

Gig Harbor City Council Meeting

**December 15, 2008
4:00 p.m.**



**AGENDA FOR
SPECIAL GIG HARBOR CITY COUNCIL MEETING
December 15, 2008 – 4:00 p.m.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

EXECUTIVE SESSION: To discuss potential litigation per RCW 42.30.110(1)(i) and Guild Negotiations per RCW 42.30.140(4)(a).

NEW BUSINESS:

1. Eddon Boat – Construction Contract Award.
2. Amendment to Legal Services Agreement – Morris Taraday.

ADJOURN:



Business of the City Council
City of Gig Harbor, WA

Subject: Eddon Boat Building Restoration
Construction Bid Award

Dept. Origin: Administration

Prepared by: Lita Dawn Stanton
Special Projects

For Agenda of: December 15, 2008

Exhibits: Sample Contract, Bid Sheet

Proposed Council Action: Award the Eddon
Boat Building Restoration Construction contract,
including bid alternates 1 - 5, to Rush Commercial
Construction, Inc. in the not to exceed amount of
\$564,973.00.

Initial & Date

Concurred by Mayor: [Signature] 12/12/08
Approved by City Administrator: [Signature] 12/12/08
Approved as to form by City Atty: BELBECK/EMAIL
Approved by Finance Director:
Approved by Department Head: [Signature] 12/12/08

Table with 4 columns: Expenditure Required, Amount Budgeted, Appropriation Required, and values: \$ 564,973.00, \$980,000, \$ -0-

INFORMATION / BACKGROUND

Eddon Boat Park was acquired through the 2005 Voted General Obligation (UTGO) Bond. As part of the acquisition, the historic boat building was identified for preservation and restoration so that its traditional and culturally significant use, boat building, could also be preserved for the community. In 2006, Washington State approved the City's \$1 million grant request to restore the boat building for public access. That work is to be completed by June 30, 2009. Work includes electrical, structural, fire, safety, ADA access, a public viewing platform, heating, plumbing, mechanical, roofing and restrooms at the brick house. All bids came in under the total grant amount. The lowest responsible bidder was Rush Commercial Construction, Inc.

FISCAL CONSIDERATION

This is a reimbursement grant that is already matched through the 2005 UTGO Bond. Two percent (\$20,000) goes to the Washington State Historical Society (WSHS) leaving \$980,000 to fund the construction restoration project and other costs associated with the project.

BOARD OR COMMITTEE RECOMMENDATION

n/a

RECOMMENDATION / MOTION

Move to: Award the Eddon Boat Building Restoration Construction contract, including bid alternates 1 - 5, to Rush Commercial Construction, Inc. in the not to exceed amount of \$564,973.00.

Rush Commercial Construction
Bid Proposal
December 4, 2008

Eddon Boat Building Structural Improvements and Building Upgrades Project
CPP-0825

Base Bid Amount – Structural Improvements and Building Upgrades	\$496,600.00
Alternate #1 -- Boatyard Store Finishes	12,391.00
Alternate #2 -- Rooms 201, 202 and 203 Finishes	19,582.00
Alternate #3 -- Paint Building Exterior	21,200.00
Alternate #4 – Rain Garden (Leeds)	6,000.00
Alternate #5 – Reroof Boathouse (Inside Railway Carriage)	9,200.00
Total Bid Award	\$564,973.00**

**** Includes Washington state sales tax at 8.4% per Bid Proposal and Addendum #2**

Total Bid without sales tax	\$521,192.80
Sales tax at 8.4%	43,780.20
Total Bid Award	\$564,973.00

CITY OF GIG HARBOR CONTRACT
For
Eddon Boat Building Restoration Project
CPP - 0825

THIS AGREEMENT, made and entered into, this ____ day of _____, 2007, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and Rush Commercial Construction, Inc., 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 do all of the work and furnish all of the labor, materials, tools, and equipment necessary for the Eddon Boat Building Structural Improvements and Building Upgrade Project, all in accordance with the special provisions and standard specifications, and shall perform any changes in the work, all in full compliance with the contract documents entitled "Onshore Outfall and Force Main Replacement Project, CSSP-0802," which are by this reference incorporated herein and made a part hereof; and agrees to accept payment for the same in accordance with the said contract documents, including the schedule of prices in the "Proposal," the sum Five Hundred Sixty-four Thousand Nine Hundred Seventy-three Dollars and Zero Cents (\$564,973.00), including state sales tax, subject to the provisions of the Contract Documents.
2. Work shall commence and contract time shall begin on the first working day following the seventh (7th) calendar day after the date the City executes the Contract, or the date specified in the Notice to Proceed issued by the City Engineer, whichever is later. All physical contract work shall be completed within one hundred sixty-eight (168) calendar days.
3. The Contractor agrees to pay the City the sum of \$400.00 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.
5. 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," "Notice to Proceed," "Change Orders" if any, and any documents referenced or incorporated into the Contract Documents, including, but not limited to the Technical Specifications.
6. 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.

CONTRACT: Onshore Outfall and Force Main Replacement Contract (CSSP-0802)

7. 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.
8. 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: _____

Print Name: _____
Print Title: _____
Date: _____

ATTEST:

City Clerk

APPROVED FOR FORM:

City Attorney



Business of the City Council
City of Gig Harbor, WA

Subject: Addendum to Agreement for
Legal Services Morris & Taraday, P.C.

Dept. Origin: Administration

Prepared by: Molly Towslee, City Clerk

For Agenda of: 12-15-08

Exhibits: Amendment - Legal Services Agreement
Initial & Date

Proposed Council Action:

Authorize the Mayor to sign the Addendum
to Agreement for Legal Services
with Carol Morris of Morris & Taraday, P.C.

Concurred by Mayor: [Signature] 12/11/08
Approved by City Administrator:
Approved as to form by City Atty:
Approved by Finance Director:
Approved by Department Head:

Table with 3 columns: Expenditure Required, Amount Budgeted, Appropriation Required. Value 0 is shown in the last cell.

INFORMATION / BACKGROUND

The attached amendment will allow Ms. Morris and Mr. Taraday to continue to provide legal services on pending litigation.

Table with 2 columns: Rates, Amount. Rows include President/Carol Morris (\$250/hr), Partner/Jeffrey Taraday (\$250/hr), Associates (\$150/hr), Law Clerks/Paralegals (\$120/hr).

FISCAL CONSIDERATION

Sufficient funds are in the administration budget to cover these services.

BOARD OR COMMITTEE RECOMMENDATION

None

RECOMMENDATION / MOTION

Move to: Authorize the Mayor to sign the Addendum to Agreement with Carol Morris of Morris & Taraday, P.C.

**LEGAL SERVICES AGREEMENT
LAND USE ATTORNEY**

This Agreement is entered into by and between the City of Gig Harbor, hereinafter referred to as the "City" and Carol A. Morris, of the Morris & Taraday, P.C., hereinafter referred to as the "Land Use Attorney."

WHEREAS, the parties desire to define the services to be provided by the Land Use Attorney, and the costs associated therewith; Now, Therefore,

The parties hereto agree as follows:

Terms.

Section 1. Term. The term of this Agreement shall be from the date this Agreement is executed by both parties, until terminated by either party pursuant to the terms hereof. Either party may terminate this Agreement with or without cause, by providing sixty (60) days written notice to the other party.

Section 2. Duties.

A. The Land Use Attorney shall be responsible for providing defense to the City in the land use cases attached as Exhibit A to this Agreement and such other land use litigation as the City shall assign and the Land Use Attorney shall accept.

Section 3. Compensation.

A. The rates charged by the Land Use Attorney for the legal services described in this Agreement are:

<u>Title</u>	<u>Rate</u>
President/Carol Morris	\$ 250.00/hr
Partners/Jeffrey Taraday	\$ 250.00/hr
Associates	\$ 150.00/hr
Law Clerks/Paralegals	\$ 120.00/hr

These rates are effective starting December 15, 2008, and are subject to renegotiation yearly.

B. Reimbursable Costs. The Land Use Attorney shall be reimbursed for costs and advances for such items such as legal messenger services, court filing fees and other similar expense items. The City will be billed for travel time for meetings held off the

City Hall premises, travel to court and any scheduled appointments at City Hall, and to City Council meetings to advise the Council regarding pending litigation.

Section 3. Equipment and Other Resources. The Land Use Attorney shall provide her own cell phone, unlimited access to on-line computer legal research services, long distance telephone, cell phone service, mileage, etc.

Section 4. Entire Agreement. This Agreement incorporates the entire agreement between the parties with regard to the legal work to be performed on behalf of the City, and the rates to be charged therefor.

Section 5. Professional Liability Insurance. The Land Use Attorney will maintain professional liability insurance throughout the duration of this Agreement in the minimum amount of \$1,000,000.00.

Section 6. Independent Contractor. The Land Use Attorney is an independent contractor with respect to the services to be provided under this Agreement. The City shall not be liable for, nor obligation to pay to the Land Use Attorney or any of her employees, sick leave, vacation, pay, overtime or any other benefit applicable to employees of the City, nor to pay or deduct any social security, income tax, or other tax from the payments made to the Land Use Attorney which may arise as an incident of the Land Use Attorney performing services for the City. The City shall not be obligated to pay industrial insurance for the services rendered by the Land Use Attorney.

Section 7. Ownership of Work Product. All data, materials, reports, memoranda, and other documents developed by the City under this Agreement specifically for the City are the property of the City and shall be forwarded to the City upon request. The City may use such documentation as the City deems fit. The City agrees that if such data, materials, reports, memoranda and other documents prepared by the Land Use Attorney are used for purposes other than those intended in this Agreement, that the City does so at its sole risk.

Section 8. Hold Harmless. The Land Use Attorney agrees to indemnify, hold harmless and defend the City, its elected and appointed officials, employees and agents from and against any and all claims, judgments or awards of damages, arising out of or resulting from the acts, errors or omissions of the Land Use Attorney. The City agrees to indemnify, hold harmless, and defend the Land Use Attorney from and against any and all claims, judgments or awards of damages, arising out of or resulting from the acts, errors or omissions of the City, its elected and appointed officials, employees and agents.

Section 9. Rules of Professional Conduct. All services provided by the Land Use Attorney under this Agreement will be performed in accordance with the Rules of Professional Conduct for attorneys established by the Washington Supreme Court.

Section 10. Subcontracting or Assignment. The Land Use Attorney may not assign or subcontract any portion of the services to be provided under this Agreement

without the express written consent of the City. The City reserves the right to approve, in writing, any attorney other than Ms. Morris or Mr. Taraday prior to the provision of services.

Dated this ____ day of _____, 2008.

CITY OF GIG HARBOR

By _____
Mayor Charles L. Hunter

ATTEST/AUTHENTICATED:

By _____
City Clerk Molly Towslee

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By _____
W. Scott Snyder

MORRIS & TARADAY, PC

By _____
Carol A. Morris
Land Use Attorney

**EXHIBIT A
TO
LAND USE ATTORNEY CONTRACT**

1. *Gig Harbor Sportsman's Club v. City of Gig Harbor*
Pierce County Superior Court Cause No. 03-2-05628-1
2. *City of Gig Harbor v. Rainer Yacht Harbor, LLC & Frisbee*
Court of Appeals No. 36201-5-II
3. *Gig Harbor v. North Pacific Design*
Court of Appeals No. 36811-1-II
4. *Jeffrey L. Drolshagen v. City of Gig Harbor*
Pierce County Superior Court Cause No. 07-2-08478-4
5. *Harbor Reach Estates, LLC v. City of Gig Harbor*
Pierce County Superior Court Cause No. 07-2-11432-2
6. *Darcy Askegard v. City of Gig Harbor*
Pierce County Superior Court Cause No. 07-2-13346-7
7. Wheeler Avenue Quiet Title