

Gig Harbor City Council Meeting

**July 22, 2013
5:30 p.m.**



**AGENDA FOR
GIG HARBOR CITY COUNCIL MEETING
July 22, 2013**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

EXECUTIVE SESSION: To discuss property acquisition per RCW 42.30.110(1)(b)

CONSENT AGENDA:

1. Approval of City Council Minutes Jul 8, 2013.
2. Liquor License Action: a) Renewals: JW Restaurant, Devoted Kiss Café, Mizu Japanese Restaurant, Galaxy Uptown, and Safeway Store #2949;
3. Receive and File: a) Coastal Heritage Alliance Yearly Report; b) Tacoma Narrows Airport Advisory Commission Meeting Summary May 9, 2013; c) Lodging Tax Advisory Committee Minutes Jun 27, 2013.
4. Correspondence / Proclamations: a) National Night Out; b) Fitness Day Proclamation;
5. Appointment to Design Review Board.
6. Second Reading of Ordinance No. 1265 - Amendment to Peddlers License.
7. Second Reading of Ordinance No. 1266 - Model Homes.
8. Digital Orthophotography Partner Agreement – Interagency Agreement with Pierce County.
9. Agreement for Attorney Services for Water Rights Assistance – Tom Mortimer.
10. Eddon Boat Marine Railways Environmental Services Contract – Grette & Associates.
11. Eddon Boat Park Expansion – Property Appraisal Contract.
12. Eddon Boat Park Expansion – Phase I Environmental Assessment Contract.
13. Wollochet/Wagner Signal System – Consultant Services Contract / WH Pacific Amendment No. 1.
14. Rosedale Street Improvements – Consultant Services Contract / HW Lochner Amendment No. 1.
15. 38th Avenue Improvements Ph 1 Grant Application Assistance – Consultant Services Contract - Skillings Connolly.
16. DNR Annexation Survey Contract – David Evans and Associates.
17. Wilkinson Farmhouse Restoration Project - Small Public Works Contract – Floodex Water Damage.
18. Approval of Payment of Bills Jul 22, 2013: Checks #72991 through #73091 in the amount of \$660,920.85.

PRESENTATIONS:

1. Bennish Brown, President and CEO - Tacoma Convention and Visitors Bureau.
2. Proclamation – National Night Out – COPS Volunteer Diane Bertram.
3. Fitness Day Proclamation – Joel Davidson, Be Strong Inc.

OLD BUSINESS:

1. Second Reading of Ordinance – Downtown Building Size and Height Amendments.
2. Interlocal Agreement – Pierce Transit / Gig Harbor Trolley Demonstration Project.

NEW BUSINESS:

1. First Reading and Adoption of Ordinance – Cushman Trail Cottages Annexation.
2. Ancich Netshed Pier Repair Project – Small Public Works Contract Award.
3. Resolution No. 933 - Setting a Public Hearing Date for North Harborview Drive Right of Way Vacation.
4. Resolution No. 934 - Utility Extension Capacity Agreement – 6207 Soundview Drive.

STAFF REPORT:

PUBLIC COMMENT:

MAYOR'S REPORT / COUNCIL COMMENTS:

ANNOUNCEMENT OF OTHER MEETINGS:

1. No City Council Meetings in August.
2. Labor Day – Mon. Sep 2nd – Civic Center closed.

ADJOURN:

MINUTES OF GIG HARBOR CITY COUNCIL MEETING – July 8, 2013

PRESENT: Councilmembers Ekberg, Young, Perrow, Malich, Kadzik, and Mayor Hunter. Councilmembers Guernsey and Payne were absent.

CALL TO ORDER: 5:30 p.m.

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of City Council Minutes June 24, 2013.
2. Receive and File: a) Planning Commission Minutes June 6, 2013;
3. Correspondence / Proclamations: a) Puget Sound Clean Air Letter; b) Capital Projects – Rep. Larry Seaquist.
4. Purchase Authorization for Street Lights.
5. Energy Efficiency Implementation Agreements- Peninsula Light Company.
6. Rosedale Roadway Improvements Skansie Ave. to Shirley Ave. – Public Works Construction Contract Award and Material Testing Services.
7. Crescent Creek Play Structure Purchase Agreement.
8. 2013 Pavement Maintenance Project – Public Works Construction Contract Award and Material Testing Services.
9. WWTP Ph. 2 Final Design and Permitting – Consultant Services Contracts.
10. Approval of Payment of Bills Jul 8, 2013: Checks #72869 through #72990 in the amount of \$810,136.28.
11. Approval of Payroll for June: Checks #6995 through #7012 and direct deposits in the amount of \$355,819.26

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

OLD BUSINESS: None.

NEW BUSINESS:

1. First Reading of Ordinance – Amendments to Peddlers License. City Clerk Molly Towslee explained that Council adopted a Peddlers License ordinance this spring, and these amendments are to add Solicitors to the licensing procedures. She explained that the City Attorney had reviewed and amended the ordinance.

City Attorney Angela Belbeck clarified that this ordinance does not apply to political campaigning or farmers markets. Councilmembers agreed that this could return on the consent agenda for second reading.

1. Public Hearing and First Reading of Ordinance – Model Homes. Associate Planning Dennis Troy introduced this ordinance that would provide an option for model homes other than the lengthy development agreement process.

Mayor Hunter opened the public hearing at 5:43 p.m. No one came forward and the hearing closed. This will return at the next meeting for second reading on the consent agenda.

2. Public Hearing and First Reading of Ordinance – Downtown Building Size and Height Amendments. Planning Director Jennifer Kester presented an extensive background of four proposed amendments to the downtown building size and height, and waterfront residential codes.

Planning Commission Chair Harris Atkins explained that these amendments are the first step in the process to promote the Harbor Vision adopted by the city. He mentioned that the Planning Commission took this task seriously and spent quite a bit of time coming to these proposed amendments. Chair Atkins thanked staff for their support during the process, especially for helping them to understand the ramifications of any action. He said that they are working towards converting the vision statement to policy recognizing that there are potential elements that may be in conflict. He said that these amendments are an attempt to strike the balance between a successful downtown and maintaining the character of Gig Harbor.

Director Kester addressed Council questions. Mayor Hunter opened the public hearing at 6:15 p.m.

Marilyn Lepape – 10408 Kopachuck Dr. NW. Ms. Lepape said she grew up in Gig Harbor and she would hate to see the wonderful character of the town change. She said to leave the waterfront as is to allow people to walk along and see the water, and also commented that these changes could cause a corridor feeling. She said she likes the variations in the sizes of the buildings and that she thinks we are trying to urbanize Gig Harbor. She said that changing the height requirements on the water side will diminish one of the greatest assets of the harbor, citing the vision plan “to keep a vibrant place with a walkable waterfront with picturesque views in a natural environment.” She said she would hate to see Gig Harbor become something it isn’t.

Ralph Christ – 865 11th Ave. Fox Island. Mr. Christ said that he and his wife own under-developed property in Gig Harbor, and have seen their taxes go up over 100% in the past two years. He asked for clarification on whether building to the existing footprint decreases the property value. Ms. Kester responded that there is no proposed change to the footprint; you could build up to the existing 6,000 square foot limit and up to 27 feet in height with this proposal. She also responded that State guidance decides what homes are historical; usually those over 50 years old, and that it’s up to the homeowners to register the property.

David Pine – 3317 Rosedale Street. Mr. Pine showed Council a photo of the El Pueblito Restaurant which he said is 18 feet high. If they are allowed to increase that another 9 feet, it will block the views from the homes located behind. He said he hopes there will

be exemptions to this rule as property values would be impacted. He said he is against the 27 foot height increase.

Nick Pugh – 3311 Ross Avenue. Mr. Pugh thanked the Council and Mayor for doing an excellent job in the downtown area. He said he and his architect worked through all the criteria to build in the historic district and that they had an expectation that they would be looking at 6/12 roof pitches on the other buildings in that area. He said he understands the proposal for a 27 foot height increase, but is somewhat bitter, and wanted to know if he could increase his height to 27 feet with a flat roof/square building like he had before he stepped up and followed the city guidelines. He would like to see guidelines remain in force and suggested you look at each property individually to prevent impact to the view corridor and to preserve the historic nature of the downtown.

Jeni Woock – 3412 Lewis Street. Ms. Woock thanked Council and the Planning Commission for their hard work on this proposal. She said Gig Harbor is known for its beautiful harbor, walks to the water, and wildlife, adding that the vision statement makes mention of the views. She emphasized that the harbor and its view doesn't belong to any of us, but to all of us, and we are the caretakers for future generations, so it is our responsibility to be good caretakers of the harbor, including the view. She asked how anyone has the right to build two-story buildings on the water-side in front of the view that we have been given to protect. Stressing that tourists visit to enjoy the view of the water, she said that when it's gone, it's gone. Once the precedence has been set, other waterfront commercial buildings will want to do the same. She said she has been told that no one is asking for these changes, so why make them. These rules will affect the picturesque views that are supposed to be important. Precedent has possibility of changing how downtown looks forever. She asked Council to be a hero to our kids by modeling that the beautiful view is more important than two-story buildings, by grandfathering in existing two-story buildings to rebuild in a catastrophe, and by encouraging new businesses to build two-story buildings elsewhere.

Jack Bujacich – 3607 Ross Avenue. Mr. Bujacich explained that he wanted to mostly speak to the residential area from Skansie Park to Hoppen's. He stressed that even a new 10 foot house would block the view if you are walking down the street. He said that the established residential homes consist of older tall buildings; that's what makes Gig Harbor. He named off many "double-story" houses, some over 27 feet, adding that they aren't blocking any more views. He said that there are city parks all along the street, and there is only one vacant lot left to build that he and his brother own; and it's used for a parking lot. What's there is there, and if you want to retain the historic character of Gig Harbor then keep that type of construction on the waterfront...it looks good that way.

Greg Hoeksema – 9105 Peacock Hill Avenue. Mr. Hoeksema asked for clarification on rebuilding to the current footprint. Ms. Kester explained that if you are under the

maximum 6000 square foot limit, you could tear down and rebuild. If you are over the 6000 limit, this proposal would allow you to rebuild to the existing footprint.

Mr. Hoeksema said he decided to move to Gig Harbor after walking down the street in 1985. He explained that he became an activist when changes to the design manual were being considered around ten years ago when the Waterfront Inn was built. He disagreed with what was said about taller buildings not impacting the view due to the steep topography on either the waterside or uphill side of Harborview. He voiced concern that you are proposing something that seems reasonable now, but through the variance process, you could end up with a huge building on a tiny lot like the Waterfront Inn. They were allowed a higher roofline, and then the neighbors on each side were given variances. There now is a significant impact to the view corridor as you are walking along Harborview Drive. He voiced concern that as you raise the heights of the buildings in that area you will impact the view, adding that he is opposed to the lot after lot of two-story buildings that would occur over time.

David Boe – 705 Pacific Avenue, Tacoma. Mr. Boe addressed the historical nature of the residential area, specifically the height of the existing houses. He said that the older homes were designed from the ground up; they have porches that are up two or three steps up from grade and then there's the house. In the past ten years, the measurement is happening from the top down in order to fit the lot, and now houses are being placed two or three feet below the sidewalk. He presented two drawings illustrating a simple craftsman style home that fits the historic character of the neighborhood, but with the first floor below the sidewalk. He explained that this is because Harborview was filled in and banked so that in some areas the water-side is higher than the upland side. He said in order to make the houses look correct you need to measure the height from the highest point on the sidewalk.

Councilmember Kadzik asked for clarification on how he would address a very steep grade. Mr. Boe responded that you would fill in the gap with dirt excavated from the construction. This way the porch would have more of a relationship with the sidewalk which would create a more walkable, historical character of a streetscape.

Councilmember Ekberg asked if the two new houses next to the Bujacich Netshed were built according to this recommendation, then wouldn't that create a much higher elevation. Mr. Boe responded that on that steep of a site, trying to get two levels you would still be working down.

Wade Perrow – 9105 Harborview Drive. Mr. Perrow thanked Council for moving the Vision Statement forward and stressed that it's challenging to try and legislate good taste. He voiced concern that we have a desire to maintain the historic nature through the design manual, but are limited as far as measuring the building height. He cited two

properties: 9113 Harborview Drive which is 7-1/2 feet below the street, and 8715 which is approximately 17 feet below. He explained that these buildings are low because the road has been built up creating an artificial landscape that you are now trying to match. This forces buildings down in a hole so that you are looking at roofs, sewer vents, and skylights. He agreed that the height should be measured from the sidewalk, but added that this is a challenge that needs to be considered in more depth. He then voiced his concern with the commercial area by saying the Vision Statement talks about the downtown going from Vernhardson to the Old Ferry Landing, but only the core downtown is being considered in this proposal. The Finholm District has a preponderance of flat-roofed buildings, and leaving this area out of the discussion is avoiding a big part of the vision, he said. He then asked Council to consider asking the Planning Commission to include the Finholm District.

Councilmember Kadzik asked for a contractor's point of view on how practical it would be to fill the void if you measure height from the sidewalk or the property line as has been proposed. Mr. Perrow responded that it's practical to fill the void, adding that you would still have stair step buildings in order for it to blend. He said that from the sidewalk you would have more of the historic flavor and look. He also said that you would have to rely upon the property owner to do the right thing. As Mr. Bujacich said, two-story buildings are part of the fabric of the area and we need to figure out a way to continue to do that on the water side.

Councilmember Young asked to clarify why the Finholm District was excluded from these recommendations.

Ms. Kester explained that the results of the town-hall survey show that the majority of people identify "the downtown" as the core area. The Planning Commission was asked to look at small changes that would provide flexibility and maintain the scale under the current parameters of the comp plan, adding that they began working on this before the Harbor Vision was adopted. Because the DB Zone had the most intense uses, they decided to focus the process there, acknowledging that it once these changes are adopted it will be necessary to look at the entire stretch along the harbor up to the Finholm District.

Gary Meyers, GKS Building Design - 2009 53rd St. NW. Mr. Meyers asked who to approach to discuss plans for their property located between the Tides Tavern and The Green Turtle Restaurant. He explained that it might be quite some time before the Haub's move forward with the master plan for that area, but they would like to move ahead with their own plans for their property that fits with the Master Plan that has already been reviewed. He was directed to come to the Planning Department with any new plans that they would like to discuss.

Colleen Aker – 3320 Lewis Street. Ms. Aker moved here from Wisconsin a year ago because it's so beautiful, and she said the city has done a good job of preservation of such a gorgeous, wonderful area. She said that people consider the area downtown historic, and if someone purchases commercial property here, they should know there are rules to follow in an historic district and so there shouldn't be any need to make changes for it to be more business friendly. She said one ramification of changing the building height is it could change the character of the area. She added that other people have mentioned that they were told that the Russell Building would allow you to see the water, have open areas, and access all around it. She said that this building doesn't fit in with the character and historic nature of the town. She asked Council to keep this in mind, saying that she hopes we can preserve the beauty that makes Gig Harbor the historic, wonderful community it is.

Mark Hoppen - 8133 Shirley Ave. Mr. Hoppen pointed out that the Russell Building is only 13 feet high and set back from the street, stressing that it could have been 18 feet high and right at the sidewalk. He also explained that there had never been a promise that the building would not block some of the view. He continued by saying that the problem with this proposal is not about the water side. When you look at design review, site layout, connection to the public right of way, and architecture, these proposals seem to handle these concerns in the DB zones, he said. But what may not be handled is the El Pueblito building, because the fourth part of design review is transition between zones. Areas up Pioneer, Tarabochia Lane, and behind El Pueblito need to be thought out better, he stressed. Something helpful that would help everyone understand, he suggested, is a 3-D visual layout that could show the maximal results of this proposal. You then could readily know the flaws.

Jim Franich – 3702 Harborview Drive. Mr. Franich said thoughtful comments have been made that he hopes Council will keep in mind moving forward. He then said that the 27 foot height limit maybe appropriate in certain locations in the DB zone, but it would be more appropriate to break up the zone into sub-areas such as the more intense Judson area, then less intense use up Pioneer; and then the transition zones such as at El Pueblito. He said that the eclectic mix of taller and shorter buildings we currently have is fine, but if everyone builds to 27 feet it wouldn't preserve that uniqueness. He clarified that this proposal isn't limiting the overall building height to 27 feet because on severely sloped parcels you have a potential for buildings substantially taller, which he thinks is a problem. Mr. Franich stressed that not requiring parking while expanding square footage goes against common sense, as buildings need to accommodate their impact. He then addressed the retention of historical street scape and the proposed parkway setbacks which states "the exact number should be reflective of the existing historic homes." He said that he went and measured setbacks in the existing homes in that corridor. He cited the Ivanovich house as an example, saying this house is set back

roughly 18 feet from the sidewalk including the 5'9" porch, and the Ancich house next door is set back another 7 feet back from that. He said he has a problem with moving setbacks closer to the road because it doesn't meet the stated intent to retain the historic character of the neighborhood; and six feet to the road is not the natural characteristic. Addressing North Harborview drive, Mr. Franich said that he can't remember how much fill was brought in, but stressed that no matter what, you would still have houses in a hole without road buildup. People buy lots and should know the conditions and regulations, and so trying to redesign under some new urbanist definition isn't the way to progress, he stated, and finalized by saying past Councils and Administrations have worked to further the goal of maintaining the basin; Council are the gatekeepers of the regulations and should work to maintain the uniqueness we have been fortunate to have for so long.

Jeff Aker – 3320 Lewis Street. Mr. Aker said he agrees with the last two speakers that if you allow 27 foot high building in that zone up to the residential area would be a big mistake, you would be adding 11 feet of height in front of the existing houses. He said if they wanted to live in Uptown, they would have moved there, but we like the character of this downtown area and would hate to see it change.

Mary Andrews – 8915 Franklin Avenue. Ms. Andrews asked if the city would follow up with the Finholm District.

Ms. Kester responded that once the policies for the Harbor Vision have been developed, the Planning Commission will begin to look at regulations to implement the vision that may include what kind of size and height changes would be appropriate for the Finholm District. She said the public comment process will continue, and that she estimates that they may begin to look at the Finholm District in the early-to-mid-2014 timeframe.

Dale Woock – 3412 Lewis Street. Mr. Woock said that that several of the speakers have talked in defense of the downtown, waterside of Harborview. We want to protect this area along with the Finholm waterfront area, he said, and so why are these areas included with the uphill regulations. He said that the view and character up on Judson Street isn't as important, but the downtown water side of Harborview should have a separate zone of protection.

There were no further public comments and the Mayor closed the public hearing at 7:13 p.m.

Ms. Kester responded to Councilmember Malich's hypothetical question regarding what could be built at the Millville Condo site. She also responded to his questions regarding why the Finholm District is included on the map, (relates to residential only), and trees

planted in the view corridor that could block views (amended last year to limit height of vegetation).

Councilmember Perrow asked for clarification on whether these proposals change the side-yard setbacks (no), the view corridor protections in place now (no), and if the Shoreline Master Program allows for another layer of protection (it does).

Ms. Kester was asked to clarify why the Planning Commission didn't incorporate the suggestion to measure height from the sidewalk. She explained that one, they wanted to keep consistency with how commercial property is measured in the same zone; and two, if we measure from the public right of way, public works projects could potentially change someone's property rights.

Councilmember Malich said that he would like to see amendment "D" removed from the ordinance, would like the Waterfront Commercial considered separately from the DB zone, and also would like to amend the borders of the DB zone to run from Rosedale to Soundview Drive. Ms. Kester said that if Council wants to amend or remove sections of the ordinance they could do so.

Ms. Kester addressed the Harbor Landing / El Pueblito site by explaining that city code requires zone transition standards that limit the footprint and height of commercial buildings to mirror surround homes. The project can go to the Design Review Board and through public meetings, the proposal is looked at in 13 different ways in order to mitigate impact to the adjacent residential area. Also, there is a 20' setback in that area abutting the single family residents. Any new building would have to be 20 feet back from the property line, so height would be measured from the parking lot. She said that the views from the first floor of the four adjacent would be blocked, but there is less chance of the 2nd floor view being blocked. When the Planning Commission did a walking tour they identified this as the one area most likely to have view blockage, but they didn't recommend carving it out at this time. She said they realize that zoning changes may be required to address this conflict.

Mayor Hunter agreed this needs to be considered. He announced that this would return for a second reading under old business. Councilmember Kadzik said he would like time to really discuss this in order to digest the information. Ms. Kester suggested that Councilmembers come and meet with her in the next two weeks to address specific questions.

Councilmember Young voiced concern that grandfathering of buildings could create two classes of property owners within the same zone that might raise constitutional concerns. He said that he is concerned with the legal ramifications.

Angela Belbeck responded by saying the law recognized non-conforming uses and structures, and asked if a structure comes down and is rebuilt to same footprint, if it is taking away from anyone. Councilmember Young said that it's one thing if a building is destroyed by natural disaster, or if there is normal maintenance or upkeep, but if the property owner chooses to tear down to raw land, but the adjoining property can't build to the same size or height, it's wrong.

3. Interlocal Agreement - Pierce Transit / Gig Harbor Trolley Demonstration Project. City Administrator Denny Richards explained that at the last meeting Council voted to participate with \$10,000 towards this project. Since that time there has been a commitment from the both the Chamber of Commerce and Uptown Association for \$10,000 each, and the Downtown Alliance for \$5,000. This brings the total to \$35,000, which is \$6,161 short of the total amount being requested. In order for the project to move forward, the city has been asked to sign an Interlocal with Pierce Transit.

Councilmember Young explained that the reason we are short is because of the quick turnaround time and because we haven't been able to get the private contributions we were hoping for. The fare has already been advertised at 25 cents, and because it starts tomorrow, Pierce Transit is committed; so it would be a good gesture for the city to make up the difference. He said that it's not a huge amount of money compared to other things we invest in, and has an economic development purpose. Councilmember Young said that he recognizes we are not obliged, but we should do it from a smart business standpoint to make sure the project works. He also said that he doesn't to go back to the board and have the evaluation be on shaky ground because we didn't get to the 16% fare box recovery.

Councilmember Ekberg voiced concern that the 16% fare box recovery requirement was never discussed. He said he likes the trolley idea; Mayor Wilbert tried for sixteen years to get a town-around bus, but it didn't made economic sense. He said that he thought Pierce Transit was taking on the project and was unaware that the city was going to be contributing anything. Then we were asked to come up with \$10,000; now it's to commit to be responsible for \$41,000 when we didn't have any input into the fare or the route. We are also being asked to make up the difference when there are other ways to do that such as charging \$1 to ride all day, which makes sense and increases revenue. At this late date, he said that he's not willing to contractually commit the city for the full \$41,000, but added that he doesn't have a problem with the \$10,000 contribution. He voiced appreciation for the efforts from the other organizations to go in on this.

Councilmember Young clarified that transit agencies don't have the process to accept private contributions and so the city was always meant to be the agent. The issue is when this first came up, the community investment team comprised of the city, the chamber, other groups, came up with the idea of the reduced fare and fare box recovery

cost. That number has always been in the documents, and the only question was the amount of the city's contribution. That's where the failure came about, and is a symptom of the effort to go to fast to get it done, he said. He apologized but said it's a small amount compared to the potential return, and as far as the city being on the hook for the full amount, he asked if any checks had been received.

City Administrator Richards responded that no contributions had been received.

Councilmember Ekberg said his concern is the city would be responsible to pay the full amount if the others change their minds. He said he is in favor of supporting the downtown, and would have no problem passing a resolution in support of the city's contribution of \$10,000.

Councilmember Young suggested this come back at a later time when we have the checks in hand.

Councilmember Perrow agreed, adding that he heard Uptown said they would *try* and get the \$10,000 from their businesses. He said Pierce Transit is committed, and we are going to try and get additional funding from other businesses in the area, but if we commit \$41,000 or another \$6000 and they don't come through, then its game over. Pierce Transit is late out of the gate and really needs to prove that they can do this, he stressed.

Councilmember Kadzik said he thinks it's a bargain at \$16,000 if the others come through. If Pierce Transit would have come to us in January with a proposal to bring this to town for \$16,000, we would have jumped at it, he said, adding that it would be bad form to take the attitude that Pierce Transit is wrong for asking us for more than our share.

MOTION: Move to table discussion on this until the next meeting.
Ekberg / Malich – unanimously approved.

STAFF REPORT:

PUBLIC COMMENT: None.

MAYOR'S REPORT / COUNCIL COMMENTS:

Councilmember Malich said he had agenda items for the Joint City Council / Parks Commission worksession. Mr. Richards asked him to e-mail them for inclusion.

ANNOUNCEMENT OF OTHER MEETINGS:

1. Joint City Council / Parks Commission Worksession: Mon. Jul 15, 5:30 p.m.
2. Planning / Building Committee: Wed. Jul 17th at 3:30 p.m.
3. Operations Committee: Thu. Jul 18th at 3:00 p.m.

4. Boards and Candidates Review: Mon. Jul 22nd at 4:30 p.m.

Councilmember Ekberg announced that the Operations Committee meeting may be done electronically due to a conflict in scheduling.

ADJOURN:

MOTION: Move to adjourn at 7:45 p.m.
Malich / Perrow – unanimously approved.

CD recorder utilized: Tracks 1002 – 1032

Charles L. Hunter, Mayor

Molly Towslee, City Clerk

C091080-2

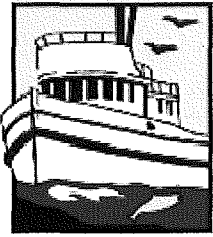
WASHINGTON STATE LIQUOR CONTROL BOARD

DATE: 07/06/2013

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR
(BY ZIP CODE) FOR EXPIRATION DATE OF 20131031

| LICENSEE | BUSINESS NAME AND ADDRESS | LICENSE NUMBER | PRIVILEGES |
|-------------------------|---|----------------|--|
| 1. JW RESTAURANT, LLC | JW RESTAURANT 4107 HARBORVIEW DR GIG HARBOR WA 98332 1080 | 402061 | TAVERN - BEER/WINE TAVERN - BEER/WINE |
| 2. VETO, LLC | DEVOTED KISS CAFE 8809 N HARBORVIEW DR STE 203 GIG HARBOR WA 98332 2189 | 083974 | BEER/WINE REST - BEER/WINE |
| 3. JJ & JU CORPORATION | MIZU JAPANESE STEAKHOUSE 3116 JUDSON ST GIG HARBOR WA 98335 1222 | 085495 | SPIRITS/BR/WN REST LOUNGE + |
| 4. GALAXY THEATRES, LLC | GALAXY UPTOWN 4649 POINT FOSDICK DR NW GIG HARBOR WA 98335 1707 | 402683 | BEER/WINE REST - BEER/WINE |
| 5. SAFEWAY INC. | SAFEWAY STORE #2949 4831 PT FOSDICK RD NW GIG HARBOR WA 98335 1732 | 360178 | SPIRITS RETAILER |

July 1, 2013



COASTAL
HERITAGE
ALLIANCE

P.O. BOX 313
ST. MICHAELS, MD 21663
253-820-7292
www.coastalheritage.org

Ms. Lita Dawn Stanton
Preservation Coordinator
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Dear Ms. Stanton,

Enclosed please find CHA's yearly rent check of one dollar plus a mid-year report on the organization's delivery of program hours per the lease agreement between the City of Gig Harbor and the Coastal Heritage Alliance regarding the Skansie Netshed. Feel free to contact me if you have questions.

Also, I am pleased to report that our organization has been successful in its Washington State HCPF application for 2013/2015 biennium. This \$82,000 grant will assist us in providing minor upgrades to the netshed, the construction of benches and skill stations, historic object re-installation, audio/visual equipment and interpretive signage. As you and I have previously discussed, it remains the hope of CHA that the funds expended by the City to restore the shed and dock underpinning might be used as a cash match towards this grant. Please let me know when you might be available to meet with me to discuss this further. I will contact you in a few weeks to set up an appointment. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Vlahovich', is written over a faint, illegible background.

Mike Vlahovich
Founding Director
Coastal Heritage Alliance

July 1, 2013

MEMO:

To: The City of Gig Harbor

To the attention of Ms. Lita Dawn Stanton

From: The Coastal Heritage Alliance (CHA)

A. Michael Vlahovich

Regards: Skansie Netshed Program Hours Update/Mid-Year Report

The purpose of this memo is to document the program hours provided by CHA at the City owned Skansie Netshed per the lease agreement. From January 1, 2013 through June 30, 2013 the Coastal Heritage Alliance has delivered public programming opportunities at the shed, in the park, on Jerisich Dock and aboard the historic Skansie built seine boat *Commencement*. The formula used to calculate program hours has been the number of hours open to the public X the number of persons that participated in the activity or event. The following is a list of the primary programming activities throughout the past 6 months:

- 1) Netshed open for the viewing of commercial gillnet construction:
16 hours open X 4 participants = 64 program hours logged**
- 2) Historic vessel *Commencement* dockside with interpretive signage:
12 hours X 10 participants = 120 program hours logged**
- 3) Historic vessel *Commencement* open dockside for guided tours, fish boat cooking demo's and free "photos at the helm" during 2013 Gig Fest: 12 hours X 100+ visitors = 1,200 program hours logged.**

4) Maritime kid`s skill games in the park and on the water in front of the netshed during the 2013 Gig Festival: 6 hours X 25 participants = 150 program hours logged.

5) Ethnic dinner and cultural event in the netshed; historic photo display and interpretation, Croatian music, netshed promotion and slideshow: 3 hours x 90 participants = 270 program hours logged.

6) Cultural heritage on-the- water programming aboard the historic Skansie built vessel in Puget Sound: 30 hours X 20 participants = 600 program hours logged.


TOTAL MID-YEAR PROGRAM HOURS DELIVERED = 2,404

(Note: These hours do not include the time invested on behalf of CHA staff and volunteers in the preparing of the above mentioned activities and events; nor does it include the time spent on netshed repairs.)

4129

COASTAL HERITAGE ALLIANCE

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TACOMA NARROWS AIRPORT ADVISORY COMMISSION

MEETING SUMMARY

May 9, 2013

The regular meeting of the Pierce County Tacoma Narrows Airport Advisory Commission (TNAAC) was held on Thursday, May 9, 2013 from 6:30 to 8:30 PM. The meeting was held at Goodman Middle School, Commons, located at 3701 38th Avenue NW, Gig Harbor, WA 98335.

- I. **Chair Roger Gruener called the meeting to order at 6:37 p.m. and welcomed all attendees.**
- II. **Commission members, County staff, and guests introduced themselves.**

TNAAC Voting Members Present:

| | |
|----------------------|---------------|
| Roger Gruener, Chair | Bill Sehmel |
| Hal Cline | Brad Pattison |
| Dennis Cunneen | Bob Felker |
| Beckie Krantz | Terry Lee |

TNAAC Members Absent:

Laura Fox, Brian Durham, Stan Flemming

TNAAC Non-Voting Members Present:

Deb Wallace, Airport and Ferry Administrator
Ken Malich, City of Gig Harbor

Pierce County Staff Present:

Jay Simons, Operations and Maintenance Supervisor
Warren Hendrickson, Aviation and Ferry Planner

Visitors:

| | |
|----------------|------------------|
| Al Abbott | Tom Curran |
| Frank Scoggins | Bonnie Malgarini |
| Tom Leander | |

III. Approval of Prior Meeting Summary

Motion to approve the March 14, 2013 Meeting Summary by: Hal Cline
Seconded by: Dennis Cunneen
Approved unanimously.

IV. Visitors and Petitions

Frank Scoggins: Pilots appreciate the 16/34 runway.

V. Pierce County Staff Reports

• **Deb Wallace**

- a. Budget/Grants – Standing Report:
 - Distributed budget information.
 - The retrofit grant was denied.
- b. Airport Leases
 - New company will be leasing one office. They may use TIW for manufacturing in the future. Deb will introduce the business with the County’s Economic Development Office.
 - PowerPac moved to fire house.
 - Helitrack will lease the entire Building 1620.
- c. Control Tower Closure Update. No new information. Many news stories, but no confirmation of TIW in particular.
- d. Other Items of Interest.
 - Restaurant five-year lease signed, with additional five-year options. Will be the “Hub at Gig Harbor”.
 - Deb thanked Hal for being so proactive in his outreach to fill the restaurant vacancy.

• **Jay Simons**

- a. Operations and Maintenance Report:
 - Perimeter Road - nice byproduct of runway rehabilitation.
 - City of Tacoma marathon, May 5th. Approx. 2,000 people.
 - Hangar doors now repaired.
 - Dead trees on Stone Drive removed, except one with a hornet’s nest.
 - South ramp parking lot – two of the twelve lights worked. Borrowed boom truck from Tacoma. Now 11 of 12 lights work. One additional light still needs to be repaired or replaced.

• **Warren Hendrickson**

- a. TIW Master Plan Update:
 - Draft section complete.
 - Next sections: inventory & forecast.
 - Next steps: next meeting is June 5 (delayed from May 6) to accommodate WHPacific to complete inventory and forecast sections.
 - Media coverage concerning runway extension recently.
 - Alternatives will be discussed later this summer or in the fall.

- Current Conditional Use Permit and Gig Harbor Peninsula Community Plan do not support the extension.
 - The permit goes through the Hearing Examiner.
 - The Airport master plan can stand independent and contradict the Gig Harbor Community Plan and Conditional Use Permit, but unless all three are aligned, future completion of alternative will not occur.
- b. Runway Rehabilitation Project Update:
- Paving in progress.
 - Contractors doing a great job.
 - Electrical conduit added to grass median to support future events.
 - Next step: May 23 - move to Phase 2 – taxi runway.

VI. Commission Reports:

- a. Friends of Tacoma Narrows Airport (FOTNA) meetings ongoing.
- Greater Gig Harbor Foundation is moving forward with assistance from Julie Stansky.
 - Have to build an aircraft viewing area and play station near the airport tower. The public area will be fenced off from the apron for safety and security.
- b. Other Items of Interest: The Peninsula School District and Presidents at Bates and Clover Park Technical College met to discuss marine and aviation skills to create a vocational program for youth. Next steps: getting counselors involved and getting parents involved to consider vocational programs in lieu of college.

VII. New Business

- a. Airport lease fees – public process
- Need a committee to discuss lease rates for 2014 budget. Prefer input by the end of May.
- b. Airport Security
- Recent thefts.
 - Cannot exit to enter ramp after hours unless in a car or know code.
 - Gates G & B are unsecured – no tracking of who comes and goes.
 - Airport gate code is known by too many without the need to know.
 - Sheriff cannot commit to maintain patrols.
 - Seeking recommendations from vendors.
- Airport Security Actions:
- Fix barbed wire, fences, vegetation.
 - Change code in short term.
 - Put card key readers in place longer term.
- c. Airport Energy Efficiency:
- How can we improve to save money?
 - Changes will be made.

- d. County Council EIDC presentation at TIW on June 25. Potential topics:
 - 1) FOTNA
 - 2) Gig Harbor Rotary
 - 3) Ask to have televised
 - 4) Economic benefits of airport.
- e. HGMP 4056 Seismic retrofit grant was denied.
- f. TNAAC terms:
 - Four terms expiring in October 2013.
 - Interpretation of “filling an unexpired term” is not universally agreed to.
- g. Other:
 - Some commercial trucks are accessing south ramp and are not used for aviation-related purposes. This is not appropriate to other tenants and does not comply with FAA grant assurances. Will be investigated.
 - Runway 35 safety area & impact on pedestrian access.

VIII. Confirmation of Action Items

- a) Maps
- b) Pedestrian trail

IX. Meeting Adjourned at 8:43 PM

Motion to Adjourn: Hal Cline
Seconded by: Bill Sehmel
Approved unanimously

NEXT MEETING:

Date: Thursday, July 11, 2013
Time: 6:30 – 8:30 p.m.
Location: Goodman Middle School
Commons Area
3701 38th Ave NW
Gig Harbor, WA 98335



LODGING TAX ADVISORY COMMITTEE MINUTES

DATE: June 27, 2013
TIME: 7:30 am
LOCATION: Gig Harbor Civic Center
SCRIBE: Maria Tobin
MEMBERS PRESENT: Kathy Franklin, Jannaie Mitton, Sue Braaten, Lindsey Munson, Mona Sarrenson, Karen Scott, Tom Drohan, Warren Zimmerman
MEMBERS ABSENT: Mary DesMarais, Councilmember Tim Payne
OTHERS PRESENT: Maria Tobin, Kati Wright

INTRODUCTION

Karen brought the meeting to order at 7:45 am. Karen opened the meeting with discussion regarding the projected 2014 budget. Karen passed out copies of the 2014 DRAFT budget.

Print advertising- Karen asked for the committee's feedback about South Sound Magazine and West Sound H&G. She stated that she thought they should be removed from the budget because it served a demographic too close to home; therefore, would not reach a market that would facilitate overnight stays. Karen felt that it would be in the best interest to reach readers outside of our local area. Kathy agreed. Karen stated 425, Alaska Air and Journey would be highlighting our print ad ops for leisure travelers, Leisure Group Travel, South Sound Wedding Guide, Going on Faith for group travel. Committee agreed.

Jannaie asked if the projected print ad dollars are equivalent to last year. Karen confirmed. Jannaie inquired about a surplus of budget dollars. Karen responded that a surplus would rollover into the next fiscal year.

Sue asked about the funding for the Skansie House completion and Karen explained that the funding came from Parks. Karen then reported that UW architect students would be working in Gig Harbor studying architecture for the summer.

Occupancy Report - Kati inquired about the occupancy reporting again for this summer. It was discussed that this is the responsibility of the Chamber. Karen asked Sue if she found the occupancy report helpful. Sue confirmed, especially July and August. A meeting is scheduled on July 9th with Tracy at the Chamber to go over reporting and possibly bringing the occupancy report back to life.

Computer expenses- Karen informed the group that the marketing department is in need of two new computers, updating our warranty, and a new server sometime next year to support the ever-growing photo library. This is included in the draft budget.

The Garden Tour ad- was discussed and Kathy said she that felt that the event was not drawing in overnight business. Lindsey agreed. Karen will re-visit whether or not to include a garden tour ad in the DRAFT budget.

Video- Jannae asked for clarification on the video production budget. She voiced concerns about remaking a video that had substantial funding toward it just last year. Sue agreed. Karen explained that during the Ad Hoc it was unanimously agreed that the committee wanted to update the video because of its inability to discern Gig Harbor from other tourist destinations. Kati and Mona suggested a steady cam and cinematic captioning to help advertise and cinematic photography. Kati mentioned that she has contact that with some people who work in video production and could possibly come in under budget. Kathy asked for a consensus on remaking the video. Jannae said if it were decided to the remake the video, that it should be a video that will last several years. Karen mentioned that to get another video would not be completed for approximately 1 year from now therefore our current video will be on the table for the time period that was originally identified, 2 years. The next video will focus on appealing to a US Open visitor and have a shelf life of 3 years. The cost could be trimmed back after looking at reasonable RFP's in late winter 2014, before production begins.

Kathy suggested getting the video out to a national level. Karen replied that we need to do some research to get it out to a national level. It was suggested that the new video should include some proximity to the Chambers Bay for the US Open 2015. It was agreed that the video production should go out for bid and that there should be a designated video subcommittee.

Karen will look into additional broadcasting ops for 2014 Budget.

US Open 2015- Karen remarked that she is hoping to have a meeting with Marco Malich about sprucing up Gig Harbor in terms of cleaning up signs for the US Open 2015. Karen will schedule a meeting about our involvement in the US Open. Kathy suggested that the focus for Gig Harbor in this US Open was to sell Gig Harbor because vacancies are already at a minimum for the event. The focus should be for repeat business.

Seattle Boat show-Karen shared that the Councilmember Jill Guernsey is very excited have a booth and membership with the National Marine Trade Association and the 10-day boat show and wants to put together a meeting on July 24 for anyone working on promoting the boat show. Everyone welcome to this interest meeting. 3pm, Civic Center.

Next meeting announced for 12 September 2013 at 7:30 am. Meeting Adjourned at 8:45am.

Respectfully submitted,

Maria Tobin
Marketing Assistant

PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, thirty years ago ,the National Association of Town Watch designated the First Tuesday of the month of August to be recognized nationwide as “National Night Out”; and

WHEREAS, “National Night Out” provides a unique opportunity for the CITY OF GIG HARBOR to join forces with thousands of other communities across the country in promoting cooperative, police-community crime prevention efforts; and

WHEREAS, the Jaycox-Gig Harbor Police Benevolent Fund, the City of Gig Harbor Employees Guild and the local Gig Harbor business community have played a vital role in assisting the GIG HARBOR POLICE DEPARTMENT through joint crime, drug and violence prevention efforts in the CITY OF GIG HARBOR in supporting “National Night Out 2013” locally; and

WHEREAS, it is essential that all citizens of the CITY OF GIG HARBOR be aware of the importance of crime prevention and the impact that their participation can have on reducing crime, drugs and violence in the CITY OF GIG HARBOR; and

WHEREAS, police-community partnerships, neighborhood safety, awareness and cooperation are important themes of the “National Night Out 2013” event;

NOW, THEREFORE, I, Charles Hunter, Mayor of the City of Gig Harbor, do proclaim Tuesday, August 6, 2013, as

National Night Out 2013

Throughout the city, and encourage all citizens of Gig Harbor to join forces in this cooperative effort to not only make Gig Harbor a safer community, but a “Safe Harbor” to enjoy and raise our families. In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Gig Harbor to be affixed this 22nd day of July.

Mayor, City of Gig Harbor

Date

PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

WHEREAS, National polling suggests that 19% of Americans do not exercise at all, another 16 percent exercise only once a week. That is 35% percent of Americans not getting enough exercise, about the national average of obesity; and

WHEREAS, 27% of Americans exercise less than 30 minutes at a time and 29% of Americans workout 2-3 times a week for a total of 60-90 minutes; and

WHEREAS, Based on Guidelines by the Department of Health and Human Services, The American College of Sports Medicine and U.S. Centers for Disease Control and Prevention if you are of moderate health you should exercise at least 30 minutes a day and if in less than moderate health up to 60 minutes a day. If you need to lose weight you should exercise 90 minutes daily; and

WHEREAS, the promotion of the benefits of physical activity and good nutrition in homes, schools and communities is essential for the good health and development of everyone; and

WHEREAS, the health and fitness professionals of our community are capable of designing a fitness regimen for all types of people, young and old; and

WHEREAS, by empowering everyone in our community to take active roles, they will be better able to make informed and individualized decisions to increase their overall health and live longer more satisfying lives;

NOW, THEREFORE, BE IT RESOLVED, that the City of Gig Harbor does hereby proclaim the 11th Day of August 2013, as

“Fitness Awareness Day”

and urges all community-based organizations, religious communities, civic groups, elected officials and government agencies to utilize this day to raise awareness of healthy living lifestyles for everyone in our community.

Mayor, City of Gig Harbor

Date



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

| | |
|---|---|
| <p>Subject: APPOINTMENT TO DESIGN REVIEW BOARD</p> <p>Proposed Council Action: A motion for the appointment of Brett Desantis to serve the remainder of a four-year term on the Design Review Board, ending July, 2015.</p> | <p>Dept. Origin: Administration</p> <p>Prepared by: Boards / Commission Candidate Review</p> <p>For Agenda of: July 22, 2013</p> <p>Exhibit: Design Review Board Category List</p> <p style="text-align: right;">Initial & Date</p> <p>Concurred by Mayor: <u>CLH 7/16/13</u></p> <p>Approved by City Administrator: <u>R 7/17/13</u></p> <p>Approved as to form by City Atty: <u>N/A</u></p> <p>Approved by Finance Director: <u>N/A</u></p> <p>Approved by Department Head: <u>N/A</u></p> |
|---|---|

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

INFORMATION/BACKGROUND

In February, Warren Balfany resigned as one of the Historic Preservation (CLG) members of the Design Review Board. Since that time we have advertised several times for someone to fill that position. Ms. Brett Desantis has shown great interest in serving on the DRB, and is the only applicant to submit her qualifications. Peter Norman has graciously agreed to move into the CLG position, opening a lay position on the board.

Ms. Desantis currently serves on the Building Code Advisory Board which meets infrequently. This will not interfere with her service on the DRB.

FISCAL CONSIDERATION

BOARD OR COMMITTEE RECOMMENDATION

DRB Chair Darrin Filand supports the appointment of Ms. Desantis to the vacant position. Councilmembers Kadzik, Ekberg and Malich concur with the appointment of Ms. Desantis.

RECOMMENDATION/MOTION

Move to approve the appointment of Brett Desantis to serve the remainder of a four-year term on the Design Review Board, ending July, 2015.

Gig Harbor Design Review Board Membership

The City of Gig Harbor Design Review Board has been reviewing applications since 1996 when the City adopted design review regulations. The DRB was significantly revised in 2005 to include two additional members. Minimum standards for members were also adopted at that time. These changes were made so that the DRB could additionally act as the City's local historic review board. There are six categories that members may fall into including;

1. A licensed architect or professional building designer with demonstrated experience in urban or historic building design. (At least one member shall be selected from this category);
2. A city resident with demonstrated interest and knowledge of urban design (no more than one member shall be selected from this category);
3. A member from the Gig Harbor planning commission. (No more than one member shall be selected from this category);
4. A member with a professional background relating to urban design, (e.g., a professional artist, civil engineer, planner, building contractor or professional designer) as determined by the city council;
5. A member with demonstrated interest and knowledge of landscaping, horticulture, arboriculture or forestry;
6. An individual with a background in identifying, evaluating and protecting historic resources, selected from among the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation or landscape architecture, or related disciplines. (At least two members should be selected from this category) Members in this categories may participate in all applications reviewed by the DRB pursuant to Chapter 17.99 GHMC (Design Manual), but shall participate in applications received pursuant to Chapter 17.97 GHMC (Historic Preservation).

The code requires that members come from at least four of the six categories above. The board is currently comprised of the following members:

Ray Gilmore, Category 6 (historic preservation advocate - CLG)

Brett Desantis, Category 2 (lay member)

Joy Peterson, Category 4 (community design)

David Fisher, Category 1 (professional member - architect)

Peter Norman, Category 6 (historic preservation advocate —CLG)

Darrin Filand, Chair Category 1 (professional member—architect)

Rick Gagliano, Vice-Chair Category 3 (Planning Commission member)



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

| | |
|--|---|
| <p>Subject: Amendments to Peddler's License Ordinance to Include Non-Profits</p> <p>Proposed Council Action:</p> <p>Adopt Ordinance at Second Reading.</p> | <p>Dept. Origin: Administration</p> <p>Prepared by: Molly Towslee, City Clerk <i>mt</i></p> <p>For Agenda of: July 22, 2013</p> <p>Exhibit: Draft Ordinance</p> <p style="text-align: right;">Initial & Date</p> <p>Concurred by Mayor: <i>CLH 7/9/13</i></p> <p>Approved by City Administrator: <i>R 7/9/13</i></p> <p>Approved as to form by City Atty: _____</p> <p>Approved by Finance Director: _____</p> <p>Approved by Department Head: _____</p> |
|--|---|

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

INFORMATION/BACKGROUND

On January 28, 2013 City Council adopted a peddler license ordinance to ensure that more transient sales are licensed, hours regulated, and a cursory background check would be performed. Since that time, it has been determined that it would be beneficial to also require non-profit solicitors to also submit to the licensing requirements.

Regulations were gathered from other jurisdictions to review and to develop a process that best fits with the city's goals and needs. The attached ordinance implements practices from several of these jurisdictions.

The ordinance was reviewed and amended by Angela Belbeck and Bio Park at Ogden Murphy Wallace, and comments obtained from our insurance carrier, AWCRMSA.

FISCAL CONSIDERATION

We propose that the same \$50 fee be charged for non-profits as commercial business to cover administrative costs to process the paperwork and to issue the ID Badges.

BOARD OR COMMITTEE RECOMMENDATION None.

RECOMMENDATION/MOTION: Adopt the ordinance at second reading.

