
AGENDA

ASTORIA CITY COUNCIL MEETING

December 16, 2013
7:00p.m.
2nd Floor Council Chambers
1095 Duane Street
Astoria OR 97103

1. CALL TO ORDER

2. ROLL CALL

3. REPORTS OF COUNCILORS

4. CHANGES TO AGENDA

5. CONSENT CALENDAR

The items on the Consent Calendar are considered routine and will be adopted by one motion unless a member of the City Council requests to have any item considered separately. Members of the Community may have an item removed if they contact the City Manager by 5:00 p.m. the day of the meeting.

- (a) City Council Minutes of 11/18/13
- (b) Lease Agreement with Astoria Senior Center for Temporary Use of Yacht Club (Parks)
- (c) Proposal to Surplus Excess Furniture and Equipment to the Astoria Senior Center (Parks)
- (d) Agreement with Columbia Memorial Hospital for Childcare Discount (Parks)
- (e) Authorization for Pickup Purchase (Public Works)

6. REGULAR AGENDA ITEMS

- (a) Landfill Closure/Astoria Sports Complex – Four Party Agreement (Public Works)
- (b) Public Hearing for Sale of Excess City Property Located at 5300 Block of Alder Street, Alderbrook, Lots 4 & 5, Block 128, Van Dusen Addition (Public Works)
- (c) Public Hearing for Sale of Excess City Property Located at 1st & West Grand, Uniontown, Lots 1 & 2, Block 80, McClure's (Public Works)
- (d) Public Hearing for Sale of Excess City Property Located at 400 Block 3rd Street, Uniontown, Tax Lot 600, McClure's (Public Works)
- (e) Public Hearing for Sale of Excess City Property Located at 4600 Block of Birch & Ash Streets, Alderbrook, Lot 3, Block 14, Alderbrook & Unplatted Parcel (Public Works)
- (f) Public Hearing for Sale of Excess City Property Located at 4700 Block of Ash Street, Alderbrook Area, Lots 4, 5, & 9 and East 30' of Lot 10, Block 13, Alderbrook Addition (Public Works)
- (g) Public Hearing for Sale of Excess City Property Located at 1600 Block of 5th Street, Lots 5 & 31, Block 4, South Slope (Public Works)
- (h) Public Hearing for Sale of Excess City Property Located at 600 Block of Exchange Street, Lot 6, Block 40, McClure's (Public Works)
- (i) Authorization to Award Bear Creek Hydropower Project Engineering Services Contract (Public Works)

7. NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS (NON-AGENDA)

<p>THIS MEETING IS ACCESSIBLE TO THE DISABLED. AN INTERPRETER FOR THE HEARING IMPAIRED MAY BE REQUESTED UNDER THE TERMS OF ORS 192.630 BY CONTACTING JULIE LAMPI, CITY MANAGER'S OFFICE, 503-325-5824.</p>



December 10, 2013

MEMORANDUM

TO: ASTORIA CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL MEETING OF DECEMBER 16, 2013

CONSENT CALENDAR

Item 5(a): City Council Minutes

The minutes of the City Council meeting of November 18, 2013 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

Item 5(b): Lease Agreement with Astoria Senior Center for Temporary Use of Yacht Club (Parks)

The Astoria Senior Center, a 501(c)(3) foundation, currently leases space from the City of Astoria located at 1111 Exchange Street; however, this facility will be undergoing renovations beginning in February 2014. This requires that the Astoria Senior Center temporarily relocate. There is currently unused space located in the east portion of the Astoria Yacht Club, located at 1555 Marine Drive that would serve the Astoria Senior Center well as temporary quarters during renovation. Given that the Astoria Senior Center currently has a facility Lease Agreement with the City of Astoria, it is proposed that the terms of their current Lease be carried over to a Lease of the Astoria Yacht Club, thereby causing no additional financial impact to the City of Astoria or the Astoria Senior Center. Due to the current vacancy of the Astoria Yacht Club and needed relocation of the Senior Center, it is recommended that Council approve this Lease Agreement.

Item 5(c): Proposal to Surplus Excess Furniture and Equipment to the Astoria Senior Center (Parks)

The City of Astoria has a large volume of excess furniture and equipment stored at the Yacht Club. The excess material consists of chairs, tables, desks, shelves, and lights, among other things. With the Senior Center temporarily relocating to the Yacht Club and given their need to raise

additional funds to acquire new furnishings for their soon to be renovated facility, I would propose that the surplus property be donated to the Astoria Senior Center, a non-profit 501(c)(3) foundation.

Larry Miller, Executive Director of the Astoria Senior Center is enthusiastic about the prospect and feels that while housed at the Yacht Club the Center membership will have opportunity to sort through the material and set up sales events. As a condition of the donation of surplus City property, the Senior Center has agreed to ensure that all property is removed from the Yacht Club by the date of their relocation back to the renovated Center on Exchange Street. It is recommended that the Mayor and Council consider approving the donation of surplus City property to the Astoria Senior Center.

Item 5(d): Agreement with Columbia Memorial Hospital for Childcare Discount (Parks)

The Astoria Parks and Recreation Department provides childcare services for youth ages six weeks through fifth grade. These programs include infant care, toddler care, preschool care, and kindergarten care provided at our Lil' Sprouts Academy and elementary school age care provided at the Astoria Recreation Center. While our childcare services continue to grow, the Astoria Parks and Recreation Department is looking to increase participation in these programs. Thus, the Department would like to offer a discount of 20% to employees of businesses whose employees register a minimum of 30 children full-time in our childcare programs. Currently, Columbia Memorial Hospital is interested in this agreement. Please see the attached letter. Given the opportunity to increase participation and generate additional revenue, it is recommended that this discount in childcare services be approved by the City Council.

Item 5(e): Authorization for Pickup Purchase (Public Works)

The Public Works Department has solicited quotes for the purchase of a Ford F-350 4x4 pickup to be used in the winter to apply de-icer and for an alternate vehicle when one of the front line vehicles is in for maintenance. Request for quotes went out to local dealers and to Landmark Ford of Tigard (state purchasing contract). The results are as follows:

Lum's Auto	\$28,023.00
Ocean Crest	\$25,090.00
Landmark Ford	\$24,161.50
Astoria Ford	nonresponsive
Vince Williams	nonresponsive

It is recommended Council approve the purchase of one Ford F-350 4x4 pickup from Landmark Ford for \$24,161.50. Funds are allocated for this purchase in the Public Works Improvement Fund.

REGULAR AGENDA ITEMS

Item 6(a): Landfill Closure/Astoria Sports Complex – Four Party Agreement (Public Works)

At the July 1, 2013 City Council meeting, a draft "Four Party Agreement" was approved that set the framework for the City's participation in the redevelopment of the former landfill site. This action was taken in support of the transfer of John Warren Field to Columbia Memorial Hospital (CMH) ownership and the redevelopment of the landfill site into a sports complex for the Astoria School District. The partnership articulated in the Four Party Agreement allows for the accomplishment of the following projects, all carrying significant community benefit:

- Expansion of Columbia Memorial Hospital services.
- City will meet Oregon Department of Environmental Quality (DEQ) landfill closure requirements. The City will also gain a cleared and graded site adjacent to the Sports Complex sufficient to support a possible relation of the Public Works Operations, thus allowing opportunities for development fronting the River and Highway 30.
- Recology / Western Oregon Waste will have a paved access road, new water system and the opportunity to connect to the City sewer system.
- Astoria School District will gain ownership and control of a new, all-weather sports complex which will support multiple sports, co-curricular, and community activities.

The financial cooperation between the partners is detailed in the final draft Four Party Agreement included with the Council agenda material. The City share of the costs relates to certain project elements associated with issues specific to the former landfill and with road and utility improvements. The Public Works Department and City Engineering staff believe that the estimated costs to the City are both fair and reasonable. The approximate costs are as follows:

Landfill Closure	\$274,000
Capping of the Garbage Area West of the Access Road	\$ 36,000
Site Access and Williamsport Road Improvements	\$ 36,000
Utility Improvements	\$162,000
Design, Permit, Overhead Costs and Contingency	\$ 63,000

The City's financial contribution to the project, inclusive of contingency, totals \$571,542. It is recommended that the Council authorize the Mayor to sign the Four Party Agreement. Funds for the project will be covered by the Public Works Improvement Fund, and revenue associated with a Recology/WOW land lease and with franchise fees related to waste disposal operations.

Items 6(b)-(h): Public Hearings for Sale of Excess City Properties (Public Works)

At its December 2, 2013 meeting, the City Council scheduled public hearings for the December 16, 2013 meeting regarding seven City-owned properties on which offers have been made. In each case, the offers for consideration have been submitted by adjacent property owners. The properties proposed for sale are:

- 6(b): 5300 Block of Alder Street, Alderbrook, Lots 4 & 5, Block 128, Van Dusen Addition
- 6(c): 1st & West Grand, Uniontown, Lots 1 & 2, Block 80, McClure's
- 6(d): 400 Block 3rd Street, Uniontown, Tax Lot 600, McClure's
- 6(e): 4600 Block of Birch & Ash Streets, Alderbrook, Lot 3, Block 14, Alderbrook & Unplatted Parcel
- 6(f): 4700 Block Ash Street, Alderbrook Area , Lots 4, 5, & 9 and east 30' of Lot 10, Block 13, Alderbrook Addition
- 6(g): 1600 Block of 5th Street, Lots 5 & 31, Block 4, South Slope
- 6(h): 600 Block of Exchange Street, Lot 6, Block 40, McClure's

Maps of each property, along with details of offers made, are included in the agenda packet. It is recommended that each of the seven properties receive a separate public hearing, after which, the City Council consider whether to accept the offer(s).

Item 6(i): Authorization to Award Bear Creek Hydropower Project Engineering Services Contract (Public Works)

On January 18, 2011 the City Council authorized staff to proceed with the Bear Creek hydroelectric project. In March 2011, the City Council approved a contract with SOAR Technologies to prepare and file a Federal Energy Regulatory Commission (FERC) application that is required for this project. Due to environmental and legislation issues, the FERC permitting process was delayed until recently. The application has now been approved and the City can move forward with the project. Specifications and bid documents are 90% complete. The City's design consultant, Murray, Smith and Associates (MSA), now needs to prepare final bid documents. The contract fee of \$20,209.00 includes MSA services as well as electrical engineering sub consultant (R&W Engineering) service. Details regarding funding, which includes grants from both Pacific Power's Blue Sky Program and the Energy Trust of Oregon, will be presented to the City Council at a future date once details and grant requirements can be solidified with Pacific Power. It is recommended that Council execute a contract with Murray, Smith and Associates for a total not to exceed amount of \$20,209.00 for engineering services on the Bear Creek Hydropower Project.

A regular meeting of the Astoria Common Council was held at the above place at the hour of 7:07 p.m.

Councilors Present: LaMear, Herzig, Warr, Mellin, Mayor Van Dusen

Staff Present: City Manager Benoit, Police Chief Curzon, Parks and Recreation Director Cosby, Finance Director Carlson, Fire Chief Ames, Planner Johnson, Community Development Director Estes, Library Director Tucker, City Attorney Henningsgaard and Public Works Director Cook. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS:

Item 3(a): Councilor Warr reported that last Thursday, he attended the Columbia Pacific Resource Conservation and Economic Development District (Col-Pac) meeting and also the Northwest Area Commission on Transportation (ACT) meeting held in Tillamook. He also had lunch with the Land Conservation and Development Commission (LCDC) Board where he learned that Connect Oregon V is growing. More funding is available this year than in previous years, so the application process will be competitive. Astoria will submit an application for project funding. He believed Astoria had a good chance of receiving some funds as the group doing applications does a great job.

Mayor Van Dusen added that Connect Oregon V grants have allowed the City to build the 17th Street Dock, which was the only project of the Connect Oregon V series. Commissioner Warr deserves credit for this, as Astoria benefited from his work. The grants are used for non-highway transportation projects.

Councilor Warr continued, reporting that he reviewed an automated cemetery program that the City is considering. The cemetery recordkeeping would be automated and published on the website. Over time, the system will allow for less time-consuming research of gravesites. This would be proposed to City Council within the next couple of months and he hopes to see the program approved.

Item 3(b): Councilor Herzig reported that on Friday November 8, the Clatsop Community College and the Lower Columbia Diversity Project hosted an event honoring military families. The Jewel High School band, Warrenton school choir, and representatives from all branches of the military participated. He reminded that Astoria is a Coast Guard City and he was glad the Lower Columbia Diversity Project was involved in the event. He recently met with Sam Darcy, Phil and Pat Conklin to follow up on the discussion about Astoria Pointe. Mr. Darcy answered questions regarding the after-treatment of the residents on Alameda. Tensions have decreased now that the operational basis, requirements of the residents, and number of people per unit is understood. The meeting was informative and he gained understanding about how the neighborhood will benefit. At the meeting, Mr. Darcy relayed that he should be called regarding any issues that arise in the neighborhood. Astoria Pointe will host an open house on Tuesday, December 3, 2013. The open house will begin at their main offices downtown and a caravan will go out to the treatment facilities and post-treatment residences. This type of openness in the community serves people well. He thanked Mr. and Mrs. Conklin for speaking up and asking for more information.

Item 3(c): Councilor Mellin reported that she attended a two-hour training session with the Parks Department and Councilor Warr on the cemetery software. Decades of information about the cemetery is currently kept as hard copies, so transferring the documents into the software will be a good project. She was amazed at how far ahead the Parks Department is with the program. The event was very informative.

Item 3(d): Councilor LaMear No report.

Item 3(e): Mayor Van Dusen reported that ten architects from the largest architectural firm in China were guests in Astoria last and visited the Garden of Surging Waves. It was an honor to host the architects, who were impressed with the new garden. It is great to be an international community and have the young, inspiring architects in Astoria. He noted that Cannon Beach Mayor Mike Morgan, the President of the Astoria Downtown Historic District (ADHDA) Dulcye Taylor, Sam Johnson, and Terry Wilson were in attendance. Mr. Wilson

volunteers to operate the sound system during City Council meetings. Mayor Van Dusen reported that Dr. Joe Robertson, President and CEO of Oregon Health and Science University (OHSU), came to Astoria to meet with the community on November 13, along with other officials at OHSU to celebrate the community's efforts with the hospital expansion. Astoria already has oncology and cardiology services and is fortunate that OHSU chose this city of 10,000 for radiology services. Dr. Robertson spoke about OHSU's expansion of service in Astoria at the Arlington Club in Portland on November 14. It is amazing that such a small town has the same cancer treatment services as the best cancer treatment services in Portland. Phil Knight donated \$500 million to OHSU for the treatment and study of cancer and OHSU has two years to match the gift.

Mayor Van Dusen encouraged everyone to support the library. The City is working very hard to expand the library and needs the community to support the library renovation efforts. A lot of work is going on and the community needs to get involved early. The renovation can be done very well if the City has teamwork.

CHANGES TO AGENDA: No changes.

PRESENTATIONS:

Item 5(a): Waiver of Downtown Overtime Parking During the Holiday Season

Alana Garner, Executive Director for the Astoria Downtown Historic District Association (ADHDA), is requesting that the City Council implement a waiver of overtime parking for the upcoming holiday season from Thanksgiving Day, November 28, 2013 through Wednesday, January 1, 2014. The intention is for no enforcement of overtime parking in the downtown, which includes the Heritage Square parking lot, as well as on-street parking; however, tickets will still be written for other violations in the Parking District, including parking by downtown employees within the District.

Alana Garner, 486 12th Street, Suite H, Astoria, thanked City Council for allowing shoppers to park downtown for free during the holidays in years past. She requested that parking fees be waived for downtown shoppers during this holiday season.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Mellin, to implement a waiver of overtime parking from Thanksgiving Day, November 28, 2013 through Wednesday, January 1, 2014. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

Ms. Garner invited City Council and everyone in Astoria to join the ADHDA on Saturday, November 30, when the Liberty Theatre will offer free movies beginning at 3:00 pm and the street lighting will occur around 5:00 pm. Santa and Mrs. Clause will be available for pictures beginning at 3:00 pm. More information is available at www.astoriadowntown.com. Many downtown businesses will be offering deals from November 30 through December 24, 2013.

Police Chief Curzon noted that the waiver was for overtime parking. Citations would still be issued for illegal handicapped parking and parking by downtown employees within the District.

PROCLAMATIONS:

Item 6(a): Oregon State Police Lt. Duane Stanton - Retirement

The Mayor proclaimed November 18, 2013 as Lieutenant Duane Stanton Day in honor of the Lieutenant's retirement in December 2013.

Mayor Van Dusen stated that the proclamation was a small token of appreciation for all who work in Astoria. The City and the Police Department officially thanked Lt. Stanton.

Police Chief Curzon, 555 30th Street, Astoria, said it was a pleasure to participate in the proclamation for Lt. Stanton, who has been a consummate professional and partner to Astoria Police, along with other agencies in Clatsop County. Lt. Stanton has provided Astoria with resources during major crashes and investigations and has been a loyal supporter of the Astoria Police Department. His leadership will be missed.

Mayor Van Dusen said the proclamation was from the entire community. He read the proclamation declaring November 18, 2013 as Lieutenant Duane Stanton Day in honor of the Lieutenant's retirement this December.

Lt. Stanton thanked the City of Astoria, City Council, Mayor Van Dusen, and Police Chief Curzon for their valuable partnership. He has had the privilege of serving the citizens of Astoria, Clatsop County, the State of Oregon, and the United States. This is a special time in his life as he and his wife look forward to many opportunities and adventures. He wished the best of luck to those who will take over in his absence and thanked the citizens of Astoria.

Mayor Van Dusen called for the traditional hip-hip-hooray.

CONSENT CALENDAR:

The following items were presented on the Consent Calendar:

- 7 (a) City Council Minutes of 10/21/13
- 7 (b) Boards and Commission Minutes
 - (1) Library Board Meeting of 10/22/13
- 7 (c) Oregon Library Association, Oregon Reads 2014 Mini-Grants (Library)

City Council Action: Motion made by Councilor Mellin, seconded by Councilor LaMear, to approve the Consent Calendar. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

REGULAR AGENDA ITEMS

Item 8(a): Liquor License Application from Donald Patterson, Renay Patterson, and Krista Patterson, dba Astoria Mini Mart East, Located at 2264 Marine Drive, for a New Outlet for a Limited On-Premises Sales License and Off-Premises Sales with Fuel Pumps License (Finance)

A Liquor License Application has been filed by Donald Patterson, Renay Patterson and Krista Patterson, doing business as Astoria Mini Mart East located at 2264 Marine Drive. The application is for a New Outlet for a Limited On-Premises Sales License and Off-Premises Sale with Fuel Pumps License. The appropriate departments have reviewed the application and it is recommended that Council consider approval.

City Manager Benoit displayed a photograph of the property and explained that the Applicants have completed significant upgrades.

Mayor Van Dusen declared that his company sells soft drinks to the Applicants; however, he believed he could vote impartially on the application.

Councilor Herzig asked what hours the establishment would be open as the operating hours were not listed on the application.

Donald Patterson, 1635 SW 14th Street, Warrenton, said operating hours would be 5:00 a.m. to 11:00 p.m. at first, but the hours may eventually change. The Mini Mart is located in a special district and he is waiting on the approval of signage and landscaping variances. Though submitted in October, the variances will be reviewed on December 5, so he hopes to open the establishment in mid-December 2013. He confirmed that the laundry mat will also be reopened with all new equipment.

Mayor Van Dusen and Councilor Mellin agreed that the property looks great since the upgrades.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to approve the liquor license application from Donald Patterson, Renay Patterson, and Krista Patterson, dba Astoria Mini Mart East, Located at 2264 Marine Drive, for a New Outlet for a Limited On-Premises Sales License and Off-Premises Sales with Fuel Pumps License. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

Item 8(b): Connect Oregon V Grant Application for Restoration of Riverwalk and Trolley Corridor Between 11th and 12th Streets (Public Works)

The Oregon Department of Transportation (ODOT) has recently started the process for accepting Connect Oregon V grant applications. The City previously received a \$3.8 million Connect Oregon III grant for the 17th Street Dock Replacement project. This year the Connect Oregon V grant has been expanded to include bicycle and pedestrian elements. Applications are due at the end of November.

If authorized by City Council, staff will prepare a grant application for a project that includes restoration of the Riverwalk and Trolley corridor between 11th and 12th Streets. It is anticipated that should the grant be funded, this project would create an environment that is user friendly to all of the existing modes of transportation. The design intention will include a multi-modal facility that encourages alternative modes of transportation including pedestrians, bicycles, trolley transportation, and vehicles in an effort to relieve traffic on State Highway 30. Additionally, a public involvement component would be included in the design process to gain input from citizens and all stakeholders. We also anticipate that this first phase will set the theme for the remaining segments of the corridor east to the Maritime Museum area. It is recommended that Council approve submission of the 2013 Connect Oregon V grant application to the Oregon Department of Transportation.

City Manager Benoit noted that Connect Oregon V Staff is recommending that applicants limit requests to about \$1 million. The trolley tracks were buried under asphalt several years ago and are beginning to fail because the environment is wet. The Riverwalk in this area has a lot of pedestrian, bicycle, trolley, and automobile traffic. Staff proposes that this area be entirely redesigned.

Councilor Herzig believed Astoria received funds from ODOT to repair some of the bridge ends in the area. City Manager Benoit replied that the City received \$8.2 million to repair the bridge ends from 6th Street through 11th Street, which is a different project. This application will not conflict with the repair of the bridge ends.

City Council Action: Motion made by Councilor Herzig, seconded by Councilor LaMear to approve submission of the 2013 Connect Oregon V grant application to the Oregon Department of Transportation. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

Item 8(c): Public Hearing and Ordinance for Proposed Vacation of a Portion of Duane Street Right-of-Way (1st reading) (Public Works)

The Astoria Development Commission is currently working on acquisition of real property located at 1636 Exchange Street (Armory Building) and the adjacent parking lot at the 1600 Block Duane Street owned by the Columbia River Maritime Museum. To facilitate the acquisition, the City needs to vacate a portion of Duane Street between 17th and 18th Streets. The right-of-way is 40 feet in width with the north 20 feet being previously vacated. The previous 20-foot wide vacation was for a full block while the current request is for the easterly 200 feet of the block. Staff has determined that the area to be vacated does not appear to have any future potential as an access route, but believes an easement should be established for future utilities. Since this vacation has been initiated by the City, there is no assessment required and the vacated portion of the right-of-way will revert back to the adjacent property owners. At their meeting on November 4, 2013, the Astoria City Council acted to schedule a public hearing on the proposed street vacation on November 18, 2013, at 7:00 p.m. It is recommend the Astoria City Council conduct the scheduled public hearing and first reading of the ordinance to vacate a portion of the Duane Street right-of-way.

City Manager Benoit displayed a graphic and explained the exact location of the right-of-way. The vacation is part of the transaction related to the City's purchase of the Astoria Armory and Coast Guard parking lot.

Councilor LaMear recused herself, as she is an employee of the Columbia River Maritime Museum (CRMM).

Mayor Van Dusen opened the public hearing at 7:35 p.m. and invited anyone wanting to address the City Council on the ordinance to vacate a portion of the Duane Street right-of-way to come forward.

David Bue, 35210 Orchard Lane, Astoria, speaking on behalf of the Moose Lodge, stated that Mr. Chapman apologized for not being present. He understood that the Astoria Development Commission packaged the vacation of the Duane Street right-of-way with the sale of the Astoria Armory and adjacent parking lot, which was news to the Moose Lodge. The CRMM purchased the property without the knowledge of the City that the street

right-of-way was not vacated. It appears as if the CRMM has gone in the back door to ask the City to package this deal with the sale of the armory and parking lot.

Mayor Van Dusen clarified that the Astoria Development Commission did not discuss property by the Moose Lodge. He confirmed the vacation of the right-of-way was packaged within the sale of the armory.

Mr. Bue said the Moose Lodge is concerned about access. He recalled a meeting with Mr. Chapman, City Manager Benoit, City Attorney Henningsgaard, and the CRMM. At this meeting, the Moose Lodge was guaranteed 24-hour access and a phone number to report any access issues. However, the lodge was given a four-page legal document stating that access to their property has been restricted. This is an issue. He understood another gate would be installed, in addition to the existing gate. He asked how fire trucks would access the property in the middle of the night. Many issues need to be resolved. The Moose Lodge voted against the vacation of this right-of-way when Builder's Supply developed the property; Builder's Supply was granted a license to occupy. The Moose Lodge sees no reason to change the license. The lodge has been there 100 years and could have brought 200 of its 600 members to this public hearing to protest this vacation; about 10 members have attended. The Moose Lodge is completely against the vacation of this right-of-way.

Mayor Van Dusen said he was surprised to hear the Moose Lodge was opposed to the vacation. City Manager Benoit confirmed that he attended a meeting with Mr. Chapman and Moose Lodge Board members where he fully explained the entire context of the street vacation and how it related to the armory building. After that meeting, City Attorney Henningsgaard met with the Moose Lodge to discuss access issues further. The agenda packet includes a letter from CRMM Director Johnson, ensuring that the museum intends to provide full access to the Moose Lodge. It is common in Astoria to have areas that are gated and locked to public access. The fire department and emergency vehicles gain access through a required Knox Box, which is affixed to the property. Protocol for allowing emergency access has already been discussed with the CRMM, so fire and emergency access should not be an issue.

Mayor Van Dusen read the letter by CRMM Director Johnson, which was included in the agenda packet, and stated that it is the museum's intention to allow full access to the Moose Lodge from Duane Street for any facility maintenance work or requested functions.

Mr. Bue noted that a clause in the legal paperwork given to the Moose Lodge requires the lodge to give 14 days' notice of special functions in order to gain access to their building. Much of the legalese in the document was never discussed at the meeting. The lodge does not have a legal representative. The document includes language that allows the CRMM to sue the Moose Lodge. The Moose Lodge understood that they would have access at any time, but the four-page legal document states otherwise. He asked for an example of an existing lock box in Astoria. Chief Ames replied there were many in the city, including Clatsop Care, Clatsop Retirement Village, all of the schools, the gate at the top of Emerald Heights, and the gate to Pipeline. The boxes are built into a post or installed on the side of a building and have keys that allow emergency services to access the building or an area during an emergency. Emergency services carry a master key that unlocks the boxes.

Mr. Bue stated this was a side point of the Moose Lodge's view. The Moose Lodge is concerned about having to give 14 days' notice to access their building, which is unreasonable. The Moose Lodge is opposed to restricted access to their building.

