



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

**Subject:** Jerkovich Aquatic Sublease Agreement

**Proposed Council Action:** Approve and authorize the Mayor to sign the Aquatic Sublease Agreement with Jerkovich Pier, LLC.

**Dept. Origin:** Public Works

**Prepared by:** Jeff Langhelm, PE  
Public Works Director

*ALX*

**For Agenda of:** July 26, 2021

**Exhibits:** Aquatic Land Sublease Agreement

Initial &  
Date

**Concurred by Mayor:** *KV 7-19-21*  
**Approved by City Administrator:** *AP 7/20/21*  
**Approved as to form by City Atty:** *VA Email 7/19/21*  
**Approved by Finance Director:** *DB 7/20/21*  
**Approved by Department Head:** *ALX 7/19/21*

<b>Expenditure Required</b>	\$0	<b>Amount Budgeted</b>	\$ 0	<b>Appropriation Required</b>	\$ 0
-----------------------------	-----	------------------------	------	-------------------------------	------

### INFORMATION/BACKGROUND

In May 2020 Jerkovich Pier, LLC approached the City with a proposal to mutually benefit the City and Jerkovich Pier. By June 2020 City Council entered into a memorandum of understanding with Jerkovich Pier to proceed forward in good faith to negotiate sublease by the City for a portion of the Jerkoviches existing tideland lease from the Washington Department of Natural Resources (DNR). The City intended to use the subleased area to construct public launching floats for human-powered watercraft. These public floats are now known as the Community Paddler's Dock. Without this sublease, the City would have proceeded with the Dock at a location that impacted views of Gig Harbor bay and been more costly than locating the Dock in the Jerkoviches tideland.

Then in August 2020 City Council authorized a master agreement for the Dock with Jerkovich Pier. This Master Agreement established the general terms of the future tideland sublease between the City and Jerkovich Pier, which would also require an amendment to the Jerkoviches existing aquatic lease with DNR.

Since August 2020 the City has completed the design and permitting of the Dock and Jerkovich Pier had completed the necessary amendment to the DNR aquatic lease. Once the sublease is fully executed, DNR will be provided a copy of the sublease and the City will complete all necessary aquatic lease processes to proceed with construction of the Dock.

**FISCAL CONSIDERATION**

This sublease agreement obligates the City to perform certain operations and maintenance activities for the City's Community Paddler's Dock. The City would have these same operation and maintenance costs regardless of the location of the Dock. Therefore, this sublease does not have any net increased financial impacts to the City.

**BOARD OR COMMITTEE RECOMMENDATION**

None.

**RECOMMENDATION/MOTION**

Approve and authorize the Mayor to sign the Aquatic Sublease Agreement with Jerkovich Pier, LLC.

## AQUATIC LAND SUBLEASE AGREEMENT

LESSORS: JERKOVICH PIER LLC

STATE OF WASHINGTON  
MASTER AQUATIC LAND  
LEASE NO. 22-B02571

THIS AQUATIC LAND SUBLEASE AGREEMENT ("Sublease") dated \_\_\_\_\_, \_\_\_\_, 2020, (Effective Date) is made by and between JERKOVICH PIER LLC, a Washington limited liability company, hereinafter referred to as the "Sublessor", and CITY OF GIG HARBOR, a Washington municipal corporation, hereinafter called the "Sublessee."

### RECITALS

WHEREAS, by the Memorandum of Assignment of Aquatic Lands Lease recorded on April 16, 2020 under Pierce County Auditor File No. 202004160696, the Sublessor is the owner of a 12-year term leasehold estate of aquatic lands located in what is commonly known as Gig Harbor, which is comprised of Tidelands and Harbor Waters in Pierce County, Washington that are described in an Aquatic Lands Lease commencing on the 5<sup>th</sup> day of January, 2018, and continuing to the 4<sup>th</sup> day of January, 2030 ("Termination Date"), executed on the 8<sup>th</sup> day of March, 2018, under State of Washington File No. 22-B02571, wherein the State of Washington, Department of Natural Resources "DNR", appears as Lessor therein, and the Sublessor's predecessors hereof, Nikolas Jerkovich Jr., Patricia Jerkovich, Joni Dupille, Elvy Jerkovich, Mary Ellen Gilmour, appears as Lessees, as recorded on the 22<sup>nd</sup> day of March 2018, under Pierce County Auditor's File No. 201803220657 ("Master Lease"). The Tidelands Lease Area containing 7,643± and the Harbor Lease Area containing 11,984± (collectively referred to as the "Leased Area") are set forth in Exhibit A to the Master Lease. The Master Lease, by reference, is made a part hereof and incorporated herein.