ORDINANCE NO. 1265

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, AMENDING CHAPTER 5.21 GHMC RELATING TO PEDDLERS AND SOLICITORS TO REDEFINE ACTIVITIES THAT REQUIRE A LICENSE AND TO CHANGE EXEMPTIONS TO LICENSING REQUIREMENTS, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Gig Harbor desires to better develop its guidelines for the regulation and licensing of peddlers and solicitors; and

WHEREAS, it is necessary to establish and clarify these guidelines for the purpose of insuring consistency, adherence to municipal regulations, and efficiency; and

WHEREAS, the City Council desires to amend Chapter 5.21 GHMC relating to licensing of peddlers to include persons who solicit door to door and place to place; now, therefore,

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

Section 1. Chapter 5.21 of the Gig Harbor Municipal Code is hereby amended to read as follows:

Chapter 5.21
PEDDLERS AND SOLICITORS

Sections:

- 5.21.010 Peddler/Solicitor defined.
- 5.21.020 License required – Exceptions.
- 5.21.030 Application – Fee – Issuance of License.
- 5.21.040 Restrictions on place and time of peddling.
- 5.21.050 Penalty.
- 5.21.060 Suspension or revocation procedure.

5.21.010 Peddler/Solicitor defined.

“Peddler/Solicitor” for the purpose of this chapter shall be construed to include:

A. All persons, both principals and agents, who, without prior invitation from the occupant, go from place to place, or house to house, carrying for sale, exposing for sale, or offering for sale goods, wares, merchandise, or services of any type, for present or future delivery.

B. All persons, both principals and agents, seeking to obtain gifts, donations or contributions of money, clothing, or other valuable thing.

C. All persons, both principals and agents, engaging in activity for which registration is required under Chapter 19.09 RCW, Charitable Solicitations (whether registered with the secretary of state or not).

“Peddle/Solicit” means to engage in such actions. Peddling/Soliciting does not include place to place religious or political activity, advocacy, promotion, or distribution of such materials.

5.21.020 License required – Exceptions.

A. It is unlawful for any person, both principals and agents, to engage in business as a peddler/solicitor in the city without first obtaining a city of Gig Harbor peddler/solicitor license for each person peddler to peddle any goods, wares, merchandise or services without first obtaining a peddler’s license as provided for in this chapter.

B. Exceptions. No person shall be required to take out a license or pay a fee:

1. For the peddling of local newspapers;
2. For the peddling of fruits, vegetables, berries, butter, eggs, fish, milk, poultry, meats, or any farm produce or edibles raised, caught, produced or manufactured by such person;
3. When that person, after having been specifically requested by another to do so, calls upon that other person for the purpose of displaying goods or literature about any article, thing, or product; or
4. When that person is acting in his or her capacity as a member of a charitable organization under Chapter 19.09 RCW (whether registered with the secretary of state or not), political organization, religious or nonprofit organization or corporation which has received tax exempt status under 26 USC Section 501(c)(3) or other similar civic, charitable, political, or nonprofit organizations federal, state or local governmental agency or entity.

5.21.030 Application – Fee – Issuance of license.

A. Every peddler/solicitor, other than those exempt under this chapter, whether principal or agent, shall before commencing business in the city make application in writing on a form to be provided by the city of Gig Harbor licensing officer. The application shall include applicant shall complete an authorization form allowing release of all criminal history record information to the Gig Harbor police department. The applicant shall provide a copy of a valid driver’s license or picture ID for identification purposes.

B. At the time of filing the application, a nonrefundable fee in the amount of \$50.00 shall be paid to the city to cover the costs of investigation and processing the application. The permit is valid for a period of 90 days from the date of issuance.

C. The licensing officer shall refer the application to the police department, who shall make a criminal history background investigation of the applicant. Upon completion, the police department shall forward the results of the investigation to the licensing officer.

D. If, as a result of the investigation, the applicant is not found to have committed any of the acts requiring denial as listed below, the permit center shall issue the license to the applicant. The city shall deny the applicant the license if the applicant has:

1. Committed any act consisting of fraud or misrepresentation;
2. Committed any act which, if committed by a licensee, would be grounds for suspension or revocation of a license;
3. Within the previous 10 years, been convicted of a misdemeanor or felony directly relating to his or her fitness to engage in the occupation of peddler/solicitor, and including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;
4. Been charged with a misdemeanor or felony of the type defined in subsection (D)(3) of this section, and disposition of that charge is still pending;
5. Been refused a license under the provisions of this chapter; provided, however, that any applicant denied a license under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; and
6. Made any false or misleading statements in the application.

E. All peddlers/solicitors shall conspicuously display on their outer clothing their peddler/solicitor's license/identification when engaged in peddling activities.

F. The city is authorized to promulgate rules regarding the manner and method of payment, including a prohibition or regulation of payment by check.

G. The peddler/solicitor's license shall be endorsed with a statement of the type of product or service sold by the licensee. The license is valid only for the product or service specified.

5.21.040 Restrictions on place and time of peddling.

A. No peddler/solicitor shall engage or attempt to engage in the business of peddling/soliciting at any home, residence, apartment complex or business that prominently displays a "No Peddlers" or "No Solicitors" sign or "No Trespassing" sign or any other similar sign that communicates the occupants' desire to not be contacted by peddlers/solicitors.

B. No peddler/solicitor shall engage in the business of peddling except between the hours of 9:00 a.m. and 8:00 p.m.

C. No peddler/solicitor shall make any untrue, deceptive, or misleading statements about the product or services offered for sale.

D. No peddler/solicitor shall make any untrue, deceptive, or misleading statement regarding the purposes of his/her contact with a potential customer.

5.21.050 Penalty.

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor.

5.21.060 Suspension or revocation procedure.

In addition to the other penalties provided herein or by law, any peddler/solicitor's license issued under the provisions of this chapter may be revoked or suspended if the licensee or any of its employees, officers, agents or servants, while acting within the scope of their employment, violates or fails to comply with any of the provisions of this chapter or commits any of the conditions listed in GHMC 5.01.130(A). The city may revoke or suspend any peddler/solicitor's license issued under the provisions of this chapter by utilizing the procedures set forth in GHMC 5.01.130.

Section 2 - Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 3 - Effective Date. This ordinance shall take effect and shall be in full force and effect five (5) days after its passage, approval and publication as required by law.

PASSED by the Council of the City of Gig Harbor, this 22nd day of July, 2013.

APPROVED:

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY TOWSLEE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

FILED WITH THE CITY CLERK: 07/01/13
PASSED BY THE CITY COUNCIL: 07/22/13
PUBLISHED: 07/24/13
EFFECTIVE DATE: 07/29/13
ORDINANCE NO. 1265



Subject: Second Reading of Ordinance
– Model Homes

Proposed Council Action:

Adopt ordinance

Dept. Origin: Planning Department

Prepared by: Dennis Troy *Dut*
Associate Planner

For Agenda of: July 22, 2013

Exhibits: Ordinance

Initial & Date

Concurred by Mayor: *CLH 7/9/13*
Approved by City Administrator: *R 7/9/13*
Approved as to form by City Atty: *FULLER 6/25/2013*
Approved by Finance Director: *N/A*
Approved by Department Head: *JK 7/9/13*

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

INFORMATION / BACKGROUND

Model homes can be best described as “homes that demonstrate a variety of housing designs together with all associated on-site improvements” (i.e., landscaping, improved driveways, patios, etc.). The best examples of model homes within the City of Gig Harbor are located in “The Ridge” development of Gig Harbor North.

The City of Gig Harbor currently does not have an administrative process to address “Model Homes”. As the City continues to grow and more preliminary and final plats are approved there is an increasing need to address this item. There are currently more than twenty preliminary plats that are approved and several more coming aboard in the near future, many of which may request model homes on a site.

Model homes are currently addressed through development agreements between the City and private property owners prior to preliminary plat approval. These development agreements take hours to draft (usually by attorneys) and are costly to both parties involved. In addition to the cost and time, development agreements allowing model homes are limited by the GHMC 19.08 to the PCD, DB and WC zoning districts.

The goal in creating the Model Homes Ordinance is to: 1) Eliminate time and costly fees associated with drafting and adopting Development Agreements; 2) Provide an approach for approval of model homes concurrently with the approval of preliminary plats; and 3) Provide an option for approved plats to have a process to build model homes on site post preliminary plat approval.

BOARD OR COMMITTEE RECOMMENDATION

Planning and Building Committee of the City Council discussed the issue at their May 6th meeting where it was agreed upon that the route of direct consideration was an appropriate approach for the model homes ordinance. The Planning Commission had no objection to the direct consideration process

RECOMMENDATION / MOTION

Adopt ordinance.

ORDINANCE NO. 1266

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING; ADOPTING REGULATIONS ALLOWING FOR MODEL HOMES ON EXISTING AND PROPOSED PRELIMINARY PLATS PRIOR TO FINAL PLAT APPROVAL; PROVIDING LIMITED EXTENSIONS OF PLAT APPROVALS CONSISTENT WITH STATE LAW; ADDING NEW SECTIONS 16.01.045 and 16.05.007 AND AMENDING SECTIONS 16.06.003 and 16.06.006 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, model homes are homes that demonstrate a variety of housing designs together with all associated on-site improvements; and

WHEREAS, the City of Gig Harbor currently addresses allowance of model homes through development agreements prior to preliminary plat approval; and

WHEREAS, the Gig Harbor municipal code, through development agreements, limits these model homes to the PCD, DB and WC zoning districts; and

WHEREAS, the drafting of development agreements for model homes are costly to the applicant and time consuming for staff; and

WHEREAS, The City of Gig Harbor does not have an administrative process for existing and proposed preliminary plat applicants to incorporate model homes into their projects without the use of development agreements; and

WHEREAS, the City currently has 20-plus approved and in-process preliminary plats; and

WHEREAS, City staff met with the Planning and Building Committee of the City Council on May 6, 2013 to discuss incorporating model homes into the Gig Harbor Municipal Code; and

WHEREAS, the Planning and Building Committee of the City Council directed staff to draft an ordinance and zoning code amendment addressing model homes and present to City Council for direct consideration; and

WHEREAS, under Chapter 16, Laws of 2013, the Washington State Legislature provided for limited extensions 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 new requirements; and

WHEREAS, the proposed amendments were forwarded to the Washington State Department of Commerce on June 10, 2013, pursuant to RCW 36.70A.106; and

WHEREAS, the Gig Harbor SEPA Responsible Official issued a Determination of Nonsignificance for this interim ordinance on June 26th, 2013; and

WHEREAS, the Gig Harbor City Council considered the ordinance at first reading and public hearing on July 8, 2013; and

WHEREAS, on July 22, 2013, the City Council held a second reading during a regular City Council meeting; Now, therefore,

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

Section 1. Section 16.01 in the Definitions chapter of the Gig Harbor Municipal Code is hereby established, to read as follows:

16.01.045 Model Homes.

“Model Homes” are constructed homes that demonstrate a variety of housing designs together with all required on-site improvements (i.e., landscaping, improved driveways, patios, sewer and water infrastructure, etc). Model homes that provide for an office use, i.e., sales facility, shall meet the requirements of office/commercial use in the building plans.

Section 2. Section 16.05.007 in the Preliminary Plats chapter of the Gig Harbor Municipal Code is hereby established, to read as follows:

16.05.007 Model Homes

A. Eligibility. Any applicant who has received preliminary plat approval may apply for building permits for model homes, up to the number authorized under GHMC 16.05.007(C). Prior to the issuance of model home permit(s), the applicant must demonstrate that the following criteria are met:

1. The applicant has submitted and received all required permits and approvals required of the preliminary plat approval; and
2. All required retention and detention facilities necessary for the areas of the subdivision serving the model homes are in place and functional, and in accordance with the Civil Permit approved by the City of Gig Harbor; and
3. All critical areas upon or immediately adjacent to the areas of the subdivision serving the model home(s) have been protected or mitigated, in accordance with adopted critical areas regulations and preliminary plat approval; and

4. The model home(s) shall meet the access and fire protection requirements of Title 15 GHMC; and

5. All areas of the subdivision serving the model home(s) have installed frontage improvements including, but not limited to curb, gutter and sidewalk, street illumination, and landscaping as required by the preliminary plat approval or this code; and

6. All proposed streets serving the model homes shall be adequately marked with street signs conforming to the current MUTCD standards; and

7. Water and sewer conveyance systems are installed to each lot proposed for model homes, in accordance with the approved Civil Permit; and

8. Lot property corners of all lots proposed to be used for the model home complex have been set by a licensed, professional land surveyor in accordance with the preliminary plat lot configuration; and

9. All impact fees for model homes shall be paid prior to issuance of a building permit for the model homes; and

10. Fire protection features including access, hydrants, and fire flow must be provided in accordance with GHMC Title 15 and the approved civil plans prior to any combustible construction on any lot within the development. Such fire protection may be installed in a phased manner provided that they are in place and approved as prescribed by code for each individual parcel within the plat prior to issuance of a building permit for said parcel; and

11. Any model home utilized as an office space shall meet all applicable requirements for such use as provided for in Title 15 GHMC.

B. Application Process. In addition to the application requirements for a building permit, the following additional information for a model home shall be included:

1. The applicant shall have written authorization from the property owner permitting the model home(s) if the applicant is other than the owner of the approved preliminary plat; and

2. Title report current within the last thirty days; and

3. Name of approved preliminary plat as well as the proposed name of the final plat (if different); and

4. Date of preliminary plat approval; and

5. Date of preliminary plat expiration; and

6. Copy of Hearing Examiner decision approving the preliminary plat; and

7. Overall site plan showing the preliminary plat, including phases (if applicable) and the location of all proposed model homes; and

8. Individual site plan showing the location of the model home(s) in relation to the property lines and setbacks consistent with the preliminary plat approval; and

9. A statement from the applicant in which the applicant acknowledges that construction of any model home is at applicant's own risk and agrees to indemnify and hold harmless the City, its elected and appointed officials, employees, agents, and representatives from any and all claims related to the model homes, including but not limited to any costs of removal of such buildings and portions not in compliance with the final plat approval.

C. Number of Model Homes per plat. The number of allowed model homes varies per plat. Approved preliminary plats are allowed to have model homes as follows:

1. Plats with 5-19 lots may have one model home;
2. Plats with 20-50 lots may have up to 10% of the lots be model homes;
3. Plats with 51-99 lots may have no more than five model homes;
4. Plats with more than 100 lots may have up to 10% of the lots for model homes;
5. Percentages of model homes shall not be rounded up; and
6. In plats where there are multiple builders, no builder shall occupy all model home sites.

E. Certificate of Occupancy. Certificate of Occupancy shall not be granted for any of the model homes until the final plat has been recorded. However, the applicant may request final inspection and temporary occupancy for model homes prior to final plat recording, provided:

1. The owner and homebuilder have complied with applicable state law with regard to any agreements to transfer, sell or lease property within the preliminary plat prior to final plat recording; and
2. All Building and Fire Safety requirements have been met to the satisfaction of the City's Building Official and Fire Marshal; and
3. Driveway approaches for each model home requesting occupancy have been installed; and
4. Repairs to the roadway improvements have been completed as necessary due to damage as a result of model home construction; and
5. Miscellaneous utility work as necessary to minimize potential for damage to vehicles or tripping hazards has been completed; and
6. Miscellaneous work to provide access for maintenance or operation of underground utilities has been completed; and
7. No model home shall be occupied for residential use prior to recording of the final plat. No model home shall be sold, leased, rented or otherwise transferred in ownership until the final plat is recorded, unless the property interest is transferred in conjunction with a transfer in interest of the plat as a whole; and
8. The hours of operation for the model home(s) can only be between the hours of 6:00am to 9:00pm; and
9. The City's Building/Fire Safety Department and Public Works Department have verified all water (where served by City of Gig Harbor Water Department) and sewer connections are connected and installed in accordance with the approved Civil Permit.

Section 3. Section 16.06.003 in the Final Plats chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.06.003 Time frame for submission of final plat.¹

A. For preliminary plats approved on or after January 1, 2008 and through December 31, 2014. A final plat meeting all requirements of Chapter 58.17 RCW

and this title shall be submitted to the city for approval within seven years of the date of preliminary plat approval.

B. For preliminary plats approved on or after January 1, 2015. A final plat meeting all requirements of Chapter 58.17 RCW and this title shall be submitted to the city for approval within five years of the date of preliminary plat approval.

C. For preliminary plats approved on or before December 31, 2007. A final plat meeting all requirements of Chapter 58.17 RCW and this title shall be submitted to the city for approval within ten years of the date of preliminary plat approval, unless the plat is subject to the requirements adopted under Chapter 90.58 RCW. For plats subject to Chapter 90.58 RCW, subsection A of this section applies.

D. Extensions. An 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:

1. 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

2. 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.

Section 4. Section 16.06.006 in the Final Plats chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

16.06.006 Effect of final plat approval.²

A. For final plats filed for record with the county auditor on or after January 1, 2008 and through December 31, 2014. 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 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 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.

B. For final plats filed for record with the county auditor on or after January 1, 2015. 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 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 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.

C. For final plats filed for record with the county auditor on or before December 31, 2007 and not subject to Chapter 90.58 RCW. 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 ~~nine~~ ten 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 nine 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.

D. For final plats subject to Chapter 90.58 RCW and filed for record on or before December 31, 2007, subsection A of this section applies.

Section 5. The code reviser is hereby directed to update the footnotes for GHMC 16.06.003 and 16.06.006 for consistency with ordinance.

Section 6. Retroactive Application. The provisions of Sections 5 and 7 amending GHMC 16.06.003 and 16.06.006 shall be effective retroactively to July 28, 2013.

Section 7. 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 8. 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 22nd day of July, 2013.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

FILED WITH THE CITY CLERK: 07/03/13
PASSED BY THE CITY COUNCIL: 07/22/13
PUBLISHED: 07/24/13
EFFECTIVE DATE: 07/29/13
ORDINANCE NO. 1266



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

Subject:
Digital Orthophotography Partner Agreement - Interagency Agreement with Pierce County for 2013-2015

Proposed Council Action:
Approve and authorize the Mayor to execute a three year Interagency Agreement with Pierce County

Dept. Origin: Public Works/Engineering

Prepared by: Willy Hendrickson,
Engineering Technician

For Agenda of: July 22, 2013

Exhibits: Digital Orthophotography Partner Agreement #90620 (2 Copies)

| | |
|------------------------------------|-------------------|
| | Initial & Date |
| Concurred by Mayor: | <u>CH 7/15/13</u> |
| Approved by City Administrator: | <u>R 7/15/13</u> |
| Approved as to form by City Atty: | Via email |
| Approved by Finance Director: | <u>SP 7/15/13</u> |
| Approved by Public Works Director: | <u>JK 7/15/13</u> |
| Approved by City Engineer: | <u>VIA EMAIL</u> |

| | | | | | |
|-----------------------------|------------------|------------------------|-------------------|-------------------------------|-----|
| Expenditure Required | \$4,163 annually | Amount Budgeted | \$ 4,163 annually | Appropriation Required | \$0 |
|-----------------------------|------------------|------------------------|-------------------|-------------------------------|-----|

INFORMATION/BACKGROUND

This three year interagency agreement with Pierce County provides for the continuation and update of the aerial photography of the City and its UGA limits that the City utilizes on a daily basis.

FISCAL CONSIDERATIONS

Sufficient funds exist within the City's general fund and enterprise operating funds to fund this expenditure.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION/MOTION

Approve and authorize the Mayor to execute a three year Interagency Agreement with Pierce County

DIGITAL ORTHOPHOTOGRAPHY PARTNER AGREEMENT

Agreement # 90620
between
Pierce County
and
City of Gig Harbor

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

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

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

NOW, THEREFORE, the **Partner** and **County** agree to the following responsibilities and terms of the Digital Orthophotography Subscription agreement effective this _____ day of _____, 20__.

It is agreed by the parties:

Product

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

4. Orthophotography Subscription program provides to the **Partner**:
 - 4.1. Orthophoto coverage area defined by: **CITY URBAN GROWTH AREA**
 - 4.2. Orthophotography for the year(s): **prior to and including 2015.**
 - 4.3. Other related data sets: contours, lidar terrain model, OrthoViewer System for **Partners** with on-line access and full countywide ortho subscription
5. The **County** Orthophotography Subscription program includes an update in 2011 to the 2008 orthophoto dataset. Updates to the orthophotography database will be as frequently as every three years and no less than every four years. The frequency of the update is determined by the County following consideration of Partner concerns, budget issues and any other pertinent factors that may affect the quality or cost of the orthophoto database.
6. Other **County** products, services or data sets are not a part of this agreement.

Product Use

7. **Partner** will have rights to use the orthophotography for viewing, mapping, analysis and use in a GIS system.
8. The **County** licenses the orthophotos from the orthophoto vendor. Access by the **Partner** to the digital orthophotos and associated data is subject to and governed by this agreement, including the following licensing terms:
 - 8.1. The **Partner** shall use the orthophoto data for internal business purposes only.
 - 8.2. The **Partner** may make hardcopy maps of orthophotos (and with other data overlays) for internal or public distribution.
 - 8.3. The **Partner** may copy portions of the orthophoto database to other internal company servers for use with Autocad or other mapping software.
 - 8.4. The **Partner** can request the **County** to may make a copy of the orthophotos and provide this data to consultants or engineers who are performing work under contract for a specific **Partner** project. Consultants or contractors must adhere to the terms in agreement (restricted distribution) and pay the \$80/hr to copy the dataset onto CD or DVD.
 - 8.5. The **Partner** may not post the orthophotos to any web site.
9. The **Partner** may not distribute or permit the distribution of the orthophoto database/files in any digital format to other agencies, the public or third parties. Violation of this restriction will result in a) the **Partner** returning the orthophotography to the **County**

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

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

Product Fees and Term

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

Yearly licensing fee for CITY URBAN GROWTH AREA only:

Annual maintenance fee in 2013, 2014, 2015: \$4,163 per year

Yearly licensing fees for COUNTY dataset:

Annual maintenance fee in 2013, 2014, 2015: \$1,000 per user per year up to a maximum of \$ 7,500 per year.

15. After the initial contract term (2013-2015), the fees will be adjusted based on the number of Partners and the cost of the products provided in the program. The **County** will notify **Partners** of changes to the subscription fees.
16. Non-Appropriations (applies to Governmental Agencies only)
 - 16.1. **Partner** intends to continue this Agreement for its entire term and to satisfy its obligations hereunder. For each fiscal period during the term of this Agreement: 1) **Partner** agrees to include in its budget request appropriations sufficient to cover **Partner's** obligations under this Agreement and 2) **Partner** agrees to use all reasonable and lawful means to secure these appropriations.

- 16.2 In the event that **Partner** is appropriated insufficient funds, by appropriation, appropriation limitation or grant, to continue payments under this Agreement and has no other funding source lawfully available to it for such purpose, **Partner** may terminate this Agreement by giving **County** at least two weeks' written notice to terminate as of December 31st of the then current calendar year. Upon termination and to the extent of lawfully available funds, **Partner** shall remit all amounts due through the date of termination.
17. The **Partner** may unsubscribe to the **County** Orthophotography Program by giving **County** at least two weeks' written notice to terminate as of December 31st of the then current calendar year. Fees are not refundable.
18. In the event the **Partner** chooses to unsubscribe to the orthophotography program, the **Partner** will return the orthophotography to the **County** and discontinue use of the data.
19. The contract period shall be from January 1, 2013 to December 31, 2015.

Limitations

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

Spatial Accuracy

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

No County Liability

22. **County** shall not be liable to the **Partner** (or transferees or vendees of **Partner**) or others for damages of any kind, including lost profits, lost savings or any other incidental or consequential damages relating to the providing of the orthophotography or the use of it. The **Partner** and any others shall have no remedy at law or equity against the **County** in case the orthophotography provided is inaccurate, incomplete or otherwise defective in any way.

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

CITY OF GIG HARBOR:

Name Date

(Signature) Date

Title of Signatory

Contact Name Date

Mailing Address:

Street Address, if different:

Contact Phone:

Contact Email:

Contact FAX:

PIERCE COUNTY:

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

Recommended:

By _____
Budget and Finance Date

Approved:

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

or

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



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

Subject: Agreement for Attorney Services –
Water Rights Assistance with Tom Mortimer

Proposed Council Action: Authorize the Mayor to execute an Agreement for Attorney Services with the Law Office of T.D. Mortimer in an amount not to exceed \$20,000 for legal assistance related to water rights for the City.

Dept. Origin: Public Works

Prepared by: Jeff Langhelm, PE *AL*

For Agenda of: July 22, 2013

Exhibits: Agreement for Attorney Services and Scope

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 7/16/13
R 7/16/13
VIA EMAIL 7/15/13
DR for DR
AL 7/15/13

| | | | | | |
|-----------------------------|----------|------------------------|----------|-------------------------------|-----|
| Expenditure Required | \$20,000 | Amount Budgeted | \$30,000 | Appropriation Required | \$0 |
|-----------------------------|----------|------------------------|----------|-------------------------------|-----|

INFORMATION/BACKGROUND

In order assist the City of Gig Harbor water system to meet future water demands the City's 2008-2013 Budgets have included funding for projects related to new water sources and advocacy of water rights. These projects are for the installation of new drinking water wells based on recommendations in the City's Water System Plan.

The City's 2011 Budget identified the development of a new deep aquifer well, known as Well No. 11. Subsequently, a deep aquifer test well for Well No. 11 was drilled in 2011. Water rights were then appropriated from the Washington State Department of Ecology in June 2012. The 2012 and 2013 Budgets continue to identify the continued support for a water rights advocate and permitting.

In part, the proposed agreement for assistance with water rights promotes the development of future source wells such as Well No. 11 and protects the City's interests in existing water rights and existing water rights applications. This proposed Agreement defines a scope of services and establishes a budget for work to be performed by Mr. Tom Mortimer for the remainder of 2013. The primary task in the proposed Agreement provides the City the opportunity for continued assistance with the development of Well No. 11.

FISCAL CONSIDERATION

The 2013 Budget from the Water Division - Capital fund has allocated the following for this work:

| | |
|---|-------------|
| 2013 Budget for Water Rights Annual Advocate/Permitting, Water Capital, Objective No. 3 | \$ 30,000 |
| Anticipated 2013 Expenses: | |
| 2013 Agreement for Attorney Services | \$ (20,000) |
| USGS Aquifer Study and Groundwater Characterization | \$ (10,000) |
| Remaining 2013 Budget = | \$ 0 |

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION/MOTION

Authorize the Mayor to execute an Agreement for Attorney Services with the Law Office of T.D. Mortimer in an amount not to exceed \$20,000 for legal assistance related to water rights for the City.



Business of the City Council
City of Gig Harbor, WA

Subject: Consultants Services Contract for Grette Associates for the Eddon Boat Marine Ways and Boatyard Containment Facility.

Proposed Council Action: Approve and authorize the Mayor to execute a contract with Grette Associates for environmental work for the Eddon Boat Marine Ways and Boatyard Containment Facility in an amount not to exceed \$5,884.00.

Dept. Origin: Administration

Prepared by: Lita Dawn Stanton Special Projects (with signature)

For Agenda of: July 22, 2013

Exhibits: Contract Exhibit A / B

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Initial & Date

Signature and date: 7/15/13

Signature and date: 7/15/13

Signature and date: by email

Signature and date: 7-18-13

Table with 4 columns: Expenditure Required (\$5,884.00), Amount Budgeted (\$ -0-), Appropriation Required, and *See Fiscal Below.

INFORMATION / BACKGROUND

As part of the 2006 Eddon site acquisition, the historic Eddon boat building and pier were restored/reconstructed under two Washington State Heritage Grants. In July of this year, an award for the final phase to restore the Marine Railways was approved under a third Washington State Heritage Grant in the amount of \$128,355. Once completed, full use of the facility will include the ability to launch boats.

The proposed work will require minor construction below high tide. Grette has determined that an amendment to the 2007 Biological Evaluation (BE) for previous waterward site improvements can be utilized to meet permitting requirements. That work is described in the attached Grette scope of services under Task 100.

Also in July of this year, the City was awarded a Washington State RCO grant to purchase two undeveloped parcels adjacent to Eddon Boat Park. Communications with National Marine Fisheries Service (NMFS) suggest that beach access improvements already planned for the site could be used as compensatory mitigation. Mitigation work that may be required is described in the attached Grette scope of services under Task 200.

FISCAL CONSIDERATION

Sufficient funds are available for the Grette contract in the Parks CIP ending fund balance.

BOARD OR COMMITTEE RECOMMENDATION

Council approved \$60,000 as match for the Marine Railway Project on May 14, 2012.

RECOMMENDATION / MOTION

Move to: Approve and authorize the Mayor to execute a contract with Grette Associates for environmental work for the Eddon Boat Marine Ways and Boatyard Containment Facility in an amount not to exceed \$5,884.00.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
GRETT ASSOCIATES**

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

RECITALS

WHEREAS, the City is presently engaged in the Eddon Boat Marine Ways and Boatyard Containment Facility Project and desires that the Consultant perform services necessary to provide the following consultation services; and

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

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

TERMS

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

2. Payment.

A. The City shall pay the Consultant an amount based on time and materials, not to exceed five thousand eight hundred and eighty-four dollars and no cents (\$5,884.00) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section 17 herein.

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

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

4. Duration of Work. The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by October 30, 2013; provided however, that additional time shall be granted by the City for excusable days or extra work.

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

6. Non-Discrimination. The Consultant agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman,

{ASB983053.DOC;1\00008.900000\}

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

CONSULTANT:
GRETTE ASSOCIATES
ATTN: Scott Maharry
2102 North 30th Street, Suite A
Tacoma, WA 98403
(253) 573-9300

City of Gig Harbor
ATTN: Lita Dawn Stanton
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

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

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

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

CONSULTANT

CITY OF GIG HARBOR

By: _____
Its: _____

By: _____
Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



| | |
|---|--|
| <p>To: Peter Katich City of Gig Harbor 3510 Grandview Street Gig Harbor, WA 98335</p> <p>Phone: (253) 853-7616 Fax: (253) 851-8563 E-Mail: katichP@cityofgigharbor.net</p> | <p>Date: June 17, 2013 Project #: 250.020</p> <p>Project Name: Eddon Boatyard 2013</p> <p>Project Manager: Scott Maharry Client File No.:</p> |
|---|--|

SENT VIA:

- | | |
|--|---|
| <p><input type="checkbox"/> Mail <input type="checkbox"/> Fax</p> | <p><input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Email</p> |
|--|---|

DESCRIPTION OF WORK:

Task 100 – Biological Evaluation Addendum

The City of Gig Harbor is proposing additional work at the Eddon Boat facility that requires minor construction below MHHW. This work will ensure compliance with the existing NPDES boatyard permit. Previous site improvements were conducted under the Eddon Boatyard Sediment Cleanup (Corps 2007-785-SO), which included both an original BE (2007) and an addendum (2011) for Endangered Species Act compliance. Any additional activities proposed for a new Corps permit should have been consulted on during the consultation for that permit. Mitigation for activities authorized under the previous permit, but not completed has already been constructed. The BE addendum will include a amended project description and the effects analysis of the additional work (concrete basin) for listed species, critical habitats, and essential fish habitats present in Gig Harbor. The draft will be submitted to the City for initial review and comment, and a final version will be prepared for submittal with the remaining permit application materials for submittal by the City. Grette Associates will reserve at least one hour of staff time within Task 1 for post-submission coordination with the Corps.

This Scope of Work assumes that the City or the City’s Engineer will provide figures (typically JARPA drawings), project details, and will be available to respond to questions during BE amendment preparation. This Scope of Work also assumes that the effects of stormwater discharge have already been addressed as part of the NDPES authorization, and that the effects analysis for the BE will therefore focus on effects of construction and any permanent modification below MHHW.

An estimated budget for Task 100 is as follows:

| Staff | Rate | Units | Total |
|-----------------------|----------|-------|-------------------|
| Biologist 4 | \$114.00 | 4 | 456.00 |
| Biologist 1 | \$87.00 | 24 | \$2,088.00 |
| Administrative | \$72.00 | 2 | \$144.00 |
| TOTAL TASK 100 | | | \$2,688.00 |

250.020 Eddon Boatyard 2013
6/12/2013

Task 200 – Mitigation Planning

The additional work below MHHW *may* require compensatory mitigation for unavoidable impacts to the marine environment. Grette Associates will assess the impacts associated with the stormwater catchment basins and provide appropriate mitigation planning and strategy in compliance with the Federal and State mitigation guidance.

An estimated budget for Task 200 is as follows:

| Staff | Rate | Units | Total |
|-----------------------|----------|-------|-------------------|
| Biologist 5 | 126.00 | 1 | 126.00 |
| Biologist 3 | \$100.00 | 30 | \$3,000.00 |
| Administrative | \$70.00 | 1 | \$70.00 |
| TOTAL TASK 100 | | | \$3,196.00 |

*Mileage will be calculated at the current Washington DOT or Federal rate plus applicable markup.

- TIME AND EXPENSE
- FIXED FEE
- RETAINER*

Estimated Contract Amount: NTE \$5,884.00
Fee Amount:
Retainer Amount:





Subject: Consultants Services Contract with Greer Patterson & Associates, Inc., (d/b/a GPA Trueman) for a Property Appraisal of 2 parcels adjacent to Eddon Boat Park.

Dept. Origin: Administration
Prepared by: Lita Dawn Stanton
Special Projects

Proposed Council Action: Approve and authorize the Mayor to execute a contract with Greer Patterson & Associates, Inc., (d/b/a GPA Trueman) for a Property Appraisal of 2 parcels adjacent to Eddon Boat Park in an amount not to exceed \$4,400.00.

For Agenda of: July 22, 2013

Exhibits: Contract
Exhibit A / B

Concurred by Mayor: Initial & Date
Approved by City Administrator:
Approved as to form by City Atty:
Approved by Finance Director:

Table with 4 columns: Expenditure Required (\$4,400.00), Amount Budgeted (\$ -0-), Appropriation Required, and *See Fiscal Below.

INFORMATION / BACKGROUND

Every two years, The Washington State Recreation and Conservation Office awards grant funds for water access, land and water conservation and local parks throughout the state. In July, the City was awarded a grant to purchase two undeveloped waterfront parcels located at 3807 and 3809 Harborview Drive next to Eddon Boat Park. As part of the review process, a Property Appraisal is required.

FISCAL CONSIDERATION

Sufficient funds are available in the Parks CIP ending fund balance. This expense is reimbursable under the RCO Grant.

BOARD OR COMMITTEE RECOMMENDATION

Council approved Resolution #900 in 2012 to apply to the Washington Wildlife and Recreation Program for the Eddon Boat Park Expansion #12-1507.

RECOMMENDATION / MOTION

Move to: Approve and authorize the Mayor to execute a contract with Greer Patterson & Associates, Inc., (d/b/a GPA Trueman) for a Property Appraisal of 2 parcels adjacent to Eddon Boat Park in an amount not to exceed \$4,400.00.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
GREER PATTERSON & ASSOCIATES, INC.,
a Washington corporation, d/b/a GPA TRUEMAN**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and Greer Patterson & Associates, Inc., a Washington corporation d/b/a GPA Trueman (the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the acquisition of two parcels at 3807 and 3809 Harborview Drive (Eddon Boat Park Expansion Project) and desires that the Consultant perform services necessary to provide the following consultation services; and

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

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

TERMS

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

2. Payment.

A. The City shall pay the Consultant an amount based on time and materials, not to exceed four thousand four hundred dollars and no cents (\$4,400.00) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section 17 herein.

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

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

4. Duration of Work. The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by August 22, 2013; provided however, that additional time shall be granted by the City for excusable days or extra work.

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

6. Non-Discrimination. The Consultant agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman,

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because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The Consultant understands that if it violates this provision, this Agreement may be terminated by the City and that the Consultant may be barred from performing any services for the City now or in the future.

7. Indemnification.

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

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

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

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

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

8. Insurance.

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

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

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000 per occurrence. All policies and coverages shall be on an occurrence basis by an 'A' rated company licensed to conduct business in the State of Washington.

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

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

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

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

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

10. City's Right of Inspection. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be

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subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

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

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

13. 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.

14. Resolution of Disputes and Governing Law.

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

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

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

CONSULTANT:
Richard Pinkley
Greer Patterson & Associates, Inc.,
(d/b/a GPA TRUEMAN)
7522 28th Street West
University Place, WA 98466
(253) 564-1342

City of Gig Harbor
ATTN: Lita Dawn Stanton
3510 Grandview Street
Gig Harbor, WA 98335
(253) 853-7609

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

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

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

CONSULTANT

CITY OF GIG HARBOR

By: _____
Its: _____

By: _____
Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



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

Subject: Consultants Services Contract with Robinson Noble & Saltbush for a Phase 1 Environmental Site Assessment of 2 parcels adjacent to Eddon Boat Park.

Dept. Origin: Administration

Prepared by: Lita Dawn Stanton *LS*
Special Projects

Proposed Council Action: Approve and authorize the Mayor to execute a contract with Robinson Noble & Saltbush for a Phase 1 Environmental Site Assessment of 2 parcels adjacent to Eddon Boat Park in an amount not to exceed \$3,250.00.

For Agenda of: July 22, 2013

Exhibits: Contract
Exhibit A / B

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Initial & Date

City/7/16/13

P 7/16/13

City for email

App for DR 7/16/13

| | | | | | |
|----------------------|------------|-----------------|--------|------------------------|--------------------------|
| Expenditure Required | \$3,250.00 | Amount Budgeted | \$ -0- | Appropriation Required | *See Fiscal Below |
|----------------------|------------|-----------------|--------|------------------------|--------------------------|

INFORMATION / BACKGROUND

Every two years, The Washington State Recreation and Conservation Office awards grant funds for water access, land and water conservation and local parks throughout the state. In July, the City was awarded a grant to purchase two undeveloped waterfront parcels located at 3807 and 3809 Harborview Drive next to Eddon Boat Park. As part of the review process, a Phase 1 Environment Site Assessment is required.

FISCAL CONSIDERATION

Sufficient funds are available in the Parks CIP ending fund balance. This expense is reimbursable under the RCO Grant.

BOARD OR COMMITTEE RECOMMENDATION

Council approved Resolution #900 in 2012 to apply to the Washington Wildlife and Recreation Program for the Eddon Boat Park Expansion #12-1507.

RECOMMENDATION / MOTION

Move to: Approve and authorize the Mayor to execute a contract with Robinson Noble & Saltbush for a Phase 1 Environmental Survey of 2 parcels adjacent to Eddon Boat Park in an amount not to exceed \$3,250.00

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
ROBINSON NOBLE SALTBUSH**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and Robinson, Noble & Saltbush, a corporation organized under the laws of the State of Washington (the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in the Phase 1 Environment Site Assessment at 3807 and 3809 Harborview Drive (Eddon Boat Park Expansion Project) and desires that the Consultant perform services necessary to provide the following consultation services; and

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

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

TERMS

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

2. **Payment.**

A. The City shall pay the Consultant an amount based on time and materials, not to exceed three thousand two hundred fifty dollars and no cents (\$3250.00) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section 17 herein.

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

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

4. **Duration of Work.** The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by August 15, 2013; provided however, that additional time shall be granted by the City for excusable days or extra work.

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

6. **Non-Discrimination.** The Consultant agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman,

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because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The Consultant understands that if it violates this provision, this Agreement may be terminated by the City and that the Consultant may be barred from performing any services for the City now or in the future.

7. Indemnification.

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

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

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

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

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

8. Insurance.

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

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

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000 per occurrence. All policies and coverages shall be on an occurrence basis by an 'A' rated company licensed to conduct business in the State of Washington.

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

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

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

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

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

10. City's Right of Inspection. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be

subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

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

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

13. 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.

14. Resolution of Disputes and Governing Law.

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

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

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

CONSULTANT:
ROBINSON, NOBLE & SALTBUSH INC
ATTN: John Hildenbrand
3011 S. Huson St., Suite A
Tacoma, WA 98409
(253) 475-7711

City of Gig Harbor
ATTN: Lita Dawn Stanton
3510 Grandview Street
Gig Harbor, WA 98335
(253) 851-6170

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

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

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

CONSULTANT

CITY OF GIG HARBOR

By: 
Its: President

By: _____
Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



July 15, 2013

Lita Dawn Stanton
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

Subject: Scope of work and cost estimate for 3807 and 3809 Harborview Drive, Gig Harbor
Exhibit A

Dear Lita Dawn:

Robinson Noble, Inc. will be pleased to complete a Phase I Environmental Site Assessment (Phase I) for the above-referenced site. The Phase I will be based on standard industry practices and ASTM Standard E1527-05. The proposed scope is attached to this letter and included as part of Exhibit A. Unless an item is specifically addressed and discussed herein, it should be assumed that it is not included in the scope of work for this project.

Based on our understanding of the project, we estimate the cost of our services to be \$3,250. Should you decide to pursue the work discussed above, please provide us with an authorized purchase order or your contract for our review and execution. Unless unexpected conditions are found to exist, the estimated completion date for the project is 20 working days following the return of the executed purchase order or contract and further provided submittal of site access authority documentation is received within five days of contract execution. Two hard copies and one digital copy of the report text, figures, and site photographs will be provided. Unless otherwise noted, appendices will only be provided digitally and included on the attached CD. Hard copies of the appendices or additional copies of the report will be provided at a cost of up to \$125 each.

Phase I Environmental Site Assessment Scope of Services

Phase I Environmental Site Assessments (Phase I ESA, also known as Level One ESA studies) are conducted to protect a property owner from assuming an unknown environmental risk. The assessment gathers available information regarding past or present site activities which have the potential to cause environmental contamination. Robinson Noble performs Phase I ESAs generally following the format and content of ASTM Standard E1527-05. Depending on the nature of the site being evaluated and the requirements of the Client, additional elements beyond the scope of the ASTM standard may be included. Any additional scope of service items are detailed in the professional services agreement (PSA) to which this scope of service is attached. If an item is not indicated herein or in the applicable PSA, it is not included in the Project.

Lita Dawn Stanton
City of Gig Harbor
July 15, 2013
Page 2

The standard components of the Phase I ESA will include:

- Reasonably ascertainable identification of past and present site ownership and uses (as deemed relevant to evaluating the subject site).
- Inspection of the site and any structures for the presence of potentially hazardous substances. Any areas not inspected will be clearly noted in the project report.
- Description of site environmental characteristics; such as the size, layout, extent of development, natural features, etc.
- An assessment of hazardous substance or waste storage, handling, or disposal practices as they pertain to evaluate the presence of an actual, and/or material threat of, a hazardous substance release.
- An assessment of nearby properties whose activities may have an environmental impact on the subject property.
- Conclusions regarding potential problems and recommendations for further action.

For the purposes of the Phase I ESA scope of services, the term hazardous substance is as defined by ASTM Standard E1527-05 except with the inclusion of petroleum products.

In performing the assessment Robinson Noble, Inc. will utilize a review of reasonably ascertainable, selected available public records and historical research, an inspection of the site, and may conduct interviews with tenants, owners, and/or public agency officials to evaluate the potential environmental liabilities associated with a property.

Site Location

The Phase I ESA will be completed for the sites located at 3807 and 3809 Harborview Drive in Gig Harbor, Washington (Pierce County parcels 0221053122 and 0221053121).

Records Review

Review of public agency records can provide significant background information on the site, including ownership history; past uses; permits or inventories for hazardous materials or wastes; reported spills, releases or known contamination; or other regulatory actions. Agencies which may be contacted include local assessor's office, planning department, utility district, fire department, health department, agricultural commissioner, or air quality management district. State environmental protection agencies, such as the Washington State Department of Ecology, maintain databases of sites which have been investigated and may also be contacted. The U.S. Environmental Protection Agency also maintains databases of hazardous waste generators or sites with hazardous waste contamination. Robinson Noble, Inc. will search applicable databases using a data extraction and reporting firm. We may also conduct a physical review of agency files as deemed necessary.

Historical Research

In order to review past use of the property, documents such as title history, maps, building permits, or aerial photographs may be reviewed as appropriate. Maps, such as parcel, topographic and fire-insurance maps, will also be reviewed as applicable. Only reasonably ascertainable sources will be used.

Lita Dawn Stanton
City of Gig Harbor
July 15, 2013
Page 2

Site Inspection

A site inspection will be conducted to evaluate the subject for site activities or uses which pose a high potential for environmental contamination. These items include but are not limited to:

- storage tanks (underground and above ground)
- water wells (domestic, agricultural or industrial)
- waste water systems
- drums or chemical storage areas
- ponds or surface impoundments
- maintenance or shop areas
- sumps or storm drains
- stained soil or pavement
- transformers
- piles of waste or trash
- dead or dying vegetation
- unusual odors
- other observations that in the opinion of the field investigator indicate the possible presence of conditions of concern.

Interviews

In order to determine current and past site practices, interviews with persons familiar with the site may be conducted. This may be done in person, in writing or via telephone. Examples of the types of individuals that may be contacted include: property owners, site managers, former employees, neighbors, and/or local agency officials. Where interviews are deemed necessary, reasonable attempts will be made to conduct the interviews, though we cannot guarantee that interviews will be conducted. ASTM Standard E1527-05 requires that a reasonable attempt be made to interview representatives of current non-residential occupants, if five or less; or if more than five, all major occupants. Robinson Noble will make a reasonable attempt to interview occupants whose operations are likely to indicate recognized environmental conditions in connection to the subject property. However, unless specifically directed by the Client including agreement to pay extra compensation, Robinson Noble will not meet the standard for occupant interviews.

Report

The activities described above will be documented in a report. The report will present the findings of the assessment and any recommendations for further action, if necessary. Be advised that the Phase I ESA does not typically include the collection of environmental samples. Two hard copies and one digital copy of the report text, figures, and site photographs will be provided. Unless otherwise noted, appendices will only be provided digitally and included on the attached CD. Hard copies of the appendices or additional copies of the report will be provided at a cost of up to \$125 each.

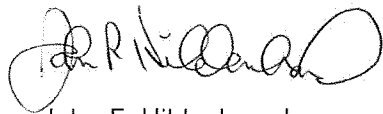
Robinson Noble's services in relation to the Phase I ESA are intended for the Client's sole use and benefit. Except as agreed in writing, Robinson Noble's services and work product shall not be used or relied upon by any other person or entity other than the Client nor for any other purpose. Robinson Noble's services are limited to those expressly set forth above, and Robinson Noble has no other obligations or responsibilities for the Project except as agreed in writ-

Lita Dawn Stanton
City of Gig Harbor
July 15, 2013
Page 2

ing. Robinson Noble has no responsibility for conditions that occur on or to the subject property following the completion of our field work at the subject property. Nor are we responsible for the acts or omissions of other parties working on the Project; our work on the Project shall not relieve other parties of their responsibility for performing their work in accordance with applicable plans, specifications, and regulations.

We hope this scope of work and cost estimate is adequate for your needs. Please contact us if we can provide additional information or modify the scope of work to better assist you. If at any time prior to or during this project you identify a concern or problem with our work or progress that cannot be resolved by the assigned Robinson Noble project manager, please contact Joseph Becker, our company President, and he will make every effort to resolve the issue to your satisfaction. We can be reached at (253) 475-7711.

Respectfully submitted
Robinson Noble, Inc.

A handwritten signature in black ink, appearing to read "John F. Hildenbrand". The signature is stylized with a large initial "J" and a circular flourish at the end.