Sam Johnson, Executive Director, CRMM, 3774 Grand Avenue, Astoria, stated that this is the first rebuttal he has heard from the Moose Lodge relative to the museum's proposals to the lodge. The museum is willing to work with the lodge to ensure access, as he stated in his letter. At no time, did the museum promise 24-hour-a-day access to the property. When the museum purchased the Astoria Builders Supply building, the primary function for the buildings was to store collections and security for those collections is a primary concern of the museum. The museum has every intention of making sure the collections are kept safe by gates and other security measures. However, the museum does not wish to inconvenience the members of the Moose Lodge and is willing to open the gates at any time the lodge needs access. Two weeks' notice has never been discussed, but the museum did request they be given a reasonable notice. The museum is closed only two days each year and staff is available to open the gates any day the museum is open. The Moose Lodge simply has to call the museum to request that the gates be opened. The museum does not consider impediment of access to the Moose Lodge as a serious problem.

Mayor Van Dusen understood that the 14-day notice was of major concern to the Moose Lodge. He asked if Mr. Johnson was saying the 14-day notice would not be required. Mr. Johnson clarified that he did not know if that would be a requirement or not. During discussions with the Moose Lodge, the museum was concerned about staging. For example, a boat on a trailer would be parked in between the two buildings on the vacated right-of-way. The museum would like enough notice to allow the boat to be moved, which could take a day, or it might take two weeks. He did not believe the museum would be doing anything to prevent access to the lodge for general maintenance. If the lodge hosts a garage sale or other special event, staging activities at the museum could cause a problem and the timing would need to be worked out.

Councilor Warr asked if the legal document could be adjusted to include a compromise between Mr. Bue and Mr. Johnson, with regard to the Moose Lodge giving the CRMM advanced notice of special events. Mr. Johnson agreed the document could be changed. The museum Board asked an attorney to review the process and the deal. One concern was the museum's relationship with the lodge. The attorney wrote the document, which the museum forwarded to the lodge for review. The museum has received no comments from the lodge on the document and is willing to negotiate. He is not fond of some of the items in the document, but the museum has received no response from the lodge since giving the lodge the document.

City Attorney Henningsgaard explained he was involved in discussions at the CRMM as a mediator, although no mediation was necessary as everyone at the meeting got along well. He left the meeting with the understanding that the CRMM's attorney would draw up a document, which was forwarded to the Moose Lodge. No response has been received from the lodge. He contacted the museum's attorney several times, who said the lodge had not responded. Some items in the access agreement written by the attorney were more strict than what was discussed at the meeting. He stated Mr. Johnson has always indicated he was willing to discuss the document; however, there has been no discussion with the lodge since the document was created.

Mr. Bue stated he was unsure that Mr. Johnson had ever read the document. He referred to Item 2.5 Special Events in the document, which states, "The lodge shall provide the owner with 14 days prior written notice of access." This is one of the lodge's concerns. He agreed the lodge has not had a conversation with the museum because the lodge does not have an attorney on staff. Moose International reviewed the document and recently instructed the lodge to speak to City Council about the document. Moose International covers the entire United States and does not have legal expertise in the State of Oregon. No attorney is kept on retainer. The lodge was depending on Moose International to provide some legal expertise, but the document was sent back. The lodge did not expect a four-page document that would need to be negotiated.

Mr. Johnson said he had carefully read the document. When the museum saw the section that required two weeks' notice, they realized it would probably raise concerns. The lodge usually has their special events planned well in advance of two weeks, so the museum did not feel the requirement would be a serious problem. This requirement can be adjusted. He noted there are other items in the document that he would like to remove.

City Attorney Henningsgaard stated that three different types of access were discussed during discussions, emergency access, maintenance access, and special events. He believed that access for special events is the type of access of the most concern, as a number of people would be accessing through Duane Street.

Mayor Van Dusen closed the public hearing at 7:53 p.m.

Mayor Van Dusen said he was confident that the CRMM and Moose Lodge could come to an agreement and asked Staff's guidance as how to proceed. City Manager Benoit explained City Council could hold the first reading now and postpone the second reading and adoption until the next meeting to give City Council time to review the agreement and judge its reasonableness. City Attorney Henningsgaard said that if both parties are motivated, two weeks should give the City enough time to come to an agreement. He agreed with conducting the first reading tonight and postponing the second reading and adoption for two weeks.

Councilor Warr recalled that when the City initially began discussing the vacation of Duane Street, City Council was concerned that the Moose's interests were addressed and resolved. This is very important, but Councilor Warr did not believe this should be postponed. He believed both parties were reasonable and an agreement could be made. He stated he was in favor of conducting the first reading.

Councilor Mellin recalled that City Council was told during earlier discussions that the Moose Lodge would have access. Access was never defined. She believed the lodge would have access anytime they needed it. The two

parties need to come to terms on the access issue. She suggested the lodge plan their events in advance and let the museum know.

Councilor Herzig said that if the lodge and museum could come to an agreement within the next two weeks and present it to City Council, the City could move forward. He believed it was important to make sure both parties were in agreement. He supported conducting the first reading at this meeting and requested that a representative from the lodge speak at the next meeting to ensure City Council that an agreement has been made.

Mayor Van Dusen asked how the City could proceed if the first reading were conducted tonight and no mutual agreement could be made by the next meeting. City Attorney Henningsgaard said the second reading could be conducted at any time, as there is no expiration after the first reading. Mayor Van Dusen suggested the first reading be conducted at this meeting. He did not believe the Moose Lodge should have to apologize for not hiring a lawyer. He suggested City Attorney Henningsgaard draw up a legal document that represents both parties, instead of the museum's attorney. This way, the Moose Lodge would not be responding to the museum's attorney.

Mr. Bue said this would be a good approach, but he could not speak for the Board; Mr. Johnson agreed.

City Council directed City Attorney Henningsgaard to create a legal document granting access to the Moose Lodge by the Columbia River Maritime Museum.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to conduct the first reading of the ordinance to vacate a portion of the Duane Street right-of-way. Motion carried 4-0-1. Ayes: Councilors Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None; Abstentions: Councilor LaMear.

Director Cosby conducted the first reading of the ordinance to vacate a portion of the Duane Street right-of-way.

Item 8(d): Acceptance of Easements and Extinguishing of an Existing Easement in the 2100 and 2200 Blocks of Marine Drive Near the Columbia River Maritime Museum Barbey Maritime Center (Former Train Depot) (Community Development)

At the October 7, 2013 Astoria Development Commission (ADC) meeting, an amendment to the Astor-East Urban Renewal Plan was approved which gave the ADC the authority to acquire real property located at 1636 Duane Street and the adjacent parking lot at the 1600 Block Duane Street. This property is commonly known as the Astoria Armory and an adjacent parking lot, both owned by the Columbia River Maritime Museum (CRMM). As part of the negotiated terms associated with the acquisition of the property, the ADC (acting on behalf of the Astor-East Urban Renewal District AEURD) would transfer ownership of a portion of the AEURD-owned property east of the CRMM Barbey Maritime Center (former Train Depot). While transferring the property to the CRMM, the ADC would retain ownership of the remaining portion of the parcel. Therefore, the ADC will need to retain an access/egress and utility easement through the property being transferred to allow future access to the parcel the ADC is retaining. In addition to the easement on the property being transferred, an additional easement is required to provide access across CRMM owned property south of the Barbey Maritime Center from the City right-of-way at 20th Street to the proposed easement on the property being transferred. This easement would replace an existing easement located on the south portion of the CRMM lot. Since both of these easements are also for utilities, they would also be granted to the City of Astoria.

It is recommended that the Astoria City Council approve the following:

1. Accept an access/egress and utility easement from the Astor-East Urban Renewal District on the property located east of the Barbey Maritime Center located at the 2200 Block Marine Drive property.
2. Accept the access/egress and utility easement from the Columbia River Maritime Museum across CRMM owned property south of the Barbey Maritime Center from the City right-of-way at 20th Street to the proposed easement on the property being transferred.
3. Approve extinguishment of the existing 25' wide easement on the south side of the Barbey Maritime Center located at the 2200 Block Marine Drive property.

Councilor LaMear recused herself, as she is an employee of the CRMM.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to approve the acceptance of easements and extinguishing of an existing easement in the 2100 and 2200 Blocks of Marine Drive near the Columbia River Maritime Museum Barbey Maritime Center, as noted in the Staff report. Motion carried 4-0-1. Ayes: Councilors Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None; Abstentions: Councilor LaMear.

Item 8(e): Sale of City Property (Public Works)

A PowerPoint presentation of the property sale program, a list of Frequently Asked Questions (FAQ), a map of all City-owned properties, a map and list of the 37 properties offered for sale, and a list of those properties on which offers have been made will be presented. It is recommended that Council consider affirm the proposed process for sale of excess property and the marketing of the 37 parcels identified. If that approval is given, staff, at the December 4, 2013 Council meeting, will present the offers received to date, provide additional detail as to the exact location to facilitate site visits, and request that a date be set for a public hearing.

City Manager Benoit displayed the PowerPoint presentation and distributed copies of the presentation at the dais and to the audience. He briefly explained how the City decided to sell the excess properties and how the process to sell the properties was developed. He reviewed the details the Staff report and of each slide, explaining specific areas on maps, laws and regulations that the City must comply with, noting which properties had offers, and discussed the details of the process of selling the properties. He explained how the process of selling the properties has been implemented and noted the details of the issues that arose as the process moved forward. A timeline of the events that occurred as the process was developed and implemented was included in the presentation. There has been much angst in the community since the procedures for selling City property were approved by City Council in August 2013. He asked if City Council wanted to modify or reaffirm the procedures.

Councilor Mellin noted that the City is paying Staff to work on the sale of these properties, which has taken a lot of time. She commended Staff for their thorough work. Councilor Warr believed Staff has bent over backwards to address potential concerns of adjacent property owners. He did not believe the City ever intended to sell all of the property to the highest bidder. The City does want to get rid of its excess property while being considerate of those who will be affected by the sale.

Mayor Van Dusen asked if anyone wanted to address the Council.

Chris Farrar, 3023 Harrison Avenue, Astoria, said he has lived in Astoria for a few years and is familiar with the area. He admitted he should attend City Council meetings more frequently and pay attention to what is discussed. He asked how the City defines excess property, noting this may have been addressed in part during City Manager Benoit's presentation. He asked if the City ever considered the value of open space. Land that is open and undeveloped is important to him. He asked who decided which properties are considered excess, adding he was not invited to the meeting where that decision was made. His idea of excess is different from the City's. He believed a different group of people should gather to decide what constitutes excess property. He asked why the properties are being sold and wanted to know if the City needs money. There is nothing wrong with needing money; everyone must sell things at some time. He questioned the condition of the budget and asked how important the sale of these properties was to the City. He also questioned whether this is a good time to sell the properties and if the City would get a good price. Only one realty company in the whole town decides the value of these properties, which sounded stupid to him. He believed the City should ask him what the values of the properties are. He offered to set prices and asked why Area Properties was chosen, rather than himself. He invited everyone to meet in his living room so he could tell everyone the value of the properties. He wanted to know City Council thought of his offer. He said it was great that the City considered the adjacent landowners, which gave him a great deal of faith in Staff. He believed that faith in Staff is the general attitude of the community. However, considering the adjacent property owners is inadequate. He lives very close to one of the properties for sale and is concerned that an adjacent property owner may develop the property upon purchasing it. He asked when potential allowable land uses on these properties would be decided. He is concerned that no regulations were in place about the uses allowed on the properties. He asked if a grocery store could be built, clear cutting could be done, or bow hunting of deer would be allowed. Constraints are needed as these properties are open space. He moved to Astoria because of the way the town looks, not for the way it might look in the future. He hoped the town would continue to look as good as it did when he moved to Astoria, but he was worried that the City would sell all of the land at cheap prices and offer the properties to a select group of people. No one knows what this select group will do with the properties. This sounds like a bad idea. He asked about the

landslide map database and asked if new maps from the Oregon Department of Geology and Mineral Industries were used by Staff. He did not believe the maps shown in the presentation were new maps from the State. He recalled the presentation stated city-engineered maps of the landslides were being used, which is inappropriate; the City has the Geological Information System (GIS). An overlay of the landslides should be shown on the excess properties. No landslide properties should be sold because the landslides will continue to move, so it is best that everyone own and control those properties.

Mayor Van Dusen explained that all questions would be answered after everyone in the audience had an opportunity to speak.

Brad White, 2011 Irving Street, Astoria, said that he walked some of the properties earlier that day and found it interesting that the property on 28th Street has an offer, as it has a big landslide area. He is concerned about access to properties and asked who would pay to ensure access. One particular property extended from 27th to 28th Streets and from Irving Avenue to Harrison Avenue and has no access to Harrison. If the property is divided and made into lots that face Harrison and Irving, there would be no access to Harrison from either end because of houses. The closest access to that property on Harrison is on 29th Street, where a house is located in the middle of Harrison on 29th Street. The next property over includes a right-of-way that allows access to an adjoining property. If this property is sold, how will the owner access it? He asked if taxpayers would pay for this access with the large surcharges on their sewer bills, as they pay for roads, sewers, and the Combined Sewer Overflow (CSO) project. He asked if City Codes address who pays for infrastructure. He asked if property owners were allowed to clear-cut upon purchasing the properties. The property he referred to earlier has timber that could bring in some money. He could image someone clear-cutting the property, and then abandoning it. If the City is going to start selling forested land, which many of the properties are, the City should have better guidelines and ordinances in place on how the City deals with trees and views. The current method in Astoria appears to allow clear-cutting to create a view, including a neighboring property if one can get away with it; this has occurred twice on his neighbor's property. The same tree was cut twice by two different neighbors in order to create a view. The property owner had to go to court to stop the tree from being cut. He believed Astoria should have a process regarding the cutting of trees that falls between the restrictive process of Cannon Beach and the clear cutting done in Astoria. He would like to see those guidelines be part of the process for selling excess City property.

Sally Stiller, 205 Alameda, Astoria, said she is concerned about the definition of excess and said that community needs, like urban gardening, compost systems, and affordable housing, should be considered. The properties should be viewed from a new perspective and the City should find out how it can best serve the citizens of Astoria. She believed the citizens would have many ideas about how the properties could be used. She recognized that the City has budget concerns, but the taxpayers are also paying for vacations. The budget should be reviewed and alternatives to selling property considered. There are political changes when additions are made to private property in the city. If one person or group purchases many of the properties, they will have a lot of power in the city. She did not believe this was the way Astoria should proceed. There have been changes along the Riverwalk and she did not like how this increase in corporate interest affects the overall value of the city. She stated there were many concerns.

Roger Dorband, 462 6th Street, Astoria, said that as an adjacent property owner, he is concerned because he never received notification in the mail regarding the properties for sale. He missed the articles in the newspaper, as he does not currently subscribe to the *Daily Astorian*. He heard through neighbors about the process, which is why he is attending the meeting. He asked how the 37 properties were selected out of 1300. The property adjacent to his is a tiny piece of land at the foot of a hill, which has evidence of landslides that have occurred over the last 100 years. The property is narrow with a steep incline and sits adjacent to two historic properties, his and a property below located across the street from the Flavel House. He has not been informed of different building requirements on properties adjacent to a historic site and wanted to know if this would be included as part of the notification process.

Mayor Van Dusen asked if there was a way to verify that a notification had been sent to Mr. Dorband. Director Estes responded not at this time. Mayor Van Dusen said Staff would find out if notification had been sent to Mr. Dorband.

Mr. Dorband continued, stating that he was curious about the bids that had already been placed. He asked if public records would show who placed the bids and whether or not the bids were placed by adjacent property owners. He also asked if any information had been leaked to people who might be interested in purchasing

properties for future investment. Anytime a realtor is involved, there is danger of a leak. He wanted to know who has made offers and where the potential buyers live. He asked if a minimum bid was required, as he was thinking about submitting a bid on a property. He wanted to know if City Council could reject an offer that was considered too low.

Sue Skinner, 511 Jerome, Astoria, said she did not understand why the City was selling property, why there was such urgency to sell the properties, and why Mike Morgan was hired by the City. She understood that Mr. Morgan was the Mayor of Cannon Beach, which has a progressive tree ordinance that Astoria does not. Mr. Morgan is not applying the same ordinances to properties in Astoria as he does to properties in Cannon Beach. She said that Mr. Morgan should be sitting at the dais, not in the audience. People can be confused by the fact that Mr. Morgan is the Cannon Beach Mayor and the go-between for the property owners and realtors in this big deal that involves 1300 parcels. She did not understand there being 37 parcels being identified [inaudible] Astoria is renowned for its beauty and heritage. The air is great and retirees move to Astoria. Why does the City want to turn Astoria into Beaverton? It did not make sense to her to sell the properties now. Astoria has so much excess property for sale already; many houses and properties are for sale. Near her home, a lot of clear cutting has been done on property that is for sale. The property was cut because a storm damaged some of the trees, but the property is still ugly and still for sale. The trees will not grow back for another 200 years. She did not understand why the City was selling property at this time. The City will not get any money for the properties. If the City does get money for the properties, it will be questionable corporate money. She recalled that at the last City Council meeting on November 4, 2013, Mr. Morgan and City Manager Benoit said that properties are not considered a potential landslide area unless a slide has occurred within a certain number of years. Lots that are potential landslide areas are also considered buildable lots if no slide has occurred in so many years. She believed that was strange because half of the town is sliding and then trees are being cut. She understood there was still some controversy about whether clear-cutting causes landslides, but it does not take much to figure out that clear cutting does increase slides. She wondered why Astoria chose to sell properties, trash the town, and use someone who is a progressive leader in his own town in creating a beautiful place, while Astoria was being—but perhaps that was not his intention.

Mayor Van Dusen thanked Ms. Skinner for urging the City last time to obtain new and improved maps.

Shell Cantor, 1189 Jerome, Astoria, stated a couple of people had already raised the issue of the timing of the sale. He added that the annual property tax bill, which arrived in October 2013, reflected a decrease in the real market value for the land on which his house sits for the fifth consecutive year. According to the County tax assessor, it is 41 percent less than it was five years ago. The real market value of his lot was this low eight years ago. The real market value of his house decreased four consecutive years, but increased 30 percent in 2013. This trend strongly suggests that vacant lot prices have bottomed out and will begin to show substantial price increases, just like the recovery of existing home prices that has already begun. A buyer of vacant land in Astoria would get the lowest price in eight years and likely the lowest price for the near future. Conversely, an owner of vacant land, like the City, would need to be desperate for money to sell the vacant land now. He did not believe Astoria was desperate. The City did not attempt to sell a large number of vacant lots in 2012, 2011, or near the peak five years ago. Today, the City is trying to unload a large number of lots at bargain basement prices. He hoped the City Council could explain why selling vacant lots now is in the best interest of Astoria.

Bobby Brice, 1065 7th Street, Astoria, stated she was speaking on behalf of Terrie Remington, who was advised not to attend the meeting for health reasons. Ms. Remington lives at 3695 Irving Avenue. The property behind her house, the south half of Blocks 67, 68, and 69 in Adair's Port, is a 5.36 acre area on the for sale map. Ms. Brice read the following letter written by Ms. Remington as follows:

Dear Council Members,

I own a house at the foot of a steep hill, which is stabilized by Himalayan knotweed, indigenous plant growth, along with large cedars and fir trees. My bathroom is 2 ½ feet from a retaining wall. The property for sale is listed as a hazardous zoned area, as noted on this map. Please visualize how you would feel with this delicate scenario in your backyard. As long as this hill remains undeveloped, I am confident that the retaining walls will prevent problems. I ask you to remove this parcel from the map of property for sale.

Thank you for your consideration,
Terry Remington

Bernie Wood, 3629 Irving, Astoria, referred to a red bar and a thumbnail sized blue area on the map. He explained that the blue is directly behind his house and three of his neighbors. One neighbor made an offer on this property, which was not problem for him. He is concerned about the property that Ms. Remington's letter referred to, which is considerably larger than the extensions behind each individual house. At a previous City Council meeting, he raised questions about the definition of a slide area. No geologist is needed to see that the property behind Ms. Remington's house has had movement, which is why the land is so close to her bathroom window. He noted that Mayor Van Dusen has seen the property and is aware of how delicate the property is. He understood that Ms. Remington was very upset during the initial three-day notice that was given to adjacent property owners and is very concerned because she is in a vulnerable position. While Ms. Remington is the adjacent property owner, the land behind her house extends beyond her house. Mr. Wood did not receive a letter about the property behind Ms. Remington's house. He was naive and did not realize the extent of the operation. He found it hard to believe that the entire top of the hill behind six or seven houses was on the block. This land is not normally recognized as a slide area because over the last 100 years, people in the community were smart enough to leave the land alone. Some people are concerned about what is considered excess and market prices, but he believed a more judicious process needed to be in place, especially for properties that are potential geologic hazard areas. He suggested properties be offered for sale only after a lot more discussion and study has taken place. He recalled an incident at the base of 33rd Street and Franklin Avenue, which did not come to rest immediately. He has friends in the area who still have cracks in their walls and doors that were damaged. Risking this type of event is not careful thinking. Astoria enjoys open spaces and he is happy the woods exist even though he has no use for them. He wished that the decision makers would slow the process down and think about the consequences of what may happen in the future. He added he was not an alarmist, but believed his opinion is common sense.

Otto Bird, 3741 Harrison, Astoria, said he was asked to present some ideas for possible modification of the process. He sent emails to all of the Councilors on Friday, November 15, and Sunday, November 17, and received no response. He suggested that the process be completed in phases. He recognized that Mr. Morgan and Planner Johnson have put in a lot of time trying to develop the best series of properties to sell that would get the best price for the City and to identify which properties would be most likely to sell. However, some of the properties seem more likely to be easy to work with. Some of the properties, many in Alderbrook, already have bids. At the last City Council meeting, Mr. Bird was the only person who had a map, but everyone has maps now. The black and white maps are the easiest to use when describing the lots. He suggested that all of the properties on the map of Uppertown, excluding the properties in Mill Pond, be sold last in a third phase. This area includes the much-reduced property that extends from 38th to 40th Streets and from Leif Erickson to Graham Street, and the property that referenced by Mr. Wood and Ms. Remington, which is on Irving Avenue between 35th and 38th Streets. The 2900 block of Irving Street has a bid on it but he did not know who made the bid. The lots behind the 2700 and 2800 blocks of Graham Street and the 2700 block of Irving Street are a continuous forest, of which Mr. Bird has taken photos. There are trails in the area. The property near Mayor Van Dusen's house, which is the 2200 block of Irving, is the smallest and flattest of all of the properties in the area and has been logged within the last few years so fewer trees exist than was there previously. The properties on the West End map look small, flat, and somewhat developed, except for the 400 block of Pleasant Avenue. He suggested that these properties be sold during a second phase. All other properties should be sold in a first phase. Two written offers have been made on these first phase properties. Many written offers have been made for properties in the Alderbrook area. He was concerned with the property at the 4600 block of Birch and Ash because it is directly adjacent to wetlands and is a relatively large property. He believed most of the offers have been made by neighbors who wish to keep their open space. The color map shows parcels at 44th, 45th, and Commercial, the 700 block of 45th, and the 700 block of 46th as being in the middle of the forest. He has not been to these properties, but noted there is a hill just south of Alderbrook. He believed these properties were on the hill and should be sold during a third phase. Nothing is on these lots except trees. Properties on the Saddle Slope map should also be sold during a third phase. He was most concerned with the large property labeled West Niagara and 1st, which was mentioned in a 2012 City Council meeting. A proposal was made to list the property for developers to build a neighborhood. The property is a hill with trees on it. People who live near this property are not happy about losing their wooded area. This property should also be sold during the third phase. The remaining properties on this map should be sold during the second phase, as they make up a contiguous forest that runs down around 7th Street. The speed limit on 7th Street is 25 miles per hour, which is difficult to maintain. Forrest surrounds this area and there are some properties that appear to be vacant lots. These lots are privately owned and would be perfect for development. He reiterated that his suggestion was to break up the properties into three tiers. The first tier contains properties that are small, flat, do not have many trees, and are desired by adjacent landowners. The second tier contains properties that are slightly larger and are considered empty lots. The third tier contains properties that are larger, have already been discussed, or would make a nice

contiguous forest. He is involved with a group of people that are working with local conservation groups to work with the City to buy or manage the third tier properties. The group needs time to make this work and it would be nice to stagger the sale of the properties a bit.

Mayor Van Dusen noted that several people asked why the City was selling properties now. He noted City Manager Benoit did a good job of explaining that this came from a City Council goal. He suggested each Councilor give their thoughts on why they believed this was a good goal. He did not like urban sprawl, recalling that someone said the City wanted to become like Beaverton. These properties would provide for infill. Utilities, infrastructure, and all of these lots are within the urban growth boundary (UGB). Astoria has huge expenses and it is getting more expensive to live in Astoria. Many of the expenses are fixed costs, like water and sewer. Astoria has enough water for 25,000 residents, but 10,000 residents must pay for the water; getting more residents into Astoria helps spread out this cost. Astoria has urban forests and many acres of city parks, which are all important. The lots for sale are not part of the urban forest or the Parks Department. He believed the City should not be in the business of stocking land. Getting these properties on the tax roll can spread out the costs.

Councilor Warr said he agreed with Mayor Van Dusen. For most of his 9 years as a City Council member, he has stated during goal setting discussions that the City should get rid of its excess property because it is expensive to maintain and takes a lot of Staff time away from other services. He believed Staff has done a marvelous job designing this process in a way that is responsive to the community while still allowing the City to get rid of much of the expense. There are many small lots that over the years have become driveways or garages for adjacent property owners. The City believes these adjacent property owners should be able to take care of the properties. Most of the lots will never be built on, whether they are owned privately or publicly.

Councilor Mellin said that City Council is responsible for the budget and this was a goal to raise some money, similar to having a yard sale. The money would go into the Capital Improvement Fund to help pay for new police and utility vehicles, which the City will need to replace. This seemed like a good idea at the time. This has not been a secret, as discussions have taken place since January 2013 and has been published in the newspaper and discussed at many City Council meetings. A lot of work has been done by Staff to put the process together.

Councilor Herzig stated he regretted saying that he did not believe selling city property was a good goal. Even though it seemed like a good goal when City Council adopted it in January 2013, tonight the goal should be revisited. The people of Astoria possibly have a different idea about this goal, which has been clearly stated. He did not want to minimize the time and work that has gone into the sale of properties. City Council goals were adopted on good faith principles, but if a goal turns out to be so problematic for the city, those the Council is supposed to be serving, then City Council needs to decide if the goal really needs to be pursued.

