

# **Gig Harbor City Council**

**July 28, 2014**

**5:30 p.m.**



**AMENDED AGENDA FOR  
GIG HARBOR CITY COUNCIL MEETING  
Monday, July 28, 2014 – 5:30 p.m.**

**CALL TO ORDER:**

**PLEDGE OF ALLEGIANCE:**

**CONSENT AGENDA:**

1. Approval of City Council Minutes Jul 14, 2014.
2. Correspondence / Proclamations: a) Proclamation for National Night Out.
3. Liquor License Action: a) Renewals: JW Restaurant, Devoted Kiss, Mizu Japanese Restaurant, Galaxy Uptown, and Safeway Store.
4. Receive and File: a) Intergovernmental Affairs Committee Minutes Jul 14, 2014; b) Planning Commission Minutes March 20, April 17, May 1, May 29, and June 5, 2014; c) Quarterly Finance Report; d) Minutes of City Council Worksession July 21, 2014.
5. Appointments to Parks Commission.
6. Second Reading of Ordinance No. 1300 – Amendments to Chapter 10, Bicycle Helmet and Safety.
7. Lift Station 4b – Value Engineering Consultant Services Contract.
8. Pierce County GIS Information / Network Services Agreement.
9. 2014 A/C Water Main – Bid Award and Consultant Services Contract for Materials Testing.
10. Cushman Trail Phase 3 – Public Works Contract Award and Consultant Services Contract for Construction Support Services.
11. Cushman Trail Phase 4 – Public Works Contract Award and Consultant Services Contract for Construction Support Services.
12. Approval of Payment of Bills Jul 28, 2014: Checks #75958 through #76074 in the amount of \$401,199.16.
13. Approval of Payroll for the month of July: Checks #7330 through #7351 and direct deposits in the total amount of \$367,669.36.

**PRESENTATIONS:**

1. Recognize Harris Atkins for service on the Planning Commission.
2. Proclamation – National Night Out: Diane Bertram.

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

**OLD BUSINESS:**

1. Public Hearing and Resolution No. 970 – Revisions to McCormick Creek Development Agreement.

**NEW BUSINESS:**

1. Restaurants 2 and 3 as Conditional Uses in the Waterfront Millville Zone..
2. Resolution No. 971 Directing an Advisory Vote on Marijuana.
3. Establishment of “For & Against” Election Committees.

**CITY ADMINISTRATOR / STAFF REPORT:**

Chief of Police Selection Process – Update.

**PUBLIC COMMENT:**

**MAYOR’S REPORT / COUNCIL COMMENTS:**

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Harbor Wildwatch Ribbon Cutting Ceremony – Wed. Jul 30<sup>th</sup> at noon.
2. National Night Out – Tue. Aug. 5<sup>th</sup> at 5:00 p.m.
3. Planning Commission Open House: Thu. Aug 7<sup>th</sup> at 5:00 p.m.
4. Public Works Committee: Mon. Aug. 11<sup>th</sup> at 4:00 p.m.

**ADJOURN:**

## CITY COUNCIL MEETING PROCEDURES

### MEETING TIMES

Regular public meetings of the city council are held on the second and fourth Mondays of each month beginning at 5:30 p.m. in the Council Chambers at the Civic Center.

### AUDIENCE PARTICIPATION

- Audience participation is encouraged. This is your opportunity to address the City Administration and City Council about any matter concerning City operations.
- If you wish to speak, please complete the sign-up sheet in the back of the council chambers. If you would like to comment on an item on the Agenda (not subject to a Public Hearing before the City Council), please specify the Agenda item you wish to address and you may be invited to speak on the item if public comment is requested.
- **You will have three minutes to make your comments.** When there are 30 seconds remaining a yellow light will alert you to summarize your comments. At the end of your comments, the light will turn red and you will hear a beep signifying the end of your comment period.
- The first reading of an ordinance is open to public comment unless the ordinance was subject to a Public Hearing before the City Council which has been closed. For second and third readings public comment is generally not taken unless the comment is in response to changes that have taken place since the prior reading.

### PUBLIC HEARINGS

- If you wish to provide testimony at a Public Hearing, please complete the sign-up sheet in the back of the council chambers.
- **You will have three minutes to provide your testimony.** When there are 30 seconds remaining you will see a yellow light to alert you to summarize

your testimony. The light will turn to red and you will hear a beep signifying the end of your comment period. The Mayor may adjust the time available in advance of the Public Hearing to accommodate a large number of people wishing to testify or if otherwise deemed appropriate (such as developer testimony in connection with a proposed development agreement).

### PUBLIC HEARING PRESENTATION

Suggested presentation model for precise, well organized proposals:

- **PURPOSE:** What is the idea you wish to present? Begin with an "I statement" outlining your idea, such as, I am here to (support/oppose)..."
- **REASON:** Why are you making this point? This is an important step so the listener does not make assumptions about your motives.
- **EXAMPLE:** Use a brief and relevant example to clarify and make your point concrete.
- **SUMMARY:** What condition will be changed or improved if your point is adopted?
- **ACTION:** (If appropriate, depending on the situation) What needs to be done and who will do it?

### EXECUTIVE SESSION

Closed portion of meeting for discussion of confidential legal matters, personnel matters, labor negotiations, and/or property transactions. These are the only issues which may be discussed in closed sessions.

## MINUTES OF GIG HARBOR CITY COUNCIL MEETING – July 14, 2014

**PRESENT:** Councilmembers Arbenz, Perrow, Lovrovich, Payne, Kadzik and Mayor Pro Tem Ekberg. Mayor Guernsey and Councilmember Malich were absent.

**CALL TO ORDER:** 5:30 p.m.

**PLEDGE OF ALLEGIANCE:**

### **CONSENT AGENDA:**

1. Approval of City Council Minutes Jun 23, 2014.
2. Liquor License Action: a) Special Occasion Liquor License: Gig Harbor Yacht Club; b) Gourmet Burger Shop Change in LLC Members; c) Special Occasion Liquor License - GH Downtown Waterfront Alliance; d) Discontinued Sales and Service - Water to Wine; e) Liquor License Added Privilege – Tides Tavern.
3. Receive and File: a) Council Worksession Lift Station 4B Minutes June 23, 2014; b) Public Works Committee Minutes June 19, 2014; c) GH Canoe & Kayak Racing Team Report of Required Public Activities; d) Council Pre-Budget Worksession Minutes June 30, 2014.
4. Resolution No. 969 – Surplus Equipment Public Works.
5. 2014-18 Tourism Strategic Plan.
6. Harborview/Novak/Dorotich Street Light and Retrofit Kit – Purchase Agreement.
7. Ancich Waterfront Park – Consultant Services Contract and Amendment.
8. Unpaid Holidays Policy.
9. Approval of Payment of Bills Jul 14, 2014: Checks #75790 through #75957 in the amount of \$1,129,401.96.
10. Approval of Payroll for the month of June: Checks #7311 through #7329 and direct deposits in the amount of \$372,655.34.

**MOTION:** Move to adopt the Consent Agenda as presented.  
**Ekberg / Kadzik** - unanimously approved.

### **OLD BUSINESS:**

1. Continued discussion on Scope of Marijuana Code. Senior Planner Lindsey Sehmel presented a project history and the scope of the public hearing under New Business. She explained that after discussion on the scope, Council could either continue with the public hearing tonight, or make a motion to expand the scope of work and cancel tonight's public hearing.

After discussion on the scope, a recommendation was made to move forward with a workstudy session to further discuss the definitions.

**MOTION:** Move to direct staff to set up a workstudy session for Monday, July 21<sup>st</sup> to discuss all definition changes to Gig Harbor Municipal Code



17.63 Marijuana Related Uses and to cancel the public hearing under New Business No. 6 on the same subject.  
**Payne / Perrow** - unanimously approved.

**NEW BUSINESS:**

1. Public Hearing and Resolution No. 970 - Revisions to McCormick Creek Development Agreement. Associate Planner Kristin Moerler presented the background for this proposed request to amend the development agreement. She addressed Council's questions regarding the request to transfer the ownership of the internal park to the future Homeowners Association.

Mayor Pro Tem Ekberg opened the public hearing at 6:20 p.m. No one came forward to speak and the hearing closed.

Council continued to discuss ownership of the park, voicing concern that it wouldn't be properly maintained or could disappear into adjacent lot lines. The city attorney advised that another public hearing would be required if the proposed amendments were amended.

**MOTION:** Move to delay action to the next council meeting and hold a second public hearing for the purpose of discussing retaining this park as a public park.  
**Payne / Perrow** – unanimously approved.

2. First Reading and Adoption of Ordinance No. 1298 – Drug Paraphernalia. Lt. Kelly Busey presented this ordinance that would amend city code to eliminate conflict with state law and allow for sales of marijuana drug paraphernalia by state-licensed marijuana retailers only.

**MOTION:** Move to adopt Ordinance No. 1298 at this first reading.  
**Perrow / Kadzik** – five voted yes. Councilmember Payne voted no.

3. First Reading of Ordinance – Amendments to Chapter 9, Indecent Exposure. City Administrator Ron Williams presented the background for this ordinance to provide consistency between the city code and state statute and to eliminate duplication.

**MOTION:** Move to adopt Ordinance No. 1299 at this first reading.  
**Payne / Arbenz** – unanimously approved.

4. First Reading of Ordinance – Amendments to Chapter 10, Bicycle Helmet and Safety. City Administrator Ron Williams presented the background for this ordinance to update city code to meet the minimum requirements of a traffic infraction consistent with RCW 46.61.750.

City Attorney Angela Summerfield responded to questions regarding the proposed fees, explaining that this does require classification as a traffic infraction. Lt. Busey explained that there are only one or two contacts with bicyclists per year regarding helmet use. This will return at the next meeting for a second reading.

5. Parks Commission Work Program. Public Works Director Jeff Langhelm presented the Parks Commission Work Program for the year and answered questions. Mr. Langhelm was directed to include street end and right of way improvements to the Crescent Creek Park discussion, and to reword the description of private use of structures in public parks.

**MOTION:** Move to adopt the Parks Commission Work Plan as amended.  
**Payne / Perrow** – unanimously approved.

6. ~~Public Hearing and First Reading of Ordinance – Updates to Marijuana Code 17.63.~~  
**Cancelled by Motion under Old Business.**

### **STAFF REPORT:**

1. Outstanding Wastewater Treatment Plant Award. City Administrator Ron Williams reported that the city was awarded the Outstanding Wastewater Treatment Plan Award for the eighth year in a row. When the plaque arrives, the WWTP Staff will be invited to a council meeting to be publically recognized.

2. Well City Designation. Human Resource Analyst Mary Ann McCool announced that Gig Harbor has received the designation of “Well City” by the Association of Washington Cities that will result in a 2% discount for the city’s medial premiums. She praised Shawna Wise, Executive Assistant, for doing the lion’s share of the documentation that was necessary to receive this award. Three metal signs will be posted around the city to publicize the important designation.

3. Update on Vernhardson Street. Public Works Director Jeff Langhelm presented an update on efforts to address traffic safety concerns. This Wednesday at noon, staff is hosting a brown bag lunch session at Crescent Creek Park to discuss these concerns and to provide information on traffic calming projects and enforcement currently planned for the area.

Councilmembers Lovrovich and Perrow thanked staff for being proactive to address these issues.

### **PUBLIC COMMENT:**

Nicole Hicks – 9613 Vernhardson Place. Ms. Hicks presented an informal petition for improved safety on Vernhardson Street signed by 31 of her neighbors. She cited several problems and some possible solutions to the current traffic problems. She thanked staff for looking at the problem.

Bob Roberts – 3305 Emerald Lane. Mr. Roberts voiced concern with the table set up at the post office with a poster of President Obama with a Hitler mustache. He said that this is hateful and asked Council to speak out against this.

Jill Sturrock – 6302 110<sup>th</sup> St. NW. Ms. Sturrock thanked Council for “putting the brakes” on the marijuana decision.

Cathy Adgar-Beal – 7405 Skansie Avenue. Ms. Adgar-Beal voiced concern with the increase in fireworks. She described the issues resulting from excessive fireworks noise and shared several recommendations to address the problem. She asked Council to consider limiting the time allowed to discharge fireworks to July 4<sup>th</sup> and to better educate the public of the allowed hours.

Scott Beal – 7405 Skansie Avenue. Mr. Beal also voiced concern with increase and the timing of the fireworks, asking that they be restricted to July 4<sup>th</sup> from 10:00 a.m. to 11:00 p.m. He also recommended further educating the public.

John Phillips - 9619 Vernhardson Place. Mr. Phillips, neighbor of Nicole Hicks, voiced his support of the information she presented. He talked about the speeding problem in that area and asked Council to take a look at the issue.

John Sharp – 11412 66<sup>th</sup> Aven NW. Mr. Sharp addressed the public/private park issue with McCormick Creek Development. He said that if his homeowners association had been told they had to insure a public park or install equipment to city standards it would create a big hornet’s nest. He said this would be a disaster.

Donna Slaybach – 7412 North Creek Loop. Ms. Slaybach spoke in support of her neighbors’ concerns with the increased fireworks over the years.

**MAYOR’S REPORT / COUNCIL COMMENTS:** None.

Councilmember Perrow reported that used the city’s new online option to automatically pay his utility bill. He said it is a great new feature and will save the Utility Billing Clerk two-days a month.

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Boards and Candidate Review Committee: Mon. Jul 21<sup>st</sup> at 4:30 p.m.
2. Harbor Wildwatch Ribbon Cutting Ceremony – Wed. Jul 30<sup>th</sup> at noon.
3. National Night Out – Tue. Aug. 5<sup>th</sup> at 5:00 p.m.

**ADJOURN:**

**MOTION:** Move to adjourn the meeting at 7:20 p.m.  
**Payne / Perrow** – unanimously approved.

CD recorder utilized: Tracks 1002 – 1026

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Jill Guernsey, Mayor

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Molly Towslee, City Clerk

## PROCLAMATION OF THE MAYOR OF THE CITY OF GIG HARBOR

**WHEREAS**, thirty-one 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 2014” 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 2014” event;

**NOW, THEREFORE**, I, Jill Guernsey, Mayor of the City of Gig Harbor, do proclaim Tuesday, August 5<sup>th</sup> as

### National Night Out 2014

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 28<sup>th</sup> day of July.

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**Mayor, City of Gig Harbor**

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**Date**

C091080-2

WASHINGTON STATE LIQUOR CONTROL BOARD

DATE: 07/06/2014

LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF GIG HARBOR  
(BY ZIP CODE) FOR EXPIRATION DATE OF 20141031

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
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



## INTERGOVERNMENTAL AFFAIRS COMMITTEE

**DATE:** July 14, 2014  
**TIME:** 4:00 PM  
**LOCATION:** EXECUTIVE CONFERENCE  
**SCRIBE:** SHAWNA WISE  
**PRESENT:** Council Member Perrow, Council Member Payne, City Administrator Ron Williams, City Engineer Steve Misiurak, Briahna Taylor GTH-GA, Dale Learn GTH-GA via teleconference

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The meeting convened at 4:00 p.m.

Dale Learn gave the Federal Legislative update noting that most of the activity we will see this year will be post-election. He said the House and Senate are looking at ways to get patch the Highway Trust Fund. It is uncertain whether they will patch through the end of the year or through May 2015.

Mr. Learn said we may see the Omnibus Appropriations bill during the lame duck session.

He said he had a meeting with Derek Kilmer's staff regarding the City's priorities on Transportation Reauthorization and there was discussion about how to get the City a Federal bonus or credit for using innovative financing with HBZ.

The Sand Spit transfer is still in process and we may see the mark up before the August recess. If it is postponed until September, there is very little controversy with it and opposition is not expected.

Mr. Learn shared that there are two potential federal grants the City may want to look into. The Cops Hiring Program grant which Mr. Learn said he sent to Chief Davis and will forward to Lt. Busey. Another grant he said worth looking at is the Maritime Heritage Program which is used for restoration or preservation. This is a small dollar amount grant.

Councilmember Payne said some items came up in the Public Works Committee meeting and he directed staff to contact Mr. Learn. The first item was regarding the BIG grant and whether or not you need an operator already named and the second item was regarding possible changes to the BIG grant requirements. Mr. Learn said he would be glad to answer when staff contacts him.

Steve Misiurak said the City is following the Federal right-of-way acquisition process for Harbor Hill Drive Extension and asked Mr. Learn what likelihood is of procuring the funding for this project. Mr. Learn said they would do everything they could to make the project appealing and competitive. Briahna Taylor said that Councilmember Flemming was enthusiastic about

advocating for the project through PCRC process. Ms. Taylor encourages the City to do a follow up meeting with Councilmember Flemming to solidify his support.

Ms. Taylor gave the State Legislative update. She said the Governor will release the budget in November or early December. In addition to the budget process the Governor has also launched a Climate Change Initiative with a series of recommendations prior to the legislative session. Ms. Taylor said it includes asking the Department of Commerce to look at a grant program that Cities and Counties can apply for to make their buildings more energy efficient.

Ms. Taylor said there is a \$3billion bond measure, driven by legislators, that would go on the ballot to fund storm water, water supply and flood mitigation projects. She said this proposal is in idea form and is being largely pushed by the environmental community, Chehalis area, and Yakima regions.

Ms. Taylor said the marijuana tax revenue in the first week was more than what the State anticipated. It is being collected and put into an account and will be applied to the 2015/2017 budget cycle and what the legislature decides to do with the revenue will be decided next session. Ms. Taylor said that with more money coming in that expected it helps our argument that locals should get a share.

Councilmember Payne said that recent marijuana related incidents in Gig Harbor are representative of why the City needs sharing of the revenue. Ms. Taylor said the obstacle is that the State wants to see data and make a statistical case on why the City should get a portion of the revenue.

Ms. Taylor said she has been actively working on the political side of restoring funds to the Public Works Assistance Account and Steve Misiurak has been part of the Public Works Board side. Mr. Misiurak shared a handout outlining the Public Works Board, attached as a reference. The handout was from the current Public Works Board meeting that Mr. Misiurak said he attended last Friday and mentioned that he has been routinely attending these meetings for over a dozen or so years. He went on to say that this is the 30<sup>th</sup> year the PWB has been in existence and has loaned out over \$2.8 billion in over 1900 loans without any loan defaults.

Ms. Taylor pointed out that the chart indicating revenue sources is illustrative of where the Legislature chose to redirect the solid waste and public utilities tax for the next six years. She said the Legislature chose to no longer put those funding sources into this account. She explained that the Demand on the Fund chart shows they took all of the revenue that came into the account and put it into the operating budget. Mr. Misiurak said the City had two projects that were recommended for this funding.

Mr. Misiurak said it is important to note that the Department of Commerce provides support to the Public Works Board but by itself, the Board is its' own entity. He said this has caused some disagreement where some individuals from the Department of Commerce believe that the PWB staff is part of the Department of Commerce. He said, however, RCW 43.155.030 specifically states that "staff support to the board shall be provided by the department." He said Department is further defined as the Department of Commerce. Ms. Taylor said with the



Governor's state agencies submitting their budget requests, is the Dept of Commerce going to submit the Public Works Assistance account to the Governor or is the PWB going to independently submit their proposal.

Ms. Taylor said there is a Stakeholder's group that is developing an advocacy plan so that when we get to step 3, whatever the Public Works Board recommends will be approved.

Mr. Misiurak mentioned that the Board had traditionally depicted its funding of the public improvement projects via a Legislative bill that specifically identified the list of agency capital projects with the corresponding dollar amount. He said during this past funding cycle all of the loan monies were diverted from the Public Works account to help balance the State budget. He said only the monies remaining was to fund the administrative duties of the Board and that was shown only as a single budget line item under the Department of Commerce's budget. Mr. Misiurak went on to say that this was a clever way to disguise the sweeping of the Public Works Board monies.

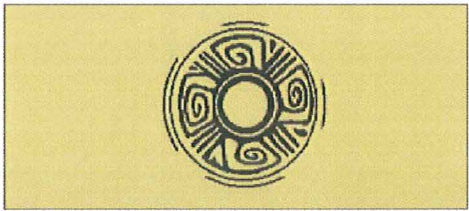
Ms. Taylor said the West Sound Transportation Committee will have a subcommittee to work on specific funding and prioritizing projects as well as compile economic justification for the state to invest in the region. Ron Williams said the data is available through the Downtown Waterfront Association and he will share this with the subcommittee. The subcommittee will then make recommendations to the larger group.

Ms. Taylor said we are in a waiting mode with capital funding requests until we see whether certain projects have been selected for funding for RCO. Once we know our status of the grants, we will develop a timeline for an event around our capital request.

Ms. Taylor said in June the House Judiciary Committee did a work session regarding Fee Immunity and Ms. Taylor is working with both the House and Senate side to move it forward.

Councilmember Perrow shared maps of the Pierce Transit service area and expressed a desire to change the route to cover the Burnham Drive – Canterwood Blvd corridor. He said for economic development purposes and for a more vibrant system, servicing this area is important. The area is inside the transit district but are not being serviced. Ms. Taylor said we should start with speaking with legal counsel to outline our options. Councilmember Payne said he recommends moving forward with this.

Meeting adjourned 5:23 pm.



# PUBLIC WORKS BOARD

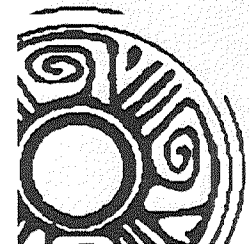
1986 – 2014...

INFRASTRUCTURE FINANCING AND BEYOND

# ENABLING LEGISLATION

## Public Works Board Was Created in 1986:

- ❑ RCW 43.155.010 - It is the policy of the state of Washington to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works project by making loans, financing guarantees, and technical assistance available to local governments for these projects.
  
- ❑ RCW 43.155.040(5) – Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter.







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RCWs > [Title 43](#) > [Chapter 43.155](#) > [Section 43.155.030](#)

[43.155.020](#) << [43.155.030](#) >> [43.155.040](#)

### **RCW 43.155.030**

## **Public works board created.**

(1) The public works board is hereby created.

(2) The board shall be composed of thirteen members appointed by the governor for terms of four years, except that five members initially shall be appointed for terms of two years. The board shall include: (a) Three members, two of whom shall be elected officials and one shall be a public works manager, appointed from a list of at least six persons nominated by the association of Washington cities or its successor; (b) three members, two of whom shall be elected officials and one shall be a public works manager, appointed from a list of at least six persons nominated by the Washington state association of counties or its successor; (c) three members appointed from a list of at least six persons nominated jointly by the Washington public utility districts association and a state association of water-sewer districts, or their successors; and (d) four members appointed from the general public. In appointing the four general public members, the governor shall endeavor to balance the geographical composition of the board and to include members with special expertise in relevant fields such as public finance, architecture and civil engineering, and public works construction. The governor shall appoint one of the general public members of the board as chair. The term of the chair shall coincide with the term of the governor.

(3) Staff support to the board shall be provided by the department.

(4) Members of the board shall receive no compensation but shall be reimbursed for travel expenses under RCW [43.03.050](#) and [43.03.060](#).

(5) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations under subsection (2) of this section shall be filled from a list of at least three persons nominated by the relevant association or associations. Any members of the board, appointive or otherwise, may be removed by the governor for cause in accordance with RCW [43.06.070](#) and [43.06.080](#).

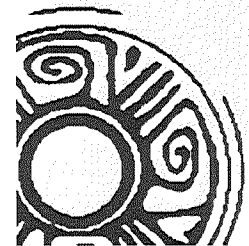
[1999 c 153 § 58; 1985 c 446 § 9.]

### **Notes:**

**Part headings not law -- 1999 c 153:** See note following RCW [57.04.050](#).

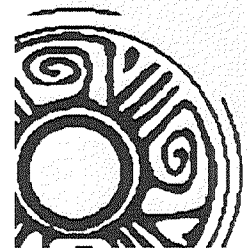
# PUBLIC WORKS ASSISTANCE ACCOUNT (PWAA)

- ❑ Self sustaining revolving loan fund
- ❑ **Seeded with \$17 million in 1985**
- ❑ **1,900** Loans in 29 years
- ❑ \$2.8 Billion Portfolio
- ❑ No Defaults



# MEMBERSHIP

- 13 member Governor appointed Board
  - 3 Special Purpose District Representatives
  - 3 City Representatives
  - 3 County Representatives
  - 4 General Public Representatives



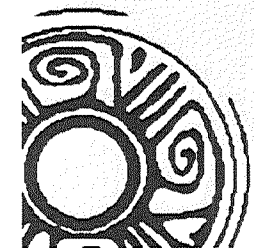
# CORE VALUES

## Affordability

- ❑ The Board is committed to providing affordable infrastructure financing.
- ❑ Local governments and communities are able to construct, repair, replace, and rehabilitate their infrastructure systems through our low-cost programs.

## Responsiveness

- ❑ The Board is responsive to our clients, stakeholders, state officials, and public by providing fair and equitable access to a simple-to-use, flexible, and stable source of funds for local infrastructure projects.
- ❑ We value respectful communication and customer service with all of our partners.





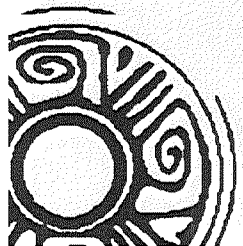
# PUBLIC WORKS ASSISTANCE ACCOUNT (PWAA)

The PWAA, formerly known as the public works trust fund, provides low interest loans to finance locally driven critical infrastructure projects that address:

- ❑ Public Health and Safety
- ❑ Environmental Health
- ❑ System Performance
- ❑ Economic Development & Growth

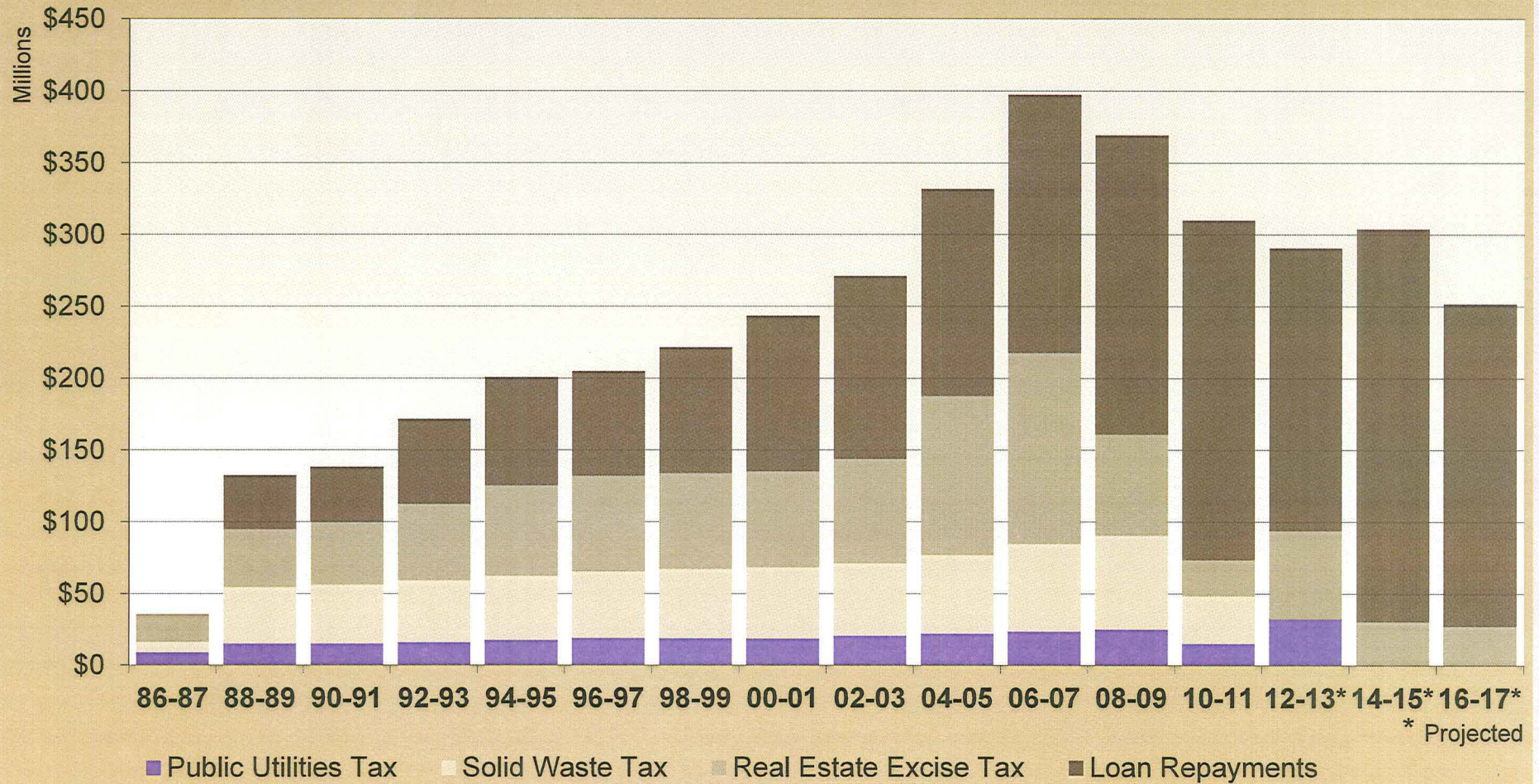
It does this through four individual loan programs:

- Construction
- Pre-Construction
- Emergency
- Planning





# PWAA REVENUE SOURCES 1985 - 2017

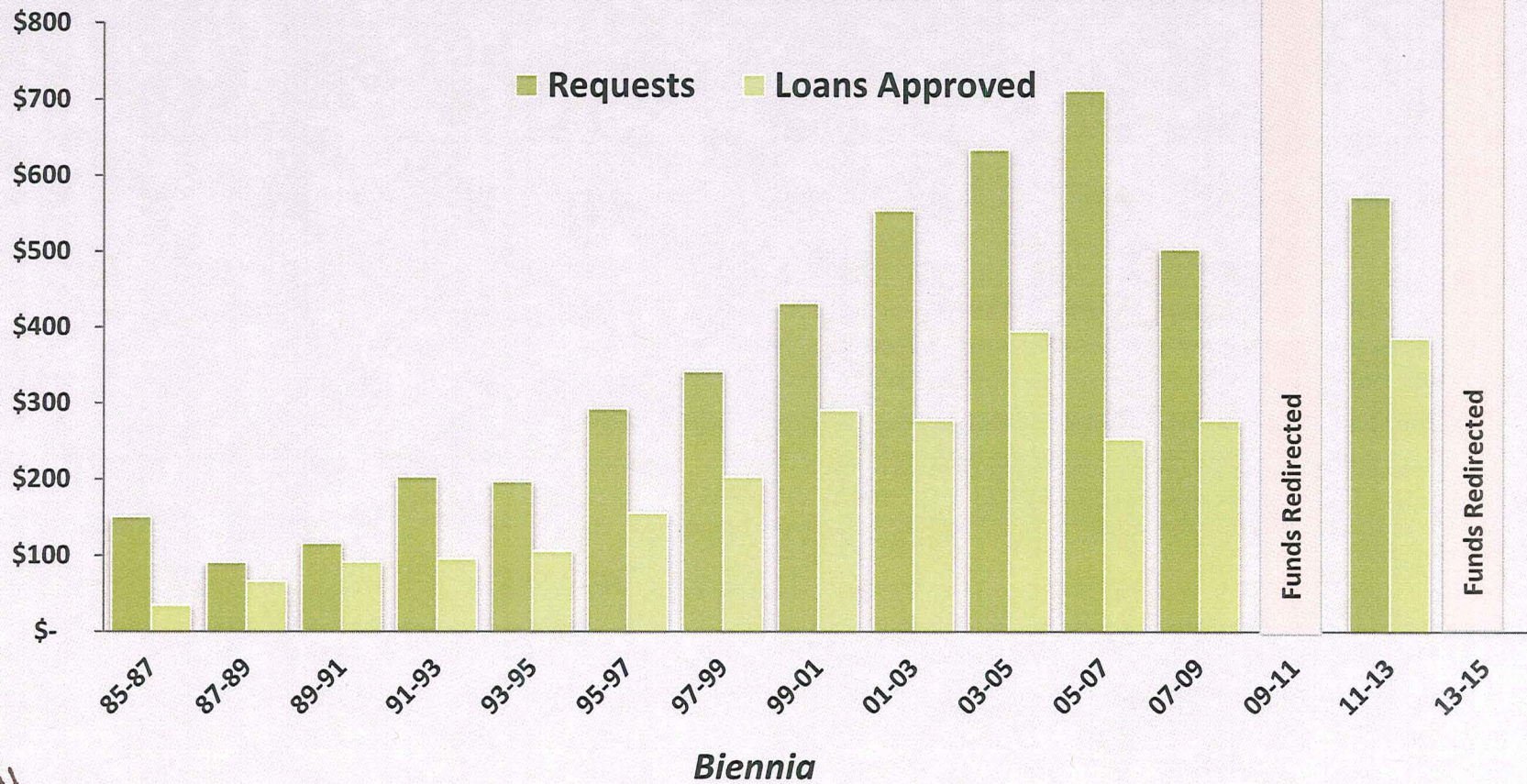




# DEMAND ON THE FUND

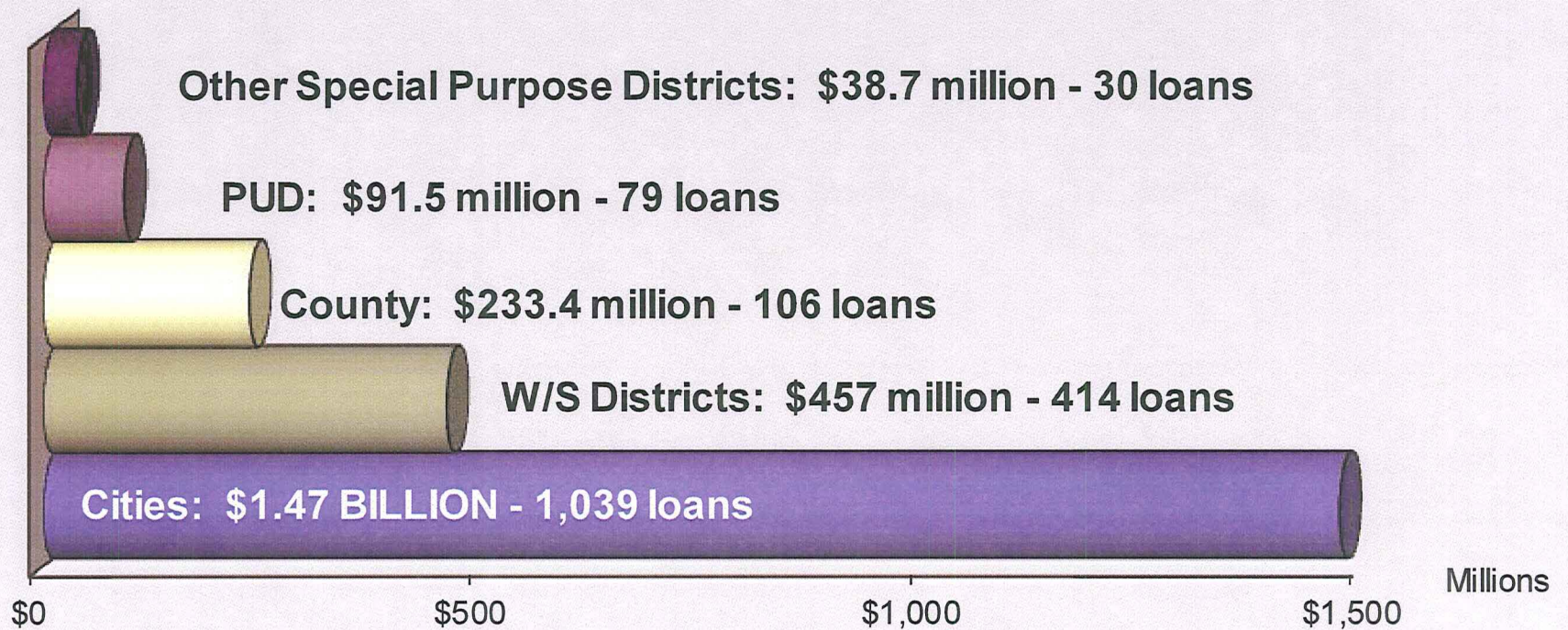
## 1985 - 2014

**Construction Loans Requested and Approved  
(In Millions)**



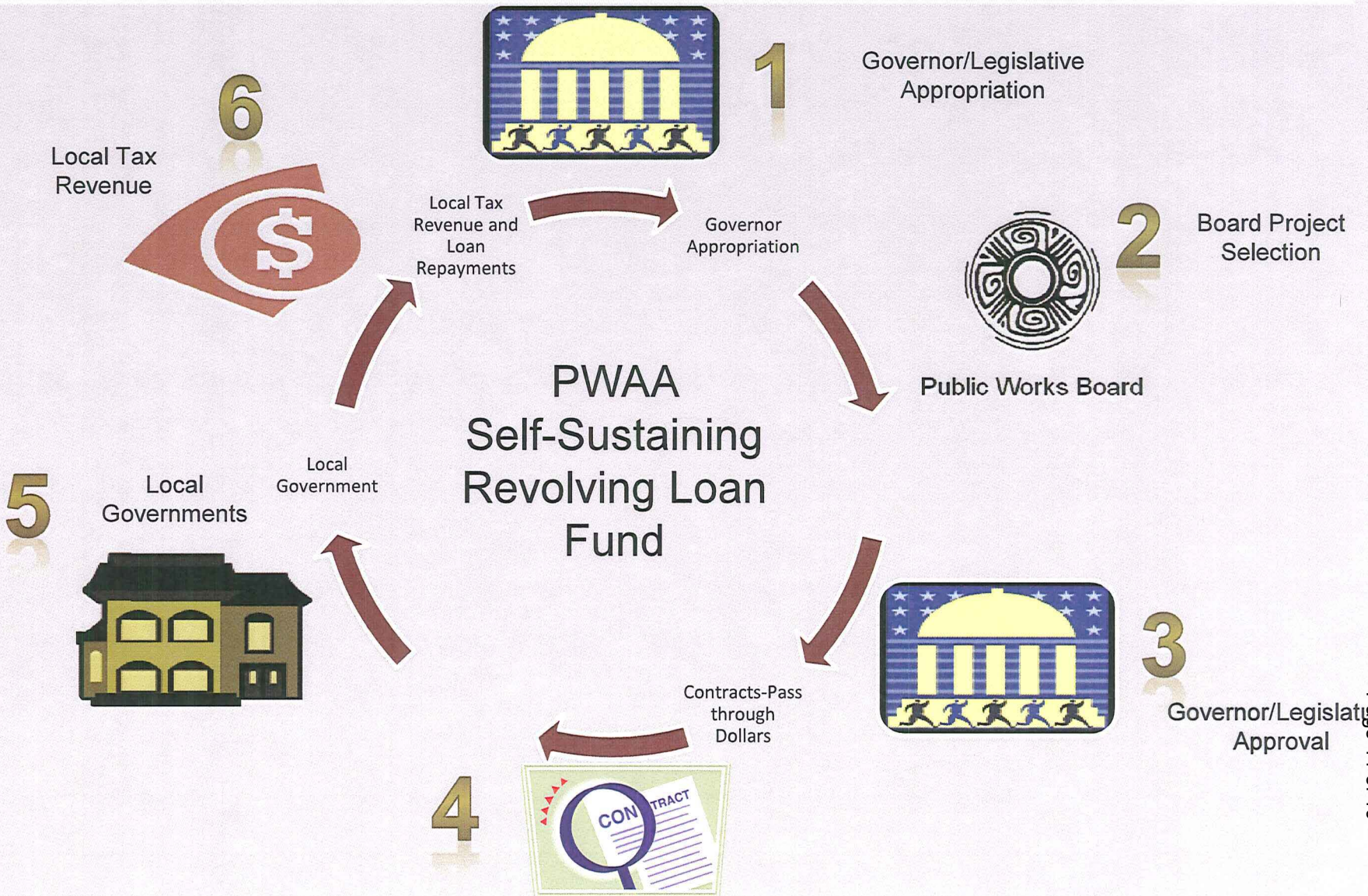


# Loans by Applicant Type 1985-2014





# PWAA Revenue Cycle





# Administration



**Department of Commerce**  
Innovation is in our nature.

- ❑ The Public Works Board receives administrative support from the Department of Commerce. (RCW 43.155.030(3))
- ❑ Administrative Staff to the Board is located in the Local Government and Infrastructure Division.



