitted in the zone, meets all setbacks, parking requirements and the City's design guidelines, the project must be approved. It is the planning department's recommendation to allow the Planning Director to approve site plans, subject to appeal to the hearing examiner. This would save substantial processing time (approximately one month) and substantial money (\$500 - \$1000) for an applicant. One primary goal in developing the changes to the site plan approval process was to insure that even though the permit didn't have a public hearing, the surrounding property owners within 300 feet of the site would still be notified of the director's decision and would be allowed to appeal the administrative decision to the hearing examiner. It should be noted that the current hearing examiner for the City is supportive of this change.

Another significant change includes closing out lapsed applications when the applicant is unresponsive or is not actively pursuing the permit. In this instance, the file would be closed

¹ In order to allow administrative approval of site plans, DRB recommendations need to be made to the director rather than the hearing examiner. The director's decision on those would be appealable to the hearing examiner.

and reserved utility capacity would void. The proposed amendments also include amending the expiration period for land use permits. Existing expiration periods are inconsistent and too short for some permit types. Planning staff strongly recommends that most of the city's land use permits have a 3-year expiration period with one, one-year extension.

Several other amendments are proposed as well. Many of these amendments are of a housekeeping nature.

Staff is recommending that these code changes, if passed, become effective on January 1, 2011 to allow staff adequate time to implement the changes across development services. It should be noted that one exception to the January 2011 effective date is section 8 in the draft ordinance which will go into effect retroactively to June 10, 2010 for consistency with state law.

The enclosed sheet summarizes the proposed amendments. The ordinance shows the actual code changes in numerical order. Sections 60-69 starting on page 28 of the ordinance outlines the changes to the site plan review process. Section 96 starting on page 52 of the ordinance outlines the expiration of lapsed applications. And, Section 98 starting on page 54 of the ordinance outlines the permit expiration process.

ENVIRONMENTAL ANALYSIS

The City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on August 18, 2010.

FISCAL CONSIDERATION

None.

BOARD OR COMMITTEE RECOMMENDATION

The Planning and Building Committee reviewed these changes at their June 7, 2010 meeting and was in general support of the proposed process changes. Furthermore, the Planning Commission agreed that these amendments could be directly considered by the City Council.

RECOMMENDATION / MOTION

Adopt at this second reading.

Permit Processing Amendments

Proposed Changes from the Mayor to Site Plan Review: (changes since 1st reading shown in grey highlight)

Section 63. Section 17.96.030 in the Site Plans chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.96.030 Site plans and review.

Any use or development that is subject to the requirements for a site plan review, unless exempt as provided for in GHMC 17.96.025, prior to issuance of building permits shall be classified and processed in accordance with the procedures established under GHMC Title 19 for Type III project permit applications as provided for in this section.

A. Application. An application for site plan approval may be filed by the property owner, lessee of the property with more than a month to month tenancy or authorized agent of the property owner. These shall be submitted to the planning director for transmittal to the hearing examiner with analysis and recommendation.

B. Criteria for Approval. The city shall consider approval of the site plans with specific attention to the following:

1. Compatibility with the city's comprehensive plan;
2. Compatibility with the surrounding buildings' occupancy and use factors; and
3. All relevant statutory codes, regulations, ordinances and compliance with the same.

The review and decision of the city shall be in accordance with the provisions of Chapter 17.10 GHMC and GHMC Title 19.

A. Minor site plan review.

1. Applications for minor site plan review shall be processed in accordance with the procedures established under GHMC Title 19 for a Type I project permit application. A decision on a minor site plan review application shall be rendered prior to or concurrent with the issuance of any other applicable permit. The following are classified as minor site plan reviews:

- a. Change in use of an existing structure which increases the number of required off-street parking spaces and/or requires a change of use capacity evaluation as provided for in GHMC 19.10.004;
- b. Modifications to the number of off-street parking stalls, amount of impervious surface and height of structures on an existing site or approved site plan provided such modifications do not exceed a 10% increase over the original;
- c. Modifications to the parking lot layout or parking lot landscaping on an existing site or approved site plan;
- d. Modifications to the landscaping, common area, or vegetation retention areas provided the modifications do not adversely affect the basic character and quality of such;

e. Modifications to the total amount of gross floor area on an existing site or approved site plan which do not exceed a 10 percent increase over the original or 1,000 square feet increase, whichever is less;

f. Removal of some but not all buildings on a site;

g. Modification or expansion of existing stormwater facilities;

h. Modifications to the conditions of approval of a minor site plan review decision.

2. If a minor site plan review includes any use or development classified as a major site plan review in subsection (B) of this section, the entire project shall be processed under the provisions for major site plan review.

B. Major site plan review.

1. Applications for major site plan review shall be processed in accordance with the procedures established under GHMC Title 19 for a Type II project permit application, except as provided for in subsection (B)(3) of this section. The following are classified as major site plan reviews:

a. Construction of a building or installation of impervious surfaces on a vacant parcel;

b. Modifications to an existing site or approved site plan which are not classified as a minor site plan review in subsection (A) of this section or are exempt from site plan review under GHMC 17.96.025;

c. Any development subject to a SEPA threshold determination pursuant to GHMC Chapter 18.04;

d. Creation of new regional stormwater ponds;

e. Establishment of a new use or change of use which is not located in an existing building;

f. Modifications to the conditions of approval of a major site plan review decision.

2. If a SEPA threshold determination for a development requiring major site plan review is appealed, the major site plan review application shall be processed in accordance with the procedures established under GHMC Title 19 for a Type III project permit and the SEPA open record appeal hearing shall be consolidated with the Type III project permit open record hearing.

3. A major site plan review application for a project which has an associated administrative interpretation, as provided for in GHMC 17.66.050, shall be processed as a Type III application as defined in GHMC Title 19.

C. A minor or major site plan review application that is part of a project that requires additional applications with other procedure types may be processed collectively under the highest numbered procedure for any application unless the applicant chooses to have each application processed individually following the permit processing procedures in GHMC 19.01.002(B).



PLANNING DEPARTMENT

SUMMARY OF PERMIT PROCESSING AMENDMENTS

Site Plan Review process –

1. Changes site plan review approval from requiring hearings (a Type III permit) to an administrative process (Type I or II permit) with a director's decision and opportunity for appeal to hearing examiner.
2. Changes applicability of site plan review to all new, expanded or modified nonresidential and multi-family uses unless expressly exempted. Currently nonresidential uses which do not include a new building (contractor's yard, car sales, ballfields) do not have any permit process required to assure code compliance
3. All site plan review applications, including amendments, will be either major site plan review (Type II) or minor site plan review (Type I). We will no longer process separately site plan amendments.
4. Site plan review applications can be consolidated with variances, CUPs, etc. and go directly to the hearing examiner for decision.
5. Director's decision on site plan review can be appealed to the hearing examiner de novo.
6. Public will be noticed of site plan review application by mail (property owner's within 300 feet) in addition to the current posting of the site and publishing in the Gateway.
7. Public will be noticed of site plan decisions by mail.

Design Review process –

1. Recommendations from the Design Review Board will go to the Planning Director rather than Hearing Examiner. Design Review decisions on DRB recommendations will be appealable to the hearing examiner.
2. Administratively approvable design review application will be Type I permits.

General Permit Processing –

1. Lapsed Applications: Creates a process to expire complete applications which have lapsed. Allows an applicant 90 days to provide requested revisions or information, or updated timeline for submittal. If 90 days pass, the city can send a certified letter giving applicant 30 more days to respond – if no response, the application becomes null and void. All associated permits and reserved capacity also expire.
2. Expiration of Permits: Provides a uniform duration of permit approval and expiration and extension process for all land use permits. All land use permits

would be valid for 3 years, except for plats and shoreline permits whose duration of approval and expiration is regulated by state law. Land use permits will expire if construction permits are not submitted and kept active or use is legally established. One 1 year extensions would be allowed for all permits if permits are still compliant with city code. In the case of a project requiring multiple permits which include shoreline or plat permits, the longest duration of approval would apply to all land use permits.

3. Updates all noticing to meet State requirements
4. Rearranged permitting sections (Chapters 19.01 through 19.06) to better align with current practice and state law.
5. Public will be noticed of applications (all Type II and III permits) by mail (property owner's within 300 feet), posting of the site and publishing in the Gateway. Currently we only publish notices of application.
6. Public will be noticed of Type II permit decisions by mail (property owners within 300 feet of subject property).
7. People with standing to appeal have been expanded to include property owners within 300 feet and aggrieved parties.
8. Provides a clear procedure for administrative appeals (matches public hearing process).

Miscellaneous –

1. Updates requirements for complete application of multiple permits to better meet current needs and practice across departments.
2. Moves critical area reasonable use exceptions from a Type II (administrative permit) to a Type III permit (hearing).
3. Updates references throughout code to reflect process changes.
4. Changes references to Community Development Director to Planning Director.
5. Updates permit types of wireless facilities to match new processes.
6. Repeals duplicative director's interpretation appeal process in favor of the standard appeal process for all permits.
7. Removes requirement for applicant to provide labels of property owners within 300 feet. City staff can do it more timely and accurately.
8. Updates Landscaping chapter to reflect updated site plan process.
9. Updates land clearing chapter to current practices and allows it to be separate from site plan review process. This will allow for a permit process for clearing prior to site plan approval.
10. Provides a process for amending preliminary plats without going back to the hearing examiner if amendments are minor in nature.
11. Provides an explicit preliminary and final short plat process in order to have a timeframe for submittal of short plats for record once they are preliminarily approved.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, UPDATING PERMIT PROCESSING PROCEDURES TO REDUCE PERMITTING TIMELINES, GAIN EFFICIENCIES, FIX INCONSISTENCIES, INCREASE PUBLIC NOTICE AND IMPROVE CUSTOMER SERVICE; CHANGING SITE PLAN APPROVAL FROM A TYPE III PERMIT TO A TYPE II PERMIT; REQUIRING MAILING OF NOTICES OF APPLICATION AND NOTICE OF DECISIONS TO PROPERTY OWNERS WITHIN 300 FEET OF A THE PROPERTY SUBJECT TO A TYPE II PERMIT; CREATING A PROCESS TO EXPIRE LAPSED, INACTIVE COMPLETE APPLICATIONS; PROVIDING A UNIFORM DURATION OF PERMIT APPROVAL OF THREE YEARS; UPDATING PERMIT PROCESS PROCEDURES TO COMPLY WITH STATE LAW; CREATING A PRELIMINARY PLAT AMENDMENT PROCESS; CREATING A PRELIMINARY AND FINAL SHORT PLAT PROCESS; MAKING AMENDMENTS TO THE DESIGN REVIEW, LAND CLEARING AND LANDSCAPING PERMIT PROCESSES TO IMPLEMENT THE CHANGES TO THE SITE PLAN REVIEW PROCESS; MAKING OTHER HOUSEKEEPING AMENDMENTS; REPEALING SECTIONS 16.04.003, 16.04.005, 16.04.007, 17.04.433, 17.64.060, 17.96.060, 17.96.080, 17.98.080, 19.05.009, 19.06.007; ADDING NEW SECTIONS 16.05.006, 17.20.080, 17.94.055, 17.96.025, 17.96.035, 19.02.006, 19.02.007, 19.02.008, 19.02.009, 19.03.004, 19.06.005 AND 19.06.007; RENAMING CHAPTERS 19.02 AND 19.06; AND AMENDING SECTIONS 15.06.040, 16.04.001, 16.04.002, 16.06.003, 16.06.006, 16.10.040, 17.04.271, 17.15.040, 17.16.050, 17.17.040, 17.21.040, 17.24.040, 17.28.040, 17.30.040, 17.31.040, 17.32.030, 17.36.050, 17.40.060, 17.41.030, 17.45.040, 17.46.050, 17.48.050, 17.50.050, 17.54.030, 17.56.030, 17.59.030, 17.61.020, 17.64.015, 17.64.050, 17.65.050, 17.65.060, 17.66.015, 17.66.040, 17.66.050, 17.67.040, 17.67.080, 17.68.025, 17.78.020, 17.78.110, 17.80.040, 17.80.140, 17.88.010, 17.88.020, 17.89.030, 17.89.040, 17.90.030, 17.90.040, 17.91.040, 17.94.020, 17.94.040, 17.94.050, 17.94.060, 17.96.010, 17.96.020, 17.96.030, 17.96.040, 17.96.050, 17.96.070, 17.97.050, 17.98.030, 17.98.040, 17.98.045, 17.98.050, 17.98.055, 17.98.056, 17.98.058, 17.98.060, 17.98.070, 17.98.090, 17.99.340, 18.04.230, 18.08.206, 18.10.060, 19.01.002, 19.01.003, 19.01.005, 19.01.007, 19.02.001, 19.02.002, 19.02.003, 19.02.004, 19.02.005, 19.03.001, 19.03.003, 19.05.001, 19.05.002, 19.05.008, 19.05.010, 19.06.001, 19.06.003, 19.06.004, 19.06.005, 19.06.006, 19.08.040, 19.09.180, AND 19.10.020 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City has documented numerous zoning, subdivision, environment and permit processing code amendments necessary to improve project permitting process, to gain efficiencies and to bring more consistency to project permitting; and

WHEREAS, the City desires to amend the site plan review approval processes to reduce permit processing timelines, save money for the applicant, increase public noticing and improve customer service by doing the following:

1. Changing site plan review approval from requiring hearings (a Type III permit) to an administrative process (Type I or II permits) with a director's decision.
2. Repealing the two site plan amendment processes and classifying all development requiring site plan review as either major site plan review (Type II) or minor site plan review (Type I).
3. Providing public notice of the of all Type II permit applications by mail (property owner's within 300 feet) in addition to the current practice of posting the site and publishing in the Gateway.
4. Providing public notice of the decisions for all Type II permits by mail to property owners within 300 feet of the subject property; and

WHEREAS, to implement the changes to the site plan review process, Design Review Board recommendations must go to the Planning Director rather than the Hearing Examiner; and

WHEREAS, certain nonresidential uses, such as contractor's yards, car sales and ball fields, are not currently regulated by the site plan process and therefore are not required to meet landscaping, buffering and other zoning requirements; and

WHEREAS, the City desires to require these types of uses to go through the site plan review approval process to ensure compliance with the city's zoning requirements; and

WHEREAS, the City desires to update the wireless communication facilities approval process, landscaping chapter and land clearing chapter to implement the updated site plan review process; and

WHEREAS, the City does not have the ability to close out applications where the applicant has been unresponsive or is not actively pursuing the permit and these inactive applications often have reserved traffic, water and sewer capacity which could be used for other active applications; and

WHEREAS, the City desires to create a process to expire these complete applications which have lapsed and recapture associated reserved water, sewer, and traffic capacity; and

WHEREAS, the existing expiration periods for project permits are inconsistent and are too short for some permit types; and

WHEREAS, the City desires to provide a uniform duration of permit approval timeframe of three years and a uniform expiration and extension process for all land use permits, except those regulated by State law such as plats and shoreline permits; and

WHEREAS, the City needs to update its public notice requirements on project permits to meet State of Washington requirements; and

WHEREAS, many of the requirements for a complete application for multiple project permits need to be updated to meet current staff review needs and practices across the development services departments; and

WHEREAS, the City desires to update its administrative appeal requirements to implement the site plan review process, clarify procedures, and allow for additional parties of record; and

WHEREAS, because the City no longer has a Community Development Director position, all references to that position in the subdivision, zoning, and environment titles should be changed to Planning Director; and

WHEREAS, the City desires to establish a process to amend preliminary plats without applying for a new preliminary plat if the amendments are minor in nature; and

WHEREAS, the City desires to clarify the short plat process and provide a deadline for submitting approved short plats for record by implementing a preliminary and final short plat process; and

WHEREAS, under chapter 79, Laws of 2010, the Washington State Legislature provided for a temporary extension relating to plat approvals, and the City Council desires to amend sections 16.06.003 and 16.06.006 of the Gig Harbor Municipal Code to comply with the temporary extension; and

WHEREAS, a copy of this Ordinance was forwarded to the Washington State Department of Commerce on June 30, 2010, pursuant to RCW 36.70A.106 and was granted expedited review; and

WHEREAS, the City's SEPA Responsible Official issued a threshold Determination of Nonsignificance (DNS) for this Ordinance on August 18, 2010; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on September 13, 2010; 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 15.06.040 in the City Building Code chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

15.06.040 Exclusions from project permit processing.

Pursuant to RCW 36.70B.140(2), building permits, other construction permits or similar administrative approvals which are categorically exempt from environmental review under the State Environmental Policy Act (Chapter 43.21C RCW) and GHMC Title 18, Environment, or permits/approvals for which environmental review has been completed in connection with other project permits under GHMC Title 19 are excluded from the following procedures:

- A. Notice of application (GHMC 19.02.004);
- B. Except as provided above, optional consolidated project permit review processing (GHMC ~~19.02.002(B)~~ 19.01.002(B));
- C. Joint public hearings (GHMC 19.01.004).

Section 2. Section 16.04.001 in the Short Plats chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.04.001 Requirements for a complete application.

~~A. Number of copies: seven.~~

~~B. A~~ A proposed short plat must include pertinent survey data compiled as a result of a survey made by or under the supervision of a land surveyor registered in the state and engaged in land surveying.

~~C. B.~~ B. Application Contents. In addition to the requirements for a complete application set forth in GHMC 19.02.002, an applicant for a short plat shall submit the following:

1. A sketch or map using a scale of 100 feet to one inch or larger of the entire contiguous tract owned by the applicant which shall show:
 - a. The owners of adjacent land and the names of any adjacent subdivisions;
 - b. Lines marking the boundaries of the proposed lots;
 - c. Approximate locations of existing buildings, structures, utilities, underground storage tanks, and streets and ways or easements for such streets and ways within and adjacent to the tract;
 - d. Legal description of the tract and legal descriptions of all proposed lots;
 - e. Name and address of the owner(s) of the tract.
2. Certificate giving full and complete description of the lands divided as they appear on the short plat, including a statement that the short subdivision has been made with free consent and in accordance with the desires of the owner(s). If the short plat includes a dedication, the certificate shall also contain the dedication of all streets and other areas to the public and individual(s), religious society or societies or to any corporation, public or private, as shown on the short plat and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of the road. The certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.

3. All short plats containing a dedication must be accompanied by a title report confirming that the title of the lands as described and shown on the plat is in the name of the owner signing the certificate. Roads not dedicated to the public must be clearly marked on the face of the plat. Any dedication, donation, or grant as shown on the face of the plat shall be considered to all intents and purposes as a quitclaim deed to the donee(s), grantee(s) for his, her or their use for the purpose intended by the donors or grantors as aforesaid.

Section 3. Section 16.04.002 in the Short Plats chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.04.002 Type of application-Short plat review and approval.

A. A preliminary short plat is a Type II application, and the director shall make the final decision. A final short plat is Type I application. The Preliminary and final short plat applications shall be processed as set forth in GHMC Title 19.

B. Criteria of approval. The director shall approve or conditionally approve a short plat only if the findings and conclusions in GHMC 16.04.004 are met,

C. Preliminary Short Plat Approval. The director shall disapprove or preliminarily approve the short plat, or return the short plat to applicant for modifications within 30 days after the date of filing of a complete application, unless the applicant agrees to an extension of time. Preliminary approval shall be valid for three years from the date that the preliminary approval decision is mailed to the applicant. Within said three year timeframe, the applicant shall file a final short plat with the city.

D. Final Short Plat Approval.

1. Each final short plat filed with the city for record shall be consistent with the preliminary short plat and all conditions of preliminary short plat approval.

2. The director shall disapprove or approve the final short plat, or return the short final plat to applicant for modifications within 30 days after the date of filing of the final short plat unless the applicant agrees to an extension of time.

3. Each final short plat filed with the city for record shall contain or be accompanied by the items listed in GHMC 16.08.003.

4. Each final short plat filed with the city for record shall contain the following certificates. The property owner and the land surveyor shall execute their respective certificates, required by GHMC 16.04.001 and 16.08, prior to the director's final decision. The certificates to be executed by city and county officials and employees shall be executed after the director's final decision, if granted.

a. Mayor. A signature block and statement for the approval of the short plat.

b. 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 short subdivision approval.

c. 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.

d. Short Plat Administrator. A signature block and statement that the short plat complies with the city's development regulations under GHMC Titles 16 and 17.

5. Construction of improvements. A final short plat shall not be filed for record until the applicant has constructed or bonded for all improvements required by the director in the preliminary approval decision on the short plat.

E. Short Plat Revisions. Revisions to a preliminarily approved short plat shall be processed as a new short plat application.

Section 4. Section 16.04.003, in the Short Plats chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 5. Section 16.04.005, in the Short Plats chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 6. Section 16.04.007, in the Short Plats chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 7. A new Section 16.05.006 is hereby added to the Preliminary Plats chapter of the Gig Harbor Municipal Code, which shall read as follows:

16.05.006 Revisions to an approved preliminary plat.

Approved preliminary plats may be revised prior to recording of the final plat as follows:

A. Minor revisions to an approved preliminary plat, which do not change the plat boundaries, do not change the conditions of preliminary plat approval, do not alter road alignments or connections, and do not increase the number of lots by more than 5% or 5 lots whichever is less, shall be processed in accordance with the procedures established under GHMC Title 19 for a Type I project permit application. The director shall approve an application for minor preliminary plat revision only if all of the following criteria are met:

1. The revision will not be inconsistent or cause the subdivision to be inconsistent with the findings, conclusions, or decision of the hearing examiner or city council;

2. The revision will not cause the subdivision to violate any applicable city policy or regulation;

3. A subdivision may be developed if the intent of its original conditions is not altered.

B. Revisions which are not classified as minor revisions in subsection A above shall be processed as a new preliminary plat application in accordance with the procedures established under GHMC Title 19 for a Type III project permit application.

Section 8. Section 16.06.003 and 16.06.006 in the Final Plats chapter of the Gig Harbor Municipal Code are hereby amended, to read as follows:

16.06.003 Time frame for submission of final plat.

A final plat meeting all requirements of Chapter 58.17 RCW and this title shall be submitted to the city for approval within ~~five~~seven years of the date of preliminary plat approval; provided, however, that the applicant may submit an application to the city at least 30 days prior to the expiration of the preliminary plat approval for a one-time extension of one year. Such extensions may be granted by the city only if:

A. The applicant agrees to construct the development in conformance with the zoning, design review, subdivision, public works standards and other development regulations in place at the time of the application for an extension; and

B. The applicant provides its consent to allow any agency providing a recommendation under RCW 58.17.150 to reconsider and modify its recommendation, and after such reconsideration, each recommendation is unchanged and supports such extension.

16.06.006 Effect of final plat approval.

Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of ~~five~~seven years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of ~~five~~seven years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

Section 9. Section 16.10.040 in the Mobile/Manufactured Home Park and Subdivision Standards chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.10.040 Type of application.

A. All mobile home parks shall be processed as a Type ~~III~~II application and in the same manner as a ~~binding~~ site plan in accordance with the procedures of Chapter 17.96 GHMC.

B. All mobile/manufactured home subdivisions shall be processed in the same manner as subdivisions in this title.

Section 10. Section 17.04.271 in the Definitions chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.04.271 Director.

“Director” means the planning director ~~of the department of community development~~ or his/her designated representative.

Section 11. Section 17.04.433, in the Definitions chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 12. Section 17.15.040 in the Public-Institutional District (PI) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.15.040 Site plan.

~~Before a building permit will be issued in the PI district, the site plan review process as specified in Chapter 17.96 GHMC shall be followed. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.~~

Section 13. Section 17.16.050 in the Single-Family Residential (R-1) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.16.050 Site plans.

~~Before a building permit will be issued for a nonresidential use or structure in an R-1 district, the site plan review process as specified in Chapter 17.96 GHMC shall be followed. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.~~

Section 14. Section 17.17.040 in the Planned Community Development Low Density Residential (RLD) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.17.040 Performance standards.

* * *

D. Site Plans. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 15. A new Section 17.20.080 is hereby added to the Medium-Density Residential (R-2) chapter of the Gig Harbor Municipal Code, which shall read as follows:

17.20.080 Site plans.

The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 16. Subsection 17.21.040(B) in the Planned Community Development Medium Density Residential (RMD) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.21.040 Performance standards.

* * *

B. General.

17.24.040 Site plans.

~~Before a building permit will be issued in an R-3 district, the site plan review process as specified in Chapter 17.96 GHMC shall be followed. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.~~

Section 18. Section 17.28.040 in the Residential and Business District (RB-1) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.28.040 Site plan.

~~Before a building permit will be issued in the RB-1 district, the site plan review process as specified in Chapter 17.96 GHMC shall be followed. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.~~

Section 19. Section 17.30.040 in the Residential and Business District (RB-2) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.30.040 Site plans.

~~Prior to the issuance of a building permit in the RB-2 district, the site plan review process specified under this title shall be completed to the satisfaction of the city. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.~~

Section 20. Section 17.31.040 in the Downtown Business District (DB) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.31.040 Site plans.

~~Before a building permit will be issued in a DB district, the site plan review process as specified in Chapter 17.96 GHMC shall be followed. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.~~

Section 21. Section 17.32.030 in the Neighborhood Commercial District (B-1) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.32.030 Site plans.

~~The procedures site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.~~

Section 22. Section 17.36.050 in the General Business District (B-2) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.36.050 Site plans.

~~Before a building permit will be issued, the site plan review process as specified in Chapter 17.96 GHMC shall be followed. The site plan review process~~

established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 23. Section 17.40.060 in the Commercial District (C-1) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.40.060 Site plans.

~~Before a building permit will be issued in a C-1 district, the site plan review process as specified in Chapter 17.96 GHMC shall be followed.~~ The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 24. Section 17.41.030 in the Planned Community Development Commercial (PCD-C) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.41.030 Performance standards.

* * *

M. Site Plans. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 25. Section 17.45.040 in the Planned Employment District (ED) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.45.040 Performance standards.

* * *

P. Site Plans. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 26. Section 17.46.050 in the Waterfront Residential (WR) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.46.050 Site plans.

~~Before a building permit will be issued in the waterfront residential district, the site plan review process as specified in Chapter 17.96 GHMC shall be followed, except in the case of a building permit for single-family dwelling or duplex dwelling.~~ The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 27. Section 17.48.050 in the Waterfront Millville (WM) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.48.050 Site plans.

Before a building permit will be issued in a WM zone, the site plan review process specified in Chapter 17.96 GHMC shall be followed. Residential projects containing three or fewer dwelling units are exempt from this provision, except for increased height as per GHMC 17.48.060. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 28. Section 17.50.050 in the Waterfront Commercial (WC) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.50.050 Site plans.

Before a building permit will be issued in a waterfront commercial district, the site plan review process specified in Chapter 17.96 GHMC shall be followed. Residential projects containing less than three dwelling units are exempt from this provision. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 29. Section 17.54.030 in the Planned Community Development Business Park District (PCD-BP) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.54.030 Performance standards.

* * *

Q. Site Plans. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 30. Section 17.56.030 in the Planned Community Development Neighborhood District (PCD-NB) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.56.030 Performance standards.

* * *

M. Site Plans. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 31. Subsection 17.59.030(C) in the Planned Community Development Transfer of Density Credits Option chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.59.030 Procedure.

* * *

C. Upon approval of the planning department and the city attorney, the applicant/property owner shall file with the Pierce County auditor a legally sufficient document which effectively accomplishes the following:

1. A covenant on the lands affected by the density credit transfer which contains deed restrictions reflecting the transfer and its resultant conditions to private ownership and future development of the land.

2. A deed for the development rights so affected shall be assigned an assessor's tax parcel number, including a legal description of the real property from which density credits are to be donated from and a legal description of the real property to which such density credits are to be transferred to.

A copy of the executed legal instrument, bearing the Pierce County auditor's file number, shall be provided to the planning department and the city attorney prior to the issuance of any development permit for the affected properties.

Density credit transfers are exempt from the permit processing procedures in GHMC Title 19 and are processed simultaneous with any Type II or III permit application.

Section 32. Subsection 17.61.020(D) in the Communication Facilities chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.61.020 General guidelines and permit requirements.

* * *

D. Permit Processing Requirements.

1. Permit Type.

a. Small Satellite Dish Antenna. Small satellite dish antennas shall comply with all International Building Code requirements, and Chapter 15.06 GHMC, but are otherwise exempt from the permit application procedures of GHMC Title 19.

b. Large Satellite Dish Antenna. Large satellite dish antennas and other antenna applications shall be processed as a Type II permit. A building permit shall also be required.

c. Amateur Radio Towers. Amateur radio tower applications shall be processed as a Type II permit. A building permit shall also be required.

d. Wireless Communication Facilities. A conditional use permit shall be required for wireless communication facilities in residential, waterfront district and downtown business districts, which shall be processed as a Type III permit. For all other districts, wireless communication facilities shall be processed as a Type II permit. A building permit shall also be required.

e. Broadcast and Relay Towers. Broadcast and relay tower applications shall be processed as a Type II permit. A building permit shall also be required.

2. Elements of a Complete Application. A complete application for the ~~Type II~~ permits described in this chapter shall consist of an original of the following:

- a. A site plan, drawn at a scale not less than one inch per 50 feet, showing the boundaries and dimensions of the parcel or site, including any adjacent public streets or easements.
- b. An elevation of the proposed facility, including any buildings, existing or proposed, associated with the facility, and which shall include all dimensions of proposed structures.
- c. A topographic map, based upon the most recent site survey or information available, at no less than five-foot contour intervals.
- d. The required application fee as established pursuant to Chapter 3.40 GHMC.
- e. Three copies of the original of the application.
- f. A signed statement indicating that (i) the applicant and landowner agree that they will diligently negotiate in good faith to facilitate co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location and (ii) the applicant and/or landlord agree to remove the facility within 12 months after abandonment.
- g. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Para. 1.1307, or in the event that a FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment.
- h. A current map and aerial photograph showing the location of the proposed tower, a map showing the locations and service areas of other wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the city.
- i. A statement by the applicant as to whether construction of the tower will accommodate co-location of additional facilities or antennas for future users.

3. A complete application for a conditional use permit shall, in addition to the elements described in ~~subsection (D)(2)(a)~~ of this section include those elements as described in GHMC 17.96.050(B) through (D) ~~and (L)~~.

Section 33. Section 17.64.015 in the Conditional Uses chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.64.015 Complete application.

An application for a conditional use permit is considered complete upon submittal of the information as required under GHMC 17.96.050(B) through (D) ~~and (L)~~, including the written statement of justification for granting the variance pursuant to the requirements of GHMC 17.64.040. This is in addition to the application requirements of GHMC 19.02.002 for a Type III application. ~~Seven copies of all information required shall be submitted along with the processing fee.~~

Section 34. Section 17.64.050 in the Conditional Uses chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.64.050 Duration of approval and Expiration.

~~Any conditional use permit granted by the hearing examiner shall expire if not exercised within one year of the date of approval. If a use or activity authorized by such permit is abandoned or discontinued for a continuous period of one year, it may not be reestablished unless authorized in accordance with the provisions of this chapter. A request for extension of the one year time limit may be considered by the hearing examiner, providing that the request is in writing and is received no less than 30 days prior to the expiration date. No additional extensions shall be granted. An extension shall be valid for a period not to exceed one year. The duration of conditional use permit approvals and permit expiration shall be governed by GHMC Section 19.02.008.~~

Section 35. Section 17.64.060 in the Conditional Uses chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 36. Subsection 17.65.050(A) in the Special Use Permits chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.65.050 Review criteria.

A. Every applicant for a special use permit shall demonstrate that all of the following criteria have been met:

1. That the type of use for which the special use permit is applied is permitted or conditionally permitted in the applicable zoning district and is consistent with the description and purpose of the zone district in which the property is located;
2. That the granting of the special use permit will not be detrimental to the public health, safety, comfort, convenience and general welfare, will not adversely affect the established character of the surrounding neighborhood, and will not be injurious to the property or improvements in such vicinity and/or zone in which the property is located;
3. That the proposed use is properly located in relation to the other land uses in the vicinity; and further, that the use can be adequately served by such public facilities and street capacities without placing an undue burden on such facilities and streets;
4. That the site is of sufficient size to accommodate the proposed use;
5. The special use may not operate more than ~~seven~~ fourteen events during the ~~authorized period~~ calendar year. An event is equal to one 12-hour period per day;
6. A request for more than ~~two special uses~~ fourteen events per calendar year by any given applicant or for any given site shall not be considered as a special use and may only be authorized through the site plan approval process established under Chapter 17.96 GHMC.

* * *

Section 37. Section 17.65.060 in the Special Use Permits chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.65.060 ~~Expiration~~ Duration of approval.

Any special use permit granted by the director is valid for ~~a period of up to 30 consecutive days~~ the events identified in the permit.

Section 38. Section 17.66.015 in the Variances, Interpretations, Appeals chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.66.015 Complete application.

An application for a general variance is considered complete upon submittal of the information as required under GHMC 17.96.050(B) through (D) ~~and (E)~~, including the written statement of justification for granting the variance pursuant to the requirements of GHMC 17.66.030(B). This is in addition to the application requirements of GHMC 19.02.002 for a Type III application. An application for an administrative variance shall contain the information required for a general variance, but shall include a written statement of justification for granting the variance pursuant to the requirements of GHMC 17.66.020(A).

Section 39. Section 17.66.040 in the Variances, Interpretations, Appeals chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.66.040 ~~Time limits.~~ Duration of approval and expiration.

~~Any variance granted by the hearing examiner or planning director shall become null and void if not exercised within one year of the date of approval. Upon written request by a property owner, prior to the date of expiration the director may grant an extension of time up to but not exceeding one year. Any extension of time shall be based upon a finding that there has been no material change of circumstances applicable to the property since the granting of the variance. The duration of variance approval and expiration shall be governed by GHMC Section 19.02.008.~~

Section 40. Section 17.66.050 in the Variances, Interpretations, Appeals chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.66.050 Interpretations and appeals.

A. Interpretations – Planning Director.

1. The planning director shall review and determine any questions involving the proper interpretation or application of the provisions of this title that may be requested by any property owner, tenant, government officer, department, board, council or commission. The planning director's decision shall be in keeping with the spirit and intent of this title and of the comprehensive plan.

2. Recognizing that there may be uses not specifically mentioned in this title either because of advancing technology or any other reason, the planning director may permit such use to be established if it is clearly evident that the use is

in conformity with the designated principal uses of the use district in which it is to be located. ~~When there is doubt as to the proper classification of a use, the hearing examiner shall rule on the matter.~~

3. Interpretations shall be processed in accordance with the procedures established under GHMC Title 19 for a Type II project permit application.

B. Appeals from Administrative Decision.

~~1. Appeals may be taken to the hearing examiner by any person aggrieved or by any officer, department, board, council or commission of the city affected by any order, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of this title or any amendment thereto. Such appeals shall be filed in writing, in duplicate and with the hearing examiner within 20 days of the date of the action being appealed.~~

~~2. Upon the filing of such an appeal, the hearing examiner shall set the time and place at which the matter will be considered. At least 10 days' notice of such time and place shall be given to the adverse parties of record in the case and to the official whose decision is being appealed. The officer from whom the appeal is being taken shall forthwith transmit to the hearing examiner all of the records pertaining to the decision being appealed, together with such additional written report as he deems pertinent.~~

~~3. In exercising the powers granted herein, the hearing examiner may, in conformity with this chapter, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as should be made, and, to that end, shall have all the powers of the officer from whom the appeal is being taken, insofar as the decision on the particular issue is concerned.~~

Section 41. Section 17.67.040 in the Performance-Based Height Exceptions and Height Exemptions chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.67.040 Complete application.

An application for a performance-based height exception shall contain seven copies of the following information:

A. The title and location of the proposed project, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;

B. A written description addressing the scope of the project, the use of the site, and the nature and height of the proposed structures;

C. Color, type, model and specification of all proposed structures. Include the area of illumination and intensity of lighting in footcandles for athletic field lighting;

D. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site;

E. Site plans drawn to a scale no smaller than one inch equals 30 feet showing location and size of uses, location of proposed and existing structures, critical areas and wetlands, buffer areas, proposed areas of disturbance or construction outside of the building and structure footprint, yards, open spaces and landscaped areas and any existing structures, easements and utilities;

F. Cross sections of proposed structures and topographic information;

G. A written statement of justification for granting the exception pursuant to the requirements of GHMC 17.67.060, 17.67.070, and 17.67.075, if applicable;

H. ~~A listing of the names and addresses of property owners of record within 300 feet of the project property, including preprinted labels bearing the names and addresses of the property owners of record within 300 feet of the project property;~~

I. H. All application requirements of GHMC 19.02.002.

Section 42. Section 17.67.080 in the Performance-Based Height Exceptions and Height Exemptions chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.67.080 Time limits. Duration of approval and expiration.

~~Any exception granted by the hearing examiner shall become null and void if not exercised within one year of the date of approval. Upon written request by the property owner, prior to the date of expiration the director may grant an extension of time up to but not exceeding one year. Any extension of time shall be based upon a finding that there has been no material change of circumstances applicable to the structure or property since the granting of the exception. The duration of performance-based height exception approvals and expirations shall be governed by GHMC Section 19.02.008.~~

Section 43. Subsection 17.68.025(B) in the Nonconformities chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.68.025 Nonconforming use and structure review.

* * *

B. Nonconforming review is a Type ~~II~~ I project permit application and shall be processed as set forth in GHMC Title 19 with the exception of changes described in GHMC 17.68.035, which shall be processed as a Type III project permit application as set forth in GHMC Title 19.

* * *

Section 44. Section 17.78.020 in the Landscaping and Screening chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.78.020 Applicability.

The standards as required by this chapter shall apply to all uses of land which are subject to site plan review, a land clearing permit, ~~to the construction of~~

~~location of any multifamily structure of three or more attached dwelling units and to any new subdivision plat. GHMC Section 17.78.095 applies to all development in the waterfront view corridor.~~

Section 45. Subsection 17.78.110(A) in the Landscaping and Screening chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.78.110 Performance assurance.

A. Landscaping required pursuant to an approved ~~site plan project permit application~~ shall be installed prior to the issuance of certificate of occupancy or final inspection, unless the property owner submits a performance assurance equal to not less than 110 percent of a contractor's bid and which commits to install the landscaping within one year.

* * *

Section 46. Subsection 17.80.040(C) in the Signs chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.80.040 Permit procedures.

The following regulations shall apply to all signs.

* * *

C. Permit Processing Requirements. A sign permit shall be processed according to the procedures in GHMC Title 19, and is a Type H I permit application.

Section 47. Section 17.80.140 in the Signs chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.80.140 Design review board approval.

Those sections of this chapter which require a determination by the design review board for a design allowance shall be processed ~~as a design allowance~~ in accordance with ~~GHMC 17.98.035, and not as a design variance~~ the procedures for a design review board recommendation (GHMC 17.99.055).

Section 48. Section 17.88.010 in the Annexations chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.88.010 District designation determination – Comprehensive plan.

Any lands annexed to the city following the enacting of the ordinances codified in this title shall be deemed to be included in the zoning map as being in the R-1 residential district. ~~The filing fee for said annexation shall be the following: R-1 district, \$25.00; other districts, \$50.00.~~ Within 60 days following annexation, the planning commission shall hold a public hearing to determine the best application of this title to the annexed territory. Following the hearing, the commission shall

make its recommendation to the city council for the zoning of the area; provided, however, any land which has been or is included in a comprehensive land use plan provided for in the following provision and adopted pursuant to RCW 35.13.177 and 35.13.178 shall be annexed with the zoning district classification as provided for in such comprehensive land use plan.

Section 49. Section 17.88.020 in the Annexations chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.88.020 Request for determination prior to annexation.

Petitioners for annexation may include in the notice of intent to petition for annexation a request for determination of the zoning district classification which will be applied to the property described in said notice of intent to petition for annexation, if the petition for annexation is passed. ~~Such petition shall be accompanied with an amount of \$50.00 for costs involved in determining zoning.~~

Section 50. Subsections 17.89.030(B, E and F) in the Planned Residential Development Zone (PRD) chapter of the Gig Harbor Municipal Code are hereby amended, to read as follows:

17.89.030 Permit application procedures.

* * *

~~B. Duration of Approval and Expiration of Preliminary PRD. Within five years of the date of the preliminary PRD approval, an application shall be submitted for final PRD approval, otherwise, the preliminary PRD approval shall expire. Building construction on the project must commence within 12 months from the date of the final approval; otherwise, preliminary PRD approval becomes null and void. The duration of preliminary PRD approval and expiration shall be governed by GHMC Section 19.02.008.~~

* * *

~~E. Design Review. The applicant shall submit an application for design review approval concurrent with the preliminary PRD application. The hearing examiner shall be present at the design review board hearings as necessary to ensure coordination of decisionmakers as allowed under GHMC 19.01.002(C).~~

~~F. Extensions. Knowledge of the expiration date and initiation of a request for an extension of time is the responsibility of the applicant. Requests for an extension of time must be submitted to the planning department at least 30 days prior to the expiration of PRD approval. The planning department shall schedule the request for extension for public hearing before the hearing examiner. One extension is the maximum to be granted and it shall be for no more than one year and the PRD may be subject to any new or amended regulations, requirements, policies or standards which are adopted after the original date of approval, unless 50 percent or more of the on-site work has been completed.~~

Section 51. Section 17.89.040 in the Planned Residential Development Zone (PRD) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.89.040 Contents of complete PRD application.

A. Preliminary PRD. In addition to the applicable requirements of GHMC 19.02.002, a complete application for preliminary PRD shall consist of the following information:

1. An environmental checklist or impact statement, as may be applicable, pursuant to GHMC Title 18;
2. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;
3. A written description addressing the scope of the project, gross acreage, the nature and size in gross floor area of each use and the total amount of land in square feet to be covered by impervious surfaces;
4. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site, as well as adjacent parcels and uses;
5. A topographic map delineating contours, existing and proposed, at two-foot intervals and which locates and classifies existing streams, wetlands, steep slopes and other natural features and/or critical areas;
6. Plans drawn to a scale no smaller than one inch equals 30 feet showing the proposed location and size of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas;
7. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights-of-way;
8. Utility, drainage and stormwater runoff plans;
9. A plan of all proposed landscaping including buffers and screening to be used as well as identification of areas of significant vegetation proposed to be retained;
10. A statement explaining how the proposed PRD is consistent with and implements the city of Gig Harbor comprehensive plan, the designation under the comprehensive plan, current zone classification, and desired zone classification;
11. A narrative describing how the proposed PRD provides substantial additional benefit to the citizens of the city of Gig Harbor (the benefit accruing as a result of implementation of the PRD process as opposed to following the development standards of the underlying zone) and how it is proposed the additional amenities and benefits should apply to the percentage of additional density and/or height being requested;
12. A map of the area, with area proposed for rezone outlined in red; and
- ~~13. Two sets of mailing labels for all property owners whose parcels are within 300 feet of any border of the subject property, as provided by the Pierce County auditor's office.~~

13. A complete application for design review as required under GHMC 17.98.040.

B. Final PRD. In addition to the applicable requirements of GHMC 19.02.002, a complete application for final PRD approval shall consist of the following information:

~~1. Two sets of mailing labels for all property owners whose parcels are within 300 feet of any border of the subject property, as provided by the Pierce County auditor's office;~~

~~2. A complete application for design review as required under GHMC 17.98.040.~~

1. A copy of the approved preliminary PRD plans; and

2. Final PRD plans drawn to a scale no smaller than one inch equals 30 feet showing the items required by GHMC 17.89.040(A)(5-9); and

3. A written statement on how the final PRD complies with the approved preliminary PRD and any conditions of preliminary PRD approval.

Section 52. Subsections 17.90.030(B, E and F) in the Planned Unit Development chapter of the Gig Harbor Municipal Code are hereby amended, to read as follows:

17.90.030 Permit application procedures.

* * *

~~B. Duration of Approval and Expiration of Preliminary PUD. Within five years of the date of the preliminary PUD approval, an application shall be submitted for final PUD approval, otherwise, the preliminary PUD approval shall expire. Building construction on the project must commence within 12 months from the date of the final approval; otherwise, preliminary PUD approval becomes null and void. The duration of preliminary PUD approval and expiration shall be governed by GHMC Section 19.02.008.~~

* * *

~~E. Design Review. The applicant shall submit an application for design review approval concurrent with the preliminary PUD application. The hearing examiner shall be present at the design review board hearings as necessary to ensure coordination of decisionmakers as allowed under GHMC 19.01.002(C).~~

~~F. Extensions. Knowledge of the expiration date and initiation of a request for an extension of time is the responsibility of the applicant. Requests for an extension of time must be submitted to the planning department at least 30 days prior to the expiration of PUD approval. The planning department shall schedule the request for extension for public hearing before the hearing examiner. One extension is the maximum to be granted and it shall be for no more than one year and the PUD may be subject to any new or amended regulations, requirements, policies or standards which are adopted after the original date of approval, unless 50 percent or more of the on-site work has been completed.~~

Section 53. Section 17.90.040 in the Planned Unit Development chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.90.040 Contents of a complete preliminary PUD application.

A. Preliminary PUD. In addition to the applicable requirements of GHMC 19.02.002, a complete application for preliminary PUD approval shall consist of the following information:

1. An environmental checklist or impact statement, as may be applicable, pursuant to GHMC Title 18;
2. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;
3. A written description addressing the scope of the project, gross acreage, the nature and size in gross floor area of each use and the total amount of land in square feet to be covered by impervious surfaces;
4. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site, as well as adjacent parcels and uses;
5. A topographic map delineating contours, existing and proposed, at two-foot intervals and which locates and classifies existing streams, wetlands, steep slopes and other natural features and/or critical areas;
6. Plans drawn to a scale no smaller than one inch equals 30 feet showing the proposed general location and size of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas;
7. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights-of-way;
8. Utility, drainage and stormwater runoff plans;
9. A plan of all proposed landscaping including buffers and screening to be used as well as identification of areas of significant vegetation proposed to be retained;
10. A statement explaining how the proposed plan is consistent with and implements the city of Gig Harbor comprehensive plan, the designation under the comprehensive plan, current zone classification, and desired zone classification;
11. A narrative describing how the proposal provides substantial additional benefit to the citizens of the city of Gig Harbor (the benefit accruing as a result of implementation of the PUD process as opposed to following the development standards of the underlying zone), and how it is proposed the additional amenities and benefits should apply to the percentage of additional density or gross floor area, or additional height being requested;
12. A complete application for design review as required by GHMC 17.98.040;
13. A map of the area, with the area proposed for any rezone outlined in red; and

~~14. Two sets of mailing labels for all property owners whose parcels are within 300 feet of any border of the subject property, as provided by the Pieree County auditor's office.~~

B. Final PUD. In addition to the applicable requirements of GHMC 19.02.002, a complete application for final PUD approval shall consist of the following information:

~~1. Two sets of mailing labels for all property owners whose parcels are within 300 feet of any border of the subject property, as provided by the Pieree County auditor's office.~~

1. A copy of the approved preliminary PUD plans; and
2. Final PUD plans drawn to a scale no smaller than one inch equals 30 feet showing the items required by GHMC 17.89.040(A)(5-9); and
3. A written statement on how the final PUD complies with the approved preliminary PUD and any conditions of preliminary PUD approval.

Section 54. Subsection 17.91.040(F) in the Mixed Use District Overlay (MUD) Chapter 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. The maximum height of a structure shall not exceed 35 feet.
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.

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

11. Site Plans. The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district.

Section 55. Section 17.94.020 in the Land Clearing chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

~~17.94.020 Purposes and permit criteria.~~

~~These regulations are adopted for the following purposes and the planning director shall consider such purposes as criteria or standards for the issuance of land clearing permits under GHMC 17.94.040: It is the purpose of this chapter:~~

A. To promote the public health, safety, and general welfare of the citizens of the city;

B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;

C. To promote land development practices that result in a minimal disturbance to the city's vegetation and soils;

D. To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;

E. To minimize the need for additional storm drainage facilities;

F. To retain clusters of trees for the abatement of noise and for wind protection;

G. To promote building and site planning practices that are consistent with the city's natural topographical and vegetational features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;

H. To reduce siltation and water pollution in the harbor;

I. To implement the goals and objectives of the Washington State Environmental Policy Act;

J. To implement and further the city's comprehensive plan;

K. It is not the intent or purpose of this chapter to prevent the reasonable development of land in the city.

Section 56. Section 17.94.040 in the Land Clearing chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.94.040 Permits Applicability.

No person, corporation, or other legal entity shall engage in or cause land clearing removal or destruction of trees or groundcover from, or grade any undeveloped or partially developed land, public or private in the city without having obtained a land clearing permit ~~from the planning director.~~

Section 57. Section 17.94.050 in the Land Clearing chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.94.050 Exemptions.

The following shall be exempt from the provisions of this chapter:

A. Type III project permit applications as defined in GHMC Title 19, site plan review applications pursuant to Chapter 17.96 GHMC, building permit applications and civil permit applications, as now or hereafter amended; provided, that land clearing on such projects shall take place only after approval by the city and shall be in accordance with such approval;

B. The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;

C. Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;

D. Removal of diseased, dead or dying trees upon written verification by a qualified arborist or landscape architect or landscape contractor which states that removal of the trees is essential for the protection of life, limb, or property and which statement is filed with the code official;

E. Selective cutting or removal of trees or ground covers for purposes of general property and utility maintenance, landscaping or gardening; provided, that this exemption shall not apply to any land clearing which eliminates both trees and ground cover from 25 percent of the area of a lot or parcel of land; provided further, that said exemption shall not apply to cutting or removal which includes the use of a bulldozer, skidder, backhoe, or similar mechanical equipment for the purpose of cutting or removing of standing timber and the stacking or loading of trees or timber. This shall not be construed to eliminate the requirement of permits for land clearing for the purpose of developing the property with substantial permanent improvements such as roads, parking, driveways, utilities, or buildings.

Section 58. A new Section 17.94.055 is hereby added to the Land Clearing chapter of the Gig Harbor Municipal Code, which shall read as follows:

17.94.055 Land clearing permit review, approval and duration.

A. Applications for a land clearing permit shall be processed in accordance with the procedures established under GHMC Title 19 for a Type I project permit application.

B. Criteria of approval. The director shall approve applications for a land clearing permit only if all of the following criteria are met:

1. The land clearing is consistent with the purposes of this chapter outlined in GHMC 17.94.020; and

2. The land clearing complies with Chapter 17.78 GHMC Landscaping and Screening; and

3. The land clearing complies with Chapter 17.99 GHMC Design Manual.

C. Duration of approval and expiration. Any permit granted hereunder shall expire one year from the date of issuance. Upon a showing of good cause, a permit may be extended for six months by the planning director. Approved plans shall not be amended without authorization of the planning director. The permit may be suspended or revoked by the planning director because of incorrect information supplied or any violation of the provisions of this chapter.

D. Failure to obtain a forest practice application, where applicable, with the stated intent of land conversion as defined in RCW 76.09.020(8) shall be grounds for denial of any and all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of the land for a period of six years, in accordance with RCW 76.09.060(3).

Section 59. Section 17.94.060 in the Land Clearing chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.94.060 Requirements for a complete application.

~~Land clearing permits are a Type I permit application.~~ A complete application for a land clearing permit shall be submitted on the application form provided by the city, together with information required under GHMC Title 19 for a completed application, and including the following:

A. A plot plan containing the following information:

1. Date, north arrow and adequate scales as determined by the planning director;

2. Prominent physical features of the property including, but not limited to, topography, critical areas and watercourses;

3. General location, type, range of size, and condition of all trees and ground cover, including the species, size and accurate location of all healthy trees having a trunk diameter of at least six inches as measured 54 inches above grade within the property subject to the application;

4. Identification ~~by~~ areas of trees and ground cover which are to be removed;

5. A topographic map of the property, delineating contours, existing and proposed, at no greater than five-foot intervals. The plan shall indicate all proposed cuts, fills and retaining wall heights;

~~5.~~ 6. Any existing improvements on the property including, but not limited to: structures, driveways, ponds, and utilities;

~~6.~~ 7. Information indicating the method of drainage and erosion control, and restoration of land during and following the clearing operation;

B. Identification of tree protection techniques;

~~B. Any permit granted hereunder shall expire one year from the date of issuance. Upon a showing of good cause, a permit may be extended for six months by the planning director. Approved plans shall not be amended without authorization of the planning director. The permit may be suspended or revoked~~

by the planning director because of incorrect information supplied or any violation of the provisions of this chapter.

~~C. No work shall commence until a permit notice has been posted by the applicant on the subject site at a conspicuous location. The notice shall remain posted in said location until the project has been completed.~~

~~D. Failure to obtain a forest practice application, where applicable, with the stated intent of land conversion as defined in RCW 76.09.020(4) shall be grounds for denial of any and all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of the land for a period of six years, in accordance with RCW 76.09.060(3)(b).~~

Section 60. Section 17.96.010 in the Site Plans chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.96.010 Intent.

This chapter is intended to provide procedures for the review of site plan applications. Site plan review is intended to insure that development projects ~~carried out in given zoning districts~~ are executed in a manner consistent with existing ordinances concerning public utilities, traffic, facilities and services and provide unified site design, access, landscaping, screening, building placement and parking lot layout. The site plan review process is ~~not intended to review and determine the appropriateness of a given use on a given site.~~ It is intended to insure that development of a site will provide the features necessary to protect the health, safety and general welfare of the citizens of the city.

Section 61. Section 17.96.020 in the Site Plans chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.96.020 Applicability.

~~Site plan review and approval shall be required prior to issuance of a building permit when provided under this chapter. Site plan review shall be required for the following:~~

~~A. All new nonresidential uses for the location of any building or any multifamily development in which more than two dwelling units would be contained. Planned unit developments and divisions of land into four lots or less are exempted from review.~~

~~B. The expansion of any building or development as defined in GHMC 17.96.020(A) exceeding 20 percent of the existing floor or site area, or any 1,000-square foot addition or increase in impervious coverage thereto, whichever is the lesser.~~

The provisions of this chapter shall apply to all changes of use, new construction, expansion or alteration of the use of land unless expressly exempted by this chapter. No use shall be established, no structure erected or enlarged, and no other improvement or construction undertaken except as shown upon an approved site plan which is in conformance with the requirements set out in this title.

Section 62. A new Section 17.96.025 is hereby added to the Site Plans chapter of the Gig Harbor Municipal Code, which shall read as follows:

17.96.025 Exemptions.

The following are exempt from the site plan review provisions of this chapter:

- A. Single-family and duplex dwellings on lots of record and any appurtenance thereto;
- B. Subdivisions and short plats;
- C. Planned unit developments and planned residential developments;
- D. Modifications to the interior of an existing structure that does not change the use;
- E. Change in use of an existing structure, provided the change in use does not increase the number of required off-street parking spaces and does not require a change of use capacity evaluation as provided for in GHMC 19.10.004;
- F. Normal maintenance and repair of existing improvements, facilities and structures;
- G. Installation and replacement of underground utilities located in public rights-of-way and approved utility easements or corridors;
- H. Utility pump stations, utility boxes and utility vaults;
- I. Removal of underground tanks when the site is restored to the condition prior to removal;
- J. Removal of all buildings and structures on a site together with the discontinuance of use of the land and buildings;
- K. Special uses as provided for in Chapter 17.65 GHMC;
- L. Uses allowed in approved common areas as provided for in GHMC Section 17.99.280;
- M. Land clearing as provided for in Chapter 17.94 GHMC;
- N. Temporary trailers as provided for in GHMC Section 17.01.090.
- O. Sign permits as provided for in Chapter 17.80 GHMC.

Section 63. Section 17.96.030 in the Site Plans chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.96.030 Site plans and review.

Any use or development that is subject to the requirements for a site plan review, unless exempt as provided for in GHMC 17.96.025, prior to issuance of building permits shall be classified and processed in accordance with the procedures established under GHMC Title 19 for Type III project permit applications as provided for in this section.

~~A. Application. An application for site plan approval may be filed by the property owner, lessee of the property with more than a month to month tenancy or authorized agent of the property owner. These shall be submitted to the planning director for transmittal to the hearing examiner with analysis and recommendation.~~

~~B. Criteria for Approval. The city shall consider approval of the site plans with specific attention to the following:~~

- ~~1. Compatibility with the city's comprehensive plan;~~

~~2. Compatibility with the surrounding buildings' occupancy and use factors; and~~

~~3. All relevant statutory codes, regulations, ordinances and compliance with the same.~~

~~The review and decision of the city shall be in accordance with the provisions of Chapter 17.10 GHMC and GHMC Title 19.~~

A. Minor site plan review.

1. Applications for minor site plan review shall be processed in accordance with the procedures established under GHMC Title 19 for a Type I project permit application. A decision on a minor site plan review application shall be rendered prior to or concurrent with the issuance of any other applicable permit. The following are classified as minor site plan reviews:

a. Change in use of an existing structure which increases the number of required off-street parking spaces and/or requires a change of use capacity evaluation as provided for in GHMC 19.10.004;

b. Modifications to the number of off-street parking stalls, amount of impervious surface and height of structures on an existing site or approved site plan provided such modifications do not exceed a 10% increase over the original;

c. Modifications to the parking lot layout or parking lot landscaping on an existing site or approved site plan;

d. Modifications to the landscaping, common area, or vegetation retention areas provided the modifications do not adversely affect the basic character and quality of such;

e. Modifications to the total amount of gross floor area on an existing site or approved site plan which do not exceed a 10 percent increase over the original or 1,000 square feet increase, whichever is less;

f. Removal of some but not all buildings on a site;

g. Modification or expansion of existing stormwater facilities;

h. Modifications to the conditions of approval of a minor site plan review decision.

2. If a minor site plan review includes any use or development classified as a major site plan review in subsection (B) of this section, the entire project shall be processed under the provisions for major site plan review.

B. Major site plan review.

1. Applications for major site plan review shall be processed in accordance with the procedures established under GHMC Title 19 for a Type II project permit application. The following are classified as major site plan reviews:

a. Construction of a building or installation of impervious surfaces on a vacant parcel;

b. Modifications to an existing site or approved site plan which are not classified as a minor site plan review in subsection (A) of this section or are exempt from site plan review under GHMC 17.96.025;

c. Any development subject to a SEPA threshold determination pursuant to GHMC Chapter 18.04;

d. Creation of new regional stormwater ponds;

e. Establishment of a new use or change of use which is not located in an existing building;

f. Modifications to the conditions of approval of a major site plan review decision.

2.If a SEPA threshold determination for a development requiring major site plan review is appealed, the major site plan review application shall be processed in accordance with the procedures established under GHMC Title 19 for a Type III project permit and the SEPA open record appeal hearing shall be consolidated with the Type III project permit open record hearing.

C. A minor or major site plan review application that is part of a project that requires additional applications with other procedure types may be processed collectively under the highest numbered procedure for any application unless the applicant chooses to have each application processed individually following the permit processing procedures in GHMC 19.01.002(B).

Section 64. A new Section 17.96.035 is hereby added to the Site Plans chapter of the Gig Harbor Municipal Code, which shall read as follows:

17.96.035 Criteria for site plan approval

The director shall approve applications for minor and major site plan review only if all of the following criteria are met:

A. The site plan is compatible with the surrounding uses; and

B. The site plan is compliant with all relevant statutory codes, regulations, ordinances.

Section 65. Section 17.96.040 in the Site Plans chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.96.040 Preliminary site plan conference.

~~Prior to applying for site plan review, a developer may present to city staff a preliminary site plan, which shall contain in a rough and approximate manner all of the information required on the site plan application. The purpose of the conference is to enable the developer to obtain the advice of city staff as to the intent, standards and provisions of this chapter with regard to the proposed plan. Information presented for preliminary site plan discussion shall be considered confidential. Refer to GHMC Section 19.02.001 for optional preapplication conference procedures.~~

Section 66. Section 17.96.050 in the Site Plans chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.96.050 Contents of a complete application.

Each application for site plan review shall contain the following information, if applicable to the application:

A. Environmental Checklist. A complete, signed environmental checklist when required;

B. General Information. The title and location of the proposed development, together with the names, addresses and telephone numbers of the recorded owners of the land and the applicant, and if applicable, the name, address and telephone number of any architect, planner, designer or engineer responsible for the preparation of the plan, and of any authorized representative of the applicant;

C. Project Description. A written description addressing the scope of the project, the nature and size in gross floor area of each use, and the total amount of square feet to be covered by impervious surfaces;

D. Vicinity Map. A vicinity map showing site boundaries and existing roads and accesses within and bounding the site;

E. Topographic Map. A topographic map based upon a site survey delineating contours, existing and proposed, at no less than five-foot intervals and which locates existing streams, marshes, critical areas and other natural features;

F. Site Plan. Site plans drawn to a scale no smaller than one inch equals 50 30 feet showing location and size of uses and structures, buffer areas, proposed areas of disturbance or construction outside of the building footprint, yards, open spaces and landscaped areas and any existing structures, easements and utilities. For site plans which cannot fit on a single 24x36 inch sheet at a scale of one inch equals 30 feet, provide one 24x36 inch sheet which shows the entire site plan, in addition to providing tiled site plans at one inch equals 30 feet;

G. Circulation Plan. A circulation plan drawn to a scale acceptable to the public works director illustrating all access points for the site, the size and location of all driveways, streets and roads with proposed width and outside turning radius, the location, size and design of parking and loading areas, and existing and proposed pedestrian circulation system; ~~If a project would generate more than 10 peak hour trips, a traffic impact study prepared by a qualified transportation planner or professional engineer shall be submitted;~~

H. ~~A preliminary drainage and stormwater runoff plan;~~ Public Works Checklist. All applicable items listed on the Public Works land use application intake checklist;

I. ~~A utility plan;~~

J I. Landscape Plan. A plot plan of all proposed landscaping including the treatment and materials used for open spaces, and the types of plants and screening to be used. A landscape plan meeting the requirements of GHMC 17.78.030;

K.J. ~~Typical building elevation and architectural style;~~ Design Review. A complete design review application meeting the applicable requirements of GHMC 17.98.040.

L. ~~A listing of the names and addresses of property owners of record within 300 feet of the project property, including preprinted labels bearing the names and addresses of the property owners of record within 300 feet of the project property.~~

Section 67. Section 17.96.060, in the Site Plans chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 68. Section 17.96.070 in the Site Plans chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.96.070 Duration of approval and expiration.

~~Construction on the project must commence within 24 months from the date of final action by the city; otherwise, the approval of the project becomes null and void. The duration of site plan review approvals and permit expirations shall be governed by GHMC Section 19.02.008.~~

Section 69. Section 17.96.080, in the Site Plans chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 70. Subsection 17.97.050(C)(2) in the Historic Preservation chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.97.050 Review of changes to properties listed on the city's register of historic places.

* * *

C. Review Process.

* * *

2. Review of Permits to Work on a Property Listed on the Register of Historical Properties. The ~~community development~~ director or designee shall report any application for a permit to work on a designated city register property to the DRB. If the activity is not exempt from review, the staff shall notify the applicant of the review requirements. The city shall not issue any permit for work on a designated city register property until a certificate of appropriateness or a waiver is received from the DRB, but shall work with the DRB in providing information on required building and fire code requirements.

* * *

Section 71. Subsection 17.98.030(A) in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.030 Design manual chapter applicability.

A. General Applicability. Chapter 17.99 GHMC, Design Manual, applies to all proposals to subdivide land under the provisions of GHMC Title 16 and to all proposals to build, locate, construct, remodel, alter or modify any facade on any structure or building or other visible element of the facade of the structure or building or site, including, but not limited to: landscaping, parking lot layout, signs, outdoor furniture in public or commercial locations, outdoor lighting fixtures, fences, walls and roofing materials (hereafter referred to as outdoor proposals), as described in Chapter 17.99 GHMC, Design Manual. Design review approval is required for all outdoor proposals which require a building permit, ~~clearing and grading permit~~, or which are part of a project or development requiring a site plan, short plat, subdivision, conditional use permit or utility extension agreement.

* * *

Section 72. Section 17.98.040 in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.040 Design review application requirements.

A complete design review application shall contain the following information:

A. Site Layout. A plan, drawn to scale no smaller than one inch equals 30 feet showing location and size of all structures, critical areas, required buffer areas, required yards, landscape areas, open spaces, common areas or plazas, walkways, retaining wall locations, storm water retention facilities, and parking and vehicle maneuvering areas.

B. Significant Vegetation Plan. A significant vegetation plan which accurately identifies the species, size and location of all significant vegetation within the property subject to the application.

C. Tree Retention Plan. A landscape plan showing the species, size and location of all significant natural vegetation to be retained on the property.

D. Preliminary Site Section Drawings. Section drawings which illustrate existing and proposed grades.

E. Preliminary Grading Plan. A topographic map of the property, delineating contours, existing and proposed, at no greater than five-foot intervals. The plan shall indicate all proposed cuts, fills and retaining wall heights and include areas of disturbance necessary to construct all retaining walls, structures and impervious surfaces.

F. Preliminary Utilities Plan. A utilities plan showing the location and type of any utilities proposed in critical areas, critical area buffers and natural vegetation retention areas.

G. Paving Materials. A description of proposed pedestrian and vehicular paving materials; include proposed type (asphalt, concrete, pavers, etc.), color, scoring and texture.

H. Elevation Drawings. Complete elevation drawings of all buildings showing dimensions and proposed materials including roofing, siding, windows and trim. Drawings shall include conceptual trim and cornice design, and roof pitch, and solid/void ratio and siding material calculations. If landscaping is proposed to soften or mitigate architectural modulation or details, additional elevation drawings showing proposed landscaping shall be provided.

I. Sign Plan. A sign plan showing the general location, type and size of signage on buildings.

J. Equipment Screening. A description of how all mechanical and utility equipment will be screened.

K. Color and Material Palette. A schematic color and material palette of the building's exterior siding, trim, cornice, windows and roofing. If alternative design review board review is requested, material and color samples shall be provided.

L. Fencing. The location and description of any proposed fencing.

M. Light Fixtures. A cutsheet showing typical parking and building lighting which includes pole height and mounting height. If proposed fixtures are near critical areas or natural vegetation retention areas, shielding shall be shown.

N. Accessories. The location of all outdoor furniture, trash receptacles and accessories.

O. ~~Design Review Board~~ Alternative Design Review. A request for alternative design review ~~by the design review board~~ shall include a written statement addressing the criteria for approval as set forth in GHMC 17.98.055, 17.98.056, 17.98.058 or 17.98.060, as applicable.

Section 73. Section 17.98.045 in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.045 Design review process.

A. The applicant shall follow the appropriate review process contained within this chapter based upon the project and whether or not the application or portions thereof strictly conform to the specific requirements of Chapter 17.99 GHMC.

B. An application for design review may be submitted prior to the submission of an underlying project permit application for a development on the same property; however, a complete underlying project permit application shall not be processed without a complete design review application.

C. ~~Administrative~~ Design review, as set forth in GHMC 17.98.050, is a Type ~~III~~ II application and shall be processed as set forth in GHMC Title 19 as supplemented by the procedures set forth in this chapter.

D. ~~A notice of application shall be issued for a complete design review application, as set forth in GHMC Title 19 for a Type III project permit application.~~ Alternative design review is a Type II application and shall be processed as set forth in GHMC Title 19 as supplemented by procedures set forth in this chapter. The following are classified as alternative design review:

1. Design review board recommendation as set forth in GHMC 17.98.055;
2. Minor adjustments to a DRB review as set forth in GHMC 17.98.056;
3. Administrative review of alternative designs as set forth in GHMC

17.98.058.

4. Exceptions as set forth in GHMC 17.98.060.

E. A design review application that is part of a project that requires additional applications with other procedure types may be processed collectively under the highest numbered procedure for any application unless the applicant chooses to have each application processed individually following the permit processing procedures in GHMC 19.01.002(B).

~~E. F.~~ The A notice of application for the following types of new development shall be forwarded to all members of the design review board (DRB) pursuant to GHMC 19.02.004:

1. Nonresidential development;
2. Multifamily residential development as defined in GHMC 17.04.290;
3. Subdivisions;
4. Public projects, except for normal maintenance and repair.

Section 74. Section 17.98.050 in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.050 Administrative approval.

An applicant may request administrative processing of a design review application or portions thereof if it conforms to the specific requirements of Chapter 17.99 GHMC. The director shall process a request for administrative review as follows:

A. Applications for all projects will be available at the ~~community development planning~~ department and the DRB members may independently review any application outside of their public meeting. Within two weeks after the date of the notice of application, individual DRB members may submit written comments to the director, identifying design elements that they believe do not comply with the specific requirements of the design manual.

B. If the director receives comments from DRB members that certain design elements of an application do not comply with the specific requirements of the design manual, the director shall reevaluate whether the application should be processed administratively or through the design review board process. If the director finds that the application or portion of application should follow the design review board recommendation process because it does not conform to the specific requirements of design manual, the director shall notify the applicant. The applicant may then choose to amend the application or request review by the design review board.

C. The application shall be reviewed by the director for compliance with the specific requirements of Chapter 17.99 GHMC. The director shall issue a decision approving the application or portions thereof if he/she finds that the application or portions of the application satisfy the specific requirements of Chapter 17.99 GHMC, Design Standards, or deny the application if such codes and standards are not satisfied. The director shall render the decision as set forth in GHMC 17.98.070 and ~~19.05.009~~ 19.02.007.

Section 75. Section 17.98.055 in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.055 Design review board recommendation.

An applicant may request review by the design review board (DRB) of an application or portions thereof which do not strictly conform to the specific requirements of Chapter 17.99 GHMC, Design Manual. A request for review by the DRB for an alternative design shall be processed as follows:

A. The board may recommend approval of alternative design solutions to specific requirements only if all of the following criteria are met:

1. The alternative design represents an equivalent or superior design solution to what would otherwise be achieved by rigidly applying specific requirements; and

2. The alternative design meets the intent of the general requirements of Chapter 17.99 GHMC, Design Manual.

B. The DRB shall not consider or recommend approval of any deviation from dimensional or numeric standards stated within the text of any general requirements, or from minimum setback standards, maximum height standards or zone transition building size standards stated in specific requirements of Chapter 17.99 GHMC. Approval to deviate from these standards must be obtained through the variance process defined in Chapter 17.66 GHMC and not through the design review board recommendation process.

C. Design Review Board Meeting. The board shall hold a public meeting on the application or portions thereof at the earliest available DRB meeting after the notice of application and public meeting has been published.

1. The public meeting shall be noticed as follows:

a. Not less than 14 days prior to the meeting date, the planning staff shall send notice of a public meeting to property owners within 300 feet of the subject property and to others who have submitted comments and/or requested notice.

b. Notice of the public meeting shall be posted on the subject property not less than seven days prior to the meeting date. Notice shall be posted in the manner required by GHMC 19.03.001(A)(4).

c. Notice of the public meeting shall be published in the city's official newspaper not less than seven days prior to the meeting date.

d. The notice of the public meeting shall contain all items listed in GHMC 19.03.003(A).

2. The applicant shall have an opportunity to make a presentation on the proposed alternative designs at the public meeting.

3. The public shall be allowed to comment on the application.

4. The DRB shall deliberate on the application and presentation and shall make findings and a recommendation on the application or portions thereof as per GHMC 17.98.070.

5. After the public meeting, the city staff shall draft the board's findings and recommendation on the application or portions thereof.

~~D. Public Hearing. Once the board makes a recommendation on a complete application, an open public hearing before the hearing examiner shall be scheduled for the application, which shall include the board's recommendation, or both the application and the underlying permit application. Notice of the public hearing before the hearing examiner shall be sent as provided in GHMC 19.03.003.~~ Decision. Once the board makes a recommendation on the complete application, the director shall consider the recommendation and make a decision on the design review application. The director shall render the decision as set forth in GHMC 17.98.070 and 19.02.007.

Section 76. Section 17.98.056 in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.056 Minor adjustments to ~~hearing examiner decisions~~ DRB review.

Minor adjustments to a final, approved ~~hearing examiner~~ decision on a design review board recommendation may be considered by the director prior to building permit issuance.

A. The director may not consider changes to the ~~hearing examiner's~~ original decision involving any deviation from dimensional or numeric standards stated within the text of any general requirements, or from minimum setback standards, maximum height standards or zone transition building size standards stated in specific requirements of Chapter 17.99 GHMC. Approval to deviate from these standards must be obtained through the variance process defined in Chapter 17.66 GHMC.

B. The director shall have the authority to approve a minor adjustment if all of the following criteria are met:

1. The minor adjustment does not substantially modify the ~~final hearing examiner~~ original decision; and
2. The minor adjustment does not substantially modify the approved architecture, site layout, natural vegetation retention areas and grading; and
3. The minor adjustment represents an equivalent or superior design solution to what would otherwise be achieved by rigidly applying specific requirements; and
4. The minor adjustment meets the intent of the general requirements of Chapter 17.99 GHMC, Design Manual.

C. The director shall render a decision on a minor adjustment as set forth in GHMC 17.98.070 and ~~19.05.009~~-19.02.007.

D. Notice of the director's decision on the minor adjustment shall be sent to all parties of record for the ~~final hearing examiner~~ original decision and to the design review board members, in addition to those parties required to be noticed by GHMC ~~19.05.008~~-19.02.007.

Section 77. Section 17.98.058 in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.058 Administrative review of alternative designs.

An applicant may request review by the director of an application or portions thereof which do not strictly conform to the specific requirements of Chapter 17.99 GHMC, Design Manual, for certain underlying project permit applications.

A. Only the following underlying project permit applications are eligible for administrative review of an alternative design:

1. Single-family (detached only) and duplex dwelling building permit applications for remodel or new construction on lots of record, and their accessory structures;
2. Tenant improvement applications.

B. The director shall have the authority to approve, or approve with conditions, alternative design solutions to specific requirements only if all of the following criteria are met:

1. The alternative design represents an equivalent or superior design solution to what would otherwise be achieved by rigidly applying specific requirements; and

2. The alternative design meets the intent of the general requirements of Chapter 17.99 GHMC, Design Manual.

C. The director shall not approve any deviation from dimensional or numeric standards stated within the text of any general requirements, or from minimum setback standards, maximum height standards or zone transition building size standards stated in specific requirements of Chapter 17.99 GHMC. Approval to deviate from these standards must be obtained through the variance process defined in Chapter 17.66 GHMC.

D. The director shall render a decision on an alternative design as set forth in GHMC 17.98.070 and ~~19.05.009~~ 19.02.007.

E. Notice of the director's decision shall be sent to property owners within 300 feet of the subject property in addition to those parties required to be noticed by GHMC ~~19.05.008~~ 19.02.007.

Section 78. Section 17.98.060 in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.060 Exceptions.

A. Processing. An exception requested under this section shall be processed in conjunction with a design review application, and shall follow the procedures for permit processing by the board as set forth in GHMC 17.98.055. An exception is used in those situations in which an applicant does not provide an alternative design to the requirements of Chapter 17.99 GHMC, Design Manual.

B. The requirements for a complete design exception application are:

1. Submittal of a complete design review application as set forth in GHMC 17.98.040.

2. A written statement describing the requested exception.

3. A written statement justifying the granting of the requested exception pursuant to the criteria of subsection D of this section.

C. Board Action. The board shall issue a recommendation to the ~~hearing examiner~~ director on an exception application.

D. Criteria for Approval. All of the following circumstances must be shown to exist for approval of a design exception:

1. Special conditions and circumstances exist which render a specific requirement of Chapter 17.99 GHMC, Design Manual, unnecessary, given the location and intended use of the proposed development;

2. The special conditions and circumstances are characteristic of the proposed general use of a site and not of a specific tenant;

3. The special conditions and circumstances are not representative of typical retail, professional office or residential type development which may be allowed within the zoning district;

4. The requested exception is based upon functional consideration rather than economic hardship, personal convenience or personal design preferences;

5. Architectural changes in the project design as a result of the exception have been sufficiently compensated by other architectural embellishments, and site plan changes as a result of the exception have been sufficiently compensated by other site amenities; and

6. The requested exception will not result in a project which is inconsistent with the intent and general scope of the standards of Chapter 17.99 GHMC, Design Manual.

Section 79. Section 17.98.070 in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.070 Recommendations, decisions and appeals.

A. The decision rendered by the director or the recommendation by the design review board shall be in writing. The design review board chair shall sign the recommendation to be forwarded to the ~~hearing examiner~~ director.

B. The decision/recommendation shall describe the facts surrounding the application; the applicable provisions of Chapter 17.99 GHMC, Design Manual, triggered by the application; include an analysis of the facts and applicable design manual provisions to the facts; and shall include conclusions supporting the approval, denial or recommendation for approval or denial under Chapter 17.99 GHMC, Design Manual.

C. An administrative design review decision of the director may be appealed as set forth in GHMC Title 19 for a Type II project permit application. A recommendation of the design review board on an application or exception will be acted upon by the hearing examiner in an open record hearing either on the design review application or the underlying project permit application. An alternative design review decision may be appealed as set forth in GHMC Title 19 for a Type II project permit application.

Section 80. Section 17.98.080, in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 81. Section 17.98.090 in the Design Standards and Review chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.98.090 Duration of approval and expiration.

Construction on projects that receive design approval must commence within 24 months from the date of final design approval; otherwise, the approval of the project becomes null and void. The duration of design review approval and permit expiration shall be governed by GHMC Section 19.02.008.

Section 82. Section 17.99.340 in the Design Manual chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.99.340 Fences.

The following standards are applicable to all uses and development:

A. Choose fence materials carefully (IBE).

Fences shall be constructed of wood, wrought iron, brick, stone or concrete block (CMU). Smooth-faced concrete block must have a veneer finish on the side visible to the public's view. In commercial areas or recreation centers in residential areas, black, dark brown or other dark-toned, vinyl-coated chain link attached to wood posts and rails is permitted. Other materials which have the general appearance and visual quality of approved fence materials may be approved by the ~~community development~~ director. However, the use of plywood or composition sheeting as a fence material is not permitted.

Section 83. Subsections 18.04.230(B and F) in the Environmental Review (SEPA) chapter of the Gig Harbor Municipal Code are hereby amended, to read as follows:

18.04.230 Appeals.

* * *

B. Notice of Decision.

1. In the notice of decision issued by the city pursuant to GHMC ~~19.05.009~~ 19.02.007 and for every decision for which an appeal is available in this section, the SEPA responsible official shall give official notice of the date and place for commencing an appeal. The notice shall include:

a. Notice that the SEPA issues must be appealed within the time limit set by statute or ordinance for appealing the underlying governmental action;

b. The time limit for commencing the appeal of the underlying governmental action and SEPA issues, and the statute or ordinance establishing the time limit;

c. Where the appeal may be filed.

2. Written notice shall be provided to the applicant, all parties to any administrative appeal and all persons who have requested notice of decisions concerning the project. Such notice may be appended to the permit, the decision documents, the SEPA compliance documents or may be printed separately.

* * *

F. Timing of Appeal.

1. SEPA Decision Issues at the Same Time as Underlying Action. An appeal of a SEPA decision that issued at the same time as the decision on a project action shall be filed within 14 days after issuance of a notice of decision under GHMC ~~19.05.009~~ 19.02.007 (or RCW 36.70B.130), ~~or after notice that a decision has been made and is appealable.~~

2. SEPA Decision Allows Public Comment. For a DNS or MDNS for which public comment is required (under this chapter), the appeal period shall be extended for an additional seven days.

3. SEPA Threshold Decision Issues Prior to Decision on Underlying Action. An appeal of a threshold decision issued prior to a decision on a project

action shall be filed within 14 days after notice that the decision has been made and is appealable.

* * *

Section 84. Section 18.08.206 in the Critical Areas chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

18.08.206 Reasonable use exceptions.

If the application of this chapter would preclude all reasonable use of a site, development may be permitted, consistent with the general purposes and intent of this chapter. Applications for a reasonable use permit shall be processed in accordance with the procedures established under GHMC Title 19 for a Type III project permit application.

A. Information Required. An application for a reasonable use exception shall be in writing to the department director and shall include the following information:

1. A description and map of the area of the site which is within a critical resource area or within the setbacks or buffers as required under this title;
2. The area of the site which is regulated under the respective setbacks (minimum yards) and maximum impervious coverage of the zoning code (GHMC Title 17);
3. An analysis of the impact that the amount of development proposed would have on the critical area as defined under this title;
4. An analysis of whether any other reasonable use with less impact on the critical area and buffer area, as required, is possible;
5. A design of the project as proposed as a reasonable use so that the development will have the least practicable impact on the critical area;
6. A description and analysis of the modification requested of the minimum requirements of this title to accommodate the proposed development;
7. Such other information as may be required by the department which is reasonable and necessary to evaluate the reasonable use respective to the proposed development.

B. Findings for Approval of Reasonable Use Exception. If an applicant successfully demonstrates that the requirements of this title would deny all reasonable use of a site, development may be permitted. The ~~department director~~ hearing examiner shall make written findings as follows:

1. There is no feasible alternative to the proposed development which has less impact on the critical area;
2. The proposed development does not present a threat to the public health, safety or welfare;
3. Any modification of the requirements of this title shall be the minimum necessary to allow for the reasonable use of the property;
4. The inability of the applicant to derive a reasonable use of the property is not the result of actions by the applicant which resulted in the creation of the

undevelopable condition after the effective date of the ordinance codified in this title;

5. The proposal mitigates the impacts to the critical area to the maximum extent practicable, while maintaining the reasonable use of the site;

6. That all other provisions of this chapter apply excepting that which is the minimum necessary to allow for the reasonable use of the site or property. The ~~director~~ hearing examiner may impose any reasonable conditions on the granting of the reasonable use exception, consistent with the minimum requirements of this chapter.

~~C. Notification of Decision. A decision by the director under this section shall be provided, in writing, to the applicant and all property owners adjacent to or abutting the site. The applicant shall be responsible for providing a current listing of all adjacent property owners along with application for a reasonable use exception. Notice of the decision shall be provided as set forth in GHMC 19.02.007.~~

~~D. Appeal of Director's Decision. The decision of the director on a reasonable use exception may be appealed in accordance with the procedures established under GHMC Title 19.~~

E. Limits of Applying Reasonable Use Exception. A reasonable use exception shall only be considered in those situations where a reasonable use would be prohibited under this title. An applicant who seeks an exception from the minimum requirements of this title shall request a variance under the provisions of this title.

~~F. Time Limitation. A reasonable use exception shall be valid for a period of two years, unless an extension is granted by the department at least 30 days prior to the expiration date. Any extension granted shall be on a one-time basis and shall be valid for a period not to exceed one year. The time limit is void if the applicant fails to procure the necessary development permit within the time allotted. The department may grant a time extension if:~~

- ~~1. Unforeseen circumstances or conditions necessitate the extension of the development exception; and~~
- ~~2. Termination of the development exception would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and~~
- ~~3. The extension of the development exception will not cause adverse impacts to environmentally sensitive areas.~~

~~F. Duration of Approval and Expiration. The duration of reasonable use exception approval and permit expiration shall be governed by GHMC Section 19.02.008.~~

Section 85. Subsection 18.10.060(A) in the Flood Hazard Construction Standards chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

18.10.060 Administration.

A. Establishment of Development Permit – Flood Hazard Permit Required. A flood hazard permit shall be obtained before construction or development begins within any area of special flood hazard established in GHMC 18.10.050. The permit shall be for all structures including manufactured homes, as set forth in

GHMC 18.10.040, Definitions, and for all development including fill and other activities, also as set forth in GHMC 18.10.040. However, structures that are excluded from the definition of substantial improvement shall not be subject to the flood hazard permit requirement. The permit shall be exempt from the following project permit processing requirements of GHMC Title 19: GHMC 19.01.002(B), Optional Consolidated Permit Processing; GHMC 19.02.003, Submission and acceptance of application; GHMC 19.02.004, Notice of application; RCW 36.70B.060(5) (single staff report with all decisions made as of the date of the report as to all project permits); RCW 36.70B.060(6) (requirement that there be no more than one open record hearing and one closed record appeal); GHMC ~~19.05.009~~ 19.02.007(A), Notice of final decision; and GHMC ~~19.05.009(A)~~ 19.02.007(B) (completion of application review within any applicable deadline).

* * *

Section 86. Subsection 19.01.002(C) in the Types of Project Permits chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.01.002 Determination of proper procedure type.

* * *

C. Decisionmaker(s). Applications processed in accordance with subsection B of this section which have the same procedure number, but are assigned to different hearing bodies, shall be heard collectively by the highest decisionmaker; the city council being the highest body, followed by the hearing examiner or planning commission, as applicable, and then the director. Joint public hearings with other agencies shall be processed according to GHMC 19.01.004. ~~Concurrent public hearings held with the design review board and any other decisionmaker shall proceed with both decisionmakers present.~~

Section 87. Section 19.01.003 in the Types of Project Permits chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.01.003 Project permit application framework.

A. Action Type.

| | PROCEDURE FOR PROJECT PERMIT APPLICATIONS (TYPE I – IV) | | | | | LEGISLATIVE |
|-------------------------|---|----------|------------------|------------------|--------------|---------------------|
| | TYPE I | TYPE II | TYPE III | TYPE III-A | TYPE IV | TYPE V |
| Recommendation made by: | N/A | N/A | N/A | N/A | N/A | Planning commission |
| Final decision made by: | Director | Director | Hearing examiner | Hearing examiner | City council | City council |

| | | | | | | |
|---|-----|---|--|---|--|---|
| Notice of application: | No | No Yes | Yes | Yes | Yes | No |
| Open record public hearing or open record appeal of a final decision: | No | Only if appealed, open record hearing before hearing examiner | Yes, before hearing examiner to render final decision | Yes, before hearing examiner to render final decision | No | Yes, before planning commission which makes recommendation to council |
| Closed record appeal/final decision: | No | No | No, only if site-specific rezone appealed, then before council | No | Yes, before council to render final decision | Yes, or council could hold its own hearing |
| Judicial appeal: | Yes | Yes | Yes | Yes | Yes | Yes |

B. Decisions.

| TYPE I | TYPE II | TYPE III | TYPE III-A | TYPE IV | TYPE V |
|---|--|---|--|----------------------|---|
| Permitted uses not requiring site plan review-Final short plat | <u>Preliminary Short plat</u> | Plat vacations and alterations | <u>Preliminary plats/ major preliminary plat revisions</u> | Final plats | Comprehensive plan amendments |
| <u>Boundary line adjustments</u> <u>Minor site plan review</u> | Sign permits <u>Major site plan review</u> | <u>Site plan/major amendments to site plans</u> <u>Conditional use permit</u> | <u>Preliminary PRD/PUD</u> | <u>Final PRD/PUD</u> | <u>Development regulations amendments</u> |
| Minor amendments to PUD/PRD | <u>Alternative design review¹</u> | <u>CUP, g General variances, sign permit variances, and site specific rezones</u> | <u>Major amendment to PRD</u> | | Zoning text amendments; area-wide zoning map amendments |
| Special use permits | Land clearing/grading <u>Binding site plan</u> | Shoreline substantial development, shoreline variance, <u>shoreline conditional use²</u> | | | Annexations |
| Temporary construction trailers | Revisions to shoreline management ² permits | Major amendments to PRD and PUD | | | |
| <u>Sign permits</u> | Administrative | Amendment to | | | |

| TYPE I | TYPE II | TYPE III | TYPE III-A | TYPE IV | TYPE V |
|--|--|---|------------|---------|--------|
| | variances | height restriction area map | | | |
| <u>Administrative design review</u> ¹ | Administrative interpretations | Mobile/ manufactured home park or subdivision | | | |
| <u>Land clearing</u> | Home occupation permit | Performance-based height exception | | | |
| <u>Home occupation permit</u> | Hardship variance, sign code | Changes from one nonconforming use to another | | | |
| <u>Alternative landscape plan</u> | Modification to landscape plans | <u>Site-specific rezone</u> | | | |
| <u>Nonconforming review</u> | Minor amendment to PRD or PUD | <u>Critical area variances</u> | | | |
| <u>Minor preliminary plat revisions</u> | Nonconforming review | <u>Critical area reasonable use exceptions</u> | | | |
| <u>Boundary line adjustment</u> | | | | | |

¹ In addition to the procedures in this title, applications for design review shall follow the procedures set forth in Chapter 17.98 GHMC.

² Refer to the Gig Harbor Shoreline Master Program for shoreline exemption procedures.

Section 88. Section 19.01.005 in the Types of Project Permits chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.01.005 Legislative decisions.

A. Decisions. The following decisions are legislative, and are not subject to the procedures in this title, unless otherwise specified:

1. Zoning code text, and development regulations ~~and zoning district amendments;~~
2. Area-wide rezones to implement city policies;
3. Adoption of the comprehensive plan and any plan amendments.

B. Planning Commission. The planning commission shall hold a public hearing and make recommendations to the city council on the decisions in subsection (A)(3) of this section. The planning commission shall also hold public hearings and make recommendations to the city council on the decisions in subsections (A)(1) and (2) of this section, except that the city council may hold a public hearing itself on those decisions set forth in subsections (A)(1) and (2) of this section. The public hearing shall be held in accordance with the requirements of Chapter 19.05 GHMC and RCW 36.70A.035 and all other applicable law.

C. City Council. The city council may consider the planning commission's recommendation in a public hearing held in accordance with the requirements of Chapter 19.05 GHMC and RCW 36.70A.035 and all other applicable law. If the city council desires to hold a public hearing on any of the decisions set forth in subsections (A)(1) and (2) of this section, it may do so without forwarding the proposed decision to the planning commission for a hearing.

D. Public Notice. Notice of the public hearing or public meeting shall be provided to the public as set forth in GHMC 19.03.003(B)(4).

E. Implementation. City council decision shall be by ordinance or resolution and shall become effective on the effective date of the ordinance or resolution.

Section 89. Subsection 19.01.007(B) in the Types of Project Permits chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.01.007 Exemptions from project permit application processing.

* * *

B. Pursuant RCW 36.70B.140(2), building permits, boundary line adjustments or other construction permits, or similar administrative approvals categorically exempt from environmental review under SEPA (Chapter 43.21C RCW and the city's SEPA/environmental policy ordinance, Chapter 18.04 GHMC), or permits/approvals for which environmental review has been completed in connection with other project permits, are excluded from the following procedures:

1. Notice of application (GHMC 19.02.004) unless an open record hearing is allowed on the project permit decision;
2. Except as provided in RCW 36.70B.140, optional consolidated project permit review processing (GHMC 19.01.002(B));
3. Joint public hearings (GHMC 19.01.004);
4. Single report stating all of the decisions and recommendations made as of the date of the report that do not require an open public record hearing (GHMC 19.05.002(C));
5. Notice of decision (GHMC ~~19.05.008~~ 19.02.007(A)).

Section 90. Chapter 19.02 is hereby renamed to TYPE I – IV PROJECT PERMIT PROCESSING.

Section 91. Section 19.02.001 in the Type I – IV Project Permit Processing chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.02.001 Optional preapplication conference.

A. Prior to filing applications for project permit ~~Type III actions requiring a preliminary plat or site plan review and Type IV actions~~ applications, the applicant may request a preapplication conference. The purpose of the preapplication conference is to acquaint the applicant with the requirements of the Gig Harbor Municipal Code.

B. The conference shall be held within 28 days of the request.

C. Five or more working days following the conference, the director shall provide the applicant with:

1. A form which lists the requirements for a completed application;

2. A general summary of the procedures to be used to process the application;

3. The references to the relevant code provisions or development standards which may apply to approval of the application;

4. ~~The city's design guidelines.~~

D. Neither the discussions at the conference nor the information provided on the form sent by the director to the applicant under GHMC 19.02.001(C) shall bind the director in any manner or prevent the director's future application or enforcement of all applicable codes, ordinances and regulations.

~~E. Preapplication conferences for all other types of applications are optional, and requests for conferences will be considered on a time-available basis by the director.~~

Section 92. Section 19.02.002 in the Type I – IV Project Permit Processing chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows

19.02.002 Project permit application.

Applications for project permits shall be submitted on forms provided by the director. An application shall consist of all materials required by the applicable development regulations, and shall include the following general information:

A. A completed project permit application form;

B. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;

C. A property and/or legal description of the site for all applications, as required by the applicable development regulations;

D. The applicable fee;

E. Evidence of adequate water supply as required by RCW 19.27.097 or a copy of an application for city of Gig Harbor water concurrency determination; ~~submitted to the city public works director;~~ and

F. Evidence of sewer availability or an application for a city of Gig Harbor sewer concurrency determination.

Section 93. Section 19.02.003 in the Type I – IV Project Permit Processing chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.02.003 Submission and acceptance of application.

A. Submission of Project Permit Application and Associated Concurrency Application. Every project permit application must be accompanied by a concurrency application (under Chapter 19.10 GHMC), unless the development described in the application is exempt under Article I of Chapter 19.10 GHMC. The planning department shall immediately forward the concurrency application to the public works/engineering department for processing. The planning

department shall then determine whether or not the project permit application is complete, following the procedures in this section.

B. The public works/engineering department shall notify the planning department within 28 days after initial receipt of the applications whether the concurrency application is complete or incomplete. The planning department shall not make a finding that the project permit application is complete under this section unless and until notified by the public works/engineering department that the concurrency application is complete.

C. Determination of Completeness. Within 28 days after receiving a project permit application, the city shall mail or personally deliver to the applicant a determination which states either:

1. That the application is complete; or
2. That the application is incomplete and what is necessary to make the application complete.

If an applicant chooses the optional consolidated permit review process set forth in GHMC 19.01.002(B), the determination of completeness shall include all project permits being reviewed through the consolidated permit review process.