WHEREAS, Sublessor owns full interest in a private float system that is located on the Leased Area, comprised of a floating concrete dock, a concrete finger float, a timber work float and twenty-two creosote pilings ("Improvements"). That Master Lease provides that continued use of the Lease Area is conditioned upon Sublessor making certain repairs and modifications to the Improvements.

WHEREAS, the Leased Area abuts real property owned by Sublessee commonly known as 3525 Harborview Drive, Gig Harbor, Washington, Pierce County tax parcel No. 5970000244, which is legally described as follows:

Lot 5 through 7, Block 3, Town of Millville, Pierce County, W.T., according to plat recorded in Block 2 of Plats, Page 23, records of Pierce County Auditor, together with the second class tidelands abutting thereon to mean low tide. (SW ¼, SW ¼, Section 5, Township 21, Range 2 E).

(the "Waterfront Parcel"). As the owner of the abutting Waterfront Parcel, Sublessee is statutorily conferred certain preferred lease rights to lease the abutting tidelands. However, through the Agreement to Waive Preferred Right to Lease Tidelands recorded on October 15, 2019 under Pierce County Auditor File No. 201910150996, Sublessee agreed to waive any such statutorily conferred preferred rights for a period of ninety-nine (99) years.

WHEREAS, Sublessee has developed the Waterfront Parcel as a public park known as Ancich Waterfront Park. Sublessee desires to provide the public with access from Ancich Waterfront Park to the waters of Gig Harbor Bay. More specifically, the City wishes to develop a Community Paddlers Dock (Development) on a portion of the Leased Area to provide the public with access for human powered craft from Ancich Waterfront Park to the waters of Gig Harbor Bay.

WHEREAS Sublessor and Sublessee entered an agreement in which, subject to DNR approval, Sublessor has agreed to sublease to Sublessee a portion of the Leased Area to construct a public access Community Paddler's Dock, reserving access rights for Sublessor, in exchange for a commitment by Sublessee to make certain DNR required modifications to the float system within the sublease area.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants, promises and the performance of all the terms, covenants, restrictions, and conditions of this Sublease, and subject to DNR approval, Sublessor and Sublessee agree as follows:

### **ARTICLE I ACKNOWLEDGMENT AND INCORPORATION OF MASTER LEASE**

Sublessor and Sublessee expressly agree that the terms and conditions of this Sublease are subject to the terms and condition of the Master Lease. Sublessor and Sublessee expressly

state that it is their intent that the terms of this Sublease be consistent with the terms of the Master Lease; if the terms of this Sublease conflict with the terms of the Master Lease, the Master Lease controls.

Sublessee acknowledges receipt of a complete copy of the Master Lease and warrants that it has read and understands the same.

Sublessee initial here to acknowledge \_\_\_\_\_

Sublessee acknowledges and agrees that this Sublease does not create and Sublessee has no privity of contract between Sublessor and the State of Washington under the Master Lease.

Sublessee initial here to acknowledge \_\_\_\_\_

## **ARTICLE II SUBLEASE AREA**

2.1 Sublessor does hereby leases to the Sublessee the portion of the Leased Area described and depicted in **Exhibit 1** hereto (“Sublease Area”) for public use and access, together with all rights, title and interest now owned or hereafter acquired in the Improvements now or hereafter located on the Sublease Area, EXCEPT THAT Sublessor shall retain a right of access along and across the Sublease Area sufficient to allow adequate access for Sublessor’s continued use of the remaining portion of the Leased Area as authorized by the Master Lease. This right of access shall provide Sublessor with non-exclusive ingress, egress, and utility access between Ancich Waterfront Park and the Lease Area. The Sublessee shall not interrupt this right of access for a period in excess of twenty-four (24) hours without first receiving written consent from Sublessor. The subleased rights are subject to all rights reserved by the State of Washington in the Master Lease, including without limitation that the boundaries of the Sublease Area may be adjusted as necessary to conform to Exhibit A to the Master Lease as finally approved pursuant to Section 1 of the Master Lease.