John F. Hildenbrand
Associate Environmental Scientist
Environmental Services Manager

attachments



ROBINSON
NOBLE

General Fee Schedule

Exhibit B

March 2013

| Professional Positions | | Fee per Hour |
|--|---|----------------------------|
| Principal Engineer, Hydrogeologist or Environmental Scientist | | \$177 |
| Senior Associate Engineer, Hydrogeologist or Environmental Scientist | | \$158 |
| Associate Engineer, Hydrogeologist or Environmental Scientist | | \$135 |
| Senior Engineer, Hydrogeologist or Environmental Scientist | | \$120 |
| Senior Project Engineer, Hydrogeologist or Environmental Scientist | | \$111 |
| Project Engineer, Hydrogeologist or Environmental Scientist | | \$101 |
| Staff Engineer, Hydrogeologist or Environmental Scientist | | \$90 |
| Senior Field Staff | | \$83 |
| Field Staff | | \$68 |
| Legal Support/Expert Witness Services/Testimony | | 150% of above rates |
| Support Positions | | |
| Senior GIS/CAD Specialist | | \$90 |
| Senior Technician | | \$90 |
| Senior Administrator | | \$78 |
| GIS/CAD Specialist | | \$78 |
| Technician | | \$78 |
| Administrator | | \$68 |
| Clerical Support | | \$68 |
| Other Fees and Costs | | |
| Subcontracts/ Management Fee | Professional services | 15% |
| | Outside laboratory services | 15% |
| | Construction subcontracts | 15% |
| Other Costs | Travel (auto) | \$0.62/mile |
| | Travel (other) | Cost +10% |
| | Per diem | Prevailing State wage +10% |
| | Other direct expenses | Cost +10% |
| | Field and laboratory testing/equipment rental | See following pages |

This fee schedule is subject to change according to contract or Professional Services Agreement conditions.

Hydrogeologic Equipment Rental Schedule
March 2013

| <u>Equipment</u> | <u>Unit</u> | <u>Rate</u> |
|--|--|--|
| Water Level Transducer and Data Logger | First five days Each day thereafter | \$80 \$27.50 |
| Field Laptop Computer | Per day | \$30 |
| Electric Water Level Sounder(s) | 0 to 300 ft over 300 ft | Flat fee per project Flat fee per project |
| DC Submersible Purge Pump (Single Stage) | Per pump | \$80 |
| DC Submersible Purge Pump (Dual Stage) | Per pump | List price + 10% |
| Double-Ring Infiltrometer | Per day | \$50 |
| Schonstedt Gradient Magnetometer | Per day | \$75 |
| Geonics EM-61 Metal Detector | Per day | \$500 |
| Downhole Gamma/Resistivity/Temperature Logging Equipment (includes Draw Works) | Per day | \$1,100 |
| Downhole Caliper Logging Equipment | Per well | \$350 |
| Draw Works | Per well | \$525 |
| Mechanical Sieve Sample Equipment | Flat fee per well | \$50 |
| 2-inch Gasoline-powered Centrifugal Pump (includes hoses) | Per day | \$55 |
| 2-inch Submersible Pump + Controller | Per day | \$180 |
| Generator | Per day | \$70 |
| Survey Gear (laser level & rod) | Per day | \$85 |
| FlowTracker Acoustic Doppler Velocimeter Stream Gaging Equipment | Per day | \$200 |
| GPS | Per day | \$22.50 |
| Other Equipment | Negotiated | Negotiated |

This fee schedule is subject to change according to contract or Professional Services Agreement conditions.

Environmental Equipment Rental and Consumable Schedule
March 2013

| <u>Equipment</u> | <u>Unit</u> | <u>Rate</u> |
|--|----------------------|---|
| Water level transducer and data logger | Per day | \$100 |
| Field Laptop Computer | Per day | \$50 |
| Electronic Water Level Sounder | Per day | \$30 |
| Electronic Interface Probe | Per day | \$75 |
| DC Submersible Purge Pump (Single stage) | Per pump | \$80 first pump, \$40 each |
| DC Submersible Purge Pump (Dual Stage) | Per pump | List price + 10% |
| DC-operated Peristaltic Pump | Per day | Additional pump \$40 |
| 2-inch Gasoline-powered Centrifugal Pump | Per day | \$100 |
| 2-inch Submersible Pump + Controller | Per day | \$350 |
| Generator | Per day | \$60 |
| Low-Flow Bladder Pump | Per day | \$175 |
| Photoionization Detector | Per day | \$75 |
| Combustible Gas Indicator | Per day | \$65 |
| Water Quality Meter | Per day | \$200 |
| Teflon Water Bailer | Per day | \$30 |
| Soil Sampling Equipment (manual) | Per day | \$25 |
| Soil Sampling Equipment (power) | Per day | \$40 |
| Mechanical Sieve Sample Equipment | Flat fee per project | \$25 |
| Survey Gear (laser level & rod) | Per day | \$80 |
| Soil Vapor Extraction System | Per Month | \$750 |
| Atmospheric Condition Monitoring Unit | Per day | \$50 |
| Other Equipment | Negotiated | Negotiated |
| <u>Consumable Items:</u> | | |
| Polyethylene Purge/Sampling Tubing | Each 10 feet | \$2.50 |
| Silicone Peristaltic Pump Head Tubing | Each foot | \$4.00 |
| Bladders for Low-Flow Bladder Pump | Each | First 3 Free - \$5.00 each additional bladder |
| Water Sample Bailer | Each | \$10 |
| Bailer Rope/String | Each 10 feet | \$1.00 |
| Personal Protection Equipment | Per day per person | \$50 |

This fee schedule is subject to change according to contract or Professional Services Agreement conditions.

Geotechnical Field and Laboratory Testing Schedule
March 2013

| Test | | Fee |
|---|----------|---------------------------|
| Portable Nuclear Density Gauge | Per Hour | \$5.00 |
| Slope Inclinometer | Per day | \$250 |
| Direct Shear | Point | \$200 |
| Moisture-Density Relationship Curves: | Each | 1 pt \$120 |
| | Each | Multiple pts \$200 |
| Sieve Analyses (Gradations-Wet Sieve) | Each | \$150 |
| Hydrometer Analysis | Each | \$175 |
| Falling Head Permeability | Each | \$165 |
| Atterberg Limits (Liquid Limit or Plastic Limit) | Each | \$100 |
| Moisture Content | Each | \$10 |
| Dynamic Cone Penetrometer Points | Day | \$225 |
| | Each | \$20 |
| Consolidation Test Incremental Loading (9 loads, 0.125 TSF to 32 TSF, 4 unloads) | | \$550 |
| | | \$50/each additional load |
| Shelby Tube Extrusion/Sample Description | | \$40 |

This fee schedule is subject to change according to contract or Professional Services Agreement conditions.



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

Subject: Wollochet Drive/Wagner Way Traffic Signalization – Consultant Services Contract WH Pacific, Inc.

Proposed Council Action: Approve and authorize the Mayor to execute Consultant Services Contract Amendment #1 with WH Pacific, Inc. in the amount not-to-exceed \$14,548.00.

Dept. Origin: Public Works/Engineering

Prepared by: Marcos McGraw *MMG*
Project Engineer

For Agenda of: July 22, 2013

Exhibits: Consultant Services Contract
Scope and Fee

Initial &
Date

Concurred by Mayor:

Approved by City Administrator: *CCM 7/17/13*

Approved as to form by City Atty: *R 7/17/13*

Approved by Finance Director: *by email 7/16/13*

Approved by Public Works Director: *for D/C 7.17.13*

Approved by City Engineer: *7/17/13*

| | | | | | |
|-----------------------------|-------------|------------------------|---------------|-------------------------------|-----|
| Expenditure Required | \$14,548.00 | Amount Budgeted | \$ 400,000.00 | Appropriation Required | \$0 |
|-----------------------------|-------------|------------------------|---------------|-------------------------------|-----|

INFORMATION/BACKGROUND

In March 2013, the City contracted with WH Pacific to design a new traffic signal at the intersection of Wollochet Drive and Wagner Way. This amendment provides for the final design and preparation of bid ready contract documents for the construction of the new traffic signal. The updated design will also incorporate hardware and amenities for future interconnection of the traffic signals from Hunt Street to Kimball Drive.

FISCAL CONSIDERATION

This project is listed in the 2013 Budget as objective #7 in the Streets Capital Division. The budget summary for this item is provided in the table below:

| | |
|---|--------------|
| 2013 Budget for Wollochet Drive/Wagner Way Intersection Signalization | \$ 400,000 |
| Anticipated 2013 Expenses: | |
| WH Pacific Consultant Services Contract | \$ (43,475) |
| WH Pacific Contract Amendment No. 1 | \$ (14,548) |
| <i>Project construction – Public Works Contract</i> | \$ (341,977) |
| Remaining 2013 Budget = | \$ 0 |

Note: Expenses in *italics* are estimated.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION/MOTION

Move to: Approve and authorize the Mayor to execute Consultant Services Contract Amendment #1 with WH Pacific, Inc. in the amount not-to-exceed \$14,548.00.

**FIRST AMENDMENT
TO
CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
W.H. PACIFIC**

THIS FIRST AMENDMENT is made to that certain Consultant Services Contract dated June 27, 2011 (the "Agreement"), by and between the City of Gig Harbor, a Washington municipal corporation (hereinafter the "City"), and W.H. Pacific, a corporation organized under the laws of the State of Washington (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in completing the Wollochet Drive/Wagner Way Intersection Improvements Project and desires to extend consultation services in connection with the project; and

WHEREAS, section 18 of the Agreement requires the parties to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant and to amend the amount of compensation paid by the City;

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

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

Section 2. Compensation: Section 2(A) of the Agreement is amended to increase compensation to the Consultant for the work to be performed as described in **Exhibit A-1** in an amount not to exceed Fourteen Thousand Five Hundred Forty-eight Dollars and Zero Cents (\$14,548.00), as shown in **Exhibit B**, attached to this Amendment and incorporated herein.

Section 3. Duration of Work: Section 4 of the Agreement is amended to extend the duration of this Agreement to March 1, 2014.

EXCEPT AS EXPRESSLY MODIFIED BY THIS FIRST AMENDMENT, ALL TERMS AND CONDITIONS OF THE AGREEMENT ARE HEREBY RATIFIED AND INCOPORATED INTO THIS AMENDMENT AND SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties have executed this First Amendment on this _____ day of _____, 20__.

CONSULTANT

CITY OF GIG HARBOR

By: _____
Its Principal

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A-1: SCOPE OF WORK

City of Gig Harbor Wollochet Drive / Wagner Way Intersection Improvements Supplement #1: Power Service, Paving, Conduit Revisions

Project Description

Work described herein will be accomplished as a supplement to the current Professional Services Contract between the City of Gig Harbor and WHPacific, Inc., for the Wollochet Drive / Wagner Way Intersection Improvements Project. During the term of this Professional Services Agreement, the CONSULTANT will perform professional services for the CITY as described below.

Scope of Work

1. PROJECT MANAGEMENT

Provide project management and administration services, liason with City staff.

2. 90% PLANS, SPECIFICATIONS and ESTIMATE (PS&E)

CONSULTANT will incorporate the following revisions into the 90% PS&E, as requested by the CITY.

- a. Grind/Overlay of existing asphalt. Approximate limits of grind/overlay will be between Station 19+00 and Station 24+00. Existing channelization will be replaced.
- b. Power Source Revision. The power source connection will be revised. A new transformer will be specified, near the vault located at Station 20+90, left.
- c. Conduit extension. A spare 2" conduit will be added to the plans, from the intersection to junction box near the existing luminaire at approximate Station 19+50, left.

2.1 The CONSULTANT will add/modify the plan sheets below to incorporate the revisions described above:

- Typical Sections and Details.
- Paving Plan.
- Conduit Revision.
- Power Source Revision.
- Channelization Plan.

2.2 The CONSULTANT will incorporate the revisions into the 90% Cost Estimate and Quantity Calculations.

2.3 The CONSULTANT will incorporate the revisions into the 90% Specifications.

2.4 The CONSULTANT will provide QA/QC prior to submittal to the CITY.

Deliverables:

90% Plans – PDF (via email)

90% Cost Estimate – PDF (via email)

90% Specifications – PDF (via email)

3. FINAL PLANS, SPECIFICATIONS and ESTIMATE (PS&E)

- 3.1 The CONSULTANT will address CITY comments and finalize the plans.
- 3.2 The CONSULTANT will address CITY comments and finalize the cost estimate/quantity calculations.
- 3.3 The CONSULTANT will address CITY comments and finalize the specifications.
- 3.4 The CONSULTANT will provide QA/QC prior to submittal to the CITY.

4. CONSTRUCTION SUPPORT

- 4.1 The CONSULTANT review and respond to up to 5 Requests for Information (RFI's) submitted by the Contractor.
- 4.2 The CONSULTANT will produce one set of record drawings, based on the contractor's red-line markups. One set of final record drawings will be printed on full size mylar.

Deliverables:

Final Plans (Full-size mylar) – 1 copy
Final Plans – PDF, AutoCAD 2012
Final Cost Estimate – PDF, Microsoft Excel
Final Specifications – PDF, Microsoft Word
Record Drawings (Full-size mylar) – 1 copy
Record Drawings – PDF, AutoCAD 2012

General Assumptions

- 1) Additional topographical or survey data will not be required.
- 2) Hydraulic analysis or revisions to the existing storm system will not be required.
- 3) The plans will utilize WSDOT standard traffic control plans. Preparation of project specific traffic control plans will not be required.
- 4) Utility relocation or adjustment will not be required.
- 5) The CITY will return one (1) "red-line" 90% plan, specification and cost estimate with review comments from the CITY's review. The CITY will return one (1) "red-line" plan, specification and cost estimate with review comments from the WSDOT's review. CITY will resolve any conflicts between the two review sets prior to the sets being provided to the CONSULTANT.
- 6) The CITY will use an on-line service such as Builder's Exchange to provide contract documents to all plan holders. No hardcopy Contract plans will be provided to bidders, agents or suppliers.
- 7) The project will be completed within two months of Notice to Proceed.

CONSULTANT FEE ESTIMATE



Client: City of Gig Harbor
 Project: Wagner-Wollochet Intersection Improvement / Cushman Trail
 Supplement #1: Power Service, Paving, Conduit Revisions
 Date: June 21, 2013

LABOR:

| TASK NO. | TASK DESCRIPTION | Principal | Project Manager | Designer | CADD | Designer | Project Coord. II | Project Coord. I | TOTAL HOURS | TOTAL COST |
|----------|----------------------------------|---------------|-----------------|-----------------|-----------------|-------------|-------------------|------------------|-----------------|-----------------|
| | | 60.00 | 48.50 | 42.91 | 35.70 | 33.65 | 31.73 | 25.25 | | |
| 1.0 | Project Management | 0 | 4 | 0 | 0 | 0 | 0 | 2 | 6 | \$ 245 |
| | Project Management | | 4 | | | | | 2 | 6 | \$ 245 |
| 2.0 | 90% PS&E | 2 | 14 | 14 | 24 | 0 | 0 | 1 | 55 | \$ 2,282 |
| 2.1 | 90% Plans | | | | | | | | | |
| | Typical Sections | | 2 | | 4 | | | | 6 | \$ 240 |
| | Paving Plan | | 2 | 1 | 4 | | | | 7 | \$ 283 |
| | Conduit Revision | | 2 | 4 | 4 | | | | 10 | \$ 411 |
| | Power Source Revision | | 2 | 4 | 4 | | | | 10 | \$ 411 |
| | Channelization Plan | | 2 | 1 | 4 | | | | 7 | \$ 283 |
| 2.2 | 90% Cost Estimate / Quantities | | 2 | 2 | 4 | | | | 8 | \$ 326 |
| 2.3 | 90% Specifications | | 2 | 2 | | | | 1 | 5 | \$ 208 |
| 2.4 | QA/QC | 2 | | | | | | | 2 | \$ 120 |
| 3.0 | FINAL PS&E | 2 | 3 | 4 | 5 | 0 | 0 | 1 | 15 | \$ 641 |
| 3.1 | Final Plans | | 2 | 2 | 4 | | | | 8 | \$ 326 |
| 3.2 | Final Specifications | | 1 | 1 | | | | 1 | 3 | \$ 117 |
| 3.3 | Final Cost Estimate / Quantities | | | 1 | 1 | | | | 2 | \$ 79 |
| 3.4 | QA/QC | 2 | | | | | | | 2 | \$ 120 |
| 4.0 | CONSTRUCTION SUPPORT | 0 | 9 | 13 | 21 | 0 | 0 | 0 | 43 | \$ 1,744 |
| 4.1 | Requests for Information (5) | | 5 | 5 | 5 | | | | 15 | \$ 636 |
| 4.2 | Record Drawings | | 4 | 8 | 16 | | | | 28 | \$ 1,108 |
| | | | | | | | | | | |
| | Labor Hours Total | 4 | 30 | 31 | 50 | 0 | 0 | 4 | 119 | |
| | Labor Cost Total | \$ 240 | \$ 1,455 | \$ 1,330 | \$ 1,785 | \$ - | \$ - | \$ 101 | \$ 4,911 | \$ 4,911 |

Overhead Percentage: 168.49% x Direct Salary Cost (DSC) \$ 8,275
 Fixed Fee Percentage: 26.00% x Direct Salary Cost (DSC) \$ 1,277
\$ 14,463

EXPENSES:

| ITEM | Trips | QUANTITY | UNIT COST | EXPENSES COST |
|---------------------|-------|----------|-----------|---------------|
| Mileage | 1 | 150 | \$ 0.565 | \$ 85 |
| Copies/prints, misc | | | \$ 100 | \$ - |
| | | | | \$ 85 |

SUBCONSULTANTS:

| SUBCONSULTANT | FEE | MARK UP | SUBCONSULTANT COST |
|---------------------------|-----|---------|--------------------|
| | | 1.0 | \$ - |
| | | 1.0 | \$ - |
| | | | \$ - |
| TOTAL FEE ESTIMATE | | | \$ 14,548 |



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

Subject: Rosedale Street Paving Project –
Contract Amendment #2 – H. W. Lochner, Inc.

Proposed Council Action: Approve and
Authorize the Mayor to execute Consultant
Services Contract Amendment #2 with H. W.
Lochner, Inc. in the amount not-to-exceed
\$10,729.00.

Dept. Origin: Public Works/Engineering

Prepared by: Marcos McGraw *MMG*
Project Engineer

For Agenda of: July 22, 2013

Exhibits: Consultant Services Contract
Amendment #2 with Exhibit A –
Scope of Work and Exhibit B –
Fee Schedule.

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Public Works Director:

Approved by City Engineer:

Initial &
Date

ELH 7/17/13
R 7/17/13
By email 7/16/13
ATP D/R 7.17.13
MD 7/17/13
By email 7/12/13

| | | | | | |
|---------------------------------|-------------|----------------------------|---------------|-----------------------------------|-----|
| Expenditure Required | \$10,729.00 | Amount Budgeted | \$ 830,000.00 | Appropriation Required | \$0 |
|---------------------------------|-------------|----------------------------|---------------|-----------------------------------|-----|

INFORMATION/BACKGROUND

During the February 25th Council meeting the City awarded amendment #1 to the consultant services contract with H.W. Lochner to design sidewalk improvements and the repaving of Rosedale Street between Skanise and Shirley Avenue. Throughout the design process the City directed the consultant to complete a design tasks that are necessary for compliance with federal accessibility regulations but were not scoped in the original contract or amendment #1.

FISCAL CONSIDERATION

Funding for this project will be from the following revenue sources:

| | |
|--|---------------------|
| 2013 Budget for Street Division Capital | \$ 830,000.00 |
| Anticipated 2013 Expenses: | |
| H.W. Lochner Contract Amendment No. 1 | (\$ 53,892.00) |
| H.W. Lochner Contract Amendment No. 2 | (\$ 10,729.00) |
| Project Construction: | |
| PW Contract + City Engineer Change Order Authority | (\$ 715,695.00) |
| Materials Testing | (\$ 11,268.10) |
| Remaining 2013 Budget = | \$ 38,415.90 |

Funding for this project will be from two State Transportation Improvement Board (TIB) grant funds totaling \$380,712.00 and the remainder of \$449,288.00 will be from the Hospital Benefit Zone monies allocated for this project

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION/MOTION

Approve and Authorize the Mayor to execute Consultant Services Contract Amendment #2 with H. W. Lochner, Inc., in the amount not-to-exceed \$10,729.00.

**SECOND AMENDMENT
TO
CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF GIG HARBOR AND
H.W. LOCHNER, INC.**

THIS SECOND AMENDMENT is made to that certain Consultant Services Contract dated February 25, 2013, (the "Agreement"), by and between the City of Gig Harbor, a Washington municipal corporation (as amended, the "City"), and H.W. Lochner Inc., a corporation organized under the laws of the State of Washington (hereinafter the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in completing the Rosedale Street Paving between Skansie and Shirley Avenue Project and desires to extend consultation services in connection with the project; and

WHEREAS, section 18 of the Agreement requires the parties to execute an amendment to the Agreement in order to modify the scope of work to be performed by the Consultant and to amend the amount of compensation paid by the City;

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

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

Section 2. Compensation: Section 2(A) of the Agreement is amended to increase compensation to the Consultant for the work to be performed as described in **Exhibit A** in an amount not to exceed Ten Thousand Seven Hundred Twenty-Nine Dollars and Zero Cents (\$10,729.00), as shown in **Exhibit B**, attached to this Amendment and incorporated herein.

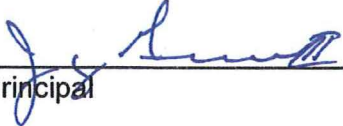
Section 3. Duration of Work: Section 4 of the Agreement is amended to extend the duration of this Agreement to March 1, 2014.

EXCEPT AS EXPRESSLY MODIFIED BY THIS SECOND AMENDMENT, ALL TERMS AND CONDITIONS OF THE AGREEMENT ARE HEREBY RATIFIED AND INCOPORATED INTO THIS AMENDMENT AND SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties have executed this Second Amendment on this _____ day of _____, 20__.

CONSULTANT

CITY OF GIG HARBOR

By: 
Its Principal

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

SCOPE OF SERVICES

The City of Gig Harbor Rosedale Street NW Overlay project—between Shirley Avenue and Skansie Avenue—will include a raised crossing at the Cushman Trail, new ADA ramps at Skansie Avenue, and an eastbound left-turn pocket east of SR 16. This project will be incorporated into the Rosedale Street NW - Sidewalk Improvement Project bid package and will be bid as a single project with separate bid schedules.

This scope of work addresses additional work performed to complete the design of the Rosedale Street NW Overlay Project. This work was necessitated by: changes in design standards, coordination with other City projects and direction from the City to revise the design of the pedestrian crosswalk.

TASK 1: Detailed design of curb ramps; \$2,288.54

The Consultant prepared detailed designs, instead of standard details which is typical for the industry, for curb ramps at the intersection of Skansie Avenue. The scope did not address the detailed design of curb ramps but was requested by the City at the 70% design review meeting on March 13, 2013.

Deliverables:

- Curb ramp designs on Sheet RD 8.

TASK 2: WSDOT Curb Ramp Forms; \$2,294.00

The City directed the Consultant to complete new WSDOT Curb Ramp Forms for each of the curb ramps that was designed as part of the project as requested by the City on March 13, 2013. The forms were not included in the scope of work for the original contract of Supplement 1. A total of 7 Curb Ramp Evaluation Table forms were completed for the intersections of Rosedale Street and Skansie Avenue and Rosedale Street and Mitts Lane.

Deliverables:

- Seven (7) WSDOT Curb Ramp Evaluation Table forms

TASK 3: Re-design Pedestrian Crossing with Flashing Beacon; \$1,945.00

The Consultant was directed by the City to remove the existing in-pavement flashing crosswalk system and replace it with a design that uses advance flashing beacons at the 70% design meeting on March 13, 2013. This was not addressed in the contract scope of work.

Deliverables:

- Redesigned pedestrian crosswalk on sheet RD8.

TASK 4: Verify erosion control and removal plan for City's new waterline project; \$1,866.00

The Consultant adjusted the project design to accommodate the City's waterline project. The design was updated twice based on two separate designs submitted by the City. The scope of work for Supplement 1 included incorporating the design (Task 4.1.1) however it did not include incorporating multiple revisions that were provided by the City, resolving utility conflicts and providing elevations for waterline project infrastructure.

Deliverables:

- Updated plan set

TASK 5: Recalculate quantities for revisions; \$534.00

New quantities and costs were developed for items added in Task 1-3.

Deliverables:

- Bid proposal and engineer's estimate

Task 6: Quality Control/Quality Assurance; \$1,832.00

All design revisions completed in Tasks 1-4 were reviewed by an engineer with expertise in relevant areas of design.

Deliverables:

- Updated plan set

EXHIBIT B

SUMMARY OF PROJECT COSTS

| Classification | Direct Salary Cost | Total Hours | Direct Salary | Total Costs |
|---|--------------------|-------------|---------------|------------------|
| Project Manager | \$ 55.47 | 7 | \$ 388 | |
| Senior Project Engineer | \$ 48.56 | 36 | \$ 1,748 | |
| Design Engineer | \$ 29.43 | 12 | \$ 353 | |
| CAD Technician (Technical Support) | \$ 35.89 | 22 | \$ 790 | |
| QA/QC | \$ 68.00 | 4 | \$ 272 | |
| Administrative Assistant | \$ 26.55 | 0 | \$ - | |
| Salary Costs: | | | | \$ 3,551 |
| OVERHEAD @ 174.15%: | | | | \$ 6,184 |
| NET FEE @ 28% | | | | \$ 994 |
| Total HWL Labor Cost: | | | | \$ 10,729 |
| HWL Net Profit | | | | 10.2% |
| Direct Reimbursables: | | | | |
| Travel: (within Pierce Cty, 177mi at \$0.565/mi) | | | | |
| Reproduction: | | | | |
| Communications | \$ - | | | |
| Other Costs (Tolls 8 trips) | | | | |
| Reimbursables Subtotal: | | | \$ - | |
| Firm Total: H.W. Lochner, Inc. | | | | \$ 10,729 |
| Sub Consultants | | | | |
| Prizm Surveying | | | \$ - | |
| B & O Tax for Sub (1.8%) | | | \$ - | |
| Contract Service Sub Consultants Subtotal: | | | | \$ - |
| CONTRACT SERVICES TOTAL COST - Rounded | | | | \$ 10,729 |
| *OPTIONAL SERVICES (Left-turn pocket design) | | | | \$ - |



Business of the City Council
City of Gig Harbor, WA

Subject: 2013 CSC – Skillings Connolly – 38th Ave Improvements Phase 1 Grant Application Assistance

Proposed Council Action: Approve and authorize the Mayor to execute the Consultant Services Zero Fee Contract with Skillings Connolly.

Dept. Origin: Public Works/Engineering

Prepared by: Trent Ward, P.E.
Senior Engineer

For Agenda of: July 22, 2013

Exhibits: Consultant Services Zero Fee Contract Scope Exhibit A

| | |
|------------------------------------|---|
| | Initial & Date |
| Concurred by Mayor: | <i>ELH 7/17/13</i> |
| Approved by City Administrator: | <i>R 7/17/13</i> |
| Approved as to form by City Atty: | <i>APPROVED BY B10 BY EMAIL 7/15/13</i> |
| Approved by Finance Director: | <i>PTP/D/R 7.17.13 AB</i> |
| Approved by Public Works Director: | <i>JW 7/17/13</i> |
| Approved by City Engineer: | <i>7/16/13</i> |

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

INFORMATION/BACKGROUND

The City solicited RFQ's for firms interested in assisting the City with the completion of a Transportation Improvement Board (TIB) grant application process at zero cost to the City. Two RFQ's were received, one from Skillings Connolly and the other from David Evans & Associates. Staff selected Skillings Connolly as most qualified firm to proceed with the preparation of a grant application for roadway improvements along a portion of 38th Street. Should the City procure this grant, the City would then enter into negotiations for the final design and permitting for that portion of roadway improvements that was applied for under the grant application.

FISCAL CONSIDERATIONS

No City funds currently exist to fund this expenditure. The proposed consultant work is to be done for zero cost to the City.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION/MOTION

Approve and authorize the Mayor to execute the Consultant Services No Fee Contract with Skillings Connolly in the amount of \$0.

PROFESSIONAL SERVICES CONTRACT
(Architects, Engineers, Land Surveyors, Landscape Architects)
BETWEEN THE CITY OF GIG HARBOR AND
Skillings Connolly

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

RECITALS

WHEREAS, the City is presently engaged in 38th Avenue Improvements Phase 1 and solicited Request for Qualifications for engineering services for the project; and

WHEREAS, the Consultant was selected as most qualified to provide said services to the City; and

WHEREAS, the City desires that the Consultant perform services necessary to provide the following consultation services; and

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

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

TERMS

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

2. **Payment**.

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Zero dollars and zero cents (\$0.00) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit A – Scope of Work**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit A** or bill

at rates in excess of the hourly rates shown in **Exhibit A**, unless the parties agree to a modification of this Contract, pursuant to Section 17 herein.

B. Should the City receive the Transportation Improvement Board (TIB) Urban Arterial Program (UAP) grant for improvements to 38th Avenue NW from 56th Street NW to the South City Limits referenced in Exhibit A that the City applied for, and decide to accept the grant and spend grant funds on said improvements, the City shall enter into further negotiations with Consultant for the final design and permitting for that portion of roadway improvements. Should the City not receive the aforementioned grant, it shall not owe any additional payment to Consultant other than the amount referenced above in Subsection 2(A) of this agreement. Should the City receive the aforementioned grant, but decide for any reason not to accept the grant or spend grant funds on the aforementioned improvements, the City shall not owe any additional payment to Consultant other than the amount referenced above in Subsection 2(A) of this agreement.

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

4. **Duration of Work.** The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by March 1, 2014; provided however, that additional time shall be granted by the City for excusable days or extra work.

5. **Termination.** The City reserves the right to terminate this Agreement for any reason at any time upon ten (10) days written notice to the Consultant. Any such notice shall be given to the address specified above. In the event that this Agreement is terminated by the City, no additional compensation shall be made to the Consultant for all services performed.

6. **Non-Discrimination.** The Consultant agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, color, creed, religion, national origin, marital status, sex, sexual

orientation, age or handicap, except for a bona fide occupational qualification. The Consultant understands that if it violates this provision, this Agreement may be terminated by the City and that the Consultant may be barred from performing any services for the City now or in the future.

7. Indemnification.

A. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney's fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

B. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees or volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

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

8. Insurance.

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

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

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000 per occurrence. All policies and coverages shall be by an 'A' rated company licensed to conduct business in the State of Washington. If such coverage is written on a claims made form, then a minimum of a

three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City of Gig Harbor.

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

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

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

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

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

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

11. Records. The Consultant shall keep all records related to this Agreement for a period of three years following completion of the work for which the Consultant is

retained. The Consultant shall permit any authorized representative of the City, and any person authorized by the City for audit purposes, to inspect such records at all reasonable times during regular business hours of the Consultant. Upon request, the Consultant will provide the City with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the Consultant, but the Consultant may charge the City for copies requested for any other purpose.

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

13. 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.

14. Resolution of Disputes and Governing Law.

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

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

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

CONSULTANT:
Skillings Connolly
5016 Lacey Blvd. SE

City of Gig Harbor
ATTN: Stephen Misiurak
3510 Grandview Street

Lacey, WA 98503
(360) 491-3399

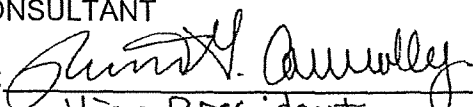
Gig Harbor, WA 98335
(253) 851-6170

16. Subcontracting or Assignment. The Consultant may not assign or subcontract any portion of the services to be provided under this Agreement without the express written consent of the City.

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

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

CONSULTANT

By: 
Its: Vice President

CITY OF GIG HARBOR

By: _____
Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

SCOPE OF WORK

38th AVENUE NW
56TH Street NW TO SOUTH CITY LIMITS

Prepared for:

CITY OF GIG HARBOR
July 10, 2013

This agreement is for Skillings Connolly, Inc. to provide engineering services to the City of Gig Harbor for preparation of a Transportation Improvement Board (TIB) Urban Arterial Program (UAP) grant application requesting funds for improvements to 38th Avenue NW from 56th Street NW to the South City Limits. Major elements of this project include:

- Coordination with City Staff
- Collection of information required by the grant application
- Preparation of the grant application for submittal by August 23, 2013

Skillings Connolly will administer this Agreement, manage all aspects of the work and furnish materials and information to accomplish the following tasks:

| |
|--|
| TASK 100 PROJECT ADMINISTRATION AND MANAGEMENT |
|--|

The work associated with this task involves administration of this Agreement and management of all tasks to complete the scope of work defined herein.

Assumptions

1. Skillings Connolly will provide overall administration and management services.
2. The duration of this project will be two months.

Tasks

1. Provide in-house project coordination.
2. Prepare for and attend coordination and direction setting meetings with City staff to include preparation of meeting agendas and minutes.

Deliverables

1. Meeting agendas and minutes for City coordination and direction setting meetings.

| |
|--|
| TASK 200 PREPARE TIB UAP GRANT APPLICATION |
|--|

The work associated with this task involves preparation of the grant application for submittal by the City on or before August 23, 2013.

Assumptions

1. Skillings Connolly will provide the services required by this task.
2. The City will coordinate with Skillings Connolly by providing readily available information required by the application process.
3. The City will join with Skillings Connolly to brainstorm strategies regarding fundable segments.
4. Skillings Connolly will prepare the grant application and submit to the City for transmittal to TIB.

Tasks

1. QA/QC.
2. Meet with City in brainstorming session to determine fundable segments to include preparation of meeting agenda and minutes.
3. Assist City as necessary in collection of information not readily available.
4. Prepare TIB UAP grant application.
5. Submit completed application to City for review.
6. Incorporate City review comments into grant application and submit final application to City for transmittal to TIB.

Deliverables

1. Brainstorming agenda and minutes.
2. Draft grant application.
3. Final grant application.

END SCOPE OF WORK



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

Subject: DNR Annexation Survey Contract

Dept. Origin: Public Works/Engineering

Proposed Council Action: Approve and authorize the Mayor to execute the Consultant Services Contract with David Evans and Associates.

Prepared by: Stephen T. Misiurak P.E.
City Engineer

For Agenda of: July 22, 2013

Exhibits: Consultant Services Contract
Exhibit A – Scope and Fees

Initial &
Date

Concurred by Mayor:

CLH 7/17/13

Approved by City Administrator:

R 7/17/13

Approved as to form by City Atty:

Via email

Approved by Finance Director:

AP by PL 7.17.13

Approved by Public Works Director:

7/17/13

Approved by City Engineer:

7/17/13

| | | | | | |
|-----------------------------|-------------|------------------------|-----|-------------------------------|-----|
| Expenditure Required | \$13,655.71 | Amount Budgeted | \$0 | Appropriation Required | \$0 |
|-----------------------------|-------------|------------------------|-----|-------------------------------|-----|

INFORMATION/BACKGROUND

The City has expressed an interest in annexing the remainder of the Bay into the jurisdictional boundaries. In order to process the annexation request received from the Washington State Department of Natural Resources, a legal description is required. This contract will complete the legal description as required by annexation law and allow the City to move the annexation request and process forward.

FISCAL CONSIDERATIONS

While this is a non-budgeted item, sufficient funds are available within the City's General Fund to fund this expenditure.

BOARD OR COMMITTEE RECOMMENDATION

None.

RECOMMENDATION/MOTION

Approve and authorize the Mayor to execute the Consultant Services Contract with David Evans and Associates.

**PROFESSIONAL SERVICES CONTRACT
(Architects, Engineers, Land Surveyors, Landscape Architects)
BETWEEN THE CITY OF GIG HARBOR AND
DAVID EVANS AND ASSOCIATES, INC.**

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

RECITALS

WHEREAS, the City is presently engaged in DNR Annexation Survey Contract and desires that the Consultant perform services necessary to provide the following consultation services; and

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

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

TERMS

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

2. **Payment**.

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Thirteen Thousand Six Hundred Fifty Five Dollars and Seventy One Cents (\$13,655.71) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit A – Scope of Work**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit A** or bill at rates in excess of the hourly rates shown in **Exhibit A**, unless the parties agree to a modification of this Contract, pursuant to Section 17 herein.

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

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

4. **Duration of Work.** The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by March 1, 2014; provided however, that additional time shall be granted by the City for excusable days or extra work.

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

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

7. **Indemnification.**

A. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney's fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

B. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees or volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

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

8. **Insurance.**

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

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

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and
2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but

- is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and
3. Professional Liability insurance with no less than \$1,000,000 per occurrence. All policies and coverages shall be by an 'A' rated company licensed to conduct business in the State of Washington. If such coverage is written on a claims made form, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City of Gig Harbor.

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

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

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

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

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

10. City's Right of Inspection. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be

subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

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

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

13. 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.

14. Resolution of Disputes and Governing Law.

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

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

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

CONSULTANT:
David Evans and Associates, Inc.
Attn: Sean Douthett
3700 Pacific Hwy, East, Suite 311
Fife, WA 98424

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

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

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

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

CONSULTANT

By: Sean Douthett
Its: SR. Associate

Digitally signed by Sean Douthett
DN: C=US, E=smid@deainc.com, OU=Surveying and
Geomatics, O="David Evans and Assoc., Inc.",
CN=Sean Douthett
Date: 2013.07.17 11:05:50-0700'

CITY OF GIG HARBOR

By: _____
Mayor Charles L. Hunter

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

SCOPE OF SERVICES

CITY OF GIG HARBOR – HARBOR ANNEXATION

LEGAL DESCRIPTION AND EXHIBIT MAPS

INTRODUCTION

The City of Gig Harbor (CITY) intends on annexing the easterly half of Gig Harbor. David Evans and Associates, Inc. (DEA) will assist the CITY with the development of a portion of this project. DEA's work will involve preparing a legal description for the annexation area, an exhibit map to accompany the legal description, and preparing a larger color exhibit map for CITY use.

SCOPE OF SERVICES

- DEA shall complete a field survey for the purpose of locating monuments required to define current jurisdictional lines and to base the annexation legal description on, and to verify the accuracy of the aerial photos provided by CITY to be used for existing dock locations;
- DEA shall prepare a legal description and accompanying exhibit map for the harbor annexation. The limits of the annexation legal description will be the westerly shoreline, the current City Limit line on the north end, approximately 10-feet west of the ends of the existing docks on the east side, and the approximation of the Urban Growth Boundary on the south side;
- DEA shall prepare a 22"x34" color exhibit map of the annexation area using the provided aerial photos as the background, allowing the CITY to see how the new City Limit boundaries relate to the existing docks and other improvements in the area;
- DEA shall provide internal QA/QC review and Professional Land Surveyor oversight throughout the process. The legal description and exhibit maps will be sealed by the Professional Land Surveyor responsible for the work.
- DEA shall provide the draft legal description and exhibit maps for CITY review and comment one time. DEA will address appropriate review comments and provide finalized copies.

DELIVERABLES

- DEA shall provide annexation legal description and accompanying exhibit map in PDF and DWG electronic formats;

- DEA shall provide a 22"x34" color exhibit map of the annexation area in PDF and DWG formats.

SERVICES OR INFORMATION PROVIDED BY THE CITY

- Permission to access onto adjoining private property and City rights of way;
- Provide all existing annexation legal descriptions;
- Provide all available maps, plans, deeds, and other documents available;
- Provide digital aerial photos of the City and harbor annexation area;
- Provide Pierce County GIS layers including parcels, urban growth boundary, contours, current city limits, and others as needed,

PROJECT SCHEDULE

DEA is available to begin work immediately upon receipt of fully executed authorization of the Scope of Work, and receipt of items to be provided by CITY. DEA can provide the project deliverables to the CITY within thirty (30) days of receipt of these items.

FEES

DEA will be reimbursed on a time and expenses basis with a not to exceed fee of \$13,600.00 plus reimbursable expenses. Reimbursable expenses are anticipated to be \$300.00. Time and expenses rates will be based on the attached DEA Tacoma Survey 2012-2013 Hourly Rates.

REIMBURSABLES

Reimbursable expenses to the extent possible will be minimized. However some expenses should be anticipated for various portions of the project. Reimbursable expenses may include:

- Fees payable to various agencies for copies of legal documents obtained during the research phase of the project;
- Vehicle mileage;
- Postage and mailing.



DAVID EVANS
AND ASSOCIATES INC.

**TACOMA SURVEY
2012-2013 HOURLY RATES**

| PROFESSIONAL CLASSIFICATION | HOURLY BILLING RATE |
|--|----------------------------|
| | Regular |
| ADMINISTRATIVE | |
| Administrative Assistant (ADMA) | \$ 85.00 |
| Contract Administrator (CONT) | \$ 95.00 |
| SURVEYING | |
| Survey Manager (SVYM) | \$ 175.00 |
| Senior Professional Land Surveyor (SPLS) | \$ 145.00 |
| Professional Land Surveyor (PLSU) | \$ 130.00 |
| 1-Person Survey Crew | \$ 110.00 |
| 2-Person Survey Crew | \$ 160.00 |
| 3-Person Survey Crew | \$ 230.00 |
| Laser Scanning Office Tech (SCTE) | \$ 120.00 |
| Project Surveyor (PSVR) | \$ 120.00 |
| Survey Technician (SVTE) | \$ 95.00 |
| NON-LABOR EXPENSES | |
| 3-D Laser Scanner | \$ 520.00 per day |
| Mileage | \$ 0.56 per mile |
| Per Diem: Meals | \$ 39.00 per day |
| Per Diem: Lodging | \$ 80.00 per day |
| Other Expenses | Cost plus 10% |

| | A | R | S | T | U | AA | AB | AC |
|-----|--|-----------------|-----------------|-----------------|-----------------|---------------|---------------|--------------------|
| 1 | EXHIBIT A | | | | | | | |
| 2 | DNR ANNEXATION SURVEY CONTRACT FEES | | | | | | | |
| 3 | | Survey | Project | Survey | Survey | Acct. | Admin. | Task Costs |
| 4 | | Mgr. | Surveyor | Tech. | Crew-2 person | Mgr. | | |
| 5 | DAVID EVANS AND ASSOCIATES, INC | SMD | PT | RB | | GW | JM | |
| 6 | 3700 PACIFIC AVENUE EAST, SUITE 311 | \$62.00 | \$41.25 | \$26.50 | \$62.00 | \$33.75 | \$25.00 | |
| 7 | TACOMA, WA. 98424 | | | | | | | |
| 8 | | | | | | | | |
| 10 | TASK 1---PROJECT MANAGEMENT | | | | | | | |
| 11 | Project meetings | 2 | | | | | 2 | \$ 522.59 |
| 12 | Project setup, file management and close-out | 4 | | | | 2 | | \$ 744.84 |
| 16 | | | | | | | | |
| 17 | Task Total | 6 | 0 | 0 | 0 | 2 | 2 | \$ 1,470.16 |
| 18 | | | | | | | | |
| 19 | TASK 2---Field Surveys | | | | | | | |
| 20 | Locate Monuments | 2 | | | 16 | | 2 | \$ 3,501.96 |
| 21 | Aerial Verification | 1 | | | 8 | | 1 | \$ 1,750.98 |
| 22 | | | | | | | | |
| 23 | TaskTotal | 3 | 0 | 0 | 24 | 0 | 3 | \$ 5,252.95 |
| 24 | | | | | | | | |
| 25 | TASK 3---Office Survey | | | | | | | |
| 26 | Research anf Crew Prep | 1 | 6 | | | | | \$ 929.55 |
| 27 | Process Fiels Data | | 4 | | | | | \$ 495.56 |
| 28 | Prepare Legal and Exhibit | 3 | 12 | 8 | | | 1 | \$ 2,757.12 |
| 29 | Prepare 22"x34" Color Exhibit | 1 | 6 | 8 | | | 1 | \$ 1,641.36 |
| 30 | Address Review Comments | | 4 | 4 | | | 1 | \$ 889.01 |
| 34 | | | | | | | | |
| 35 | Task Total | 5 | 32 | 20 | 0 | 0 | 3 | \$ 6,712.60 |
| 36 | | | | | | | | |
| 85 | | | | | | | | |
| 87 | TOTAL HOURS | 14 | 32 | 20 | 24 | 2 | 8 | |
| 89 | 3.0034 | | | | | | | |
| 90 | RATE (Rates are based on latest audited overhead of 175.34% and fee of 25%.) This represents a multiplier of 3.0034 compared to our standard multiplier of 3.0534. | \$ 186.21 | \$ 123.89 | \$ 79.59 | \$ 186.21 | \$ 101.36 | \$ 75.09 | |
| 91 | TOTAL LABOR | 2,606.95 | 3,964.49 | 1,591.80 | 4,469.06 | 202.73 | 600.68 | 13,435.71 |
| 92 | | | | | | | | |
| 94 | SUBCONSULTANT SERVICES | | | | | | | |
| 95 | N/A | | | | | | | \$ - |
| 96 | | | | | | | | |
| 97 | EXPENSES | | | | | | | |
| 98 | Reproduction, Printing, Postage, Express Delivery | | | | | | | \$ - |
| 99 | Mileage at \$.565 per mile plus tolls @ \$4.00 | | | | | | | \$ 220.00 |
| 100 | Utility locates | | | | | | | \$ - |
| 101 | | | | | | | | |
| 102 | Total Consultant Contract | | | | | | | \$ 13,655.71 |
| 103 | | | | | | | | |
| 104 | MANAGEMENT RESERVE FUND | | | | | | | - |
| 105 | | | | | | | | |
| 106 | TOTAL PROJECT COST | | | | | | | 13,655.71 |



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

Subject: Wilkinson Farm House Restoration – Small Public Works Contract Award

Dept. Origin: Public Works/Operations

Proposed Council Action:

Award and authorize the Mayor to execute a Small Public Works Contract with Floodex Water Damage in the amount of \$54,741.51 for repairs to the Wilkinson Farm House and authorize the Public Works Superintendent to approve additional expenditures up to \$5,000 to cover any cost increases that may result from contract change orders due to the nature of this project.

Prepared by: Marco Malich
Public Works Superintendent

For Agenda of: July 22, 2013

Exhibits: Public Works Contract

| | |
|--|------------------------------|
| | Initial & Date |
| Concurred by Mayor: | <i>CMH 7/17/13</i> |
| Approved by City Administrator: | <i>CMH 7/17/13 2 7/18/13</i> |
| Approved as to form by City Atty: | <i>via email 7-18-13</i> |
| Approved by Finance Director: | <i>DF 7/18/13</i> |
| Approved by Department Head: | <i>DM 7/18/13</i> |

| | | | | | |
|-----------------------------|-------------|------------------------|----------|-------------------------------|-----|
| Expenditure Required | \$54,741.51 | Amount Budgeted | \$35,000 | Appropriation Required | \$0 |
|-----------------------------|-------------|------------------------|----------|-------------------------------|-----|

INFORMATION/BACKGROUND

In 2012, the City completed electrical and structural improvements to the farm house located at Wilkinson Farm Park. The 2013 Parks Operating budget provides funds to perform cosmetic repairs to complete the house restoration. This work includes refurbishing the interior floors, walls, ceilings, light fixtures, bathroom fixtures, cleaning the exterior of the house, cleaning and sealing the wood shake roofs on the house and garage and re-painting of the garage for potential future use of the house.

In accordance with the City's Small Works Roster Process (Resolution No. 884), staff solicited quotes from all general contractors on the Small Works Roster and obtained the following five (5) quotes to complete the scope of work:

| | |
|-------------------------|-------------|
| Floodex Water Damage | \$54,741.51 |
| Stetz Construction | \$58,733.22 |
| Ocean Rooter Services | \$59,182.07 |
| Chuck West Construction | \$82,449.15 |
| Bask Enterprises | \$95,461.56 |

FISCAL CONSIDERATION

The 2013 Parks Operating Repairs and Maintenance budget provides \$35,000 for this project. There are sufficient funds remaining in the Parks Operating Fund to complete this work.

BOARD OR COMMITTEE RECOMMENDATION

N/A

RECOMMENDATION/MOTION

Award and authorize the Mayor to execute a Small Public Works Contract with Floodex Water Damage in the amount of \$54,741.51 for repairs to the Wilkinson Farm House and authorize the Public Works Superintendent to approve additional expenditures up to \$5,000 to cover any cost increases that may result from contract change orders due to the nature of this project.

CITY OF GIG HARBOR
SMALL PUBLIC WORKS CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____, 20____, by and between the City of Gig Harbor, Washington (the "City"), and Floodex Water Damage LLC a Washington Limited Liability Company, (the "Contractor").

FOR AND IN CONSIDERATION of the mutual benefits and conditions hereinafter contained, the parties hereto agree as follows:

1. Scope of Work.

The Contractor agrees to furnish all material, labor, tools, equipment, apparatus, etc. necessary to perform and complete in a workmanlike manner the work set forth in the Scope of Work Base Bid and Bid Additives #1, #2, and #3, attached hereto as Exhibit A and incorporated herein by reference.

2. Time of Performance and Completion.

The work to be performed under this Contract shall commence as soon as the Contractor has received a Notice to Proceed from the City. All work shall be completed no later than 60 days from the date of commencement stated in the Notice to Proceed.

3. Payments.

The Contractor agrees to perform all work called for at the rate of Fifty-Four Thousand, Seven Hundred and Forty-One Dollars and Fifty-One Cents (\$54,741.51), including applicable Washington State Sales Tax. Said sum shall constitute full compensation for all labor, materials, tools, appliances, etc. required to perform the required services. Total compensation shall not exceed Fifty-Four Thousand, Seven Hundred and Forty-One Dollars and Fifty-One Cents (\$54,741.51).

4. Retainage.

Pursuant to RCW 60.28.011, five percent (5%) of all monies earned by the Contractor shall be retained by the City for the purposes mentioned in said statute. The Contractor elects to have these monies (check one):

_____ Retained in a fund by the City until sixty (60) days following the final acceptance of said improvement or work as completed;

_____ Deposited by the City in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: Provided, that interest on such account shall be paid to the Contractor; or

_____ Placed in escrow with a bank or trust company by the City until sixty (60) days following the final acceptance of said improvement or work as completed. When the monies reserved are to be placed in escrow, the City shall issue a check representing the sum of the monies reserved payable to the bank or trust company and the Contractor jointly. Such check shall be converted into bonds and securities chosen by the Contractor and approved by the City and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the Contractor as the said interest accrues.

5. Performance and Payment Bond - 50% Letter.

A. The Contractor shall execute and deliver to the City a bond, on forms supplied or approved by the City, with an approved surety company as surety, in the sum of the full amount of the Contract plus the applicable Washington State Sales Tax, in compliance with RCW 39.08.010 through 39.08.060 and any amendments thereto. The surety on any such bond shall be a surety company duly authorized to transact surety business under the laws of the State of Washington. In lieu of such a bond, the Contractor may provide a letter of credit in the same sum and subject to the same conditions, in a form approved by the City Attorney.

B. If the amount of this Contract is Thirty-five Thousand Dollars (\$35,000) or less, the Contractor may, at its option, in lieu of the bond specified in subparagraph A, have the City retain fifty percent (50%) of the contract amount for a period of thirty (30) days after the date of completion of services, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later.

6. Warranty/Maintenance Bond.

The Contractor hereby warrants that it is fully licensed, bonded and insured to do business in the State of Washington as a general contractor. The Contractor will warranty the labor and installation of materials for a two-year warranty period and shall furnish a maintenance bond for 15% of the contract amount on the City's standard maintenance bond form in order to guarantee that the work specified in Exhibit A and completed by Contractor will remain free from defects in workmanship and materials for a period of two years after completion of construction.

7. Indemnity.

A. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney's fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

B. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees or volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

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

8. Insurance.

A. The Contractor shall secure and maintain in force throughout the duration of this Contract, business auto coverage for any auto no less than a \$1,000,000 each accident limit.

B. The Contractor shall secure and maintain in force throughout the duration of this Contract, comprehensive general liability insurance with a minimum coverage of not less than a limit of \$1,000,000 per occurrence, \$2,000,000 annual aggregate for bodily injury, including death, and property damage. The insurance will be written on an occurrence basis, by an 'A' rated company licensed to conduct business in the State of Washington. The general liability policy shall name the City as an additional insured and shall include a provision prohibiting cancellation, changes and reductions of coverage under said policy except upon thirty (30) days prior written notice to the City. Certificates of coverage as required by this Section shall be delivered to the City with the signed Contract. Under this Agreement, the Contractor's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

C. The Contractor shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of

Gig Harbor at least 30 days in advance of any cancellation, suspension or material change in the Contractor's coverage.

D. In addition, the Contractor shall secure and maintain workers' compensation insurance pursuant to the laws of the State of Washington.

9. Prevailing Wage.

A. The prevailing rate of wage to be paid to all workmen, laborers, or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of Chapter 39.12 RCW, as amended, and the rules and regulations of the Department of Labor and Industries. The rules and regulations of the Department of Labor and Industries and the schedule of prevailing wage rates for the locality or localities where this Contract will be performed as determined by the Industrial Statistician of the Department of Labor and Industries, are attached hereto and by reference made a part of this Contract as though fully set forth herein.

B. On or before the date of commencement of the work, the Contractor shall file a statement under oath with the City and with the Director of Labor and Industries certifying the rate of hourly wage paid and to be paid each classification of laborers, workmen, or mechanics employed upon the work by the Contractor or any Subcontractor, which shall not be less than the prevailing rate of wage. Such statement and any subsequent statement shall be filed in accordance with the practices and procedures required by the Department of Labor and Industries.

10. Termination.

A. Termination for Contractor's Default. If the Contractor refuses or fails to make adequate progress of the work, or to prosecute the work or any separable part thereof with such diligence that will insure its completion within the time specified in this Contract, or defaults under any provision or breaches any provision of this Contract, the City may serve notice upon the Contractor and its surety of the City's intention to terminate by default the right of the Contractor to perform the Contract, and unless within ten (10) days after the serving of such notice, the Contractor shall satisfactorily arrange to cure its failure to perform and notify the City of the corrections to be made, the right of the Contractor to proceed with the work shall terminate. In the event of any such termination, the City shall serve notice thereof upon the Surety and the Contractor, provided, however, that if the Surety does not commence performance thereof within twenty (20) days from the date of the mailing to such Surety of the notice of termination, the City may take over the work and prosecute the same to completion by Contract or otherwise for the account and at the expense of the Contractor. In the case of termination for default, the Contractor shall not be entitled to receive any further payment until the work is finished.

B. Termination by City for Convenience. The performance of work under this Contract may be terminated by the City in accordance with this paragraph in whole or in part, whenever the City shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance or work under the Contract is terminated, and the date upon which such termination becomes effective. The Contractor shall stop work on the project upon the date set forth in the Notice of Termination and shall take such actions as may be necessary, or as the City may direct, for the protection and preservation of the work. After receipt of a Notice of Termination, the Contractor shall submit to the City its termination claim, in the form and with the certification prescribed by the City. Such claim shall be submitted promptly but in no event later than 3 months from the effective date of the termination. Upon approval by the City, the termination claim shall be paid.

C. Termination by Contractor. If the work should be stopped under an order of any court, or other public authority, for a period of thirty (30) days, through no act or fault of the Contractor or of anyone employed by him, then the Contractor may, upon seven (7) days written notice to the City, terminate this Contract and recover from the City payment for all work executed and any proven loss sustained. Should the City fail to pay to the Contractor, within the payment period provided for in this Contract, any sum due and owing, then the Contractor may, upon seven (7) days written notice to the City, stop the work or terminate this Contract.

11. Compliance with Laws. The Contractor shall at all times comply with all applicable state and local laws, rules, ordinances and regulations.

12. Nondiscrimination. Except to the extent permitted by a bona fide occupational qualification, the Contractor agrees that the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

13. Independent Contractor. No agent, employee or representative of the Contractor shall be deemed to be an agent, employee or representative of the City for any purpose. Contractor shall be solely responsible for all acts of its agents, employees, representatives and subcontractors during the performance of this contract.

14. Relationship of Parties. The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Contractor is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or subcontractor of the Contractor shall be or shall be deemed to be the employee, agent, representative or subcontractor of the City. In the performance of the work, the Contractor is an

independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or subcontractors of the Contractor. The Contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and subcontractors during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Contractor performs

15. Legal Action. In the event that either party shall bring suit to enforce any provision of this Contract or to seek redress for any breach, the prevailing party in such suit shall be entitled to recover its costs, including reasonable attorneys' fees.

16. Entire Agreement. This Contract, together with all attachments, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations and agreements, whether written or oral. This Contract may be amended only by written change order, properly signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first written above.

CITY OF GIG HARBOR

CONTRACTOR

MAYOR CHARLES L. HUNTER
Date: _____

By: _____
Title: _____
Date: _____

ATTEST/AUTHENTICATED:

MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:
Office of the City Attorney

EXHIBIT A
WILKINSON FARM HOUSE RESTORATION
(CPP-1128)
SCOPE OF WORK
July 8, 2013

GENERAL REQUIREMENTS:

This project provides for improvements to the City-owned Wilkinson Farm House, which is located at Wilkinson Farm Park in Gig Harbor at 4118 Rosedale Street. The house was originally constructed ca. 1920. The two-story residence is approximately 2,160 square feet. The building is currently vacant.

A **pre-bid site visit** for all prospective bidders will occur on **Wed., July 10, 2013 at 2:00 pm** at the Wilkinson Farmhouse.

Bid proposals will be received by Terri Reed at the City of Gig Harbor only by means of email (ReedT@cityofgigharbor.net) or delivered to the City of Gig Harbor, 3510 Grandview Street, Gig Harbor, Washington, 98335, **no later than 10:00 am, Tuesday, July 16, 2013**. Bid proposals received after the time fixed for opening will not be considered and email "sent" times and postmarks will not be accepted.

Small Works Roster: Contractor must be on the City of Gig Harbor's Small Works Roster prior to contract award. Membership can be obtained through: http://www.mrscrosters.org/smallWorks_Account.aspx.

Asbestos Abatement (report dated August 6, 2010) – Asbestos containing materials (ACM) abated from the property on March 15, 2012. Any additional suspect ACM discovered during the project renovations will require professional removal prior to any activities that may disturb the noted ACM in the house. Contractor will immediately notify City if any additional ACM materials are found.

Lead Based Paint – Residential dwellings built prior to 1978 may contain lead-based paint hazards. Contractors shall possess a certificate of Lead in Construction or lead awareness-level training along with current refresher certification, if applicable. Training should be in accordance with 29 CFR 1926.62 and WAC 296-155-176. The painting contractor should possess a Lead Renovation, Repair, and Painting (RRP) certification and registration with the State of Washington to ensure proper training to adequately handle and cleanup deteriorated lead-based paint.

City Contract (Sample contract attached) - Provided for reference as to project requirements including insurance and prevailing wage requirements. To perform the work, this agreement will serve as the binding contract.

The City of Gig Harbor reserves the right to reject any or all bids and to waive minor irregularities in the bidding process. The City of Gig Harbor reserves the right to award this contract to the lowest responsive, responsible bidder based on the Bid Proposal. In determining the lowest responsive responsible bidder, consideration will be given to the criteria listed in RCW 39.04.

EXHIBIT A
WILKINSON FARM HOUSE RESTORATION
(CPP-1128)
SCOPE OF WORK
July 8, 2013

PROJECT DESCRIPTION:

Control of Materials: The Contractor shall submit product information and color chips for the City's review prior to ordering materials and performing the work.

Paint Colors: Paint colors, including trim color, shall be specified by the City.

Clean Job Site: The Contractor shall be responsible for completely cleaning up job site and all waste removal and disposal.

WORK ITEMS INCLUDED – BASE BID (Plan Location):

INSULATION

Provide blown-in insulation in exterior wall cavities
Provide under floor thermal batts w/vapor bd R-21

HOUSE EXTERIOR

Wash vinyl siding
Repair wood, as necessary
Caulk and paint, as necessary

LIGHT FIXTURES

City will provide all light fixtures to be installed by contractor

FLOORS

Remove all existing carpeting
Remove all tack strips

INTERIOR WALL AND CEILINGS

Walls and ceilings that are not otherwise specified to be sheetrocked, the following method will apply:

DO NOT OVERWORK

Treat walls and ceilings with sealer such as 123, per manufacturer's directions

Use Peel Stop for wood that has deteriorated, per manufacturer's directions

Patch holes throughout using gypsum board or suitable filler

Repair and replace missing cove molding where needed

Match finishes/texture as close to possible

Paint with latex product

Wall paper to be treated with, "GUARDZ" wall paper sealer, per manufacturer's directions

WOOD TRIM, WINDOWS AND WINDOW FRAMES

EXHIBIT A
WILKINSON FARM HOUSE RESTORATION
(CPP-1128)
SCOPE OF WORK
July 8, 2013

Verify all windows are functional, repair as needed
Patch as necessary
Seal any stains with suitable product
Prime as necessary
Paint with a low sheen paint, color off-white

WOOD DOORS & FRAMES

Patch as necessary
Seal any stains with suitable product
Prime as necessary
Paint with a low sheen paint, color off-white

BACK PORCH (100)

Provide new vinyl floor and wood base

LAUNDRY (101)

Sheetrock walls (1/2") and ceiling (5/8") and paint
Provide new vinyl floor and wood base
Install City-provided light fixture

KITCHEN (102)

Provide new vinyl floor and wood base
Repair, seal and paint walls and ceiling
Install City-provided light fixture
Replace sink faucet
Install stove vent (out through the floor), suitable for down-draft
Install down-draft range hood, City to provide range hood
Provide cabinet for stove, match existing
Paint inside and outside of cabinets, repair as needed
Repair tile with salvaged tile from Room 106 (bathroom)
Replace all countertops, including shelf behind kitchen range
City will provide appliances, verify size and models

SITTING ROOM (103)

Sheetrock (5/8") ceiling and paint
Replace non-functional outlet cover with blank
Install City-provided light fixture

LIVING ROOM (104)

Sheetrock (5/8") ceiling and paint
Replace non-functional outlet cover with blank
Install City-provided light fixture
Verify operation and condition of fireplace and flue

EXHIBIT A
WILKINSON FARM HOUSE RESTORATION
(CPP-1128)
SCOPE OF WORK
July 8, 2013

DINING ROOM (105)

- Sheetrock (5/8") ceiling and paint
- Patch 1x8 base
- Replace matching trim
- Install City-provided light fixture

BATHROOM (106)

- Remove tiles (re-use in Rooms 102-Kitchen)
- Sheetrock with mold-resistant walls (1/2") and ceiling (5/8"), and paint
- Provide new vinyl floor and wood base
- Replace toilet
- Refurbish seals in sink
- Refurbish existing clawfoot tub and provide circular shower curtain rod

BREAKFAST NOOK (107)

- Provide new vinyl floor and wood base
- Provide cove moulding
- Install City-provided light fixture
- Paint inside and outside of cabinets, repair all holes

STAIRWAY

- Replace all glass in windows at bottom of stairway with safety glass
- Provide suitable stair treads, painted finish
- Remove existing handrail
- Install new handrail on opposite wall, must extend full length from top to bottom of stairs, turning back at both ends (at 36")

UPSTAIRS HALL (200)

- Install plywood overhang
- Install City-provided light fixture

BEDROOM (201)

- Paint closet
- Install City-provided light fixture
- Eliminate vent in ceiling
- Provide door (with salvaged door, to match other existing doors)

BEDROOM (202)

- Sheetrock (1/2") ceiling and paint
- Paint closet
- Install City-provided light fixture
- Eliminate vent in ceiling
- Provide 1/4" gypsum board around chimney, glue and nail, finish and paint
- Replace broken window glass

EXHIBIT A
WILKINSON FARM HOUSE RESTORATION
(CPP-1128)
SCOPE OF WORK
July 8, 2013

BEDROOM (203)

Patch and paint closet
Install City-provided light fixture
Eliminate vent in ceiling
Plug holes where vent previously ran through closet shelves

BEDROOM (204)

Patch and paint closet
Install City-provided light fixture
Eliminate vent in ceiling

ATTIC ACCESS

Remove gypsum board and sheetrock closet and paint

***** END OF BASE BID *****

ADDITIVE BID ITEM #1:

FLOORS

Refinish all hardwood floors, upstairs and downstairs

ADDITIVE BID ITEM #2:

CLEAN CEDAR SHAKE ROOFS (HOUSE AND GARAGE)

Gently clean shake roof, clean out gutters, and clean up resulting debris on ground.

Apply Premium Oil-Based Preservative to roof to provide six years of UV protection, moss control, sealing of shakes and natural beauty
Re-seal all gutters

ADDITIVE BID ITEM #3:

GARAGE EXTERIOR PAINT

Clean and paint exterior of garage - furnishing all labor, materials, tools and equipment for the surface preparation and wood repairs, application of primer as necessary, and (2) coats of paint to the exterior of the garage.

EXHIBIT A

WILKINSON FARM HOUSE RESTORATION
(CPP-1128)
QUOTE FORM

For consideration for this project, price quotations must be received on this form by 10:00 am, Tuesday, July 16, 2013 at:

Mail or Deliver to: City of Gig Harbor
Public Works/Operations
Attn: Terri Reed
3510 Grandview Street
Gig Harbor, WA 98335

Or email to: reedt@cityofgigharbor.net

Questions: Contact Marco Malich at (253) 377-9408 or malichm@cityofgigharbor.net

| Bid Item | Description | Amount |
|--|---|--------------|
| The Contractor agrees to furnish all material, labor, tools, equipment, apparatus, etc. necessary to perform and complete in a workmanlike manner the work set forth in the following: | | |
| Base Bid | Wilkinson Farm House Restoration (CPP-1128) Scope of Work (dated July 8, 2013) Base Bid | \$ 38,964.12 |
| | Applicable WA State Sales Tax (8.5%) | \$ 3,311.95 |
| | Total Base Bid | \$ 42,276.08 |
| Bid Additive #1 | Wilkinson Farm House Restoration (CPP-1128) Scope of Work (dated July 8, 2013) Floors - Refinish all hardwood floors, upstairs and downstairs | \$ 7686.62 |
| | Applicable WA State Sales Tax (8.5%) | \$ 653.36 |
| | Total Alt. #1 | \$ 8339.98 |
| Bid Additive #2 | Wilkinson Farm House Restoration (CPP-1128) Scope of Work (dated July 8, 2013) Clean Cedar Shake Roofs (house and garage) | \$ 2442.25 |
| | Applicable WA State Sales Tax (8.5%) | \$ 207.59 |
| | Total Alt. #2 | \$ 2,649.84 |
| Bid Additive #3 | Wilkinson Farm House Restoration (CPP-1128) Scope of Work (dated July 8, 2013) Garage Exterior Paint | \$ 1360.00 |
| | Applicable WA State Sales Tax (8.5%) | \$ 115.60 |
| | Total Alt. #3 | \$ 1,475.60 |

38,964.1
3311.95
42,276.08

EXHIBIT A

WILKINSON FARM HOUSE RESTORATION
(CPP-1128)
QUOTE FORM

For consideration for this project, price quotations must be received on this form by 10:00 am, Tuesday, July 16, 2013 at:

Mail or Deliver to: City of Gig Harbor
Public Works/Operations
Attn: Terri Reed
3510 Grandview Street
Gig Harbor, WA 98335

Or email to: reedt@cityofgigharbor.net

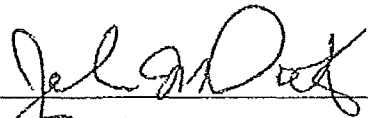
Questions: Contact Marco Malich at (253) 377-9408 or malichm@cityofgigharbor.net

| Bid Item | Description | Amount |
|--|---|--------------|
| The Contractor agrees to furnish all material, labor, tools, equipment, apparatus, etc. necessary to perform and complete in a workmanlike manner the work set forth in the following: | | |
| Base Bid | Wilkinson Farm House Restoration (CPP-1128) Scope of Work (dated July 8, 2013) Base Bid | \$ 38,964.13 |
| | Applicable WA State Sales Tax (8.5%) | \$ 3,311.95 |
| | Total Base Bid | \$ 42,276.08 |
| Bid Additive #1 | Wilkinson Farm House Restoration (CPP-1128) Scope of Work (dated July 8, 2013) Floors - Refinish all hardwood floors, upstairs and downstairs | \$ 7686.62 |
| | Applicable WA State Sales Tax (8.5%) | \$ 653.36 |
| | Total Alt. #1 | \$ 8,339.98 |
| Bid Additive #2 | Wilkinson Farm House Restoration (CPP-1128) Scope of Work (dated July 8, 2013) Clean Cedar Shake Roofs (house and garage) | \$ 2442.25 |
| | Applicable WA State Sales Tax (8.5%) | \$ 207.59 |
| | Total Alt. #2 | \$ 2,649.84 |
| Bid Additive #3 | Wilkinson Farm House Restoration (CPP-1128) Scope of Work (dated July 8, 2013) Garage Exterior Paint | \$ 1,360.00 |
| | Applicable WA State Sales Tax (8.5%) | \$ 115.60 |
| | Total Alt. #3 | \$ 1,475.60 |

38,964.13
3,311.95
42,276.08

EXHIBIT A

WILKINSON FARM HOUSE RESTORATION
(CPP-1128)
QUOTE FORM

Signature:  Date: 7-15-2013
Printed Name: JOHN M. DIETZ Title: PRESIDENT
Company Name: FLOOD EX WATER DAMAGE
Address: PO BOX 4305
OLYMPIA, WA. 98501
Phone: 360-352-5522 Fax: —
Email address: JM DIETZ @ FLOOD EX WATER DAMAGE .COM
UBI Number: 603 016 765
WA Contractor License No.: FL00DD*907N4



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

Subject: Second Reading - Downtown Building Size and Height Amendments

Proposed Council Action: Consider public comments received at July 8th public hearing and provide direction on the proposed amendments. A third reading of the ordinance may occur on September 9th, 2013

Dept. Origin: Planning

Prepared by: Jennifer Kester, Planning Director

For Agenda of: July 22, 2013

Exhibit: Draft Ordinance, Planning Commission Recommendation Packet, Written Public Hearing Comments

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Initial & Date
 CLK 7/18/13
 R 7/18/13
 Council 6/28/13
 N/A
 JK 7/17/13

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

INFORMATION/BACKGROUND

In early 2012, the City Council directed the Planning Commission to *Review and Identify Codes that inhibit the preservation of character-defining historic buildings in the downtown*. This effort was the first step in the downtown preservation planning effort instituted by the Mayor and Council.

The following potential amendments specific to this task were identified:

1. Grandfather existing building sizes (sq footage) in the DB Zone. Allow existing non-historic buildings to be torn down and re-built within the existing building envelope. (DRB approval required.)
2. Allow increased floor area within an existing building's envelope (mezzanines, etc).
3. Provide building size allowances to eligible or listed historic buildings in the View Basin if the front façade is preserved.
4. Consider height increase allowances for buildings in the View Basin (up to 2 stories).
5. Consider incentives for first floor retail/restaurant.

The Planning Commission began review of these amendments in June of 2012. Over the course of the last year, the PC participated the Harbor Vision town hall meetings; conducted a walking tour of downtown; and, held 16 work-study sessions, an open house and three public hearings.

The draft ordinance encompasses four amendments recommended by the Planning Commission:

Proposed Downtown Building Size and Height Amendments: The following amendments would apply to the Downtown Business (DB) zoning district and the Waterfront Commercial (WC) zoning district that abuts the DB district

- A. **Additional Interior Gross Floor Area:** For existing buildings, additional gross floor area could be added above the maximum allowed by the zoning district provided that the additional gross floor area to be added is interior to the building and does not enlarge or expand the existing building footprint. Roof modifications are allowed provided they do not exceed the maximum building height allowed in the underlying zone.
- B. **Remodeling and Rebuilding Nonconforming Buildings:** Nonconforming buildings can be remodeled or torn down and rebuilt to the same or smaller configuration. Non-historic registry eligible buildings must meet the Design Manual requirements. All work on historic registry eligible or registered nonconforming buildings must meet specific Design Manual requirements for historic structures.
- C. **Two-Story Building Allowance:** Increase the maximum building height in the City's downtown area in order to allow flat-roof, two-story buildings in the City's downtown. All buildings would be allowed to be 27 feet high as measured from the building footprint at the uphill and downhill facades.

Proposed Waterfront Residential Amendments:

- D. For residential buildings in waterfront zones, the 18-foot uphill height limit measurement point would move from the building setback line to the property line abutting the street ROW. In addition the front yard setback would reduce to 6 feet for the porch, 12 feet for the house and 18 feet for the garage.

The Planning Commission feels these code amendments fit within the existing character of downtown, the existing comprehensive plan policies and existing regulatory framework. Furthermore, the proposed amendments provide additional flexibility to allow for the revitalization of downtown while maintaining its character.

At the joint City Council and Planning Commission meeting held on June 3rd to discuss these recommendations, the Council asked the Planning Commission to consider when building permits for remodeling/rebuilding should be submitted in order to utilize the specific provisions of Item A above. At their June 6th meeting, the Planning Commission decided that to be consistent with "acts of nature" based rebuilds, building permits must be submitted within 12 months of damage.

FISCAL CONSIDERATION

None

BOARD OR COMMITTEE RECOMMENDATION

Please see enclosed Planning Commission Recommendation Packet for formal recommendation notices. Minutes from the Planning Commission meetings can be found on the City's webpage; see enclosed list and web address.

RECOMMENDATION/MOTION

Consider public comment heard at July 8th public hearing and provide direction on the proposed amendments. A third reading of the ordinance may occur on September 9th, 2013

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO ZONING; ALLOWING INTERIOR ONLY GROSS FLOOR AREA ADDITIONS TO EXISTING BUILDINGS ABOVE GROSS FLOOR AREA MAXIMUMS AND ALLOWING NONCONFORMING BUILDINGS TO BE REMODELED OR REBUILT TO THE SAME OR SMALLER ENVELOPE IN THE DOWNTOWN BUSINESS DISTRICT (DB) AND THE WATERFRONT COMMERCIAL (WC) DISTRICT ABUTTING DB; REDUCING THE FRONT YARD SETBACKS AND MOVING THE HEIGHT MEASUREMENT POINT TO THE RIGHT-OF-WAY FOR RESIDENTIAL BUILDINGS IN THE WATERFRONT ZONES; ALLOWING BUILDINGS IN THE DB AND ABUTTING WC DISTRICTS TO BE 27-FEET HIGH AS MEASURED FROM NATURAL AND FINISHED GRADE AT THE BUILDING FOOTPRINT WITH STEPPED-DOWN ROOFS ON SLOPED LOTS; AMENDING SECTIONS 17.31.075, 17.50.040, 17.68.040, 17.99.320 AND 17.99.510 OF THE GIG HARBOR MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, in March 2012, the City Council directed the Planning Commission to review and identify Codes that inhibit the preservation of character-defining historic buildings in the downtown as part of the downtown preservation and revitalization planning effort; and

WHEREAS, beginning in 2012, the Planning Commission began reviewing potential amendments, conducted a walk tour of downtown Gig Harbor and participated in two town hall meetings focused on the vision for downtown; and

WHEREAS, on December 10th, 2012, the City Council adopted Resolution No. 920, The Harbor Vision Statement for the downtown area; and,

WHEREAS, over the course of eleven months, the Planning Commission held 16 work-study sessions and one open house on a series of potential amendments for the downtown; and,

WHEREAS, on December 6, 2012, the Planning Commission held a public hearing on two potential amendments related to downtown building size; and

WHEREAS, after considering public comment on the proposed downtown building size amendments, the Planning Commission made a formal recommendation on January 17, 2013 to amend downtown building size regulations to allow interior gross floor area additions and allow buildings to be torn down and rebuilt to the existing building envelopes; and

WHEREAS, on March 21, 2013, the Planning Commission held a public hearing on a proposal to increase the building height in the downtown area. After considering

public testimony, the commission recommended on May 2, 2013 to increase in maximum building height; and

WHEREAS, on April 11, 2013, the Planning Commission held a public hearing on a proposal to decrease the front setbacks and change the height measurement point for residential uses in the waterfront zones. After considering public testimony, the commission approval of such amendments on May 2, 2013; and

WHEREAS, On June 3, 2013, the City Council held a joint meeting with the Planning Commission to review the recommended amendments; and

WHEREAS, at the direction of Council at joint meeting, the Planning Commission recommended additional language be added to require that building permits for remodels or rebuilds of any nonconforming building be submitted within 12 month of removal/damage in order to be consistent with existing requirements for "acts of nature" based rebuilds; and

WHEREAS, the Council finds that the amendments would aid in preserving the downtown character and scale; and

WHEREAS, the amendments are consistent with the Harbor Vision and the majority of the comments heard at the open house and public hearing for these amendments; and

WHEREAS, the Council finds the building size and building height amendments should be limited to the Downtown Business (DB) district and the Waterfront Commercial (WC) district abutting the DB as those are the generally accepted "downtown" area and have the highest concentration of existing multi-story buildings; and

WHEREAS, the Council finds that no additional parking should be required for interior additions and remodels/rebuilds allowed by these amendments as requiring additional parking may not be possible given the land constraints downtown and would therefore limit the usefulness of the amendments; and

WHEREAS, the existing regulations for building height allow between 16 and 27 foot high buildings depending on topography and roof type which does not allow the construction of a flat two-story building that meets modern construction techniques and the requirements for ADA access and HVAC systems; and

WHEREAS, there are a considerable number of existing buildings in the downtown core which are two or more stories and exceed the existing height limits; and

WHEREAS, two-story buildings that meet the new height limits and the requirements of the Design Manual will provide an appropriate human-scaled architecture for pedestrians on the sidewalk and provide the opportunity for mixed use buildings; and

WHEREAS, after discussions with architects on the Design Review Board and the City's Building Official/Fire Marshal, it was determined that 27 feet was the appropriate height limitation in order to allow two-story flat-roofed buildings using modern construction techniques, providing ADA access and screening HVAC systems on a roof; and

WHEREAS, the current height measurement location for residential buildings on the waterside of Harborview and North Harborview Drive has led to new homes being significantly lower than historic homes as viewed from the street. The current front yard setback provisions do not allow for the retention of the historic residential character of that streetscape; and

WHEREAS, nonresidential buildings along the Harborview and North Harborview frontages must be located within 10 feet of Harborview and North Harborview Drive and the maximum height can be measured at the property line along the right-of-way; and

WHEREAS, the new Shoreline Master Program is expected to require a setback from the ordinary high water mark, the smallest of which is 35 feet, thereby reducing the buildable area of a lot along the water. The proposed decrease in front yard setbacks will help mitigate that impact to the buildable area of the lot; and

WHEREAS, decreasing the front yard setbacks and height measurement point for residential uses in waterfront zones will make the residential requirements more consistent with the nonresidential buildings in the same zones; and

WHEREAS, the proposed text amendments are consistent with the following goals and policies in the Comprehensive Plan:

GOAL 3.6: ARTICULATE AN ARCHITECTURAL STYLE WHICH REFLECTS GIG HARBOR'S BUILT AND NATURAL ENVIRONMENT AND WHICH APPEALS TO THE HUMAN SPIRIT; and

3.6.1. Maintain a small town scale for structures.

New structures should not overpower existing structures or visually dominate Gig Harbor's small town city-scape, except as approved landmark structures; and

3.6.2. Identify an appropriate form for structures.

New structures should be characterized by interesting forms and roof lines. Boxy, single-mass buildings should be discouraged except as may be appropriate in a downtown streetscape; and

GOAL 3.7: ENCOURAGE BUILDING DESIGNS WHICH DEFINE AND RESPECT THE HUMAN SCALE. *The scale of the building in relation to the human form should be obvious, particularly at the sidewalk level; and*

3.7.2. Encourage mixed-use structures.

Mixing uses within a structure enhances the ability to give interesting form and character to a building. For example, allowing residential units above retail shops encourages designs more common to a village or small town setting while providing another housing opportunity for local merchants or retirees with limited transportation; and

GOAL 3.15 IDENTIFY, PRESERVE AND DEVELOP AN APPROPRIATE WATERFRONT ARCHITECTURE; and

GOAL 3.18 TO PRESERVE THE CHARACTER OF THOSE SITES OR DISTRICTS WHICH REFLECT THE STYLE OF GIG HARBOR'S HISTORICAL DEVELOPMENT; and

3.18.2. Develop guidelines which promote compatible development within designated areas.

Guidelines should specify building forms, styles, and motifs appropriate for Gig Harbor's historic areas; and

3.17.1. Encourage retention and adaptive reuse of older buildings with the following types of incentives: (a) Zoning incentives, e.g., setback and height standards which allow for restoration/renovation or expansion of existing structures; and

6.2.2. Property revitalization *Assist with special planning and development efforts to reuse older buildings, redevelop vacant properties, and revitalize older commercial and business districts within the city. Help structure local marketing efforts, physical improvements programs, parking and building improvements and special management organizations.*

WHEREAS, the proposed development regulations amendments were forwarded to the Washington State Department of Commerce on November 20, 2012 and April 26, 2013, pursuant to RCW 36.70A.106; and

WHEREAS, the City's SEPA Responsible Official issued a Determination of Nonsignificance (DNS) for the amendments allowing interior floor area additions and remodels/rebuilds on January 19, 2012; and

WHEREAS, the City's SEPA Responsible Official issued a Determination of Nonsignificance (DNS) for the amendments allowing 27-foot high buildings in the DB and abutting WC zones and the amendments reducing the front setbacks and height measurement point for residential uses on May 29, 2013; and

WHEREAS, the Gig Harbor City Council considered the Ordinance at first reading and public hearing on July 8, 2013; and

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

WHEREAS, on _____, the City Council held a third 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 17.31.075 in the Downtown Business District (DB) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.31.075 Maximum gross floor area.

A. Except as provided for in subsection B, in the DB district, the maximum gross floor area per building is 6,000 square feet. Multiple buildings on the same site shall be separated by a nonpenetrated fire wall as defined in the International Fire Code except that a single six-foot opening in the fire wall separating structures is permissible; provided, that each structure has an outside customer entrance accessible to the street. Each structure shall be designed to stand independent of other structures on the site (i.e., the addition or removal of any one building on a site will not require structural attachments or modifications to any other building on the site).

B. For structures existing as of the effective date this ordinance, additional gross floor area may be added to a structure and the total gross floor area may exceed the maximum allowed in subsection A provided that the additional gross floor area to be added is interior to the building and does not enlarge or expand the existing building footprint. Roof modifications to accommodate the increase in interior gross floor area are allowed provided the roof modifications do not exceed the building height allowed in GHMC 17.99.510. No additional parking spaces are required to accommodate the increase in gross floor area.

Section 2. Subection 17.50.040(I) in the Waterfront Commercial (WC) chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.50.040 Development standards.

In a waterfront commercial district, the minimum development requirements are as follows:

| | Single-Family Dwelling | Attached Up to 4 Units | Nonresidential |
|--|------------------------|------------------------|----------------|
| A. Minimum lot area (sq. ft.) ¹ | 6,000 | 6,000/unit | 15,000 |
| B. Minimum lot width | 50' | 100' | 100' |
| C. Minimum front yard ² | | | |
| D. Minimum side yard ² | | | |
| E. Minimum rear yard ² | | | |
| F. Minimum yard abutting tidelands | 0' | 0' | 0' |
| G. Maximum site impervious | 50% | 55% | 70% |

| | | | |
|---|---|--|--|
| coverage | | | |
| H. Density | | 4 dwelling units per acre | |
| I. Maximum footprint/ gross floor area ^{4,5} | 3,000 square feet max. gross floor area per structure | 3,000 square feet max. footprint/ 6,000 square feet gross floor area per structure | 3,000 square feet max. footprint/ 6,000 square feet gross floor area per structure |
| J. Separation between structures ³ | 20' | 20' | 20' |

¹An undersized lot or parcel shall qualify as a building site if such lot is a lot of record at the time this chapter became effective.

²The setbacks of GHMC 17.99.310 and 17.99.320 are applicable in the WC district.

³Separation between structures is not required upon lots or parcels within the Finholm Market portion of the WC district which contain multiple structures and/or which abut the DB (downtown business) district.

⁴Historic net sheds as defined in GHMC 17.04.615 shall be excluded from the maximum gross floor area requirements.

⁵For structures existing as of the effective date this ordinance and located in the portion of the WC district which abuts the DB district, additional gross floor area may be added to a structure and the total gross floor area may exceed the maximum allowed provided that the additional gross floor area to be added is interior to the building and does not enlarge or expand the existing building footprint. Roof modifications to accommodate the increase in interior gross floor area are allowed provided the roof modifications do not exceed the building height allowed in GHMC 17.99.510. No additional parking spaces are required to accommodate the increase in gross floor area.

* * *

Section 3. Section 17.68.040 in the Nonconformities chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

17.68.040 Nonconforming structures.

When a lawful structure existed at the effective date of the adoption or an amendment of the applicable regulations and could not be built under the terms of the current regulations set forth in GHMC Title 17, or amendments thereof, by reason of the restrictions on area, lot size or dimension, coverage, height, yards and the location on the lot or other requirements concerning the structure, such structure may be continued as a nonconforming structure so long as it remains otherwise lawful and shall be subject to the following provisions:

A. No such nonconforming structure may be altered or remodeled in any way that increases its nonconformity respective to bulk or dimensional standards in effect, but any structure or portion thereof may be altered or remodeled to decrease its nonconformity;

B. A nonconforming structure that is damaged by fire, act of nature or other causes beyond the control of the owners may be reconstructed as long as it is not discontinued for more than 12 consecutive months. Any such structure that is unintentionally destroyed shall be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was damaged or destroyed. The reconstruction shall comply with all applicable building codes in

force at the time of replacement. As determined during the nonconforming use and structure review process (see GHMC 17.68.025), the reconstruction shall comply with all other applicable codes to the maximum extent possible.

“Discontinued” is defined in GHMC 17.68.038;

C. Except as provided for in subsection E of this section, any such nonconforming structure or nonconforming portion of a structure that is intentionally damaged or intentionally altered may be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was damaged or altered, provided the alterations and/or damage is valued at less than 50 percent of the replacement value of the structure as determined by the square foot construction cost table in the city’s fee schedule. Building permits for the reconstruction shall be submitted within one year of the time of intentional damage or alteration and shall remain active or not at all reconstruction will not be allowed. The reconstruction shall comply with all applicable building codes in force at the time of replacement. As determined during the nonconforming use and structure review process (see GHMC 17.68.025), the reconstruction shall comply with all other applicable codes to the maximum extent possible. Interior-only remodels which do not increase a structure’s nonconformity shall not count towards the replacement cost as it relates to this section; and

D. Except as provided for in subsection E of this section, when a structure has a nonconforming structure status, the intentional removal, intentional damage, or intentional alteration of the structure shall eliminate the nonconforming status. Upon the elimination of the nonconforming status, the structure shall be brought into conformity with the existing code or shall be removed. “Intentional removal, intentional damage, or intentional alteration” for the purposes of this subsection is defined as damage and/or alterations valued at more than 50 percent of the replacement value of the structure at the time of damage and/or alterations, over the lifetime of the structure, as determined by the square foot construction cost table in the city’s fee schedule.

E. Downtown Nonconforming Structures. Intentional removal or alteration of structures with a nonconforming structure status in the DB zoning district and the WC zoning district abutting the DB zoning district shall be subject to the following provisions:

1. Any such nonconforming structure or nonconforming portion of a structure that is intentionally removed or altered may be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was removed or altered. Building permits for the reconstruction shall be submitted within one year of the time of intentional removal or alteration and shall remain active or reconstruction will not be allowed. The reconstruction shall comply with all applicable building codes in force at the time of replacement; and

2. As determined during the nonconforming use and structure review process (see GHMC 17.68.025), the reconstruction shall comply with all other applicable codes to the maximum extent possible; and

3. The reconstruction of structures with a nonconforming structure status which are on a local, state or national historic registry or are eligible for such registries shall meet the requirements of GHMC 17.99.580 regardless of when the structure was built.

Section 4. Subsection 17.99.320(A) in the Design Manual chapter of the Gig Harbor Municipal Code is hereby amended, to read as follows:

A. Conform to residential setback requirements.

1. **FRONT SETBACK MINIMUM** House – 20 feet; in Waterfront Zones – 12 feet
Garage – 26 feet; in Waterfront Zones – 18
feet
Porches – 12 feet; in Waterfront Zones – 6 feet

2. **SIDE SETBACK/VIEW CORRIDOR MINIMUM****

a. For site with one building - On a 50-foot-wide lot, 20 feet of combined side yard setback/view corridor is required and may be allotted as desired except that a minimum of five feet on any one side is required. For every additional foot of lot width beyond 50 feet, an additional one-quarter foot of side yard setback/view corridor is required. On sites with less than 50 feet of width, one-quarter foot of side yard setback/view corridor shall be eliminated for every foot of lot width less than 50 feet; provided that a minimum of 5 feet of setback/view corridor shall be provided on all side yards.

b. For sites with multiple buildings – Side yard setbacks/view corridors shall be provided in an amount equivalent to 20 feet for the first 50 feet of lot width. For every additional foot of lot width beyond 50 feet, an additional one-quarter foot of side yard setback/view corridor shall be provided. On sites with less than 50 feet of width, one-quarter foot of side yard setback/view corridor shall be eliminated for every foot of lot width less than 50 feet. The side yard setbacks/view corridors may be allotted in one of the following ways:

i. The total of the required side yard setback/view corridor shall be provided adjacent and parallel to the side property lines along the entire length of the property provided that a minimum of five feet of setback/view corridor shall be provided on all sides; or

ii. If the lot is 100 feet or more in width, a minimum side yard setback/view corridor of five feet shall be provided adjacent to abutting properties and setback/view corridor(s) a minimum of 20-foot wide shall be provided between buildings on the subject site. Lots narrower than 100 feet wide are not eligible for this provision.

c. View Corridors – In waterfront zoning districts, view corridors shall be provided perpendicular to a designated parkway or parallel to the side property lines along the entire length of the property. In all other zoning districts, view corridors shall be provided parallel to the side property lines along the entire length of the property. All required view corridors shall be open from the ground to the sky except that appurtenances allowed by the definitions of “yard” in

Section 17.04.880 GHMC and “yard, side” in Section 17.04.910 GHMC may be located within the corridor.

3. REAR SETBACK MINIMUM** – As defined for each underlying zone in the Gig Harbor Municipal Code, or 25 feet, whichever is less.

4. OVERWATER STRUCTURE SETBACK:

Setbacks for overwater structures shall be governed by the Gig Harbor Shoreline Master Program and shall be exempt from this section.

** See additional setback provisions in subsection C of this section.

* * *

Section 5. Subsections 17.99.510(A) and (B), Building massing and height – Historic District, in the Design Manual chapter of the Gig Harbor Municipal Code are hereby amended, to read as follows:

A. Incorporate characteristic roof lines and massing into residential structures.

Historic structures in Gig Harbor are characterized by similar roof lines and massing. All residential structures within the historic district must meet the following criteria:

1. MINIMUM ROOF PITCH.

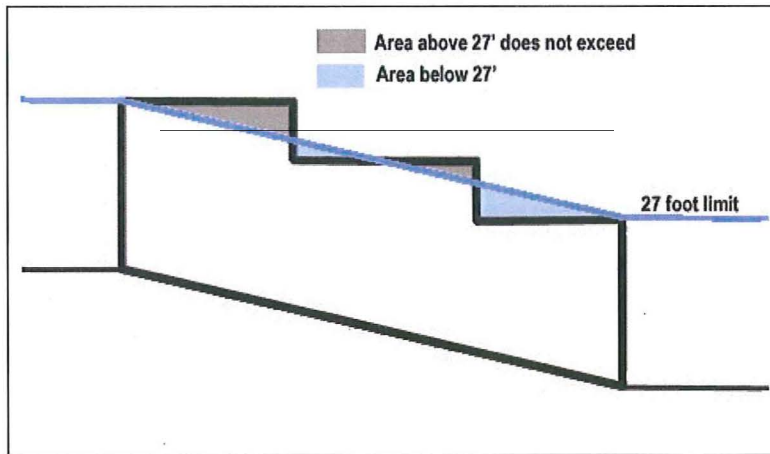
Roof pitches shall be minimum 6/12 and maximum 12/12 on all portions of the roof except for (a) shed dormers, (b) porches, (c) the lower pitched roof portion on a saltbox-style structure, and (d) steeples, bell towers, and similar accentuated structures.

2. MAXIMUM HEIGHT – DB ZONE and PORTION OF THE WC ZONE ABUTTING THE DB ZONE.

A building shall not exceed 27 feet above natural and finished grade as measured from the building footprint except as allowed for stepped-down buildings as follows:

On sloped sites, the elevations of buildings may be stepped-down and those stepped down sections may exceed the 27-foot maximum provided that the uphill and downhill facades do not exceed 27 feet above natural and finished grade as measured from the building footprint and that the amount of elevation above 27 feet does not exceed the amount of elevation below 27 feet as shown in Figure A below. Safety rails surrounding roof top patios or gardens that are stepped back from the most forward front face of perimeter cornice are not included in the elevation provided the safety rail meets the design requirements of balustrades in GHMC 17.99.540(B) and provide a minimum of 60% transparency.

FIGURE A



2. 3. MAXIMUM HEIGHT – ALL OTHER ZONES.

Each residential lot is allowed a building height of up to 18 feet from any point within the buildable area and within 50 feet of the building's footprint; provided, that no portion of the structure exceeds 27 feet above natural and finished grade. In applicable waterfront zones (WR, WM and WC), the point at which the 18-foot maximum is measured may be at the highest point within the lot along the street right-of-way. Additionally, one BASIC STRUCTURE measuring 25 feet wide by 40 feet deep by 27 feet high may be incorporated into the building design based upon the following criteria:

- a. The height of the basic structure shall be measured from the lowest elevation point at the setback lines. Height shall be measured from natural grade.
- b. The ridge of the basic structure shall be perpendicular to the shoreline or "point" to a significant view.
- c. No structures other than chimneys shall extend beyond the area defined by the gable or hip, i.e., no structure shall extend above the common rafter extending from the top wall plate to the ridge unless it is within the underlying 18-foot height envelope.
- d. The minimum roof pitch is 8/12. Equal pitches are used on the remaining portion of the house.
- e. A full-width front porch shall be included on the front side of the basic structure unit and windows on the entire structure shall be true-divided light windows if a grid pattern is desired.
- f. All other setback and height requirements are complied with.

[Note: Retain graphic at this location]

3.4. INTERSECTING GABLES OR DORMERS.

- a. To avoid expansive roof planes, fascia boards may not exceed 35 feet in length without an intersecting gable, dormer or similar architectural element incorporated into the roof plane above the fascia board on pitched roofs.
- b. The total width of all dormers, gables, and similar architectural elements shall not exceed 50 percent of the width of the roof plane on which those elements are located.
- c. This requirement does not apply to BASIC STRUCTURES defined under subsection (A)(2) of this section.

