

**CITY OF GIG HARBOR
REQUEST FOR PROPOSALS FOR
PUBLIC DEFENDER SERVICES**

I. Introduction

The City of Gig Harbor requests proposals to provide public defense services for indigent criminal defendants. The city expects to contract with firms or associations of firms for primary public defender services for indigent criminal defendants and expects to engage conflict counsel for a limited number of cases. The public defense attorney(s), firm(s), or association(s) selected will appear in the Gig Harbor Municipal Court on behalf of defendants who have established their indigency.

II. Scope of Services and Compensation

A. The selected public defenders and conflict counsel will provide legal representation for defendants assigned to each attorney at all pre-trial hearings, motions, trials, sentencing, reviews, and appeals to the point of filing, and will appear as standby counsel at all arraignments. The attorney will provide criminal defense services and will be available to talk and/or meet with indigent defendants in the Pierce County Jail in Tacoma and the Kitsap County Jail in Port Orchard. Legal services provided will include, but not be limited to, interviews of clients and potential witnesses, legal research, preparation and filing of pleadings, negotiations with the appropriate prosecutor or other agency and court regarding possible dispositions, and preparation for and appearance at court proceedings. Performance of services shall in all respects comply with the Standards adopted by the Washington State Supreme Court and the city (collectively, "Standards"), whichever is more restrictive.

Expected court hours are every Wednesday from approximately 9:00 a.m. to 4:00 p.m. Currently, one public defender is required for the morning calendar and two public defenders are needed to represent defendants during the afternoon calendar. Based on caseload increases, there is the potential that two public defenders will be needed for the entire day. Jury trials are currently held one Thursday per month but may increase to two days per month in 2024.

The Court's 2012-2022 caseload statistics are included in this RFP as Attachment 1. Total caseload for the Court has declined over recent years due to the COVID-19 Pandemic and Legislative changes regarding drug use/possession and police pursuits. With 2023 changes made allowing cities to cite criminals for drug use and to allow police pursuits, it is anticipated the total caseload numbers will gradually increase overtime.

B. The city proposes to compensate the public defender firm up to \$8,500 per month to perform the services listed herein and comply with all terms and conditions listed herein and in the attached draft contract. The city proposes to compensate each conflict counsel \$50 per hour, and the attached draft contract would be revised to account for conflict counsel's role. This compensation is inclusive of all fees, costs, charges, telephone fees, paralegal fees, delivery fees, or any other reimbursable

expenses. Necessary and reasonable expert witness and investigative services as detailed in the attached draft contract will be paid directly to the expert or investigator or reimbursed to the public defender when authorized by the court.

Please note that the city will consider alternative fee proposals for public defenders. If any proposer desires to present an alternative fee proposal, please present detailed information on the proposed fee schedule either on a price per case basis or on a total yearly/monthly fee, noting any variations for non-routine services. Services not referenced in this RFP or the attached draft contract, that are not explicitly identified as non-routine will be assumed to be included in the basic fee.

C. Public defense services will commence **upon contract approval**, for an initial term of almost (3) years, terminating on **December 31, 2026**, with the option to extend the contract with the mutual agreement of the parties for an additional period. Award of a contract is no guarantee that additional terms will be awarded.

The contract resulting from the acceptance of the proposal shall be in approximately the form attached to this RFP, although the city reserves the right to make revisions. Any proposed amendment to the attached draft contract should be noted in the proposal submitted. The city reserves the right to reject any proposed contract change that does not conform to the specifications contained in the RFP or that is not warranted to provide a level of service sufficient to meet the adopted standards.

D. The public defender is considered an independent contractor who shall at all times perform the criminal defense duties and responsibilities and carry out all services as an independent contractor and shall never represent or construe its status to be that of an employee of the city, nor shall the public defender be eligible for any employee benefits.

III. Instructions to Proposers

A. All proposals should be sent to:

City of Gig Harbor
Attn: City Administrator Katrina Knutson
3510 Grandview St.
Gig Harbor, WA 98335
kknutson@gigharborwa.gov

B. All proposals that are mailed or delivered must be in a sealed envelope and clearly marked in the upper left hand corner "RFP - Public Defender." Emailed proposals must be contained in one PDF file attached to the message and the subject line must state "RFP - Public Defender."