Councilor LaMear believed this initially began when the Parks Department expressed concerns that they did not have enough maintenance Staff to care for all of the properties. Astoria has a lot of parks and city properties and a very small parks and maintenance staff. The City cannot keep up with maintenance on all of the properties that it owns. City Council believed they were doing something good because the properties were being offered to adjacent homeowners, many of whom have come to the Planning Commission in the past to request variances because they want to build fences or garages or plant a garden. The sale of these properties would allow those adjacent homeowners the opportunity to purchase the land to protect their view or provide for some use of the property. She never believed there would be so much contentiousness about the ordinance. The City is not selling properties that are in landslide zones. Individual properties can be considered, like the property near Ms. Remington's. This does not negate the fact that the City should not have 1300 properties. These properties should be available for purchase by adjacent landowners so the properties can go back on to the tax roll.

Mayor Van Dusen, City Attorney Henningsgaard, and City Manager Benoit addressed questions asked during public comment with these comments:

- Land use laws regulate what can be done with the properties once purchased. All of the lots are within the UGB and are zoned residential or commercial. Rules that apply to these properties are the exact same rules that apply to an adjacent property. All land use rules apply to any prospective owner.
 - Each neighborhood has different rules, but the existing laws also apply. For example, lots near the Mill Pond require a sprinkler system in each house built.
- The Engineering Department has mapped landslides that have occurred for the Comprehensive Plan. This City landslide map is the map being used.

- Planner Johnson, Director Cook, and Mr. Morgan applied objective filters to the list of properties to determine how to group the parcels and decide which parcels to sell first. Filters included infrastructure, easements, and mapped landslides.
- As with any property in the city, including that at 29th and Irving with no access from Harrison Avenue, access to any property proposed to be developed would be paid for by the developer. This is not a public expense.
- The City of Astoria does not control the private cutting of trees within the UGB.
- Offers on the properties will be kept confidential until the public hearing. The names of potential buyers and amount offered for a property will be made public prior to the sale.
- No minimum price has been set on any of the properties; any fair offer would be considered and presented to City Council.
- Mike Morgan is the Mayor of Cannon Beach. Prior to serving as mayor, he began working as a land use planning consultant for cities in Tillamook County and Clatsop County. Mr. Morgan has worked for Astoria in varying capacities since the 1970s, doing grant writing, planning, and special projects.
 - Mr. Morgan reiterated that he has been employed by the City of Astoria since the mid-1970s. He appreciated Ms. Skinner's comment about Cannon Beach progressing. He noted one of the properties had sold, which was the house on 4th Street, but all the offers received so far on the nine properties are from adjacent property owners. In some cases, the offers were from property owners that have gone in together to share the property.
- Mayor Van Dusen assured that the City Council and Staff were not turning Astoria into Beaverton or trash the town.
- City Council's goal was to relieve the City of the expense of maintaining the properties and get them back on the tax rolls. There was never any discussion about watching the value of the properties to determine the appropriate time to sell them.

Mayor Van Dusen noted Councilor LaMear had raised issue with the property behind Ms. Remington's house and he suggested that property be removed from the properties listed for sale until more work is done on it. If he lived in Ms. Remington's house, he would have the same concerns as he had seen the view from her bathroom. He had not spoken to the Councilors, so he does not know if they agree, but supported not selling the long narrow property above Ms. Remington's home.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Mellin to remove the property at Irving from 35th to 38th Streets, from the list of properties for sale. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

Mayor Van Dusen invited further comment about the answers provided.

Mr. Farrar said he is concerned about why the City is selling the properties. He could understand if the City needed money, but based on the answers provided, he still did not understand why the City decided to sell any of the properties. He acknowledged that an answer was provided, but he did not think it was a good answer.

Mayor Van Dusen commended City Staff for being better organized at this meeting. He also thanked Ms. Skinner, adding that the maps made the presentation clear.

City Manager Benoit asked that City Council consider reaffirming the procedures Staff laid out that guide the process, working with Area Properties, notifying adjacent property owners, accepting offers, public hearings before City Council and whether Staff is to proceed with the initially identified parcels, which is now 36 properties based on the motion taking the Remington property off the list.

Councilor Herzig stated it was clear that the public did not want City Council to go forward with the process at this time and in this fashion. Selling these properties now would be directly opposed to the will of the public. He hopes the process is terminated, rather than postponed, and reconsidered with much more public input. This has generated a lot of interest and public feedback, which has all been in one direction [inaudible] which he believes should be taken very seriously.

Councilor Warr believed City Council is moving in the right direction. Any time a decision is made there will be those who disagree. He believes the sale of these properties was in the best interest of the City. Councilor Mellin agreed.

Councilor LaMear believed the PowerPoint presentation showed that the City has gone through a very open process and there have been many opportunities to speak about it. She was heartened by the fact that the nine offers have been received from adjacent homeowners, which is what Council hoped would happen. She supported the sale of excess City properties.

Councilor Herzig reiterated his disagreement, adding he believes Council must listen to the public regarding this issue. No compelling reasons have been demonstrated to override the will of the public. City Council is not serving the public or being good stewards of the properties. He believes going forward with this project at this time is a mistake.

Mayor Van Dusen said he planned to vote in favor of the motion. He disagrees with Councilor Herzig and believes City Council has listened to the public. Not everyone is happy, but changes have been made to the process in an effort to respond to concerns. The property behind Ms. Remington's house has been removed from the list, the notice to adjacent property owners was extended to four weeks, and a large parcel was reduced by about two-thirds. He originally favored selling the properties through an auction. However, he heard from the public that neighboring property owners were important to the process. City Council will never make everyone happy, but changes have been made in response to public feedback.

Councilor Warr clarified that a public hearing is part of this procedure. Sales are not final until the purchase price has been accepted at a public hearing, which allows the public to give input. Receiving offers does not mean a deal has been completed.

Mayor Van Dusen added that when offers are presented, the name of the person making the offer and the price offered will be made public.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to reaffirm the procedure and move forward with the process of selling excess City properties. Motion carried 4-1. Ayes: Councilors LaMear, Warr, Mellin, and Mayor Van Dusen; Nays: Herzig.

Item 8(f): ODOT Intergovernmental Agreement Amendment No. 1 – 19th Street and Irving Avenue Bridge Replacement (Public Works)

The Irving Avenue Bridge near 19th Street is a steel structure built in 1946. This bridge serves as part of an alternate route for State Highway 30 and provides access to downtown for residents on the east side of Astoria. The bridge is showing signs of significant deterioration and has required emergency repairs to keep it functional. On July 19, 2010, Council approved staff's request to enter into an Intergovernmental Agreement with ODOT to secure funding through the Highway Bridge Program (HBP) for the replacement of the 19th Street and Irving Avenue Bridge. The engineering contract was awarded to David Evans and Associates (DEA) and design is currently 60% complete. Construction is scheduled to begin in summer 2014. During design, it became apparent that the City waterline needs to be replaced as part of this project. This was not included in the original scope of work. DEA estimates that the design fee will be \$63,000 and construction \$165,000. Project cost will increase by \$228,000. The City will be responsible for 10.27% of this amount, or \$23,416. Amendment No. 1 also includes an additional \$10,000 for vegetation removal. This work will be done under a separate contract administered by City staff and completed before February 2014. Vegetation removal is eligible for reimbursement so the City will be responsible for 10.27% of the cost, or \$1,027.

The total additional project costs included in this amendment will increase the City's contribution to the project by \$24,444. It is recommended that Council authorize Amendment No. 1 to the Intergovernmental Agreement with ODOT for the 19th Street and Irving Avenue Bridge Replacement project to increase the total project cost by \$238,000.

Staff confirmed for Mayor Van Dusen that the estimated cost of a pedestrian right-of-way was \$300,000.

Councilor LaMear asked which fund the \$24,444 would come from. City Manager Benoit replied the project involved engineering and estimated construction costs, which would be confirmed when bids are received. The City has been using Service Transportation Program (STP) funds. Director Cook noted STP funds come from rebates of the State's fuel tax that are given to communities throughout the State on a per-capita basis. The City's rebate has been earmarked with Council's approval to be used to match the funds provided by ODOT. City

Manager Benoit said STP funds are allotted to the City annually. The State allows cities to bank those funds for future use, so future STP funds will be allocated to this project, which ODOT allows.

Councilor Herzig noted a sentence seemed to be missing at the bottom of Page 1 of the memorandum regarding the Migratory Bird Treaty Act. City Manager Benoit agreed. Cindy Moore, City Support Engineer, said she did not know what was missing in the memorandum, but explained that the Migratory Bird Treaty Act protects certain species of migratory birds and their nesting habitat. This effort is to remove habitat the birds may want to use in the future which would prevent the project from moving forward because the birds would have to be protected while they were nesting.

City Manager Benoit believed the missing language regarded the vegetation removal associated with this project would need to be conducted in November and February, which is when the birds are not nesting. Waiting until spring would interfere with nesting sites.

Councilor Herzig understood the remaining fragment indicated that the City will try to prevent the birds from nesting in the project disturbance area so their nests will not be disturbed, which involves removing vegetation prior to their nesting season to prevent them from nesting in the area. Ms. Moore said that was correct. She explained this matter is being presented at this time because Staff has a better grasp on the project schedule. It would have been included in the contract awarded to the contractor on this project; however, Staff does not believe a contractor would be working with the City until about June 2014.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Herzig, to authorize Amendment No. 1 to the Intergovernmental Agreement with ODOT for the 19th Street and Irving Avenue Bridge Replacement project to increase the total project cost by \$238,000. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

Item 8(g): Libraries ROCC, Rural Outreach to Clatsop County, Year 4 LSTA Grant Project Number 13-30-1p - Consideration of Contract with RMA, Ruth Metz Associates (Library)

The Astoria and the Seaside public libraries have been cooperating in an LSTA (Library Services and Technology Act) grant since 2010. Libraries ROCC is designed to extend library services to the children of Clatsop County, which is unnerved by tax supported library services. A fourth year of grant funding to extend this work through June 30, 2014 has been awarded and accepted by Council. The contract with Ruth Metz Associates, RMA, is to provide needed administrative and planning services. Staff believes it to be in the best interests of the City to exempt this contract from the standard competitive bid process and directly appoint RMA. Findings of facts are provided. It is recommended that Council adopt the findings that authorize the direct appointment process and, if findings are adopted, award a contract with Ruth Metz Associates not to exceed \$50,300.

Councilor LaMear stated she has worked with Ruth Metz and Associates on several different projects and she supported this contract.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Warr to adopt the findings that authorize the direct appointment process and award a contract with Ruth Metz Associates not to exceed \$50,300. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin, and Mayor Van Dusen; Nays: None.

NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS

Bob Goldberg, 3741 Harrison, Astoria, said he is concerned about the vegetation removal around the 19th Street Bridge. It would be nice if the plan for the vegetation removal could be posted, especially since it regards the habitat of migratory birds. He noted that Staff's picture showed all of the vegetation currently in place on both sides of the bridge. In order to build the bridge, all of that vegetation would have to be removed, which is why the cost is \$20,000. He believed the photo was misleading, unless there was a way to grow trees back within one year. He suggested City Council approve funds for a replanting project to replace the existing evergreen and Alder trees and restore and improve the vegetation to provide more migratory bird habitat and better aesthetics. It appears as if no vegetation would remain after the project is complete. Such a project would cost extra money, probably the same amount needed to remove the vegetation. He would like to see this approved at a future City

Council meeting. He also noted that many people use the Irving Avenue corridor for walking and commuting. Failing to provide a route from the east end of town to the west, and vice versa for a year, is unacceptable. He proposed that City Council work with adjacent landowners and other interested parties, including himself, to provide a way for pedestrians to get around the construction for a year. He understood cars may not be able to have access, but the detour route takes no more than five minutes by car. Motor vehicles do not have to worry about going up and down hills like pedestrians.

Mayor Van Dusen noted this bridge has been discussed at three or four City Council meetings already. He noted that he also lives on Irving Street and advocated strongly for the pedestrian right-of-way, but City Council decided \$300,000 was unaffordable. Mr. Goldberg replied he would do it without City Council, because there had to be a way to get around.

Dolores Skillstad, 2314 SE Front St, Williamsport, noted that the sports center will involve the migratory birds. [Inaudible] used to live there and should still be there. She asked if an Environmental Impact Study was ever done and what the findings of the study revealed. [Inaudible] different locations. At that time migratory birds were very important and the environmental studies prevented a bypass from being built. [Inaudible] She asked about Mayor Van Dusen having a conflict of interest regarding the 17th Street parcel/project because his property slides, too. She asked if the property removed from the City's sale was also slide area.

Mayor Van Dusen replied that he did not have a conflict of interest. The piece of land that was removed from the City's sale was located at 35th and 38th Streets and was not next to his house, but almost 20 blocks away.

Ms. Skillstad said all of that land was sliding on both sides of the hill. The area where Pipeline Road used to be also slides. With all the work being done on Niagara Avenue, it has to be constantly filled. And that would be part of the [inaudible] sports center. She received a map in the mail of the slide areas. Her house cannot be found on the Geographical Information System (GIS). The surveys are wrong and show a stream running through her property. Many things need to be corrected. The flood zone map and City maps are incorrect. Surveys are being completed and accepted and the problem perpetuates. The migratory birds are suffering. She believes these issues needed to be resolved.

Councilor Herzig thanked Staff for their work on the visual aids which made this meeting more public friendly. He believed it made a big difference for everyone.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:31 p.m.

ATTEST:

APPROVED:

Finance Director


City Manager



MEMORANDUM

DATE: DECEMBER 5, 2013

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: LEASE AGREEMENT WITH THE ASTORIA SENIOR CENTER

DISCUSSION

The Astoria Senior Center, a 501(C)(3) foundation, currently leases space from the City of Astoria located at 1111 Exchange Street. However, this facility will be undergoing renovations beginning in February 2014. This requires that the Astoria Senior Center temporarily relocate.

The Parks and Recreation Department currently has unused space located in the east portion of Astoria Yacht Club, located at 1555 Marine Drive.

Therefore, the Parks and Recreation Department would like to lease this space to the Astoria Senior Center at no cost. Given that the Astoria Senior Center currently has a facility lease agreement with the City of Astoria, the Parks and Recreation Department would like to continue the conditions of this current lease to the lease of the Astoria Yacht Club causing no additional financial impact to the City of Astoria or the Astoria Senior Center.

RECOMMENDATION

Due to the current vacancy of the Astoria Yacht Club and needed relocation of the Senior Center, staff is recommending the approval of this Lease Agreement.

By: 
Angela Cosby
Director of Parks & Recreation

LEASE AGREEMENT

This Lease, made in duplicate at Astoria, Oregon on the _____ day of _____, 2013 by and between the City of Astoria hereinafter referred to as CITY; and the Astoria Senior Center, Inc., a not for profit corporation, hereinafter referred to as LESSEE;

WITNESSETH:

That in consideration of the covenants, agreements and stipulations herein contained, the CITY does hereby lease unto the LESSEE, that certain building and premises, known as the Astoria Yacht Club, located at 1555 Marine Drive, Astoria, Oregon, under the following terms and conditions.

The CITY will:

1. Provide water service and weekly Western Oregon Waste garbage pickup.
2. Provide natural gas for heating not to exceed \$1,850 annually.
3. Allow the LESSEE use of the east end of the building illustrated in attachment A.
4. Charge no rent for LESSEE use of the property.
5. Retain authority to use portions of the building for other City purposes, including premises being used by LESSEE.
6. Provide parking.
7. Have access to the property at all reasonable times for inspection, maintenance and other purposes.
8. Reserve the right to terminate the lease at any time at its sole discretion upon providing to LESSEE sixty (60) days written notice in advance of the date of termination.
9. Provide an insurance policy which will cover the structure from damage which may occur by fire.

The LESSEE will:

1. Be responsible for opening and closing of building.
2. Provide weekly cleaning service, including cleaning of restrooms and floors.

3. Provide the name of a responsible person as police contact should the building be left unsecured or other problems arise needing police attention.
4. Be responsible for all electricity costs. The account will be in the name of the lessee.
5. Reimburse the City for all heating costs beyond \$1,850 annually.
6. Provide toilet paper, paper towels, and florescent tubes for light fixtures.
7. Provide all programming resources, including staffing, refreshments, materials and other program costs.
8. Be responsible for all costs related to hired employees, including but not limited to paying minimum wages, taxes and workers compensation.
9. Provide all decorations and program supplies.
10. During normal hours of operation, provide access to City parks crews and any party with City authorization to use any portion of the building.
11. Not sublease any portion of the building.
12. May not store rummage, chemicals, junk, rubbish, personal items or any other items which may present a fire, health or safety hazard.
13. Make no alteration to the building or premises without written authority of the City.
14. Submit an application for property tax exemption and all required documentation to Clatsop County, as required to continue exemption.
15. The LESSEE shall secure at its expense and keep in effect during the term of the contract, a commercial general liability policy on an occurrence form basis. There shall be a combined single limit of \$1,000,000 per occurrence.

As evidence of the insurance coverage required by this contract and prior to execution or performance of any activities under this agreement, the LESSEE shall furnish a certificate of insurance to the CITY. The certificate will name the CITY, its officers, employees and agents as an insured for the duration of the lease and will indicate the deductible amounts, what endorsements are included and what exclusions are removed from the policies.

Insurance policies required in this agreement shall be endorsed to require insurer to give at least thirty (30) days prior written notice to the CITY of any cancellation, material changes or intent not to renew of such insurance policies.

The CITY and LESSEE waive all rights of subrogation against each other for damage caused by fire or other perils to the extent covered by insurance.

16. Indemnify, defend and hold harmless the CITY from all liability resulting from use of the building, including attorney fees and costs incurred by CITY in representing its interest.
17. Be responsible for maintenance of all equipment and property, including but not limited to pool tables, kiln, coffee units, refrigerators and exhibits.
18. Protect, maintain and keep the facility neat and in good order at all times.
19. Have all garbage and recyclable materials removed from property each week.
20. Be authorized to conduct fundraisers to obtain money for operation of the Center.
21. Report any vandalism, damage, injury or unusual occurrence to the Parks and Recreation Department. Such reports shall be provided within 24 hours of occurrence.

It is mutually understood and agreed that any improvements made to the building in any form, whether real property or personal property or fixtures, shall, upon termination of the lease, be the property of the CITY.

This lease is effective for January 1st, 2014 for twelve (12) months and may be amended by mutual consent of both parties.

IN WITNESS WHEREOF, the respective parties have executed this instrument the day and year first herein above written, in duplicate.

CITY OF ASTORIA, OREGON

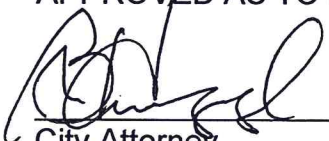
ASTORIA SENIOR CENTER, INC.

Willis L. Van Dusen, Mayor

By: _____
Title: _____

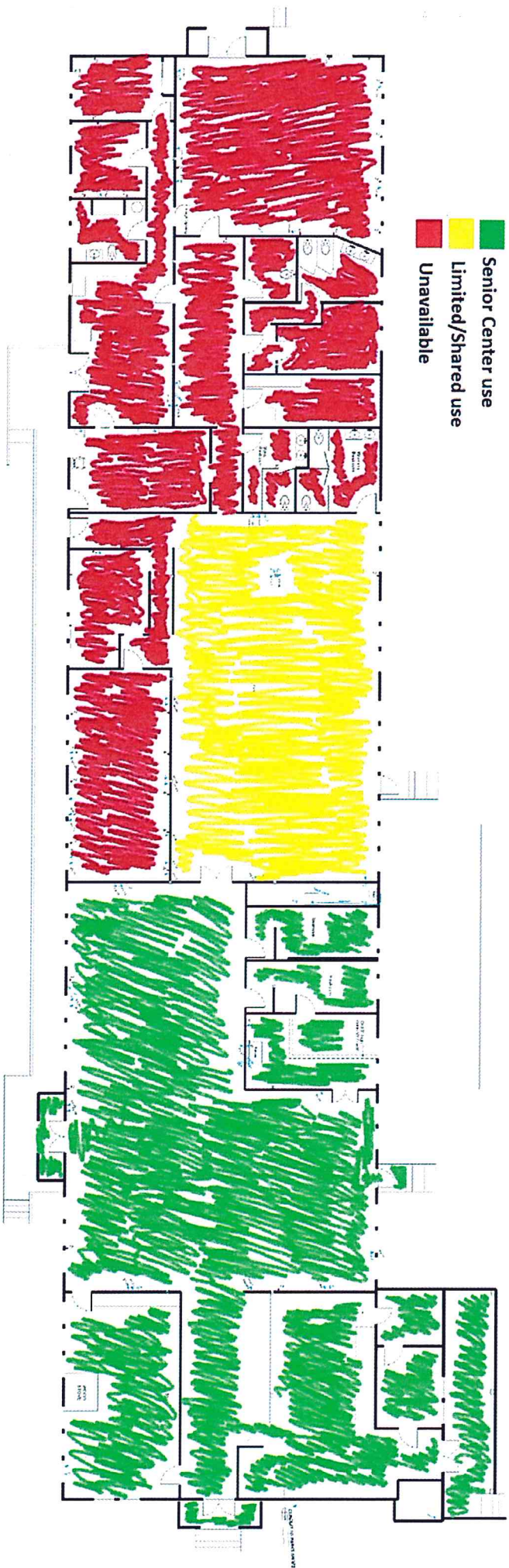
Paul Benoit, City Manager

APPROVED AS TO FORM:



City Attorney

- Senior Center use
- Limited/Shared use
- Unavailable






MEMORANDUM

DATE: DECEMBER 5, 2013

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: PROPOSAL TO SURPLUS EXCESS FURNITURE & EQUIPMENT
TO THE ASTORIA SENIOR CENTER

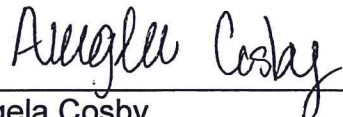
DISCUSSION/ANALYSIS

The City of Astoria has a large volume of excess furniture and equipment stored at the Yacht Club. The excess material consists of chairs, tables, desks, shelves, and lights, among other things. With the Senior Center temporarily relocating to the Yacht Club and given their need to raise additional funds to acquire new furnishings for their soon to be renovated facility, I would propose that the surplus property be donated to the Astoria Senior Center, a non-profit 501(c)(3) foundation.

Larry Miller, Executive Director of the Astoria Senior Center is enthusiastic about the prospect and feels that while housed at the Yacht Club the Center membership will have opportunity to sort through the material and set up sales events. As a condition of the donation of surplus City property, the Senior Center has agreed to ensure that all property is removed from the Yacht Club by the date of their relocation back to the renovated Center on Exchange Street.


RECOMMENDATION

It is recommended that the Mayor and Council consider approving the donation of surplus City property to the Astoria Senior Center.

By: 
Angela Cosby
Director of Parks & Recreation



MEMORANDUM

DATE: DECEMBER 4, 2013
TO: MAYOR AND CITY COUNCIL
FROM:  PAUL BENOIT, CITY MANAGER
SUBJECT: DISCOUNT FOR CHILDCARE SERVICES

DISCUSSION/ANALYSIS


The Astoria Parks and Recreation Department provides childcare services for youth ages six weeks through fifth grade. These programs include infant care, toddler care, preschool care, and kindergarten care provided at our Lil' Sprouts Academy and elementary school age care provided at the Astoria Recreation Center.

While our childcare services continue to grow, the Astoria Parks and Recreation Department is looking to increase participation in these programs. Thus, the Department would like to offer a discount of 20% to employees of businesses whose employees register a minimum of 30 children full-time in our childcare programs.

Currently, Columbia Memorial Hospital is interested in this agreement. Please see attached letter.

RECOMMENDATION

Given the opportunity to increase participation and generate additional revenue, staff is recommending this discount in childcare services.

By: 
Angela Cosby
Director of Parks & Recreation

December 4, 2013

Erik Thorsen
Columbia Memorial Hospital
2111 Exchange Street
Astoria, OR 97103
(503) 325-4321

Dear Mr. Thorsen:

Astoria Parks and Recreation Department is pleased to provide childcare services to Columbia Memorial Hospital employees. This letter serves to document our agreement.

Astoria Parks and Recreation agrees to provide regular childcare services at a 20% discount from our normal rates. Columbia Memorial Hospital agrees to enroll a minimum of 30 children full-time in childcare programs offered through the City of Astoria Parks and Recreation Department.

Each month the City will provide the Hospital with a detailed invoiced listing the charge for each participating employee. The Hospital will provide payment within 10 days of invoice.

Either party may terminate this agreement at any time given 30 days written notice of termination. Astoria Parks and Recreation shall be entitled to payment for all services rendered prior to the date of such termination.

If this letter accurately states our agreement, please sign both copies. Return one to me and keep one for your records.

Sincerely,

THE CITY OF ASTORIA

Angela Cosby
Director of Parks and Recreation

Columbia Memorial Hospital

By: _____

Date: _____

Astoria Parks and Recreation

By: _____


Date: _____



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

December 4, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM:  PAUL BENOIT, CITY MANAGER
SUBJECT: **AUTHORIZATION FOR PICKUP PURCHASE**

DISCUSSION/ANALYSIS


The Public Works Department has requested quotes for the purchase of a Ford F-350 4x4 pickup to be used in the winter to apply de-icer (that would free up our small sander/plow combination) and for an alternate vehicle when one of our front line vehicles are in for maintenance.



Request for quotes went out to local dealers and to Landmark Ford of Tigard (state purchasing contract). The results are as follows:

Lum's Auto	\$28,023
Ocean Crest	\$25,090
Landmark Ford	\$24,161.50
Astoria Ford	nonresponsive
Vince Williams	nonresponsive

RECOMMENDATION

It is recommended Council approve the purchase of one Ford F-350 4x4 pickup from Landmark Ford for \$24,161.50. There are funds allocated for this purchase in the Public Works Improvement Fund.

Submitted By: 
Ken P. Cook, Public Works Director

Prepared By:  
Ken B. Nelson, Public Works Superintendent



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

December 9, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: AUTHORIZATION TO ENTER INTO "FOUR PARTY AGREEMENT" RELATING TO THE DEVELOPMENT OF A NEW COMMUNITY SPORTS COMPLEX, CLOSURE OF THE CITY LANDFILL IN COMPLIANCE WITH ENVIRONMENTAL REGULATIONS, AND TRANSFER OF JOHN WARREN FIELD TO COLUMBIA MEMORIAL HOSPITAL TO FACILITATE CAMPUS REDEVELOPMENT AND EXPANSION OF MEDICAL SERVICES

DISCUSSION/ANALYSIS

At the July 1, 2013 City Council meeting, a draft "Four Party Agreement" was approved. The agreement set the framework for the City's participation in the redevelopment of the former landfill site. This action was taken in support of the transfer of John Warren Field to Columbia Memorial Hospital (CMH) ownership and the redevelopment of the landfill site into a sports complex for the Astoria School District. For consideration at this meeting is the final draft version of the Four Party Agreement, with all project elements, associated costs, and responsibilities identified. The partnership articulated in this Four Party Agreement allows for the accomplishment of the following projects, all carrying significant community benefit:

- Columbia Memorial Hospital services are expanding, particularly given the partnership that has been forged with Oregon Health Sciences University. With new services and aging facilities, CMH requires land to support expansion. The only available option for supplying such land area is acquisition of the adjacent John Warren Field, owned by Astoria School District and used as Astoria High School's football complex. To acquire the site CMH, as detailed in the attached Agreement, is developing a new sports complex that will support multiple sports and community activities.
- The City of Astoria owns significant acreage located at Williamsport Road. The property supports the waste transfer operations of Recology/Western Oregon Waste Inc., and is the site of the City's former landfill. The area was identified as ideal for location and development of the proposed Sports Complex. The City has been under order by the Oregon Department of Environmental Quality (DEQ) to meet regulatory landfill closure requirements to assure that any potential adverse effects associated with former landfill use are contained and monitored. Working with DEQ and project partners, the Sports Complex development is being designed and sited so as to fully satisfy regulatory closure requirements. Satisfaction of the City's closure obligations through development of the Sports Complex not only results in significant financial savings to the City, but returns what would have been a "brownfield" supporting no beneficial use, to a "greenfield" providing broad community benefit.

- Recology / Western Oregon Waste Inc., whose Transfer Station and recycling facilities are located on a portion of the former landfill site, will benefit by having a new paved access road constructed, a new water system with enhanced capacity, and opportunity to connect to the City sewer system.
- Astoria School District will gain ownership and control of a new, all-weather sports complex which will support multiple sports, co-curricular, and community activities. This results in a significant enhancement to the District and the community as John Warren Field supports only the football program and, for the most part, is unavailable for other sports and activities.
- The City of Astoria, in addition to gaining regulatory closure of the former landfill, is gaining a cleared and graded site, adjacent to the Sports Complex, sufficient to support a possible future relocation of the City Public Works operations from the banks of the Columbia River. This will allow consideration of opportunities for in-fill development and more beneficial use of land fronting on both the River and Highway 30.

In addition to setting forth the parameters that would guide and control project activities to achieve the benefits noted above, the Four-Party Agreement, after months of diligent discussion and planning, formalizes the construction and the cost sharing required to accomplish both the regulatory closure of the landfill and development of the Sports Complex. The financial cooperation between the partners is detailed in Exhibit 10 of the attached Four-Party Agreement. The City share of the costs relates to certain project elements associated with issues specific to the former landfill and with road and utility improvements that have benefits serving needs and opportunities over and above the Sports Complex. The Public Works Department and City engineering staff have thoroughly vetted the cost projections and cost-sharing formula and have concluded the estimated costs to be both fair and reasonable. Such costs have been rounded and are as follows:

Landfill Closure – Construction of the Sports Complex requires that a special membrane be laid over the site, beneath the artificial turf, together with a piping system to contain and control any methane gas release associated with the former landfill. The project will also require installation of a methane gas detection system. But for the former use of the site as a landfill by the City, such measures would not be necessary. For this reason, the costs associated with installation of these protective measures are reasonably assigned to the City. The estimated cost for this work is \$274,000.

Capping of the Garbage Area West of the Access Road – as a condition of the DEQ mandated closure plan the City must cap the garbage area located to the west of the access road. The garbage area to the east of the access road has been capped by CMH by fill material placed during last year's site work for the Sports Complex. The approximate cost for this earth work is \$36,000.

Site Access and Williamsport Road Improvements – the access to entire the site will be made safer and more operable by widening the access road, creating a gentler grade, and paving it. A point of land on the west side of Williamsport Road and slightly uphill from the access road obstructs sight distance for drivers and, with the anticipated increase in traffic, would be a hazard to traffic and pedestrian safety. For this reason, the bank will be cut back, dramatically improving driver sight distance. The approximate City share for this work is \$36,000.

Utility Improvements – the City will be sharing in a third of the costs for utility (water, sewer, and storm drain) improvements that will provide service for the future Public Works Yard site on the property. The approximate city share for this work is \$162,000.

Design, Permit, Overhead Costs and Contingency – The City share for these ancillary costs totals approximately \$63,000.

The City's financial contribution to the project, inclusive of contingency, totals \$571,542 which will be proposed to be funded by both Public Works Improvement Fund (PWIF) (46% share) and the balance (54%) from the revenue associated with the land lease agreement with Recology/Western Oregon Waste for operation at the transfer station and with the Recology/Western Oregon Waste Franchise agreement for waste disposal. Currently, staff is working with several state agencies exploring the possibilities of obtaining a combination of grants and low interest loans to fund the City's share of the project over a 5 year period from the sources mentioned above.

RECOMMENDATION

It is recommended that the Council authorize the Mayor to sign the Four- Party Agreement.

Submitted By

A handwritten signature in blue ink, appearing to read "Ken P. Cook", is written over a horizontal line.

Ken P. Cook, Public Works Director

FOUR PARTY AGREEMENT

This Four Party Agreement ("Agreement") is dated this ____ day of December, 2013 ("Execution Date", and "Effective Date", which shall be the date this Agreement has been executed by all four Parties) among the following Parties (each a "Party" and collectively the "Parties"):

1. Columbia Lutheran Charities, dba Columbia Memorial Hospital, an Oregon nonprofit, public benefit, charitable corporation ("CMH").
2. Astoria School District 1C, an Oregon school district ("School District").
3. City of Astoria, an Oregon municipal corporation ("City").
4. Recology Western Oregon, Inc., formerly known as Western Oregon Waste, Inc., an Oregon business corporation ("WOW").
5. Astor-East Urban Renewal Area, a public body corporate and politic of the City of Astoria, as provided in ORS 457.035(1).

RECITALS:

- A. CMH owns and operates a critical access hospital located at 2111 Exchange St., Astoria, Oregon 97103. CMH has a need to expand and upgrade its hospital facilities for the benefit of the community it serves.
- B. The School District owns an athletic facility known as John Warren Field (formerly known as Gyro Field). In addition, the School District owns a bus barn facility ("Bus Barn Property") adjacent to John Warren Field. John Warren Field and the Bus Barn Property are subject to a reversion to the City. In addition, the Astor-East Urban Renewal Area, also known as the Astor-East Urban Renewal District, owns Parcel 10 which is legally described on Exhibit 15 to this Agreement. A house is located on Parcel 10. The Astoria City Council serves as the board of directors of, and controls, the Astor-East Urban Renewal Area. As a material part of this Agreement, the City, acting through the Astoria City Council, agrees to cause the Astor East Urban Renewal Area to convey, free and clear of all liens and encumbrances, Parcel 10 to CMH upon satisfactory completion of the Athletic Facility by CMH and its contractors.
- C. The City owns underutilized real property off of Williamsport Road, formerly used as the City Dump, which has an address of 1800 Williamsport Road, which needs to be closed in accordance with Oregon Department of Environmental Quality ("DEQ") regulations. A portion of this property will be transferred to the School District for use as a new athletic facility (the "Field Site"). The process of closure will require the City to develop a Closure Plan addressing capping the former dump site (including the Field Site), construction upon the Field Site as provided in this Agreement, and future maintenance and monitoring of the cap on the former dump site.

- D. Recology Western Oregon, Inc. ("WOW") operates a waste transfer station at 1790 Williamsport Road in Astoria, Oregon and desires to upgrade such waste transfer station facility, including sewer connections and improved access and visibility.
- E. CMH is willing to develop the Field Site as a new all weather, multi-use athletic facility ("Athletic Facility") for the School District in exchange for free and clear title to the John Warren Field property, the Bus Barn Property, and Parcel 10.
- F. The School District, the City and WOW all agree that the Field Site is a good location for a new all weather, multi-use athletic facility and that the improvements required for that facility will be mutually beneficial. All Parties additionally agree that the waste transfer station and all existing and reasonable hazards (noise, odor, avian, etc.) and impacts associated with its current and future operations will not have an adverse impact on the Athletic Facility or its users.
- G. In exchange for, and upon satisfactory completion of, the Athletic Facility by CMH and its contractors, (1) the City and the School District will convey to CMH free and clear title to John Warren Field and the Bus Barn Property, (2) the City will cause Astor-East Urban Renewal Area to convey Parcel 10 to CMH, and (3) the City will convey the Field Site to the School District subject to potential deed restrictions required by DEQ in the process of closing the former dump site, all as provided in this Agreement.
- H. The expansion of CMH will be on the John Warren Field property, the Bus Barn Property, and Parcel 10, after the completion of the Athletic Facility by CMH and its contractors and the conveyance of John Warren Field, the Bus Barn Property, and Parcel 10 to CMH as provided in this Agreement.

NOW THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. Recitals. The recitals set forth above are true and are hereby incorporated into this Agreement as a material and substantive part of this Agreement.
2. Public Improvement Contract. The development and construction of the Athletic Facility will constitute a "public improvement" under ORS 279A.010(1)(cc). The contract to develop and construct the Athletic Facility will be a "public contract" in ORS 279A.010(1)(z), and a "public improvement contract" in ORS 279A.010(1)(dd). The School District, acting through its board of directors as the local contact review board, intends to exempt the public improvement contract to develop and construct the Athletic Facility from the competitive bidding requirements through the process in ORS 279C.335(2). The School District intends to award and shall award the public improvement contract to develop and construct the Athletic Facility to CMH through the exemption process in ORS 279.335(2). The School District held a public hearing on June 12, 2013 as provided in ORS 279.335(5).
3. Development and Construction of the Athletic Facility. CMH is licensed by the Oregon Construction Contractors Board ("CCB") as a developer. At such time as CMH is awarded the public improvement contract to develop and construct the Athletic Facility by the School District, CMH will enter into a construction contract ("Construction Contract") with an experienced and duly licensed general contractor ("General Contractor") to construct the Athletic

Facility at the Field Site. CMH will promptly notify the School District and the City of the Construction Contract, and will provide a copy of the Construction Contract to the School District and the City.

4. Design of Athletic Facility. CMH, at its cost and expense, will contract with a licensed architect or architects to design the Athletic Facility. The architectural plans and design of the Athletic Facility shall conform to requirements of the City's Closure Plan and are subject to the approval of the School District, which approval shall not be unreasonably withheld. The School District agrees to work cooperatively with CMH and CMH's architects and the General Contractor with respect to the design and construction of the Athletic Facility.

5. Development and Construction of Athletic Facility. CMH agrees that it will be responsible for paying the cost of the construction of the Athletic Facility, which shall include the price of the Construction Contract between CMH and the General Contractor, the architects, and civil engineers. CMH has budgeted approximately \$7.1 million to build the Athletic Facility. CMH, the City, and the School District reasonably estimate that the value of the public land comprised of John Warren Field, the Bus Barn Property, and Parcel 10 to be conveyed by the School District and the City to CMH in exchange for and upon completion of the Athletic Facility is \$7.1 million.

6. Access to Field Site. Authorized representatives of the City and the School District shall have a right of access to the Athletic Facility during construction, as long as such access will not interfere with the construction and the work by the General Contractor and any subcontractors.

7. Warranty Matters.

7.1 CMH will cause the General Contractor to warrant that the Athletic Facility will comply with the Closure Plan and be of good quality and workmanship and will be fit for the intended purposes of being an athletic facility for high school sports and pageants, and that the Athletic Facility will conform to the requirements set forth in the Construction Contract. CMH will also cause the Construction Contract to provide that latent defects, omissions or commissions constituting a breach of the warranties of the Construction Contract will not be deemed waived by the School District's and the City's acceptance of the Athletic Facility and that the General Contractor's warranty shall extend to the time of discovery of any such breach notwithstanding any prior inspection by the School District or the City. CMH will cause the Construction Contract to provide for the assignment of the warranty of the General Contractor to the City and the School District. CMH shall not be liable to the City, the School District, WOW, or any other person or entity for breach of any warranty, whether by the General Contractor in the Construction Contract or otherwise.

7.2 CMH will cause the Construction Contract to provide that the General Contractor will remedy any defects in the completed Athletic Facility due to faulty workmanship or materials (including by General Contractor's subcontractors and material men) which may appear within a period of two (2) years from the date of final completion of the Athletic Facility. If the warranty supplied by the manufacturer and/or supplier of the artificial turf exceeds two (2) years, the General Contractor agrees to extend that warranty to the School District for the full term of any such warranty. The City and the School District shall give the General

Contractor written notice of observed defects with reasonable promptness, and shall provide CMH with a copy of any such written notice. CMH shall not be liable for any such defects.

7.3 CMH will cause the Construction Contract to provide that the General Contractor will further warrant and guarantee that title to the Athletic Facility will pass to the City and/or the School District, as their respective interests appear, free and clear of all liens, claims, security interests or encumbrances (herein after referred to as Liens). CMH shall not be liable for the warranty and guarantee in this Section 7.3.

7.4 CMH will cause the Construction Contract to provide that the General Contractor will provide a performance and payment bond in the amount of the Construction Contract and CMH will use its best efforts to have the bond include the School District as an obligee under the bond.

7.5 CMH will use its best efforts to cause the General Contractor's Certificates of Insurance to include the School District, the Superintendent, the School Board and Recology Western Oregon, Inc as additional insureds.

8. Liability. CMH will cause the Construction Contract to provide that the General Contractor will indemnify, defend, and hold harmless the School District, WOW, and the City from and against claims, damages, losses and expenses arising out of or resulting from the performance of the work in constructing the Athletic Facility. CMH shall not be liable to the City, the School District, or any other person or entity for any such claims.
9. Existing Landfill; Field Site. The former City Dump stopped receiving deliveries of solid waste in 1986. The City is responsible to close the landfill in compliance with the terms of a DEQ Solid Waste Closure Permit or Consent Decree. The City shall retain responsibility to maintain and monitor the site following construction of the Athletic Facility. CMH and School District agree to work cooperatively with the City in the City's efforts to ensure that the former landfill is closed pursuant to and the property is developed and used consistently with the DEQ Solid Waste Closure Permit or Consent Decree. CMH and School District warrant that they will not use any portion of the former landfill site, including the Athletic Facility and Field Site, in violation of the City's Closure Plan or any DEQ rule or regulation, including the DEQ Solid Waste Closure Permit or Consent Decree approving City's closure of the Landfill. School District and CMH shall also ensure that all transferees, agents, contractors and permitted users of the Athletic Facility and Field Site are aware of and assume this obligation of compliance. Except for costs and expenses resulting from the intentional or negligent acts of CMH or School District their transferees, agents, contractors or permitted users, including any failure to comply with this Agreement, the City agrees to indemnify and hold CMH and School District harmless from the requirements of the DEQ Solid Waste Closure Permit or Consent Decree.
10. Equitable Cost Sharing. There are certain project elements which are over and above (i.e., separate and distinct from) costs in connection with the construction of the Athletic Facility in Section 5 above. Attached as Exhibit 10 is a table of such project elements ("Separate Project Costs"). The City, CMH, and WOW agree to equitably share in paying for such Separate Project Costs as set forth in Exhibit 10. WOW has limited funding for the project that cannot exceed \$175,000 for the summation of all projects listed within Exhibit 10. Any

aggregated costs in excess of \$175,000 assigned to WOW under the agreed equitable cost sharing methodologies detailed within Exhibit 10 will be waived as a liability of WOW and be subsequently assigned to the City and CMH for payment. The City and CMH will then negotiate an equitable sharing between them for payment of any such costs in excess of \$175,000.

11. Access and Use of Adjacent Site. The City currently leases to WOW certain property at 1790 Williamsport Road ("Adjacent Site"). The City shall have full access to, non-interference with respect to, and use of the Adjacent Site cleared for possible relocation of the City Shops and continued operation and possible expansion of the waste hauling operations of WOW.
12. Public Access and Use. The Athletic Facility will be owned and controlled by the School District. The Athletic Facility shall be open to reasonable public access and use, with a goal of maximizing opportunities for the citizens of Astoria and patrons of the School District to benefit from the substantial public investment in this all-weather complex. With the above referenced goal in mind, access and usage rules shall be established by the School District, with opportunity for review and comment by the City of Astoria. It is anticipated and agreed that the School District shall generate a fee schedule for use of the Athletic Facility. Fees collected shall be dedicated to fund long term maintenance and replacement needs of the Athletic Facility.
13. Obligations of WOW. In addition to WOW's other obligations in this Agreement (e.g., Section 10), WOW agrees to cooperate in the design and implementation of a plan to develop the road and sewer to the Field Site.
14. Maintenance Responsibility. The School District shall be responsible for the cost of continuously maintaining and repairing the Athletic Facility in first class condition, including without limitation replacing the artificial turf, grandstands, and other improvements as necessary and appropriate. In addition, the School District shall be responsible for the cost of janitorial services with respect to the Athletic Facility.
15. Legal Descriptions.
 - 15.1 John Warren Field and Bus Barn Property. John Warren Field and the Bus Barn Property are collectively legally described as Parcels 11 through 19 on Exhibit 15. Parcel 10 on Exhibit 15 legally describes the real property owned by Astor-East Urban Renewal Area, which is controlled by a board of directors consisting of the Astoria City Council. John Warren Field, the Bus Barn Property, and Parcel 10 are sometimes collectively referred to in Exhibit 22 as the Section 15.1 Property. For purposes of clarity with respect to this Agreement, the Bus Barn Property is described by Parcels 15 and 17 on Exhibit 15.
 - 15.2 Field Site. The Field Site is legally described as Parcels 20 and 21 on Exhibit 15.
 - 15.3 House. Parcel 10 is legally described on Exhibit 15. A house is currently located on Parcel 10.

16. Conveyances.

16.1 John Warren Field and Bus Barn Property. Upon satisfactory completion of construction of the Athletic Facility by CMH and its contractor, the City and the School District shall convey to CMH (1) fee simple title by a statutory warranty deed to John Warren Field and (2) fee simple title by a bargain and sale deed to the Bus Barn Property and facility, each deed to be free and clear of all liens, encumbrances, and reversionary interests, but which may be subject to recorded easements for public utilities and the support and maintenance of adjacent public streets. The aforescribed conveyances shall be free of any reversion to the City, School District, or any other person or entity. CMH will be responsible for the cost of remediation of environmental conditions on the Bus Barn Property.

16.2 Field Site. Upon satisfactory completion of construction of the Athletic Facility by CMH and its contractors, the City will convey to the School District that portion of the Field Site upon which the Athletic Facility is located, which portion shall be agreed upon by the City and the School District. The aforescribed conveyance shall be subject to a reversion to the City in the event that the property is no longer used for athletic and recreational purposes and for the holding of public or semi-public pageants, shows and similar activities. The City shall retain the remaining portion of the Field Site (referred to above as the "adjacent site") as a possible site for relocation of the City Shops.

16.3 House. Upon satisfactory completion of construction of the Athletic Facility by CMH and its contractors, the City will cause the Astor-East Urban Renewal Area to convey to CMH fee simple title to Parcel 10 by a statutory warranty deed, free and clear of all liens, encumbrances, and any reversionary interests, but which may be subject to recorded assessments for public utilities and the support and maintenance of adjacent public streets. The aforescribed conveyance shall be free of any reversion to the City, School District, the Astor-East Urban Renewal Area, or any other person or entity.

16.4 Satisfactory Completion of Construction. The term "satisfactory completion of construction" of the Athletic Facility shall mean that the General Contractor has completed the construction of the Athletic Facility in accordance with the Construction Contract which will incorporate by reference the architectural plans and design approved by the School District as provided in Section 4.

17. Relationship of the Parties; Independent Contractors. Each Party is acting solely as an independent contractor and has the full right and authority to enter into this Agreement and to perform its respective obligations in this Agreement. Nothing in this Agreement is intended nor shall be construed to create an employment, partnership, or joint venture relationship among or between any one or more of the Parties, with any other Party or Parties.

18. Exchange. The payments (i.e., the costs incurred) by CMH in constructing the Athletic Facility at the Field Site will be deemed to be payments by CMH for the purchase price of John Warren Field, the Bus Barn Property and facility, and Parcel 10. More specifically, the purchase price (the "Purchase Price") to be paid by CMH to acquire John Warren Field and the Bus Barn Property and facility, and Parcel 10 through the exchange described in this Section 18 shall consist of the payments made by CMH or the amount CMH

spends in constructing the Athletic Facility at the Field Site in exchange for the conveyance of John Warren Field, the Bus Barn Property and facility, and Parcel 10. Upon satisfactory completion of construction of the Athletic Facility at the Field Site, CMH shall have the absolute right to a court order for specific performance of the obligation of the City and the School District to convey fee simple title to John Warren Field, the Bus Barn Property and facility, and Parcel 10 to CMH as described in Sections 16.1 and 16.3, it being understood and agreed among the Parties that CMH will not have an adequate remedy at law.

19. Condition Precedent. This Agreement is subject to CMH's approval of title, area and condition of John Warren Field, the Bus Barn Property and facility, Parcel 10, and the cost of the approved design for the Athletic Facility.

20. Public Purpose. All Parties agree that the development of the Field Site by CMH pursuant to plans and a design approved by the School District in exchange for CMH's acquisition of fee simple title to John Warren Field, the Bus Barn Property and facility, and Parcel 10 is for public purposes and is in the public interest because it will enable CMH to engage in necessary expansion and upgrading of its hospital facilities for the benefit of the community, it will provide the School District with a new, all weather, multi-use athletic facility, and it will enable the City of Astoria to make efficient use of underutilized real property.

21. Mutual Cooperation. The Parties to this Agreement agree to cooperate in a mutual endeavor to achieve the goals described herein.

22. Additional Agreements of the School District, the City and CMH Relating to the Conveyance of Real Property and Other Matters. Attached as Exhibit 22 are additional agreements of the School District, the City and CMH related to (1) the conveyance by the School District and the City to CMH of John Warren Field, the Bus Barn Property, and Parcel 10 as described in Sections 16.1 and 16.3, and (2) the conveyance by the City to the School District of that portion of the Field Site upon which the Athletic Facility is located, as provided in Section 16.2. The agreements, covenants, representations, and warranties (collectively, "agreements") of the City, the School District and CMH in Exhibit 22 are incorporated into this Agreement by this reference and shall have the same force and effect as if such agreements were set forth as a section or part of this Agreement.

23. Daily Operations of WOW. CMH, the City, and the School District agree that they will not take actions, and CMH will cause the General Contractor to agree in writing not to take actions which will adversely impact the daily operations of WOW during the construction of the Athletic Facility.

Accepted this ____ day of December 2013.

City of Astoria

By: _____
Signature

Printed Name

Title

Accepted this ____ day of December 2013.

Columbia Memorial Hospital

By: _____
Signature

Printed Name

Title

Accepted this ____ day of December 2013.

Astoria School District 1C

By: _____
Signature

Printed Name

Title

Accepted this ____ day of December 2013.

Recology Western Oregon, Inc.

By: _____
Signature

Printed Name

Title

Accepted this ____ day of December 2013.

**Astor-East Urban Renewal Area,
also known as Astor-East Urban Renewal District**

By: _____
Signature

Printed Name

Title



2133 NW York Street
Portland, OR 97210-2108
503) 465-0165
fax 503) 467-2565

Project: ASTORIA ATHLETIC FIELDS COMPLEX (AAFC)
Location: Astoria, Oregon

3-Dec-13

GMP Estimate REV 11 - FINAL Construction Documents dated 9/20/13

CSI Division	Description Of Work	COST SHARING		
		Columbia Memorial Hospital	City of Astoria	Western Oregon Waste
00	Design and Permits	\$5,000		
01	General Requirements	\$5,000	\$5,000	\$5,000
02	Existing Conditions	\$0	\$0	\$0
03	Concrete	\$0	\$0	\$0
04	Masonry	\$0	\$0	\$0
05	Metals	\$0	\$0	\$0
06	Wood, Plastics & Composites	\$0	\$0	\$0
07	Thermal & Moisture Protection	\$0	\$0	\$0
08	Openings	\$0	\$0	\$0
09	Finishes	\$0	\$0	\$0
10	Specialties	\$0	\$0	\$0
11	Equipment	\$0	\$0	\$0
12	Furnishings	\$0	\$0	\$0
13	Special Construction	\$0	\$0	\$0
14	Conveying Systems	\$0	\$0	\$0
21	Fire Suppression	\$0	\$0	\$0
22	Plumbing	\$0	\$0	\$0
23	Heating, Ventilating, & Air Conditioning	\$0	\$0	\$0
26	Electrical	\$0	\$0	\$0
27	Communications	\$0	\$20,000	\$0
28	Electronic Safety & Security	\$0	\$0	\$0
31	Earthwork	\$0	\$0	\$0
32	Exterior Improvements	\$36,017	\$316,071	\$36,017
33	Utilities	\$0	\$0	\$0
48	Electrical Power Generation	\$219,258	\$162,354	\$79,112
	Subtotal - DIRECT COST OF WORK (COW)	\$0	\$0	\$0
	Subtotal - Liability Insurance @ 1.00%	\$265,274	\$508,425	\$125,129
	Performance and Payment Bonds 1.00%	\$2,653	\$5,084	\$1,251
	Subtotal - Before CM/GC Fee	\$2,653	\$5,084	\$1,251
	CM/GC Fee @ 3.00%	\$270,580	\$518,594	\$127,631
	Subtotal - Including CM/GC Fee	\$8,117	\$15,558	\$3,829
	Construction Contingency @ 7.00%	\$278,697	\$534,151	\$131,460
	TOTAL GMP ESTIMATE AMOUNT	\$19,509	\$37,391	\$9,202
		\$298,206	\$571,542	\$140,663

CSI Division	Description Of Work	Quantity	Units	Unit Cost	Columbia Memorial Hospital	City of Astoria	Western Oregon Waste
00	Design and Permits Design and Permits	1 0	L.S.	15,000	\$5,000 \$0	\$5,000 \$0	\$5,000 \$0
			Subtotal - Division 00		\$5,000	\$5,000	\$5,000
01	General Requirements: General Requirements:	1 0	L.S.	15,000	\$5,000 \$0	\$5,000 \$0	\$5,000 \$0
			Subtotal - Division 01		\$5,000	\$5,000	\$5,000
26	Electrical and Low Voltage: Methane gas detection and alarm system (added 10/24/13)	1	Allwnc.	20,000	\$0 \$0	\$20,000 \$0	\$0 \$0
			Subtotal - Division 26		\$0	\$20,000	\$0
31	Earthwork Entrance Road Improvements: Sawcut & Remove Asphalt Excavate for Subgrade on Williamsport Road Base Rock & Top Rock 11/15/13 - Grading For Sight Distance at Entry Per Traffic Study Williamsport Road Entrance Paving 4" Section Landfill Closure: 4" Perf Methane Piping Gas Monitor Piping 60 Mil. HDPE Liner Under Ball Field Landfill Cap w/Gravel Grading & Drainage Southwest of Site: Landfill Cap w/Topsoil 24" Storm Piping	7,000 1,200 1 1 320 5,535 250 166,800 67,351 4,852 240	S.F. SF L.S. L.S. Tons L.F. L.F. S.F. S.F. C.Y. L.F.	0.3150 7.4900 19.527 49.971 85.4963 15.3038 14.8213 0.6038 0.8138 3.0100 90	\$735 \$2,996 \$6,509 \$16,657 \$9,120 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$735 \$2,996 \$6,509 \$16,657 \$9,120 \$84,706 \$3,655 \$100,706 \$54,807 \$14,605 \$21,576 \$0	\$735 \$2,996 \$6,509 \$16,657 \$9,120 \$0 \$0 \$0 \$0
			Subtotal - Division 31		\$36,017	\$316,071	\$36,017

CSI Division	Description Of Work	Quantity	Units	Unit Cost	Columbia Memorial Hospital	City of Astoria	Western Oregon Waste
33	Utilities						
33 10 00	Water On-Site Sports Complex:						
33 10 00	2" - 4" Water Service Piping	150	L.F.	34.9738	\$5,246	\$0	\$0
33 10 00	8" C-900 Water Line	1,190	L.F.	38.6400	\$45,982	\$0	\$0
33 10 00	Hydrants	2	Ea.	3,766	\$7,531	\$0	\$0
33 10 00	Water Service	2	Ea.	5,789	\$11,578	\$0	\$0
33 10 00	Blowoff	1	Ea.	1,036	\$1,036	\$0	\$0
33 10 00	Water Off-Site Connection:						
33 10 00	Williamsport Waterline Tie-In	195	L.F.	81.5413	\$5,300	\$5,300	\$5,300
33 30 00	WOW Sanitary Sewer Line:						
33 30 00	6" C-900 Sewer line to WOW	375	L.F.	47.0225	\$0	\$8,817	\$8,817
33 30 00	6" 3034 Sewer line to WOW	116	L.F.	44.5638	\$0	\$2,585	\$2,585
33 30 00	48" Sewer Manholes (1-6 & 1-7) to WOW	2	Ea.	3,067	\$0	\$3,067	\$3,067
33 30 00	Sanitary Sewer on Williamsport Road:						
33 30 00	Traffic Control	1	L.S.	17,242	\$5,747	\$5,747	\$5,747
33 30 00	Erosion Control	1	L.S.	7,614	\$2,538	\$2,538	\$2,538
33 30 00	Tree Removal	8,196	S.F.	0.9800	\$2,677	\$2,677	\$2,677
33 30 00	8" 3034 Open Excavation	500	L.F.	76.0900	\$12,682	\$12,682	\$12,682
33 30 00	Boring 8" Pipe	1,076	L.F.	59.4825	\$21,334	\$21,334	\$21,334
33 30 00	Manholes	6	Ea.	4,083.7125	\$8,167	\$8,167	\$8,167
33 30 00	Sanitary Sewer Connection @ 202	1	Ea.	852.3900	\$284	\$284	\$284
33 30 00	Final Clean Up	1	L.S.	5,740	\$1,913	\$1,913	\$1,913
33 30 00	11/7/13 - Manholes Added Per Plan Review	3	Ea.	4,000	\$4,000	\$4,000	\$4,000
33 40 00	Storm Sewer East and West of Landfill:						
33 40 00	Storm Pipe Demo	1	Allwnc.	15,000	\$7,500	\$7,500	\$0
33 40 00	18" ADS Storm Line w/ Mitered Ends	1,246	L.F.	95.4538	\$59,468	\$59,468	\$0
33 40 00	48" Storm Manhole	8	Ea.	3,670.8963	\$14,684	\$14,684	\$0
33 40 00	11/17/13 - Added 18" ADS Storm Outfall	58	L.F.	54.8500	\$1,591	\$1,591	\$0
Subtotal - Division 33					\$219,258	\$162,354	\$79,112

EXHIBIT 15

PARCEL NO. 10:

The North 75 feet of Lot 5, Block 111, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 11:

Lots 1, 2, 3, 4, 5, and 6, Block 12, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 12:

Lots 1, 2, and 3, Block 13, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 13:

The North 75 feet of Lot 6, Block 111, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 14:

The South 100 feet of Lot 7, and the West half of the South 100 feet of Lot 8, Block 111, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 15:

The North 50 feet of Lot 7, the North 50 feet of the West half of Lot 8, and the East half of Lot 8, Block 111, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 16:

Lots 1, 2, 10, 11, and 12, Block 111, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 17:

The South half of Lots 5 and 6, and all of Lot 9, Block 111, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 18:

Lots 1, 5, 6, 8, 9, 10, 11, and 12, Block 138, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of

the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 19:

Lots 2, 3, 4, and 7, Block 138, all in the Town (now City) of Astoria, as laid out and recorded by John M. Shively and later established by Decree of the Circuit Court of the State of Oregon for Clatsop County, in the City of Astoria, County of Clatsop, State of Oregon.

PARCEL NO. 20:

A parcel of land in the South East Quarter of Section 17, Township 8, North, Range 9 West, Willamette Meridian, said parcel being more particularly described as follows:
Beginning at the North West corner of Williamsport, a duly recorded subdivision in the City of Astoria, County of Clatsop, state of Oregon;

Thence North 52 °16' West 45.50 feet; Thence North 6 °35' West 31.03 feet; Thence North 61 °18' West 152.93 feet; Thence North 30 °03' West 30.19 feet; Thence North 9 °14' West 31.01 feet; Thence North 49 °41' West 29.23 feet; Thence North 73 °12' West 40.12 feet; Thence South 77 °29' West 31.31 feet; Thence South 61 °29' West 49.88 feet; Thence South 49 °57 West 53.05 feet; Thence South 38 °47' West 172.14 feet; Thence South 15 °13' East 30.43 feet; Thence South 55 °55' East 188.89 feet; Thence South 88 °19' East 244.80 feet; Thence North 53 °43' East 50.58 feet; Thence North 38 °49' East 19.18 feet; Thence North 11 °13' East 78.30 feet to the true point of beginning.

PARCEL NO. 21:

A tract of land in Section 17, Township 8 North, Range 9 West of the Willamette Meridian, City of Astoria, Clatsop County, Oregon, more particularly described as follows:

Beginning at a point on the South boundary of Shively's Donation Land Claim, said point being North 89 °45' West 160.81 feet from the section line between Sections 16 and 17; thence North 0 °14' West to the South line of the Pipeline Road (James Street); thence, following the South line of Pipeline Road Westerly to the Easterly line of that tract of land deeded to Clatsop County by instrument recorded in Book 132, Page 46, Deed Records; thence South 0 °14' East, along the said Easterly line of Clatsop County tract to the said South boundary of Shively's Donation Land Claim; thence South 89 °45' East, along said South boundary, to the place of beginning.

Save and except any portion thereof lying within the following described tract:

Beginning at the North West corner of Williamsport, a duly recorded subdivision in the City of Astoria, County of Clatsop, state of Oregon;

Thence North 52 °16' West 45.50 feet; Thence North 6 °35' West 31.03 feet; Thence North 61 °18' West 152.93 feet; Thence North 30 °03' West 30.19 feet; Thence North 9 °14' West 31.01 feet; Thence North 49 °41' West 29.23 feet; Thence North 73 °12' West 40.12 feet; Thence South 77 °29' West 31.31 feet; Thence South 61 °29' West 49.88 feet; Thence South 49 °57 West 53.05 feet; Thence South 38 °47' West 172.14 feet; Thence South 15 °13' East 30.43 feet; Thence South 55 °55' East 188.89 feet; Thence South 88 °19' East 244.80 feet; Thence North 53 °43' East 50.58 feet; Thence North 38 °49' East 19.18 feet; Thence North 11 °13' East 78.30 feet to the true point of beginning.

EXHIBIT 22

Additional Agreements of the School District, the City, and CMH Relating to the Conveyance of Real Property

Purchase, Sale and Exchange Agreement

RECITALS

A. The School District owns John Warren Field and the Bus Barn Property as legally described in Section 15.1 of the Four Party Agreement (sometimes referred to as the "Section 15.1 Property"). John Warren Field and the Bus Barn Property are subject to a right of reversion to the City. Accordingly, the School District, the City, and CMH agree that the conveyance of John Warren Field and the Bus Barn Property to CMH as described in Section 16.1 of the Four Party Agreement will be by both the School District and the City in order to eliminate the reversion.

B. The City owns the Field Site as legally described in Section 15.2 of the Four Party Agreement. The City will convey to the School District that portion of the Field Site upon which the Athletic Facility is located, subject to a reversion to the City as described in Section 16.2 of the Four Party Agreement.

C. The Astor-East Urban Renewal District owns Parcel 10 as legally described in Section 15.3 of the Four Party Agreement (sometimes referred to as the "Section 15.3 Property"). The Astoria City Council serves as the board of directors of, and controls, the Astor-East Urban Renewal District. The City, acting through the Astoria City Council, shall cause the Astor-East Urban Renewal District to convey Parcel 10 to CMH as provided in Section 16.3 of the Four Party Agreement subject to the requirements of the Astor East Urban Renewal Plan

D. The Section 15.1 Property and the Section 15.3 Property are sometimes collectively referred to as the "Section 15.1 and 15.3 Property" beginning in Section 4.1 of this Exhibit 22.

NOW THEREFORE, for good and valuable consideration, the School District, the City, and CMH agree as follows:

AGREEMENT

1. Recitals. The recitals set forth above in this Exhibit 22 are incorporated by reference into the Four Party Agreement and this Exhibit 22.

2. Purchase, Sale, and Exchange of John Warren Field and the Bus Barn Property.

The School District and the City agree to convey, sell, and exchange John Warren Field and the Bus Barn Property to CMH, and CMH agrees to acquire and accept the conveyance, and to purchase John Warren Field and the Bus Barn Property through the exchange described in Section 18 of the Four Party Agreement, on the terms and conditions set forth in the Four Party Agreement including this Exhibit 22, which are sometimes collectively referred to in this Exhibit 22 as the Agreement. The conveyance of John Warren Field and the Bus Barn Property shall consist of:

(a) The land described in Section 15.1 (the "Land"), the reversionary interest of the City in the Land and the Improvements, and all easements, rights, strips, gores, rights-of-way, and any other rights or interests appurtenant to the Land;

(b) All the improvements currently situated on the Land (the "Improvements");

(c) All of the School District's and the City's rights (if any) in all tangible personal property located on the Land or in the Improvements (the "Personal Property"); and

(d) All of the School District's and the City's rights (if any) in all the following intangible property now or hereafter existing with respect to the Section 15.1 Property (the "Intangible Property"):

(1) All leases, licenses, and other agreements to occupy all or any part of the Land or Improvements together with, and subject to the manner in which the same are to be prorated under this Agreement, all rents, charges, deposits, and other sums due, accrued, or to become due thereunder, and all guaranties by third parties of any tenant's obligations under the leases, licenses, and other agreements;

(2) All plans and specifications, all building permits and other permits pertaining to the construction of the Improvements, and all warranties, guaranties, and sureties now or hereafter received in connection with the construction of or equipment on the Improvements;

(3) All licenses, permits, approvals, certificates of occupancy, and franchises relating to the zoning, land use, ownership, operation, occupancy, construction, or maintenance of the Improvements;

(4) All service and maintenance contracts and equipment leases in connection with or used by the School District and/or the City in the operation of the Improvements; and

(5) All of the School District's and/or the City's rights, if any, to use the name "John Warren Field" and "Gyro Field" with respect to the Section 15.1 Property.

2.1 Consideration. The consideration for the purchase, conveyance, and exchange of the Section 15.1 Property from the School District and the City to CMH consists of the obligations of CMH in the Agreement, and other good and valuable consideration.

2A. Purchase, Sale, and Exchange of Parcel 10. The City agrees to cause Astor-East Urban Renewal District to convey, sell, and exchange Parcel 10 to CMH, and CMH agrees to acquire and accept the conveyance, and to purchase Parcel 10 through the exchange described in Section 18 of the Four Party Agreement, on the terms and conditions set forth in the Four Party Agreement including this Exhibit 22, which are sometimes collectively referred to in this Exhibit 22 as the Agreement. The conveyance of Parcel 10 shall consist of:

(a) The land described in Section 15.3 (the "Land"), and all easements, rights, strips, gores, rights-of-way, and any other rights or interests appurtenant to the Land;

(b) All the improvements currently situated on the Land (the "Improvements");

(c) All of the Astor-East Urban Renewal District's rights (if any) in all tangible personal property located on the Land or in the Improvements (the "Personal Property"); and

(d) All of the Astor-East Urban Renewal District's rights (if any) in all the following intangible property now or hereafter existing with respect to the Section 15.3 Property (the "Intangible Property"):

(1) All leases, licenses, and other agreements to occupy all or any part of the Land or Improvements together with, and subject to the manner in which the same are to be prorated under this Agreement, all rents, charges, deposits, and other sums due, accrued, or to become due thereunder, and all guaranties by third parties of any tenant's obligations under the leases, licenses, and other agreements;

(2) All plans and specifications, all building permits and other permits pertaining to the construction of the Improvements, and all warranties, guaranties, and sureties now or hereafter received in connection with the construction of or equipment on the Improvements;

(3) All licenses, permits, approvals, certificates of occupancy, and franchises relating to the zoning, land use, ownership, operation, occupancy, construction, or maintenance of the Improvements; and

(4) All service and maintenance contracts and equipment leases in connection with or used by Astor-East Urban Renewal District in the operation of the Improvements.

2A.1 Consideration. The consideration for the purchase, conveyance, and exchange of the Section 15.3 Property from Astor-East Urban Renewal District to CMH consists of the obligations of CMH in the Agreement, and other good and valuable consideration.

3. Conveyance of a Portion of the Field Site. The City agrees to convey, sell, and exchange to the School District that portion of the Field Site upon which the Athletic Facility is located, which portion shall be agreed upon by the City and the School District, subject to a reversion to the City as described in Section 16.2 of the Four Party Agreement. The conveyance of such portion of the Field Site shall consist of

- (a) That portion of the land described in Section 15.2 which the School District and the City agree to (the "Land") and all easements, rights, strips, gores, rights-of-way, and any other rights or interests appurtenant thereto;
- (b) All the improvements then situated on the Land (the "Improvements"), which will include the Athletic Facility;
- (c) All of the City's rights (if any) in all tangible personal property located on the Land or in the Improvements (the "Personal Property"); and
- (d) All of the City's rights (if any) in all the following intangible property now or hereafter existing with respect to the Land (the "Intangible Property"):
 - (1) All leases, licenses, and other agreements to occupy all or any part of the Land or Improvements together with, and subject to the manner in which the same are to be prorated under this Agreement, all rents, charges, deposits, and other sums due, accrued, or to become due thereunder, and all guaranties by third parties of any tenant's obligations under the leases, licenses, and other agreements;
 - (2) All plans and specifications, all building permits and other permits pertaining to the construction of the Improvements, and all warranties, guaranties, and sureties now or hereafter received in connection with the construction of or equipment on the Improvements;
 - (3) All licenses, permits, approvals, certificates of occupancy, and franchises relating to the zoning, land use, ownership, operation, occupancy, construction, or maintenance of the Improvements; and
 - (4) All service and maintenance contracts and equipment leases in connection with or used by the School District and the City in the operation of the Improvements;

4. Inspection Contingency

4.1 Inspection Rights. CMH will have until ten (10) days before the Closing of the conveyances of (1) the Section 15.1 Property from the School District and the City to CMH as described in Section 16.1 of the Four Party Agreement and (2) the Section 15.3 Property from Astor-East Urban Renewal District as described in Section 16.3 of the Four Party Agreement (the "Review Period") to satisfy itself concerning all aspects of the Section 15.1 Property and the Section 15.3 Property, including, without limitation, the physical condition thereof; the insurance

policies, contracts, leases, and all other financial aspects of the Section 15.1 and 15.3 Property; the availability of any governmental permits and approvals; and the feasibility of using the Section 15.1 and 15.3 Property for CMH's intended use. CMH will have the right to perform such tests, inspections, and feasibility studies on the Section 15.1 and 15.3 Property as CMH may deem necessary, including without limitation soils analysis, groundwater testing, or other studies commonly associated with a Phase I or Phase II environmental site assessment. The School District and the City will permit and, to the extent reasonably required by CMH, will assist CMH in providing access to CMH's architects, engineers, contractors, subcontractors, managers, analysts, and appraisers in connection with CMH's review of the Section 15.1 and 15.3 Property. For any portion of the Section 15.1 and 15.3 Property that is occupied by a tenant, CMH will make appropriate arrangements with the School District and the City regarding the time and duration of CMH's inspections, and CMH will take all reasonable steps to protect the tenant's property and to avoid disturbing the tenant. CMH will schedule and coordinate all inspections, including, without limitation, any environmental tests, with the School District and the City and will give the School District and the City at least two (2) business days' prior written notice thereof. The School District and the City will be entitled to have a representative present at all times during each such inspection and communication with tenants.

4.2 *Inspection Expenses.* All costs and expenses of all of CMH's tests, inspections, and studies must be paid by CMH when due, regardless of whether this transaction closes.

4.3 *Inspection Indemnity; Evidence of Insurance.* CMH will indemnify, defend, and hold harmless the School District and the City from and against any and all costs, losses, damages, expenses, liabilities, actions, liens, or claims arising from or related to any tests or inspections on or about the Section 15.1 and 15.3 Property by CMH or any agent, employee, contractor, or invitee of CMH.

4.4 *Removal of Inspection Contingencies.* If, by the end of the Review Period, CMH has notified the School District and the City in writing that CMH rejects any one or more of the parcels of the Section 15.1 and 15.3 Property in their then-current condition, this Agreement will terminate with respect to only the parcel or parcels of Property rejected by CMH. Unless such notice of rejection is given, the inspection contingency will be deemed waived and this Agreement will be binding on CMH.

4.5 *Environmental Assessments.* CMH is responsible for obtaining its own environmental inspections of the Section 15.1 and 15.3 Property. CMH agrees to provide the School District and the City with a true and complete copy of all environmental studies, tests, and reports that CMH obtains in connection with its inspection of the Section 15.1 and 15.3 Property. CMH will pay for all costs of its environmental inspections regardless of whether this transaction closes. If any person is required to make any report to any governmental agency as the result of any environmental inspection, the report will be submitted solely by the School District and the City.

4.6 *Confidentiality Requirements.* CMH will use and disclose information it obtains about the Section 15.1 and 15.3 Property solely in connection with its purchase and exchange

evaluation. Unless and until it acquires the Section 15.1 and 15.3 Property, CMH will not disclose any such information to any third party except (a) to its members, board of trustees, officers, employees, property consultants, and lawyers; (b) to any court of competent jurisdiction in connection with any mediation, arbitration, or litigation in connection with this Agreement; and (c) as to any information that is otherwise a matter of public record.

5. Title to the Property

5.1 Title Report. Within ten (10) days after the Execution Date, CMH will order a preliminary title report from Tigor Title Company of Oregon (the “Escrow Agent” or “Title Company”) with respect to the Section 15.1 and 15.3 Property and the Field Site (the “Title Report”). The Title Report will be accompanied by the most legible copies available of all special exceptions listed therein. CMH will have until September 1, 2013 to notify the School District and the City in writing of CMH’s disapproval of any exceptions shown in the Title Report. Any special assessments shown on the Title Report that are objected to by CMH will be included in CMH’s notice. In the event of any disapproval, the School District and the City will notify CMH in writing within ten (10) days after CMH’s notification as to whether the School District and the City agree to remove any of the exceptions so disapproved, and upon delivering the notice, the School District and the City will have until the Closing Date described in Section 10.1 to cause the exceptions that the School District and the City have agreed to remove to be removed of record and from the Title Report. CMH will be deemed to have accepted all title exceptions to which it has not timely objected.

5.2 Rescission of Agreement—Title Defects. If the School District and the City elect not to eliminate any title exception disapproved by CMH, CMH may elect to cancel this Agreement with respect to any one or more parcels of the Section 15.1 and 15.3 Property and the Field Site by written notice to the School District and the City given on or before twenty (20) days after the School District’s and the City’s notification of the election. In this event, this Agreement will terminate with respect to any one or more of the parcels of the Section 15.1 and 15.3 Property and/or the Field Site disapproved of by CMH. If CMH does not elect to cancel this Agreement, CMH’s objections to the disapproved exceptions that the School District and the City elected not to eliminate are deemed waived and the Section 15.1 and 15.3 Property will be conveyed to CMH with such defects. The foregoing notwithstanding, the School District and the City agree that they will cause all trust deed liens against the Section 15.1 and 15.3 Property that are not accepted by CMH to be released of record by the Closing Date. If CMH fails to give timely notice to the School District and the City of termination under this Section, then CMH’s right of termination will be deemed waived.

6. Property Documentation

6.1 Copies of Leases, Contracts, Other Information. As soon as practicable, the School District and the City will deliver to CMH or provide CMH access to all the leases, contracts and other relevant documents relating to the Section 15.1 and 15.3 Property and the Field Site.

6.2 Rent Roll. The School District and the City will provide CMH with a rent roll (the "Rent Roll") with respect to the Section 15.1 and 15.3 Property and the Field Site within thirty (30) days after the Effective Date, which will identify by tenant name the leases currently in effect ("Leases"), any guarantors of the Leases, the commencement and expiration dates of the Leases, any options the tenants have under the Leases, any security deposits and the extent to which they have been applied, the amount of current monthly rent under the Leases, the dates through which the rents have been paid, and any material defaults under the Leases of which the School District and/or the City are aware. All the information contained in the Rent Roll will be updated within five (5) days before the Closing Date and provided to CMH not less than one (1) day before the Closing Date.

7. Representations of the School District and the City

7.1 Content of Representations. The School District and the City represent, warrant, and covenant to CMH as follows:

(a) No Notice of Violation of Zoning and Other Laws. The School District and the City have not received any written notice from any governmental authority alleging that the Improvements on the Section 15.1 and 15.3 Property violate any building codes, building or use restrictions, or zoning ordinances, rules, or regulations.

(b) No Litigation. To the School District's and the City's knowledge, there is no pending or threatened litigation or administrative action with respect to the Section 15.1 and 15.3 Property, except for any actions for possession, damages, or rent against tenants who are in default under their Leases as described in the Rent Roll.

(c) No Condemnation. To the School District's and the City's knowledge, there is no pending or contemplated eminent domain, condemnation, or other governmental taking of the Section 15.1 and 15.3 Property and/or the Field Site, or any portion thereof.

(d) No Additional Assessments. To the School District's and the City's knowledge, there are no extraordinary governmental assessments or impositions levied against, applicable to, or proposed for the Section 15.1 and 15.3 Property as distinct from ordinary ad valorem property taxes, which will be disclosed in the Title Report.

(e) No Government Obligations. To the School District's and the City's knowledge, there are no unperformed obligations that are currently due relative to the Section 15.1 and 15.3 Property to any governmental or quasi-governmental body or authority except as to the provisions of the Astor East Urban Renewal Plan.

(f) No Contamination. Except as provided in Schedule 7.1(f), to the School District's and the City's knowledge, the School District and/or the City have not caused any hazardous substance, waste, or material to be used, generated, stored, or disposed of on or transported to or from the Section 15.1 and 15.3 Property in violation of any applicable law before or during the period in which the School District and/or the City has owned the Section

15.1 and 15.3 Property. For the purposes of this paragraph, “hazardous substance, waste, or material” means all petroleum-based products, radon, asbestos, PCBs, and all substances, wastes, and materials that are so defined in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC §§9601–9675; the Resource Conservation and Recovery Act, 42 USC §§6901–6992k; and the Hazardous Materials Transportation Act, 49 USC §§5101–5128.

(g) Authority of the School District and the City. The School District’s and the City’s execution of, delivery of, and performance under this Agreement are undertaken according to authority validly and duly conferred on the School District and the City and their respective signatories hereto.

(h) No Breach of Agreements. This Agreement and the consummation of the transactions evidenced by this Agreement do not violate any other agreement to which the School District and the City are a party.

(i) Nonforeign Status. The School District and the City are not “foreign persons” as defined in IRC §1445(f)(3), and are not a “transferor” as defined in ORS 314.258(2)(b).

7.2 School District’s and City’s Knowledge. In each event in which any representation of the School District and/or the City is limited “to the School District’s and/or the City’s knowledge” or similar phrase, that knowledge must include only the actual, personal knowledge (and not the implied, imputed, or constructive knowledge) of the School District and/or the City, without any investigation or inquiry whatsoever, except that said knowledge includes a general review of the School District’s and the City’s files.

7.3 Effect of CMH’s Knowledge. CMH agrees that in the absence of an intent on the part of the School District and/or the City to fraudulently conceal information about the Section 15.1 and 15.3 Property and/or the Field Site or fraudulently mislead CMH, CMH will not have the right to rely on any warranty or representation of the School District and/or the City, and the School District and/or the City will not be liable for any breach of any such warranty or misrepresentation, if and to the extent CMH is given access to data or information relating to the Section 15.1 and 15.3 Property and the Field Site before the Closing Date that reveals, or CMH’s tests or inspections before the Closing Date reveal, or CMH otherwise knows or has reason to know before the Closing Date of any information that reveals the warranty or representation to be incorrect, and in any of such events CMH nevertheless elects to close this purchase and exchange.

7.4 Survival of Warranties. All of the School District’s and the City’s warranties in this Agreement are deemed given only as of the date of this Agreement, but will be updated in a certificate provided to CMH at and as of the Closing Date. The School District’s and the City’s liability for any misrepresentation or the breach of any warranty under this Agreement will survive the Closing of this transaction.

8. CMH’s Representations

CMH represents, warrants, and covenants to the School District and the City as follows:

8.1 *CMH's Existence and Authority.* CMH is a validly existing and duly organized nonprofit corporation under the laws of the State of Oregon and has the full right and authority to conduct its business under the laws of the state of Oregon.

8.2 *Third-Party Consents.* The execution of this Agreement by CMH is subject to the approval of the CMH board of trustees.

8.3 *No Litigation.* CMH is not a party to any litigation or civil or criminal proceedings; no petitions in bankruptcy have been filed by or against CMH; and none of CMH's assets are currently subject to any insolvency, receivership, or foreclosure proceedings.

8.4 *No Breach of Agreements.* This Agreement does not breach or violate any term or provision of any other agreement or contract to which CMH is a party.

8.5 *Astor East Urban Renewal Plan.* That with respect to Parcel 10 CMH is aware of and will comply with the provisions of the Astor East Urban Renewal Plan.

9. Conditions to Closing

9.1 *CMH's Conditions.* CMH acknowledges that the School District and the City do not guarantee the satisfaction of the conditions precedent listed in this Section 9.1 and that the School District's or the City's failure to satisfy the conditions (for any reason other than the School District's or the City's bad faith) will not be deemed to be a default hereunder but will merely be a failure of a condition to Closing, in which event CMH's sole remedy will be to (1) waive the condition(s) and any claim against the School District and/or the City with respect thereto, including, without limitation, as provided in Section 7.3, or (2) terminate this Agreement. CMH's obligation to close this transaction is subject to the satisfaction of each of the following conditions:

(a) *The School District's and the City's Compliance.* The School District's and the City's fulfillment of each of its obligations under this Agreement in all material respects.

(b) *The School District's and the City's Representations.* The continuing accuracy of all of the School District's and the City's warranties and representations in this Agreement in all material respects.

(c) *Material Condemnation.* The absence of any condemnation or the institution of condemnation proceedings that result in the taking of any of the Section 15.1 and 15.3 Property with a value of more than \$5000. If this transaction closes, the School District and the City will assign to CMH on the Closing Date all condemnation awards and rights to awards that were not used by the School District and the City to pay the costs of any restorations of the Section 15.1 and 15.3 Property necessitated by the condemnation.

(d) **Material Casualty.** The absence of any material damage by casualty to the Section 15.1 and 15.3 Property that has not been repaired by the Closing Date. For the purposes of this paragraph, a “material damage by casualty” means any damage by fire or other casualty that has not been repaired and paid for by the Closing Date and for which the estimated cost of the remaining repairs exceeds \$15,000. If the Section 15.1 and 15.3 Property suffers any material damage by casualty, then CMH has the right and option to terminate this Agreement with respect to any one or more of the parcels of the Section 15.1 and 15.3 Property which are the subject of the damage within thirty (30) days after the date of the casualty or by the Closing Date, whichever occurs first. If the School District and the City and CMH do not elect to terminate this Agreement, (i) this transaction will close, and (ii) the School District and the City will proceed to effect the repairs that are reasonably possible before Closing unless otherwise agreed to in writing by CMH. If the estimated cost to repair any damage by casualty as of the Closing Date is less than \$15,000, CMH will not have the right to terminate this Agreement because of the casualty. All repair cost estimates referred to in this Section will be made by reference to a fixed-price construction contract, which the School District and the City will obtain as promptly as is reasonably possible after the date of the casualty.

(e) **Title Insurance.** The Title Company must be ready, willing, and able to issue an extended coverage American Land Title Association owner’s policy of title insurance in the amount determined by CMH in collaboration with the Title Company, insuring title in CMH to the Property consistent with the terms of this Agreement and subject only to the title exceptions approved or deemed approved by CMH.

9.2 *The School District’s and the City’s Conditions.* The School District’s and the City’s obligation to close this transaction is subject to the satisfaction of each of the following conditions:

(a) **CMH’s Compliance.** CMH’s fulfillment of each of its obligations under this Agreement in all material respects.

(b) **CMH’s Representations.** The continuing accuracy of all of CMH’s warranties and representations in this Agreement.

10. Closing

10.1 *Closing Date.* This transaction will be closed within ten (10) days following the end of the Review Period in Section 4.1 of this Exhibit 22 or at such later date as to which CMH may elect (the date that the conveyances of the Section 15.1 and 15.3 Property to CMH close, as evidenced by recordation of the deed or deeds by the School District and the City to CMH being herein referred to as the “Closing Date”).

10.2 *Manner and Place of Closing.* This transaction will be closed by Ticor Title in Astoria, Oregon, or at such other place as the Parties may mutually agree to in writing. Closing will take place in the manner and in accordance with the provisions set forth in this Agreement.

10.3 *Prorations, Adjustments.*

(a) All ad valorem real property taxes, assessments, personal property taxes, utility expenses, and obligations under all repair and maintenance contracts that are not terminated or required to be terminated by this Agreement by the Closing Date (collectively, the "Expenses"), and all rentals from tenants and other use fees receivable under any lease or other agreement concerning the Section 15.1 and 15.3 Property (collectively, the "Income"), will be prorated and adjusted between the Parties as of the Closing Date. At closing, CMH will be given a credit equal to the sum of all accrued but unpaid Expenses, all refundable tenant security deposits held by the School District and/or the City, and all prepaid but not yet accrued Income, and CMH will pay to the School District or the City, as appropriate, all prepaid but not yet accrued Expenses and all accrued but not paid Income, except past-due rentals. Any taxes or additional penalties that would be due as a result of removal of the Section 15.1 and 15.3 Property from any tax deferral or special use assessment program will be assumed by CMH.

(b) CMH will pay all conveyance, excise, or transfer taxes and transfer fees in connection with the conveyance of the Section 15.1 and 15.3 Property, and CMH will pay the recording fees for the School District's and the City's deeds.

(c) CMH will pay the premium for an ALTA standard owner's title insurance policy in favor of CMH in the amount of the transaction value. Any additional title insurance coverage or endorsements requested by CMH or its lender will be paid by CMH.

(d) CMH will pay the escrow and closing fees, if any, charged by the Escrow Agent.

(e) Each Party will pay its own attorney fees.

10.4 *Events of Closing.* If the Escrow Agent has received necessary documentation, and is in a position to cause the title insurance policy to be issued as described below, this transaction will be closed on the Closing Date as follows:

(a) The School District and the City will convey John Warren Field to CMH by statutory warranty deed, free and clear of all liens, encumbrances, and reversionary interests, but such deed may be subject to recorded easements for public utilities and the support and maintenance of adjacent public streets, subject to the matters accepted or deemed accepted by CMH under this Agreement, in the form attached hereto as Exhibit 10.4(a).

(b) The School District and the City will convey the Bus Barn Property and facility to CMH by bargain and sale deed, free and clear of all liens, encumbrances, and reversionary interests, but such deed may be subject to recorded easements for public utilities and the support and maintenance of adjacent public streets, subject to the matters accepted or deemed accepted by CMH under this Agreement, in the form attached hereto as Exhibit 10.4(b).

(c) The City will cause Astor-East Urban Renewal District to convey Parcel 10 to CMH by statutory warranty deed, free and clear of all liens, encumbrances, and reversionary interests, but such deed may be subject to recorded easements for public utilities and the support and maintenance of adjacent public streets, subject to the matters accepted or deemed accepted by CMH under this Agreement, in the form attached hereto as Exhibit 10.4(c).

(d) The City will convey to the School District that portion of the Field Site upon which the Athletic Facility is located, by statutory warranty deed, free and clear of all liens, encumbrances, and reversionary interests, but such deed may be subject to recorded easements for public utilities and the support and maintenance of adjacent public streets, subject to the matters accepted or deemed accepted by the School District under this Agreement, in the form attached hereto as Exhibit 10.4(d).

(e) The School District and the City will convey all its interests in the Personal Property to CMH by good and sufficient bills of sale in the form attached hereto as Exhibit 10.4(c).

(f) The School District and the City will provide CMH with an updated Rent Roll as provided in Section 6.2.

(g) The School District and the City will provide CMH with (i) the Certificate of Nonforeign Status as provided in IRC §1445(b)(2) and (ii) a certificate or other documentary evidence complying with ORS 314.258 that is reasonably acceptable to CMH and the Escrow Agent and sufficient to assure CMH and the Escrow Agent that no withholding is required under ORS 314.258.

(h) The School District and the City will deliver the original copies of all current Leases and contracts relating to the Section 15.1 and 15.3 Property that are in the School District's and/or the City's possession or control.

(i) Immediately upon Closing, the School District and the City will execute and deliver a notice to each tenant of the Section 15.1 and 15.3 Property advising the tenant of the sale and exchange of the Section 15.1 and 15.3 Property and advising the tenant to pay all future rent to CMH.

(j) The Escrow Agent will calculate the prorations agreed to herein, and the Parties will be charged and credited accordingly.

(k) Any liens to be paid by the School District and/or the City at Closing will be paid and satisfied of record at their expense.

(l) The Escrow Agent will be committed to issuing the policy described in Section 10.5 upon recordation of the closing documents.

(m) Upon compliance with the Parties' closing instructions, the Escrow Agent will record the deeds to CMH at CMH's expense.

(n) The School District and the City may direct the Escrow Agent to record an appropriate deed of the Athletic Facility from the City to the School District.

10.5 Title Insurance. As soon as possible after the Closing Date, the Escrow Agent will furnish CMH a standard American Land Title Association form of owner's policy of title insurance in the amount of the transaction value for the Section 15.1 and 15.3 Property, subject only to the Escrow Agent's standard preprinted exceptions and exclusions for the form and except for the matters accepted or deemed accepted by CMH under this Agreement. The costs of additional or extended title insurance beyond standard coverage will be paid by CMH, and the availability of any such coverage will not be a condition of closing.

10.6 Possession. The School District and the City will deliver possession of the Section 15.1 and 15.3 Property to CMH on the Closing Date. CMH will be entitled to receive directly from any tenants all rents coming due after the Closing Date.

10.7 Acceptance of Property. CMH acknowledges that CMH has assessed, or has had the opportunity to assess, the size, configuration, utility service, environmentally sensitive areas, means of access, permitted uses, status of title, value, condition, and all other material aspects of the Section 15.1 and 15.3 Property, and, except as specifically stated herein, CMH is not relying on, nor has CMH been influenced by, any statement or representation of the School District and the City or any agent or representative of them regarding any of such items. Except for any actionable breaches of the School District's or the City's representations and warranties contained herein, CMH's acceptance of the Section 15.1 and 15.3 Property and the satisfaction or waiver of all CMH's conditions to Closing will be evidenced solely by the closing of this transaction and without any other act or confirmation by CMH. CMH acknowledges that except for any breach of an express warranty stated in this Agreement, CMH is acquiring the Section 15.1 and 15.3 Property "AS IS, WHERE IS" in its current condition existing as of the Closing Date, without any representation or warranty of any kind or nature by the School District or the City.

10.8 Indemnification. The School District and the City will defend, indemnify, and hold harmless CMH from and against all third-party claims for premises liability regarding any injury or damage to the third party or its property that occurred on or about the Section 15.1 and 15.3 Property before the Closing Date. CMH will defend, indemnify, and hold harmless the School District and the City from and against all third-party claims that occur on or about the Section 15.1 and 15.3 Property after the Closing on the Closing Date.

11. Conduct of Business

11.1 Operations. Between the date of this Agreement and the Closing Date, the School District and the City will continue to operate the Section 15.1 and 15.3 Property in accordance with its current management, operation, and leasing standards and practices and will take no

steps or actions that they know would be materially detrimental to the value of the Section 15.1 and 15.3 Property.

11.2 Leases. Between the Effective Date and the Closing Date, and without CMH's prior written consent, the School District and/or the City will not renew or modify any Leases or enter into any additional leases of the Section 15.1 and 15.3 Property or any portion thereof.

11.3 Contracts. Between the Effective Date and the Closing Date, the School District and/or the City will not enter into any equipment purchase contract with respect to the Section 15.1 and 15.3 Property that will not be paid in full before the Closing Date or any service or maintenance contract that cannot be canceled upon thirty (30) days' notice at no cost to CMH.

11.4 Insurance. The School District and/or the City agree to continue to maintain its or their current casualty and liability insurance policies on the Section 15.1 and 15.3 Property until the Closing Date but have no responsibility for maintaining any such insurance after the Closing Date or to assign any policy to CMH.

11.5 Property Maintenance. Between the date of this Agreement and the Closing Date, the School District and/or the City agree to maintain and make ordinary repairs to the Section 15.1 and 15.3 Property so as to cause the Section 15.1 and 15.3 Property to be delivered to CMH in substantially the same condition existing as of the date of this Agreement, ordinary wear and tear, damage by casualty, and damage by condemnation excepted. Each Party will promptly notify the other regarding any item of repair, replacement, or maintenance of which it becomes aware and that requires an expenditure in excess of \$5000. In no event will the School District or the City be required to make any capital repairs or replacements to the Section 15.1 and 15.3 Property between the Effective Date and the Closing Date.

12. Legal Relationships

12.1 Relationship of Parties. This Agreement creates only the relationship of seller and buyer, and no joint venture, partnership, or other joint undertaking is intended hereby. No Party hereto will have any rights to make any representations or incur any obligations on behalf of the other. No Party has authorized any agent to make any representations, admit any liability, or undertake any obligation on its behalf. No Party is executing this Agreement on behalf of an undisclosed principal.

12.2 No Third-Party Beneficiaries. No third party is intended to be benefited or afforded any legal rights under or by virtue of this Agreement.

12.3 Joint and Several Liability. If any Party comprises more than one person or entity, the obligations of each person or entity comprising such Party under this Agreement will be joint and several.

12.4 No Real Estate Brokers. Each Party warrants to the other Parties that no real estate or other broker or agent was consulted or engaged in connection with this transaction, and each

Party will indemnify, defend, and hold harmless the other Parties from and against all claims, losses, and liabilities made or imposed for any commission or finder's fee to any broker or agent and arising out of the actions of such Party.

12.5 Indemnified Parties. Any indemnification contained in this Agreement for the benefit of a Party will extend to the Party's members, directors, officers, employees, and agents.

12.6 Assignments and Successors. CMH shall have the right to assign its interest in this Agreement to a successor entity of CMH, by providing 10 days prior written notice to the School District and the City. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties hereto and their respective successors and assigns.

13. General Provisions

13.1 Notices. Notices under this Agreement must be in writing and, if personally delivered or sent by facsimile, will be effective when received. If mailed, a notice will be deemed effective on the second day after deposited as registered or certified mail, postage prepaid, directed to the other party. Notices must be delivered, mailed, or sent by facsimile to the following addresses:

City and Astor-East Urban Renewal District: School District:

City of Astoria
c/o Paul Benoit, City Manager
1095 Duane Street
Astoria, OR 97103

Astoria School District
c/o Craig Hoppes, Superintendent
785 Alameda Avenue
Astoria, OR 97103-5947

CMH:

WOW:

Columbia Memorial Hospital
c/o Erik Thorsen, CEO
2111 Exchange Street
Astoria, OR 97103

Recology Western Oregon, Inc.
50 California Street, 24th Floor
San Francisco, CA 94111

Any Party may change its address for notices by at least fifteen (15) days' advance written notice to the other Parties.

13.2 Time of Essence. Except as otherwise specifically provided in this Agreement, time is of the essence for each and every provision of this Agreement.

13.3 Invalidity of Provisions. If any provision of this Agreement, or any instrument to be delivered by CMH at Closing under this Agreement, is declared invalid or is unenforceable for any reason, the provision will be deleted from the document and will not invalidate any other provision contained in the document.

13.4 *Neutral Construction.* This Agreement has been negotiated with each Party having the opportunity to consult with legal counsel and will be construed without regard to which Party drafted all or part of this Agreement.

13.5 *Captions.* The captions of the sections and paragraphs in this Agreement are used solely for convenience and are not intended to limit or otherwise modify the provisions of this Agreement.

13.6 *Waiver.* The failure of any Party at any time to require performance of any provision of this Agreement will not limit the Party's right to enforce the provision. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision. All waivers shall be in writing to be effective.

13.7 *Subsequent Modifications.* This Agreement and any of its terms may be changed, waived, discharged, or terminated only by a written instrument signed by the Party against whom enforcement of the change, waiver, discharge, or termination is sought.

13.8 *Saturdays, Sundays, and Legal Holidays.* If the time for performance of any of the terms, conditions, and provisions hereof falls on a Saturday, Sunday, or legal holiday, then the time of the performance will be extended to the next business day thereafter.

13.9 *Venue.* In any action brought to interpret or enforce any of the provisions of this Agreement, the venue will be in Clatsop County, Oregon.

13.10 *Applicable Law.* This Agreement will be construed, applied, and enforced in accordance with the laws of the state of Oregon.

13.11 *Entire Agreement.* The Four Party Agreement, this Exhibit 22, and the exhibits and schedules to the foregoing constitute the entire agreement of the Parties with respect to the Section 15.1 and 15.3 Property and the Field Site and supersede and replace all written and oral agreements previously made or existing between the Parties.

13.12 *No Offer.* By providing an unexecuted copy of this Agreement to any person, no Party is deemed to have made an offer to sell or purchase or otherwise indicated its willingness to enter into any transaction with respect to the Section 15.1 and 15.3 Property and the Field Site, and this Agreement will not be binding on any Party unless and until it has been fully executed and delivered by all four Parties.

13.13 *No Recording.* Neither this Agreement nor any memorandum or short form thereof may be recorded.

13.14 *Counterparts.* This Agreement may be executed simultaneously or in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same contract.

13.15 Facsimile Copies. Any Party may rely on facsimile copies of this Agreement to the same extent as the originals.

13.16 Statutory Warning (ORS 93.040(2)). THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first above written. The signature of the Parties on the Four Party Agreement shall be deemed to be signatures on this Agreement, which is Exhibit 22 to the Four Party Agreement.

EXHIBIT A
Description of Property

[Legal Description of Land]

See Exhibit 15 to the Four Party Agreement

EXHIBIT 10.4(a)
Statutory Warranty Deed

[Form of Applicable Deed]

EXHIBIT 10.4(b)
Bargain and Sale Deed

[Form of Applicable Deed]

EXHIBIT 10.4(c)
Statutory Warranty Deed

[Form of Applicable Deed]

EXHIBIT 10.4(d)
Statutory Warranty Deed

[Form of Applicable Deed]

EXHIBIT 10.4(e)
Bill of Sale
(Reference Section 10.4(e) of Exhibit 22)



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

December 9, 2013

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **PUBLIC HEARINGS FOR SALE OF EXCESS CITY PROPERTY**

DISCUSSION/ANALYSIS

At its December 2, 2013 meeting, the City Council scheduled public hearings for the December 16, 2013 meeting regarding City-owned properties on which offers have been made. Working with Area Properties, staff has identified seven parcels as follows:

1. 5300 Block of Alder Street, Alderbrook, Lots 4 & 5, Block 128, Van Dusen Addition
2. 1st & West Grand, Uniontown, Lots 1 & 2, Block 80, McClure's
3. 400 Block 3rd Street, Uniontown, Tax Lot 600, McClure's
4. 4600 Block of Birch & Ash Streets, Alderbrook, Lot 3, Block 14, Alderbrook & Unplatted Parcel
5. 4700 Block Ash Street, Alderbrook Area, Lots 4, 5, & 9 and east 30' of Lot 10, Block 13, Alderbrook Addition
6. 1600 Block of 5th Street, Lots 5 & 31, Block 4, South Slope
7. 600 Block of Exchange Street, Lot 6, Block 40, McClure's

A public hearing notice for the potential sale of these properties was printed in the Daily Astorian on December 5, 2013. The notice was also sent to all property owners who reside within 200 feet of each property.

RECOMMENDATION

It is recommended that each of the seven properties receive a separate public hearing, after which, the City Council approve or deny the sale of said property. (Note that detailed information and maps associated with each property are included with the staff report. The information and maps have also been uploaded to the City's web site at www.astoria.or.us on the home page under the "NEWS" heading.)

Submitted By


Ken Cook, Public Works Director





CITY OF ASTORIA
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**CITY OF ASTORIA
PROPERTY SALES PROGRAM
PROPOSED PROPERTY SALE**

Address:	5300 Block Of Alder Street, Alderbrook Area
Map:	T8N R9W Section 10AA Tax Lot 900 Lots 4 & 5, Block 128, Van Dusen Addition
Size & Description:	10,000 Square Feet, 100' X 100', .23 Acres Not on BLI; Steep, Over 60% Slope
Zone:	R-2, Low Density Residential
Access:	Alder Street (Unimproved)
Buyer:	James And Mary Huber (adjacent owner) 295 54 th Street, Astoria
Asking Price:	\$19,000
Offer:	\$19,000

City of Astoria Property For Sale
Lots 4 & 5, Block 128
First Addition to VanDusens,
Astoria

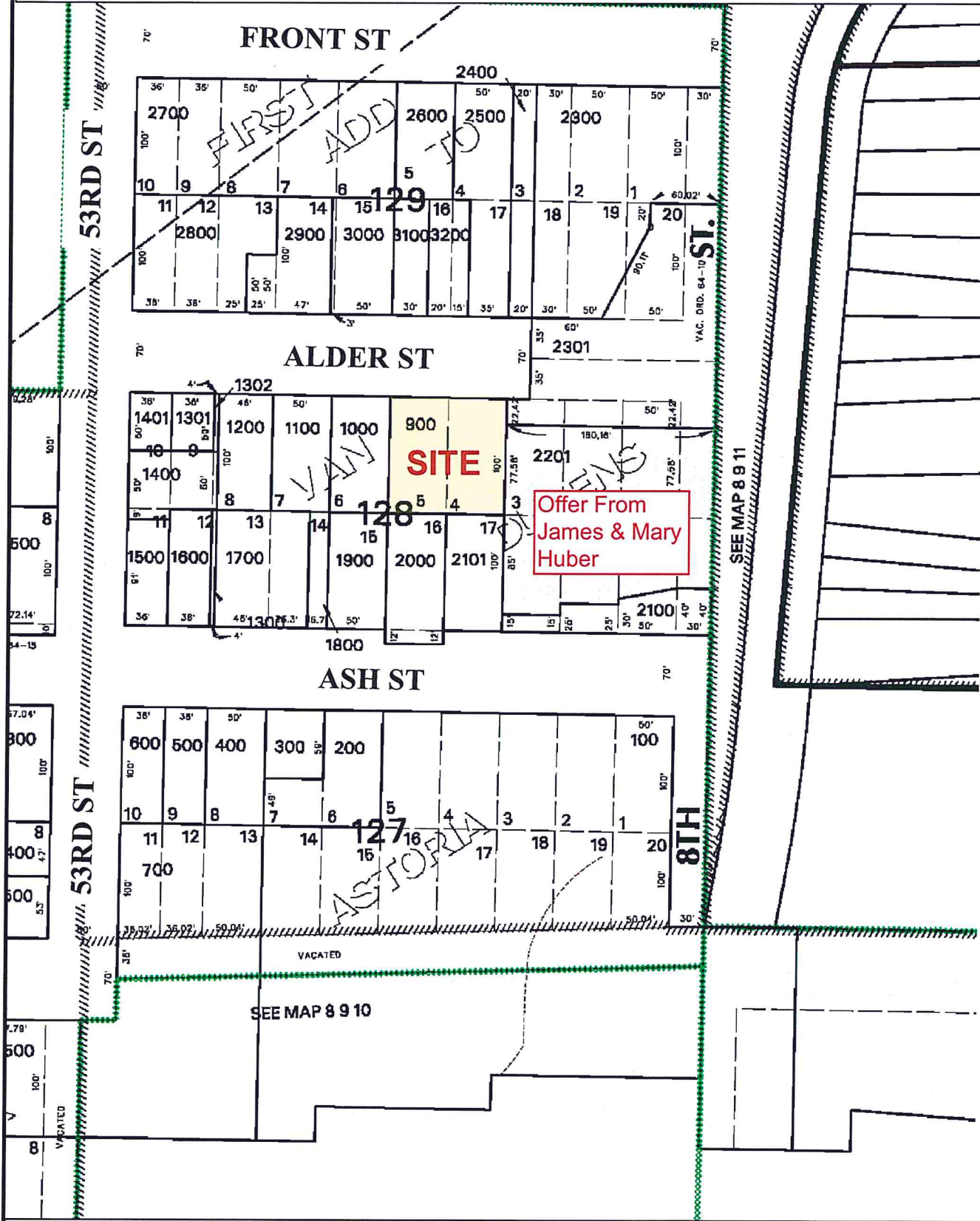
**Legend**

-  Properties With Written Offer
-  Offer From

0 50 100 200 Feet



City of Astoria Property For Sale
 Lots 4 & 5, Block 128
 First Addition to VanDusens,
 Astoria





CITY OF ASTORIA
 Founded 1811 • Incorporated 1856

**CITY OF ASTORIA
 PROPERTY SALES PROGRAM
 PROPOSED PROPERTY SALE**

Address:	1st & West Grand, Uniontown
Map:	T8N R9W Section 7DD, Tax Lot 12700 Lots 1 & 2, Block 80, McClure's
Size & Description:	10,000 Square Feet, 100' X 100', .23 Acres Mostly Steep with Small Buildable Area on BLI City Waterline Crosses Property (easement needed)
Zone:	R-1, Low Density Residential
Access:	3rd Street
Buyer:	Robert Jacob, (adjacent owner) 140 Grand Avenue, Astoria
Asking Price:	\$10,000
Offer:	\$7,200

City of Astoria Property For Sale
Lots 1 & 2, Block 80
McClures, Astoria



Legend



Properties With Written Offer



Offer From

0 37.5 75 150 Feet

Approximate
Location of
City Water Line

1ST ST

Site

Offer From
Robert Jacob

FRANKLIN AVE

2ND ST

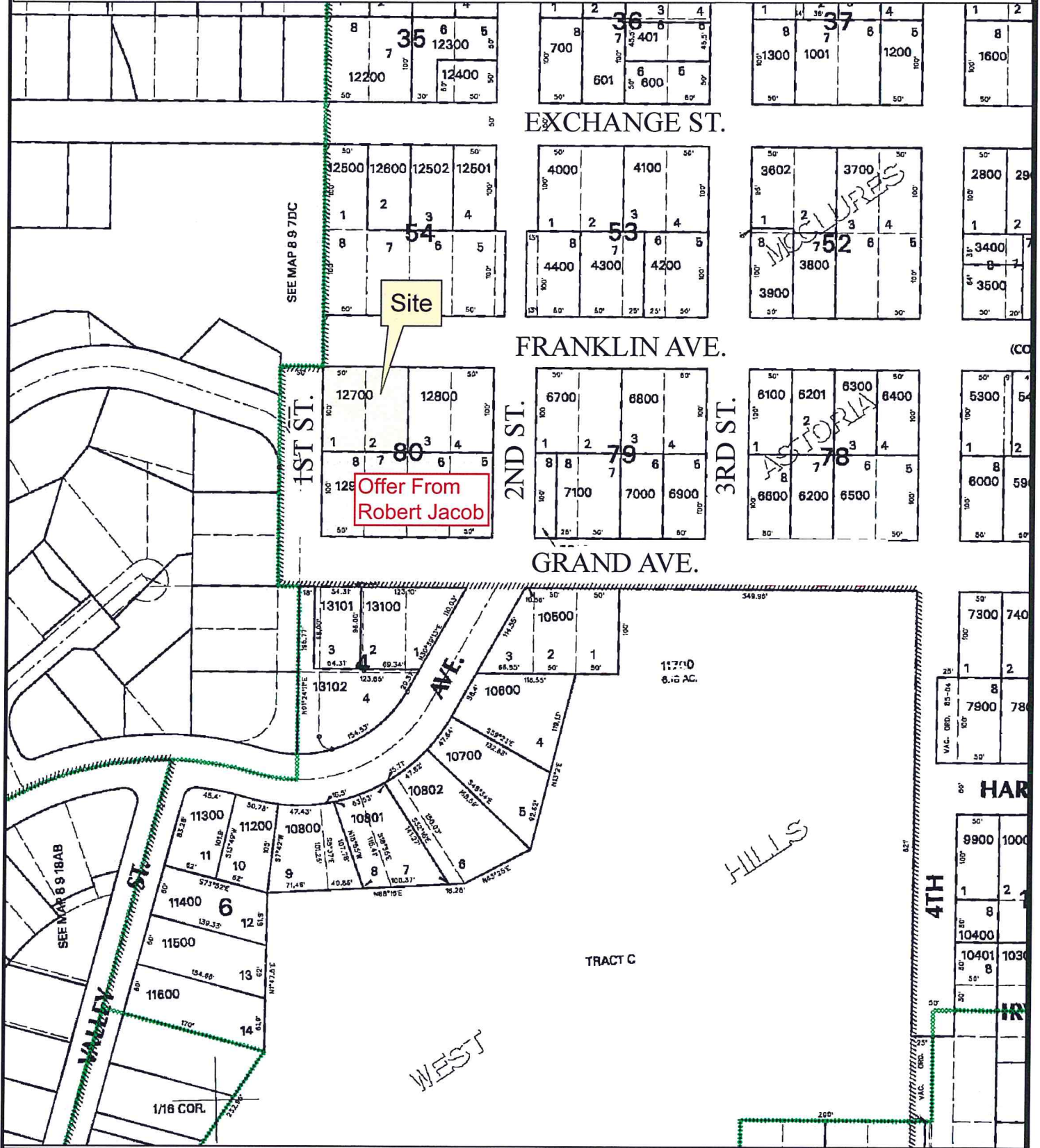
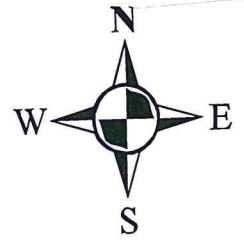
GRAND AVE.



City of Astoria Property For Sale

Lots 1 & 2, Block 80

McClures, Astoria





CITY OF ASTORIA
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**CITY OF ASTORIA
 PROPERTY SALES PROGRAM
 PROPOSED PROPERTY SALE**

Address:	400 Block 3 rd Street, Uniontown
Map:	T8N R9W Section 7DD, Tax Lot 600, McClure
Size & Description:	5,000 Square Feet, 50' X 100', .11 Acres: Moderate Slope With Some Steep Portions; Buildable Portion on BLI
Zone:	R-2, Low Density Residential
Access:	Exchange & 3 rd Street
Buyer:	Lawrence & Carol Thomas, (adjacent owner) 470 3 rd Street, Astoria
Asking Price:	\$15,000
Offer:	\$15,000

City of Astoria Property For Sale
South 50' of Lots 5 & 6, Block 77
McClures, Astoria

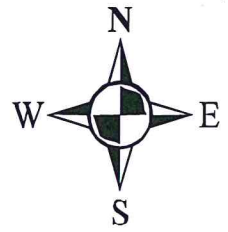
**Legend**

-  Properties With Written Offer
-  Offer From

0 37.5 75 150 Feet



City of Astoria Property For Sale
 South 50' of Lots 5 & 6, Block 77
 McClures, Astoria



SEE MAP 89 7DA

DUANE ST

2ND ST.

3RD ST.

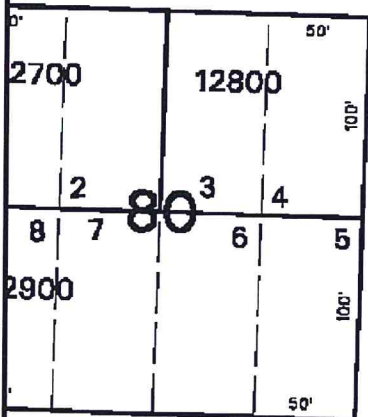
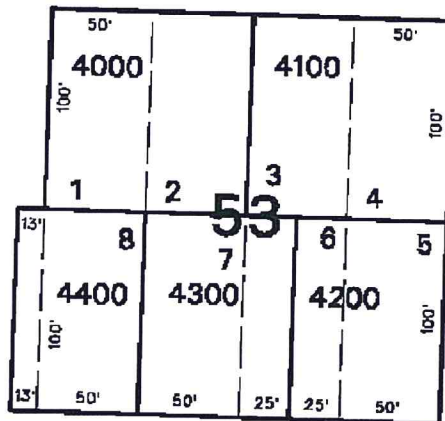
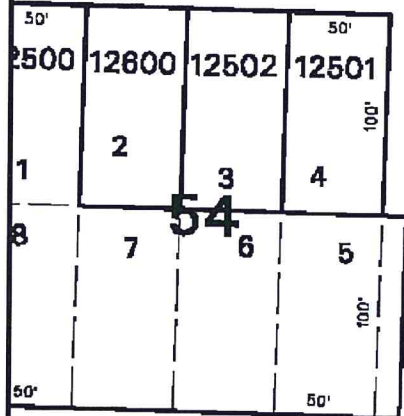
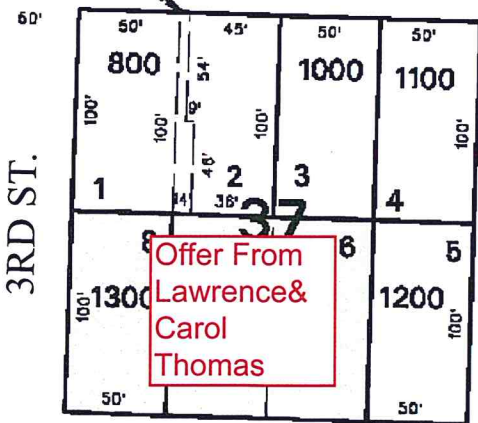
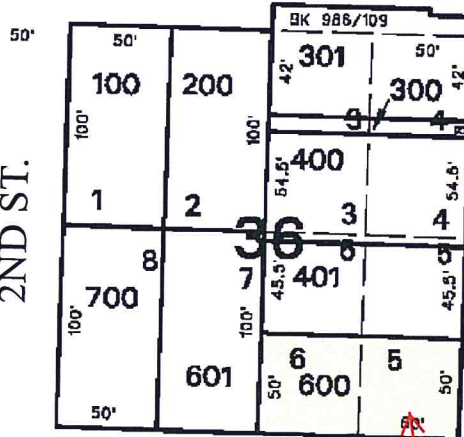
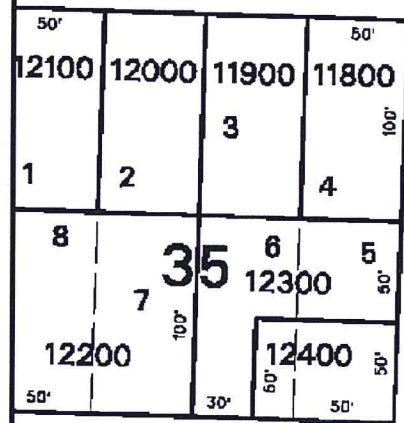
EXCHANGE ST

SITE

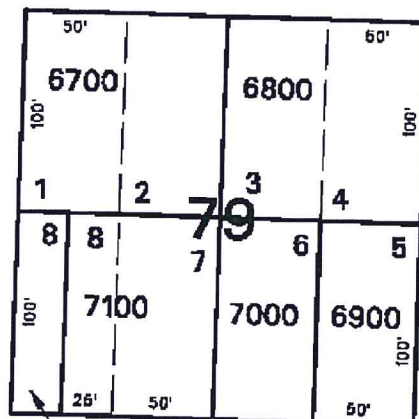
AVE.

FRANKLIN AVE.

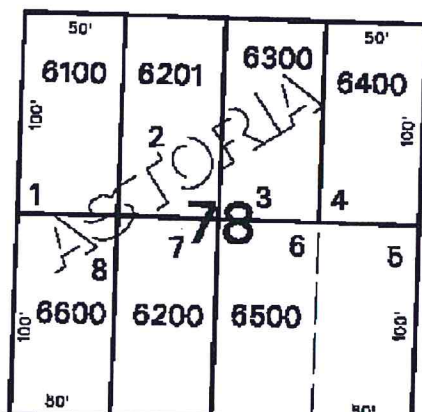
4TH ST.



2ND ST.



3RD ST.







CITY OF ASTORIA
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**CITY OF ASTORIA
 PROPERTY SALES PROGRAM
 PROPOSED PROPERTY SALE**

Address:	4600 Block Of Birch & Ash Streets, Alderbrook Area
Map:	T8N R9W Section 10BA Tax Lot 1800 Lot 3, 9, 10, & Portions of Lots 11 & 12, Block 14, Alderbrook & Unplatted Parcel
Size & Description:	Irregular Shape, Approximately 34,817 Square Feet, Excluding Western Extension of Birch Street, .79 Acres
Zone:	R-2, Low Density Residential A-3 Aquatic Conservation, North Half of Lot 3
Access:	Birch Street (Unimproved)
Buyer:	Michael & Lorna Zametkin (adjacent owners) 373 47th Street, Astoria
Asking Price:	\$16,000
Offer:	\$16,000

City of Astoria Property For Sale
Lots 3, 9, 10, & Por. of Lots 11 & 12
Block 14, Alderbrook, Astoria

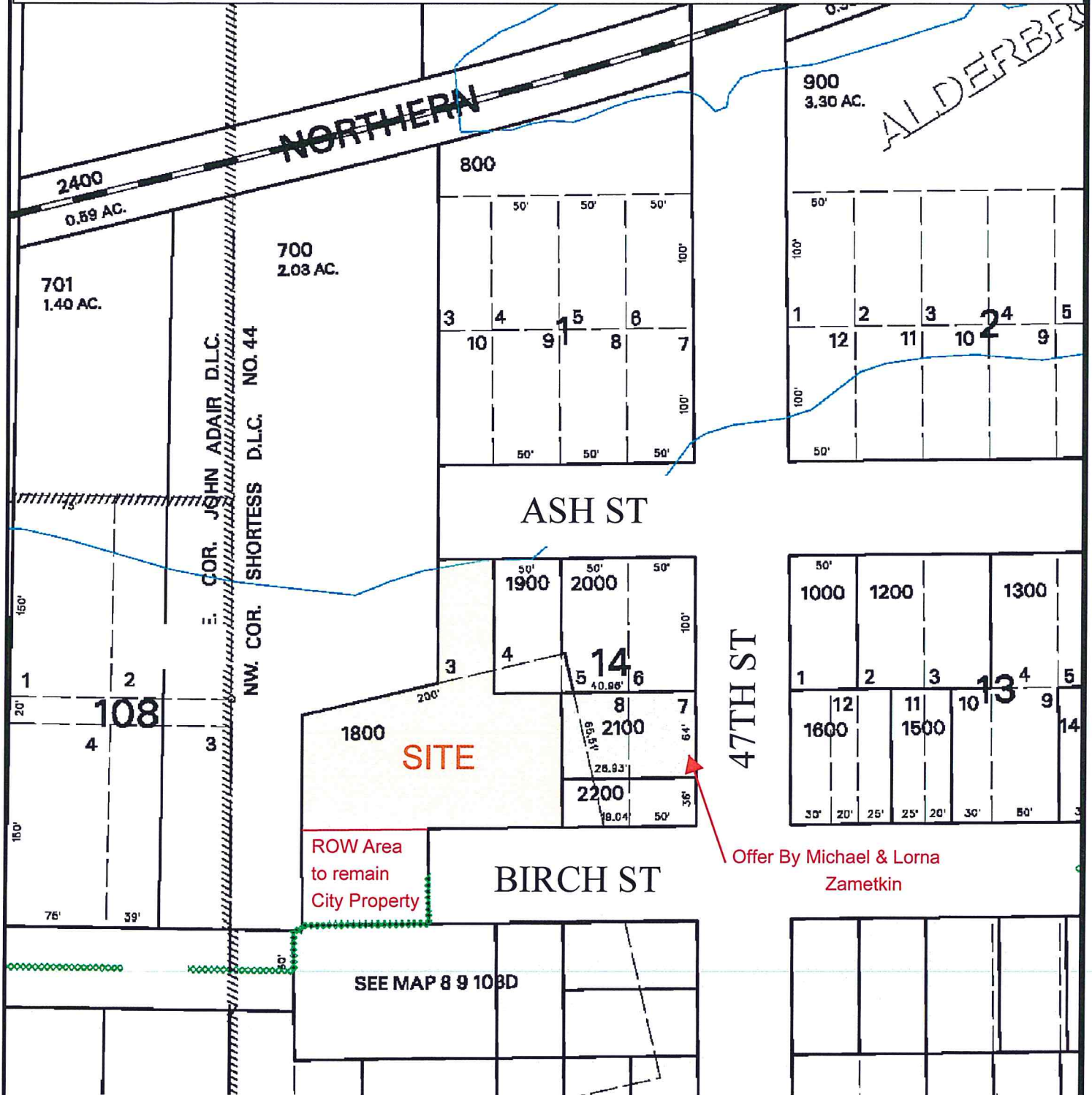
**Legend**

-  Properties With Written Offer
-  Offer From

0 37.5 75 150 Feet



City of Astoria Property For Sale
 Lots 3, 9, 10, & Por. of Lots 11, & 12,
 Block 14, Alderbrook, Astoria





CITY OF ASTORIA
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**CITY OF ASTORIA
 PROPERTY SALES PROGRAM
 PROPOSED PROPERTY SALE**

Address:	4700 Block Ash Street, Alderbrook Area
Map:	T8N R9W Section 10BA Tax Lot 1300 Lots 4, 5, & 9 and east 30' of Lot 10, Block 13, Alderbrook Addition
Size & Description:	18,000 Square Feet, .41 Acres BLI: Flat, Conducive to Development Potential for Three Single-Family Dwellings
Zone:	R-2, Low Density Residential
Access:	Birch Street
Buyer:	Susan Brookfield & Michael Cowan (adjacent owner) 4770 Birch Street, Astoria
Asking Price:	\$25,000
Offer:	\$26,500

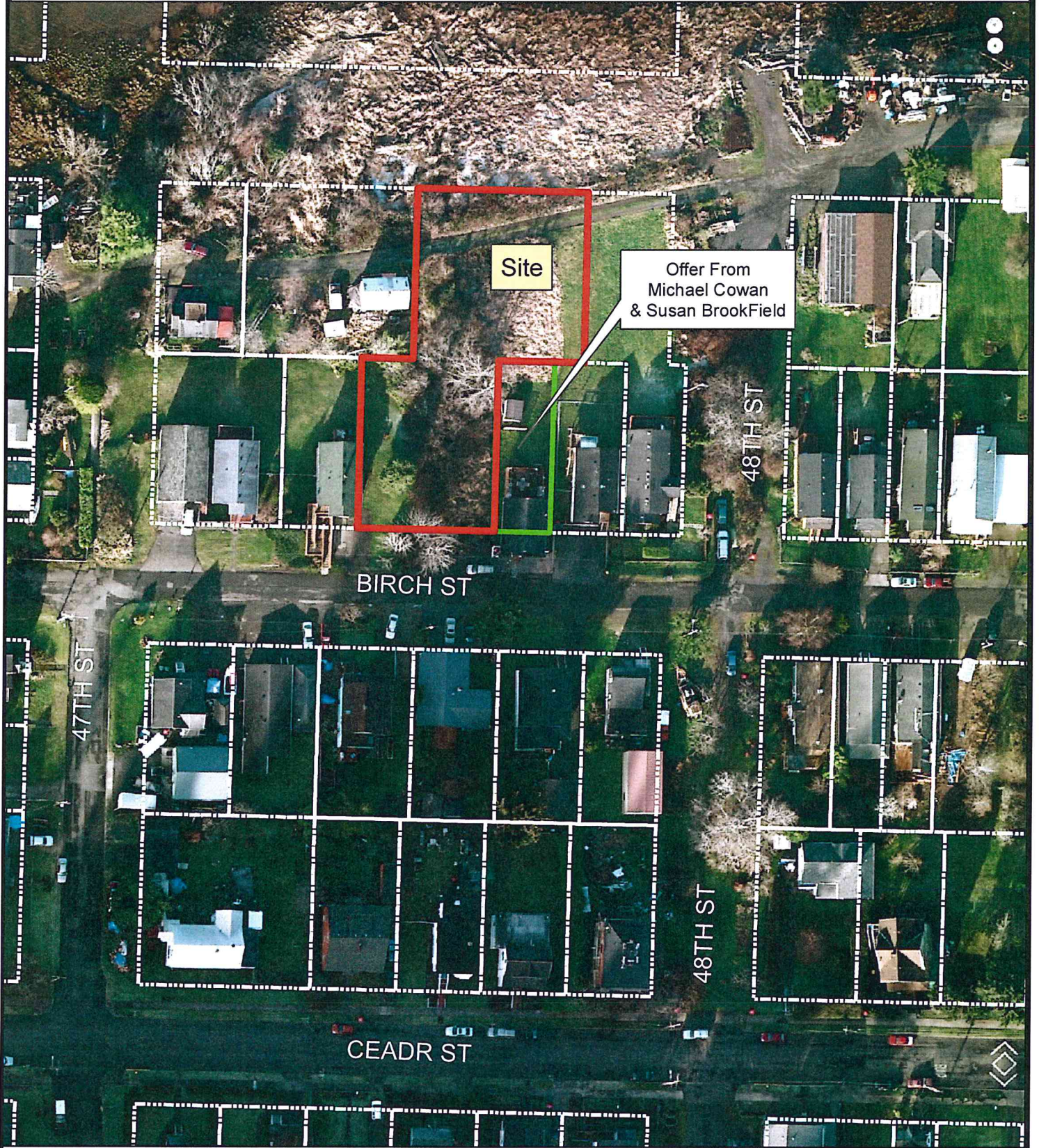
City of Astoria Property For Sale Lots 4, 5, 9, & East 30' of Lot 10, Block 13, Alderbrook, Astoria



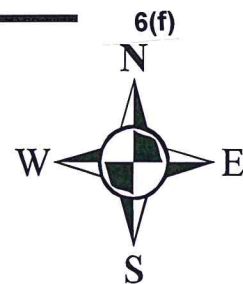
Legend

- Properties With Written Offer
- Offer From

0 37.5 75 150 Feet



City of Astoria Property For Sale
 Lots 4, 5, 9, & East 30' of Lot 10,
 Block 13, Alderbrook, Astoria





CITY OF ASTORIA
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**CITY OF ASTORIA
 PROPERTY SALES PROGRAM
 PROPOSED PROPERTY SALE**

Address:	1600 Block 5 th Street
Map:	T8N R9W Section 18DA, Portion of Tax Lot 400 Lots 5 & 31 Block 4, South Slope
Size & Description:	Gently Sloped Above McClure Avenue Elevation; Portion of Lot Steeper Up towards South Street
Zone:	R-2, Medium Density Residential
Access:	5 th Street
Buyer:	Lance and Katherine Freeman (adjacent owner) 405 South Street, Astoria
Asking Price:	\$10,000
Offer:	\$8,500

City of Astoria Property
Lot 5 & Por. of lot 31, Block 4
South Slope, Astoria



Legend

-  Properties with Written Offer
-  Offer From

6(g)

0 37.5 75 150 Feet



Site

Offer From
Lance & Katherine
Freeman

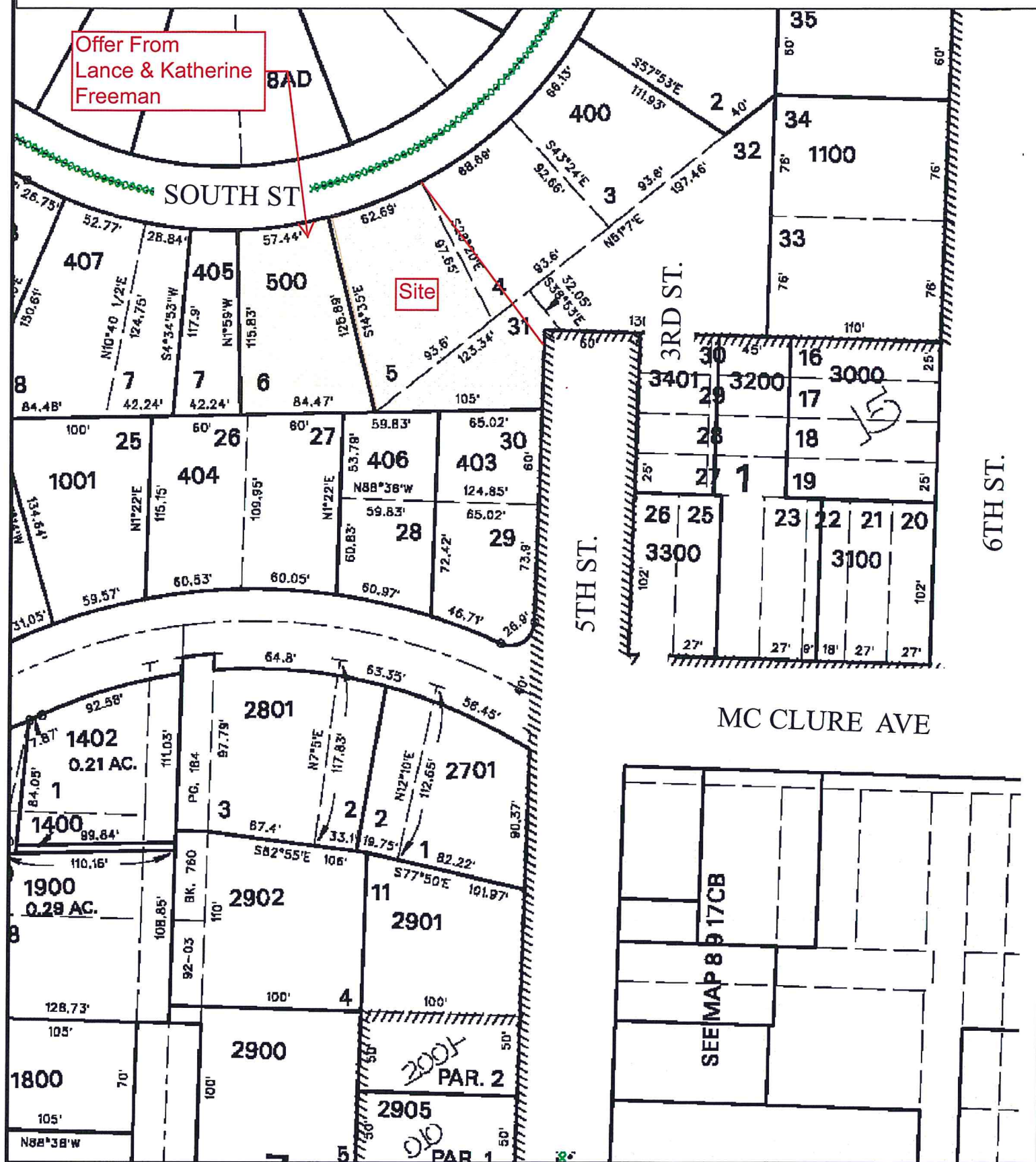
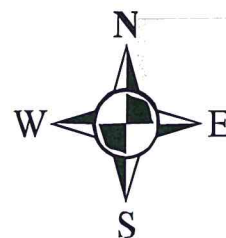
MC CLURE AVE

SOUTH ST

CLATSOP AVE

4TH ST

5TH ST




CITY OF ASTORIA

Founded 1811 • Incorporated 1856

**CITY OF ASTORIA
PROPERTY SALES PROGRAM
PROPOSED PROPERTY SALE**

Address:	600 Block Exchange Street
Map:	T8N R9W Section 8CC, Tax Lot 400 Lot 6, Block 40, McClure's
Size & Description:	50 X 100' Lot, 5000 Square Feet, 0.11 acres Steep, Within 100' of a Known Geologic Hazard
Zone:	R-2, Medium Density Residential
Access:	Exchange (Landlocked)
Buyer:	Roger Dorband & Patricia Barnes 462 6 th Street, Astoria
Asking Price:	\$12,500
Offer:	\$6,500

City of Astoria Property
Lot 6, Block 40
McClures, Astoria

**Legend**

-  Properties With Written Offer
-  Offer From

0 37.5 75 150 Feet

Offer From
Roger Dorband
& Patricia Barnes

Site

EXCHANGE ST

6TH ST

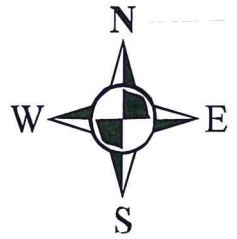
7TH ST

FRANKLIN AVE

GRAND AVE



City of Astoria Property For Sale
 Lot 6, Block 40
 Mc Clures, Astoria



Offer From
 Roger Dorband &
 Patricia Barnes

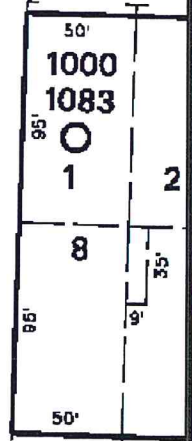
6TH ST.



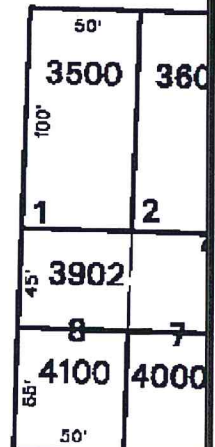
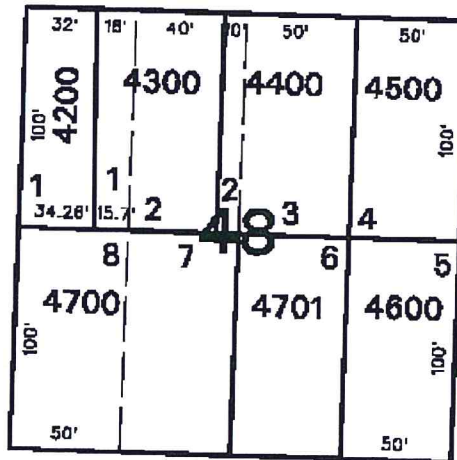
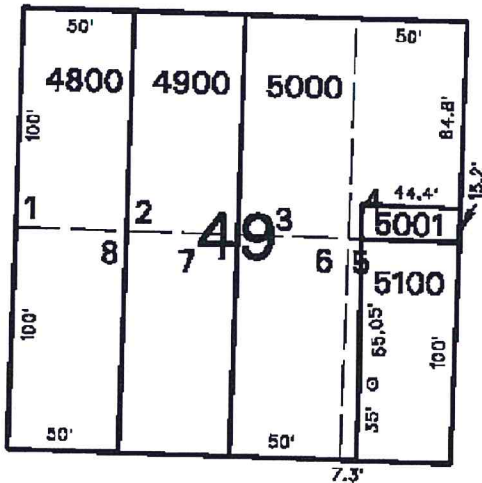
7TH ST.



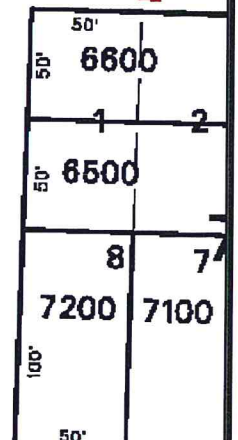
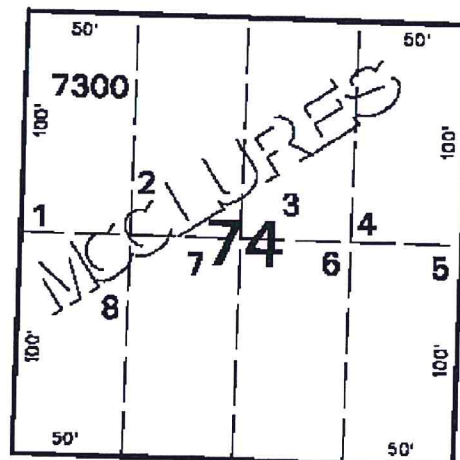
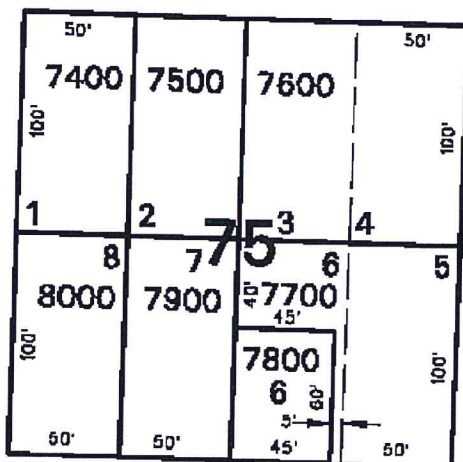
8TH ST.



EXCHANGE ST



FRANKLIN AVE



SEE MAP 897DD

1-



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

December 4, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **AUTHORIZATION TO AWARD BEAR CREEK HYDROPOWER PROJECT
ENGINEERING SERVICES CONTRACT**

DISCUSSION/ANALYSIS

On January 18th, 2011 the City Council authorized staff to proceed with the Bear Creek hydroelectric project including Federal Energy Regulatory Commission (FERC) permitting, final engineering, installation and associated activities.

On March 7th, 2011 the City Council approved a contract with SOAR Technologies to prepare and file for the FERC application that is required for this project. It was expected that the FERC permitting process could take up to six months. Due to environmental issues relating to recently implemented State Statutes that were unknown by the City and its consultants, the FERC permitting process was stalled and it required action by the State Legislature to create an exemption for small scale hydro power projects. The FERC application is now approved and the City can transition into the construction phase of the Bear Creek hydroelectric project.


Specifications and bid documents have been prepared to the 90 percent level. Our consultant, Murray, Smith and Associates (MSA), now needs to prepare final bid documents. The attached contract and scope of work includes finalizing plans and bid documents, coordination with Pacific Power regarding project details, and technical assistance during bidding and construction. The contract fees are \$20,209.00 and include both MSA services as well as an electrical engineering sub-consultant (R&W Engineering).

Details regarding the final funding package which includes grants from both Pacific Power's Blue Sky Program: \$170,000, and the Energy Trust of Oregon: \$118,000, will be presented for acceptance by the City Council at a future date once details of the grant requirements can be solidified with the two agencies.

Business Oregon's Infrastructure Finance Authority (IFA), had previously awarded the City a \$131,000 loan for the hydro project of which \$88,000 is a principal forgiven grant. The project is estimated to cost \$375,000, and it is anticipated that the three grants, Blue Sky, ETO, and IFA, will cover the cost of completing the project.

RECOMMENDATION

It is recommended that City Council execute a contract with Murray, Smith and Associates for a total not to exceed amount of \$20,209.00 for engineering services on the Bear Creek Hydropower Project. Funding will be derived from the IFA grant.

Submitted By 
Ken P. Cook, Public Works Director

Prepared By JEFF HARRINGTON 
Jeff Harrington, City Engineer

<p style="text-align: center;">CITY OF ASTORIA CONTRACT FOR PERSONAL SERVICES</p>

CONTRACT:

This Contract, made and entered into this ____ day of _____, 2013 by and between the City of Astoria, a municipal corporation of the State of Oregon, hereinafter called "CITY", and Murray, Smith & Associates, Inc., 121 SW Salmon, Suite 900, Portland, Oregon 97204 hereinafter called "CONTRACTOR", duly authorized to do business in Oregon.

WITNESSETH

WHEREAS, the CITY requires services which CONSULTANT is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, CONSULTANT is able and prepared to provide such services as CITY does hereinafter require, under those terms and conditions set forth; now, therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. CONSULTANT SERVICES

- A. CONSULTANT shall perform professional services, as outlined in the Attachment A, to the City of Astoria regarding the design of Hydroelectric Generation at Bear Creek Dam.
- B. Consultant's services are defined solely by this Contract and its attachment and not by any other contract or agreement that may be associated with this project.
- C. The CONSULTANT'S services shall be performed as expeditiously as is consistent with professional skill and the orderly progress of work.

2. COMPENSATION

- A. The CITY agrees to pay CONSULTANT a total not to exceed \$20,209 for performance of those services provided herein;
- B. The CONSULTANT will submit monthly billings for payment which will be based upon the percentage of work completed in each of the categories listed in the scope of work. Said progress billings shall be payable within 30 days of receipt by City.
- C. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract.

3. CONSULTANT IDENTIFICATION

CONSULTANT shall furnish to the CITY the CONSULTANT'S employer identification number, as designated by the Internal Revenue Service, or CONSULTANT'S Social Security number, as CITY deems applicable.

4. CITY'S REPRESENTATIVE

For purposes hereof, the CITY'S authorized representative will be Jeff Harrington, City Engineer, City of Astoria, 1095 Duane Street, Astoria, Oregon, 97103, (503) 338-5173.

5. CONSULTANT'S REPRESENTATIVE

For purposes hereof, the CONSULTANT'S authorized representative will be William Evonuk, P.E., 503-225-9010.

6. CITY'S OBLIGATIONS

In order to facilitate the work of the CONSULTANT as above outlined, the CITY shall furnish to the CONSULTANT access to all relevant maps, aerial photographs, reports and site information which is in the City's possession concerning the project area. In addition, the CITY shall act as liaison for the CONSULTANT, assisting the CONSULTANT with making contacts and facilitating meetings, as necessary.

7. CONSULTANT IS INDEPENDENT CONSULTANT

A. CONSULTANT'S services shall be provided under the general supervision of City's project director or his designee, but CONSULTANT shall be an independent consultant for all purposes and shall be entitled to no compensation other than the compensation provided for under Section 2 of this Contract,

B. CONSULTANT acknowledges that for all purposes related to this Contract, CONSULTANT is and shall be deemed to be an independent CONSULTANT and not an employee of the City, shall not be entitled to benefits of any kind to which an employee of the City is entitled and shall be solely responsible for all payments and taxes required by law; and furthermore in the event that CONSULTANT is found by a court of law or an administrative agency to be an employee of the City for any purpose, City shall be entitled to offset compensation due, or, to demand repayment of any amounts paid to CONSULTANT under the terms of the Contract, to the full extent of any benefits or other remuneration CONSULTANT receives (from City or third party) as result of said finding and to the full extent of any payments that City is required to make (to CONSULTANT or a third party) as a result of said finding.

C. The undersigned CONSULTANT hereby represents that no employee of the City of Astoria, or any partnership or corporation in which a City of Astoria employee has an interest, has or will receive any remuneration of any description from the CONSULTANT, either directly or indirectly, in connection with the letting or performance of this Contract, except as specifically declared in writing.

8. CANCELLATION FOR CAUSE

CITY may cancel all or any part of this Contract if CONSULTANT breaches any of the terms herein and fails to cure such breach within 10 days after receiving notice thereof, or in the event of any of the following: Insolvency of CONSULTANT; voluntary or involuntary petition in bankruptcy by or against CONSULTANT; appointment of a receiver or trustee for CONSULTANT, or any assignment for benefit of creditors of CONSULTANT. Damages for breach shall be those allowed by Oregon law, reasonable and necessary attorney's fees, and other costs of litigation at trial and upon appeal. CONSULTANT may likewise cancel all or any part of this contract if CITY breaches any of the terms herein and be therefore entitled to equivalent damages as expressed above for CITY.

9. ACCESS TO RECORDS

CITY shall have access to such books, documents, papers and records of contract as are directly pertinent to this contract for the purposes of making audit, examination, excerpts and transcripts.

10. FORCE MAJEURE

Neither CITY nor CONSULTANT shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disenabled provided the party so disenabled shall within ten (10) days from the beginning such delay notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation.

11. NONWAIVER

The failure of the CITY to insist upon or enforce strict performance by CONSULTANT of any of the terms of this Contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

12. ATTORNEY'S FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

13. APPLICABLE LAW

The law of the State of Oregon shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

14. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the proposal of the CONSULTANT, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

15. INDEMNIFICATION

With regard to Comprehensive General Liability, CONSULTANT agrees to indemnify and hold harmless the City of Astoria, its Officers, and Employees against and from any and all loss, claims, actions, suits, reasonable defense costs, attorney fees and expenses for or on account of injury, bodily or otherwise to, or death of persons, damage to or destruction of property belonging to city, consultant, or others resulting from or arising out of CONSULTANT'S negligent acts, errors or omissions in services pursuant to this Agreement. This agreement to indemnify applies whether such claims are meritorious or not; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and The City of Astoria this indemnification and agreement to assume defense costs applies only to the extent of the negligence or alleged negligence of the CONSULTANT.

With regard to Professional Liability, CONSULTANT agrees to indemnify and hold harmless the City of Astoria, its Officers and Employees from any and all liability, settlements, loss, reasonable defense costs, attorney fees and expenses to the extent it arises out of CONSULTANT'S negligent acts, errors or omissions in service provided pursuant to this Agreement; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and the Client, this indemnification and agreement to assume defense costs applies only to the extent of negligence of CONSULTANT.

With respect to Commercial Liability and Professional Liability, CONSULTANT reserves the right to approve the choice of counsel.

16. INSURANCE

Prior to starting work hereunder, CONSULTANT, at CONSULTANT'S cost, shall secure and continue to carry during the term of this contract, with an insurance company acceptable to CITY, the following insurance:

A. Commercial General Liability. CONSULTANT shall obtain, at CONSULTANT'S expense and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage with limits of not less than \$1,000,000 per occurrence and the annual aggregate not less than \$2,000,000. Coverage shall include consultants, subconsultants and anyone directly or indirectly employed by either. This insurance will include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage will be written on an occurrence basis. If written in conjunction with Automobile Liability, the combined single limit per occurrence will not be less than \$1,000,000 for each job site or location. Each annual aggregate limited will not be less than 2,000,000.

B. Automobile Liability. CONSULTANT shall obtain, at CONSULTANT'S expense and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability

Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence will not be less than \$1,000,000.

C. Additional Insured. The liability insurance coverage shall include CITY and its officers and employees as Additional Insured but only with respect to CONSULTANT'S activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, CONSULTANT shall furnish a certificate to CITY from each insurance company providing insurance showing that the CITY is an additional insured, the required coverage is in force, stating policy numbers, dates of expiration and limits of liability, and further stating that such coverage is primary and not contributory.

D. Professional Liability Insurance. The CONSULTANT shall have in force a policy of Professional Liability Insurance in an amount not less than \$1,000,000 per claim and \$2,000,000 aggregate. The CONSULTANT shall keep such policy in force and current during the term of this contract.

E. Notice of Cancellation or Change. There will be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from CONSULTANT or its insurer(s) to CITY. Any failure to comply with the reporting provisions of this clause will constitute a material breach of this Contract and will be grounds for immediate termination of this Agreement.

17. CITY'S BUSINESS LICENSE

Prior to beginning work, the CONSULTANT shall have a current City of Astoria business license (occupational tax). Before permitting a sub-consultant to begin work, CONSULTANT shall verify that sub-consultant has a current City of Astoria business license.

18. WORKMEN'S COMPENSATION

The CONSULTANT, its subconsultants, if any, and all employers working under this Agreement are either subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers, or are employers that are exempt under ORS 656.126.

19. LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES

CONSULTANT shall make payment promptly, as due, to all persons supplying CONSULTANT labor or material for the prosecution of the work provided for this contract.

CONSULTANT shall pay all contributions or amounts due the Industrial Accident Fund from CONSULTANT or any subconsultants incurred in the performance of the contract.

CONSULTANT shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

CONSULTANT shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

20. PAYMENT OF MEDICAL CARE

CONSULTANT shall promptly, as due, make payment to any person, copartnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury to the employees of such CONSULTANT, of all sums which the CONSULTANT agrees to pay for such services and all moneys and sums which the CONSULTANT collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

21. OVERTIME

Employees shall be paid for overtime work performed under this contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. Sections 201 to 209).

22. USE OF ENGINEER'S DRAWINGS AND OTHER DOCUMENTS

The CITY retains all drawings and other documents prepared by the CONSULTANT for the project after payment to CONSULTANT.

CONSULTANT will not be held liable for reuse of documents or modifications thereof for any purpose other than those authorized under this Agreement without written authorization of CONSULTANT.

23. STANDARD OF CARE

The standard of care applicable to consultant's services will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time CONSULTANT'S services are performed. CONSULTANT will re-perform any services not meeting this standard without additional compensation.

24. NO THIRD PARTY BENEFICIARIES

This contract gives no rights or benefits to anyone other than the CITY and CONSULTANT and has no third party beneficiaries.

25. ASSIGNMENT

This contract is personal to Consultant and may not be assigned or any work subcontracted without consent from the CITY.

26. SEVERABILITY AND SURVIVAL

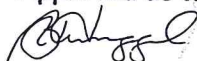
If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability shall survive termination of this Agreement for any cause.

27. COMPLETE CONTRACT

This Contract and its referenced attachments constitute the complete contract between CITY and CONSULTANT and supersedes all prior written or oral discussions or agreements. CONSULTANT services are defined solely by this Contract and its attachments and not by any other contract or agreement that may be associated with this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written above.

Approved as to form



Attorney

Digitally signed by Blair
Henningsgaard
DN: cn=Blair Henningsgaard, o,
ou, email=blair@astorialaw.net,
c=US
Date: 2013.12.05 11:31:30 -08'00'

CITY OF ASTORIA, a municipal
corporation of the State of Oregon

BY: _____
Mayor Date

BY: _____
City Manager Date

BY: _____
Consultant Date



121 S.W. Salmon, Suite 900 ■ Portland, Oregon 97204-2919 ■ PHONE 503.225.9010 ■ FAX 503.225.9022

07-0909.XXX

November 7, 2013

Mr. Jeff Harrington, P.E.
City Engineer
City of Astoria
1095 Duane Street
Astoria, OR 97103

Re: Hydroelectric Power Generation at Bear Creek Dam – Proposal for Engineering Services

Dear Jeff:

Following up on our recent discussions, this letter presents Murray, Smith & Associates, Inc.'s (MSA's) proposed scope of work and budget estimate for engineering services associated with the design and construction of the proposed hydroelectric power generation facilities at the base of Bear Creek Dam. We are delighted to have the opportunity to continue working with you on this very important project for the City of Astoria. Presented below is our understanding of the project and a proposed work program for engineering services, from the current 90 percent design level through project completion. We are proposing to continue utilizing the services of R&W Engineering, Inc. for the electrical and control system engineering. R&W supported MSA on the prior electrical work on the Bear Creek waterline project and the earlier design phases of this project.

Background

Provisions were incorporated into the City's recently completed Bear Creek Dam Waterline Replacement Project to provide for future installation of power generation facilities on the finished water supply system. Those provisions included installation of valving and piping to allow for installation of a pre-fabricated hydroelectric power generator in a vault at the base of Bear Creek Dam. Three spare electrical conduits for generator power and control conductors were also installed between the proposed vault site and the operations building at the headworks building. The power generated from this facility will be fed into Pacific Power's system through a new connection to be installed on an existing power pole located between the headworks building and the garage/shop building.

Task 2 – Design Services

Under this task, MSA will review previously completed design work and develop the basic information necessary to guide final designs. Plans will be updated and re-submitted at the 90 percent draft level for City and County review, comment and approval. Final plans will incorporate various comments as may be appropriate. Anticipated subtasks are outlined as follows:

- 2.1 Review Prior Designs – Review the previously completed 90 percent Plans and Specifications, identify necessary updates to specified equipment and materials, and update 90 percent Plans, Specifications and cost estimates. This task assumes that SOAR/GC Systems will be providing essentially the same equipment and pre-packaged vault that was identified and specified in 2011 and that only minor changes will be required. If significant changes are needed, MSA and R&W may require additional fees for re-design and updating the project Plans and Specifications.
- 2.4 Coordination with SOAR Technologies, Inc./GC Systems – SOAR in cooperation with GC Systems will provide generator vault design drawings (structural and mechanical only) and vault and associated equipment specifications, and rectifier, inverter, and controller and other equipment information and specifications. MSA will coordinate with SOAR/GC Systems to identify any required updates since the prior submittal in 2011. It is assumed that SOAR/GC Systems will provide review comments to MSA on the final drawings and technical specifications and assist MSA and R&W on answering technical questions associated with their equipment following the City's 90 percent review.
- 2.5 Coordination with Pacific Power – Coordinate with Pacific Power regarding any changes to the requirements for the interconnection of the generator system to the power grid. It is understood that the connection will be made at the power pole that is located between the headworks building and the garage/shop building.
- 2.6 Final Design -- Final designs will incorporate the requirements of various permits and agency plan reviews. Plans will be updated and re-submitted to the City at the 90 percent draft level. Final plans will incorporate various City review and permitting agency comments as may be appropriate. Anticipated subtasks include the following:
 - A. *Drawings* -- Develop civil and electrical drawings for the generator vault and the associated electrical and control systems as well as drawings for standard and special details required to support construction. Adapt the general vault specification provided by GC Systems to a non-proprietary project specification format. Include the GC Systems vault design drawing in the contract documents as supplemental information. Complete the site design for the vault and design

the piping connections and valving to it. The vault will be located adjacent to the flow control vault. Provide for drainage of the vault as well as power supply for interior lighting, convenience outlet, and intrusion alarm on the access hatch.

B. *Specifications*-- Bid documents will be prepared and provided to the City. It is anticipated that MSA will prepare the project Bid Book, including cover, fly sheets, table of contents, bidding requirements, contract forms, prevailing wage rates form, general requirements, and technical specifications for the pre-fabricated generator vault and electrical and control system. MSA will adapt the general vault and equipment specifications provided by SOAR/GC Systems to a non-proprietary project specification format. Technical specifications prepared by MSA to supplement the City's Standard Specifications will be based on the Construction Standards Institute (CSI) 16-section format and included in the contract documents as "Special Provisions." It is assumed that the City will provide templates for the agreement forms, bond forms, general conditions, special provisions, and other City standard technical specifications. It is also anticipated that final contract document printing and distribution will be completed by the City.

C. *Construction Cost Estimate* -- Cost estimates will be prepared based upon the 90 percent design and will be updated to reflect the completed project design.

2.7 Permits and Approvals – It is anticipated that the City will apply for and obtain all necessary permits for the project. MSA and R&W will assist the City with the County electrical permit by providing clarification to the County Electrical Inspector's permit application review comments.

Task 3 - Bidding and Award Services

Under this task, assistance will be provided to the City during the project bidding and award process. MSA will provide services as outlined below:

3.1 Bidder Inquiries – Assist the City with responses to questions from bidders, regarding the project. It is anticipated that bidders, subcontractors, equipment suppliers and other vendors will contact the City directly with inquiries and that the City will contact MSA for additional technical support as needed.

3.2 Addenda -- Prepare responses for inclusion in any City-issued addenda as necessary to clarify the technical provisions of the contract documents as relates to the proposed work. The estimated fee for this task assumes that one addendum will be prepared.

It is assumed that MSA will not provide any other bid-phase services including: attendance at any pre-bid meeting, attendance at bid opening, review of bids, recommendation for award, or any other services.

Task 4 – Construction Phase Services

Under this task, limited engineering services will be provided to the City during construction of the project. MSA will provide services as outlined below:

- 4.1 Shop Drawings & Submittals -- Receive and review shop drawings and other technical submittals associated with the generator vault and other electrical and control system components. The estimated fee for this task assumes that the pre-fabricated generator vault and electrical and control equipment will be supplied by SOAR/GC Systems. If an alternate manufacturer is accepted, additional review will be required to verify that all of the proposed components meet the project requirements and the intent of the design.
- 4.2 Clarifications -- Provide clarification of the design based upon the Contractor's written requests for clarifications, verbal requests or as the need otherwise arises. Prepare and submit written responses and drawings or sketches as necessary to the City to clarify the contract documents. It is anticipated that the Contractor will contact the City directly with requests for clarifications and that the City will contact MSA for additional technical support as needed. The estimated fee for this task assumes that three written clarifications will be provided by MSA.
- 4.3 Record Drawings -- Prepare record drawings of the project based upon the construction records of the Contractor and the City's on-site representative. Submit one set of Mylar record drawings and AutoCAD disk to the City.
- 4.4 Supplemental Inspections -- Assist the City with on-site construction observation. It is assumed that the City will provide day-to-day inspection of the project and that MSA and R&W will provide only supplemental inspections as requested by the City. This task assumes one site visit each by MSA and R&W.

It is assumed that MSA will not provide any other construction phase services including: support for processing of change orders or claims, startup assistance, final inspection, or any other services.

Mr. Jeff Harrington
November 7, 2013
Page 6

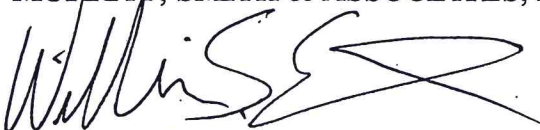
Proposed Fee Estimate

We estimate that the above-described engineering work program can be accomplished within an overall budget of \$20,209 in accordance with the firm's current standard Schedule of Charges in effect at the time the work is performed. A budget estimate worksheet is attached to this letter.

We greatly value the opportunity to continue to provide service to the City of Astoria, and we are available to review this scope of work and fee estimate at your convenience. Thank you.

Sincerely,

MURRAY, SMITH & ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'William S. Evonuk', with a stylized flourish at the end.

William S. Evonuk, P.E.
Civil Engineer, Associate

WSE:wse

HYDROELECTRIC POWER GENERATION AT BEAR CREEK DAM
CITY OF ASTORIA, OREGON
PROPOSED FEE ESTIMATE
NOVEMBER 2013

TASK	LABOR CLASSIFICATION (HOURS)						ESTIMATED FEES		
	Senior Principal \$1093	Engineer VI \$135	Tech. IV \$115	Admin. III \$76	Total Hours	Labor	Subs R&W	Expenses	Total
Task 1 - Project Administration									
Task 1 Subtotal	1	4	0	1	5	\$ 616			\$ 616
Task 2 - Design Services									
2.1 Review Prior Designs		4			4	\$ 540			\$ 540
2.2 Coordination with SOAR Technologies, Inc./GC Systems	1	4			5	\$ 733	\$ 550	\$ 26	\$ 1,283
2.3 Coordination with Pacific Power		1			1	\$ 135	\$ 275		\$ 410
2.4 Final Design	1	28	4	1	34	\$ 4,509	\$ 2,651	\$ 200	\$ 7,360
2.5 Permits and Approvals		1			1	\$ 135			\$ 135
Task 2 Subtotal	2	38	4	1	45	\$ 6,052	\$ 3,476	\$ 226	\$ 9,754
Task 3 - Bidding and Award Services									
3.1 Bidder Inquiries		2			2	\$ 270	\$ 550		\$ 820
3.2 Addenda	1	2	2		5	\$ 693		\$ 20	\$ 713
Task 3 Subtotal	1	4	2	0	7	\$ 963	\$ 550	\$ 20	\$ 1,533
Task 4 - Construction Phase Services									
4.1 Shop Drawings & Submittals		4			4	\$ 540	\$ 1,100	\$ 20	\$ 1,660
4.2 Clarifications		2			2	\$ 270	\$ 1,925		\$ 2,195
4.3 Record Drawings		4	4	1	9	\$ 1,076	\$ 1,265	\$ 100	\$ 2,441
4.4 Supplemental Inspections		6			6	\$ 810	\$ 1,100	\$ 100	\$ 2,010
Task 4 Subtotal	0	16	4	1	21	\$ 2,696	\$ 5,390	\$ 220	\$ 8,306
TOTAL - ALL TASKS	4	62	10	3	78	\$ 10,327	\$ 9,416	\$ 466	\$ 20,209