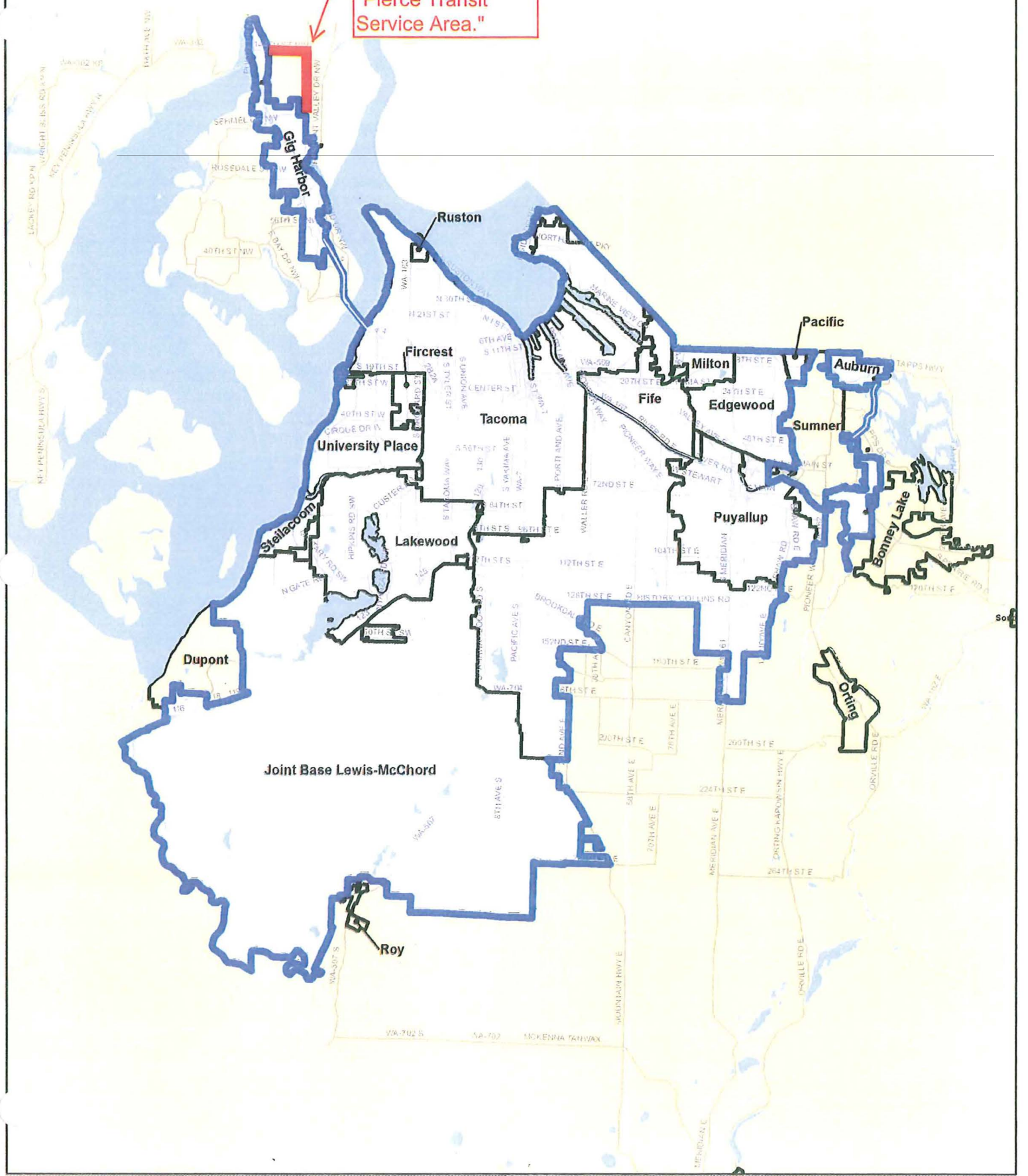
# CONSTRUCTION LOAN PROGRAM

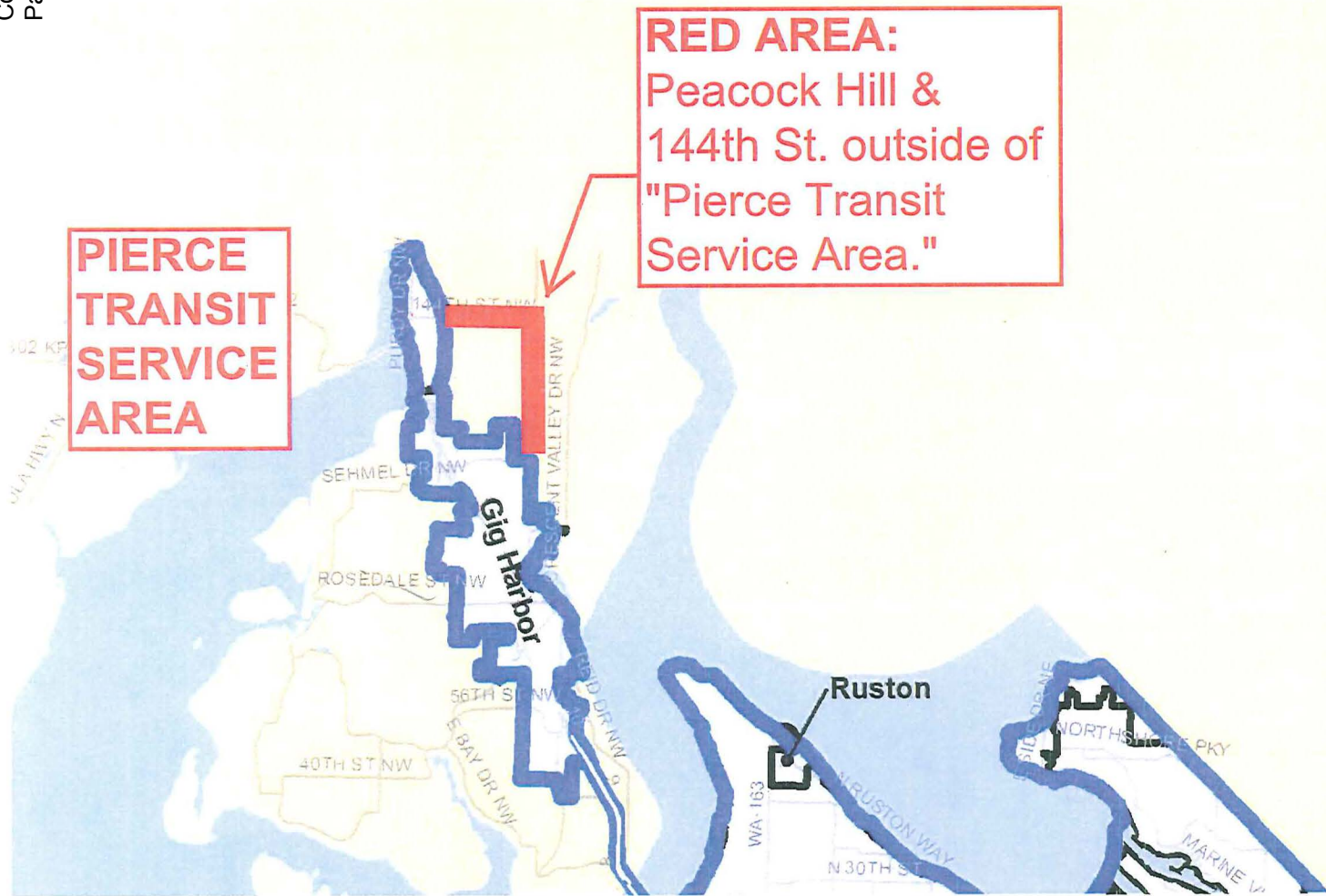
Annual Cycle		–		<i>Very Competitive – 1 in 2 get funded</i>		
<b>Terms for Fiscal Year 2016 Construction Loans:</b>						
<b>Applications:</b>	Due 6PM May 16, 2014					
<b>Loan Limit:</b>	\$7,000,000 per jurisdiction per biennium					
<b>Loan Rates/Terms:</b>	<b>Non-Distressed Communities -</b>					
	<b>Term</b>				<b>Rate</b>	
	5 years or less				1.28%	
	5 – 20 years				2.55%	
	<b>Distressed Communities -</b>					
			<b>Rate Based System:</b>		<b>Non-Rate Based System</b>	
	<b>Rate</b>	<b>Term</b>	<b>Affordability Index:</b>		<b>Debt Service Coverage Ratio:</b>	
<b>1.70%</b>	<b>Up to 25 years*</b>	1.51% to 2.5%		1.01% to 2%		
<b>1.28%</b>	<b>Up to 30 years*</b>	2.51% or higher		1% or less		
<b>Local Match Funding: None</b>			<b>Scoring: Maximum 100 points</b>			



**PIERCE  
TRANSIT  
SERVICE  
AREA**

**RED AREA:  
Peacock Hill &  
144th St. outside of  
"Pierce Transit  
Service Area."**





**PIERCE  
TRANSIT  
SERVICE  
AREA**

**RED AREA:**  
Peacock Hill &  
144th St. outside of  
"Pierce Transit  
Service Area."

**Ruston**



## EMPLOYEE COUNT

### Burnham Drive - Canterwood Blvd Corridor

Employer		FTE
HDR Engineering	Professional Office	25
Contour Engineering	Professional Office	7
Metagenics	Manuafacuring/R&D/Clinic/Office	177
Real Carriage Door Company	Professional Office & Manufacturing	33
Rainier Collision	Auto Repair & Maintenance	18
Scotts Dental Supply	Professional Office & Warehouse	17
Gig Harbor Baseball Academy	Youth Recreation	2
WPC	Professional Office	6
ServPro	Office & Warehouse	15
Glass Works	Office & Warehouse	3
Marine Industrial Gears	Professional Office	1
Westsound CrossFit	Fitness Club	3
BRECO International	Professional Office	1
Tickled Pink	Office/Warehouse/Distribution	12
Mixed Goods	Warehouse/Distribution	5
Washington Patriot Construction	Professional Office	20
FISH Food Bank		
Gig Harbor RV Resort		
Burnham Storage Box		2
Conan Fuel		3
Hyuhehe		
Puerta Viarta		
Animal Hospital		6
Office Building		5
St Anthony		621
Milgard Medical Pavilion		
Canterwood Office Building		
<i>As of June 2014</i>	<b>TOTAL</b>	<b>982</b>

**City of Gig Harbor Planning Commission  
Work Study Session  
Civic Center  
March 20th, 2014  
5:00 pm**

**PRESENT:** Harris Atkins, Pam Peterson, Rick Gagliano, Bill Coughlin, Craig Baldwin and Jim Pasin. Reid Ekberg and was absent.

**STAFF PRESENT:** Staff: Lindsey Sehmel and Jennifer Kester.

**5:00 p.m. - Call to order, roll call**

**APPROVAL OF MINUTES**

MOTION: Move to approve the minutes of February 6, 2014. Pasin/Baldwin – Motion carried.

Some of the commissioners had not read the minutes of February 20, 2014 so they were continued to the next meeting.

**WORK STUDY SESSION**

**2015 Periodic Review** - Ms. Sehmel went over Section A-2, the checklist of items that the state wanted reviewed. She walked through the checklist and addressed whether changes needed to occur for each item. Discussion was held on the items needing further review and/or change and what type of change may be necessary. Ms. Sehmel explained that at the next meeting they will go over the Puget Sound Regional Council requirements and Pierce County requirements.

**The Harbor – 2014 Comprehensive Plan Amendment** - Ms. Sehmel noted that she had rewritten the introduction as requested. She said the only other change was that she had put headers above each goal. She asked the commission for feedback on the introduction and the headers. It was decided to change the header “transportation” to “circulation”. The header “quality design” was changed to just “design”. The commission decided to change “Reinvestment of the Harbor” to “Revitalization”. The header “Maritime Support Services” was changed to “Maritime Services”. They decided to change “Commercial Fishing” to “Fishing Fleet”.

The commission started their review of the specific text. The goal of 3.15 was changed to read commercial, recreational boating and water activities and remove the word fishing since there is an entire section on commercial fishing. Minor wording changes were made to 3.22.

They discussed 3.42 regarding native vegetation along the shoreline. No changes were made.

Goal 3.5 was discussed next and it was decided to just say public property rather than city owned.

Minor wording changes were made to 3.9.1 and 3.9.7.

Discussion was held on 3.10.3 in regard to how to define mixed use.

In 3.11 minor wording changes were made.

Policy 3.12.2 was discussed. The phrase "property owner" was added and the phrase "merchants" was changed to "downtown businesses".

The commission discussed goal 3.13 next. It was decided to change the phrase to read, "Gig Harbor residents and visitors".

MOTION: Move to direct staff to make the edits discussed to the introduction, headings, goals and policies and present a completed Harbor Element of the Comprehensive Plan to the City Council along with a recommendation from the Planning Commission. Gagliano/Peterson – Motion passed unanimously.

#### **Tree Preservation and Retention amendments.**

Ms. Kester went over the comments received to the Tree Preservation. She also noted that there were some proposed changes to processing.

Mr. Atkins asked the commission if after hearing and reading some of the comments did any of the commission members feel that the intent of the amendment needed changing. Discussion was held and it was felt that the intent was being met.

Ms. Kester went over the upcoming schedule and the materials that will be provided throughout the process.

Mr. Atkins pointed out that it doesn't seem clear that this doesn't apply to the waterfront and asked that everyone think about how to address that.

#### **ADJOURNMENT**

MOTION: Move to adjourn the meeting at 7:11 p.m. Pasin/Gagliano – Motion carried.



**City of Gig Harbor Planning Commission  
Work Study Session  
Civic Center  
April 17th, 2014  
5:00 pm**

**PRESENT:** Harris Atkins, Pam Peterson, Rick Gagliano, Reid Ekberg, Craig Baldwin and Jim Pasin. Bill Coughlin and was absent.

**STAFF PRESENT:** Staff: Lindsey Sehmel and Peter Katich.

**5:00 p.m. - Call to order, roll call**

**APPROVAL OF MINUTES**

MOTION: Move to approve the minutes of February 20, 2014. Pasin/Baldwin – Motion carried.

MOTION: Move to approve the minutes of February 27, 2014. Gagliano/Baldwin – Motion carried.

MOTION: Move to approve the minutes of March 6, 2014. Pasin/Ekberg – Motion carried.

**WORK STUDY SESSION**

1. **Historic District Railing Amendments** – Staff presentation of proposed language recommended by the Design Review Board and setting of Public Hearing date.

Senior Planner Peter Katich went over the proposed amendment. He stated that it had been to the Design Review Board twice and has received their recommendation to move forward to the Planning Commission. Mr. Katich gave a PowerPoint presentation on railings in the Historic District. Mr. Gagliano briefed the commission on the process that the Design Review Board went through to develop this proposal. Brett Marlo DeSantis a member of the Design Review Board was present and also pointed out that it was being proposed as a matter of consistency. Ms. Peterson asked about how consistency would be achieved when there is a big difference between historic homes and non-historic homes. Mr. Gagliano stated that it is intended to provide consistent historic elements within the historic district. It was decided to set a public hearing date of May 1<sup>st</sup>, 2014.

2. **Harbor Element** – Review and sign the draft recommendation to City Council.

Senior Planner Lindsey Sehmel went over the draft and the changes made since the last meeting. She noted that staff had changed the header of the last goal to read, "Commercial Fishing Fleet".

MOTION: Move to approve the notice of recommendation and the draft Harbor Element, authorize the chair sign the recommendation and forward along to the City Council. Gagliano/Peterson – Motion carried.

Mr. Pasin asked if there was anywhere else in the text that needed to be changed to Commercial Fishing Fleet. Ms. Sehmel said that the text had been changed.

3. **2015 Periodic Review** - Review the consistency requirements for VISION 2040 and the Countywide Planning Policies (CPPs). Discuss first public open house scheduled for May 15<sup>th</sup>, 2014.

Senior Planner Lindsey Sehmel briefed the commission on the items needing to be addressed in this update.

Chairman Atkins called a 10 minute recess before moving on to the next agenda item.

4. **Tree Preservation and Retention Amendments** – Discussion of public comments, review staff edits, and make final amendments to the language.

Ms. Sehmel stated that she had included the staff recommended changes to the language along with the public comments and minutes from the March 6<sup>th</sup> meeting. The commission went through the staff changes and then the public comments, making several wording changes. They decided to add an illustration of the concept of modulating buffers.

Jeremiah LeFranc with Masters Builders Association had pointed out that the language regarding landscaping within recorded easements may cause purchase deeds to be invalidated. Ms. Sehmel stated that staff had consulted with the City Attorney and had removed the language regarding purchase deeds.

Ms. Sehmel continued going over the staff recommended changes.

The commission then went over the public comments and the meeting held with Bradley Design Group. They worked on making the wording about landscaping design more positive. They decided to remove the sentence.

Mr. Gagliano asked that everyone read through the public comments and bring back their suggestions for any changes, to the next meeting on this topic.

Mr. Atkins went over the research he had done on other cities tree retention requirements.

Ms. Sehmel asked the commission if they wanted to include an opportunity for landscape architects to include not only native trees but a certain percentage of whatever type of trees they would like. She asked that they think about how that might work prior to the next meeting.

Discussion was held on making sure these regulations would not impact views in the waterfront area. It was decided that it needed further discussion.

Ms. Sehmel went over the schedule for upcoming meetings.

## **ADJOURNMENT**

MOTION: Move to adjourn the meeting at 7:35 p.m. Ekberg/Baldwin – Motion carried.



**City of Gig Harbor Planning Commission  
Work Study Session  
Civic Center  
May 1st, 2014  
5:00 pm**

**PRESENT:** Harris Atkins, Pam Peterson, Rick Gagliano, Reid Ekberg, Craig Baldwin, Bill Coughlin and Jim Pasin.

**STAFF PRESENT:** Staff: Lindsey Sehmel, Jennifer Kester, Christian Shope and Diane McBane.

**5:00 p.m. - Call to order, roll call**

**WORK STUDY SESSION**

**2015 Periodic Review**

Ms. Sehmel introduced the grant funded intern Christian Shope and explained that he would be working on the 2015 periodic review.

Ms. Sehmel then went over the materials for the mailing for the May 15<sup>th</sup> meeting. She asked the commission for feedback on what types of information they would like at the meeting and how best to communicate the information and educate the public. They discussed how to engage the public with different topic areas where people can ask questions. It was suggested that perhaps they could collect written questions and post them to the website. She went over the items to be covered at the open house. Ms. Sehmel also briefed the commission on the state requirements for comprehensive plan amendments. Mr. Gagliano noted that it should be clarified that although we are using Vision 2040 data, our requirements are to plan to 2030. He suggested graphing the data. Discussion continued on how much of this required public input. Ms. Sehmel then went over how much of the document staff will be working through and how much will require Planning Commission comments. It was discussed as to whether it was better to have a hearing at each element or just one hearing for the whole document. Mr. Gagliano asked about what happens if the public wants to look at one of the items on the checklist that we have determined no further review is required. Mr. Atkins stated that the commission will just need to be prepared to explain our reasoning for that decision. Mr. Coughlin suggested that there be a station at the open house that addresses the scope of this review. Discussion was held on how the public meetings went for the Shoreline Master Program and possibly following that example. Mr. Gagliano also noted that it would be helpful to get some information from professionals. Mr. Pasin spoke in favor of doing multiple public hearings in order to better manage the comments. Mr. Atkins asked that the commission also think about how our plan dovetails with what the county is adopting. Ms. Sehmel suggested that perhaps a meeting with the Pierce County Land Use Advisory Committee would be helpful. Mr. Gagliano emphasized the need to communicate to the public that the Growth

Management Act has been around a long time. Discussion followed on which room to hold the open house. It was decided to hold the open house in Community Rooms A and B and possibly utilize the hallway as well.

Chairman Atkins called a recess at 5:52 p.m. in order to begin the public hearing.

Mr. Atkins called the meeting to order at 5:58 p.m.

## **PUBLIC HEARING**

### **Historic District Railing Amendments -**

Ms. Kester went over the proposed amendment to railing standards within the Historic District. She gave a PowerPoint presentation on existing railings, explaining their compliance or noncompliance with the code. She explained that the Design Review Board came up with two design tiers, one set of railing design guidelines for historic registry eligible structures and another tier for those buildings not eligible. Ms. Kester also noted that these requirements were being proposed as not being applicable to over water gangways, piers and other over water structures for functional reasons.

Mr. Atkins opened the public hearing at 6:10 p.m.

#### **Wade Perrow, 9109 N Harborview Dr., Gig Harbor**

Mr. Perrow stated that he had provided an email to the commission. He stated that he had no comment regarding the requirements for structures on the historic registry or over water structures. Mr. Perrow said his comments were regarding structures not eligible for the historic registry. He stated that he didn't think the top and bottom rail was necessary and provided pictures of examples. He stated that the top rail is just a visual obstruction and wondered if it was really making anything better. He stated he didn't support the reasoning for limiting people to two types of railings. These requirements limit the designer when they are trying to design something specific to each lot.

#### **Darrin Filand, 1302 115<sup>th</sup> St Ct NW, Gig Harbor**

Mr. Filand noted that he serves as the Acting Chair of the city's Design Review Board. He noted that we are only talking about 1964 for a house to be eligible for the historic registry. He stated that he felt there should be language about railings being compatible with a home's historic design. Mr. Filand said that in regard to structures not eligible, without a top and bottom rail it appears more contemporary and less finished. He went on to say that the wire mesh type of railing is more utilitarian and didn't have any place within the historic district.

Mr. Atkins closed the public hearing at 6:20 p.m.



Ms. Kester reminded the commission that this is a change that would be provided to all property owners without going to the DRB or getting an alternative; however, they still have the ability to get an alternative through the director and the DRB, if it meets the bold language. She also noted that if the Planning Commission has questions about how the DRB got to this proposal they may wish to send this back to the DRB. Mr. Ekberg asked about the mesh wire and what the discussion had been at the DRB. Mr. Filand stated that the DRB had felt that it was more utility and did not have the same design character. Mr. Gagliano explained that what is being addressed here is new construction and what could be discussed is different language for existing homes replacing a railing. Ms. Peterson asked about the top rail, where it seems that it would be preferable for it to disappear. Mr. Gagliano explained that we require that a building have a visual cap and this creates consistency with less subjectivity. Mr. Atkins stated that he would like to spend more time looking at the comments received. He also noted that if they were suggesting substantial changes then they needed to send it back to the Design Review Board. Mr. Pasin felt that it was not in keeping with the historic district and this needed further discussion. He cautioned that what if someone who has a 49 year old house wants to put in a modern rail then we are not in keeping the historic character. He stated that if we are not going to do that then remove all the regulations. Mr. Gagliano said that would be rolling all the way back to 1996 and remove all the design regulations. Mr. Pasin stated that it's just inconsistent with our other regulations. Mr. Gagliano stated that that is exactly why the DRB created the multi tier approach. Ms. Kester stated that the city's historic preservation person is supportive of this recommendation. Mr. Atkins asked for a poll. Mr. Ekberg said he felt that more options could be given. Mr. Coughlin felt that they should meet with the DRB. Ms. Peterson said she felt that more flexibility could be given to new homes. Mr. Gagliano felt that there is potential to open up pandoras box and undo a lot of good work that has been done in the historic district. Mr. Atkins asked when they could meet with the DRB. Ms. Kester recommended that they meet on one of the DRB nights when they don't have a project schedule and that if they wanted to have a larger discussion about design standards within the historic district that wouldn't be this year. She will look at the calendar and get back to everyone. Mr. Pasin asked for some pictures of existing historic homes.

The Chair called a 5 minute recess before returning to a work study session.

The commission continued discussion on the 2015 periodic review.

Ms. Sehmel stated that they had left off talking about the land use overview to be held at the open house and how best to visually outline the checklist. Mr. Pasin stated that he felt the public will be really interested in the transportation element. Ms. Sehmel said she is meeting with our City Transportation Engineer Emily Appleton to discuss these issues. She will be asked if she can attend the open house to explain the transportation plan and how it may impact our element. Ms. Sehmel went over the various roles that the commissioners could play. She asked if they would prefer to man the stations or would they rather mill around. Mr. Gagliano said he felt that they should flip roles and ask the public questions. Mr. Atkins said that he really felt the tool where you poll the

community on certain topics was helpful, using the dot exercise. Mr. Ekberg emphasized the need to educate in order to get more meaningful feedback. Ms. Kester suggested that they also ask the public how they like to be communicated with regarding these topics, email, standard mail, etc.

Mr. Pasin stated that he won't be able to attend and Mr. Gagliano said that he might not be able to attend.

### **Tree Preservation and Retention Amendments -**

Ms. Sehmel gave an update on what still needs to be addressed to move this forward to the City Council. She noted that there is a special meeting on May 29<sup>th</sup> regarding this issue. She stated that there are still public comments that need to be addressed from the public hearing. Mr. Gagliano asked about how to address comments not within the scope of this project and Ms. Kester said they can document that certain comments don't apply to this set of amendments. Discussion was held on ways to gather further information in order to better develop the chart. Mr. Atkins stated that we started this process in order to put green first and he said then we got professional comments that said that isn't the way it's done, so they needed to come up with a new way to make people to think about trees first. Mr. Gagliano said that it was never the DRB's intent to retain more trees, it was to make it more flexible and plant more trees whether new or old. Mr. Coughlin asked whether we were contemplating rewriting this whole thing when it seems like we need to at least get to the number of retention. Ms. Kester said they need to decide on the 29<sup>th</sup> on the percentages on the modulating buffer. She noted that our current standards are not fundamentally broken we just need to tweak this some and to make the table less complicated. Mr. Coughlin asked for some ideas from other jurisdictions and Ms. Kester said that other jurisdictions don't do it the way we do. Mr. Atkins asked staff to come with some recommendations of other cities that have a method that works. Ms. Kester said she would provide that.

Ms. Sehmel asked about the use of native vs. non native and how they wanted to address that. Ms. Kester said that she didn't want a list of non natives that are preferred species.

Ms. Sehmel went over a list of outstanding items that were discussed but not formally voted on.

### **Adjournment –**

MOTION – Move to adjourn at 7:35. Ekberg/Gagliano – Motion passed.



**City of Gig Harbor Planning Commission  
Work Study Session  
Civic Center  
May 29th, 2014  
5:00 pm**

**PRESENT:** Harris Atkins, Rick Gagliano, Reid Ekberg, Craig Baldwin, Bill Coughlin and Jim Pasin. Pam Peterson was absent

**STAFF PRESENT:** Staff: Lindsey Sehmel and Jennifer Kester.

**5:00 p.m. - Call to order, roll call**

**WORK STUDY SESSION**

**Tree Preservation and Retention Amendments**

Mr. Atkins suggested that staff go over their recommendations in response to the comments from the previous meetings. Planning Director Jennifer Kester went over a draft of the suggested regulations. She stated that there had been a lot of formatting and editing in order to make the modulating buffers section easier to implement. Ms. Kester pointed out the substantive changes. She also distributed a preferred plantings list. Mr. Gagliano asked that they go through the comments that were not addressed for various reasons and how they can be addressed in the future. Ms. Kester went over each of the comments and noted whether they had been addressed and if not, why.

Discussion was held on the zone transition buffer and how it is not feasible. Ms. Kester felt that this was a larger issue about zone transitions in general so this item will be put onto the future consideration or "parking lot" list.

The comment from Ms. Richardson regarding tree planting in the harbor area was talked about. Ms. Kester stated that this seemed to be a general comment about what trees should be allowed and it would be a work program item as part of a change to the Harbor Element.

Ms. Kester went over how issues put into the "parking lot" will get implemented. She stated that they get added to the work program for the year and prioritized by the Planning and Building Committee.

MOTION: Move to approve the suggested Chapter 17.78 and forward the draft of 5/29/2014 as presented by the Planning Director to the City Council. Ekberg/Gagliano

—

Mr. Gagliano noted that on page 3 after the word "juxtaposed" the words "elements of" should be added. This change was added as a friendly amendment to the motion.

Mr. Coughlin arrived and was brought up to speed on what had been discussed so far.

Mr. Gagliano noted that there were some areas where the preferred plantings list needed to be referenced and wondered what the parameters were for how much applicants can deviate from the list and what the required percentage of native plantings should be. Mr. Gagliano suggested that they add the words "at least" so that it read "at least 80%". Mr. Pasin felt that it should be at least 90%. Discussion followed on the various trees and shrubs and which were native.

MOTION: Move to amend the motion on the table to change the 80% requirement for preferred plantings to at least 90%. Gagliano/Pasin –

Mr. Ekberg noted that since this was new territory he felt that more flexibility would be more appropriate. Mr. Baldwin agreed that more flexibility was warranted. Mr. Coughlin agreed although he did feel it was important to focus on native plantings. The motion failed. There was a friendly amendment to add the words "at least" before 80%.

Mr. Gagliano noted that 25% retention is being proposed rather than the previous chart and the significant tree definition has been changed back to 6". Ms. Kester went over how she came to her recommendations. She stated that she had looked at 10-15 other jurisdictions and the majority of them used 6". She also went over how other cities calculated retention. Mr. Ekberg asked if the proposed numbers had been applied to some current tree surveys that we have on file to see how this would change the project. Ms. Kester stated that she had not had time to perform that level of analysis. Mr. Gagliano noted that the goal with this proposal to provide more flexibility. Everyone felt that the 6" diameter and 25% retention requirement was a good balance.

Mr. Ekberg pointed out that the western red alder should be removed from the preferred species list. Ms. Kester stated that she would remove it. Discussion continued on what constituted temporary irrigation and the difference between a tree survey and a plan. It was decided to remove the words "by an ISA certified arborist" from the definition of significant tree as it was determined that if a tree is diseased or damaged staff still has the ability to ask for an arborists report.

Mr. Atkins asked noted that the formatting between the residential and non-residential needed to be more consistent. Ms. Kester went over other formatting issues.

MOTION: Move to amend the original motion to include the graphic proposed by staff to show the different options within 17.78.060 and 17.78.070. Gagliano/Pasin –

Minor wording changes were made to the graphic. Ms. Kester noted that there was some wording missing from the current code within 17.78.070 (A).

Motion carried.

MOTION: Move to amend the original motion 17.78.070 (1b) to read 2/3 rather than 1/3. Ekberg/Coughlin – Motion carried.

Mr. Pasin stated that some clarification was needed to the wording within 17.78.070 A.1.c. Ms. Kester suggested adding the word “site” and Mr. Gagliano suggested changing the word “reduced” to the word “remaining”. Everyone agreed.

Some minor wording changes were made to the intent section.

Mr. Atkins called for the question on the main motion as amended. The motion passed 4-0 with Mr. Pasin abstaining.

MOTION: Move for staff to prepare a notice of recommendation to the City Council for the Chairs signature. Gagliano/Pasin – Motion passed.

Discussion was held on the schedule of upcoming meetings. Ms. Sehmel went over the Vision 2030 update and discussion followed.

**Adjournment –**

MOTION – Move to adjourn at 6:51. Gagliano/Ekberg – Motion passed.





## Planning Department

<b><u>MEETING TYPE</u></b>	Planning Commission
<b><u>MEETING DATE</u></b>	June 5th, 2014
<b><u>SCRIBE</u></b>	Cindy Andrews
<b><u>PRESENT</u></b>	Harris Atkins, Chair, Jim Pasin, Vice Chair, Bill Coughlin, Reid Ekberg, Craig Baldwin
<b><u>START TIME</u></b>	5:10 p.m.
<b><u>ADJOURN</u></b>	7:34 pm
<b><u>MOTION</u></b>	Motion to adjourn: Atkins / Pasin

### Agenda topics

<b><u>DISCUSSION</u></b>	LAND USE ELEMENT – Chapter 2 of the Gig Harbor Comprehensive Plan
	Opening summary provided by Intern Christian Shope. 4 topics discussed
	<b>Item # 1 – Meeting the Housing Demand:</b> Planning Director Jennifer Kester and Senior Planner Lindsey Sehmel discussed buildable lands, residential density, housing needs and unit capacity. Maps and tables were provided for the discussion.
	<b>Item #2 – Managing the Urban Growth Potentials:</b> Senior Planner Lindsey Sehmel summarized the UGA boundaries and characteristics. Staff and Planning Commission members discussed annexations, water and sewer services. Planning Commission members requested water purveyor maps for their Gig Harbor 2030 binders.
	<b>Item # 3 – Centers of Local Importance:</b> Senior Planner Lindsey Sehmel provided summary. Staff and Planning Commission members discussed boundaries, inclusions and exclusions of areas. Planning Commission members polled on the potential boundaries and areas to be included or excluded. Maps were provided for the discussion.
	<b>Item #4 – Proposed Land Use and Zoning Consistency Table:</b> Planning Director Jennifer Kester and Senior Planner Lindsey Sehmel summarized the table. Planning Commission members discussed zoning, value and purpose, value and need, zoning designation and comprehensive plan designation also density vs consistency. Planning Commission members polled on their preferred approach and determined to move forward with the one staff presented. A table was provided for discussion. Staff will return with maps showing current inconsistencies with the desired approach.
	Discussion of upcoming meetings:
	Carryover of agenda item #2, The Housing Element, to the June 19 <sup>th</sup> meeting.
	Reminder of the June 26 <sup>th</sup> , joint Planning Commission and Design Review Board meeting.
	Cancellation of the July 3 <sup>rd</sup> regular Planning Commission meeting.

DIRECTION	MOTION TIME: N/A
Item #1 Minor revisions to language. Work to be completed; Page #2, reference to annexations and infill regarding growth. Page #3 clarify title of table #4	
Item #2 Provide water purveyor maps for the Gig Harbor 2030 Binders.	1 <sup>st</sup> N/A
Item #3 Revise map and language for the CoLIS to add Kimball Drive District and reduce Westside size.	2 <sup>nd</sup> N/A
Item #4 Revise language and provide maps for the June 19 <sup>th</sup> discussion.	



**To:** Mayor Guernsey and City Council   
**From:** David Rodenbach, Finance Director  
**Subject:** Quarterly Finance Report  
**Date:** July 28, 2014

The 2014 second quarter financial reports are attached.

Total resources, including all revenues and beginning fund balances, are at 46 percent of the annual budget. Revenues and expenditures, excluding internal transfers and beginning and ending fund balances, are 44 percent and 28 percent respectively of the annual budget. This compares with 41 percent and 29 percent for the same period in 2013.

General Fund revenues (excluding beginning fund balance) are at 53 percent of budget compared with 53 percent in 2013. Sales taxes are on pace to come in about eight percent over budget. Through June, building permit fee revenues are at 82 percent of the total year's budget. We are expecting this trend to continue through the end of the year with these revenues coming in about 32 percent (\$220,000) over budget.

General Fund expenditures are at 46 percent which is the same as we were in 2013. All General Fund departments are tracking on budget through the end of the second quarter.

Street Capital and Street Operating Fund revenues and expenditures have no significant deviations from budget.

Water, Sewer and Storm Sewer revenues are 43, 50 and 52 percent of budget; while expenditures for these three funds are at 32, 44 and 36 percent of budget. Second quarter 2013 amounts for water, sewer and storm were 47, 53 and 45 percent for revenues and 70, 51 and 26 percent for expenditures. All funds are fairly comparable with prior years except for Water expenditures. The large portion of 2013 Water budget expended was due to the Grandview Tank maintenance project, which was completed early in 2013 and accounted for 30 percent of year to date 2013 expenditures.

At this time cash balances are adequate in all funds. Most of the City's investments are in the State Treasurer's pool.



CITY OF GIG HARBOR  
CASH AND INVESTMENTS  
YEAR TO DATE ACTIVITY  
AS OF JUNE 30, 2014

FUND NO.	DESCRIPTION	BEGINNING BALANCE	REVENUES	EXPENDITURES	OTHER CHANGES	ENDING BALANCE
001	GENERAL GOVERNMENT	\$ 1,789,770	\$ 5,664,087	\$ 4,871,468	\$ (144,653)	\$ 2,437,736
101	STREET FUND	326,092	582,145	717,020	(41,417)	149,799
102	STREET CAPITAL FUND	494,120	217,962	401,721	(245,678)	64,682
105	DRUG INVESTIGATION FUND	8,028	154	-	-	8,182
106	DRUG INVESTIGATION FUND	21,534	10	1,758	-	19,786
107	HOTEL-MOTEL FUND	137,302	126,726	96,748	(8,711)	158,569
108	PUBLIC ART CAPITAL PROJECTS	92,195	41	11,185	-	81,050
109	PARK DEVELOPMENT FUND	634,829	764,501	422,211	(482,575)	494,544
110	CIVIC CENTER DEBT RESERVE	1,234,400	110	-	-	1,234,511
111	STRATEGIC RESERVE FUND	860,605	80,191	403,000	-	537,797
112	EQUIPMENT RESERVE FUND	150,431	50,094	-	-	200,525
113	CONTRIBUTIONS/DONATIONS	-	-	-	-	-
208	LTGO BOND REDEMPTION	3,989	647,403	627,794	-	23,599
211	UTGO BOND REDEMPTION	175,879	135,149	44,684	-	266,344
301	PROPERTY ACQUISITION FUND	364,146	139,721	148,700	-	355,167
305	GENERAL GOVT CAPITAL IMPR	307,295	138,393	148,700	-	296,988
309	IMPACT FEE TRUST	1,067,647	205,309	-	102,860	1,375,816
310	HOSPITAL BENEFIT ZONE	2,861,804	169,888	-	-	3,031,692
401	WATER OPERATING	481,527	636,405	667,431	(56,200)	394,301
402	SEWER OPERATING	1,013,626	1,922,424	2,184,661	(98,942)	652,447
403	SHORECREST RESERVE FUND	82,676	8,297	4,324	529	87,177
407	UTILITY RESERVE	1,374,163	5,677	140	(25)	1,379,675
408	UTILITY BOND REDEMPTION	2,954	1,251,618	1,161,465	-	93,107
410	SEWER CAPITAL CONSTRUCTION	6,100,924	791,802	650,627	(73,439)	6,168,660
411	STORM SEWER OPERATING FUND	417,393	387,328	283,585	(2,324)	518,812
412	STORM SEWER CAPITAL	174,964	150,594	76,712	(134,399)	114,448
420	WATER CAPITAL ASSETS	2,191	1,274,117	75,088	(32,160)	1,169,060
605	LIGHTHOUSE MAINTENANCE TRUST	1,837	1	-	(622)	1,215
631	MUNICIPAL COURT	12	66,609	43,561	(8,588)	14,472
		<u>\$ 20,182,330</u>	<u>\$ 15,416,757</u>	<u>\$ 13,042,583</u>	<u>\$ (1,226,344)</u>	<u>\$ 21,330,160</u>

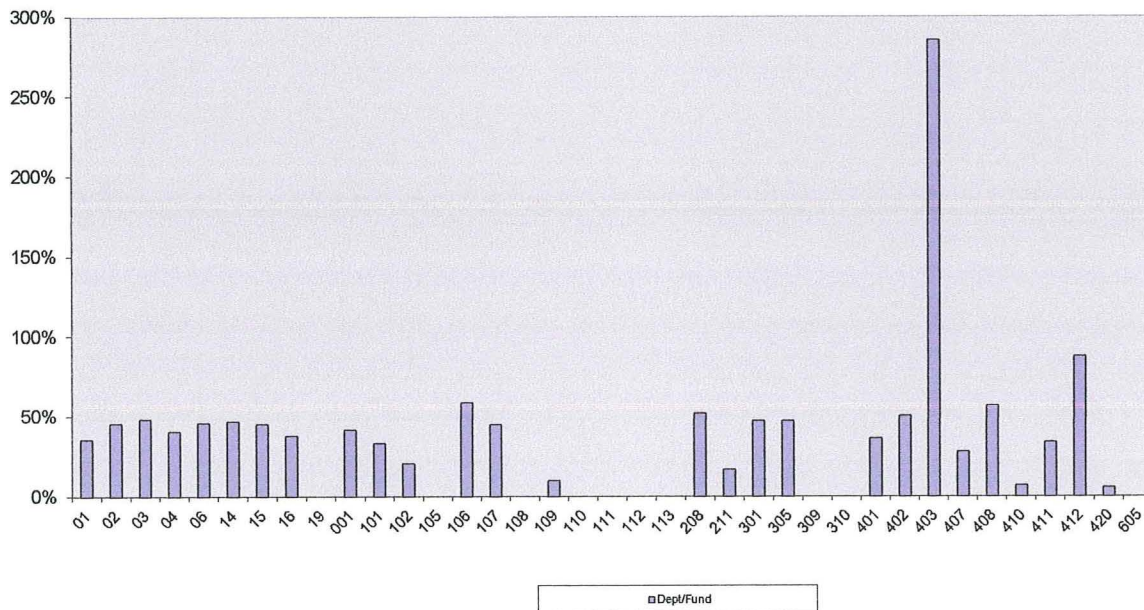
COMPOSITION OF CASH AND INVESTMENTS  
AS OF JUNE 30, 2014

	MATURITY	RATE	BALANCE
CASH ON HAND			300
CASH IN BANK			1,687,206
INVESTMENTS/US BANK	July 2014		318,978
INVESTMENTS/CD COLUMBIA BANK	May 2015	0.5000%	1,000,000
WSDOT ESCROW/CD COLUMBIA BANK	July 2014		2,000
INVESTMENTS/US BANK	July 2017	0.1250%	1,004,048
LOCAL GOVERNMENT INVESTMENT POOL		0.1807%	17,317,622
			<u>\$ 21,330,154</u>

