

# **Gig Harbor Special City Council Meeting**

**August 6, 2012  
5:30 p.m.**



**AGENDA FOR  
GIG HARBOR CITY COUNCIL SPECIAL MEETING  
Monday, August 6, 2012 – 5:30 p.m.**

**CALL TO ORDER:**

**PLEDGE OF ALLEGIANCE:**

**CONSENT AGENDA:**

1. Approval of City Council Minutes July 23, 2012.
2. Liquor License Action: Assumption – Forza Coffee Co.
3. Receive and File: Parks Commission Minutes – July 12, 2012.
4. Resolution 908 – Surplus Property – I.T.
5. Eddon Boat Property Beach Restoration Project – Contract Award.
6. 2012 Advertising Services Contract.
7. Environmental Review for Jerisich Float Extension – Grette and Associates.

**NEW BUSINESS:**

1. Approve and Ratify the Purchase and Sale Agreement – Rainier Yacht Harbor LLC.

**ADJOURN:**

**MINUTES OF GIG HARBOR CITY COUNCIL MEETING – July 23, 2012**

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

**CALL TO ORDER:** 5:32 p.m.

**PLEDGE OF ALLEGIANCE:**

**CONSENT AGENDA:**

1. Approval of City Council Minutes Jul 9, 2012.
2. Receive and File: a) Parks Commission Minutes Jun 6, 2012;
3. Liquor License Action: a) Renewals: JW Restaurant, Mizu Japanese Restaurant, Bartell Drug Co, Galaxy Uptown, and Safeway Store; b) Application: Bluesteele Coffee & Wine;
4. KGHP Radio Station Support Agreement with Peninsula School District.
5. Utility Billing Agreement.
6. Rainier/Cascade Water Main Project – Materials Testing Contract.
7. Crescent Creek Park Tennis Court Resurfacing – Contract Authorization.
8. Resolution No. 906 - Sole Source Equipment Pump Station 3A.
9. Resolution No. 907 – Indigent Defense Standards.
10. Sehmel Right Turn Lane Addition Project – Public Works Contract Award and Materials Testing Contract Authorization.
11. Donkey Creek Project Utility Relocations Survey Services – Consultant Services Contract.
12. Approval of Payment of Bills Jul 23, 2012: Checks #70132 through #70259 in the amount of \$628,830.16.

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

**PRESENTATIONS:**

1. 2011 Wastewater Treatment Plant Outstanding Performance Award. Mayor Hunter voiced his appreciation to the staff of the Wastewater Treatment Plant explaining that this is the sixth consecutive year that the treatment plant has received this award. He asked WWTP Supervisory Darrell Winans and his employees to come forward to receive the award.

Mr. Winans introduced his team, Matt Quinlisk, Norine Alvarado, Nancy Nayer, Joe Pominville, and Chuck Roy. Larry Washburn and Jim Landon couldn't be present. Mr. Winans read stats of some of the work that they perform, saying how proud he is of a team that shares a passion to protect human health, environment, public, and private properties. He said that they are dedicated and proud of what they do, which shows through receiving this award once again.

2. Recognition of Public Service - Kae Paterson. Mayor Hunter read a brief history of the many committees and boards that Ms. Paterson has served upon for over four decades. He thanked her for her selflessness and presented her with a plaque of appreciation.

Ms. Paterson thanked the people in her life that inspired and supported her over these many years of volunteerism. She talked about her input in changing the 1969 plan to construct a frontage road from Wollochet to Rosedale to instead link by Skansie Avenue. She shared her dislike of frontage roads and how she worries about the proposal for one from Rosedale to the cemetery.

Councilmember Ekberg explained that Kae's husband was the first to greet his family when they moved next door forty years ago. He said that Kae was involved in shaping the city during the time the city had a very small staff, and when something needed researched, it was Kae who did the work. Both Kae and Mayor Bogue were concerned with making the sure the town was developed to their standards, and so if you think the city is a neat place, you need to thank Kae.

**OLD BUSINESS:**

1. Second Reading of Ordinance – 2012 Housekeeping Code Amendments. Senior Planner Jenn Kester described the two alternatives that Council asked for portable signs: one which allows any material and changeable copy and one which prohibits changeable copy and non-durable materials.

**MOTION:** Move to adopt Option 19B for freestanding signs made of durable material that does not allow changeable copy.  
**Ekberg / Malich –**

Ms. Kester addressed Council questions, explaining that the concern with portable signage is the durability of the materials, the appearance, the number, what is being advertised, and the size of the signs. She said that there was a separate set of regulations to differentiate between portable and temporary signs.

Councilmembers talked about the decision on portable signs during the update of the sign code. Portable signs allowed for business identification and were intended to be brought in at the end of the day; there was a definite desire to limit reader boards and signs with changeable lettering. One compromise was to allow one portable sign per business.

After further discussion on allowing changeable copy on durable materials, it was suggested to allow this housekeeping ordinance to move forward without adoption of either 19A or 19B and to take the issue up with the Planning and Building Committee.