D. Identification of Other Agencies with Jurisdiction. To the extent known by the city, other agencies with jurisdiction over the project shall be identified in the determination of completeness.

E. Additional Information. A project permit application is complete for the purposes of this section when it meets the submission requirements of GHMC 19.02.002, the submission requirements of the applicable development regulations, and when the public works/engineering department has determined that a complete concurrency application has been submitted. The determination of completeness shall be made when the application is sufficiently complete for review, even though additional information may be required or project modifications may be undertaken subsequently. The director's determination of completeness shall not preclude the director's ability to request additional information or studies whenever new information is required, or substantial changes are made to the proposed project.

F. Incomplete Applications.

1. Whenever the applicant receives a determination from the city that an application is not complete for either a project permit or concurrency application, the applicant shall have 90 days to submit the necessary information. Within 14 days after an applicant has submitted the requested additional information, the director shall make a determination of completeness and notify the applicant in the manner provided in subsection C of this section.

2. If the applicant does not submit the additional information requested within the 90-day period, for either the project permit or concurrency application, the director shall make findings and issue a decision, according to the Type I procedure described in ~~GHMC 19.10.003-19.01.003~~, that the application has lapsed for lack of information necessary to complete the review. The decision shall state that no further action will be taken on the applications, and that if the applicant does not make arrangements to pick up the application materials from

the planning and/or public works/engineering departments within 30 days from the date of the decision, the application materials will be destroyed.

3. When the director determines that an application has lapsed because the applicant has failed to submit required information within the necessary time period, the applicant may request a refund of the application fee remaining after the city's determination of completeness.

G. Director's Failure to Provide Determination of Completeness. A project permit application shall be deemed complete under this section if the director does not provide a written determination to the applicant that the application is incomplete as provided in subsection C of this section. This subsection G shall not apply to a concurrency application.

H. Date of Acceptance of Application. Project permit and concurrency applications shall not be officially accepted until complete. When an application is found complete, the director shall note the date of acceptance for continued processing.

~~I. After acceptance, the city shall begin processing the applications. Under no circumstances shall the city place any applications on "hold" to be processed at some later date, even if the request for the "hold" is made by the applicant, and regardless of the requested length of the "holding" period.~~

Section 94. Section 19.02.004 in the Type I – IV Project Permit Processing chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.02.004 Notice of application.

A. Generally. A notice of application shall be provided to all city departments and agencies with jurisdiction of all Type II, III and IV project permit applications. In addition, a notice of application for all (1) nonresidential development, (2) multifamily residential development as defined in GHMC 17.04.290, (3) subdivisions, and (4) public projects, except for normal maintenance and repair, shall be sent to all members of the design review board as set forth in GHMC 17.98.045(E).

B. Issuance of Notice of Application.

1. Within 14 days after the city has made a determination of completeness pursuant to GHMC 19.02.003, the director shall issue a notice of application.

2. If any open record predecision hearing is required for the requested project permit(s), the notice of application shall be provided at least 15 days prior to the open record hearing.

C. Contents. The notice of application shall include:

1. The date of submission of the initial application, the date of the notice of completion and acceptance of the application, and the date of the notice of application;

2. A description of the proposed project and a list of all the project permits requested in the application and, if applicable, a list of any studies requested under RCW 36.70B.070 or 36.70B.090;

3. A description of other required permits not included in the application, to the extent known by the city;

4. A description of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

5. A statement setting forth:

(a)† a. The time for the public comment period, which shall be not less than 14 nor more than 30 days following the date of notice of application. The public comment period for a notice of application of a permit under the purview of the city's shoreline master program (SMP) shall be not less than 30 days following the date of notice of application;

(b)† b. The right of any person to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision on the application; and

(c)† c. Any appeal rights;

6. The date, time, place and type of hearing, if a hearing has been scheduled when the date of notice of application is issued;

7. If made at the time of notice of application, A summary of the preliminary determination of consistency required by GHMC 19.04.001, if one has been made at the time of notice, and a statement of preliminary determination of those development regulations that will be used for project mitigation and as provided in Chapter 19.04 GHMC;

8. Any other information determined appropriate by the director such as the director's threshold determination, if complete at the time of issuance of the notice of application.

D. Public Comment on the Notice of Application. All public comments received on the notice of application must be received in the department of planning by 5:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile; provided, that mailed comments received after the comment period has expired will not be accepted. Comments should be as specific as possible.

E. SEPA Exempt Projects. A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record predecision hearing is required, or an open record appeal hearing is allowed on the project permit decision.

Section 95. Section 19.02.005 in the Type I – IV Project Permit Processing chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.02.005 Referral and review of project permit applications.

Within 10 days of accepting a complete application, the director shall:

A. Transmit a copy of the application, or appropriate parts of the application, to each affected government agency and city department for review and comment, including those responsible for determining compliance with state and federal requirements. The affected agencies and city departments shall have 15 days to comment on the application. The agency or city department is presumed to have no comments if comments are not received within the 15-day period. The director shall grant an extension of time only if the application involves unusual circumstances. ~~Extensions shall be for a maximum of three working days.~~

B. Provide for notice and hearing as set forth in Chapter 19.03 GHMC for Type III procedures.

Section 96. A new Section 19.02.006 is hereby added to the Type I – IV Project Permit Processing chapter of the Gig Harbor Municipal Code, which shall read as follows:

19.02.006 Expiration of Complete Applications

A. Whenever an applicant receives a determination from the city that additional information is needed to review a complete application or that revisions are necessary to reach code compliance, the applicant shall have 90 days to submit the necessary information or revisions, or request a decision on the application. If the applicant responds in writing and indicates that more than 90 days is required to provide the additional information or revisions, the director may accept a reasonable timeline for submittal of all information requested or revisions.

B. If the applicant does not submit the information requested or revisions within the 90-day period, request a decision on the application or provide a submittal timeline acceptable to the director, the director shall send a certified letter to the applicant requesting the applicant to submit the information or revisions within 30 days or as otherwise determined by the director.

C. If the applicant does not submit the information requested or revisions within the 30-day period, the director shall make findings and issue a decision, according to the Type I procedure described in GHMC 19.01.003, that the application has expired for lack of information necessary to complete the review. The decision shall state that no further action will be taken on the expired application and that if the applicant does not make arrangements to pick up the application materials within 30 days from the date of the decision, the application materials may be destroyed.

D. Any associated project permit applications, concurrency applications or concurrency reservation certificates shall also expire if the underlying project permit application expires.

E. When the director determines that an application has expired, the applicant may request a refund of the application fee remaining as provided for the city's fee schedule.

F. Expiration of an application does not preclude the applicant from submitting new, complete project permit and concurrency applications which are substantially similar to the expired application.

Section 97. A new Section 19.02.007 is hereby added to the Type I – IV Project Permit Processing chapter of the Gig Harbor Municipal Code, which shall read as follows:

19.02.007 Project permit decisions.

A. Notice of Decision. A notice of decision on a project permit application shall be provided to the applicant, to any person who submitted comments on the

application or requested a copy of the decision, and to the Pierce County Assessor-Treasurer.

B. Time period for decision. The director shall issue a notice of final decision on a project permit application within 120 days of the issuance of the determination of completeness pursuant to GHMC 19.02.003; provided, that the time period for issuance of a notice of final decision on a preliminary plat shall be 90 days, for a final plat 30 days, and a short plat 30 days.

1. In calculating the time period for decision for issuance of the notice of final decision, the following periods shall be excluded:

a. Any period during which the applicant has been requested by the director to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the director notifies the applicant of the need for additional information until the earlier of the date the director determines that the additional information provided satisfies the request for information, or 14 days after the date the additional information is provided to the city;

b. If the director determines that the information submitted is insufficient, the applicant shall be informed of the particular insufficiencies and the procedures set forth in subsection (B)(1) of this section for calculating the exclusion period shall apply;

c. Any period during which an environmental impact statement (EIS) is being prepared pursuant to Chapter 43.21C RCW and GHMC Title 18. The time period for preparation of an EIS shall be governed by GHMC 18.04.140(C);

d. Any period for consideration and issuance of a decision for administrative appeals of project permits, which shall be not more than 90 days for open record appeals and 60 days for closed record appeals, unless a longer period is agreed to by the director and the applicant;

e. Any extension of time mutually agreed to in writing by the director and the applicant.

2. The time limits established in subsection B of this section do not apply if a project permit application:

a. Requires an amendment to the comprehensive plan or a development regulation;

b. Requires siting approval of an essential public facility as provided in RCW 36.70A.200; or

c. Is substantially revised by the applicant, in which case the time period shall start from the date that a determination of completeness for the revised application is issued by the director pursuant to GHMC 19.02.003 and RCW 36.70B.070.

C. Contents. The notice of decision shall include:

1. A list of all project permits included in the decision, including all permits being reviewed through the consolidated permit review process;

2. A date and description of the decision;

3. A statement of any threshold determination made under SEPA (Chapter 43.21C RCW);

4. The procedures for administrative appeal, if any;

5. A statement that the affected property owners may request a change in property tax valuation notwithstanding any program of revaluation by contacting in the Pierce County Assessor-Treasurer;

6. The duration of permit approval and a statement summarizing the permit expiration and extension procedures provided in GHMC 19.02.008;

7. A statement that the complete project permit file, including findings, conclusions and conditions of approval, if any, is available for review. The notice shall list the place the file is available and the name and telephone number of the city representative to contact about reviewing the file;

8. The notice of decision can be a copy of the project permit decision provided the decision includes the contents required by this subsection.

D. Public notice of the final decision for Type II permits shall be pursuant to GHMC 19.03.004.

Section 98. A new Section 19.02.008 is hereby added to the Type I – IV Project Permit Processing chapter of the Gig Harbor Municipal Code, which shall read as follows:

19.02.008 Duration of permit approval and expiration of permits.

A. Duration of permit approval. A land use permit shall expire three (3) years from the date a permit is approved, except as specified in subsection C of this section.

B. When a project includes more than one land use permit, the expiration date of the land use permit with the longest permit approval duration shall govern all land use permits included in a project, except final plats, short plats and Type V decisions.

C. The duration of approval, expiration and extension of the following land use permits shall not be governed by this section, except that subsection B of this section shall apply:

1. Shoreline permits shall be governed by the city of Gig Harbor Shoreline Master Program and WAC 173-27-090;

2. Subdivisions, short plats, binding site plans and boundary line adjustments shall be governed by GHMC Title 16 and RCW 58.17;

3. Land use permits governed by a development agreement shall be pursuant to the development agreement;

4. Special use permits, land clearing permits and temporary trailer permits shall be governed by the provisions in the specific zoning code chapter regulating those permits;

D. Commencement of permit approval duration. The approval duration for a permit shall commence on the date of the land use permit decision; provided that in the event the decision is appealed, the effective date shall be the date of decision on appeal. The approval duration for a shoreline permit shall commence on the effective date of the permit as defined in WAC 173-27-090.

E. Expiration.

1. All land use permits become null and void and expire at the end of the permit approval period if, on the date the permit expires, a complete application for subsequent building permit or civil permit has not been submitted.

2. A complete application for subsequent building or civil permit will extend the validity of said land use permit as long as the building or civil permit is active.

3. For land use permits which do not require a building or civil permit, the land use permit does not expire if the use allowed by the project permit has been legally established prior to the expiration date of the project permit.

4. Once a use or development has been legally established, the land use permit will remain valid as long as the use and development is in compliance with the terms of the land use permit.

5. Conditional Use Permits. If a use or activity authorized by a conditional use permit is abandoned or discontinued for a continuous period of two years, the conditional use permit shall expire and the use or activity may not be reestablished unless authorized by a new conditional use permit.

F. Extensions. Upon written request by the property owner, prior to the date of land use permit expiration, the director may grant an extension of time up to but not exceeding one (1) year. Any extensions of time shall be based upon a finding that the land use permit is compliant with all applicable codes at the time of the extension request and there has been no material change of circumstances applicable to the property since project permit approval. The director shall not grant more than one (1) permit extension.

G. For the purposes of this section, land use permit is defined as any permit issued under Title 16, 17 or 18 of the Gig Harbor Municipal Code.

Section 99. A new Section 19.02.009 is hereby added to the Type I – IV Project Permit Processing chapter of the Gig Harbor Municipal Code, which shall read as follows:

19.02.009 Resubmission of application.

Any project permit application that is denied shall not be resubmitted or accepted by the director for reconsideration for a period of 12 months from the date of the last action by the city on the application or request unless, in the opinion of the director, there has been a significant change in the application or a significant change in conditions related to the impacts of the proposed project.

Section 100. Section 19.03.001 in the Public Notice chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.03.001 Public notice of application.

~~A.~~ In addition to the notice of application for ~~Type III and Type IV~~ project permits required by GHMC 19.02.004, the director shall also provide public notice of ~~Type II, Type III and Type IV~~ site-specific project permit applications by posting the property, ~~or by publication in the city's official newspaper, and mailing.~~ Public notice of non-site-specific project permit applications shall be by

publication in the city's official newspaper. Public notice shall be provided within the timelines provided for in GHMC 19.02.004(B).

~~1. Posting~~ A. Posted Notice. Posting of the property for site specific proposals shall consist of one or more notice boards as follows:

1. The posted notice shall contain at least the project location, description, type of permit(s) required, comment period dates, and a location where the complete application and notice of application may be reviewed.

~~a. 2.~~ A single notice board shall be placed by the applicant:

~~i.a.~~ At the midpoint of the street fronting the site or as otherwise directed by the director for maximum visibility;

~~ii.b.~~ Five feet inside the street property line, except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street without approval of the director;

~~iii.c.~~ So that the top of the notice board is between five to six feet above grade; and

~~iv.d.~~ Where it is completely visible to pedestrians.

~~b.3.~~ Additional notice boards may be required when:

~~i.a.~~ The site does not abut a public road;

~~ii.b.~~ A large site abuts more than one public road; or

~~iii.c.~~ The director determines that additional notice boards are necessary to provide adequate public notice.

~~e.4.~~ Notice boards shall be: maintained in good condition by the applicant during the department review period.

~~i.~~ Maintained in good condition by the applicant during the notice period;

~~ii.~~ In place at least 30 days prior to the date of any hearing, and at least 15 days prior to the end of any required comment period;

~~iii.~~ Removed within 15 days after the end of the notice period.

~~d.5.~~ Removal of the notice board prior to the end of the ~~notice~~ department review period shall be cause for discontinuance of the department review until the notice board is replaced and remains in place for the specified time period.

~~e.6.~~ An affidavit of posting shall be submitted to the director by the applicant at least 10 days prior to the hearing or final comment date. If an affidavit is not filed as required, any scheduled hearing or date by which the public may comment on the application shall be postponed until there is compliance with the notice requirement.

~~f.7.~~ Notice boards shall be constructed and installed in accordance with specifications promulgated by the director.

~~2.B.~~ Published Notice. Notice shall be published in the city's official newspaper or in a newspaper of general circulation, and shall contain at least the project location, description, type of permit(s) required, comment period dates, and a location where the complete application and notice of application may be reviewed.

C. Mailed Notice. Mailed notice for site specific proposals shall consist of the following:

1. The contents for the mailed notice shall be consistent with GHMC 19.02.004(C).

2. Notice shall be mailed to all property owners within 300 feet of the subject property;

3. For Type III Preliminary Plat Actions, mailed notice shall also include the following:

a. Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of any city or town, or which contemplates the use of any city or town utilities shall be given to the appropriate city or town authorities;

b. Notice of the filing of a preliminary plat of a proposed subdivision adjoining the boundaries of Pierce County shall be given to the appropriate county officials;

c. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the secretary of transportation.

3. Shoreline Master Program (SMP) Permits.

a. Methods of Providing SMP Notice. Notice of the application of a permit under the purview of the city's shoreline master program (SMP) shall be given by one or more of the following methods:

i. Mailing of the notice to real property owners as shown by the records of the county assessor within 300 feet of the boundary of the property upon which the proposed project is to be built;

ii. Posting of the notice in a conspicuous manner, as determined by the director, on the property upon which the project is to be constructed; or

iii. Any other manner deemed appropriate by the director to accomplish the objectives of reasonable notice to adjacent landowners and the public.

b. Content of SMP Notice. SMP notices shall include:

i. A statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application, may submit comments, or requests for the decision, to the director within 30 days of the last date that notice is published pursuant to this subsection;

ii. A statement that any person may submit oral or written comments at the hearing;

iii. An explanation of the manner in which the public may obtain a copy of the city's decision on the application no later than two days after its issuance.

e. Public Comment Period. The public comment period shall be 20 days.

d. The director shall mail or otherwise deliver a copy of the decision to each person who submits comments or a written request for the decisions.

Section 101. Section 19.03.003 in the Public Notice chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.03.003 Notice of public hearing.

A. Content of Notice of Public Hearing for All Applications. The notice of a public hearing required by this chapter shall contain:

1. The name and address of the applicant and the applicant's representative;
2. A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to a vicinity location or written description, a map or postal address, and a subdivision lot and block designation, but need not include a legal description;
3. The date, time and place of the hearing;
4. The nature of the proposed use or development;
5. A statement that all interested persons may appear and provide testimony;
6. The sections of the code that are pertinent to the hearing procedure;
7. A statement of any threshold determination made under SEPA (Chapter 43.21C RCW).
- ~~7.~~ 8. A statement explaining when information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;
- ~~8.~~ 9. The name of a city representative to contact and the telephone number where additional information may be obtained;
- ~~9.~~ 10. A statement that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost and that copies will be provided at the requestor's cost; and
- ~~10.~~ 11. A statement explaining that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and that copies will be provided at the requestor's cost.

B. Mailed Notice. Mailed notice of the public hearing shall be provided as follows:

1. Type I, Type II, and Type IV Actions. No public notice is required because no public hearing is held, except for an appeal of a Type II action.
2. Type III Actions and appeal of Type II actions. The notice of the public hearing shall be mailed to:
 - a. The applicant;
 - b. All owners of property within 300 feet of the subject property for site-specific proposals;
 - c. Any person who submits written or oral comments on an application;
 - d. For a plat alteration or a plat vacation pursuant to Chapter 16.07 GHMC, notice shall be as provided in RCW 58.17.080 and 58.17.090;
 - e. For appeal of Type II actions, all parties who received a copy of the notice of decision.

3. Type III Preliminary Plat Actions. In addition to the notice provided for Type III actions above, notice for public hearings on preliminary plats and proposed subdivisions shall also include the following:

a. ~~Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of any city or town, or which contemplates the use of any city or town utilities shall be given to the appropriate city or town authorities;~~

b. ~~Notice of the filing of a preliminary plat of a proposed subdivision adjoining the boundaries of Pierce County shall be given to the appropriate county officials;~~

c. ~~Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right of way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the secretary of transportation;~~

d. ~~Special notice of the hearing shall be given to adjacent landowners by any method deemed reasonable by the director. Adjacent landowners are owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice under RCW 58.17.909(1)(b) shall be given to owners of real property located with 300 feet from any portion of the boundaries of the adjacent parcels owned by the owner of the real property to be subdivided.~~

~~4. Type V Actions. For Type V legislative actions, the city shall publish notice as described in subsection A of this section in the city's official newspaper.~~

~~5.~~ 4. General Procedure for Mailed Notice of Public Hearing.

a. The records of the Pierce County assessor's office shall be used for determining the property owner of record. Addresses for a mailed notice required by this code shall be obtained from the applicable county's real property tax records. The director shall cause to be issued a sworn certificate of mailing transmittal to all persons entitled to notice under this chapter. The director may provide notice to persons other than those required to receive notice under the code.

b. All mailed public notices shall be deemed to have been received on the next business day following the day that the notice is deposited in the mail.

C. Procedure for Posted or Published Notice of Public Hearing.

1. Posted notice of the public hearing is required for all Type III ~~and IV~~ project permit applications. The posted notice shall be posted as required by GHMC 19.03.001(A) ~~(1)~~.

2. Published notice is required for all Type III, ~~IV~~ and V procedures and appeals of Type II actions. Notice shall be published in the city's official newspaper.

D. Time and Cost of Notice of Public Hearing.

1. For all Type III procedures and appeals of Type II actions, ~~n~~Notice shall be mailed, posted and first published not less than 10 nor more than 30 days prior

to the hearing date. Posted notices shall be removed by the applicant within 15 days following the public hearing.

2. For Type V procedures, published notice shall occur prior to the public hearing.

3. All costs associated with the public notice shall be borne by the applicant.

Section 102. A new Section 19.03.004 is hereby added to the Public Notice chapter of the Gig Harbor Municipal Code, which shall read as follows:

19.03.004 Public notice of decision.

In addition to the provisions in GHMC 19.02.007, the director shall provide a notice of the decision on a Type II site-specific project permit applications to the public by mailing the notice of decision, consistent with GHMC 19.02.007(C), to all owners of property within 300 feet of the subject property.

Section 103. Section 19.05.001 in the Open Record Public Hearings chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.05.001 General.

Public hearings on all Type II, III, III-A and V project permit applications shall be conducted in accordance with this chapter. Public hearings conducted by the city hearing examiner shall also be subject to the hearing examiner's rules.

Section 104. Section 19.05.002 in the Open Record Public Hearings chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.05.002 Responsibility of director for hearing.

The director shall:

- A. Schedule project applications for review and public hearing;
- B. Provide the required notice;

C. Prepare the staff report on the application, which shall be a single report which sets forth all of the decisions made on the proposal as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record predecision hearing. The report shall also describe any mitigation required or proposed under the city's development regulations or SEPA authority. If the threshold determination, other than a determination of significance, has not been issued previously by the city the report shall include or append this determination. ~~With Type I or II project permit applications, this report may be the permit;~~

D. Prepare the notice of decision, if required by the hearing body, and mail a copy of the notice of decision to those entitled by this ~~chapter~~ Title to receive the decision.

Section 105. Section 19.05.008 in the Open Record Public Hearings chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.05.008 Decision.

A. Following the hearing procedure described in GHMC 19.05.007, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse or, with the written consent of the applicant, which shall include a waiver of the statutory prohibition against two open record hearings, remand the decision for additional information.

B. The hearing body's written decision shall issue within 10 working days after close of record of the hearing and within 90 days of the opening of the hearing, unless a longer period is agreed to by the parties.

~~C. The city shall provide a notice of decision that also includes a statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for administrative appeal, if any. For Type II, III and IV project permits, the notice of decision on the issued permit shall contain the requirements set forth in GHMC 19.05.002(C).~~

~~D. The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.~~

~~E. C. Notice of the decision shall be provided to the public as set forth in GHMC 19.03.003 (B)(2)(a) and (B)(2)(c) 19.02.007.~~

F. D. If the city is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision.

Section 106. Section 19.05.009, in the Open Record Public Hearings chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 107. Subsection 19.05.010(I) in the Open Record Public Hearings chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.05.010 Reconsideration of decision.

* * *

I. Notice of Final Decision on Reconsideration. The director shall issue a notice of final decision on reconsideration in the manner set forth and to the persons identified in GHMC ~~19.05.009~~ 19.02.007.

* * *

Section 108. Chapter 19.06 is hereby renamed to OPEN AND CLOSED RECORD APPEALS; CLOSED RECORD DECISIONS.

Section 109. Section 19.06.001 in the Open and Closed Record Appeals; Closed Record Decisions chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.06.001 Appeals of decisions Right of appeal.

The right of appeal for all project permit applications and Type V land use decisions shall be as described in the matrix set forth in GHMC 19.01.003.

Section 110. Section 19.06.003 in the Open and Closed Record Appeals; Closed Record Decisions chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.06.003 Standing to initiate an administrative appeal.

A. Limited to Parties of Record. Only parties of record may file an administrative appeal.

B. Definition. The term "parties of record," for the purposes of this chapter, shall mean:

1. The applicant;
2. Any person who testified at the open record public hearing on the application;
3. Any person who submitted written comments concerning the application ~~at the open record public hearing~~ (excluding persons who have only signed petitions or mechanically produced form letters); ~~and/or~~
4. The Gig Harbor city council;
5. Property owners within 300 feet of the property subject to the project permit; and/or
6. Any person who can demonstrate he/she is aggrieved by the decision.

Section 111. Section 19.06.004 in the Open and Closed Record Appeals; Closed Record Decisions chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.06.004 Appeals of ~~recommendations and decisions.~~

~~A. Permit Decisions or Recommendations.~~ Appeals of a hearing body's recommendation or decision ~~or recommendation and project permit application~~ shall be governed by the following:

~~1. A. Standing.~~ Only parties of record have standing to appeal the hearing body's decision.

~~2. B. Time to File.~~ An appeal must be filed within ~~10 working~~ 14 days of the issuance of the hearing body's written decision after the issuance of the notice of decision. Appeals shall be delivered to the director by mail, by personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last day of the appeal period will not be accepted, no matter when such appeals were mailed or postmarked.

~~3. C. Computation of Time.~~ For the purposes of computing the time for filing an appeal, the day the hearing body's decision is issued shall not be counted. If the last day of the appeal is a Saturday, Sunday, or holiday designated by RCW 1.16.050 or by a city ordinance, then the appeal must be filed on the next business day.

4. D. Content of Appeal. Appeals shall be in writing, be accompanied by the required appeal fee, and contain the following information:

- a. 1. Appellant's name, address and phone number;
- b. 2. A statement describing appellant's standing to appeal;
- c. 3. Identification of the application which is the subject of the appeal;
- d. 4. Appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;
- e. 5. The specific relief sought;
- f. 6. A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

5. E. Effect. The timely filing of an appeal shall stay the hearing body's decision until such time as the appeal is concluded or withdrawn.

F. Burden of Proof. The appellant shall bear the burden to demonstrate that substantial evidence does not exist in the administrative record to support the decision of the hearing body/officer.

G. Standard of Review. The appeal body/officer shall determine whether there is substantial evidence in the administrative record to support the decision of the hearing body/officer. The appeal body/officer may affirm, modify or reverse the decision of the hearing body/officer. Reasonable determinations by the body or officer that made the decision shall be accorded substantial weight.

H. Remand. Upon written agreement by the applicant to waive the requirement for a decision within the time periods set forth in GHMC 19.02.007, as allowed by RCW 36.70B.080(3), the appeal body/officer may remand the decision to the hearing body for additional information.

~~6. Notice of Appeal. The director shall provide mailed notice of the appeal to all parties of record as defined in GHMC 19.06.003.~~

Section 112. Section 19.06.006 in the Open and Closed Record Appeals; Closed Record Decisions chapter of the Gig Harbor Municipal Code is hereby renumbered to 19.06.008 and amended, to read as follows:

19.06.006 19.06.008 Judicial appeals.

The city's final decision on an application may be appealed by a party of record with standing to file a land use petition in Pierce County ~~s~~Superior ~~e~~Court. Such petition must be filed within 21 days after issuance of the decision, as provided in Chapter 36.70C RCW.

Section 113. Section 19.06.005 in the Open and Closed Record Appeals; Closed Record Decisions chapter of the Gig Harbor Municipal Code is hereby renumbered to 19.06.006 and amended, to read as follows:

19.06.005 19.06.006 Procedure for closed record decision/appeal.

A. Closed record appeals shall be on the record established at the open record hearing before the hearing body/officer whose decision is appealed, which shall include the written decision of the hearing body/officer, a transcript or tape recording of the proceedings, and copies of any exhibits admitted into the record.

B. No new testimony or other evidence will be accepted by the appeal body/officer except: (1) new information that was unknown to the parties at the time of the hearing which could not reasonably have been discovered by the parties and is necessary for a just resolution of the appeal; and (2) relevant information that, in the opinion of the appeal body/officer, was improperly excluded by the hearing body/officer. Appellants who believe that information was improperly excluded must specifically request, in writing prior to the closed record appeal hearing, that the information be made part of the record. The request shall describe the information excluded, its relevance to the issues appealed, the reason(s) that the information was excluded by the hearing body/officer, and why the hearing body/officer erred in excluding the information. No reference to excluded information shall be made in any presentation to the appeal body/officer on the merits, written or oral, until the appeal body/officer has determined that the information should be admitted.

C. Parties to the appeal may present written and/or oral arguments to the appeal body/officer. Argument shall describe the particular errors committed by the hearing body/officer, with specific references to the administrative record. ~~The appellant shall bear the burden to demonstrate that substantial evidence does not exist in the administrative record to support the decision of the hearing body/officer.~~

D. The hearing shall commence with a presentation by the director, or the director's designee, of the general background of the proposed development and the issues in dispute. After the director's presentation, the appellant(s) shall first present oral argument, and then the other parties of record shall make their arguments. The appeal body/officer may question any party concerning disputed issues, but shall not request information not in the administrative record.

~~E. The appeal body/officer shall determine whether there is substantial evidence in the administrative record to support the decision of the hearing body/officer. The appeal body/officer may affirm, modify or reverse the decision of the hearing body/officer. Upon written agreement by the applicant to waive the requirement for a decision within the time periods set forth in RCW 36.70B.080, as allowed by RCW 36.70B.080(3), the appeal body/officer may remand the decision to the hearing body for additional information.~~

~~F. Open Record Appeal Hearings. An open record appeal hearing shall be conducted in the manner set forth in Chapter 19.05 GHMC.~~

Section 114. A new Section 19.06.005 is hereby added to the Open and Closed Record Appeals; Closed Record Decisions chapter of the Gig Harbor Municipal Code, which shall read as follows:

19.06.005 Procedure for open record appeal hearing.

A. An open record appeal hearing shall be conducted in the manner set forth in Chapter 19.05 GHMC. The provisions of this chapter shall prevail in the event of conflict with Chapter 19.05 GHMC.

B. Public Notice. Public notice of the open record appeal hearing shall be mailed and published pursuant to GHMC 19.03.003.

C. An open record appeal hearing on a site plan review decision pursuant to Chapter 17.96 GHMC shall be heard by the hearing examiner de novo.

Section 115. Section 19.06.007, in the Open and Closed Record Appeals; Closed Record Decisions chapter of the Gig Harbor Municipal Code is hereby repealed.

Section 116. A new Section 19.06.007 is hereby added to the Open and Closed Record Appeals; Closed Record Decisions chapter of the Gig Harbor Municipal Code, which shall read as follows:

19.06.007 Closed record decisions.

If the City Council determines that the applicable criteria have been met for a Type IV permit, the City Council shall approve the permit by resolution.

Section 117. Subsection 19.08.040(D) in the Development Agreements chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.08.040 Processing procedure for development agreements.

* * *

D. Public Notice. All public meetings and public hearings on a development agreement shall be noticed as follows:

1. Not less than 10 days prior to the public hearing date, a notice of the public hearing shall be sent to property owners within 300 feet of the property subject to the development agreement and to others who have submitted comments and/or requested notice.

2. Notice of the public hearing shall be posted on the property subject to the development agreement not less than 10 days prior to the hearing date. Notice shall be posted in the manner required by GHMC 19.03.001(A)(1).

3. Notice of the public meeting shall be published in the city's official newspaper not less than 10 days prior to the meeting date.

4. The notice of the public hearing shall contain all items listed in GHMC 19.03.003(A).

5. All costs associated with the public notice shall be borne by the applicant.

Section 118. Section 19.09.180 in the Amending the Comprehensive Plan chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.09.180 Adoption and rejection.

The city council's decision to adopt ~~or reject~~ the proposed comprehensive plan amendments shall be adopted by ordinance. The city council's decision to reject the proposed comprehensive plan amendments shall be by resolution.

Section 119. Subsection 19.10.020(A) in the Concurrency Management chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

19.10.020 Expiration and extensions of time.

A. Expiration. If a certificate of occupancy has not been requested prior to the expiration of the underlying permit or termination of the associated development agreement, the director shall convert the reserved capacity to available capacity for the use of other developments. The act of requesting a certificate of occupancy before expiration of the CRC shall only convert the reserved capacity to used capacity if the building inspector finds that the project actually conforms with applicable codes. If a complete underlying project permit application is expired as provided for in GHMC 19.02.006, the director shall convert any reserved capacity allocated to the underlying project permit to available capacity for the use by other developments.

* * *

Section 120. Existing Site Plan Applications. Site plan applications which were deemed complete prior to the effective date of this ordinance may be processed under the provisions of this ordinance if the applicable noticing requirements of this ordinance have been met.

Section 121. Retroactive Application and Sunset Clause. The provisions of Section 8 amending GHMC 16.06.003 and 16.06.006 shall be effective retroactively to June 10, 2010 and shall continue through December 31, 2014. Unless otherwise provided, effective January 1, 2015, the time frame in Section 16.06.003 for submission of a final plat for approval and the period in Section 16.06.006 for valid land use shall be five years.

Section 122. 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 123. Effective Date. Section 120 of the Ordinance shall take effect within 5 days after publication of a summary of this Ordinance. The remaining provisions of this Ordinance shall take effect and be in full force on January 1, 2011.

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:



Subject: SECOND READING of an ordinance adding a new Section 9.36.050—Pawnbrokers and Second Hand Dealers to the Gig Harbor Municipal Code thereby adopting by reference RCW 19.60 Pawnbrokers and secondhand dealers

Dept. Origin: Police Department

Prepared by: Chief Mike Davis *MD #1*

For Agenda of: September 27, 2010

Exhibits:

Proposed Council Action: Adopt the ordinance at its second reading

Initial & Date

Concurred by Mayor:

Approved by City Administrator: *RDK 9/23/10*

Approved as to form by City Atty: *Via Email*

Approved by Finance Director: *N/A*

Approved by Department Head: *MD 9/23/10*

| | | | | | |
|----------------------|---|-----------------|---|------------------------|---|
| Expenditure Required | 0 | Amount Budgeted | 0 | Appropriation Required | 0 |
|----------------------|---|-----------------|---|------------------------|---|

INFORMATION / BACKGROUND

We recently became aware of an investigation by the Pierce County Sheriff's Department that revealed a secondhand dealer in precious metals located within the city limits of Gig Harbor was not following the legal requirement to keep items received for 30 days before removing them from the place of business.

When we considered prosecuting the individual and terminating their business license, it became apparent we have not adopted RCW 19.60 which regulates the activities of Pawnbrokers and secondhand dealers. Adopting the attached ordinance will allow the city to proceed with prosecution if we investigate this sort of criminal offense in the future.

FISCAL CONSIDERATION

None

RECOMMENDATION / MOTION

Move to: Adopt the ordinance at its second reading

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE CITY'S CRIMINAL CODE; ADDING A NEW SECTION 9.36.050 -- PAWNBROKERS AND SECONDHAND DEALERS-- TO THE GIG HARBOR MUNICIPAL CODE TO ADOPT BY REFERENCE CHAPTER 19.60 RCW; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RCW 35A.11.020 authorizes the legislative body of code cities to adopt and enforce criminal codes related to misdemeanor and gross misdemeanor offenses; and

WHEREAS, the City of Gig Harbor desires to adopt by reference chapter 19.60 RCW in order to allow the City to prosecute certain crimes relating to pawnbrokers and secondhand dealers; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on September 13, 2010; and

WHEREAS, on _____, 2010, the City Council adopted this Ordinance at 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. A new section 9.36.050 of the Gig Harbor Municipal Code is hereby added to the Gig Harbor Municipal Code, to read as follows:

9.36.050 Pawnbrokers and secondhand dealers

Chapter 19.60 RCW is adopted by reference in its entirety.

Section 2. 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 3. 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: 08/05/10
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO:

Subject: Public Hearing and Introduction –
2010 Comprehensive Plan Amendments

Proposed Council Action:

First: Consider revision proposed by 96th
Street LLC and determine if revision should be
accepted for review by the Council.

Second: Hold a public hearing on the
proposed amendments. The public hearing on
the 96th Street LLC application should be
related to the application as accepted.

Dept. Origin: Planning Department

Prepared by: Jennifer Kester
Senior Planner

For Agenda of: September 27, 2010

Exhibits: Applicable criteria for approval; Planning
Commission recommendations.

Initial & Date

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

CLH 9/21/10
RJK 9/24/10
by email
DF 9/10
TD 9/20/10

| | | | | | |
|-------------|---|----------|---|---------------|---|
| Expenditure | | Amount | | Appropriation | |
| Required | 0 | Budgeted | 0 | Required | 0 |

INFORMATION / BACKGROUND

The intent of this introduction and public hearing is to provide the Council members an opportunity to familiarize themselves with the proposed amendments and the Planning Commission recommendations. In addition, the Council needs to decide if they want to accept and review the proposed revision to the 96th Street LLC land use map amendment. Once the Council decides on that revision, they should hold a public hearing to take testimony on all amendments. First and second reading of the ordinance which will adopt or deny the amendments will be heard October 11th and 25th, 2010.

Three Comprehensive Plan amendments were forwarded to the Planning Commission for review and recommendation in the 2010 annual review cycle. The amendments are listed below and have been organized in the order considered by the Planning Commission.

- 1. COMP-10-0001: Parks, Recreation and Open Space Element** – This amendment would insert goals and policies into the Comprehensive Plan related to parks, recreation and open space. The goals and policies match those contained in the recently adopted 2010 Park Plan. This amendment is sponsored by the City of Gig Harbor.
- 2. COMP-10-0002: Capital Facilities Plan** – This amendment includes the annual changes to the City's wastewater, water and transportation improvements plan. In addition, the

parks, recreation and open space inventory, analysis and project list is being update to reflect the 2010 Park Plan. This amendment is sponsored by the City of Gig Harbor.

- 3. COMP-10-0003: 96th Street LLC Land Use Map Amendment** – A land use map amendment request to change the land use designation from a Mixed Use (MU) designation to an Employment Center (EC) designation for one parcel (8 acres) located near 96th Street east of Burnham Drive. **Location:** Pierce County Parcel No. 0222314037; parcel is located east of Burnham Drive and north of 96th Street, directly south of the Northharbor Business Campus and Avalon Woods residential subdivision. **Proponent:** 96th Street LLC, PO Box 206, Gig Harbor, WA 98335.
Revision: In response to the Planning Commission recommendation of denial, the applicant would like the Council to consider the option of re-designating only 4.91 acres south of the Northharbor Business Campus to EC rather than the entire 8 acres.

The Planning Commission reviewed the proposed amendments at one public hearing and four work study sessions. Approximately twenty (20) members of the public testified or provided written comments. At their August 12th, 2010 work study session, the Planning Commission voted to recommend the two city-sponsored amendments be approved; however they recommended denial of the original 96th Street LLC amendment. Notices of the Planning Commission recommendations and their findings are enclosed.

The City Council has been provided binders containing copies of the specific amendments together with planning staff reports and recommendations, Planning Commission minutes and public comment.

POLICY ANALYSIS

The process for Comprehensive Plan amendment (Chapter 19.09) states that the City Council shall consider the Planning Commission's recommendations and after considering the criteria found in GHMC 19.09.170 make written findings regarding each application's consistency or inconsistency with the criteria. Those amendments which are consistent with the criteria should be approved. The applicable criteria for approval are enclosed.

In regards to proposed revisions to applications after the Planning Commission's recommendation, such as the revision proposed by 96th Street LLC, the code states that: "The city council shall not consider changes to private-party amendment applications after the planning commission's recommendation unless the changes are recommended by the planning commission or requested by the city council" GHMC 19.09.160. The Council should therefore consider if they want to "request" the proposed revision by 96th Street LLC.

ENVIRONMENTAL ANALYSIS

The SEPA Responsible Official issued a Determination of Non-Significance (DNS) for the proposed amendments on July 14, 2010 per WAC 197-11-340(2). The appeal period for the DNS expired on September 20, 2010.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

Having reviewed the proposed 2010 Comprehensive Plan amendments the City of Gig Harbor Planning Commission recommended the City Council **APPROVE** the Capital Facilities Plan amendment and Parks, Recreation and Open Space Element insertion (COMP 10-0001 and COMP 10-0002). The Planning Commission recommended the City Council **DENY** the 96th Street LLC land use map amendment (COMP 10-0003) based on the original application for 8 acres.

RECOMMENDATION / MOTION

First: Consider revision proposed by 96th Street LLC and determine if revision should be accepted for review by the Council.

Second: Hold a public hearing on the proposed amendments. The public hearing on the 96th Street LLC application should be related to the application as accepted.

Planning staff will develop a draft ordinance for first reading on October 11th that reflects the Planning Commission's recommendations for approval and denial unless directed otherwise.

Gig Harbor Municipal codes applicable to Comprehensive Plan Amendment Review

When reviewing the applications please use these codes as additional guidance in developing comments. Italics indicate Planning Staff opinions/notes

19.09.050 D. Assessment of Impacts.

Except for those land use map amendments associated with a development agreement that limit development to specified uses and floor areas, the most intense use and development of the site allowed under the proposed land use designation will be assumed when reviewing potential impacts to the environment and to public facilities.

- *Application COMP 10-0003, 96th Street LLC, is a land use map amendment. No development agreement has been submitted; however, the only zone which implements the Employment Center designation (the proposed land use) is the Employment District (ED) zone. The Council should consider the any impacts based on the uses allowed in the ED zone.*

19.09.170 Criteria for approval.

The city's comprehensive plan was developed and adopted after significant study and public participation. The goals and policies contained therein shall therefore be granted substantial weight when considering a proposed amendment. The city council shall make written findings regarding each application's consistency or inconsistency with the following criteria:

A. The proposed amendment will further and be consistent with the goals, policies and objectives of the comprehensive plan; and

B. The proposed amendment is consistent with the Growth Management Act, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

C. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect transportation facilities and other public facilities and services such as parks, police, fire, emergency medical services and governmental services; and

D. The proposed amendment advances the public interest; and

E. For text amendments which propose to increase density or intensity of permitted development and all land use map amendments, the following approval criteria also apply:

1. Adequate infrastructure, facilities and services are available to serve the proposed or potential development expected as a result of this amendment, according to one of the following provisions:

a. The city has adequate funds for needed infrastructure, facilities and services to support new development associated with the proposed amendments; or

b. The city's projected revenues are sufficient to fund needed infrastructure, facilities and services, and such infrastructure, facilities and services are included in the schedule of capital improvements in the city's capital facilities plan; or

c. Needed infrastructure, facilities and services will be funded by the developer under the terms of a development agreement associated with the comprehensive plan amendment; or

d. Adequate infrastructure, facilities and services are currently in place to serve expected development as a result of this comprehensive plan amendment based upon an assessment of land use assumptions; or

e. Land use assumptions have been reassessed, and required amendments to other sections of the comprehensive plan are being processed in conjunction with this amendment in order to ensure that adopted level of service standards will be met; and

2. For a land use map amendment, the subject parcels being redesignated are physically suitable for the allowed land uses in the designation being requested, including compatibility with existing and planned surrounding land uses; and

3. The proposed amendment will not create a demand to change land use designations of other properties, unless the change in land use designation for other properties is in the long-term interest of the community in general.

- *These are the criteria for approval. Criteria A through D apply to all applications. Criterion E only applies to the 96th Street LLC land use map amendment.*

19.10.005 Capacity evaluations required for rezone applications or comprehensive plan amendments requesting an increase in extent or density of development.

A capacity evaluation shall be required as part of any application for a comprehensive plan amendment or zoning map amendment (rezone) which, if approved, would increase the intensity or density of permitted development. As part of that capacity evaluation, the director shall determine whether capacity is available to serve both the extent and density of development which would result from the zoning/comprehensive plan amendment. The capacity evaluation shall be submitted as part of the staff report and shall be considered by the city in determining the appropriateness of the comprehensive plan or zoning amendment.

- *Application COMP 10-0003, 96th Street LLC, is a land use map amendment. No development agreement has been submitted; however, the only zone which implements the Employment Center designation (the proposed land use) is the Employment District zone. The City is not issuing CRCs for Comprehensive Plan amendments, but instead, we are evaluating capacity issues to see if the proposal would increase or decrease capacity. The evaluation determined if the criteria in 19.09.170 (cited above) can be met. A copy of the determination is included in this section.*



COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF RECOMMENDATION
CITY OF GIG HARBOR PLANNING COMMISSION
COMP 10-0001

TO: Mayor Hunter and Members of the Council
FROM: Harris Atkins, Chair, Planning Commission
RE: COMP 10-0001 – Parks, Recreation, and Open Space Element

Having reviewed the proposal and after holding a public hearing on August 5, 2010, the City of Gig Harbor Planning Commission recommends the City Council **APPROVE** the following Comprehensive Plan amendment:

COMP-10-0001: Parks, Recreation and Open Space Element, the proposed city-sponsored Comprehensive Plan text amendment would insert parks, recreation and open space goals and policies, as adopted in the 2010 Park Plan, into the comprehensive plan.

CRITERIA FOR APPROVAL

The Planning Commission made this recommendation after reviewing the criteria for approval found in GHMC 19.09.170. The Planning Commission has determined that criterion E does not apply as the proposal is not a land use amendment and does not increase the density or intensity of permitted development. The recommendation is based on the following analysis of the applicable criteria:

A. The proposed amendment will further and be consistent with the goals, policies and objectives of the comprehensive plan; and

Historically, the City has had a Parks, Recreation and Open Space Element in the Comprehensive Plan. This element was removed in 2009 because the 2001 Park Plan, which had been adopted by reference, had expired and a new 2010 Park Plan was being developed. Insertion of the goals and policies of the adopted 2010 Park Plan into the Parks, Recreation and Open Space Element is consistent with the approved 2009 comprehensive plan amendment which put the following language in the Parks, Recreation and Open Space Element. *"This chapter is reserved for the parks, recreation and open space plan. The City has removed the expired 2001 plan and is working*

on a replacement plan for adoption in the 2010 Comprehensive Plan Amendment Cycle.”

B. The proposed amendment is consistent with the Growth Management Act, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

The Planning Commission did not identify any policies in the Growth Management Act, the countywide planning policies or multi-county planning policies that the proposed amendment was in conflict with.

C. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect transportation facilities and other public facilities and services such as parks, police, fire, emergency medical services and governmental services; and

The Planning Commission believes that any impacts the proposed policies and goals will have on City infrastructure were adequately assessed through the process which adopted the 2010 Park Plan. Given the adoption of the 2010 Park Plan, the City has already determined that no adverse impacts will occur.

D. The proposed amendment advances the public interest; and

Given the substantial amount of public comment and process in the development of the 2010 Park Plan through the Parks Commission and the adoption of the 2010 Park Plan by the City Council in June 2010, the Planning Commission finds that proposed amendment advances the public interest.

Harris Atkins, Chairman
Planning Commission

HARRIS S. ATKINS

Date 8/12/2010

cc: Planning File



COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF RECOMMENDATION
CITY OF GIG HARBOR PLANNING COMMISSION
COMP 10-0002

TO: Mayor Hunter and Members of the Council
FROM: Harris Atkins, Chair, Planning Commission
RE: COMP 10-0002 – Capital Facilities Plan

Having reviewed the proposal and after holding a public hearing on August 5, 2010, the City of Gig Harbor Planning Commission recommends the City Council **APPROVE** the following Comprehensive Plan amendment:

COMP 10-0002: Capital Facilities Plan

The proposed city-sponsored Comprehensive Plan text amendment would make annual updates to capital facilities plan and project lists.

CRITERIA FOR APPROVAL

The Planning Commission made this recommendation after reviewing the criteria for approval found in GHMC 19.09.170. The Planning Commission has determined that criterion E does not apply as the proposal is not a land use amendment and does not increase the density or intensity of permitted development. The recommendation is based on the following analysis of the applicable criteria:

A. The proposed amendment will further and be consistent with the goals, policies and objectives of the comprehensive plan; and

The City's Comprehensive Plan seeks to keep pace with the population and commercial growth through the funding of capital improvements that manage and allow for the projected growth. The amendments to the water, parks and transportation project lists and parks level of service analysis in the Capital Facilities Plan will allow the city to better address the planning area's needs by identifying capital projects and associated funding strategies.

B. The proposed amendment is consistent with the Growth Management Act, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

The Planning Commission did not identify any policies in the Growth Management Act, the countywide planning policies or multi-county planning policies that the proposed amendment was in conflict with.

C. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect transportation facilities and other public facilities and services such as parks, police, fire, emergency medical services and governmental services; and

The amendments are necessary so as not to create significant adverse impacts to the city's infrastructure. Updating the transportation, water, parks and open space project lists in the capital facilities plan allows the City to plan for and provide the necessary infrastructure to serve the development projected by the Comprehensive Plan.

D. The proposed amendment advances the public interest; and

This amendment serves the public interest by creating a plan to provide the infrastructure needed to meet agreed upon levels of service for citizens and ratepayers and to provide for the growth potential of the City.

Harris Atkins, Chairman
Planning Commission

HARRIS S. ATKINS

Date 8/12/2010

cc: Planning File



COMMUNITY DEVELOPMENT DEPARTMENT

NOTICE OF RECOMMENDATION
CITY OF GIG HARBOR PLANNING COMMISSION
COMP 10-0003

TO: Mayor Hunter and Members of the Council
FROM: Harris Atkins, Chair, Planning Commission
RE: COMP 10-0003 – 96th Street LLC Land Use Map Amendment

Having reviewed the proposal and after holding a public hearing on August 5, 2010, the City of Gig Harbor Planning Commission recommends the City Council **DENY** the following Comprehensive Plan amendment:

COMP-10-0003: 96th Street LLC.

96th Street LLC proposed changing the land use designation from Mixed Use (MU) to Employment Center (EC) for one parcel (8 acres) located near 96th Street, east of Burnham Drive and directly south of Northharbor Business Campus and Avalon Woods.

CRITERIA FOR APPROVAL

The Planning Commission made this recommendation after reviewing the criteria for approval found in GHMC 19.09.170. The recommendation is based on the following analysis of the applicable criteria:

A. The proposed amendment will further and be consistent with the goals, policies and objectives of the comprehensive plan; and

The Planning Commission believes that the proposed amendment is not consistent with the policies of the Comprehensive Plan due to the lack of an appropriate land use transition between the existing Northharbor Business Campus, the subject parcel's proposed designation of EC and the neighboring residential land uses, particularly Avalon Woods.

GHMC 19.09.170 states that: *The city's comprehensive plan was developed and adopted after significant study and public participation. The goals and policies contained therein shall therefore be granted substantial weight when considering a proposed amendment.* While there are many policies in the Plan that relate to economic development and residential design which could be used to support or deny this amendment, two policies speak directly to

determining appropriate boundaries of land use designations 2.2.2 and 2.7.1. It is in the analysis of these two policies which lead the Commission to believe that the proposal is not consistent with the Comprehensive Plan.

Policy 2.7.1, Planning Unit Boundaries, calls out specific policies for the setting of land use designation boundaries and the Commission has analyzed each:

2.7.1a Define planning units which are based upon like land uses and activities.

Analysis: The subject property is surrounded by a variety of existing land use activities: industrial business park, utility substation, recreation/transient housing (RV resort), residential subdivision, open space tracts. The proposed change from Mixed Use designation to Employment Center designation recognizes the similarity of only some of those uses (industrial business park and utility substation). The existing Mixed Use designation supports all of the surrounding uses and is more appropriate given this policy.

2.7.1b Delineate planning unit boundaries using natural features, roads or other physical improvements.

Analysis: The subject site is bound by a semi-developed access easement to the south, topographic change to the west and an open space tract/ravine sidewall to the east. An approximately 150-250 foot buffer separates the existing Northharbor Business Campus from Avalon Woods to the east. However, there is no obvious physical boundary that defines the northern boundary of the subject site adjacent to the Avalon Woods residential development and a similarly wide buffer has not been proposed. While it may be appropriate to expand the EC designation due to the natural boundaries to the west, south and east, the lack of a natural boundary to the north is problematic. The topography of the site is such that the majority of the subject property is generally below the Northharbor Business Campus and Avalon Woods. Where the subject property abuts Avalon Woods, the subject property is at the same level as Avalon Woods. Where the subject property directly abuts Northharbor Business Campus, the subject property is at the same level as the campus. (Please see enclosed topographic map) A more natural boundary for the EC designation would be the hillside on the subject parcel which transitions the grade from the level of the Northharbor Business Campus to the level of Avalon Woods.

2.7.1c Identify critical transition areas or points of conflict with adjacent or incompatible planning units.

Analysis: The Planning Commission sees this parcel and the boundary adjacent to the Avalon Woods subdivision as a critical transition area. The subject property is in the Gig Harbor North neighborhood design area (NDA). The Gig Harbor North NDA is intended as a regional service area (Policy 3.9.3.c). The property directly to the east and northeast of the subject parcel

is in the Peacock Hill NDA which is intended for residential uses (Policy 3.9.3.d).

The subject parcel is situated such that it relates to both the Northharbor Business Campus (due to access and ownership) and Avalon Woods (topography and noise/visual impacts). Changing the land use designation to EC has the potential to create more conflict or incompatibility between uses than the existing Mixed Use designation because the implementing zone for the EC designation, ED, permits outright industrial level 2, the most intense industrial uses allowed in the city. Under the current designation and zoning, the existing Northharbor Business Campus could expand onto the subject parcel and develop industrial level one uses, office and recreational uses similar to what is in the existing business park.

2.7.1d Resolve conflict or compatibility issues through a neighborhood planning process and employ transitional uses for consideration in future development reviews.

As a subarea plan has not been developed for either the Gig Harbor North or Peacock Hill Neighborhood, the Planning Commission must look to employ transitional land use designations to resolve the compatibility issues between the expansion of the Northharbor Business Campus onto the subject parcel and the surrounding residential neighborhoods. The Employment Center designation is not considered a transition land use designation. However, the existing Mixed Use designation can be considered a transitional land use designation as both commercial and residential uses are allowed and the implementing zones for the Mixed Use designation can be the RB zones. The intent statements of both the RB-1 and RB-2 zoning district state that those zones area are intended to serve as a transitional buffer between high intensity commercial areas and lower intensity residential areas. The current zoning for the subject parcel is RB-2 with the MUD overlay.

The Comprehensive plan amendment process allows developers to propose development agreements to limit the impacts and intensity of development on a parcel requesting a land use designation change. This is one possible way to engage in a neighborhood planning process to resolve incompatibility. However, the property owners for this parcel do not wish to enter into such agreement to mitigate impacts.

Policy 2.2.2.a states that the City should *Define and protect the integrity of small planning areas, particularly residential neighborhoods, which have common boundaries, uses and concerns using transition land-use areas and common buffers/open space.* This policy seeks to protect residential neighborhoods through the use of transitional land use designations and buffer/open space. Implementation of this policy can be seen on the land use map and zoning map where the city employs a step-down approach to

zoning: Higher intensity commercial zones are surrounded by lower intensity commercial zones or mixed use zones rather than abutting lower density residential zones. In general, Employment Center designations do not abut residential subdivisions, but instead abut Public/Institutional designations, transportation corridors and rural residential land where large buffer are possible.

B. The proposed amendment is consistent with the Growth Management Act, the countywide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

The Planning Commission did not identify any policies in the Growth Management Act, the countywide planning policies or multi-county planning policies that the proposed amendment was in conflict with.

C. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect transportation facilities and other public facilities and services such as parks, police, fire, emergency medical services and governmental services; and

Staff has analyzed the anticipated transportation, sewer, water and service impacts under the existing designation and the proposed designation and has identified no significant increase in services or infrastructure needs and; therefore, no adverse impacts to the city's infrastructure.

The transportation capacity evaluation revealed that capacity is currently available to serve both the extent and the density of development which would result from the amendment without causing transportation levels of service to fall below the City's standards.

Utility capacity evaluation showed that adequate capacity was available for the existing use and the proposed use as identified by the applicant. The existing and proposed land uses have similar intensities of water and sewer use. Therefore no significant impacts to the City's water and sewer systems have been identified at this point.

D. The proposed amendment advances the public interest; and

While it is in the public interest to expand employment opportunities in the City, the Commission believes it is not in the public interest to create additional use conflicts on this specific parcel with a designation change that could lead to industrial level two uses, the most intensive industrial uses, next to single-family residences. (The existing designation of Mixed Use and zoning (RB-2/MUD Overlay) would allow the Northharbor Business Campus to expand onto the subject property with industrial level 1 uses.)

Public testimony indicated that there were strong positions on both sides. The Avalon Woods community was uniformly opposed to this amendment due to the impacts associated with the potential uses allowed by the proposed land use designation.

E. For text amendments which propose to increase density or intensity of permitted development and all land use map amendments, the following approval criteria also apply:

E1. Adequate infrastructure, facilities and services are available to serve the proposed or potential development expected as a result of this amendment, according to one of the following provisions:

- a. The city has adequate funds for needed infrastructure, facilities and services to support new development associated with the proposed amendments; or*
- b. The city's projected revenues are sufficient to fund needed infrastructure, facilities and services, and such infrastructure, facilities and services are included in the schedule of capital improvements in the city's capital facilities plan; or*
- c. Needed infrastructure, facilities and services will be funded by the developer under the terms of a development agreement associated with the comprehensive plan amendment; or*
- d. Adequate infrastructure, facilities and services are currently in place to serve expected development as a result of this comprehensive plan amendment based upon an assessment of land use assumptions; or*
- e. Land use assumptions have been reassessed, and required amendments to other sections of the comprehensive plan are being processed in conjunction with this amendment in order to ensure that adopted level of service standards will be met; and*

The Planning Commission believes that Criterion E1d has been met. Further discussion can be found under Criterion C.

E2. For a land use map amendment, the subject parcels being redesignated are physically suitable for the allowed land uses in the designation being requested, including compatibility with existing and planned surrounding land uses; and

While the subject site is physically suitable for the development of Employment District uses which would occur if the proposed change to Employment Center designation is approved, the proposed land use designation is not compatible with the neighboring residential developments. The proposed EC designation would ultimately allow industrial level two uses on the subject property outright. Industrial level two uses include contractor's yards, distribution facilities, commercial greenhouses and the processing of raw materials which are generally not compatible with single-family residences.

While, the Design Manual regulations on zone transitions will require a dense 40-foot vegetative buffer between Avalon Woods and any development on the upper portion of the subject site, this buffer, with Avalon Woods' existing 30 foot buffer, is not adequate to mitigate the impacts of industrial level two uses. The current Northharbor Business Campus has a total buffer of between 150 and 250 feet adjacent to Avalon Woods residential lots and the noise from the campus negatively impacts the residents of Avalon Woods.

E3. The proposed amendment will not create a demand to change land use designations of other properties, unless the change in land use designation for other properties is in the long-term interest of the community in general.

The Planning Commission does not believe the proposed amendment, if approved, would create a demand to change neighboring property to an Employment Center designation due to the relatively isolated nature of the subject parcel and access issues. However, if a demand for change occurred it would mostly likely be to the south and east of the subject property. Those properties should not have the same compatibility issues as the subject parcel because they are, in general, bound by Burnham Drive on the west and a stream and ravine sidewall on the east.

Harris Atkins, Chairman
Planning Commission

Harris G. Atkins

Date 8/12/2010

cc: Planning File

Applicable Comprehensive Plan Policies

The Land Use Element has the following policies related to Mixed Use (MU and Employment Center (EC) designations:

2.2.3.c

Employment Centers

Broadly defines an area that is intended to meet long-term employment needs of the community. Employment centers consist of the following:

- 1) Wholesale distribution facilities
- 2) Manufacturing and assembly
- 3) Warehousing/storage
- 4) Business offices/business complexes
- 5) Medical facilities/hospitals
- 6) Telecommunication services
- 7) Transportation services and facilities
- 8) Conditional allowances of commercial facilities which are subordinate to and supportive of employment activities

2.2.3.g

Mixed Use

Mixed Use is an area of commercial/employment, office and multifamily located along principle collector routes which link the downtown area with SR-16. Commercial/employment activity within a Mixed Use area caters to a customer base beyond the immediate surrounding neighborhoods due to its location along the collector routes. The individual commercial/employment activities or developments in these areas are not of a size or character to be considered "major" activity or traffic generating uses. Multifamily and office uses are allowed within the Mixed Use area to provide economic diversity and housing opportunities near transit routes and business activities. The desired allocation of land use within the Mixed Use designation is:

| | |
|------------------------------|--------------------|
| <i>Commercial/Employment</i> | <i>45% maximum</i> |
| <i>Professional Office</i> | <i>30% maximum</i> |
| <i>Multifamily</i> | <i>25% minimum</i> |

Parcels or developments ten acres or greater in area may use the defined allocation regardless of the underlying zoning code designation of the property. Properties or developments less than ten acres are limited to the uses as defined by the official zoning map of the City.

Uses which have been approved by Pierce County prior to the adoption of this plan are considered legitimate conforming uses.

2.2.2. Neighborhood Planning Areas

- a) *Define and protect the integrity of small planning areas, particularly residential*

neighborhoods, which have common boundaries, uses and concerns using transition land-use areas and common buffers/open space.

2.7.1. Planning Unit Boundaries

- a) Define planning units which are based upon like land uses and activities.*
- b) Delineate planning unit boundaries using natural features, roads or other physical improvements.*
- c) Identify critical transition areas or points of conflict with adjacent or incompatible planning units.*
- d) Resolve conflict or compatibility issues through a neighborhood planning process and employ transitional uses for consideration in future development reviews.*

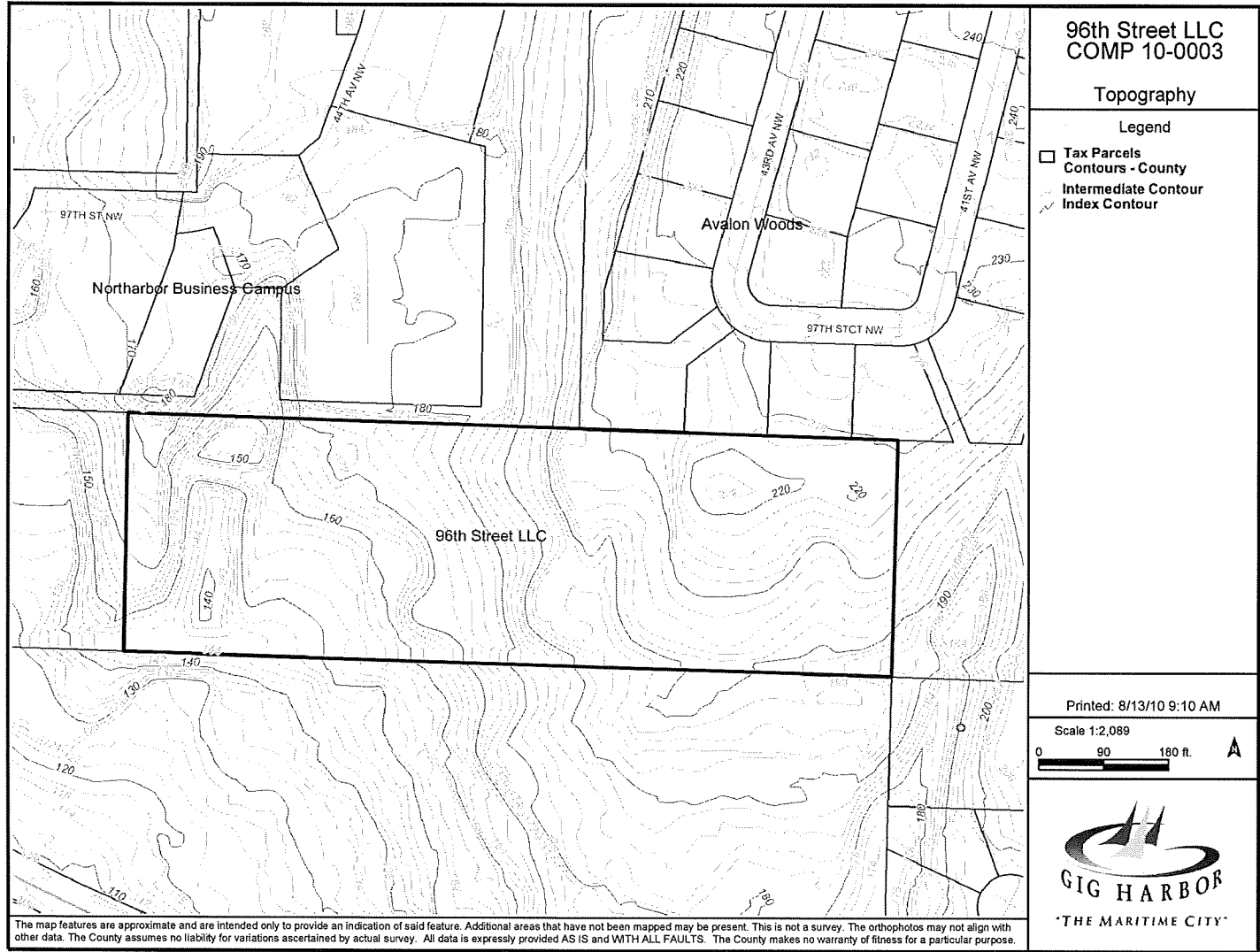
Applicable Gig Harbor Municipal Code

17.04.424 Industrial, level 1.

“Industrial, level 1” means the assembly, production, or storage of finished or semi-finished materials or components into a finished or semifinished product. Acceptable uses must have minimal nuisance factors such as, but not limited to, noise, light, glare, odors, particulate emissions and hazardous waste. Examples of acceptable uses include contractor’s office and/or shop, light assembly, light manufacturing, mailing and packaging facilities, warehousing, cinematography and video production facilities, research and development facilities, linen, diaper and similar supply services and laundry facilities.

17.04.425 Industrial, level 2.

“Industrial, level 2” means the assembly, production, or storage of finished, semi-finished, or raw materials or components into a finished or semi-finished product. Acceptable uses may have moderate nuisance factors such as, but not limited to, noise, light, glare, odors, particulate emissions and hazardous waste. Examples of such uses include all industrial, level 1 uses plus uses such as contractors’ yards, moving companies, distribution facilities, frozen food lockers, commercial greenhouses and processing of raw materials, except that refining and smelting are not allowed.



The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. The orthophotos may not align with other data. The County assumes no liability for variations ascertained by actual survey. All data is expressly provided AS IS and WITH ALL FAULTS. The County makes no warranty of fitness for a particular purpose.

Subject: Proposed "72nd Street"
Annexation (ANX 10-0002)

Proposed Council Action:

Consider the Notice of Intent to Commence
Annexation Proceedings

Dept. Origin: Planning Department

Prepared by: Tom Dolan *Tom D*
Planning Director

For Agenda of: **September 27, 2010**

A. Exhibits: Legal Description, Aerial
Photo of Area, Annexation Boundary
maps (Options 1 and 2), Notice of
Intent, Annexation Process Outline

Initial & Date

Concurred by Mayor: *CLH 9/24/10*
Approved by City Administrator: *RJK 9/20/10*
Approved as to form by City Atty: *by email*
Approved by Finance Director: *DR 9/10*
Approved by Department Head: *TD 9/20/10*

| | | | | | |
|-------------------------|-----|--------------------|-----|---------------------------|-----|
| Expenditure Required | \$0 | Amount Budgeted | \$0 | Appropriation Required | \$0 |
|-------------------------|-----|--------------------|-----|---------------------------|-----|

INFORMATION / BACKGROUND

The City has received a Notice of Intention to Commence Annexation Proceedings for the 72nd Street Annexation. The proposed annexation consists of approximately 5 acres located north of 72nd Street NW and east of the Norwegian Woods subdivision, contiguous to city limits, and within the City's Urban Growth Area (UGA).

Pursuant to the process for annexations by code cities in Pierce County, a copy of the proposed legal description and map was sent to the Clerk of the Boundary Review Board (BRB) for technical review. Pierce County has approved the legal description and map.

By law, the City Council is required to meet with the proponents. Notice of the public meeting was posted on the City website and in dedicated posting locations. Additionally, this request was distributed to the Pierce County Fire District #5 and the Gig Harbor City Administrator, Chief of Police, Director of Operations, City Engineer, Wastewater Supervisor, City Engineering Technician, and the City's directors of Fire and Safety Services, Planning, and Finance.

At the September 27, 2010 meeting, the Council is to determine the following:

1. Whether the City Council will accept, reject, or geographically modify the proposing of

this area for annexation;

2. Whether the City Council will require the simultaneous adoption of a proposed zoning code; and
3. Whether the City Council will require the assumption of all or any portion of indebtedness by the area to be annexed; and,
4. Whether the City Council will require additional annexation conditions.

If authorized by the City Council, the process can move forward with the circulation of a formal petition which will indicate the boundaries and conditions required for annexation. Before filing with the City, the petition must be signed by property owners of at least sixty percent (60%) of the assessed value of the proposed area in order to be certified by Pierce County and then scheduled for a public hearing in front of the City Council. After a public hearing, followed by the appeal period through the BRB, the City Council can adopt an ordinance to enact this annexation.

STAFF ANALYSIS

The Boundary Review Board is guided by RCW 36.93.180 in reviewing proposed annexations and is directed towards State objectives. These objectives, listed below, are also worthy of consideration by the Council in determining the appropriateness of this annexation, especially in light of the possible appeal of an approved annexation.

Objectives of boundary review board. (RCW 36.93.180)

The decisions of the boundary review board shall attempt to achieve the following objectives:

- (1) Preservation of natural neighborhoods and communities;
- (2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;
- (3) Creation and preservation of logical service areas;
- (4) Prevention of abnormally irregular boundaries;
- (5) Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas;
- (6) Dissolution of inactive special purpose districts;
- (7) Adjustment of impractical boundaries;
- (8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character; and
- (9) Protection of agricultural and rural lands which are designated for long-term productive agricultural and resource use by a comprehensive plan adopted by the county legislative authority.

Additional Considerations

The pre-annexation zoning established for the properties is "R-1". The applicants have indicated that if the annexation is approved, a subdivision of the property hereunder consideration (as well as additional property to the east that is already within the City limits) will be submitted.

If the Council wishes to proceed with the annexation, a revised annexation boundary may be appropriate. Staff has prepared 2 options for the boundaries of the proposed annexation (see attached maps). Option 1 would include just the area requested by the applicants for annexation. Option 2 would expand the annexation boundaries to include all of the properties to the west to Skansie Avenue (46th Avenue NW). In the opinion of staff the expansion to Skansie Avenue would result in a more logical city boundary and would place that entire street under City of Gig Harbor jurisdiction.

BOARD OR COMMITTEE RECOMMENDATION

None

RECOMMENDATION / MOTION

Move to:

Deny the Notice of Intent to Commence Annexation.

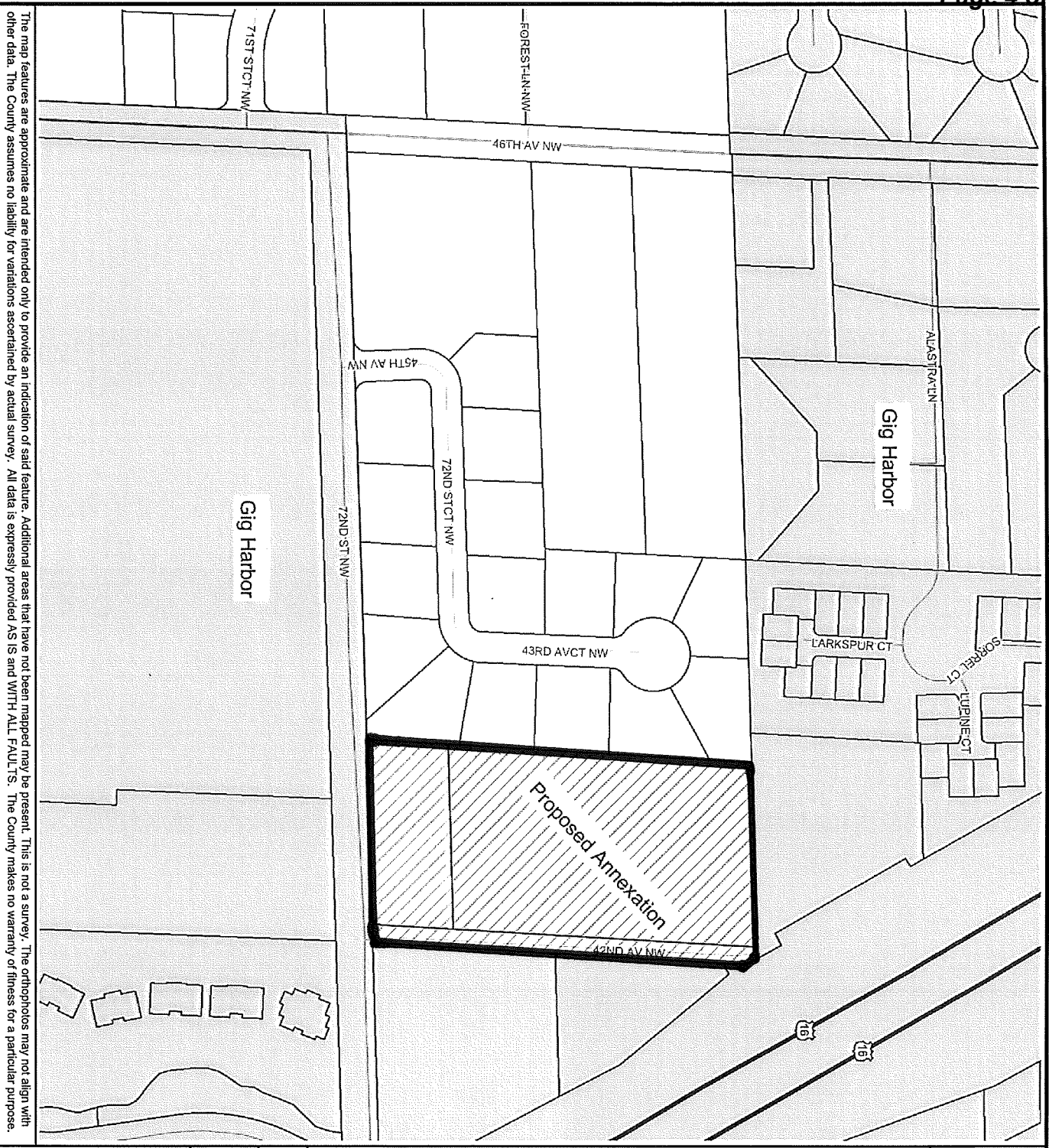
OR ALTERNATIVELY

Accept the Notice of Intent to Commence Annexation subject to:

- 1. Accepting proposed annexation boundaries (Option 1) – OR - Modifying the boundary of the proposed annexation to include the area west of the subject site to Skansie Avenue as identified in the attached map (Option 2).**
- 2. Requirement of the simultaneous adoption of a proposed zoning code with the property being zoned R-1 upon annexation**
- 3. Requirement of the assumption of proportionate indebtedness of the City.**

EXHIBITS

- A. Attached Legal Description**
- B. Annexation Boundary maps (Options 1 and 2)**
- C. Aerial Photo of Area**
- D. Notice of Intent to Commence Annexation**
- E. Annexation Process Outline**



The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. The orthophotos may not align with other data. The County assumes no liability for variations ascertained by actual survey. All data is expressly provided AS IS and WITH ALL FAULTS. The County makes no warranty of fitness for a particular purpose.

72nd Street
Annexation

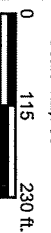
Legend

- Tax Parcels
- Roads
- Interstate
- Limited Access State Routes
- Other State Routes
- Ramps
- Major Arterial
- Collector
- Local Access

OPTION 1

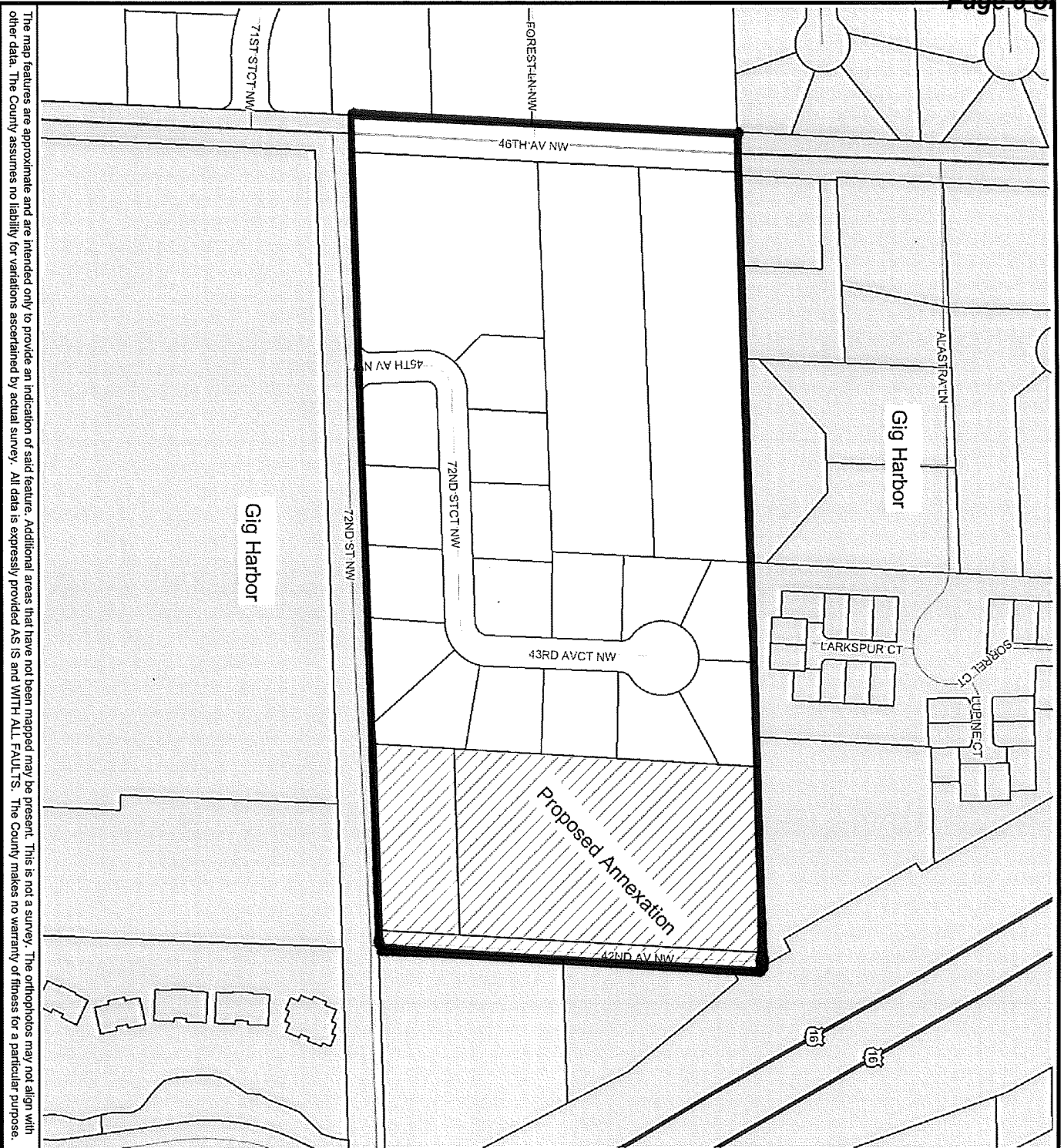
Printed: 9/17/10 4:53 PM

Scale 1:2,756



A





72nd Street
Annexation

Legend

- Tax Parcels
- Roads
- Interstate
- Limited Access State Routes
- Other State Routes
- Ramps
- Major Arterial
- Collector
- Local Access

OPTION 2

Printed: 9/17/10 4:53 PM

Scale 1:2,756



A



"THE MARITIME CITY"

The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. The orthophotos may not align with other data. The County assumes no liability for variations ascertained by actual survey. All data is expressly provided AS IS and WITH ALL FAULTS. The County makes no warranty of fitness for a particular purpose.



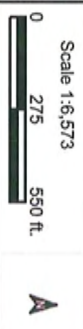
The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. The orthophotos may not align with other data. The County assumes no liability for variations ascertained by actual survey. All data is expressly provided AS IS and WITH ALL FAULTS. The County makes no warranty of fitness for a particular purpose.

72nd Street Annexation

Legend

- Tax Parcels
- Roads
- Interstate
- Limited Access State Routes
- Other State Routes
- Ramps
- Major Arterial
- Collector
- Local Access
- Orthophotos - 2008 - GH

Printed: 9/20/10 8:24 AM





The map features are approximate and are intended only to provide an indication of said feature. Additional areas that have not been mapped may be present. This is not a survey. The orthophotos may not align with other data. The County assumes no liability for variations ascertained by actual survey. All data is expressly provided AS IS and WITH ALL FAULTS. The County makes no warranty of fitness for a particular purpose.

72nd Street Annexation

Legend

- Tax Parcels
- Roads
- Interstate
- Limited Access State Routes
- Other State Routes
- Ramps
- Major Arterial
- Collector
- Local Access
- Orthophotos - 2008 - GH

Printed: 9/17/10 4:59 PM



City of Gig Harbor
Building/Fire Safety Department
3510 Grandview St.
Gig Harbor, WA 98335


Memo

To: Tom Dolan, Planning Director
From: Dick J. Bower, CEM, CBO – Building/Fire Safety Dir.
CC: file
Date: 09.09.10
Re: PL-ANX-10-0002

I've reviewed the 72nd Street Annexation request from Jim Tallman. Here are my comments:

1. It appears that fire flow in the area should be sufficient. When the property is developed, fire flow must be provided as required for the type of development anticipated in accordance with the fire code.
2. Annexation of this property brings additional undeveloped land into the City which will at some point create additional demand for Building/Fire Safety Department services. With reduced staff and increasing permit numbers as witnessed this year, additional work will likely impact department levels of service.

MEMORANDUM

DATE: September 17, 2010
TO: Tom Dolan, Planning Director
VIA: Stephen T. Misiurak, P.E., City Engineer
FROM: Willy Hendrickson, Engineering Technician 
SUBJECT: 72nd Street Annexation – ANX 10-0002 – Jim Tallman - Notice of Intent to Annex Review - 4.87 Acres located north of 72nd Street NW and west of 42nd Ave. NW

Based on the September 3, 2010 Request for Comments from the Planning Department, the City of Gig Harbor Engineering Division has the following comments on the proposed 72nd Street Annexation.

TRANSPORTATION

General: All future development within the annexation area will be required to meet the City's Public Works Standards. This would include possible half-width improvements along 72nd Street including curbs, gutters, and sidewalks. 42nd Ave NW would be required to be brought up to current Public Works Standards if the subdivision parcels are to be developed beyond the use of a single family residence. The cost of such improvements shall be borne by the development.

The nearest intersection that is wholly located within the City limits is Skansie Avenue (46th Street) and 72nd Street to the west and Wagner Way and 72nd Street to the east. There are no short term or long term transportation projects located within the proposed annexation area. The two nearest transportation projects are a short term capacity improvement project along Skansie Avenue and the Wagner Way traffic signal at the intersection of Wagner Way and Wollochet Drive (see attached).

Each new development shall be required to pay the appropriate transportation impact fee. These fees, as reviewed by the City Council, are required to pay for the necessary system-wide transportation capacity improvements required due to new development.

Transportation Concurrency: As required by Chapter 19.10 of the City's Municipal Code, any development generating new traffic must apply for, and receive approval to, add new vehicle trips to the City's roadways. This process is known as transportation concurrency and all development within the City limits is subject to transportation concurrency. The City may not be able to grant transportation concurrency to developments that cause the level of service to drop below the City's acceptable level of service for affected roadways based on traffic modeling.

Existing Roadways: The only roadway included in the proposed annexation is 42nd Avenue NW, which functions as a private access that connects to 72nd Street. 42nd Avenue NW is not constructed to meet the City of Gig Harbor Public Works Standards. The cost of such improvements shall be borne by the development.

WATER

General: The proposed annexation area is currently shown to be served by the City of Gig Harbor. All water flow requirements shall be subject to the City of Gig Harbor Fire Marshal and the Water System Plan for the City of Gig Harbor as approved by the Washington State Department of Health.

Each parcel that connects to the City's water system shall be required to pay the appropriate connection fee and revolving service fee. These fees, as reviewed by the City Council, are required to pay for the necessary system wide capital improvements, maintenance and operation of the water system extended to the parcels.

All future development within the annexation area will be required to meet the City's Public Works Standards.

Water Concurrency: As required by Chapter 19.10 of the City's Municipal Code, any development requiring water service must apply for, and receive approval to, connect to the water service from the City of Gig Harbor. This process is known as water concurrency and all development within the City limits is subject to water concurrency. The City may not be able to grant water concurrency to new developments if capacity is not available to serve the development. The City cannot grant water concurrency to any new development that is served by the Rainier View Water Company.

Existing Water Infrastructure: The nearest existing City water infrastructure, is a 12" ductile iron water main located along 72nd Street NW. Any new development located within the City of Gig Harbor water service area would need to connect to the City's water infrastructure from this location. The cost of such a connection from the existing infrastructure shall be borne by the new development.

SANITARY SEWER

General: Based on a review of the City's Wastewater Comprehensive Plan, development of wastewater infrastructure in this area (Basin 21) is required for the City's wastewater system to function appropriately. These improvements include construction of gravity sewer main connections, a sewer lift station, and a pressure sewer main. A copy of the map from this area of the proposed improvements from the Wastewater Comprehensive Plan is attached. All costs for construction of the necessary extensions of the existing sewer main, including those noted in the Wastewater Comprehensive Plan for the parcels within the sewer basin shall be borne by the developers and not the City. The estimated costs for these improvements are \$509,400 for a lift station at the intersection of 72nd Street NW and Skansie and \$570,000 for 2550 LF of force main.

Each parcel that connects to the City's sanitary sewer system shall be required to pay the appropriate connection fee and revolving service fee. These fees, as reviewed by the City

Council, should be adequate to pay for the necessary maintenance and operation of the sanitary sewer system extended to the parcels.

All future development within the annexation area will be required to meet the City's Public Works Standards.

Sewer Concurrency: As required by Chapter 19.10 of the City's Municipal Code, any development requiring sewer service must apply for, and receive approval to, connect to the City of Gig Harbor sewer system. This process is known as sewer concurrency and all development within the City limits is subject to sewer concurrency. The City may not be able to grant sewer concurrency to new developments if capacity is not available to serve the development.

Existing Sewer Infrastructure: The nearest existing City sewer infrastructure is a force main located along 72nd Street NW that services other developments. Any new development would not be able to connect to the City's existing sewer infrastructure from this location.

STORMWATER

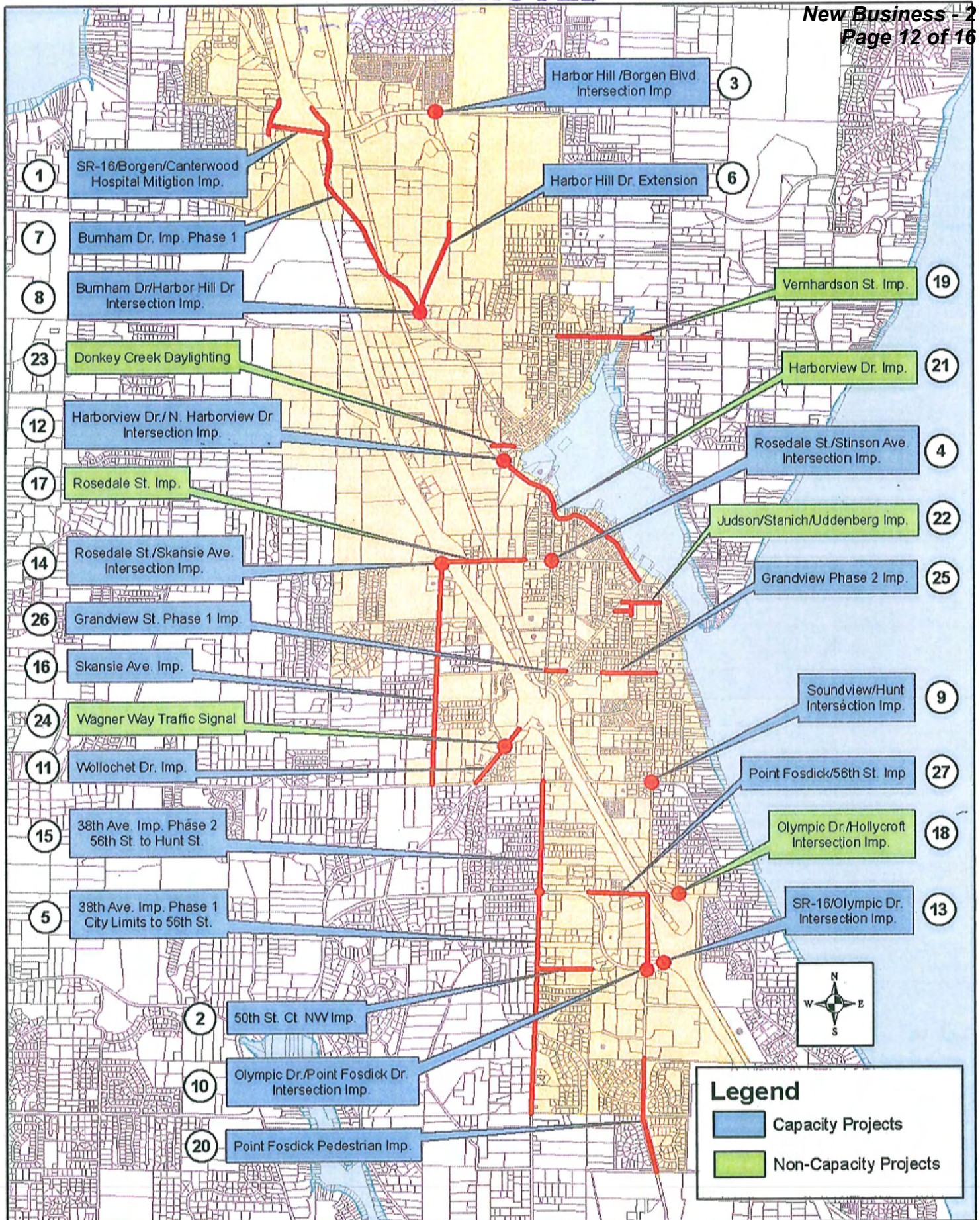
General: At time of development, each parcel in this annexation area would be required to design and construct stormwater improvements in accordance with the City's Stormwater Design Manual. This includes all stormwater features necessary for improvements within the City's right of way. All costs for design and construction of these stormwater features shall be borne by the developers and not the City. All costs for operations and maintenance of stormwater features outside of the City's right of way shall also be borne by the developers.

Each parcel that is annexed in the City's limits shall be required to pay the appropriate stormwater fee. These fees, as reviewed by the City Council, should be adequate to pay for the necessary maintenance and operation of the City's stormwater system located within the City's right of way created by the parcels.

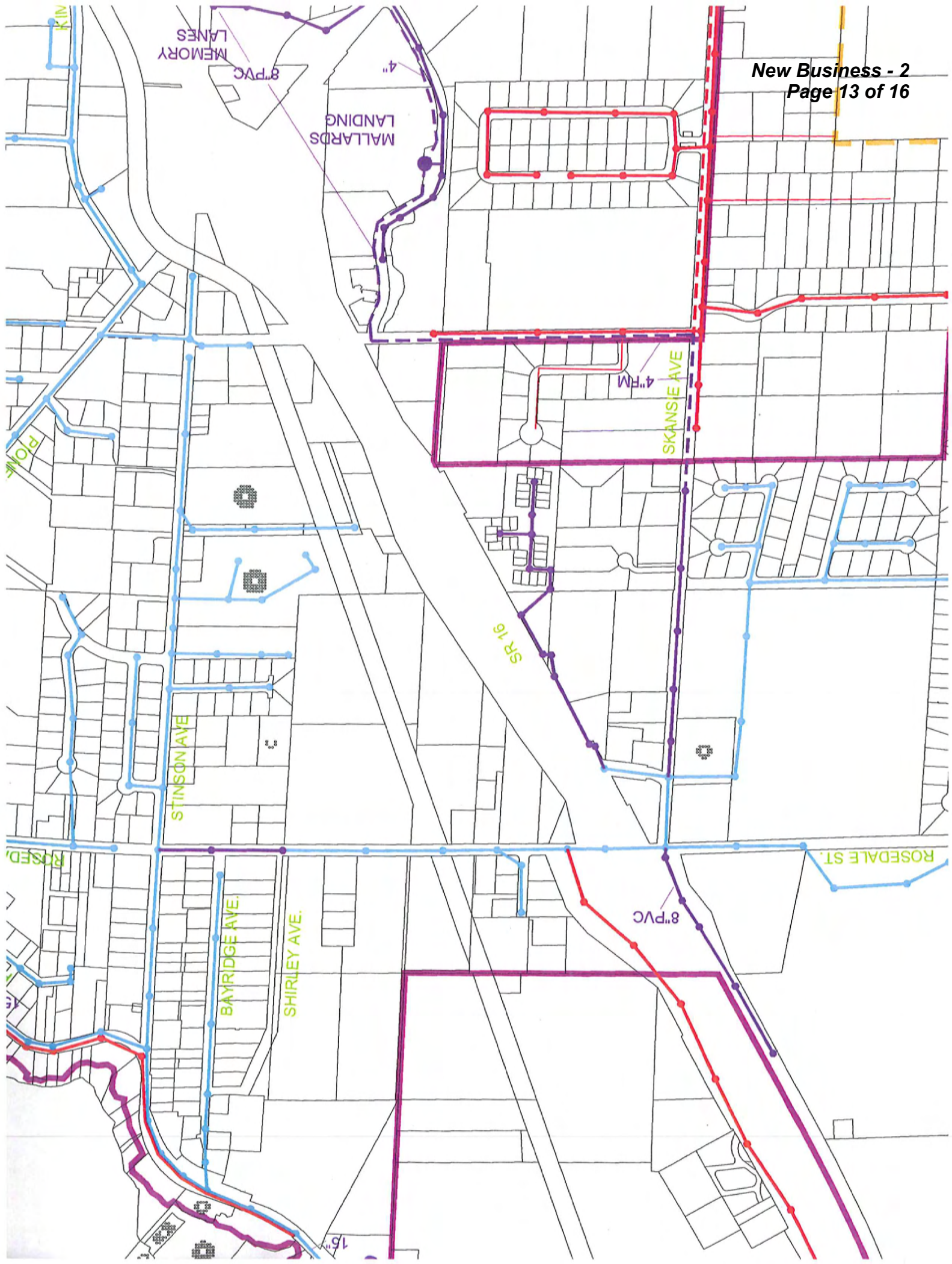
NPDES Phase 2 Stormwater Compliance: The proposed annexation area is currently under the jurisdiction of Pierce County's NPDES Phase 1 stormwater permit. Through annexation this area would be under the jurisdiction of the City's NPDES Phase 2 stormwater permit. The requirements of the County's Phase 1 permit are similar to the City's Phase 2 permit and have earlier compliance dates. Therefore this annexation area should be prepared to meet the City's Phase 2 compliance standards.

LEGAL DESCRIPTION

General: The legal description when re-created using Autocad does not have closing boundaries, but rather a 17 foot gap (see attached). It appears that the southern boundary line appears is the centerline of 72nd Street rather than the southern boundary line of parcel no. 0221071038. Although not necessary, it might be helpful to note that the eastern boundary line is running along the private road of 42nd Street. There should also be an Exhibit B location map showing the labeled metes and bounds as well and any other typical survey designations including the said subdivision name if it has one. If it is required that a licensed surveyor prepare these exhibits for the final annexation document, then these exhibits should be stamped and signed by them.

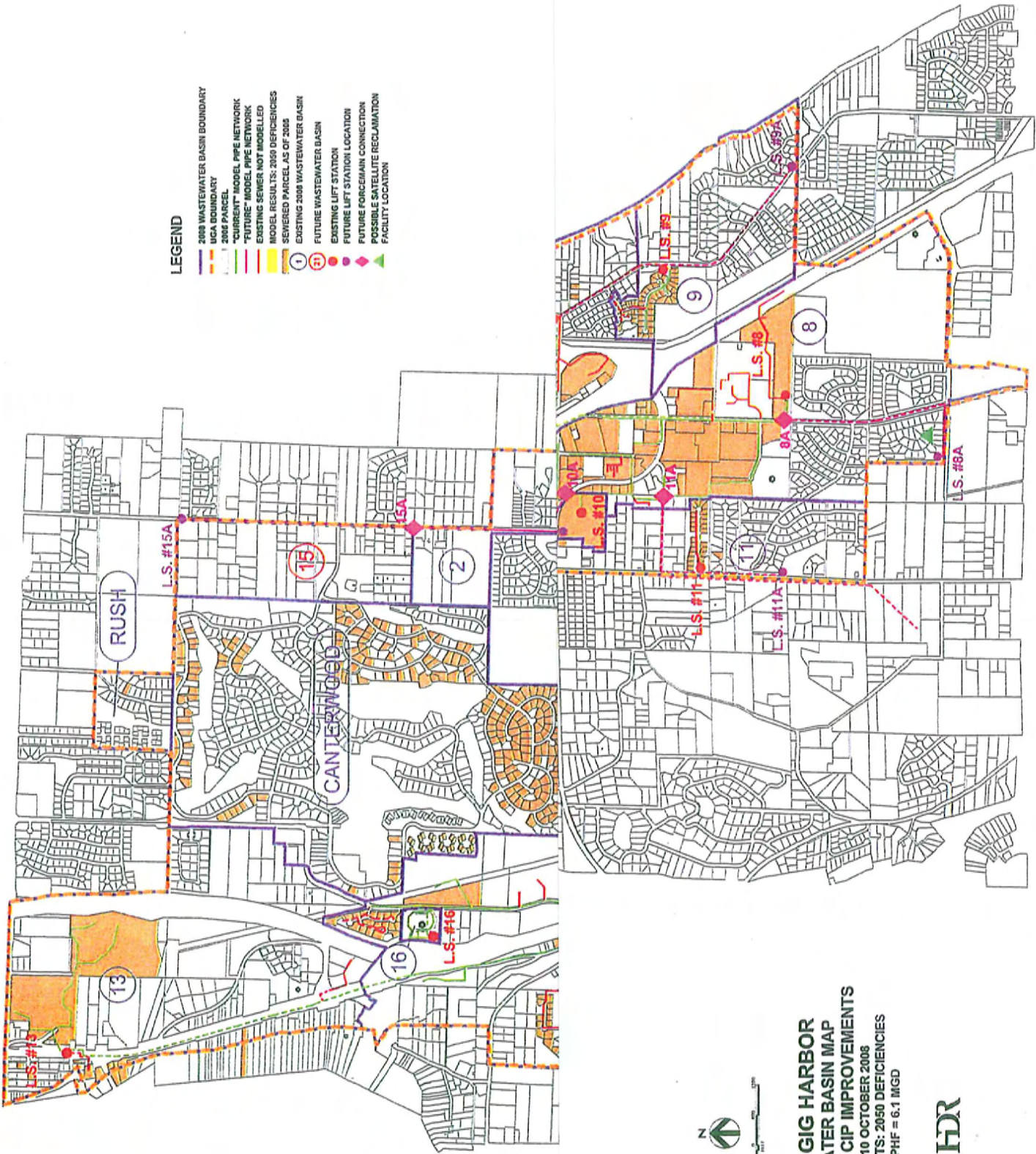


6-Year Transportation Improvement Program
2010 - 2015



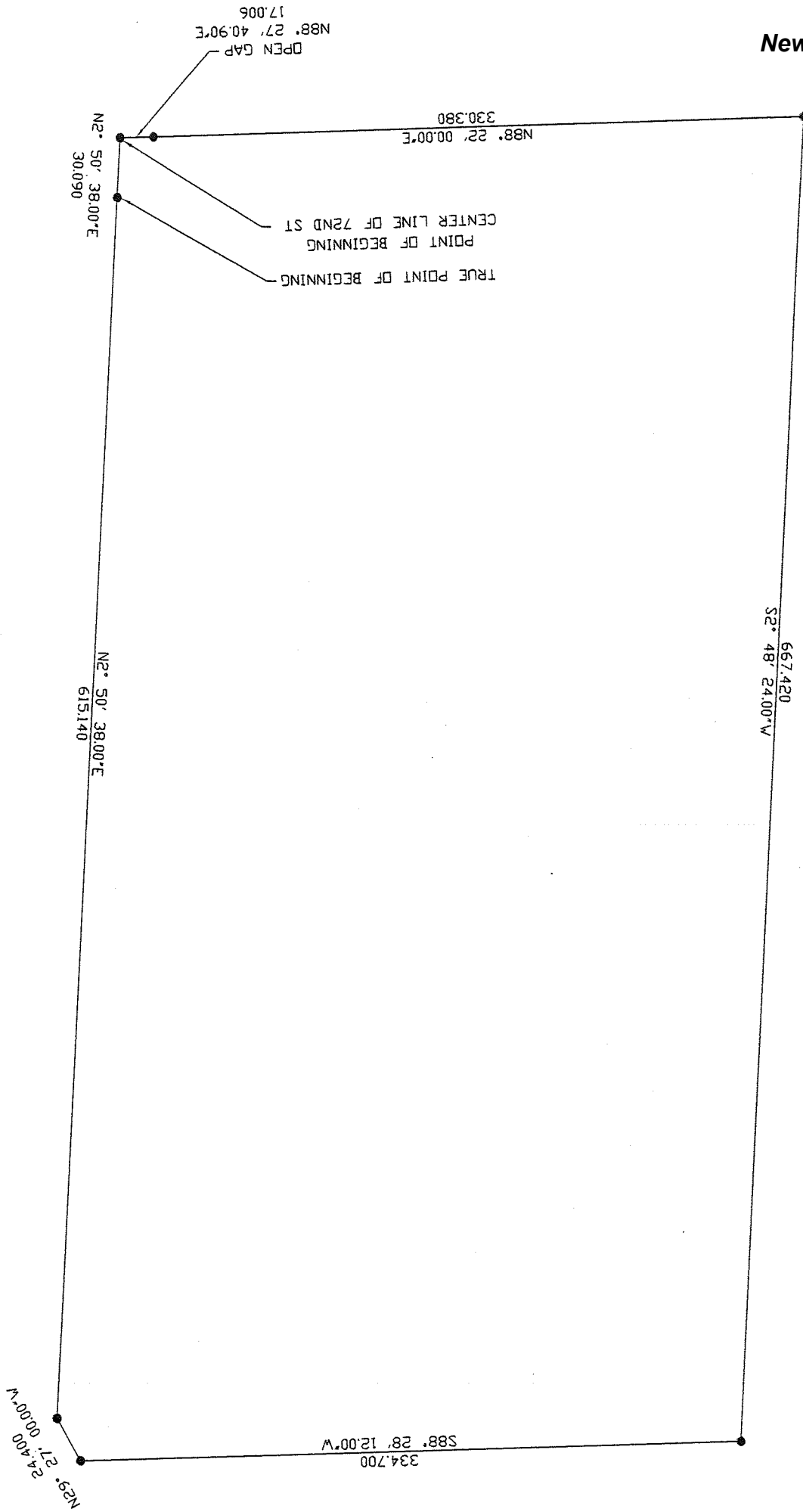
LEGEND

- 2008 WASTEWATER BASIN BOUNDARY
- UCA BOUNDARY
- 2008 PARCEL
- "CURRENT" MODEL PIPE NETWORK
- "FUTURE" MODEL PIPE NETWORK
- EXISTING SEWER NOT MODELLED
- MODEL RESULTS: 2050 DEFICIENCIES
- SEWERED PARCEL AS OF 2003
- EXISTING 2008 WASTEWATER BASIN
- FUTURE WASTEWATER BASIN
- EXISTING LIFT STATION
- FUTURE LIFT STATION LOCATION
- FUTURE FORCEMAIN CONNECTION
- POSSIBLE SATELLITE RECLAMATION FACILITY LOCATION



CITY OF GIG HARBOR
WASTEWATER BASIN MAP
GRAVITY PIPE CIP IMPROVEMENTS
 PRINTED 10 OCTOBER 2006
 MODEL RESULTS: 2050 DEFICIENCIES
 2050 PHF = 6.1 MGD





City of Gig Harbor
Wastewater Treatment Plant
4216 Harborview Dr.
Gig Harbor, WA 98335

MEMO

To: Tom Dolan, Planning Director

From: Darrell Winans, WWTP Supervisor *DW*

CC: Steve Misiurak, Jeff Langhelm

Date: 09/20/2010

Re: 72nd St Annexation

Tom,

My comments to the annexation request are as follows:

The proposed annexation is located in Sewer Drainage Basin #21, currently there is no lift station or infrastructure to support development. As city policy has been set crossing basin lines is not the desired route for development. Each basin as developed ties into existing infrastructure when available or must develop such infrastructure or propose an acceptable alternate.

Regards

Darrell Winans
City of Gig Harbor
WWTP Supervisor

Subject: Fee Schedule Update to Implement Permit Processing Amendments.

Proposed Council Action: Pass resolution amending fees for land use applications and permits

Dept. Origin: Planning

Prepared by: Tom Dolan
Planning Director



For Agenda of: September 27, 2010

Exhibits: Resolution

Initial & Date

Concurred by Mayor:

GLH 9/22/10

Approved by City Administrator:

POK 9/22/10

Approved as to form by City Atty:

Ernest 9/16

Approved by Finance Director:

Approved by Department Head:

D 9/22/10

| Expenditure | Amount | Appropriation |
|-------------|----------|---------------|
| Required | Budgeted | Required |
| 0 | 0 | 0 |

INFORMATION / BACKGROUND

This resolution is intended to update the fee schedule to reflect the permit processing amendments which the Council will hear on second reading at this same meeting. The changes to the site plan review, design review, short plat, preliminary plat approval processed require corresponding changes to the fee schedule.

In response to the change to administrative site plan review with appeal opportunities, the planning staff is recommending that appellants who substantially prevail on their administrative appeal be refunded their appeal fee and not be charged hearing examiner fees. This should remove some of the burden placed on the public for appealing administrative decisions.

In addition, both Finance and Planning staff is recommending the City charge applicants at time of application submittal for publishing and new mailing fees rather than invoicing after to reduce staff time spent on invoices and collections. The average publishing cost for notices is \$100 per publication. The average mailing costs for notices is expected to be \$25 per mailing. Therefore, all land use permit fees now include an additional \$100 for every published notice required and an additional \$25 for each new mailed notice required.

Staff is also proposing a deposit system for hearing examiner fees and attorney fees, when applicable to the permit. Rather than invoicing costs after the project decisions, the deposit system will allow the City to collect the money up front. If the legal or hearing examiner costs fall under the deposit, the applicant will be refunded the difference. If the costs exceed the deposit, the applicant will be invoiced the difference.

Finally, the current annexation fee schedule is not commensurate with time spent by staff in reviewing the annexation, preparing the annexation document for the Boundary Review Board, and enumeration for the State Office of Financial Management. Staff is proposing a slight increase in fees for review of the petition and requiring the applicant to pay for all enumeration costs.

The staff suggests that this fee schedule not go into effect until January 1, 2011 when the majority of the permit processing amendments go into effect.

FISCAL CONSIDERATION

No impact.

BOARD OR COMMITTEE RECOMMENDATION

None

RECOMMENDATION / MOTION

Move to: Pass resolution amending fees for land use applications and permits

RESOLUTION NO. ____.

A RESOLUTION OF THE CITY OF GIG HARBOR, WASHINGTON, WHICH ESTABLISHES FEES FOR COMMUNITY DEVELOPMENT LAND USE APPLICATIONS AND PERMITS, BUILDING PERMIT FEES, AND ENGINEERING FEES; REPEALING RESOLUTION NO. 814; AND ESTABLISHING AN EFFECTIVE DATE OF JANUARY 1, 2011.

WHEREAS, the City of Gig Harbor has established land use, engineering, building permit and other community development fees by Resolution; and

WHEREAS, the Gig Harbor City Council has requested that development services departments evaluate fees on an annual basis and, as necessary, propose adjustments to the fee schedule; and

WHEREAS, the last update to the Land Use, Building Permit and Engineering fees was approved in December, 2009 in Resolution No. 814; and

WHEREAS, the City has adopted a series of land use permit processing efficiency amendments (Ordinance ____) which makes changes to the site plan review, design review, short plat, preliminary plat approval process and requires corresponding changes to the fee schedule to reflect those new processes; and

WHEREAS, the majority of the provisions in Ordinance ____, the permit processing ordinance, does not go into effect until January 1, 2011 so the City desires that this fee schedule not go into effect until January 1, 2011; and

WHEREAS, the City desires to charge applicants at submittal for publishing fees rather than invoice after publishing to reduce staff time spent on invoices and collections; and

WHEREAS, the City desires to have applicants pay for mailing of notices of application and notices of decision to property owners within 300 feet of a proposed project to reduce the City's mailing costs; and

WHEREAS, the new land use permit fees include an additional \$100 for every published notice required and an additional \$25 for each new mailed notice required; and

WHEREAS, the City desires to require applicant to pay deposits for hearing examiner and legal services rather than invoicing after the services are performed to reduce staff time on invoices and collections; and

WHEREAS, the City desires to allow appellants who substantially prevail on

appeal to be refunded their appeal fee and not be required to pay hearing examiner services; and

WHEREAS, the current annexation fee schedule is not commensurate with time spent by staff reviewing the annexation and preparing the annexation document for the Boundary Review Board and enumeration for the State Office of Financial Management and needs to be updated; and

WHEREAS, the revised fee schedule reflects the City's increased costs relating to the processing of applications, inspecting and reviewing plans, investigating hazardous conditions or preparing detailed statements pursuant to chapter 43.21C RCW; and

WHEREAS, the proposed fee schedule adjustments are deemed necessary to maintain fair and equitable service and application fees; NOW, THEREFORE,

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

Section 1. The City Council hereby repeals Resolution No. 814 and adopts the Community Development Fee Schedule attached as Exhibit "A" and incorporated herein by this reference.

Section 2. Effective Date. This Resolution shall take effect on January 1, 2011.

PASSED by the City Council this ____ day of October, 2010.

APPROVED:

Charles L. Hunter, Mayor

ATTEST:

Molly Towslee, City Clerk

Filed with City Clerk: _____

Passed by City Council: _____

Resolution No. _____

Exhibit "A"

CITY OF GIG HARBOR
COMMUNITY DEVELOPMENT
FEE SCHEDULE

A. LAND USE PERMIT APPLICATION FEES

When a development proposal involves two or more permits listed in 3 through 14 below being processed concurrently, the highest cost land use permit shall be charged the full fee and all other land use permits charged 50% of the applicable fee. Specified engineering fees, building/fire fees, third party review fees and the fees listed in 1 through 3 and 15 through 24 below are not subject to the 50% reduction. The fees below are paid at submittal of application and include public notice fees; see section F for required deposits and fees incurred during the review process.

1) Amendment to Comprehensive Plan

| | |
|---------------------------------|--|
| a) Map Amendment | \$ 3,250.00 <u>\$3,550.00</u> |
| b) Urban Growth Area Adjustment | \$ 3,250.00 <u>\$3,550.00</u> |
| c) Text Amendment | \$ 3,250.00 <u>\$3,550.00</u> |

2) Amendments to Zoning Municipal Code

| | |
|--------------------------------------|--|
| a) Zoning District Boundary | \$ 3,250.00 <u>\$3,475.00</u> |
| b) Text | \$ 3,250.00 <u>\$3,550.00</u> |
| c) Height Restriction Area Amendment | \$ 3,250.00 <u>\$3,475.00</u> |

3) Conditional Use Permit

| | |
|---|--|
| a) Single-family / Accessory Dwelling Unit | \$ 550.00 <u>\$900.00</u> |
| b) Existing Nonresidential/Multiple-family Dev. in existing building | \$ 1,100.00 <u>\$1,450.00</u> |
| c) New Nonresidential / Multiple-family Dev. | \$ 3,250.00 <u>\$3,500.00</u> |
| *Above fees include \$130.00 for Building/Fire review | \$ 130.00 |

4) Variance/Interpretation

| | |
|--|-------------------------------|
| a) Single-family <u>Variance</u> | \$ 550.00 <u>\$875.00</u> |
| b) Non-Single-family <u>Variance</u> | \$ 1,100.00 <u>\$1,325.00</u> |
| c) Administrative Variance | \$ 275.00 <u>\$525.00</u> |
| d) Interpretation | \$ 550.00 |
| *Above variance fees include \$98.00 for Variance-Building/Fire review | \$ 98.00 |

5) Site Plan Review and Landscape Plans

| | |
|---|------------------------|
| Site Plan Review - Planning | \$ 3,250.00 |
| Site Plan Review - Engineering | \$ 1,575.00 |
| Site Plan Review - Building/Fire | \$ 260.00 |
| Major Site Plan Amendment - Planning | \$ 3,250.00 |
| Major Site Plan Amendment - Engineering | \$ 1,100.00 |
| Major Site Plan Amendment - Building/Fire | \$ 130.00 |
| Minor Site Plan Amendment - Planning | \$ 550.00 |
| Minor Site Plan Amendment - Engineering | \$ 450.00 |
| Minor Site Plan Amendment - Building/Fire | \$ 98.00 |
| Modification to approved landscape/parking plans | \$ 450.00 |
| Building/Fire Review of parking plan | \$ 98.00 |
| Alternative Landscape Plan | \$ 550.00 |

a) Major Site Plan Review

| | |
|--|--------------------|
| <u>New use or building – Combined Total</u> | <u>\$ 5,235.00</u> |
| Planning | \$ 3,400.00 |
| Building/Fire | \$ 260.00 |
| Engineering | \$ 1,100.00 |
| <u>Existing/approved site plan modifications/expansions – Combined Total</u> | <u>\$ 4,630.00</u> |
| Planning | \$ 2,150.00 |
| Building/Fire | \$ 130.00 |
| Engineering | \$ 700.00 |
| <u>Modification of conditions of approval – Combined Total</u> | <u>\$ 1,830.00</u> |
| Planning | \$ 1,250.00 |
| Building/Fire | \$ 130.00 |
| Engineering | \$ 450.00 |
| <u>Regional stormwater ponds – Combined Total</u> | <u>\$ 1,700.00</u> |
| Planning | \$ 1,250.00 |
| Engineering | \$ 450.00 |
| b) Minor Site Plan Review | |
| Change in use | \$ 100.00 |
| <u>Site plan modifications or expansion – Combined Total</u> | <u>\$ 1,098.00</u> |
| Planning | \$ 550.00 |
| Building/Fire | \$ 98.00 |
| Engineering | \$ 450.00 |
| Demolition | \$ 100.00 |
| c) Alternative Landscape Plan | <u>\$ 550.00</u> |

6) Planned Residential District (PRD)

(Exclusive of Subdivision fees)

| | |
|--|--------------------|
| <u>a) Preliminary PRD – Combined Total</u> | <u>\$ 3,900.00</u> |
| Planning | \$ 3,250.00 |
| Building/Fire | \$ 325.00 |
| Engineering | \$ 325.00 |
| b) Final PRD | \$ 1,100.00 |
| <u>c) Major PRD Amendment – Combined Total</u> | <u>\$ 1,930.00</u> |
| Planning | \$ 1,100.00 |
| Engineering | \$ 700.00 |
| Building/Fire | \$ 130.00 |
| <u>d) Minor PRD Amendment – Combined Total</u> | <u>\$ 998.00</u> |
| Planning | \$ 550.00 |
| Building/Fire | \$ 98.00 |
| Engineering | \$ 350.00 |

7) Planned Unit Development (PUD)

(Exclusive of subdivision fees)

| | |
|--|--------------------|
| <u>a) Preliminary PUD – Combined Total</u> | <u>\$ 3,900.00</u> |
| Planning | \$ 3,250.00 |
| Building/Fire | \$ 325.00 |
| Engineering | \$ 325.00 |
| b) Final PUD | \$ 1,100.00 |
| <u>c) Major PUD Amendment – Combined Total</u> | <u>\$ 1,930.00</u> |
| Planning | \$ 1,100.00 |
| Building/Fire | \$ 130.00 |
| Engineering | \$ 700.00 |
| <u>e) Minor PUD Amendment – Combined Total</u> | <u>\$ 998.00</u> |
| Planning | \$ 550.00 |
| Building/Fire | \$ 98.00 |

| | | |
|--|--|---------------------------------------|
| Engineering | \$ 350.00 | |
| 8) Performance Based Height Exception | | \$1,423.00 |
| Planning | \$1,100.00 <u>\$1,325.00</u> | |
| Building/Fire | \$ 98.00 | |
| 9) Transfer of Density Credit Request | | \$ 550.00 |
| 10) Subdivisions | | |
| a) Preliminary Plat – Combined Total | | <u>\$ 5,875.00 + \$ 55.00/lot</u> |
| Planning | \$3,250.00 <u>\$ 3,475.00</u> + \$ 55.00/lot | |
| Engineering | \$ 2,075.00 | |
| Building/Fire | \$ 325.00 | |
| b) Minor Preliminary Plat Revisions – Combined Total | | <u>\$1,648.00</u> |
| Planning | \$ 1,100.00 | |
| Building/Fire | \$ 98.00 | |
| Engineering | \$ 450.00 | |
| c) Final Plat – Combined Total | | <u>\$ 2,875.00 + \$ 55.00/per lot</u> |
| Planning | \$ 1,100.00 <u>\$ 1,250.00</u> + \$ 55.00/per lot | |
| Engineering | \$ 1,625.00 | |
| Replats – Planning | | <u>\$ 3,250.00 + \$ 55.00/lot</u> |
| Replats – Building/Fire | | <u>\$ 130.00</u> |
| Replats – Engineering | | <u>\$ 2,075.00</u> |
| d) Plat Alterations/Vacations – Combined Total | | <u>\$ 2,123.00</u> |
| Planning | \$ 1,100.00 <u>\$ 1,325.00</u> | |
| Building/Fire | \$ 98.00 | |
| Engineering | \$ 700.00 | |
| 11) Short Subdivisions and Boundary Line Adjustments | | |
| a) Preliminary Short Plat Approval – Combined Total | | <u>\$ 2,610.00</u> |
| Planning | \$ 1,650.00 <u>\$ 1,250.00</u> | |
| Engineering | \$ 550.00 | |
| Building/Fire | \$ 260.00 | |
| b) Final Short Plat Approval – Combined Total | | <u>\$ 750.00</u> |
| Planning | \$ 550.00 | |
| Engineering | \$ 200.00 | |
| c) Boundary Line Adjustment – Combined Total | | <u>\$ 773.00</u> |
| Planning | \$ 550.00 | |
| Engineering | \$ 125.00 | |
| Building/Fire | \$ 98.00 | |
| 12) Binding Site Plans | | |
| a) Binding Site Plans – Combined Total | | <u>\$ 3,473.00</u> |
| Planning | \$ 1,650.00 <u>\$ 1,800.00</u> | |
| Engineering | \$ 1,575.00 | |
| Building/Fire | \$ 98.00 | |
| b) Amendment/Modification/Vacation – Combined Total | | <u>\$ 765.00</u> |
| Planning | \$ 550.00 <u>\$ 700.00</u> | |
| Building/Fire | \$ 65.00 | |
| 13) Shoreline Management Permits | | |
| a) Substantial Development (based upon actual costs or fair market value, whichever is higher) < \$10,000 | | <u>\$ 1,100.00</u> <u>\$ 1,325.00</u> |

| | |
|---------------------------|---|
| > \$10,000 < \$100,000 | \$ 2,175.00 <u>\$ 2,400.00</u> |
| > \$100,000 < \$500,000 | \$ 3,250.00 <u>\$ 3,475.00</u> |
| > \$500,000 < \$1,000,000 | \$ 5,425.00 <u>\$ 5,650.00</u> |
| > \$1,000,000 | \$ 8,150.00 <u>\$ 8,375.00</u> |
| b) Variance | \$ 3,250.00 <u>\$ 3,475.00</u> |
| c) Conditional Use | \$ 3,250.00 <u>\$ 3,475.00</u> |
| d) Revision | \$ 1,100.00 <u>\$ 1,325.00</u> |
| e) Request for Exemption | \$ 550.00 <u>\$ 575.00</u> |

14) Communications Facilities Application Review

| | |
|--|---|
| a) General Application Review – Combined Total | \$ 840.00 |
| Planning | \$ 550.00 <u>\$ 775.00</u> |
| Building/Fire | \$ 65.00 |
| b) Special Exception | \$ 550.00 |
| c) Conditional Use | \$ 3,250.00 <u>\$ 3,475.00</u> |

15) Wetlands/Critical Areas Analysis

| | |
|---|-------------|
| a) City staff review: | |
| Steep Slopes/Erosion Hazard/Landslide Hazard | \$ 550.00 |
| Critical Habitat/Streams | \$ 550.00 |
| Aquifer Recharge Hydrogeologic Report | \$ 550.00 |
| Critical Areas Preliminary Site Investigation | \$ 550.00 |
| Critical Areas Report/Mitigation Review | \$ 550.00 |
| Reasonable Use Permit | \$ 1,625.00 |
| Variance | \$ 1,625.00 |
| Flood Plain Development Permit | \$ 550.00 |
| b) Third Party review: | |
| Critical areas analysis report | Actual Cost |
| Critical areas mitigation/monitoring report | Actual Cost |

16) Design Review

| | |
|--|---|
| a) Administrative Approval/DRB Recommendation/Exceptions: | |
| Nonresidential and Multifamily | |
| Up to 10,000 sq. ft. gross floor area (GFA) | \$ 80.00 <u>90.00</u> /each 1,000 sq. ft. |
| 10,001-20,000 sq. ft. GFA | \$ 440.00 <u>115.00</u> /each 1,000 sq. ft. |
| >20,000 sq. ft. GFA | \$ 440.00 <u>143.00</u> /each 1,000 sq. ft. |
| Subdivision | \$ 550.00 <u>\$ 650.00</u> |
| Site plans <u>without GFA with no buildings/GFA</u> | \$ 550.00 <u>\$ 650.00</u> |
| Single-family/duplex dwelling | \$ 150.00 |
| b) Administrative Review of Alternative Designs: | |
| Single-family/duplex dwelling | \$ 275.00 <u>425.00</u> for first 2 alternatives requested + \$140.00 for each additional. |
| Tenant Improvement | \$ 550.00 <u>700.00</u> for first 2 alternatives requested + \$275.00 for each additional. |
| c) Amendments to <u>existing or approved plans/buildings</u> : | |
| (Fees below are cumulative based on the type of revisions) | |
| Minor Adjustment to Hearing Examiner Decisions | \$ 550.00 <u>700.00</u> |
| All other amendments to approved plans | 50% of fees required by 16a above |
| Revisions to parking, landscaping, site amenities, subdivision | <u>\$ 350.00</u> |

| | |
|--|--|
| Revisions to existing or approved building | <u>25% of fees required by 16a above based on the GFA of the building being revised with a minimum of \$350.00 for each building revised</u> |
|--|--|

| | |
|---|-----------------|
| <u>Revisions to single-family/duplex dwelling</u> | <u>\$ 75.00</u> |
|---|-----------------|

17) Sign Permits

- | | |
|---|-----------|
| a) All signs less than 25 sq. ft. | \$ 45.00 |
| b) Change of Sign, all sizes | \$ 45.00 |
| c) Request for Variance | \$ 550.00 |
| d) Projecting | \$ 75.00 |
| e) Wall Sign, non-illuminated: | |
| 25-50 sq. ft. | \$ 75.00 |
| 51-99 sq. ft. | \$ 100.00 |
| >100 sq. ft. | \$ 120.00 |
| f) Wall Sign, illuminated: | |
| 25-50 sq. ft. | \$ 90.00 |
| 51-99 sq. ft. | \$ 110.00 |
| >100 sq. ft. | \$ 130.00 |
| g) Ground Sign, non-illuminated: | |
| 25-50 sq. ft. | \$ 110.00 |
| 51-100 sq. ft. | \$ 130.00 |
| h) Ground Sign, illuminated: | |
| 25-50 sq. ft. | \$ 130.00 |
| 51-100 sq. ft. | \$ 155.00 |
| i) Master Sign Plan Review (per Building) | |
| 1 - 5 Tenants | \$ 110.00 |
| 6 - 12 Tenants | \$ 165.00 |
| 13+ Tenants | \$ 220.00 |

18) Development Agreements

- | | |
|---|--|
| a) Development Agreements – <u>Combined Total</u> | <u>\$ 1,800.00+ City Attorney fees</u> |
| Planning | \$ 1,400.00 <u>\$ 1,300.00</u> + City Attorney fees |
| Engineering | \$ 500.00 |
| | |
| b) Development Agreements which include deviations from development standards other than extending the approval duration or phasing of projects | |
| <u>Combined Total</u> | <u>\$ 6,830.00+ City Attorney fees</u> |
| Planning | \$ 5,000.00 <u>\$ 5,200.00</u> + City Attorney fees |
| Engineering | \$ 1,500.00 |
| Building/Fire | \$ 130.00 |

19) Special Use Permit

- | | |
|---------------|------------------|
| | <u>\$ 120.00</u> |
| Planning | \$ 55.00 |
| Building/Fire | \$ 65.00 |

20) Temporary Use Permit

- | | |
|---------------|------------------|
| | <u>\$ 120.00</u> |
| Planning | \$ 55.00 |
| Building/Fire | \$ 65.00 |

21) Land Clearing Permit

\$ 275.00

| | |
|---|------------------------------------|
| 22) Nonconforming Use and Structure Review | |
| a) Nonconforming use review | \$ 550.00 \$ 700.00 |
| b) Changes from one nonconforming use to another | \$ 1,100.00 \$ 1,325.00 |
| c) Nonconforming structure review | \$ 550.00 \$ 700.00 |

| | |
|--|-----------|
| 23) Historic Preservation | |
| a) Local Register Nomination/Removal | \$ 110.00 |
| b) Certificate of Appropriateness/Waiver | \$ 110.00 |
| c) Special Property Tax Valuation | \$ 110.00 |

| | |
|------------------------------------|-----------|
| 24) Appeals/Reconsideration | |
| a) To the Hearing Examiner: | |
| Reconsideration | \$ 165.00 |
| Administrative Variance | \$ 275.00 |
| Administrative Decision | \$ 275.00 |

Note: Appellants who substantially prevail on appeal as determined by the planning director will be refunded the above appeal fee and will not be billed hearing examiner fees. Appellants who do not prevail on appeal will be billed for the hearing examiner costs.

| | |
|---|-----------|
| b) To the Building Code Advisory Board: | \$ 550.00 |
|---|-----------|

B. ENVIRONMENTAL REVIEW (SEPA)

| | |
|---|--------------------------------|
| 1) Checklist | \$ 325.00 \$ 425.00 |
| 2) Environmental Impact Statement | |
| a) Prepared by Staff | Actual Cost |
| b) Prepared by Consultant | Actual Cost |
| 3) Appeals of Decisions | |
| a) Administrator's Final Determination (DNS or EIS) | \$ 275.00 |

Note: Appellants who substantially prevail on appeal as determined by the planning director will be refunded the above appeal fee and will not be billed hearing examiner fees. Appellants who do not prevail on appeal will be billed for the hearing examiner costs.