CITY OF GIG HARBOR  
YEAR-TO-DATE EXPENDITURE SUMMARY  
AND COMPARISON TO BUDGET  
FOR PERIOD ENDING JUNE 30, 2014

FUND NO.	DESCRIPTION	ESTIMATED EXPENDITURES	ACTUAL Y-T-D EXPENDITURES	BALANCE OF ESTIMATE	PERCENTAGE (ACTUAL/EST.)
001	GENERAL GOVERNMENT				
01	NON-DEPARTMENTAL	\$ 3,690,849	\$ 1,310,367	\$ 2,380,482	36%
02	LEGISLATIVE	65,633	29,854	35,779	45%
03	MUNICIPAL COURT	402,900	194,757	208,143	48%
04	ADMINISTRATIVE/FINANCIAL	1,671,650	677,959	993,691	41%
06	POLICE	3,118,658	1,429,357	1,689,301	46%
14	COMMUNITY DEVELOPMENT	1,502,075	705,068	797,007	47%
15	PARKS AND RECREATION	841,400	379,914	461,486	45%
16	BUILDING	381,025	144,193	236,832	38%
19	ENDING FUND BALANCE	-	-	-	
001	TOTAL GENERAL FUND	11,674,190	4,871,468	6,802,722	42%
101	STREET FUND	2,156,371	717,020	1,439,351	33%
102	STREET CAPITAL FUND	1,957,000	401,721	1,555,279	21%
105	DRUG INVESTIGATION FUND	7,500	-	7,500	
106	DRUG INVESTIGATION FUND	3,000	1,758	1,242	59%
107	HOTEL-MOTEL FUND	215,850	96,748	119,102	45%
108	PUBLIC ART CAPITAL PROJECTS	25,000	11,185	13,815	
109	PARK DEVELOPMENT FUND	4,284,700	422,211	3,862,489	10%
110	CIVIC CENTER DEBT RESERVE	-	-	-	
111	STRATEGIC RESERVE FUND	403,000	403,000	-	
112	EQUIPMENT RESERVE FUND	-	-	-	
113	DONATIONS/CONTRIBUTIONS	-	-	-	
208	LTGO BOND REDEMPTION	1,211,142	627,794	583,349	52%
211	UTGO BOND REDEMPTION	266,368	44,684	221,684	17%
301	PROPERTY ACQUISITION FUND	313,700	148,700	165,000	47%
305	GENERAL GOVT CAPITAL IMPR	313,700	148,700	165,000	47%
309	IMPACT FEE TRUST	86,000	-	86,000	
310	HOSPITAL BENEFIT ZONE	1,594,000	-	-	
401	WATER OPERATING	1,843,217	667,431	1,175,786	36%
402	SEWER OPERATING	4,334,037	2,184,661	2,149,376	50%
403	SHORECREST RESERVE FUND	1,516	4,324	(2,808)	285%
407	UTILITY RESERVE	500	140	360	28%
408	UTILITY BOND REDEMPTION	2,051,279	1,161,465	889,814	57%
410	SEWER CAPITAL CONSTRUCTION	9,669,900	650,627	9,019,273	7%
411	STORM SEWER OPERATING FUND	835,152	283,585	551,567	34%
412	STORM SEWER CAPITAL	87,800	76,712	11,088	87%
420	WATER CAPITAL ASSETS	1,343,100	75,088	1,268,012	6%
605	LIGHTHOUSE MAINTENANCE TRUST	-	-	-	
631	MUNICIPAL COURT	-	43,561	(43,561)	
		\$ 44,678,022	\$ 13,042,583	\$ 30,041,439	29%

**Expenditures as a Percentage of Annual Budget**



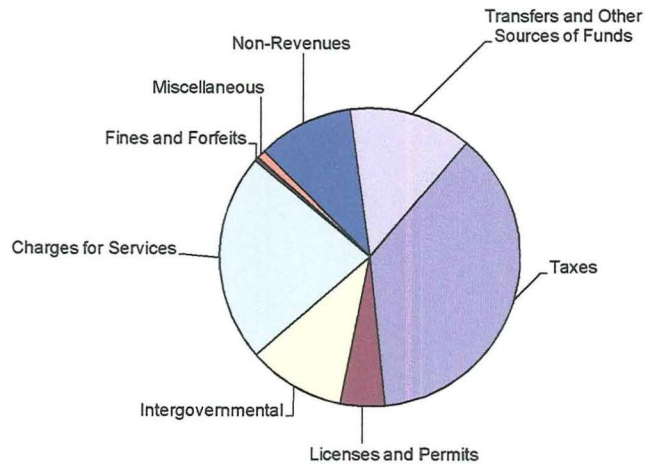
**CITY OF GIG HARBOR  
YEAR-TO-DATE REVENUE SUMMARY  
BY TYPE  
FOR PERIOD ENDING JUNE 30, 2014**

<u>TYPE OF REVENUE</u>	<u>AMOUNT</u>
Taxes	\$ 5,416,080
Licenses and Permits	698,939
Intergovernmental	1,524,812
Charges for Services	3,272,396
Fines and Forfeits	61,476
Miscellaneous	144,755
Non-Revenues	1,499,145
Transfers and Other Sources of Funds	1,926,544
Total Revenues (excludes Court Pass Thru)	<u>14,544,148</u>
Beginning Cash Balance	20,182,318
Total Resources	<u>\$ 34,726,466</u>

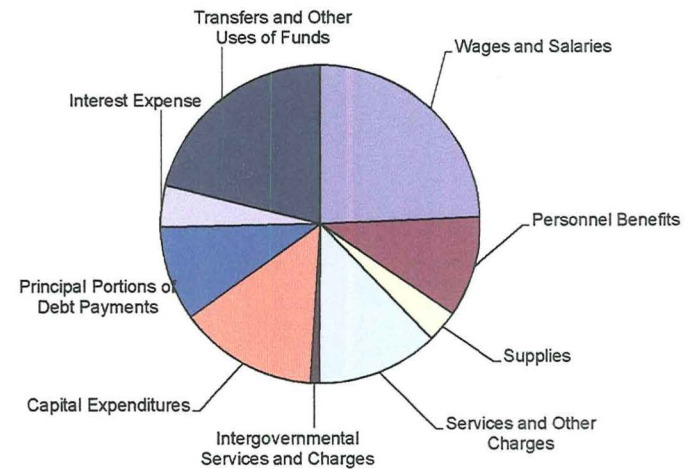
**CITY OF GIG HARBOR  
YEAR-TO-DATE EXPENDITURE SUMMARY  
BY TYPE  
FOR PERIOD ENDING JUNE 30, 2014**

<u>TYPE OF EXPENDITURE</u>	<u>AMOUNT</u>
Wages and Salaries	\$ 3,147,413
Personnel Benefits	1,325,231
Supplies	420,863
Services and Other Charges	1,607,741
Intergovernmental Services and Charges	109,991
Capital Expenditures	1,821,281
Principal Portions of Debt Payments	1,239,412
Interest Expense	549,861
Transfers and Other Uses of Funds	2,732,544
Total Expenditures (excludes Court Pass Thru)	<u>12,954,338</u>
Ending Cash Balance	21,330,154
Total Uses	<u>\$ 34,284,492</u>

**Revenues by Type - All Funds**



**Expenditures by Type - All Funds**





**CITY OF GIG HARBOR  
STATEMENT OF FINANCIAL POSITION  
AS OF DECEMBER 31, 2013**

	SPECIAL REVENUE FUNDS										
	001 GENERAL GOVERNMENT	101 STREET STREET	102 STREET CAPITAL	105 DRUG INVESTIGTN	106 DRUG INVESTIGTN	107 HOTEL - MOTEL	108 PUBLIC ART PROJECTS	109 PARK DVLP FUND	110 CIVIC CTR DEBT RESERVE	111 STRATEGIC RESERVE	112 EQUIPMENT RESERVE
<b>ASSETS</b>											
CASH	\$ 175,003	\$ 13,299	\$ 5,742	\$ 726	1,757	\$ 14,077	\$ 7,196	\$ 43,905	\$ 20,819	\$ 47,745	\$ 17,802
INVESTMENTS	2,262,732	136,500	58,940	7,455	18,029	144,492	73,855	450,639	1,213,691	490,052	182,723
RECEIVABLES	1,391,321	3,086	21,603	-	-	45,370	-	-	312,400	-	-
FIXED ASSETS	-	-	-	-	-	-	-	-	-	-	-
OTHER	-	-	-	-	-	-	-	-	-	-	-
<b>TOTAL ASSETS</b>	<b>3,829,057</b>	<b>152,885</b>	<b>86,286</b>	<b>8,182</b>	<b>19,786</b>	<b>203,939</b>	<b>81,050</b>	<b>494,544</b>	<b>1,546,911</b>	<b>537,797</b>	<b>200,525</b>
<b>LIABILITIES</b>											
CURRENT	(105,728)	3,000	0	-	-	-	-	-	-	-	-
LONG TERM	63,702	-	-	-	-	-	-	-	-	-	-
<b>TOTAL LIABILITIES</b>	<b>(42,026)</b>	<b>3,000</b>	<b>0</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>FUND BALANCE:</b>											
BEGINNING OF YEAR	3,078,464	284,760	270,045	8,028	21,534	173,961	92,195	152,254	1,546,800	860,605	150,431
Y-T-D REVENUES	5,664,087	582,145	217,962	154	10	126,726	41	764,501	110	80,191	50,094
Y-T-D EXPENDITURES	(4,871,468)	(717,020)	(401,721)	-	(1,758)	(96,748)	(11,185)	(422,211)	-	(403,000)	-
<b>ENDING FUND BALANCE</b>	<b>3,871,083</b>	<b>149,885</b>	<b>86,286</b>	<b>8,182</b>	<b>19,786</b>	<b>203,939</b>	<b>81,050</b>	<b>494,544</b>	<b>1,546,911</b>	<b>537,797</b>	<b>200,525</b>
<b>TOTAL LIAB. &amp; FUND BAL.</b>	<b>\$ 3,829,057</b>	<b>\$ 152,885</b>	<b>\$ 86,286</b>	<b>\$ 8,182</b>	<b>19,786</b>	<b>\$ 203,939</b>	<b>\$ 81,050</b>	<b>\$ 494,544</b>	<b>\$ 1,546,911</b>	<b>\$ 537,797</b>	<b>\$ 200,525</b>

CITY OF GIG HARBOR  
STATEMENT OF FINANCIAL POSITION  
AS OF JUNE 30, 2013

CITY OF GIG HARBOR  
STATEMENT OF FINANCIAL POSITION  
AS OF JUNE 30, 2013

	SPECIAL REVENUE FUNDS							TOTAL SPECIAL REVENUE	208 LTGO BOND REDEMPTION	211 UTGO BOND REDEMPTION	TOTAL DEBT SERVICE
	301 PROPERTY ACQUISITION	305 GEN GOVT CAPITAL	309 IMPACT FEE TRUST FUNI	310 HOSPITAL BENEFIT	605 LIGHTHOUSE MAINT	631 MUNICIPAL COURT					
<b>ASSETS</b>											
CASH	\$ 31,531	\$ 26,366	\$ 122,142	\$ 269,148	\$ 108	\$ 14,472	\$ 636,834	\$ 2,095	\$ 23,646	\$ 25,741	
INVESTMENTS	323,636	270,622	1,253,674	2,762,544	1,107	-	7,387,961	21,504	242,699	264,202	
RECEIVABLES	-	-	-	-	-	-	382,459	-	9,723	9,723	
FIXED ASSETS	-	-	-	-	-	-	-	-	-	-	
OTHER	-	-	-	-	-	-	-	-	-	-	
<b>TOTAL ASSETS</b>	<b>355,167</b>	<b>296,988</b>	<b>1,375,816</b>	<b>3,031,692</b>	<b>1,215</b>	<b>14,472</b>	<b>8,407,254</b>	<b>23,599</b>	<b>276,068</b>	<b>299,666</b>	
<b>LIABILITIES</b>											
CURRENT	-	-	152,900	-	-	-	155,900	-	-	-	
LONG TERM	-	-	-	-	-	-	-	-	6,721	6,721	
<b>TOTAL LIABILITIES</b>	<b>-</b>	<b>-</b>	<b>152,900</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>155,900</b>	<b>-</b>	<b>6,721</b>	<b>6,721</b>	
<b>FUND BALANCE:</b>											
BEGINNING OF YEAR	364,146	307,295	1,017,607	2,861,804	1,215	(8,565)	8,104,116	3,989	178,881	182,870	
Y-T-D REVENUES	139,721	138,393	205,309	169,888	1	66,597	2,541,845	647,403	135,149	782,552	
Y-T-D EXPENDITURES	(148,700)	(148,700)	-	-	-	(43,561)	(2,394,605)	(627,794)	(44,684)	(672,478)	
<b>ENDING FUND BALANCE</b>	<b>355,167</b>	<b>296,988</b>	<b>1,222,916</b>	<b>3,031,692</b>	<b>1,215</b>	<b>14,472</b>	<b>8,251,355</b>	<b>23,599</b>	<b>269,347</b>	<b>292,945</b>	
<b>TOTAL LIAB. &amp; FUND BAL.</b>	<b>\$ 355,167</b>	<b>\$ 296,988</b>	<b>\$ 1,375,816</b>	<b>\$ 3,031,692</b>	<b>\$ 1,215</b>	<b>\$ 14,472</b>	<b>\$ 8,407,255</b>	<b>\$ 23,599</b>	<b>\$ 276,068</b>	<b>\$ 299,666</b>	

**CITY OF GIG HARBOR  
STATEMENT OF FINANCIAL POSITION  
AS OF DECEMBER 31, 2013**

	PROPRIETARY										TOTAL PROPRIETARY	TOTAL
	401 WATER OPERATING	402 SEWER OPERATING	403 SHORECREST RESERVE	407 UTILITY RESERVE	408 UTILITY BOND REDEMPTION	410 SEWER CAP. CONST.	411 STORM SEWER OPERATING	412 STORM SEWER CAPITAL	420 WATER CAP. ASSETS			
<b>ASSETS</b>												
CASH	\$ 35,096	\$ 58,014	\$ 7,739	\$ 33,347	\$ 8,266	\$ 547,642	\$ 46,059	\$ 10,160	\$ 103,609	\$	\$ 849,934	\$ 1,687,512
INVESTMENTS	359,205	594,433	79,438	1,346,327	84,841	5,621,018	472,752	104,287	1,065,451		9,727,753	19,642,648
RECEIVABLES	197,171	583,957	2,605	5,823	49,970	-	184,921	-	-		1,024,447	2,807,951
FIXED ASSETS	8,822,287	32,853,905	-	-	-	1,253,849	2,807,019	53,479	1,401,745		47,192,286	47,192,286
OTHER	-	-	-	-	142,910	-	-	-	-		142,910	142,910
<b>TOTAL ASSETS</b>	<b>9,413,760</b>	<b>34,090,309</b>	<b>89,783</b>	<b>1,385,498</b>	<b>285,986</b>	<b>7,422,509</b>	<b>3,510,752</b>	<b>167,927</b>	<b>2,570,805</b>		<b>58,937,328</b>	<b>71,473,306</b>
<b>LIABILITIES</b>												
CURRENT	1,013	25	-	-	1,346,074	-	29	-	9		1,347,150	1,397,322
LONG TERM	61,885	89,909	-	-	20,203,671	-	46,754	-	-		20,402,219	20,472,642
<b>TOTAL LIABILITIES</b>	<b>62,898</b>	<b>89,934</b>	<b>-</b>	<b>-</b>	<b>21,549,745</b>	<b>-</b>	<b>46,783</b>	<b>-</b>	<b>9</b>		<b>21,749,369</b>	<b>21,869,964</b>
<b>FUND BALANCE:</b>												
BEGINNING OF YEAR	9,381,887	34,262,612	85,810	1,379,961	(21,353,912)	7,281,334	3,360,226	94,044	1,371,767		35,863,729	47,229,179
Y-T-D REVENUES	636,405	1,922,424	8,297	5,677	1,251,618	791,802	387,328	150,594	1,274,117		6,428,262	15,416,747
Y-T-D EXPENDITURES	(667,431)	(2,184,661)	(4,324)	(140)	(1,161,465)	(650,627)	(283,585)	(76,712)	(75,088)		(5,104,032)	(13,042,583)
<b>ENDING FUND BALANCE</b>	<b>9,350,861</b>	<b>34,000,376</b>	<b>89,783</b>	<b>1,385,498</b>	<b>(21,263,759)</b>	<b>7,422,509</b>	<b>3,463,969</b>	<b>167,927</b>	<b>2,570,796</b>		<b>37,187,959</b>	<b>49,603,342</b>
<b>TOTAL LIAB. &amp; FUND BAL.</b>	<b>\$ 9,413,760</b>	<b>\$ 34,090,309</b>	<b>\$ 89,783</b>	<b>\$ 1,385,498</b>	<b>\$ 285,986</b>	<b>\$ 7,422,509</b>	<b>\$ 3,510,752</b>	<b>\$ 167,927</b>	<b>\$ 2,570,805</b>		<b>\$ 58,937,329</b>	<b>\$ 71,473,308</b>





## Minutes for Workstudy Session: Gig Harbor City Council

**DATE:** Jul 21, 2014  
**TIME:** 5:30 p.m.  
**LOCATION:** Community Rooms A & B  
**SCRIBE:** Molly Towslee, City Clerk  
**MEMBERS PRESENT:** Councilmembers Malich, Arbenz, Perrow, Lovrovich, and Payne.  
**STAFF PRESENT:** Ron Williams, Lt. Busey, Jennifer Kester, Lindsey Sehmel, Molly Towslee and City Attorney Angela Summerfield.

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**CALL TO ORDER:** In the absence of the Mayor and Mayor Pro Tem, Councilmember Payne called the worksession to order at 5:30 p.m.

### **PLEDGE OF ALLEGIANCE:**

After roll call, Councilmember Payne announced to the members of the audience that this is a Council workstudy session with no opportunity for public comment. He added that there would be an opportunity for the public to speak at the upcoming public hearing.

### **BUSINESS TO DISCUSS:**

1. Scope of Marijuana Ordinance. Senior Planner Lindsey Sehmel presented an overview of what has occurred to date and the scope of potential amendments to GHMC 17.63 under current moratorium.

Planning Director Jennifer Kester said staff would like specific direction for what amendments Council would like to be presented at the upcoming public hearing for proper noticing. She explained that the scope could be reduced at the public hearing, but it could not be added to.

Councilmembers discussed the 11 possible amendments, asking for clarification from staff. They made recommendations as follows:

1. Consideration of a reduced buffer from “non-traditional school sites,” such as 500 feet instead of 1,000.
  - o Stay with 1000.
2. ~~Consideration of amending the definition of “Perimeter” to include sites that are developed with a binding site plan or condominiums.~~
  - o Delete from consideration.

3. Consideration of amending the definition of “Recreational Center” to include for-profit businesses.
  - o Include “for profit” for possible consideration during the public hearing.
4. Consideration of amending the definition of “Public Parks” to include the Hollycroft Trailhead Park.
  - o Include both for consideration at the public hearing.
5. Adding definition of marijuana concentrates in alignment with changes in state law.
  - o Include.
6. Consider inclusion of vacant undeveloped property owned by the City, Peninsula School District, and Library Districts as sensitive uses that require a protection buffer.
  - o Include the School District property, and city-owned properties included in the PROS Plan.
7. Consider inclusion of privately owned and operated playgrounds (HOAs, Corporate entities, etc.) that are open to the public as a sensitive use that requires a protection buffer.
  - o Include for consideration during the public hearing.
8. Consider city-wide vote regarding the siting locations for retail uses.
  - o Resolution to be brought for consideration at the July 28<sup>th</sup> Council meeting.
9. Discuss the potential impacts/implications of an outright ban or de-facto ban of marijuana retail uses.
  - o Discuss during consideration for advisory vote on July 28<sup>th</sup>.
- ~~10. Consider only allowing retail on the periphery of the City in the C-1 and B-2 zones.~~
  - ~~o Delete from consideration.~~
11. Consideration of making permanent the 2,500 foot buffer between Marijuana related uses.
  - o Include in Ordinance.
12. Allow Retail in the ED Zone.
  - o Include for consideration.

Planning Director Jennifer Kester asked for clarification on the process moving forward. Staff was asked to find out the cost of an advisory ballot measure for the November 4<sup>th</sup> election, and to bring forward the required resolution on the July 28<sup>th</sup> meeting for consideration.

In addition, staff was asked to move forward with amendments that were discussed tonight, and to publically notice the August 11th Public Hearing in case the resolution is not adopted. If the Resolution is adopted on July 18th, the public notice would then be amended to notice a public hearing and adoption of an Ordinance to extend the moratorium currently in place.

City Attorney Angela Summerfield advised Council that an Explanatory Statement for the advisory vote would be prepared for inclusion with the Resolution. We would need

persons to be appointed to the “For” and “Against” Committees in time for the August 5<sup>th</sup> deadline if the resolution is adopted.

2. Bonney Lake Urban Growth Area Proposal. Planning Director Jennifer Kester presented the background for this proposal from the City of Bonney Lake to increase the size of their Urban Growth Area by “trading” for a portion of Gig Harbor’s UGA. She showed a map of the only areas in the city’s UGA that might qualify, and explained that Council could take the following actions:

- a. Write a letter of Support for this action.
- b. Actively participate in the proposal to reduce the city’s UGA.
- c. Decline the proposal to reduce the city’s UGA.
- d. Stay silent on the issue and wait for Pierce County’s request to provide comment later on.

City Administrator Ron Williams advised that there is no time to study or to accept public comment on the reduction of the city’s UGA.

After discussion it was decided to stay silent on the issue but to let Bonney Lake know there isn’t much support for their proposal.

There was no further discussion and the worksession adjourned at 8:30 p.m.





Business of the City Council  
City of Gig Harbor, WA

**Subject: Appointments to Parks Commission**

**Proposed Council Action:**

A motion for the appointments of Nicole Hicks and Gregg Vermillion to serve 3 year terms on the Parks Commission.

**Dept. Origin:** Administration

**Prepared by:** Boards/Commission Review Committee

**For Agenda of:** July 28, 2014

**Exhibits:**

**Concurred by Mayor:**

**Approved by City Administrator:**

**Approved as to form by City Atty:**

**Approved by Finance Director:**

**Approved by Department Head:**

Initial & Date

*SE* 7/27/14

*PW* 7/18/14

*NA*

*NA*

\_\_\_\_\_

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

**INFORMATION / BACKGROUND**

Council recently voted to increase the number of Parks Commission members from five to seven creating two vacancies. We received four applications; two lived outside the Urban Growth Area. The other two applicants that applied are Nicole Hicks and Gregg Vermillion.

**FISCAL CONSIDERATION**

N/A

**BOARD OR COMMITTEE RECOMMENDATION**

The Boards and Candidate Review Committee recommends the appointments of both Nicole Hicks and Gregg Vermillion. Both candidates have been contacted regarding their appointments.

**RECOMMENDATION / MOTION**

**Move to:** A motion for the appointments of Nicole Hicks and Gregg Vermillion to serve 3 year terms on the Parks Commission ending March 2017.



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

**Subject:** Second Reading – Ordinance Amending Section 10.22.070 Bicycle Safety And Helmets to Increase the Penalty in Compliance with Legislative Mandates Regarding Traffic Infractions.

**Proposed Council Action:** Adopt Ordinance No 1300.

**Dept. Origin:** Court  
**Prepared by:** Stacy Colberg  
**For Agenda of:** July 28, 2014  
**Exhibits:** Ordinance 1300  
Initial & Date

**Concurred by Mayor:**  
**Approved by City Administrator:** RW 7/21/14  
**Approved as to form by City Atty:** 7/21/14 email  
**Approved by Finance Director:** SC 7/21/14  
**Approved by Department Head:** 7/21/14 sc

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

The City Council adopted bicycle safety and helmet regulations in Chapter 10.22 of the Gig Harbor Municipal Code in 1996. Violations of this chapter are considered a traffic infraction, consistent with RCW 46.61.750.

RCW 46.63.110 requires that the penalty for traffic infractions include the base penalty, as established by the Supreme Court (IRLJ 6.2), plus the statutory assessments. The base penalty for bicycle infractions is \$32. Statutory assessments currently total \$71. Thus, the total penalty must be no less than \$103 to meet the minimum requirements of the law.

It is proposed that the penalty under this Chapter be amended to \$124.00 which is in line with other rules of the road traffic infractions. This amount covers the base penalty, plus mandatory assessments, and leaves room for the court to mitigate in some cases.

**FISCAL CONSIDERATION**

None

**BOARD OR COMMITTEE RECOMMENDATION**

None

**RECOMMENDATION / MOTION**

Adopt Ordinance at Second Reading.

ORDINANCE NO. 1300

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO BICYCLE SAFETY AND HELMETS; AMENDING SECTION 10.22.070 OF THE GIG HARBOR MUNICIPAL CODE TO INCREASE THE PENALTY IN COMPLIANCE WITH STATE LAW REGARDING TRAFFIC INFRACTIONS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, the City adopted Bicycle Safety and Helmets under Chapter 10.22 of the Gig Harbor Municipal Code; and

WHEREAS, Chapter 10.22 of the Gig Harbor Municipal Court establishes bicycle safety requirements within the city limits, punishable as a traffic infraction GHMC 10.22.070; and

WHEREAS, the City Council desires to increase the penalty to incorporate the mandatory statutory requirements on all traffic infractions; Now, therefore,

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

Section 1. Section 10.22.070 - Amended. Section 10.22.070 of the Gig Harbor Municipal Code is amended as follows:

**10.22.070 Penalties – Traffic infraction.**

A. Any person violating any of the provisions of this chapter shall have committed a traffic infraction and shall be liable for monetary penalties not to exceed ~~\$25.00~~ \$124.00.

B. The court may waive, reduce, or suspend the penalty and clear the citation as a warning for a person who has not been cited under this chapter within one year, and provides proof that he or she has acquired an approved bicycle helmet at the time of appearance in court.

C. A guardian may be cited for a separate violation of this chapter for each child under 16 years of age riding on or in tow of a bicycle not wearing an approved helmet.

D. Each rental and each event under subsection A of this section shall be a separate violation.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be unconstitutional by a court of competent jurisdiction,



such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall take effect and be in full force and effect five 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 28th day of July, 2014.

CITY OF GIG HARBOR

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Mayor Jill Guernsey

ATTEST/AUTHENTICATED:

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Molly M. Towslee, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

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Angela G. Summerfield

FILED WITH THE CITY CLERK: 07/09/14  
PASSED BY THE CITY COUNCIL: 07/28/14  
PUBLISHED: 07/30/14  
EFFECTIVE DATE: 08/04/14  
ORDINANCE NO: 1300



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

**Subject:** Lift Station 4B Project - Consultant Services Contracts for Value Engineering Services.

**Proposed Council Action:** Approve and authorize the Mayor to:

Execute a Consultant Services Contract with Robinson, Stafford & Rude, Inc. for value engineering services in an amount not-to-exceed \$40,383.00.

**Dept. Origin:** Public Works/Engineering

**Prepared by:** Stephen Misiurak, P.E.  
City Engineer

**For Agenda of:** July 28, 2014

**Exhibits:** Consultant Services Contracts with Scope and Fee

Initial &  
Date

**Concurred by Mayor:**

**Approved by City Administrator:**

*RW 7/23/14*

**Approved as to form by City Atty:**

*By email 7/22/14*

**Approved by Finance Director:**

*[Signature]*

**Approved by Public Works Director:**

*[Signature]*

**Approved by City Engineer:**

*[Signature] 7/22/14*

<b>Expenditure Required</b>	\$40,383.00	<b>Amount Budgeted</b>	\$2,510,000	<b>Appropriation Required</b>	\$0
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**INFORMATION/BACKGROUND**

At the conclusion of the June 23, 2014 Council work study session, Council directed staff to procure a consultant to perform a value engineering (VE) study on the Lift Station 4B site and to also conduct an open house and to bring those results of the VE study and the open house back to Council for further discussion. This proposed consultant services contract provides for the VE study as summarized in their scope of services.

**FISCAL CONSIDERATION**

Sufficient funds exist within the waste water capital fund to fund this expenditure.

**BOARD OR COMMITTEE RECOMMENDATION**

Council requested staff proceed with this VE study.

**RECOMMENDATION/MOTION**

Approve and authorize the Mayor to:

Execute a Consultant Services Contract with Robinson, Stafford & Rude, Inc. for value engineering services in amount not-to-exceed \$40,383.00.

**PROFESSIONAL SERVICES CONTRACT**  
**(Architects, Engineers, Land Surveyors, Landscape Architects)**  
**BETWEEN THE CITY OF GIG HARBOR AND**  
**ROBINSON, STAFFORD & RUDE, INC.**

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

**RECITALS**

WHEREAS, the City is presently engaged in Value Engineering Services on the Lift Station 4 B 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 Forty Thousand Three Hundred Eighty Three Dollars and Zero Cents (\$40,383.00) 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. 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 on or before March 1, 2015; 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:  
Robinson, Stafford & Rude, Inc.  
ATTN: David A. Hamilton, P.E., CVS-Life,  
CCP, LEED, Vice President  
558 SW 333<sup>rd</sup> Court  
Federal Way, WA 98023


City of Gig Harbor  
ATTN: Stephen Misiurak, P.E.  
City Engineer  
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:   
Its: VICE PRESIDENT

CITY OF GIG HARBOR

By: \_\_\_\_\_  
Mayor Jill Guernsey

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## EXHIBIT A

### SCOPE OF WORK CITY OF GIG HARBOR – LIFT STATION #4B 24-HOUR VALUE ENGINEERING STUDY

#### WORK TO BE PERFORMED

VE Consultant will provide the following services in accordance with this scope of services and the terms of the Agreement.

#### VE STUDY TEAM

The VE Study Team for this workshop will consist of the following:

Name/Discipline	Supplied by
David A. Hamilton, PE, CVS-Life, CCP, LEED <sup>AP</sup> , ENV-SP Project Manager/VE Team Leader	Robinson, Stafford & Rude, Inc.
Nina Stafford, AVS, VE Team Assistant	Robinson, Stafford & Rude, Inc.
Carl Jonasson, PE, Construction Manager	Robinson, Stafford & Rude, Inc.
Charles Allaben, PE, Hydraulics Engineer	Robinson, Stafford & Rude, Inc.

VE Consultant will provide the VE team members identified to be provided by VE Consultant in this scope of work. All other VE team members will be provided by the Client, at no cost to VE Consultant. VE Consultant will communicate directly with all team members relative to scheduling, pre-workshop, workshop and post workshop activities.

#### PRE-WORKSHOP ACTIVITIES

VE Consultant will perform pre-workshop activities to include those tasks which must be accomplished in order for the VE team to be able to efficiently and effectively perform in the workshop. These activities will consist of:

- scheduling study tasks
- scheduling and coordination with VE team members
- assisting the Client with scheduling study participants
- coordination of the necessary project documentation on the project for distribution by the Client to the VE team members
- document review by VE Consultant-supplied team members
- preparation of cost models, contingent on supply by client of the information needed for their preparation.

The Client will distribute the project documents and materials to be studied to the VE team members at least five working days prior to the workshop start. All team members except the cost estimator are to spend 4 hours reviewing the project documents and materials prior to the start of the workshop. The cost estimator will spend 12 hours reviewing the documents and validating the cost estimate provided by the client.

#### ORIENTATION/FOCUS MEETING

The VE Consultant will facilitate a 4-hour Orientation/Focus meeting for the purpose of gathering all project information on the current lift station, i.e. location, hydraulic requirements, geometric layouts, electrical power needs, operation/maintenance access requirements, etc. During the meeting, input will be gathered concerning local



## SCOPE OF SERVICES

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public preferences, and the establishment of weighed attributes for siting the pump station, i.e., constructability, local disruption, environmental, historical preservation, business impacts, aesthetics, odor control, etc.). These weighed attributes will be used for evaluation of the existing lift station alternatives, review of new options which may be identified by the VE team, and rating of the most favorable pump station locations.

### **WORKSHOP**

VE Consultant will conduct a 24-hour value engineering workshop using a job plan that is consistent with the practices and procedures recognized by SAVE International. The workshop will include an Information Phase, a Function Analysis Phase, a Creative Phase, a Judgment Phase, a Development Phase, and a Presentation Phase. A site visit for the team members will be conducted on the first day of the VE workshop.

The workshop will be initiated by presentations from the Client who will describe the objectives of the project and any constraints that will be placed on the VE study. The project design team will explain specifically how the design accomplishes the Client's objectives and the details of that design. The workshop will include a complete function analysis of the major project elements. The team will generate a list of ideas for project improvement followed by an evaluation of those ideas. This evaluation will include input from key Client decision makers before proceeding with development of recommendations. On the last day of the workshop, a presentation of the recommendations will be provided to the Client decision makers.

The workshop will be held at the City of Gig Harbor, Civic Center Building. The cost of providing the workshop refreshments and all other costs associated with the meeting facilities, including telephone, photocopying, and internet service will be borne by the Client.

To make sure the VE team has complete information about the project criteria, the Client will provide at a minimum, the Client Project Manager and appropriate key members of the design team for the first day and last day presentations as well as the mid-point review meeting.

### **POST WORKSHOP**

VE Consultant will conduct a four-hour post-workshop VE Implementation Meeting at a location in the City of Gig Harbor, Civic Center Building following receipt by the VE team leader of the written designer responses to the Preliminary VE Report. The purpose of this Implementation Meeting is to assist the Client in making decisions regarding acceptance or rejection of the individual VE recommendations. Attendees will consist of key Client staff, key designer staff and the VE team leader.

### **PRESENTATIONS**

VE consultant will be available to present the study findings to the City of Gig Harbor in two separate meetings, Publics Works Sub-committee, and the City Council. The VE Team Leader will prepare a PowerPoint presentation for each meeting along with appropriate handouts.

### **MUTUAL UNDERSTANDING OF SERVICES**

Client and VE Consultant agree that the purpose of value analysis and value engineering is the identification and presentation of recommendations for improvement of project or process value, for consideration by the Client and their other professional advisors. Both parties understand that as a part of these services, VE Consultant does no design work and makes no project decisions. Client and VE Consultant agree that Consultant will be liable to the Client only for damages arising from VE Consultant's negligence in the performance of the Value Analysis or Value Engineering work itself, and only to the extent that such negligence damages the Client.

## SCOPE OF SERVICES

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### SCHEDULE

The work will be performed in accordance with the following schedule.

Pre-Study Activities	Upon receipt of the design documents
Orientation/Focus Meeting	4-hour meeting the week prior to the VE study; date to be determined
Workshop	TBD
Preliminary VE Study Report	Three working Days after completion of the Workshop
Implementation Meeting	On a date to be mutually determined by VE Consultant and the Client
Draft Final VE Study Report	On a date to be mutually determined by VE Consultant and the Client
Final VE Study Report	On a date to be mutually determined by VE Consultant and the Client
Presentations to City (Two)	TBD (Presentations to Public Works Subcommittee and City Council)

### DELIVERABLES

This VE study effort will include the following deliverables, all of which are related to the results of the workshop. These deliverables are:

- Orientation/Focus Meeting Agenda
- VE Workshop Agenda
- VE team Presentation Handout – Summary of VE Alternatives
- Preliminary VE Study Report
- Draft of the Final VE Study Report
- Final VE Study Report
- Presentations Handouts – To City of Gig Harbor Public Works Subcommittee meeting and Council meeting

The Preliminary Report will be prepared in the VE Consultant report format, and will be a compilation of the handwritten products developed in the workshop.

The Draft Final VE Study Report will be prepared in the VE Consultant report format. The purpose of this Draft Report is to give the Client and other appropriate reviewers the opportunity to check the Final VE Study Report prior to its final issuance.

The Final VE Study Report is the final documentation of the VE study. The report is a finalized version of the Draft Report including the incorporation of the Client's comments. The submittal of the Final Report concludes the VE study effort.

VE Consultant will provide the Client with the following number of copies of each report:

Preliminary VE Study Report	5	(Plus electronic PDF file on CD)
Draft of Final VE Study Report	2	(Plus electronic PDF file on CD)
Final VE Study Report	5	(Plus electronic PDF file on CD)

## VE Study Cost Summary

### City of Gig Harbor - Lift Station #4B

<b>Robinson, Stafford &amp; Rude</b>	<b>Total</b>
Labor	\$24,890
Expenses	\$2,283
Subconsultant Administration	10.0% \$1,201
<b><i>Subtotal RSRI</i></b>	<b><u>\$28,374</u></b>

<b>Subconsultants</b>	<b>Total</b>	<b>% of Total</b>	<b>MBE/ WBE</b>
Jonasson Construction Consultants, LLC	\$6,140	15.2%	
Allaben Consulting, Inc.	\$5,869	14.5%	

<b><i>Subtotal Subconsultants</i></b>	<b><u>\$12,009</u></b>	<b>29.7%</b>
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<b>TOTAL COST - Lump Sum</b>	<b><u>\$40,383</u></b>	
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Total Percentage for MBEs	\$0	0.0%
Total Percentage for WBEs	\$0	0.0%



**Robinson, Stafford & Rude, Inc.**  
Budget Worksheet  
City of Gig Harbor - Lift Station #4B

RSRI Project No.: 0  
Workshop Location: Gig Harbor, WA  
Workshop Date: 8/11/2014

Team Member	Discipline	Hours				Total Hours	Rate	Total Cost
		Study Management	Pre-Workshop	Workshop	Post Workshop			
David Hamilton	Team Leader (CVS-Life)	4	25	24	44	97	\$ 220.00	\$ 21,340
	Team Leader (CVS)					0	\$ 190.00	\$ -
	Asst Team Leader (AVS)					0	\$ 150.00	\$ -
	QA				4	4	\$ 190.00	\$ 760
	Technical Writer					0	\$ 95.00	\$ -
	Graphics				2	2	\$ 95.00	\$ 190
	VE Assistant			0		0	\$ 95.00	\$ -
	Clerical	2	6	4	28	40	\$ 65.00	\$ 2,600

**Total Labor** \$ 24,890

Expenses	Item	Quantity			Total Quantity	Rate	Total Cost
	Airfare				0	\$ -	\$ -
	Airfare				0	\$ -	\$ -
	Airfare				0	\$ -	\$ -
	Airfare				0	\$ -	\$ -
	Rental Car				0	\$ 75.00	\$ -
	Airport Parking				0	\$ 20.00	\$ -
	Personal Mileage	50	150	100	300	\$ 0.560	\$ 168
	Airport Transportation				0	\$ 50.00	\$ -
	Local Transportation				0	\$ 5.00	\$ -
	Local Parking				0	\$ 10.00	\$ -
	Lodging				0	\$ 160.00	\$ -
	Meals				0	\$ 55.00	\$ -
	Copying	100	100	0	500	\$ 0.10	\$ 70
	Copy Machine Rental				0	\$ 400.00	\$ -
	Conference Room			3	3	\$ -	\$ -
	Team Refreshments			3	3	\$ 64.00	\$ 192

Postage & Shipping	\$ 55	\$ 150	\$ 100	\$ 120		\$ 425
Telephone (incl. on-site mobi	\$ 30	\$ 60	\$ 60	\$ 40		\$ 190
Supplies & Miscellaneous	\$ 10	\$ 100	\$ 75	\$ 50		\$ 235

	Prelim			Draft			Final			Total	
	Quantity	Rate	Total	Quantity	Rate	Total	Quantity	Rate	Total	Rate	Total
Reports (Printed)	5	\$ 60.00	\$ 300	2	\$ 60.00	\$ 120	5	\$ 60.00	\$ 300	\$ 60.00	\$ 720
Reports (CDs)	1	\$ 25.00	\$ 25	1	\$ 25.00	\$ 25	1	\$ 25.00	\$ 25	\$ 25.00	\$ 75
Subtotal Expenses			\$ 625			\$ 245			\$ 625		\$ 1,495
Mark-up on Expenses		10%	\$ 62.50			\$ 24.50			\$ 62.50		\$ 208

**Total Expenses** \$ 2,283

**Total Cost** \$ 27,173

**Jonasson Construction Consultants, LLC**  
Budget Worksheet  
City of Gig Harbor - Lift Station #4B

RSRI Project No.: 0  
Workshop Location: Gig Harbor, WA  
Workshop Date: 8/11/2014

Team Member	Discipline	Study Management	Pre-Workshop	Workshop	Post Workshop	Total	Rate	Total Cost
		Hours				Hours		
Carl Jonasson	Construction Manager		4	24		28	\$ 215.00	\$ 6,020
						0	\$ -	\$ -
						0	\$ -	\$ -
						0	\$ -	\$ -
						0	\$ -	\$ -

**Total Labor** \$ 6,020

Expenses	Quantity	Rate	Total Cost
Carl Jonasson	No Airfare	Federal Way, WA	0 \$ - \$ -
			0 \$ - \$ -
			0 \$ - \$ -
			0 \$ - \$ -
	Rental Car		0 \$ 75 \$ -
	Airport Parking		0 \$ 20.00 \$ -
	Personal Mileage	150	150 \$ 0.560 \$ 84
	Airport Transportation		0 \$ 50.00 \$ -
	Local Transportation		0 \$ 5.00 \$ -
	Local Parking		0 \$ 10.00 \$ -
	Lodging		0 \$ 160.00 \$ -
	Meals		0 \$ 55.00 \$ -
	Copying		0 \$ 0.10 \$ -

Postage & Shipping			\$ -
Telephone	\$ 10		\$ 10
Supplies & Miscellaneous	\$ 5	\$ 10	\$ 15

Subtotal Expenses \$ 109  
Mark-up on Expenses 10% \$ 11

**Total Expenses** \$ 120

**Total Cost** \$ 6,140

**Allaben Consulting, Inc.**  
Budget Worksheet  
City of Gig Harbor - Lift Station #4B

RSRI Project No.: 0  
Workshop Location: Gig Harbor, WA  
Workshop Date: 8/11/2014

Team Member	Discipline	Study Management	Pre-Workshop	Workshop	Post Workshop	Total	Rate	Total Cost
		Hours				Hours		
Charlie Allaben, PE	Hydraulics Engineer		4	24		28	\$ 180.00	\$ 5,040
						0	\$ -	\$ -
						0	\$ -	\$ -
						0	\$ -	\$ -
						0	\$ -	\$ -

**Total Labor** \$ 5,040

Expenses	Quantity	Rate	Total Cost
Charlie Allaben, PE	No Airfare	Redmond, WA	\$ -
			\$ -
			\$ -
			\$ -
			\$ -
	Rental Car		\$ 75
	Airport Parking		\$ 20.00
	Personal Mileage	150	\$ 0.560
	Airport Transportation		\$ 50.00
	Local Transportation		\$ 5.00
	Local Parking		\$ 10.00
	Lodging	3	\$ 160.00
	Meals	3	\$ 55.00
	Copying		\$ 0.10
	Postage & Shipping		\$ -
	Telephone	\$ 10	\$ 10
	Supplies & Miscellaneous	\$ 5 \$ 10	\$ 15

Subtotal Expenses \$ 754  
Mark-up on Expenses 10% \$ 75

**Total Expenses** \$ 829

**Total Cost** \$ 5,869



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

**Subject: Pierce County GIS Community Information / Network Services Agreement.**

**Dept. Origin:** Information Technology

**Prepared by:** Kay J. Johnson

**Proposed Council Action:**

**For Agenda of:** July 28, 2014

**Exhibits:** A,B,C,D

Authorize the Mayor to execute the Pierce County G.I.S. contract in an amount not exceeding:

Initial & Date

**Concurred by Mayor:**

**Approved by City Administrator:** RW 7/22/14

**Approved as to form by City Atty:** on contract 7.21.14

**Approved by Finance Director:** JP 7/22/14

**Approved by Department Head:** [Signature] 7.22.14

Expenditure	Amount	Appropriation
Required \$34,000.00	Budgeted \$34,000.00	Required \$0

**INFORMATION / BACKGROUND**

This is an agreement providing services by and between the City of Gig Harbor and Pierce County G.I.S. The agreement for services is for a period of 4 years (renewed annually for 4 – 1 year terms) unless either party provides the other with a 30 day notice of termination.

In order to continue G.I.S. services, this contract pertains to the networking and platform services for Pierce County G.I.S. and is the current service the city has been utilizing and paying for presently and in the past.

The City currently has 19 users with the ability to add more, if necessary, rather quickly.

**FISCAL CONSIDERATION**

G.I.S. is an annual budgetary expenditure (the Pierce County Network Services Agreement).

**BOARD OR COMMITTEE RECOMMENDATION**

Authorize the Mayor to execute the Pierce County G.I.S. contract (2 copies):

**RECOMMENDATION / MOTION**

**Move to: Authorize the Mayor to sign associated agreements.**





Contract# 92491

### **AGREEMENT FOR ONLINE ACCES TO COUNTY INFORMATION SYSTEMS**

The terms of this Agreement will remain in full force and effect from the commencement date noted above open ended, unless either party provides the other with a 30 day notice of termination. The parties, in consideration of the terms and conditions described below, agree as follows:

#### **SCOPE OF SERVICE**

The County agrees to provide the services described in Exhibit A, referred to as Service, according to the terms of this Agreement. Requestor agrees to provide access to and use of the Service under this Agreement.

#### **FEE FOR SERVICE**

Requestor agrees to pay for the Services in accordance with the rates or charges set forth in Exhibit A(s). The County will notify the Requestor 30 days in advance, in writing, of annual service rate changes. The County will bill the Requestor with terms of net cash, payable within thirty (30) days after the invoice date. Requestor shall pay all applicable taxes related to use of the Service by Requestor. Non-payment for Services shall result in the termination of the Services.

#### **CONDITIONS OF USE**

1. Requestor represents and agrees County information and systems will not be used for commercial purposes contrary to the requirements of RCW 42.56.070(9) and WAC 390-13-010.
2. Requestor agrees not to use the Service nor any of its elements or related facilities or capabilities to conduct any business or activity, or solicit the performance of any activity, which is prohibited by or would violate any applicable law, rule, regulation or legal obligation.
3. The parties agree that should Requestor use this Service in a manner contrary to the terms of this Agreement, Requestor will be ineligible to receive any similar service in the future and Requestor will be subject to all applicable civil and criminal penalties. Misuse or damage of service components or County data could result in billable charges for actual damages.
4. The Requestor, its officers, and employees will:
  - a. Maintain the confidentiality of County information,
  - b. Comply with Pierce County Data Dissemination Disclaimer (Exhibit C) and refrain from releasing or providing County data to other person(s) or entities (secondary data dissemination). Since this County Policy is based on RCW(s) and ordinances, changes may be made annually and will be provided at the same time as the annual service rates (as stated in Fee for Service).
  - c. Maintain the proprietary nature of County software, data and systems used by the Requestor under the terms of this Agreement.

These conditions shall be met except upon the prior written consent of the steward County department and the Pierce County Prosecuting Attorney, or an order entered by a court after having acquired jurisdiction over the County.

Contract# 92491

5. Requestor will immediately give to the County notice of any judicial proceeding seeking disclosure of County information by contacting the Pierce County Prosecuting Attorney's Office.
6. Requestor agrees not to transmit, upload, post or otherwise publish on or over the Service, and not seek on or over the Service, any software, file, information, communication or other content:
  - a. Which violates or infringes upon the rights of any other;
  - b. Which, under the circumstances and in County's good faith judgment, is, or is likely to be perceived by an intended recipient or target as defamatory, deceptive, misleading or abusive;
  - c. Which constitutes a threat to, harassment of, or stalking of another;
  - d. Which adversely affects the performance or availability of the Service or County resources;
  - e. Which contains any virus, worm, harmful component or corrupted data;
  - f. Which, without the approval of the County, contains any advertising, promotion or solicitation of goods or services for commercial purposes, or
  - g. Which allows unauthorized access to County data and systems.
7. Subject to the terms of this Agreement, the County grants to Requestor and authorized users a personal, non-exclusive, non-assignable and non-transferable license to use and display the software (referred to as a Service) provided by or on behalf of the County for purposes of accessing the Service on any machine(s) of which Requestor is the primary user or which Requestor is authorized for use. Unauthorized copying of the Software, including software that has been modified, merged or included with the Software, or the associated written materials is prohibited. Requestor may not sublicense, assign or transfer this license or the Software except as permitted by the County.

#### **LIABILITY**

1. The information or services supplied by the County pursuant to this Agreement is provided on an "as is basis" and "with all faults" and Requestor will have no remedy at law or equity against the County in the event information provided to the Requestor is inaccurate, incomplete or otherwise defective in any way.
2. The Requestor agrees to hold the County and its officers and employees harmless from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the Requestor's conduct relating to this Agreement, and the County agrees to hold Requestor, its officers and employees harmless from any and all claims, liability and judgments, including attorney fees and costs, made by or accruing to any person as a result of the County's conduct relating to this Agreement. There are no third party rights created by this Agreement.

Contract# 92491

### **SYSTEM OPERATIONS**

1. The County retains the right to modify current systems at its discretion. The County will make no system modifications on Requestor's behalf unless specifically detailed in Exhibit A. The Requestor is responsible for ascertaining the impact of the changes on their business.
2. Requestor agrees each and every person given the right to access the County systems will use a unique user name assigned by Pierce County Information Technology staff. Each user will sign the most current system and security agreement(s) (Exhibit B) and return them to Pierce County Information Technology Department with written request for security access.
3. Requestor understands priority is assigned to regular County work which may require a reasonable delay in responding to Requestor's requirements from time to time. The County shall not be held liable for service interruptions.
4. Requestor is to provide and maintain all required service components necessary to connect to County services in the manner authorized by the County.
5. Requestor is to ensure all equipment and software used to access the County systems defined in Exhibit A, will be compatible with existing County configurations.
6. Requestor agrees to keep the County informed of any network connectivity between Requestor and other organizations.
7. Requestor understands and agrees that online access will be available only between the hours of 8:00 a.m. and 5:00 p.m. Pacific Time, Monday through Friday, exclusive of legal holidays observed by the County. Limited online access may be available outside of these hours. The County shall not be held liability if the system/network is off-line and not accessible.

### **CONTACTS**

1. The County will provide a list of contacts to administer the Services provided under this Agreement.
2. Requestor will provide the names of at least two (2) of their employees who will be the primary contacts with County staff. Requests for new users, user modifications or user assistance will come from these contacts. A method of verification will be provided to these employees to use when identifying themselves to the County.
3. Requestor is to contact the County and request deletion of a staff's user name within 24 hours following notice of termination of their employment with the Requestor.

### **DEFINITIONS**

Service: The work products described in Exhibit A, Scope of Services.

Annual Service Rate: The fees and charges for the Service(s) from the County that will be reviewed and adjusted yearly as described in Exhibit A, Scope of Services.

Commercial Purposes: See Exhibit C, Disclaimers To and Warranty By Users of Pierce County and/or GIS Data.



Contract# 92491

Steward Departments: One, or in some cases multiple, County departments are designated as the steward of each particular named computer system and its corresponding set of information media (data files, databases, screens, views, reports, menus, and query access). As such, steward departments have the authority to determine data access methods, the dissemination mechanism and secondary data dissemination rules (primary data dissemination rules are specified in a separate County policy statement) for any request to access such systems and information media. In order to execute this authority, steward departments are responsible for the maintenance of security, accuracy, and integrity of the computer systems and information media.

Data: Information of an electronic or digital format as in diskettes, electronic file attachments, zip disks, file transfer protocol (FTP), Cd's R/W disks, and any electronic medium such as digital tape.

Document: Hard copy work product information from the Service, including but not limited to letters, words, pictures, symbols, maps, or any combination thereof. Does not include "Data" as defined above.

**EXHIBIT A - WAN**  
**SCOPE OF SERVICES**

**Exhibit A - Online Services from Pierce County**

<b>Requestor:</b>	City of Gig Harbor	<b>Contract #:</b>	92491	<b>Calendar Year Rates Shown:</b>	2014
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<b>System Name:</b>	Pierce County Wide Area Network				
<b>Description of System:</b>	The computing infrastructure of Pierce County. Connecting to this via secure, approved methods will allow access to systems where steward approval has been obtained.				
<b>Steward:</b>	Information Technology Department				
<b>Services</b>				<b>Charges</b>	
All services listed are offered but may not be applicable. This will depend upon the connection Requestor and Pierce County Information Technology determine is best for the application.				N/A	
<b>Ongoing Charges:</b>	The External User Fee is a utilization fee charged to all external users with ability to access the Pierce County internal network. This fee pays for resources necessary to provide remote access and maintain the network.			External User Fee of \$12.00 per external user per month. External User Fee rate may change each calendar year.	
<b>Direct Services:</b>	Information Technology Department will charge Requestor for all direct services related to Requestor account maintenance, incident support and other requests for assistance related to the contracted services.			Direct services outlined in this contract will be charged at External Direct Services rate of \$123.00 per hour (2014 rate). External Direct Services rate may change each calendar year.	
<b>Communications Links</b>	Requestor is responsible for establishing and paying for their connection to Pierce County using a Pierce County approved method.			N/A	
<b>Security</b>	<u>Remote Access Authorization:</u> Requestor agrees to use standard 2 factor remote authentication method for each unique user accessing Pierce County. If applicable, user keyfobs will be returned to Pierce County within 15 days of termination of their account access.  <u>Encryption:</u> Requestor agrees to purchase and use any encryption software required by Pierce County to access specific systems. If necessary, requestor agrees to upgrade operating systems on PC's needing the encryption software in order to comply with encryption software requirements.			A fee equivalent to the current cost of purchasing a keyfob will be charged to the contracting agency to replace any lost keyfobs.	

Access by the Requestor to the above system is approved by:

_____	_____
Pierce County Director of Information Technology	Date
_____	_____
Pierce County IT Governance and Service Delivery Manager	Date
_____	_____
Requestor	Date

**EXHIBIT A - CountyView**  
**SCOPE OF SERVICES**

**Exhibit A - On-Line Services from Pierce County**

<b>Requestor:</b>	City of Gig Harbor	<b>Contract #:</b>	92491	<b>Calendar Year Rates Shown:</b>	2014
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<b>System Name:</b>	CountyView Suite - Pierce County's Subscription GIS system
<b>Description of System:</b>	The CountyView suite of applications allows users to access production GIS data in Pierce County. The system provides users with the ability to display themes of data, perform search and locate, query associated tabular data, perform spatial analysis, and utilize customized County GIS functionality.
<b>Steward:</b>	Information Technology Department / GIS Division

Services		Charges	
<b>Use of CVWeb and CVPro</b>	CountyView applications have been in production since 1998 at Pierce County. The CountyView suite of software has been customized and optimized for local government business functions and includes data management for over 800 themes of data, owner-notify tools, locate function, and quick map production. CVWeb is a web-based application that contains efficient searching, viewing, reporting and basic mapping functionality. Simple data creation tools are provided. Clients are responsible for ensuring the functionality in CVWeb will meet their business needs. CVPro is based on ESRI's ArcGIS and includes advanced functionality such as spatial analysis, customized mapping, attribute and feature editing, and data conversion tools.	CVWeb = \$1,365/ea/yr CVPro = \$3,995/ea/yr Agencies with nine or more users can choose to pay a annual fee for any combination of the two applications. Cost is \$22,725+ 1,125/per user over nine.	Total based on options and number of users
<b>GIS Hardware</b>	To connect to Pierce County's CVWeb application, the agency will share the use of a clustered GIS internet server with other agencies. CVPro users will connect to an internal ArcGIS server that is shared between the online agencies and will have access to the extensions and customized tools that Pierce County has acquired or designed. Storage on county servers for CVPro will be limited to 20gb. For either application, the servers will be equipped with the necessary software licenses to serve the users' needs. The user's login/password must be protected to keep use at acceptable levels of performance.	No extra fee	Included
<b>CVWeb and CVPro Agency Support</b>	Analyst assistance for up to a maximum of 180 hours/yr/agency for all GIS applications. Support includes: - on-call phone support, technical advice, and troubleshooting related to the CV application during regular County business hours - training on advanced functionality within the CV application - monthly onsite user meetings if requested Note: Free training and materials are provided for each licensed user on CVWeb (4 hr class-not deducted from support hours). Users must be familiar with the Windows environment. For CVPro access, "Introduction to ArcGIS I" certification is required. Pierce County can provide training at a cost of \$250 per each CVPro user for materials which is charged separately upon completion of training. Other training options exist and can be discussed.	CVWeb = 12 hrs/ea/yr CVPro = 20 hrs/ea/yr (up to a maximum of 180 hrs/yr/agency for all applications) <sup>1</sup>	Included
<b>CountyView Maintenance</b>	The ongoing maintenance of the CountyView applications require certifying the software on new platform releases, maintaining data sets, loading data sets into the CountyView suite, making enhancements to the system, and adding applications and extensions. Enhancements are in response to user requirements and each agency will have input in this process as well.	No extra fee	Included

<b>The GIS Community Service</b>	The growing GIS community in Pierce County can leverage each other's expertise to optimize the use of GIS. Pierce County GIS will facilitate this sharing of information and data by: -conducting Project meetings as necessary to discuss GIS applications and projects. This meeting is intended for managers and staff to learn about benefits and uses of GIS. -conducting Technical meetings as necessary to discuss technical and quality questions. This meeting is intended for hands-on technical users who have software questions. -prepare the GIS Bulletin which describes the GIS projects in the County, the status of GIS data conversion, notes from the Project meetings and training schedules.	No extra fee	Included
<b>Ortho Partner</b>	Includes access to all available digital orthophotos (current and historic), impervious surface planimetrics derived from orthos, lidar-based contours, and other layers derived from orthos under this license.	\$1,000/user/yr up to a maximum of \$6,500/agency/yr (if one user needs orthos, all users must have access – managed at agency level only )	Cost based on number of users up to maximum fee of \$6,500 per year per agency

<sup>1</sup>Hours exceeding this amount will be billed at the Information Technology/GIS personnel hourly rate which changes each calendar year. (2014 rate is \$123/hr).

Agency support and CountyView maintenance rates are subject to yearly adjustment.

Access by the Licensee to the above system at the calendar year rates shown is approved by:

_____ Pierce County Information Technology Dept. Director	_____ Date
_____ Pierce County GIS & Applications Manager	_____ Date
_____ Requestor	_____ Date



**EXHIBIT A - CICS**  
**SCOPE OF SERVICES**

**Exhibit A - On-Line Services from Pierce County**

<b>Requestor:</b> City of Gig Harbor	<b>Contract #:</b> 92491	<b>Calendar Year Rates Shown:</b> 2014
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<b>System Name:</b>	CICS access to FIN
<b>Description of System:</b>	Pierce County Financial System.
<b>Steward:</b>	Budget and Finance Department

Services		Charges	
<b>One-time setup:</b>	Not available	Steward charges:	N/A
<b>Training:</b>	Not available	Steward charges:	N/A
<b>Ongoing Charges:</b>		Steward charges:	None
		Information Technology Dept. charges:	Direct services outlined in this contract will be charged at External Direct Services rate of \$123.00 per hour (2014 rate). External Direct Services rate may change each calendar year.
<b>Other:</b>	Additional services agreed to but not specified above will be billed on a time and materials basis.		

Access by the Requestor to the above system is approved by:

_____	_____
For Steward: Budget and Finance	Date
_____	_____
Pierce County Information Technology Dept. Director	Date
_____	_____
Requestor	Date

**EXHIBIT A - OzX**  
**SCOPE OF SERVICES**

**Exhibit A - On-Line Services from Pierce County**

<b>Requestor:</b>	City of Gig Harbor	<b>Contract #:</b>	92491	<b>Calendar Year Rates Shown:</b>	2014
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<b>System Name:</b>	OzX
<b>Description of System:</b>	Extranet Web Server
<b>Steward:</b>	Information Technology Dept. – Software Development Division

Services		Charges	
One-time setup:	None - Web browser is used to access.	Information Technology Dept. charges:	N/A
Training:	No Training Offered.	Information Technology Dept. charges:	N/A
Ongoing Charges:	Direct services specifically outlined in this Exhibit A are: Software Development support, configuration and connectivity assistance.	Information Technology Dept. charges:	Direct services outlined in this contract will be charged at the IT External Direct Services rate of \$123.00 per hour (2014 rate) in 15 minute increments. External Direct Services rate may change each calendar year.
Other:	N/A		

Access by the Requestor to the above system at the calendar year rates shown is approved by:

\_\_\_\_\_  
Pierce County Information Technology Dept. Director Date

\_\_\_\_\_  
Pierce County IT Software Development Manager Date

\_\_\_\_\_  
Requestor: Date

**EXHIBIT B**  
**PIERCE COUNTY COMPUTER NETWORK AND INFORMATION**  
**SECURITY ACCESS AGREEMENT**  
for Employees, Contractors, Volunteers and External Agency Employees.

Access to the Pierce County Network has been provided to you so you may complete specific activities related to your job duties or contractor agreement. Any use beyond what is agreed upon and described in your duties/contract is not allowed. Security will be in place to limit your activities on the network. By signing this agreement, you state that you will not attempt to access information or services not meant to be available to you on the Pierce County network as described in your assigned duties.

You also agree to safeguard any passwords provided to you to access Pierce County systems. You must configure your access to the Pierce County network so that a password must be typed in each time you access the system(s). You cannot share this password with any one else. Log out of Pierce County systems whenever you cease working on the system or whenever you are away from your computer.

You are responsible for any damage caused by actions you take in relation to the Pierce County network that are outside of those described in your duties/contract.

You are to use the utmost discretion in preserving the confidential nature of any information you are authorized to access. Information is to be obtained for authorized purposes ONLY. Obtaining any information for personal use is prohibited; this includes looking up information in any of the computer databases for personal use. As an employee or contractor you may not observe, obtain, nor ask another person to obtain confidential information for personal reasons. "Confidential information" includes (1) information that has been obtained under governmental authority and which is prohibited by law from being disclosed to the public, as well as (2) information which Pierce County or its agencies, officers or agents have a legal duty and/or privilege not to disclose or which is otherwise not available to the public. You shall not disclose confidential information without County authorization. Releasing information may be in violation of the laws of the State of Washington, for example a violation of the provisions of the Criminal History Privacy Act (RCW 10.97) shall constitute a misdemeanor and may result in criminal prosecution. When in doubt, be discreet, and talk with your Pierce County supervisor/contact. It is better to err on the side of caution than on the side of carelessness. County employees must adhere to County policies.

I have read and understand the above policy regarding computer network access and confidential information and have received copy of same

**Agency/Employer Name:** \_\_\_\_\_

**Employee/Contractor Information:**

First Name:																			Middle Initial:					
Last Name:																								
Office Phone:				-															Ext:					
Email Address:																								

Date: \_\_\_\_\_ Employee/Contractor Signature: \_\_\_\_\_

Date: _____	Pierce County Authorizing Signature: _____
<i>(Please route to ITSystemAdmin, IT-Merit 3rd Floor after authorizing signature obtained)</i>	
Information Technology Internal Use Only:	
_____	_____
Keyfob #	Login Name Assigned
	Systems Accessed

## EXHIBIT C

### DISCLAIMERS TO and WARRANTY BY USERS OF PIERCE COUNTY AND/OR GIS DATA

1. Limitations and Pierce County Data Dissemination Disclaimer

Requestor seeks access to the data described in "Exhibit A". The County makes no warranty, express or implied, concerning the data'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. 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 the County's data. No employee or agent of the County is authorized to waive or modify this paragraph. If a user informs others a product is based upon the County's data, the County specifically requests and directs the user also disclose the limitations contained in this paragraph and paragraph #4.

2. Data Interpretation

The County's data is developed and maintained solely for County business functions, and use or interpretation of data by the Requestor or others is solely their responsibility. The County does not provide data interpretation services.

3. Spatial Accuracy

Map data can be plotted or represented at various scales other than the original source of the data. The Requestor 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. For example, if the zoning data scale is 1" = 2000', the data sets should be used at a scale of 1" = 2000' or smaller.

4. Liability

Each party shall not be liable to the other (or transferees or vendees of either party) for damages of any kind, including lost profits, lost savings or any other incidental or consequential damages relating to the providing of the data or the use of it. Each party shall have no remedy at law or equity against the other in case the data provided is inaccurate, incomplete or otherwise defective in any way.

5. Requestor's Warranty Against Commercial Use of Lists

RCW 42.56.070(9) prohibits the release of lists of individuals requested for commercial purposes, and Requestor expressly represents no such use of any such list will be made by Requestor or its transferee(s) or vendee(s). "Commercial purposes" means contacting or in some way personally affecting the individuals identified on the list with the purpose of facilities one's commercial activities.

6. Project Data

Requestors are encouraged to supply their project data back to the County for use by the County.

7. Data Shift

The county will be shifting GIS data to improve the geographic accuracy. Any data the requestor builds on top of the County data may require adjustment. The Requestor assumes responsibility for aligning and registering data to the County data, if necessary.



## EXHIBIT D

### SPECIAL PROVISIONS

#### Network Security

In an attempt to prevent the loss of information/data and to minimize the costly effects of network/system security attacks on system maintenance and network downtime, the County reserves the right to terminate, immediately and without notice, Requestor connection(s) to County resources if it appears Requestor's continued connection to County systems may be harmful (for example, virus, worm or network security attacks) to either County or Requestor. Connection will not be reinstated until County determines such threat no longer exists. Reasonable care will be taken to re-establish connection to the Requestor within a reasonable time. By accessing the County system, Requestor acknowledges the right and discretion of County to terminate Requestor's connection(s) in the event of a network security threat and agrees County will not be liable to Requestor for interruption of business or in any other fashion in regard to any such termination or failure to terminate. If County staff must provide assistance to Requestor to ensure Requestor's systems are free from harmful threats, charges will be assessed as described in Exhibit A.

#### "Conditions of Use", page 1 above

"Secondary data dissemination" does not include the Requestor's disclosure of documents printed from the Service. The Requestor agrees to immediately notify the County as provided in section 3, Conditions of Use, of the Agreement when the Requestor receives a request for the County's data. If the Requestor promptly transmits such a request to the County, the County agrees to respond within the deadline in RCW 42.56.520. The Requestor shall not be required to defend the County concerning the County's refusal to disclose any data.

If the Requestor receives a request for a document(s) printed from the Service, the Requestor shall make a decision whether such document(s) is/are exempt from disclosure and process the request accordingly. The County need not be contacted in those instances where a request is made for a document(s) only.



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

**Subject:** 2014 Asbestos Cement Water Main Replacement Project – Construction Contract Award and Change Order Authority

**Dept. Origin:** Public Works/Engineering

**Proposed Council Action:**

1. Authorize the Mayor to execute a Public Works Contract with Pacific Northern Excavation in an amount not exceed \$272,053.99 for the award of Bid Schedules A and B from the Project Contract Documents; and
2. Authorize the City Engineer to approve additional expenditures up to \$12,000 to cover any Public Works Contract change orders; and
3. Authorize the Mayor to execute a Consultant Services Contract with Terracon Consultants, Inc., in an amount not to exceed \$5,000.00 for materials testing associated with the Project Contract Documents

**Prepared by:** Stephen Misiurak, P.E.   
City Engineer

**For Agenda of:** July 28, 2014

**Exhibits:** Public Works Contract, Consultant Services Contract

**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

RW 7/23/14  
By Email 7/22/14  
[Signature]  
[Signature]  
[Signature] 7/23/14

<b>Expenditure Required</b>	\$289,053.99	<b>Amount Budgeted</b>	\$ 289,053.99	<b>Appropriation Required</b>	\$0
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**INFORMATION/BACKGROUND**

In accordance with the City of Gig Harbor Water System Plan, the City programmatically replaces its existing asbestos cement water mains each year as funding is available. In 2012 the City received a "Jobs Act Now" grant through the Washington State Department of Health in the amount of \$2.0 million. The City used approximately 80% of these funds for the 2013 Water Main Replacement Project. The City's 2014 Budget identifies \$250,000.00 to be spent on the 2014 A/C Water Main Replacement Project.

**BID RESULTS**

The 2014 Water Main Replacement Project was bid using the City's Public Works bidding process. The Engineer's Opinion of Probable Cost for Bid Schedules A and B was \$222,700. A total of two (2) bid proposals were received by the City of Gig Harbor on July 22, 2014. Bid results from each bidder are summarized below showing a total bid amount for all Bid Schedules, including Washington State sales tax (WSST).

BIDDER	TOTAL BID AMOUNT
1. Pacific Northern Excavation	\$ 272,053.99
2. MacNaK Construction LLC	\$ 356,717.62

**FISCAL CONSIDERATION**

The 2014 City of Gig Harbor Budget includes funding for this work in the Water Division - Capital budget. The budget summary for this item is provided in the table below. All prices include WSST.

2014 Budget for Water Division – Capital, Objective 4 (A/C Water Main Replacements)	\$ 250,000.00
2013 Budget money left from last years A/C Water Main Replacement Project	\$ 25,930.00
2014 Water Additional Capital Funds	\$ 13,123.99
Total Available	<b>\$ 289,053.99</b>
Anticipated 2014 Expenses:	
Bid Schedule A – east end of 96 <sup>th</sup> Street	(\$174,897.66)
Bid Schedule B – west end of Milton Ave.	(\$ 97,156.33)
Change Order Authority for Public Works Contract	(\$ 12,000.00)
Consultant Services Contract – Terracon Consultants, Inc.	(\$ 5,000.00)
<b>Remaining 2014 Budget =</b>	<b>\$ 0</b>

**BOARD OR COMMITTEE RECOMMENDATION**

N/A

**RECOMMENDATION/MOTION**

1. Authorize the Mayor to execute a Public Works Contract with Pacific Northern Excavation in an amount not exceed \$272,053.99 for the award of Bid Schedules A and B from the Project Contract Documents; and
2. Authorize the Public Works Director to approve additional expenditures up to \$12,000 to cover any Public Works Contract change orders; and
3. Authorize the Mayor to execute a Consultant Services Contract with Terracon Consultants, Inc., in an amount not to exceed \$5,000.00 for materials testing associated with the Project Contract Documents.

**PUBLIC WORKS CONTRACT****2014 ASBESTOS CEMENT WATER MAIN REPLACEMENT PROJECT  
CWP-1401**

THIS AGREEMENT, made and entered into, this \_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and **Pacific Northern Excavation P.L.L.C., a Professional Liability Company**, organized under the laws of the State of Washington, located and doing business at, **816 Kamus Way, Fox Island, WA 98433** hereinafter called the "Contractor."

**WITNESSETH:**

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

1. The Contractor shall furnish all labor, materials, tools, and equipment necessary to remove where noted, and abandon in place and dispose of existing AC (asbestos cement – Transite) water mains and related appurtenances, and complete the installation of 10" HDPE water main, 8" ductile iron water main, and 6" ductile iron water main, including valves, fittings, hydrants, metered services, and appurtenances; full width pavement overlay and pavement repairs, traffic control; grading; temporary erosion and sediment control measures; permanent erosion control and surface restoration and other work, all in accordance with the Contract Documents that covers Bid Schedules A and B, these Special Provisions, and the Standard Specifications, including the schedule of prices in the "Proposal," the sum of **Two Hundred Seventy Two Thousand Fifty Three Dollars and Ninety Nine Cents (\$272,053.99)** including state sales tax, subject to the provisions of the Contract Documents, the Special Provisions, and the Standard Specifications.
2. The Notice to Proceed will be given in accordance with Section 1-08.4 of Contract Documents. The Contractor shall commence construction activities on the project site in accordance with Section 1-08.4 of the Contract Documents. Contract time shall begin in accordance with Section 1-08.5 of Contract Documents. Work shall be substantially complete in accordance with Section 1-08.5 of the Contract Documents.
3. The Contractor agrees to pay the City for liquidated damages incurred according to Section 1-08.9 of the Contract Documents per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
4. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
4. The term "Contract Documents" shall mean and refer to the following: "Invitation to Bidders," "Bid Proposal," "Addenda" if any, "Specifications," "Plans," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Special Provisions," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents, including, but not limited to the Washington State Department of Transportation's "2014 Standard Specifications for Road, Bridge, and Municipal Construction," including the American Public Works Association (APWA) General Special



Provisions, MUTCD, WSDOT Standard Plans and City of Gig Harbor Public Works Standards.

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

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

CITY of GIG HARBOR:

CONTRACTOR: Pacific Northern Excavation

\_\_\_\_\_  
 Jill Guernsey, Mayor  
 City of Gig Harbor  
 Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Official)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

ATTEST:

Date: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

APPROVED FOR FORM:

\_\_\_\_\_  
City Attorney

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

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

**RECITALS**

WHEREAS, the City is presently engaged in Materials Testing and Special Inspection Services for the 2014 Asbestos Cement Watermain Replacement Project (CWP-1401) 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 Dollars and Zero Cents (\$5,000.00) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit 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, 2015; 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:  
Terracon Consultants, Inc.

City of Gig Harbor  
ATTN: Stephen Misiurak, P.E.

ATTN: Paul Davis, P.E.  
3006 96<sup>th</sup> St.  
Lakewood, WA 98499

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 Jill Guernsey

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney



July 15, 2014

City of Gig Harbor  
Public Works  
3510 Grandview Street  
Gig Harbor, WA 98335

Attention: Mr. Marcos R. McGraw, Project Engineer

P: [253] 853-2647

E: McGrawM@cityofgigharbor.net

Re: Proposal for Materials Testing and Special Inspection Services  
2014 Water Main Replacement - Project CWP-1401  
Gig Harbor, Washington  
Terracon Proposal No. PB2140049

Dear Mr. McGraw:

Terracon Consultants, Inc. (Terracon) appreciates the opportunity to submit our proposal to provide the required special inspections and construction materials testing for the 2014 Asbestos Cement Water Main Replacement project CWP-1401 located at various locations in Gig Harbor, Washington. Terracon, located in Tacoma, is a WABO certified laboratory and, our inspectors are WABO certified in all disciplines required for your project.

## A. PROJECT INFORMATION

We understand the project consists of a water main replacement and installation of approximately 800 lineal feet of new ductile iron water main. As part of the described items, Terracon will be providing density testing on base materials and asphalt along with related laboratory services. The project consists of 2 phases that will be performed semi-concurrently.

## B. SCOPE OF SERVICES

In preparation of this proposal, we have reviewed the project plans and Special Provisions. Based upon our review and our experience with projects of similar size and magnitude, as well as our understanding of the WSDOT Standard Specifications and the Special provisions, we anticipate that the following inspections will be required:

- Soils backfill compaction;
- Asphalt testing/inspection
- Related laboratory services.



Terracon Consultants, Inc. 3006 S. 96<sup>th</sup> St. Lakewood, WA 98499  
P [253] 573.9939 F [253] 573.9959 terracon.com

Geotechnical



Environmental



Construction Materials



Facilities



**Proposal for Materials Testing and Special Inspection Services**  
2014 Water Main Replacement ■ Gig Harbor, WA  
July 15, 2014 ■ Terracon Proposal No. PB2140049



Testing will generally conform to the requirements of the WSDOT Standard Specifications 2012 and the Special provisions.

Our estimated quantities for the project elements along with our estimated fees are presented in the following tables.

### FIELD SERVICES

Description	Quantity	Unit Rate	Total
Asphalt Technician (per hour)	24	\$55.00	\$1,320.00
Soils Technician (per hour)	24	\$55.00	\$1,320.00
Project Manager (per hour)	8	\$95.00	\$760.00
Clerical (per hour)	8	\$50.00	\$400.00
		<b>Total</b>	<b>\$3,800.00</b>

### LABORATORY SERVICES/EXPENSES

Description	Quantity	Unit Rate	Total
Moisture/Density Relationship (each) (proctor)	1	\$200.00	\$200.00
Sieve Analysis (each)	1	\$100.00	\$100.00
Extraction Gradation (each) (asphalt)	1	\$160.00	\$160.00
Theoretical Max Density (each) (asphalt rice)	1	\$90.00	\$90.00
Vehicle Charge (each)	8	\$25.00	\$200.00
		<b>Total</b>	<b>\$750.00</b>

Once the project begins, Terracon utilizes our automated CMELMS® software program. This allows us to achieve better communication, more consistency, and faster turnaround of reporting on the project. The application can be used anywhere an internet connection is available. Therefore, with the use of wireless technology, Terracon personnel can enter data and prepare reports at the project site and/or in the office.

The program automatically tracks all reports and provides immediate availability of test results. For failed tests and deviations, Terracon notifies the client's representative verbally the same day, and maintenance of the deviation log is completed and transmitted to the client within 24 hours. Additionally, the statistical performance of all concrete/grout mixes being utilized on a project can also be monitored.

The CMELMS® software can produce electronic or paper copies of reports to be distributed via traditional mail, e-mail, and/or Client Document Web sites can be established. Field reports are distributed within two business days, and laboratory reports are distributed when the tests are

**Proposal for Materials Testing and Special Inspection Services**  
2014 Water Main Replacement ■ Gig Harbor, WA  
July 15, 2014 ■ Terracon Proposal No. PB2140049



completed. The program will also track project budget on a daily basis and produce real-time budget reports and invoices for services provided.

Our level of involvement is expected to vary from full-time to part-time depending upon the actual schedule and sequencing of construction activities. We would request that services be scheduled 24 hours in advance of the time our personnel are needed at the project site by contacting our office at 253-573-9939 or [seadispatch@terracon.com](mailto:seadispatch@terracon.com). We are prepared to commit the resources, staffing and expertise necessary for a quality oriented inspection program.

Our field personnel will provide verbal results to the project superintendent after completion of each inspection and will submit a typed Daily Field Report prior to leaving the site. A deficiency is considered an item requiring corrective actions and re-inspection. A non-conformance is a condition that cannot be corrected without review and approval by the structural engineer. Whenever a deficiency is noted, our inspectors will provide immediate verbal notification to the appropriate personnel (superintendent) and note the deficiency for re-inspection. If the deficiency is not corrected, a non-conformance report would be generated and distributed to the appropriate parties.

### **C. COMPENSATION**

We propose to provide our services on a time and materials basis. At the time of this proposal, a detailed construction schedule was not available. Based upon our understanding of the project, we will provide our services for a not to exceed fee of **\$5,000**. This fee includes a 10% contingency, as a construction schedule was not available. The contingency fee will not be utilized unless necessary.

**Overtime/Minimum/Rush Charges:** If required, hours worked on any project in excess of eight hours per day, before 7:00 a.m. or after 6:00 p.m., or on weekends, will be charged at 1.5 times the regular hourly rate, unless special arrangements are agreed upon in advance. Work on national holidays and Sundays may be charged at an additional premium depending on the project. A minimum of three hours billed portal to portal will normally be charged per site visit. There may be instances where an inspector is on site for inspection, and could retrieve samples and return them to our laboratory, at no additional cost to the client.

Proposal for Materials Testing and Special Inspection Services  
2014 Water Main Replacement ■ Gig Harbor, WA  
July 15, 2014 ■ Terracon Proposal No. PB2140049



#### D. AUTHORIZATION

We appreciate your consideration and look forward to working with you on this project. Authorization to proceed will consist of providing Terracon with a City of Gig Harbor contract. We have previously provided our services under a City of Gig Harbor contract and find the conditions to be acceptable. If you have questions or wish to discuss any aspect of our proposal, please call at your convenience.

Sincerely,  
Terracon Consultants, Inc.

A handwritten signature in blue ink, appearing to read "Paul D. Davis".

Paul D. Davis, P.E.  
Office Manager

cc: Jeffrey Olsen, City of Gig Harbor (1, via e-mail)  
Sonia Billingsley, City of Gig Harbor (1, via e-mail)





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

**Subject:** Cushman Trail Phase 3 —Public Works Contract Award with Nordland Construction NW and Consultant Services Contract with David Evans & Associates, Inc.

**Proposed Council Action:**

- Award and authorize the Mayor to execute a Public Works Contract with Nordland Construction NW in an amount not to exceed \$1,572,486.16 for the award of the Cushman Trail Phase 3 Project; and
- Authorize the City Engineer to approve additional expenditures up to \$50,000 to cover any Public Works Contract change orders; and
- Authorize the Mayor to Execute a Consultant Services Contract with David Evans & Associates, Inc. in an amount not-to-exceed \$250,595.49.

**Dept. Origin:** Public Works

**Prepared by:** Stephen Misiurak, PE,   
City Engineer

**For Agenda of:** July 28, 2014

**Exhibits:** Public Works and Consultant Services Contracts

**Concurred by Mayor:**

**Approved by City Administrator:**


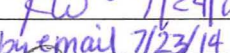
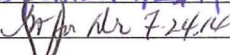
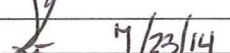

**Approved as to form by City Atty:**

**Approved by Finance Director:**

**Approved by Public Works Dir.:**

**Approved by City Engineer:**

Initial & Date

 7/24/14  
 7/23/14  
 7/24/14  
 7/23/14  
 7/23/14

Expenditure Required	Amount Budgeted	Appropriation Required
\$1,873,081.65		\$0.00

*See Fiscal Consideration Below*

**INFORMATION/BACKGROUND**

The City received three grants for the Cushman Trail Phase 3 project: \$652,200 through the Federal Highway Administration (FHWA) – Transportation, Community and System Preservation (TCSP) program, and \$663,000 through the Federal Highway Administration, Congestion Management and Air Quality (CMAQ) program, and \$1,200,000 from the Washington State Public Works Assistance Account (PWAA). This project will provide for the extension of Cushman Trail from the current terminus point at 96<sup>th</sup> St. to and across a wetland via a newly constructed pin-piled bridge, following the TPU powerline easement and terminating across Burnham Drive just north of 50<sup>th</sup> St, the entrance to the Little League fields.

This project was a very challenging one from the perspective of the myriad of permits that had to be procured including the National Environmental Project Approval process (NEPA), which was facilitated through our partnership developed with WSDOT, the Statewide Fisheries Hydraulic Project Approval permit (HPA) and the City’s own permitting process.



**BID RESULTS**

The Cushman Trail Phase 3 Project was bid using the City's Public Works bidding process. The Engineer's Opinion of Probable Cost for the project was \$1,410,400.18. A total of nine (9) bid proposals were received by the City of Gig Harbor on July 8, 2014. Bid results from each bidder are summarized below showing a total bid amount, including Washington State sales tax (WSST). Since the Federal pass through grant monies is through Washington State Department of Transportation (WSDOT), WSDOT has also reviewed the bids and has found that Nordland Construction to be the most responsive and responsible bidder and affirms awarding the construction contract to them.

BIDDER	TOTAL BID AMOUNT
1. Nordland Construction NW	\$1,572,486.16
2. WHH Nisqually Fed Services LLC	\$1,714,805.22
3. Macnak Construction LLC	\$1,719,008.25
4. Stan Palmer Construction, Inc.	\$1,749,400.84
5. RV Associates, Inc.	\$1,836,899.95
6. Harlow Construction Co., Inc.	\$1,871,076.53
7. Quigg Bros., Inc.	\$1,895,682.71
8. Massana Construction	\$2,135,167.16
9. Pacific Civil & Infrastructure, Inc.	\$2,218,010.17

**FISCAL CONSIDERATION**

The 2014 City Budget (109) Park Development Fund has identified the following funding for this project:

Budget	
FHWA TCSP Grant Funds	\$ 652,200.00
CMAQ Grant Funds	\$ 663,000.00
PWAA Grant Funds	\$ 787,979.54
Total Budget =	<b>\$ 2,103,179.54</b>
Design & Permitting Expenses	
HW Lochner	\$ 41,320.52
David Evans & Associates, Inc.	\$ 175,461.22
Exeltech	\$ 7,066.15
WSDOT	\$ 6,250.00
Design & Permitting Total =	<b>\$ 230,097.89</b>
Anticipated 2014 Expenses	
Nordland Construction NW Construction contract	\$1,572,486.16
David Evans & Associates, Inc. Consultant Services Contract including Materials testing services	\$250,595.49
City Engineer Change Order Authority	\$50,000.00
Construction Total =	<b>\$ 1, 873,081.65</b>
Remaining Budget =	<b>(\$ 0.00)</b>

**BOARD OR COMMITTEE RECOMMENDATION**

None.

**RECOMMENDATION/MOTION**

Award and authorize the Mayor to execute a Public Works Contract with Nordland Construction NW in an amount not exceed \$1,572,486.16 for the award of the Cushman Trail Phase 3 Project; and Authorize the City Engineer to approve additional expenditures up to \$50,000 to cover any Public Works Contract change orders; and Authorize the Mayor to Execute a Consultant Services Contract with David Evans & Associates, Inc. in an amount not-to-exceed \$250,595.49.

**CITY OF GIG HARBOR PUBLIC WORKS CONTRACT  
CUSHMAN TRAIL PHASE 3  
FEDERAL AID NO. TCSP-11WA(026)  
CPP-1126**

THIS AGREEMENT, made and entered into, this \_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and Nordland Construction NW, a corporation organized under the laws of the State of Washington, located and doing business at 123 Ponderosa Place, Nordland, WA 98358 hereinafter called the "Contractor."

WITNESSETH:

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

The Contractor shall do all of the work and furnish all of the labor, materials, tools, and equipment necessary to complete the work under this contract generally consisting of, but not limited to, the construction of approximately 1,170 feet of timber bridge, construction of approximately 215 feet of at-grade trail, pervious asphalt paving, structural earth walls; installation of Rectangular Rapid Flash Beacon (RRFB) assemblies; installation of bollards; striping; permanent signing; traffic control; temporary erosion and sediment control measures; landscaping; and other work, all in accordance with the attached Contract Plans, Special Provisions, the City of Gig Harbor Public Works Standards (most current version) and the Standard Specifications, including the schedule of prices in the "Proposal," the sum of One Million Five Hundred Seventy-two Thousand Four Hundred Eighty-six Dollars and Sixteen Cents (\$1,572,486.16), subject to the provisions of the Contract Documents, the Special Provisions, and the Standard Specifications.

1. The Notice to Proceed will be given in accordance with Section 1-08.4 of Contract Documents. The Contractor shall commence construction activities on the project site in accordance with Section 1-08.4 of the Contract Documents. Contract time shall begin in accordance with Section 1-08.5 of Contract Documents. Work shall be substantially complete in accordance with Section 1-08.5 of the Contract Documents.
2. The Contractor agrees to pay the City for liquidated damages incurred according to Section 1-08.9 of the Contract Documents per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
3. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
4. The term "Contract Documents" shall mean and refer to the following: "Invitation to Bidders," "Bid Proposal," "Addenda" if any, "Specifications," "Plans," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Special Provisions," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents, including, but not limited to the Washington State Department of Transportation's "2014 Standard Specifications for Road, Bridge, and Municipal Construction," including the American Public Works Association (APWA) General Special Provisions, MUTCD, WSDOT Standard Plans and City of Gig Harbor Public Works Standards.

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

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

CITY of GIG HARBOR:

CONTRACTOR:

\_\_\_\_\_  
Jill Guernsey, Mayor  
City of Gig Harbor

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Official)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

ATTEST:

Date: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

APPROVED FOR FORM:

\_\_\_\_\_  
City Attorney



<b>Local Agency Standard Consultant Agreement</b>	Consultant/Address/Telephone David Evans and Associates, Inc. 3700 Pacific Highway East Fife, WA 98424 (253) 922-9780	
<input checked="" type="checkbox"/> Architectural/Engineering Agreement <input type="checkbox"/> Personal Services Agreement		
Agreement Number CPP-1126	Project Title And Work Description Cushman Trail Phase III Construction Support	
Federal Aid Number TCSP-11WA(028)		
Agreement Type (Choose one) <input type="checkbox"/> <b>Lump Sum</b> Lump Sum Amount \$ _____ <input checked="" type="checkbox"/> <b>Cost Plus Fixed Fee</b> Overhead Progress Payment Rate <u>169.51</u> % Overhead Cost Method <input type="checkbox"/> Actual Cost <input type="checkbox"/> Actual Cost Not To Exceed _____ % <input checked="" type="checkbox"/> Fixed Overhead Rate <u>169.51</u> % Fixed Fee \$ <u>15,657.20</u>	DBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No _____ %	
<input type="checkbox"/> <b>Specific Rates Of Pay</b> <input type="checkbox"/> Negotiated Hourly Rate <input type="checkbox"/> Provisional Hourly Rate <input type="checkbox"/> <b>Cost Per Unit of Work</b>	Federal ID Number or Social Security Number 93-066-1195	
	Do you require a 1099 for IRS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Completion Date March 31, 2015
	Total Amount Authorized \$	<u>227,814.08</u>
	Management Reserve Fund \$	<u>22,781.41</u>
	Maximum Amount Payable \$	<u>250,595.49</u>

**Index of Exhibits (Check all that apply):**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Exhibit A-1 Scope of Work<br><input type="checkbox"/> Exhibit A-2 Task Order Agreement<br><input type="checkbox"/> Exhibit B-1 DBE Utilization Certification<br><input type="checkbox"/> Exhibit C Electronic Exchange of Data<br><input type="checkbox"/> Exhibit D-1 Payment - Lump Sum<br><input checked="" type="checkbox"/> Exhibit D-2 Payment - Cost Plus<br><input type="checkbox"/> Exhibit D-3 Payment - Hourly Rate<br><input type="checkbox"/> Exhibit D-4 Payment - Provisional<br><input checked="" type="checkbox"/> Exhibit E-1 Fee - Lump/Fixed/Unit<br><input type="checkbox"/> Exhibit E-2 Fee - Specific Rates<br><input checked="" type="checkbox"/> Exhibit F Overhead Cost<br><input checked="" type="checkbox"/> Exhibit G Subcontracted Work<br><input checked="" type="checkbox"/> Exhibit G-1 Subconsultant Fee | <input type="checkbox"/> Exhibit G-2 Fee-Sub Specific Rates<br><input checked="" type="checkbox"/> Exhibit G-3 Sub Overhead Cost<br><input checked="" type="checkbox"/> Exhibit H Title VI Assurances<br><input checked="" type="checkbox"/> Exhibit I Payment Upon Termination of Agreement<br><input checked="" type="checkbox"/> Exhibit J Alleged Consultant Design Error Procedures<br><input checked="" type="checkbox"/> Exhibit K Consultant Claim Procedures<br><input type="checkbox"/> Exhibit L Liability Insurance Increase<br><input checked="" type="checkbox"/> Exhibit M-1a Consultant Certification<br><input checked="" type="checkbox"/> Exhibit M-1b Agency Official Certification<br><input checked="" type="checkbox"/> Exhibit M-2 Certification - Primary<br><input checked="" type="checkbox"/> Exhibit M-3 Lobbying Certification<br><input checked="" type="checkbox"/> Exhibit M-4 Pricing Data Certification<br><input checked="" type="checkbox"/> App. 31.910 Supplemental Signature Page |
|--|---|

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

**WITNESSETH THAT:**

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

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

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

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

**I General Description of Work**

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

**II Scope of Work**

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

**III General Requirements**

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

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

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

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

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

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

#### **IV Time for Beginning and Completion**

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

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

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

#### **V Payment Provisions**

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

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

#### **VI Sub-Contracting**

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

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

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

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

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

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

#### **VII Employment**

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

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

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

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

### **VIII Nondiscrimination**

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

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

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

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

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

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

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

49 CFR Part 21

23 CFR Part 200

RCW 49.60.180

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

### **IX Termination of Agreement**

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

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

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

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



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

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

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

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

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

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

### **X Changes of Work**

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

### **XI Disputes**

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

### **XII Venue, Applicable Law, and Personal Jurisdiction**

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

### **XIII Legal Relations**

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

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

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

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

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

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

#### **Insurance Coverage**

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000) per occurrences and two million dollars (\$2,000,000) in the aggregate for each policy period.
- C. Vehicle liability insurance for any automobile used in an amount not less than a one million dollar (\$1,000,000) combined single limit.

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

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

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

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

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

#### **XIV Extra Work**

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

#### **XV Endorsement of Plans**

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

#### **XVI Federal and State Review**

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

#### **XVII Certification of the Consultant and the Agency**

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

#### **XVIII Complete Agreement**

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

#### **XIX Execution and Acceptance**

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

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

By See Supplemental Signature Sheet By See Supplemental Signature Sheet

Consultant David Evans and Associates, Inc. Agency City of Gig Harbor



<b>Supplemental Signature Page for Standard Consultant Agreement</b>	Consultant/Address/Telephone David Evans and Associates, Inc. 3700 Pacific Highway East Fife, WA 98424 (253) 922-9780
Agreement Number CPP-1126	Project Title And Work Description Cushman Trail Phase III Construction Support
Federal Aid Number TCSP-11WA(028)	
Local Agency City of Gig Harbor	

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

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year first above written.

**CONSULTANT**

**LOCAL AGENCY**

By Alan M. Tebaldi

By \_\_\_\_\_

Consultant Alan M. Tebaldi

Agency City of Gig Harbor

By Michael Clark

By \_\_\_\_\_

Consultant David Evans and Associates, Inc.

Agency City of Gig Harbor

By \_\_\_\_\_

Agency City of Gig Harbor

By \_\_\_\_\_

Agency City of Gig Harbor



**CITY OF GIG HARBOR**

**EXHIBIT A---SCOPE OF SERVICES  
for  
CONSTRUCTION SUPPORT  
for  
CUSHMAN TRAIL PHASE 3**

**INTRODUCTION**

David Evans and Associates, Inc. (DEA) will provide construction services SUPPORT for Cushman Trail Phase 3 as provided in this Scope of Services.

**GENERAL CONSTRUCTION PHASE ADMINISTRATION**

DEA, the Engineer of Record, will provide the CITY with construction phase administration, construction survey, construction observation and construction documentation services as described herein. DEA's services include construction survey, field observation services, construction phase documentation and management support, geotechnical services, environmental support, and administrative support as specifically identified below.

DEA will perform the work tasks described in this scope of services under the overall direction of the CITY. DEA will assist the City's construction inspector and maintain direct communications with the City to review and document the contractor's work. DEA will assist the City in preparation of change orders if necessary, measure and evaluate materials quantities, review contractor submitted requests for information (RFI's), prepare monthly draft pay estimates, create a photo log, and maintain daily field records.

DEA will set up a project document management system for use in future CITY and state audits and will be in City format. The management system will provide for filing correspondence and communications to or from DEA throughout the duration of the project. The system will file and track the documents that impact contractor payment issues for pay quantities. The system will file and track the reports and communications that relate to public involvement, complaints and questions, traffic control by the contractor, wage rates, Department of Labor and Industry issues, and related project communications. The filing schedule and format will be in accordance with the CITY filing standards.

DEA's field staff will be at the project site as requested by the City, to assist the City in the observation of the Contractor's performance for general compliance with the conditions of the contract documents. DEA is on-site to provide additional assurance that the contractor's work is proceeding as required in the contract documents and plans and specifications.

DEA's fee and work effort is based upon the assumption that construction is completed within 100 working days, plus additional days anticipated for project finalization activities after the substantial

completion date is reached. Extended construction will be addressed in a mutually agreed upon amendment to this contract.

DEA will perform its services for the work described in this scope of services following the degree of care and skill ordinarily established by professional consultants and following the standards of the industry performing under similar circumstances.

### **TASK 1 - PROJECT MANAGEMENT**

For this task DEA will:

- DEA will provide project management of its staff and services for this phase of the project.
- Provide construction phase engineering administration and act as client liaison with the CITY;
- Monitor and manage DEA's subconsultant scope of services and budget;
- Organize and attend one start-up meeting with two DEA staff attending along with City staff to review the project, its expected outcome, establish lines of communication within the CITY, and establish and maintain an organizational structure for the construction administration of this project;
- Provide bi-weekly updates via email to the CITY on the status of the work being done. The update will identify tasks that must be performed by DEA and by the CITY for the upcoming two-week period to keep the project on schedule;
- DEA administrative staff will be assigned to assist with the management of DEA project files, invoicing and other internal project management assistance; and
- Provide QA/QC review of DEA's services throughout the construction phase of the project.

### **TASK 2 - PROJECT START-UP**

For this task DEA will:

- Set up project files, in hard copy and electronically, in accordance with the CITY filing standards;
- Develop project processes, procedures and templates; and
- Organize and attend a pre-construction meeting with the DEA construction phase staff, City staff, Contractor personnel and other construction phase stakeholder representatives. DEA will prepare a meeting agenda.

### **TASK 3—CONSTRUCTION PHASE ADMINISTRATION AND DOCUMENTATION**

DEA will render interpretations of the requirements of the contract documents properly requested by the CITY, and provide the CITY with copies of written communications that are to be submitted to the contractor through the City. DEA will review, approve, or otherwise take action on the contractor's submittals or requests for information including field questions, review shop drawings and other submittals which are all properly requested and submitted to DEA through the City, maintain a records of materials list, prepare documents for processing change orders including a cost estimate for each change order, analyze and recommend disposition of cost proposals from the contractor for changes in the work, advise the CITY of the contractor's progress schedules for conformance with the contract

documents, and promptly notify the CITY and the contractor of any identified deviations or noncompliance.

For this task DEA will:

- Prepare and distribute applicable contract correspondence;
- Prepare up to six (6) monthly draft progress pay estimates based on the contractor's work progress, plus one draft pre-final and one draft final pay estimate. The draft pay estimates will be based on measurements taken, weight tickets and invoices submitted by the contractor, a review of the contractor's progress schedule, and the observation of work performed by the contractor. The pay estimate will be submitted to the CITY with the understanding that the work has progressed to the point indicated and to DEA's knowledge, information, and belief that the quality of the work is in accordance with contract requirements and that the contractor is entitled to payment in the amount shown in the pay estimate. Draft pay estimates will be submitted to the CITY for final review and payment; DEA will check quantities submitted for payment by reviewing delivery tickets and performing field counts and field measurements to confirm work was performed.
- Initiate, review, and/or process up to ten (10) changes and submit them to the City for review and approval and maintain a log of the change orders and their costs;
- Review, respond to, and process up to 25 material submittals and/or shop drawings, and maintain a submittals log;
- Review, respond to, and process requests for clarifications, work or material substitutions, or other documentation affecting project scope, cost, or completion date;
- Create and maintain a Records of Materials document for the project;
- Provide material acceptance documentation to the CITY;
- Provide Contractor claim support to the City (limited to hours shown in Exhibit B); and
- Provide design and documentation assistance to the City.

#### **TASK 4—CONSTRUCTION OBSERVATION**

DEA will assist the City's construction manager in the observation of the contractor's work for general conformance with the requirements of the contract documents. DEA and the City's construction manager will determine in writing the assignments for observation. The DEA field staff will report to the City's construction manager each working day to coordinate the observation and documentation of contractor activities as related to the project.

For this task, DEA will:

- Provide management and supervision of DEA field observation staff;
- DEA's field staff will report to the City's construction manager each working day to coordinate the observation and documentation of contractor activities as related to the project;
- DEA will notify and confirm date and time for the work of DEA's subconsultants;
- Organize and conduct up to twenty-six (26) weekly progress meetings with the contractor, utility representatives, subcontractors, and other stakeholders (total of all meetings is an aggregate of 26 meetings) and provide meeting minutes in memorandum format to the CITY. It is anticipated that the meetings will be held at the project site, will be two hours in duration with two hours used for preparing and distributing meeting minutes;



- Maintain inspector's daily reports (IDRs) summarizing the contractor's work, equipment used for the day, discussions with contractor personnel, safety reports, traffic control issues, and other pertinent information and data regarding the construction and administration of the project for those days that DEA's inspector is on site. An electronic copy of the IDR will be sent via e-mail to the CITY at the end of each working day. DEA is not responsible for the construction contractors' safety programs, precautions, activities or in-activities. DEA may include documents provided or received about safety plans or reports;
- Provide on-site observations of the Contractor's work for the general conformance or non-conformance with the contract documents for those days that DEA's inspector is on site;
- Provide documentation and on-site observations of force account work by the Contractor for those days that DEA's inspector is on site;
- Maintain a photo record of the Contractor's daily work progress for those days that DEA's inspector is on site;
- Receive and review the Contractor's submitted traffic control plans;
- Receive and review the Contractor's submitted daily traffic control diaries;
- Measure and document construction quantities for monthly pay estimates including tracking Item Quantity Tickets for each bid item and preparing Field Note Records for all bid items not having a quantity ticket for those days that DEA's inspector is on site; and
- Monitor and report to the City on the progress of the project's construction schedule.

#### **TASK 5--CONSTRUCTION SURVEYING**

The construction documents require the contractor to provide surveying. DEA will provide construction surveying services only to provide benchmarks for the contractor at 96<sup>th</sup> Street NW and Burnham Drive. All construction staking will be done for the contractor on a one-time basis only. Re-staking work not specifically provided for in this scope of services will be performed on a time and expense basis with the approval of the CITY. DEA will set benchmarks prior to the contractor beginning to do construction work. The Contractor shall be fully responsible for all data, dimensions, and elevations measured or taken from the provided benchmarks.

For this task DEA will:

- Meet with the CITY and the contractor one time to establish lines of communication and understand their work schedule and proposed method of operation;
- Set and maintain horizontal and vertical control, as needed for DEA's work, and set up to four (4) temporary bench marks. Control point data will be provided to the CITY;

#### **TASK 6--PROJECT CLOSE-OUT**

This phase of the project will start when the construction work is physically complete or substantially complete and work will continue through final project acceptance. DEA will obtain, process, and submit to the CITY items related to the closing-out of the construction project.

Any certification provided by DEA or its subconsultants will only be based upon the facts known or provided to DEA that they may reasonably rely and upon DEA's reasonable professional opinion. DEA can only provide a certification that the construction generally complies with the design intent and

cannot guarantee or warranty the contractor's work. If the construction is not in general compliance, then no certification will be provided.

For this task DEA will:

- Prepare a final punch list of work items yet to be satisfactorily completed by the contractor;
- Perform a final punch list walk-thru with the CITY;
- Conduct one field review confirming completion of punch list items;
- Prepare "Record Drawings" that correct or revise the original construction drawing incorporating changes made during construction and reflecting the information provided by the Contractor. DEA may rely on the information provided by others to complete the Record Drawings. The Record Drawings will be provided in Autocadd Civil 3D and PDF file format, 2014 or older, and signed by an Engineer or Surveyor licensed in the State of Washington; Sheet size shall be 22x34 inch.
- Issue substantial completion and final completion notifications to the contractor if appropriate;
- Prepare and submit a final materials acceptance and certification report;
- Prepare a pre-final and a final construction pay estimate for the project; and
- Finalize and package all construction documents.

#### **TASK 7--ENVIRONMENTAL COMPLIANCE**

For this task, DEA will:

- Delineate wetland boundaries.
- Monitor TESC plan implementation for compliance.
- Monitor compliance with the HPA issued for Phase 3.

#### **SUBCONSULTANT SERVICES**

##### **GEOTECHNICAL ASSISTANCE**

DEA will retain the services of Kleinfelder geotechnical subconsultant as approved by the City. Geotechnical assistance may include soils review work, water table monitoring and de-watering work and on-call work when deemed necessary by DEA or the CITY.

For this task DEA will retain Kleinfelder to:

- Provide field observation of pin-pile installation;
- Provide field observation of subgrade conditions under walls;
- Provide on-call geotechnical services;
- Assist and provide DEA with information regarding de-watering work that may be required as part of this project; and
- Conduct in place density testing of the aggregate as well as asphalt density testing.

#### **ASSUMPTIONS AND CONDITIONS**

1. Project Start-up, Project Close-out and Construction Surveying (Tasks 2, 5 and 6) are not dependent upon the length of the construction contract. As such, the scope and associated fees of these tasks will not vary due to non-working days, unworkable days, suspensions or contract extensions unless the scope for these tasks changes;
2. The CITY and DEA have estimated the number of hours, including travel time, that the DEA inspector will be requested to be at the site. Payment to DEA will be for actual hours worked, plus travel time. If additional hours of DEA's inspector's time are requested by the CITY, the budget will be increased accordingly.
3. No travel time has been included in the DEA inspector's meeting budget. It is assumed that the DEA inspector will only attend weekly meetings on those days that he is otherwise at the site.
4. The CITY will furnish additional inspector(s), or authorize funding for DEA from the Management Reserve Fund for providing additional inspector(s), as necessary, to accommodate the Contractor's work schedule and work methods. DEA and the CITY will work closely to optimize the use of additional inspectors.
5. The Scope of Services and associated fee schedule for Project Management, Construction Administration and Documentation, and Construction Observation (Tasks 1, 3 & 4) is based on a maximum of 100 8-hour contractor working days. Work beyond that time has not been included in the costs for this scope of services and would be considered additional or extra work. If the project is delayed, the contractor works more than 8 hours a day, the Contractor works on unworkable or non-working days or the project's working days exceed this time then the effort needed to provide construction observation services by DEA will need to be increased. The CITY and DEA will work closely to optimize this additional-required level of effort by DEA.
6. Normal working day and night work hours shall be in accordance with Section 1-08.0(2) of the contract Special Provisions. This Scope of Services and associated fee schedule is based on DEA staff working a 40 hour work week. Should the Contractor request different working hours in accordance with the provisions of Section 1-08.0(2) of the Special Provisions, the CITY will discuss with DEA the budget impacts of such request and work with DEA to revise this Scope of Services and/or contract budget as necessary, or deny the Contractor's request.
7. The Construction Surveying tasks will be included in the project special provisions to identify for the Contractor the level of effort committed to surveying. The City will support DEA in denying survey requests or securing compensation from the Contractor for requests that are not included in the scope of services.
8. DEA shall not be responsible for the contractor's construction means, methods, techniques, sequences or procedures, or safety precautions and programs except as otherwise provided in this scope of services. DEA shall not be responsible for the contractor's failure to carry out the work in accordance with the contract documents. DEA will endeavor to identify and guard the CITY against defects and deficiencies in the work of the contractor, but it is understood that DEA does not and cannot guarantee the performance of the contractor. The review of submittals will not be conducted for the purpose of determining the accuracy and completeness of details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the contractor.
9. DEA will advise the CITY of work that does not conform to the contract documents. When considered necessary or advisable to determine the proper implementation of the intent of the contract documents, DEA will advise the CITY of the need for special inspection, testing of any work, or direct CITY participation in the inspection work. DEA may authorize, subject to the

prior approval of the CITY, such special testing or inspection in accordance with the provisions of the contract documents whether or not such work be then fabricated, installed, or completed. DEA shall have the authority to reject work that does not comply with or conform to the contract documents. DEA shall have authority to direct the contractor to stop work when such stoppage may, in DEA's reasonable opinion, be necessary for the proper execution of the work or to protect the interests of the City.

10. DEA has prepared this scope of services and related cost spreadsheet with the assumption that a reasonable, competent, and responsive contractor is selected by the City for the project. DEA assumes that the City, DEA and the contractor will work under normal project conditions and environment and DEA agrees to work professionally to enhance this condition. DEA does not anticipate a hostile contractor work environment, excessive inquiries by the contractor, excessive claims, complaints by the contractor or excessive requests for information, excessive requests for survey information or the need to provide direction to the contractor to perform work tasks that are the contractor's responsibility.

### **EXCLUDED TASKS AND CONDITIONS OF WORK**

The following work tasks or conditions of work are not included in this Scope of Services:

1. Additional design services such as re-design of trail elements and similar work.
2. Permits and related work and monitoring if contaminated soils or water are encountered during construction;
3. Traffic control management or development of a traffic control plan;
4. Negotiations with non-CITY utility providers involving issues governed under agreements between themselves, the CITY and/or others beyond the jurisdiction of the contract documents;
5. Attendance at public meetings or hearings;
6. Negotiations with adjacent property owners;
7. Negotiations with Tacoma Public Utilities;
8. Surveying of property lines or performing survey work that would require the filing of a Record of Survey unless specifically provided for in this scope of services;
9. Work involving a claim(s) against the CITY, contractor, private utility, property owner, business and/or a citizen other than by the Contractor;
10. Property rights or easement acquisition;
11. Follow-up work with either the CITY or the contractor after the one-year plant establishment period;

### **MANAGEMENT RESERVE FUND**

Contingency work and the use of Management Reserve Funds (MRF) will be at the direction of the CITY but only to the extent of the funds. Contingency work may include work items listed above as exclusionary work and/or additional work due to project delays or contract extensions. Contingency work done by DEA will be done at the same rates and costs as otherwise approved for this project.

### **REIMBURSABLES**

Reimbursable expenses will include:

- Fees for reprographics services, postage and mailing;

- Subconsultant/vendor services;
- Mileage at the current IRS rate;
- Rental costs, if any excluding rental vehicles
- Recording fees;
- Mylar for recording drawings if requested by the City; and
- Survey scanning or laser equipment at daily rates provided.



## Exhibit D-2 Payment (Cost Plus a Fixed Fee)

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

A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, overhead, direct non-salary costs, and fixed fee.

1. Direct Salary Costs: The Direct Salary Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.
2. Overhead Costs: Overhead Costs are those costs other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the rate shown in the heading of this AGREEMENT under "Overhead Progress Payment Rate." Total overhead payment shall be based on the method shown in the heading of the AGREEMENT. The two options are explained as follows:
  - a. Fixed Rate: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT for overhead at the percentage rate shown. This rate shall not change during the life of the AGREEMENT.
  - b. Actual Cost: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT the actual overhead costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.

A summary of the CONSULTANTS cost estimate and the overhead computation is shown in Exhibit "E" attached hereto and by this reference made part of this AGREEMENT. When an Actual Cost method is used, the CONSULTANT (prime and all sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an overhead schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the overhead rate for billing purposes. It shall be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's overhead cost to reflect the actual rate.

Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed overhead costs until such time as the required information is received and an overhead rate for billing purposes is approved.

The AGENCY, STATE and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual overhead rate, if they so desire.

3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and sub-consultant costs.
  - a. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Cost
  - b. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
  - c. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
  - d. All above charges must be necessary for the services provided under this AGREEMENT.
4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in the heading of this AGREEMENT under Fixed Fee. This amount does not include any additional Fixed Fee, which could be authorized from the Management Reserve Fund. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."
5. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed

the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."<sup>6</sup> Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.

- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the calculated overhead and fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct Salary, Direct Non-Salary, and allowable Overhead Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed salary costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
- C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

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

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

**Exhibit E-1**  
**Consultant Fee Determination - Summary Sheet**  
**(Lump Sum, Cost Plus Fixed Fee, Cost Per Unit of Work)**

**Project:** Cushman Trail Phase III Construction Support

**Direct Salary Cost (DSC):**

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	<u>Cost</u>
Principal in Charge	2	X	\$ 84.50		\$ 169.00
Project Manager	162	X	\$ 62.50		\$ 10,125.00
Structural Engineer	40	X	\$ 56.00		\$ 2,240.00
Sr. Prof Engineer	432	X	\$ 52.00		\$ 22,464.00
Prof Engineer	164	X	\$ 39.00		\$ 6,396.00
Survey Manager	4	X	\$ 61.00		\$ 244.00
Project Surveyor	8	X	\$ 30.00		\$ 240.00
Party Chief	10	X	\$ 29.50		\$ 295.00
Survey Crew	10	X	\$ 27.50		\$ 275.00
Construction Inspector	347	X	\$ 34.50		\$ 11,971.50
Senior Scientist	38	X	\$ 41.30		\$ 1,569.40
Account Manager	20	X	\$ 34.44		\$ 688.80
Project Assistant	239	X	\$ 24.90		\$ 5,951.10
<b>Total DSC =</b>					<b>\$ 62,628.80</b>

**Overhead (OH Cost -- including Salary Additives):**

OH Rate x DSC of 169.51 % x \$ 62,628.80 = \$ 106,162.08

**Fixed Fee (FF):**

FF Rate x DSC of 25 % x \$ 62,628.80 = \$ 15,657.20

**Reimbursables:**

Reproduction, Printing, Postage, Express Delivery \$ 500.00  
Mileage at \$.56 per mile plus tolls @ \$4.00 \$ 3,000.00

**Subconsultant Costs (See Exhibit G):**

\$ 39,866.00

**Grand Total**

\$ 227,814.08

Prepared By: Al Tebaldi

Date: 7/14/14

## **Exhibit F**

### **DEA Overhead**





## Memorandum

June 6, 2014

TO: Erik Jonson, WSDOT Contracts Manager  
MS 47323

FROM: Martha Roach, Agreement Compliance Audit Manager **MR**

SUBJECT: David Evans and Associates, Inc. Indirect Cost Rate  
for fiscal year end November 2, 2013

The Oregon Department of Transportation (ODOT) has concluded their cognizant review of David Evans (DEA) for the above referenced fiscal year. ODOT is the Cognizant State for David Evans. As such ODOT has performed its cognizant review and accepted the audit performed by Grant Thornton. ODOT did make some additional adjustments to the DEA Indirect Cost Rate. ODOT provided us a copy of the acceptance letter along with the Indirect Cost Rate schedule.

Based ODOT's review of DEA's Indirect Cost Rate and based on the adjustments made by ODOT, we are issuing this letter establishing DEA's rate for the fiscal year ending November 2, 2013, at 169.51% of direct labor (rate includes 0.29% Facilities Cost of Capital).

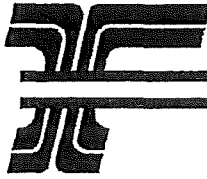
Costs billed to agreements will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement.

If you have any questions, feel free to call me at (360) 705-7006 or via email at [roachma@wsdot.wa.gov](mailto:roachma@wsdot.wa.gov)

Attachment

cc: Steve McKerney  
File

# Oregon Department of Transportation Audit Services



Central Services Division – MS 52, 355 Capitol Street NE, Salem, OR 97301 Telephone: 503-986-3213

June 6, 2014

The Board of Directors and Stockholders  
David Evans and Associates, Inc (DEA)

RE: David Evans and Associates, Inc. Schedule of Indirect Cost Rate,  
Fiscal Year Ended November 2, 2013

We have performed a cognizant review of documentation and the working papers of your independent CPA firm, Grant Thornton (GT), of their audit of the Schedule of Indirect Cost Rate for David Evans and Associate's (DEA) Fiscal Year Ended November 2, 2013 in accordance with our role as Cognizant Agency as defined in 23 U.S.C. 112(b)(2)(c) and 23 CFR 172.3 and 172.7. Our cognizant review was performed in accordance with the AASHTO Review Program for CPA Audits of Consulting Engineers' Indirect Cost Rates.

We were provided with a copy of GT's audit report dated February 10, 2014, copies of their working papers and additional documentation from DEA.

As the result of our review, we revised the Schedule of Indirect Cost Rate (see attachment). We disallowed the escalation adjustment of 4% on the salary surveys for the executives' compensation analysis. The escalation adjustment was not according to the methodology of the specific surveys. The adjustment increases unallowable executive compensation by \$11,150. We disallowed the personal usage of auto allowance expenses. The adjustment increases unallowable vehicle expense by \$342,751.

Based on our review, we accepted the revised Schedule of Indirect Cost Rate and this letter of concurrence establishes DEA's Schedule of Indirect Cost Rate for the fiscal year ended November 2, 2013 at 169.22% of direct labor and a Facilities Capital Cost of Money factor of 0.29% of direct labor. In this fiscal year, DEA proposed a field rate of 53.60%. Our review concluded this was a contract specific rate and was not to be used by any state departments of transportation.

A copy of this letter will be forwarded to the appropriate ODOT contracting offices. If you or any representative of DEA has any questions, please contact me at (503) 986-3213 or Ruth Wu at (503) 986-4003.

Sincerely,

A handwritten signature in black ink, appearing to read 'Margaret Cole'.

Margaret Cole, CPA  
External Audit Manager  
Oregon Department of Transportation

cc: Ron Gasper, Chief Financial Officer, David Evans and Associates, Inc.  
Tony Parke, Partner, Grant Thornton

David Evans and Associates, Inc.  
Schedule of Indirect Costs  
FYE 11/02/2013

Description	DEA's proposed	ODOT Adjustments FAR	Final Approved
Direct Labor	\$ 23,926,562		\$ 23,926,562
Fringe Benefits:			
Holiday, vacation, sick	\$ 4,993,003		\$ 4,993,003
Termination / Severance	102,856		102,856
Vacation Accrual	69,692		69,692
Vacation Cash out	184,738		184,738
DOL compliance labor	2,296		2,296
Group Medical	4,080,749		4,080,749
Group Life Insurance	91,594		91,594
Workers Comp	195,878		195,878
Payroll Taxes	3,915,654		3,915,654
Other Payroll Related Costs	(330,334)		(330,334)
Civic Duty Labor	28,341		28,341
Public Relations Calculated Fringe Elimination	(360,397)		(360,397)
Union Benefits	402,363		402,363
Total Fringe Benefits	\$ 13,376,433		\$ 13,376,433
General Overhead:			
Indirect Labor	\$ 12,334,312	(11,150) (a)	\$ 12,323,162
Occupancy	5,947,437		5,947,437
Communications	744,791		744,791
Supplies	525,318		525,318
Pubs and memberships	225,780		225,780
Computer and printer	826,992		826,992
Vehicle expense	1,835,823	(342,751) (b)	1,493,073
General Administrative	403,257		403,257
Selling Expense	244,358		244,358
Training	379,408		379,408
Recruiting and Retention	192,551		192,551
Professional Services	906,543		906,543
Business Insurance	1,020,685		1,020,685
Taxes, Licenses, Fees	644,139		644,139
Depreciation and amortization	1,779,818		1,779,818
Misc exp	(767)		(767)
401K and ESOP	460,000		460,000
Gain or loss on sale	(363,860)		(363,860)
Rental income external	(11,482)		(11,482)
Misc other income/expenses	487		487
Deferred Compensation expense	(169,021)		(169,021)
Discounts Taken	(32)		(32)
Total General Overhead	\$ 27,926,537	\$ (353,901)	\$ 27,572,636
Total Fringe Benefits and General Overhead	\$ 41,302,970		\$ 40,949,069
DEEI Allocation	\$ 776,347		\$ 776,347
DEA Crop Allocation to Onsite	\$ (1,236,282)		\$ (1,236,282)
Total labor burden and general overhead expenses	\$ 40,843,035		\$ 40,489,134
Overhead Rate	170.70%		169.22%
Facilities capital cost of money rate	0.29%		0.29%
Total Overhead Rate	170.99%		169.51%

(a) 31.205-6(p) Disallowed the escalation adjustment of 4% on the salary surveys for the executive compensation analysis  
(b) 31.205-6(m)(2), 31.205-46(d) and 31.201-2(d) Disallowed the personal usage of auto allowance expenses



**Exhibit G-1**  
**Subconsultants' Fee**

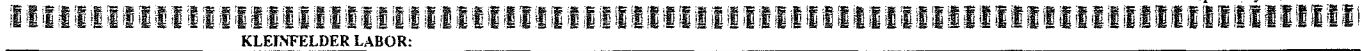




**Table 1: Cushman Trail Geotechnical and Materials Construction Monitoring and Testing Draft Estimate  
Phase 3 Trestle Bridge**

Date: 22-Jun-14

Prepared By: Jason W.



**KLEINFELDER LABOR:**

WORK TASK DESCRIPTION	PERSONNEL & 2014 DIRECT SALARY RATES									TOTAL HOURS	TOTAL AMOUNT
	Sr. Principal	Principal	Proj. Engr.	Geologist	Staff Engineer	Materials Technician	CAD	Admin.			
	\$68.00	\$62.50	\$37.50	\$30.50	\$28.00	\$28.00	\$22.75	\$21.50			
Review plans and specifications					5					5	\$140
RFI responses and submittal review (2 RFIs and 4 submittals @ 2 hrs/each)			12							12	\$450
Review MSE wall design including calculations and soil parameters used.		2	8							10	\$425
Review Diamond Pier foundation design including calculations and soil parameters used.		2	8							10	\$425
Observe wall subgrade. (one visit per MSE wall, 2 visits @ 6 hrs/visit)			6		6					12	\$393
Diamond Pier installation monitoring (29 visits @ 6 hrs/visit)			72		102						\$5,556
Wall, structure, trail subgrade monitoring and temporary slope contingency for additional monitoring. (4 visits @ 6 hrs/visit)			6		18						\$729
Sample pick up (1 porous asphalt, 1 import materials @ 2 hrs each)						4				4	\$112
Wall, structure, trail subgrade monitoring and temporary slope contingency for additional monitoring if over-excavation is necessary. (4 visits @ 6 hrs/visit)			6		18					24	\$729
Density testing soil (6 visits wall backfill, 2 visits CSBC/CSTC, 1 visits embankment @ 6 hrs/visit)						54				54	\$1,512
Provide project and contract management, correspondence, report review, and scheduling.		2	20					2		24	\$918
<b>TOTAL DIRECT SALARY LABOR:</b>	0	6	138	0	149	58	0	2		150	<b>\$11,389</b>

**LABORATORY TEST SUMMARY:**

Test	Est. No. Tests	Unit Cost	Total Cost
Natural Moisture Content	0	\$18	\$0
Grain Size Distribution	1	\$140	\$140
Organic Content	0	\$100	\$0
Atterberg Limits (plasticity)	0	\$160	\$0
Sand Equivalent (1 porous asphalt)	1	\$70	\$70
Modified Proctor (1 wall backfill)	1	\$215	\$215
Fractured Faces (1 porous asphalt)	1	\$100	\$100
Gradation of Extracted Aggregate - Porous Asphalt (1 per 800 tons)	1	\$100	\$100
AC Content by Ignition Over - Porous Asphalt (1 per 800 tons)	1	\$175	\$175
<b>LABORATORY TOTAL:</b>			<b>\$800</b>

**ESTIMATED DIRECT EXPENSES:**

Laboratory Testing	\$800
Mileage @ \$0.56/mile - Assume 50 round trips plus bridge toll	\$3,360
<b>TOTAL DIRECT EXPENSES:</b>	<b>\$4,160</b>

**PROJECT TOTALS AND SUMMARY:**

Kleinfelder Direct Salary Cost (DSC)	\$11,389
Kleinfelder Overhead (OH) at 183.51%	\$20,900
Profit Labor at 30% of DSC	\$3,417
Direct Expenses	\$4,160
<b>ESTIMATED PROJECT TOTAL:</b>	<b>\$39,866</b>

**Conditions/Assumptions:**

- Travel is assumed to be 1 hour round-trip in Pierce County.
- Mileage per trip is based on round-trip from Redmond to the project site.
- Trail subgrade observation assumes approximately 750 feet of trail proof rolling per visit. Total at-grade trail = ~4,200 feet.
- Diamond Pier monitoring assumes 6 piers/day and a visit every other day during installation. Total wetland piers = ~350 thus 29 visits.
- No nuclear densometer calibration based on 10 cores for HMA.
- No porous asphalt field density testing.
- No meeting attendance budgeted.

## **Exhibit G-3**

### **Subconsultants' Overhead**



## Memorandum

April 1, 2014

TO: Erik Jonson, WSDOT Contracts Administrator  
MS 47323

FROM: Martha Roach, Agreement Compliance Audit Manager **MR**

SUBJECT: Kleinfelder Group, Inc. Indirect Cost Rate for  
fiscal year end March 31, 2013.

The North Carolina Department of Transportation (NCDOT) has concluded their cognizant review of Kleinfelder Group for the above referenced fiscal year. NCDOT is the Cognizant State for Kleinfelder Group. As such NCDOT has performed its cognizant review and accepted the audit performed by T. Wayne Owens & Associates, PC. NCDOT provided us a copy of the acceptance letter along with the CPA audit report.

Based on NCDOT's acceptance of the Kleinfelder Group Indirect Cost Rate, we are issuing this letter establishing the Kleinfelder Group Indirect Cost Rate rate for the fiscal year ending March 31, 2013 at 183.51% of direct labor (rate includes .25% Facilities Cost of Capital).

Costs billed to agreements will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement.

If you have any questions, feel free to call me at (360) 705-7006 or via email at [roachma@wsdot.wa.gov](mailto:roachma@wsdot.wa.gov)

### Attachment

cc: Steve McKerney  
File



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

PAT McCRORY  
GOVERNOR

ANTHONY J. TATA  
SECRETARY

January 6, 2014

Catherine Gee, VP of Finance  
Kleinfelder Group, Inc.  
5015 Shoreham Place  
San Diego, CA 92122

Dear Ms. Gee:

We have performed a cognizant review of the audit, and supporting workpapers, of the Indirect Cost Rate of Kleinfelder Group Inc., as presented in the Statement of Direct Labor, Fringe Benefits, and General Overhead for the year ended March 31, 2013 in accordance with our role as Cognizant Agency as defined in 23 U.S.C. §112 (b) (2)(c) and 23 C.F.R §172.3 and 172.7. The audit, dated September 23, 2013, was performed by the independent CPA firm of T. Wayne Owens & Associates, PC. The CPA represented that the audit was conducted in accordance with Government Auditing Standards as promulgated by the Comptroller General of the United States of America, and the audit was designed to determine that the Indirect Cost Rate was established in accordance with the Cost Principles contained in the Federal Acquisition Regulation, 48 CFR Part 31. Our cognizant review was performed in accordance with the AASHTO Review Program for CPA Audits of Consulting Engineers' Indirect Cost Rates.

In connection with our cognizant review, nothing came to our attention that caused us to believe that the examination and supporting workpapers for the Indirect Cost Rate and the related Auditor's Report did not conform in all material respects to the aforementioned regulations and auditing standards.

We recommend acceptance of the following rates:

Payroll burden, G&A and overhead 183.26% (Home Office)  
Facilities Capital Cost of Money 0.25% (Home Office)

Sincerely,

A handwritten signature in cursive script that reads "Lonnetta Raynor".

Lonnetta Raynor, Lead Auditor  
Consultant, Utility, Rail and Turnpike

MAILING ADDRESS:  
NC DEPARTMENT OF TRANSPORTATION  
OFFICE OF INSPECTOR GENERAL  
1507 MAIL SERVICE CENTER  
RALEIGH NC 27699-1507

LWRAYNOR@NCDOT.GOV  
TELEPHONE: 919-707-4582

LOCATION:  
1 S. WILMINGTON STREET  
2<sup>ND</sup> FLOOR ART MUSEUM  
RALEIGH NC 27601

## Certification of Final Indirect Costs

Firm Name: Kleinfelder, Inc.

Indirect Cost Rate Proposal: 183.26%

Date of Proposal Preparation (mm/dd/yyyy): 09/23/2013

Fiscal Period Covered (mm/dd/yyyy to mm/dd/yyyy): 04/01/2012 to 03/31/2013

*I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:*

*1.) All costs included in this proposal to establish final indirect cost rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.*

*2.) This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR 31.*

*All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.*

Signature:  \_\_\_\_\_

Name of Certifying Official\* (Print): David Johnson

Title: Chief Financial Officer

Date of Certification (mm/dd/yyyy): 3/27/14

\*The "Certifying Official" must be an individual executive or financial officer of the firm at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate for use under Agency contracts.

Ref. FHWA Directive 4470.1A available on line at:  
<http://www.fhwa.dot.gov/leasreas/directives/orders/44701a.htm>



## Exhibit H Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AGENCY, STATE or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, STATE or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT'S non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of the AGREEMENT, in whole or in part

6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the AGENCY, STATE or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY and the STATE enter into such litigation to protect the interests of the AGENCY and the STATE and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

**Exhibit I**  
**Payment Upon Termination of Agreement**  
**By the Agency Other Than for**  
**Fault of the Consultant**

**(Refer to Agreement, Section IX)**

**Lump Sum Contracts**

A final payment shall be made to the CONSULTANT which when added to any payments previously made shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the PROJECT. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

**Cost Plus Fixed Fee Contracts**

A final payment shall be made to the CONSULTANT which when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination is to the total work required for the Project. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

**Specific Rates of Pay Contracts**

A final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT plus any direct nonsalary costs incurred at the time of termination of this AGREEMENT.

**Cost Per Unit of Work Contracts**

A final payment shall be made to the CONSULTANT for actual units of work completed at the time of termination of this AGREEMENT.

## **Exhibit J**

### **Alleged Consultant Design Error Procedures**

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

#### **Step 1 – Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Highways and Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

#### **Step 2 - Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

#### **Step 3 – Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

#### **Step 4 – Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide H&LP, through the Region

Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.

- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

#### Step 5 – Forward Documents to Highways and Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Highways and Local Programs Engineer to H&LP for their review and consultation with the FHWA. H&LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, H&LP will request assistance from the Attorney General's Office for legal interpretation. H&LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. H&LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.



## Exhibit K Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### Step 1 – Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### Step 2 – Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Highways and Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Highways and Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

### Step 3 – Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### Step 4 – Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Highways and Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### Step 5 – Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim (s) and rationale utilized for the decision.

### Step 6 – Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

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

Project No. CPP-1126

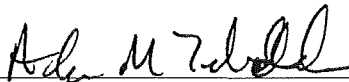
Local Agency Gig Harbor

I hereby certify that I am a Senior Associate and duly authorized representative of the firm of David Evans and Associates, Inc. whose address is 3700 Pacific Highway East, Fife, WA 98424 and that neither I nor the above firm I here represent has:

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

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

7/14/14  
Date

  
Signature

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

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

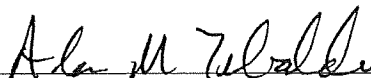
**Exhibit M-2**  
**Certification Regarding Debarment, Suspension, and Other Responsibility**  
**Matters-Primary Covered Transactions**

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

Consultant (Firm): David Evans and Associates, Inc.

7/14/14

(Date)



(Signature) President or Authorized Official of Consultant



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

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

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

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

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

Consultant (Firm): David Evans and Associates, Inc.

7/14/14  
(Date)

Aden M. T. [Signature]  
(Signature) President or Authorized Official of Consultant

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

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of CUSHMAN TRAIL PHASE 3 \* are accurate, complete, and current as of 7/11/14 \*\*. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm David Evans and Associates, Inc.

Name Alan M. Tebaldi Alan M. Tebaldi

Title Senior Associate

Date of Execution\*\*\* 7/14/14

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

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

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



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

**Subject:** Cushman Trail Phase 4 —Public Works Contract Award with RV Associates, Inc. and Consultant Services Contract with David Evans & Associates, Inc.

**Dept. Origin:** Public Works

**Proposed Council Action:**

- Award and authorize the Mayor to execute a Public Works Contract with RV Associates, Inc. in an amount not exceed \$1,385,742.04 for the award of the Cushman Trail Phase 4 Project; and
- Authorize the City Engineer to approve additional expenditures up to \$50,000 to cover any Public Works Contract change orders; and
- Authorize the Mayor to Execute a Consultant Services Contract with David Evans & Associates, Inc. in an amount not-to-exceed \$214,300.97.

**Prepared by:** Stephen Misiurak, PE, City Engineer 

**For Agenda of:** July 28, 2014

**Exhibits:** Public Works and Consultant Services Contracts

**Concurred by Mayor:**

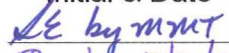

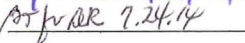
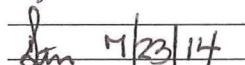
**Approved by City Administrator:**

**Approved as to form by City Atty:**

**Approved by Finance Director:**

**Approved by Public Works Dir.:**

**Approved by City Engineer:**

Initial & Date  
 by Mayor  
 RW 7/24/14  
 by email 7/23/14  
 by FR 7.24.14  
 Jan 7/23/14

<b>Expenditure Required</b>	\$1,650,043.01	<b>Amount Budgeted</b>	<i>See Fiscal Consideration Below</i>	<b>Appropriation Required</b>	\$0.00
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**INFORMATION/BACKGROUND**

The City received two grants for the Cushman Trail Phase 4 project construction: \$663,000 through the Federal Highway Administration (FHWA) – Congestion Management and Air Quality (CMAQ) program, and \$1,200,000 from the Washington State Public Works Assistance Account (PWAA), and local funds. The CMAQ grant is available for use on both Cushman Trail Phase 3 and Phase 4 projects, and all CMAQ funds were allocated to Phase 3 project. This project will provide for the extension of Cushman Trail from the Phase 3 terminus at Burnham Drive, through a portion of the McCormick Creek Plat property and then following the TPU powerline easement, via a newly constructed at-grade trail, and terminating at a newly constructed trail-head at Borgen Blvd. The consultant services contract is for Construction Management assistance and professional materials testing services during construction.

**BID RESULTS**

The Cushman Trail Phase 4 Project was bid using the City's Public Works bidding process. The Engineer's Opinion of Probable Cost for the project was \$1,368,736.18. A total of six (6) bid proposals were received by the City of Gig Harbor on July 8, 2014. Bid results from each bidder are

summarized below showing a total bid amount, including Washington State sales tax (WSST).

BIDDER	TOTAL BID AMOUNT
1. RV Associates, Inc.	\$1,385,742.04
2. Stan Palmer Construction, Inc.	\$1,395,875.72
3. Tucci & Sons, Inc.	\$1,433,893.14
4. Nordland Construction NW	\$1,543,961.51
5. Harlow Construction Co., Inc.	\$1,797,256.28

\*\*Note: The number 1 low bidder, Macnak Construction, bid was rejected due to proposal irregularities which deemed it to be non-responsive.

Since the Federal pass through grant monies is through Washington State Department of Transportation (WSDOT), WSDOT has also reviewed the bids and has found that RV Associates to be the most responsive and responsible bidder and affirms awarding the construction contract to them.

**FISCAL CONSIDERATION**

The 2014 City Budget (109) Park Development Fund has identified the following funding for this project:

Budget	
PWAA Grant Funds	\$ 412,020.46
Local Funds (HBZ Funding) **	\$ 1,416,567.34
Total Budget =	<b>\$ 1,828,587.80</b>
Design & Permitting Expenses	
HW Lochner	\$ 44,719.62
David Evans & Associates, Inc.	\$ 121,765.78
Exeltech	\$ 5,809.39
WSDOT	\$ 6,250.00
Design & Permitting Total =	<b>\$ 178,544.79</b>
Anticipated 2014 Expenses	
RV Associates, Inc. PW Construction Contract	\$1,385,742.04
David Evans & Assoc. Consultant Services Contract including Material testing services	\$214,300.97
City Engineer Change Order Authority	\$50,000.00
Construction Total =	<b>\$ 1,650,043.01</b>
Remaining Budget =	<b>(\$ 0.00)</b>

\*\*Note: This project originally estimated \$648,000 being utilized from Hospital Zone Benefit (HBZ) Funds; however, due to additional federal design requirements and the lapse in time since the original project was estimated several years ago, the overall project costs have increased and sufficient HBZ funds are available to fund this expenditures.

**BOARD OR COMMITTEE RECOMMENDATION**

None.

**RECOMMENDATION/MOTION**

Award and authorize the Mayor to execute a Public Works Contract with RV Associates, Inc. in an amount not to exceed \$1,385,742.04 for the award of the Cushman Trail Phase 4 Project; and Authorize the City Engineer to approve additional expenditures up to \$50,000 to cover any Public Works Contract change orders; and Authorize the Mayor to Execute a Consultant Services Contract with David Evans & Associates, Inc. in an amount not-to-exceed \$214,300.97.

**CITY OF GIG HARBOR PUBLIC WORKS CONTRACT  
CUSHMAN TRAIL PHASE 4  
FEDERAL AID NO. CM-0490(002)  
CPP-1326**

THIS AGREEMENT, made and entered into, this \_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and RV Associates, Inc., a corporation organized under the laws of the State of Washington, located and doing business at 1333 Lloyd Parkway, Port Orchard, WA 98367 hereinafter called the "Contractor."

WITNESSETH:

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

The Contractor shall do all of the work and furnish all of the labor, materials, tools, and equipment necessary to complete the work under this contract generally consisting of, but not limited to, the construction of approximately 40 feet of timber bridge, construction of approximately 4025 feet of at-grade trail, pervious asphalt paving, structural earth walls; rock walls; installation of bollards; striping; permanent signing; traffic control; temporary erosion and sediment control measures; landscaping; water, sewer and power service for a future restroom building, cement concrete driveway, cement concrete sidewalk and other work, all in accordance with the attached Contract Plans, these Contract Provisions, the City of Gig Harbor Public Works Standards (most current version) and the Standard Specifications, including the schedule of prices in the "Proposal," the sum of One Million Three Hundred Eighty-five Thousand Seven Hundred Forty-two Dollars and Four Cents (\$1,385,742.04), subject to the provisions of the Contract Documents, the Special Provisions, and the Standard Specifications.

1. The Notice to Proceed will be given in accordance with Section 1-08.4 of Contract Documents. The Contractor shall commence construction activities on the project site in accordance with Section 1-08.4 of the Contract Documents. Contract time shall begin in accordance with Section 1-08.5 of Contract Documents. Work shall be substantially complete in accordance with Section 1-08.5 of the Contract Documents.
2. The Contractor agrees to pay the City for liquidated damages incurred according to Section 1-08.9 of the Contract Documents per day for each and every day all work remains uncompleted after expiration of the specified time, as liquidated damages.
3. The Contractor shall provide for and bear the expense of all labor, materials, tools and equipment of any sort whatsoever that may be required for the full performance of the work provided for in this Contract upon the part of the Contractor.
4. The term "Contract Documents" shall mean and refer to the following: "Invitation to Bidders," "Bid Proposal," "Addenda" if any, "Specifications," "Plans," "Contract," "Performance Bond," "Maintenance Bond," "Payment Bond," "Special Provisions," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents, including, but not limited to the Washington State Department of Transportation's "2014 Standard Specifications for Road, Bridge, and Municipal Construction," including the American Public Works Association (APWA) General Special Provisions, MUTCD, WSDOT Standard Plans and City of Gig Harbor Public Works Standards.



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

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

CITY of GIG HARBOR:

CONTRACTOR:

\_\_\_\_\_  
Charles L. Hunter, Mayor  
City of Gig Harbor  
Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Official)  
\_\_\_\_\_  
(Print Name)  
\_\_\_\_\_  
(Title)

ATTEST:

Date: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

APPROVED FOR FORM:

\_\_\_\_\_  
City Attorney

<b>Local Agency Standard Consultant Agreement</b>	Consultant/Address/Telephone David Evans and Associates, Inc. 3700 Pacific Highway East Fife, WA 98424 (253) 922-9780	
<input checked="" type="checkbox"/> Architectural/Engineering Agreement <input type="checkbox"/> Personal Services Agreement Agreement Number CPP-1326 Federal Aid Number CM 0490 (002) Agreement Type (Choose one) <input type="checkbox"/> <b>Lump Sum</b> Lump Sum Amount \$ _____ <input checked="" type="checkbox"/> <b>Cost Plus Fixed Fee</b> Overhead Progress Payment Rate <u>169.51</u> % Overhead Cost Method <input type="checkbox"/> Actual Cost <input type="checkbox"/> Actual Cost Not To Exceed _____ % <input checked="" type="checkbox"/> Fixed Overhead Rate <u>169.51</u> % Fixed Fee \$ <u>12,740.15</u> <input type="checkbox"/> <b>Specific Rates Of Pay</b> <input type="checkbox"/> Negotiated Hourly Rate <input type="checkbox"/> Provisional Hourly Rate <input type="checkbox"/> <b>Cost Per Unit of Work</b>	Project Title And Work Description Cushman Trail Phase IV Construction Support DBE Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      _____ % Federal ID Number or Social Security Number 93-066-1195 Do you require a 1099 for IRS?      Completion Date <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      March 31, 2015 Total Amount Authorized \$ <u>194,819.06</u> Management Reserve Fund \$ <u>19,481.91</u> Maximum Amount Payable \$ <u>214,300.97</u>	

**Index of Exhibits (Check all that apply):**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Exhibit A-1 Scope of Work<br><input type="checkbox"/> Exhibit A-2 Task Order Agreement<br><input type="checkbox"/> Exhibit B-1 DBE Utilization Certification<br><input type="checkbox"/> Exhibit C Electronic Exchange of Data<br><input type="checkbox"/> Exhibit D-1 Payment - Lump Sum<br><input checked="" type="checkbox"/> Exhibit D-2 Payment - Cost Plus<br><input type="checkbox"/> Exhibit D-3 Payment - Hourly Rate<br><input type="checkbox"/> Exhibit D-4 Payment - Provisional<br><input checked="" type="checkbox"/> Exhibit E-1 Fee - Lump/Fixed/Unit<br><input type="checkbox"/> Exhibit E-2 Fee - Specific Rates<br><input checked="" type="checkbox"/> Exhibit F Overhead Cost<br><input checked="" type="checkbox"/> Exhibit G Subcontracted Work<br><input checked="" type="checkbox"/> Exhibit G-1 Subconsultant Fee | <input type="checkbox"/> Exhibit G-2 Fee-Sub Specific Rates<br><input checked="" type="checkbox"/> Exhibit G-3 Sub Overhead Cost<br><input checked="" type="checkbox"/> Exhibit H Title VI Assurances<br><input checked="" type="checkbox"/> Exhibit I Payment Upon Termination of Agreement<br><input checked="" type="checkbox"/> Exhibit J Alleged Consultant Design Error Procedures<br><input checked="" type="checkbox"/> Exhibit K Consultant Claim Procedures<br><input type="checkbox"/> Exhibit L Liability Insurance Increase<br><input checked="" type="checkbox"/> Exhibit M-1a Consultant Certification<br><input checked="" type="checkbox"/> Exhibit M-1b Agency Official Certification<br><input checked="" type="checkbox"/> Exhibit M-2 Certification - Primary<br><input checked="" type="checkbox"/> Exhibit M-3 Lobbying Certification<br><input checked="" type="checkbox"/> Exhibit M-4 Pricing Data Certification<br><input checked="" type="checkbox"/> App. 31.910 Supplemental Signature Page |
|--|---|

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

**WITNESSETH THAT:**

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

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

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

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

**I General Description of Work**

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

**II Scope of Work**

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

**III General Requirements**

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

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

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

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

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

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

#### **IV Time for Beginning and Completion**

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

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

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

#### **V Payment Provisions**

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

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

#### **VI Sub-Contracting**

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

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

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

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

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

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

#### **VII Employment**

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

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

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

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

### **VIII Nondiscrimination**

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

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

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

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

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

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

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

49 CFR Part 21

23 CFR Part 200

RCW 49.60.180

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

### **IX Termination of Agreement**

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

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

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

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

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

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

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

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

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

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

### **X Changes of Work**

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

### **XI Disputes**

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

### **XII Venue, Applicable Law, and Personal Jurisdiction**

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



### XIII Legal Relations

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

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

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

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

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

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

#### Insurance Coverage

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

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

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

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

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

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

#### **XIV Extra Work**

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

#### **XV Endorsement of Plans**

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

#### **XVI Federal and State Review**

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

#### **XVII Certification of the Consultant and the Agency**

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

#### **XVIII Complete Agreement**

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

#### **XIX Execution and Acceptance**

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

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the 13 of 50 "Execution Date" box on page one (1) of this AGREEMENT.

By SEE SUPPLEMENTAL SIGNATURE PAGE By \_\_\_\_\_

Consultant David Evans and Associates, Inc. Agency City of Gig Harbor

<b>Supplemental Signature Page for Standard Consultant Agreement</b>	Consultant/Address/Telephone David Evans and Associates, Inc. 3700 Pacific Highway East Fife, WA 98424 (253) 922-9780
Agreement Number CPP-1326	Project Title And Work Description Cushman Trail Phase IV Construction Support
Federal Aid Number CM 0490 (002)	
Local Agency City of Gig Harbor	

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

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year first above written.

**CONSULTANT**

**LOCAL AGENCY**

By Alan M. Tebaldi

By \_\_\_\_\_

Consultant Alan M. Tebaldi

Agency City of Gig Harbor

By Michael Clark

By \_\_\_\_\_

Consultant David Evans and Associates, Inc.

Agency City of Gig Harbor

By \_\_\_\_\_

Agency City of Gig Harbor

By \_\_\_\_\_

Agency City of Gig Harbor



**CITY OF GIG HARBOR**

**EXHIBIT A---SCOPE OF SERVICES  
for  
CONSTRUCTION SUPPORT  
for  
CUSHMAN TRAIL PHASE 4**

**INTRODUCTION**

David Evans and Associates, Inc. (DEA) will provide construction services for Cushman Trail Phase 4 as provided in this Scope of Services.

**GENERAL CONSTRUCTION PHASE ADMINISTRATION**

DEA, the Engineer of Record, will provide the CITY with construction phase administration assistance, construction survey, construction observation and construction documentation services as described herein. DEA's services include construction survey, field observation services, construction phase documentation and management support, geotechnical services, environmental support, and administrative support as specifically identified below.

DEA will perform the work tasks described in this scope of services under the overall direction of the CITY. DEA will assist the City's construction inspector and maintain direct communications with the City to review and document the contractor's work. DEA will assist the City in preparation of change orders if necessary, measure and evaluate materials quantities, review contractor submitted requests for information (RFI's), prepare monthly draft pay estimates, create a photo log, and maintain daily field records.

DEA will set up a project document management system for use in future CITY and state audits and will be in City format. The management system will provide for filing correspondence and communications to or from DEA throughout the duration of the project. The system will file and track the documents that impact contractor payment issues for pay quantities. The system will file and track the reports and communications that relate to public involvement, complaints and questions, traffic control by the contractor, wage rates, Department of Labor and Industry issues, and related project communications. The filing schedule and format will be in accordance with the CITY filing standards.

DEA's field staff will be at the project site as requested by the City to assist the City in the observation of the Contractor's performance for general compliance with the conditions of the contract documents. DEA is on-site to provide additional assurance that the contractor's work is proceeding as required in the contract documents and plans and specifications.

DEA's fee and work effort is based upon the assumption that construction is completed within 70 working days, plus additional days anticipated for project finalization activities after the substantial



completion date is reached. Extended construction will be addressed in a mutually agreed upon amendment to this contract.

DEA will perform its services for the work described in this scope of services following the degree of care and skill ordinarily established by professional consultants and following the standards of the industry performing under similar circumstances.

### **TASK 1 - PROJECT MANAGEMENT**

For this task DEA will:

- DEA will provide project management of its staff and services for this phase of the project.
- Provide construction phase engineering administration and act as client liaison with the CITY;
- Monitor and manage DEA's subconsultant scope of services and budget;
- Organize and attend one start-up meeting with two DEA staff attending along with City staff to review the project, its expected outcome, establish lines of communication within the CITY, and establish and maintain an organizational structure for the construction administration of this project;
- Provide bi-weekly updates via email to the CITY on the status of the work being done. The update will identify tasks that must be performed by DEA and by the CITY for the upcoming two-week period to keep the project on schedule;
- DEA administrative staff will be assigned to assist with the management of DEA project files, invoicing and other internal project management assistance; and
- Provide QA/QC review of DEA's services throughout the construction phase of the project.

### **TASK 2 - PROJECT START-UP**

For this task DEA will:

- Set up project files in accordance with the CITY filing standards;
- Develop project processes, procedures and templates; and
- Organize and attend a pre-construction meeting with the DEA construction phase staff, City staff, Contractor personnel and other construction phase stakeholder representatives. DEA will prepare a meeting agenda.

### **TASK 3—CONSTRUCTION PHASE ADMINISTRATION AND DOCUMENTATION**

DEA will render interpretations of the requirements of the contract documents properly requested by the CITY, and provide the CITY with copies of written communications that are to be submitted to the contractor through the City. DEA will review, approve, or otherwise take action on the contractor's submittals or requests for information including field questions, review shop drawings and other submittals which are all properly requested and submitted to DEA, maintain a records of materials list, prepare documents for processing change orders including a cost estimate for each change order, analyze and recommend disposition of cost proposals from the contractor for changes in the work, advise the CITY of the contractor's progress schedules for conformance with the contract documents, and promptly notify the CITY and the contractor of any identified deviations or noncompliance.

For this task DEA will:

- Assist the CITY by collecting documents submitted by the contractor prior to award to include performance and warranty bonds, insurance documents, required subcontractor submittals, the construction schedule and traffic control information, safety plans, bond releases;
- Prepare and distribute applicable contract correspondence;
- Prepare up to four (4) monthly draft progress pay estimates based on the contractor's work progress, plus one draft pre-final and one draft final pay estimate. The draft pay estimates will be based on measurements taken, weight tickets and invoices submitted by the contractor, a review of the contractor's progress schedule, and the observation of work performed by the contractor. The pay estimate will be submitted to the CITY with the understanding that the work has progressed to the point indicated and to DEA's knowledge, information, and belief that the quality of the work is in accordance with contract requirements and that the contractor is entitled to payment in the amount shown in the pay estimate. Draft pay estimates will be submitted to the CITY for final review and payment; DEA will check quantities submitted for payment by reviewing delivery tickets and performing field counts and field measurements to confirm work was performed.
- Initiate, review, and/or process up ten (10) changes and submit them to the City for review and approval and maintain a log of the change orders and their costs;
- Review, respond to, and process up to 50 material submittals and/or shop drawings, and maintain a submittals log;
- Review, respond to, and process requests for clarifications, work or material substitutions, or other documentation affecting project scope, cost, or completion date;
- Create and maintain a Records of Materials document for the project;
- Provide material acceptance documentation to the CITY;
- Provide Contractor claim support to the City (limited to hours shown in Exhibit B); and
- Provide design and documentation assistance to the City.

#### **TASK 4—CONSTRUCTION OBSERVATION**

DEA will, in assist the City's construction manager, in the observation of the contractor's work for general conformance with the requirements of the contract documents. DEA and the City's construction manager will determine in writing the assignments for observation. The DEA field staff will report to the City's construction manager each working day to coordinate the observation and documentation of contractor activities as related to the project.

For this task, DEA will:

- Provide management and supervision of DEA field observation staff;
- DEA's field staff will report to the City's construction manager each working day to coordinate the observation and documentation of contractor activities as related to the project;
- DEA will notify and confirm date and time for the work of DEA's subconsultants;
- Organize and conduct up to sixteen (16) weekly progress meetings with the contractor, utility representatives, subcontractors, and other stakeholders (total of all meetings is an aggregate of 16 meetings) and provide meeting minutes in memorandum format to the CITY. It is anticipated that

the meetings will be held at the project site, will be two hours in duration with two hours used for preparing and distributing meeting minutes;

- Maintain inspector's daily reports (IDRs) summarizing the contractor's work, equipment used for the day, discussions with contractor personnel, safety reports (DEA is not a safety inspector), traffic control issues, and other pertinent information and data regarding the construction and administration of the project for those days that DEA's inspector is on site. An electronic copy of the IDR will be sent via e-mail to the CITY at the end of each working day. DEA is not responsible for the construction contractors' safety programs, precautions, activities or in-activities. DEA may include documents provided or received about safety plans or reports;
- Provide on-site observations of the Contractor's work for the general conformance or non-conformance with the contract documents for those days that DEA's inspector is on site;
- Provide documentation and on-site observations of force account work by the Contractor for those days that DEA's inspector is on site;
- Maintain a photo record of the Contractor's daily work progress for those days that DEA's inspector is on site;
- Receive and review the Contractor's submitted traffic control plans;
- Receive and review the Contractor's submitted daily traffic control diaries;
- Measure and document construction quantities for monthly pay estimates including tracking Item Quantity Tickets for each bid item and preparing Field Note Records for all bid items not having a quantity ticket for those days that DEA's inspector is on site; and
- Monitor and report to the City on the progress of the project's construction schedule.

#### **TASK 5--CONSTRUCTION SURVEYING**

The construction documents require the contractor to provide surveying. DEA will provide construction surveying services only to provide benchmarks for the contractor at Burnham Drive and Borgen Blvd. All construction staking will be done for the contractor on a one-time basis only. Re-staking work not specifically provided for in this scope of services will be performed on a time and expense basis with the approval of the CITY. DEA will set benchmarks prior to the contractor beginning to do construction work. The Contractor shall be fully responsible for all data, dimensions, and elevations measured or taken from the provided benchmarks.

For this task DEA will:

- Meet with the CITY and the contractor one time to establish lines of communication and understand their work schedule and proposed method of operation;
- Set and maintain horizontal and vertical control, as needed for DEA's work, and set up to four (4) temporary bench marks. Control point data will be provided to the CITY;
- Comply with DNR requirements for documenting and replacing one existing survey monument;

#### **TASK 6---PROJECT CLOSE-OUT**

This phase of the project will start when the construction work is physically complete or substantially complete. DEA will obtain, process, and submit to the CITY items related to the closing-out of the construction project.

Any certification provided by DEA or its subconsultants will only be based upon the facts known or provided to DEA that they may reasonably rely and upon DEA's reasonable professional opinion. DEA can only provide a certification that the construction generally complies with the design intent and cannot guarantee or warranty the contractor's work. If the construction is not in general compliance, then no certification will be provided.

For this task DEA will:

- Prepare a final punch list of work items yet to be satisfactorily completed by the contractor;
- Perform a final punch list walk-thru with the CITY;
- Conduct one field review confirming completion of punch list items;
- Prepare "Record Drawings" that correct or revise the original construction drawing incorporating changes made during construction and reflecting the information provided by the Contractor. DEA may rely on the information provided by others to complete the Record Drawings. The Record Drawings will be provided in PDF file format and signed by an Engineer or Surveyor licensed in the State of Washington;
- Issue substantial completion and final completion notifications to the contractor if appropriate;
- Prepare and submit a final materials acceptance and certification report;
- Prepare a pre-final and a final construction pay estimate for the project; and
- Finalize and package all construction documents.

#### **TASK 7--ENVIRONMENTAL COMPLIANCE**

For this task, DEA will:

- Delineate wetland boundaries.
- Monitor TESC plan implementation for compliance.

#### **SUBCONSULTANT SERVICES**

##### **GEOTECHNICAL ASSISTANCE**

DEA will retain the services of Kleinfelder geotechnical subconsultant as approved by the City. Geotechnical assistance may include soils review work, water table monitoring and de-watering work and on-call work when deemed necessary by DEA or the CITY.

For this task DEA will, except as limited by the estimated budget of \$17,000 for this task, retain Kleinfelder to:

- Provide field observation of pin-pile installation;
- Provide field observation of subgrade conditions under walls;
- Provide on-call geotechnical services; and
- Assist and provide DEA with information regarding de-watering work that may be required as part of this project.

- Conduct in place density testing of the aggregate as well as asphalt density testing and concrete testing.

## ASSUMPTIONS AND CONDITIONS

1. Project Start-up, Project Close-out and Construction Surveying (Tasks 2, 5 and 6) are not dependent upon the length of the construction contract. As such, the scope and associated fees of these tasks will not vary due to non-working days, unworkable days, suspensions or contract extensions unless the scope for these tasks changes;
2. The CITY and DEA have estimated the number of hours, including travel time, that the DEA inspector will be requested to be at the site. Payment to DEA will be for actual hours worked, plus travel time. If additional hours of DEA's inspector's time are requested by the CITY, the budget will be increased accordingly.
3. No travel time has been included in the DEA inspector's meeting budget. It is assumed that the DEA inspector will only attend weekly meetings on those days that he is otherwise at the site.
4. The CITY will furnish additional inspector(s), or authorize funding for DEA from the Management Reserve Fund for providing additional inspector(s), as necessary, to accommodate the Contractor's work schedule and work methods. DEA and the CITY will work closely to optimize the use of additional inspectors.
5. The Scope of Services and associated fee schedule for Project Management, Construction Administration and Documentation, and Construction Observation (Tasks 1, 3 & 4) is based on a maximum of 100 8-hour contractor working days. Work beyond that time has not been included in the costs for this scope of services and would be considered additional or extra work. If the project is delayed, the contractor works more than 8 hours a day, the Contractor works on unworkable or non-working days or the project's working days exceed this time then the effort needed to provide construction observation services by DEA will need to be increased. The CITY and DEA will work closely to optimize this additional-required level of effort by DEA.
6. Normal working day and night work hours shall be in accordance with Section 1-08.0(2) of the contract Special Provisions. This Scope of Services and associated fee schedule is based on DEA staff working a 40 hour work week. Should the Contractor request different working hours in accordance with the provisions of Section 1-08.0(2) of the Special Provisions, the CITY will discuss with DEA the budget impacts of such request and work with DEA to revise this Scope of Services and/or contract budget as necessary, or deny the Contractor's request.
7. The Construction Surveying tasks will be included in the project special provisions to identify for the Contractor the level of effort committed to surveying. The City will support DEA in denying survey requests or securing compensation from the Contractor for requests that are not included in the scope of services.
8. DEA shall not be responsible for the contractor's construction means, methods, techniques, sequences or procedures, or safety precautions and programs except as otherwise provided in this scope of services. DEA shall not be responsible for the contractor's failure to carry out the work in accordance with the contract documents. DEA will endeavor to identify and guard the CITY against defects and deficiencies in the work of the contractor, but it is understood that DEA does not and cannot guarantee the performance of the contractor. The review of submittals will not be conducted for the purpose of determining the accuracy and completeness of details such as

dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the contractor.

9. DEA will advise the CITY of work that does not conform to the contract documents. When considered necessary or advisable to determine the proper implementation of the intent of the contract documents, DEA will advise the CITY of the need for special inspection, testing of any work, or direct CITY participation in the inspection work. DEA may authorize, subject to the prior approval of the CITY, such special testing or inspection in accordance with the provisions of the contract documents whether or not such work be then fabricated, installed, or completed. DEA shall have the authority to reject work that does not comply with or conform to the contract documents. DEA shall have authority to direct the contractor to stop work when such stoppage may, in DEA's reasonable opinion, be necessary for the proper execution of the work or to protect the interests of the City.
10. DEA has prepared this scope of services and related cost spreadsheet with the assumption that a reasonable, competent, and responsive contractor is selected by the City for the project. DEA assumes that the City, DEA and the contractor will work under normal project conditions and environment and DEA agrees to work professionally to enhance this condition. DEA does not anticipate a hostile contractor work environment, excessive inquiries by the contractor, excessive claims, complaints by the contractor or excessive requests for information, excessive requests for survey information or the need to provide direction to the contractor to perform work tasks that are the contractor's responsibility.

## **EXCLUDED TASKS AND CONDITIONS OF WORK**

The following work tasks or conditions of work are not included in this Scope of Services:

1. Additional design services such as re-design of trail elements and similar work.
2. Permits and related work and monitoring if contaminated soils or water are encountered during construction;
3. Traffic control management or development of a traffic control plan;
4. Negotiations with non-CITY utility providers involving issues governed under agreements between themselves, the CITY and/or others beyond the jurisdiction of the contract documents;
5. Attendance at public meetings or hearings;
6. Negotiations with adjacent property owners;
7. Negotiations with Tacoma Public Utilities;
8. Surveying of property lines or performing survey work that would require the filing of a Record of Survey unless specifically provided for in this scope of services;
9. Work involving a claim(s) against the CITY, contractor, private utility, property owner, business and/or a citizen other than by the Contractor;
10. Property rights or easement acquisition;
11. Follow-up work with either the CITY or the contractor after the one-year plant establishment period;

## **MANAGEMENT RESERVE FUND**

Contingency work and the use of Management Reserve Funds (MRF) will be at the direction of the CITY but only to the extent of the funds. Contingency work may include work items listed above as



exclusionary work and/or additional work due to project delays or contract extensions. Contingency work done by DEA will be done at the same rates and costs as otherwise approved for this project.

**REIMBURSABLES**

Reimbursable expenses will include:

- Fees for reprographics services, postage and mailing;
- Subconsultant/vendor services;
- Mileage at the current IRS rate;
- Rental costs, if any; excluding rental vehicles
- Recording fees;
- Mylar for recording drawings if requested by the City; and
- Survey scanning or laser equipment at daily rates provided.

Attachments:            Exhibit B Schedule of Rates and Estimated Hours

## Exhibit D-2 Payment (Cost Plus a Fixed Fee)

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

A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, overhead, direct non-salary costs, and fixed fee.

1. Direct Salary Costs: The Direct Salary Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.
2. Overhead Costs: Overhead Costs are those costs other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the rate shown in the heading of this AGREEMENT under "Overhead Progress Payment Rate." Total overhead payment shall be based on the method shown in the heading of the AGREEMENT. The two options are explained as follows:
  - a. Fixed Rate: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT for overhead at the percentage rate shown. This rate shall not change during the life of the AGREEMENT.
  - b. Actual Cost: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT the actual overhead costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.

A summary of the CONSULTANTS cost estimate and the overhead computation is shown in Exhibit "E" attached hereto and by this reference made part of this AGREEMENT. When an Actual Cost method is used, the CONSULTANT (prime and all sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an overhead schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the overhead rate for billing purposes. It shall be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's overhead cost to reflect the actual rate.

Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed overhead costs until such time as the required information is received and an overhead rate for billing purposes is approved.

The AGENCY, STATE and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual overhead rate, if they so desire.

3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and sub-consultant costs.
  - a. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Cost
  - b. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
  - c. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
  - d. All above charges must be necessary for the services provided under this AGREEMENT.
4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in the heading of this AGREEMENT under Fixed Fee. This amount does not include any additional Fixed Fee, which could be authorized from the Management Reserve Fund. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."
5. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed

the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."6. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.

- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the calculated overhead and fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct Salary, Direct Non-Salary, and allowable Overhead Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed salary costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
- C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

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

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

## Exhibit E-1

### Consultant Fee Determination - Summary Sheet (Lump Sum, Cost Plus Fixed Fee, Cost Per Unit of Work)

Project: Cushman Trail Phase IV Construction Support

**Direct Salary Cost (DSC):**

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	<u>Cost</u>
Principal in Charge	1	X	\$ 84.50		\$ 84.50
Project Manager	149	X	\$ 62.50		\$ 9,312.50
Structural Engineer	12	X	\$ 56.00		\$ 672.00
Sr. Prof Engineer	369	X	\$ 52.00		\$ 19,188.00
Prof Engineer	174	X	\$ 39.00		\$ 6,786.00
Survey Manager	6	X	\$ 61.00		\$ 366.00
Project Surveyor	10	X	\$ 30.00		\$ 300.00
Party Chief	6	X	\$ 29.50		\$ 177.00
Survey Crew	6	X	\$ 27.50		\$ 165.00
Construction Inspector	212	X	\$ 34.50		\$ 7,314.00
Senior Scientist	14	X	\$ 41.30		\$ 578.20
Account Manager	20	X	\$ 34.44		\$ 688.80
Project Assistant	214	X	\$ 24.90		\$ 5,328.60
<b>Total DSC =</b>					<b>\$ 50,960.60</b>

**Overhead (OH Cost -- including Salary Additives):**

OH Rate x DSC of	169.51	% x	\$ 50,960.60	\$ 86,383.31
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**Fixed Fee (FF):**

FF Rate x DSC of	25	% x	\$ 50,960.60	\$ 12,740.15
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**Reimbursables:**

Reproduction, Printing, Postage, Express Delivery	\$ 500.00
Mileage at \$.56 per mile plus tolls @ \$4.00	\$ 3,000.00

**Subconsultant Costs (See Exhibit G):**

\$ 41,235.00

**Grand Total**

\$ 194,819.06

Prepared By: Al Tebaldi

Date: 7/14/14

## Exhibit F

### DEA Overhead





Washington State  
Department of Transportation

## Memorandum

June 6, 2014

TO: Erik Jonson, WSDOT Contracts Manager  
MS 47323

FROM: Martha Roach, Agreement Compliance Audit Manager **MR**

SUBJECT: David Evans and Associates, Inc. Indirect Cost Rate  
for fiscal year end November 2, 2013

The Oregon Department of Transportation (ODOT) has concluded their cognizant review of David Evans (DEA) for the above referenced fiscal year. ODOT is the Cognizant State for David Evans. As such ODOT has performed its cognizant review and accepted the audit performed by Grant Thornton. ODOT did make some additional adjustments to the DEA Indirect Cost Rate. ODOT provided us a copy of the acceptance letter along with the Indirect Cost Rate schedule.

Based ODOT's review of DEA's Indirect Cost Rate and based on the adjustments made by ODOT, we are issuing this letter establishing DEA's rate for the fiscal year ending November 2, 2013, at 169.51% of direct labor (rate includes 0.29% Facilities Cost of Capital).

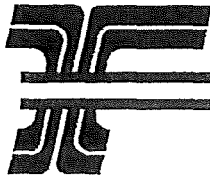
Costs billed to agreements will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement.

If you have any questions, feel free to call me at (360) 705-7006 or via email at [roachma@wsdot.wa.gov](mailto:roachma@wsdot.wa.gov)

Attachment

cc: Steve McKerney  
File

# Oregon Department of Transportation Audit Services



Central Services Division – MS 52, 355 Capitol Street NE, Salem, OR 97301 Telephone: 503-986-3213

June 6, 2014

The Board of Directors and Stockholders  
David Evans and Associates, Inc (DEA)

RE: David Evans and Associates, Inc. Schedule of Indirect Cost Rate,  
Fiscal Year Ended November 2, 2013

We have performed a cognizant review of documentation and the working papers of your independent CPA firm, Grant Thornton (GT), of their audit of the Schedule of Indirect Cost Rate for David Evans and Associate's (DEA) Fiscal Year Ended November 2, 2013 in accordance with our role as Cognizant Agency as defined in 23 U.S.C. 112(b)(2)(c) and 23 CFR 172.3 and 172.7. Our cognizant review was performed in accordance with the AASHTO Review Program for CPA Audits of Consulting Engineers' Indirect Cost Rates.

We were provided with a copy of GT's audit report dated February 10, 2014, copies of their working papers and additional documentation from DEA.

As the result of our review, we revised the Schedule of Indirect Cost Rate (see attachment). We disallowed the escalation adjustment of 4% on the salary surveys for the executives' compensation analysis. The escalation adjustment was not according to the methodology of the specific surveys. The adjustment increases unallowable executive compensation by \$11,150. We disallowed the personal usage of auto allowance expenses. The adjustment increases unallowable vehicle expense by \$342,751.

Based on our review, we accepted the revised Schedule of Indirect Cost Rate and this letter of concurrence establishes DEA's Schedule of Indirect Cost Rate for the fiscal year ended November 2, 2013 at 169.22% of direct labor and a Facilities Capital Cost of Money factor of 0.29% of direct labor. In this fiscal year, DEA proposed a field rate of 53.60%. Our review concluded this was a contract specific rate and was not to be used by any state departments of transportation.

A copy of this letter will be forwarded to the appropriate ODOT contracting offices. If you or any representative of DEA has any questions, please contact me at (503) 986-3213 or Ruth Wu at (503) 986-4003.

Sincerely,

A handwritten signature in black ink, appearing to read 'Margaret Cole'.

Margaret Cole, CPA  
External Audit Manager  
Oregon Department of Transportation

cc: Ron Gasper, Chief Financial Officer, David Evans and Associates, Inc.  
Tony Parke, Partner, Grant Thornton

David Evans and Associates, Inc.  
Schedule of Indirect Costs  
FYE 11/02/2013

Description	DEA's proposed	ODOT Adjustments	FAR	Final Approved
Direct Labor	\$ 23,926,562			\$ 23,926,562
Fringe Benefits:				
Holiday, vacation, sick	\$ 4,993,003			\$ 4,993,003
Termination / Severance	102,856			102,856
Vacation Accrual	69,692			69,692
Vacation Cash out	184,738			184,738
DOL compliance labor	2,296			2,296
Group Medical	4,080,749			4,080,749
Group Life Insurance	91,594			91,594
Workers Comp	195,878			195,878
Payroll Taxes	3,915,654			3,915,654
Other Payroll Related Costs	(330,334)			(330,334)
Civic Duty Labor	28,341			28,341
Public Relations Calculated Fringe Elimination	(360,397)			(360,397)
Union Benefits	402,363			402,363
Total Fringe Benefits	\$ 13,376,433			\$ 13,376,433
General Overhead:				
Indirect Labor	\$ 12,334,312	(11,150) (a)		\$ 12,323,162
Occupancy	5,947,437			5,947,437
Communications	744,791			744,791
Supplies	525,318			525,318
Pubs and memberships	225,780			225,780
Computer and printer	826,992			826,992
Vehicle expense	1,835,823	(3+2,751) (b)		1,493,073
General Administrative	403,257			403,257
Selling Expense	244,358			244,358
Training	379,408			379,408
Recruiting and Retention	192,551			192,551
Professional Services	906,543			906,543
Business Insurance	1,020,685			1,020,685
Taxes, Licenses, Fees	644,139			644,139
Depreciation and amortization	1,779,818			1,779,818
Misc exp	(767)			(767)
401K and ESOP	460,000			460,000
Gain or loss on sale	(363,860)			(363,860)
Rental income external	(11,482)			(11,482)
Misc other income/expenses	487			487
Deferred Compensation expense	(169,021)			(169,021)
Discounts Taken	(32)			(32)
Total General Overhead	\$ 27,926,537	\$ (353,901)		\$ 27,572,636
Total Fringe Benefits and General Overhead	\$ 41,302,970			\$ 40,949,069
DEEI Allocation	\$ 776,347			\$ 776,347
DEA Crop Allocation to Onsite	\$ (1,236,282)			\$ (1,236,282)
Total labor burden and general overhead expenses	\$ 40,843,035			\$ 40,489,134
Overhead Rate	170.70%			169.22%
Facilities capital cost of money rate	0.29%			0.29%
Total Overhead Rate	170.99%			169.51%

(a) 31.205-6(p) Disallowed the escalation adjustment of 4% on the salary surveys for the executive compensation analysis  
(b) 31.205-6(m)(2), 31.205-46(d) and 31.201-2(d) Disallowed the personal usage of auto allowance expenses



**Exhibit G-1**  
**Subconsultants' Fee**



**Table 2: Cushman Trail Geotechnical and Materials Construction Monitoring and Testing Draft Estimate  
Phase 4 At-Grade Trail**

Date: 22-Jun-14

Prepared By: Jason W.

KLEINFELDER LABOR:											
WORK TASK DESCRIPTION	PERSONNEL & 2014 DIRECT SALARY RATES								TOTAL HOURS	TOTAL AMOUNT	
	Sr. Principal	Principal	Proj. Engr.	Geologist	Staff Engineer	Materials Technician	CAD	Admin.			
	\$68.00	\$62.50	\$37.50	\$30.50	\$28.00	\$28.00	\$22.75	\$21.50			
Review plans and specifications					5					5	\$140
RFI responses and submittal review (2 RFIs and 4 submittals @ 2 hrs/each)			12							12	\$450
Observe wall subgrade. (one visit per MSE and rockery wall, 5 visits @ 6 hrs/visit)			6		24					30	\$897
Diamond Pier installation monitoring at Borgen (1 visit @ 6 hrs/visit)					6					6	\$168
At-grade trail subgrade observations. (proof-rolling 6 visits @ 6 hrs/visit)			12		24					36	\$1,122
Sample pick up (1 concrete agg., 2 porous asphalt, 1 HMA, 2 import materials, 3 concrete cylinder @ 2 hrs each)								18		18	\$504
Wall, structure, trail subgrade monitoring and temporary slope contingency for additional monitoring if over-excavation is necessary. (4 visits @ 6 hrs/visit)			6		18					24	\$729
Density testing soil (2 visits wall backfill, 8 visits CSBC/CSTC, 6 visits embankment, 5 visits utilities, 3 visits curb, sidewalks, concrete pavement @ 6 hrs/visit)								144		144	\$4,032
Density testing asphalt (2 visits HMA @ 6 hrs/visit)								12		12	\$336
Concrete and rebar testing and inspection (1 visit sidewalk, 1 visit abutments, 1 visit pavement @ 6 hrs/visit)								18		18	\$504
Provide project and contract management, correspondence, report review, and scheduling.		4	25						2	31	\$1,231
<b>TOTAL DIRECT SALARY LABOR:</b>	0	4	61	0	77	192	0	2		331	<b>\$10,113</b>

**LABORATORY TEST SUMMARY:**

Test	Est. No. Tests	Unit Cost	Total Cost
Natural Moisture Content	0	\$18	\$0
Grain Size Distribution	7	\$140	\$980
Organic Content	0	\$100	\$0
Atterberg Limits (plasticity)	0	\$160	\$0
Sand Equivalent (6 soil, 2 porous asphalt)	8	\$70	\$560
Modified Proctor (2 gravel borrow, 2 CSBC, 1 CSTC, 1 wall backfill)	6	\$215	\$1,290
Concrete Compressive Strength (4 samples/set)	12	\$23	\$276
Concrete Aggregate Grain Size Distribution (1 fine, 1 coarse)	2	\$140	\$280
Fractured Faces (6 soil, 2 porous asphalt)	8	\$100	\$800
Gradation of Extracted Aggregate - Porous Asphalt (1 per 800 tons)	2	\$100	\$200
AC Content by Ignition Over - Porous Asphalt (1 per 800 tons)	2	\$175	\$350
Ignition Oven Calibration (6 samples, 3/test, porous mix design)	2	\$300	\$600
Maximum Theoretical Specific Gravity (Rice, 1 HMA)	1	\$145	\$145
Unit Weight - Gyrotory (1 porous asphalt mix design verification)	1	\$350	\$350
<b>LABORATORY TOTAL:</b>			<b>\$5,831</b>

**ESTIMATED DIRECT EXPENSES:**

Laboratory Testing	\$5,831
Mileage @ \$0.56/mile - Assume 55 round trips plus bridge toll	\$3,700
<b>TOTAL DIRECT EXPENSES:</b>	<b>\$9,531</b>

**PROJECT TOTALS AND SUMMARY:**

Kleinfelder Direct Salary Cost (DSC)	\$10,113
Kleinfelder Overhead (OH) at 183.51%	\$18,557
Profit Labor at 30% of DSC	\$3,034
Direct Expenses	\$9,531
<b>ESTIMATED PROJECT TOTAL:</b>	<b>\$41,235</b>

**Conditions/Assumptions:**

- Travel is assumed to be 1 hour round-trip in Pierce County.
- Mileage per trip is based on round-trip from Redmond to the project site.
- Trail subgrade observation assumes approximately 750 feet of trail proof rolling per visit. Total at-grade trail = ~4,200 feet.
- Diamond Pier monitoring assumes 6 piers/day and a visit every other day during installation.
- No nuclear densometer calibration based on 10 cores for HMA.
- No porous asphalt field density testing.
- No curb concrete testing.
- No meeting attendance budgeted.



**Exhibit G-3**  
**Subconsultants' Overhead**



Washington State  
Department of Transportation

## Memorandum

April 1, 2014

TO: Erik Jonson, WSDOT Contracts Administrator  
MS 47323

FROM: Martha Roach, Agreement Compliance Audit Manager

Handwritten initials 'MR' in black ink, positioned to the right of the 'FROM:' line.

SUBJECT: Kleinfelder Group, Inc. Indirect Cost Rate for  
fiscal year end March 31, 2013.

The North Carolina Department of Transportation (NCDOT) has concluded their cognizant review of Kleinfelder Group for the above referenced fiscal year. NCDOT is the Cognizant State for Kleinfelder Group. As such NCDOT has performed its cognizant review and accepted the audit performed by T. Wayne Owens & Associates, PC. NCDOT provided us a copy of the acceptance letter along with the CPA audit report.

Based on NCDOT's acceptance of the Kleinfelder Group Indirect Cost Rate, we are issuing this letter establishing the Kleinfelder Group Indirect Cost Rate rate for the fiscal year ending March 31, 2013 at 183.51% of direct labor (rate includes .25% Facilities Cost of Capital).

Costs billed to agreements will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement.

If you have any questions, feel free to call me at (360) 705-7006 or via email at [roachma@wsdot.wa.gov](mailto:roachma@wsdot.wa.gov)

Attachment

cc: Steve McKerney  
File



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

PAT McCRORY  
GOVERNOR

ANTHONY J. TATA  
SECRETARY

January 6, 2014

Catherine Gee, VP of Finance  
Kleinfelder Group, Inc.  
5015 Shoreham Place  
San Diego, CA 92122

Dear Ms. Gee:

We have performed a cognizant review of the audit, and supporting workpapers, of the Indirect Cost Rate of Kleinfelder Group Inc., as presented in the Statement of Direct Labor, Fringe Benefits, and General Overhead for the year ended March 31, 2013 in accordance with our role as Cognizant Agency as defined in 23 U.S.C. §112 (b) (2)(c) and 23 C.F.R §172.3 and 172.7. The audit, dated September 23, 2013, was performed by the independent CPA firm of T. Wayne Owens & Associates, PC. The CPA represented that the audit was conducted in accordance with Government Auditing Standards as promulgated by the Comptroller General of the United States of America, and the audit was designed to determine that the Indirect Cost Rate was established in accordance with the Cost Principles contained in the Federal Acquisition Regulation, 48 CFR Part 31. Our cognizant review was performed in accordance with the AASHTO Review Program for CPA Audits of Consulting Engineers' Indirect Cost Rates.

In connection with our cognizant review, nothing came to our attention that caused us to believe that the examination and supporting workpapers for the Indirect Cost Rate and the related Auditor's Report did not conform in all material respects to the aforementioned regulations and auditing standards.

We recommend acceptance of the following rates:

Payroll burden, G&A and overhead 183.26% (Home Office)  
Facilities Capital Cost of Money 0.25% (Home Office)

Sincerely,

A handwritten signature in cursive script that reads "Lonnetta Raynor".

Lonnetta Raynor, Lead Auditor  
Consultant, Utility, Rail and Turnpike

MAILING ADDRESS:  
NC DEPARTMENT OF TRANSPORTATION  
OFFICE OF INSPECTOR GENERAL  
1507 MAIL SERVICE CENTER  
RALEIGH NC 27699-1507

LWRAYNOR@NCDOT.GOV  
TELEPHONE: 919-707-4582

LOCATION:  
1 S. WILMINGTON STREET  
2<sup>ND</sup> FLOOR ART MUSEUM  
RALEIGH NC 27601

## Certification of Final Indirect Costs

Firm Name: Kleinfelder, Inc.

Indirect Cost Rate Proposal: 183.26%

Date of Proposal Preparation (mm/dd/yyyy): 09/23/2013

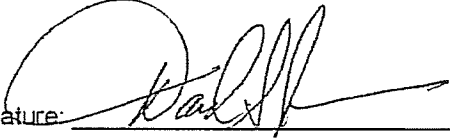
Fiscal Period Covered (mm/dd/yyyy to mm/dd/yyyy): 04/01/2012 to 03/31/2013

*I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:*

*1.) All costs included in this proposal to establish final indirect cost rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of title 48, Code of Federal Regulations (CFR), part 31.*

*2.) This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR 31.*

*All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.*

Signature: 

Name of Certifying Official\* (Print): David Johnson

Title: Chief Financial Officer

Date of Certification (mm/dd/yyyy): 3/27/14

\*The "Certifying Official" must be an individual executive or financial officer of the firm at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has the authority to represent the financial information utilized to establish the indirect cost rate for use under Agency contracts.

Ref. FHWA Directive 4470.1A available on line at:  
<http://www.fhwa.dot.gov/leasregs/directives/orders/44701a.htm>

## Exhibit H Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AGENCY, STATE or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, STATE or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT'S non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE or the FHWA may determine to be appropriate, including, but not limited to:
  - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
  - Cancellation, termination, or suspension of the AGREEMENT, in whole or in part

6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the AGENCY, STATE or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY and the STATE enter into such litigation to protect the interests of the AGENCY and the STATE and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.



**Exhibit I**  
**Payment Upon Termination of Agreement**  
**By the Agency Other Than for**  
**Fault of the Consultant**

**(Refer to Agreement, Section IX)**

**Lump Sum Contracts**

A final payment shall be made to the CONSULTANT which when added to any payments previously made shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the PROJECT. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

**Cost Plus Fixed Fee Contracts**

A final payment shall be made to the CONSULTANT which when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination is to the total work required for the Project. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

**Specific Rates of Pay Contracts**

A final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT plus any direct nonsalary costs incurred at the time of termination of this AGREEMENT.

**Cost Per Unit of Work Contracts**

A final payment shall be made to the CONSULTANT for actual units of work completed at the time of termination of this AGREEMENT.

## Exhibit J Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

### Step 1 – Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Highways and Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

### Step 2 - Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

### Step 3 – Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

### Step 4 – Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide H&LP, through the Region

Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.

- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

#### Step 5 – Forward Documents to Highways and Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Highways and Local Programs Engineer to H&LP for their review and consultation with the FHWA. H&LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, H&LP will request assistance from the Attorney General's Office for legal interpretation. H&LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. H&LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

## Exhibit K Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### Step 1 – Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### Step 2 – Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Highways and Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Highways and Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

### Step 3 – Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### Step 4 – Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Highways and Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

### Step 5 – Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim (s) and rationale utilized for the decision.

### Step 6 – Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

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

Project No. CPP-1326

Local Agency Gig Harbor

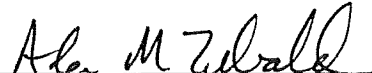
I hereby certify that I am a Senior Associate and duly authorized representative of the firm of David Evans and Associates, Inc. whose address is 3700 Pacific Highway East, Fife, WA 98424 and that neither I nor the above firm I here represent has:

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

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

7/14/14

Date

  
Signature



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

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

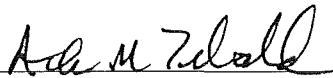
**Exhibit M-2**  
**Certification Regarding Debarment, Suspension, and Other Responsibility**  
**Matters-Primary Covered Transactions**

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

Consultant (Firm): David Evans and Associates, Inc.

7/14/14

(Date)



(Signature) President or Authorized Official of Consultant

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

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

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

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

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

Consultant (Firm): David Evans and Associates, Inc.


7/14/14  
(Date)

  
(Signature) President or Authorized Official of Consultant

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

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of CUSHMAN TRAIL PHASE 4 \* are accurate, complete, and current as of 7/11/14 \*\*. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm David Evans and Associates, Inc.

Name Alan M. Tebaldi 

Title Senior Associate

Date of Execution\*\*\* 7/14/14

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

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

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



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

**Subject:** Public Hearing – 1<sup>st</sup> Amendment to the Development Agreement with McCormick Creek LLC.

**Proposed Council Action:**

1. Hold public hearing and consider public comments,

and

2. Pass Resolution No. 970 authorizing the Mayor to execute Amendment No. 1 to the Development Agreement, attached to the Resolution as Exhibit A, with McCormick Creek LLC.

Several motion options related to the park acquisition are provided on page 3 and 4.

**Dept. Origin:** Planning Department

**Prepared by:** Kristin Moerler *KM*  
Associate Planner

**For Agenda of:** JULY 28, 2014

**Exhibits:** Enlarged image of internal park, Park design concerns provided by Public Works, revised letter from applicant describing changes to the development agreement, and Resolution 970 with Exhibits

Initial & Date

**Concurred by Mayor:**

**Approved by City Administrator:**

**Approved as to form by City Atty:**

**Approved by Finance Director:**

**Approved by Department Head:**

*JE by [unclear]*  
*RW 7/24/14*  
Via Email 7/24/14  
*N/A*  
*JK 7/24/14*

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

**INFORMATION / BACKGROUND**

The Council held a public hearing and discussed the proposed amendments to the McCormick Creek Development Agreement at the last regular Council meeting. Staff has not reiterated the background provided for that meeting as that information can be viewed online as a part of the council packet for July 14, 2014.

When Council last met, a number of concerns were expressed regarding the proposed removal of the requirement to dedicate the internal park, known as Tract D, to the City. Additionally, since that meeting the applicant has requested an additional revision to the agreement to remove the requirement for the Developer to connect the park trails within Tract D from the property line to the actual Cushman trail. The analysis in this document focuses on this revision and the concerns expressed by the Council.

The Council should be aware that the approval of the Amendment to the Development Agreement is very time sensitive for both the Developer and the City as it affects the start of construction of the plat/PRD and the City's Cushman Trail Phase 4. Staff is requesting the Council act on this agreement on the 28<sup>th</sup> of July to allow both parties to move forward on their respective projects. Failure to construct Phase 4 of the Cushman Trail this year will jeopardize existing grant funding.

Previously, City staff proposed the City should not take on the internal park (tract D). While the Developer is willing to accept this change and instead dedicate the park to the future homeowners association, he is equally willing to maintain the existing provisions in the agreement related to the park dedication to the City. He is not interested in negotiating new requirements related to the development or maintenance of the park.

### **STAFF ANALYSIS**

Park Acquisition: Staff and the City Attorney have reviewed the amendment. Regarding the internal PRD park and the discussions at the July 14, 2014 council meeting; the current agreement includes no provisions or requirements for the Developer to develop the park consistent with City standards for a public park. The agreement simply provides that the developer install the features that were proposed for the park at the time of the plat/PRD approval and to dedicate the park to the City at the time of final plat.

Staff has reviewed the plans approved with the PRD and has significant concerns as to the costs and obligations the City would be taking on in acquiring this park and recommends that the City not take ownership of the park for the following reasons:

1. The City would incur costs to improve the park to provide standard park features expected by the public and to mitigate potential liability. These would minimally include providing trash cans, mutt mitt stations, and water fountains not presently included in the park plans. Other improvements may also be needed.
2. The park layout does not provide a location for the City to provide restrooms or off street parking which are typically provided at City park sites of similar size and function.
3. The park is a requirement of the PRD and the principal features of the park plan must be maintained over time unless a revision is approved by the Hearing Examiner. While the City owns many properties encumbered by deed restrictions or other limitations, this park comes with a duty to provide for the recreation needs of the future PRD residents which are potentially different than what may be determined to be in the best interest of the City as a whole.
4. Because the PRD includes bonus density, regardless of the final ownership decision, the zoning code requires that the public have access to the park. The code requires signage noting that public access is allowed on the site, that the public access be noted on the face of the final plat, and that the park be maintained. These specifics will be finalized as the project is reviewed for final plat and final PRD approval.

The park has value to both the Plat/PRD and the City as a whole. Staff's recommendation not to acquire the park does not reflect that the park is inadequate to serve the purposes for which it was intended. Rather the recommendation reflects the value of privately owned open spaces for recreation that build upon the City's recreation investments. This plat/PRD will be within walking distance to the Harbor Hill park dedicated by OPG, and adjacent to the Cushman Trail. Just as the Harbor Hill development includes both public lands dedicated to the City and private open spaces maintained by the homeowners, this Plat will provide public spaces in the form of dedicating to the City the wetland and buffer tracts I and J that include the Cushman Trail alignment and public access to the internal park. Allowing the homeowners to own the internal park provides variety and diversity in outdoor opportunities for the residents and the public in this neighborhood.

Operations staff has provided preliminary comments on the park design that are attached for your consideration. The current language in the agreement would allow the City to

review the built features of the park just prior to Final plat and PRD approval and allow the City to determine if the park should be acquired by the City at that time. This revision allows the City to elect to take ownership of the park or allow the park to be owned and maintained by the home owners based on its merits just prior to final plat/PRD. Additionally motions have been included for your use that would either strike this portion of the amendment entirely, so the City retains the current language for park dedication, or reinserting the prior amendment language for the park to be dedicated to the home owners.

Trail Connections Revision: Regarding the Developer's proposed revision that would remove the obligation to connect the park trails to the Cushman Trail, staff has looked at this request and other desired trail connections within the City and agrees that the City is in a better position to negotiate the details of such connections with TPU. The City needs to pursue this issue to allow the Cushman Trail to meet our park plan's vision of being the back bone to our off street trail system for benefit of the City as a whole. As there would be costs associated with making the future connections (albeit relatively short ones) and the City desires to have the park connected to the trail, staff has negotiated a new provision in the agreement intended to assure the City is able to construct Phase 4 of the Cushman Trail this year.

The easement granted to the City for the Cushman Trail per the existing agreement includes no timeframe for the Developer to relocate the existing access road (50<sup>th</sup>) which is presently located in a portion of the Cushman Trail Phase 4 alignment. As the City desires to construct this trail section this year, staff has negotiated provisions in the amendment that require the developer to relocate the existing road to the new road alignment no later than September 15, 2014. This is intended to assure that we are able to construct the trail this year. Staff believes this is a reasonable compromise and allows both the City and Developer to move forward on their respective projects.

Staff recommends that the Council approve the proposed Amendment 1 to the McCormick Creek Development agreement on July 28<sup>th</sup> to allow both parties to proceed with their projects.

To date, we have received no public comments on the proposed amendments.

#### **BOARD OR COMMITTEE RECOMMENDATION**

Not applicable. In this case the Planning Director has provided a recommendation on the underlying preliminary plat revision. The recommendation on the underlying plat revision is part of the July 14, 2014 packet and has not been reprinted for this meeting as no discussion was raised regarding that aspect of the proposal.

#### **RECOMMENDATION / MOTION**

1. Hold public hearing, consider public comments,
2. And pass one of the following motions:
  - a. CITY OPTION. To approve the Amendment as presently written with the option to acquire the park known as Tract D based on its merits at the time of final plat application:



Move to pass Resolution No. 970 authorizing the Mayor to execute the Amendment No. 1 to the Development Agreement, attached to the Resolution as Exhibit A, with McCormick Creek LLC.

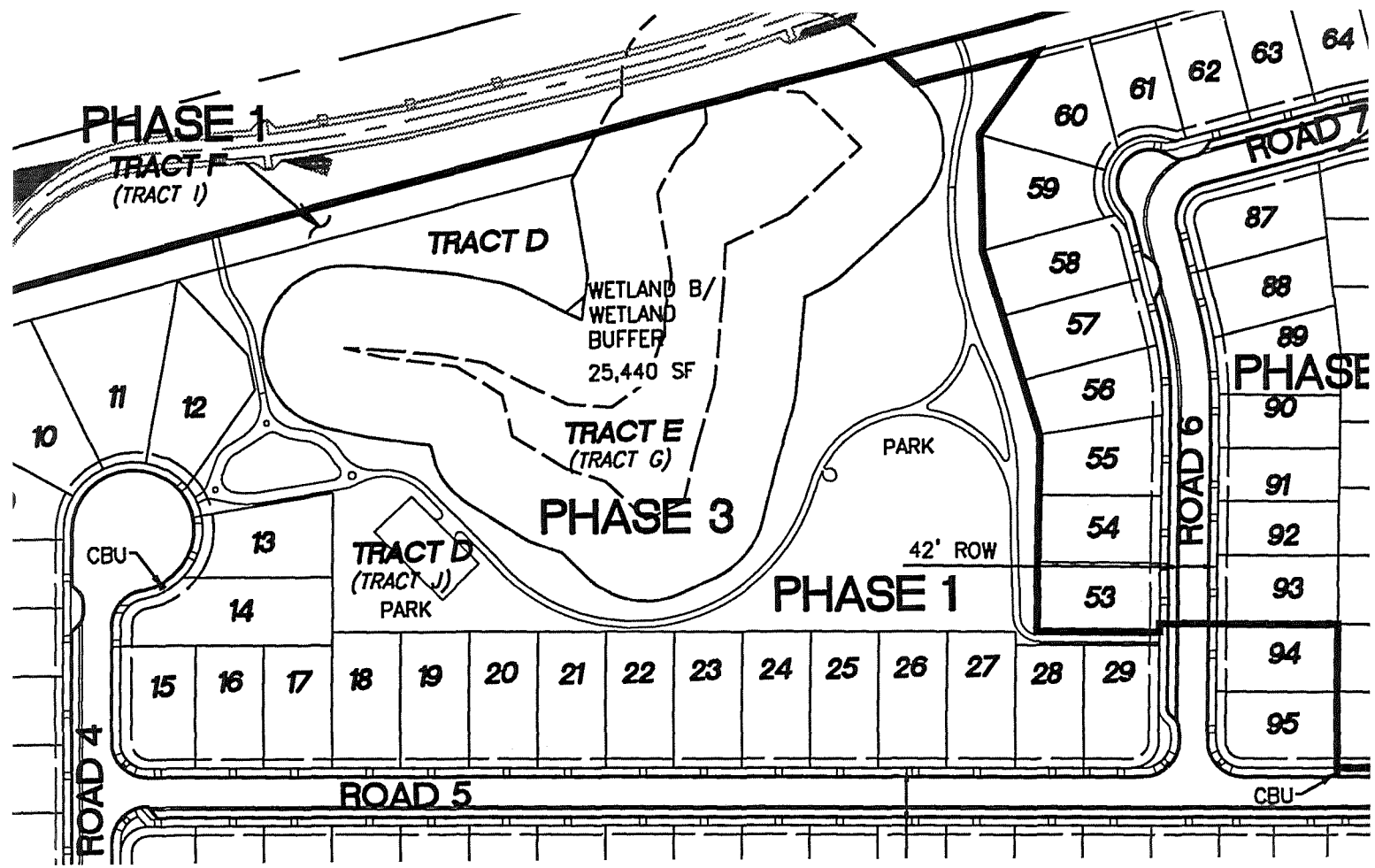
- b. CITY PARK. To retain the existing language that requires dedication of the Park known as Tract D to the City:

Move to direct staff to remove Section 6 of the proposed Amendment, and make necessary adjustments to whereas statements within the resolution, and pass the amended Resolution No. 970 authorizing the Mayor to execute the Amendment No. 1 to the Development Agreement, attached to the Resolution as Exhibit A, with McCormick Creek LLC.

- c. HOA PARK. To remove the requirement to dedicate Tract D to the City:

Move to direct staff to revise Section 6 of Attachment A to the prior language presented on July 14, 2014 and pass the amended Resolution No. 970 authorizing the Mayor to execute the Amendment No. 1 to the Development Agreement, attached to the Resolution as Exhibit A, with McCormick Creek LLC.

Enlarged view of McCormick Creek Internal Park (Tract D)



## **McCormick Creek Park (Tract D) Functional Considerations Provided by Gig Harbor Operations Staff**

Based on a preliminary review of the existing park design features, the following concerns were identified with the design as a public facility:

- Design provides no garbage cans or mutt mitt stations.
- Parking and access is required to comply with ADA standards for public access.
- 8 ft. wide path is required for ambulance access and maintenance access, this is not provided. Plans include only 5 feet of width.
- Design provides no fresh water for maintenance or drinking fountain.
- Design provides no power for maintenance.
- Railroad tie stairs located on north Cushman trail access entrance – no creosote treated lumber is allowed near wetlands or public areas.
- Minimal street-to-park visibility exists and is likely to increase vandalism, drug use, etc.
- Monthly inspections will be necessary.
- Daily visits for trash removal.
- Weekly mowing and trimming.
- Adjacent lots have storm drains that traverse the park and daylight into the wetland. Such drains over time could become plugged/damaged with roots and debris requiring replacement.
- Over time the asphalt/concrete path may be damaged from nearby tree roots and require tree removal and/or asphalt repair to address liability.
- Given the apparent useful life of the proposed play structure, it appears that within 10 years the proposed play structure could require replacement.



CIVIL ENGINEERING, LAND PLANNING, SURVEYING

July 21, 2014

Kristin Moerler  
City of Gig Harbor  
Planning Department  
3510 Grandview Street  
Gig Harbor, WA 98335

RE: Developer Agreement – Compliance with the City of Gig Harbor Comprehensive Plan  
McCormick Creek Plat  
City of Gig Harbor File No. PL-DEV-14-0001  
Our Job No. 14830

Dear Kristin:

We have revised the Preliminary Plat/PRD layout and the associated Developer's Agreement for the McCormick Creek Plat. The changes made to both the plat and Agreement are still in compliance with the City of Gig Harbor Comprehensive Plan and should be approved by the City Council.

Since the downturn in the economy, the desirable lot dimensions for homes in this area have increased. In order to satisfy the future home builders, a majority of the lots in this proposed development have been revised from 40 feet wide to 50 feet wide. This in turn reduces the number of proposed residential lots from 182 to 157 and makes the lot density closer to that of the underlying R-1 zoning district. The proposed phasing still maintains a minimum density of 4 dwelling units per acre, which meets the City's Comprehensive Plan requirements. Minor phasing changes have been made to ensure the minimum density is being met with each phase of the project as well.

The proposed park within the plat can either be dedicated to the City of Gig Harbor or be privately maintained by the Homeowner's Association. If the park is private, public access to the park will still be made available, which is in compliance with the Comprehensive Plan and approved PRD, but maintenance responsibilities will fall to the Homeowner's Association, and this will save the City money. The proposed park does not have dedicated parking other than street parking and no on-site restroom facilities are proposed, so the proposed park does not fit the City's Park Plan and may be better suited as a privately maintained park space. The park will still provide many recreation opportunities with the proposed trail, sport court, open field, and playground equipment as required by the PRD.

The Cushman Trail connections have been maintained to the Little League fields to the east. Further design of the trail (by others) has been shown on the Preliminary Plat/Phasing Exhibit to illustrate the proposed connections through the site.

The owner requests that the City construct the trail connection improvements from the new Cushman Trail to the edge of the property. The owner has agreed to extend the use of the church fields for public use until the end of the 2015 soccer season. In addition, the owner will agree to have the Road 1 improvements complete per the approved grading plans by a date certain agreed to by both parties. The owner also requests having the ability to construct the main storm pond outfall prior to any Cushman Trail improvements made by the City.

Kristin Moerler  
City of Gig Harbor  
Planning Department

-2-

July 21, 2014

We believe that the changes made to the proposed Preliminary Plat/PRD and Developer's Agreement will be beneficial to both the property owner and the City of Gig Harbor. We look forward to working together to complete/revise the Developer's Agreement to that effect. If you have questions or need additional information, please contact me at this office. Thank you.

Sincerely,



Jason Hubbell, P.E.  
Senior Project Engineer

JH/ca

14830c.024.doc

cc: Bryan Stowe, McCormick Creek LLC  
Karen E. Harris, Barghausen Consulting Engineers, Inc.

**RESOLUTION NO. 970**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO LAND USE AND ZONING, AUTHORIZING THE EXECUTION OF AMENDMENT NO. 1 TO THE DEVELOPMENT AGREEMENT WITH MCCORMICK CREEK, LLC RELATED TO AN APPROVED PLANNED RESIDENTIAL DEVELOPMENT AND PRELIMINARY PLAT (FILE NOS. PL-PPLAT-09-0003 AND PL-PRD-09-0002); APPLYING TO 52.16 ACRES OF PROPERTY, GENERALLY LOCATED EAST OF BURNHAM DRIVE NW AND WEST OF HARBOR HILL DRIVE IN THE CITY OF GIG HARBOR, PIERCE COUNTY, WASHINGTON.**

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WHEREAS, RCW 36.70B.170 authorizes a local government and a person having ownership or control of real property within its jurisdiction to enter into a development agreement; and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern and vest the development, use and mitigation of the development of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by a local government planning under chapter 36.70A RCW (RCW 36.70B.170(1)); and

WHEREAS, the City of Gig Harbor has adopted development regulations for development agreements in Chapter 19.08 of the Gig Harbor Municipal Code; and

WHEREAS, the Developer has a fee simple or other substantial beneficial interest in the real property located east of Burnham Drive NW and west of Harbor Hill Drive, Gig Harbor, Washington, which is legally described in Exhibit A of the Development Agreement, attached hereto and incorporated herein by this reference; and

WHEREAS, pursuant to Resolution No. 885 adopted by the City Council on November 8, 2010, the City and Harbor Hill, LLC entered into a Development Agreement dated March 29, 2011, which was recorded in the real property records of Pierce County, Washington, under Auditor's File No. 201104040155; and

WHEREAS, on February 18, 2014, McCormick Creek, LLC filed with the City a complete application for an Amendment No. 1 to the Development Agreement dated March 28, 2011 (File No. PL-DEV-14-0001); and

WHEREAS, the City's SEPA Responsible Official has determined that the Determination of Non-Significance (DNS) issued on December 17, 2009 for the original Development Agreement and underlying Plat/PRD are sufficient for the Amendment No. 1 to the Development Agreement; and

WHEREAS, on July 14, 2014 and July 28, 2014, the City Council held a public hearing on Amendment No.1 to the Development Agreement during a regular public meeting and after considering the application, the staff report and all public testimony presented, approved Amendment No. 1 to the Development Agreement attached hereto as Exhibit A; 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 Amendment No. 1 to the Development Agreement attached hereto as Exhibit A, with McCormick Creek, LLC.

Section 2. The City Council hereby directs the Planning Director to record Amendment No. 1 to the Development Agreement against the Property legally described in Exhibit A to Amendment No. 1 to the Development Agreement, at the cost of the applicant, pursuant to RCW 36.70B.190.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor this \_\_\_ day of July, 2014.

CITY OF GIG HARBOR

\_\_\_\_\_  
Mayor Jill Guernsey

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

\_\_\_\_\_  
Angela Summerfield

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



**AMENDMENT NO. 1  
TO  
DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF GIG HARBOR AND  
MCCORMICK CREEK LLC FOR THE  
MCCORMICK CREEK DEVELOPMENT**

THIS AMENDMENT NO. 1 to that certain Development Agreement by and between the City of Gig Harbor and McCormick Creek LLC for the McCormick Creek Development dated March 29, 2011 (the "Development Agreement") is made and entered into this \_\_\_ day of \_\_\_\_\_, 2014, by and between the CITY OF GIG HARBOR, a Washington municipal corporation (the "City"), and MCCORMICK CREEK LLC, a Washington limited liability company ("Developer"), collectively referred to as the "parties."

**RECITALS**

WHEREAS, after a public hearing, by Resolution No. 858, the City Council authorized the Mayor to sign the Development Agreement and the Development Agreement was executed and recorded at Pierce County Auditor's File No. 201104040155; and

WHEREAS, since the effective date of the Development Agreement, the Developer has determined it would like to reduce the number of lots in the Project, and has submitted an application for a minor plat revision, file number PL-PPLATR14-0001, the approval of which is being held in abeyance until the City Council takes action on this Amendment No. 1 in accordance with section 19.08.040(B) of the Gig Harbor Municipal Code; and

WHEREAS, in addition, the Developer is requesting to undertake a different phasing schedule and update its contact information; and

WHEREAS, Section 6 of the Development Agreement requires the Developer to keep soccer fields available to the Peninsula Athletic Association for a period of two years from the effective date of the Development Agreement, and the Developer wishes to extend such availability through the Peninsula Athletic Association's 2015 outdoor soccer season; and

WHEREAS, Section 14 of the Development Agreement requires the Developer to dedicate a park tract to the City but the City desires the option to decline dedication so that the park tract remains the property and responsibility of the homeowner's association; and

WHEREAS, after a public hearing, by Resolution No. 970, the City Council authorized the Mayor to sign this Amendment No. 1 Development Agreement with the Developer;

NOW, THEREFORE, the parties agree to amend the Development Agreement as follows:

1. Section 1. The Project. Section 1 of the Development Agreement is hereby amended to read as follows:

**Section 1. The Project.** The Project is the development and use of the Property contemplated in this Agreement. The preliminary plat and PRD application and Hearing Examiner Decision ~~describes~~ originally described the Project as a preliminary plat and planned residential development resulting in a total of 185 lots, 18 individual wetland, stormwater and open space tracts and associated roads. ~~One hundred eighty two~~ As revised, and in addition to the wetland, stormwater, open space tracts and associated roads, the Project now results in 160 lots, with 157 of the lots are proposed to be residential, and three of the lots are proposed to be non-residential: one for office use, one for a mini-storage type of development to serve the residents of the plat, and one lot that contains an existing church.

2. Section 4. Exhibits. Section 4 is hereby amended to delete Exhibit B and replace it with Exhibit B-1, attached hereto and incorporated herein by this reference.

3. Section 6. Term of Agreement. Section 6(G) of the Development Agreement is hereby amended to read as follows:

G. Developer acknowledges and agrees that the existing soccer fields located on the area identified as ~~Phase 3~~ Phase 1 on Exhibit B ~~Exhibit B-1~~ shall be kept open to Peninsula Athletic Association use ~~for a minimum of 2 years from the effective date of this Agreement~~ until at least the end of their 2015 outdoor soccer season.

4. Section 11. Financing of Public Facilities. Sections 11(A) and 11(C) of the Development Agreement are hereby amended to read as follows:

A. Developer acknowledges and agrees that it shall participate in the granting of a non-exclusive wetland and

public use easement over all of the areas shown as Tract I and J on Exhibit B.

The easement over the areas shown as Tract I and Tract J shall be dedicated to the City within 60 days of the effective date of the Adopting Resolution approving this agreement.

The City acknowledges that portions of Tract I contain an existing vehicular access easement ~~that will remain until Road 1 is complete.~~ The Developer shall remove and relocate the existing vehicular access no later than September 15, 2014 consistent with the plans set forth in Developer's clear and grade permit #EN-14-0011 issued on June 4, 2014. The Developer hereby acknowledges that such relocation is necessary as the City will be constructing the Cushman Trail Phase 4. In the event Developer fails to move the road in a timely manner and such failure causes the City to suffer construction delay damages or other damages, the Developer shall be responsible for all costs associated with such damages, including but not limited to the City's reasonable attorneys fees associated with such damages.

The Developer acknowledges that wetland mitigation for Road 1 improvements will continue to be the Developer's responsibility and must be completed prior to recording the final plat for phase 1. The City's easement over tracts I and J shall not restrict the Developer's plans for wetland mitigation of Road 1 as depicted in the approved conceptual wetland mitigation plans.

The Developer acknowledges that the wetland monitoring and maintenance will continue to be the Developer's responsibility until such time that the wetlands are deeded to the city.

....

C. Within 90 days of final plat recording for ~~Phase 4~~ Phase 3, Developer shall grant fee ownership of Tract J to the City.

5. Section 13. Phasing of Development. Sections 13(B) and 13(D) of the Development Agreement are hereby amended to read as follows:

B. Phasing.

1. **Phase 1:**

a. Street Improvements. The Developer shall construct Road 1 from Burnham Drive to the intersection of Road 8 and dedicate this roadway to the City. The Developer shall dedicate all of Road 1 as shown on ~~Exhibit B~~ Exhibit B-1, including any portion remaining undeveloped as part of the phase 1 improvements, to the City. The Developer shall construct Road 4 and Road 5 and dedicate them to the City. The Developer shall design and construct left turn lane improvements, as acceptable to the City, on Burnham Drive. The Developer shall complete the required wetland mitigation necessary for the construction of Road 1, per the Hearing Examiner Decision (Exhibit E). Developer shall clear and rough grade the remainder of Road 1 (as shown on ~~Exhibit B~~ Exhibit B-1) from the easterly property line of the property to the improved section of Road 1. The cleared and rough graded section of Road 1 shall be signed by the developer "Future Road Connection to Harbor Hill Drive".

b. Potable Water and Fire Flow Facilities. The Developer shall construct an extension of a water line from Burnham Drive to the proposed lots within Phase 1.

c. Sewer Facilities. The Developer shall construct an extension of the sewer line from Burnham Drive to proposed lots within Phase 1.

d. Utilities. The Developer shall construct the Phase 1 storm facility shown on the plans as Tract A, and all associated appurtenances per the preliminary plan set attached as Exhibit 2 to the Hearing Examiner Decision (the "Preliminary Plan Set"). The Developer shall extend other utilities as necessary to the proposed lots within the phase.

e. Parks and Open Space. ~~The Developer shall construct physical improvements and the public trail linking the park to the Cushman Trail and the adjacent Little League Fields.~~ The Developer shall construct physical improvements to Open Space Tracts ~~D, E, F, J and Q~~ B.

~~C, D, F, and H, as shown in the preliminary plan set attached as Exhibit 2 to the Hearing Examiner Decision (the "Preliminary Plan Set").~~

**2. Phase 2:**

a. Street Improvements. The Developer shall construct and dedicate to the City Roads 6, 7, 8 and 9, and the remainder of Road 1.

b. Potable Water and Fire Flow Facilities. The Developer shall construct an extension of the water line to the proposed lots within the phase.

c. Sewer Facilities. The Developer shall construct an extension of the sewer line to proposed lots within the phase.

d. Utilities. The Developer shall extend other utilities as necessary to the proposed lots within the phase.

e. Parks and Open Space. The Developer shall construct improvements, as shown in the Preliminary Plan Set, to Tracts G, I, K, L, M, N and O.

**3. Phase 3:**

a. Street Improvements. The Developer shall construct and dedicate to the City Roads 2 and 3.

b. Potable Water and Fire Flow Facilities. The Developer shall construct an extension of the water line to the proposed lots within the phase.

c. Sewer Facilities. The Developer shall construct an extension of the sewer line to proposed lots within the phase.

d. Utilities. The Developer shall extend other utilities as necessary to the proposed lots within the phase. Developer shall construct the storm facility shown on the plans as ~~Tract R~~ Tract Q, and all associated appurtenances per the ~~preliminary plan set attached as Exhibit 2 to the Hearing Examiner Decision (the "Preliminary Plan Set").~~

e. Parks and Open Space. The Developer shall construct improvements, as shown in the Preliminary Plan Set, to Open Space Tracts E, J, P, and R and ~~S~~.

....

D. All improvements shall be constructed in accordance with the ~~underlying approval for the McCormick Creek preliminary plat~~ Preliminary Plan Set, the City of Gig Harbor Public Works Standards and engineering industry standards approved by the City of Gig Harbor. Construction of the street, potable water, sewer and utility improvements shall not be considered complete until the improvements have been accepted by the City in writing. Phases referred to above are to be as shown on the phasing plan, attached as ~~Exhibit B~~ Exhibit B-1 to this Agreement.

6. Section 14. Dedication of Public Lands. Section 14(A) of the Development Agreement is hereby amended as follows.

**Section 14. Dedication of Public Lands.** Except as otherwise provided herein, the Developer shall dedicate all public lands required in the permits/approvals within ninety (90) days of the Effective Date of this Agreement. Dedication shall be considered by the City in the following schedule:

A. Parks. With regard to the parks within the Property, ~~each park site (or portion of the community park site, which is to be dedicated in phases) shall be dedicated to the City as the maps for the phases of the subdivisions are approved and recorded,~~ the Developer shall offer to dedicate to the City the park identified as Tract D, as developed and without cost, prior to application for Phase 1 final plat approval. In the event the City declines the dedication, the Developer shall transfer Tract D to the homeowners' association and the homeowners' association will retain responsibility for all maintenance, operation, repairs, costs, and liabilities associated with the park. Tract D is as shown in ~~Exhibit B~~ Exhibit B-1, attached hereto.

....

7. Section 23. Notices. Section 23 of the Development Agreement is hereby amended to update the Developer information as follows:

McCormick Creek LLC  
Attn: Bryan Stowe  
PO Box 1054  
Sumner, WA 98390

EXCEPT AS EXPRESSLY MODIFIED BY THIS AMENDMENT, ALL TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to be executed as of the dates set forth below:

McCORMICK CREEK LLC

CITY OF GIG HARBOR

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor Jill Guernsey

ATTEST:

\_\_\_\_\_  
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

\_\_\_\_\_  
Angela G. Summerfield

[Notaries on following page.]



STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF PIERCE         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Printed: \_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF WASHINGTON        )  
  ) ss.  
COUNTY OF PIERCE         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me personally appeared Jill Guernsey, to me known to be the Mayor of Gig Harbor, the entity that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Printed: \_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

## LEGAL DESCRIPTION

PARCEL A (PIERCE COUNTY 0222312027):

THE NORTH 80 FEET OF THAT PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN LYING EASTERLY OF THE CITY OF TACOMA'S LAKE CUSHMAN ELECTRIC POWER LINE RIGHT OF WAY.

AND

THE NORTH 60 FEET OF THE NORTH 330 FEET OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN.

SITUATE IN THE CITY OF GIG HARBOR, COUNTY OF PIERCE, STATE OF WASHINGTON.

PARCEL B (PIERCE COUNTY 0222312028):

THAT PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, LYING EASTERLY OF THE CITY OF TACOMA'S LAKE CUSHMAN ELECTRIC POWER LINE RIGHT OF WAY.

EXCEPT THE NORTH 80 FEET THEREOF.

SITUATE IN THE CITY OF GIG HARBOR, COUNTY OF PIERCE, STATE OF WASHINGTON.

PARCEL C (PIERCE COUNTY 0222312023):

THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, LYING EASTERLY OF THE CITY OF TACOMA'S LAKE CUSHMAN ELECTRIC POWER LINE RIGHT OF WAY.

AND

ALL THAT PORTION OF GOVERNMENT LOT 5 OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 3, SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN; THENCE SOUTH 01°10'40" WEST ALONG THE EAST LINE OF GOVERNMENT LOT 3, 498.38 FEET TO A POINT 833.20 FEET NORTH OF THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 3; THENCE NORTH 88°20'24" WEST 378.94 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF TACOMA-LAKE CUSHMAN TRANSMISSION LINE; THENCE NORTH 13°26'07" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE 514.56 FEET TO A POINT ON THE EAST-WEST CENTERLINE OF SAID SECTION 31; THENCE ALONG SAID EAST-WEST CENTERLINE SOUTH 88°17'17" EAST 508.77 FEET TO THE POINT OF BEGINNING.

SITUATE IN THE CITY OF GIG HARBOR, COUNTY OF PIERCE, STATE OF WASHINGTON.

PARCEL D (PIERCE COUNTY 0222312029):

THE NORTH 330 FEET OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN.

EXCEPT THE NORTH 80 FEET THEREOF.

SITUATE IN THE CITY OF GIG HARBOR, COUNTY OF PIERCE, STATE OF WASHINGTON.

PARCEL E (PIERCE COUNTY 0222313035):

ALL THAT PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, IN PIERCE COUNTY, WASHINGTON, LYING EASTERLY OF THE EASTERLY LINE OF OLD STATE HIGHWAY NO. 14.

PARCEL "KOTELNICKI" (PIERCE COUNTY 0222313023):

PARCEL A: THE NORTH 300 FEET OF THE SOUTH 900 FEET OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 22 NORTH, RANGE 2 EAST OF THE W.M., IN PIERCE COUNTY, WASHINGTON.  
PARCEL B: A NON-EXCLUSIVE EASEMENT FOR THE INGRESS AND EGRESS AS CREATED BY INSTRUMENT UNDER RECORDING NO. 2346365.

LOTS A AND B OF BOUNDARY LINE ADJUSTMENT RECORDED UNDER AUDITOR'S FILE NUMBER 200612075008 RECORDS OF PIERCE COUNTY WASHINGTON.

SITUATE IN THE CITY OF GIG HARBOR, COUNTY OF PIERCE, STATE OF WASHINGTON.

Exhibit A to Amendment No. 1 to  
McCormick Creek LLC  
Development Agreement





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

**Subject:** Restaurants 2 and 3 as conditional uses in the Waterfront Millville zone.

**Proposed Council Action:** City Council should discuss potential of amendments and consider the draft motion.

**Motion:** Move to direct Planning Commission to add proposed code amendment to Commissions work program for discussion in winter 2014 with a signed recommendation prepared for City Council by December 18, 2014.

**Dept. Origin:** Planning

**Prepared by:** Lindsey Sehmel, AICP  
Senior Planner

*LS*

**For Agenda of:** July 28, 2014

**Exhibits:** Application Request

Initial & Date

**Concurred by Mayor:**

**Approved by City Administrator:**

*RW 7/23/14*

**Approved as to form by City Atty:**

*via email 7/23/14*

**Approved by Finance Director:**

*N/A*

**Approved by Department Head:**

*[Signature] 7/23/14*

Expenditure	Amount	Appropriation
Required 0	Budgeted 0	Required 0

**INFORMATION / BACKGROUND**

Gig Harbor Marina INC and applicant John Moist have asked the City to consider a text amendment to allow restaurants 2 and 3 as conditional uses in the Waterfront Millville (WM) zoning district with a proposed last seating at 9PM during the standard time and a 9:30PM last seating during daylight savings time. Gig Harbor Marina INC owns approximately 3.7 acres in the WM district. Currently the WM zone only allows for Restaurant 1 uses through a conditional use permit. A Restaurant 1 may not exceed 1,200 square feet, may not serve hard alcohol and may not operate a deep fat fryer or grill, as well as having to close by 9pm.

Staff anticipates that the regularly scheduled Planning Commission meetings starting November 6<sup>th</sup>, 2014 through December 18<sup>th</sup>, 2014 will be an appropriate time to discuss this item outside of the ongoing Gig Harbor 2030 project scope and timeline.

**BOARD OR COMMITTEE RECOMMENDATION**

The Planning and Building Committee reviewed the request on July 7, 2014 and suggested that the City Council direct Planning Commission to begin processing in winter 2014 if this amendment is considered to move forward by City Council.

**RECOMMENDATION / MOTION**

City Council should discuss potential amendments and consider the draft motion.

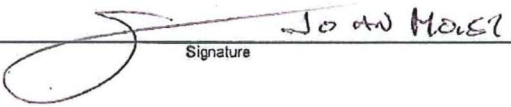
**Motion:** Move to direct Planning Commission to add proposed code amendment to Commissions work program for discussion in winter 2014 with a signed recommendation prepared for City Council by December 18, 2014.



PL-2014E-14-0002

<b>CITY OF GIG HARBOR APPLICATION</b>	<b>CITY USE ONLY</b>
<input checked="" type="checkbox"/> Zoning Code Text Amendment <input type="checkbox"/> Area-Wide Zoning Map Amendment	Date Received: <u>5/20/14</u> By: _____ Receipt # _____ By: _____

Name of project / proposal: ALLOW RESTAURANT 2 + 3 IN WM WITH CUP

<b>Applicant:</b> <u>JOHN MOIST</u> <small>(Name)</small> <u>3323 HARBORVIEW DRIVE</u> <u>851-1793</u> <small>Street Address Phone</small> <u>GIG HARBOR, WA</u> <u>98335</u> <small>City &amp; State Zip</small>	<b>Property Location (for map amendment):</b> Address: <u>3315 HARBORVIEW DR</u> Section: <u>05</u> Township: <u>21</u> Range: <u>02</u> Assessor's Tax Parcel Number: <u>5970000003</u> Full Legal Description (attach separate sheet if too long)  Acreage or Parcel Size _____
<b>Owner:</b> <u>GIG HARBOR MARINA, INC.</u> <small>(Name)</small> <u>3323 HARBORVIEW DRIVE</u> <u>851-1793</u> <small>Street Address Phone</small> <u>GIG HARBOR WA</u> <u>98335</u> <small>City &amp; State Zip</small>	<b>Utilities:</b> 1. Water Supply (Name of Utility if applicable) a. Existing: <u>CITY</u> b. Proposed: _____ 2. Sewage Disposal: (Name of Utility if applicable) a. Existing: <u>CITY</u> b. Proposed: _____ 3. Access: (name of road or street from which access is or will be gained.) <u>HARBORVIEW DRIVE</u>
<b>I(We):</b> <small>(Name)</small>  <u>6-20-14</u> <small>Signature Date</small>  <small>Signature Date</small>	
I do hereby affirm and certify, under penalty of perjury, that I am one (or more) of the owners or owner under contract of the herein described property and that the foregoing statements and answers are in all respects true and correct on my information and belief as to those matters, I believe it to be true.	

**For Map Amendments:**

Current Zoning District: \_\_\_\_\_ Requested Zoning District: \_\_\_\_\_

Existing land use: Describe (or illustrate separately) existing land use, including location of all existing structures and setbacks ( in feet) from property lines.

## WATERFRONT MILLVILLE TEXT AMENDMENT

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<b>Title to be amended:</b>	<b>17</b>
<b>Chapter:</b>	<b>17.14</b>
<b>Section:</b>	<b>17.14.020 (Land Use Matrix)</b>
<b>Proposal:</b>	<p><b>Amend Municipal Code 17.14.020 to add Restaurant Levels 2 and 3 to the WM zone with approval of a Conditional Use Permit by the hearing Examiner with the following conditions:</b></p> <ul style="list-style-type: none"><li><b>a. During Daylight Savings time the last customer seating of the day will be no later than 9:30 PM.</b></li><li><b>b. During Standard time the last customer seating of the day will be no later than 9:00 PM.</b></li></ul>
<b>Narrative:</b>	<p><b>Currently only Restaurants 1 are allowed to operate in Waterfront Millville (WM). A Restaurant 1 may not exceed 1,200 square feet, may not serve hard alcohol, may not operate a deep fat fryer or a grill. They must not open prior to 7am and must close by 9pm.</b></p> <p><b>Brix 25's Restaurant currently located in the DB Zone is operating as a Restaurant 3 with no restrictions. Their lease has expired and they would like to take this opportunity to move into a larger space than that of their current location on Pioneer way.</b></p>

## **WATERFRONT MILLVILLE TEXT AMENDMENT CONTINUED**

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**Narrative Cont.:**

**Ship-to-Shore Marine Supply is located at 3315 Harborview Drive. The business is scheduled to move into its new location on the corner of Dorotich Street and Harborview Drive later this year or early in 2015. We request that Brix 25 be allowed to relocate to 3315 Harborview Drive (the current location of Ship-to-Shore) and operate as a Restaurant 3 with the following conditions.**

- c. Hearing Examiner's approval of a Conditional Use Permit.**
- d. During Daylight Savings time the last customer seating of the day will be no later than 9:30 PM.**
- e. During Standard Time the last customer seating of the day will be no later than 9:00 PM.**
- f. That the 13 parking spaces located in the lot between 3311 and 3313 Harborview Drive be shared between Netshed #9 and the new Brix location located within 150 feet of the businesses. Netshed #9 closes at 4:00 PM Thursday through Monday and is closed for business Tuesday and Wednesday. Brix 25 will open for business at 4:00 PM seven days a week.**



17.14.020 Land use matrix.

Uses	PI	R-1	R-RLD 2	R-RMD 3	RB-1	RB-2	DB	B-1	B-2	C-1 <sup>10</sup>	PCD-C	ED <sup>16</sup>	WR	WM	WC	PCD-BP	PCD-NB	MUD <sup>24</sup>		
Dwelling, single-family	-	P	P	P	P	C	P	P	C	P <sup>14</sup>	C	C	P <sup>14</sup>	-	P	P	P	-	P <sup>14</sup>	P
Dwelling, duplex	-	-	-	P	P	P	-	P	C	P <sup>14</sup>	C	C	P <sup>14</sup>	-	P	P	P	-	P <sup>14</sup>	P
Dwelling, triplex	-	-	-	C	P	P	-	P	C	P <sup>14</sup>	C	C	P <sup>14</sup>	-	-	C <sup>17</sup>	P	-	P <sup>14</sup>	P
Dwelling, fourplex	-	-	-	C	P	P	-	P	C	P <sup>14</sup>	C	C	P <sup>14</sup>	-	-	C <sup>17</sup>	P	-	P <sup>14</sup>	P
Dwelling, multiple-family	-	-	-	-	P	P <sup>6</sup>	-	P	C	P <sup>14</sup>	C	C	P <sup>14</sup>	-	-	-	-	-	P <sup>14</sup>	P
Accessory apartment <sup>1</sup>	-	C	P	-	P	-	C	C	C	P <sup>14</sup>	C	C	P <sup>14</sup>	-	-	-	P	-	P <sup>14</sup>	P
Family day care provider	-	P	P	P	P	P	P	P	C	P	P	P	P	-	P	P	P	-	P	P
Home occupation <sup>2</sup>	-	P	P	P	P	P	P	P	C	P	-	C	-	-	P	P	P	-	-	-
Adult family home	-	P	P	P	P	P	P	P	C	P	P	P	P	-	P	P	P	-	P	P
Living facility, independent	-	-	-	C	-	P	C	C	C	P	C	C	P	C <sup>21</sup>	-	-	-	-	-	P
Living facility, assisted	-	-	-	C	-	P	C	C	C	P	-	C	P	C	-	-	-	-	-	P
Nursing facility, skilled	-	-	-	C	-	P	C	C	C	P	C	C	P	C	-	-	-	-	-	P
Hospital	-	-	-	-	-	-	-	-	C	-	C	C	-	C	-	-	-	C	-	-
School, primary	P	C	P	C	P	C	C	C	C	P	C	C	P	-	-	-	-	P	-	-
School, secondary	P	C	P	C	P	C	C	C	C	P	C	C	P	-	-	-	-	P	-	-
School, higher educational	P	C	-	C	-	C	C	C	C	P	C	C	P	-	-	-	-	P	-	-
School, vocational/trade	P	C	-	C	-	C	C	C	C	P	C	C	P	P	-	-	-	P	-	-
Government administrative office	P	C	P	C	P	C	C	P	P	P	P	P	P	P	C	P	P	P	P	P
Public/private services	P	C	-	C	-	C	C	C	C	P	C	C	P	C	C	C	C	P	P	P

Uses	R-PI	R-1	R-RLD	R-2	R-RMD	R-3	RB-1	RB-2	DB	B-1	B-2	C-1 <sup>19</sup>	PCD-C	ED <sup>18</sup>	WR	WM	WC	PCD-BP	PCD-NB	MUD <sup>24</sup>
Religious worship, house of	-	C	P <sup>5</sup>	C	P <sup>5</sup>	C	C	C	C	P	C	C	P	C	-	-	-	C	-	P/C <sup>15</sup>
Museum	P	-	-	-	-	-	-	-	-	-	C	C	P	-	C	C	P	-	-	-
Community recreation hall	P	-	P	C	P	C	C	C	C	P	C	C	P	-	-	-	-	P	P	-
Clubs	-	-	C	C	C	C	C	C	P	P	P	P	P	C	-	C <sup>20</sup>	P	P	C	-
Parks	P	P	P	P	P	P	P	P	P	P	C	C	P	-	P	P	P	P	P	P
Essential public facilities	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Utilities	P	C	P	C	P	C	C	C	C	P	C	C	P	C	C	C	C	P	P	P
Electric vehicle charging station <sup>26</sup>	P	P <sup>26</sup>	P <sup>26</sup>	P <sup>26</sup>	P <sup>26</sup>	P <sup>26</sup>	P <sup>26</sup>	P	P	P	P	P	P	P	P <sup>26</sup>	P <sup>26</sup>	P	P	P	P
Rapid charging station <sup>27</sup>	P	-	-	-	P <sup>26</sup>	P <sup>26</sup>	-	P <sup>26</sup>	P	P	P	P	P	P	-	-	P	P	P	P <sup>26</sup>
Battery exchange station	-	-	-	-	-	-	-	P	-	P	P	P	P	C	-	-	-	C	P	-
Cemetery	-	-	-	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lodging, level 1	-	C	-	C	-	P	P	P	P	P	C	C	-	-	C	C	C	-	-	P
Lodging, level 2	-	-	-	-	-	-	-	C	P	-	P	P	P	-	-	-	C	-	-	P
Lodging, level 3	-	-	-	-	-	-	-	C	P	-	P	P	P	-	-	-	C	P	-	P
Personal services	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Business services	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Professional services	-	-	-	-	-	-	P	P	P	-	P	P	P	P	-	P	P	P	P	P
Ancillary services	P	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Product services, level 1	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P
Product services, level 2	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	-	-	P <sup>16</sup>
Sales, level 1	-	-	-	-	-	-	C <sup>7,8</sup>	-	P	P	P	P	P	C <sup>22</sup>	-	-	P	C <sup>25</sup>	P <sup>15</sup>	P
Sales, level 2	-	-	-	-	-	-	-	-	-	-	-	P	-	C <sup>22</sup>	-	-	-	-	-	-



Chapter 17.48

WATERFRONT MILLVILLE (WM)

Sections:

- 17.48.010 Intent.
- 17.48.020 Permitted uses.
- 17.48.030 Conditional uses.
- 17.48.035 Hours of operation.
- 17.48.037 Prohibited uses.
- 17.48.040 Development standards.
- 17.48.050 Site plans.
- 17.48.060 Maximum height of structures.
- 17.48.070 Parking and loading facilities.
- 17.48.080 Signs.
- 17.48.090 Performance standards.

**17.48.010 Intent.**

It is the intent of this district to provide a wide range of uses and activities on the shoreline of Gig Harbor located within the area between Rosedale Street and Stinson Avenue. This district serves primarily as a medium intensity, mixed use waterfront district with an emphasis on medium-density residential, marine-dependent and marine-related uses. Uses which enhance the historic fishing village atmosphere and which are harmonious with surrounding residential areas are encouraged. (Ord. 598 § 2, 1991).

**17.48.020 Permitted uses.**

Refer to Chapter 17.14 GHMC for uses permitted in the WM district. (Ord. 1045 § 63, 2006).

**17.48.030 Conditional uses.**

Refer to Chapter 17.14 GHMC for uses conditionally permitted in the WM district. (Ord. 1045 § 65, 2006).

**17.48.035 Hours of operation.**

A. The following uses shall be limited to operating between the hours of 7:00 a.m. to 7:00 p.m., daily:

1. Sales, level 1;
2. Boat construction;
3. Clubs.

B. Restaurant 1 uses shall be limited to operating between the hours of 7:00 a.m. to 9:00 p.m., daily. (Ord. 1213 § 2, 2011; Ord. 1066 § 4, 2007; Ord. 1045 § 66, 2006; Ord. 598 § 2, 1991).

**17.48.037 Prohibited uses.**

The following uses are prohibited in this district:

A. Outdoor public telephones. (Ord. 598 § 2, 1991).

**17.48.040 Development standards.**

A minimum lot area for new subdivisions is not specified. The minimum development standards are as follows:

	Single-Family Dwelling	Attached Up to 4 Units	Nonresidential
A. Minimum lot area (sq. ft.) <sup>1</sup>	6,000	6,000/unit	15,000
B. Minimum lot width	50'	100'	100'
C. Minimum front yard <sup>2</sup>			
D. Minimum side yard <sup>2</sup>			
E. Minimum rear yard <sup>2</sup>			
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 gross floor area including garages, attached and detached <sup>3</sup>	3,500 square feet per lot	3,500 square feet per lot	3,500 square feet per lot
J. Separation between structures	20'	20'	20'

<sup>1</sup>An undersized lot or parcel shall qualify as a building site if such lot is a lot of record.

<sup>2</sup>The setbacks of GHMC 17.99.310 and 17.99.320 are applicable in the WM district.

<sup>3</sup>Historic net sheds as defined in GHMC 17.04.615 shall be excluded from the maximum gross floor area requirements above.

(Ord. 1131 § 14, 2008; Ord. 1070 § 4, 2007; Ord. 1008 § 3, 2005; Ord. 995 § 8, 2005; Ord. 982 § 1, 2005; Ord. 975 § 57, 2004; Ord. 725 § 4, 1996; Ord. 716 § 4, 1996; Ord. 710 § 54, 1996; Ord. 598 § 2, 1991).

**17.48.050 Site plans.**

The site plan review process established under Chapter 17.96 GHMC shall apply to all uses and development within this district. (Ord. 1197 § 27, 2010; Ord. 598 § 2, 1991).

**17.48.060 Maximum height of structures.**

In the WM district, all buildings and structures shall not exceed the height limits defined in GHMC 17.99.510(A)(2) and 17.99.510(B). (Ord. 1194 § 36, 2010; Ord. 975 § 58, 2004; Ord. 710 § 55, 1996; Ord. 598 § 2, 1991).

**17.48.070 Parking and loading facilities.**

Parking and loading facilities on private property shall be provided in accordance with the requirements of Chapter 17.72 GHMC. Although historic net sheds are excluded from the maximum gross floor area requirements in GHMC 17.48.040,

17.48.080

this exclusion shall not affect the calculation of the parking requirements. (Ord. 1278 § 4, 2013; Ord. 1070 § 5, 2007; Ord. 598 § 2, 1991).

17.48.080 Signs.

All signs shall comply with the provisions of Chapter 17.80 GHMC. (Ord. 598 § 2, 1991).

17.48.090 Performance standards.

A. Exterior Mechanical Devices. Air conditioners, heating, cooling, ventilating equipment, pumps and heaters and all other mechanical devices shall be screened.

B. Landscaping is required and shall be installed in conformance with Chapter 17.78 GHMC, and/or by conditions of approval of discretionary applications required by this title; such landscaping shall be maintained in a neat manner. In no event shall such landscaped areas be used for storage of materials or parking of vehicles.

C. Outdoor Storage of Materials. The outdoor storage of materials, including but not limited to lumber, auto parts, household appliances, pipes, drums, machinery or furniture is permitted as an incidental or accessory activity of a permitted use or the principal feature of a conditional use. Such storage shall be screened by a wall, fence, landscaping or structure from surrounding properties and streets. Fishing-related equipment is exempt from this standard.

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

E. Waterview Opportunity and Waterfront Access.

1. Maximum impervious lot coverage may be increased up to a maximum of 80 percent upon execution of a written agreement with the city and the property owner, and provided further, that the agreement is filed with the county auditor as a covenant with the land, when the development provides for waterview opportunities and/or waterfront access opportunities in conjunction with commercial uses or for increased height, as follows:

Maximum Imp. Coverage	Number of Waterview/ Access Opportunities
a. 50/55/70	0
b. +10%	1
c. +10%	2
d. +10%	3

2. Waterview/Harbor Access Opportunities.

a. Waterview opportunity, by means of public view corridors measuring 20 frontage feet along the street or 20 percent of the total waterfront frontage of the parcel, whichever is greater. View corridors shall be from public rights-of-way. Parking shall not be allowed in view corridors. Fences or railings shall not be allowed in view corridors except where required by the city building code.

b. Waterview opportunity, by means of a five-foot-wide public pathway along the property perimeter down one side line of the property to mean higher high water or a bulkhead or to the waterside face of structure, whichever is further waterward, then across the waterside face of the property or structure and back to the street along the other side line.

c. Waterview opportunity, by means of a public viewing platform at the highest level of any structure on the property. Minimum area of the platform shall be 50 square feet. Railings around the platform may exceed the maximum height permitted for the structure. The platform shall be open to the public.

d. Harbor access opportunity, by means of a public fishing pier extending out to the mean lower low water and connected by a minimum five-foot-wide public pathway to the frontage street. A minimum of 10 feet of open water shall surround the fishing pier.

e. Harbor access opportunity, by means of a public small boat landing available for transient use by rowboats, canoes, dinghies, etc., extending out to mean lower low water and connected by a five-foot-wide public pathway to the frontage street. A minimum of 10 feet of open water shall surround the small boat landing.

f. Harbor access opportunity, by means of a public transient moorage for up to two 30-foot boats and which must have a minimum water depth of eight feet and which must be easily accessible to visiting boats and posted with signage which can be read at a distance of 100 feet.

F. Design. All development in the WM district shall conform to the design and development standards contained in Chapter 17.99 GHMC. (Ord. 1194 § 37, 2010; Ord. 1086 § 23, 2007; Ord. 975 § 59, 2004; Ord. 598 § 2, 1991).

**Chapter 17.50**

**WATERFRONT COMMERCIAL (WC)**

Sections:

- 17.50.010 Intent.
- 17.50.020 Permitted uses.
- 17.50.030 Conditional uses.
- 17.50.040 Development standards.
- 17.50.045 *Repealed.*
- 17.50.050 Site plans.
- 17.50.060 Maximum height of structures.
- 17.50.070 Parking and loading facilities.
- 17.50.080 Signs.
- 17.50.090 Performance standards.

**17.50.010 Intent.**

It is the intent of the waterfront commercial district to provide a wide range of uses and activities on the shorelines of Gig Harbor located within the area proximate to the downtown business district. Development should be water-oriented and maintain the scale of existing structures. Highest priority will be accorded to those uses that are water-dependent. Other uses that provide a high degree of physical access to the waterfront have the next priority. Those activities that are not water-dependent but maintain or enhance views and the character of the area may also be permitted. (Ord. 573 § 2, 1990).

**17.50.020 Permitted uses.**

Refer to Chapter 17.14 GHMC for uses permitted in the WC district. (Ord. 1045 § 68, 2006).

**17.50.030 Conditional uses.**

Refer to Chapter 17.14 GHMC for uses conditionally permitted in the WC district. (Ord. 1045 § 70, 2006).

**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.) <sup>1</sup>	6,000	6,000/unit	15,000
B. Minimum lot width	50'	100'	100'
C. Minimum front yard <sup>2</sup>			
D. Minimum side yard <sup>2</sup>			
E. Minimum rear yard <sup>2</sup>			
F. Minimum yard abutting tidelands	0'	0'	0'
G. Maximum site impervious coverage	50%	55%	70%



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

**Subject:** Call for an advisory ballot election on November 4, 2014 regarding allowance of retail marijuana sales.

**Proposed Council Action:** Move to accept Resolution No. 971 authorizing the City Clerk to submit the required documents necessary for the non-binding advisory vote to be held on November 4, 2014.

**Notes:**

If the council elects to hold an advisory vote, direct staff to hold a first reading and public hearing on August 11<sup>th</sup>, 2014 extending the current moratorium under Ordinance No. 1290.

If the council elects to not hold an advisory vote, make a motion to direct staff to hold a first reading and public hearing on August 11<sup>th</sup>, 2014 for a permanent ordinance consideration.

**Dept. Origin:** Planning Department

**Prepared by:** Lindsey Sehmel, AICP  
Senior Planner

LNS

**For Agenda of:** July 28, 2014

**Exhibit:** Resolution No. 971

**Concurred by Mayor:**

**Approved by City Administrator:**

**Approved as to form by City Atty:**

**Approved by Finance Director:**

**Approved by Department Head:**

Initial &  
Date

*JE by NMT*  
*RW 7/24/14*  
*VIA email 7/24/14*  
*JK 7/24/14*

<b>Expenditure Required</b>	Estimated \$8,250	<b>Amount Budgeted</b>	\$0	<b>Appropriation Required</b>	Estimated \$8,250
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### INFORMATION/BACKGROUND

Initiative 502 was approved by the voters of Washington State in November of 2012, approving recreational marijuana use for adults and establishing a process to allow licensed retail stores for recreational marijuana. The Washington State Liquor Control Board (WSLCB) has been working to outline the process and procedures for implementation of the new law, establishing rules for the growing, processing, and retail of recreational marijuana. In July of 2014 the first licensed marijuana retail stores opened throughout Washington State.

In response to the passage of Initiative 502 and after a public hearing the Gig Harbor City Council approved Ordinance No. 1271 on September 23, 2013, adopting permanent regulations relating to marijuana uses and establishing Gig Harbor Municipal Code 17.63.

In reaction to the WSLCB determination that there would not be a cap on the amount of retail stores they would authorize within the city limits of Gig Harbor, on February 24, 2014, the Gig Harbor City Council, after a public hearing and consideration of testimony given, adopted Ordinance No. 1285 establishing of a twelve month interim regulation for a 2,500 foot separation requirement between Marijuana Retail Uses.

On April 14, 2014 City Council approved Ordinance No. 1290 immediately establishing an



emergency moratorium for all marijuana related uses within the City of Gig Harbor. This ordinance directed staff to amend the municipal code to address concerns around a lack of protection from 'non-traditional' school sites in addition to the repeal of medical marijuana uses within city limits.

A public hearing on Ordinance No 1290 was held on June 9, 2014 specific to the adopted moratorium. Upon completion of the public hearing, city council was requested to address any additional concerns to staff. None was received and staff was directed to only work on the items identified in Ordinance No. 1290.

On June 23, 2014, during Council Comments portion of the meeting, City Council directed staff to expand the scope of pending amendments identified in Ordinance No. 1290 to address additional concerns relating to privately operated for-profit youth recreational centers, amending the parks definition for inclusion of parks along the City's trail system, amend the definition of perimeter to address exterior parcels lines regarding site development that includes binding site plans and condominiums, in addition, confirm that private schools are included in the definition of primary and secondary schools.

On July 21, 2014 a special work study session with City Council was held to address the full scope of the potential amendments. Upon conclusion of the work study session, staff was directed to prepare a resolution for consideration on July 28<sup>th</sup>, requesting an advisory vote to be held on November 4, 2014.

### **FISCAL CONSIDERATIONS**

The associated cost of an advisory vote of Gig Harbor citizens on November 4, 2014 is approximately \$8,250 per estimates from the Pierce County Elections office.

### **BOARD OR COMMITTEE RECOMMENDATION**

None.

### **RECOMMENDATION/MOTION**

Move to accept Resolution No. 971 authorizing the City Clerk to submit the required documents necessary for the non-binding advisory vote to be held on November 4, 2014.

### **Notes:**

If the council elects to hold an advisory vote, direct staff to hold a first reading and public hearing extending the current moratorium under Ordinance No. 1290 on August 11<sup>th</sup>, 2014.

If the council elects to not hold an advisory vote, make a motion to direct staff to hold a first reading and public hearing on a permanent ordinance on August 11<sup>th</sup>, 2014.

RESOLUTION NO. 971

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, CALLING FOR AN ELECTION TO BE HELD IN THE CITY ON NOVEMBER 4, 2014 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY AN ADVISORY BALLOT PROPOSITION SEEKING VOTER INPUT ON THE QUESTION OF WHETHER THE CITY COUNCIL SHOULD ALLOW RETAIL MARIJUANA SALES WITHIN THE GIG HARBOR CITY LIMITS AS REGULATED BY CHAPTER 17.63 OF THE GIG HARBOR MUNICIPAL CODE.

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WHEREAS, Initiative 502 was passed by the voters of the State of Washington in November 2012, providing a framework under which marijuana producers, processors, and retailers can become licensed by the State of Washington; and

WHEREAS, in response and after a public hearing the Gig Harbor City Council approved Ordinance No. 1271 on September 23, 2013, adopting permanent regulations relating to marijuana uses; and

WHEREAS, on February 24, 2014, the Gig Harbor City Council, after a public hearing and consideration of testimony given, adopted Ordinance No. 1285 establishing of a twelve month interim regulation for a 2,500 foot separation requirement between Marijuana Retail Uses; and

WHEREAS, on April 14, 2014, the Gig Harbor City Council adopted Ordinance No. 1290 establishing a six month emergency moratorium on all marijuana uses and a work program to address concerns regarding the siting and location of marijuana retail establishments; and

WHEREAS, the City Council desires input from qualified voters of the City regarding the retail sale of marijuana within the city limits and the City Council has determined that a non-binding advisory ballot measure would provide that input; and

WHEREAS, on July 28, 2014, the Gig Harbor City Council considered this Resolution during its regular City Council meeting; Now, Therefore,

BE IT HEREBY RESOLVED BY THE GIG HARBOR CITY COUNCIL AS FOLLOWS:

**Section 1. Call for Election.** Pursuant to RCW 29A.04.330, the Gig Harbor City Council hereby calls for submission of a non-binding advisory proposition to the qualified voters of the City on the question of whether or not Gig Harbor voters support or oppose marijuana retail sales in the city limits of Gig Harbor as regulated by Chapter

17.63 of the Gig Harbor Municipal Code. The Council calls for the special election to be held in conjunction with the general election scheduled for November 4, 2014.

**Section 2. Ballot Proposition.** The Gig Harbor City Clerk is hereby authorized and directed to certify the following ballot proposition to the Pierce County Auditor by no later than August 5, 2014:

**CITY OF GIG HARBOR PROPOSITION NO. 1**

**ADVISORY VOTE ON MARIJUANA RETAIL SALES  
WITHIN THE CITY LIMITS**

The Gig Harbor City Council is considering whether to continue to allow marijuana retail sales as regulated in Chapter 17.63 of the Gig Harbor Municipal Code, which allows marijuana retail sales by state licensed marijuana retailers within the General Business (B-2) and Commercial (C-1) zoning districts, subject to State and City buffer and separation requirements. Should the City continue to allow marijuana retail sales within the city limits as set forth in chapter 17.63 GHMC?

- Yes
- No

**Section 3. Non-binding.** The results of this vote are non-binding and advisory in nature only and may assist the City Council in considering legislation related to the retail sale of marijuana.

**Section 4. Modifications.** The City Clerk and City Attorney are authorized to make modifications to the above-stated proposition if necessary to place the same on the ballot, as long as the effect of the proposition remains the same.

**Section 5. Voters' Pamphlet.** The City Attorney is directed to prepare and submit the explanatory statement for the ballot proposition as required by the administrative rules of the Pierce County Auditor. The arguments for and against the ballot proposition shall be prepared by the committees appointed by the City Council pursuant to RCW 29A.32.280.

PASSED BY THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, at a regular meeting thereof this 28<sup>th</sup> day of July, 2014.

\_\_\_\_\_  
MAYOR JILL GUERNSEY

ATTEST:

\_\_\_\_\_  
Molly Towslee, City Clerk

APPROVED AS TO FORM:  
Office of the City Attorney

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Angela G. Summerfield

Filed with the City Clerk: 07/23/14  
Adopted:  
Resolution No. 971

CITY OF GIG HARBOR  
PROPOSITION NO. 1

AN ADVISORY VOTE REGARDING  
MARIJUANA RETAIL SALES IN THE CITY

EXPLANATORY STATEMENT

Initiative 502 was passed by the voters of the State of Washington in November 2012, providing a framework under which marijuana producers, processors, and retailers can become licensed by the State of Washington. In response, on September 23, 2013, the Gig Harbor City Council approved Ordinance No. 1271, adopting permanent regulations relating to marijuana uses now codified in Chapter 17.63 of the Gig Harbor Municipal Code. The regulations authorized retail sale of marijuana by state-licensed marijuana retailers in the General Business (B-2) and Commercial (C-1) zoning districts, subject to a 1,000-foot buffer from sensitive uses such as schools, daycares, parks, and libraries. On February 24, 2014, the Gig Harbor City Council amended Chapter 17.63 to require a 2,500-foot separation between marijuana retailers. On April 14, 2014, the Gig Harbor City Council adopted a six-month moratorium on all marijuana uses in order to address concerns regarding the siting and location of marijuana retail establishments. The City Council desires to hear Gig Harbor voters' input on whether the City should continue to allow marijuana retail sales in the B-2 and C-1 zoning districts as set forth in Chapter 17.63 of the Gig Harbor Municipal Code. This measure is advisory only.

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

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Angela G. Summerfield  
July 28, 2014



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

**Subject:** Appointments to “For” and “Against” Election Committees for Marijuana Retail Sales Advisory Ballot Measure

**Proposed Council Action:**

1. Move to appoint the following three individuals to the “For” Committee:

\_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_;

2. Move to appoint the following three individuals to the “Against” Committee:

\_\_\_\_\_, \_\_\_\_\_,  
\_\_\_\_\_;

**Dept. Origin:** Administration

**Prepared by:** Molly Towslee, City Clerk

**For Agenda of:** July 28, 2014

**Exhibits:** Excerpt from Pierce County Election Guide

Initial & Date

**Concurred by Mayor:** \_\_\_\_\_

**Approved by City Administrator:** N/A

**Approved as to form by City Atty:** N/A

**Approved by Finance Director:** N/A

**Approved by Department Head:** N/A

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

For each ballot measure to be included in the Voter’s Pamphlet, a jurisdiction must formally appoint committees “For” and “Against” the measure. Each committee shall consist of not more than three members; however, a committee may seek the advice of any other person or persons. The “For” and “Against” Committee Member Form must be submitted **by August 5, 2014.**

If the persons “For” and/or “Against” the proposal are not immediately known, the jurisdiction is encouraged to employ some formal means of notifying the public that members of the “For” and “Against” committees are being sought.

If a jurisdiction fails to appoint “For” and “Against” committees by the deadline, the Auditor’s office will seek out and, whenever possible, appoint up to three members to each committee. The process and criteria for this is spelled out in more detail in the informational pages extracted from the *Election Guide for Jurisdictions* and attached to this memo.

The appointing jurisdiction is responsible for providing committee members with copies of instructions, specifications, and deadlines for all statements. The Statement “For” and Statement “Against” must be written by the committees and submitted to the Elections Department **by August 8, 2014** and the rebuttal statements are **due August 12, 2014.**

**RECOMMENDATION / MOTION**

Move to: Appoint the “For” and “Against” Committee Members.

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**Obtaining a Copy of  
The Ballot Title  
or Explanatory  
Statement  
RCW 29A.36.080**

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Ballot titles and explanatory statements are posted on our website.

Requests for copies of ballot titles and explanatory statements must be made for a specific election and a specific issue. Blanket requests for multiple/all elections or multiple/all issues will not be honored.

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**Establishing  
Committees “For”  
and “Against” A Local  
Measure  
RCW 29A.32.280,  
Pierce County Code  
1.20.050**

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For each measure from a jurisdiction that is included in the local voters’ pamphlet, the legislative authority of that jurisdiction shall formally appoint by the deadline committees “For” and “Against” the measure.

The jurisdiction shall appoint persons known to favor the measure to serve on the “For” committee and shall appoint persons known to oppose the measure to serve on the “Against” committee.

Each committee shall consist of not more than three members; however, a committee may seek the advice of any other person or persons. The “For” and “Against” Committee Member Form must be submitted by the deadline to appoint committees. See page 18.

If such persons are not immediately known, the jurisdiction is encouraged to employ some formal means of notifying the public that members of the “For” and “Against” committees are being sought.

The jurisdiction is responsible for providing committee members with copies of instructions, specifications, and deadlines for all statements.

The committees are solely responsible for submitting their statements to the Elections Division in accordance with the specified timeline for that election. See page 18.

Titles for committee member names will not be published in the local voters’ pamphlet.



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## **Appointments by The Auditor**

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If a jurisdiction fails to appoint “For” and “Against” committees by the deadline, the Auditor’s office will seek out and, whenever possible, appoint up to three members to each committee.

The Auditor’s office may, in its sole discretion, seek committee appointments through press releases, notices on the Auditor’s website, Facebook and Twitter.

The Auditor’s office will use the following criteria when making appointments:

- Be residents of and registered voters in Pierce County for at least one year immediately prior to their appointment;
- Have a demonstrated ability to communicate rapidly by email; and
- Shall agree to work collaboratively with co-committee members.

The deadline for an interested party to request a committee appointment is 12:00 NOON on the date that “For” and “Against” statements are due.

**Requests must be made by email to:**

[pcvoterpamphlet@co.pierce.wa.us](mailto:pcvoterpamphlet@co.pierce.wa.us)

Appointments will be made in the order that requests from qualified applicants are received by email. Appointed committee members will be notified by email. The appointed committee must abide by the specified timelines for submitting statements for that election.

It is not the responsibility of the Auditor’s office to coordinate communications between committee members or to arbitrate disagreements among them.

The first person appointed by the Auditor’s office will be designated as the “1st Committee Member” and “spokesperson” for the committee. Should the committee be unable to agree or if multiple statements are submitted, the statement submitted by the “1st Committee Member” will be the statement printed in the local voters’ pamphlet.

If a committee member wishes to withdraw, he or she must notify the Auditor’s office by email at least 24 hours prior to the submittal deadline for the statement. Once submitted, argument and rebuttal statements may not be withdrawn or changed.

**For and Against Committee Members Form Sample**

**For and Against Committee Members Form**



Email the completed form by the election resolution deadline to [pcvoterpamphlet@co.pierce.wa.us](mailto:pcvoterpamphlet@co.pierce.wa.us)

Name of Jurisdiction Submitting Measure: \_\_\_\_\_

Jurisdiction Contact Name: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

- Committee member names will be listed in the pamphlet in the same order they are listed on this form.
- Jurisdiction and committee member contacts must remain available throughout the submittal process.
- Committee email and website address must be functional when submitting this form.
- At least one type of committee contact (phone, email, or website) must be checked below to be included in the voters' pamphlet.

**Questions?** Voters' Pamphlet Coordinator - [pcvoterpamphlet@co.pierce.wa.us](mailto:pcvoterpamphlet@co.pierce.wa.us) or (253) 798-2143

"For" Committee		"Against" Committee	
1st Committee Member is responsible for contact with voters' pamphlet coordinator on behalf of the committee.		1st Committee Member is responsible for contact with voters' pamphlet coordinator on behalf of the committee.	
Name: _____		Name: _____	
Phone: _____	Publish in Voters' Pamphlet? <input type="checkbox"/>	Phone: _____	Publish in Voters' Pamphlet? <input type="checkbox"/>
Email: _____	Publish in Voters' Pamphlet? <input type="checkbox"/>	Email: _____	Publish in Voters' Pamphlet? <input type="checkbox"/>
Website: _____	Publish in Voters' Pamphlet? <input type="checkbox"/>	Website: _____	Publish in Voters' Pamphlet? <input type="checkbox"/>
Committee Name: _____			
<b>2nd Committee Member</b>		<b>2nd Committee Member</b>	
Name: _____		Name: _____	
Phone: _____		Phone: _____	
Email: _____		Email: _____	
<b>3rd Committee Member</b>		<b>3rd Committee Member</b>	
Name: _____		Name: _____	
Phone: _____		Phone: _____	
Email: _____		Email: _____	

Sample