Councilmember Payne apologized that he had to leave the meeting at this time.

Councilmember Ekberg withdrew his motion to adopt option 19B.

**MOTION:** Move to delete Section 19 from the draft ordinance.  
**Guernsey / Kadzik** - five voted in favor. Councilmember Perrow voted no.

Ms. Kester addressed a question by clarifying the meaning of the term “customarily” in the ordinance.

**MOTION:** Move to adopt Ordinance No. 1245 as amended to remove Section 19 in its entirety.  
**Guernsey / Malich** - five voted in favor. Councilmember Perrow voted no.

Ms. Kester said that she would add changeable copy on signs to the August 6th Planning / Building Committee agenda.

### **NEW BUSINESS:**

1. SEPA Exemption Levels. Senior Planner Jennifer Kester explained that staff is asking for direction on how to proceed with the recent interim changes to SEPA thresholds for minor new construction. She explained that these interim changes went into effect on July 10th, and the Department of Ecology has been directed to further modernize the rules for SEPA in light of the increased environmental protections in place under GMA and SMA. She suggested that the city maintain these interim levels until the final recommendation from DOE comes forward, and to look at other sections of code to make sure we haven't missed anything that would be affected by the new thresholds.

She addressed council questions by clarifying how this affects wetlands, new development, and transportation concerns.

Councilmember Guernsey commented that SEPA became law before all the critical area regulations were in effect; and so it's another unnecessary layer of review. She said that she believes there is going to see total rewrite of Section 800 by DOE by the end of the year, and so what is being proposed makes sense.

Shawn Hooey – Master Builders Association. Mr. Hooey voiced support of the proposal. He said that SEPA has become increasingly out of date and the new changes will streamline the process. He added that Pierce County has addressed the changes by referencing the WACs.

**MOTION:** Move to direct staff to maintain interim threshold levels and to develop any necessary amendments to implement that change.  
**Guernsey / Perrow** – unanimously approved.

**STAFF REPORT:**

City Administrator Denny Richards commented on how fantastic it is that the Wastewater Treatment Plant has won the Outstanding Performance Award six years in a row. He then gave an update on current projects and answered questions regarding:

- The chip sealing that has begun and is going well;
- Illegal “Vote Boat” signs; Emerald Yacht Sales has been directed to remove them;
- The summer crew is beginning the process to power wash Harborview Drive.

**PUBLIC COMMENT:** None.

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

**ANNOUNCEMENT OF OTHER MEETINGS:**

1. Donkey Creek Project: Open House / Harbor History Museum, Wed. Jul 25<sup>th</sup> 5:00 - 7:00 p.m.
2. Downtown Planning / Visioning Committee: Wed. July 25<sup>th</sup> at 4:00 p.m.
3. Special City Council Meeting: Mon. Aug 6<sup>th</sup> at 5:30 p.m. in Community Rooms A&B.
4. Planning / Building Committee: Mon. Aug 6<sup>th</sup> at 5:45 p.m. (*following Special City Council Meeting*)
5. No City Council Meetings on August 13<sup>th</sup> or 27<sup>th</sup>.
6. Operations Committee: Thu. Aug 16<sup>th</sup> at 3:00 p.m.

**EXECUTIVE SESSION:** For the purpose of discussing potential litigation per RCW 42.30.110(1)(i) and property acquisition per RCW 42.30.110(1)(b).

**MOTION:** Move to adjourn to Executive Session at 6:33 p.m. for approximately 15 minutes for the purpose of discussing potential litigation per RCW 42.30.110(1)(i) and property acquisition per RCW 42.30.110(1)(b).  
**Kadzik / Ekberg** – unanimously approved.

**MOTION:** Move to return to regular session at 6:54 p.m.  
**Kadzik / Perrow** – unanimously approved.

**ADJOURN:**

**MOTION:** Move to adjourn at 6:54 p.m.  
**Kadzik / Malich** – unanimously approved.

CD recorder utilized: Tracks 1002 – 1017

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Steven K. Ekberg, Mayor Pro Tem

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Molly Towslee, City Clerk



NOTICE OF LIQUOR LICENSE APPLICATION

RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-3075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov
DATE: 7/27/12

TO: MOLLY TOWSLEE, CITY CLERK

RE: ASSUMPTION
From HARBOR BEANS, LLC
Dba FORZA COFFEE COMPANY

APPLICANTS:

FORZA, LLC

CARPENTER, BRAD 1957-08-17
CARPENTER, LUCINDA (Spouse) 1964-08-17

License: 404390 - 1U County: 27
UBI: 602-864-081-001-0006
Tradename: FORZA COFFEE COMPANY
Loc Addr: 5275 OLYMPIC DR NW STE 101
GIG HARBOR WA 98335-2306

Mail Addr: PO BOX 25080
FEDERAL WAY WA 98093-2080

Phone No.: 206-575-0888 JUDY ROBERTS

Privileges Applied For:
BEER/WINE REST - BEER/WINE

As required by RCW 66.24.010(8), the Liquor Control Board is notifying you that the above has applied for a liquor license. You have 20 days from the date of this notice to give your input on this application. If we do not receive this notice back within 20 days, we will assume you have no objection to the issuance of the license. If you need additional time to respond, you must submit a written request for an extension of up to 20 days, with the reason(s) you need more time. If you need information on SSN, contact our CHRI Desk at (360) 664-1724.