C. All proposals must be received by 4:30 PM, **on Friday, November 10, 2023**. If presented in writing, then an original and four (4) copies of proposals must be

provided. Emailed proposals will be accepted. No telephone proposals will be accepted.

- D. Proposals should be prepared simply and economically, providing a straightforward, concise description of the provider's capability to satisfy the requirements of the request. Using both sides of paper for any submittals to the city is recommended.

IV. Required Proposal Content

- A. The name of each individual attorney who is proposed to provide public defense services and his or her area of responsibility.
- B. A resume for each attorney who will provide legal services or supervise the provision of legal services by others, illustrating the attorney's specific experience in criminal defense.
- C. Detailed information about each individual attorney's experience in providing public defense service, including the types of cases in which the attorney has represented indigent clients.
- D. Detailed information about the firm, including how long it has been in existence, how many years it has practiced criminal defense.
- E. A description of the firm's general policy guidelines when addressing the needs of indigent misdemeanor clients, including but not limited to describing how attorney caseloads will be monitored and the level of involvement, if any, the firm has with appropriate social service referrals. Include detailed information about how the firm will evaluate for and access contract or other services, such as access to a mental health professional or interpreters. Please provide information regarding your firm's ability to report to the city both monthly and annually regarding the assigned case load, the disposition of cases, and the types of cases assigned.
- F. A statement regarding whether any attorney proposed to provide services under the contract has ever been disciplined by any bar association, been the subject of a court finding or determination of ineffective assistance of counsel, been monetarily sanctioned by a court for any reason, or been involved in an action for malpractice. If so, provide more detailed information.
- G. A statement regarding whether any attorney or employee of the firm has or could reasonably be anticipated to have any conflict of interest with the city and, if so, how the conflict will be addressed.
- H. A statement regarding the attorney's willingness and capability to provide insurance coverage of the same or similar nature required by the attached draft

contract. Notably, malpractice coverage cannot contain any exclusion for ineffective assistance of counsel.

- I. A statement of how the workload responsibilities of the city will be accommodated and what kind of priority it will be given in relationship to other contracts and obligations. If your firm has previously provided or is providing contract services for a city or county, please provide any documented review of contract compliance under those contracts. Please note specifically any corrective action required under any such public contract or any termination for cause of any such contract in whole or in part within the last ten (10) years.
- J. A statement warranting that each attorney proposed to provide legal services has read and is familiar both with Ordinance No. 1808-0812, establishing standards for the city, and with the Supreme Court Standards originally adopted pursuant to the Order at 174 Wn.2d 1177 and 1192, as amended. Each proposer will be required to warrant that the proposal submitted takes into account all required training, infrastructure, and service provision required by such Standards.
- K. A minimum of three (3) references.

V. Selection Criteria

The selection of a public defender will be based upon the ability of the proposer to best meet the guidelines established by the Washington State Bar Association. In its evaluation process, the city will consider the reputation(s) and qualifications of the specific individual(s) proposed for assignment to act as a public defender, including the proposer's history of successfully fulfilling contracts of this type, experience in similar work, ability and history of meeting deadlines, and the proven or potential ability of the proposer to fully comply with all standards. The city will also consider the completeness of the written proposal and the competitiveness of any alternative fee structure proposed.

VI. Terms and Conditions of Proposal Process

- A. The city shall not be responsible for any costs incurred by a firm in preparing, submitting, or presenting its response to the RFP.
- B. Any proposal may be withdrawn up until the date and time set for opening of the proposals. Any proposal not timely withdrawn shall constitute an irrevocable offer for a period of sixty (60) days to provide to the city the services described herein or until or more of the proposals have been approved by city administration, whichever first occurs.
- C. The city reserves the right to reject any and all proposals and to waive minor irregularities in any proposal.
- D. The city reserves the right to request clarification of information submitted and to request additional information from any proposer.
- E. The city reserves the right to award any contract to another proposer, if the successful proposer does not execute a contract within ~~fifteen (15)~~ seven (7) days after the award of the proposal.