B. Conform to height standards for nonresidential structures.

Historic commercial structures were typically flat-roofed buildings with projecting cornices, sometimes with an extended parapet on the front. Pitched roof commercial buildings were also common. To allow similarly designed buildings, all nonresidential structures within the historic district shall conform to the following height and roof pitch standards:

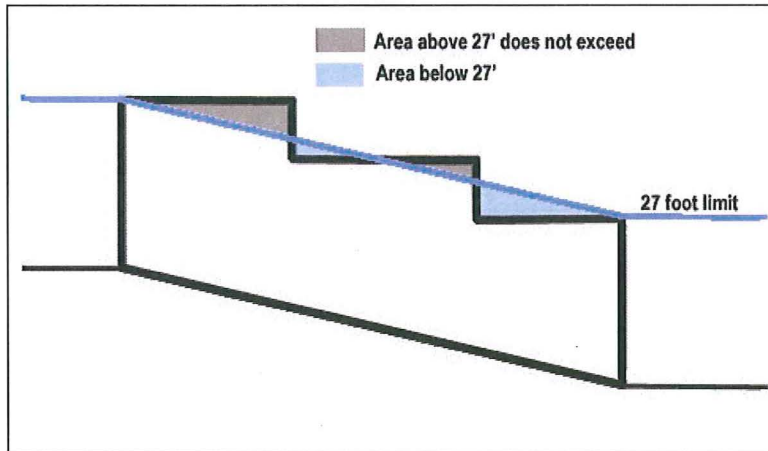
1. DOWNTOWN BUILDING HEIGHTS

In the Downtown Business (DB) district and abutting portion of the Waterfront Commercial (WC) district, the building height limitations of this subsection 1 apply as do the requirements of subsection 5 below. In all other zones, the requirements of subsection 2 through 5 apply.

A building shall not exceed 27 feet above natural and finished grade as measured from the building footprint except as allowed for stepped-down buildings as follows:

On sloped sites, the elevations of buildings may be stepped-down and those stepped down sections may exceed the 27-foot maximum provided that the uphill and downhill facades do not exceed 27 feet above natural and finished grade as measured from the building footprint and that the amount of elevation above 27 feet does not exceed the amount of elevation below 27 feet as shown in Figure B below. Safety rails surrounding roof top patios or gardens that are stepped back from the most forward front face of perimeter cornice are not included in the elevation provided the safety rail meets the design requirements of balustrades in GHMC 17.99.540(B) and provide a minimum of 60% transparency.

FIGURE B



4. 2. MAXIMUM UPHILL HEIGHT

No portion of a building shall exceed 16 feet for a flat roofed building, or 18 feet for a pitched roof building, as measured from the highest point within the buildable area and within 50 feet of the building footprint.

2. 3. MAXIMUM DOWNHILL HEIGHT

No building shall exceed a height of 24 feet as measured from finished grade at the lowest point of the building footprint, except that additional height is allowed for roof planes, gables and dormer windows, not to exceed the uphill height limits.

3. 4. MAXIMUM HEIGHT ABOVE GRADE

Buildings may not exceed a height of 27 feet above natural and finished grade at any given point within the building footprint.

4. 5. PITCHED ROOFS

Pitched roofs shall have a minimum roof pitch of 6/12 and a maximum pitch of 12/12 on all portions of the roof except for (a) shed dormers, (b) porches, (c) the lower pitched roof portions on a saltbox-style structure, which may all have lesser pitched roofs, and steeples and bell towers, which may have greater pitched roofs. The ridge of a pitched roof shall run perpendicular to (pointing toward) the view of the bay as seen from the street nearest the front setback line of the subject site, unless the ridge is within the flat roof height limits.

* * *

Section 6. 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 7. 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 _____, 2013.

CITY OF GIG HARBOR

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly M. Towslee, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney

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



DEVELOPMENT SERVICES

TO: Mayor Hunter and Members of the Council
FROM: Harris Atkins, Chair, Planning Commission *HRA 5/7/13*
RE: Summary of Proposed Changes to Downtown Regulations

In early 2012, the City Council directed the Planning Commission to *Review and Identify Codes that inhibit the preservation of character-defining historic buildings in the downtown.* This effort was the first step in the downtown preservation planning effort instituted by the Mayor and Council.

The following potential amendments specific to this task were identified:

1. Grandfather existing building sizes (sq footage) in the DB Zone. Allow existing non-historic buildings to be torn down and re-built within the existing building envelope. (DRB approval required.)
2. Allow increased floor area within an existing building's envelope (mezzanines, etc).
3. Provide building size allowances to eligible or listed historic buildings in the View Basin if the front façade is preserved.
4. Consider height increase allowances for buildings in the View Basin (up to 2 stories).
5. Consider incentives for first floor retail/restaurant.

The Planning Commission began review of these amendments in June of 2012. Over the course of the last year, the PC has attended the Harbor Vision town hall meetings; conducted a walking tour of downtown; and, held 16 work-study sessions, an open house and three public hearings. The result of that review is four code amendments encompassed in three recommendations. The proposals are grouped into two subjects: Building Size and Building Height

The recommended code amendments on building size, dated January 17, 2013, would address numbers 1 and 2 above. The recommended code amendments on building height, two documents dated May 2, 2013, would address number 4 above and the issue of "houses in a hole" along the water. The Planning Commission determined that items numbered 3 and 5 were not appropriate for review at this time due to their complexity.

In the course of the Commission's review, it became apparent that one of the next steps in this process should be a review of the current building size limitations and private parking requirements around the harbor. It is envisioned that this would be done as regulations are developed to implement the Harbor Vision. It should also be noted that during the course of the Commission's discussions, there were other factors and limitations identified unrelated to zoning, such as improvements in public parking opportunities, that may need to be addressed to fully realize the Harbor Vision.



DEVELOPMENT SERVICES

NOTICE OF RECOMMENDATION

CITY OF GIG HARBOR PLANNING COMMISSION PL-ZONE-12-0009

TO: Mayor Hunter and Members of the Council
FROM: Harris Atkins, Chair, Planning Commission
RE: PL-ZONE-12-0009 – Downtown Building Size Amendments

Application:

This application was initiated by the City of Gig Harbor as part of the City's focus on downtown visioning. The City Council specifically directed the Planning Commission to review and identify codes that inhibit the preservation of character-defining historic buildings in the downtown. The Planning Commission identified two amendments related to building size which would aid in preserving historic buildings downtown.

Planning Commission Review:

The Planning Commission held eight work study sessions between June and November 2012, attended two town hall meetings on downtown visioning (June 27th and October 18th, 2012) and conducted one walking tour of downtown in August 2012.

A public hearing was held on December 6th, 2012 after which the Planning Commission held a work study session and recommended **APPROVAL** of the amendments contained at the end of this notice.

Findings of Fact:

The Planning Commission makes the following findings of fact in relation to their recommendation of approval:

1. The City's Comprehensive Plan includes the following policies which support the amendments:

GOAL 3.15 IDENTIFY, PRESERVE AND DEVELOP AN APPROPRIATE WATERFRONT ARCHITECTURE

GOAL 3.18 TO PRESERVE THE CHARACTER OF THOSE SITES OR DISTRICTS WHICH REFLECT THE STYLE OF GIG HARBOR'S HISTORICAL DEVELOPMENT

3.17.1. Encourage retention and adaptive reuse of older buildings with the following types of incentives: (a) Zoning incentives, e.g., setback and height standards which allow for restoration/renovation or expansion of existing structures.

6.2.2. Property revitalization Assist with special planning and development efforts to reuse older buildings, redevelop vacant properties, and revitalize older commercial and business districts within the city. Help structure local marketing efforts, physical improvements programs, parking and building improvements and special management organizations.

2. The Planning Commission finds that the proposed amendments would aid in preserving the downtown character.
3. The Planning Commission finds that the proposed amendments are consistent with the comments received at the two town hall meetings on downtown visioning and public hearing.
4. The Planning Commission finds these amendments should be limited to the Downtown Business (DB) district and the Waterfront Commercial (WC) district abutting the DB as those are the generally accepted "downtown" area. Later in 2013 after implementing policies have been developed for The Harbor vision statement, the City should consider if these allowances should expand to other zones.
5. The Commission finds that no additional parking should be for additions and remodels allowed by these amendments as requiring additional parking may not be possible given the land constraints downtown and would therefore limit the usefulness of the amendments.

Harris Atkins, Chair
Planning Commission



Date 1/17/2013

Additional Interior Gross Floor Area Code Amendments:

Downtown Business (DB):

17.31.075 Maximum gross floor area.

A. Except as provided for in subsection B, in the DB district, the maximum gross floor area per building is 6,000 square feet. Multiple buildings on the same site shall be separated by a nonpenetrated fire wall as defined in the International Fire Code except that a single six-foot opening in the fire wall separating structures is permissible; provided, that each structure has an outside customer entrance accessible to the street. Each structure shall be designed to stand independent of other structures on the site (i.e., the addition or removal of any one building on a site will not require structural attachments or modifications to any other building on the site).

B. For structures existing as of the effective date this ordinance, additional gross floor area may be added to a structure and the total gross floor area may exceed the maximum allowed in subsection A provided that the additional gross floor area to be added is interior to the building and does not enlarge or expand the existing building footprint. Roof modifications to accommodate the increase in interior gross floor area are allowed provided the roof modifications do not exceed the building height allowed in GHMC 17.99.510. No additional parking spaces are required to accommodate the increase in gross floor area.

Waterfront Commercial (WC):

17.50.040 Development standards.

In a waterfront commercial district, the minimum development requirements are as follows:

| | Single-Family Dwelling | Attached Up to 4 Units | Nonresidential |
|---|---|--|--|
| A. Minimum lot area (sq. ft.) ¹ | 6,000 | 6,000/unit | 15,000 |
| B. Minimum lot width | 50' | 100' | 100' |
| C. Minimum front yard ² | | | |
| D. Minimum side yard ² | | | |
| E. Minimum rear yard ² | | | |
| F. Minimum yard abutting tidelands | 0' | 0' | 0' |
| G. Maximum site impervious coverage | 50% | 55% | 70% |
| H. Density | | 4 dwelling units per acre | |
| I. Maximum footprint/ gross floor area ^{4,5} | 3,000 square feet max. gross floor area per structure | 3,000 square feet max. footprint/ 6,000 square feet gross floor area per structure | 3,000 square feet max. footprint/ 6,000 square feet gross floor area per structure |
| J. Separation between structures ³ | 20' | 20' | 20' |

¹An undersized lot or parcel shall qualify as a building site if such lot is a lot of record at the time this chapter became effective.

²The setbacks of GHMC 17.99.310 and 17.99.320 are applicable in the WC district.

³Separation between structures is not required upon lots or parcels within the Finholm Market portion of the WC district which contain multiple structures and/or which abut the DB (downtown business) district.

⁴Historic net sheds as defined in GHMC 17.04.615 shall be excluded from the maximum gross floor area requirements.

⁵For structures existing as of the effective date this ordinance and located in the WC district which abuts the DB district, additional gross floor area may be added to a structure and the total gross floor area may exceed the maximum allowed provided that the additional gross floor area to be added is interior to the building and does not enlarge or expand the existing building footprint. Roof modifications to accommodate the increase in interior gross floor area are allowed provided the roof modifications do not exceed the building height allowed in GHMC 17.99.510. No additional parking spaces are required to accommodate the increase in gross floor area.

Remodeling and Rebuilding Nonconforming Buildings Code Amendments:

17.68.040 Nonconforming structures.

When a lawful structure existed at the effective date of the adoption or an amendment of the applicable regulations and could not be built under the terms of the current regulations set forth in GHMC Title 17, or amendments thereof, by reason of the restrictions on area, lot size or dimension, coverage, height, yards and the location on the lot or other requirements concerning the structure, such structure may be continued as a nonconforming structure so long as it remains otherwise lawful and shall be subject to the following provisions:

A. No such nonconforming structure may be altered or remodeled in any way that increases its nonconformity respective to bulk or dimensional standards in effect, but any structure or portion thereof may be altered or remodeled to decrease its nonconformity;

B. A nonconforming structure that is damaged by fire, act of nature or other causes beyond the control of the owners may be reconstructed as long as it is not discontinued for more than 12 consecutive months. Any such structure that is unintentionally destroyed shall be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was damaged or destroyed. The reconstruction shall comply with all applicable building codes in force at the time of replacement. As determined during the nonconforming use and structure review process (see GHMC 17.68.025), the reconstruction shall comply with all other applicable codes to the maximum extent possible. "Discontinued" is defined in GHMC 17.68.038;

C. Except as provided for in subsection E of this section, any such nonconforming structure or nonconforming portion of a structure that is intentionally damaged or intentionally altered may be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was damaged or altered, provided the alterations and/or damage is valued at less than 50 percent of the replacement value of the structure as determined by the square foot construction cost table in the city's fee schedule. Reconstruction shall occur within one year of the time of intentional damage or alteration or not at all. The reconstruction shall comply with all applicable building codes in force at the time of replacement. As determined during the nonconforming use and structure review process (see GHMC 17.68.025), the reconstruction shall comply with all other applicable codes to the maximum extent possible. Interior-only remodels which do not increase a structure's nonconformity shall not count towards the replacement cost as it relates to this section; and

D. Except as provided for in subsection E of this section, when a structure has a nonconforming structure status, the intentional removal, intentional damage, or intentional alteration of the structure shall eliminate the nonconforming status. Upon the elimination of the nonconforming status, the structure shall be brought into conformity with the existing code or shall be removed. "Intentional removal, intentional damage, or intentional alteration" for the purposes of this subsection is defined as damage and/or alterations valued at more than 50 percent of the replacement value of the structure at the time of damage and/or alterations, over the lifetime of the structure, as determined by the square foot construction cost table in the city's fee schedule.

E. Downtown Nonconforming Structures. Intentional removal or alteration of structures with a nonconforming structure status in the DB zoning district and the WC zoning district abutting the DB zoning district shall be subject to the following provisions:

1. Any such nonconforming structure or nonconforming portion of a structure that is intentionally removed or altered may be reconstructed to the same or smaller configuration existing immediately prior to the time the structure was removed or altered, and

2. As determined during the nonconforming use and structure review process (see GHMC 17.68.025), the reconstruction shall comply with all other applicable codes to the maximum extent possible, and

3. The reconstruction of structures with a nonconforming structure status which are on a local, state or national historic registry or are eligible for such registries shall meet the requirements of GHMC 17.99.580 regardless of when the structure was built.



DEVELOPMENT SERVICES

**NOTICE OF RECOMMENDATION
CITY OF GIG HARBOR PLANNING COMMISSION**

TO: Mayor Hunter and Members of the Council
FROM: Harris Atkins, Chair, Planning Commission
RE: Downtown Building Height Amendments

Application:

This application was initiated by the City of Gig Harbor as part of the City's focus on downtown visioning and revitalization. The City Council specifically directed the Planning Commission to review and identify codes that inhibit the preservation and redevelopment of character-defining historic buildings in the downtown. The City identified the need to allow new two-story buildings within the downtown core.

Planning Commission Review:

The Planning Commission held seven work study sessions between November 2012 and April 2013, attended two town hall meetings on downtown visioning (June 27th and October 18th, 2012) and conducted one walking tour of downtown in August 2012.

Upon review of existing codes and built conditions, the Planning Commission proposed allowing all buildings to be 27 feet above natural and finished grade as measured at the building footprint. In order to accommodate sloped lots, the Planning Commission proposed allowing roofs to be stepped down where some portions of the roof can exceed 27 feet with certain limitations as described in the amendments and shown on Figure A.

An open house and public hearing on the proposed amendments were held on March 21, 2013. Upon consideration of the comments received, the Planning Commission held a work study session on May 2, 2013 and recommended **APPROVAL** of the amendments contained at the end of this notice.

Findings of Fact:

The Planning Commission makes the following findings of fact in relation to their recommendation of approval:

1. The City's Comprehensive Plan includes the following policies which support the amendments:

GOAL 3.6: ARTICULATE AN ARCHITECTURAL STYLE WHICH REFLECTS GIG HARBOR'S BUILT AND NATURAL ENVIRONMENT AND WHICH APPEALS TO THE HUMAN SPIRIT.

3.6.1. Maintain a small town scale for structures.

New structures should not overpower existing structures or visually dominate Gig Harbor's small town city-scape, except as approved landmark structures.

3.6.2. Identify an appropriate form for structures.

New structures should be characterized by interesting forms and roof lines. Boxy, single- mass buildings should be discouraged except as may be appropriate in a downtown streetscape.

GOAL 3.7: ENCOURAGE BUILDING DESIGNS WHICH DEFINE AND RESPECT THE HUMAN SCALE.

The scale of the building in relation to the human form should be obvious, particularly at the sidewalk level.

3.7.2. Encourage mixed-use structures.

Mixing uses within a structure enhances the ability to give interesting form and character to a building. For example, allowing residential units above retail shops encourages designs more common to a village or small town setting while providing another housing opportunity for local merchants or retirees with limited transportation.

GOAL 3.15: IDENTIFY, PRESERVE AND DEVELOP AN APPROPRIATE WATERFRONT ARCHITECTURE

3.18.2. Develop guidelines which promote compatible development within designated areas.

Guidelines should specify building forms, styles, and motifs appropriate for Gig Harbor's historic areas.

2. The existing regulations allow between 16 and 27 foot buildings depending on topography and roof type which does not allow the construction of a flat two-story building that meets modern construction techniques and the requirements for ADA access and HVAC systems.
3. The Planning Commission finds that there are a considerable number of existing buildings in the downtown core which are two or more stories and exceed the existing height limits.
4. The Planning Commission finds these amendments should be limited to the Downtown Business (DB) district and the Waterfront Commercial (WC) district abutting the DB since those contain the highest concentration of existing multi-story buildings. After implementing policies have been developed for The Harbor Vision statement, the City may consider if these allowances should expand to other zones.

5. The Planning Commission finds that given the number of character-defining buildings that are multiple stories in height the proposed amendments would aid in preserving the downtown character and scale.
6. Two-story buildings that meet height limits and the requirements of the Design Manual will provide an appropriate human-scaled architecture for pedestrians on the sidewalk and provide the opportunity for mixed use buildings.
7. After discussions with architects on the Design Review Board and the City's Building Official/Fire Marshal, it was determined that 27 feet was the appropriate height limitations in order to allow two-story flat-roofed buildings using modern construction techniques, providing ADA access and screening HVAC systems on a roof.
8. The Planning Commission finds that the proposed amendments are consistent with the Harbor Vision and the majority of the comments heard at the open house and public hearing for these amendments.

Harris Atkins, Chair
Planning Commission



Date 5/2/2013

Downtown Building Height Amendments:

From GHMC 17.99.510 Building massing and height – Historic district

* * *

A. Incorporate characteristic roof lines and massing into residential structures.

Historic structures in Gig Harbor are characterized by similar roof lines and massing. All residential structures within the historic district must meet the following criteria:

1. MINIMUM ROOF PITCH.

Roof pitches shall be minimum 6/12 and maximum 12/12 on all portions of the roof except for (a) shed dormers, (b) porches, (c) the lower pitched roof portion on a saltbox-style structure, and (d) steeples, bell towers, and similar accentuated structures.

2. MAXIMUM HEIGHT – DB and ABUTTING WC ZONES.

A building shall not exceed 27 feet above natural and finished grade as measured from the building footprint except as allowed for stepped-down buildings as follows:

On sloped sites, the elevations of buildings may be stepped-down and those stepped down sections may exceed the 27-foot maximum provided that the uphill and downhill facades do not exceed 27 feet above natural and finished grade as measured from the building footprint and that the amount of elevation above 27 feet does not exceed the amount of elevation below 27 feet as shown in figure A below. Safety rails surrounding roof top patios or gardens that are stepped back from the most forward front face of perimeter cornice are not included in the elevation provided the safety rail meets the

design requirements of balustrades in GHMC 17.99.540(B) and provide a minimum of 60% transparency.

2. 3. MAXIMUM HEIGHT – ALL OTHER ZONES.

Each residential lot is allowed a building height of up to 18 feet from any point within the buildable area and within 50 feet of the building's footprint; provided, that no portion of the structure exceeds 27 feet above natural and finished grade. Additionally, one BASIC STRUCTURE measuring 25 feet wide by 40 feet deep by 27 feet high may be incorporated into the building design based upon the following criteria:

- a. The height of the basic structure shall be measured from the lowest elevation point at the setback lines. Height shall be measured from natural grade.
- b. The ridge of the basic structure shall be perpendicular to the shoreline or "point" to a significant view.
- c. No structures other than chimneys shall extend beyond the area defined by the gable or hip, i.e., no structure shall extend above the common rafter extending from the top wall plate to the ridge unless it is within the underlying 18-foot height envelope.
- d. The minimum roof pitch is 8/12. Equal pitches are used on the remaining portion of the house.
- e. A full-width front porch shall be included on the front side of the basic structure unit and windows on the entire structure shall be true-divided light windows if a grid pattern is desired.
- f. All other setback and height requirements are complied with.

* * *

B. Conform to height standards for nonresidential structures.

Historic commercial structures were typically flat-roofed buildings with projecting cornices, sometimes with an extended parapet on the front. Pitched roof commercial buildings were also common. To allow similarly designed buildings, all nonresidential structures within the historic district shall conform to the following height and roof pitch standards:

1. DOWNTOWN BUILDING HEIGHTS

In the Downtown Business (DB) district and abutting Waterfront Commercial (WC) district, the building height limitations of this subsection 1 apply as do the requirements of 5 below. In all other zones, the requirements of 1 through 5 apply.

A building shall not exceed 27 feet above natural and finished grade as measured from the building footprint except as allowed for stepped-down buildings as follows: On sloped sites, the elevations of buildings may be stepped-down and those stepped down sections may exceed the 27-foot maximum provided that the uphill and downhill

facades do not exceed 27 feet above natural and finished grade as measured from the building footprint and that the amount of elevation above 27 feet does not exceed the amount of elevation below 27 feet as shown in figure A below. Safety rails surrounding roof top patios or gardens that are stepped back from the most forward front face of perimeter cornice are not included in the elevation provided the safety rail meets the design requirements of balustrades in GHMC 17.99.540(B) and provide a minimum of 60% transparency.

4. 2. MAXIMUM UPHILL HEIGHT

No portion of a building shall exceed 16 feet for a flat roofed building, or 18 feet for a pitched roof building, as measured from the highest point within the buildable area and within 50 feet of the building footprint.

2. 3. MAXIMUM DOWNHILL HEIGHT

No building shall exceed a height of 24 feet as measured from finished grade at the lowest point of the building footprint, except that additional height is allowed for roof planes, gables and dormer windows, not to exceed the uphill height limits.

3. 4. MAXIMUM HEIGHT ABOVE GRADE

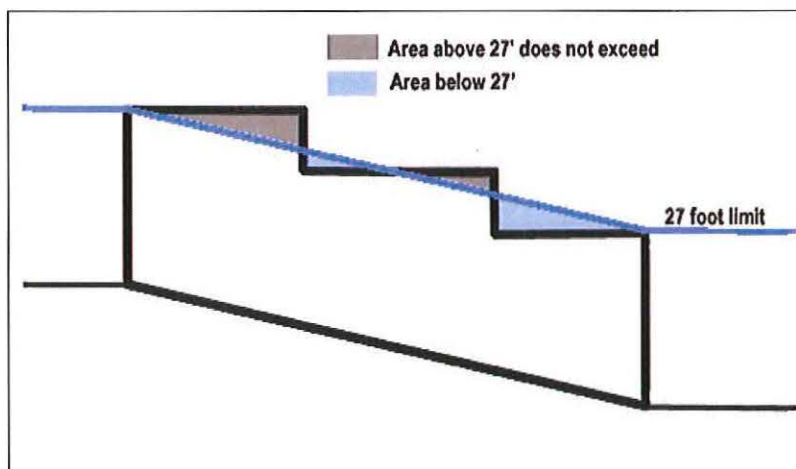
Buildings may not exceed a height of 27 feet above natural and finished grade at any given point within the building footprint.

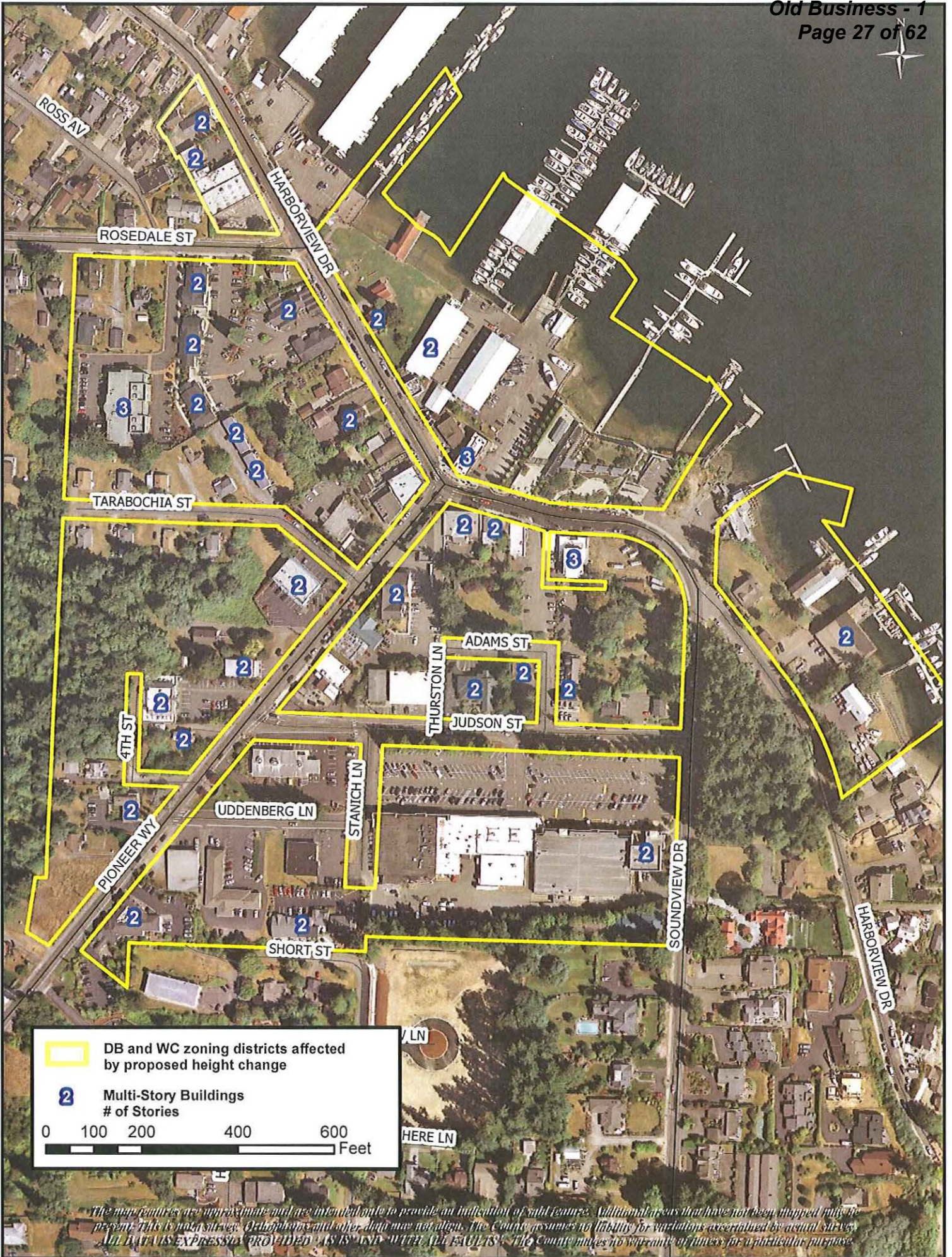
4. 5. PITCHED ROOFS

Pitched roofs shall have a minimum roof pitch of 6/12 and a maximum pitch of 12/12 on all portions of the roof except for (a) shed dormers, (b) porches, (c) the lower pitched roof portions on a saltbox-style structure, which may all have lesser pitched roofs, and steeples and bell towers, which may have greater pitched roofs. The ridge of a pitched roof shall run perpendicular to (pointing toward) the view of the bay as seen from the street nearest the front setback line of the subject site, unless the ridge is within the flat roof height limits.

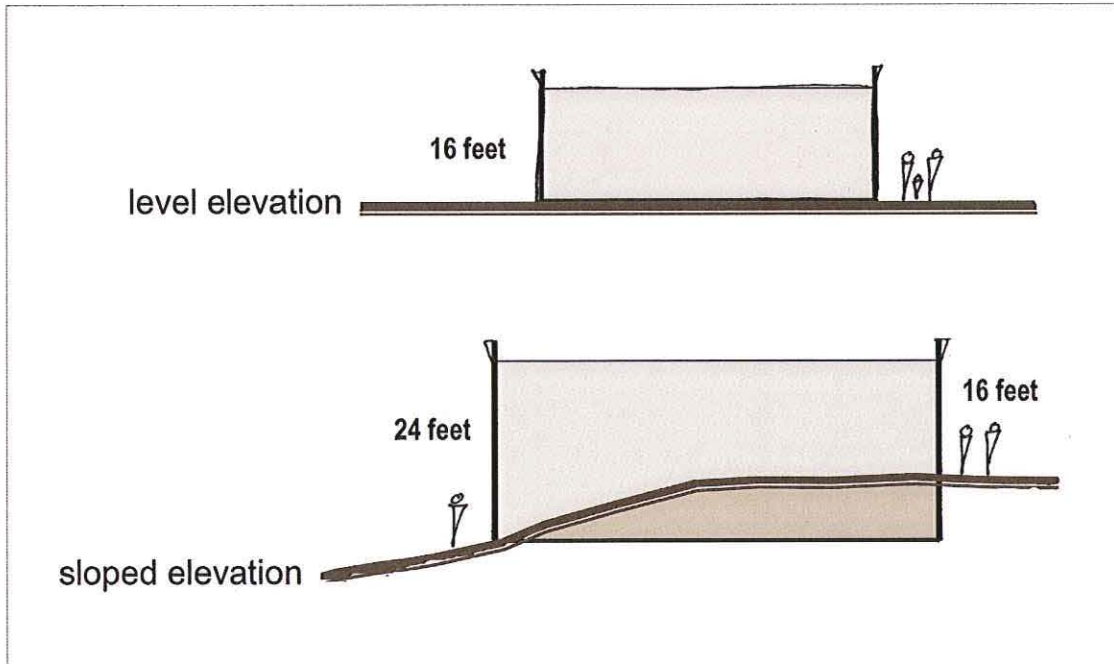
* * *

FIGURE A

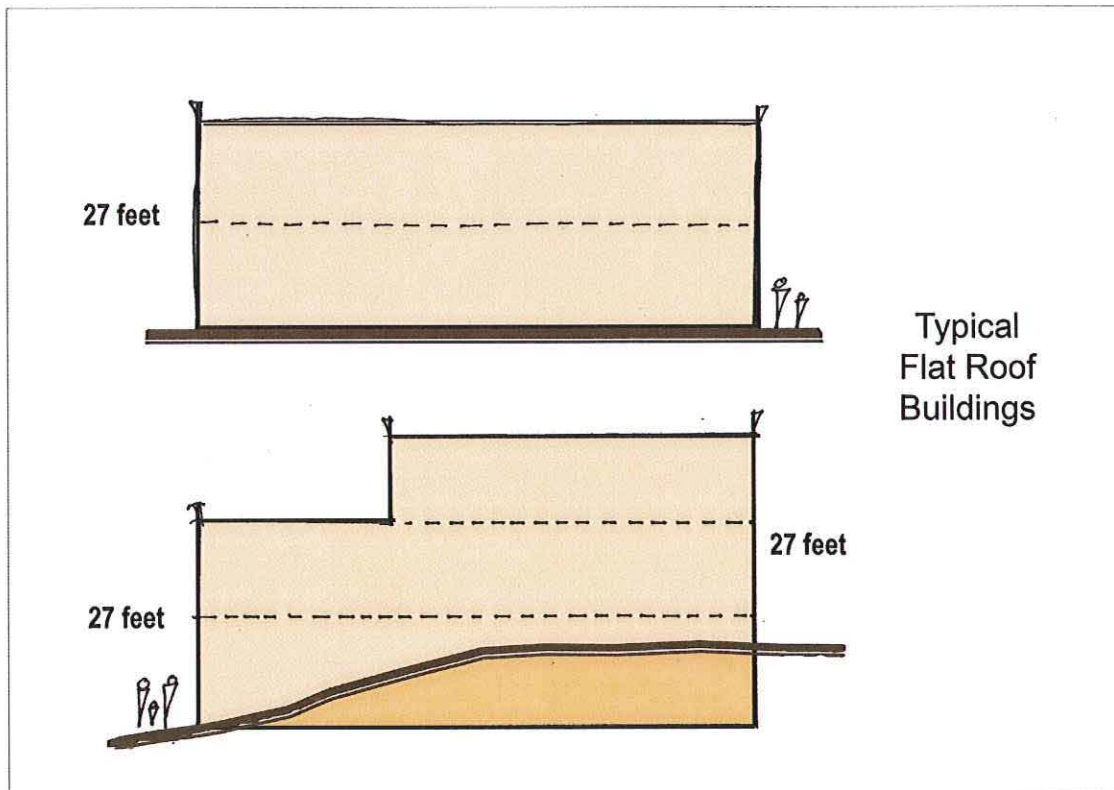


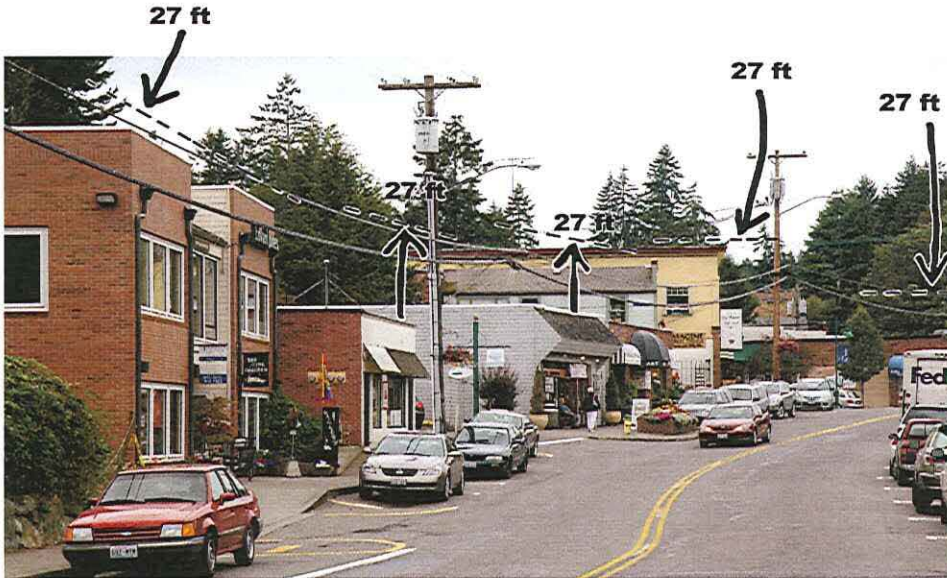


CURRENT HEIGHT LIMITS



PROPOSED HEIGHT LIMITS



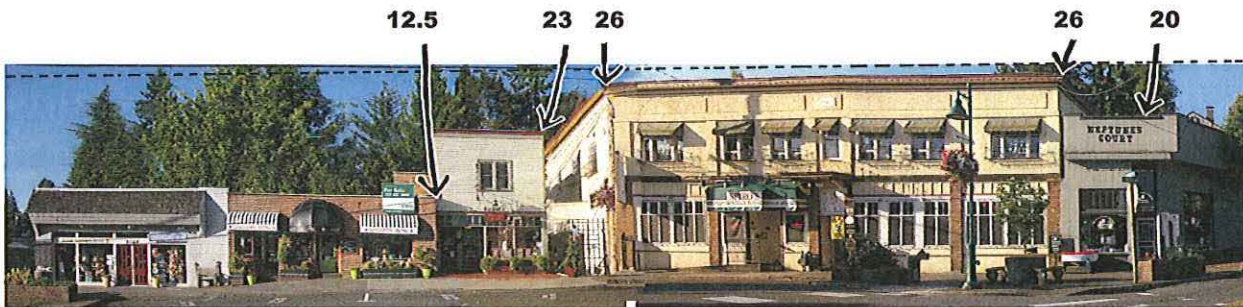


**Existing Heights (approx)
and the proposed
27-ft Height Limit for
Downtown Business (DB)
and adjacent
Waterfront Commercial (WC)**



Stutz Site - Willis Bldg - Insurance Bldg on Harborview Dr

**BLACK LINE REPRESENTS PROPOSED
27-FT HEIGHT LIMIT**



Peninsula Hotel Steetscape on Harborview Dr



McBecklands - WildBirds - Whole Foods - Mostly Books on Harborview Dr



QFC Shopping Center on Judson Str



DEVELOPMENT SERVICES

**NOTICE OF RECOMMENDATION
CITY OF GIG HARBOR PLANNING COMMISSION**

TO: Mayor Hunter and Members of the Council
FROM: Harris Atkins, Chair, Planning Commission
RE: Residential Building Height and Front Setbacks Requirements in Waterfront Zones

Application:

This application was initiated by the City of Gig Harbor after the City's Historic Preservation Office and the Planning Department identified an issue with where height is being measured for residential buildings along the waterside of Harborview and North Harborview Drive in the Historic District. New homes built under current regulations are significantly lower than historic homes as viewed from the street and the front yard setbacks are not consistent with the historic streetscape.

Planning Commission Review:

The Planning Commission held two work study sessions on February 21, 2013 and March 7, 2013.

Upon review of existing codes and built conditions, the Planning Commission proposed two amendments for residential buildings in the waterfront zones:

1. Height Measurement Location: Change where the 18-foot uphill height limit is measured from the building setback line to the property line abutting the street ROW.
2. Front Setback: Change the front setback to more closely reflect existing street setbacks of historic homes as follows:

House – 12 feet
Garage – 18 feet
Porches – 6 feet

A public hearing was held on April 11, 2013. Upon consideration of the comments received, the Planning Commission held a work study session on May 2, 2013 and recommended **APPROVAL** of the amendments contained at the end of this notice.

Findings of Fact:

The Planning Commission makes the following findings of fact in relation to their recommendation of approval:

1. The City's Comprehensive Plan includes the following policies which support the amendments:

GOAL 3.15: IDENTIFY, PRESERVE AND DEVELOP AN APPROPRIATE WATERFRONT ARCHITECTURE

GOAL 3.18: TO PRESERVE THE CHARACTER OF THOSE SITES OR DISTRICTS WHICH REFLECT THE STYLE OF GIG HARBOR'S HISTORICAL DEVELOPMENT.

3.18.2. Develop guidelines which promote compatible development within designated areas.

Guidelines should specify building forms, styles, and motifs appropriate for Gig Harbor's historic areas.

2. The current height measurement location for residential buildings on the waterside of Harborview and North Harborview Drive has led to new homes being significantly lower than historic homes as viewed from the street.
3. The current front yard setback provisions do not allow for the retention of the historic residential character of that streetscape.
4. Nonresidential buildings along the same street frontage must be located within 10 feet of Harborview and North Harborview Drive and the maximum height can be measured at the property line along the right-of-way.
5. Proposed amendments will allow new homes to be closer to the sidewalk and bring entries to the street level to better match the historic streetscape.
6. Existing view corridor and side setback requirements will not change under the proposal.
7. The proposed amendments will make the residential requirements more consistent with the nonresidential buildings along the same streetscape.
8. The new Shoreline Master Program is expected to require a setback from the ordinary high water mark, the smallest of which is 35 feet, thereby reducing the buildable area of a lot along the water. The proposed decrease in front yard setbacks will help mitigate that impact to the buildable area of the lot.
9. The Planning Commission finds that the proposed amendments are consistent with the Harbor Vision statement and with the comments heard at the public hearing for these amendments.

Harris Atkins, Chair
Planning Commission



Date 5/2/2013

Residential Height Measurement Location in Waterfront Zones

GHMC 17.99.510(A). Incorporate characteristic roof lines and massing into residential structures.

Historic structures in Gig Harbor are characterized by similar roof lines and massing. All residential structures within the historic district must meet the following criteria:

* * *

2. 3. MAXIMUM HEIGHT – ALL OTHER ZONES.

Each residential lot is allowed a building height of up to 18 feet from any point within the buildable area and within 50 feet of the building's footprint; provided, that no portion of the structure exceeds 27 feet above natural and finished grade. In applicable waterfront zones (WR, WM and WC), the point at which the 18-foot maximum is measured may be at the highest point within the lot along the street right-of-way. Additionally, one BASIC STRUCTURE measuring 25 feet wide by 40 feet deep by 27 feet high may be incorporated into the building design based upon the following criteria:

- a. The height of the basic structure shall be measured from the lowest elevation point at the setback lines. Height shall be measured from natural grade.
- b. The ridge of the basic structure shall be perpendicular to the shoreline or "point" to a significant view.
- c. No structures other than chimneys shall extend beyond the area defined by the gable or hip, i.e., no structure shall extend above the common rafter extending from the top wall plate to the ridge unless it is within the underlying 18-foot height envelope.
- d. The minimum roof pitch is 8/12. Equal pitches are used on the remaining portion of the house.
- e. A full-width front porch shall be included on the front side of the basic structure unit and windows on the entire structure shall be true-divided light windows if a grid pattern is desired.
- f. All other setback and height requirements are complied with.

* * *

GHMC 17.99.320 Historic district residential setbacks.

A. Conform to residential setback requirements.

- | | |
|--------------------------|---|
| 1. FRONT SETBACK MINIMUM | House – 20 feet; <u>in Waterfront Zones – 12 feet</u> Garage – 26 feet; <u>in Waterfront Zones – 18 feet</u> Porches – 12 feet; <u>in Waterfront Zones – 6 feet</u> |
|--------------------------|---|



Site Section

scale: 1" = 30'



Existing Allowed Residential Building Envelope



Proposed Residential Building Envelope in Waterfront Zones (WR, WM and WC)



Existing height measurement location (18-foot maximum height)



Proposed height measurement location (18-foot maximum height)

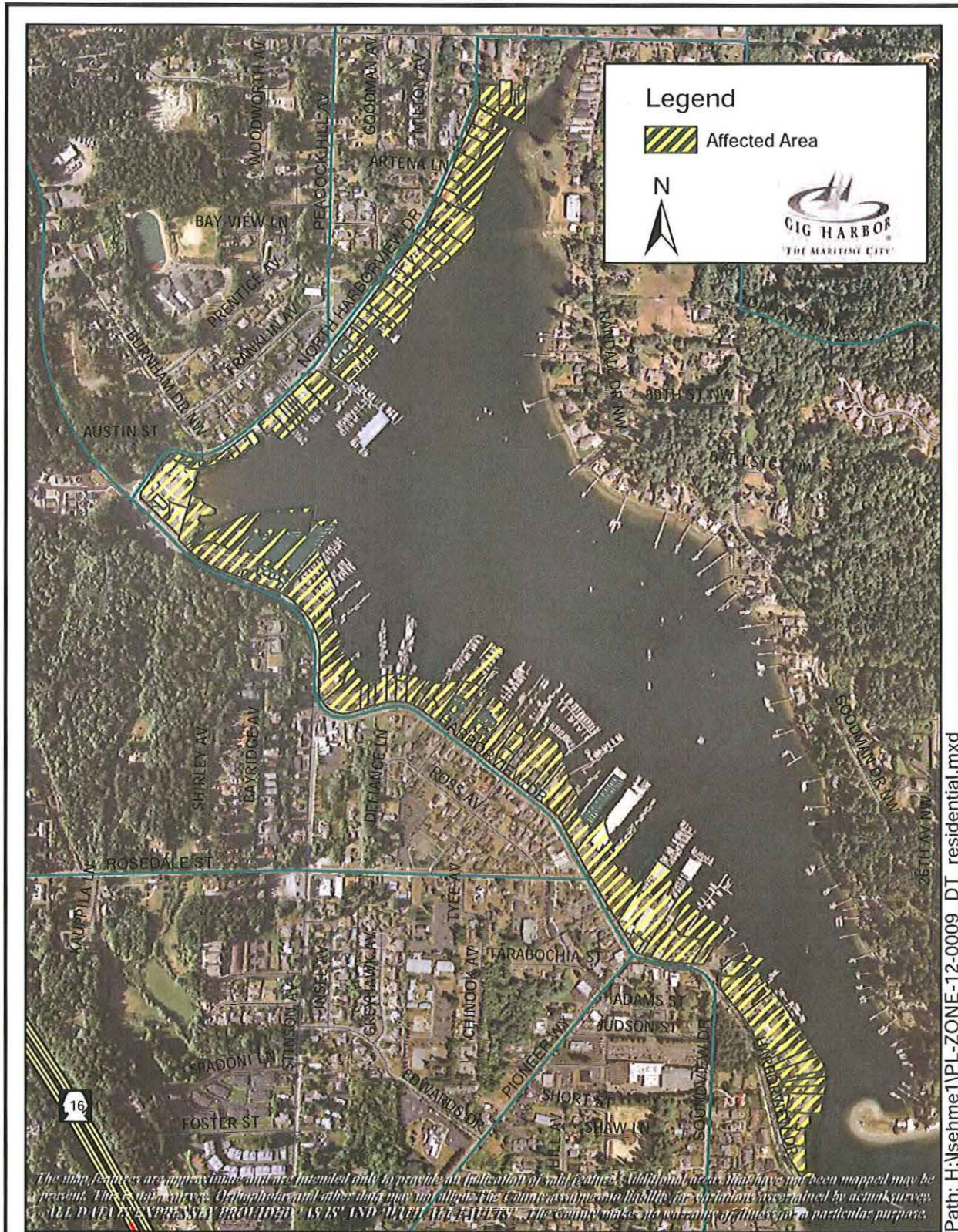
Front Yard Setbacks

Existing:

- Porch - 12 feet
- House - 20 feet
- Garage - 26 feet

Proposed:

- Porch - 6 feet
- House - 12 feet
- Garage - 18 feet



Path: H:\setme1\PL-ZONE-12-0009_DT_residential.mxd

Residential Buildings in Waterfront Zones Proposed Height & Setback Amendments

Planning Commission Minutes on Downtown Planning

Below is a list of meetings since 2012 where the proposed amendments were discussed. You may read these minutes online by going to the following web address or by navigating to the Municipal Reference Library → Minutes page.

<https://gigharbor.imagenetllc.net/Administration/Minutes/Planning%20Commission/>

2012

June 7th

June 21st

July 5th

August 16th (Walking tour)

September 6th

September 20th

October 4th

November 1st

November 15th

December 6th (Public Hearing)

2013

January 17th

February 7th

February 21st

March 7th

March 21st (Open House and Public Hearing)

April 4th

April 11th (Public Hearing)

April 18th

May 2nd

June 6th

Kester, Jennifer

From: Hunter, Chuck
Sent: Tuesday, July 09, 2013 3:52 PM
To: Towslee, Molly; Kester, Jennifer
Subject: FW: Public Hearing 7/8/13

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: NANCY JERKOVICH [<mailto:mysensaria@mac.com>]
Sent: Monday, July 08, 2013 4:36 PM
To: Hunter, Chuck
Subject: Public Hearing 7/8/13

Dear Mayor and Council,

We oppose the proposed measures to change the Gig Harbor downtown zoning code. The change in setback measurement will create buildings taller and closer to the road. This will do nothing to enhance the character of our waterfront zones. Our current regulations have been long fought for and respected by previous councils. If the property will not sustain the buyers plans, they should look elsewhere. We need to encourage and respect our view corridors. Thank you. Nick and Nancy Jerkovich. 3710 Harborview Drive

Sent from my iPad

Kester, Jennifer

From: Towslee, Molly
Sent: Monday, July 08, 2013 8:34 AM
To: Kester, Jennifer
Subject: FW: Gig Harbor height restriction change

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: Sara McDaniel [<mailto:tbmcdaniel@juno.com>]
Sent: Monday, July 08, 2013 8:18 AM
To: Towslee, Molly
Subject: Gig Harbor height restriction change

Good morning,

Im writing about the height restriction change in Gig Harbor because I walk the harbor several times a week. I do this with probably hundreds of other people. I believe they come from all over to experience the beauty the harbor provides. Allowing buildings to be taller will impact the view and as a result impact all of us who enjoy our time walking there. And that could impact a lot of other things like the coffee shops where we all get our drinks, etc. Keeping the buildings shorter is a good thing...don't change it!

Sara McDaniel

Sent from my iPad

Kester, Jennifer

From: Stanton, Lita
Sent: Monday, July 08, 2013 9:49 AM
To: Kester, Jennifer
Subject: FW: Downtown Building Size and Height Amendments Public Hearing Notice
Attachments: Gig Harbor Height Analysis 7-5-2013.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Jennifer:

Since the waterside edge of the sidewalk is unlikely to ever change -- measuring from it is reasonable. Since my comments (as Historic Preservation Coordinator) during PC meetings are not noted anywhere, please include this in the record.

As previously stated (but unrecorded), I agree that the measurement should be **from the sidewalk** but for different reasons.

NOT because this change is closer to the historic setbacks per Boe's comment (highlighted in yellow below) or because of "New Urbanism" porch protocols.

Setback measurements along Harborview and North Harborview for historic buildings are inconsistent.

Partly because (back then) there were no setback regulations and because over the years, road widths and sidewalks (including elevations and grades) changed.

Two considerations that help preserve the historic character:

1. Since **heights of historic homes along the waterfront are more often taller than 18 feet**, a change in the setback allows for additional height and (where grades are dramatic) helps pull them a little further out of the "hole".
2. This change gives property owners more buildable land in response to what the SMP buffer setback takes away.

Thanks,

Lita Dawn Stanton
Historic Preservation Coordinator

From: David Boe [mailto:dboe@boearc.com]
Sent: Friday, July 05, 2013 5:36 PM
To: Hunter, Chuck; Guernsey, Jill; paulkadzik@comcast.net; Malich, Ken; Payne, Tim; Ekberg, Steve; Perrow, Michael; Young, Derek
Cc: Kester, Jennifer; Stanton, Lita; jarcher@boearc.com
Subject: RE: Downtown Building Size and Height Amendments Public Hearing Notice

Mayor and City Council Members, I again send you an e-mail regarding the Proposed Height Amendments for which you are having a Public Hearing on Monday (I hope to be able to attend to present as well). And again, I greatly appreciate the City of Gig Harbor revisiting the existing code relative to the Visioning process that you completed.

Kester, Jennifer

From: David Boe [dboe@boearc.com]
Sent: Friday, July 05, 2013 5:36 PM
To: Hunter, Chuck; Guernsey, Jill; paulkadzik@comcast.net; Malich, Ken; Payne, Tim; Ekberg, Steve; Perrow, Michael; Young, Derek
Cc: Kester, Jennifer; Stanton, Lita; jarcher@boearc.com
Subject: RE: Downtown Building Size and Height Amendments Public Hearing Notice
Attachments: Gig Harbor Height Analysis 7-5-2013.pdf

Mayor and City Council Members, I again send you an e-mail regarding the Proposed Height Amendments for which you are having a Public Hearing on Monday (I hope to be able to attend to present as well). And again, I greatly appreciate the City of Gig Harbor revisiting the existing code relative to the Visioning process that you completed.

But again, I strongly urge you to consider measuring the uphill height to the back of the existing sidewalk instead of the along the front property line as currently proposed.

Why? Because if it stays as currently proposed, you will still get new residential buildings that will be built into a 'hole' relative to the sidewalk along the waterside of Harborview Drive (a condition that is not attractive nor represents the historical character of the Harbor.

Attached is a Drawing that highlights this – using a real site, with real site elevations, with a real project that is going to be submitted upon approval of the revised code (and will thus will be designed to the new revised code in whatever form it ultimately takes).

The true reality of this site, is that when measuring the building height as proposed currently by the City, the actual height relative to the existing sidewalk is not 18-feet but 16-feet 4 + 11/16ths-inches because the existing ground at the front property line is significantly below the existing sidewalk). Thus, the new residence design will end up having a main porch level also significantly BELOW the elevation of the existing sidewalk. All New Urbanism design manuals recommend that the front porch should be at least 18" ABOVE the corresponding pedestrian sidewalk level – and here we will end-up with a porch that is closer to 18" BELOW the existing sidewalk. This is the residence elevation that is shown on the left side of the drawing (note 6-foot tall figure relative to the house!). With no change to the proposed code, this will be very close to what this project will look like.

Now IF the building height is measured to the back of the existing sidewalk, then at least the main porch level can be at or slightly above the existing sidewalk height. This allows the new residence to be designed much closer to the historic character and patterns of the Gig Harbor Waterfront. Also, because the sidewalk exists, any pedestrian walking along the sidewalk will know how high a new building can be – it is 18-feet from where they are standing. This is the residence elevation shown on the right side of the drawing that our client would much rather have us design and for them to occupy.

I propose that a simple amendment can be made to at least allow for new construction to be closer to the historical patterns and character of The Harbor. This would be to add the following:

"For new residences that have their main roofline parallel to the view towards the water, the maximum height is measured from the highest point located at the back of the existing public sidewalk within the property frontage."

I hope I am able to attend the Public Hearing on Monday to share these points with you personally. Thank you for taking the time to consider this amendment and I hope proposed an amendment which will allow for a new residence to be built along the waterfront in a manner much closer to the unique character of Gig Harbor. David

David Boe – Principal
dboe@boearc.com

From: Andrews, Cindy [mailto:andrewsc@cityofgigharbor.net]

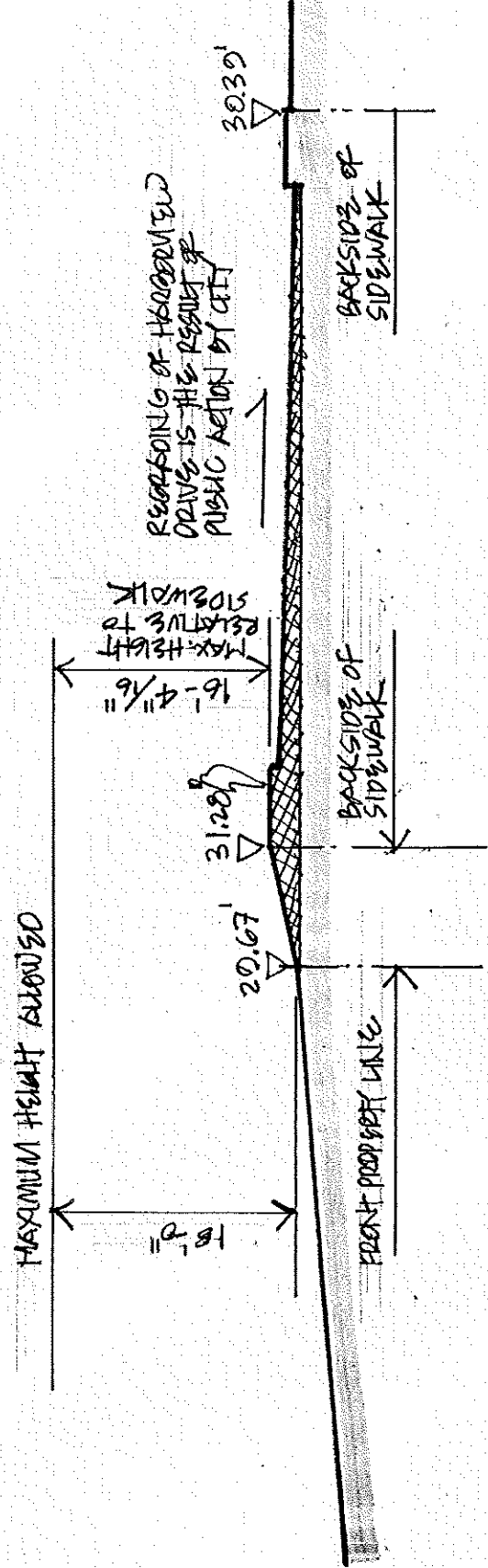
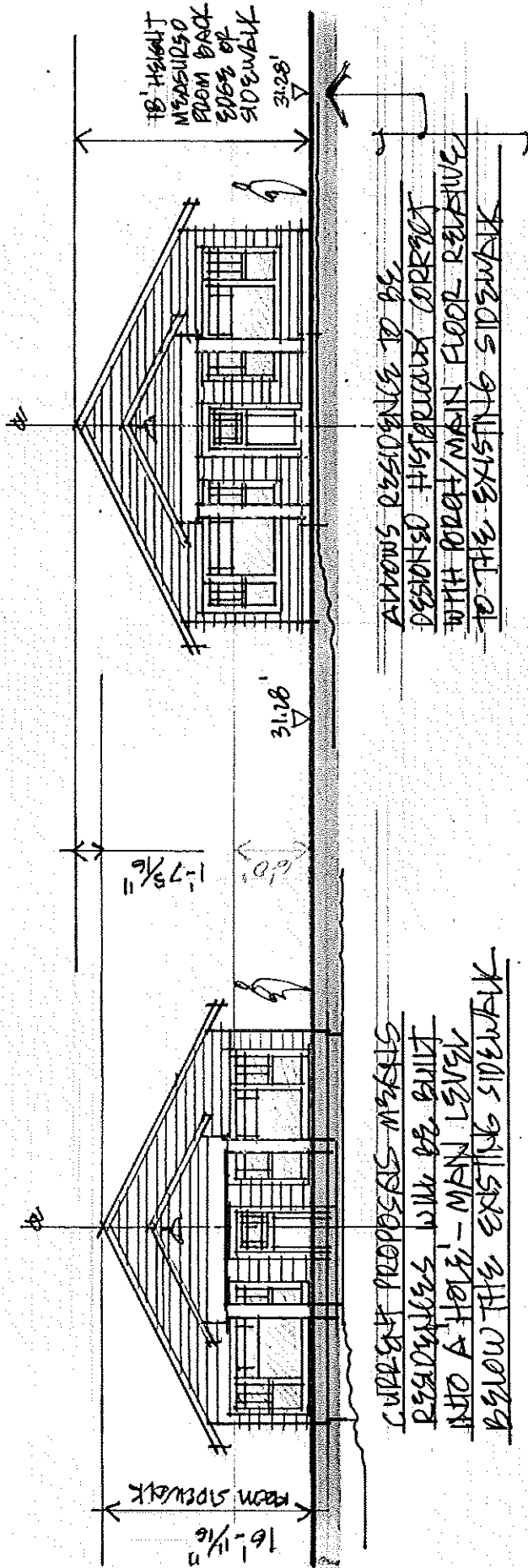
Sent: Wednesday, June 26, 2013 9:14 AM

To: 'Ali Afrassabi'; 'Anderson, Jani'; 'Anderson, Myron'; 'Archer, Jessica'; 'Bacchus, Ladd'; 'Berntsen, Edward'; 'Bevin, Avery'; 'Boe, David'; 'Bomkamp, Brent'; 'Bourscheidt, Barbara'; 'Bucy, Russ and Lynne'; 'Carlson, Chuck'; 'Cassell, Constance'; 'Champaco, Brent'; 'Chuck & Charli Meacham'; 'Chuck & June Meacham'; 'Clark, Dennis'; 'Clark, Marjie and Dennis'; 'Coumts, Valerie'; 'Crites, Michael'; 'Czuleger, Tami'; 'Davis, Brett'; 'Decléments, Annie'; 'DesMarais, Mary'; 'Dishman, Bruce and Linda'; 'Dompier, Norma'; 'Draggoo, Bob'; 'Draggoo, Bob'; 'Drohan, Tom'; 'Evans, Bill and Karen'; 'Ford, Richard'; 'Frisbee, Bob'; 'Gagliano, Jeanne'; 'Gagliano, Joseph'; 'Gaigher, Shannon'; 'Gair, Bruce'; 'Gary, Tom'; 'Gerald, Bill'; 'Glein, Gary'; 'Glock-Johnson, Charlee'; 'Graffe, Jo'; 'Grinberg, Roy'; 'Harder, Barbara'; 'Herneux, Curtis'; 'Hill, Leonard'; 'Hill, Leonard'; 'Hoppen, Guy'; 'Hoppen, Mark'; 'Hunter, Dianne'; 'Jason Faulkner'; 'Johnson, Martha'; 'Johnson, Noah'; 'Junge, Scott'; 'Kabbhalim, Paris'; 'Kent-Smith, Tomi'; 'Kreitzer, Karl and Lois'; 'Lantz, Pat and John'; 'Lee, Janet'; 'Leroy, Margot'; 'Loiland, Sue'; 'Lovell, Abby'; 'McClements, Patty'; 'Meyer, Gary'; 'Miller, Wayne'; 'Mitton, Joanie'; 'Moist, John'; 'Morris, Dave'; 'Morrison, Julian'; 'Mott Janine'; 'Mueller, Randy'; 'Murray, Joyce'; 'nedderman, Ted and Nancy'; 'Norman, Peter'; 'Norton, Larry'; 'Oka Akiko'; 'Page, Trena'; 'Perrow, Wade'; 'Peterson, Joyce'; 'Peterson, Pam'; 'Pollitt, George'; 'Pugh, Nick'; 'Quincy, Jake'; 'Ragan, Greg and Karen'; 'Reed, Cindy'; 'Richardson, Lousie'; 'Rose, Andrew'; 'Ross, Debra'; 'Rushforth, Dennis'; 'Scanlan, Conor'; 'Seaquist, Larry'; 'Shaffer, Keirsten'; 'Shaffer, Lilly'; 'Simon Barbara'; 'Smith, lee'; 'Steifel, Justin'; 'Stenlyein, Alice'; 'Stevenson, Lynn'; 'Stouz, Nancy'; 'Thurston, Kathy'; 'Turley, Bryce'; 'Vance, Jan'; 'Vance, John'; 'Vergera, Haleigh'; 'Willenbrock, Jacob'; 'Willenbrock, Kelsea'; 'Wills Christine'; 'Winfrey, Patti'; 'Acker, Colene'; 'Acker, Jeff'; 'Ancich - Quigg, Kathleen'; 'Anderson, Claudia'; 'Bauder, John Vice President'; 'Beyerly, Bruce'; 'Bickford, Kaye'; 'Brent Tayet'; 'Brett Marlo-Desantis'; 'Bucher, Charles'; 'Clark, Dennis'; 'Curry, Laury'; 'Devereux, Betty'; 'Driggers, Barbara'; 'Frazier, Suzanne'; 'Gerlof, Charlotte'; 'Grimmer, Kurt'; 'Hartley, Steve'; 'Hopkins, D.'; 'Janes, Marc'; 'Jeane Gazabat'; 'Knapp, Robert'; 'Lepape, Marilyn'; 'Lucas, Bett'; 'Martinez, Fil'; 'Michaelson, Tony'; 'Millichap, Marcus'; 'Money, Bruce'; 'Norman, Peter'; 'Ortgiesen, Jon'; 'Perrow, Michael'; 'Pine, David'; 'Rodney Tayet'; 'Rogers, Bruce'; 'Schlicher, Nathan'; 'Smith, Lee'; 'Sorensen, Doug'; 'Stanley, Peter'; 'Sutich, Tom'; 'Taghavi, Jafar'; 'Woock, Jenia'; 'Wood, Rob'

Subject: Downtown Building Size and Height Amendments Public Hearing Notice

Please find attached the Notice of Public Hearing for the Downtown Building Size and Height Amendment proposed for City Council public hearing on Monday July 8th, 2013 at 5:30 pm. Please contact Jennifer Kester, Planning Director at 253-853-7631 or kesterj@cityofgigharbor.net if you have any questions. Thank you Cindy Andrews

Cindy Andrews
 Community Development Assistant
 City of Gig Harbor Planning Department
 (253) 851-6170
andrewsc@cityofgigharbor.net



Kester, Jennifer

From: Debra Ross [debraross80@yahoo.com]
Sent: Monday, July 08, 2013 7:33 AM
To: Kester, Jennifer
Subject: Public Hearing

Follow Up Flag: Follow up
Flag Status: Flagged

Jennifer

I am not able to attend the Downtown Building Size & Height Amendments Public Hearing that is being held tonight, July 8th, 5:30 PM.

I have expressed my opinion before but would like to again state that I feel that the six (6) to eight (8) existing commercial buildings in the Millville Waterfront District which abuts the Downtown Business (DB) and the Waterfront Commercial (WC) would benefit from the Amendments that are being placed in front of the City Council at this hearing. These existing commercial buildings within the Millville Waterfront area are a vital part of downtown Gig Harbor commercial business and should be given the same advantages as the buildings right next door to them.

Thank you for your time and consideration.

Debra Ross

Debra L. Ross
253-851-4751 home, office, fax
253-970-3966 cell

Kester, Jennifer

From: Tomi Kent-smith [tomikent@msn.com]
Sent: Thursday, June 27, 2013 4:40 PM
To: Kester, Jennifer
Cc: Hunter, Chuck; Young, Derek; paynet@cityofgigharbor.net; Malich, Ken; Ekberg, Steve; Perrow, Michael; Guernsey, Jill; Kadzik, Paul
Subject: Proposed Waterfront Residential Amendments

Follow Up Flag: Follow up
Flag Status: Flagged

In both WM and WC zones, the ground slopes down to the water edge on almost the entire water side (east) of Harborview Drive. Remember it's a hill and the downward slope is towards the water! (It also slopes down to the water's edge on North Harborview on the majority of properties.)

It has always been my understanding that we as a City would do whatever possible to maintain the water view for all. Not just for those fortunate enough to own waterfront property.

However, by moving the uphill height limit measurement to the property line abutting the street ROW, the City will be eliminating the view of the water for anyone residing on directly on Harborview Drive on the west or non-water side of the street. This seems unfair as all these residents will be looking across the street at the facade of the homes built in accordance with the proposed change. Any water view the residents on the west side of Harborview Drive have will be forfeited to the proposed waterfront amendment if it is adopted.

The Millville district is almost exclusively residential with the homes along Harborview Drive dating back to the early 1900s. It also has more resident homes on the street level (Harborview Drive) than any other area surrounding the harbor until one reaches North Harborview east of Peacock Hill.

This amendment seems to take undue advantage of the Millville district, and seems to eliminate access to a water view however limited it might be.

Ms. Tomi Kent-Smith
3414 Harborview Drive
Gig Harbor, WA 98332

Kester, Jennifer

From: David Boe [dboe@boearc.com]
Sent: Monday, June 03, 2013 3:22 PM
To: Hunter, Chuck; Guernsey, Jill; Ekberg, Steve; paulkadzik@comcast.net; Perrow, Michael; Young, Derek; Payne, Tim; Malich, Ken
Cc: Kester, Jennifer; Stanton, Lita
Subject: Gig Harbor Waterfront Building Heights

Dear Mayor and Council Members, just a quick note regarding your Study Session today where you will be reviewing building heights along Harborview Drive (I apologize for not attending but it seems I have some council duties this afternoon on this side of the Narrows).

I commend you, the Planning Commission and staff at looking at these issues in order to provide incentive for new development that can be designed to reflect the historical patterns and character that make Gig Harbor such a unique waterfront.

I do have one concern, and that is 'where' the height is measured from. Because Harborview Drive was filled on the downhill side of the roadway in order to make it function for traffic, drainage, and pedestrians – it has artificially put the waterside of Harborview Drive into a hole relative to the existing sidewalk (typically 2 – 4 feet below the walking surface). While the proposed changes are welcome, they do not reflect this actual condition along the Harbor – thus even new development under the proposed rules will continue to be constructed with a main floor level that is below the sidewalk (a condition that is not typical of the historic character of the waterfront).

I strongly recommend that downhill properties allow for the zoning height to be measured from the back of the existing sidewalk. This will allow for new development that can be designed for pedestrian friendly interface between the sidewalk and the built environment (and will allow for more consistency between the uphill and the downhill sides of Harborview Drive).

Again, thanks for your review of the zoning code – and if you have any questions, please do not hesitate to give me a jingle. David

David Boe - Principal
dboe@boearc.com

BOE architects, pllc
705 Pacific Avenue
Tacoma, WA 98402
(253) 383-7762
www.boearc.com

Kester, Jennifer

From: David Boe [dboe@boearc.com]
Sent: Thursday, April 11, 2013 4:38 PM
To: Kester, Jennifer
Cc: Stanton, Lita; jarcher@boearc.com; Guernsey, Jill
Subject: RE: Downtown Residential Building Height and Front Setback Amendments
Attachments: Section at Harborview.pdf

Jennifer, in preparation for tonight's Planning Commission Public Hearing on Residential Heights along Harborview, I sketched a quick section using survey points from the site survey at the Quigg's property. This demonstratively shows that the back of sidewalk along the property is actually more than 18" above the highest point along their Property Front Setback Line. This is due to the filling of Harborview Drive when it was upgraded to make it level – and at this location on Harborview, the waterfront side of the street is actually 11.4 inches above the upland side due to the roadway being banked/sloped because of the curve of the roadway alignment.

So, the height of a structure relevant to the back of sidewalk (where the general public is walking) for a site like this will not be 18 feet – but actually be 16'-4". If a new structure was designed with a main level at the same elevation as the back of sidewalk, and using a 6:12 pitch for the roof, and keeping with the same width as the existing structure on the site (30 feet), the interior ceiling height of the main level would be less than 8'-0" tall. The resultant structure would also have less than a 2.5 width to 1 height ration which is a minimum proportional requirement of the Design Manual. To meet the minimum proportion requirement of the Design Manual, the building height would need to be 19.5 feet from the back of sidewalk (and if the main floor was 2 to 3 steps up from the back of sidewalk, this height would need to be closer to 21 feet).

Given this situation, the only option in order to get a reasonable ceiling height on the main level of the residence is to 'sink' the structure considerably below the back of the sidewalk. This will unfortunately result in a final design that does not compliment the historic character of the neighborhood as it will look as if it has been sunk into a hole (and all New Urbanism Design Guidelines recommend a main living level two or three steps above the adjacent sidewalk).

At a minimum, I recommend that the overall building height should be measured to the back of the existing Harborview Drive sidewalk as this give the opportunity of a final design that is much more in keeping with the historic character of the Gig Harbor Waterfront.

If you have time, can you please print out copies of the drawing for the commissioners. I hope to be able to make the meeting tonight – but just in case...

Thanks again for the opportunity to comment. David

David Boe – Principal
dboe@boearc.com

From: David Boe [mailto:dboe@boearc.com]
Sent: Thursday, April 04, 2013 10:40 AM
To: 'KesterJ@cityofgigharbor.net' (KesterJ@cityofgigharbor.net)
Cc: Stanton, Lita; jarcher@boearc.com; guernseyj@cityofgigharbor.net
Subject: RE: Downtown Residential Building Height and Front Setback Amendments

Jennifer, attached is correspondence with my client regarding the proposed height increase for new residential projects along the waterfront side of Harborview Drive. The Quiggs asked for a drawing of what they would like to construct in comparison to the existing structure as they plan on going to all of their neighbors to show them what they are proposing – with the hopes of getting them to testify at next week's Planning Commission Public Hearing in support of raising the height to 18-feet measured from the highest point at the back edge of the sidewalk.

As I have noted many times before, measuring the building height from the highest point along backside of the sidewalk is going to result in a far superior result (a result that is more in keeping with character of historic Gig Harbor) and will be much easier and predictable for neighbors to understand the impact of any new proposal for a site.

Thanks for your attention. David

David Boe – Principal
dboe@boearc.com

From: David Boe [<mailto:dboe@boearc.com>]
Sent: Friday, March 29, 2013 12:57 PM
To: 'KesterJ@cityofgigharbor.net' (KesterJ@cityofgigharbor.net)
Cc: 'Stanton, Lita'; jarcher@boearc.com; guernseyj@cityofgigharbor.net
Subject: RE: Downtown Residential Building Height and Front Setback Amendments

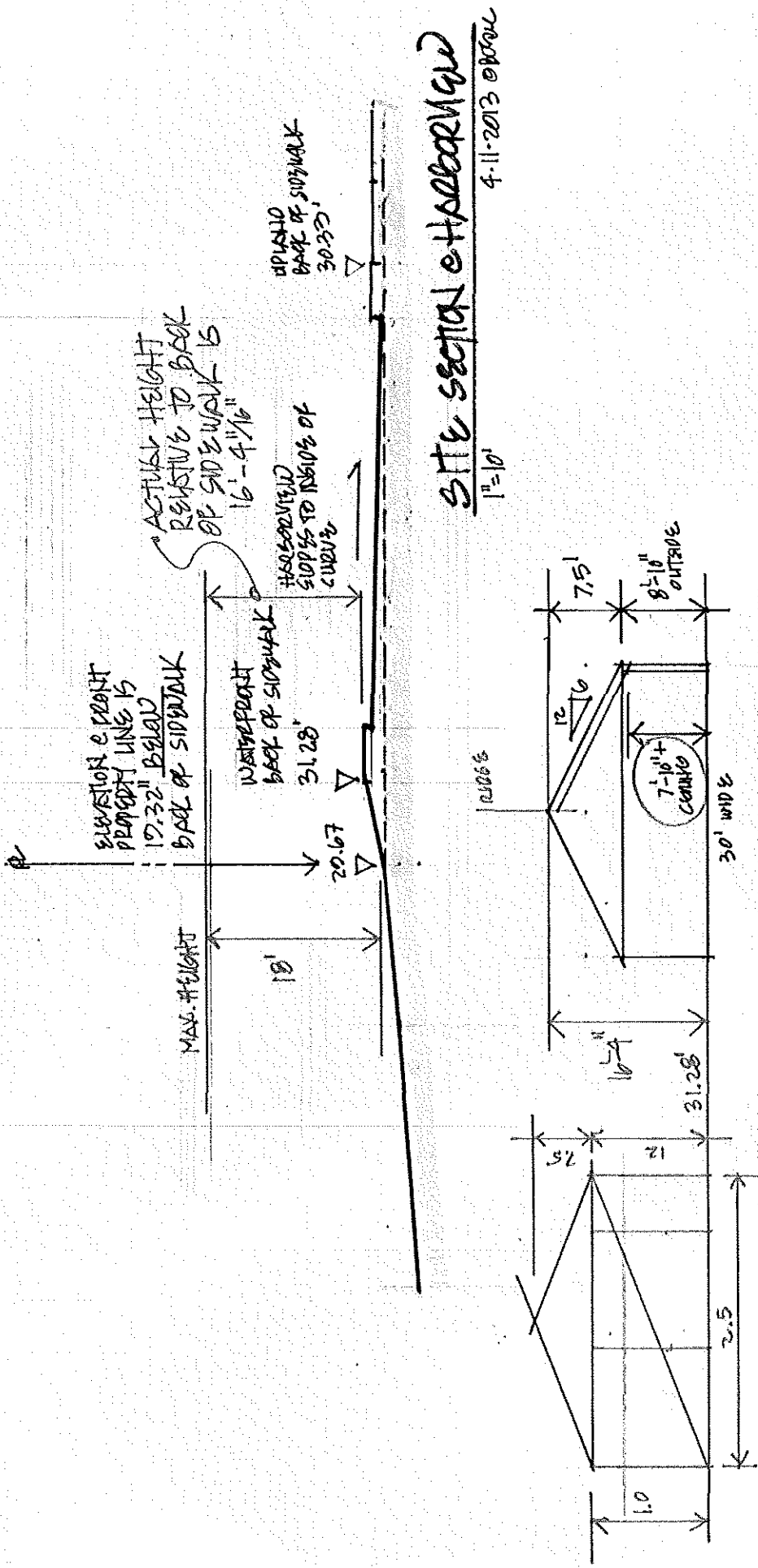
Jennifer, thanks for the notice of the proposed change to the building height along the waterfront – this general direction is to be applauded for realizing that the current code is not getting the type of projects that positively impact the historic street frontage along Harborview Drive.

Unfortunately, when applied to a real site with real dimensions and elevations, the result is a negligible increase in height when the goal of the change is to achieve a design that is more in keeping with the historic structures along Harborview.

I have attached a portion of a survey for a property within the area under consideration for this increase. By the current code, the highest elevation point on the front building setback is 29.5 feet. Measuring to the highest point along the property line as proposed by the change increases this by 6" to 30.0 feet; however, the back edge of the Harborview Drive sidewalk is still a further 1'-3" higher than this new measuring point (it is at elevation 31.25'). This is due to the engineering and construction of Harborview Drive by the City – not by any action of the property owner - and on this site the waterside of Harborview is actually higher than the upland side because of the need to 'bank' the road to the inside of the curve. When walking along the sidewalk, pedestrians view the facades relative to the existing sidewalk they are walking on and do not perceive the historic elevation of the property lines. Through action by the City, the perceived elevations of these sites have changed, thus it seems appropriate to adjust the allowable heights to this new created elevation (as the original properties were design to the old sloped roadway at the time).

Again, as I have noted with the increase in height to the recent DB/WC/etc... zones, I strongly recommend that the back of sidewalk be used at the measuring point for these waterside properties – since that is the 'real' elevation relative to the actual elevation of the street. Thanks for your continued attention to the issue.

David



Kester, Jennifer

From: David Boe [dboe@boearc.com]
Sent: Thursday, April 04, 2013 10:40 AM
To: Kester, Jennifer
Cc: Stanton, Lita; jarcher@boearc.com; Guernsey, Jill
Subject: RE: Downtown Residential Building Height and Front Setback Amendments
Attachments: Proposed Quigg Residence Comparison to Existing Structure

Follow Up Flag: Follow up
Flag Status: Flagged

Jennifer, attached is correspondence with my client regarding the proposed height increase for new residential projects along the waterfront side of Harborview Drive. The Quiggs asked for a drawing of what they would like to construct in comparison to the existing structure as they plan on going to all of their neighbors to show them what they are proposing – with the hopes of getting them to testify at next week's Planning Commission Public Hearing in support of raising the height to 18-feet measured from the highest point at the back edge of the sidewalk.

As I have noted many times before, measuring the building height from the highest point along backside of the sidewalk is going to result in a far superior result (a result that is more in keeping with character of historic Gig Harbor) and will be much easier and predictable for neighbors to understand the impact of any new proposal for a site.

Thanks for your attention. David

David Boe – Principal
dboe@boearc.com

From: David Boe [mailto:dboe@boearc.com]
Sent: Friday, March 29, 2013 12:57 PM
To: 'KesterJ@cityofgigharbor.net' (KesterJ@cityofgigharbor.net)
Cc: 'Stanton, Lita'; jarcher@boearc.com; guernseyj@cityofgigharbor.net
Subject: RE: Downtown Residential Building Height and Front Setback Amendments

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Again, as I have noted with the increase in height to the recent DB/WC/etc... zones, I strongly recommend that the back of sidewalk be used at the measuring point for these waterside properties – since that is the 'real' elevation relative to the actual elevation of the street. Thanks for your continued attention to the issue.

David

David Boe -- Principal
dboe@boearc.com

From: Andrews, Cindy [<mailto:andrewsc@cityofgigharbor.net>]

Sent: Thursday, March 28, 2013 3:24 PM

To: Ali Afrassiabi; Anderson, Myron; Archer, Jessica; Bacchus, Ladd; Berntsen, Edward; Bevin, Avery; Boe, David; Bomkamp, Brent; Bourscheidt, Barbara; Bucy, Russ and Lynne; Carlson, Chuck; Cassell, Constance; Champaco, Brent; Clark, Dennis; Clark, Marjie and Dennis; Coutts, Valerie; Crites, Michael; Czuleger, Tami; Davis, Brett; Declements, Annie; DesMarais, Mary; Dishman, Bruce and Linda; Dompier, Norma; Dragoo, Bob; Drohan, Tom; Evans, Bill and Karen; Ford, Richard; Frisbee, Bob; Gagliano, Jeanne; Gagliano, Joseph; Gaigher, Shannon; Gair, Bruce; Gary, Tom; Gerald, Bill; Glein, Gary; Glock-Johnson, Charlee; Graffe, Jo; Grinberg, Roy; Harder, Barbara; Herneux, Curtis; Hill, Leonard; Hill, Leonard; Hoppen, Guy; Hoppen, Mark; Hunter, Dianne; Johnson, Martha; Johnson, Noah; Kabbhalim, Paris; Kent-Smith, Tomi; Kreitzer, Karl and Lois; Lantz, Pat and John; Lee, Janet; Leroy, Margot; Lofland, Sue; Lovell, Abby; McClements, Patty; Brett Marlo-Desantis; Dave Morris; David Boe; Dennis Clark; Jeff Acker; Jenia Woock; Lee Smith; Peter Norman; Peter Stanley; Meyer, Gary; Miller, Wayne; Milton, Joanie; Moist, John; Morrison, Julian; Mueller, Randy; Murray, Joyce; nedderman, Ted and Nancy; Norman, Peter; Norton, Larry; Oka Akiko; Page, Trena; Perrow, Wade; Peterson, Joyce; Peterson, Pam; Pollitt, George; Pugh, Nick; Quincy, Jake; Ragan, Greg and Karen; Reed, Cindy; Richardson, Lousie; Rose, Andrew; Ross, Debra; Rushforth, Dennis; Scanlan, Conor; Seaquist, Larry; Shaffer, Keirsten; Shaffer, Lilly; Simon Barbara; Smith, lee; Steifel, Justin; Stenlyein, Alice; Stevenson, Lynn; Stouz, Nancy; Thurston, Kathy; Turley, Bryce; Vance, Jan; Vance, John; Vergera, Haleigh; Willenbrock, Jacob; Willenbrock, Kelsea; Wills Christine; Winfrey, Patti

Cc: Sehmel, Lindsey

Subject: Downtown Residential Building Height and Front Setback Amendments

Please find attached the Notice of Public hearing for the Downtown Residential Building Height and Front Setback Amendments for the City of Gig Harbor Planning Commission Public Hearing scheduled for April 11th, 2013 at 6:00 pm. Please contact Lindsey Sehmel, Senior Planner at sehmell@cityofgigharbor.net or 253-853-7615. Thank you Cindy Andrews

Kester, Jennifer

From: David Boe [dboe@boearc.com]
Sent: Thursday, April 04, 2013 10:31 AM
To: 'Patrick Quigg'
Cc: jarcher@boearc.com
Subject: Proposed Quigg Residence Comparison to Existing Structure
Attachments: Quigg Residence Height Comparison.pdf

Kathy and Patrick, attached is a sketch overlay showing the approximate location of the proposed residence relative to the existing structure. What is important to convey to your neighbors is that the entire new structure 'shifts' to the East so that the side yard between the new residence and the existing residence to the East will be the same on each side of the property line. This shift will open up more of a view corridor to the Bay along the West side of the new residence for neighbors living on the upland side of Harborview Drive.

Also, the ridge of the house will turn 90 degrees so that it is parallel with the view towards the Bay (the existing structure's ridge is perpendicular to the Bay and thus more roof blocks view). With a larger Front Porch proposed, this will shift the main structure of the new residence further to the North so that the increase in height will be off-set by the visual foreshortening of perspective.

Now what I am showing assumes that the 18-feet of total building height is measured from the back side of the highest point of the existing sidewalk. What is being proposed by the City is to make the measuring point the highest point on the front property line – which really does not help your project in a meaningful way as that means only a 6" increase in height allowance to your property. The City's measuring point is actually 18" BELOW the back of the sidewalk along the West Property Line – thus why I am looking for support to have the back of sidewalk used as the measuring point (and this would very easy for the general public to understand as they could just go the high side of the site on the sidewalk, run a tape 18-feet into the air and see what that reality is – versus guessing where the front property line may or may not be).

Historically Harborview Drive used to slope with the land toward the Bay. When the City came in and improved Harborview Drive, they filled along the waterside of the street so that the street and sidewalk was approximately level with the upland side of the right-of-way; thus the current condition where the existing waterside structures appear 'below' the sidewalk. In fact, from the survey, this portion of Harborview Drive is actually ABOVE the upland side of the street because of the slight banking of the roadway due to your property being on the outside edge of a curve.

Hope this helps explain the proposed residence heights. Please do not hesitate to give me a jingle if you have any questions. David

David Boe - Principal
dboe@boearc.com

BOE architects, pllc
705 Pacific Avenue
Tacoma, WA 98402
(253) 383-7762
www.boearc.com

Kester, Jennifer

From: David Boe [dboe@boearc.com]
Sent: Friday, March 29, 2013 12:57 PM
To: Kester, Jennifer
Cc: Stanton, Lita; jarcher@boearc.com; Guernsey, Jill
Subject: RE: Downtown Residential Building Height and Front Setback Amendments
Attachments: Harborview Survey Excerpt.pdf

Jennifer, thanks for the notice of the proposed change to the building height along the waterfront – this general direction is to be applauded for realizing that the current code is not getting the type of projects that positively impact the historic street frontage along Harborview Drive.

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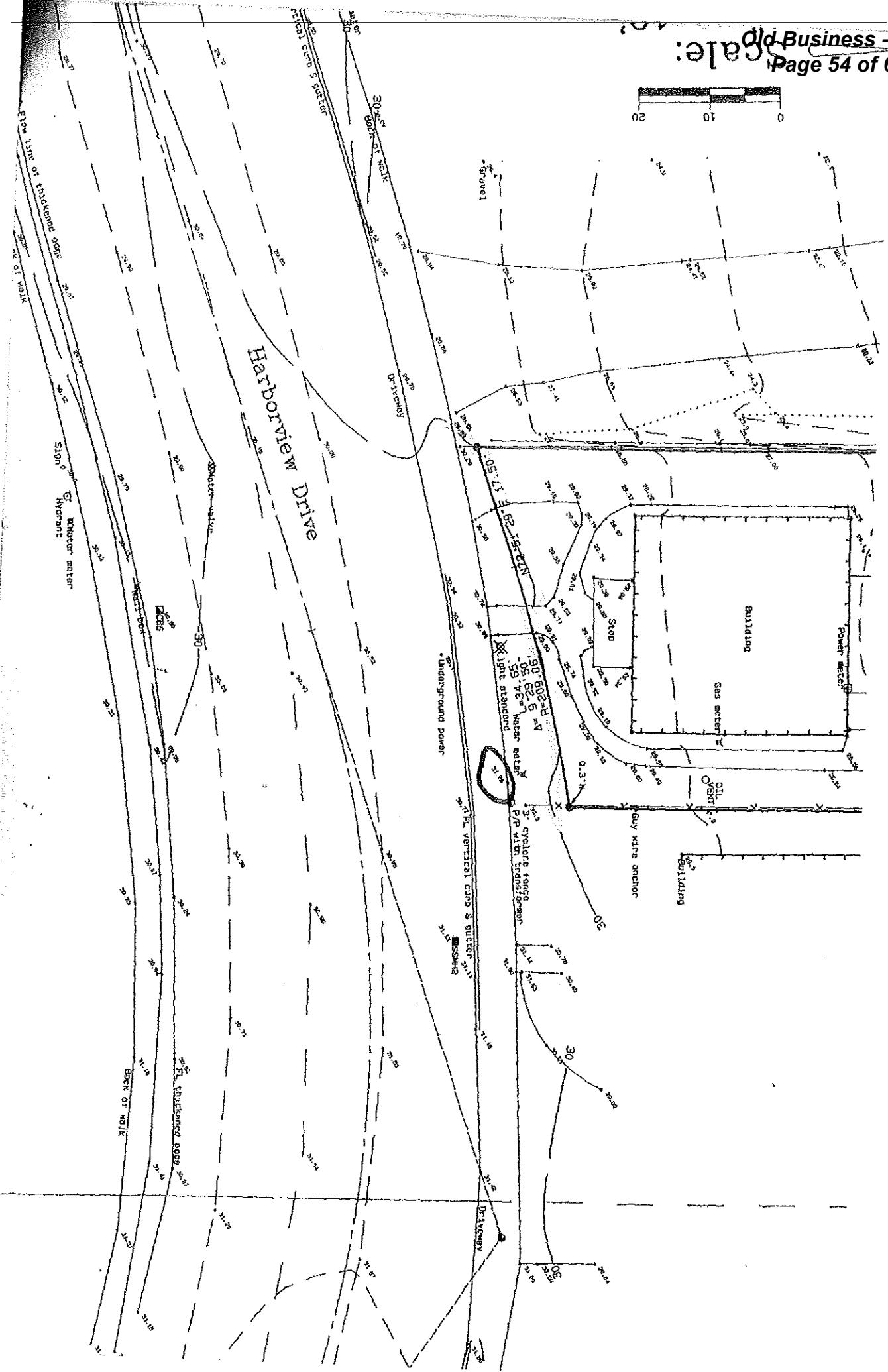
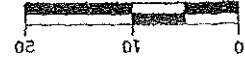
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Stanley; Meyer, Gary; Miller, Wayne; Mitton, Joanie; Moist, John; Morrison, Julian; Mueller, Randy; Murray, Joyce; nedderman, Ted and Nancy; Norman, Peter; Norton, Larry; Oka Akiko; Page, Trena; Perrow, Wade; Peterson, Joyce; Peterson, Pam; Pollitt, George; Pugh, Nick; Quincy, Jake; Ragan, Greg and Karen; Reed, Cindy; Richardson, Lousie; Rose, Andrew; Ross, Debra; Rushforth, Dennis; Scanlan, Conor; Seaquist, Larry; Shaffer, Keirsten; Shaffer, Lilly; Simon Barbara; Smith, lee; Steifel, Justin; Stenlyein, Alice; Stevenson, Lynn; Stouz, Nancy; Thurston, Kathy; Turley, Bryce; Vance, Jan; Vance, John; Vergera, Haleigh; Willenbrock, Jacob; Willenbrock, Kelsea; Wills Christine; Winfrey, Patti

Cc: Sehmel, Lindsey

Subject: Downtown Residential Building Height and Front Setback Amendments

Please find attached the Notice of Public hearing for the Downtown Residential Building Height and Front Setback Amendments for the City of Gig Harbor Planning Commission Public Hearing scheduled for April 11th, 2013 at 6:00 pm. Please contact Lindsey Sehmel, Senior Planner at sehmell@cityofgigharbor.net or 253-853-7615. Thank you Cindy Andrews



Kester, Jennifer

From: jeniawoock@gmail.com
Sent: Thursday, March 21, 2013 4:38 PM
To: Kester, Jennifer
Subject: Proposed amendment

Follow Up Flag: Follow up
Flag Status: Completed

To our Gig Harbor Planning Commission...

"The Harbor

Shaped by our maritime heritage the Harbor is a reflection of our past and the foundation for our future. The Harbor is:

A vibrant place where residents, visitors and boaters enjoy a walkable waterfront, picturesque views and the natural environment.

A place that celebrates and perpetuates the character and traditions of a working waterfront and preserves historic neighborhoods.

A place that supports and values local retail shops and services.

A place that provides services for recreational and commercial boating.

The Harbor is a place where people live, work, play, shop and explore."

Sounds familiar doesn't it? This wonderful vision was published on the City's website 12/3/12.

Obviously 2 story buildings in the proposed downtown area do nothing to perpetuate the character and traditions of a working waterfront and preserve historic neighborhoods. We started losing that character with the modern Russell Bldg. If this amendment passes that modern building can grow to 27 feet tall.

If this amendment passes as more buildings are 27 feet where is there room for picturesque views and the natural environment. We were assured that when the Russell Building came into town our views would remain intact and picturesque. Seems neither happened.

Just an example how past actions can foretell of a proposed future.

Wouldn't it be grand if there was a guarantee that 2nd floors would be living spaces and 1st floors were retail...perhaps we should try?

The rumors about hotel/retail space to be proposed on the hill corner of Soundview and Harborview...how would this impact traffic on Harborview towards the old ferry landing?

Perhaps before we open the door to more traffic downtown a traffic impact study should happen on the affected areas including streets bordering on this area.

We all want to see a lively, productive, retail healthy downtown. Perhaps a traffic impact study is the first step to begin before we give the OK to 2 story buildings.

Thank you for your time Jeni and Del Woock

"What would you attempt if you knew you could not fail? r. schuller

feelgoodfreeartproject.blogspot.com

Kester, Jennifer

From: Sheila Bujacich [sbujacich@centurytel.net]
Sent: Thursday, March 21, 2013 4:04 PM
To: Kester, Jennifer
Subject: Re: 2 Story Buildings in downtown GH

I am casting a NO vote to 2 story bldgs.

Sheila Bujacich, 3323 Ross Ave, GH

Kester, Jennifer

From: Gloria Hazelrigg [jewelkit@centurytel.net]
Sent: Thursday, March 21, 2013 2:51 PM
To: Kester, Jennifer
Subject: CITY PLANNERS

What is the single thing which sets Gig Harbor apart from every small city in Western Washington? The harbor, of course! If it weren't for the harbor itself, we could be anywhere---Lakewood, Lynwood, Puyallup, or any other town or city across the country! Why enable someone to hide more of the view of this unique, lovely spot? I suggest it is nothing more than greed and lack of interest in the long term life of Gig Harbor that is driving this avaricious, self-serving suggestion! In the twelve years I have been here I have seen more and more views of our harbor become invisible to residents and tourists alike. Please do not allow this to happen!

Gloria Hazelrigg
6100 Soundview Drive
Gig Harbor
253-858-7467

Kester, Jennifer

From: Tom Curran [tfcurrenjr@yahoo.com]
Sent: Thursday, March 21, 2013 1:17 PM
To: Kester, Jennifer
Subject: Increasing Maximum Building Heights

When I moved to Bellevue in 1972, it had small-town charm, wonderful character, and a 3-story downtown building height limit. The city administration also had a firm commitment to responsible and sustainable growth, orderly development, and a high quality of life. I won't comment on how I think Bellevue has turned out. But I would rather hope we can control our ambitions for Gig Harbor better than they did on the East Side.

Tom Curran
4220 71st Ave Ct NW
Gig Harbor WA 98335
253-549-6541
[Tfcurrenjr@yahoo.com](mailto:tfcurrenjr@yahoo.com)
Sent from my iPhone

Kester, Jennifer

From: Barbara527@aol.com
Sent: Wednesday, March 20, 2013 4:55 PM
To: Kester, Jennifer
Subject: Let's hope you are not going to ruin the view of the harbor...

....with higher buildings. Whatever are you planning? Especially along your main downtown street?

It is a shame the city does not care enough to try to update and keep a village environment and do more to attract businesses so that all of us in the Harbor area, whether within or without the city limits might be more tempted to do our shopping downtown.

Many years ago many of us just wanted a building code that would make all the buildings resemble more of what Kennibunkport Maine looks like. There, the townspeople truly shop downtown in locally owned businesses and restaurants, not the catalog stores that have been welcomed at UpTown. Seems the town fathers have never gone out of their way to support the delicacy and delight of a town that borders such a special and unique harbor.

Too, more and more boating friends tell us there isn't much reason to stop at Gig Harbor downtown any more; too few shops and too few things to do, no where to buy groceries, no special events and the town is getting uglier instead of quainter and/or lovelier. Even those who love to walk the town feel there is less and less of the harbor environment to enjoy, plus all the car exhaust with the traffic going by destroys the fresh air of a lovely walk near the water.

Boo hoo Gig Harbor! So sad.

Barbara Simon

Kester, Jennifer

From: David Boe [dboe@boearc.com]
Sent: Thursday, December 06, 2012 4:16 PM
To: Kester, Jennifer
Cc: jarcher@boearc.com
Subject: City of Gig Harbor Text Amendments - No. 1 Sketch
Attachments: Gig Text Amendment 1 Sketch.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Jennifer, I hope to be able to get to the Public Hearing tonight – but in case I don't, just want to say that I am in support of the proposed amendments with one tweak. The first item referencing additional interior gross area allows for roof modifications providing that the height of the new roof elements do not exceed the underlying zoning height. The problem with this requirement is that it mixes an item relative to the look and use of building with a requirement that is completely dependent on the site topography. What you want, I believe, is any additions and/or modifications to the existing building to look consistent with the building itself and not look odd on the building – which is the danger if you tie it to the underlying height restrictions of the site.

The attached sketch shows this situation. If you have minimal slope to the site and a large building, well, you won't be able to add roof dormers as these new dormers would be above the underlying height – so the second floor cannot be developed – so the building is not redeveloped – so you might lose the building or it will continue to sit underdeveloped.

If the code language was changed so that you are restricted to the height of the existing building, then it allows for a solution that is appropriate to the building itself and not imposed from a site condition (and you are not blocking anymore of the view given the limitation of the existing height).

If you felt that is giving away too much, then you could use the roof modulation requirement of stepping the additions down from the ridge a minimum of 5 feet – but it seems the existing ridge as the maximum height allows for a much better solution that can be developed to maintain and augment the existing character of the building(s).

Other than that – looks great and I can think of a couple more slight tweaks that could help make development pencil and more importantly, end with a result that is closer to the visioning process of The Harbor. Hope to see you tonight. David

David Boe - Principal
dboe@boearc.com

BOE architects, pllc
705 Pacific Avenue
Tacoma, WA 98402
(253) 383-7762
www.boearc.com

DO NOT JUST ADD MORE
STORIES TO NOT EXCEED
EXISTING BUILDING HEIGHT?

CAN'T ADD STORIES
SYMPHETIC TO BUILDING
AS NEAR ZONE HEIGHT

THUS, CAN'T
ADD SECOND FLOOR.

MAX. HEIGHT
IN ZONE BASED ON
SITE NOT EXISTING BUILDING

1.500 HOURS THROUGH GROSS AREA
CITY OF WASHINGTON - NATIONAL CAPITAL COMMISSION - PUBLIC HEARING

Kester, Jennifer

From: Debra Ross [debraross80@yahoo.com]
Sent: Tuesday, December 04, 2012 2:33 PM
To: Kester, Jennifer
Subject: Planning Commission Public Hearing

Follow Up Flag: Follow up
Flag Status: Completed

Jennifer

I am in receipt of the notice for the Gig Harbor Planning Commission Downtown Building Size Public Hearing to be held Thursday, December 6, 2012. I will not be able to attend the Hearing.

I would like to address the proposed downtown building size amendments that would apply to the Downtown Business (DB) zoning and the Waterfront Commercial (WC) zoning district that abut the DB district. I would request that the Planning Commission include Waterfront Millville zone in these Amendments. As the owner of an existing commercial building in the Waterfront Millville zone the Amendments would be of as much value for my commercial building on Harborview Drive as existing commercial buildings in the DB & WC zones.

If the Planning Commission is not able to include the Millville zone in this public hearing I would hope that this amendment would be considered at a future date for Millville zoned commercial properties.

Thank you.

Debra L. Ross
253-851-4751 home, office, fax
253-970-3966 cell



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

**Subject: Interlocal Agreement – Gig Harbor/
Pierce Transit Trolley Demonstration Project.**

Proposed Council Action: Consider an Interlocal Agreement with Pierce Transit in support of the Trolley Demonstration Project.

Dept. Origin: Administration

Prepared by: Dennis Richards

For Agenda of: July 22, 2013

Exhibit: Interlocal Agreement

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 7/18/13
D 7/18/13
[Signature] 7/18/13

| | | | | | |
|-----------------------------|----------|------------------------|-----|-------------------------------|----------|
| Expenditure Required | \$10,000 | Amount Budgeted | \$0 | Appropriation Required | \$10,000 |
|-----------------------------|----------|------------------------|-----|-------------------------------|----------|

INFORMATION/BACKGROUND

Pierce Transit is currently running two trolleys through Gig Harbor for the summer months. This is a trial program and if successful, the trolleys will be added to the Transit Companies operating fund next year, thereby doing away with the need for monetary support from this community.

This year the estimated cost to operate the program is \$257,257. Pierce Transit has requested that the Gig Harbor Partnership make up 16% of the farebox recovery. This comes to a total of \$41,161 to satisfy the need. At the June 24th meeting, Council authorized the city to contribute \$10,000 towards this project.

To date, we have received \$10,000 from the Chamber of Commerce; \$5,000 from the Gig Harbor Historic Waterfront Assoc.; \$3,500 from Gateway Capital, LLC; \$3,500 from Harbor Pacific Properties; and \$750 from the Tides Tavern. The total of contributions to date is \$32,750, with \$8,411 remaining to be collected.

FISCAL CONSIDERATION

The city's contribution of \$10,000 to fund this project will come from the 2013 non Departmental budget.

The Trolley program could bring additional sales to our businesses from tourists who visit by boat, car or other means that would in turn increase tax revenues.

**Interlocal Agreement for Gig Harbor Trolley Demonstration Project
Between the City of Gig Harbor and
Pierce County Public Transportation Benefit Area**

Pursuant to Ch. 39.34 RCW, this interlocal agreement (“Agreement”) is made by and between Pierce County Public Transportation Benefit Area (“Pierce Transit”) and the City of Gig Harbor (“Gig Harbor”), a Washington municipal corporation, all of which entities may be referred to hereinafter individually as “Party” or collectively as the “Parties.”

RECITALS

Whereas, Pierce Transit and Gig Harbor have identified a need for a tailored trolley service within Gig Harbor; and

Whereas, the Parties desire to enter into a three (3) month agreement to provide such transit service as a demonstration project in 2013; and

Whereas, the Pierce Transit Board of Commissioners Executive Finance Committee approved this as an immediate demonstration project at their June 20, 2013 meeting, subject to the agreement and execution of Gig Harbor;

Now therefore the Parties agree as follows, incorporating by reference the above Recitals:

1. PURPOSE OF AGREEMENT

- 1.1 The purpose of this Agreement is to enter into a mutually beneficial contractual relationship to provide demonstration trolley service in Gig Harbor. Such service is described in Attachment A to this contract and is referred to herein as the Project. Attachment A is incorporated herein and made a part of this Agreement by this reference.
- 1.2 This Agreement establishes the responsibilities of the Parties in relation to the Project, including methods for financing, implementing, improving and terminating the Project.

2. PIERCE TRANSIT’S RESPONSIBILITIES

- 2.1 Pierce Transit will provide and maintain the vehicles and operate the service as described in Attachment A.
- 2.2 Pierce Transit will pay the financial share as described in Attachment A.
- 2.3 Pierce Transit will provide the demonstration trolley service as described in Attachment A.

3. GIG HARBOR’S RESPONSIBILITIES

- 3.1 Gig Harbor will pay the financial share as described in Attachment A.
- 3.2 Gig Harbor will provide the transit service enhancements as described in Attachment A.

4. COST OF SERVICE

The estimated cost of service is based a cost per service hour using Pierce Transit’s cost allocation model and uses service hours for the duration of the demonstration project as outlined in Exhibit 1 to Attachment A.

5. PERIOD OF AGREEMENT

This Agreement covers the time period when the Project service commences on July 9, 2013 and runs through September 28, 2013.

6. INVOICES/PAYMENT PROCEDURES

- 6.1 Pierce Transit will invoice Gig Harbor for their financial payment, for the transit service provided for herein. Billing will be based on 16% of the costs of the service as described in Attachment A.
- 6.2 The total service costs based on scheduled service hours is shown in Attachment A.
- 6.3 Gig Harbor shall make payment within thirty (30) days after receipt of an invoice.
- 6.4 In kind donations are considered above and beyond the 16% of the estimated costs and will not be considered as partial payment of this cost.

8. INDEMNIFICATION AND LEGAL RELATIONS

- 8.1 It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or its contractors or subcontractors shall be deemed, or represent themselves to be, employees, agents, contractors or subcontractors of the other Party.
- 8.2 Each Party shall comply, and shall ensure that its contractors and subcontractors, if any, comply with all federal, state and local laws, regulations, and ordinances applicable to the work and services to be performed under this Agreement.
- 8.3 Each Party shall defend, indemnify and hold harmless the other Party, its elected officials, officers, officials, employees and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each Party's own sole or proportionate concurrent negligent acts or omissions or the performance of this Agreement. Each Party agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.
- 8.4 Each Party's rights and remedies in this Agreement are in addition to any other rights and remedies provided by law or in equity.
- 8.5 This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of Pierce County, Washington or the United States District Court of the Western District of Washington, located in Tacoma, Washington, shall have jurisdiction and venue, as provided by law, over any legal action arising under this Agreement.
- 8.6 The provisions of this section shall survive any termination of this Agreement.

9. CHANGES AND MODIFICATIONS

This Agreement may be amended or modified only by prior written agreement signed by the Parties hereto.

10. TERMINATION OF AGREEMENT

- 10.1 Any of the Parties may terminate this Agreement, in whole or in part, for any reason provided, however, that insofar as practicable, the Party terminating the Agreement will give not less than fourteen (14) calendar days prior notice to non-terminating Party. Such termination shall be by written notice delivered by certified mail, return receipt requested, of intent to terminate.
- 10.2 If Gig Harbor terminates, Gig Harbor will pay Pierce Transit the full financial obligation as described in Attachment A to offset the startup and operation costs for the demonstration.

11. FORCE MAJEURE

Either Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, earthquake or acts of nature; strikes or labor actions; commandeering material, products, or facilities by the federal, state or local government; and/or national fuel shortage; when satisfactory evidence of such cause is presented to the other Party, and provided further that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing. In no event, however, shall this provision eliminate the obligation to make payment to Pierce Transit for work performed in accordance with this Agreement.

12. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing, signed by authorized Parties and attached to this Agreement.

13. ASSIGNMENT

This Agreement shall be binding upon the Parties, their successors, and assigns; provided, however, that neither Party shall assign nor transfer in any manner any interest, obligation or benefit of this Agreement without the other's prior written consent.

14. NO THIRD PARTY BENEFICIARIES

Nothing in this Agreement, express or implied, is intended to confer on any person or entity other than the Parties hereto and their respective successors and assigns any rights or remedies under or by virtue of this Agreement.

15. MUTUAL NEGOTIATION AND CONSTRUCTION

This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

16. ALL TERMS AND CONDITIONS

This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties related to the subject matter hereof and constitutes the entire agreement between the Parties. This Agreement may be amended only by written agreement of the Parties.

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

17. CONTACT PERSONS

The Parties shall designate a contact person for purposes of sending inquiries and notices regarding the execution and fulfillment of this Agreement.

| | City of Gig Harbor |
|--------------|---|
| Contact Name | Denny Richards |
| Organization | City of Gig Harbor |
| Title | City Administrator |
| Address | 3510 Grandview Street Gig Harbor, WA 98355 |
| Telephone | (253) 851-6127 |
| Fax | (253) 853-7597 |
| E-Mail | richardsd@cityofgigharbor.net |

| | Pierce Transit |
|--------------|------------------------------------|
| Contact Name | Tina Lee |
| Title | Service Innovation Administrator |
| Address | PO Box 99070 Lakewood, WA 98496 |
| Telephone | 253-589-6887 |
| Fax | 253-581-8075 |
| E-Mail | tlee@piercetransit.org |

Each Party warrants and represents that its execution of this Agreement has been authorized by its governing body.

18. Effective Date. This Agreement shall take effect when it is signed by all the Parties hereto.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement on the _____ day
of _____, 2013.

CITY OF GIG HARBOR

PIERCE TRANSIT

By: _____
Its *Mayor*

By: _____
Its *Chief Executive Officer*

Date: _____

Date: _____

ATTEST:

Molly Tonslee, City Clerk

Wayne Fanshier, Chief Financial Officer

APPROVED AS TO FORM:

ATTEST:

Angela Belbeck, City Attorney

Deanne Jacobson, Clerk of the Board

Attachment A
Direct Financial Partnership Scope of Work
Gig Harbor Trolley Demonstration Project
City of Gig Harbor
Pierce Transit

I. Monetary Contributions: Monetary contributions are defined in Exhibit 1 to this Attachment A and are described below:

A. The actual costs the Parties shall pay pursuant to this Agreement shall be determined in accordance with Section 6 of this Agreement.

B. Gig Harbor agrees to pay sixteen percent (16%) of all start-up and service costs. Pierce Transit will pay the remaining eighty-four percent (84%) of all start-up and service costs.

Based on Exhibit 1, Gig Harbor's estimated cost is \$41,161. Pierce Transit's estimated cost is \$216,096. These financial obligations will be for service and vehicles on a trolley demonstration service as defined in Service Description of this Attachment A.

If actual costs exceed the agreed upon hours of operations and frequency in Exhibit 1, Pierce Transit will be liable for the higher cost as long as the service provided does not change from the service schedule and hours proposed in Exhibit 1.

II. Transit Service Enhancements

A. Gig Harbor:

1. Outreach, Promotion & Marketing
 - a) Gig Harbor's Marketing Director will be an active participant in the Marketing Sub Group team meeting weekly prior to trolley start up on July 9.
 - b) Gig Harbor will provide Pierce Transit script for trolley operator training that highlights points of interest along trolley route.
 - c) Gig Harbor will distribute leaflets prepared by Marketing Sub Group at concerts at Skanski Park at the July 2, 2013 concert.
 - d) Gig Harbor will send trolley information via City of GH e-news distribution.
 - e) Gig Harbor will plan and coordinate details for the Trolley Kick-off Event scheduled for July 9 at Skanski Park.
2. Special Event Traffic:
 - a) Gig Harbor will provide detour routes and aid trolley and trolley bus access around special events occurring during the demonstration period.
3. Bus Stop Signs:
 - a) Gig Harbor will provide permitting for bus stop signs for the project.

B. Pierce Transit:

1. Outreach, Promotion & Marketing:
 - a) Pierce Transit will advertise the demonstration summer trolley service via its normal marketing channels, and will include the service information in Pierce Transit rider alert timetables and on Pierce Transit's Web site.
2. Bus Stops:
 - a) Pierce Transit will locate and install bus stop signs. Pierce Transit will maintain bus stop areas.

III. Service Description

The Summer Trolley Demonstration, PT Trolley – Get Around Gig Harbor! will connect the historic downtown waterfront district to the Uptown shopping district and provide a connection at the Kimball Park and Ride to provide access to other Pierce Transit and Sound Transit routes. Trolley service is a tailored transit solution that will aid in Gig Harbor's unique transportation challenges. The PT Trolley will help reduce congestion in downtown, connect the downtown and uptown districts and renew interest in public transportation. PT Trolley service will offer trips every 30 minutes beginning at 11:00 a.m. to 7:30 p.m. Mondays, Wednesdays, and Thursdays, with extended service to 9:30 p.m. on Tuesdays and Fridays. Saturday service will operate from 9:00 am – 9:30 pm. Sunday service will operate from 10:00 am – 6:30 pm.

IV. Service Duration

Service under this Agreement shall commence on July 9, 2013 and terminate on September 28, 2013. It is understood that this is a demonstration project only. A new agreement may be executed if the decision is made to make this a regular service in Gig Harbor.

V. Service Cost Estimate

The estimated cost is a planning level estimate based on the hours and miles identified on the spreadsheet attached hereto as Exhibit 1 entitled "Preliminary Cost Estimate" which is incorporated into and made a part of this Agreement by this reference. The actual hours and miles needed to operate the service is determined by Pierce Transit during the scheduling of the service prior to implementation. The actual start up and operating costs may be higher or lower than the estimate provided in Exhibit 1. The Parties agree that Pierce Transit will retain fare box revenue and such agreement is reflected in Exhibit 1.

Below are assumptions that serve as the basis of the service cost proposal:

- Total demonstration service hours: 1,762
- Demonstration three-month cost: \$257,257
- Gig Harbor's estimated share of demonstration cost: Sixteen Percent (\$41,161)
- Pierce Transit's estimated share of demonstration cost: Eighty-Four Percent (\$216,096)
- The cost of service will be determined solely by Pierce Transit's marginal cost rate 2013 and demonstration trolley startup costs including trolley lease cost, trolley and trolley bus graphics and preparation, trolley bus stop signage.
- Pierce Transit will retain all fare box revenue.



Exhibit 1

Gig Harbor Trolley Demonstration Proposal

| | | |
|----------------------|-----------------------------------|--------------------|
| Service Span: | July 9, 2013 - September 28, 2013 | |
| Days of Service: | 82 | |
| Hours of Operations: | Tuesday, Friday | 11:00 am - 9:30 pm |
| | Saturday | 9:00 am - 9:30 pm |
| | Sunday | 10:00 am - 6:30 pm |
| | Monday, Wednesday, Thursday | 11:00 am - 7:30 pm |

Service Frequency: 30 minutes

Proposed Service Hours: 1,762

Cost Per Service Hour:

| | | |
|---|---------------|---|
| <i>Pierce Transit Marginal Cost Rate 2013</i> | \$ 103 | |
| <i>Start up Costs Per Service Hour</i> | \$ 43 | (Trolley Start Up Costs Divided by Service Hours) |
| Demonstration Cost Per Service Hour | \$ 146 | |

Proposed Service Cost \$ 257,257

Service Hours x Cost Per Service Hour

Partnership Investment Funds

Pierce Transit Farebox Recovery Rate 16%
2012 System Average

Minimum Partnership Investment **\$41,161**

Trolley Start Up Costs

| | |
|---|---------------------|
| Trolley Lease Cost | \$ 63,280.00 |
| Trolley & Trolley Bus Vehicle Graphics & Prep | \$ 10,000.00 |
| Trolley Bus Stop Signage | \$ 2,500.00 |
| Start Up Costs | \$ 75,780.00 |



Performance Dashboard Gig Harbor PT Trolley Demonstration

Performance Dashboard Date: July 15, 2013

Reporting period: Sunday, July 14 through Saturday, July 20

Route Performance*

Is the Route 101 PT Trolley meeting the demonstration service performance standards? One element of an effective demonstration project is route productivity. The Route 101 PT Trolley will be considered effective for its service performance by meeting or exceeding performance in all three main service performance standards: passengers per service hour, passengers per revenue mile, and cost recovery. We also monitor other performance measures such as ridership and the percent of change, passenger per trip, and net cost per passenger.

| Route 101 PT Trolley Service Performance Standards | | |
|--|----------------|--------------------------------------|
| Pass/ Svc Hour | Pass/ Rev Mile | Cost Recovery |
| 15 | 1.3 | 11% |
| Meets standards | | ● |
| Does not meet standards | | ● |

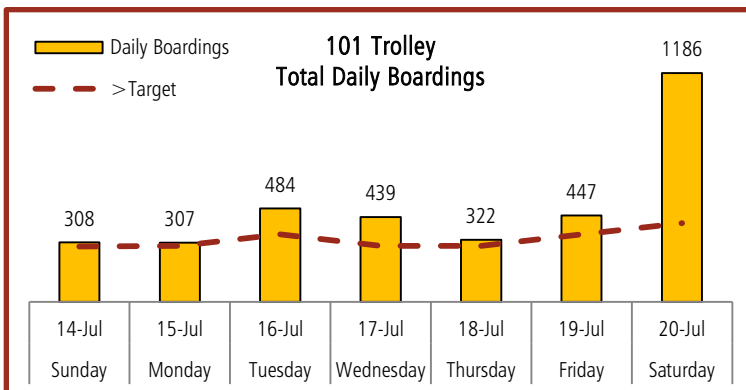
Route 101 PT Trolley Performance (Estimates)

| Week | Dates | Ridership | Last Wks Ridership | % Change | Pass/ Svc Hour | Pass/ Rev Mile | Pass/ Trip | Cost Recovery | Net Cost/ Pass |
|------|--------------|-----------|--------------------|----------|--|--|------------|---------------|----------------|
| 1 | July 9-13 | 2,089 | 0 | 0.0% | ● 18.60 | ● 1.4 | 9.85 | N/A | N/A |
| 2 | July 14 - 20 | 3,493 | 2,089 | 67.2% | ● 23.17 | ● 1.8 | 12.39 | N/A | N/A |

*Route Performance Summary: Weekly performance is estimated. PT's *Monthly Ridership Report, Route Performance Summary* is the official record of route performance and will provide an efficiency rating. Financial data to calculate cost recovery and the official performance may not be available until late-October 2013. N/A= not available. Source: GH Trolley Daily Ridership report, Daily Boarding Count Sheets, and Summary of Hours and Miles reports.

Boardings

Daily Boardings



How many customers boarded the Route 101 PT Trolley each day? The graph shows the total daily boarding on the Route 101 PT Trolley.

Daily boardings are above the target minimum performance. Daily boardings should be above the target to meet minimum standards, as indicated by the red dotted line on the graph.

Daily boardings are the count of passengers that are on the vehicle at the beginning of the trip and that board along the trip. This includes transfers from other routes to include the Route 100 Gig Harbor.

Source: Daily Boarding Count Sheets

Weekly Ridership

How many customers boarded the Route 101 PT Trolley this week? The PT Trolley had 3,493 boardings during its second week of service. Weekly ridership is above the target minimum performance.

An operating week runs from Sunday through Saturday. A trip is one direction of travel, i.e. from Harborview & Peacock Hill to Point Fosdick & 45th. The weekly ridership target is the minimum passengers per service hour standard multiplied by the service hours operated. Source: GH Trolley Daily Ridership report, Daily Boarding Count Sheets

| 101 Trolley | Dates | Boardings | Target Minimum |
|--------------------------------|--------------|--------------|--------------------|
| Week 1* | July 9-13 | 2,089 | 1555 |
| Week 2 | July 14 - 20 | 3,493 | 2261 |
| Total Trolley Boardings | | 5,582 | *five service days |

Community Events

Route 101 PT Trolley boardings during community events are being monitored. Listed are the community events during this reporting period.

- Free Summer Sounds, Skansie Park, The Army National Guard Band Tuesday, July 16, 6:30 – 8:00 pm
- Farmer's Market, Skansie Park, Wednesday, July 17, 11:00am – 4:00pm
- Free Uptown Summer concert Series, Rob Rigoni and Budapest West - Hungarian Soul Thursday, July 18, 6:00 – 8:00pm
- CinemaGig Presents Free Movie: American Graffiti, Skansie Park Friday, July 19, 9:00 – 11:00pm
- Chalk the Harbor, Historic Downtown, All Day Friday, July 19 and Saturday, July 20
- Farmer's Market, Uptown, Saturday, July 20, 8:30am – 2:00pm
- CinemaGig Presents Free Movie: Princess Bride, Skansie Park, Saturday, July 20, 9:00 – 11:00pm
- Farmer's Market, Skansie Park, Sunday, July 21, 11:00am – 4:00pm

Comments

No updates.



Business of the City Council
City of Gig Harbor, WA

Subject: "Cushman Trail Cottages Annexation" (PL-ANX-12-0001)

Proposed Council Action:
Adopt Ordinance No. 1267
formally approving the Cushman Trail Cottages Annexation.

Dept. Origin: Planning Department

Prepared by: Lindsey Sehmel Senior Planner 

For Agenda of: June 22, 2013

Exhibits: Ordinance

Initial & Date

Concurred by Mayor: cut 7/15/13
Approved by City Administrator: R 7/15/13
Approved as to form by City Atty: via email 7/11
Approved by Finance Director: N/A
Approved by Department Head: JK 7/15/13

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

INFORMATION / BACKGROUND

On April 8th, 2013 the City Council approved a resolution declaring its intent to approve the Cushman Trail Cottages Annexation. Subsequent to the Council's action, staff prepared a Notice of Intention which was transmitted to the Pierce County Boundary Review Board. The Chief Clerk of the Boundary Review Board determined that the Notice of Intention was complete as of May 14, 2013. The 45 day appeal period for the Notice of Intention expired on June 28, 2013 and annexation was deemed approved by the Boundary Review Board. State law provides that after the Boundary Review Board approves an annexation, the City must finalize the annexation by adopting an ordinance that formally accepts the annexed area into the City.

STAFF ANALYSIS

Per GHMC 1.08.020 (C), the City Council may take final action on this ordinance at first reading.

BOARD OR COMMITTEE RECOMMENDATION

None

RECOMMENDATION / MOTION

Move to: Adopt Ordinance 1267 formally approving the Cushman Trail Cottages Annexation.

**CITY OF GIG HARBOR
ORDINANCE NO. 1267**

AN ORDINANCE OF THE CITY OF GIG HARBOR, RELATING TO ANNEXATION AND ZONING, ANNEXING APPROXIMATELY 5 ACRES OF PROPERTY LOCATED TO THE EAST OF CANTERWOOD BOULEVARD AND APPROXIMATELY 400 FEET SOUTH OF 122ND STREET NW, (PL-ANX-12-0001), ADOPTING SINGLE-FAMILY RESIDENTIAL (R-1) ZONING, AND REQUIRING THE PROPERTY OWNERS TO ASSUME THEIR PROPORTIONATE SHARE OF INDEBTEDNESS.

WHEREAS, the City of Gig Harbor received a Notice of Intent to Annex approximately 5 acres of property located to the east of Canterwood Boulevard (BLVD) and approximately 400 feet south of 122nd Street NW, within the City's Urban Growth Area (UGA), located in Pierce County; and

WHEREAS, the Notice of Intent was signed by the owners of not less than ten percent (10%) of the acreage of the property; and

WHEREAS, on November 26, 2012, the City Council met with the initiators of the petition and voted (Guernsey/Malich, 6-0) to authorize circulation of the annexation petition subject to certain conditions including adoption of pre-annexation zoning (R-1) as depicted on the Official Zoning Map of the City and requiring that the property owners assume all of the existing indebtedness of the area being annexed; and

WHEREAS, on December 24, 2012, the petition for annexation of the property described in Exhibit A and graphically depicted on Exhibit B was received by the City; and

WHEREAS, on March 5, 2013, the Pierce County office of the Assessor-Treasurer certified the signatures on the petition for annexation of the property

described in Exhibit A and graphically depicted on Exhibit B; and

WHEREAS, the property described in Exhibit A and graphically depicted on Exhibit B proposed to be annexed is within the Urban Growth Area as established by Pierce County and included in the Comprehensive Plans of both the County and the City of Gig Harbor; and

WHEREAS, the City of Gig Harbor Comprehensive Plan, adopted in December, 2004, established the land use map designation for this area as Residential Low, with pertinent goals and objectives, to guide the development of the annexation area over the next twenty years; and

WHEREAS, the proposed pre-annexation zoning (R-1) being applied to the property described in Exhibit A and graphically depicted on Exhibit B is consistent with the City of Gig Harbor Comprehensive Land Use Plan designations; and

WHEREAS, on April 8, 2013, the City Council, following a public hearing on the annexation petition, voted to declare its intent to authorize and approve the annexation for the area described in Exhibit A and graphically depicted on Exhibit B, subject to Boundary Review Board approval (Resolution No. 927); and

WHEREAS, on May 14, 2013, the Notice of Intention, together with supporting documentation, was submitted to the Chief Clerk of the Pierce County Boundary Review Board; and

WHEREAS, on May 17, 2013, the Chief Clerk of the Pierce County Boundary Review Board deemed the annexation proposal as complete, set the official filing date as May 14, 2013, initiated the forty-five (45) day review period,

and noted that the period during which jurisdiction could be invoked would expire on June 28, 2013; and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting of July 22, 2013; Now, Therefore,

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

Section 1. The Gig Harbor City Council hereby approves the annexation of approximately 5 acres of property located east of Canterwood BLVD and approximately 400 feet south of 122 Street NW, located in Pierce County, as described in Exhibit A and graphically depicted on Exhibit B, attached hereto, as part of the City of Gig Harbor, contingent upon compliance with the following conditions:

- A. Pursuant to the terms of the annexation petition, the approximately 5 acres of property located east of Canterwood BLVD and approximately 400 feet south of 122nd Street NW, located in Pierce County, as described in Exhibit A and graphically depicted on Exhibit B, shall be assessed and taxed at the same rate and on the same basis as property within the City, including assessments for taxes and payment of any bonds issued or debts contracted prior to or existing as of the date of annexation;
- B. All property within the area described in Exhibit A and graphically depicted on Exhibit B shall be zoned R-1 as

depicted on the Official Zoning Map of the City in accordance with the Gig Harbor Municipal Code, Title 17.

Section 2. The Planning Director is hereby instructed to effectuate the necessary changes to the Official Zoning Map of the City in accordance with the zoning established in Section 1.

Section 3. The Gig Harbor City Clerk hereby declares the property described in Exhibit A and graphically depicted in Exhibit B to be contiguous with the boundaries of the City of Gig Harbor.

Section 4. The City Clerk is hereby directed to record a certified copy of this ordinance with the Office of the Pierce County Auditor.

Section 5. This ordinance shall take effect on October 1, 2013 after passage and publication as required by law.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this 22nd day of July, 2013.

APPROVED:

MAYOR, CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

APPROVED AS TO FORM;
OFFICE OF THE CITY ATTORNEY:

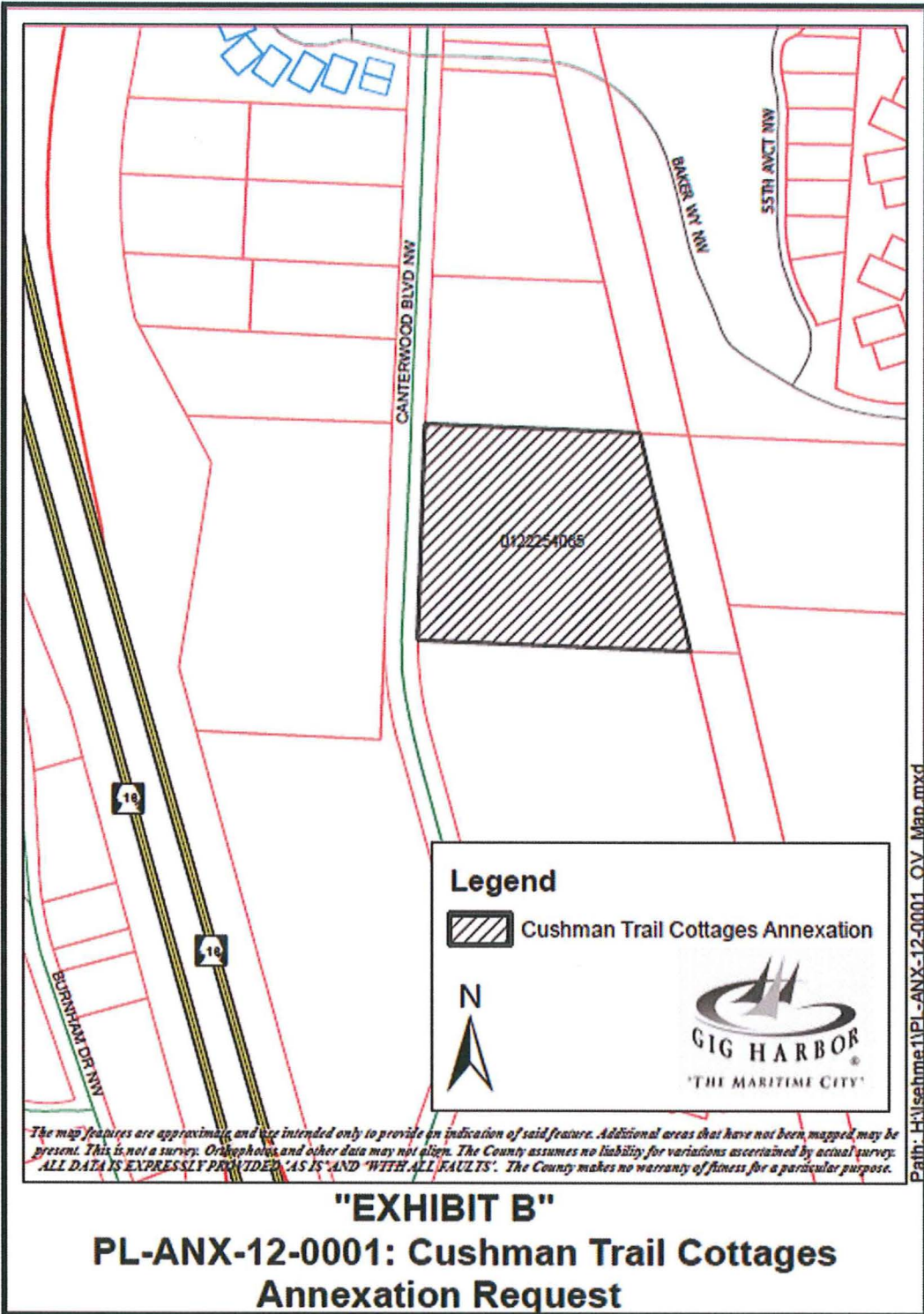
BY: _____

FILED WITH THE CITY CLERK: 07/16/13
PASSED BY THE CITY COUNCIL: 07/22/13
PUBLISHED: 07/31/13
EFFECTIVE DATE: 10/01/13
ORDINANCE NO. 1267

“Exhibit A”

LEGAL DESCRIPTION FOR PARCEL 0122254065

LOT ONE (1) OF PIERCE COUNTY LARGE LOT SUBDIVISION AS
RECORDED ON NOVEMBER 29, 1979 IN BOOK 30 OF SURVEYS AT PAGE
70 UNDER RECORDING NO. 2970, EXCEPT CANTERWOOD BLVD NW PER
AFN 9401110663.



"EXHIBIT B"
PL-ANX-12-0001: Cushman Trail Cottages
Annexation Request



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

Subject: Ancich Net Shed Pier Repair Project
– Small Public Works Contract Award

Dept. Origin: Public Works

Proposed Council Action: Authorize the Mayor to execute a Small Public Works Contract with Samish Bay Construction, Inc., in an amount not exceed \$ 13,201.20 for the award of the Ancich Net Shed Pier Repair Project and authorize the Public Works Director to approve additional expenditures up to \$2,000 to cover any cost increases that may result from contract change orders.

Prepared by: Jeff Langhelm, PE *JL*

For Agenda of: July 22, 2013

Exhibits: Small Public Works Contract

Concurred by Mayor:

Approved by City Administrator:

Approved as to form by City Atty:

Approved by Finance Director:

Approved by Department Head:

Initial &
Date

CLH 7/17/13
R 7/17/13
VIA EMAIL 7/17/13
PRV DR 7/17/13
JL 7/17/13

| | | | | | |
|-----------------------------|--------------|------------------------|--------------|-------------------------------|--------------------------|
| Expenditure Required | \$ 15,201.20 | Amount Budgeted | \$400,000.00 | Appropriation Required | See Fiscal Consideration |
|-----------------------------|--------------|------------------------|--------------|-------------------------------|--------------------------|

INFORMATION/BACKGROUND

With the City's recent purchase of the Ancich waterfront property at 3555 Harborview Drive the City also acquired a mid-19th century pier and the net shed located on the pier. The pier structure on which the net shed sits is deteriorating and, for safety reasons, the City maintains a chain link fence around the entrance to the pier. The intent of this project is to perform normal maintenance and repair due to a collapsed pile cap and associated damage. No general public use will occur pending completion of a full structural engineering report or additional repairs.

The work to be completed under the contract generally includes removal and replacement of deteriorating wood pile caps, floor joists, and decking material. The City has received all exemptions and/or permits to perform this work from the City of Gig Harbor, the Washington State Department of Fish and Wildlife, and the United State Army Corps of Engineers.

BID RESULTS

This project was bid using the City's Small Public Works Bidding process. The initial estimate of work was \$30,000. A total of six bid proposals were received by the City on July 16 2013. Bid results from each bidder are summarized below.

| No. | Bidder | Bid Amount |
|-----|--------------------------|--------------|
| 1 | Samish Bay Construction | \$ 13,201.20 |
| 2 | Sterling Marine Services | \$ 19,394.38 |
| 3 | Talakai Construction | \$ 26,636.75 |
| 4 | Quigg Brothers | \$ 32,333.00 |
| 5 | Combined Construction | \$ 34,177.50 |
| 6 | Pivetta Brothers | \$ 40,730.90 |

FISCAL CONSIDERATION

The City's 2013 Budget did not include an objective to complete this work. However, the City's Park Development Fund (109) includes sufficient funds to complete this work. See below for the proposed expenses for this repair project.

| Requested 2013 Expenses: | |
|---|--------------|
| Ancich Net Shed Pier Repair Project Small Public Works Contract | \$ 13,201.20 |
| Change Order Authority for Small Public Works Contract | \$ 2,000.00 |
| | |

BOARD OR COMMITTEE RECOMMENDATION

This topic was mentioned at the May 16 Operations and Public Projects Committee meeting. However, due to its urgent nature, no formal presentation or recommendation has been made.

RECOMMENDATION/MOTION

Authorize the Mayor to execute a Small Public Works Contract with Samish Bay Construction, Inc., in an amount not exceed \$ 13,201.20 for the award of the Ancich Net Shed Pier Repair Project and authorize the Public Works Director to approve additional expenditures up to \$2,000 to cover any cost increases that may result from contract change orders.

CITY OF GIG HARBOR
SMALL PUBLIC WORKS CONTRACT

ANCICH NET SHED PIER REPAIR PROJECT (CPP-1322)

THIS CONTRACT is made and entered into this _____ day of _____, 2013, by and between the City of Gig Harbor, Washington (the "City"), and Samish Bay Construction, a Washington Corporation (the "Contractor").

FOR AND IN CONSIDERATION of the mutual benefits and conditions hereinafter contained, the parties hereto agree as follows:

1. Scope of Work.

The Contractor agrees to furnish all material, labor, tools, equipment, apparatus, etc. necessary to perform and complete in a workmanlike manner the work set forth in the Invitation to Bidders attached hereto as Exhibit A and incorporated herein by reference.

2. Time of Contract Execution, Performance and Completion.

This Contract shall be executed by the Contractor and all necessary insurance information required by this Contract shall be provided to the City within ten (10) working days of the Notice of Contract Award date from the City.

The Contractor shall provide to the City all necessary prevailing wage information required by this Contract within ten (10) working days after the Notice to Proceed date from the City.

All work performed under this Contract shall be completed within fifteen (15) working days of the Contractor receiving the Notice to Proceed from the City.

A "working day" is defined for convenience as any day, unless it is a nonworking day or an ENGINEER determined unworkable day. A nonworking day is defined as a Saturday, a Sunday, a day on which the contract specifically suspends work, or one of these holidays: January 1, the third Monday of January, the third Monday of February, Memorial Day, July 4, Labor Day, November 11, Thanksgiving Day, the day after Thanksgiving, and Christmas day. When any of these holidays fall on a Sunday, the following Monday shall be a nonworking day. When the holiday falls on a Saturday, the preceding Friday shall be a nonworking day.

3. Payments.

The Contractor agrees to perform all work called for in Exhibit A at the rate set forth in the Bid Proposal attached hereto as Exhibit B. Said sum shall constitute full compensation for all labor, materials, tools, appliances, etc. required to perform the required services. Total compensation shall not exceed Thirteen Thousand Two Hundred One Dollars and Twenty Cents (\$ 13,201.20) which includes 8.5% Washington State Sales Tax.

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4. Retainage.

Pursuant to RCW 60.28.011, five percent (5%) of all monies earned by the Contractor shall be retained by the City for the purposes mentioned in said statute. The Contractor elects to have these monies (check one):

_____ Retained in a fund by the City until sixty (60) days following the final acceptance of said improvement or work as completed;

_____ Deposited by the City in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: Provided, that interest on such account shall be paid to the Contractor; or

_____ Placed in escrow with a bank or trust company by the City until sixty (60) days following the final acceptance of said improvement or work as completed. When the monies reserved are to be placed in escrow, the City shall issue a check representing the sum of the monies reserved payable to the bank or trust company and the Contractor jointly. Such check shall be converted into bonds and securities chosen by the Contractor and approved by the City and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the Contractor as the said interest accrues.

5. Performance and Payment Bond - 50% Letter.

A. The Contractor shall execute and deliver to the City a bond, on forms supplied or approved by the City, with an approved surety company as surety, in the sum of the full amount of the Contract plus the applicable Washington State Sales Tax, in compliance with RCW 39.08.010 through 39.08.060 and any amendments thereto. The surety on any such bond shall be a surety company duly authorized to transact surety business under the laws of the State of Washington. In lieu of such a bond, the Contractor may provide a letter of credit in the same sum and subject to the same conditions, in a form approved by the City Attorney.

B. If the amount of this Contract is Thirty-five Thousand Dollars (\$35,000) or less, the Contractor may, at its option, in lieu of the bond specified in subparagraph A, have the City retain fifty percent (50%) of the contract amount for a period of thirty (30) days after the date of completion of services, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later.

6. Warranty/Maintenance Bond.

The Contractor hereby warrants that it is fully licensed, bonded and insured to do business in the State of Washington as a general contractor. The Contractor will warranty the labor and installation of materials for a two-year warranty period and shall furnish a maintenance bond for 15% of the contract amount on the City's standard

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maintenance bond form in order to guarantee that the work specified in Exhibit A and completed by Contractor will remain free from defects in workmanship and materials for a period of two years after completion of construction.

7. Indemnity.

A. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney's fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

B. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees or volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

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

8. Insurance.

A. The Contractor shall secure and maintain in force throughout the duration of this Contract, business auto coverage for any auto no less than a \$1,000,000 each accident limit.

B. The Contractor shall secure and maintain in force throughout the duration of this Contract, comprehensive general liability insurance with a minimum coverage of not less than a limit of \$1,000,000 per occurrence, \$2,000,000 annual aggregate for bodily injury, including death, and property damage. The insurance will be written on an occurrence basis, by an 'A' rated company licensed to conduct business in the State of Washington. The general liability policy shall name the City as an additional insured and shall include a provision prohibiting cancellation, changes and reductions of coverage under said policy except upon thirty (30) days prior written notice to the City. Certificates of coverage as required by this Section shall be delivered to the City with the signed Contract. Under this Agreement, the Contractor's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the commercial general liability policy must provide cross-

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liability coverage as could be achieved under a standard ISO separation of insured's clause.

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

D. In addition, the Contractor shall secure and maintain workers' compensation insurance pursuant to the laws of the State of Washington.

9. Prevailing Wage.

A. The prevailing rate of wage to be paid to all workmen, laborers, or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of Chapter 39.12 RCW, as amended, and the rules and regulations of the Department of Labor and Industries. The rules and regulations of the Department of Labor and Industries and the schedule of prevailing wage rates for the locality or localities where this Contract will be performed as determined by the Industrial Statistician of the Department of Labor and Industries, are attached hereto and by reference made a part of this Contract as though fully set forth herein.

B. On or before the date of commencement of the work, the Contractor shall file a statement under oath with the City and with the Director of Labor and Industries certifying the rate of hourly wage paid and to be paid each classification of laborers, workmen, or mechanics employed upon the work by the Contractor or any Subcontractor, which shall not be less than the prevailing rate of wage. Such statement and any subsequent statement shall be filed in accordance with the practices and procedures required by the Department of Labor and Industries.

10. Termination.

A. Termination for Contractor's Default. If the Contractor refuses or fails to make adequate progress of the work, or to prosecute the work or any separable part thereof with such diligence that will insure its completion within the time specified in this Contract, or defaults under any provision or breaches any provision of this Contract, the City may serve notice upon the Contractor and its surety of the City's intention to terminate by default the right of the Contractor to perform the Contract, and unless within ten (10) days after the serving of such notice, the Contractor shall satisfactorily arrange to cure its failure to perform and notify the City of the corrections to be made, the right of the Contractor to proceed with the work shall terminate. In the event of any such termination, the City shall serve notice thereof upon the Surety and the Contractor, provided, however, that if the Surety does not commence performance thereof within twenty (20) days from the date of the mailing to such Surety of the notice of termination, the City may take over the work and prosecute the same to completion by Contract or otherwise for the account and at the

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expense of the Contractor. In the case of termination for default, the Contractor shall not be entitled to receive any further payment until the work is finished.

B. Termination by City for Convenience. The performance of work under this Contract may be terminated by the City in accordance with this paragraph in whole or in part, whenever the City shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance or work under the Contract is terminated, and the date upon which such termination becomes effective. The Contractor shall stop work on the project upon the date set forth in the Notice of Termination and shall take such actions as may be necessary, or as the City may direct, for the protection and preservation of the work. After receipt of a Notice of Termination, the Contractor shall submit to the City its termination claim, in the form and with the certification prescribed by the City. Such claim shall be submitted promptly but in no event later than 3 months from the effective date of the termination. Upon approval by the City, the termination claim shall be paid.

C. Termination by Contractor. If the work should be stopped under an order of any court, or other public authority, for a period of thirty (30) days, through no act or fault of the Contractor or of anyone employed by him, then the Contractor may, upon seven (7) days written notice to the City, terminate this Contract and recover from the City payment for all work executed and any proven loss sustained. Should the City fail to pay to the Contractor, within the payment period provided for in this Contract, any sum due and owing, then the Contractor may, upon seven (7) days written notice to the City, stop the work or terminate this Contract.

11. Compliance with Laws. The Contractor shall at all times comply with all applicable state and local laws, rules, ordinances and regulations.

12. Nondiscrimination. Except to the extent permitted by a bona fide occupational qualification, the Contractor agrees that the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

13. Independent Contractor. No agent, employee or representative of the Contractor shall be deemed to be an agent, employee or representative of the City for any purpose. Contractor shall be solely responsible for all acts of its agents, employees, representatives and subcontractors during the performance of this contract.

14. Relationship of Parties. The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Contractor is customarily

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

15. Legal Action. In the event that either party shall bring suit to enforce any provision of this Contract or to seek redress for any breach, the prevailing party in such suit shall be entitled to recover its costs, including reasonable attorneys' fees.

16. Entire Agreement. This Contract, together with all attachments, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations and agreements, whether written or oral. This Contract may be amended only by written change order, properly signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first written above.

CITY OF GIG HARBOR

CONTRACTOR

MAYOR CHARLES L. HUNTER
Date: _____

By: _____
Title: _____
Date: _____

ATTEST/AUTHENTICATED:

MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:
Office of the City Attorney

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EXHIBIT A - INVITATION TO BIDDERS

ANCICH NET SHED PIER REPAIR PROJECT (CPP-1322)

The City of Gig Harbor recently purchased waterfront property at 3555 Harborview Drive that includes a mid-19th century pier with a net shed on the pier. The pier structure sitting on the piles is deteriorating and, for safety reasons, the City maintains a chain link fence around the entrance to the pier to restrict access to the pier. The intent of this project is to perform normal maintenance and repair due to a collapsed pile cap. No general public use will occur pending completion of a full structural engineering report or additional repairs.

The City of Gig Harbor requests bid proposals in accordance with the City's Small Works Roster Process (Resolution No. 884) for the Ancich Net Shed Pier Repair Project (CPP-1322). The work to be completed under the contract generally includes removal and replacement of deteriorating wood pile caps, floor joists, and decking material. More specifically the work shall include:

1. Removal and disposal of deteriorating structure where identified by the City. This includes approximately:
 - a. Five wood pile caps;
 - b. Eight wood floor joists; and
 - c. 90 square feet of wood decking.
2. Replacement of deteriorating structure:
 - a. Install new wood members of similar size where deteriorating structure has been removed;
 - b. Restore plumbness and levelness to the replaced new wood members; and
 - c. All new wood members shall be rough-cut fir wood.

The City has received all exemptions and/or permits to perform this work from the City of Gig Harbor, the Washington State Department of Fish and Wildlife, and the United State Army Corps of Engineers. The successful bidder shall abide by all conditions outlined in these permits, which are included in Exhibit C.

A pre-bid site visit hosted by the City for all prospective bidders will occur on July 11 at 1:30 p.m. at the net shed (3555 Harborview Drive). Bidders are also encouraged to separately review and inspect the site prior to submitting a bid proposal for this project. While the site is open to the public, the net shed pier is fenced and no access on to the pier decking will be granted during bidding.

Telephone inquiries regarding the Project may be directed to George Flanigan, at the City of Gig Harbor at (253) 377-6165 or FlaniganG@cityofgigharbor.net.

The Contract Documents shall consist of the City's Small Works Contract (Contract), this Invitation to Bidders (Exhibit A of the Contract), the Bid Proposal (Exhibit B of the Contract), and referenced documents (Exhibit C of the Contract). All work shall be consistent with local accepted industry practices and the City of Gig Harbor Public Works Standards.

Bid proposals will be received by Terri Reed at the City of Gig Harbor only by means of email (ReedT@cityofgigharbor.net) or delivered to the City of Gig Harbor, 3510 Grandview Street, Gig Harbor, Washington, 98335, **no later than 4:00 p.m., Tuesday, July 16, 2013.** Bid proposals received after the time fixed for opening will not be considered and email "sent" times and postmarks will not be accepted.