- 1. Do you approve of applicant ?
2. Do you approve of location ?
3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken?
4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based.

DATE SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE

## CITY OF GIG HARBOR COMMITTEE OUTLINE MINUTES

### Parks Commission

Date: July 11, 2012 Time: 5:30 p.m. Location: Community Rooms A&B Scribe: Terri Reed

**Commission Members and Staff Present:** Commissioners Nick Tarabochia, Rahna Lovrovich, Heidi Holmes and Stephanie Payne;  
**Staff Members:** Public Works Superintendent Marco Malich and Community Development Assistant Terri Reed.

**Others Present:** \_\_\_\_\_

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
<b>APPROVAL OF MINUTES:</b>	Approval of June 6, 2012 Meeting Minutes	MOTION: Move to approve June 6, 2012 minutes as presented.  Holmes / Tarabochia - unanimously approved
<b>OLD BUSINESS:</b>		
<b>Private Entity Use or Building of Structures on City Park Property</b>	Commission Chair Tarabochia spoke about his thoughts on this issue. He would like to see the City maintain control of the use by setting a specific time period for the use and only allowing temporary structures. He said that it is most important to maintain public access to the intended park use. The Commission members discussed the temporary structure issue and wanted more time to consider options.	To be discussed at next Parks Commission meeting. Staff to ask Planning Department for input.
<b>Harbor Hill Park Property</b>	Public Works Superintendent Malich explained that hiring the Harbor Hill park property consultant would be combined with the City's Harbor Hill Drive Extension project, which is planned for some time in the 4 <sup>th</sup> quarter of 2012.	
<b>Field Reservation Policy</b>	The Hearing Examiner decision for KLM Veterans Memorial Park was reviewed. The issue of reserving the field at Veteran's Park came up at the public hearing for this site (site plan and conditional use permit). The neighbors were worried about the intensity of the use of the site and the City represented that the field was not planned to be reserve-able, that it was	To be discussed at next Parks Commission meeting.



Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
	<p>planned as informal use only. This is reflected as finding #16 in the decision. As parks are a conditional use, it would appear that to change our policy on reserving this park, this would require a revision to the Conditional Use Permit for the park (this is a public hearing process). The neighbors were concerned about the field being heavily programmed and that the parking would not accommodate a large number of vehicles which might result from little league type use of the site. Paragraph 21 also explains the inability to reserve.</p> <p>Commission Chair Tarabochia mentioned that proposals from Little League, PAA, etc. could be submitted and then the need could be re-visited.</p>	
<b>Crescent Creek Park Property</b>	<p>The overview of the Crescent Creek Park parcels was discussed and the ADA access and additional parking needs were highlighted.</p> <p>Commission member Payne presented the most recent conceptual for the Playstructure Project. She reminded the members of the fundraising event on July 12<sup>th</sup>.</p>	
<b>NEW BUSINESS:</b>		
<b>Eddon Boat Parcel Acquisition Grant</b>	The City recently submitted applications to the State RCO board for acquisition of two parcels adjacent to Eddon Boat Park.	Staff will forward grant proposal to Parks Commission members.
<b>PUBLIC COMMENT:</b>		
<b>Austin Estuary Park</b>	<p>Sandy Elken, P.O. Box 795, Vaughn, WA, asked to submit a few requests regarding Austin Estuary Park.</p> <p>1) He would like the City to put in two Mutt Mitt dispensers, one at the entrance to the park and one by the museum. 2) He asked that the picnic table be turned around so that when people are seated that they are looking out to the water. 3) He has a cast iron bench that he is restoring that he would like to donate to the park. 4) He asked that the grass seeded areas be touched up because there are some bare spots. 5) When the park restoration is complete, he would like to</p>	The Parks Commission explained that they would ask for direction from City staff on these requests and will report back to Mr. Elken.

Topic / Agenda Item	Main Points Discussed	Recommendation/Action Follow-up (if needed)
	<p>stage a spin-in event.</p> <p>Parks Commission member Holmes asked about callboxes on the Cushman Trail. She explained that her son had a serious longboard accident on the trail a couple of years ago and there wasn't an adequate way to convey the location to emergency responders. Staff explained that during trail design, callboxes were discouraged because of excessive vandalism issues.</p>	<p>Park Commission member Holmes will follow up with the Fire Department for discussing options to better distinguish locations on the trail for emergency response.</p>
<p><b>NEXT PARKS MEETING:</b></p>		<p>August 1, 2012 @ 5:30 p.m.</p>
<p><b>ADJOURN:</b></p>		<p>MOTION: Move to adjourn @ 7:20 p.m.</p> <p>Payne / Holmes - unanimously approved</p>



Business of the City Council  
City of Gig Harbor, WA

**Subject: Resolution – Surplus Equipment**

**Dept. Origin:** Information Services

**Proposed Council Action:**

**Prepared by:** Heidi Othman

Adopt Resolution No. 908  
surplusing this  
City-owned equipment.