C. ANNEXATION PETITION

| | |
|---|------------------------------------|
| 1) Notice of Intent to Commence Annexation | \$ 500.00 |
| 2) Annexation Petition (once accepted by Council) | |
| a) Less than 10 acres | \$ 600.00 \$ 1,295.00 |
| b) 10 - 50 acres | \$ 1,500.00 \$ 2,195.00 |
| c) 50 - 100 acres | \$ 2,500.00 \$ 3,195.00 |
| d) 100 + acres | \$ 4,500.00 \$ 5,195.00 |
| Annexation Review – Building/Fire | \$ 195.00 |
| Annexation Review – Public Works | \$ 500.00 |
| <u>*Above fees include \$195.00 for Building/Fire and \$500 for Public Works review</u> | |
| 3) Enumeration | actual cost with deposit |

D. REQUESTS FOR INFORMATION

| | |
|---|-----------|
| 1) Land-use information, verbal | No Charge |
| 2) Land-use information, written | |

response requested related to
active permit

No Charge

E. STAFF PREAPPLICATION REVIEW

\$ 585.00

(includes a written summary of the meeting)

| | |
|---------------|-----------|
| Planning | \$ 325.00 |
| Building/Fire | \$ 130.00 |
| Public Works | \$ 130.00 |

F. INVOICED FEES AND DEPOSITS:

- 1) **Additional Submittal Review Fees:** The costs above in section A include the review of the initial application and two revisions (three submittals total) plus the preparation of staff reports and administrative decisions. If a project requires staff review of more than three submittals, the applicant will be charged a rate of \$100.00 per hour (minimum of eight hours) for the time the project planner spends reviewing each submittal thereafter. The applicant shall pay \$800.00 prior to staff commencing review of each additional submittal.
- ~~2) **Advertising Fees:** For those applications which require a public notice to be published in a newspaper of general circulation, the applicant shall bear the costs of all advertising.~~
- 2) **Recording Fees:** For those applications which require recording of the final document, the applicant shall bear the costs of all recording.
- 3) **Hearing Examiner Fees:** For those applications which require a public hearing, the applicant shall bear all the costs of the hearing examiner for the public hearing. The applicant shall deposit \$1,000.00 at time of application to cover hearing examiner costs. Actual costs in excess of the deposit will be billed to the applicant. Actual costs below the deposit will be refunded. In the case of appeals, the appellant shall only pay hearing examiner cost if the appellant does not prevail.
- 4) **Attorney Fees:** For those applications for a development agreement, the applicant shall bear all the costs of the city attorney for review of the development agreement. The applicant shall deposit \$1,000.00 at time of application to cover attorney costs. Actual costs in excess of the deposit will be billed to the applicant. Actual costs below the deposit will be refunded.
- 5) **Critical Area Review Deposit:** For those applications which require third-party consultant review of critical area reports, delineations and mitigation, the applicant shall bear all the costs of the third-party consultant review. The applicant will be required to submit a deposit for the anticipated review prior to the consultant starting review of the project.
- 6) **Annexation Enumeration Deposit:** An applicant shall pay for the actual cost of annexation enumeration if approved. Prior to adoption of an ordinance annexing property, the applicant shall deposit an amount determined by the Planning Director, based on the size and expected population, to be used for enumeration by the city. Actual costs in excess of the deposit will be billed to the applicant. Actual costs below the deposit will be refunded. If the annexation petition is denied, the deposit will be refunded.

G. COPY SERVICES/ADDRESS LABELS

| | |
|--|----------|
| 1) Zoning Map/Comprehensive Plan Land Use Map (24" x 36") | \$ 6.80 |
| 2) Zoning Code | \$ 49.00 |
| 3) Comprehensive Plan | \$ 35.00 |
| 4) Shoreline Master Program | \$ 15.00 |
| 5) Critical Areas Map (24"x 36") | \$ 6.80 |
| 6) Visually Sensitive Area (24"x 36") | \$ 6.80 |

- | | | |
|-----|--|-----------------------------------|
| 7) | Design Manual (GHMC 17.99) | \$ 22.00 |
| 8) | Full Size Bond Reproduction (By Outside Service) | Charge by outside service+\$ 5.00 |
| 9) | Full Size Bond Reproduction (In House) | \$ 6.80 each |
| 10) | 8-1/2" x 11" & 11" x 17" Copies | \$ 0.20 each |
| 11) | 8-1/2" x 11" & 11" x 17" Color Copies | \$ 0.30 each |
| 12) | Address labels of property owners within 300 feet of project included in permit fees | |

H. FEE WAIVERS AND REQUIREMENTS

Application fees may be reimbursed at the following rate (percent of total fee):

| | |
|---|------|
| Request to withdraw application prior to any public notice issued | 100% |
| Request to withdraw application after any public notice issued. | 85% |
| Request to withdraw application after substantial review of project (1 st comprehensive review of project) | 50% |
| Request to withdraw application after issuance of staff report or SEPA threshold determination | 35% |
| Request to withdraw application following a public hearing or issuance of administrative decision | 0% |

Traffic report preparation fees, if addressed in a Hearing Examiner appeal, may be reimbursed to the extent directed by the Examiner in the Examiner's final decision.

I. UTILITY EXTENSION REQUEST \$ 560.00

J. ENGINEERING FEES

Traffic Report Preparation

Traffic Report Preparation Fees shall be charged as follows based on the number of PM Peak Hour Trips:

| <u>Tier</u> | <u>PM Peak Hour Trips</u> | <u>Traffic Report Preparation Fee</u> |
|-------------|---------------------------|---------------------------------------|
| I | >2 up to 50 | \$ 1,725 |
| II | 51 - 150 | \$ 2,875 |
| III | 151 - 300 | \$ 5,750 |
| IV | 301 - 750 | \$ 8,625 |
| V | >750 | \$ 8,625 plus \$25 per trip over 750 |

Engineering Permit Fees:

| | |
|---|------------------------------------|
| Public Works Variance | \$ 1,330.00 |
| Public Works Variance – Building/Fire Review | \$ 98.00 |
| On-site Septic Exemption Review | \$ 250.00 |
| Building Review-Single Family Residence (SFR) | \$ 98.00 |
| Right of way (Residential) | \$ 110.00 |
| Right of way (Commercial) | \$ 165.00 |
| Right of way (Temporary) | \$ 30.00 |
| Right of way / Vacation – Building/Fire | \$ 98.00 |
| Water CRC (Non-SFR) | \$ 90.00 |
| Sewer CRC (Non-SFR) | \$ 90.00 |
| Transportation CRC (Non-SFR) | \$ 90.00 |
| Comprehensive Plan Change (Utility Element) | \$ 1,330.00 (plus consultant fees) |
| Utility System Consistency Review | \$ 1,330.00 (plus consultant fees) |
| Banner installation/removal fee | \$ 100.00 |
| (in addition to Right of way (Temporary) fee) | |

Engineering Plan Review Fees:

| | |
|--|--|
| Water: linear feet | \$ 165.00 for 1st 150 linear feet (lf) + \$0.30/lf |
| Sewer: linear feet | \$ 165.00 for 1st 150 linear feet (lf) + \$0.30/lf |
| Street or street w/curb, gutter and sidewalk | \$ 165.00 for 1st 150 linear feet (lf) + \$0.40/lf |
| Curb, gutter and sidewalk only | \$ 165.00 for 1st 150 linear feet (lf) + \$0.40/lf |
| Storm: Number of catch basins | \$ 120.00 for 1st + \$16.28 for each additional |
| Storm: Retention and detention facilities | \$ 165.00 for each facility |
| Lighting (per luminare) | \$ 135.00 plus \$10.85 per luminare |
| Signals | \$ 555.00 per intersection |
| Right-of-way access | \$ 45.00 for each Access |
| Civil Permit Review – Building/Fire | \$ 325.00 |

Additional Resubmittal Review Fees: The fees above for Engineering Plan Review include the initial review of the plans and two revisions (three submittals total). If a project requires staff review of more than three submittals, the applicant will be charged a rate of \$100.00 per hour (minimum of four hours) for the time the staff reviewer spends reviewing each submittal thereafter, and the minimum fee is due prior to start of review of the fourth submittal. Fees above the minimum

resubmittal fee shall be billed to the applicant.

Engineering Construction Inspection Fees:

| | |
|-----------------------------------|--|
| Water: linear feet | \$ 300.00 for 1st 150 linear feet (lf) + \$1.63/lf |
| Sewer: linear feet | \$ 300.00 for 1st 150 linear feet (lf) + \$1.63/lf |
| Sewer: residential step system | \$ 210.00 for each residence |
| Street | \$ 300.00 for 1st 150 linear feet (lf) + \$1.20/lf |
| Curb, gutter and sidewalk only | \$ 300.00 for 1st 150 linear feet (lf) + \$1.20/lf |
| Storm | \$ 145.00 per retention area + \$0.60/lf pipe |
| Lighting(per luminaire) | \$ 145.00 + \$16.48 per luminaire |
| Signals | \$ 1,140.00 per intersection |
| Right-of-Way Access - Overhead | \$ 320.00 for 1st 150 linear feet (lf) + \$0.08/lf |
| Right-of-Way Access – Underground | \$ 320.00 for 1st 150 linear feet (lf) + \$0.17/lf |
| Grease interceptor permit | \$ 500.00 |

K. BUILDING PERMIT FEES

**Table 1-1
Building Permit Fees**

| Total Valuation | Fee |
|--|---|
| \$1.00 to \$500.00 | \$33.08 |
| \$501.00 to \$2,000.00 | \$33.08 for the first \$500.00 plus \$4.88 for each additional \$100.00 or fraction thereof to and including \$2,000.00 |
| \$2,001 to \$25,000 | \$95.45 for the first \$2,000.00 plus \$20.07 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00 |
| \$25,001.00 to \$50,000.00 | \$534.72 for the first \$25,000.00 plus \$14.09 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00 |
| \$50,001.00 to \$100,000.00 | \$879.65 for the first \$50,000.00 plus \$10.85 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00 |
| \$100,001.00 to \$500,000.00 | \$1,357.99 for the first \$100,000.00 plus \$8.68 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00 |
| \$500,001.00 to \$1,000,000.00 | \$4,419.94 for the first \$500,000.00 plus \$7.05 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00 |
| \$1,000,001.00 and up | \$7,665.22 for the first \$1,000,000.00 plus \$4.87 for each additional \$1,000.00 or fraction thereof |
| Demolition Permit | \$118.22 |
| Building Permit Plan Review Fees | |
| Building permit plan review fees | The fee for review of building plans will equal 65% of the permit fee in addition to the permit fee. |
| Base Plan Fees | |
| Base Plan Application Filing Fee. | \$ \$54.23 |
| New Base Plan Review Fee. | 150% of plan review fee calculated under T. 1-1 for new construction. |
| Establish base plan from plan previously approved by the City. | 100% of plan review fee calculated under T 1-1 for new construction. |
| Subsequent plan review fee for use of established base plan. | 70% of the plan review fee calculated under T 1-1 for new construction. |

| Grading Plan Review Fees | |
|---------------------------------|---|
| 100 Cu. Yds. or less | \$ 32.97 |
| 101 to 1000 Cu Yds. | \$ 50.98 |
| 1,001 to 10,000 Cu. Yds. | \$ 68.32 |
| 10,001 to 100,000 Cu. Yds. | \$68.32 for the first 10,000 plus \$34.16 each additional 10,000 or fraction thereof. |
| 100,001 to 200,000 Cu. Yds. | \$368.78 for the first 100K plus \$18.97 for each additional 10,000 or fraction thereof. |
| 200,001 Cu. Yds. or more | \$549.92 for the first 200,000 plus \$10.85 for each additional 10,000 or fraction thereof. |
| Grading Permit Fees | |
| 100 Cu. Yds. or less | \$50.98 |
| 101 to 1000 Cu. Yds. | \$50.98 for the first 100 Cu. Yds. plus \$24.95 for each additional 100 Cu. Yds or fraction thereof. |
| 1,001 to 10,000 Cu. Yds. | \$266.28 for the first 1,000 Cu. Yds. plus \$20.07 for each additional 1,000 Cu. Yds. or fraction thereof. |
| 10,001 to 100,000 Cu. Yds. | \$444.16 for the first 10,000 Cu. Yds. plus \$91.11 for each additional 10,000 Cu. Yds. or fraction thereof. |
| 100,001 Cu. Yds or more | \$1,257.10 for the first 100,000 Cu. Yds. plus \$50.98 for each additional 10,000 Cu. Yds. or fraction thereof. |

Table 1-2
Square Foot Construction Costs^{a,b,c}

| Group (2006 IBC/IRC) | | Type of Construction | | | | | | | | |
|----------------------|--|----------------------|--------|--------|--------|--------|--------|--------|--------|--------|
| | | IA | IB | IIA | IIB | IIIA | IIIB | IV | VA | VB |
| A-1 | Assembly, theaters, with stage | 189.23 | 183.14 | 178.89 | 171.53 | 159.52 | 158.67 | 166.11 | 147.80 | 142.49 |
| | Theaters, without stage | 174.54 | 168.46 | 164.20 | 156.86 | 144.83 | 144.00 | 151.44 | 133.11 | 127.80 |
| A2 | Assembly, nightclubs | 142.74 | 138.74 | 135.26 | 130.18 | 121.78 | 120.30 | 125.43 | 110.92 | 107.25 |
| | Restaurants, bars, banq. halls | 141.59 | 137.59 | 132.97 | 129.05 | 119.50 | 119.15 | 124.29 | 108.64 | 106.11 |
| A-3 | Assembly, churches | 175.26 | 169.18 | 164.91 | 157.56 | 145.52 | 144.68 | 152.16 | 133.81 | 128.50 |
| | General, comm., halls, libraries museums | 145.11 | 139.03 | 133.62 | 127.41 | 114.22 | 115.36 | 122.01 | 102.51 | 98.33 |
| A-4 | Assembly, arenas | 141.59 | 137.59 | 132.50 | 129.05 | 119.50 | 119.15 | 124.29 | 108.64 | 106.11 |
| B | Business | 145.76 | 140.48 | 136.01 | 129.64 | 116.00 | 115.37 | 124.70 | 103.60 | 99.69 |
| E | Educational | 153.06 | 147.89 | 143.66 | 137.30 | 126.65 | 123.66 | 132.76 | 113.16 | 108.93 |
| F-1 | Factory/Industrial, mod. Hazard | 88.39 | 84.34 | 79.30 | 76.89 | 66.44 | 67.58 | 73.76 | 56.66 | 53.83 |
| F-2 | Factory/Industrial, low hazard | 87.26 | 83.19 | 79.30 | 75.76 | 66.44 | 66.44 | 72.62 | 56.66 | 52.69 |
| H-1 | High hazard, explosives | 83.02 | 78.96 | 75.06 | 71.53 | 62.38 | 62.38 | 68.05 | 52.61 | N.P. |
| H-2-4 | High hazard | 83.02 | 78.96 | 75.06 | 71.53 | 62.38 | 62.03 | 68.39 | 52.61 | 48.63 |
| H-5 | HPM | 145.76 | 140.48 | 136.01 | 129.64 | 116.00 | 115.37 | 124.70 | 103.60 | 99.69 |
| I-1 | Institutional, supervised | 143.92 | 138.99 | 135.25 | 129.76 | 119.05 | 139.99 | 125.83 | 109.42 | 105.08 |
| I-2 | Institutional, incapacitated | 242.62 | 237.35 | 232.88 | 226.52 | 212.47 | N.P. | 221.57 | 200.06 | N.P. |
| I-3 | Institutional, restrained | 165.57 | 160.29 | 155.83 | 149.47 | 137.22 | 135.44 | 144.51 | 124.81 | 118.62 |
| I-4 | Institutional, day care | 143.92 | 138.99 | 135.25 | 129.76 | 119.05 | 118.99 | 125.83 | 109.42 | 105.08 |

| | | | | | | | | | | |
|-----|--------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| M | Mercantile | 106.37 | 102.36 | 97.73 | 93.80 | 84.82 | 84.47 | 89.04 | 73.95 | 71.43 |
| R-1 | Residential, hotels | 145.37 | 140.43 | 136.69 | 131.21 | 120.56 | 120.50 | 127.33 | 110.92 | 106.61 |
| R-2 | Residential, multi-family | 145.36 | 139.42 | 134.95 | 128.36 | 115.80 | 115.71 | 123.92 | 104.23 | 99.04 |
| R-3 | Residential, 1/2 family | 138.06 | 134.24 | 130.94 | 127.33 | 121.30 | 121.01 | 125.20 | 115.49 | 107.21 |
| R-4 | Residential, care/asst. living | 143.92 | 138.99 | 135.25 | 129.76 | 119.05 | 118.99 | 125.83 | 109.42 | 105.08 |
| S-1 | Storage, moderate hazard | 81.88 | 77.82 | 72.78 | 70.38 | 60.10 | 61.24 | 67.25 | 50.33 | 47.49 |
| S-2 | Storage, low hazard | 80.73 | 76.68 | 72.78 | 69.25 | 60.10 | 60.10 | 66.11 | 50.33 | 46.35 |
| U | Utility, miscellaneous | 62.53 | 59.12 | 55.61 | 52.83 | 45.82 | 45.82 | 49.86 | 37.67 | 35.87 |

- a. Private garages use utility, miscellaneous
- b. Unfinished basements (all use group) = \$15.00 per sq. ft.
- c. N.P. = not permitted

Table 1-3
Plumbing Permit Fees

Permit Issuance

1. For issuing each permit \$27.12
2. For issuing each supplemental permit \$14.10

Unit Fee Schedule (in addition to items 1 and 2 above)

1. For each plumbing fixture on one trap or a set of fixtures on one trap (including water, drainage piping and backflow protection therefor) \$ 9.77
2. For each building sewer and each trailer park sewer \$20.07
3. Rainwater Systems - per drain (inside building) \$ 9.77
4. For each cesspool (where permitted) \$34.16
5. For each private sewage disposal system \$54.23
6. For each water heater and/or vent \$ 9.77
7. For each gas-piping system of one to five outlets \$ 7.06
8. For each additional gas-piping system outlet (per outlet) \$ 2.71
9. For each industrial waste pretreatment interceptor including its trap and vent, except kitchen-type grease interceptors functioning as fixture traps \$20.61
10. For each installation, alteration, or repair of water piping and/or water treating equipment, each \$ 9.77
11. For each repair or alteration of drainage or vent piping, each fixture \$ 9.77
12. For each lawn sprinkler system on any one meter

| | |
|--|---------|
| including backflow protection devices therefore | \$ 9.77 |
| 13. For atmospheric-type vacuum breakers not included in item 12: 1 to 5 | \$ 7.06 |
| over 5, each | \$ 1.58 |
| 14. For each backflow protective device other than atmospheric-type vacuum breakers: 2 inch (51 mm) diameter and smaller | \$ 9.77 |
| over 2 inch (51 mm) diameter | \$20.07 |
| 15. For each gray water system | \$54.23 |
| 16. For initial installation and testing for a reclaimed water system (excluding initial test) | \$41.21 |
| 17. For each annual cross-connection testing of a reclaimed water system (excluding initial test) | \$41.21 |
| 18. For each medical gas piping system serving one to five inlet(s)/outlet(s) for a specific gas | \$68.33 |
| 19. For each additional medical gas inlet(s)/outlet(s) | \$ 7.06 |

Plan Review Fee

A plan review fee equal to 65% of the permit fee shall be charged in addition to the permit fee for all plumbing permits. **Exception:** No plan review fee will be charged for plumbing permits related to residential construction regulated under the International Residential Code.

Table 1-4
Mechanical and Fuel Gas Permit Fees

Permit Issuance

1. For issuing each permit \$ 33.08

Unit Fee Schedule (in addition to issuance fee above)

| | |
|---|----------|
| 2. HVAC units up to and including 100,000 Btu | \$ 21.15 |
| 3. HVAC units over 100,000 Btu | \$ 26.03 |
| 4. Each appliance vent or diffuser without appliance | \$ 10.85 |
| 5. Repair of each appliance & refrigeration unit | \$ 18.98 |
| 6. Each boiler / compressor 100,000 Btu or 3 hp | \$ 21.15 |
| Each over 100K to 500K Btu or over 3 hp to 15 hp | \$ 37.96 |
| Each over 500K to 1,000K Btu or over 15 hp to 30 hp | \$ 52.06 |
| Each over 1,000K to 1,750K Btu or over 30 hp to 50 hp | \$ 76.47 |
| Each over 1,750K or over 50 hp | \$127.45 |
| 7. Each air handler up to 10,000 cfm | \$ 15.74 |
| 8. Each air handler over 10,000 cfm | \$ 26.03 |
| 9. Each VAV box | \$ 15.74 |
| 10. Each evaporative cooler other than portable type | \$ 15.74 |
| 11. Each ventilation fan connected to a single duct | \$ 10.85 |
| 12. Each ventilation system not part of a system under permit | \$ 15.18 |
| 13. Each hood served by mech. exhaust system including the ductwork | \$ 15.18 |
| 14. Each piece of equipment regulated by the mechanical code but not listed in this table (fireplace inserts) | \$ 15.18 |
| 15. Each fuel gas piping system of one to five outlets | \$ 7.05 |
| 16. Each additional fuel gas outlet | \$ 2.71 |

Plan Review Fee

A plan review fee equal to 65% of the permit fee shall be charged in addition to the permit fee for all mechanical permits. **Exception:** No plan review fee will be charged for mechanical permits related to residential construction regulated under the International Residential Code.

**Table 1-5
Fire System Permit Fees**

| Type of Fire Protection System | Fees (includes plan review, testing, and inspection) |
|---|---|
| Fire Alarm Systems | |
| New Com./Multi. Fam. (first 4 zones) | \$471.28 plus \$1.58 per device |
| Additional zones | \$ 59.12 ea. plus \$1.58 per device |
| Tenant Improvement | \$353.59 plus \$1.58 per device |
| Additional Zones | \$ 59.12 plus \$1.58 per device |
| Residential (1-2 fam. dwellings) | \$189.27 plus \$1.58 per device |
| Sprinkler supervision/notification only | \$200.66 plus \$1.58 per device |
| System upgrade | One half the above listed fees for new work. |
| Fire Sprinkler Systems | |
| NFPA 13, 13 R Systems | |
| 1. Each new riser up to 99 heads | \$206.08 +3.15head |
| 2. Each wet riser over 99 heads | \$577.04 |
| 3. Each dry riser over 99 heads | \$717.50 |
| 4. Each new deluge or pre-action system | \$717.50 |
| 5. Each new combination system | \$930.63 |
| 6. Sprinkler underground | \$148.60 |
| 7. Revision to existing system | \$ 65.08 +2.36/ head |
| 8. High piled stock or rack system | |
| Add to riser fee | \$370.95 |
| NFPA 13D systems | |
| 1. Per dwelling unit fee | \$297.19 |
| Standpipe Systems | |
| 1. Each new Class 1 system | |
| Dry system | \$285.26 |
| Wet system | \$408.91 |
| 2. Each new Class 2 system | \$494.60 |
| 3. Each new Class 3 system | \$494.60 |
| Fire Pumps | \$897.54 |
| Type I Hood Suppression Systems | |
| 1. Pre-engineered | \$233.19 |
| 2. Custom engineered | \$408.91 |
| Fixed Pipe Fire Suppression | |
| 1. Pre-engineered | \$247.30 |
| 2. Custom engineered | \$568.89 |

Table 1-6
Additional Services

| | | |
|-----|--|---|
| 1. | Inspections outside of normal business hours | \$ 65.08 per hour ¹ |
| 2. | Reinspection fee | \$ 65.08 per hour |
| | Reinspection fees double accumulatively when work requiring reinspection is not corrected prior to request for reinspection. (2 nd reinspection = \$130.16; 3 rd reinspection = \$260.32 etc.) | |
| 3. | Expired permit renewal within 1 year of expiration | One-half (50%) of the original permit fee. |
| 4. | Inspections for which no fee is specifically indicated | \$ 65.08 per hour |
| 5. | Fire Code Operational Permit Inspection | \$ 65.08 per hour |
| 6. | Additional plan review required by changes, additions or revisions to approved plans (per hour - minimum charge one-half hour) | \$ 65.08 per hour |
| 7. | Temporary Certificate of Occupancy | \$235.91 |
| 8. | Certificate of Occupancy for change in use | \$ 65.08 |
| 9. | Adult Family Home licensing inspection | \$ 65.08 |
| 10. | Investigation fee for work without a permit | 100% of the permit fee in addition to the permit fee. |
| 11. | Expedited plan review by third party contract | Actual Cost but not less than 65% of the permit fee. |
| 12. | Incident management and investigation | \$ 65.08 per hour ¹ |
| 13. | Fire flow test | \$130.00 |
| 14. | Appeal of directors decision to BCAB | \$130.00 |

¹ A two hour minimum fee will be charged for all additional services involving employee overtime.

**Table 1-7
Fire Code Operational and Construction Permit Fees**

| Operation | Fee |
|---|------------|
| Aerosol Products | \$ 65.08 |
| Amusement Buildings | \$ 65.08 |
| Aviation Facilities | \$129.61 |
| Carnivals and fairs | \$ 65.08 |
| Battery systems | \$129.61 |
| Cellulose nitrate film | \$ 65.08 |
| Combustible dust producing operations | \$ 65.08 |
| Combustible fibers | \$ 65.08 |
| Exception: Permit not required for agricultural storage | |
| Compressed gases | \$ 65.08 |
| Exception: Vehicles using CG as a fuel for propulsion | |
| See IFC T. 105.6.9 for permit amounts | |
| Covered mall buildings - Required for: | \$ 65.08 |
| placement of retail fixtures and displays, concession equipment, | |
| displays of highly combustible goods and similar items in the mall; | |
| display of liquid or gas fired equipment in the mall; | |
| use of open flame or flame producing equipment in the mall. | |
| Cryogenic fluids | \$ 65.08 |
| Exception: Vehicles using cryogenic fluids as a fuel for propulsion | |
| or for refrigerating the lading. | |
| See IFC T. 105.6.11 for permit amounts | |
| Dry cleaning plants | \$ 65.08 |
| Exhibits and trade shows | \$ 65.08 |
| Explosives | \$129.61 |
| Fire hydrants and valves | \$ 65.08 |
| Exception: Authorized employees of the water company | |
| or fire department. | |
| Flammable and combustible liquids | \$129.61 |
| In accordance with IFC 105.6.17 | |
| Floor finishing | \$ 65.08 |
| In excess of 350 sq. ft. using Class I or Class II liquids | |
| Fruit and crop ripening | \$ 65.08 |
| Using ethylene gas | |
| Fumigation and thermal insecticidal fogging | \$ 65.08 |
| Hazardous materials | \$ 65.08 |
| See IFC T. 105.6.21 for permit amounts | |
| HPM facilities | \$129.61 |
| High piled storage | \$129.61 |
| In excess of 500 sq. ft. | |
| Hot work operations | \$ 65.08 |
| In accordance with IFC 105.6.24 | |

| | |
|---|----------|
| Industrial ovens | \$ 65.08 |
| Lumber yards and woodworking plants | \$ 65.08 |
| Liquid or gas fueled vehicles or equipment In assembly buildings | \$ 65.08 |

**Table 1-7
Fire Code Operational and Construction Permit Fees - cont.**

| | |
|---|----------|
| LP Gas | \$129.61 |
| Exception: 500 gal or less water capacity container serving group R-3 dwelling | |
| Magnesium working | \$ 65.08 |
| Miscellaneous combustible storage | \$ 65.08 |
| In accordance with IFC 105.6.30 | |
| Open burning | \$ 65.08 |
| Exception: Recreational fires | |
| Open flames and torches | \$ 65.08 |
| Open flames and candles | \$ 65.08 |
| Organic coatings | \$ 65.08 |
| Places of assembly | \$ 65.08 |
| Private fire hydrants | \$ 65.08 |
| Pyrotechnic special effects material | \$ 65.08 |
| Pyroxylin plastics | \$ 65.08 |
| Refrigeration equipment | \$ 65.08 |
| Regulated under IFC Ch. 6 | |
| Repair garages and motor fuel dispensing facilities | \$ 65.08 |
| Rooftop heliports | \$125.48 |
| Spraying or dipping | \$ 65.08 |
| Using materials regulated under IFC Ch. 15 | |
| Storage of scrap tires and tire byproducts | \$ 65.08 |
| Temporary membrane structures, tents and canopies | \$ 65.08 |
| Except as provided in IFC 105.6.44 | |
| Tire re-building plants | \$ 65.08 |
| Waste handling | \$ 65.08 |
| Wood products | \$ 65.08 |

Required Construction Permits

| | |
|---|-------------------------------|
| Automatic fire extinguishing systems | Ref. Table 1-5 |
| Compressed gases except as provided under IFC 105.7.2 | Ref. Table 1-3 |
| Fire alarm and detection systems and related equipment | Ref. Table 1-5 |
| Fire pumps and related equipment | Ref. Table 1-5 |
| Flammable and combustible liquids - in accordance with IFC 105.7.5 | \$129.61 |
| Hazardous materials | \$129.61 |
| Industrial ovens regulated under IFC Ch. 21 | \$129.61 |
| LP Gas - installation or modification of LP gas system | Ref. Table 1-4 |
| Private fire hydrants - installation or modification of private fire hydrants | Ref. Table 1-5 |
| Spraying or dipping - installation or modification of a spray room, dip tank, or booth | \$129.61 |
| Standpipe system | Ref. Table 1-4 |
| Temporary membrane structures tents and canopies Except as provided under IFC 105.7.12 | Included in Op. Permit Fee |