2.2 Sublessor makes no representation regarding the condition of the Sublease Area and Improvements thereon, suitability of the Sublease Area for Sublessee’s Permitted Use, compliance with governmental laws and regulations, availability of utility rights, access to the Sublease Area, or existence of hazardous substances on the Sublease Area. Sublessee inspected the Sublease Area and Improvements thereon and accepts them “AS IS.”

### **ARTICLE III TERM**

3.1 The Master Lease commenced on January 5, 2018, and terminates on January 4, 2030. This Sublease commences on the Effective Date, above, and shall continue to January 4, 2030 (Termination Date). This Sublease shall terminate if the Master Lease terminates for any reason.

3.2 The Master Lease does not provide a right of renewal, nor does this Sublease confer any renewal rights to Sublessee. At least one year prior to the Termination Date of the Master Lease, Sublessor shall make application to the DNR for a new lease of the Leased Area. If the DNR, in its discretion, approves a new lease of the Leased Area, Sublessor will sublease the Sublease Area to Sublessee on terms similar to this Sublease, modified as necessary to be consistent with and comply is a new master lease.

3.3 Provided that a new sublease is not executed, Sublessee shall remove all improvements in accordance with Article VI, Improvements, which adopts and incorporates into this Sublease Master Lease Sections 7.5, 7.6 and 7.7, and surrender the Sublease Area to the State in the same or better condition as on the Effective Date, reasonable wear and tear, as defined by Section 3.3(b) of the Master Lease, excepted. If the Sublease Area is in worse condition, excepting reasonable wear and tear, Sublessee shall be subject to Section 3.3(c) of the Master Lease. If Sublessee remains in possession of the Sublease Area after the Termination Date, Sublessee shall be subject to Section 3.4 of the Master Lease.

### **ARTICLE IV RENT AND OTHER EXPENSES**

4.1. Rent. The Sublessee shall pay to the Sublessor, or any party having subsequently acquired ownership of all the rights of the Sublessor in the Master Lease by way of assignment, or otherwise, an annual rent in advance of One Dollar (\$1.00). Lessee shall make the first \$1.00 payment on the Effective Date. Thereafter, annual rent shall be paid in advance on January 5 of each year. Prepayment of more than the annual rent by Sublessee to Sublessor is prohibited.

4.2. Utilities. Sublessee shall pay all fees charged for utilities or needed by the Permitted Use of the Sublease Area.

4.3 Taxes and Assessments. Sublessee shall pay all taxes that may pertain to the Sublease Area (including leasehold excise taxes), if applicable.

Assessments, and other governmental charges applicable or attributable to the Sublease Area, Lessee's sublease interest, the Improvements on the Sublease Area or Sublessee's use and enjoyment of the Sublease Area. In the event for any one year there is an amount made payable or assessed against the ownership of the Sublessor attributable to subleased area for any public works

assessed by a governmental agency, the Sublessee agrees to pay the Sublessor on the 5<sup>th</sup> day January of the year following the assessment an amount apportioned to Sublessee's leasehold in accordance with standard practice of assessors in apportioning assessments to land according to square footage and front footage. The apportioned amount owed by the Sublessee to the Sublessor may be payable over a period of years according to the assessment periodic payment schedule. The Sublessor shall notify the Sublessee in writing of any adjustment in rent for an assessment together with a copy of said assessment at least sixty (60) days prior to date of the 5<sup>th</sup> of January of the year following the assessment.

If Sublessee fails to pay amounts dues under this Sublease, Sublessor may pay the amount due and recover such payment from Sublessee, together with costs associated with such payment and collection.

## **ARTICLE V PERMITTED USE OF SUBLEASE AREA**

5.1. Permitted Use. Subject to DNR approval, Sublessee covenants to the Sublessor that the Sublease Area shall be used only for the purpose of public access from Ancich Water Park to Gig Harbor Bay, including public with access for human powered craft from Ancich Waterfront Park to the waters of Gig Harbor Bay. This is a water-dependent use. **Exhibit 2** hereto describes the Permitted Use in detail. Public access for motorized craft is not included in the Permitted Use of the Sublease Area. Moorage, other than temporary moorage not to exceed 2 hours consistent with City adopted moorage rules or to load and unload, is not included in the Permitted Use of the Sublease Area. The Permitted Use is subject to additional obligations set forth in Exhibit B to the Master Lease to the extent that said additional obligations apply to the Improvements. All restrictions to, limitations on and requirement for Permitted Use and Operations set forth in Section 2.2 of the Master Lease apply to the Permitted Use and Operations under this Sublease. Public access shall not extend to those portions of the Leased Area that are located outside the Sublease Area.