**For Agenda of:** August 6th, 2012  
**Exhibits:**

Initial & Date

**Concurred by Mayor:**

**Approved by City Administrator:**

R-7/30/12

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

**Approved by Finance Director:**

CR 7/30/12

**Approved by Department Head:**

[Signature]

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

**INFORMATION / BACKGROUND**

The city has a surplus of antiquated equipment which needs to be properly disposed. This surplus occurred due to the replacement of outdated equipment.

**FISCAL CONSIDERATION**

The surplus equipment will be sold to either a recycling center or charity organization to be refurbished and reused.

**BOARD OR COMMITTEE RECOMMENDATION**

N/A

**RECOMMENDATION / MOTION**

**Move to:** Adopt Resolution No. 908 surplusing this city-owned equipment.

**RESOLUTION NO. 908**

**A RESOLUTION OF THE CITY OF GIG HARBOR  
DECLARING CITY EQUIPMENT SURPLUS AND ELIGIBLE  
FOR SALE.**

**WHEREAS**, the Gig Harbor City Council has determined that city-owned equipment is surplus to the City's equipment needs and has been or is in need of being replaced with new equipment; and

**NOW, THEREFORE**, the City Council of the City of Gig Harbor hereby resolves as follows.

To declare as surplus:

EQUIPMENT	Quantity	SERIAL / ASSET NUMBER	MODEL INFO.
		No Asset #'s or Serial #	
Dell Precision 690 Workstations	2	Asset# 01452 ST#1Q6MFC7 Asset# 01422 ST#1G27FC1	Dell Precision 650
Dell Precision 340	1	Asset# 00995 ST# DQMNR11	Precision 340
Dell Optiplex	1	Asset# none St# 4H3G7F1	Precision 650
Dell Precision 650	1	Asset# 01032 ST# 268NK21	
Dell Optiplex GX280	1	Asset#01250 ST#B2QQ71	
Dell Optiplex 340	1	Asset#00933 ST#BCJQ021	
Dell Optiplex	1	Asset#00923 ST#9r2h321	
Dell Docking Stations	3		

	<p><b>Monitors:</b></p> <p>Gateway</p> <p>Dell Flat Monitor</p> <p>Dell UltraSharp</p> <p>Dell 2000FP</p>	<p>1</p> <p>1</p> <p>1</p> <p>1</p>	<p>S#<b>VX1120</b> Asset#: <b>00941</b></p> <p>mx-0419tg- 4780125k-b2hn</p> <p>tw-09e2-49-46635- 3tIL018L</p>	<p>Diamond Tron NF E771p</p>
	<p><b>Printers:</b></p> <p>-HP Officejet Pro L7780</p> <p>HP5610 All-in-One</p> <p>HP1210 Laserjet</p>	<p>1</p> <p>1</p> <p>1</p>	<p>S# <b>c8192a</b> <b>0789355200093-1</b> Asset # <b>01581</b></p> <p>S# <b>my8417505t</b> Asset # <b>01565</b></p> <p>CNBJD79366</p>	<p>All-in-One PRO 7780</p>
	<p>Miscellaneous equipment:</p> <p>UPS dead</p> <p>Hard Drives-Swiped Clean</p>	<p>8</p> <p>7</p>	<p>n/a</p> <p>n/a</p>	<p>n/a</p> <p>n/a</p>

PASSED ON THIS 6th day of August, 2012

APPROVED:

\_\_\_\_\_  
STEVEN K. EKBERG, MAYOR PRO TEM

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
MOLLY M. TOWSLEE, CITY CLERK

FILED WITH THE CITY CLERK: 07/30/12  
PASSED BY THE CITY COUNCIL: 08/06/12  
RESOLUTION NO. 908



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

**Subject:** Eddon Boat Park Beach Restoration Project  
– Public Works Contract Award

**Proposed Council Action:** Award and authorize the Mayor to execute a Public Works Contract with Pivetta Brothers Construction, Inc., in an amount not exceed \$43,688.61 (including state sales tax) and authorize the City Engineer to approve additional expenditures up to \$7,000 to cover any cost increases that may result from contract change orders.