The City of Gig Harbor reserves the right to reject any or all bids and to waive minor irregularities in the bidding process. The City of Gig Harbor reserves the right to award this contract to the lowest responsive, responsible bidder based on the Bid Proposal. In determining the lowest responsive responsible bidder, consideration will be given to the criteria listed in RCW 39.04.

***** END OF EXHIBIT A *****

EXHIBIT B - BID PROPOSAL

ANCICH NET SHED PIER REPAIR PROJECT (CPP-1322)

A. Acknowledgement

The undersigned bidder declares that he has read the Contract Documents, understands the conditions of the City's , has examined the site, and has determined for itself all situations affecting the work herein bid upon.

Further, the bidder proposes and agrees, if this proposal is accepted, to provide at bidder's own expense, all labor, machinery, tools, materials, etc. including all work incidental to, or described or implied as incidental to such items, according to the Contract Documents, and that the bidder will complete the work within the time stated, and further, the bidder will accept in full payment for the unit prices(s) indicated for the Work as set forth in the Contract Documents.

The work under this Contract shall be fully completed within the times specified in the Contract Documents.

Any bid proposal with an incomplete unit price shall be considered non-responsive.

B. Bid Schedule

Show unit prices in figures only.

| BID ITEM | DESCRIPTION | QTY | UNIT | UNIT PRICE | TOTAL PRICE |
|-------------------|------------------------------------|-----|------|------------|--------------|
| 1 | Mobilization and Demobilization | 1 | L.S. | \$ 1200.00 | \$ 1200.00 |
| 2 | Replace Deteriorating Pile Cap | 5 | EA | \$ 1172.00 | \$ 5860.00 |
| 3 | Replace Deteriorating Floor Joists | 8 | EA | \$ 545.00 | \$ 4360.00 |
| 4 | Replace Deteriorating Decking | 90 | SF | \$ 8.30 | \$ 747.00 |
| SUB-TOTAL | | | | | \$ 12,167.00 |
| SALES TAX @ 8.5 % | | | | | \$ 1,034.20 |
| BID TOTAL | | | | | \$ 13,201.20 |

D. Bid Proposal Signature:

Bidder Signature: Susan K. Ratfield

Printed Bidder Name: Susan K. Ratfield

Company Name: Samish Bay Construction, Inc.

Mailing Address: 11442 Blue Heron Rd.

Bow, WA 98232

Phone: (360) 708 - 4342

Fax: (360) 766 - 6984

Email: sratfield@live.com

*** END OF EXHIBIT B ***

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JUL 15 2013 2:37pm

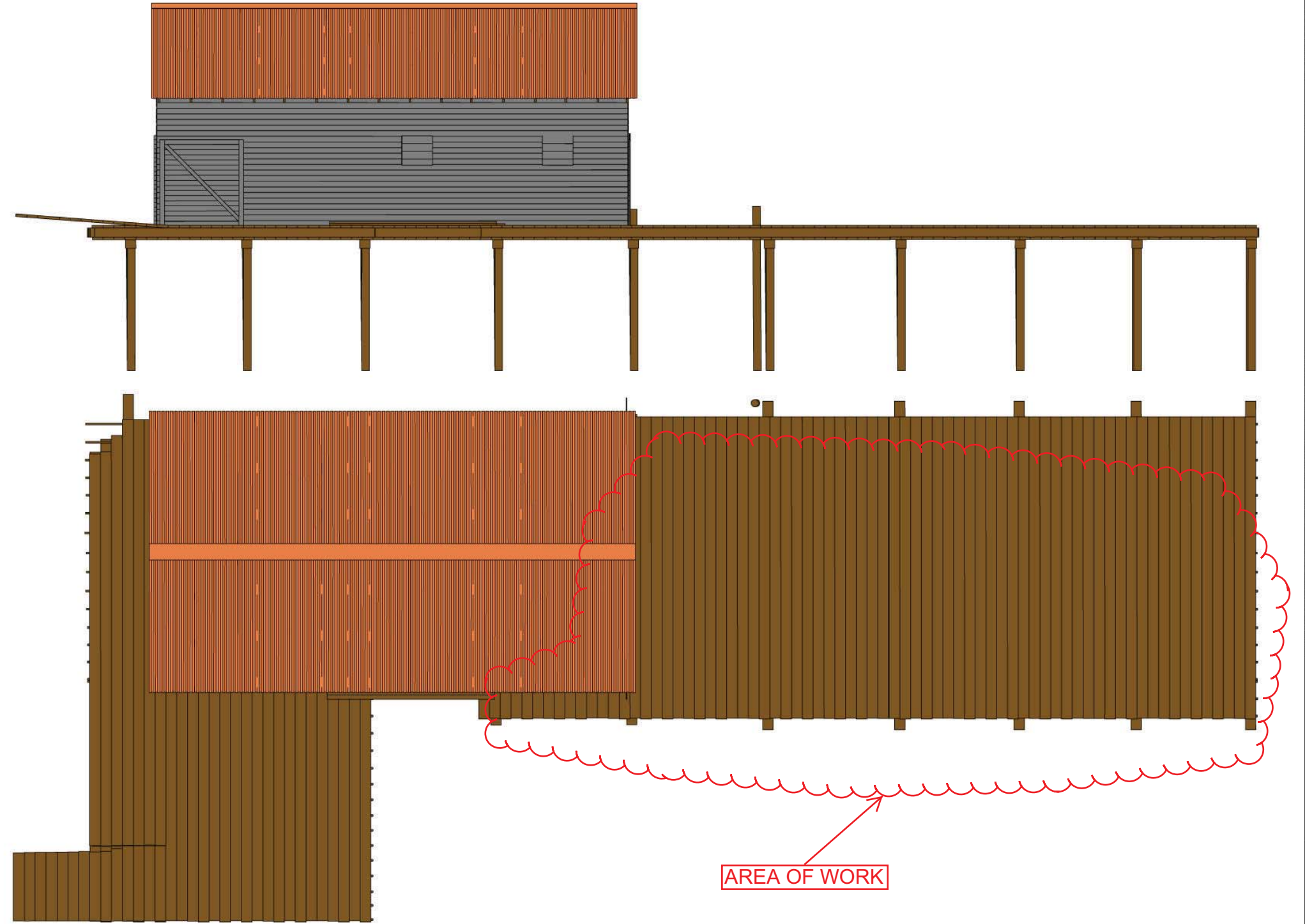
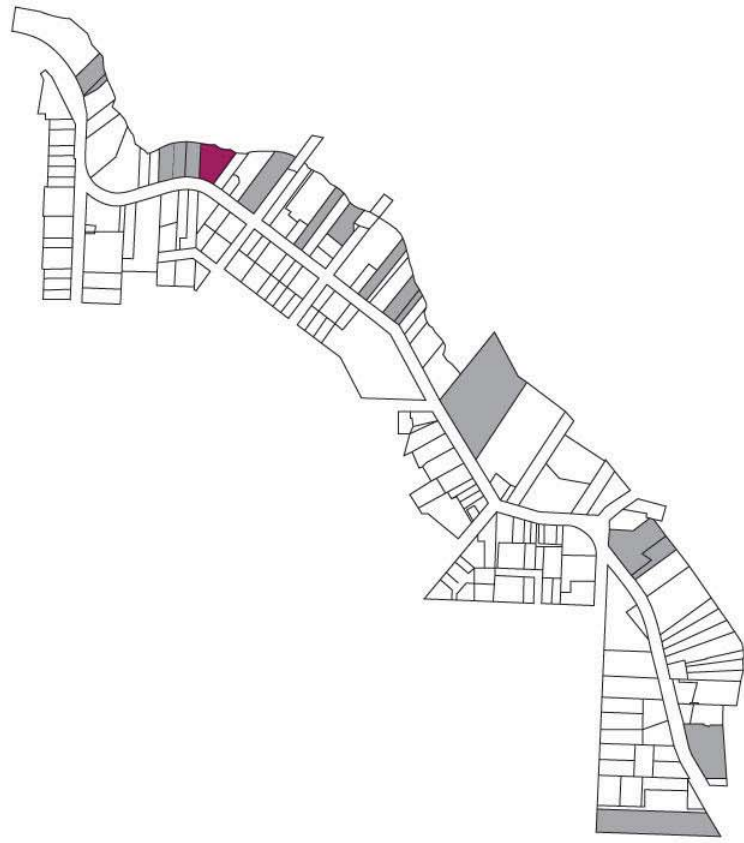
CITY OF GIG HARBOR
PUBLIC WORKS DEPT.

C. Measurement and Payment

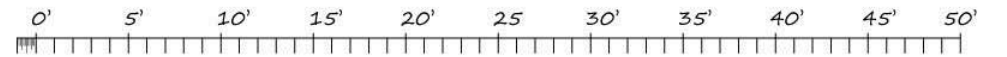
1. "Mobilization and Demobilization" This lump sum item includes the mobilization and demobilization of all labor, equipment, and materials to and from the drill site. Mobilization shall include all fees incidental to the repair of the pier not otherwise captured by the remaining bid items below. Mobilization shall include, but is not limited to, gaining access to the site, safety equipment, protection of the natural resources, disposal of waste, and restoration of the site.

The Contractor shall be paid 70% of this item when equipment set up is completed and 30% when work at the site (including cleanup and restoration) is complete.

2. "Replace Deteriorating Pile Cap" This item shall be measured per each and includes payment for all labor, equipment, and materials necessary for the removal of the deteriorating pile cap and in-kind replacement with new wood members in accordance with local building permit requirements including, but not limited to, support of the structure during removal and replacement, wood construction connectors, and re-establishing plumbness and levelness to the replaced member.
3. "Replace Deteriorating Floor Joists" This item shall be measured per each and includes payment for all labor, equipment, and materials necessary for the removal of the deteriorating floor joists and in-kind replacement with new wood members in accordance with local building permit requirements including, but not limited to, support of the structure during removal and replacement, wood construction connectors, and re-establishing plumbness and levelness to the replaced member.
4. "Replace Deteriorating Decking" This item shall be measured per square foot and includes payment for all labor, equipment, and materials necessary for the removal of the deteriorating decking and in-kind replacement with new wood members in accordance with local building permit requirements including, but not limited to, support of the structure during removal and replacement, wood construction connectors, and re-establishing plumbness and levelness to the replaced member.



PLAN AND PROFILE ANCICH NET SHED





REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

JUL 01 2013

Regulatory Branch

Ms. Lita Dawn Stanton
City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335

Reference: NWS-2013-688
Gig Harbor, City of

Dear Ms. Stanton:

We have reviewed your application to repair five 12-foot pile caps, eight deck joists and 90 square feet of grating on an existing pier with a net shed in Gig Harbor Bay/Puget Sound at Gig Harbor, Washington. Based on the information you provided to us, Nationwide Permit (NWP) 3, *Maintenance* (Federal Register February 21, 2012, Vol. 77, No. 34), authorizes your proposal as depicted on the enclosed drawings, dated June 10, 2013.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed *NWP 3, Terms and Conditions* and the following special condition:

a. All construction debris shall be properly disposed of on uplands in such a manner that it cannot enter into the waterway or cause water quality degradation.

We have reviewed your project pursuant to the requirements of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act and the National Historic Preservation Act. We have determined this project complies with the requirements of these laws provided you comply with all of the permit general and special condition.

The authorized work complies with the Washington State Department of Ecology's (Ecology) Water Quality Certification and the Coastal Zone Management Act requirements for this NWP. No further coordination with Ecology is required.

Puget Sound is a water of the United States. If you believe this is inaccurate, you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.

-2-

Our verification of this NWP authorization is valid until March 18, 2017 unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date and you have commenced or are under contract to commence this activity before March 18, 2017, you will have until March 18, 2018 to complete the activity under the enclosed terms and conditions of this NWP. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. You must also obtain all State and local permits that apply to this project.

You are cautioned that any change in project location or plans will require that you submit a copy of the revised plans to this office and obtain our approval before you begin work. Deviating from the approved plans could result in the assessment of criminal or civil penalties.

Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form. Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website at www.nws.usace.army.mil select "Regulatory Branch, Permit Information" and then "Contact Us." If you have any questions, please contact me at jacalen.m.printz@usace.army.mil or (206) 764-6901.

Sincerely,



Jacalen Printz, Project Manager
Regulatory Branch

Enclosures



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - See appeal process at end of HPA

New Business - 2
Coastal
48 Devonshire **Page 17 of 21**
Montesano, WA 98563
(360) 249-4628

Issue Date: July 11, 2013

Control Number: 131268-1

Project Expiration Date: December 31, 2013

FPA/Public Notice #: N/A

| <u>PERMITTEE</u> |
|--|
| City of Gig Harbor ATTENTION: Lita Dawn Stanton 3510 Grandview St Gig Harbor, WA 98335 253-853-7609 Fax: 253-858-6408 |

| <u>AUTHORIZED AGENT OR CONTRACTOR</u> |
|---------------------------------------|
| |

Project Name: Ancich Netshed Emergency Dock Repair

Project Description: Stabilize the dock and net shed. It will require replacement of five 12-ft pile caps, approximately 8 deck joists, and approximately 90-sf of decking. NO PILING will be installed.

PROVISIONS

1. Work below the ordinary high water line shall not occur from March 15 through June 14 of any year for the protection of migrating juvenile salmonids.

NOTIFICATION REQUIREMENT:

2. The Area Habitat Biologist (AHB: Leonard Machut; email: Leonard.Machut@dfw.wa.gov or fax: 360-876-1894) shall receive written notification from the person to whom this HPA is issued (permittee) or the agent/contractor no less than three working days prior to the start of construction. Applicant shall contact the AHB at the conclusion of project. All notifications shall include the permittee's name, project location, starting date for work, and the control number for this HPA.

3. Officer Summit shall receive written notification (e-mail: Jeffrey.Summit@dfw.wa.gov or FAX: 360-876-1894) from the person to whom this Hydraulic Project Approval (HPA) is issued (permittee) or the agent/contractor no less than three working days prior to start of work, and again within seven days of completion of work to arrange for a compliance inspection. The notification shall include the permittee's name, project location, starting date for work or completion date of work, and the control number for this HPA.

4. If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), work shall stop immediately except for efforts to control the spill and prevent additional toxic substances from entering the water. Immediate notification shall be made to the Washington Military Department's Emergency Management Division at 1-800-258-5990, and to the AHB. Work shall not resume on the project until approved by the AHB.

APPROVED PLANS:

5. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife entitled "Ancich Netshed Emergency Dock Repair" and dated June



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - See appeal process at end of HPA

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5, 2013 except as modified by this Hydraulic Project Approval. A copy of these plans shall be available on site during construction.

6. This approval is for repair/replacement of the existing structure only and shall not result in expansion of the structure.

PROJECT PROVISIONS:

7. All manmade debris on the beach shall be removed and disposed of upland such that it does not enter waters of the state.

8. If a chainsaw is used, bar oil shall be vegetable oil; no petroleum-based bar oil is permitted.

9. Sawdust, drillings, and trimmings from wood, metal, and/or concrete during all project phases shall be contained with tarps or other impervious materials and prevented from contact with the beach, bed or waters of the state.

10. To direct any and all manmade debris away from state waters, plywood, tarps, or another suitable material (i.e. solid, not mesh or netting that would allow smaller particulate matter to pass through) shall be erected or hung as a debris containment barrier between or underneath deck joists such that there is no open space between the containment barrier to allow materials to fall into state waters. Barriers shall be of adequate size to contain all debris.

11. Construction debris shall be collected on tarps or bagged. Collected materials shall be lifted by crane, transported by chute, or hand carried from the overwater structure and placed directly into an approved disposal container. That is, debris shall not be tossed or thrown across state waters.

12. The existing deck joists and decking shall not be re-located within waters of the state without written authorization from WDFW. They shall be removed and disposed of upland such that they do not re-enter such waters.

13. All piling, lumber, and other materials treated with preservatives shall be sufficiently cured to minimize leaching into the water or bed.

14. All lumber to be used for the project shall meet or exceed the standards established in the most recent version of 'Best Management Practices For the Use of Treated Wood in Aquatic and Wetland Environments' developed by the Western Wood Preservers Institute, Wood Preservation Canada, Southern Pressure Treaters' Association, and Southern Forest Products Association. As of January, 2012, the latest version is dated November 1, 2011.

GENERAL PROVISIONS:

15. All natural habitat features on the beach larger than 12 inches in diameter, including trees, stumps, logs, and large rocks, shall be retained on the beach following construction. These habitat



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - See appeal process at end of HPA

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features may be moved during construction if necessary.

16. Project activities shall not degrade water quality to the detriment of fish life.

17. Project activities shall be conducted to minimize siltation of the beach area and bed.

18. All debris or deleterious material resulting from construction shall be removed from the beach area and bed and prevented from entering waters of the state.

19. No petroleum products or other deleterious materials shall enter surface waters.

PROJECT LOCATIONS

Location #1 3555 Harborview Drive

| | | | | | | |
|---|----------------|------------------------------|----------------|------------------------------|---------------------------|-------------------|
| WORK START: July 12, 2013 | | | | WORK END: December 31, 2013 | | |
| WRIA: 15.9110 | | Waterbody: Wria 15 Marine | | Tributary to: Puget Sound | | |
| 1/4 SEC: SW 1/4 | Section: 05 | Township: 21 N | Range: 02 E | Latitude: N 47.33415 | Longitude: W 122.58682 | County: Pierce |
| <p><u>Location #1 Driving Directions</u></p> <p>Take the Wollochet Drive NW/City Center exit from State Route-16, proceed northeast onto Pioneer Drive for approximately 0.7 miles. At the bottom of the hill leading toward the City Center, turn left onto Harborview Drive and proceed northwest for approximately .5 miles. The site is on the easterly side of Harborview Drive. Please see the attached vicinity map.</p> | | | | | | |

APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to those requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW (formerly RCW 77.20). Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

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Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day and/or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

MINOR MODIFICATIONS TO THIS HPA: You may request approval of minor modifications to the required work timing or to the plans and specifications approved in this HPA. A minor modification to the required work timing means up to a one-week deviation from the timing window in the HPA when there are no spawning or incubating fish present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics or construction of your project that does not alter the project's impact to fish life or habitat and does not require a change in the provisions of the HPA to mitigate the impacts of the modification. Minor modifications do not require you to pay additional application fees or be issued a new HPA. To request a minor modification to your HPA, submit a written request that clearly indicates you are requesting a minor modification to an existing HPA. Include the HPA number and a description of the requested change and send by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234, or by email to HPAapplications@dfw.wa.gov. Do not include payment with your request. You should allow up to 45 days for the department to process your request.

MAJOR MODIFICATIONS TO THIS HPA: You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require issuance of a new HPA. If you paid an application fee for your original HPA you must include payment of \$150 with your written request or request billing to an account previously established with the department. If you did not pay an application fee for the original HPA, no fee is required for a change to it. To request a major modification to your HPA, submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Include the HPA number, check number or billing account number, and a description of the requested change. Send your written request and payment, if applicable, by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. If you are charging the fee to a billing account number or you are not subject to the fee, you may email your request to HPAapplications@dfw.wa.gov. You should allow up to 45 days for the department to process your request.

APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

A. INFORMAL APPEALS: WAC 220-110-340 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - See appeal process at end of HPA

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with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee will conduct an informal hearing and recommend a decision to the Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-110-350 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

ENFORCEMENT: Sergeant Jackson (29) P3

| | | | |
|-------------------------------------|--------------------------------|--------------------------|----------------------|
| Habitat Biologist Leonard Machut | leonard.machut@dfw.wa.gov v | <i>Leonard S. Machut</i> | for Director WDFW |
|-------------------------------------|--------------------------------|--------------------------|----------------------|

CC: Jacalen Printz, USACE (email)



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

Subject: Resolution No. 933 - Setting Public Hearing for N. Harborview Drive Right of Way Vacation

Proposed Council Action: Move to adopt the Resolution setting a public hearing for the vacation of a portion of North Harborview Drive right of way.

Dept. Origin: Public Works

Prepared by: Jeff Langhelm *[Signature]*

For Agenda of: July 22, 2013

Exhibits: Resolution 933, Exhibit A (Legal Description), and Exhibit B (Map)

| | |
|--|--------------------------|
| | Initial & Date |
| Concurred by Mayor: | <i>CLH 7/17/13</i> |
| Approved by City Administrator: | <i>R 7/17/13</i> |
| Approved as to form by City Atty: | <i>VIA EMAIL 7/15/13</i> |
| Approved by Finance Director: | <i>AFDR 7.17.13</i> |
| Approved by Department Head: | <i>ALR 7/17/13</i> |

| | | | | | |
|-----------------------------|--------------------------|------------------------|-----|-------------------------------|-----|
| Expenditure Required | See Fiscal Consideration | Amount Budgeted | \$0 | Appropriation Required | \$0 |
|-----------------------------|--------------------------|------------------------|-----|-------------------------------|-----|

INFORMATION/BACKGROUND

In 2012, as a part of the Donkey Creek Project construction easement acquisition process, the City reviewed a property line issue with the previous owner of Parcel No. 4102000013 (a.k.a. Remy property). At the center of the matter was the location of the existing sidewalk for North Harborview Drive, which appears to be located beyond the City's right of way on private property. The City obtained the necessary temporary construction easements for the Project but has not resolved the property line issue.

In March the City was formally presented with a proposal by the current property owner, Wade Perrow, to resolve the right of way issues in a way that would benefit both the City and Mr. Perrow. This proposal was also presented to the City Council by Mr. Perrow at the May 13, 2013 Council Meeting and in a follow up email on May 14. Staff presented a subsequent report at the May 28 Council Meeting.

As a result of the May 28 staff report the City Council indicated interest to clear title issues and also obtain additional right-of-way along the property located at 8715 N. Harborview Drive in a manner that best serves the public interest. Section 12.14.002(D) of the Gig Harbor Municipal Code provides that in lieu of a petition for a street vacation the City Council may initiate a street vacation by resolution.

The proposed area of street vacation is outlined in Exhibits A and B of the proposed resolution. For reference purposes, the proposed adjusted ROW line is set approximately 28 ft. south of the existing striped roadway centerline.

The owner of the property at 8715 N. Harborview Drive, Burnham Construction, LLC, has indicated support for such street vacation and in-lieu transfer.

FISCAL CONSIDERATION

The right of way vacation and corresponding right of way dedication is proposed as an in-lieu transfer and would not involve the exchange of funds by either party.

BOARD OR COMMITTEE RECOMMENDATION

This topic was presented as a point of concern by Mr. Wade Perrow at the May 13 council meeting. Staff presented a report to council on May 28 that further discussed a proposed city response to Mr. Perrow's recommended right of way adjustments at this location.

RECOMMENDATION/MOTION

Move to adopt the Resolution setting a public hearing for the vacation of a portion of North Harborview Drive right of way.

RESOLUTION NO. 933

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, INITIATING REVIEW OF A STREET VACATION OF APPROXIMATELY 1,874 SQUARE FEET OF N. HARBORVIEW DRIVE AND SETTING A PUBLIC HEARING DATE FOR THE VACATION.

WHEREAS, the City has discovered a discrepancy in the right-of-way of record for a portion of N. Harborview Drive just south of its intersection with Burnham Drive and adjacent to 8715 N. Harborview Drive, owned by Burnham Construction, LLC; and

WHEREAS, the City Council desires to clear title issues and also obtain additional right-of-way along the property located at 8715 N. Harborview Drive in a manner that best serves the public interest; and

WHEREAS, section 12.14.002(D) of the Gig Harbor Municipal Code provides that in lieu of a petition for a street vacation the City Council may initiate a street vacation by resolution; and

WHEREAS, the City Council desires to initiate consideration of vacation of approximately 1,874 square feet of the southernmost portion of N. Harborview Drive, adjacent to 8715 N. Harborview Drive, including a determination of whether vacation of that portion may be possible with an in-lieu transfer of approximately 2,021 square feet of property desired along 8715 N. Harborview Drive, as authorized by GHMC 12.14.018(B); and

WHEREAS, the owner of the property at 8715 N. Harborview Drive, Burnham Construction, LLC, has indicated support for such street vacation and in-lieu transfer;

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

Section 1. Vacation Proposed. The City Council declares its intent to consider vacation of approximately 1,874 square feet of the southernmost portion of N. Harborview Drive as described in Exhibit A and depicted in Exhibit B, following notice to the public and abutting owners as required by law and a public hearing.

Section 2. Hearing Date. A public hearing to take public comment on the vacation described in Section 1 shall be held before the City Council in the council chambers of Gig Harbor City Hall on Monday, September 9, 2013, at 5:30 p.m. or as soon thereafter as can be heard, at which hearing all persons interested in the street vacation are invited to appear.

Section 3. Public Notice. The City Clerk is hereby directed to post notices of the hearing in three public places and on the street to be vacated and to mail notices to all

owners of any property abutting the portion of street to be vacated, pursuant to RCW 35.79.020 and GHMC 12.14.008.

RESOLVED this 22th day of July, 2013.

APPROVED:

Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

Molly Towslee, City Clerk

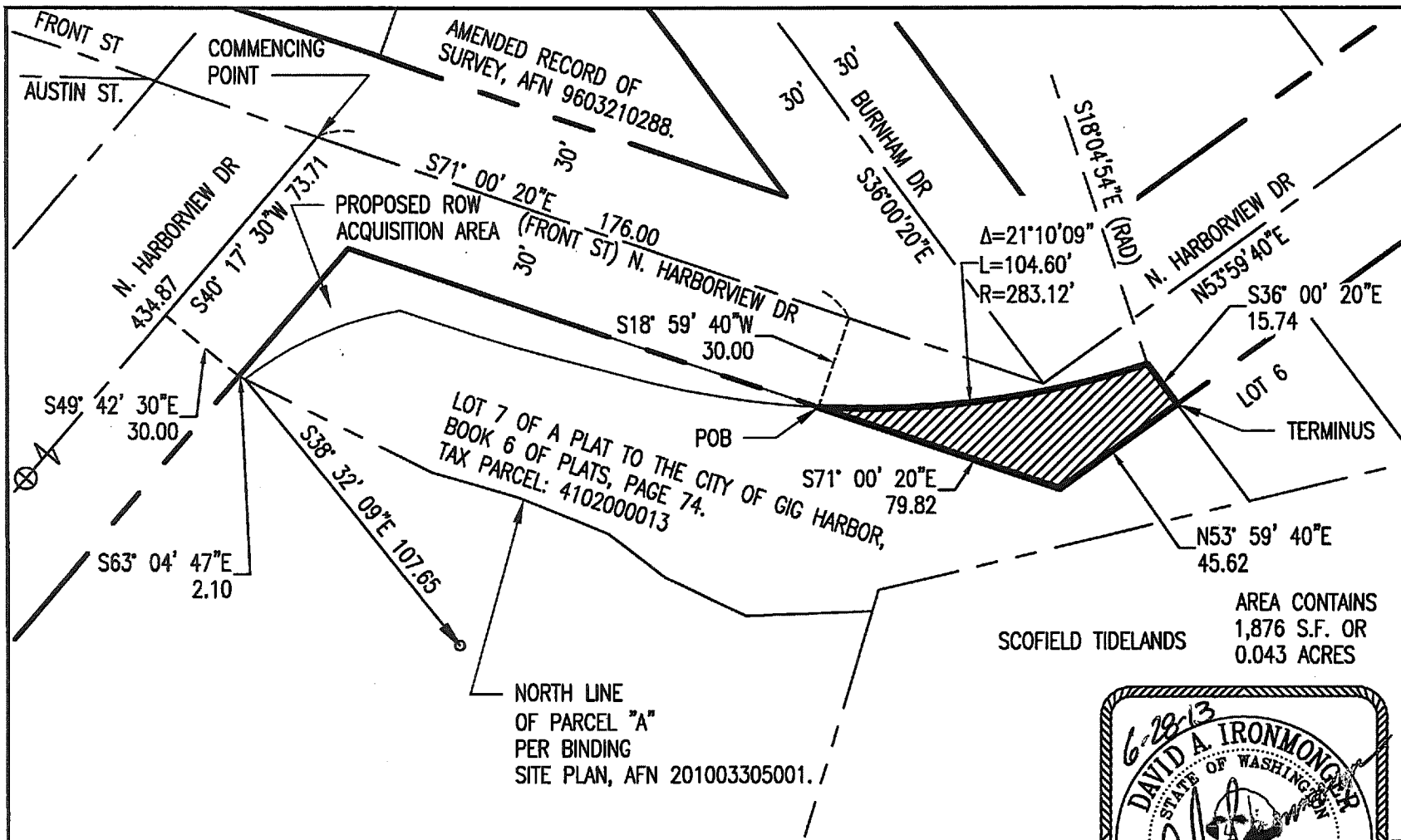
FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO.

EXHIBIT A
RIGHT-OF-WAY VACATION
TAX PARCEL 4102000013

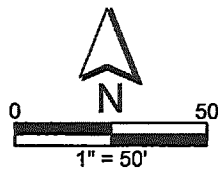
THAT PORTION OF SECTION 6, TOWNSHIP 21 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, IN THE CITY OF GIG HARBOR, PIERCE COUNTY, WASHINGTON AND BEING A PORTION OF LOT 7 IN BLOCK 1 OF EXTENSION OF THE CITY OF GIG HARBOR, ACCORDING TO A PLAT RECORDED IN BOOK 6 OF PLATS AT PAGE 74, RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF FRONT STREET AND N. HARBORVIEW DRIVE AS SHOWN ON RECORD OF SURVEY RECORDED IN SAID COUNTY UNDER AUDITOR'S FILE NUMBER 200901205003, SAID INTERSECTION BEARS NORTH $40^{\circ}17'30''$ EAST, ALONG THE MONUMENTED CENTERLINE OF N. HARBORVIEW DRIVE, A DISTANCE OF 434.87 FEET FROM A 3-INCH SURFACE BRASS DISK AT THE INTERSECTION OF N. HARBORVIEW DRIVE AND NORTH HARBORVIEW AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG THE CENTERLINE OF SAID FRONT STREET SOUTH $71^{\circ}00'20''$ EAST, 176.00 FEET; THENCE LEAVING SAID CENTERLINE SOUTH $18^{\circ}59'40''$ WEST, 30.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID FRONT STREET AND THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH $71^{\circ}00'20''$ EAST, 79.82 FEET TO THE INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF NORTH HARBORVIEW DRIVE; THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID NORTH HARBORVIEW DRIVE NORTH $53^{\circ}59'40''$ EAST, 45.62 FEET; THENCE LEAVING SAID RIGHT-OF-WAY LINE NORTH $36^{\circ}00'20''$ WEST, 15.74 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 283.12 FEET, (FROM WHICH THE RADIUS POINT BEARS NORTH $18^{\circ}04'54''$ WEST); THENCE WESTERLY 104.60 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $21^{\circ}10'09''$ TO THE **TRUE POINT OF BEGINNING** CONTAINING 1,876 SQUARE FEET OR 0.043 ACRES, MORE OR LESS.

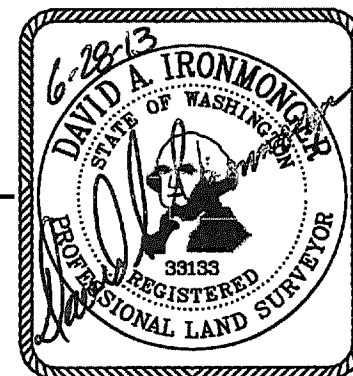




Parametrix DATE: June 28, 2013 FILE: PU2750024_ROWACQUISITIONREMY



**EXHIBIT B
RIGHT-OF-WAY VACATION MAP
TAX PARCEL #4102000013**





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

Subject: Resolution 934 – Gilbert Sewer Utility Extension Agreement.

Proposed Council Action: Move to approve Resolution 934 for a sewer Utility Extension Agreement with Richard E. and Sharron M. Gilbert

Dept. Origin: Public Works

Prepared by: Jeff Langhelm,
Public Works Director

For Agenda of: July 22, 2013

Exhibits: Resolution and Agreement

| | |
|--|----------------------------|
| | Initial & Date |
| Concurred by Mayor: | <i>CLH 7/16/13</i> |
| Approved by City Administrator: | <i>R 7/16/13</i> |
| Approved as to form by City Atty: | Via email |
| Approved by Finance Director: | <i>AT for DR 7.16.13</i> |
| Approved by Department Head: | <i>[Signature] 7/16/13</i> |

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

INFORMATION/BACKGROUND

RCW 35.67.310 and RCW 35.92.200 authorize the City to provide water and sewer utility services to property beyond the City limits. In March 2012 the City Council approved Ordinance No. 1235 that reinstated the City's ability to allow the extension water and sewer utilities to properties within the Urban Growth Areas of the City without the requirement to first annex. Ordinance No. 1235 provided conditions in Chapter 13.34 of the Gig Harbor Municipal Code (GHMC) for connection to such utility services.

Section 13.34.030 GHMC requires the property owner seeking a utility extension to enter into a utility extension agreement with the City as a condition of a utility extension. GHMC 13.34.030 further requires property owners seeking a utility extension to request an actual hook-up or connection to the City's system within one year from the date of issuance of a water or sewer capacity reservation certificate.

Richard E. and Sharron M. Gilbert requested an extension of the City's sewer collection system beyond the city limits to serve one existing residential condominium. The proposed utility extension agreement is in response to the property owner's request resulting from a septic drain field failure.

FISCAL CONSIDERATION

The proposed utility extension agreement requires the property owner to pay all costs for designing and constructing any necessary extension of the City's sewer collection system.

Additionally, as prescribed by Chapter 13.32 GHMC, all general facilities charges and monthly services charges for sewer services outside the city limits shall be charged at 1.5 times the in-city

rates.

BOARD OR COMMITTEE RECOMMENDATION

The Planning and Building Committee originally recommended the adoption of the utility extension agreement ordinance in March 2012.

RECOMMENDATION/MOTION

Move to approve Resolution 934 for a sewer Utility Extension Agreement with Richard E. and Sharron M. Gilbert

RESOLUTION NO. 934

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO THE EXTENSION OF SEWER SERVICE OUTSIDE THE CITY, AUTHORIZING THE EXECUTION OF A UTILITY EXTENSION AGREEMENT WITH RICHARD E. AND SHARRON M. GILBERT FOR ONE (1) EQUIVALENT RESIDENTIAL UNIT (ERU) OF SEWER SERVICE IN PIERCE COUNTY, WASHINGTON.

WHEREAS, Richard E. and Sharron M. Gilbert requested an extension of the City of Gig Harbor's sewer utility system for one (1) ERU of gravity sanitary sewer service for one single-family residence; and

WHEREAS, RCW 35.67.310 and RCW 35.92.200 authorize the City to provide water and sewer utility services to property beyond the City limits; and

WHEREAS, Section 13.34.030 of the Gig Harbor Municipal Code (GHMC) requires the property owner seeking a utility extension to enter into a utility extension agreement with the City as a condition of a utility extension; and

WHEREAS, GHMC 13.34.030 further requires property owners seeking a utility extension to request an actual hook-up or connection to the City's system within one year from the date of issuance of a water or sewer capacity reservation certificate; and

WHEREAS, the City approved a sewer capacity reservation certificate for one (1) ERU to Richard E. and Sharron M. Gilbert on July 16, 2013.

NOW, THEREFORE,

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

Section 1. The City Council hereby authorizes the Mayor to execute the Utility Extension Agreement attached hereto as Exhibit A, with the owners, Richard E. and Sharron M. Gilbert.

Section 2. The City Council hereby directs the City Clerk to record the Utility Extension Agreement against the Property legally described in Exhibit A to the Utility Extension Agreement, at the cost of the applicant.

PASSED by the City Council this 22th day of July 2013.

APPROVED:

MAYOR, CHARLES L. HUNTER

ATTEST/AUTHENTICATED:

CITY CLERK, MOLLY M. TOWSLEE

FILED WITH THE CITY CLERK: 07/16/13
PASSED BY THE CITY COUNCIL: 07/22/13
RESOLUTION NO. 924

COPY

AFTER RECORDING RETURN TO:

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

WASHINGTON STATE COUNTY AUDITOR/RECORDER'S INDEXING FORM

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

Utility Extension, Capacity Agreement and Agreement Waiving Right to Protest LID

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

Richard E. and Sharron M. Gilbert

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

City of Gig Harbor

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

Section 17 Township 21 Range 02 Quarter 12

Assessor's Property Tax Parcel or Account Number: 9004640040

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

EXHIBIT A
UTILITY EXTENSION, CAPACITY AGREEMENT
AND AGREEMENT WAIVING RIGHT TO PROTEST LID

THIS AGREEMENT is entered into on this 22nd day of July, 2013, between the City of Gig Harbor, Washington, a municipal corporation of the State of Washington (the "City"), and Richard E. and Sharron M. Gilbert, husband and wife (the "Owner").

RECITALS

WHEREAS, the Owner is the owner of certain real property located in Pierce County which is legally described as set forth in Exhibit 'A' and shown in the location map in Exhibit 'B' attached hereto and incorporated herein by this reference; and

WHEREAS, the Owner's property is not currently within the City limits; and

WHEREAS, the Owner desires to connect to the City sewer utility system, hereafter referred to as the "utility," and the City is willing to allow connection only upon certain terms and conditions in accordance with Title 13 of the Gig Harbor Municipal Code, as now enacted or hereinafter amended; NOW, THEREFORE,

FOR AND IN CONSIDERATION of the mutual benefits and conditions hereinafter contained, the parties agree as follows:

TERMS

1. Warranty of Title. The Owner warrants that Owner is the owner of the property described in Exhibit 'A', which is attached hereto and incorporated herein by this reference, and is authorized to enter into this Agreement.

2. Extension Authorized. The City hereby authorizes the Owner to extend service to Owner's property from the existing utility line on Soundview Drive at the following location: 6207 Soundview Drive.

3. Costs. Owner will pay all costs of designing, engineering and constructing the extension. All construction shall be done to City standards and according to plans approved by the City Engineer. Any and all costs incurred by the City in reviewing plans and inspecting construction shall be paid for by the Owner.

4. Sewer Capacity Commitment. The City agrees to provide to the Owner sewer utility service and hereby reserves to the Owner the right to discharge to the City's sewage system ONE ERU; provided however, that the City retains the authority to temporarily suspend such capacity where necessary to protect public health and safety, or where required to comply with the City's NPDES permit, or any other permits required by any agency with jurisdiction. These capacity rights are allocated only to the Owner's system as herein described. Any addition to this system must first be approved by the City. Capacity rights acquired by the Owner pursuant to this Agreement shall not constitute ownership by the Owner of any facilities comprising the City sewage system. The City agrees to reserve to the Owner this capacity for a period of twelve months ending on July 22, 2014, unless the concurrency certificate expires as set forth in GHMC 13.34.030. Sewer capacity shall not be committed beyond a one-year period.

5. Capacity Commitment Payment.

A. The Owner agrees to pay the City the sum of \$1921.50, which is fifteen percent (15%) of the current general facilities charge, to reserve the above specified capacity for the stated time period.

B. In no event, however, shall the Owner pay the City less than five hundred dollars (\$500) for commitment for sewer reserve capacity. In the event the Owner has not made connection to the City's utility system by the date set forth above, such capacity commitment shall expire and the Owner shall forfeit one hundred percent (100%) of this capacity commitment payment to cover the City's administrative and related expenses.

C. In the event the Pierce County Boundary Review Board should not approve extension of the City's sewer system prior to the extension of the commitment period, the Owner shall be entitled to a refund of the capacity commitment payment (without interest), less a five percent (5%) administrative fee.

6. Extension of Commitment Period. Capacity commitment will be extended for the life of the application/development approval based on a capacity commitment payment of 100% of the value of the current general facilities charge. At the time of actual connection, per 13.34.040(7), if the sewer general facilities charge has been increased, the Owner shall pay the difference between what was paid for the capacity commitment payment and the actual cost of the current general facilities charge.

7. Permits; Easements. Owner shall secure and obtain, at Owner's sole cost and expense, any necessary permits, easements and licenses to construct the extension, including, but not limited to, all necessary easements, excavation permits, street use permits, or other permits required by state, county and city governmental departments including the Pierce County Public Works Department, Pierce County Environmental Health Department, State Department of Ecology, Pierce County Boundary Review Board, and City of Gig Harbor.

8. Turn Over of Capital Facilities. If the extension of utility service to Owner's property involves the construction of water or sewer main lines, pump stations, wells, and/or other City required capital facilities, the Owner agrees if required by the City to turn over and dedicate such facilities to the City, at no cost, upon the completion of construction and approval and acceptance of the same by the City. As a prerequisite to such turn over and acceptance, the Owner will furnish to the City the following:

A. As built plans or drawings in a form acceptable to the City Engineer;

B. Any necessary easements, permits or licenses for the continued operation, maintenance, repair or reconstruction of such facilities by the City, in a form approved by the City Attorney;

C. A bill of sale in a form approved by the City Attorney; and

D. A bond or other suitable security in a form approved by the City Attorney and in an amount approved by the City Engineer, ensuring that the facilities will remain free from defects in workmanship and materials for a period of two years.

9. General Facilities Charges. The Owner agrees to pay the applicable general facilities charges, in addition to any costs of construction, as a condition of connecting to the City utility system at the rate schedules applicable at the time the Owner physically connects his/her property to the system. Any commitment payment that has not been forfeited shall be applied to the City's general facilities charges. Should the Owner not connect 100% of the Sewer Capacity Commitment, the Capacity Commitment payment shall be credited on a prorated percentage basis to the general facilities charges as they are levied.

10. Service Charges. In addition to the general facilities charges, the Owner agrees to pay for utility service rendered according to the rates for services applicable to properties outside the city limits as such rates exist (which is presently at 150% the rate charged to customers inside city limits) or as they may be hereafter amended or modified.

11. Annexation.

A. Owner understands that annexation of the property described on Exhibit 'A' to the City will result in the following consequences:

- i. Pierce County ordinances, resolutions, rules and regulations will cease to apply to the property upon the effective date of annexation;
- ii. City of Gig Harbor ordinances, resolutions, rules and regulations will apply to the property upon the effective date of annexation;
- iii. Governmental services, such as police, fire and utility service will be provided to the property by the City of Gig Harbor upon the effective date of annexation;
- iv. The property may be required to assume all or any portion of the existing City of Gig Harbor indebtedness, and property tax rates and assessments applicable to the property may be different from those applicable prior to the effective date of annexation;
- v. Zoning and land use regulations applicable to the property after annexation may be different from those applicable to the property prior to annexation; and
- vi. All or any portion of the property may be annexed and the property may be annexed in conjunction with, or at the same time as, other property in the vicinity.

B. With full knowledge and understanding of these consequences of annexation and with full knowledge and understanding of Owner's decision to forego opposition to annexation of the property to the City of Gig Harbor, Owner agrees to sign a petition for annexation to the City of the property described on Exhibit A as provided in RCW 35.14.120, as it now exists or as it may hereafter be amended, at such time as the Owner is requested by the City to do so. The Owner also agrees and appoints the Mayor of the City as Owner's attorney-in-fact to execute an annexation petition on Owner's behalf in the event that Owner shall fail or refuse to do so and agrees that such signature shall constitute full authority from the Owner for annexation as if Owner had signed the petition himself. Owner further agrees not to litigate, challenge or in any manner contest, annexation to the City. This Agreement shall be deemed to be continuing, and if Owner's property is not annexed for whatever reason, including a decision by the City not to annex, Owner agrees to

sign any and all subsequent petitions for annexations. In the event that any property described on Exhibit 'A' is subdivided into smaller lots, the purchasers of each subdivided lot shall be bound by the provisions of this paragraph.

12. Public Works Standards and Utility Regulations. Owner agrees to comply with all of the requirements of the City's public works standards relating to sewer and utility regulations when developing or redeveloping all or any part of the property described on Exhibit A.

13. Liens. The Owner understands and agrees that delinquent payments under this agreement shall constitute a lien upon the above-described property. The lien shall be as provided in RCW 35.67.200, and shall be enforced in accordance with RCW 35.67.220 through RCW 35.67.290, all as now enacted or hereafter amended.

14. Termination for Noncompliance. In the event Owner fails to comply with any term or condition of this Agreement, the City shall have the right, at any time, to enter onto the Owner's property and for that purpose disconnect the sewer, in addition to any other remedies available to the City.

15. Waiver of Right to Protest LID. (If applicable)

A. Owner acknowledges that the entire property legally described in Exhibit 'A' would be specially benefited by the following improvements (specify):

[Insert any required improvements here]

B. Owner agrees to sign a petition for the formation of an LID or ULID for the specified improvements at such time as one is circulated and Owner hereby appoints the Mayor of the City as his attorney-in-fact to sign such a petition in the event Owner fails or refuses to do so.

C. With full understanding of Owner's right to protest formation of an LID or ULID to construct such improvements pursuant to RCW 35.43.180, Owner agrees to participate in any such LID or ULID and to waive his right to protest formation of the same. Owner shall retain the right to contest the method of calculating any assessment and the amount thereof, and shall further retain the right to appeal the decision of the City Council affirming the final assessment roll to the superior court. Notwithstanding any other provisions of this Agreement, this waiver of the right to protest shall only be valid for a period of ten (10) years from the date this Agreement is signed by the Owner.

16. Specific Enforcement. In addition to any other remedy provided by law or this Agreement, the terms of this Agreement may be specifically enforced by a court of competent jurisdiction.

17. Covenant. The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. The Owner, and every purchaser, assignee or transferee of an interest in the Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of the Owner contained in this Agreement, as such duties and obligations pertain to the portion of the

Property sold, assigned or transferred to it. All costs of recording this Agreement with the Pierce County Auditor shall be borne by the Owner.

18. Attorney's Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. In any suit or action seeking to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other remedy provided by law or this agreement. Venue of such action shall lie in Pierce County Superior Court or the U.S. District Court for Western Washington.

19. Notices. Notices and correspondence to the City and Owner shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the parties as designated below. Notice to any person who purchases any portion of the Property from the Owner shall be required to be given by the City only for those property purchasers who provide the City with written notice of their address. The parties hereto may, from time to time, advise the other of any new addresses for notice and correspondence.

TO THE CITY:

City Administrator
City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335

TO THE OWNER:

Richard E. and Sharron M. Gilbert
13510 94th KPN
Gig Harbor, WA 98329

20. Severability and Integration. This Agreement and the Exhibits attached hereto constitute the agreement between the parties on this subject matter, and there are no other understandings, verbal or written, that modify the terms of this Agreement. If any phrase, provision, or section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of Washington which became effective after the effective date of this Agreement, such invalidity shall not affect the other terms of this Agreement.

DATED this 22 day of July, 2013.

OWNER:

CITY OF GIG HARBOR

By: Richard E. Gilbert
Its OWNER
(Owner, President, Managing Member)

By: _____
Its Mayor

By: Sharron M. Gilbert
Its Owner
(Owner, President, Managing Member)

Attest:

City Clerk, Molly Towslee

Approved as to form:
Office of the City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

Sharron M Gilbert
Richard E Gilbert

I certify that I know or have satisfactory evidence that Richard E Gilbert is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the owner of 6207 Soundview Dr, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____
NOTARY PUBLIC
STATE OF WASHINGTON
PATRICIA M MCGALLIAN
COMMISSION EXPIRES 01-22-17

Patricia M. McGallian
Printed: Patricia M. McGallian
Notary Public in and for Washington
Residing at: Kitsap County
My appointment expires: 1-22-2017

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

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

DATED: _____

Printed: _____
Notary Public in and for Washington
Residing at _____
My appointment expires: _____

EXHIBIT A
PROPERTY LEGAL DESCRIPTON

Section 17 Township 21 Range 02 Quarter 12 Condominium COUNTRY SQUIRE
CONDO UNIT 6207 TOG/W 25% INT IN COMMON AREAS & LIMITED COMMON
AREAS EASE OF REC REF: 758000-079-3 OUT OF 079-1 & 082-1 SEG 2004-0972
4/12/04MD

EXHIBIT B
PROPERTY LOCATION MAP