Gig Harbor Municipal Court

Caseload Statistics 2012 - 2022

INFRACTION FILINGS -----

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Traffic	898	1183	1555	1378	1335	1310	1469	989	419	468	253
Non-Traffic	32	30	34	53	63	61	67	76	11	4	0
Parking	73	75	28	34	62	85	97	115	35	73	45
TOTALS	1003	1288	1617	1465	1460	1456	1633	1180	465	545	298
Increase from 2012		28%	61%	46%	46%	45%	63%	18%	-54%	-46%	-70%

INFRACTION DISPOSITIONS -----

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Paid	255	398	426	367	315	402	378	298	133	112	82
Failure to Respond (committed)	199	281	353	440	409	530	448	326	181	224	146
Committed	276	351	429	367	361	390	474	328	115	78	67
Not Committed	10	24	11	18	15	24	10	5	4	5	0
Dismissed	223	225	240	287	256	268	314	207	98	85	47
Show Cause Hearings	415	301	155	125	54	49	52	38	22	15	11
Mitigation Hearings	265	269	288	289	215	275	314	173	73	49	55
Contested Hearings	210	266	346	322	232	212	125	80	42	45	46
Total Hearings	890	836	789	736	501	536	491	291	137	109	112

MISDEMEANOR FILINGS -----

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
DUI	59	48	83	122	131	109	98	101	35	22	23
Other Criminal Traffic	131	185	239	241	329	415	396	292	199	205	113
Criminal Non-Traffic	194	163	149	194	251	272	266	222	210	136	146
TOTALS	384	396	471	557	711	796	760	615	444	363	282
Increase from Prev Year		3%	19%	18%	28%	12%	-5%	-19%	-28%	-18%	-22%
Increase from 2012		3%	23%	45%	85%	107%	98%	60%	16%	-5%	-27%

MISDEMEANOR DISPOSITIONS -----

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Guilty	204	187	201	240	333	374	348	339	190	207	178
Dismissed (1)	201	197	199	129	158	215	200	146	159	193	167
Amended Charge	29	43	137	106	156	171	210	162	75	64	38
Deferred Prosecution/PDA	127	107	131	106	212	151	151	149	103	96	67
Revoked Def Pros/PDA	42	25	31	17	22	23	33	16	27	12	13
Trials #Settings/#Held	31/2	32/1	31/2	47/3	45/0	46/1	62/4	40/3	23/0	44/0	59/1

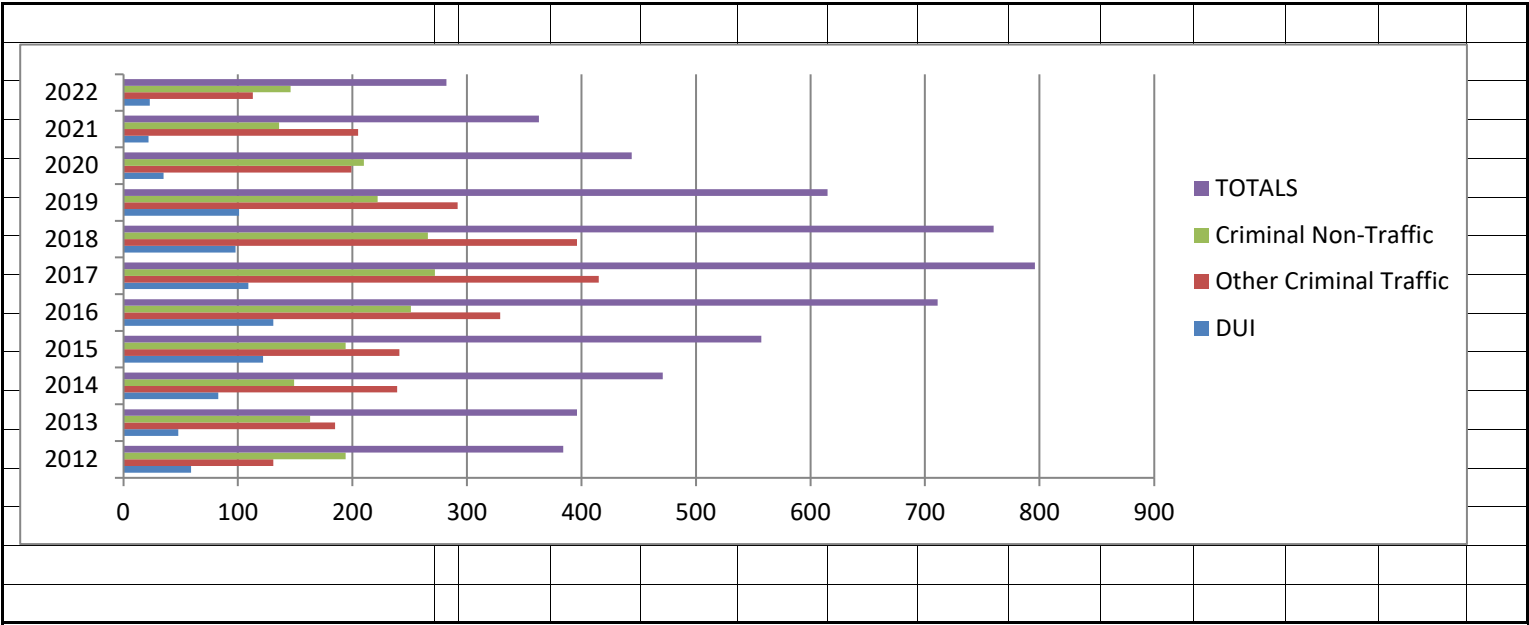
1 Dismissal includes cases in which defendant successfully completed Deferred Prosecution or PDA.