5.2. Conformance with Laws. Sublessee shall, at all times keep current and comply with all conditions and terms of permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding Sublessee's use or occupancy of the Sublease Area.

5.3. Liens and Encumbrances. Unless expressly authorized, in writing, by both DNR and Sublessor, Sublessee shall keep the Sublease Area free and clear of liens or encumbrances arising from the Permitted Use or Sublessee's occupancy of the Sublease Area.

## **ARTICLE VI IMPROVEMENTS**

6.1 Adoption of Master Lease Provisions. Sublessor and Sublessee expressly adopt, and directly incorporates as terms of this Sublease, Master Lease Section 7, Improvements, Section, Section 11, Maintenance and Repair, and Section 12, Damage or Destruction. All notices required to the Master Lessor shall also be required to Sublessor.

6.2 Existing Improvements. Sublessor shall not be required to make any alternations, maintenance, replacements, or repairs in, on or about the Sublease Area and the Improvements thereon during the term of this Sublease. Sublessor shall not be required to construct any new improvements for Sublessor's access to, use of, water, or electrical service to the Sublease Area.

6.3 Indemnification and Hold Harmless. Sublessee shall indemnify and defend Sublessor, including its officers, members, employees, agents and representatives, and hold Sublessor harmless from and against any and all liability, loss or damages from claims or actions by Master Lessor and/or its agencies, officials or representatives, arising from or related to Sublessee's failure to comply with the requirements and obligations set forth in Master Lease Section 7, Improvements, Section, Section 11, Maintenance and Repair and Section 12, Damage or Destruction, and/or the additional obligations set forth in Exhibit B to the Master Lease to the extent that said additional obligations apply to the Improvements in the Sublease Area.

## **ARTICLE VII INDEMNITY AND INSURANCE**

Sublessee shall meet all obligations of Sublessor under the Master Lease, Section 10, Indemnity, Financial Security, Insurance. Sublessee expressly acknowledges and accepts that it assumes and accepts all obligations of Sublessor to Master Lessor in said Section 10 of the Master Lease for the Sublease Area. The Parties agree and accept that Sublessee is a member of a risk pool and all insurance obligations in both this Sublease and the Master Lease which may be applicable to Sublessee may be met through proof of comparable self-insurance through a risk pool as an acceptable means of complying with the insurance requirements. Sublessor's indemnification and insurance obligations extend to indemnification and insurance coverage for claims by the public related to public use of the Sublease Area. Sublessee cannot comply with any requirement to name any additional insureds. Upon request, Sublessee can provide a Certificate of Coverage evidencing the Sublessee's coverages through the risk pool as well as a letter that explains the inability to name "Additional Insureds" and how third parties are, in the



risk pools view, still protected by those provisions requiring additional insured language in our Liability Coverage Agreement.

7.1 Indemnity. Sublessee shall indemnify, defend and hold Master Lessor, its employees, officers and agents, and Sublessor, its employees, officers and agents, from Claim arising out of the use, occupation or control of the Sublease Area by Sublessee, its contractors, agents, affiliates, licensees, permittee, invitees and guests, including the public, to the fullest extent permitted by law and as described in and limited by Master Lease Section 10.1(b).

7.2. Insurance. Except as exclusively applicable to the exclusive Sublessor use of that portion of the Leased Area, and improvements thereon, that are not included in the Sublease Area, Sublessee shall procure and maintain, at its own cost and expense, such General Liability Insurance, Employers' Liability Insurance, Property Insurance, Protection and Indemnity Insurance and other insurance as required to be carried by Sublessor under Section 10 of the Master Lease as applicable for the City based on the use described in Article V. The Sublessee shall provide Sublessor proof of self-insurance through a risk pool as an acceptable means of complying with the insurance requirements under Section 10 of the Master Lease.

7.3 Workers' Compensation. Sublessor shall comply with all State of Washington Workers' Compensation statutes and regulations. Sublessor shall provide workers' compensation coverage for all employees of Sublessor as described in Master Lease Section 10.3(b).

7.4 Should Sublessee be required to provide a certificate of insurance executed by a duly authorized representative of each insurer, Sublessee may satisfy this requirement by providing proof of coverage through a risk pool. Further, Sublessee can, when needed, provide a Certificate of Coverage evidencing the City's coverages through the risk pool, as well as a letter that explains the inability to name "Additional Insureds" and how third parties are, in the risk pools view, still protected by those provisions requiring additional insured language in our Liability Coverage Agreement.

## **ARTICLE VIII ENVIRONMENTAL LIABILITY/RISK ALLOCATION**

8.1 Adoption of Master Lease Provisions. Sublessor and Sublessee expressly adopt, and directly incorporates as terms of this Sublease, Master Lease Section 8, Environmental Liability/Risk Allocation, except that Sublessee's obligation under this Master Lease Section 8 only extends to the area in, on, under or above the Sublease Area, adjacent state-owned aquatic lands if affected by a release of Hazardous Substances that occurs as a result of the Permitted Use under this Sublease, and the Leased Area not included in the Sublease area if affected by a release of Hazardous Substances that occurs as a result of the Permitted Use under this Sublease. Sublessee

shall provide all notices and reporting required by the Master Lease to the Master Lessor or to Sublessor.

8.2 Current Conditions and Duty to Investigate. Sublessor makes no representation about the condition of the Sublease Area. Hazardous Substances may exist in, on, under or above the Sublease Area. This Sublease does not impose a duty on Sublessor to conduct investigations or supply information to Sublessee about Hazardous Substances. Sublessee is responsible for conducting all appropriate inquiry and gathering sufficient information about the existence, scope, and location of Hazardous Substances on or near the Sublease Area necessary for Sublessee to meet Sublessee's obligations under the Sublease and utilize the Sublease Area for the Permitted Use.

8.3 Indemnification of Sublessor. In addition to all indemnification obligations to the Master Lessor under the Master Lease, Sublessee shall fully indemnify, defend and hold Sublessor harmless from and against Liabilities that arise out of or relate to (a) the use, storage, generation, processing, transportation, handling or disposal of any Hazardous Substance by Sublessee, its affiliates or guests and invitees, including the public, occurring whenever Sublessee occupies or has occupied the Sublease Area; and or (b) the release or threatened release from any omission of Sublessee, its affiliates or guests and invitees, including the public, occurring whenever Sublessee occupies or has occupied the Sublease Area. Sublessee shall fully indemnify, defend and hold Sublessor harmless for Liabilities that arise out of or relate to Sublessee's breach of Master Lease Section 8.5. Sublessee shall promptly reimburse Sublessor for any costs incurred by Sublessor or charged to Sublessor by Master Lessor pursuant to Master Lease Section 8.10.

8.4 Reservation of Rights. The Reservation of Rights by and between Sublessor and Master Lessor as set forth in Master Lease Section 8.8 also extend to and are incorporated into this Sublease as by and between Sublessor and Sublessee.

## **ARTICLE IX DEFAULT**

Sublessor and Sublessee expressly adopt, and directly incorporates as terms of this Sublease, Master Lease Section 14, Default and Remedies, as the procedure and protocol to address defaults under this Sublease, including the Sublessor's right to cure defaults and Sublessor's remedies under this Sublease as between Sublessor and Sublessee.

## **ARTICLE X ACCESS TO PREMISES**

Master Lessor and Sublessor shall have access to the Sublease Area at all reasonable times for the purpose of securing compliance with the terms and conditions of this Sublease, monitor

impacts to habitat, or survey habitat and species. Sublessee grants Master Lessor and Sublessor permission to cross Sublessee's upland and aquatic land to access the Sublease Area. The Master Lessor and/or Sublessor shall provide at least 24 hours' notice before entering the Sublease Area for that purpose. Regulatory authorities may accompany the Master Lessor or Sublessor when they enter the Sublease Area. Sublessor's failure to inspect the Sublease Area does not constitute waiver of any rights or remedies under this Lease.

## **ARTICLE XI MISCELLANEOUS**

11.1. Notices. The following are locations for delivery of Notice and submittals required or permitted under this Sublease. Any party may change the place of delivery upon ten (10) days written notice to the other.

Jerkovich Pier LLC  
Mary Ellen Gilmour  
3107 N. 22<sup>nd</sup> Street  
Tacoma, WA 98406

City of Gig Harbor  
City Administrator  
3510 Grandview Street  
Gig Harbor, WA 98335

The Parties may deliver any notice in person, by facsimile machine, or by certified mail. Depending on the method of delivery. Notice is effective upon personal delivery, upon receipt of a confirmation report if delivered by facsimile machine or three (3) days after mailing. On notices transmitted by facsimile machine, the Parties shall state the number of pages contained in the notice, including the transmittal page, if any.

11.2. Modification. Neither this Sublease nor any term or provision hereof may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge, or termination is sought.

11.4. Non-Waiver. Any waiver by either party of strict performance of any provisions of this Sublease shall not be a waiver of, nor prejudice, the party's right to require strict performance of the same provision in the future or of any other provision.

11.5. Attorney's Fees. Any legal action in court for the enforcement of this Sublease by either party, resulting in relief by way of damages or otherwise to the successful party, shall entitle the successful party to reasonable attorney's fees and costs.

11.6. Time is of the Essence. Time is the essence as to each and every provision of this Sublease.

11.7. Headings. The heading used in this Sublease are for convenience only and in no way define, limit or extend the scope of the Sublease or the intent of any provision.

11.8 Entire Agreement. This Sublease, including exhibits, attachments and addenda, if any, contains the entire agreement of the Parties.

11.9 Cumulative Remedies. The rights and remedies under this Sublease are cumulative and in addition to all other rights and remedies afforded by law or equity or otherwise.

11.10 Invalidity. The invalidity, voidness or illegality of any provision of this Sublease does not affect, impair or invalidate any other provision of the Sublease.

11.11 Applicable Law and Venue. This Sublease is to be interpreted and construed in accordance with the laws of the State of Washington. Venue for any action arising out of or in connection with this Sublease is in the Superior Court of Thurston County.

11.12 Recording. At Sublessee's expense and no later than thirty (30) days after receiving the fully executed Sublease, Sublessee shall record this Sublease in the County in which the Sublease Area is located. Sublessee shall include the parcel number of the upland property used in conjunction with the Sublease Area. Sublessee shall provide both the Master Lessor and the Sublessor with the recording information, including the date of recording and file number.

11.13 Survival. Any obligation of Sublessee not fully performed upon termination of this Sublease do not cease, but continue as obligations of Sublessee until fully performed.

11.13 Exhibits and Attachments. All referenced exhibits and attachments are incorporated in the Sublease unless expressly identified as unincorporated.

## **ARTICLE XII CONDITIONS SUBSEQUENT – APPROVAL BY THE STATE**

The rights and obligations of the Sublessor and Sublessee of this Sublease are expressly subject to the condition subsequent that the Master Lessor, the State of Washington, Department of Natural Resources, shall have executed its approval as hereinafter set forth. Upon the execution of this Sublease by the Sublessor and Sublessee, the Sublessor is authorized and directed to deliver three executed copies of this Sublease to the Master Lessor and obtain the written receipt and date of delivery thereof from the Master Lessor. In a reasonable time thereafter, the Master Lessor shall execute its approval on each of the copies as provided herein, and shall return two of the copies properly executed to the Sublessor for closing and delivery of one copy to the Sublessee.

## **XIII AUTHORIZATION**

Each party represents that it has the authority to enter into this Sublease. Each signatory represents that it has been authorized by that party to execute and deliver this Sublease.

*Signatures on following page.*

City of Gig Harbor

Jerkovich Pier LLC

By Kit Kuhn  
Mayor

By \_\_\_\_\_  
Its \_\_\_\_\_

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

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

STATE OF WASHINGTON )

COUNTY OF PIERCE )

) ss.  
)

I certify that I know or have satisfactory evidence that Kit Kuhn is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Gig Harbor to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(print or type name)  
NOTARY PUBLIC in and for the State of  
Washington, residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

STATE OF WASHINGTON )

COUNTY OF P I E R C E ) ss.  
)

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that she/he signed this instrument, on oath stated that she/he was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of the Jerkovich Pier LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(print or type name)  
NOTARY PUBLIC in and for the State of  
Washington, residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

## EXHIBIT 1

### Sublease Area Legal Description and Survey

#### Legal Description

THAT PORTION OF THE UNPLATTED FIRST CLASS TIDELANDS OWNED BY THE STATE OF WASHINGTON AS SHOWN ON THE AMENDED PLAT OF GIG HARBOR TIDELANDS AND HARBOR LINES ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS, AUDITOR'S FILE NO. 9512140115, RECORDS OF PIERCE COUNTY, WASHINGTON, IN FRONT OF LOT 5, BLOCK 3, PLAT OF MILLVILLE, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK 2 OF PLATS, PAGE 23, RECORDS OF PIERCE COUNTY, WASHINGTON, INCLUDED IN A TRACT TO BE USED FOR PUBLIC USE AND ACCESS AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 5;  
THENCE ALONG THE EAST LINE OF SAID LOT 5 NORTH 37°12'29" EAST 223.86 FEET TO THE BALANCED MEANDER LINE AND THE POINT OF BEGINNING;  
THENCE CONTINUING ALONG THE NORTHEASTERLY PROLONGATION OF THE EAST LINE OF SAID LOT 5 NORTH 37°12'29" EAST 140.26 FEET;  
THENCE NORTH 52°28'03" WEST 17.67 FEET, MORE OR LESS, TO INNER HARBOR LINE AS ESTABLISHED BY SAID AMENDED TIDELANDS/HARBOR LINE PLAT;  
THENCE ALONG SAID INNER HARBOR LINE NORTH 78°45'42" WEST 21.70 FEET;  
THENCE CONTINUING ALONG SAID INNER HARBOR LINE NORTH 41°20'49" WEST 13.09 FEET TO THE INTERSECTION WITH THE WEST LINE OF AFORESAID LOT 5;  
THENCE LEAVING SAID INNER HARBOR LINE ALONG SAID WEST LINE THENCE SOUTH 37°12'29" WEST 143.01 FEET TO THE NORTHEASTERLY LINE OF LEASE AREA B OF CITY OF GIG HARBOR LEASE NUMBER 22-095919 UNDER AUDITOR'S FILE NUMBER, 201710165001, RECORDS OF PIERCE COUNTY;  
THENCE LEAVING THE WEST LINE OF SAID LOT 5 ALONG SAID LEASE LINE SOUTH 48°42'30" EAST 32.35 FEET TO THE BALANCED MEANDER LINE;  
THENCE ALONG SAID MEANDER LINE SOUTH 86°34'19" EAST 21.33 FEET TO THE POINT OF BEGINNING.

# DNR SUBLEASE EXHIBIT MAP

IN A PORTION OF SECTION 5,  
TOWNSHIP 21 NORTH, RANGE 2 E., W.M.  
PIERCE COUNTY, WASHINGTON

N. MEASURER CORNER W. LINE  
SEC 5-21-2E  
FD. 5<sup>TH</sup> 1P (11-18-04)

### VERTICAL DATUM

MLLW = 0.0  
CITY OF GIG HARBOR MONUMENT NUMBER 84 ENCLOSED  
SHOWS THE 1985'S BATTERY PARKING LOT PUBLISHED  
ELEVATION OF 28.02 FEET ABOVE M.L.L.W. BASED ON  
GIG HARBOR TIDAL BENCH MARK NUMBER 5 (1944)  
ELEVATION 14.19 FEET.  
NAVD OF ELEVATION OBTAINED VIA RTK GPS AND  
CONTROL USING WSPN TACD (NAID 83 (COORDS 2011-10)  
GRS-80 ELLIPSOID, GEOID 126A)  
MLLW 0.0 = -8.86 NAVD 83 (PER NOAA MEANTUM)  
2 FOOT CONTOURS FROM FIELD DATA

### HORIZONTAL DATUM

BEARINGS SHOWN HEREON ARE RELATED TO THE WASHINGTON STATE COORDINATE SYSTEM,  
SOUTH ZONE, AS DERIVED FROM RTK GPS AND CONTROL USING WSPN NTRIP  
PUNKS/REDAR, 14-49.200000N/124-122.351733000000 W-11.0118 (NAID 83 (COORDS  
2011-10) GRS-80 ELLIPSOID, GEOID 126) DISTANCES ARE GRID UNLESS NOTED.

### SUBLEASE DESCRIPTION:

THAT PORTION OF THE UNPLATTED FIRST CLASS TIDELANDS OWNED BY THE STATE OF  
WASHINGTON AS SHOWN ON THE ATTACHED PLAT OF GIG HARBOR TIDELANDS AND HARBOR LINES  
ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS, AUDITOR'S FILE NO.  
20181-0015, RECORDS OF PIERCE COUNTY, WASHINGTON, IN FRONT OF LOT 5, BLOCK 3, PLAT  
OF MILLEVILLE, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK 2 OF PLATS, PAGE 23,  
RECORDS OF PIERCE COUNTY, WASHINGTON, INCLUDED IN A TRACT DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 5;  
THENCE ALONG THE EAST LINE OF SAID LOT 5 NORTH 37°12'29" EAST 233.06 FEET TO THE  
BALANCED MEASURER LINE AND THE POINT OF BEGINNING;  
THENCE CONTINUING ALONG THE NORTHEASTERLY PROLONGATION OF THE EAST LINE OF SAID  
LOT 5 NORTH 37°12'29" EAST 140.26 FEET;  
THENCE NORTH SURETY WEST 17.47 FEET, MORE OR LESS, TO UNDER HARBOR LINE AS  
ESTABLISHED BY SAID AMENDED TIDELANDS/HARBOR LINE PLAT;  
THENCE ALONG SAID UNDER HARBOR LINE NORTH 78°45'42" WEST 21.30 FEET;  
THENCE CONTINUING ALONG SAID UNDER HARBOR LINE NORTH 41°20'48" WEST 13.09 FEET TO  
THE INTERSECTION WITH THE WEST LINE OF AFORESAID LOT 5;  
THENCE LEAVING SAID UNDER HARBOR LINE ALONG SAID WEST LINE THENCE SOUTH 37°12'29"  
WEST 143.01 FEET TO THE NORTHEASTERLY LINE OF LEASE AREA B, OF CITY OF GIG HARBOR  
LEASE NUMBER 22-085919 UNDER AUDITOR'S FILE NUMBER, 2017108300, RECORDS OF  
PIERCE COUNTY;  
THENCE LEAVING THE WEST LINE OF SAID LOT 5 ALONG SAID LEASE LINE SOUTH 48°42'30"  
EAST 32.35 FEET TO THE BALANCED MEASURER LINE;  
THENCE ALONG SAID MEASURER LINE SOUTH 88°34'18" EAST 21.33 FEET TO THE POINT OF  
BEGINNING.

CONTAINING 7289.87 SQUARE FEET



BRASSIC RODENALE ST &  
STINSON AVE  
SW CORNER  
5-21-2E  
LAST MAPPED JULY 2012



N 08°18'50" W 378.80'

### SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR  
UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS  
OF THE SURVEY RECORDING ACT AT THE REQUEST OF:

THE CITY OF GIG HARBOR, ON \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020. CERTIFICATE NUMBER 30801.  
GARY A. FRIEDOR, REGISTERED PROFESSIONAL LAND SURVEYOR



### THORNTON LAND SURVEYING

P.O. BOX 848  
GIG HARBOR, WASHINGTON 98336  
253.858.6126 / INFO@THORNTONLS.COM

EXHIBIT MAP FOR & REQUESTED BY  
THE CITY OF GIG HARBOR  
IN A PORTION OF THE NW1/4 OF THE NE1/4 OF  
SECTION 5, TOWNSHIP 21 NORTH, RANGE 2 E., W.M.  
PIERCE COUNTY, WASHINGTON

DRAWN	DATE	FIELD BOOK
DRM	8-5-2020	NA
CHECKED	SCALE	JOB NUMBER
CAP	1" = 80'	Job #200716

Survey



## EXHIBIT 2

### 1. Description of Permitting Use

#### A. Existing Facilities

The sublease area is contained within the State-owned tidelands included in DNR aquatic lease 22-B02571 and currently includes a portion of the Jerkovich dock. The existing improvements include a steel gangway with solid wooden surfacing, multiple sections of floating concrete dock, a concrete finger float, a timber work float, and 11 creosote pilings. The sections of floating concrete dock have internal floatation. Five of the pilings located the shoreward extent of the floating concrete dock are unattached. Power and water utilities are connected to the gangway and located on the floating concrete dock.

#### B. Proposed Work

The City is proposing to remove all existing improvements located within the proposed sublease area. The City is proposing to install new improvements to provide temporary moorage and for loading and unloading of human powered craft. These new improvements will be open to the public, will be ADA compliant, and will include a new gangway, new sections of floating composite dock, two new finger floats, new steel piling necessary to support the floats, and associated appurtenances. The new improvements will include conveying the existing power and water utilities across the new floating composite dock and reconnecting to the existing floating concrete dock waterward of the sublease area.

### 2. Additional Obligations

None.