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

**Prepared by:** Marcos McGraw *MMG*

**For Agenda of:** August 6, 2012

**Exhibits:** Public Works Contract

Initial &  
Date

**Concurred by Mayor:**

**Approved by City Administrator:** *Z-8-1-12*  
**Approved as to form by City Atty:** *approved via AB 8/1/12*  
**Approved by Finance Director:** *R 8/2/12*  
**Approved by Department Head:** *AK 8/2/12*

<b>Expenditure Required</b>	\$50,688.61	<b>Amount Budgeted</b>	\$ 175,500	<b>Appropriation Required</b>	\$0
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**INFORMATION/BACKGROUND**

This project is one of the two phases of the Eddon Boat Park improvements. The entire project will transform the site into a public accessible park with landscape and lawn areas as well as restoration of the associated beach. This first phase of the project includes the beach restoration work, which is currently permitted under existing permits. This phase of the project restores to a more natural condition the shoreline at Eddon Boat Park.

**BID RESULTS**

The Eddon Boat Park Beach Restoration Project was bid using the City's Public Works bidding process. The Engineer's Opinion of Probable Cost was \$35,805.00. A total of three (3) bid proposals were received by the City on August 1, 2012. Bid results from each bidder are summarized below:

BIDDER	TOTAL BID AMOUNT
1. Pivetta Brothers Construction, Inc.	\$43,688.61
2. Active Construction, Inc.	\$68,741.09
3. RV Associates, Inc.	\$87,776.50

**FISCAL CONSIDERATION**

The 2012 City of Gig Harbor Budget includes funding for the proposed work in the Parks Development Division fund (Objective #4). The budget summary for this item is provided in the table below:

2012 Project Budget for Parks Development Division, Objective #4	\$175,500.00
2012 Expenses:	
Original Design Services Contract	(\$38,330.00)
Permit Fees	(\$9,425.00)
Environmental reports	(\$5,170.00)
Construction Bid Amount	(\$50,688.61)
<b>Remaining 2012 Budget</b>	<b>\$71,886.39</b>

**BOARD OR COMMITTEE RECOMMENDATION**

The City's Operations and Public Projects Committee has reviewed the proposed improvements at the November 2011 meeting.

**RECOMMENDATION/MOTION**

Award and authorize the Mayor to execute a Public Works Contract with Pivetta Brothers Construction, Inc., in an amount not exceed \$43,688.61 (including state sales tax) and authorize the City Engineer to approve additional expenditures up to \$7,000 to cover any cost increases that may result from contract change orders.

**CONTRACT FORM**

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**CITY OF GIG HARBOR  
EDDON BOAT PARK BEACH RESTORATION PROJECT**

THIS AGREEMENT, made and entered into, this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between the City of Gig Harbor, a Non-Charter Code city in the State of Washington, hereinafter called the "City", and Pivetta Brothers Construction, Inc., a Washington corporation, 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 construction of Eddon Boat Park Beach Restoration Project Manual, all in accordance with the Bidding Documents, Contract Documents, Conditions of the Construction Contract, Supplementary Conditions, and Technical Specifications and shall perform any changes in the Work, all in full compliance with the Contract Documents entitled "Eddon Boat Park Beach Restoration Project, CPP-1211," 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" for the Base Bid, for the sum of Forty-three Thousand Six Hundred Eighty-Eight Dollars and Sixty-One Cents (\$43,688.61), including state sales tax, subject to the provisions of the Contract Documents, the Standard General Conditions, the Supplementary Conditions and the Technical Specifications.
2. Work shall start within ten (10) days after the Notice to Proceed is issued to the Contractor. All physical contract work shall be completed within twenty (20) calendar days, as defined in Section 00 73 00 – Supplementary Conditions, Paragraph SC-1.02.
3. The Contractor agrees to pay the City the sum of \$200.00 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," "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 Standard General Conditions, the Supplementary Conditions and 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.



- 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



**Subject:** Consultants Services Contract for Grette Associates for the Jerisich Park Float Extension Project.

**Proposed Council Action:** Approve and authorize the Mayor to execute a contract with Grette Associates for environmental work for the Jerisich Park Float Extension Project in an amount not to exceed \$2,702.77.

**Dept. Origin:** Administration

**Prepared by:** Lita Dawn Stanton  
Special Projects *JLS*

**For Agenda of:** August 6, 2012

**Exhibits:** Contract  
Exhibit A / B

Initial & Date

**Concurred by Mayor:**

**Approved by City Administrator:** *R- 8/1/12*

**Approved as to form by City Atty:** *[Signature]*

**Approved by Finance Director:** *[Signature] 7/31/12*

Expenditure Required	\$2,702.77	Amount Budgeted	\$65,000	Appropriation Required	*See Fiscal Below
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**INFORMATION / BACKGROUND**

In 2011, the City received a Washington State Parks and Recreation Commission Clean Vessel and Sewage Disposal Facility Grant to replace the aging pump-out located at the end of the float at Jerisich Park. As part of that work, the float will be enlarged. The City's Planning Dept requested that a Habitat Assessment/Management Plan per GH Municipal Code 18.08.186 to address potential impacts to critical areas associated with the project. Grette Associates was chosen to do the work. They will also address the FEMA requirements detailed in Ordinance #'s 1223 and 1234 of GHMC 18.08.186C. Their contract and exhibits are attached.

**FISCAL CONSIDERATION**

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

**BOARD OR COMMITTEE RECOMMENDATION**

n/a

**RECOMMENDATION / MOTION**

Move to: Approve and authorize a contract with Grette Associates for environmental work for the Jerisich Float Extension Project in an amount not to exceed \$2,702.77.

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

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

**RECITALS**

WHEREAS, the City is presently engaged in the Jerisich Park Float Extension 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 two thousand seven hundred and two dollars and seventy-seven cents (\$2,702.77) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section 17 herein.

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

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

4. **Duration of Work.** The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by September 1, 2012; provided however, that additional time shall be granted by the City for excusable days or extra work.

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

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

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

**7. Indemnification.**

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

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

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

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

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

**8. Insurance.**

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

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

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

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

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

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

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

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

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

{ASB983053.DOC;1\00008.900000\ }

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

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

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

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

14. **Resolution of Disputes and Governing Law.**

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

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

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

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

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

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

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

IN WITNESS WHEREOF, the parties have executed this Agreement this 1  
day of August, 2010.

CONSULTANT

CITY OF GIG HARBOR

By: [Signature]  
Its: [Signature]

By: \_\_\_\_\_  
Mayor Charles L. Hunter

ATTEST:

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

APPROVED AS TO FORM:

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





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

**Date:** July 26, 2012  
**Project #:** 250.011

**Phone:** (253) 853-7609  
**Fax:** (253) 851-8563  
**E-Mail:** StantonL@cityofgigharbor.net

**Project Name:** Jerasich Dock Float  
Extension  
**Project Manager:** Scott Maharry  
**Client File No.:**

**SENT VIA:**

- Mail  Hand Delivered  
 Fax  Email

**DESCRIPTION OF WORK:**

**Task 100 – Habitat Assessment/Management Plan**

Grette Associates staff will prepare a Habitat Assessment/Management Plan per Gig Harbor Municipal Code (GHMC) 18.08.186 and to address potential impacts to critical areas associated with the project. The Habitat Assessment/Management Plan will address all development activity associated with the dock float extension and will address the FEMA requirements detailed in Ordinance #'s 1223 and 1234 of GHMC 18.08.186.C. This Task includes time for coordination with WDFW regarding their comments on the Habitat Assessment/Management Plan.

Staff	Rate	Units	Total
Biologist 5	\$120.00	1	\$120.00
Biologist 3	\$100.00	23	\$2,300.00
Administrative	\$70.00	1	\$70.00
dGPS	\$200.00	1	\$200.00
Mileage	0.555	23	\$12.77
<b>Total Task 100</b>			<b>\$2,702.77</b>

TIME AND EXPENSE

Estimated Contract Amount: Not to exceed  
\$2,702.77



**Subject:** Approval for Hotel Motel 2012 Contract for advertising services, Michael Dziak DBA EVI Productions

**Proposed Council Action:**

Approve and authorize the Mayor to execute a Consultant Services Contract with Michael Dziak in the amount of \$1,500.

**Dept. Origin:** Hotel Motel - Marketing

**Prepared by:** Laureen Lund  
Marketing Director

**For Agenda of:** August 6, 2012

**Exhibits:** Contract

Initial & Date

**Concurred by Mayor:** \_\_\_\_\_

**Approved by City Administrator:** \_\_\_\_\_

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

**Approved by Finance Director:** \_\_\_\_\_

**Approved by Department Head:** \_\_\_\_\_

Expenditure Required	\$1,500	Amount Budgeted	\$60,000	Appropriation Required	\$0
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**INFORMATION / BACKGROUND**

The 2012 Hotel Motel Tax Fund Operating Budget, Objective 1 provides \$60,000 for the Tourism Marketing Fund. Within this objective is the production of a new Gig Harbor video for use in multiple promotion applications. The consultant, Michael Dziak DBA EVI Productions, will work as liaison between the City of Gig Harbor and Comcast Spotlight for advertising scheduling and negotiations.

**FISCAL CONSIDERATION**

This expense will be paid for out of Hotel Motel Professional Services.

**BOARD OR COMMITTEE RECOMMENDATION**

N/A

**RECOMMENDATION / MOTION**

Move to: Authorize the award and execution of the contract for the advertising services consultant in the amount of one thousand five hundred dollars exactly and no cents (\$1,500.00).

**CONSULTANT SERVICES CONTRACT  
BETWEEN THE CITY OF GIG HARBOR AND  
Michael Dziak DBA EVI Productions**

THIS AGREEMENT is made by and between the City of Gig Harbor, a Washington municipal corporation (the "City"), and Michael Dziak, EVI Productions, 1944 Pacific Avenue Suite 201, Tacoma, WA 98402, a corporation organized under the laws of the State of Washington (the "Consultant").

**RECITALS**

WHEREAS, the City is presently engaged in promotion of a tourism promotion video 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 one thousand five hundred dollars (\$1,500.00) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in **Exhibit A**, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement.

The Consultant's staff and billing rates shall be as described in **Exhibit B – Schedule of Rates and Estimated Hours**. The Consultant shall not bill for Consultant's staff not identified or listed in **Exhibit B** or bill at rates in excess of the hourly rates shown in **Exhibit B**, unless the parties agree to a modification of this Contract, pursuant to Section 17 herein.

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

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

4. **Duration of Work.** The City and the Consultant agree that work will begin on the tasks described in **Exhibit A** immediately upon execution of this Agreement. The parties agree that the work described in **Exhibit A** shall be completed by December 31, 2012; 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 agrees to hold harmless, indemnify and defend the City, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the Consultant, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the Consultant, its officers, agents, subconsultants or employees, in connection with the services required by this Agreement; provided, however, that:

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

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

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

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

**8. Insurance.**

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

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

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

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

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

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

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

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

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

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

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

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

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

**14. Resolution of Disputes and Governing Law.**

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

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

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:  
ATTN: Michael Dziak  
EVI Productions  
1944 Pacific Ave, Ste 201  
Tacoma, WA 98402

City of Gig Harbor  
ATTN: Lauren Lund  
3510 Grandview Street  
Gig Harbor, WA 98335  
(253) 853-3554

**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 6th day of August, 2012.

CONSULTANT

CITY OF GIG HARBOR

By: Michael Dziak president  
Its: For Enhanced Visual Images inc  
dba: EVI Digital

By: \_\_\_\_\_  
Mayor Charles L. Hunter

ATTEST:

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

APPROVED AS TO FORM:

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



**EXHIBIT A**  
**SCOPE OF SERVICES**  
**July 24, 2012**

Michael Dziak of EVI Productions will work directly with City of Gig Harbor Marketing Department to:

1. Negotiate monthly ad rates with Comcast Spotlight.
2. Serve as liaison for City with Comcast staff on promotional development and implementation including creative concepts.
3. Develop broadcast and online schedule for City promotion on Comcast between August and December.
4. Manage monthly schedule with changes as needed per Marketing Director.
5. Provide City Marketing Office monthly report on effectiveness and tracking of Comcast promotional efforts in 2012.

**EXHIBIT B**  
**CHARGES FOR SERVICES**

Michael Dziak (EVI Productions) will be paid by the City of Gig Harbor \$300 monthly from August to December for services provided.

Michael Dziak will submit monthly invoices for processing by the City of Gig Harbor for the services performed and will include tracking and reporting with monthly invoices.

The fee structure presented above includes all incidental expenses. No additional invoices from the Consultant will be accepted for expenses including for meals or mileage.



**Subject:** Purchase of Property Located at 3555 Harborview Drive in Gig Harbor (Parcel Nos. 597000-024-3, 597000025-1; and 597000-025-2)

**Proposed Council Action:**

Approve and ratify the Purchase and Sale Agreement between the City of Gig Harbor and Rainier Yacht Harbor LLC dated June 27, 2012 for property located at 3555+ Harborview Drive

**Dept. Origin:** Administration

**Prepared by:** Denny Richards *DR*

**For Agenda of:** August 6, 2012  
**Exhibits:** Purchase & Sale Agreement

Initial & Date

**Concurred by Mayor:** \_\_\_\_\_

**Approved by City Administrator:** *R 8-1-12*

**Approved as to form by City Atty:** *Bz phone 9/31/12*

**Approved by Finance Director:** \_\_\_\_\_

**Approved by Department Head:** \_\_\_\_\_

<b>Expenditure Required:</b>	<b>Amount</b>	<b>Appropriation Required:</b>
\$1,674,532 + closing & due diligence costs	Budgeted: \$0	See below.

**INFORMATION / BACKGROUND**

The owners of the Rainier Yacht parcels at 3525, 3535 and 3555 Harborview Drive contacted the City regarding a potential sale of the site. City Administrator Denny Richards commenced discussions with the property owner and its broker to explore the opportunity, with reports to the City Council in executive session as authorized under RCW 42.30.110(1)(b). Through a series of negotiations, on June 27, 2012, the parties reached mutual agreement on the Purchase and Sale Agreement, subject to several conditions, including a 45-day feasibility period, which expires on August 11, 2012, acceptable appraisal and a specific provision making the Agreement subject to approval by the City Council.

This property is the last piece of sizable waterfront property available in the City. It will serve the community for many years as a park, marina, small boat harbor for human powered craft and just the enjoyment of being able to view the harbor and reach out and touch the water.

**FISCAL CONSIDERATION**

The purchase price is \$1,674,532. Additional acquisition costs include approximately \$100,000 in due diligence costs during the feasibility contingency period and approximately \$1,500 in the City's share of closing costs. These costs, including the purchase price, are not budgeted.

The purchase price of the property, due diligence costs, City's share of closing costs and any other City costs related to the purchase of this property will be funded with monies from the Civic Center Debt Reserve Fund.

**BOARD OR COMMITTEE RECOMMENDATION**

N/A

**RECOMMENDATION / MOTION**

**Move to:** Approve and ratify the Purchase and Sale Agreement between the City of Gig Harbor and Rainier Yacht Harbor LLC dated June 27, 2012 for property located at 3555 Harborview Drive

Form 36  
Counteroffer Addendum  
Rev. 8/11  
Page 1 of 1

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COUNTEROFFER ADDENDUM  
TO REAL ESTATE PURCHASE AND SALE AGREEMENT

All terms and conditions of the offer (Real Estate Purchase and Sale Agreement) dated June 12, 2012,  
 concerning 3555 Harborview Dr (the "Property"),  
 by Rainier Yacht Harbor LLC, as Seller  
 and the undersigned City of Gig Harbor, as Buyer  
 are accepted, except for the following changes.

The Purchase Price shall be \$ ~~1,600,000.00~~ \$ 1,674,532.00  
One million six hundred thousand and no/00

Other.

This counteroffer shall expire at 9:00 p.m. on June 29, 2012 (If not filled in, two days after it is delivered),  
 unless it is sooner withdrawn. Acceptance shall not be effective until a signed copy is received by the counterofferor,  
 their broker or at the licensed office of their broker. If this counteroffer is not so accepted, it shall lapse and the  
 Earnest Money shall be refunded to Buyer.

All other terms and conditions of the above offer are incorporated herein by reference as though fully set forth.

Charles J Hunter June 21, 2012 Brent Simpson 6-27-12  
 Signature Charles J Hunter Date 6/21/12 Signature MUG MEMBER Date

The above counteroffer is accepted.

Charles J Hunter 6/27/12  
 Signature Date Signature Date

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CBA Form PS\_1A  
Purchase & Sale Agreement  
Rev. 1/2011  
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COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT

This has been prepared for submission to your attorney for review and approval prior to signing. No representation is made by licensee as to its sufficiency or tax consequences

Reference Date: June 12, 2012

City of Gig Harbor, ("Buyer") agrees to buy  
and Rainier Yacht Harbor LLC ("Seller") agrees to sell,  
on the following terms, the commercial real estate and all improvements thereon (collectively, the "Property")  
commonly known as 3555 Harborview Dr in  
the City of Gig Harbor, Pierce County, Washington, legally  
described on attached Exhibit A. The Reference Date above is intended to be used to reference this  
Agreement and is not the date of "Mutual Acceptance," which is defined in Section 23.

*ms*

1. PURCHASE PRICE. The purchase price is ~~One Million Five Hundred Thousand dollars~~ \$1,700,000.00  
Dollars (~~\$ 1,500,000.00~~) payable as follows (check only one):

- All cash at closing with no financing contingency.
- All cash at closing contingent on new financing in accordance with the Financing Addendum (attach CBA Form PS\_FIN).
- \$ \_\_\_\_\_ OR \_\_\_\_\_ % of the purchase price in cash at closing with the balance of the purchase price paid as follows (check one or both, as applicable):  Buyer's assumption of the outstanding principal balance as of the Closing Date of a first lien note and deed of trust (or mortgage), or real estate contract, in accordance with the Financing Addendum (attach CBA Form PS\_FIN);  Buyer's delivery at closing of a promissory note for the balance of the purchase price, secured by a deed of trust encumbering the Property, in accordance with the Financing Addendum (attach CBA Form PS\_FIN).
- Other \_\_\_\_\_

2. EARNEST MONEY. The earnest money in the amount of \$ 50,000 shall be in the form of  Cash  
 Personal check  Promissory note (attached CBA Form EMN)  Other: \_\_\_\_\_

The earnest money shall be held by  Selling Firm  Closing Agent. Selling Broker may, however, transfer the earnest money to Closing Agent.

Buyer shall deliver the earnest money no later than:

- \_\_\_\_\_ days after Mutual Acceptance.
- On the last day of the Feasibility period defined in Section 3 below.
- Other: \_\_\_\_\_

If the earnest money is to be held by Selling Firm and is over \$10,000, it shall be deposited to:  Selling Firm's pooled trust account (with interest paid to the State Treasurer)  A separate interest bearing trust account in Selling Firm's name. The interest, if any, shall be credited at closing to Buyer. If this sale fails to close, whoever is entitled to the earnest money is entitled to interest.

Selling Firm shall deposit any check to be held by Selling Firm within 3 days after receipt or Mutual Acceptance, whichever occurs later. Buyer agrees to pay financing and purchase costs incurred by Buyer. Unless otherwise provided in this Agreement, the earnest money shall be applicable to the purchase price.

3. EXHIBITS AND ADDENDA. The following Exhibits and Addenda are made a part of this Agreement:

- Exhibit A - Legal Description
- Earnest Money Promissory Note, CBA Form EMN

INITIALS: BUYER CJH DATE: 6/13/12 SELLER SAS DATE: 6/18/12

BUYER \_\_\_\_\_ DATE: \_\_\_\_\_ SELLER \_\_\_\_\_ DATE: \_\_\_\_\_