In 2012 Bail Forfeitures no longer allowed.

2012 Show Cause Hrgs increased due to collections audit

2013 Cell Phone Violations emphasis

2020-2021 C19 pandemic; virtual hearings but no jury trials



PROFESSIONAL SERVICES CONTRACT BETWEEN THE CITY OF GIG HARBOR AND

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and _____, a _____ corporation (the "Consultant").

RECITALS

WHEREAS, the City is presently engaged in _____ 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 _____ (\$_____) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit A** or bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section 17 herein.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within 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 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. 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____; provided however, that additional time shall be granted by the City for excusable days or extra work. Further, the parties may extend the duration of this Agreement consistent with the terms of Section 17 below.

4. 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.

5. 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.

6. Independent Status of Consultant. The parties to this Agreement, in the performance of it, will be acting in their individual capacities and not as agents, employees, partners, joint ventures, or associates of one another. The employees or agents of one party shall not be considered or construed to be the employees or agents of the other party for any purpose whatsoever.

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 reasonable attorneys fees, arising out of or resulting from the negligent or wrongful 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. 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, including the duty and cost to defend, 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. 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 performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. No Limitation. The Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City of Gig Harbor's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance. The Consultant shall obtain at no cost to the City and maintain said insurance in force for the duration of this agreement, insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Professional's profession.

D. Minimum Amounts of Insurance. The Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for

- bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Employer's Liability, each accident \$1,000,000, Employer's Liability Disease- each employee \$1,000,000, and Employer's Liability Disease - Policy Limit \$1,000,000.
4. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim/aggregate.

E. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect to the City of Gig Harbor. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute to it.
2. The City of Gig Harbor will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City of Gig Harbor will not waive its right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City of Gig Harbor, or any self-insurance, or insurance pool coverage maintained by the City of Gig Harbor.
3. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
4. If any coverage is written on a "claims made" basis, 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.

F. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII and licensed to conduct business in the State of Washington.

G. Verification of Coverage. The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

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 or modification of the work product 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.

A. 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.

B. Consultant acknowledges that the City is an agency governed by the public records disclosure requirements set forth in chapter 42.56 RCW. Consultant shall fully cooperate with and assist the City with respect to any request for public records received by the City concerning any public records generated, produced, created and/or possessed by Consultant and related to the services performed under this Agreement. Upon written demand by the City, the Consultant shall furnish the City with full and complete copies of any such records within ten business days. Consultant's failure to timely provide such records upon demand shall be deemed a material breach of this Agreement. To the extent that the City incurs any monetary penalties, attorneys' fees, and/or any other expenses as a result of such breach, the Consultant shall indemnify and hold harmless the City as set forth in Section 7. For purposes of this section, the terms "public records" and "agency" shall have the same meaning as defined by chapter 42.56 RCW, as construed by Washington courts.

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

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

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

14. Resolution of Disputes and Governing Law.

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

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

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

CONSULTANT:

ATTN: _____

City of Gig Harbor

ATTN: _____

City of Gig Harbor

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.

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. If extending the duration of the Agreement only, the parties may agree to such duration extension by written instrument approved and signed by the Consultant and by the Department Director if all other terms of the Agreement are unchanged and remain in full force and effect for the entire new duration of the Agreement.

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

CONSULTANT

CITY OF GIG HARBOR

By: _____
Its: _____

By: _____
XXXXXXXXXXXX

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney